Senate Budget and Fiscal Review

Subcommittee No. 3 2004 Agendas

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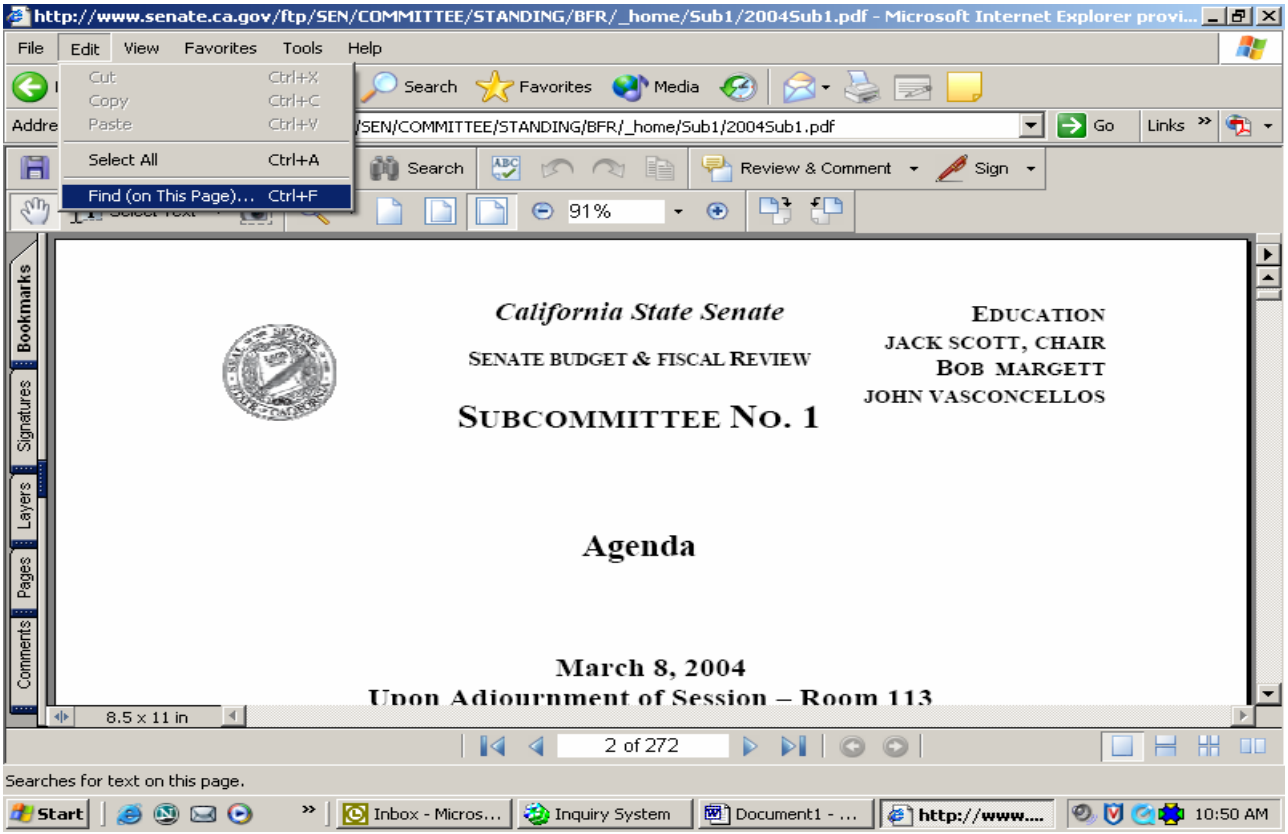

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

March 8th , 2004
2:00 PM, or Upon Adjournment of Session
Room 4203

(Diane Van Maren, Consultant)

Item	*Description*
530	**California Health and Human Services Agency** • CA Health Care Quality Improvement and Cost Containment Commission
4260	**Department of Health Services—Selected Public Health Issues** • AIDS Drug Assistance Program (ADAP) • CA Children's Services (CCS) Program • Genetically Handicapped Persons Program
4260	**Department of Health Services—Selected Medi-Cal Issues** • Federal Office of Inspector General Report on Drug Rebates • Enrollment Caps • FQHC Clinics • Medi-Cal Rates—Governor's 10 percent reduction • Processing for Breast and Cervical Cancer Eligibility
4280	**Managed Risk Medical Insurance Board—Selected Issues**

PLEASE NOTE: **Only those items contained in this agenda will be discussed at this hearing. Please see the Senate File for dates and times of subsequent hearings**.

I. 530 California Health & Human Services Agency

A. BACKGROUND

Purpose and Description

The California Health and Human Services Agency (CHHS) administers the state's health, social services, rehabilitative and employment programs. The Secretary of the CHHS advises the Governor on major policy and program matters and oversees the operation of the agency departments. The purview of the CHHS includes: (1) the departments of Aging, Alcohol and Drugs, Community Services and Development, Developmental Services, Health Services, Mental Health, Rehabilitation, and Social Services, (2) the Health and Human Services Data Center, (3) the Office of Statewide Health Planning and Development, (4) the Managed Risk Medical Insurance Board, and (5) the Emergency Medical Services Authority.

Through the Budget Act of 2001 and SB 456 (Speier), Statutes of 2001, the Office of Health Insurance Portability & Accountability Act (HIPAA) Implementation was created. This office resides within the CHHS Agency.

Overall Budget of CHHS Agency

The budget proposes total expenditures of $5.6 million ($3.8 million General Fund), or a *net* increase of $426,000 (General Fund) over the Budget Act of 2003, and 23 positions for the agency. Of this amount, almost $3.5 million and ten positions are for the Office of HIPAA Implementation.

Summary of Expenditures (dollars in thousands)	**2003-04**	**2004-05**	**$ Change**	**% Change**
Secretary for Health & Human Services	$2,208	$2,063	($145)	6.5
Office of HIPAA	$3,635	$3,509	($126)	3.5
Total, CHHS Agency	**$5,843**	**$5,572**	**($271)**	**4.6**

B. ITEM FOR DISCUSSION

1. CA Health Care Quality Improvement and Cost Containment Commission

Background: Chapter 672, Statutes of 2003 (AB 1528, Cohn), established a California Health Care Quality Improvement and Cost Containment Commission (Commission) to be convened by the Governor. The Commission is to be composed of 27 members, 17 of whom shall be appointed by the Governor, four by the Senate Committee on Rules and four by the Speaker of the Assembly.

The purpose of the Commission is to research and recommend appropriate and timely strategies for promoting high quality care and containing health care costs (both public and employer-sponsored). The Commission is directed to issue a report by *January 1, 2005* on these strategies and shall examine specified key areas, including: (1) assessing California's health care needs and available resources; (2) lowering the cost of health care coverage; (3) improving the quality of health care; (4) increasing the transparency of health care costs and the relative efficiency with which care is delivered, and (5) the use of disease management, wellness, prevention, and other innovative programs to keep people healthy while reducing costs and improving health outcomes.

Governor's Proposed Budget: The Governor proposes **an increase of $364,000 (General Fund) and two positions—a Career Executive Assistant III and an Associate Governmental Program Analyst-- to staff the California Health Care Quality Improvement and Cost Containment Commission as contained in AB 1528, Statutes of 2003.**

The two requested positions would be limited term appointments until *June 30, 2005*.

Of the requested total amount, $150,000 (General Fund) is designated for external content experts from the research, university, and foundation community to investigate and analyze the specified key areas noted above, as well as other factors that contribute to the rising cost of health care.

The Administration is also seeking approval of trailer bill legislation to extend by one year the reporting date to the Legislature (i.e., January 1, 2005 to January 1, 2006).

Subcommittee Request and Questions: The Subcommittee has requested the CHHS Agency to respond to the following questions:

- **1.** When may the Commission be constituted and the work commence?
- **2.** Since the Administration is seeking to extend the reporting date to the Legislature by one-year, **does the Administration also want to extend the limited-term appointments for the two staff positions by one year (to June 30, 2006)?**

Subcommittee Staff Recommendation: The results from the research and analysis could be very useful for California and could facilitate the restructuring of health care services provided by both government and business from several vantage points. **Therefore, it is recommended to approve the budget request, including the trailer bill date change, but to utilize a different funding source, other than the depleted General Fund. It is recommended to utilize the**

Managed Care Fund as established in Section 1341.4 of the Health and Safety Code for this purpose, and to place a limit on its use for this activity. As such, the following trailer bill language is recommended:

> **Amend Section 1341.4 as follows:** (a) In order to effectively support the Department of Managed Health Care in the administration of this law, there is hereby established in the State Treasury, the Managed Care Fund. The administration of the Department of Managed Care shall be supported from the Managed Care Fund. **(b) For the 2004-05 and 2005-06 fiscal years only, up to $350,000 from the Managed Care Fund may be used annually to support staff and related functions associated with the California Health Care Quality Improvement and Cost Containment Commission, established by Chapter 672, Statutes of 2003. (c)** In any fiscal year, the Managed Care Fund shall maintain not more than a prudent 5 percent reserve unless otherwise determined by the Department of Finance.

It should be noted that there will be over $1 million in reserve in the Managed Care Fund even after this appropriation is made.

In addition, if the Administration needs to extend the limited-term appointments for the two staff positions by one year (to June 30, 2006), that seems reasonable given the change in the reporting timeframe.

II. 4260 Department of Health Services—Selected Public Health Programs

1. AIDS Drug Assistance Program (ADAP)— (*See Issues "A" to "C" for Discussion)*

Overall Background on the ADAP: ADAP **is a subsidy program for low and moderate income persons (individual income cannot exceed $50,000) with HIV/AIDS who have no health care coverage for prescription drugs and are *not* eligible for the Medi-Cal Program.**

There are about 22,733 clients enrolled in ADAP (as of February 18, 2004).

Under the program eligible individuals receive drug therapies through participating local pharmacies under subcontract with the statewide contractor. The state provides reimbursement for drug therapies listed on the ADAP formulary (**about 151 drugs currently**). **The formulary includes anti-retrovirals, hypolipidemics, anti-depressants, vaccines, analgesics, and oral generic antibiotics.**

ADAP is cost-beneficial to the state. Without ADAP assistance to obtain HIV/AIDS drugs, **infected individuals would be forced to (1)** postpone treatment until disabled and Medi-Cal eligible or **(2)** spend down their assets to qualify for Medi-Cal. **About 50 percent of Medi-Cal costs are borne by the state, as compared to only 30 percent of ADAP costs.**

Since the AIDS virus can quickly mutate in response to a single drug, medical protocol now calls for Highly Active Antiretroviral Treatment (HAART) which minimally includes three different anti-viral drugs. As such, expenditures in ADAP have increased. Under the program, individuals receive drug therapies through participating local pharmacies under subcontract with a statewide contractor. Studies consistently demonstrate that early intervention, minimizes more serious illness, reduces more costly treatments and maximizes an individuals productivity and health.

The DHS notes that ADAP has grown in response to (1) increased demand brought about, in part, by the development of new, more efficacious but costly therapies, (2) increased caseload, and (3) changes in drug utilization as therapies shift due to drug resistance over the course of treatment as individuals live with AIDS.

Budget Act of 2003 and Use of Other General Fund Resources: Through language contained in the Budget Act of 2003, the Administration had flexibility **to utilize up to $7 million (General Fund) in resources from the HIV Therapeutic Monitoring Program** for the ADAP in the event additional expenditure authority was needed for the ADAP during the course of the fiscal year. **The Administration has just recently utilized this funding source.**

As such, the *revised* current-year budget for ADAP is $212.1 million ($64.1 million General Fund, $ 50.3 Drug Rebate Funds, and $97.7 million federal funds).

Governor's Proposed Mid-Year Adjustment and Budget—Capped Enrollment & Reduced Funding: As part of his Mid-Year Reduction package, the Governor proposes **to cap enrollment in ADAP as of January 1, 2004 for proposed savings of $275,000 (General Fund) in 2003-04, and $550,000 (General Fund) in 2004-05 by denying services to about 1,392 people (by June 30, 2005).**

The Governor's 2004-05 budget proposes total expenditures of *only* $207.3 million ($63.8 million General Fund, $97.7 million federal funds and $45.8 million in Drug Rebates) to serve 23,891 clients (Governor's capped enrollment level). As such, the Governor's budget reflects a *decrease* of $4.8 million (a decrease of $300,000 General Fund and $4.5 million in Drug Rebates).

Summary of the Governor's ADAP Budgets:

Funding Source (Rounded)	Governor's 2003-04 Budget	Governor's 2004-05 Budget
General Fund	$64.1 million	$63.8 million
Drug Rebates	$50.3 million	$45.8 million
Federal Funds	$97.7 million	$97.7 million
TOTALS	**$212.1 million**	**$207.3 million**
Difference		***Less* $4.8 million**

(See next page for the specific budget discussion ISSUES—A, B, and C.)

ISSUE "A"—Potential Savings Through Program Efficiencies & Cost Containment

Background--Pharmacy Benefit Manager and Potential Alternatives: In 1997, the DHS contracted with a pharmacy benefit manager (PBM) to centralize the purchase and distribution of drugs under ADAP. **According to the DHS, Ramsell Corporation has successfully completed the third year of a five-year contract with ADAP. Presently there are about 238 ADAP enrollment sites and about 3,309 pharmacies available to clients located throughout the state.**

The DHS is currently working with the University of AIDS Research Program (UARP) and others to gather information and calculate cost data to examine alternative drug purchasing systems, including (1) continuation of the PBM process, (2) using a "prime vendor" system whereby bulk purchasing is used to secure prices (versus using a rebate model), and (3) using a state direct purchase method. More information regarding these options and methods should be forthcoming in summer**. It is anticipated that the state's Request for Proposal for administering ADAP will likely be released in late October 2004 for services to begin July 1, 2005. No substantive changes are anticipated prior to this date.**

Option for Savings—Limit Prescription Refill Frequency: Through discussions with advocacy groups and the DHS, it appears that **some General Fund savings can be achieved through the implementation of certain program efficiencies and cost containment actions.**

ADAP's current policy is 80 percent drug utilization (i.e., on a 30-day prescription, the *earliest* refill is on the 24th day) prior to refilling a prescription. This policy reflects how most Third Party providers refill prescriptions. **However, based on discussions Subcommittee staff has had with the DHS, if the refill policy was changed to a 90 percent drug utilization policy (i.e., refill at the 27th day) a savings of $500,000 (General Fund) could be achieved**.

This savings level assumes that an ADAP client fills an ADAP-funded prescription 7.6 months per year (since clients enter and leave the program every day) and takes into consideration drug accumulation patterns. **The DHS notes that most ADAP pharmacies would likely be willing to comply with this possible change.**

Option for Savings—Use an "Automatic" Refill Interval of 6 Months: An "automatic" refill is the practice of refilling, and in some cases delivering, prescriptions to ADAP clients without requiring any action on the part of the ADAP client or the physician. **Presently, ADAP does not directly limit refills, because the subscribing physician limits the number of refills available without a physician authorization, and the ADAP client must contact the pharmacy to fill the prescription each month.** The DHS notes that automatic refills assist ADAP clients in staying adherent to their antiretroviral regiments but that there is some potential for pharmacy fraud. (It should be noted that the ADAP PBM also conducts monitoring of the pharmacies.)

According to the DHS, current HIV medical practice standards include medical monitoring of viral load levels every three to six months. Further, New York recently adopted a five

month refill limit for their HIV/AIDS drug program. As such, the DHS has been considering a physician refill verification interval.

Based on an initial estimate, it is believed that $300,000 in General Fund savings can be achieved from implementing a six-month interval refill requirement in ADAP.

Subcommittee Staff Recommendation: Program efficiencies and cost containment for ADAP must be balanced against adequate ADAP client access to medications with strict adherence requirements, as well as not cost shifting to other publicly-funded programs (such as local health jurisdictions and Medi-Cal). **The two options presented above—limiting the prescription refill frequency and implementing a six-month interval refill requirement—seem to be reasonable strategies which provide balance and cost containment.**

It is therefore recommended for the Subcommittee to direct the DHS to implement these two actions effective July 1, 2004 and to reduce the ADAP budget by a total of $800,000 (General Fund).

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. DHS, Can the two proposed modifications for cost containment—establishing a refill policy at the 27th day for drugs, and using a six month refill interval—be incorporated into the ADAP in a workable manner?**
- **2. DHS, From a technical assistance basis, are the proposed savings identified in the agenda reasonable?**

Budget Issue: Does the Subcommittee want to adopt the staff recommendation to reduce by $800,000 (General Fund) as the result of the above outlined program efficiencies?

ISSUE B—Governor's Proposed Cap on ADAP Clients *(See Hand Out)*

Governor's Mid-Year Reduction and Budget Year Proposals: As part of his Mid-Year Reduction proposal (for 2003-04) and proposed budget (2004-05), the Governor seeks **to cap enrollment in various health and human services programs, including the ADAP.**

Under the Governor's proposal, ADAP would be capped in the current-year at 23,891 clients (estimated ADAP enrollment as of January 1, 2004). Once the enrollment cap has been reached, eligible individuals needing services would be placed on a waiting list for services. According to the DOF, the waiting list would be based on a first-come-first served basis. The Governor **assumes savings of $275,000 (General Fund) from this effort in his Mid-Year calculations by denying 696 individuals ADAP drug access. For the budget year, the Governor assumes savings of $550,000 (annualized savings) by denying 1,392 individuals ADAP drug access.**

These proposed savings levels do not take into account *any* administrative cost off-sets or *any* additional costs that may be incurred under the Medi-Cal Program if individuals shift from this program over to Medi-Cal in order to obtain services.

Subcommittee Staff Comment: **Without ADAP** assistance to obtain HIV/AIDS drugs, **individuals would be forced to: (1)** postpone treatment until disabled and Medi-Cal eligible, or **(2)** spend down their assets to qualify, increasing expenditures under Medi-Cal. **According to the DHS, 50 percent of Medi-Cal costs are borne by the state, whereas only 30 percent of ADAP costs are borne by the state.** As such, ADAP has been a cost-beneficial program for the state.

In addition the proposal would require increased expenditures for the administration of a waiting list, including personnel, computer system changes and related administrative functions. ADAP also affects demand for Medi-Cal services. No comprehensive cost estimate has been forthcoming from the DOF on either of these aspects.

Legislative Analyst's Office Recommendation--Reject: In her Analysis, **the Legislative Analyst recommends to reject the Governor's proposed caseload cap in the ADAP because it is highly probable that any short-term savings would be offset by increased future costs for treatment services.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** DHS, **briefly explain** how the Governor's proposed enrollment cap would operate.
- **2. What costs would be incurred to administer such a cap?**
- **3. What costs would be potentially incurred if individuals not receiving ADAP services would become sicker and need to transfer to the Medi-Cal Program (based on disability)?**

Budget Issue: Does the Subcommittee want to adopt or reject the Governor's proposal to capitate the number of low-income individuals with HIV/AIDS who do not have medical coverage for AIDS drugs at the January 1, 2004 level?

ISSUE "C"—ADAP Drug Rebates—Their Estimating, Collecting, Tracking & Expenditure

Background—Overview of Rebate Process (Federal and State Supplemental): Prior to 1997-98, drug rebate collection under the ADAP was voluntary and almost all pharmaceutical manufacturers chose *not* to participate. However this has subsequently changed.

Both federal and state law require ADAP drug rebates to be paid in accordance with the same formula by which state Medicaid (Medi-Cal) programs are paid rebates. This formula is established by the federal Center for Medicare and Medicaid (CMS). **Due to federal restrictions regarding the rebate calculation formula, the actual calculation (i.e., the specific multiplier) is not available to the state or the public.** ***Therefore, the actual rebates that California actual receives varies by the amount invoiced to the pharmaceutical manufacturer.***

In addition, California also negotiates additional "supplemental" rebates under ADAP via a special taskforce, along with eight other states (representing the largest ADAP's in the country). The mission of this taskforce is to secure additional rebates from eight manufacturers of antiretroviral drugs (i.e., most expensive and essential treatment therapies). It is estimated at this time that California will obtain up to $5 million in supplemental rebates from this effort. (These agreements vary by manufacturer and may change annually or upon renewal of manufacturer agreements.)

It should also be noted that rebates have grown as more drugs have been added to the ADAP formulary. In 1997-98, there were 54 drugs on the formulary. Today there are 151 drugs.

Background—How DHS Processes Rebates: ADAP uses a database invoice and payment tracking system, by manufacturer and billing quarter, for both the regular and "supplemental" rebate programs. Manufacturers are billed about 60-days after the end of a quarter based on the number of units purchased through ADAP. **All rebates received from the manufacturers are entered into the ADAP database, and then deposited into an "uncleared collection" account. This "uncleared collection" account is a catch-all account used for a variety of checks that the DHS receives, not just for ADAP rebates.**

The ADAP rebates cannot be used for program expenditures until they pass from the "uncleared collection" account, and become a reimbursement. Further, budget authority is then required to expend the reimbursement. ***It should be noted that there is currently no mechanism to assure that ADAP rebate dollars are dedicated solely for the purposes of the program, although federal policy requires rebates to be used for drug purchases.***

Background—"Accumulated" ADAP Rebates Available: As noted in the table below, **the ADAP has collected more rebate each year than the program has had budget authority to actually spend. (Remembering that (1)** rebates have grown as more drugs have been added to the ADAP formulary, **(2)** rebate agreements vary by manufacturer and may change annually or upon renewal of manufacturer agreements,**(3)** rebate amounts vary by the amount invoiced to the manufacturer and the price of the drug product, and **(4)** rebate amounts vary contingent upon the actual rebate amount the state can collect**)**.

As such, the "accumulated" rebate (i.e., from 1997-98 through 2002-03) became "one-time" rebate funds used to address ADAP shortfalls and to backfill for General Fund support in the program. ***The current "accumulated" rebate amount that is presently not obligated for expenditure (i.e., not accounted for in the Governor's budget) is $21 million.***

Table: Summary of "Accumulated" Drug Rebates

Fiscal Year	Total Rebate Collected	Rebate Budget Authority	Rebate Dollars Used to Off-Set General Fund	Accumulated Rebate Amount (Not Obligated)
On going			$460,000 (state staff)	
1997-98	$10,085,779	$7,829,000		
1998-99	14,287,056	11,429,000		
1999-2000	19,217,487	13,129,000		
2000-01	24,138,051	14,039,000		
2001-02	30,930,504	19,200,000		
2002-03	41,290,230	26,176,850		
SUBTOTAL (1997 to 2002)	**$140,003,109**	**$91,812,850**		**$48,190,259**
2003-04*	Billed not received	50,342,000	21,374,000	-21,374,000
2004-05*	N/A	45,822,000	5,822,000	-5,822,000
TOTALS (Rounded)	**N/A**	**N/A**	**$27,196,000 (plus the staff)**	**$20,994,000 (Net amount)**

* Proposed in Governor's Budget

Subcommittee Staff Comments and Recommendation: As noted in the discussion above, the estimating, collecting, tracking and expenditure of **drug rebates is complex, with some aspects of the process being more manageable and predictable than others**. **The Office of AIDS has done a commendable job in assertively seeking manufacturer rebates, particularly in more recent years. These efforts have enabled the program to (1)** continue to provide access to drugs for individuals in need, **and (2)** defer additional General Fund expenditures, or in more recent years, directly offset the use of limited General Fund resources. **This said however, modifications are needed.**

Subcommittee Staff Comments and Recommendation* (continued): First, it is recommended to establish a special deposit fund for ADAP Drug Rebates through *placeholder* trailer bill legislation**. **A special fund for this purpose will assist in facilitating both administrative and manufacturer accountability through the publication of a Fund Condition Statement in the annual budget, as well as through standardized accounting procedures.** ***In addition, a special fund can earn interest.

Due to concerns regarding the variability of drug prices and rebate collections, it is suggested to consider having the special fund be **continuously appropriated** so that rebate funds can be utilized (once collected) in a responsive manner.

Second, in order to more fully fund the ADAP, it is recommended to appropriate the $21 million (in accumulated ADAP Drug Rebate Funds) for ADAP in the budget year and to use a portion of this amount to backfill for General Fund support. Subcommittee staff has been informed that to more fully fund the ADAP in the budget year, additional resources are needed. These resources are needed to mitigate the potential for drugs being eliminated from the formulary or other measures that could endanger an individual's health status.

Given the state's fiscal crisis and the availability of limited resources, the situation necessitates a balance to provide access to drugs, contain program costs, offset General Fund resources, secure more drug rebates, and secure more federal funds from the Bush Administration.

In addition, it will be important for the Legislature, Administration, and advocates to work collaboratively in reviewing the work currently being conducted by the University of AIDS Research Program (UARP) regarding their examination of alternative drug purchasing systems. This work includes examination of (1) continuation of the PBM process, (2) using a "prime vendor" system whereby bulk purchasing is used to secure prices (versus using a rebate model), and (3) using a state direct purchase method. **As noted earlier, more information regarding these options and methods should be forthcoming in summer** for development of a new Request for Proposal process to administer the ADAP in 2005-06**.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** DHS, Please **briefly explain** the $21 million in available "accumulated" rebate funds.
- **2.** DHS, **From a technical assistance perspective, is it likely that additional funds above the Governor's budget of $207.3 million may be needed to more appropriately fund the ADAP in 2004-05?**

Budget Issue: Does the **Subcommittee want to adopt the Subcommittee staff recommendation, or craft other options?**

2. Genetically Handicapped Persons Program (GHPP)—*ISSUES "A" to "C"*

Overall Background: The GHPP **provides diagnostic evaluations, treatment services, and medical case management services for adults with certain genetic diseases**, including cystic fibrosis, hemophilia, sickle cell disease, Huntington's disease, and certain neurological metabolic diseases. **The services covered by the GHPP include all the medically necessary medical and dental services needed by the client, not just the services related to the GHPP-eligible condition. (GHPP differs from the California Children's Services (CCS) Program in that CCS covers only services related to the CCS eligible condition.)**

GHPP is suppose to be the "payer of last resort" (as a 100 percent General Fund program) meaning that third-party health insurance and Medi-Cal coverage are to be used first. GHPP authorized services are **reimbursed according to the following guidelines** established by the DHS:

- **For GHPP-only clients** (non-Medi-Cal eligible) **with no health insurance**, GHPP reimburses providers using **solely General Fund support at Medi-Cal fee-for-service rates with claims adjudicated through EDS (state's fiscal intermediary);**
- GHPP clients with health insurance are required to use their health insurance first before GHPP state support is used. **Providers are to bill third-party health insurance first for these clients;**
- **Medi-Cal clients enrolled in GHPP may be enrolled in Medi-Cal Managed Care plans *or* be in fee-for-service Medi-Cal and are provided assistance as follows:**
    - **Managed care Medi-Cal clients** are only eligible for GHPP special care center team assessment and evaluation services which are reimbursed fee-for-services. All other benefits are covered by the health plans under the managed care arrangement.
    - Fee-for-service Medi-Cal clients have services paid by Medi-Cal but are case managed by GHPP.

Governor's Proposed Budget Overall: The budget proposes total **expenditures of $49.5 million ($49.3 million General Fund and $200,000 Enrollment Fees) in the GHPP to support a patient caseload of 1,682 individuals (837 Medi-Cal eligible and 845 GHPP-only).**

The Governor proposes to make three significant changes to the GHPP Program. Each of these will be discussed further below, but include the following items:

- **Cap enrollment for GHPP-only patients** (i.e., not Medi-Cal eligible) for proposed savings of $194,000 (General Fund) by not providing services to 36 medically needy individuals in 2004-05.
- **Implement a 10 percent rate reduction, in addition to the five percent reduction adopted in the Budget Act of 2003**, for proposed savings of $6.5 million (General Fund).
- **Implement a new copayment for the program effective July 1, 2004** for savings of $576,000 (General Fund). **A $10 copayment would be charged for each service**.

DHS Notes Substantial Cost Increases Over Past Years: **Expenditures for the GHPP have been rapidly increasing over several years.** In fact, the program **increased well over 320 percent from 1996 to 2001** (from $12 million General Fund to $38.8 million General Fund).

ISSUE "A"—Blood Factor Rebates—(1) State Owed Reimbursement on Rebates, and (2) State Needs to Proceed with Contract Savings & Related Expenditure Reduction Measures

Background—State's Authority to Collect Rebates: The Omnibus health trailer bill to implement the Budget Act of 2002 **authorized the GHPP to receive rebates on anti-hemophilia Blood Factor**. This authority was extended in the Omnibus health trailer bill to implement the Budget Act of 2003 (Chapter 230, Statutes of 2003) to give the DHS authority to contract for drug rebates for GHPP and the California Children's Services (CCS) Program. **Additionally, the GHPP received qualification as a "State Pharmaceutical Assistance Program" from the federal Centers for Medicare and Medical Services (CMS).**

Background—Hemophilia: Generally, hemophilia refers to a group of bleeding disorders, most commonly "factor 8" and "factor 9" deficiencies but also include von Willebrands Disease and other "factors". Patients with these disorders are classified based on their level of procoagulant that is deficient. Individuals with these disorders require treatment with factor concentrates for bleeding episodes. These factor concentrates are medications that are either made through purification of plasma proteins or through a process of genetic engineering. These products are clinically complex and cannot be easily considered interchangeable.

Background—Rebates Owed to the State from 2002-03 Fiscal Year: According to information obtained from the DHS, all but two pharmaceutical manufacturers have substantive rebate balances owed to the state. **Only $153,000 has been collected from an amount owed of $4.2 million for the 2002-03 fiscal year.** The DHS notes the following amounts are owed:

Manufacturer	Total Due	Balanced Owed From *2002-03*
Alpha Therapeutic	$155,818	*Paid*
American Red Cross	168,948	$168,948
Aventis	220,319	220,319
Baxter	2,541,361	2,541,361
Bayer	263,698	263,698
Genetics Institute	382,447	382,447
Nabi	4,174	*Paid*
Novo Nordisk	494,507	494,507
TOTAL (Rounded)	**$4,231,000**	**$4,078,000**

According to the DHS, discussions are underway with manufacturers who have not paid the rebates. Letter were mailed to manufacturers last December and January. **However, *no firm date* as to when resolution can be expected and reimbursement to the state made, has as yet been identified.**

Background—Contract & Rebate Savings for 2003-04 Are Lost, and 2004-05 is Low:
Through the Budget Act of 2003, the Administration and Legislature assumed that **$7.5 million in General Fund savings could be achieved within the GHPP through drug rebate collection and through the implementation of other contract savings, such as medical supplies and durable medical equipment**. This savings figure was based on a survey conducted by the DHS Audits and Investigations Division.

The DHS was provided three new state positions, from a **request of five positions, to contract for rebates for blood factor products as well as other items for both the GHPP as well as the California Children's Services (CCS) Program.** Though some resources were provided, **the DHS states that none of the original $7.5 million in General Fund savings can be achieved in 2003-04 (current year), as reflected in the Governor's revised current year budget.**

In addition, the Governor's budget for 2004-05 reflects a savings of only $1.5 million (General Fund) for the same contracting and rebate functions as identified in last year's budget as savings of $7.5 million.

The DHS contends that their experience in collecting the GHPP blood factor rebates for 2002-03 (as discussed above) has demonstrated that the process of collecting rebates is staff intensive, requires multiple steps to collect funds, and ongoing changes in manufacturers' intent and process. **The DHS notes they are in the process of developing a standard contract for the GHPP effort but that the workload is difficult and higher priorities—such as authorizing services to GHPP clients—often take precedence**. Further they state that since the position requested in last year's budget for the Children's Medical Services Branch that administers GHPP was not authorized, the program does not have resources to undertake the workload.

Further, DHS contends that since the two additional positions requested in last year's budget for the GHPP program branch were not approved by the Legislature, additional work could therefore not be done (i.e., positions could not be redirected according to the DHS).

Background—Other Expenditure Reductions for 2003-04 Are Lost, and 2004-05 is Zero:
Through the Budget Act of 2003, the Administration and Legislature assumed that **$1 million in General Fund savings would be achieved through the following actions:**

- **(1) Implement utilization controls on anti-hemophilia factor;**
- **(2) Assure that other health care coverage is utilized before the General Fund is used for service reimbursement; and**
- **(3) implement a more efficient system for assessment and collection of GHPP client fees.**

The Legislature provided three new state positions for this purpose, as requested by the DHS. However, due to hiring freezes imposed by the DOF, it has taken longer for the positions to be filled and for savings to commence. One position remains frozen as the DHS has not received a freeze exemption. The DHS states that it will take six to 12 months after the positions are filled for savings to begin.

Governor's Proposed Budget: The **Governor's proposed budget for 2004-05 assumes the following with respect to these issues:**

- ***Collection of 2002-03 Rebates Owed to State:*** No dollars assumed.
- ***Contract Savings for Pharmaceuticals, Medical Supplies, et al:*** $1.5 million in savings (which is **$6 million *less*** than stated in the 2003-04 budget assumptions).
- ***Expenditure Reductions for Core Program Functions:*** No dollars assumed.

Subcommittee Staff Comment and Recommendation: The issues identified above—**collecting owed rebates for Blood Factor products, obtaining contract savings for medical supplies and related products, and ensuring program efficiencies—are *core functions* to the overall operation of the GHPP. These types of program efficiencies should be implemented prior to anyone not being enrolled and receiving services.**

The Legislature provided six positions from an original request of eight positions for this work to be completed. In an era of limited resources, priorities need to be established and economies of scale (such as using contracts were applicable) need to be used. It is clearly evident that the Administration needs to follow through on all of these identified items. **In addition, those manufacturers who owe the state rebates need to come forth immediately to remedy the identified outstanding balances.**

It is therefore recommended for the Subcommittee to take action on the following items for the budget year:

- **(1) Establish a special fund through trailer bill legislation** for the collection of GHPP rebates, as well as rebates received under the California Children Services (CCS) Program (to be discussed below). A special fund will assist in facilitating both administrative and manufacturer accountability through the publication of Fund Condition Statements in the annual budget, as well as through standardizing accounting procedures. **In addition, a special fund can earn interest.**
- **(2) Appropriate the $4.1 million** in identified, but as yet not fully uncollected, rebates from 2002 for the GHPP. (As noted in the above chart, about $153,000 of these funds have indeed been collected.) **Of this amount, utilize $89,000 (rebate funds) for a new Associate Governmental Program Analyst (AGPA) position to assist with the various functions identified above (as similarly done under the ADAP Program). The remaining amount—about $4 million—shall be used as a General Fund offset (i.e., serves as a fund shift and saves General Fund).**
- **(3) Recognize increased savings of $5 million (General Fund)** for contracts, pharmaceutical rebates, medical supplies and related items, **above the Administration's proposed savings of only $1.5 million (General Fund).** The original figure in the Budget Act of 2003 was $7.5 million for these items. The uncollected blood factor rebates from 2002 are alone $4.1 million. **As such, the DHS should be able to obtain more blood factor rebates, as well as savings from other drugs used in the program, and from medical supplies and durable medical equipment.**
- **(4) Recognize savings of $1 million (General Fund)** by implementing the core program improvements as assumed in the Budget Act of 2003. The AGPA position should be able to provide assistance when hired. Until this time, it seems reasonable to assume that some existing staff or redirected staff could be used in this effort.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please describe the DHS efforts to collect the Blood Factor rebates owed to the state from 2002. What kind of response has the DHS received from the various manufacturers?**
- **2.** Can additional savings be generated from collecting rebates, and contracting for various supplies as discussed above?

Budget Issue: Does the Subcommittee want to adopt the Subcommittee staff recommendations or craft other options**?**

ISSUE "B"—Governor's Proposed GHPP Reductions—(1) Cap on Program, (2) Implement Copay, and (3) Reduce Rates by Another 10 Percent

Governor's Proposed Budget Overall: The budget proposes total **expenditures of $49.5 million ($49.3 million General Fund and $200,000 Enrollment Fees) in the GHPP to support a patient caseload of 1,682 individuals (837 Medi-Cal eligible and 845 GHPP-only).**

The Governor proposes to make three significant changes to the GHPP Program, as noted below:

- **Cap enrollment for GHPP-only patients as of January 1, 2004;**
- **Implement a 10 percent rate reduction, in addition to the five percent reduction adopted in the Budget Act of 2003**; and
- **Implement a new copayment for the program effective July 1, 2004.**

Background on Governor's Enrollment Cap: As part of his Mid-Year Reduction package, the Governor proposes **to cap enrollment in the GHPP as of January 1, 2004 for proposed savings of $245,000 (General Fund) in 2003-04 and $194,000 (General Fund) in 2004-05 by denying services to about 842 people (average monthly wait list of 3 people). The proposed cap would affect GHPP-only individuals (i.e., not eligible for Medi-Cal).**

No information has been provided by the Administration as to what administrative costs would be incurred. **The "waiting list" would not be done on a medical necessity basis and would likely result in people suffering severe harm or even death given the medical intensity of individuals receiving services under the program.**

The Legislative Analyst in her Analysis recommends to reject the Governor's enrollment cap for the GHPP because the minor savings achieved from the action would not be worth the increased administrative costs and operational problems.

Background on 5 Percent Reduction and Governor's Proposed 10 Percent Rate Reduction:
The Governor proposes to implement an additional 10 percent rate reduction, which is in addition to the five percent reduction adopted in the Budget Act of 2003. **Proposed savings of $4.3 million (General Fund) are assumed from the 10 percent rate reduction, and $2.2 million (General Fund) is assumed from the five percent reduction (for a total of $6.5 million General Fund in all)**.

Although **a court injunction** is in place which has halted implementation of the five percent reduction for Fee-For-Service Medi-Cal, it **did not apply to state funded programs.** Therefore, **the DHS is proceeded with reducing by 5 percent the rates paid for non-Medi-Cal services, such as for GHPP-only cases in January.**

Background on Governor's Proposed Copayment: The Governor proposes to implement a new copayment for the program effective July 1, 2004. **A $10 copayment would be charged for each service. Savings of $576,000 (General Fund) are assumed from this action.** The copayment amounts would be in addition to the GHPP enrollment fees which are already required on an annual basis.

The DHS states that the $576,000 (General Fund) savings figure from the copayment proposal assumes that 800 individuals (i.e., the GHPP-only patients) receive on average six services a month at a copay level of $10 per service (i.e., 800 persons x 6 services a month x $10 copay x 12 months). **However, it should be noted that this figure is merely a "placeholder" number.**

The DHS has respectfully acknowledged that more analysis needs to be done on this proposal. **For example, it is unknown what a typical individual would need to pay on a monthly basis.** It is unknown what the average units of service provided are under the GHPP (such as for an individual with hemophilia) and whether all services should have the same level of copayment (e.g., does it make sense to change a $10 copay for blood factor, physician visit, and hospital visits). No monthly or annual threshold limits have been articulated, nor has a potential exemption process for hardship situations.

Subcommittee staff believes that a copay for the GHPP makes sense but that the Administration's proposal **needs additional work, and could benefit from discussions with program participants, providers and applicable advocacy groups. As such, it is recommended to hold this item open, pending further analysis.**

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions:

- **1. Please articulate how the state would implement and operate the GHPP cap. What administrative costs are associated with this?**
- **2. Please clarify how the existing 5 percent rate reduction is being implemented.**
- **3. Please describe the Administration's proposed additional 10 percent rate reduction. What are the potential affects of this reduction?**
- **4. Please describe the Administration's copayment proposal, including how it would operate.**

3. California Children's Services (CCS) Program—*ISSUES "A" to "B"*

Overall Background: The California Children's Services (CCS) Program provides medical diagnosis, case management, treatment and therapy to financially **eligible children with specific medical conditions, including birth defects, chronic illness, genetic diseases and injuries due to accidents or violence**. **The CCS services must be deemed to be *"medically necessary"* in order for them to be provided.**

The CCS is the oldest managed health care program in the state and the only one focused specifically on children with special health care needs. It depends on a network of specialty physicians, therapists and hospitals to provide this medical care. By law, CCS services are provided as a separate and distinct medical treatment (i.e., carved-out service).

CCS enrollment consists of children enrolled as: (1) CCS-only (not eligible for Medi-Cal or the Healthy Families Program), **(2)** CCS and Medi-Cal eligible, and **(3)** CCS and Healthy Families eligible. **Where applicable, the state draws down a federal funding match and off-sets this match against state funds as well as county funds.**

Background--Governor's Proposed Budget Overall: Total program **expenditures of $220.5 million ($82.5 million General Fund, $75.3 million County Realignment Funds**, **$51.1 million federal Title XXI funds,** $11.1 million federal Maternal & Child Health block grant funds, $500,000 patient enrollment fees, and $2.8 million other funds) are proposed for 2004-05. CCS was included in the State-Local Realignment of 1991 and 1992. As such, counties utilize a portion of their County Realignment Funds for this program.

The Governor proposes the following key changes for the CCS Program:

- **Cap enrollment for CCS-only patients as of January 1, 2004;** and
- **Implement a 10 percent rate reduction, in addition to the five percent reduction adopted in the Budget Act of 2003.**

These issues are discussed below, along with program efficiencies.

ISSUE "A" Contract and Rebate Savings

Background—Contract and Rebate Savings for 2003-04 Are Lost, and 2004-05 is Zero : Through the Budget Act of 2003, the Administration and Legislature assumed that **$2.5 million in General Fund savings could be achieved within the CCS Program through drug rebate collection and through the implementation of other contract savings, such as medical supplies and durable medical equipment**. This savings figure was based on the fact that the CCS Program provides over $130 million in direct services annually and that 30 percent of these services are for such items as medical supplies, durable medical equipment and blood factor product.

The DHS was provided three new state positions, from a **request of five positions, to contract for rebates for blood factor products as well as other items for both the CCS as well as the GHPP (as previously discussed under the GHPP).** Though some resources were provided, **the DHS states that no savings at *all* can be achieved in 2003-04 (current year), as reflected in the Governor's revised current year budget. DHS states that this is because freeze exemptions from the DOF have not yet been received to hire the positions.**

In addition, the Governor's budget for 2004-05 reflects absolutely no savings for the same contracting functions.

Subcommittee Staff Comment and Recommendation: The issues identified above—obtaining **rebates for various drug products, and contract savings for medical supplies and related products—are *core* program *functions.* These types of program efficiencies should be implemented prior to anyone not being enrolled and receiving services.**

It is therefore recommended for the Subcommittee to take action on the following items for the budget year:

- **1. Utilize the special fund** referenced under the GHPP item **for the CCS Program rebates** as well. The DHS fiscal personnel note that one fund for both programs would suffice.
- **2. Recognize savings of $2.5 million** (General Fund) by proceeding with obtaining rebates for various drug products and contract savings as referenced above. Significant economies of scale should be achievable for these products, similarly as they were under the Medi-Cal Program. The AGPA position provided under the GHPP above, as well as existing CCS positions, can be used for this purpose.

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions:

- **1. Why are no savings being attributed in the current or budget year to obtaining pharmaceutical rebates, or contract savings (such as for medical supplies or durable medical items)?**

ISSUE "B"—Governor's Proposed Reductions—(1) Cap on Program, and (2) Reduce Rates by Another 10 Percent

Governor's Proposed Budget and Proposed Reductions: Total program **expenditures of $220.5 million ($82.5 million General Fund,** $75.3 million County Realignment Funds, $51.1 million federal Title XXI funds, $11.1 million federal Maternal & Child Health block grant funds, $500,000 patient enrollment fees, and $2.8 million other funds) **are proposed for 2004-05. This proposed funding level assumes an enrollment cap and reduced reimbursement rates as discussed below.**

Background on Governor's Enrollment Cap and Subcommittee Staff Comment: As part of his Mid-Year Reduction package, the Governor proposes **to cap enrollment at 37,594 children for CCS-only eligibles as of January 1, 2004. This requires statutory change. His budget proposes savings of $242,000 ($121,000 General Fund) by denying services to 153 children in the current year.**

For the budget year, the Governor assumes a savings of $3.8 million ($1.9 million General Fund and $1.9 million County Realignment Funds) by denying services to 1,256 children in 2004-05.

The Administration has provided no comprehensive cost analysis as to what resources would be needed to implement a cap, or how it would fully operate. Eligibility processing for the CCS is still not fully computerized and the development of a "waiting list" would require re-programming and would be a costly administrative burden. Since CCS is a "realigned" program (shared with the counties) additional complexities would likely be encountered.

Some of these children may be able to obtain treatment through county indigent health care programs or charitable care. **However, CCS children by definition of being enrolled in the program are very medically involved and often require intensive treatment, as well as on-going treatment through their adolescent years.** Capping this program could be catastrophic for these families and their children.

In her Analysis, the Legislative Analyst notes that a cap on CCS enrollment would create an inequitable situation in which children with the most intensive medical needs would lack coverage, while children needing more routine care would have some coverage. **The LAO recommends for the Legislature to reject this cap proposal.**

Background on Governor's Proposed 10 Percent Rate Reduction: The Governor proposes to implement a 10 percent rate reduction, which is in addition to the five percent reduction adopted in the Budget Act of 2003. **Proposed savings of $3.6 million ($1.8 million General Fund) are assumed from the 10 percent rate reduction, and $1.8 million ($905,000 General Fund) is assumed from the five percent reduction (for a total of $2.7 million General Fund in all)**.

Though a court injunction is in place which has halted implementation of the five percent reduction for Fee-For-Service Medi-Cal, **the DHS is proceeding with reducing by 5 percent the rates paid for non-Medi-Cal services, such as for CCS-only cases.**

Through the Budget Act of 2000, the CCS Program was provided a rate increase of 39 percent. Other than a five percent increase granted in 1999, no rate adjustment had been provided since 1982. These rate adjustments resulted from data obtained from the Senate Office of Research and their comprehensive report on the program (published in 2000), plus rate analyses conducted by the DHS, as well as the American Academy of Pediatrics and specialty physician groups.

Subcommittee Staff Comment: **In lieu of the additional 10 percent rate adjustment, the Legislature may want to consider other cost saving options such as** utilization controls on Medical Therapy services, utilization controls on certain pharmaceuticals, medical supplies and laboratory services or other related program efficiencies. **It is suggested to direct Subcommittee staff, the DHS, county representatives and constituency groups to meet to further discuss potential options for future consideration by the Subcommittee.**

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to briefly respond to the following questions:

- **1. Please articulate how the state would implement and operate the GHPP cap. What administrative costs are associated with this?**
- **2. Please clarify how the existing 5 percent rate reduction is being implemented.**
- **3. Please describe the Administration's proposed additional 10 percent rate reduction. What are the potential affects of this reduction?**

III. 4260 Department of Health Services—Medi-Cal Program *(Selected Items)*

A more comprehensive discussion regarding the Medi-Cal Program will be convened by the Subcommittee in April in order to accommodate the Administration and facilitate their discussions regarding potential Medi-Cal changes and reforms.

1. Medi-Cal Drug Rebates & the Collection of Owed Rebates—Why Can't More Be Collected?

Background—Summary of the Medi-Cal Drug Rebate Program: The Medi-Cal fee-for-service Drug Program controls costs through **two major components—(1) a Medi-Cal List of Contract Drugs (or formulary), and (2) contracts with about 100 pharmaceutical manufacturers for supplemental rebates**. Drugs listed on the formulary are available without prior authorization. **In turn, the manufacturers agree to provide certain rebates mandated by both the federal and state government.** The state supplemental drug rebates are negotiated by the DHS with manufacturers to provide additional drug rebates above the federal rebate levels.

According to the DHS, the Medi-Cal fee-for-service program will pay retail pharmacies about $4.4 billion (total funds) in payments in 2004-05 for prescription drugs and medical supplies. The Drug Program collects rebates from these products, as well as from County Organized Health Care Systems for their Medi-Cal items and the Family PACT Program. ***Collectively it is anticipated that rebate collections will total about $1.4 billion (total funds) in 2004-05.***

As required by federal law, rebates are billed quarterly to drug manufacturers on a "per claim" basis. **The DHS bills for over 50 million claims a year.** A drug manufacturer may dispute any claim and that dispute must be resolved between the DHS and the drug manufacturer.

In 2002, the DHS implemented the Rebate Accounting and Information System (RAIS). Using the RAIS, the DHS can now automatically bill and track the collection of state and federal rebates due from manufacturers. Prior to this implementation, the DHS used an antiquated computer system which needed significant human intervention to resolve rebate claims.

Background—Collection of Owed Rebates and Summary of Recent Legislative Actions: **The collection of manufacturer rebate moneys owed to the state has been a long standing issue with the DHS. In a 1996 report**, the Bureau of State Audits (BSA) identified about $40 million in past, owed rebates to the state. **In the BSA April 2003 report, the "aged rebates" owed to the state had escalated to be $216 million (total funds as of September 2001).**

Recent Legislative Actions: **In response to these BSA reports, the Legislature took the following recent actions:**

- ***Budget Act of 2001:*** Provided increased resources to implement the RAIS rebate tracking.
- ***Budget Act of 2002:*** Provided **four new staff** to assist in processing aged rebates and enacted trailer bill legislation to prevent the loss of state drug rebates if manufacturers re-calculate downward their prices. (This was done because manufacturers were retroactively making changes and therefore, reducing rebates.
- ***Budget Act of 2003:*** Provided eleven new staff to assist in processing aged rebates.

Federal Inspector General's Report and DHS Clarification: The federal Officer of Inspector General (OIG) conducted an audit of California's Medicaid (Medi-Cal) Drug Rebate Program which was released in January 2004. **Among other things, the report concluded that the state's program had an *unresolved drug rebate balance of $1.3 billion* (total funds) as of June 30, 2002.**

The DHS objected to this reported OIG balance indicating that the report was in error, and provided the OIG with a revised figure of $818 million (total funds as of June 30, 2002). The DHS sited several federal CMS inaccuracies regarding bad data that were used in the OIG analysis, and gave examples of errors that can cause a drug manufacturer to dispute a drug rebate billing. **The DHS states that since this time, the amount of unresolved/outstanding rebates has *been reduced to about $302.3 million (total funds as of June 2002)* due to payments by drug manufacturers, as shown in the chart below (DHS provided information):**

Table: DHS Summary of Unresolved/Uncollected Rebates

Rebate Year	Adjusted Invoice Total (Total Funds)	Paid Principal (Total Funds)	Outstanding Principal (Total Funds)	Percentage Outstanding
1991	$ 97,900,858	$ 87,373,776	$ 10,527,082	11%
1992	167,744,003	158,367,043	9,376,960	6
1993	194,392,409	186,551,266	7,841,143	4
1994	238,547,577	222,572,042	15,975,535	7
1995	277,248,581	258,967,817	18,280,764	7
1996	315,327,696	304,036,120	11,291,575	4
1997	351,427,087	332,728,549	18,698,537	5
1998	472,001,499	448,490,996	23,510,502	5
1999	625,017,617	584,595,599	40,422,018	6
2000	789,752,321	729,581,742	60,170,578	8
2001	974,008,351	916,739,533	57,268,817	6
2002	585,127,372	556,142,364	28,985,008	5
TOTALS (Rounded)	**$5,088,495,000**	**$4,786,146,000**	**$302,348,523**	**6**

The DHS notes that the $302.3 million (to June 30, 2002) as shown above is similar to the audit findings of the Bureau of State Audits report from April 2003 (as referenced above).

The DHS also contends that a significant portion of the $302.3 million balance represents rebates that have been billed but for a variety of reasons may not be collectable.

Governor's Proposed Budget: The Governor's budget **proposes to collect a total of *only $29.5 million ($14.750 million General Fund)* of the identified $302.3 million** as shown in the chart above. **Of the $29.5 million ($14.750 million General Fund)** in the budget, $5.9 million is identified for 2003-04 and $23.6 million is for 2004-05.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. DHS, please briefly explain what the $302.3 million (total funds) represents, as well as the $29.5 million (total funds).**
- **2. What specifically is being done to rectify the unresolved claims and when will the backlog in unresolved claims be completely processed?**
- **3. What specifically is being done in response to establishing more internal controls as referenced by the federal OIG?**
- **4. Do you have any recommendations on how to make the billing, collection, and tracking of rebates easier and more efficient?**

Budget Issue: Does the Subcommittee **want to approve or modify the Governor's proposed budget for the collection of aged drug rebates?**

2. Governor's Proposed Enrollment Caps Within the Medi-Cal Program *(See Hand Out)*

Background—Overall: California operates several programs within Medi-Cal whereby specified eligible individuals receive certain critical services. **These critical services include prenatal care, long-term care, and breast and cervical cancer treatment (up to 18 months of treatment only).** Each of these programs are operated on a "state-only" basis (i.e., using state General Fund only, without any federal match).

In addition, California provides full scope **Medi-Cal services to lawfully present (i.e., legal) immigrants** who lost eligibility for certain federal benefits such as Medicaid as a result of the 1996 federal Welfare Reform Law. **Under federal law, persons denied full-scope Medi-Cal based on their immigration status must have access to emergency Medi-Cal services.**

In preserving these services, the state recognized the potential public health consequences of denying preventive and critical health care to very low-income individuals. Studies consistently demonstrate that early intervention minimizes more serious illness, reduces more costly treatments and maximizes an individuals productivity and health. **If these services are not available it is very likely individuals will seek assistance through emergency rooms (via charity care or county payment), or county indigent health care programs.**

Governor's Proposed Mid-Year Reduction and Budget: The Governor proposes to cap enrollment, effective January 1, 2004, in several Medi-Cal programs. **The proposal requires statutory change before implementation can occur.** Presently, no action has been taken on this issue, though other Mid-Year Reductions (i.e., changes to the 2003-04 current year budget) have occurred.

The Governor's proposed budget for 2004-05 assumes implementation of the enrollment caps as proposed in his Mid-Year Reduction package. The total proposed savings are $17.2 million (General Fund) for 2004-05 from these enrollment caps. Specifically, he is proposing to limit enrollment in the following Medi-Cal related programs:

- The **Breast and Cervical Cancer Treatment Services (BCCT) Program** for undocumented individuals would be capped at an enrollment level of 1,658 persons. **The Administration assumes savings of $1.8 million General Fund by establishing an average monthly "wait list" for these services of 525 individuals in 2004-05.** Under this program, individuals receive either breast cancer treatment for up to 24 months (maximum) or cervical cancer treatment for up to 18 months (maximum). No other services are provided. Eligible individuals are persons who are either underinsured or uninsured, not eligible for Medi-Cal, and have incomes below 200 percent of poverty.
- **Full-scope services for recent legal immigrants would be capped at an enrollment level of 113,139 individuals.** The Administration assumes savings of $5.6 million General Fund **by establishing an average monthly "wait list" for these services of 11,439 individuals in 2004-05**.
- **Non-emergency services for undocumented individuals which includes prenatal care and long-term care services would be capped at 794,000 individuals.** The Administration

assumes savings of $9.8 million General Fund **by establishing an average monthly "wait list" for these services of 65,900 individuals (most are assumed to need pre-natal care services)** in 2004-05.

Under this proposal, the DHS would establish statewide waiting lists on a first come first served basis. No medical necessity factors would be taken into account. As such, individuals who have more severe medical conditions or lower income, would *not* receive priority under the Administration's waiting list concept.

The Administration is also reflecting a cost of $1 million ($250,000 General Fund) for the implementation of a waiting list. This proposed cost assumes that a contractor will be hired to establish a statewide waiting list and to make related changes to the existing Medi-Cal data system. This proposed expenditure does *not* provide for any DHS staff resources that would likely be necessary for such a task or for any potential county processing changes.

In response to follow up questions regarding administration of a waiting list, it is evident that a bureaucratic nightmare would ensue. Counties would need to make changes to all of their processing systems (no funds provided). At least three separate waiting lists would need to be developed. Potentially new Medi-Cal Aid codes would have to be developed. Revised beneficiary card messages and mail notices would need to be done to know when someone is moved off of a waiting list (no funds provided).

Legislative Analyst's Office (LAO) Recommendation--Reject: The **LAO recommends for the Legislature to reject the Administration's proposed cap on these Medi-Cal programs.**

The LAO notes that in general the imposition of enrollment caps **(1)** makes programs more difficult to administer, and **(2)** makes programs more costly. For example, procedures for the establishment of waiting lists, and for dealing with disputes with program applicants over disenrollment and re-enrollment in a program, can be a complex process to administer. **They also note that the savings expected from some of the enrollment caps are fairly minor when compared to the overall program costs. They further recognize that the proposal would create inequitable gaps in coverage, create conflicts with other prior legislative decisions, and in some instances, create increased future costs for treatment services.**

Constituency Concerns: The Subcommittee is in receipt of several letters expressing concerns with the Administration's proposal. They note that pregnant women, seniors and persons with severe disabilities cannot afford to "wait" for health care. A freeze on enrollment will prevent individuals from securing preventive or critical care when they need it, aggravating otherwise simple problems, and forcing them to rely on more expensive emergency services. They contend that California will pay for more expensive services through the emergency Medi-Cal program.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please explain the proposal to cap enrollment within the Medi-Cal Program.**

- **2. Please describe the process for managing a "waiting list" and the administrative costs accounted for in the budget. Would additional expenditures be needed?**

Budget Issue: Does **the Subcommittee want to adopt or reject the Administration's proposal to cap certain programs operated under the Medi-Cal Program?**

If the Subcommittee rejects the Administration's proposal, it is also recommended to delete the request for increased Administrative costs of $1 million ($250,000 General Fund).

3. Administration's Proposals Regarding Federally Qualified Health Care Centers (FQHCs) and Rural Health Care Clinics (RHCs)—Significant Change Proposed

Background—Summary of Federal Law Change and Budget Act of 2001: Prior to 2001, the state provided "cost based" reimbursement for clinics with an FQHC or RHC designation as directed by federal law. Under this "cost based" system, FQHCs and RHCs would submit cost reports, the DHS would review and audit the reports and a cost-settlement process would then determine the final Medi-Cal payment.

Through a federal law change—the Consolidated Appropriations Act of 2001—a new *"Prospective Payment System" (PPS)* was to take effect as of January 1, 2001.

Generally under a PPS, a *base* payment year would be established to pay a FQHC's/RHC's average reasonable cost. Then beginning in federal fiscal year 2002 and for each year thereafter, each FQHC/RHC would receive the *per visit base payment* increased by the percentage in the federal Medicare Economic Index (MEI) for primary care services, *and* adjusted to take into account any increase or decrease in the "scope of services".

As such, the clinic would be paid up front and, when applicable, a cost adjustment (i.e., MEI) would be provided along with any service level adjustment (i.e., scope of service changes). The purpose of this federal law was to drive increased efficiencies at the clinic level and to make program expenditures more predictable.

Under this federal law change, a state could also utilize an *"Alternative Payment Methodology"* in lieu of PPS, if certain conditions were met.

Background--California's Choice: **As discussed below, California opted to implement *both* a PPS and an Alternative Payment Method.** The state adopted the Alternative Payment Method as a compromise.

The key components to the agreed to state's process are: (1) establishment of a base payment rate (i.e., clinic selects either a PPS or alternative payment), (2) adjust future payments as appropriate using the MEI, and (3) adjust future payments as appropriate based on "scope of service" changes.

Budget Act of 2001 and Specifics of California's Agreement: Through the Budget Act of 2001 and subsequent legislation—SB 36 (Chesbro), Statutes of 2003—**California submitted a State Plan Amendment to the federal CMS for the state's PPS *and* Alternative Payment Methodology. Clinics were given the option of selecting either** the PPS method of reimbursement or the Alternative Method of reimbursement **for establishing a *base* rate per clinic visit.**

Under this agreement, the following framework was established:

- **PPS *Base* Reimbursement:** This methodology consists of taking a FQHCs/RHCs 1999 and 2000 cost reported data and calculating an average cost per visit from the two fiscal years.

- **Alternative *Base* Reimbursement:** This methodology consists of utilizing 2000 cost reported data and calculating an average cost per visit from this year alone. About **67 percent of the FQHCs/RHCs chose this base reimbursement method**.

- **Medicare Economic Index:** As contained in federal law, a FQHC's/RHC's base reimbursement (either PPS or the Alternative Method) would be adjusted by the Medicare Economic Index (MEI), effective each federal fiscal year (commencing with October 1, 2001).

- **Scope of Service Change (80/20 Method):** As contained in federal law and state law, an adjustment in the reimbursement rate is required whenever a FQHC/RHC has a "scope of service" change. **A scope of service change is defined *as an addition or deletion of a service or a change in the type, intensity, duration, or amount of services.***

  All scope of service changes must first be documented by the FQHC/RHC and approved by the DHS. Further, because of the complexity in trying to measure the appropriate dollar amount assigned to the scope of service change, a methodology was developed—the "80/20" method.

  Generally under the "80/20" method, *only* 80 percent of the cost difference from the previous fiscal year to the scope of service fiscal year is attributable to the scope of service change. The remaining 20 percent of the cost change is assumed to be normal operating increases. As such, the scope of service change is discounted from the beginning.

- **Managed Care Differential:** DHS is required to reimburse FQHCs/RHCs that provide services to Medi-Cal recipients enrolled in Managed Care Plans (Plan) an amount up to the FQHC's/RHC's PPS rate for all billable services rendered to the applicable recipients. Since the rate paid by the Plan is lower than the PPS rate, an interim rate is paid. Final reconciliation will identify the remaining differential payment that needs to be paid to the FQHCs/RHCs.

- **Medicare/Medi-Cal Crossovers:** DHS is required to reimburse FQHCs/RHCs that provide services to Medicare/Medi-Cal recipients an amount up to the FQHC's/RHC's PPS rate for all billable services rendered to the Medicare/Medi-Cal recipient. Since the rate paid by Medicare is lower than the PPS rate, an interim rate is currently paid to the FQHC/RHCs to make up for part of the difference between what Medicare pays and the PPS rate. Final reconciliation will identify the remaining differential payment that needs to be paid to facilities.

Status of the State's PPS and Alternative Payment Method—Not Yet Implemented: First, the state's PPS, including the Alternative Rate Method, that has **been under development since 2001 has not yet been fully implemented. Though clinics have effectuated scope of service changes, the DHS has not calculated the "scope of service" changes since the forms and process for calculating them were just recently completed. Federal approval of this process, as submitted in a State Plan Amendment in January 2004, is still pending.**

Therefore, the state is in arrears for paying the FQHCs/RHCs for Medi-Cal Program services provided in past years in many areas, including (1) scope of service changes, (2) MEI adjustments, (3) Managed Care adjustments, and (4) Medicare Crossover payments.

As estimated by the DHS (revised from the January budget proposal)*, these in arrears payments that the state owes the clinics is about almost $202.1 million (total funds). (See Chart below on next page.)** ***However, it is not fully clear on how the scope of service change calculation is computed since the DHS has not yet implemented the scope of service change process. Further, discussions with the clinics on how these figures were developed has not yet occurred and needs to occur.

Second as discussed below, the Administration wants to eliminate the Alternative Payment Method (which 67 percent of the clinics have been using as allowed under both state and federal law) and shift all clinics over to the PPS method. According to budget documents (as stated in the Medi-Cal Estimate), the Administration was contemplating to unilaterally proceed with this action via a State Plan Amendment to be enacted as of April 1, 2004. However, subsequent conversations have confirmed that this will not occur.

Governor's Proposed Budget and Technical Update: The Governor proposes several adjustments to the Medi-Cal reimbursement rate provided to FQHCs and RHCs through the budget. **Most notably he is proposing to eliminate the Alternative Rate Method currently used by 67 percent of the clinics. As discussed above, the DHS had contemplating proceeding with unilateral elimination of this method via a State Plan Amendment (to be enacted as of April 1, 2004) but has subsequently withheld from submittal.**

The information shown below has been revised by the DHS based upon their re-calculation of data. Further, it is likely that the May Revision will change these figures as more data becomes available.

The proposed adjustments and their *potential* fiscal effect are outlined below:

Revised Assumption	2003-04 (Revised)	2004-05 (Revised)
A. Retroactive Adjustments:	**(owed not paid)**	
• Scope of Service Changes	0	$83,522,000
• MEI Rate Adjustments	0	26,036,000
• Managed Care Adjustments	0	54,793,000
• Medicare Crossovers	0	37,696,000
SUBTOTAL (Retroactive)	**0**	**$202,047,000**
B. Ongoing Adjustments:		
• Scope of Service Change		$12,158,000
• Managed Care		0
• Medicare Crossovers		0
• Loss of Audit Recoveries **(reflects technical adjustment)**	$10,000,000	$10,000,000
SUBTOTAL (Ongoing)	**$10,000,000**	**$22,158,000**
C. Proposal to Eliminate the Alternative Payment Method	**($14,800,000) (April 1, 2004)**	**($67,200,000) Ongoing**

Significant Constituency Concerns: The Subcommittee is in receipt of letters which express significant concern regarding the lack of implementation for the scope of service changes and the proposed elimination of the Alternative Rate Method. **The proposed elimination of the Alternative Rate Method being of the most significance.**

They note that federal law sets a payment floor for FQHCs/RHCs (i.e., the minimum federal payment) and provides that states are free to adopt any equivalent or more generous payment methodology so long as a clinic consents to the alternative. **California is not currently in a position to calculate the minimum federal payment because it has not yet calculated the scope of service changes which have occurred since 2001.**

Further it is noted that the existing agreement—choice of the PPS base payment or Alternative Payment Method—was an agreed to compromise which has clearly not been enacted, and yet, the state now wants to change the deal.

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions:

- **1. Please provide a status update on the implementation of the scope of service change.**
- **2. Will the state be proceeding with a State Plan Amendment to eliminate the Alternative Payment Method prior to resolution of this issue via the budget process?**
- **3. What percentage of FQHCs and RHCs could be impacted through the elimination of the Alternative Payment Method?**
- **4. Why did the state originally agree to implementing an Alternative Rate Method instead of just going to the federal minimum?**
- **5. Please explain how the DHS calculated the scope of service change information when actual data is currently not yet available.**

Budget Issue: Does the Subcommittee **want to hold this issue open** until additional data is available at the May Revision and constituency groups have had an opportunity to meet with the DHS and discuss the proposed figures?

4. Medi-Cal Rates—Update on 5 Percent Reduction & Administration's Proposed Additional 10 Percent Reduction

Governor's Proposed Mid-Year Reduction and Budget: Due to the state's fiscal crisis, **the Budget Act of 2003 reduced certain Medi-Cal Program reimbursement rates by five percent effective January 1, 2004.** Certain entities were exempt from the reduction including: hospital inpatient services, hospital outpatient services, state operated facilities, Federally Qualified Health Centers/Rural Health Centers (FQHCs/RHCs), long-term care services and related items.

In his Mid-Year Reduction proposal, the Governor proposes to reduce Medi-Cal rates by *another* 10 percent, which is in addition to the five percent reduction made in the Budget Act of 2003 and to carry this reduction level forward for **a combined reduction of 15 percent**.

As noted in the table below, the two-year combined General Fund savings would be about $960 million. For providers, this would mean a loss of almost $1.9 billion in reimbursements over the course of the two-year period.

Proposed Medi-Cal Provider Rate Reduction for 2003-04 & 2004-05

Medi-Cal Category	2003-04 Assumed General Fund Savings	2004-05 Assumed General Fund Savings	Total Assumed General Fund Savings
Physicians Services	$22,787,000	$66,318,000	$89,105,000
Other Medical	16,002,000	45,063,000	61,065,000
Pharmacy	137,463,000	298,623,000	436,086,000
Medical Transportation	3,236,000	9,042,000	12,278,000
Other Services	18,718,000	53,494,000	72,212,000
Home Health	4,029,000	11,700,000	15,729,000
Dental Services	17,163,000	34,224,000	51,387,000
Early Periodic Screening Diagnosis and Treatment	811,000	2,133,000	2,944,000
Managed Care Plans	38,239,000	157,000,000	195,239,000
Family PACT	4,452,000	19,200,000	23,652,000
Total General Fund	**$262.9 million**	**$696.7 million**	**$959.6 million**
5 Percent Total (Rounded)	**($102.8 million)**	**($236.8 million)**	**($339.6 million)**
10 Percent Total (Rounded)	**($160.1 million)**	**($459.9 million)**	**($620 million)**

Update on Implementation of the 5 Percent Reduction (January 1, 2004): It should be noted that the **United States District Court recently issued a preliminary injunction stopping the implementation of the five percent reduction for the Fee-For-Service Medi-Cal reimbursement rates.** The state submitted a Motion for Reconsideration on this issue and it was denied. **The state will soon be filing an appeal with the court.** As such, further court action is pending.

However, the state can and is proceeding with a five percent reduction on Medi-Cal Managed Care Plans, as well as "state-only" (100 percent General Fund supported) programs.

According to the DHS, with respect to Managed Care Plans, their actuaries computed the actuarial equivalent of the five percent fee-for-service rate solely for the services included in the fee-for-service provider cuts (primarily these were pharmacy and physician services). Further, since each Plan has a contract period, the timing of rate decrease varies according to that contract period as follows:

Plan Name	5% Rate Decrease Applied Date	Notice of Dispute Filed?
All Two-Plan Model Plans	October 1, 2003	**Yes,** except Alameda
County Organized Plans:		
Orange (CalOPTIMA)	October 1, 2003	No
Santa Cruz (CCAH)	January 1, 2004	No
San Mateo	July 1, 2004	No
Santa Barbara	January 1, 2004	No
Solano (Partnership)	May 1, 2004	No
San Diego	July 1, 2004	No
Sacramento	January 1, 2004	No

Constituency Concerns: The Subcommittee is in receipt of several letters expressing concerns with the Governor's proposed 10 percent reduction. Patient access to needed services being a principal concern.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please provide an update on **implementation of the five percent reduction.**
- **2.** Please **explain how the additional 10 percent reduction as contained in the Governor's budget proposal was derived**?

Budget Issue: Does the **Subcommittee want to (1) adopt** the Governor's proposal to reduce Medi-Cal Rates by 10 percent, **or (2) hold open pending further information**, including further legal discussions?

5. Administration's Proposal Regarding Breast & Cervical Cancer Eligibility Processing

Background on Current Program Operations: The Budget Act of 2001 and accompanying trailer bill legislation implemented the federal Medicaid (Medi-Cal) option to provide certain health care services to individuals with breast and cervical cancer. The Breast and Cervical Cancer Treatment Program (BCCTP) was implemented January 1, 2002.

The BCCTP uses an internet-based application for *initial* eligibility determination. Under this process, a provider conducts an initial screen for eligibility and then the DHS makes the *final* eligibility determination. (This method conforms with federal law which requires a governmental entity, such as state or county government, to make final Medicaid (Medi-Cal) eligibility determinations.)

An individual can qualify for either the "state-only" portion of the program (limited-scope benefits related to the cancer treatment only), *or* full-scope Medi-Cal services. The DHS staff are required to evaluate all BCCTP recipients receiving full-scope, federally funded Medi-Cal services within a *45-day timeframe* to ensure they meet the federal criteria and are indeed eligible for federal matching funds. If the individual does not meet these criteria, they are eligible for limited-scope, cancer treatment services only (up to 18 months for breast cancer treatment and 24 months for cervical cancer treatment).

The DHS was originally provided with 13 positions for the program in 2002. The DHS eliminated one of these positions through administrative reductions.

The DHS contends that there are insufficient staff to (1) meet the 45-day period for determining eligibility, **(2)** conduct annual re-determinations, **(3)** forward applications to the counties to determine if they are eligible for any other Medi-Cal program as required by federal procedures, and **(4)** process applicants who may be eligible for up to three months of retroactive eligibility.

Governor's Proposed Budget: **The DHS currently has 12 staff dedicated to completing BCCTP eligibility determinations and redeterminations at a cost of about $1 million ($480,000 General Fund).** The DHS contends they have insufficient state staff to complete eligibility determinations on time (i.e., within the 45 day criteria). **As such**, **the Administration proposes to transfer BCCTP eligibility determinations, effective January 1, 2005, to the counties for them to administer.**

Under this proposal, the Administration would eliminate one of the 12 existing positions as of January 2005, **and all but two of the remaining positions by June 30, 2005. This position reduction would save $41,000 ($20,000 General Fund) in 2004-05, increasing to about $800,00 ($400,000 General Fund) in savings in 2005-06.**

In addition, an *increase* of $2.4 million ($1.2 million General Fund) in 2004-05 is requested to provide resources to the counties to commence with the BCCTP eligibility activities which would be shifted to them under this proposal. This funding requirement would grow

in 2005-06 to be about $5.4 million ($2.7 million General Fund). The state would continue to operate and support the internet-based application system so that signed applications for BCCTP benefits could be forwarded to counties for completion of the eligibility process.

Legislative Analyst's Office Recommendation: The LAO contends that **the Administration's proposal to shift BCCTP eligibility processing to the counties would actually result in *higher costs*, not savings.**

The total cost of the Administration's proposal, including the retention of some DHS activities, would be $3.3 million ($1.7 million General Fund) in 2004-05, and about $5.6 million ($2.8 million General Fund) in 2005-06. **Whereas if one were to just add DHS staff (i.e., an additional 11 positions to address the backlog and 45-day timeframe) in lieu of the Administration's proposal, there would be net savings of $1.850 million ($950,000 General Fund) in 2004-05, and $3.640 million ($1.840 million General Fund) in 2005-06. This is shown in the table below:**

TABLE: Summary of LAO Eligibility Comparison

Eligibility Process	2004-05 Dollars	2005-06 Dollars
Current 12 Staff	$1 million ($480,000 GF)	$1 million ($480,000 GF)
Additional Staff (11 positions)	$460 ($230,000 GF)	$920 ($460,000 GF)
LAO Option TOTAL	**$1.460 million ($710,000 GF)**	**$1.920 million ($940,000 GF)**
Governor's Proposal	**$3.310 million ($1.660 million GF)**	**$5.560 million ($2.780 million GF)**
LAO *Net* Savings	**-$1.850 million ($950,000 GF)**	**-$3.640 million ($1.840 million GF)**

Therefore, the LAO recommends to (1) delete the Administration's proposal from the budget, including the state support reduction and county administration augmentation, and **(2)** increase by 11 positions (two-year limited-term basis) and $460,000 ($230,000 General Fund) for 2004-05.

Subcommittee staff concurs with the LAO recommendation.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please briefly explain the budget proposal.**
- **2. From a fiscal perspective, does the DOF concur with the LAO analysis?**

IV. 4280 Managed Risk Medical Insurance Board (MRMIB)

A. BACKGROUND

Purpose and Description of the Board

The Managed Risk Medical Insurance Board (MRMIB) administers programs, which provide health coverage through private health plans to certain groups without health insurance. **The MRMIB administers the (1) Healthy Families Program, (2) Major Risk Medical Insurance Program, and (3) Access for Infants and Mothers (AIM).**

Overall Budget of the Board

The budget proposes total expenditures of $1.156 billion ($313.6 million General Fund, $639.2 million Federal Trust Fund, $53.9 million County Health Initiative Matching Funds, and $149.7 million in other funds) for all programs administered by the Managed Risk Medical Insurance Board. Of this total amount, $7.3 million is for state operations. The budget proposes key changes to the Healthy Families Program. These are discussed below.

Summary of Expenditures (dollars in thousands)	**2003-04**	**2004-05**	**Dollar Change**	**Percent Change**
Program:				
Major Risk Medical Insurance (including state support)	$40,109	$40,002	($107)	.3
Access for Infants & Mother (including state support)	$118,709	$118,152	($557)	.5
Healthy Families Program (including state support)	$808,422	$844,307	$35,885	4.4
County Health Initiative Matching Program	$153,846	$153,846	--	--
Totals, Program Source	$1,121,086	$1,156,307	$35,221	3.1
General Fund	$303,286	$313,592	$10,306	3.4
Federal Funds	$617,860	$639,162	$21,302	3.4
County Health Initiative Matching Fund	$53,846	$53,846	--	--
Other Funds	$146,094	$149,707	$3,613	2.4
Total Funds	$1,121,086	$1,156,307	$35,221	3.1

B. ITEMS FOR DISCUSSION

1. Healthy Families Program Estimate—*ISSUES "A" to "D"*

Background—Overall on the HFP: The Healthy Families Program provides health, dental and vision coverage through managed care arrangements to uninsured children in families with incomes **up to 250 percent of the federal poverty level.**

Families pay a monthly premium and copayments as applicable. Families typically pay between $4 to $9 per child each month (with a monthly maximum of $27 per family) for the HFP. The amount paid varies according to a family's income and the health plan selected.

The benefit package is modeled after that offered to state employees. Eligibility is conducted on an annual basis. California receives an annual federal allotment of Title XXI funds (federal State-Children's Health Insurance Program) for the program for which the state must provide a 35 percent General Fund match.

Background—Overall Governor's Proposed Budget: **A total of $839.1 million ($305.5 million General Fund, $523.6 million Federal Title XXI Funds, $4.2 million Proposition 99 Funds, and $5.8 million in Reimbursements) is proposed for the HFP**, excluding state administration. **The budget proposes key changes to the Healthy Families Program, including implementation of an enrollment cap and county block grant, and development of a two-tiered benefit structure. These are discussed further below.**

ISSUE "A"—Consumer Assessment of Plans Survey

Background and Governor's Budget Proposal: The MRMIB conducts an annual survey of families enrolled in the health and dental plans participating in the HFP. The primary purpose of this survey is to assess the satisfaction and experience families have with their health and dental plans. **The Governor's budget proposes expenditures of $500,000 ($175,000 General Fund) for this purpose.**

The MRMIB has annually conducted a "Consumer Assessment of Health and Dental" survey for the past three years. They state that this survey is an effective method for meeting federal government regulations. Specifically, Section 457.495 of federal regulations require states to have a State Plan that among other things, asks states to make certain assurances regarding the quality and access to care under the program. MRMIB contends that without this survey instrument, California would not be able to fulfill this requirement.

Subcommittee Staff Recommendation: Subcommittee **staff recommends to delete the $500,000 ($175,000 General Fund) for the survey due to the state's severe fiscal situation. The Administration may be able to obtain funding from a health care foundation for this purpose, or may simply choose to inform the federal government that a survey cannot be conducted at this time due to fiscal constraints. Given that the state's program has not**

changed significantly over the past year, the federal CMS may even allow California to use its past-year survey.

Given the option of reducing services to children under the HFP or reducing administrative components, it seems only reasonable to reduce the administrative components.

Subcommittee Request: The Subcommittee has requested the MRMIB to briefly respond to the following question:

- **1.** Is it *necessary* for the state to conduct a survey for 2004-05 ? If so, specifically why?

Budget Issue: Does the Subcommittee **want to adopt the Subcommittee staff recommendation to reduce administrative components of the program**, in lieu of making health care service reductions to children?

ISSUE "B"—Governor's Proposed Cap on Enrollment *(See Hand Out)*

Governor's Mid-Year Reduction Package and Proposed Budget: As part of his Mid-Year Reduction package, **the Governor proposed to cap enrollment in the HFP as of January 1, 2004, for a total enrollment of 732,344 children, with 22,000 less children being served by the end of June 30, 2004 (i.e., end of the current-fiscal year). The proposal requires statutory change before implementation can occur.** Presently, no action has been taken on this issue, though other Mid-Year Reductions (i.e., changes to the 2003-04 current year budget) have occurred.

Under this proposal, the MRMIB would establish statewide waiting lists on a first come first served basis. No medical necessity factors would be taken into account. As such, individuals who have more severe medical conditions or lower income, would *not* receive priority under the Administration's waiting list concept.

The Governor's proposed budget for 2004-05 assumes implementation of the enrollment caps as proposed in his Mid-Year Reduction package. The proposed savings are $86.3 million ($ 31.5 million General Fund) for 2004-05 by capping the program at an enrollment level of 737,000 children with 114,000 less children being served by the end of June 30, 2005 (i.e., end of the 2004-05 year). It should be noted that the enrollment level of 737,000 children reflects the capped level coupled with an enrollment of 4,960 infants born to women enrolled in the Access for Infants and Mothers (AIM) Program.

The MRMIB is also **seeking an increase of $1 million ($ 350,000 General Fund) in new administrative costs associated with the HFP enrollment cap. The MRMIB states that these funds would be needed for the following activities:**

- $500,000 for system and process modifications for the Administrative Vendor.
- $400,000 for telephone costs due to anticipated call volume.
- $50,000 for producing and inserting errata sheets into the existing HFP handbooks.
- $50,000 for producing modifications to open enrollment materials and annual enrollment materials

Loss of Federal State-Childrens Health Insurance Program (S-CHIP) Funds: Since the inception of the HFP, California has not fully utilized its federal allotment of S-CHIP funds. To date, **the state has reverted $1.1 billion in unspent funds back to the federal government**, which was redistributed to other states that were able to expend their allotment within the specified time period. The LAO notes as of May 2003, California had about $1.9 billion in unspent S-CHIP funds remaining.

The Governor's enrollment cap proposal will reduce federal funds by $55 million.

Legislative Analyst's Office Recommendation: **The LAO recommends for the Legislature to reject the Administration's proposed cap on the HFP**, including the legal immigrant block grant (discussed below). **The LAO notes that in general the imposition of enrollment caps (1) makes programs more difficult to administer**, and (2) makes programs more costly. **For example, procedures for the establishment of waiting lists, and for dealing with disputes with program applicants over disenrollment and re-enrollment in a program, can be a complex process to administer.**

The LAO recognizes that the proposal would create inequitable gaps in coverage because no medical necessity criteria would be used for establishing the "wait list", and children who entered the program prior to January 1, 2004 (or other identified timeframe) would be treated differently than those who came after an implementation date.

Another equity issue pertains to how this cap would be implemented in the context of other publicly supported health programs. For example, while enrollment would be capped for children in families under 250 percent of poverty in the HFP, the Governor's budget plan proposes to continue implementation of the County Health Initiative Matching Fund (CHIM) for counties to support their county health initiatives to provide coverage to children in families with incomes between 250 percent and 300 percent of poverty.

The LAO also notes that based on past enrollment trends, the potential waiting period for coverage will grow over time, reaching as long as six months by the end of 2004-05 (budget year). Their analysis indicates that the waiting list would grow to about 280,000 children by the end of 2005-06 and that the last child to enroll before June 30, 2006 would not receive coverage until June 2007.

Constituency Concerns: The Subcommittee is in receipt of several letters expressing significant concerns with the Administration's proposal.

Subcommittee Staff Comment and Recommendation: **Subcommittee staff concurs with the LAO recommendation. Conceivably, children placed on a "waiting list" would need to seek health care, dental and vision services from other sources, including county indigent programs, emergency room care, other available state programs, and charity care (as available), or become sicker and more medically involved.**

Without question, prevention and early remediation are the most cost-beneficial approaches to overall health care, particularly children's health. Unhealthy children will have school adjustment problems and difficulty in learning and progressing through their education. **Low-income families are paying premiums and copayments to have their children participate in this program because other health care options are not available to them.** Limiting this option for families could be catastrophic.

However, it is also suggested for the Subcommittee to develop options for program efficiencies, cost containment, fund shifting (to federal versus state General Fund), and related items. ***These potential options could then be discussed at subsequent hearings.***

Subcommittee Request and Questions: The Subcommittee requests for the MRMIB to respond to the following questions:

- **1.** Please **briefly explain the Governor's enrollment cap** for the HFP.
- **2. What would the waiting list time be for an applicant before they actually received health care coverage? Could it be longer than six months?**
- **3. Is it likely that California will be reverting unspent funds back to the federal government this year? If so, about how much?**

Budget Issue: Does the **Subcommittee want to adopt or reject the Administration's proposal to cap enrollment into the HFP?**

ISSUE "C"—Governor's Proposal to Block Grant HFP to Counties

Governor's Proposed Budget: The Governor proposes to restructure and **consolidate *certain* state-only funded programs that provide health and human services to legal immigrants, including the HFP, CalWORKs, the California Food Assistance Program, and the Cash Assistance Program for Immigrants.**

Under his proposal, these programs would have their enrollments capped and then funding would be shifted to the counties in the form of a block grant. **Although funding for legal immigrants remains in the HFP budget for 2004-05, the budget reflects savings of $848,721 (General Fund) from this action, *supposedly due to anticipated administrative efficiencies* resulting from this proposal. The "savings" figure represents a five percent reduction.**

Legislative Analyst's Office Recommendation: In her Analysis, **the Legislative Analyst recommends for the Legislature to reject this proposal because the programs proposed for transfer to the counties are not well-suited for local control.**

Subcommittee Staff Comment and Recommendation: Subcommittee **staff concurs with the LAO recommendation.** The Healthy Families Program **with a medical risk pool of over 700,000 children will be able to achieve significantly more economies of scale, not to mention better health care plan rates, than individual counties trying to negotiate health plan packages for a much smaller population.**

Further, the Administration has yet to articulate specifically how the $848,721 (General Fund) is savings is to be achieved by the counties. The Administration's figure is simply a reduction.

Therefore, it is recommended for the Subcommittee to restore the $848,721 (General Fund) and to eliminate the HFP from the county block grant discussion. The other programs related to this proposal (such as CalWORKS, and Food Stamps will be discussed when the Department of Social Services is heard.)

Subcommittee Request and Questions: The Subcommittee has requested the MRMIB to respond to the following questions:

- **1.** Please briefly explain the Administration's proposal to include a portion of the Healthy Families Program in a block grant to the counties.
- **2.** Exactly how would the "anticipated efficiencies" be achieved by the counties?

Budget Issue: Does the Subcommittee **want to adopt or reject the Administration's proposal to shift a portion of the Healthy Families Program to the counties?**

ISSUE "D"—Governor's Proposed Two-Tiered Benefit Structure

Governor's Proposed Budget: The **Governor proposes to implement a two-tiered benefit package commencing in *2005-06***. Under this proposal, enrolled children with family incomes between 201 percent and 250 percent of poverty would be offered a choice of either a basic benefit package (excludes dental and vision coverage) or the standard HFP package. Enrollment in the standard HFP package would require higher monthly premiums and possibly more copayments.

The budget assumes increased costs of $750,000 ($263,000 General Fund) to modify the HFP administrative system and related functions in 2004-05. The Administration has not yet provided details as to what level of savings may be anticipated in 2005-06 for this proposal, or what levels of monthly premiums or copayments would be assumed.

Subcommittee Staff Comment and Recommendation—Policy Legislation: This proposal represents substantive policy change and does not have budgetary implications until 2005-06. **As such the Administration has been informed by the Senate through the DOF to introduce this proposal through the legislative policy process.** The requested $750,000 ($263,000 General Fund) to modify the HFP administrative system should be included in this legislation since it is unknown at this time what the final components of the legislation will be, as well as its eventual outcome. As such, the bill can carry the appropriation.

It is therefore recommended to delete the $750,000 ($263,000 General Fund) from the HFP budget and to delete, *without prejudice*, any proposed trailer bill language regarding this issue.

Subcommittee Request and Questions: The Subcommittee has requested for the MRMIB to respond to the following questions:

- **1. Please briefly explain the proposal.**

2. Access for Infants and Mothers (AIM) Program Reserve—LAO Recommendation

Background: The **Access for Infants and Mothers (AIM) Program provides health insurance coverage to women during pregnancy and up to 60 days postpartum, and covers their infants up to two years of age. Eligibility is limited to families with incomes from 200 to 300 percent of the poverty level. Eligible women select coverage from one of the nine participating health plans. Subscribers pay premiums equal to 2 percent of the family's annual income plus $100 for the infant's second year of coverage.**

Beginning July 1, 2004, infants in families between 200 and 250 percent of poverty are funded through the Healthy Families Program using General Fund and federal Title XXI funds (35 percent/65 percent). AIM infants in families between 250 and 300 percent of poverty (above the Healthy Families Program income threshold) are funded with 100 percent state funds (General

Fund and Proposition 99 Funds). This fiscal arrangement enables the state to more effectively utilize available federal funds and state funds.

A total of $118.1 million ($99.5 million Perinatal Insurance Fund—receives Proposition 99 Funds--, $6.5 million General Fund, $12.1 million federal funds) is proposed for AIM. A total of 8,783 women and 160,880 infants are expected to enroll in AIM in 2004-05.

No significant policy or budget adjustments are being proposed by the Administration at this time.

Legislative Analyst Office Recommendation—AIM Reserve Funds Available: In her Analysis, the **Legislative Analyst recommends for the Legislature to repeal the statutory requirement that the AIM Program maintain a reserve in the Perinatal Insurance Fund, thereby achieving about $1 million in Proposition 99 Funds. (These funds can be used to backfill for General Fund support in certain program areas.)**

The LAO's analysis indicates that there is no need for a separate and special reserve fund for AIM. **In the event that AIM Program expenditures exceed the 2004-05 budgeted amount, an alternative source of funding is available to fund unanticipated expenses. Specifically, a separate reserve is maintained for state programs supported through Proposition 99. The Governor's budget for 2004-05 sets aside about $10.7 million for the Proposition 99 reserve.**

Therefore, in light of the fiscal difficulties and the availability of the set aside reserve of $10.7 million, the special reserve for AIM is not needed.

Subcommittee Staff Comment: Subcommittee staff **concurs with the LAO recommendation to delete the AIM reserve amount of $1 million (Perinatal Insurance Fund) from the proposed budget and to add this amount to the existing Proposition 99 Fund reserve. The reserve would therefore increase to be about $11.7 million.**

(Further discussions regarding this reserve, as well as other Proposition 99 Funded programs will be conducted at subsequent Subcommittee hearings.)

Subcommittee Request and Questions: The Subcommittee has requested the MRMIB to respond to the following questions:

- **1.** Please respond to the LAO recommendation.

LAST PAGE OF THE AGENDA

Diane Van Maren 445-5202 (w)
Senate Budget & Fiscal Review 3/09/2004

OUTCOMES: Subcommittee No. 3: Monday, March 8, 2004

- Senator McPherson absent.

(Please use Agenda as a reference for this document.)

I. 530 California Health & Human Services Agency (Page 2)

1. CA Health Care Quality Improvement and Cost Containment Commission (Page 3)

- **Action:** Adopted the proposal to approve the two positions but used the Managed Care Fund in lieu of General Fund support, and extended the positions to be two-year limited term appointments. Also adopted technical trailer bill language to extend the report date by one year, and to use the Managed Care Fund. (This saves the General Fund $350,000.)
- **Vote:** 3-1 (McClintock)

II. 4260 Department of Health Services—Selected Public Health Programs (Page 5)

1. AIDS Drug Assistance Program (ADAP)— (*See Issues "A" to "C")*

ISSUE "A" Savings from Program Efficiencies (Page 7)

- **Action: Directed the DHS, by July 1, 2004, to (1) establish a refill policy at the 27th day for drugs for savings of $500,000, and (2) establish a 6-month refill interval for savings of $300,000.** (This saves the General Fund $800,000).
- **Vote:** 3-1 (McClintock)

ISSUE B—Governor's Proposed Cap on ADAP Clients (Page 8)

- **Action: Rejected the proposal.**
- **Vote:** 3-1 (McClintock)

ISSUE "C"—ADAP Drug Rebates—Their Estimating, Collecting, Tracking

- **Action: (1) Adopted placeholder trailer bill language to establish a special fund (to be continuously appropriated) for ADAP Rebates, (2) Appropriated the $21 million in accumulated ADAP Rebates, and (3) Used $6 million of this amount to backfill for General Fund support in the program.** (This increased the overall program by $15 million and saved the General Fund $6 million.)
- **Vote:** 3-1 (McClintock)

2. Genetically Handicapped Persons Program (GHPP)—*ISSUES "A" to "C"*

ISSUE "A"—Blood Factor Rebates—(1) State Owed Reimbursement on Rebates, and (2) State Needs to Proceed with Contract Savings & Related Expenditure Reduction Measures (Page 14)

Action: Adopted (1) trailer bill language to establish a special fund for the collection of GHPP rebates, as well as rebates received under the California Children Services (CCS) Program**.**

(2) Appropriated the $4.1 million in identified rebates from 2002 for the GHPP.

(3) Of this amount (from the rebates), utilize $89,000 for a new Associate Governmental Program Analyst (AGPA) position to assist with the various functions identified in the agenda. The remaining amount—about $4 million—is a General Fund offset (i.e., serves as a fund shift and saves General Fund).

(4) Recognized increased savings of $5 million (General Fund) for contracts, pharmaceutical rebates, medical supplies and related items, **above the Administration's proposed savings of only $1.5 million (General Fund).** (This saves the General Fund $9 million.)

- **Vote:** 3-1 (McClintock)

ISSUE "B"—Governor's Proposed GHPP Reductions—(1) Cap on Program, (2) Implement Copay, and (3) Reduce Rates by Another 10 Percent (Page 17)

- **Action: (1) Rejected the enrollment cap, (2) Kept the 10 percent rate reduction OPEN, pending receipt of additional information, (3) Kept the Copayment proposal OPEN, pending receipt of additional information.**
- **Vote:** 4-0

3. California Children's Services (CCS) Program—*ISSUES "A" to "B" (Page 19)*

ISSUE "A" Contract and Rebate Savings (Page 20)

- **Recommendation: Adopted trailer bill language (as already discuss under the GHPP item, above) for a special fund, and recognized $2.5 million (General Fund) by proceeding with obtaining rebates for various drug products and contract savings as referenced above.** (This saved the General Fund $2.5 million)
- **Vote:** 3-1 (McClintock)

ISSUE "B"—Governor's Proposed Reductions—(1) Cap on Program, and (2) Reduce Rates by Another 10 Percent (Page 21)

- **Action: Rejected the cap and Kept the 10 percent rate reduction OPEN pending receipt of additional information. Directed Subcommittee staff to work with others to craft potential cost containment options.**
- **Vote:** 4-0

III. 4260 Department of Health Services—Medi-Cal Program *(Selected Items) (Page 23)*

1. Medi-Cal Drug Rebates & the Collection of Owed Rebates—Why Can't More Be Collected? (Page 23)

- **Action: Increased the amount to be collected for the aged drug rebates by $30 million ($15 million General Fund) and adopted trailer bill language to require the DHS to report quarterly on the collection of all rebate funds.** (This saved the General Fund $15 million.)
- **Vote: 3-1 (McClintock)**

2. Governor's Proposed Enrollment Caps Within the Medi-Cal Program (Page 26)

- **Action: Rejected the cap and directed Subcommittee staff to work with others to craft potential cost containment options throughout the Medi-Cal Program area.**
- **Vote: 3-1 (McClintock) on the prenatal care, long-term care, and Breast & Cervical Programs.**
- **Vote: 4-0 on the legal immigrant services.**

3. Administration's Proposals Regarding Federally Qualified Health Care Centers (FQHCs) and Rural Health Care Clinics (RHCs)—Significant Change Proposed (Page 28)

- **Action: Rejected the elimination of the Alternative Payment Method since the DHS has not even implemented the PPS method as yet.**
- **Vote: 3-0 (McClintock absent)**

4. Medi-Cal Rates—Update on 5 Percent Reduction & Administration's Proposed Additional 10 Percent Reduction (Page 33)

- **Action: Kept open the 10 percent rate reduction, pending receipt of additional information.**

5. Administration's Proposal Regarding Breast & Cervical Cancer Eligibility Processing (Page 35)

- **Action: Adopted LAO recommendation to delete the Administration's proposal and to add 11 positions to the DHS for savings of $950,000 (General Fund).** (This saves the General Fund $950,000.)
- **Vote**: 3-0 (McClintock absent)

IV. 4280 Managed Risk Medical Insurance Board (MRMIB) (Page 37)

1. Healthy Families Program Estimate—*ISSUES "A" to "D" (Page 38)*

ISSUE "A"—Consumer Assessment of Plans Survey

- **Action:** Deleted the funds for the Consumer Survey. (This saved the General Fund $175,000.)
- Vote: 3-0 (McClintock absent)

ISSUE "B"—Governor's Proposed Cap on Enrollment *(See Hand Out) (Page 39)*

- **Action:** Rejected the cap but **directed Subcommittee staff** to work with others on crafting potentially other items for cost containment..
- Vote: 3-0 (McClintock absent)

ISSUE "C"—Governor's Proposal to Block Grant HFP to Counties (Page 42)

- **Action:** Rejected the proposal.
- Vote: 3-0 (McClintock absent)

ISSUE "D"—Governor's Proposed Two-Tiered Benefit Structure (Page 43)

- **Action:** Deleted the proposal from the budget process without prejudice and referred it to the policy committee.
- Vote: 3-0 (McClintock absent)

2. Access for Infants and Mothers (AIM) Program Reserve—LAO Recommendation (Page 43)

- **Action: Adopted LAO recommendation to eliminate the approximate $1 million (Perinatal Fund) in reserve for AIM and return the funds to the Proposition 99 reserve (to increase the Proposition 99 reserve).**
- Vote: 3-0 (McClintock absent)

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

March 11, 2004
Upon Adjournment of Senate Floor Session
Room 4203

Consultant, Ana Matosantos

4140 Office of Statewide Health Planning and Development

The Office of Statewide Health Planning and Development (OSHPD) develops plans, policies and programs to assist health care delivery systems in meeting the needs of Californians. OSHPD has four major program areas: (1) healthcare cost and quality analysis; (2) healthcare workforce development; (3) facility/hospital development, including Cal-Mortgage Loan Insurance; and (4) health care information. The OSHPD budget increases by $1.7 million, or 3 percent above current year expenditures. General Fund support decreases by $763,000.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	% Change
General Fund	$4,929	$4,166	-$763	-15.5
Federal Trust Fund	1,285	1,285	0	0.0
Special Funds	46,953	51,510	4,557	9.7
Reimbursements	3,785	1,683	-2,102	-55.5
Total	$56,952	$58,644	$1,692	3.0

VOTE ONLY ITEMS:

1. Hospital Charge Master Reporting.

Background: AB 1627 (Chapter 582, Statutes of 2003) seeks to provide information about hospital prices to patients, health plans and other healthcare purchasers. Beginning in July 2004, AB 1627 requires each hospital to file annually with OSHPD a copy of its charge description master and a list of the charges for 25 services or procedures commonly charged to patients. It authorizes OSHPD to compile and publish on its website a list of the ten most common Medicare diagnosis related groups (DRG) and the average charge for each DRG by individual hospital.

Governor's Budget: The budget provides $118,000 from the California Health Data and Planning Fund to design, develop and implement an efficient system to collect, store and disseminate the information regarding hospital charges as required by AB 1627. The funding will support the costs of collecting and storing electronically charge description masters and pricing information submitted to OSHPD by California hospitals. The budget does not propose to establish new positions.

Budget issue: Does the Legislature wish to maintain the Governor's proposed $118,000 augmentation to fund implementation of AB 1627?

DISCUSSION ITEMS:

1. Hospital Seismic Safety

Background: California law requires, as a condition of licensure, that acute care hospitals meet certain seismic performance standards by 2008 or by 2013 if they have received an approved extension from OSHPD. Hospital buildings considered at risk of collapsing must be retrofitted,

replaced or removed from acute care hospital service by the state deadline. By 2008, hospitals must assure that buildings where acute care services are delivered do not collapse following an earthquake. California law requires hospitals to meet additional structural and nonstructural requirements by 2030 such that persons who rely on a hospital for services can reasonably expect it to function during and immediately following an earthquake. According to the California Healthcare Association, the cost to hospitals of meeting the 2030 seismic requirements may reach $24 billion.

OSHPD is the state entity responsible for enforcing hospital compliance with seismic safety requirements. To date, OSHPD has developed standards to assess hospital building performance, categorized buildings according to structural and non structural performance categories, and reviewed and approved hospital plans to achieve compliance with state seismic requirements. Current OSHPD efforts include the review and approval of hospital construction plans and observation of construction.

According to OSHPD, 1,023 buildings located across the state's 448 hospitals pose a significant risk of collapse in a strong earthquake and must be retrofitted, replaced or cease to provide acute care services by 2008. 114 acute care hospitals have received extensions and plan to meet the required seismic safety standards by 2013. The state's remaining 334 acute care hospitals presumably plan to meet seismic requirements by 2008 or to request an extension in the future.

Hospital efforts to meet the 2008 seismic safety deadline have significantly increased the workload of OSHPD's Facilities Development Division. Between 2001 and 2003 the volume of planned hospital construction doubled. In the budget year, the Division will review plans for an estimated $2.6 billion in hospital construction costs. The increased level of workload is expected to continue until 2013.

Governor's Budget: The budget provides a $3.8 million increase to OSHPD and establishes 50 new permanent positions to support prompt review of hospital construction plans. Additionally, the budget shifts funding for the Seismic Retrofit Program from reimbursements to the Hospital Building Fund.

The California Healthcare Association and various healthcare systems' representatives write in support of the Governor's budget proposal arguing that delays in the review and approval of construction plans may significantly increase construction costs and impede hospital compliance with state seismic safety requirements.

Subcommittee request and questions: The Subcommittee has requested that OSHPD provide an update on the status of hospital compliance with California's Seismic Safety requirements and answer the following questions:

1. How many hospitals are currently in compliance with building seismic standards?
2. How many hospitals are expected to achieve compliance by 2008? by 2013?
3. How will seismic requirements impact future availability of acute care hospital services?

Budget Issue: Does the Legislature wish to maintain the Governor's proposed $3.8 million augmentation and 50 new positions to support prompt review of hospital construction plans?

2. Health Professions Scholarship and Loan Repayment Programs.

Background: The Health Professions Education Foundation manages eight scholarship and loan repayment programs that support registered nurses, nurse practitioners, certified nurse midwives, allied health professionals, dentists, dental hygienists, physician assistants and other health professionals who agree to practice in medically underserved areas. The scholarship and loan repayment programs are generally funded by fees assessed from licensed health care professionals. The Foundation manages over 500 awards and reviews more than 500 scholarship and loan repayment applications annually.

Legislation enacted in 2003 establishes two new education programs to be administered by the Foundation. AB 938, Chapter 437, Statutes of 2003 created the Licensed Mental Health Education Program. SB 358, Chapter 640, Statutes of 2003 established the Vocational Nurse Education Program. Both programs will be funded by fee revenue generated from recently established licensing fees.

Governor's Budget: The budget provides a $987,000 increase and establishes 1.5 new positions to implement the Licensed Mental Health Education Program and the Vocational Nurse Education Program, as well as to increase the Registered Nurse Education Program award amounts.

Beginning in July 2004, the Vocational Nurse Education Program will provide scholarships to vocational nurse students and graduates of vocational nurse programs who agree to practice in county health facilities, eligible state operated facilities and facilities located in health manpower shortage areas or medically underserved areas. The Foundation expects to award 20-25 scholarships in its first year.

The Licensed Mental Health Education Program will provide loan repayment grants to licensed mental health providers who agree to work in publicly funded facilities or facilities located in mental health professional shortage areas. The program will be implemented in January 2005 and is expected to provide 30 grants in its first year of operation.

Subcommittee request and questions: The Subcommittee has requested that the Health Professions Education Foundation provide a brief description of the new programs, the number of persons expected to participate in the programs and the number of patients expected to benefit from the programs.

Budget Issue: Does the Legislature wish to maintain the Governor's proposed $987,000 augmentation and 1.5 new positions to implement the Licensed Mental Health Education Program and the Vocational Nurse Education Program, as well as to increase the Registered Nurse Education Program award amounts?

4170 Department of Aging

The Department of Aging is the state agency designated to coordinate resources to meet the long term care needs of older individuals, to administer the federal Older Americans Act and the State Older Californians Act, and to work with Area Agencies on Aging to serve elderly and functionally impaired Californians. The department provides services under: (1) Senior Nutrition Services; (2) Senior Community Employment Services; (3) Supportive Services and Centers; and (4) Special Projects. The department's budget increases by $13,000. However, the General Fund contribution to the department declines by 4.8 percent, or $1.7 million.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	% Change
General Fund	$35,035	$33,366	-$1,669	-4.8
State HICAP Fund	1,612	1,773	161	10.0
Federal Trust Fund	139,410	139,456	46	0.0
Special Deposit Account	2,340	1,542	-798	-34.1
Reimbursements	6,914	9,187	2,273	32.9
Total	$185,311	$185,324	$13	0.0

VOTE ONLY ITEMS

1. Health Insurance Counseling and Advocacy Program (HICAP)

Background: The Health Insurance Counseling and Advocacy Program (HICAP) is a consumer oriented health insurance counseling and advocacy program. It provides community education to Medicare beneficiaries, legal referrals and individual health insurance counseling, as well as advocacy services regarding Medicare and other health insurance claims and appeals.

HICAP is funded by a combination of state and federal funds. The program receives federal State Health Insurance Assistance Program funds. It also receives state funds from the HICAP Fund and the Insurance Fund, two funds supported by fees assessed by the state from health plans.

In 2002, the federal government discontinued the Medicare+Choice grant funding. As a result, California's HICAP program lost $560,000 in federal funds in 2003-04. Senate Bill 413, Chapter 545, Statutes of 2003 authorized the Department of Aging to increase the existing HICAP assessment on health plans to $1.20 and required plans that offer Medicare supplement contracts, including Medicare Select contracts, to be subject to the HICAP assessment. The increased revenue is intended to restore HICAP program funding to its 2002-03 level.

Governor's Budget: The budget **increases by $485,000 funding for the Health Insurance Counseling and Advocacy program**. Revenues resulting from the higher HICAP assessment authorized by SB 413 and additional Insurance Fund participation will fund the augmentation.

Budget Issue: Does the Legislature wish to maintain the proposed funding increase?

2. Long-Term Care Ombudsman Program

Background: Established in 1972 as a demonstration program, **the Office of State Long-Term Care Ombudsman provides a range of services designed to protect persons receiving care from nursing homes and residential care facilities for the elderly**. The Ombudsman works to monitor and improve quality of care and quality of life in California's long term care facilities. The Office, which is operated by staff and volunteers, is responsible for the investigation and resolution of complaints made by or on behalf of residents of skilled nursing facilities, distinct part skilled nursing facilities and residential care facilities for the elderly. Additionally, Office staff visit residents, provide consultations to facilities, train facility staff, and conduct community education sessions. **The California's Ombudsman serves residents of California's 7,400 SNF, Distinct Part SNF and RCFE facilities, which have a combined total of 277,000 beds.**

According to the Department of Aging in the 2002-2003 fiscal year, **the Ombudsman staff and volunteers investigated 36,000 complaints related to nursing home abuse**. The Department cites recent studies, which document a high incidence of nursing home violations and report that 44 percent of nursing homes do not meeting minimum staffing levels. The Department argues that there are significant unmet needs for Ombudsman services in the state.

Governor' s Budget: The **budget proposes a net increase of $1.3 million to expand Long-Term Care Ombudsman Program**. The proposed increase is contingent on federal approval as it will be funded by obtaining federal Medicaid funding for Ombudsman services rendered to Medicaid eligible residents of skilled nursing facilities.

Budget Issue: Does the Legislature wish to approve the proposed funding increase?

ITEMS FOR DISCUSSION

1. Block Grant Funding for Aging Services.

Background: The California Department of Aging (CDA) oversees various programs and services designed to meet long-term care needs of California seniors and to assist seniors and functionally impaired adults in living independently. The CDA administers the federal Older Americans Act, which funds supportive services, nutrition programs, employment services, and preventive health services for seniors, and the State Older Californians Act which provides for the delivery of community based services for older Californians and functionally impaired adults. CDA's Community Based Services Programs include the Foster Grandparent Program, Senior Companion Program, Respite Registry, Linkages, Alzheimer Day Care Resource Centers, the Brown Bag Program, Purchase of Services and HICAP.

CDA funding for supportive services and nutrition services amounts to $146 million ($31.4 million General Fund). General Fund support for CDA programs is divided into funding for federal Older Americans Act programs ($16.4 million) and funding for Community Based Services Programs ($15 million). Most Community Based Programs are funded by a combination of General Fund, federal funds and other funds, including fee revenues. HICAP is the only Community Based Program that does not receive General Fund.

The chart below describes Community Based Services Programs and associated expenditures:

Program Description	Expenditures
Linkages Case Management Program. Established in 1985, Linkages provides case management services to frail elderly and functionally impaired adults to prevent or delay placement in nursing facilities. Approximately half of Linkages consumers are enrolled in Medi-Cal. Linkages operates at an approximate cost of $1,300 per client.	**$8,264,000**
Alzheimer's Day Care Resource Center Program (ADCRC). Established in 1984, the ADCRC supports specialized day care resource centers that serve persons in the moderate to severe stages of Alzheimer's disease and other dementia-related disorders. ADCRCs provide supportive services to families and caregivers. ADCRCs are required to seek funding from non-governmental resources and to provide a match of at least 25 percent of its CDA funding.	**$4,543,000**
Senior Companion Program. Since 1979, the Senior Companion Program supports the delivery of volunteer light respite care and peer support services to frail elderly individuals. The Program provides a modest stipend to volunteers who are 60 years of age or older, who are low-income, and who provide at least 20 hours of volunteer services per week.	**$398,000**
Brown Bag Program. Established in 1981, the Brown Bag Program provides surplus and unmarketable fruit, vegetables and other unsold food products to low-income persons who are 60 years of age or older and who are eligible for SSI/SSP. The program provides seniors a yearly amount of food valued at $618. Brown Bag providers are required to provide a cash match of 25 percent and an in-kind match of 25 percent prior to receiving program funds.	**$789,000**
Foster Grandparent Program. Established as a pilot project in 1979, the Foster Grandparent Program supports the delivery of volunteer services to children with special needs. Foster Grandparent volunteers are low-income, sixty years of age or older, and are not members of the regular workforce. Volunteers receive a modest stipend, a free meal or meal reimbursement on each day of service, and an annual free physical examination.	**0**
Respite Registry Program. Established as a pilot program in 1996, the Respite Registry Program provides temporary or periodic services to frail or elderly adults with functional impairments to relieve persons who are providing care. It also recruits and screens providers, and matches respite providers to clients.	**0**
Purchase of Services: The Respite Purchases of Services Program provides relief and support to caregivers who are not receiving services from other respite programs. It provides limited funding ($450 annually per person) to purchase short term in-home care, day care, or 24-hour care at a licensed skilled, intermediate, or residential care facility.	**$426,000**
Health Insurance Counseling and Advocacy Program (HICAP). Established in 1984, HICAP is a consumer oriented health insurance counseling and advocacy program that provides community education to Medicare beneficiaries, legal referrals, as well as counseling and advocacy services regarding Medicare and other health insurance claims and appeals.	**$4,883,000**
CBSP Administration. AAA administration for these programs was budgeted as a separate component through 2003-04.	**$951,000**

Historically, the Department of Aging administered Community Based Services Programs (CBSP) at the state level. The Department contracted directly with program providers, offered training and technical assistance, and was responsible for overall program management. AB 2800 (Granlund), Chapter 1097 Statutes of 1996, consolidated program funding and transferred program management and contracting responsibilities from the CDA to local Area Agencies on Aging (AAA). AAAs are now responsible for making funding decisions and for overall management of CBSP programs including the provision of training and technical assistance to service providers.

Local Area Agencies on Aging have significant discretion to determine funding priorities in accordance with local needs assessments and federal requirements. AAAs can transfer up to 40 percent of federal OAA funding between congregate meals and home delivered meals, and up to 30 percent of federal funds between nutrition programs and supportive services. Further, they can transfer funding among Community Based Services programs (CBSP). AAAs cannot transfer funding between OAA funding and Community Based Services.

Local Area Agencies on Aging are given substantial discretion to address individual community circumstances when developing local spending plans. The plans must meet federal requirements to provide minimum funding levels for transportation, information and assistance, in-home services, and legal assistance. Beyond the federal requirements, AAAs have substantial discretion to develop local plans that meet community needs. Local agencies consider the level of CDA program funding available, demographic data, consumer input and availability of other resources, such as state and county funded services. They are required to conduct a needs assessment that may include surveys, community forums, public hearings, and review of demographic and service utilization data. Lastly, local plans reflect other factors such as the stability, availability and reliability of providers, and past performance of contractors.

Local Area Agencies on Aging submit spending plans to the Department of Aging for review and approval. The CDA reviews proposed plans to assure they meet federal requirements for minimum funding, include necessary matching funds and are consistent with program plans. **Neither the CDA, nor local Area Agencies are required to consider the impact of local decisions on state costs when developing, reviewing and approving local expenditure plans.**

Funding decisions made by Local Area Agencies on Aging have a direct fiscal impact on the state and can increase or reduce the cost of state programs. Local Area Agencies on Aging fund services that are similar to other state and county funded programs, as they assist seniors in living independently and work to prevent institutionalization. Services funded by AAAs can be considered an alternative resource under the In-Home Supportive Services Program and can reduce state costs by decreasing utilization of IHSS service hours. Conversely, exclusion of persons receiving IHSS services from aging programs may increase state costs.

The CDA and Local Area Agencies on Aging are not required to consider the impact of local decisions on state costs when establishing priorities and developing expenditure plans. It may be financially beneficial to the state to target, within federal requirements, the $146 million ($31.4 million General Fund) in CDA funding for supportive and nutrition services to

persons with significant service needs, including individuals receiving state services. Improved coordination of services and available federal funding may reduce state costs in other programs, such as In-Home Supportive Services.

Governor's Budget: The budget **proposes to consolidate General Fund support for aging services** to a single block grant and **to reduce total program funding by five percent ($1.7 million)**. The consolidated funds, which consist of $16.4 million for Older Americans Act (OAA) programs and $15 million for Community-Based Services Programs, will be provided to local area agencies on aging in a block grant. Local agencies will have discretion over funding decisions, within statutory constraints. Agencies will be required to spend the consolidated funds to support Older Americans Act, Title IIIB (Supportive Services), or IIIC (Nutrition) programs.

The Governor's proposal increases the ability of local agencies to adapt program funding to better meet local needs. However, the proposed block grant funding may erode or eliminate state standards, may lead to elimination of existing programs, and may limit the state's ability to assure that funding for long-term care services and funding for aging services is spent in the most cost-effective manner. The Administration intends to work with stakeholders to review current state and federal standards, determine if existing CBSP program standards should be applied to the federal programs, and address other implementation issues.

Issue A - Impact of Governor's Proposal on State Program Quality Standards

Background: The federal Older Americans Act supports a range of services and opportunities for older adults, particularly those at risk of losing their independence. It establishes federal priorities and funds supportive services, nutrition programs, employment services, and preventive health services for seniors.

The Older Californians Act provides for the delivery of community based services for older Californians and functionally impaired adults. The State Act also establishes standards for Community Based Services Programs which include the Foster Grandparent Program, Senior Companion Program, Respite Registry, Linkages, Alzheimer Day Care Resource Centers, the Brown Bag Program, Purchase of Services and HICAP. The Act establishes state priorities and works towards more uniform availability of core aging services across the state.

Governor's Budget: The Governor's Budget proposes to eliminate most Community Based Services Programs from state statute, to provide block grant funding to local Area Agencies on Aging, and to require agencies to spend the consolidated funds to support Older Americans Act, Title IIIB (Supportive Services), or IIIC (Nutrition) programs.

The Block Grant, as proposed by the Governor, may erode state standards and may lead to elimination of existing programs. Some state programs are incompatible with federal requirements. For example, the Alzheimer's Day Care Resource Centers generate more than half of their revenue through fees and private donations. Federal law prohibits means testing of aging services and does not allow programs to require fees from participants. If required to operate in accordance with federal requirements, ADCRCs would lose a substantial amount of funding and some programs may cease to operate.

The application of federal standards to state programs may restrict the population that can be served by state programs. The Older Californians Act provides for the delivery of community based services for older Californians and functionally impaired adults. Federal rules limit aging services to persons over the age of 60. To operate in compliance with federal requirements, CDA programs that serve younger disabled adults, such as Linkages and ADCRCs, would be required to limit their services to seniors.

The Department of Aging has identified a number of implementation issues relative to the Block grant proposal. The CDA is in the process of developing policies and contract requirements to permit local Community Based Services Programs to continue to operate under current state policies. According to the CDA, some of these policies will be reflected in revisions to proposed trailer bill language.

Subcommittee Request and Questions: The Subcommittee has requested the Department of Aging respond to the following questions:

1. Briefly describe the proposed state block grant for aging services.
2. How will the proposed block grant impact state standards and California's ability to establish priorities for aging programs?
3. What will be the programmatic and fiscal effect of requiring aging programs to operate under the federal Older Americans Act standards and requirements?

Issue B - Criteria for Funding Decisions and Potential Cost Shift to the State

Background: Funding decisions made by Local Area Agencies on Aging have a direct fiscal impact on the state and can increase or reduce the cost of state programs. However, the CDA and Local Area Agencies on Aging are not required to consider the impact of local decisions on state costs when establishing priorities and developing expenditure plans.

Area Agencies on Aging assess community needs at least once every four years to establish the basis for funding decisions. The needs assessment process, by design, captures unmet needs and considers available funding from other program sources. Generally, when a state-funded program is available, Area Agencies on Aging do not fund similar services or provide similar services to persons ineligible for the state-funded services. While this practice results in the provision of aging services to a broader population, it can shift costs from federal funds and CDA funded programs to state and county funded programs.

Governor's Budget: The budget proposes to consolidate General Fund support for aging services to a single block grant, gives local agencies discretion over funding decisions and maintains the existing process for developing local plans. The Block Grant, as proposed, may further reduce state oversight of local funding decisions and program operations. As a result, it may limit the state's ability to assure that funding for aging and other long-term care services is spent in the most cost-effective manner.

Subcommittee Request and Questions: The Subcommittee has requested that the Department of Aging respond to the following questions:

1. Briefly describe the current process Local Area Agencies on Aging follow to assess community needs and to develop local expenditure plans.
2. Please describe the criteria the Department considers when evaluating local plans and the Department's authority to modify or disapprove local plans.
3. To what extent does the state consider program cost effectiveness and the impact of local decisions on state costs when reviewing and approving local plans?

Issue C - State Leadership: Effect of Proposal on Department of Aging

Background: Current law establishes the mission of the department "to provide leadership to the area agencies on aging in developing systems of home- and community-based services that maintain individuals in their own homes or least restrictive homelike environments." Specifically, the CDA is responsible for development of service delivery standards and for oversight of aging programs.

Under the Governor's proposal, local agencies will assume responsibility for setting program priorities and making funding decisions. The Department will assume a more administrative role, but will remain responsible for fiscal and programmatic monitoring of federal aging programs.

Subcommittee request: The Subcommittee has requested that the Department of Aging discuss how the proposed block grant will impact the role of the CDA and the department's continued ability to meet its mission.

Budget Issues: Does the Subcommittee wish to adopt the Governor's proposed $1.7 million reduction in state operations and funding for aging programs? Does the Subcommittee wish to block grant funding for aging services?

5180 Department of Social Services – Community Care Licensing

The Department of Social Services Community Care Licensing Division (CCLD) establishes standards for, and oversees eighteen types of community facilities that provide care and supervision to Californians. These facilities include adoption agencies, foster care homes and agencies, childcare homes and centers, and residential care facilities for disabled and elderly adults. In addition, 42 counties license foster homes under contract with the Department of Social Services and 7 counties license family child care homes under similar contracts. The state monitors approximately 85,000 homes and facilities, with a capacity to serve more than 1.4 million individuals.

CCL offers provider orientations; applicant screenings; health and safety, staffing and financial regulations; and pre-licensing facility visits to applicants and potential applicants for community care licenses. CCL visits licensed facilities regularly, responds to complaints, and exercises a variety of enforcement actions, including consultation, fines and penalties. As a last resort, CCL pursues license suspension or revocation.

The budget proposes $124.9 million ($42.2 million General Fund) to support Community Care Licensing in the budget year.

ITEMS FOR DISCUSSION

1. Required Annual Visits to Licensed Facilities

Background: The Department of Social Services is responsible for licensing adoption agencies, foster care agencies and homes, childcare homes and centers and residential care facilities for disabled and elderly adults. As part of its licensing function, the **Department of Social Services conducts pre- and post- licensing site visits, and visits facilities when conducting investigations regarding incident reports and complaints.** Historically, the DSS was required to visit annually licensed foster family agencies, group homes, residential care facilities for persons with disabilities and elderly individuals, foster family homes, and childcare centers and to visit childcare homes triennially.

Budget reductions sustained by the Community Care Licensing Division during the 1990s significantly reduced the length and thoroughness of the required annual inspections. According to the department, annual inspections had become procedural in nature and focus. The visits were virtually announced as the department solicited information necessary to conduct the visit in the month preceding the inspection.

Recent budget reductions sustained by the CCLD curtailed further the department's licensing activities. The department established priorities among its statutorily required activities. **It prioritized the investigation of serious incident reports within the required 24-hour period. It also prioritized conducting site visits for complaint investigations within the required 10-day period.** Annual or triennial visits became a lower priority.

A recent workload analysis of the CCLD conducted by an independent entity confirmed that department resources were insufficient to meet statutory requirements. As a result of the imbalance between available resources and required activities, the department proposed and the Legislature adopted significant changes to the existing licensing methodology. Specifically, **the Budget Act of 2003 and its implementing legislation eliminated the required annual or triennial visits and instead required** the department to visit annually the following facilities:

1. Facilities owned or operated by a licensee on probation or against whom an accusation is pending;
2. Facilities subject to a plan of compliance requiring an annual inspection;
3. Facilities subject to an order to remove a person from a facility;
4. Facilities that require an annual visit as a condition of federal financial participation such as facilities serving adults with developmental disabilities.

All other facilities are subject to an annual inspection based on a 10 percent random sampling method. The department will continue to visit, on an annual basis, foster family agencies, adoption agencies, small family homes, adult residential facilities, residential care facilities for the chronically ill, transitional housing placement programs, childcare centers for the mildly ill, and social rehabilitation facilities.

Legislative changes required DSS to visit each facility at least once every five years and included an escalator clause to trigger additional visits if DSS identifies a significant number of violations during visits.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services report on implementation of the new methodology and answer the following questions:

1. Please provide a brief description of the new methodology for conducting annual visits.
2. Please describe briefly how the new targeted visits system working.
   - Are visits more likely to be unannounced?
   - Has the incidence of serious violations identified during visits changed?
   - Is the Department receiving more, less or the same number of complaints?
3. Is the Department meeting the statutorily required timelines for investigation of serious incident reports and complaints, as well as adhering to the new annual visit requirements?

2. Increase Community Care Licensing fees to cover program costs.

Background: California began assessing fees from a wide range of facilities licensed by the Department of Social Services in 1992. The fees were established to cover a modest portion of the costs for the state's licensing program. They are assessed on a per facility basis, with the exception of fees levied on child care centers operating more than one facility.

Since 1992, DSS fees had remained unchanged. The Budget Act of 2003 and its implementing legislation substantially increased the CCLD fees, established a new fee on foster family agencies and eliminated the cap on certain child care center fees. Fees on child care providers

generally doubled, while fees on residential care providers increased by at least 25 percent. CCLD fees will now generate $14 million in revenue and will cover 40 percent of the General Fund costs of the Community Care Licensing Division.

Governor's Budget: The **budget proposes to increase fees paid by CCLD licensees** over a three-year period **to fully fund the state community care licensing costs with fee revenue.** The total General Fund cost of the CCLD program, which the Governor proposes to cover with fee revenue is $35 million.

Over the next three years licensing fees will double to reach the necessary level of revenue. The Department of Social Services is currently working with representatives of providers to review its existing fee structure and develop a new fee schedule consistent with the Governor's proposal.

Licensees subject to the fee increases include childcare providers, adult care facilities, children residential programs, and senior care providers. The state and counties are the primary, and in some cases the sole, purchasers of services provided by many CCLD licensees. **Substantial CCLD fee increases are tantamount to a rate reduction for some providers.** Such increases may result in a loss of available providers and additional pressure for adjustment of the state's reimbursement rates.

Currently, the CCLD fee revenues are considered General Fund revenue and as such are deposited into the General Fund along with all other General Fund revenues. The Analyst believes that this practice makes it difficult for the Legislature to determine whether or not the fees are adequate to fund the General Fund portion of the CCLD budget. **The Office of the Legislative Analyst recommends that the Legislature establish a special fund to capture licensing fee revenue** and assure that the proposed fee increases yield a stable funding source for the Community Care Licensing Division.

Subcommittee Request and Concerns: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Briefly describe the budget proposal and the resulting fee schedule adjustments.
2. Please describe the impact of the proposed fee increases to licensees.
3. How will the proposal affect provider rates, particularly foster care and childcare reimbursement rates?

The Subcommittee has requested that Legislative Analyst Office discuss the recommendation that the Legislature establish a special fund to capture licensing fee revenue.

Budget issue: Does the Subcommittee wish to adopt the Governor's proposal to increase licensing fees to fully fund General Fund CCLD costs? Does the Subcommittee wish to adopt placeholder trailer bill language to establish a special fund to capture licensing fee revenue?

3. FBI Fingerprinting Fee Exemption

Background: California requires persons working or volunteering at community care facilities and family day care facilities to be fingerprinted. Generally, licensees are required to pay for the fingerprinting process. Certain providers have been historically exempted, or partially exempted from the required fees. These providers include family day care providers, persons operating or managing a certified family home or a foster family home, and volunteers at child care facilities.

The Budget Act of 2003 and its implementing legislation suspended for one year the fingerprinting fee exemption or adjustment for General Fund savings of $2.8 million.

Governor's Budget: The budget proposes to eliminate the fingerprint fee exemptions for $2.8 million in General Fund savings.

Subcommittee Request and Concerns: The subcommittee has requested that the Department of Social Services briefly describe the existing fingerprint fee exemptions, who benefits from the exemption and how the proposal will impact provider participation in the foster care and child care programs.

Budget issue: Does the Subcommittee wish to adopt the Governor's proposal to eliminate the FBI fingerprinting fee exemption?

Ana Matosantos **445-5202 (w) and 510-612-0024 (cell)**
Senate Budget & Fiscal Review 3/09/04

OUTCOMES for Subcommittee No. 3: March 11, 2004
(Please reference the Subcommittee Agenda in tandem with these outcomes.)

A. 4140 OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

1. Hospital Charge Master Reporting page 2

Key Issue: budget provides $118,000 (special fund) to implement an efficient system to collect, store and disseminate information regarding hospital charges

Action: Approve as budgeted
Vote: 3-2 (*Aye:* Chesbro, Cedillo, Ortiz; *No:* McClintock, McPherson)

2. Hospital Seismic Safety page 2

Key Issue: budget provides $3.8 million and establishes 50 new permanent positions to support prompt review of hospital construction plans.

Action: Approve as budgeted
Vote: 4-1 (*Aye:* Chesbro, Cedillo, McPherson, Ortiz; *No:* McClintock)

3. Health Professions Scholarship and Loan Repayment Programs page 4

Key Issue: budget provides $987,000 (special fund) and establishes 1.5 new positions to implement the Licensed Mental Health Education Program and the Vocational Nurse Education Program, and to increase the Registered Nurse Education Program award amounts.

Action: Approve proposed funding and new positions to implement SB 358
Vote: 4-1 (*Aye:* Chesbro, Cedillo, McPherson, Ortiz; *No:* McClintock)
Action: Approve proposed funding and new positions to implement AB 938. Approve proposed funding increase for the Registered Nurse Education Program.
Vote: 3-2 (*Aye:* Chesbro, Cedillo, Ortiz; *No:* McClintock, McPherson)

B. 4170 DEPARTMENT OF AGING

1. Health Insurance Counseling and Advocacy Program (HICAP) page 5

Key issue: budget increases by $485,000 (special fund) support for the Health Insurance Counseling and Advocacy program.

Action: Approve as budgeted
Vote: 3-2 (*Aye:* Chesbro, Cedillo, Ortiz; *No:* McClintock, McPherson)

2. Long-Term Care Ombudsman Program **page 6**

Key issue: budget proposes a net federal funding increase of $1.3 million to expand Long-Term Care Ombudsman Program.

Action: Approve as budgeted
Vote: 3-1(*Aye:* Chesbro, Cedillo, Ortiz; *No:* McClintock; *Not Voting:* McPherson)

3. Block Grant Funding for Aging Services **page 6**

Key Issue: budget proposes to consolidate General Fund support for aging services to a single block grant and to reduce total program funding by five percent ($1.7 million).

Action: (1) Maintain the Governor's proposed reduction of $107,000 in state operations, eliminate funding for the Senior Companion program, and reduce funding for local assistance for aging programs by $1,245,000.
(2) Reject proposed trailer bill language to establish a block grant for aging services.
(3) Adopt placeholder trailer bill legislation to prohibit denial of aging services to eligible persons who are receiving IHSS and to require improved coordination of services and funding in a manner that maximizes cost effectiveness to the state and counties.
Vote: 3-2(*Aye:* Chesbro, Cedillo, Ortiz; *No:* McClintock, McPherson)

C. 5180 DEPARTMENT OF SOCIAL SERVICES – COMMUNITY CARE LICENSING

3. FBI Fingerprinting Fee Exemption **page 15**

Key Issue: budget proposes to eliminate the fingerprint fee exemptions for $2.8 million in General Fund savings.

Action: Modified the Governor's proposed trailer bill legislation to extend the current suspension of the fingerprinting fee exemption until July 1, 2007.
Vote: 3-1(*Aye:* Chesbro, Cedillo, Ortiz; *No:* McPherson)

Senate Budget & Fiscal Review
Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Consultant, Ana Matosantos

Thursday, March 18, 2004
9:00 a.m.
Room 4203

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

4200 Department of Alcohol and Drug Programs

The Department of Alcohol and Drug Programs (DADP) receives and disburses federal and state alcohol and drug funds to plan, develop, implement and evaluate a statewide system for alcohol and other drug intervention, prevention, detoxification, treatment and recovery services. The Department is the lead agency in the implementation of Proposition 36 (the Substance Abuse and Crime Prevention Act of 2000). In FY 2004-05 the Department estimates that, through its county partners, services will be delivered to 395,700 persons. Appropriations in the budget year decrease by $6.5 million.

Summary of Expenditures

(dollars in thousands)	2003-04	2004-05	$ Change	% Change
Program Funding				
Prevention	70,988	67,816	-3,172	-4.5
Treatment and Recovery	480,168	476,672	-3,496	-0.7
Perinatal	46,623	46,823	200	0.4
Source of Funding				
General Fund	113,200	117,793	4,593	4.1
Federal Trust Fund	284,356	279,810	-4,546	-1.6
Reimbursements	73,861	70,601	-3,260	-4.4
Substance Abuse Treatment Trust Fund	120,487	120,232	-255	-0.2
Special Funds	5,875	2,875	-3,000	-51.1
Total	$597,779	$591,311	-$6,468	-1.1

VOTE ONLY ITEMS

1. Performance Partnership Grants

Background: The federal Children's Health Act of 2000 **requires the Federal Secretary of Health and Human Services to develop a plan to provide state flexibility and establish accountability measures that are based on outcomes and other performance measures.** The Act designates substance abuse prevention and treatment programs among those to operate under the new Performance Partnership Grants (PPG).

Under the new PPG system, **states will be required to measure performance on core indicators including alcohol use, all other drug use, criminal justice involvement, employment, pregnant addicts, HIV transmission, Tuberculosis and co-occurring disorders.** States will also develop and negotiate two to ten unique performance measures and associated outcome targets. **It is unclear if and when federal program funding will be based on program outcomes.**

California has begun the process of evaluating its program and planning for the implementation of PPGs. State planning activities include reviewing current systems, programs, regulatory and statutory schemes to assure they are consistent with the new system, and developing a process to establish state performance measures and outcome targets. The state is also evaluating fiscal and program processes to assure they are consistent with the new system.

Governor's Budget: The budget provides a $260,000 federal SAPT funding augmentation and establishes 3 new positions to evaluate, plan and implement the federal Performance Partnership Grants.

Budget issue: Does the Subcommittee wish to maintain the proposed augmentation and to approve the requested positions to implement the Performance Partnership Grants?

2. Screening, Brief Intervention, Referral and Treatment Grant

Background: The Department of Alcohol and Drug Programs applied for and was awarded a **federal grant to support the delivery of screening, intervention and treatment services to emergency room and trauma patients.** Federal funding will support the expansion of a San Diego County screening, intervention and referral services program to include treatment services and will fund similar programs in three other counties. Program services will be directed to emergency room and trauma patients, as substance abuse rates tend to be higher among these patients. **The five-year program is expected to reduce drug use among nondependent users by 25 percent and to reduce alcohol consumption for 50 percent of nondependent drinkers.**

Governor's Budget: The **budget provides a $3.5 million federal funding increase** to support the delivery of alcohol and drug screening, intervention, referral and treatment services to adult patients in medical settings across four counties.

Budget issue: **Does the Subcommittee wish to maintain the proposed $3.5 million federal funding increase** to deliver alcohol and drug intervention and treatment services to nondependent users?

DISCUSSION ITEMS:

1. Drug Medi-Cal

Background: The Drug Medi-Cal program provides specified substance abuse treatment services to low-income parents, children, seniors and persons with disabilities enrolled in the Medi-Cal program. Drug Medi-Cal is overseen by the Department of Alcohol and Drug Programs and administered locally by county alcohol and drug programs, in collaboration with county welfare departments. The program is funded by state and federal matching funds at an approximate ratio of 1 to 1.

In fiscal year 2003-04, Drug Medi-Cal serves approximately 64,100 persons through one of four treatment modalities, Narcotic Treatment Program, Day Care Rehabilitative, Outpatient Drug Free, and Perinatal Substance Abuse Services. The treatment modalities include the following specific services:

- **Narcotics Treatment Program** provides narcotic replacement drugs, treatment planning, body specimen screening, substance abuse related physician and nurse services, counseling, annual physical examinations, laboratory tests and medication services to person who are opiate addicted and have substance abuse diagnosis. The program does not provide detoxification treatment.
- **Day Care Rehabilitative** provides specific outpatient counseling and rehabilitation services to persons with substance abuse diagnosis who are pregnant, in the postpartum period, and/or are youth eligible for Early and Periodic Screening, Diagnosis and Treatment.
- **Outpatient Drug Free** provides admission physical examinations, medical direction, medication services, treatment and discharge planning, body specimen screening, limited counseling, and collateral services to stabilize and rehabilitate persons with a substance abuse diagnosis.
- **Perinatal Substance Abuse Services** is a non-institutional, non-medical residential program that provides certain rehabilitation services to pregnant and postpartum women with a substance abuse diagnosis.

Governor's Budget: The **budget increases funding for the Drug Medi-Cal program by $5.4 million ($3.1 million General Fund)** to $109.6 million. The proposed program funding increase reflects a reduction in the level of federal financial participation, cost increases and small caseload increases.

Issue A – Legislative Analyst's Review of Drug Medi-Cal Program

Background: The *Supplemental Report of the 2002-03 Budget Act* directed the Legislative Analyst's Office to examine the Drug Medi-Cal Program and consider barriers to provider participation and beneficiary access. The Legislature sought to better understand the programmatic factors that contribute to low utilization of substance abuse treatment services, particularly among women and children. The *Supplemental Report* directed the LAO to consider options to improve access to care and to maximize federal financial participation for substance abuse treatment services.

The Legislative Analyst's Office concluded its review and released the required report on February of 2004. **The LAO found significant inconsistencies in the resources provided to support different modes of treatment**, with most resources concentrated on methadone treatment. The LAO notes that the higher level of spending on methadone treatment followed the *Sobky v. Smoley* court challenge, where the state was required to make programmatic changes to increase access to narcotic treatment services for Medi-Cal beneficiaries.

The LAO reports that **a disproportionately small share of the Drug Medi-Cal budget is spent on services for women and children** and that there are significant variations in the availability of Drug Medi-Cal services across counties. These two findings are of concern, as federal Medicaid law requires the state to provide children all services necessary to resolve or ameliorate conditions found in their annual health assessments, and generally requires that Medi-Cal services be uniformly available across the state.

In addition to their findings regarding disparate access to treatment across Medi-Cal beneficiary groups, **the LAO finds that the state is failing to take full advantage of available federal support for community substance abuse treatment services**. The LAO states that California is incurring substantial costs for the hospitalization of Medi-Cal beneficiaries whose substance abuse problems have gone untreated and makes a series of recommendations to improve access to treatment services.

The Legislative Analyst's Office recommends that by the 2006-07 fiscal year, California make the following changes to increase access to alcohol and other drug treatment services for Medi-Cal beneficiaries:

- Shift state funding allocations for drug or alcohol treatment services to counties and make counties responsible for the nonfederal share of funding for Drug Medi-Cal services (except narcotics treatment).
- Increase county flexibility in service delivery while maintaining the state role of administering federal rules, setting and enforcing health and safety standards, and providing statewide leadership for the treatment system.

LAO recommends the following changes to contain costs of Methadone treatment:

- Shift funding and responsibility for narcotic treatment programs to the state, to facilitate direct contracting for treatment services between the state and providers.
- Review state licensing and certification rules to reduce duplication and associated costs. LAO cites regulations that limit clients' ability to take medications home, and restrictions on dispensing methadone in physicians' offices among those to revisit.
- Revise the rate setting system for methadone providers to create incentives for increased efficiency and cost effectiveness.
- Conduct an external review of cases where clients receive methadone maintenance for extended periods of time.
- Screen clients for eligibility for treatment by the federal Veterans Administration health system.
- Make statutory and regulatory changes to integrate buprenorphine as a treatment method. Recently approved by federal authorities as a treatment method for heroin and other opiate addictions, buprenorphine can be distributed in tablet form through the offices of qualified physicians. The cost per dose for buprenorphine is higher than for methadone, but the duration of treatment tends to be shorter for buprenorphine.

The Department of Alcohol and Drug Programs believes the LAO's suggestions need further discussion, evaluation and deliberation. The DADP believes that input from key DMC program stakeholders such as counties, providers, and Department of Health Services, HHS Agency, and the Administration is necessary to understand the full impact of the LAO recommendations and to evaluate their feasibility.

The DADP is still analyzing the LAO report on Drug Medi-Cal and preparing its response. The DADP is concerned about how realignment could impact or otherwise jeopardize the maintenance-of-effort (MOE) requirement for the SAPT block grant. The Department comments that a wholly state-administered Narcotics Treatment program could require significant cost and staffing increases for DADP administration and oversight. Lastly, DADP believes that there are limitations to the state's ability to realize savings by referring veterans to the Veterans Administration (VA) for treatment as VA facilities may be limited in availability or treatment capacity and providers may be unwilling to refer clients eligible for publicly-funded treatment in their program to another program.

Subcommittee request: The Subcommittee has requested that the Legislative Analyst's Office briefly present the findings and recommendations of their report. The Subcommittee has also requested that the Department of Alcohol and Drug Programs present their response and comments to the LAO report.

Budget issue: Does the Subcommittee wish to adopt the proposed level of funding for the Drug Medi-Cal program? Does the Subcommittee wish to make changes to the program?

2. Substance Abuse Prevention and Treatment Block Grant

Background: California applies for, and receives on an annual basis, federal Substance Abuse Prevention and Treatment (SAPT) Block Grant funds from the Substance Abuse and Mental Health Services Administration to support substance abuse prevention and treatment services. For Federal Fiscal Year (FFY) 2003 the grant award amount is $251,851,368. SAPT funds must be used to plan, carry out, and evaluate activities to prevent and treat substance abuse. In California, SAPT funding supports all treatment modalities and prevention activities.

The following chart illustrates SAPT budgeted expenditures for fiscal year 2004-05:

	SAPT REQUIREMENTS	TOTAL BUDGETED FUNDS
PREVENTION 20% SET-ASIDE	$50,370,274	$50,440,875
HIV 5% SET-ASIDE	$12,592,568	$12,592,568
WOMEN'S REQUIREMENT	$15,554,000	$17,054,000
YOUTH FUNDING	$0	$7,416,417
STATE SUPPORT	$0	$18,050,000
DISCRETIONARY	$0	$146,297,508
TOTAL SAPT AWARD		$251,851,368

As a condition of receiving SAPT Block Grant funds, California must comply with a maintenance of effort (MOE) requirement. California must maintain state expenditures for substance abuse prevention and treatment services at a level equal to or higher than the average state expenditures for the preceding two state fiscal years.

The state must also maintain an MOE for pregnant and parenting women. Funding for substance abuse treatment services for pregnant women and women with dependent children must be at least $26.349 million of which not less than $15.554 million must be from SAPT Block Grant funds.

The state must meet an MOE for tuberculosis services, which is at least $237,200.

Lastly, there is an MOE for HIV Early Intervention Services. The State must maintain state expenditures for HIV Early Intervention Services at $2,050,000. In the FFY 2003 SAPT Block Grant application, state expenditures for HIV Early Intervention services were $11,213,000.

Failure to meet the MOE requirement results in a dollar of federal funds lost for every dollar below the amount required for the MOE. The total MOE for 2004-05 is $252.3 million, which is $2.1 million over the MOE requirement of $250.2. The MOE is not a fixed amount that is changed through policy actions. It is a reflection of non-federal funds expended by the debt for grant eligible activities.

As a result of reductions in current year General Fund expenditures for substance abuse treatment programs, the state may not meet the SAPT MOE requirement. The budget reflects a proposed decrease in General Fund spending of $2.2 million below the amount appropriated in the *2003-04 Budget Act,* which is $3.2 million below the federally required level of spending. This reduction of General Fund expenditures in the current year puts the state at risk of losing $3.2 million of its future SAPT allocation.

Subcommittee request and questions: The Subcommittee has requested that the Department of Alcohol and Drug Programs answer the following questions:

1. What is the likelihood that California will not meet the SAPT MOE in the current year and that the state will incur a federal penalty?
2. Please describe the existing process to establish county priorities for SAPT funding. Do counties consider cost effectiveness to the state or to counties when establishing priorities for SAPT funding?
3. Please describe who receives SAPT funded services and how the SAPT population compares to the population receiving Drug Medi-Cal or Proposition 36 services.

3. Substance Abuse and Crime Prevention Act (SACPA)

Background: In November 2000, **California voters approved Proposition 36,** the Substance Abuse and Crime Prevention Act (SACPA), **to provide substance abuse treatment instead of incarceration to non-violent drug offenders.** SACPA changed state sentencing laws, effective July 1, 2001, to require adult offenders convicted of nonviolent drug possession to be sentenced to probation and drug treatment instead of prison, jail or probation without treatment. The Act excludes offenders who refuse treatment or who are found by the courts to be "unamenable to treatment". The Act further requires that parolees with no history of violent convictions who commit a non-violent drug offense or violate a drug-related condition of parole be required to complete drug treatment in the community, rather than being returned to state prison.

SACPA requires that the state provide $120 million annually through 2005-06, to be deposited to a new Substance Abuse Treatment Trust Fund, and distributed to counties to pay for the costs of treatment and related programs. Funds may be used for substance abuse assessment, treatment, vocational training, family counseling, literacy training, probation supervision and court monitoring of offenders.

Since the passage of SACPA, the Department of Alcohol and Drug Programs, the Judicial Council, the Department of Corrections, counties and other stakeholders from the public safety and alcohol and drug treatment communities have worked collaboratively to implement the proposition in an expedited manner. **California has implemented the new law in all counties and has significantly expanded available substance abuse treatment services.** Preliminary data suggests that the new law has significantly increased access to substance abuse services for non-violent drug offenders.

The University of California, Los Angeles (UCLA) is conducting a five-year evaluation of the Substance Abuse and Crime Prevention Act (SACPA) and reports the following findings regarding the first year of SACPA implementation:

- 53,697 offenders were found to be eligible for SACPA. Of them, 82% (44,043) chose SACPA and most were referred for an assessment of their service needs and appropriate level of community supervision.
- **69% of offenders who opted for SACPA in court entered treatment.** This "show" rate compares favorably with "show" rates in other studies of drug users referred to treatment by criminal justice or other sources.
- About 50% of SACPA offenders in treatment reported methamphetamine as their drug of choice, with cocaine/crack a distant second (15%). Marijuana and heroin were the primary drug problem for 12% and 11%, respectively. SACPA clients had longer drug use histories than non-SACPA clients referred to treatment by criminal justice.
- Most SACPA clients (72%) were men. About half of SACPA clients were non-Hispanic Whites, while 31% were Hispanics and 14% were African Americans.

- Most SACPA clients (86%) were placed in outpatient drug-free programs, and 10% were placed in long-term residential programs. **This was the first drug treatment opportunity for over half of all SACPA clients.**
- Almost all (85%) of the SACPA clients who entered outpatient drug-free programs received at least 30 days of treatment. Most outpatient drug-free clients (65%) were in treatment for at least 90 days, as were 43% of long-term residential clients. These rates of treatment duration were similar to the rates seen among non-SACPA clients.

Implementation
SACPA required substantial collaboration among criminal justice, treatment, and county administrators and reportedly added to their workloads. County representatives expressed concern regarding the sufficiency of SACPA funding across years. This concern applied especially to the cost of services required by "high need" offenders, who entered SACPA in greater numbers than expected. Counties have been able to bring local agencies together for planning and administration; coordination of assessment, treatment, and supervision of offenders; staff training; and problem solving. At the end of SACPA's first year, most county representatives reported favorable views of SACPA implementation.

Successful strategies
There was considerable innovation in strategies used to manage SACPA offenders. Three strategies were associated with higher "show" rates at assessment: placing probation and assessment staff at the same location, allowing "walk in" assessment, and requiring only one visit to complete an assessment. Handling SACPA offenders in a drug court approach was strongly related to higher "show" rates at treatment.

Governor's Budget: The budget provides $120 million in funding for implementation of SACPA. An additional $8.6 million in federal funds is provided by the Department for drug testing.

Subcommittee request and questions: The Subcommittee has requested that the Department of Alcohol and Drug Programs answer the following questions:

1. Please provide a brief update on the status of SACPA implementation.
2. Please discuss your proposed changes to the funding allocation methodology.
3. Briefly discuss who is being served by SACPA and how they compare to other treatment populations. Also discuss initial program outcome data, including the rate of client participation in treatment services.
4. Has the role of drug courts changed since implementation of SACPA? How have counties integrated Adult Drug Court Programs and SACPA programs?

4. Dependency Drug Courts

Background: California's **drug court programs work to reduce drug usage and recidivism through the provision of court supervised substance abuse treatment.** They integrate drug treatment with other rehabilitation services to promote long-term

recovery and reduce social and financial costs of substance abuse. Judges modify program services based on client needs and exercise different enforcement options to assure client compliance with treatment. Drug courts are diverse and serve different populations. Generally, **drug court clients have abused alcohol or other drugs for ten or more years and received little or no substance abuse treatment.**

Dependency drug courts work to reduce foster care costs and increase permanency for children by providing substance abuse treatment to parents who are involved in dependency court cases. California currently funds three dependency drug courts through the Comprehensive Drug Court Implementation Program. The DADP reports the following outcomes from Dependency Drug Court programs:

- 29 percent of participants successfully completed the program;
- 21 percent were compliant with, or completed the reunification plan;
- 193 participants' dependents were unified with one or both parents, and avoided 10,205 days in foster care or guardianship; and
- 96 percent of drug tests administered were negative and 91 percent of babies born to female participants were drug-free

Last year, the Subcommittee heard testimony from the Department of Social Services regarding outcomes of the Substance Abuse Recovery Management System (SARMS), San Diego's dependency drug court. An independent evaluation of SARMS found that:

- **SARMS families were more likely to be reunified and were reunified in a shorter period of time.** 58% of families in SARMS were reunified compared to 40% of families in the comparison group. SARMS families were reunified in 8 months, half the time to reunification of the comparison group.
- **Time to permanency in unsuccessful reunification cases was shorter for SARMS cases.** An alternative permanency plan was ordered in 17 months for SARMS cases and 45 months for comparison group cases.
- **Under SARMS children had considerably shorter stays in out of home care.** 14 months for SARMS to 46 months for the comparison group.
- Subsequent removals and subsequent substantiated child abuse reports were less common among SARMS participants. Subsequent removals occurred in 20% of SARMS families compared to 35% in comparison group families. The incidence of subsequent substantiated child abuse reports was 24% in SARMS and Dependency Drug Court cases and 46% in comparison group cases.

Sacramento County's dependency drug court has also increased access to substance abuse treatment for parents of children involved in the Child Welfare Services system and has achieved foster care savings. Sacramento's Dependency Drug Court (DDC) began on October 1, 2001, as means to promote and support recovery and the reunification process.

Critical components of Sacramento's DDC are**:**

- Prompt assessment and placement in treatment services;
- A full continuum of alcohol and drug treatment services;
- Intensive case management provided by the STARS program;
- Drug Court hearings at 30, 60, and 90 day intervals to monitor compliance and ensure accountability for all parents with alcohol and drug problems; and
- Timely use of incentives and progressive sanctions.

During the first two years, 535 parents participated in Sacramento's program. As of January 31, 2004, 311 parents have received certificates for 90 days continuous compliance and 133 parents have graduated with 180 days continuous compliance. Participant characteristics were as follows:

- 69% were mothers with an average age of 32;
- 80% were unemployed and 47% had less than a high school diploma or GED;
- 22% were homeless and 13% had chronic mental illness; and
- 47% used methamphetamine as a primary drug followed by alcohol at 22%.

- **More parents participated in substance abuse treatment.** 85% of parents with DDC involvement and 23% of the comparison group entered substance abuse treatment. 66% of parents with DDC involvement successfully completed treatment within 12 months.
- **More children reunified.** 33% of the DDC children and 19% of comparison children reunified, creating a cost savings of $2,141,056.
- **Children reunified faster.** DDC children reunified in 5.6 months and comparison children reunified in 7 months, creating foster care savings of $2,873 per child and overall program savings of $413,712.
- **Children had shorter stays in foster care.** The average length of stay in foster care for children in DDC was 10.3 months versus 22.8 months for the comparison group.
- Eleven infants were born substance free the first year of Dependency Drug Court.

Given estimates that 60 to 80 percent of the state's substantiated cases of child abuse and 60 to 80 percent of foster care cases involve substance abuse, the state will likely benefit from treatment modalities that effectively reduce the incidence of substance abuse among parents involved in dependency court.

Subcommittee request and questions: The Subcommittee has requested that the Department of Alcohol and Drug Programs briefly describe the Dependency Drug Court component of the Comprehensive Drug Court Implementation Program. The Subcommittee has also requested that a representative from Sacramento County briefly describe the county's Dependency Drug Court program and its outcomes.

Budget issue: Does the Subcommittee wish to take any action to support development of dependency drug courts?

5180 Department of Social Services

The Department of Social Services (DSS) administers a series of programs designed to protect children from abuse, neglect and exploitation; to deliver necessary services to children in out-of-home care; and to support the adoption of children with special needs. These programs serve an average of 334,800 youth each month. The programs are overseen by the Department of Social Services and operated by county welfare departments. The Governor's budget provides $4.8 billion in combined federal, state and county funds to support children and family services programs.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	% Change
Program				
Child Welfare Services	2,011,387	2,057,803	46,416	2.3
Foster Care	1,743,818	1,723,211	-20,607	-1.2
Adoption Assistance and Kin-GAP	604,440	669,213	64,773	10.7
Child Abuse Prevention	22,624	26,465	3,841	17.0
Total Program Expenditures	4,382,269	4,476,692	94,423	2.2

VOTE ONLY ITEMS

1. Adoptions Services

Background: The **Adoptions program provides a range of services to encourage and facilitate the adoption of children who have been relinquished by their parents or who have become wards of the state due to the termination of parental rights as a result of abuse or neglect.** The program is overseen by the state and administered locally by county welfare departments. Program funds seek to maximize the adoption of children in foster care for whom family reunification is not a viable option. In 2002-03, 9,000 children were adopted through Adoption Services.

Governor's Budget: The **budget provides $87.9 million ($48.1 general fund) to fund the Adoptions Program in the budget year.**

Budget issue: Does the Subcommittee wish to approve program funding as budgeted?

2. Kinship Guardianship Assistance Program (KinGAP)

Background: The **KinGAP program provides stable guardian placement for children in foster care, who are placed with relatives and for whom the placement is their permanent plan.** With the development of the guardianship, the court dependency can be dismissed, and there is no need for continued case supervision by the court or the

local social services department. Similar to the Adoption Assistance Program, **KinGAP provides guardians a monthly payment at the basic foster care rate for which the child would otherwise be eligible.** Children are eligible for KinGAP when they have been living with a relative for at least twelve months. **The budget estimates an average monthly caseload of 14,495 children.** This constitutes a caseload growth rate of 8.3% from the current year to the budget year.

Governor's Budget: **The budget for the KinGAP program is estimated to grow by a total of $7 million, reflecting an increase of 8.2%.** The increased funding supports the program's growing caseload. The budget does not assume provision of a cost-of-living adjustment or a cost of doing business increase.

Budget issue: Does the Subcommittee wish to approve KinGAP funding as budgeted?

ITEMS FOR DISCUSSION

1. California Child and Family Services Review and Program Reforms

Background: Last year, **California underwent its first federal children and family services review.** The review sought to determine whether California adequately protects children from abuse and neglect. **The federal government concluded that California is not operating in substantial conformity in all evaluated outcome areas and five of the seven evaluated factors.** California is in substantial conformity with requirements regarding agency responsiveness to the community and having a statewide information system that meets specified criteria. The review also identified a series of programmatic strengths, including timeliness of initiating investigations of reported maltreatment; providing services to prevent the removal of children; reducing the risk of harm to children; and placing siblings together in foster care. The federal government concluded that **California is not in substantial conformity with the following outcomes:**

- Children are, first and foremost, protected from abuse and neglect.
- Children are safely maintained in their homes whenever possible and appropriate.
- Children have permanency and stability in their living situations.
- The continuity of family relationships and connections is preserved for children.
- Families have enhanced capacity to provide for their children's needs.
- Children receive appropriate services to meet their educational needs.

As required by federal law, California has negotiated a Program Improvement Plan (PIP) with the federal government. The plan outlines steps California will take to improve its outcomes, includes timeframes for achieving improvement, and commits to dozens of specific program performance improvements and thousands of specific action steps. California committed to reduce the incidence of maltreatment for children in foster care from 0.67 percent to 0.53 percent, to increase the number of children who have two

or fewer foster care placements by 3.8 percent, and to improve permanency outcomes by specified percentages.

Since completing PIP negotiations in June 2003, **the Department of Social Services and counties have begun to implement the PIP, to complete the required action steps and to work to achieve the required outcomes.** DSS reports that reductions in state operations have made it difficult for the state to complete all required action steps. DSS is currently seeking federal relief from the volume of required action steps. DSS is not seeking any changes to the specific improvements in outcomes agreed to in the PIP.

In addition to its efforts to negotiate and implement the PIP, **California has been engaged in the development and implementation of a new system, based on federal performance reviews, to measure specific county outcomes.** Assembly Bill 636 (Steinberg) requires California to establish an outcome-based system to evaluate county operations of child welfare services. The new California Child Welfare Outcomes and Accountability System includes web-based reporting of county outcomes, and requires counties to conduct self-assessments and develop system improvement plans. AB 636 is expected to yield county specific plans to improve program performance, thereby contributing to the program improvements the state committed to in the PIP.

The Program Improvement Plan and the new California Child Welfare Outcomes and Accountability System are being implemented in the context a broader programmatic shift to child abuse prevention consistent with Child Welfare Services Redesign. The Department of Social Services recently concluded its three-year CWS Stakeholders Group process, which examined California's child welfare services programs and recommended changes. The group released its CWS Redesign report in September 2003. The Redesign outlines a broad long-term plan to improve the child welfare services system. The plan includes the development of partnerships between CWS agencies and community based organizations, as well as efforts to improve access to preventative services and supportive services for families.

Governor's Budget: The **budget provides $39.3 million in new funding** to support implementation of AB 636 - the California Child Welfare Outcomes and Accountability System, the Program Improvement Plan, and to plan for implementation of the Child Welfare Services Redesign. In addition, **the Governor's budget assumes $72 million ($20 million General Fund) in savings** resulting from development and implementation of programmatic reforms that shorten the period of time children spend in foster care.

Subcommittee request: The Subcommittee has requested that the Department of Social Services briefly describe the Child Welfare Services reforms currently underway in California; the interactions between the different proposed reforms; and how the PIP, AB 636 and the CWS Redesign will improve outcomes for children and families.

Budget issue: This is an informational item. The proposed augmentations are discussed as separate action items later in the agenda.

2. Child Welfare Services

Background: The Child Welfare Services (CWS) system provides a range of services to protect children from abuse, neglect and exploitation. The services are designed to prevent, help alleviate and remedy the problems that cause abuse, neglect or exploitation of children. The services also work to prevent the unnecessary separation of children from their families; arrange to restore children to homes from which they have been removed; and identify children who should be temporarily or permanently removed from their homes. The CWS system includes Emergency Response, Family Maintenance, Family Reunification and Permanent Placement services.

The Department of Social Services is responsible for oversight of the state's CWS system. County welfare departments administer and operate CWS programs, and deliver program services to children and their families. The DSS and its county partners serve an estimated 174,000 youth each month.

Governor's Budget: The budget **provides $2.1 billion total federal, state and county funds ($610.3 million General Fund) to support the CWS system.** Proposed funding for the Child Welfare Services system is based on 2000-2001 county unit costs and does not include a cost-of-doing business adjustment to local child welfare services providers. **The budget makes the following funding assumptions:**

Issue A - Maintains county unit costs at the 2001-02 funding level.

Governor's Budget: **The budget provides $1.3 billion in total funds for the basic CWS program.** It assumes that the CWS caseload remains stable and provides modest increases and decreases to the base allocation to account for caseload changes within each program component. The budget essentially funds counties at their 2001-02 funding levels and calculates costs to maintain each county's prior year social worker funding level. **Counties estimate that maintaining county funding for CWS at the 2001-02 level amounts to a $23.1 million reduction.**

The budget maintains the "hold harmless" method of budgeting basic CWS costs which maintains each county's prior year social worker funding level regardless of changes in caseload. The hold harmless budgeting method was established during the implementation of the Child Welfare Services Case Management System in response to concerns about the accuracy of the data system's caseload data. The department maintains this budgeting methodology out of its recognition of the significant funding and staffing needs, and the extent of caseworker overburdening in the CWS program.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services briefly answer the following questions:

1. Briefly discuss the proposed basic funding level for CWS and the underlying budgeting methodology.

2. What has been the programmatic impact of maintaining funding for the CWS program at the 2000-01 cost level?
3. As many county activities are statutorily required, what flexibility do counties have to realize efficiencies and adjust their workload to reflect the actual level of funding?
4. Is the Department proposing to provide any relief to counties commensurate with the suspension of cost of doing business adjustments?

Budget issue: Does the Subcommittee wish to adopt the proposed level of funding for basic CWS program costs?

Issue B - Senate Bill 2030, the CWS Augmentation and Social Worker Training.

Background: Senate Bill 2030 (Costa), Chapter 785 of the Statutes of 1999, required that the Department of Social Services conduct an independent evaluation of the adequacy of the state's child welfare services budgeting methodology, and funded caseload and service levels, and to make recommendations to the Legislature. **The SB 2030 Child Welfare Services Workload Study found that caseworkers were seriously overburdened and carrying much larger caseloads (2 times as many) as were ideal.** The study recommended that California implement minimum caseload standards, devise and implement a staff recruitment plan, as well as revise its budget methodology.

Assembly Bill 2876, Chapter 108, Statutes of 2000, required the DSS to develop a plan to implement the recommendations of the SB 2030 study. **Among the actions proposed by a workgroup formed to advise the department on implementation was the adoption of minimum caseload standards and phased-in augmentations to reach the proposed minimum standards** by the 2005-06 fiscal year.

Beginning in 1998, the Legislature and the Administration provided an augmentation to the CWS program to address program under-funding and provide workload relief. Assembly Bill 1656, Chapter 324, Statutes of 1998, authorized an initial CWS program augmentation of $40 million General Fund. Assembly Bill 1740, Chapter 52, Statutes of 2000 provided an additional augmentation of $34.3 million General Fund. In 2002-03, then Governor Davis reduced the CWS augmentation by $17.2 million and reduced CWS program funding by another $10.8 million for a total reduction in state funding for CWS of $28 million.

Governor's Budget: The budget funds counties at their 2001-02 funding levels and calculates costs to maintain each county's prior year social worker funding level.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services discuss California's current caseload levels in comparison to the SB 2030 standards and discuss the impact on services of overburdened workers

Budget issue: This is an informational item.

Issue C - Child Welfare Services Redesign

Background: California recently concluded its three-year CWS Stakeholders Group process, which examined California's child welfare services programs and recommended changes. The group released its CWS Redesign report in September 2003. The Redesign outlines a broad long-term plan to improve the child welfare services system. The plan includes the development of partnerships between CWS agencies and community based organizations, as well as efforts to improve access to preventative services and supportive services for families.

The CWS Redesign articulates the Stakeholders' vision for the Child Welfare Services system and discusses strategies to realize that vision. It does not constitute an implementation plan. The Redesign does not outline the law, regulatory and practice changes necessary for implementation. It does not provide an estimate of costs or specify measurable outcomes. Implementation of the Redesign may require changes in state and federal law, as well as regulatory changes, including an expansion of the child welfare activities and services eligible for federal reimbursement and changes to the Child Abuse Central Index system. Redesign implementation may require significant increases in program funding.

Governor's Budget: The **budget provides $5.9 million ($555,000 General Fund) in the current year and $19.1 million ($558,000 General Fund) in the budget year** to support various CWS Redesign activities. The funded activities include implementation of differential response, state and county level training; and development of a curriculum for the statewide approach to Safety and Risk Assessment. Sources of funding include TANF, Promoting Safe and Stable Families funds, State Children's Trust Fund and General Fund.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Please describe the CWS Redesign and the current Redesign implementation strategy.
2. Please describe the proposed funding increase, the specific activities to be supported by the funding and the measurable outcomes to be achieved.
3. Has the Department prepared a Redesign implementation plan including necessary changes to state and federal law, costs of implementation and measurable outcomes?

Budget issue: Does the Subcommittee wish to approve the proposed funding increase to support CWS Redesign activities in the current year and the budget year?

Issue D - Program Improvement Plan Funding

Background: Federal law required California to negotiate with the federal government a Program Improvement Plan (PIP) to address system deficiencies identified in the Child and Family Services Review and to improve the state's outcomes. The PIP outlines steps California will take to improve its outcomes; includes timeframes for achieving

improvement; and commits to dozens of specific program performance improvements and thousands of specific action steps.

Since completing PIP negotiations in June 2003, the Department of Social Services and counties have begun to implement the PIP, to complete the required action steps and to work to achieve the required outcomes. The DSS reports that reductions in state operations have made it difficult for the state to complete all required action steps. The DSS is currently seeking federal relief from the volume of required action steps. DSS is not seeking any changes to the specific improvements in outcomes agreed to in the PIP.

Governor's Budget: The **budget provides $8.3 million ($3.5 million General Fund) in the current year and $10.6 million ($749,000 General Fund) in the budget year** to support state and county activities associated with the state's Program Improvement plan.

The current year funding primarily supports data clean-up activities. The budget year funding will support recruitment of minority foster homes, funding for training of social workers, and continued support for data activities.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Please describe the Program Improvement Plan and the PIP implementation strategy.
2. Please describe the proposed funding increase, the specific activities to be supported by the funding and the measurable outcomes to be achieved.
3. Please update the Subcommittee on the status of conversations with the federal government to reduce the number of specific action steps required in the PIP.

Budget issue: Does the Subcommittee wish to approve the proposed funding increase to support Program Improvement Plan activities in the current year and the budget year?

Issue F - Child Welfare Outcomes and Accountability System

Background: California has been engaged in the development and implementation of a new system, based on federal performance reviews, to measure specific county outcomes. Assembly Bill 636 (Steinberg) requires California to establish an outcome-based system to evaluate county operations of child welfare services. The new California Child Welfare Outcomes and Accountability System includes web-based reporting of county outcomes, and requires counties to conduct self-assessments and develop system improvement plans. AB 636 will provide unprecedented access to county specific information about child welfare services program outcomes and will yield county specific plans to improve program performance.

Governor's Budget: The **budget provides $3.7 million ($1.6 million General Fund) in the current year and $9.5 million ($3.2 million General Fund) in the budget year** to fund Child Welfare Outcomes and Accountability System activities. The increased **funding will support county self-assessment data gathering and evaluation efforts,**

peer quality case reviews, and county coordinators for completion of county self-assessments and county System Improvement plans. **The budget does not provide new funding to support implementation of county self-improvement plans.**

The budget provides funding for an average of one staff person per county to carry out AB 636 activities. Required activities include completion of county self-assessments, community interactions and development of county self-improvement plans. Counties report that the DSS estimate understates the time needed to complete the required activities and that at least 1.5 full-time equivalent staff are needed. Counties also report that the budget does not provide adequate compensation for the costs of conducting peer-to-peer reviews, which are required by AB 636.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Please describe the California Child Welfare Outcomes and Accountability System and its implementation status.
2. Please describe the proposed funding increase, the specific activities to be supported by the funding, and the measurable outcomes to be achieved.
3. Please describe your funding estimate and the extent to which it is consistent with the level of workload counties are experiencing?
4. How will county self-improvement plans be funded?

Budget issue: Does the Subcommittee wish to approve the proposed funding increase to support AB 636 activities in the current year and the budget year?

Issue G - Child Welfare Services/ Case Management System

Background: Federal and state laws require the state to provide automated case management support to child welfare workers. California accomplishes this goal through the Child Welfare Services Case Management System (CWS/CMS). CWS/CMS has been in operation for seven years. The system is operated by an independent contractor and is based in Boulder, Colorado.

Since 1994, California has received enhanced federal financial participation for CWS/CMS development costs to support the development of an automation system that meets federal Statewide Automated Child Welfare Information System (SACWIS) compliance. Federal rules provide enhanced federal financial participation to states pursuing SACWIS compliance and require states to return enhanced funding if the state does not meet the federal automation system requirements.

California has developed the main CWS/CMS system, which meets 61 of the 87 federally required functionality requirements. The state has been delayed in developing additional components required to be SACWIS compliant. The major components that remain to be developed include performing automated Title IV-E eligibility determinations,

establishing interfaces to Titles IV-A and IV-D, and to Medi-Cal, five requirements regarding financial management and policy guidance, and adoptions case management.

California has not adequately addressed federal concerns regarding the state's maintenance and operations contract for CWS/CMS. In 1997, the federal government and the Departments of Finance and General Services directed the Health and Human Services Agency Data Center (HHSDC) to conduct a competitive procurement for a new contract to pay for the ongoing maintenance and operation activities of CWS/CMS. In 2000, the state began the competitive procurement. The procurement was subsequently cancelled in 2002.

As a result of long-standing concerns, the federal government reduced funding for the maintenance and operation of the Child Welfare Services/Case Management System effective July 2003. The federal government has continued to provide federal funding for system costs but has not participated at the enhanced level of funding.

The **reduction in federal financial participation for CWS/CMS created a potential deficiency in the current year of $55 million.** Through subsequent actions the effective deficiency level was reduced to $6.8 million General Fund. The **LAO estimates that failure to resolve CWS/CMS issues in the budget year may increase project costs by $20 million.** Additionally, the state may be required to repay the federal government for incentive funding it received in the first three years of CWS/CMS development. The estimated cost for repayment of incentive funds ranges from $30 million to $113 million.

The Administration is working with the federal Health and Human Services Agency to address federal concerns and secure continued federal funding for CWS/CMS. According to DSS, the sole source nature of the existing CWS/CMS maintenance and operations contract has emerged as the federal government's principal concern. The Department of Social Services is developing a CWS/CMS plan to meet federal concerns, including competitive procurement of the contract and system development to achieve SACWIS compliance. DSS staff will be meeting with federal HHS staff to discuss the new plan at the end of March. The state's options remain to continue working towards SACWIS compliance or to acknowledge that the system will not meet SACWIS requirements and negotiate repayment of incentive funds.

The Legislative Analyst's Office analysis of the 2004-05 Budget Bill reports on the status of CWS/CMS and analyzes the options available to the Legislature. **The LAO outlines the following options available to California:**

Meeting Federal SACWIS Requirements. To meet SACWIS requirements, the state will need to implement a number of changes to the current CWS/CMS system. The federal government believes these SACWIS requirements offer significant program benefits to states' CWS programs. However, the administration has not completed an analysis of the benefits from the SACWIS functions from the state's perspective. We do know, however, that the required changes to CWS/CMS would ultimately increase state costs by tens of

millions of dollars. This alternative likely would also result in (1) restoration of increased federal funding and (2) avoidance of the one-time repayment of the incentive funding.

Non-SACWIS System. Alternatively, the state could declare CWS/CMS a non-SACWIS system. According to the federal government, the benefits of a non-SACWIS system are: (1) elimination of the need for SACWIS modifications, (2) more state control over changes and enhancements to the system, and (3) less federal review and oversight. A non-SACWIS system would allow the Legislature more discretion in setting the priorities for the CWS/CMS system. If the state chose to declare CWS/CMS a non-SACWIS system, the state would continue to receive a lower level of federal funding. In addition, the state could face the one-time repayment costs for the incentive funding.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Briefly describe the existing CWS/CMS system, the extent to which California is compliant with SACWIS, and the status of federal funding for the CWS/CMS system.

2. Discuss the status of negotiations with the federal government regarding CWS/CMS.

    - What are the federal government's concerns regarding CWS/CMS?
    - What is the federal government requiring from California to provide any federal funding for CWS/CMS? What is required to receive enhanced federal funding?
3. What are the state's options regarding CWS/CMS?
4. Has DSS completed a cost benefit analysis of its CWS/CMS options?
5. Has the state completed an analysis of the programmatic benefits of becoming SACWIS compliant?
6. Please describe the parameters of the CWS/CMS plan that DSS plans to discuss with the federal government at the end of March.

Budget issue: Does the Subcommittee wish to take any actions regarding CWS/CMS and the proposed level of project funding?

Issue H - Promoting Safe and Stable Families (PSSF)

Background: The federal government funds a specific program within the child welfare services system to provide community based, family centered services that focus on supporting and preserving families, protecting children and preventing child abuse and neglect.

Governor's Budget: The budget reflects an increase in PSSF funding of $4 million, for a total of $61.7 million in the budget year. The budget proposes to fund some CWS Redesign activities with PSSF funds.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the current process for allocation of PSSF funds and the criteria that guide expenditures of PSSF dollars retained by the state.

Budget issue: Does the Subcommittee wish to approve program funding as budgeted?

4. Foster Care Program

Background: The **Foster Care program provides support payments for children in out-of-home care as a result of a judicial order or a voluntary placement agreement.** The program provides payment to foster care service providers, including foster homes, foster family agencies, residential treatment for seriously emotionally disturbed children and group homes. The program is administered by the Department of Social Services and operated by county welfare departments. It serves an estimated average of 78,700 youth a month, reflecting a 1.2 percent increase in caseload in the budget year.

Governor's Budget: The budget **provides $1.8 billion ($462.8 million General Fund)** to support the foster care system. The budget makes the following funding assumptions:

Issue A - Foster Care Program – Compensation for County Services

Governor's Budget: The **budget provides $101.3 million to support county delivery of Foster Care Program services.** This amount reflects a $3.1 million increase due to increased program caseload and workload associated with implementation of the *Rosales v. Thompson* court decision. The proposed compensation for county services is based on 2000-2001 county costs and does not include a cost-of-doing business adjustment. **Counties estimate that maintaining county funding for Foster Care Administration at the 2001-02 level amounts to a $28.3 million reduction.**

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services briefly answer the following questions:

1. Briefly discuss the proposed funding level for Foster Care Administration.
2. What has been the programmatic impact of maintaining funding for the Foster Care program at the 2000-01 cost level?
3. As many county activities are statutorily required, what flexibility do counties have to realize efficiencies and adjust their workload to reflect the actual level of funding?
4. Is the Department proposing to provide any relief to counties commensurate with the suspension of cost of doing business adjustments?

Budget issue: Does the Subcommittee wish to adopt the proposed level of funding for Foster Care Administration costs?

Issue B - Implementation of *Rosales* v. *Thompson*

Background: The Ninth Circuit court decision in *Enedina Rosales and the California Department of Social Services v. Tommy G. Thompson* (321 F.3d 835) significantly expanded eligibility for federal foster care funding to thousands of low-income relatives caring for foster children. Under *Rosales*, a child who lived, at any time during the six months prior to removal or at the time of removal with a relative, is federally eligible for foster care because only the child's income will be taken into account when conducting the means test. Prior to the court decision, relatives who were caring for children who were deemed ineligible for the federal foster care program were provided with a California Work Opportunity and Responsibility to Kids (CalWORKs) child-only grant of about $350 per month. Under the new eligibility rules, families will receive a regular foster care grant (an average of $678 per month).

The court recently ruled that the *Rosales* decision applies retroactively back to December of 1997 in cases that were open on March 3, 2003. Relatives, if found otherwise eligible for a foster care payment, will receive a payment for the difference between the CalWORKs grant and the Foster Care grant for the relevant months back to 1997. The federal government is currently developing instructions to implement the *Rosales* decision. The instructions will establish a process to determine if relatives are eligible for retroactive payment and to ascertain the appropriate level of payment. **Increased General Fund costs and savings in Temporary Aid for Needy Families funds resulting from this recent court ruling will be reflected in the May Revision.**

Governor's Budget: The budget increases foster care funding by $36.7 million ($7.5 million General Fund) to implement the *Rosales v. Thompson* court decision. The budget reflects an offsetting reduction in CalWORKs costs of $14.1 million in the budget year.

The Legislative Analyst's Office comments in her analysis that the Governor's Budget understates General Fund savings associated with implementation of the *Rosales* decision. The LAO estimates that a modest investment in foster care redetermination activities will allow California to claim additional federal funding, resulting in net General Fund savings of $5.3 million due to reduced Foster Care and Adoptions Assistance Payment costs.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services briefly answer the following questions:

1. Briefly describe the court ruling in *Rosales v. Thompson* and its impact on federal foster care and Adoption Assistance Payment eligibility.
2. Briefly discuss the implementation status of the *Rosales decision.*
3. Please discuss your estimate of the impact on the General Fund and TANF of *Rosales*
4. How will *Rosales* impact foster care expenditures and county realignment?
5. Does the Administration concur with the LAO's estimate of additional savings resulting from the *Rosales* decision?

Budget issue: Does the Subcommittee wish to adopt the proposed funding for implementation of the *Rosales* decision? Does the Subcommittee wish to adopt the additional General Fund savings identified by the Legislative Analyst's Office?

Issue C - Proposal to Develop and Implement Foster Care Reforms

Governor's Budget: The budget assumes $20 million General Fund in savings resulting from development and implementation of programmatic reforms that shorten the period of time children spend in foster care. Reforms may include use of performance-based contracts; restructuring of foster care rates; and receipt of a federal waiver that permits use of federal foster care funds for child welfare purposes, including intensive services to keep children with their birth parents.

The Administration will convene the first meeting of stakeholders, including legislative staff, to consider foster care reforms on Friday, March 19th. The Administration will submit its reform proposals to the Legislature as part of the Governor's May Revision.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the process and timeline to develop foster care reforms, as well as briefly discuss the foster care reform proposals being considered by the Administration.

Issue D - Relative Home Assessment

Background: The federal Adoption and Safe Families Act (ASFA) requires that states apply the same licensing standards to both relative provider and foster family homes. Assembly Bill 1695, Chapter 653, Statutes of 2001, establishes state requirements that mirror the federal requirement and mandates that counties conduct an in-home assessment prior to placing a child in the home of a relative or the home of a non-relative extended family member. In addition to the state requirement, federal law requires counties to conduct additional in-home assessments when one or more relatives or non-relative extended family members seek approval to have a related foster child placed with them. During in-home assessments counties evaluate the safety of the home and the ability of the relative to care for the child. Counties are required to visit all willing relatives or non-related extended family members to establish viable placement options.

In 2002, California's licensing practices for relative home providers were challenged in *Higgins v. Saenz.* The State was essentially out of compliance with the federal requirement that licensing standards be the same across foster homes. California negotiated a settlement in the case, which will bring the state into compliance with federal requirements. In addition to the court action, the federal government found California out of compliance with federal law leading to a loss of $45 million in federal funding. Since November 2001, the state and counties have been working to demonstrate compliance with the federal requirements and achieve restoration of federal funding.

Last year, the Legislature appropriated $11.8 million to fund relative home assessments. In a related action, the Legislature eliminated the annual licensing visit requirement for facilities licensed by DSS, including foster family homes, and established a new visit methodology. The State will now visit a limited number of facilities on an annual basis. Other facilities will be visited under a random sampling methodology. All licensees will be visited at least once every five years.

The Governor's Budget assumes that relative homes are subject to the new licensing methodology adopted by the Legislature. However, the Department is in the process of developing an All County Letter to require annual licensing visits of relative homes, at odds with the new licensing methodology established by the Legislature. The All County Letter and required annual visits may result in additional oversight of relative homes as compared to foster family homes. The May Revision will likely reflect additional costs associated with the proposed requirement of annual licensing visits to relative homes.

Governor's Budget: The **budget provides $12 million in state and county funds to support these new required relative caregiver home assessments**.

The budget assumes that the assessments can be completed in seven hours. Counties report that the average time to complete an assessment is 16 hours, not including travel time. Counties argue that the budget provides insufficient funding to complete the relative home assessments required by state and federal law.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Briefly describe the required relative home assessments, the proposed funding and whether the assumed time frame for completing home assessments reflects what counties have been experiencing.
2. How has the relative home assessment process affected foster care placements?
3. To what extent are relatives found ineligible to care for foster children following the assessments? What factors tend to make relatives ineligible to provide a placement?
4. Please discuss the proposed All County Letter, including the reason for its issuance and the estimated costs of conducting annual licensing visits to relative providers.

Budget issue: Does the Subcommittee wish to approve this item as budgeted?

Issue E - TANF Fund transfer to Foster Care.

Governor's Budget: The Governor proposes to transfer $56.6 million in Temporary Aid for Needy Families funds from CalWORKs to the Foster Care program to offset General Fund support for the Foster Care program. California's continued use of TANF funds to support non-CalWORKs programs is seriously limiting the state's ability to continue to afford the CalWORKs program without additional General Fund spending.

Subcommittee request: The Subcommittee has requested that the Administration discuss the impact to the CalWORKs program of transferring TANF funds to Foster Care and the extent to which such transfers increase pressure to make reductions within CalWORKs. ***Budget issue:*** Does the Subcommittee wish to approve the proposed fund transfer?

Issue F - Supportive Transitional Emancipation Program (STEP)

Background: Established in January 2002, the STEP provides financial assistance to emancipating foster youth up to age 21 who are participating in an educational or training program. The program operates as a county option. Given fiscal constraints at the local level, no county to-date has opted to implement STEP.

Governor's Budget: The budget proposes to eliminate the STEP program for General Fund savings of $38,000 in the current year and $338,000 in the budget year.

Subcommittee request: The Subcommittee has requested that the Department of Social Services briefly describe the budget proposal and its effect on emancipating foster youth.

Budget issue: Does the Subcommittee wish to adopt the proposed elimination of STEP?

Issue H - Group home affiliated leases

Background: Since 1997, **the Department of Justice,** under contract with the Department of Social Services, **had been required to review group home affiliated lease agreements**, also known as self-lease agreements, to determine whether the lease is fair and reasonable. The DOJ review sought to assure procedural correctness and financial propriety, as well as continued federal financial participation for group home self-lease agreements.

The 2003-04 budget proposed to eliminate the DSS contract to compensate the DOJ for completing the statutorily required review of group home self-lease agreements for General Fund savings of $75,000. The DOJ opposed the elimination of the DSS contract and argued that funding for the contract should be restored or the requirement that DOJ review group home self-lease agreements should be eliminated.

Senate Bill 24x, Chapter 7, Statutes of 2003, prohibited, commencing July 1, 2003, any group home with an affiliated lease from being eligible for an AFDC-foster care rate, unless the home had an approved self-lease agreement. The bill eliminated the requirement that the DOJ review and approve group home affiliated lease agreements.

The California Alliance of Child and Family Services is seeking a technical clarification to last year's legislation. The Alliance proposes to eliminate the term “affiliated lease,” and substitute the term “self-dealing transaction,” as defined in the Corporations Code.

Subcommittee request: The Subcommittee has requested that the Department of Social Services comment on the Alliance proposal.

Budget issue: Does the Subcommittee wish to adopt the proposed legislation?

5. Adoption Assistance Program

Background: Since 1982, the **Adoption Assistance Program (AAP) provides financial support to families adopting children who are considered difficult to place, primarily foster children with broadly defined special needs.** The AAP program seeks to assist states and counties in achieving permanency for foster children. The program is supported by federal, state and county funds, and is administered locally by counties.

Federal law establishes the AAP program, and authorizes states to define "special needs" for purposes of establishing eligibility and to determine the level of AAP payment provided to adoptive parents. Federal law limits the AAP payment to the age-related foster family home care rate for which the child would otherwise be eligible. To receive AAP, the child must have been otherwise eligible to receive Foster Care aid.

State law defines special needs for purposes of establishing eligibility for AAP to include a mental, physical, medical or emotional handicap; race, color or language barriers to adoption; age of over three years; member of a sibling group; or adverse parental background, such as drug addiction or mental illness. **Under the state's definition, virtually all children being adopted out of the foster care program are eligible for and receive AAP benefits at least until the age of 18.** Most children adopted out of the foster care system qualify for AAP, regardless of whether or not they would otherwise be a hard to place child, because any child removed from his or her parents and placed in foster care, by definition, must have had an adverse parental background. Under California's definition, a healthy infant would be considered as hard to place as would three teenage, physically, or developmentally disabled siblings. Both types of children would be eligible for monthly AAP payments until they reach the age of 18.

Adoptions Assistance is not a means-tested program. Federal law prohibits states from means testing AAP eligibility but requires that the family's circumstances be taken into consideration when determining the level of payment. According to the Legislative Analyst's Office the federal definition allows the income of the family to be used in determining the grant amount as long as it is done in conjunction with the needs of the child. As a publication of the United States House of Representatives Committee on Ways and Means states, "No means test can be used to determine eligibility of parents for the program; however, States do consider the adoptive parents' income in determining the payment." The LAO's review of other state programs found that in 2000-01, 20 states used income in some capacity to determine the grant amount paid to the adoptive family.

According to 2000-01 data, the typical child adopted through the DSS Agency Adoption program is white, experienced an adverse parental background, and did not have a sibling

placed with them. They began living with their adoptive family at 2 years old and were adopted when they were 5 years old. The adoptive family is a white, married couple, with some college education. They were not related to the child and had other children in their home. The median age for the adoptive mother and father was 44 years old. Their median gross annual income was $41,000 and they received adoptions assistance benefits.

Governor's Budget: The **budget provides $576.9 million ($247.8 million General Fund) for AAP grant payments.** It provides an increase of $57.8 million total funds for the AAP program. The budget assumes that the estimated caseload will be 67,700 in the budget year, a 10.5 percent increase over current year. The budget does not provide cost-of-living adjustments for this program.

The AAP caseload has increased by an average of more than 13% each of the last three years. **Program costs have increased by 154 percent since 1998.** The average AAP grant has increased substantially since 1995-96. During this period, the average grant for AAP grew from $447 for federally eligible children and $459 for state-only children, to an estimated $704 and $756, respectively. This represents increases of 58 percent and 65 percent, or approximately 30 percent more than the rate of inflation.

Increases in grants are at least in part the result of the *Mark A. et al v. Davis* court settlement. This settlement limited the ability of counties to negotiate with adoptive parents for grant amounts that would be lower than the maximum amount that the child would have received in Foster Care. According to the LAO, the *Mark A.* settlement limits the flexibility of the administration and counties, but is not binding for the Legislature.

The Legislative Analyst's Office analysis of the 2004-05 Budget includes a comprehensive analysis of the AAP program and its rate of caseload and funding growth. **The LAO makes the following recommendations to the Legislature to contain growth in the program and target available services to a more narrow population:**

Set Grant Levels to Recognize Adoptive Parents' Financial Responsibility. While states may not pay more than the maximum amount that the child would have received in Foster Care, there is nothing that precludes California from capping the amount of the AAP grant at a level below the maximum foster care rate. If the state capped the basic rate at 75 percent of the foster care rate, prospectively, the state would save $600,000 in 2004-05 on new children entering the system and $5.5 million in 2005-06 compared to the current program. Savings would increase annually as the pre-AAP reform children age-out of the program and new children are enrolled at the 75 percent level.

Better Tie Benefit Levels to Need. Currently, parents have the option of renegotiating the AAP grant they receive for their child at least once every two years. Children receive an average of $45 per month more as they age in the program, starting at $425 for 4 year olds and under, and ending at $597 for children over 14 years old. Because age-driven grant increases are not based on a demonstration of need, the LAO recommends they be eliminated and that the state narrow the reasons for grant increases to include increased

costs due to physical, mental, emotional, or medical problems directly tied to child's birth parents or pre-adoptive circumstances. The reform would save the state approximately $900,000 in 2004-05 and $2 million in 2005-06.

Narrow Definition of Special Needs to Children Likely to Benefit the Most. The inclusion of adverse parental background as part of the definition of special needs means that virtually all children adopted from the foster care system are eligible for AAP assistance. Assuming that a small percentage of the children who quality for AAP due to having an adverse parental background would qualify under another category, the incoming AAP caseload could be reduced by about 25 percent by eliminating the adverse parental background category. Parents would remain eligible for deferred benefits if a child subsequently develops a physical, mental, emotional, or medical problem that can be traced directly to his or her birth parents or pre-adoptive circumstances. This narrowing of the definition of special needs would save the state approximately $500,000 in 2004-05, growing to $4 million in 2005-06.

Adoption agencies have written in opposition to the LAO's recommended changes to AAP. The agencies argue that changes to AAP will increase barriers to the adoption of foster children and reduce permanency for foster children. The Subcommittee has not received conclusive evidence or data to indicate whether changes to AAP will negatively affect the adoption rates of foster children.

Subcommittee request and questions: The Subcommittee has requested that the Legislative Analyst's Office answer the following questions:

1. Discuss your analysis of the Adoptions Assistance Payment program, including the program's rate of caseload and funding growth.
2. Briefly discuss federal requirements relative to AAP eligibility and level of payment.
3. Please discuss your recommendations, including how they compare to AAP programs in other states.
4. How will your recommendations affect the foster children adoptions' rate?

The Subcommittee has requested that the Administration discuss the purpose of AAP grants, describe the other state funded services that children adopted from the foster care system are eligible for, and provide their response to the LAO's recommendations.

Budget issue: Does the Subcommittee wish to consider changes to the AAP program including the changes recommended by the LAO? Does the Subcommittee wish to approve funding for AAP as budgeted?

6. Proposed Workload Relief Associated with Reductions in State Operations

Background: Control Section 4.10 of the Budget Act of 2003 authorizes the administration to reduce state operations appropriations, abolish positions, and reallocate funds among items of appropriation to achieve budget savings in the current year.

Specifically, Control Section 4.10 requires that the Director of Finance abolish as many as 16,000 positions throughout state government, reduce individual state operations appropriations by up to 15 percent and achieve $1 billion in savings.

The Department of Social Services' contributed $5.9 million in General Fund savings to the Control Section 4.10 reduction. It eliminated a total of 330.5 positions across department divisions. The Governor's Budget assumes that the reductions to state operations will be ongoing and proposes a series of statutory changes to permanently reduce the department's workload. The proposed statutory changes include:

Issue A - Eliminate the Child Care Advocate Program

Background: Current law requires the Department of Social Services to establish a child care ombudsman program. The program provides information to the general public on child care licensing standards and regulations, serves as a liaison to local entities and child care providers, disseminates information on the state's licensing role, and investigates complaints.

Governor's Budget: The Governor's proposed legislation to implement the Budget Act makes it optional for the DSS to establish a Child Care Ombudsman program and renames the program as the Child Care Advocate Program.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss how the proposed legislation will impact child safety and enforcement of licensing standards.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue B - Processing of Applications for Trustline Certification

Background: TrustLine is a registry of child care providers who have received a criminal background clearance in California. It considers fingerprint records from the California Department of Justice's California Criminal History System, the Child Abuse Central Index of California, and the FBI Criminal History System. The program is jointly administered by the Department of Social Services and the Child Care Resource and Referral Network. Specifically, the DSS processes applications and grants criminal record clearances, and the Network maintains the Trustline registry.

Governor's Budget: The Governor's proposed legislation to implement the Budget Act shifts the responsibility of receiving Trustline applications and submitting provider fingerprints to the Department of Justice from the DSS to the Child Care Resource and Referral Network.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss

whether the proposal will increase the DSS contract with the Child Care Resource and Referral Network.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue C - State Hearings for Providers Applying for Licensure

Background: Current law establishes a statutory right to an administrative hearing for providers who are denied licensure by the Department of Social Services. Such hearings usually are less time consuming and less costly than a court challenge.

Governor's Budget: The Governor's proposed legislation would eliminate the right to an administrative hearing for providers who are denied licensure by DSS. The Department plans to develop a process within DSS to consider complaints from providers who are denied licensure.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss options available to providers who believe they have been inappropriately denied a license by the state.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue D - Expand Activities Supported by the Technical Assistance Fund

Background: Established in 1995, the Technical Assistance Fund supports the creation and maintenance of licensing staff to provide technical assistance to residential care facilities for the elderly, foster care providers, child care providers and other community care facilities licensed by the Department of Social Services. Licensing fee revenue in excess of $6 million is deposited in the Technical Assistance Fund and is subject to legislative appropriation.

Governor's Budget: The Governor's proposed legislation would broaden the activities supported by the Fund to include administrative and other licensing activities.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue E - Certification and Monitoring of Out-of-State Group Homes

Background: High profile incidents of abuse and maltreatment of foster youth and the debate ensuing from these incidents triggered Senate Bill 933, a comprehensive legislative reform of the foster care system. SB 933 (Thompson), Chapter 311, Statutes of 1998, instituted a series of reforms designed to improve the quality of care received by foster children in group homes and to increase foster child safety. Specifically, the bill established rigorous licensing requirements for foster care providers and prohibited the

placement of foster youth with unlicensed out-of-state providers. It required that DSS perform initial and continuing inspections of out-of-state group homes, as well as investigate any threat to the health and safety of California children placed in these homes.

Since the enactment of SB 933, the placement of California foster children in out-of-state group homes has declined substantially. According to DSS, a total of three hundred foster children are placed in twelve licensed out-of-state group homes. The children placed in these out of state group homes tend to be served by probation departments, not county social services agencies.

Governor's Budget: The Governor's proposed legislation would eliminate the requirement that the Department of Social Services certify and monitor out-of-state group homes.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and answer the following questions:

1. Will the proposal effectively eliminate out-of-state placement for foster children?
2. How will the proposal affect children currently placed in out-of-state group homes?
3. How will the proposal impact the availability of appropriate placements for foster children?

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue F - Eliminate Claimants Rights for Rehearings

Background: Counties, as well as applicants for and recipients of public social services, have a statutory right to request a rehearing when dissatisfied with a decision from an administrative law judge (ALJ) regarding eligibility for or amount of aid or services. The rehearings provide the last opportunity within the administrative process to challenge a county decision or ALJ ruling.

Absent rehearings, individuals and counties can seek redress through the courts. However, court involvement tends to be more costly and consume more time than administrative processes.

Governor's Budget: The Governor's proposed legislation would eliminate the statutory authority for claimants and counties to request rehearings from the Department of Social Services.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and answer the following questions:

1. What mechanisms for dispute resolution will remain available to claimants and counties?
2. How will the proposal affect a claimant's ability to exercise his or her due process rights?
3. Might the proposal result in increased court actions and higher program costs to the state?

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue G - CalWORKs Mental Health Pilot Program

Background: AB 444 (Aroner), Chapter 222 Statutes of 2001, authorized counties to participate in a pilot program to cover the costs of CalWORKs mental health employment assistance services as part of a Medi-Cal mental health managed care program. The bill required the Department of Social Services to develop a plan for operation of the pilot program and to report on program implementation to the Legislature during budget hearings in 2005.

Governor's Budget: The Governor's proposed legislation eliminates the requirement that DSS develop a plan for operation of the pilot program and report to the Legislature by 2005.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss how the proposed statutory changes will affect integration of CalWORKs mental health services and services available under the Medi-Cal mental health managed care program.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue H - Group Home Rates

Background: Current law establishes a biennial rate setting process for establishing or revising group home rates and foster family agency rates to reflect changes in costs staffing and level of services provided by the home. Current law also provides for non-provisional program audits of foster care group home programs and requires the Department of Social Services to reimburse providers with less than $300,000 in federal funding for the costs, up to $2,500, of completing financial audits conducted as a condition of receiving a rate.

Governor's Budget: The Governor's proposed legislation makes the following changes to state law: (1) imposes a 3-year suspension of the biennial rate-setting requirements applicable to group home programs and foster family agencies; (2) authorizes a 3-year suspension of non-provisional program audits; and (3) removes the requirement for the department to reimburse certain providers for audit costs.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss how the proposed statutory changes will impact provider participation in the foster care program. The Subcommittee has also requested that the Department discuss the impact to foster care costs of providing an announced suspension of program audits.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Ana Matosantos **445-5202 (w)**
Senate Budget & Fiscal Review 3/18/04

OUTCOMES for Subcommittee No. 3: March 18, 2004

- (Please reference the Subcommittee Agenda in tandem with these outcomes.)

A. 4200 DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS (DADP)

VOTE ONLY ITEM

1. Performance Partnership Grants **page 2**

Key issue: budget provides a $260,000 federal SAPT funding augmentation and establishes 3 new positions to evaluate, plan and implement the federal Performance Partnership Grants.

Action: Approved as budgeted
Vote: 3-1 (*Aye:* Chesbro, Cedillo, Ortiz; *No:* McPherson)

2. Screening, Brief Intervention, Referral and Treatment Grant **page 3**

Key issue: budget provides a $3.5 million federal funding increase to support the delivery of alcohol and drug screening, intervention, referral and treatment services to adult patients in medical settings across four counties.

Action: Approved as budgeted.
Vote: 3-1 (*Aye:* Chesbro, Cedillo, Ortiz; *No:* McPherson)

DISCUSSION ITEMS:

1. Drug Medi-Cal (DMC) **page 3**

Key issue: budget increases funding for the Drug Medi-Cal program by $5.4 million ($3.1 million General Fund) to $109.6 million.

Action: Kept Drug Medi-Cal funding and caseload open.

Issue A – Legislative Analyst's Review of Drug Medi-Cal Program **page 4**

Key issue: LAO reviewed Drug Medi-Cal Program and made recommendations to increase access to alcohol and other drug treatment services and to contain costs of Methadone treatment.

Action: Informational item. No action taken.

2. Substance Abuse Prevention and Treatment (SAPT) Block Grant **page 6**

Key issues: State may not meet the SAPT MOE in the current year. Budget proposes funding for alcohol and drug treatment services above the MOE. Discussion of criteria counties consider when establishing SAPT priorities.

Action: Kept issue open.

3. Substance Abuse and Crime Prevention Act **page 8**
Key issue: Discussion of implementation of Proposition 36 and available outcome data.

Action: Informational item. No action taken.

4. Dependency Drug Courts **page 9**
Key issue: Data from Sacramento's dependency court and associated foster care savings.

Action: Directed Subcommittee staff to work with DOF, DADP, DSS and other stakeholders to document the level of foster care savings to be realized through dependency drug courts and to consider strategies to improve access to treatment for parents involved in dependency court.
Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

B. 5180 DEPARTMENT OF SOCIAL SERVICES (DSS)

VOTE ONLY ITEMS

1. Adoptions Services **page 12**
Key issue: budget provides $87.9 million ($48.1 general fund) to fund the Adoptions Program.

Action: Approved as budgeted.
Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

2. Kinship Guardianship Assistance Program (KinGAP) **page 12**
Key issue: budget provides $92.3 million for the KinGAP program, reflecting an 8.2 % increase.

Action: Approved as budgeted
Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

ITEMS FOR DISCUSSION

1. California Child and Family Services Review and Program Reforms **page13**
Key issue: discuss how the different child welfare services reforms fit together and their impact on program outcomes.

Action: Informational item. No action taken.

2. Child Welfare Services (CWS) **page15**

Issue A - Maintains county unit costs at the 2001-02 funding level. **page15**
Key issue: budget funds counties at their 2001-02 funding levels and calculates costs to maintain each county's prior year social worker funding level. Counties estimate that maintaining county funding for CWS at the 2001-02 level amounts to a $23.1 million reduction.

Action: Kept issue open.

Issue B - Senate Bill 2030, the CWS Augmentation and Social Worker Training. **page16**
Key issue: The SB 2030 Child Welfare Services Workload Study found that caseworkers were seriously overburdened. Augmentations have been provided. Caseloads remain high.

Action: Informational item. No action taken.

Issue C - Child Welfare Services Redesign **page17**
Key issue: budget provides $5.9 million ($555,000 General Fund) in the current year and $19.1 million ($558,000 General Fund) in the budget year to support various CWS Redesign activities.

Action: Rejected funding for CWS Redesign in the budget year. Redirected funding proposed for Redesign to reduce proposed TANF funding for AB 636 and PIP activities. Expressed willingness to reconsider Redesign proposal during may Revision, contingent on development of an implementation plan.
Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

Issue D - Program Improvement Plan Funding **page17**
Key issue: budget provides $8.3 million ($3.5 million General Fund) in the current year and $10.6 million ($749,000 General Fund) in the budget year to support PIP activities.

Action: Kept issue open.

Issue F - Child Welfare Outcomes and Accountability System **page18**
Key issue: budget provides $3.7 million ($1.6 million General Fund) in the current year and $9.5 million ($3.2 million General Fund) in the budget year to fund Child Welfare Outcomes and Accountability System activities.

Action: Kept issue open. Requested that DSS work with counties to consider estimates of AB 636 workload and update the proposed funding by the May Revision. Directed Subcommittee staff to work with LAO, CWDA and the Administration to identify sources of funding for county self-improvement plans.

Issue G - Child Welfare Services/ Case Management System **page19**
Key issue: State is out of compliance with federal SACWIS requirements. California has lost enhanced federal financial participation for CWS/CMS and may be required to repay the federal government for past federal funding.

Action: Kept issue open.

Issue H - Promoting Safe and Stable Families (PSSF) **page21**
Key issue: budget reflects increase in PSSF funding of $4 million, for a total of $61.7 million.

Action: Informational item. No action taken.

4. Foster Care Program **page22**

Issue A - Foster Care Program – Compensation for County Services **page22**
Key issue: budget compensation for county services is based on 2000-2001 county costs. Counties estimate that maintaining funding for Foster Care Administration at the 2001-02 level amounts to a $28.3 million reduction.

Action: Kept issue open.

Issue B - Implements *Rosales* v. *Thompson* **page22**
Key issue: budget increases foster care funding by $36.7 million ($7.5 million General Fund) to implement the *Rosales v. Thompson* court decision which expanded federal foster care eligibility. LAO estimates additional net savings of $5.3 million in Foster Care and AAP program costs.

Action: Adopted LAO estimate of additional savings in Foster Care and AAP costs. Requested that DSS work with LAO and counties to revise its estimate to include additional potential savings and costs. Kept issue open.
Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

Issue C - Proposes to Develop and Implement Foster Care Reforms **page24**
Key issue: budget assumes $20 million GF savings resulting from programmatic reforms including reforms to shorten the period of time children spend in foster care.

Action: Kept issue open.

Issue D - Relative Home Assessment **page24**
Key issue: budget provides $12 million to support relative caregiver home assessments. DSS is developing an All County Letter to require annual licensing visits of relative homes.

Action: Requested that DSS work with counties to revise its estimate. Kept issue open.

Issue E - TANF Fund transfer to Foster Care **page25**
Key issue: budget transfers $56.6 million in Temporary Aid for Needy Families (TANF) funds from CalWORKs to the Foster Care program to offset General Fund costs.

Action: Kept issue open.

Issue F - Supportive Transitional Emancipation Program (STEP) **page26**
Key issue: budget proposes to make implementation of the STEP program contingent on a budget appropriation for General Fund savings of $38,000 in the current year and $338,000 in the budget year.

Action: Adopted Governor's proposal.
Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

Issue H - Group home affiliated leases **page26**

Key issue: Proposed technical clarification of recently enacted trailer bill legislation to eliminate the term "affiliated lease," and substitute the term "self-dealing transaction," as defined in the Corporations Code.

Action: Adopted proposed trailer bill legislation to amend paragraph (1) of subdivision (d) of Welfare and Institutions Code section 11462.06 to read: "Commencing July 1, 2003, any group home provider with a self-dealing lease transaction for shelter costs, as defined in Section 5233 of the Corporations Code, shall not be eligible for an AFDC-FC rate.

Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

5. Adoption Assistance Program (AAP) **page27**

Key issue: budget provides $576.9 million ($247.8 million General Fund) for AAP grant payments. LAO makes a series of recommendations to contain growth, provide assistance to a more narrow population, and limit the level of AAP payments prospectively.

Action: Directed Subcommittee staff to work with the LAO, the Administration, counties and other stakeholders to consider the impact of the reforms proposed by the LAO on foster children, adoptive families and program costs and to consider alternative strategies to contain growth without creating disincentives to adoption.

6. Proposed Workload Relief Associated with Reductions in State Operations

Key issue: The DSS contributed $5.9 million in General Fund savings to Control Section 4.10 reductions. Budget proposes statutory changes to permanently reduce DSS workload.

Issue A - Eliminate the Child Care Advocate Program **page30**

Key issue: budget proposes legislation to make it optional for the DSS to establish a Child Care Ombudsman program and renames the program as the Child Care Advocate Program.

Action: Kept issue open pending receipt by the Legislature of the programmatic impact of Section 4.10 reductions.

Issue B - Processing of Applications for Trustline Certification **page 30**

Key issue: budget proposes legislation to shift responsibility of receiving Trustline applications and submitting provider fingerprints to the Child Care Resource and Referral Network.

Action: Kept issue open pending receipt by the Legislature of the programmatic impact of Section 4.10 reductions.

Issue C - State Hearings for Providers Applying for Licensure **page31**

Key issue: budget proposes legislation to eliminate the right to an administrative hearing for providers who are denied licensure by DSS.

Action: Rejected proposed legislation.

Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)

Issue D - Expand Activities Supported by the Technical Assistance Fund **page31**

Key issue: budget proposes legislation to broaden the activities supported by the Fund to include administrative and other licensing activities.

Action: Kept issue open pending receipt by the Legislature of the programmatic impact of Section 4.10 reductions.

Issue E - Certification and Monitoring of Out-of-State Group Homes **page31**

Key issue: budget proposes legislation to eliminate the requirement that the Department of Social Services certify and monitor out-of-state group homes.

Action: Kept issue open pending receipt by the Legislature of the programmatic impact of Section 4.10 reductions.

Issue F - Eliminate Claimants Rights for Rehearings **page32**

Key issue: budget proposes legislation to eliminate the statutory authority for claimants and counties to request rehearings from the Department of Social Services.

Action: Kept issue open pending receipt by the Legislature of the programmatic impact of Section 4.10 reductions.

Issue G - CalWORKs Mental Health Pilot Program **page33**

Key issue: budget proposes legislation to eliminate the requirement that DSS develop a plan for operation of the pilot program and report to the Legislature by 2005.

Action: Kept issue open pending receipt by the Legislature of the programmatic impact of Section 4.10 reductions.

Issue H - Group Home Rates **page33**

Key issue: budget proposes legislation to (1) impose a 3-year suspension of the biennial rate-setting requirements applicable to group home programs and foster family agencies; (2) authorize a 3-year suspension of non-provisional program audits; and (3) removes the requirement for the department to reimburse certain providers for audit costs.

Action: Kept issue open pending receipt by the Legislature of the programmatic impact of Section 4.10 reductions.

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

March 22, 2004
1:30 PM
Room 4203

Item	*Description*
4440	**Department of Mental Health** • **Community Based Services** • **State Hospitals**

PLEASE NOTE: **Only those items contained in this agenda will be discussed at this hearing. Issues pertaining to the DMH may be reviewed again at the Subcommittee's "OPEN" issues hearing and again at the time of the May Revision.** ***Please*** **see the Senate File for dates and times of subsequent hearings**.

Issues will be discussed in the order as noted in the Agenda.

Issues pertaining to the housing and treatment of Sexually Violent Predators, with the exception of the Coalinga facility, will be discussed at a later hearing.

Item 4440--DEPARTMENT OF MENTAL HEALTH

A. BACKGROUND OVERALL

Purpose and Description, including the Role of County Mental Health

Department: The Department of Mental Health (DMH) administers state and federal statutes pertaining to mental health treatment programs. **The department directly administers the operation of four State Hospitals**—Atascadero, Metropolitan, Napa and Patton--, and acute psychiatric programs at the California Medical Facility in Vacaville and the Salinas Valley State Prison. The department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while judicially committed patients are treated solely using state funds.

County Mental Health Plans: **Though the department sets overall policy for the delivery of mental health services, County Realignment revenues are currently the largest revenue source for community mental health services in California. Counties (i.e., County Mental Health Plans) have the primary funding and programmatic responsibility for the majority of local mental health programs as prescribed by State-Local Realignment statutes enacted in 1991 and 1992.**

Specifically, County Mental Health Plans are responsible for:

(1) All mental health treatment services provided to low-income, uninsured individuals with severe mental illness, within the resources made available;

(2) The Medi-Cal Mental Health Managed Care Program;

(3) The Early Periodic Screening Diagnosis and Testing (EPSDT) Program for adolescents;

(4) Mental health treatment services for individuals enrolled in other programs, including special education, CalWORKs, and Healthy Families.

Overall Budget of State Department and County Funds

The budget proposes expenditures of **$2.5 billion ($910.7 million General Fund) for mental health services, including state support. This reflects a *net* increase** of $165.9 million ($31.7 million General Fund) over the revised 2003-04 budget. As noted in the table below, $1.8 billion is for local assistance, $735.6 million is for the State Hospitals, and $7 million (General Fund) is for state mandated local programs.

In addition, it is estimated that almost **$1.128 billion will be available in the Mental Health Subaccount (County Realignment Funds) which does not directly flow through the state budget.** Counties use these revenues to provide necessary mental health care services to Medi-Cal recipients, **as well** as indigent individuals.

Realignment revenues are currently the largest revenue source for community mental health services in California. The second largest revenue source is federal Medicaid (Medi-Cal) dollars. Most of the state's General Fund support is expended on state-operated State Hospitals in order to serve Penal Code related patients.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	Percent Change
Program Source:				
Community Services Program	$1,672,199	$1,807,088	$134,889	8
Long Term Care Services	704,631	735,631	$31,000	4.4
State Mandated Local Programs	6	7	1	16.6
Total, Program Source	**$2,376,836**	**$2,542,726**	**$165,890**	**6.9**
Funding Source				
General Fund	$878,929	$910,658	$31,729	3.6
Federal Funds	61,993	61,917	(76)	(.1)
Reimbursements	1,432,942	1,567,332	134,390	9.3
Traumatic Brain Injury Fund	1,575	1,422	(153)	9.7
CA State Lottery Education Fund	1,397	1,397	0	0
Total Department	**$2,376,836**	**$2,542,726**	**$165,890**	**6.9**

B. ISSUES FOR VOTE ONLY (Items 1 Through 3)

(A "yes" vote for this section means adoption of the Subcommittee recommendation as noted in the agenda discussion for each item below.)

1. Adjustments for San Mateo Field Test Model

Background and Governor's Proposed Budget: The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Waiver agreement and state statute as a "field test" since 1995. The field test is intended to test managed care concepts which may be used as the state progresses toward consolidation of specialty mental health services and eventually, a capitated or other full-risk model. As the model has matured and evolved, additional components have been added and adjusted.

The budget proposes an increase of $3.3 million (Reimbursements from the DHS) to reflect an adjustment to the funding levels for this project. This adjustment is needed to reflect (1) the trend factor for pharmacy (nine percent increase), **(2)** the adjustment in the federal fund cost sharing ratio (from 53.3 percent to 50 percent) for the state's Medicaid (Medi-Cal Program), and **(3)** the adjustment needed to account for the shift from accrual to cash in last year's budget.

Subcommittee Staff Comment and Recommendation--Adopt: The budget proposes adjustments which reflect the existing agreement (i.e., Waiver for this Field Test model) the state has with San Mateo. **As such, it is recommended to adopt the budget proposal.**

2. Pre-admission Screening and Resident Review for Mental Illness (PASRR/MI)

Background and Governor's Proposed Budget: Federal law (OBRA of 1987) established each state's responsibility for evaluating persons seeking admission to or residing in nursing facilities for level of care and service needs. The DMH is responsible for administering a contract with an agency that is independent of the state and nursing home industry for the purpose of clinically evaluating each person admitted to or residing in a nursing facility if that person has mental illness. Litigation regarding the design and implementation of the evaluation instrument for this purpose has subsequently occurred.

The budget proposes an increase of $1.9 million ($470,000 General Fund) to fund expenditures associated with a pending Settlement Agreement (Charles Davis vs CA Health and Human Services Agency) regarding PASRR/MI. Of this amount, about $1.5 million would be used for a contractor and the remaining amount is for information-related technology costs. According to the DMH, this funding will support substantial revisions to the evaluation instrument, the training manual and related items.

Subcommittee Staff Comment and Recommendation--Adopt: Subcommittee staff has no issues regarding this proposal and recommends to **adopt the budget proposal**.

B. ISSUES FOR VOTE ONLY *(Continued)*

3. Governor's Proposed Repeal of Residential Care Mandates

Background and Governor's Proposed Budget: SB 155, Statutes of 1985, was enacted to address issues regarding the rates paid to private residential care facilities. According to the DMH, supplemental payments were provided for this purpose in 1989-90 and 1990-91. Then, beginning in 1991-01 (the first year of Realignment), the entire mandate was suspended pursuant to Section 17851 of the Government Code. **The DMH states that the funding that had supported the supplemental payment was included in Realignment and the counties now had the option as to how to spend these dollars. The mandate has remained suspended since this time. No other funding has been provided for this purpose.**

The Governor's budget proposes trailer bill language to eliminate the language that remains in the Welfare and Institutions Code (See Hand Out).

At this point in time it is unclear from the Administration as to whether the elimination of the Welfare and Institutions Code section regarding this issue is even needed since the provision was subsumed under Realignment.

Subcommittee Staff Comment and Recommendation—Delete: Trailer bill language is permanent statutory change that **is needed to implement the Budget Bill. The Administration's proposal is not needed to implement the Budget Bill.** No General Fund savings are identified for the action and it appears that the necessity for the language is as yet, unclear. In either case whether the language is desired for "clean-up" purposes or not, the proposal is not budget-related.

As such, it is recommended to delete this request from the budget and to direct the Administration to introduce a policy bill on the matter.

II. DISCUSSION ITEMS--Community-Based Mental Health Services

Summary of Funding for Community-Based Mental Health Services

Realignment revenues are currently the largest revenue source for community-based mental health services in California. The second largest revenue source is federal Medicaid (Medi-Cal) dollars.

The state's budget proposes expenditures of $1.807 billion (total funds) for community-based local assistance, including Medi-Cal Mental Health Managed Care, Early Periodic Screening Diagnosis and Treatment Program (EPSDT), applicable state support, the Conditional Release Program and related community-based programs. This reflects a *net* increase of $134.9 million (total funds) as compared to the revised 2003-04 budget. **This increase is primarily due to caseload and utilization of services adjustments in the baseline EPSDT Program and Mental Health Managed Care, as well as an adjustment to the San Mateo Field Test Project.**

Realignment Funding: In addition, it is estimated that $1.128 billion will be available in the Mental Health Subaccount (County Realignment Funds) which does not directly flow through the state budget. This estimate is based on the following revenue estimates:

- Sales Tax $834,609,000
- Vehicle License Fee Account $279,108,000
- Vehicle License Fee Growth Account $14,541,000
- Sales Tax Growth Account $-0-

Realignment revenues deposited in the Mental Health Subaccount, as established by formula outlined in statute, are distributed to counties until each county receives funds equal to the previous year's total. Any realignment revenues above that amount are placed into a growth account. The first claim on the distribution of growth funds are caseload-driven social services programs. Any remaining growth (i.e., "general" growth) in revenues is then distributed according to a formula in statute.

As discussed in a recently released report on mental health realignment (AB 328 Realignment Data, Department of Mental Health, February 5, 2003), due to continued caseload growth in Child Welfare services and Foster Care, as well as cost increases in the In Home Supportive Services (IHSS) Program, growth distributions to the Mental Health Subaccount and Health Subaccount have been substantially reduced.

Concerns with Lack of Growth Funds: As discussed in a recently released report on mental health realignment (AB 328 Realignment Data, Department of Mental Health, February 5, 2003), **due to continued caseload growth in Child Welfare services and Foster Care, as well as cost increases in the In Home Supportive Services (IHSS) Program, growth distributions to the Mental Health Subaccount and Health Subaccount have been substantially reduced. This is because the first claim on the Sales Tax Growth Account goes to caseload-driven social services programs, not the Mental Health Subaccount.**

1. Early Periodic Screening Diagnosis and Treatment (EPSDT) Program—Significant Changes Proposed---ISSUES "A" Through "C"

Background—Overall: **Most children receive Medi-Cal services through the EPSDT Program**. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) **recipients under age 21 *any* health or mental health service that is medically necessary** to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, **including services not otherwise included in a state's Medicaid (Medi-Cal) Plan.**

Though the DHS is the "single state agency" responsible for the Medi-Cal Program**, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH)**. Further, **counties are responsible for providing, arranging and managing Medi-Cal mental health services under the supervision of the DMH and DHS. However, eligibility and the scope of services to which eligible children are entitled, are *not* established at the local level.**

Types of Services: The state uses the term **"EPSDT supplemental services**" to refer to EPSDT services which are required by federal law **but are not otherwise covered under the state Medi-Cal Plan for adults**. **Examples of services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.**

EPSDT Litigation—State Has Settlement Agreements: In 1990, a national study found that **California ranked 50th** among the states in identifying and treating severely mentally ill children. **Subsequently due to litigation (T.L. v Belshe' 1994)**, the DHS was required to expand certain EPSDT services, including outpatient mental health services. The 1994 court's conclusion **was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.**

Further in January 2004, the U.S. District Court issued an Interim Order clarifying an earlier ruling regarding the provision of TBS that also required outreach, monitoring and related provisions to ensure that children receive EPSDT services as needed. The Court agreed that TBS utilization was too low statewide and ordered the parties to collaborate to develop a plan to increase TBS approvals.

EPSDT Funding Process—Both County and State Funds Used To Draw Federal Match: The DHS and DMH **crafted an interagency agreement in 1995 to implement expanded services as required by the court.**

Generally, this *original* agreement required County MHPs to provide a "baseline" amount using County Realignment Funds (essentially a county "maintenance-of-effort**") and then the state was responsible for providing the nonfederal share of the growth in the program.**

The baseline amount is established for each county based on a formula. For 2004-2005, the baseline is $65.7 million, plus an additional 10 percent county match ($20 million for the

budget year) which was instituted in the Budget Act of 2002, for a total of $85.7 million (County Realignment Funds). The state will provide funding (via Medi-Cal) for costs above this amount (above the baseline and 10 percent match).

The General Fund dollars and accompanying federal matching funds are budgeted in the DHS and are transferred to the DMH as reimbursements. **The DMH distributes EPSDT funds to the County MHPs responsible for the provision of specialty mental health in each county. Final payment is based on cost settled actual allowable costs, or rates.**

Prevalence Rate for California: Based on a number of studies which estimate the prevalence of children exhibiting various levels of functional impairment, **it is estimated that 20 percent of children suffer from diagnosable mental disorder, and up to 13 percent of these children are estimated to be seriously emotionally disturbed. Given these estimates it is likely that between 500,000 to 1.3 million children and adolescents in California have a severe emotional disturbance.**

As a comparison, the actual statewide average EPSDT penetration rate was 5.29 percent as of 2001-02 and 5.32 percent as of 2002-03.

It should be noted that the **Little Hoover Commission's report** (October 2001) on the existing inadequacies in the children's mental health system considered the potential savings if children's mental health utilization increased by 10 percent—the estimated prevalence rate. In one year, they estimated that California would save $44 million in juvenile justice, $27 million in CYA costs, $78 million in residential treatment and $1.4 million at Metropolitan State Hospital. **A total of $110 million in savings!**

Governor's Proposed Budget Overall: Under the Governor's budget, state support for EPSDT would grow to $365 million (General Fund) in 2004-05, for an **increase of about $112 million (General Fund)** compared to the current year. **This proposed spending level takes into account several technical adjustments, as referenced below, as well as three proposals intended to slow growth in the program and to potentially limit access to EPSDT services.**

The budget proposes the following adjustments to the EPSDT Program:

Technical Baseline Adjustments in Budget (increase of $47.9 million General Fund):

- ***Accrual to Cash:*** Makes an adjustment of $27.8 million (General Fund) in the budget year to reflect the one-time only reduction from 2003-04 which pertained to shifting the Medi-Cal Program from an accrual to cash basis.
- **Federal Medi-Cal Match:** Makes an increase of $ 20.1 million (General Fund) in the budget year to reflect a reduction in the share of costs that is supported by the federal government (Medicaid federal match percentage). In 2003-04 a congressional relief package for states temporarily increased the federal cost-sharing ratio.

Governor's Reduction Proposals:

- ***"Re-Basing" Provider Rates:*** The Administration proposes to change how provider rates are calculated (referred to as "re-basing") for **savings of $60 million ($40 million General**

Fund) in the EPSDT and an additional reduction of $50 million (federal funds) for adult outpatient services. This issue is discussed below (i.e., Issue "A").

- ***EPSDT Program Audits by the DMH:*** The DMH contends that savings of $13 million ($6.4 million General Fund) can be achieved from conducting additional audits of counties and their contractors who provide mental health services. The DMH is seeking an increase of $1.7 million ($844,000 General Fund) to hire consultants to conduct this audit work. This issue is discussed below (i.e., Issue "B").
- ***EPSDT Waiver for Medical Necessity:*** As part of their overall Medi-Cal 1115 Waiver proposal, the Administration is also proposing a Waiver regarding the EPSDT Program. Though details are significantly lacking, the Administration purports to making changes to how "medical necessity" is defined with respect to EPSDT services. The DMH is seeking an increase of $472,000 ($236,000 General Fund) to hire a consultant ($300,000) and to support two new state staff. This issue is discussed below (i.e., Issue "C").

ISSUES "A" to "C" are discussed below.

ISSUE "A" for the EPSDT Program-–—Re-Basing Provider Rates

Background—Existing Rate Structure: Under the Medi-Cal Program there are reimbursement limits. Since EPSDT is a Medi-Cal Program that provides mental health specialty services, it uses different reimbursement limits than other Medi-Cal programs. In some instances County Mental Health Plans negotiate rates with providers. **In other cases, the reimbursement rate is based on the *lowest* of:**

- The **"State Maximum Allowable" cost**, as defined by the DMH and approved by the DHS and federal government;
- The provider's allowable cost; ***or***
- The provider's published charge to the general public, unless the provider is a nominal charge provider.

Most of the reimbursement provided under EPSDT is done through the State Maximum Allowable cost process.

***The State's Maximum Allowable Rate*: The existing "state maximum allowable" (SMA) rate structure is based on 1989-90 cost report data which has been updated annually using cost-of-living-adjustments.** This rate structure is contained within California's State Medicaid (Medi-Cal) Plan submitted to the federal government in 1993. **This Plan also provided that the state would update rates annually until they were "re-based in no more than three years using more current actual cost information". The DMH however has never updated these rates.**

According to the DMH, under the existing rate structure, (1) about 34 percent of all "Short-Doyle" inpatient psychiatric facilities are receiving *less* than their cost, and (2) about 11 percent of all outpatient specialty mental health services are receiving less than their cost.

Governor's Budget Proposal to Re-base Rates: The Governor's budget proposes to reduce the EPSDT Program **by $60 million ($40 million General Fund) and $25 million in federal funds for adult outpatient services.**

It should be noted that this re-basing proposal actually would reduce federal funds by *another $45 million* than assumed in the Governor's budget. However, the budget also assumes that California can obtain approval through a State Plan Amendment to obtain a *"public provider exemption"* for federal funds to be provided *above* California's State Maximum Allowable rate. The federal government has provided this type of exemption before. In essence, the federal reimbursement would be cost-based and not reliant on the State Maximum Allowable rate.

Subcommittee Staff Comment—Proposal is Flawed: **This budget proposal has caused grave concern because the proposed methodology *is fundamentally flawed.*** The proposed re-basing calculation would set the State Maximum Allowable rates based upon the average rates of each type of service using 2001-02 data, updated by COLAs to 2004-05. **However, the average rate is determined (1) after eliminating rates in excess of one standard deviation from the mean, and (2) after the top ten percent of providers with the highest rate are eliminated from the base data to afford cost containment.**

According to the DMH, under this proposed re-basing structure, (1) about 42 percent of all "Short-Doyle" inpatient psychiatric facilities would be receiving less than their cost, and (2) about 47 percent of all outpatient specialty mental health services would be receiving *less* than their cost. As such, this methodology would continually lower rates, whether justified or not.

According to mental health service experts, it is highly unlikely that productivity gains and other program efficiencies can be achieved to meet the significantly lower reimbursement rates. This is particularly true for group services such as day treatment and residential programs. **Many County MHPs have already made significant gains in productivity for individual services.**

The proposal also assumes that the cost of providing services is uniform throughout the state. **It has been well documented that rural areas and large urban areas have higher cost factors that often need to be taken into consideration.**

The bottom-line is that the Administration's re-basing proposal is simply a cost-shift to the County MHPs and/or providers when efficiencies or cost reductions cannot be made. Further, some providers are likely to discontinue services which will likely impact access.

Other potential options are available in lieu of doing the Administration's re-basing proposal.

EPSDT Rate of Growth Slow Down: It should also be noted that the rate of growth under EPSDT has shown recent signs of slowing down considerably. **The DMH January budget estimate assumed a growth rate of 16 percent, *where as recent actual data for EPSDT shows a growth rate of only 8 percent.***

Other Options Are Available: Based on conversations with the DMH and others, it appears that **other options are available** than what has thus far been proposed. **It should be noted however, that *any* option which reduces state General Fund support will result in a cost shift to the County MHPs and/or providers when efficiencies or cost reductions cannot be made.**

Some Other Potential Options for Reducing General Fund

- **Increase the share-of-cost currently paid by County MHPs** from its current 10 percent above the 2001-02 growth to a higher percentage (in lieu of re-basing proposal).
- **Re-base the State Maximum Allowable using a *different* averaging methodology**.

Strategies to Preserve Federal Funds

- **Implement the Public Provider exemption** which enables public entities to obtain increased federal funds. This requires a State Plan Amendment and federal approval.
- **Revise the Cost Settlement process** by establishing the County MHPs as the "sole provider" whereby contract providers are treated as purchased services of the Mental Health Plan. (This is similar to other managed care plans that have the ability to purchase services from individual providers as part of their network of services.

It should be noted that all of these options, like the one proposed by the Administration through the budget, are complex and have their nuisances.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please provide **an update on the status of the growth within the EPSDT Program. Is the growth in the program currently showing a slow-down?**
- **2.** Please provide a brief summary of the re-basing proposal.
- **3.** Please briefly describe other options that may be available for re-calculating the rates.
- **4.** What does the **DMH foresee as the next steps to be taken?**

Budget Issue: Does the **Subcommittee want to (1)** direct the DMH to convene **inclusive workgroups** to further discuss options and report back to the Subcommittee prior to May Revision, **(2)** reject the proposal, **(3)** adopt the Administration's re-basing proposal, or **(4)** develop another option?

ISSUE "B"--EPSDT Program Audits by the DMH

Background—Previous Cost Containment Actions: EPSDT is a federal entitlement under the state's Medi-Cal Program. Due to litigation, as discussed under the background section above, the program operates under a settlement agreement with both the state and County MHPs paying the non-federal share of the program. In the Budget Act of 2002, a 10 percent county match on the growth of the total state matching fund requirement above the 2001-02 level was implemented.

In addition, trailer bill legislation accompanying the Budget Act of 2002 required the DMH to ensure statewide application of managed care principles to the EPSDT Program. Regulations to implement this required were endorsed by the Secretary of State in November 2003. It appears that these recent changes may be having an effect on slowing the rate of growth within the EPSDT.

EPSDT Rate of Growth Slow Down: It should also be noted that the rate of growth under EPSDT has shown recent signs of slowing down considerably. **The DMH January budget estimate assumed a growth rate of 16 percent, *where as recent actual data for EPSDT shows a growth rate of only 8 percent.***

Governor's Budget Proposal and Recent Change to Proposal: The Governor proposes **an increase of $1.7 million ($844,000 General Fund) to hire contractors to conduct additional reviews and oversight of EPSDT Program expenditures, and assumes savings of $13 million ($6.5 million General Fund) from these audit efforts.**

The request for funding the contract audit staff originally assumed that over 300 legal entities that provide EPSDT services would be reviewed on a three-year cycle beginning in 2004-05. **This original proposal assumed a sample size representing almost 90 percent of the total paid claims from 2002-03. However, the DMH is now changing their selection criteria to represent either one of the following:**

- A legal entity that has expenditures of at least $500,000 plus a cost per client of $2,500 or greater **within a particular county**. **(This is suppose to result in a sample size of 21,252 records from 189 legal entities covering more than 77 percent of the total EPSDT dollars).**
- A legal entity that has expenditures of at least $500,000 plus a cost per client of $2,500 or greater **across counties**. (The DMH is presently conducting a data analysis to identify the sample size and number of legal entities involved.)

At this time it is unclear as to what methodology the DMH will be using, as well as whether a change in methodology would result in a need for less General Fund expenditure for the consultant audits.

The estimated savings level contained in the budget was derived by taking the approved claims amount from 2002-03 and dividing by three (since one-third of the entities will be audited each year), then reducing by 11 percent to reflect the dollars that will not be subject to the review. **The DMH then applied a 5.6 percent disallowance (i.e., savings level) to this amount.** This 5.6 percent rate is what was identified through recent audits conducted on Therapeutic Behavioral Services (TBS) reviews. **In essence, the estimated savings level represents about two percent of the total EPSDT Program for 2002-03, the year that will be initially audited.**

Further, the Administration's proposal assumes ***that the state will collect any disallowances directly from the County MHPs, even if a private provider is responsible for the audit exception.***

Constituency Concerns: The Subcommittee is in receipt of letters **expressing concerns with this audit proposal.**

The County Mental Health Directors note that they have no objection to the state fulfilling is obligation to ensure that state and federal funds are being spent appropriately under the EPSDT Program, but they question several aspects of the proposal. **First,** extrapolating limited audit findings across all claims is not consistent with generally accepted accounting principles. **Second,** the criteria for conducting these additional audits has yet to be defined. **Third**, the County Mental Health Plans will be held liable by the state for all recoupments (i.e., whatever the extrapolated amount is) even if the action pertains to a non-county community provider.

The California Council of Community Mental Health Agencies also acknowledges the necessity of audits to ensure services are being provided in accordance with specific and identifiable rules and regulations. **However, among other things, they raise the following concerns. First,** audits need to be based on clearly stated objective criteria made available to agencies before the services being audited have been provided. It is not reasonable to subject an agency to a financial disallowance for a service already provided and documented in a manner which an agency had no reason to believe at the time it was provided would be in violation of state rules. As such, they are advocating for new audits to be done prospectively. **Second,** since agencies are already subject to audits by County Mental Health Plans, if the state is going to audit for particular services, then agencies should not also be audited for the same services by county officials. **Third,** they express concern with the proposal for predicting in advance a yield of $13 million ($6.5 million General Fund) in savings. If audits yield savings, that should be factored into future budgets, but to calculate savings prior to the audits having been conducted assumes there are fraudulent practices when that has not as yet been shown.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. Please describe the budget proposal to conduct audits, including the audit selection process and criteria, and how the criteria will be applied.**
- **2. Please explain how the audit results will be applied to the County Mental Health Plans. What methods of recoupment will be applied?**

- **3. If the audit selection criteria**, which is a key component to determining the fiscal need for the consultant work, **is still in fluctuation**, **how do we know that the requested funding for the audit consultant is accurate?** Will a May Revision proposal be forthcoming on this issue?

Budget Issue: Does the Subcommittee **want to adopt or modify the Administration's proposal** to increase by $1.7 million ($844,000 General Fund) to hire contractors to conduct additional reviews and oversight of EPSDT?

ISSUE "C"--EPSDT Waiver for Medical Necessity, & More? *(See Hand Out)*

Governor's Proposed Budget: The **budget is requesting an increase of $472,000 ($236,000 General Fund) for administrative resources to develop a federal 1115 Medicaid Waiver for the Early Periodic Screening Diagnosis and Treatment (EPSDT) Program.**

The purpose of this waiver would be to redefine medical necessity with the intent of reducing future expenditures for children's mental health services.

DMH Letter—More Information and Proposing A Broader Review: In a very recent letter (dated Friday, March 12), the DMH states that they will be convening stakeholder workgroups as part of the overall proposal by the Administration to craft a comprehensive Medicaid 1115 Waiver. **Through these DMH convened workgroups, recommendations would be provided to the DHS as part of the Administration's overall Waiver process. The DMH intends to convene two stakeholder meetings—March 25th and April 21st. In addition there will be "pre-meetings", primarily for clients and family members, on both of these days as well.**

Attached to the letter is a **"Discussion Paper"** (See Hand Out). In this letter it notes that the Administration is **not only exploring options to increase state flexibility regarding the EPSDT Program, but also input on other potential changes to the Medi-Cal Specialty Mental Health Services benefit (i.e., Managed Care). Preliminary ideas for discussion include, *among other things*, the following:**

- Broaden sites where federal reimbursement for Medi-Cal services can be obtained, including freestanding psychiatric hospitals, and psychiatric health facilities greater than 16 beds serving adults for inpatient services;
- Replacing day treatment intensive and day rehabilitation for adults with partial hospitalization;
- Add recovery oriented consumer operated peer support services for adults at risk of repeat hospitalization;
- Eliminate federal Managed Care regulation requirements except for compliance.
- Clarify requirements and what's allowable, in terms of Medi-Cal federally reimbursable treatment/services.

Subcommittee Staff Comment and Recommendation: First, as noted in the DMH letter, the Administration is clearly exploring **a broader approach in crafting a potential Waiver** for mental health services provided under the Medi-Cal Program, ***not only*** **the EPSDT Program. Further, it is interesting that the DMH is potentially seeking broader changes to the Mental Health Managed Care Program when they are still having difficulty promulgating regulations for the enabling program (discussed under item 7, Issue C, below).**

Second, it is unclear at this point how the Administration intends to more narrowly define "medical necessity" within the EPSDT Program. Certainly, a primary intent is to reduce expenditures within EPSDT. **However if this means that many children will not receive services at all, or only when their condition is extremely severe, then overall expenditures**

for public services will probably not decrease. This is because the most common way that children enter the public mental health system is through the Child Welfare system, juvenile justice system or special education services (AB 3632 pupils). As such, other "entitlements" would need to be utilized. **In addition, studies consistently demonstrate that early intervention minimizes more serious illness, reduces more costly treatments and maximizes an individuals productivity and health. Deferring early diagnosis and treatment usually leads to disabling conditions and higher costs.**

Third, as specifics come forth from the Administration it **will be imperative for the Legislature to thoroughly discuss the policy merits of any proposal and its short-term and long-term implications for providing mental health services to children and adults with potentially disabling mental illness.** Further, the **Legislature will need to maintain legislative authority** over the program in order to preserve the integrity of the overall program and the services provided under it.

It is recommended to delete this proposal from the budget process without prejudice and refer it to the policy committee process. As such it is also recommended to delete the request **for $472,000 ($236,000 General Fund) for administrative resources to develop a Waiver proposal. Any funding request should be contained within a policy bill.**

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please provide **a brief description** of the budget proposal regarding EPSDT, including a description of the Administration's process with respect to the mental health portion of the stakeholder groups.
- **2. Why is a broader focus now being taken regarding other potential changes to Medi-Cal mental health services?**
- **3. What are the timelines for the DMH portion of the process?**

Budget Issue: Does the **Subcommittee want to (1)** adopt the Subcommittee staff recommendation to refer this proposal to the policy committee process, **(2)** adopt the Administration's proposal, or **(3)** craft another option?

2. Governor Proposes To Eliminate Children's System of Care Program

Background—Children's System of Care: Existing law authorizes counties to develop a comprehensive, coordinated children's mental health service system as provided under the Children's Mental Health Services Act. **The target population includes individuals 18 years of age and under who have a diagnosed mental disorder in which the disorder results in *substantial* impairment in two or more areas (such as self care, school performance, family relationships and ability to function in the community). As noted by the DMH, the children served through the program have *complex* needs and require multi-agency services.**

The basic elements of the program include interagency coordination and collaboration, child/family-centered services, culturally competent services, and case management services. Families of the children are full participants in all aspects of the planning and delivery of services. When children with serious emotional disturbances learn to manage behavior through therapy, medication, education, rehabilitative and social services, they are more likely to stay out of trouble, improve school performance and remain stable in their living situation.

Under the program, accountability of services is required through measurable performance outcome goals. Past evaluations of the program have concluded that the program has been **very successful and cost-beneficial, including savings in service expenditures for group homes, special education, and juvenile justice.**

Existing categorical funding for Child Welfare, juvenile justice, alcohol and other drug and mental health services are highly regulated. Accompanying regulations define mandates and limitations that can create obstacles to solutions for these problems. The California Children's system of Care Program was created to address these criticisms for the system serving children with serious emotional disturbance. **It provides a small amount of vital flexible funding that supports locally designed solutions to system shortcomings.**

Legislature Historically Supportive of Program: **The Legislature has been very supportive of the program in the past**. Legislative budget augmentations to facilitate statewide expansion have included **(1)** $1.9 million in 1995, **(2)** $7.1 million in 1996, **(3)** $6 million in 1997, **(4)** $20 million in 1998 which was reduced by Governor Wilson to a total of $4 million, **(5)** $13.4 million in 1999 which was reduced by Governor Davis to a total of $2 million, **(6)** no increase by the Legislature but Governor Davis reduced by $2.1 million (General Fund), and **(7)** no adjustment by the Legislature but Governor Davis **vetoed $15.8 million ($13.8 million General Fund and $2 million federal SAMHSA block grant funds).**

In a veto message that accompanied the Budget Act of 2002, **Governor Davis directed the DMH to restructure the program to provide fuller accountability and to documented cost savings.**

Children's System of Care Outcome Measures—September 2003 Evaluation: In an evaluation published by the DMH in September 2003, results for 3,198 children were reviewed and the evaluators **found that the Children's System of Care Program is successful at helping children stay out of trouble, improve school attendance, and live at home or in another safe environment. It should be noted that the majority of the children in this evaluation had a history of juvenile justice system involvement.**

Among other things, the report sites the following key findings:

- **Staying Out of Trouble:** Following participation in the program, there were 55 percent fewer misdemeanors and 65 percent fewer felony arrests for the children. **A conservative cost savings amount of $1.3 million was identified for this component.**
- **Less Psychiatric Hospitalization Services:** The program's community-based services and supports optimize the potential for psychiatric inpatient services reduction. Over 46 percent of the children evaluated at the time of the enrollment were identified by history or initial assessment as being at risk of psychiatric hospitalization. However following participation in the program (during the six-month update period), only 10.6 percent required psychiatric hospitalization, or a reduction of 57.2 percent in need for inpatient care. **A projected cost savings estimate of $1.1 million was identified for this.**
- **In School Outcome: Children identified as having a serious emotional disturbance are more likely to miss school, fail more classes, and have lower graduation rates than other children with disabilities. The enhanced special day classes and wraparound services of the program are also used to supplement individualized education plan services.** Because services are accessible in the school setting, children are more likely to attend school. Sixty-six percent of the children evaluated at the time of enrollment into the program were identified by history or initial assessment as being at risk for poor school attendance. **According to the evaluation, over 82 percent of children identified as at risk of poor school attendance improved or are maintaining good or excellent levels of school attendance.**
- **Overall: Children's System of Care services help children manage mental health symptoms, develop emotion-management skills, learn positive social skills, and build family cohesion. The development of these skills helps children choose appropriate behaviors and avoid behaviors that lead to arrest and further juvenile justice system actions.**

Constituency Letters and Comment: The Subcommittee is in receipt of several letters expressing concern with the Governor's proposal. **They contend that without a system of care approach, many children will not have coordinated services or receive mental health services unless they are placed in a Group Home (where they become eligible for Medi-Cal), the juvenile justice system (where they have a constitutional right to mental health care), or are placed in special education (where there is a federal entitlement to mental health services). Several of the letters note that without the $20 million for the Children's System of Care Program, increased funding would be needed in many other areas.**

Governor's Proposed Budget—Eliminate All Funding: The Governor is proposing **to eliminate funding for the program-- $20 million General Fund.**

The Governor's budget summary states that…*"given the availability of a wide range of medically necessary services and large numbers of needy children and young adults receiving services under the EPSDT Program, it is no longer necessary to continue the Children's System of Care Program."* However, **no other rationale has ever been given** as to why this efficacious program is being proposed for elimination.

Constituency Comments—Grave Concerns: The **Subcommittee is in receipt of many letters expressing concern regarding the Governor's proposed elimination of this program**. The letters reference the DMH outcome data, as well as individual county successes with the program. They note that without a system of care approach these children will not have coordinated services and more importantly will not, in all likelihood, have any mental health services unless and until they are placed in a group home or juvenile justice facility. In each of these institutional settings, the cost of mental health treatment is likely to be greater than it would have been had it been provided before the children reached this level of care.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. DMH**, **Please briefly describe the results of the evaluation. Is the program producing measurable results and is it successful?**
- **2. DMH**, Please **briefly describe what data has been obtained from the counties** and what the DMH thoughts are about the data.

Budget Issue: Does the Subcommittee want to **(1)** reject the Governor's proposal to eliminate the Children's System of Care Program, **(2)** adopt the Governor's elimination, or **(3)** craft another alternative?

3. Proposed Reduction of Funding for Early Mental Health Program (Proposition 98 Funds)

Background—What is the Program: Under the Early Mental Health Initiative, the state awards grants (for up to three-years) to Local Education Agencies (LEAs) to implement early mental health intervention and prevention programs for students in Kindergarten through Third Grade. Schools that receive grants must also provide at least a 50 percent match to the funding provided by the DMH. Schools use the funds to employ child aides who work with students to enhance the student's social and emotional development.

Students in the program are generally experiencing mild to moderate school adjustment difficulties. Students must have parental permission to participate in the program. In addition, all Early Mental Health Initiative programs are required to contract with a local mental health agency for referral of students whose needs exceed the service level provided in this program.

The Early Mental Health Initiative is an effective school-based program. **It serves children experiencing school adjustment issues who are *not* otherwise eligible for special education assistance or county mental health services because the student's condition is usually not severe enough to meet the eligibility criteria in these other programs (such as the Children's System of Care Program or EPSDT services).**

Existing Funding Level and Grant Cycle: In the current year, **the program is supporting a total of 137 grants, with 73 grants being in their second-year of the three-year grant cycle, and 64 grants being in their third and final year of the cycle.**

According to the DMH, about 51 percent of the school sites funded through the program continue services for at least one year after the three-year grant cycle has ended.

Governor's Proposed Budget: The **Governor proposes to reduce by $5 million (Proposition 98/General Fund)** the Early Mental Health Initiative Program which provides mental health assistance to young children enrolled in school (K to Grade 3). **This proposed reduction would leave a remaining $5 million (Proposition 98/General Fund) to be used for the 73 existing grants that will be in their third year of the grant cycle beginning July 1, 2004. This funding will support about 168 actual sites.**

Subcommittee Staff Comment and Recommendation: Both the short-term and long-term effect of this reduction is that children with mild to moderate school adjustment problems will likely not receive services and may, as a consequence, need more intensive services later. Further, these students may end up doing poorly in school and developing other problems.

However the determining factor in continuing this program is whether the Education System is inclined to utilize Proposition 98 funds for this purpose. Since Senate Subcommittee No 1 has jurisdiction over the appropriation of Proposition 98 funds, it is recommended to refer this funding issue to that jurisdiction.

In the event Subcommittee No. 1 declines to review the issue or determines that additional funds are not available for this purpose, then the Governor's budget proposal would remain intact—an appropriation of $5 million for 2004-05.

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please briefly describe the Governor's budget proposal.

Budget Issue: Does the Subcommittee want to refer this issue to Budget Subcommittee No 1?

4. Healthy Families Program Adjustments—*Supplemental Mental Health Services*

Background: The Healthy Families Program provides health care coverage and dental and vision services to children between the ages of birth to 19 years with family incomes at or below 250 percent of poverty (with income deductions) who are not eligible for no-cost Medi-Cal. Monthly premiums, based on family income and size, must be paid to continue enrollment in the program. **California receives an annual federal allotment of federal Title XXI funds (Social Security Act) for the program for which the state must provide a 34 percent General Fund match, except for supplement mental health services in which County realignment funds are used as the match.** With respect to legal immigrant children, the state provides 100% General Fund financing.

The enabling Healthy Families Program statute linked the insurance plan benefits with a **supplemental program** to refer children who have been diagnosed as being seriously emotionally disturbed (SED). The **supplemental services** provided to Healthy Families children who are SED can be billed by County Mental Health Departments to the state for a federal Title XXI match. **Counties pay the non-federal share from their County Realignment funds (Mental Health Subaccount) to the extent resources are available.**

Under this arrangement, the Healthy Families Program health plans are required to sign Memoranda of Understanding (MOU) with each applicable county. These MOUs outline the procedures for referral. It should be noted that the health plans are compelled, as part of the required Healthy Families benefit package and capitation rate, to provide certain specified mental health treatment benefits prior to referral to the counties.

Governor's Proposed Budget: The budget proposes **to increase by $3 million (federal funds and County Realignment Funds) to reflect caseload adjustments for supplemental mental health treatment services provided by the counties under the Healthy Families Program for children with intensive mental health needs.** According to the DMH, this budget estimate is based on past actual claims data and anticipated caseload for 2004-05.

Subcommittee Staff Comment: Subcommittee staff has raised no issues with this budget adjustment.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please **briefly describe the budget adjustment**.

Budget Issue: Does the Subcommittee want to adopt the budget proposal?

5. Mental Health Services Provided to Special Education Students ("AB 3632")

Background—Mental Health Services to Special Education Pupils: Federal law (PL 94-142 of 1975-- the Education for All Handicapped Children Act—and the later **Individuals with Disabilities Education Act (IDEA) mandates states to provide services to children enrolled in special education, including all related services as required to benefit from a free and appropriate education. Related services include mental health services**, occupational and physical therapy and residential placement.

In California, County MHPs are responsible for providing mental health services to students when required in the pupil's Individualized Education Program (IEP). This is because **AB 3632** (W. Brown), Statutes of 1984, **shifted responsibility for providing these services from School Districts and transferred them to the counties.**

These services are an entitlement and children can receive services irrespective of their parent's income-level. In addition, County MHPs cannot charge families for these services because the children are entitled to a free and appropriate public education under federal law.

What Mental Health Services Are Mandated: **Services to be provided, including initiation of service, duration and frequency of service, are included on the student's IEP and must be provided as indicated. Services can only be discontinued on the recommendation of the County MHP *and* the approval of the IEP team, or by parental decision.** Among other things, **mental health services** include assessments, and all or a combination of individual therapy, family therapy, group therapy, day treatment, medication monitoring and prescribing, case management, and residential treatment.

History of Funding for AB 3632 (Prior to 2003): For the past decade or so, **counties have supported** the program **through a combination of the following:**

- Categorical funding provided by the DMH as appropriated through the state budget process (was $12 million General Fund annually but was eliminated by the state in the Budget Act of 2002);
- Mandate reimbursement claims as obtained via the State Commission on State Mandates process (referred to as the SB 90 process, was suspended in the Budget Act of 2002 and the Budget Act of 2003);

- Realignment funds (only when other resources are not available due to the deferral of the mandate process as noted above); and
- Third-party health insurance when applicable, though parents can chose not to access their insurance for this purpose if they so decide (federal law).

Use of Special Education Funds—Budget Act of 2003: Through the **Budget Act of 2003, $69 million in new federal special education funds were appropriated under Item 6110 (Department of Education) for County MHPs to use to partially off-set the costs for these services.** ***However, these funds have as yet to be allocated to the counties.***

Additional Federal Special Education Funds Available: California will receive an *additional* **$139.5 million in new federal special education funds in 2004-05. The Governor's January budget proposes to expend only $74.5 million of this amount. As such, $65 million in federal funds is unscheduled at this time. Senate Budget Subcommittee No 1—the Subcommittee which directs the appropriation of funds for Education entities—will be discussing the allocation of these funds in their Subcommittee hearings.**

Constituency Concerns: The County Mental Health Directors Association states that **County MHPs provide AB 3632 mental health services to about 27,000 special education pupils for a total annual cost of about $120 million. Though the Governor's budget continues to provide the $69 million in federal special education funds, this amount is insufficient to meet the existing and ongoing need.**

There is also about $150 million to $175 million in *unpaid* SB 90 claims for this program.

This situation has created significant budgeting problems for them and is forcing many counties to significantly reduce services to indigent children and adults in order to fund this education mandate.

Senate Bill 1895 (Burton), Introduced: Senator Burton has introduced legislation regarding potential policy changes to how mental health services are provided to special education students and related administrative issues. This legislation is presently in a spot bill format with constituency group meetings presently occurring.

Governor's Proposed Budget: The budget proposes **to appropriate $69 million (federal special education funds) within the Department of Education's item for expenditure for County MHPs. This maintains the status quo from last year's Budget Act of 2003.**

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please describe **the role of the DMH in trying to work through the AB 3632 issues.**
- **2.** What is the status of the payment allocation to counties from the Department of Education?

- **3.** Please describe the recent litigation filed by San Diego and Contra Costa counties.

Budget Issue: Does the Subcommittee **want to refer this issue to Subcommittee No. 1 that has jurisdiction over the appropriation of federal special education funds?**

6. Community Treatment Facilities—Proposed Trailer Bill Language *(See Hand Out)*

Background: Chapter 1245, Statutes of 1993, established a new category of **secured** (locked and can use seclusion and restraints) **residential care for the treatment of seriously emotionally disturbed (SED) children** referred to as **"Community Treatment Facilities" (CTFs)**.

CTFs were generally created as an alternative to out-of-state placement and state hospitalization for SED children. Specifically, this model was intended to provide more intensive treatment than normally provided in a group home but less oversight than a State Hospital or acute institution.

Under the statute, **the DMH** is responsible for the development and distribution of **400 secured community-based beds** within the five Mental Health Regions (i.e., Los Angeles, Bay Area, Southern, Central and Superior).

The DSS is required to develop licensing regulations for these facilities, and the DMH is responsible for certifying them (i.e., approving that they meet program standards). Regulations to proceed with the development of the CTF beds became effective on July 1, 1998. **However, difficulties arose due to lack of clarity regarding some of the regulations, and problems with adequate funding.**

Through the Budget Act of 2001 and related legislation, an agreement was reached to provide supplemental funding **(both state (40%) and county (60%))** for CTF beds and related services until longer-term solutions could be crafted. **In addition, trailer bill legislation required the DMH and DSS to develop joint protocols for the oversight of these facilities and specifies provisions for establishing payment rates for them.**

Governor's Proposed Budget—Same Funding But Different Trailer Bill Language: The budget provides $1.2 million (General Fund) for supplemental funding for CTF beds. County Realignment funds provide an additional $1.8 million for this purpose. This funding level reflects the same amount as appropriated in prior years.

In addition, trailer bill language is proposed which would modify existing statute to make funding subject to the availability of funds in the annual state budget.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the funding level proposed for this purpose in the Governor's budget. **However, it is recommended to reject the proposed trailer bill language and instead**, adopt only one language change which would simply insert the fiscal year (i.e., 3004-05) for which the supplemental rate is being paid. No other language changes would be taken.

In past years, the language specified the fiscal year, and as such, provided the Legislature with more control over the appropriation.

Subcommittee Request and Question: The Subcommittee has requested the DMH to respond to the following question:

- **1.** Please briefly describe the budget proposal.

Budget Issue: Does the Subcommittee want to reject the Administration's proposed change to the trailer bill language and instead, adopt a fiscal year change instead?

7. Mental Health Managed Care Program—ISSUES "A" & "B"

Overall Background—Overview of Mental Health Managed Care: Implementation of Medi-Cal Mental Health Managed Care has included the consolidation of Medi-Cal psychiatric inpatient hospital services ("Phase I"), which occurred in January 1995 and the consolidation of Medi-Cal specialty mental health services ("Phase II"), which occurred from November 1997 through June 1998.

These two phases of implementation consolidated the two existing Medi-Cal mental health programs (Short-Doyle and Fee-For-Service) into one service delivery system. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government (i.e., HCFA, now the Centers on Medicare and Medicaid—CMS).

Under this delivery system, psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists, and some nursing services**, became the responsibility of a single entity, the Mental Health Plan (MHP) in each county. Medi-Cal recipients *must* obtain services through the MHP.**

The Waiver promotes plan improvement in three significant areas—access, quality and cost-effectiveness/neutrality. The DMH is responsible for monitoring and oversight activities of the MHPs to ensure quality of care and to comply with federal and state requirements.

Under this model, **MHPs generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. An annual state General Fund allocation is also provided to the MHP's.**

Based on the most recent estimate of expenditure data for 2001-02, of California's state share of cost for Mental Health Managed Care, County MHPs provided a 46 percent match while the state provided a 54 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

State General Fund Allocation: **The state General Fund allocation is usually updated each fiscal year to reflect adjustments as contained in Chapter 633, Statutes of 1994 (AB 757, Polanco). These adjustments have typically included, changes in the number of eligibles served, factors pertaining to changes to the consumer price index (CPI)for medical services, and other relevant cost items.**

However, **the state's allocation is contingent upon appropriation through the annual Budget Act. As such in more difficult fiscal years, state General Fund support has *not* been provided for the medical CPI, or the base level of funding has been proposed for reduction (such as this year).**

ISSUE "A"—Funding for Mental Health Managed Care

Background and Budget Act of 2003: Under the consolidated system, as referenced above, County MHPs accept a fixed amount of non-federal funds, based on the amount of resources the state was spending in 1994-95, which is suppose to be adjusted annually to reflect changes in the medical CPI and adjustments in caseload. **However, County MHPs have received no medical CPI adjustment since the Budget Act of 2000, and the Governor's proposed budget does not include this adjustment either.**

Further, in the Budget Act of 2003, a five percent reduction to General Fund support ($11 million) in the program was enacted due to the fiscal crisis. Since this was a reduction to the base funding, it is an ongoing reduction to County MHPs.

Based on the most recent estimate of expenditure data for 2001-02, of California's state share of cost for Mental Health Managed Care, County MHPs provided a 46 percent match while the state provided a 54 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

Background—New Federal Regulations for Waiver: **New federal managed care regulations were issued in June 2002 and must be implemented by the state and MHPs by August 13, 2003.** According to the DMH, the new regulations require significant changes in the operation of the program.

Among other things, the federal regulations would require the following:

- The DMH must arrange for **annual "External Quality Reviews" (EQRs)** of the quality outcomes and timeliness of access to services covered by **each MHP** (56 MHPs—there are two MHPs that cover two counties);
- The methodology used to **reimburse the MHPs must be validated annually by a qualified actuary**. The DMH notes that **the actuarial studies may result in the need to revise current methods since the method currently used for distributing state General Fund support to the MHPs is not actuarially determined.**
- The **state must provide extensive information to clients** about the MHPs and client rights available under the Waiver, including detailed explanations of federal regulations written in a language that can be easily understood by all clients.
- **The County MHPs will be required to (a)** establish advance directive systems, **(b)** establish formal compliance plans and systems, **(c)** finalize and distribute informational materials, **(d)** comply with new administrative requirements related to provider contracts, **(e)** maintain additional documentation of the adequacy of the MHP's provider networks, **(f)**adopt formal practice guidelines, and **(g)** establish a more complex grievance and appeal system.

Generally, the state has three options for meeting the requirements of the regulations. We can either (1) fully comply, (2) request Waivers for certain provisions, or (3) restructure the existing program to meet all of the requirements.

Governor's Proposed Budget: The budget proposes a total state General Fund appropriation of $222.9 million (General Fund) for allocation to the County MHPs to assist in funding the Waiver Program.

This reflects a *net* increase of $10.3 million ($5.1 million General Fund) in the amount the state provides to the counties for Mental Health Managed Care**. No medical CPI adjustment is provided. This equates to a loss of $5.6 million (General Fund) for the County MHPs for 2004-05. A medical CPI adjustment** has not been funded since the Budget Act of 2000.

This net increase consists of the following proposed *key* adjustments:

- No adjustment for the medical consumer price index.
- Increase of $6.2 million (General Fund) for the change in the number of Medi-Cal eligibles.
- Reduction of $53,000 to reflect the one percent adjustment for inpatient growth; and
- Net reduction of $1 million (General Fund) to reflect the elimination of one-time costs associated with new federal regulations and increased costs for informing materials.

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please **provide a brief description of the budget proposal, including what the fiscal effect is for not providing the medical CPI to the counties.**
- **2.** Please **provide an update on the implementation of the new federal regulations**.
- **3.** Will the **state be seeking any further adjustments**—either requesting federal relief from some of the requirements, **or** needing more General Fund support to implement the requirements—**prior to the implementation of the 2004-05 budget?**

Budget Issue: Does the Subcommittee want to hold this item "open" pending receipt of the Governor's May Revision?

ISSUE "B"—Proposed Trailer Bill to Extend Emergency Regulation Authority

Background—Emergency Regulation Authority Is Never Ending: Effective **November 1, 1997,** the DMH adopted emergency regulations for Medi-Cal Mental Health Managed Care as provided for in Section 5775 of Welfare and Institutions Code. **However, this authority was never intended to be on-going.**

Since this time, the DMH has obtained authority to continue the emergency regulations through annual Budget Act Language, including language adopted in 1998, 1999, 2000, 2001, and 2002.

In 2003, this authority was again extended for one more year, but it was done through statutory change. This authority will expire as of June 30, 2004, unless action is taken to extend this authority.

The DMH has **had two public comment periods on the emergency regulations—November 1997 to January 1998, and November-December 1999.** According to the DMH, extensive public comment was received.

Governor's Proposed Budget—Trailer Bill Language (See Hand Out): The Governor's proposed budget requests trailer bill language to **extend the emergency regulation authority to July 1, 2005.**

Subcommittee Staff Comment: **The Department of Mental Health has not had a public hearing on the proposed regulations since 1999, or almost five years ago. As such, the program has been operating under both emergency regulation authority and under the auspices of "All County Letters", which in some circumstances can be viewed as underground rule-making.**

Public discussions need to be re-convened to discuss the existing emergency regulations, as well as the newly proposed federal regulations and their potential effect on the program. Changes that are needed to implement the new federal regulations have not yet had the benefit of full public discourse.

Subcommittee Request and Questions: The Subcommittee has **requested the DMH to respond to the following questions:**

- **1.** Please provide **an update on the status of the emergency regulations for Medi-Cal Mental Health Managed Care**. **Why has the process taken so long?**
- **2.** What else needs to be done to complete the normal regulation process?
- **3.** Does the **DMH think it has the legal authority to subsume the new federal regulations under the existing emergency regulation authority** that was established in 1997? If so, please explain why**.**

8. Governor's Proposal to Eliminate Funding for Sacramento County & Others

Background and Governor's Proposed Budget: The budget proposes **a reduction of $724,000 General Fund by eliminating (1)** $416,000 for supplemental funding to Sacramento County's Psychiatric Health Facility (as established in SB 840, Statutes of 1991), and **(2)** $308,000 (General Fund) used by thirteen counties to match federal rehabilitation funds.

The funds for Sacramento were originally allocated to offset the financial burden imposed on it when the UC Davis Psychiatric unit closed in 1991**. Elimination of this supplemental funding requires trailer bill legislation.**

The thirteen counties include: Contra Costa, El Dorado, Fresno, Kern, Orange, Placer, Riverside, San Bernardino, San Diego, Sonoma, Stanislaus, Ventura, and Los Angeles. All of these counties receive a total of $20,505 each, except for Los Angeles which receives $61,515.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following question:

- **1.** Please briefly describe what the effect of the Administration's elimination of the $724,000 would mean to the counties.

Budget Issue: Does the Subcommittee want to keep this open pending receipt of the May Revision?

III. Discussion Items--State Hospitals & Other State Support Issues

STATE HOSPITAL FUNDING

Background Overall: The department **directly administers the operation of four State Hospitals—Atascadero, Metropolitan, Napa and Patton--, and acute psychiatric programs at the California Medical Facility in Vacaville and the Salinas Valley State Prison.**

As structured through the State-Local Realignment statutes of 1991 and 1992, the department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while *judicially committed patients are treated solely using state funds.*

However, the Governor is proposing changes to this funding partnership by: (1) capping the enrollment of ISTs and NGI patients, and (2) shifting pre-commitment SVPs presently residing at the State Hospitals back to the counties. Therefore, counties would be required to fund these responsibilities using County Realignment Funds (no federal match is available for this patient population) or County General Fund revenues. *(Issues regarding proposed changes to how Sexually Violent Predators are housed and treated will be discussed in a subsequent Subcommittee hearing.)*

Perspective on State Hospital Expenditures: As noted in the table below, State Hospital expenditures vary by facility, contingent on the level of patient care needs, patient population, age of facility and design of the physical plant, and other factors.

State Hospital	2002-03 Reported Expenditures and Inpatient Days	2002-03 Daily Cost & Annual Cost
Atascadero	$146.9 million 412,700 days	$356 ($129,940)
Metropolitan	$131.9 million 278,700 days	$473 ($172,645)
Napa	$155.4 million 383,300 days	$405 ($147,825)
Patton	$165.5 million 475,600 days	$348 ($127,020)
TOTALS	**$599.7 million**	**$388 $141,620**

Summary of Overall Caseload--Primarily Penal Code: The DMH estimates a population of **4,327 patients for 2004-05 (as of June 30, 2005)** at the four State Hospitals-- Napa, Metropolitan, Patton, and Atascadero. **This patient level reflects a proposed *net* decrease of 107 patients as noted in the table below.**

Patient Type	2003-04 Revised Caseload	2004-05 Proposed Caseload	Caseload Percent By Patient Type	Difference
IST	847	815	18.8	-32
NGI	1,198	1,198	27.7	0
MDO	860	879	20.3	19
SVP	550	516	11.9	-34
Other PC	118	118	2.7	0
LPS—county	660	600	13.9	-60
PC 2684/2974	171	171	4	0
CY Authority	30	30	.7	0
Totals	**4,434**	**4,327**	**100 %**	**-107**

Of the total patient population, over 86 percent of the beds are designated for penal code-related patients and only 14 percent are to be purchased by the counties (i.e., Lanterman-Petris-Short beds), primarily Los Angeles County.

Penal Code-related patients include individuals who are classified as: (1) not guilty by reason of insanity (NGI), **(2)** incompetent to stand trial (IST), **(3)** mentally disordered offenders (MDO), **(4)** sexually violent predators (SVP), and **(5)** other miscellaneous categories as noted. **It should also be noted that based on recent patient statistics, about 62 percent of the State Hospital patients have a diagnostic category of Schizoaffective Disorder, including Paranoid Schizophrenia.**

Governor's Proposed Budget Overall: The budget proposes expenditures of **$702.4 million ($561.3 million General Fund) for the State Hospitals**, excluding state headquarters' support of $7.8 million, for a ***net* increase of about $31.6 million ($36.4 million General Fund)** over the Budget Act of 2003.

Specific issues regarding the State Hospitals and related items are discussed below.

1. Oversight Issue: Metropolitan State Hospital *(See Separate Hand Out)*

Background: Located in the City of Norwalk, Metropolitan State Hospital (MSH) **serves about 825 patients, including about 370 penal code-related patients.** It is the **only State Hospital that has a program for children (about 120-beds with a present census of about 80 children).** Adult patients are usually referred to the hospital by either the courts or County Mental Health Plans (County MHPs). Children are admitted to the hospital by County MHPs and the courts as well.

Federal Department of Justice Investigations Via the Civil Rights of Institutionalized Persons Act (CRIPA): The U.S. DOJ has recently released (both within the past year) results from **two investigations into the conditions of services provided at Metropolitan through the Adult Program and the Children's/Adolescents Program.** The investigations by the U.S. DOJ were conducted in June and July of 2002, with reports on the investigations being released in 2003.

The U.S. DOJ investigation regarding the **Children's/Adolescent Program was divided into 12 categories:** Psychiatry, Nursing, Psychology, Pharmacy, General Medical Care, Infection Control, Dental Services, Dietary, Placement, Special Education, Protection from Harm, and First Amendment and Due Process. **The investigation found *significant and wide-ranging problems* with the care and treatment of the children/adolescents, including wrong mental health diagnoses, improper medication management and not enough protection from other patients.** ***A comprehensively documented report (about 60-pages) was provided to the DMH in May 2003. Examples contained in the report include:***

- Doctors diagnosed disorders the patients did not have.
- Over medication was found to be of principal concern.
- Significant use of seclusion and restraint was identified.
- Treatment planning was insufficient.
- General medical care was found lacking.

The U.S. DOJ report for the Adult population was just recently released. **This analysis was divided into 8 categories: Integrated Treatment Planning, Assessments, Discharge Planning and Placement, Specific Treatment Services, Documentation of Patient Progress, Seclusion and Restraints, Medications, Protection from Harm, and First Amendment and Due Process. This investigation uncovered substantial deficiencies in patient assessments, treatment planning and implementation, and discharge planning.**

Similar to the previous report, the U.S. DOJ presented dozens of recommendations to remedy the deficiencies.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please describe **the primary concerns the U.S. DOJ identified for both** the Children's/Adolescent Program and the Adult Program.
- **2.** Using the Hand Out, what are the **key components the DMH has already implemented** at **Metropolitan in response to correct conditions identified in the U.S. DOJ report?**
- **3.** What key components **still need to be implemented at Metropolitan?**
- **4. Please describe the "Safety Risk Management Plan" for Metropolitan.**
- **5.** How is the **DMH involving consumers, advocates and the greater public in resolving issues at Metropolitan?**
- **6.** What are the **next steps regarding follow-up with the U.S. DOJ on Metropolitan?**
- **7. What is the DMH doing at the other State Hospitals to commence with correcting potential issues regarding care and treatment?**

Budget Issue: Does the Subcommittee want to **adopt placeholder trailer bill language to monitor and track the progress of the DMH in addressing the needs identified in the U.S. DOJ report?**

2. Forensic Conditional Release Program (CONREP) Funding Adjustments

Background: Existing statute provides for the **Conditional Release Program (CONREP)** and mandates that the **DMH be responsible for the community treatment and supervision of judicially committed patents, including Not Guilty by Reason of Insanity (NGI), and Mentally Disordered Sex Offenders (MDOs).**

CONREP, in operation since 1986, provides outpatient services to patients in the community and hospital liaison visits to patients continuing their inpatient treatment at State Hospitals who may eventually be admitted into CONREP. **CONREP services are provided throughout the state and are either county-operated *or* private/non-profit operated under contract to the DMH. The goal of CONREP is to ensure greater public protection in California communities via a system of mental health assessment, treatment, and supervision to persons placed on outpatient status.**

Funding for CONREP services is based on the number of outpatient cases and applicable State Hospital patients, and an average cost per patient for services. The Budget Act of 2003 provided a total of $15.2 million (General Fund) for about 740 patients (about $20,405 per patient).

Governor's Proposed Budget: The budget proposes an **increase of $464,000 (General Fund)** for CONREP. This request consists of **(1) an increase of $464,000 to support an increase of 22 patients at a revised cost of $21,091 per patient, (2) $105,000 to reflect the full-year cost for five additional patients who entered into the program in the current-year, and (3) $88,000 in additional costs for State Hospital liaison visits.**

The DMH states that some of these increased costs are the result of the granting of cost-of-living adjustments that were ratified in county bargaining unit contracts, costly medications and funding to meet residential needs for the increased number of patients released from the State Hospitals without resources.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. Please provide a brief description of the budget request.**
- **2. What options may be available to reduce the spiraling costs of CONREP?**

Budget Issue: Does the Subcommittee want **to adopt or modify the request to increase by $657,000 (General Fund) for CONREP?**

3. Governor's Proposed Enrollment Cap on Not Guilty by Reason of Insanity (NGI) and Incompetent to Stand Trial (IST) Patients *(See Hand Out)*

Background: State law **provides for courts to place certain mentally-ill persons in State Hospitals. The courts may determine that a defendant who has been accursed of a crime is "not guilty by reason of insanity" in cases when it finds that the defendant was insane at the time the offense was committed.** The courts may also find a person "incompetent to stand trial" when the defendant is unable to understand the nature of the criminal proceedings or assist in their own defense. Persons found by the court to be IST are not guilty of the crimes charged, but rather their criminal case is suspended until competency is regained. **In the case of either ruling, *the court* must direct the defendant to be confined in a State Hospital or a public or private treatment facility.**

According to a recent State Hospital patient census (March 10th, 2004), **there were 1,183 NGI patients** (about 27 percent) **and 883 IST patients** (about 20 percent) residing there for a total of 2,066 patients, **or almost half of the total State Hospital patients.**

Though state law enables the courts to decide placement of the defendant in either a State Hospital or a public or private treatment facility, **state mental health funding delineates the payment structure for such placements. As structured through the State-Local Realignment statutes of 1991 and 1992, the department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while judicially committed patients placed in the State Hospitals are treated solely using state funds.**

Governor's Mid-Year Reduction and Proposed Budget: As part of his Mid-Year Reduction package, the Governor proposes **to cap enrollment in the State Hospitals for patients deemed to be NGI and IST as of January 1, 2004 for proposed savings of $361,000 (General Fund) in 2003-04, and $3.7 million (General Fund) in 2004-05. This requires statutory change.**

This proposal assumes the state will cap the NGI patient population at 1,198 patients as of January 1, 2004, and that 14 NGI patients would transfer to the counties in the budget year. The IST cap would be 847 as of January 1, 2004, and it is assumed that 32 IST patients would transfer to the counties in the budget year.

The Administration assumes that these mentally ill individuals, who often have a diagnosis of Schizophrenia, will be housed in county jails and therefore, will be funded *entirely* by county funds in lieu of existing state support.

Legislative Analyst's Office Recommendation: In her Analysis, the Legislative Analyst recommends for the Legislature to **adopt the Administration's proposed caps on NGI and IST patients but to amend in a sunset date of January 2006.** The LAO views this proposed cap as an interim action pending enactment of permanent changes that would ensure that expensive State Hospital resources are prioritized for patients who are amenable to treatment.

The LAO believes this proposal has merit because some NGI and IST patients transferred to the State Hospitals by the courts have been unwilling to accept treatment, including medications. Recent court rulings have limited the state's authority to provide such medications to individuals against their will. **Therefore under these circumstances, placing these individuals in intensively staffed treatment facilties such as State Hospitals is not the best use of limited state General Fund.**

The LAO contends that to the extent the imposition of a cap on NGI and IST populations prompted some judges to more carefully consider which offenders it transferred to State Hospitals, it is possible that this change could result in the more cost-effective use of state resources.

Constituency Letters: The Subcommittee is in receipt of several letters expressing significant concern with the proposed caps. **Most of the letters note that county jails are usually an inappropriate placement for seriously mentally ill individuals, and that it would be a violation of a patients rights, as well as state law, that guarantees access to treatment for these individuals. Further, to hold someone who is not convicted of a crime as a criminal in a prison facility instead of a medical facility would seem to be unconstitutional.**

The County Mental Health Directors Association also notes that the proposal is (1) another cost shift to the counties ,and (2) is a significant shift from the agreements crafted under the State-Local Realignment statutes of 1991 and 1992**.**

Subcommittee Staff Comment and Recommendation: This proposed policy change raises several significant issues. First, these mentally ill individuals, who often have a diagnosis of Schizophrenia, would be housed in county jails which is most likely unconstitutional. Second, it is probably unlikely that the caps would withstand a court challenge regarding denial of a patient's right to appropriate and timely mental health treatment. Third, it is likely that such a proposal would be deemed to be a local mandate on counties and the state would have to reimburse for the county jail time and possibly treatment. The potential litigation ensuing from this proposal could be significant. Finally, it should be noted that the Subcommittee has rejected other Administration proposals to enact enrollment caps. **As such, it is recommended to (1) reject this proposal and (2) to direct the DMH to report back to the Subcommittee regarding options that could be used to transition individuals from the State Hospitals to the CONREP Program.**

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please provide **a brief overview of the budget proposal.**
- **2.** Could the CONREP Program be used in some instances to transition individuals from the State Hospitals to community treatment?

Budget Issue: Does the Subcommittee **want to adopt the Administration's proposal, the LAO recommendation, the Subcommittee staff recommendation, or choose another option?**

4. Activation of Coalinga State Hospital (CSH)

Background: In 2000, the state initiated steps to construct a new 1,500-bed secure mental health treatment facility—Coalinga State Hospital (CHS)—to provide the DMH with additional capacity to treat patients involuntarily committed under the Sexually Violent Predator (SVP) law. **The DMH began construction in 2001, and construction is scheduled to be completed by May 2005. The construction project will be funded by lease-revenue bonds to be sold by no later than Fall of 2004. To date, the state has committed more than $380 million for the construction and preliminary staffing of CSH.**

Other Areas Available for A Portion of Patient Caseload: Among other actions, the Legislature provided **$6.9 million (General Fund)** in the Budget Act of 2001 **to purchase modular buildings for placement at Patton State Hospital and Atascadero State Hospital and to convert program areas into temporary patient living space to accommodate up to 500 additional patients. It should be noted that additional funding for the State Hospital system to staff the 500 additional beds has not been provided to date *because the overall State Hospital population has grown significantly less than the DMH had previously projected.***

Governor's Proposed Budget: The Governor proposes **an increase of $24.9 million (General Fund) for the continued activation of Coalinga State Hospital (CHS), including $3.2 million to support recruitment and retention costs to aid in hiring personnel and $12.2 million for operating expenses and equipment.** The proposal would add almost 165 new positions for CHS in the budget year. The budget plan also requests an augmentation of about $770,000 for about 20 additional positions to activate for the first time 147 of the 500 temporary beds at Atascadero and Patton state hospitals.

Legislative Analyst Office Recommends to Delay Until March 2006: In her Analysis, the Legislative Analyst recommends that **the Legislature delay the activation of Coalinga State Hospital until March 2006 in order to achieve a one-time savings of $20.143 million (General Fund).**

The LAO contends that the state could delay the activation of CSH and still have more than sufficient capacity to meet the projected need for secure treatment beds in 2004-05 and beyond. **In light of the DMH's own projected patient population estimates, the LAO indicates that the DMH will have a surplus of about 600 beds in 2004-05 (the budget year). Specifically, the DMH has estimated it will need to house a total of 3,776 secure patients in the State Hospitals by June 2005. However, the State Hospitals have the capacity to hold up to 4,376 patients in secured treatment settings (including 500 temporary beds at Atascadero and Patton state hospitals) in 2004-05. As such, the anticipated decline in State Hospital populations and the resulting surplus of beds suggest that a delay in the activation of CHS would be possible.**

In order to ensure that the sale of the bonds for the CHS would proceed, **the LAO is also recommending the following Budget Bill Language:**

> "Provision x. In order to address the state's fiscal problems, it is the intent of the Legislature to achieve savings in the 2004-05 fiscal year by delaying some staffing and funding for activation of Coalinga State Hospital until 2005-06. It is further the intent of the Legislature that patients occupy beds at CHS no later than March 2006."

Subcommittee Request and Questions: The Subcommittee has requested the DMH and LAO to respond to the following questions:

- **1.** DMH, Please **provide a brief summary** of the CHS proposal.
- **2.** LAO, Please **present your recommendation.**

Budget Issue: Does the Subcommittee want to **(1)** adopt the LAO recommendation, **(2)** adopt the Administration's proposal, or **(3)** craft another option?

LAST PAGE OF AGENDA

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

March 22, 2004
1:30 PM
Room 4203

Item	*Description*
4440	**Department of Mental Health** • **Community Based Services** • **State Hospitals**

PLEASE NOTE: **Only those items contained in this agenda will be discussed at this hearing. Issues pertaining to the DMH may be reviewed again at the Subcommittee's "OPEN" issues hearing and again at the time of the May Revision.** ***Please*** **see the Senate File for dates and times of subsequent hearings**.

Issues will be discussed in the order as noted in the Agenda.

Issues pertaining to the housing and treatment of Sexually Violent Predators, with the exception of the Coalinga facility, will be discussed at a later hearing.

Item 4440--DEPARTMENT OF MENTAL HEALTH

A. BACKGROUND OVERALL

Purpose and Description, including the Role of County Mental Health

Department: The Department of Mental Health (DMH) administers state and federal statutes pertaining to mental health treatment programs. **The department directly administers the operation of four State Hospitals**—Atascadero, Metropolitan, Napa and Patton--, and acute psychiatric programs at the California Medical Facility in Vacaville and the Salinas Valley State Prison. The department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while judicially committed patients are treated solely using state funds.

County Mental Health Plans: **Though the department sets overall policy for the delivery of mental health services, County Realignment revenues are currently the largest revenue source for community mental health services in California. Counties (i.e., County Mental Health Plans) have the primary funding and programmatic responsibility for the majority of local mental health programs as prescribed by State-Local Realignment statutes enacted in 1991 and 1992.**

Specifically, County Mental Health Plans are responsible for:

(1) All mental health treatment services provided to low-income, uninsured individuals with severe mental illness, within the resources made available;

(2) The Medi-Cal Mental Health Managed Care Program;

(3) The Early Periodic Screening Diagnosis and Testing (EPSDT) Program for adolescents;

(4) Mental health treatment services for individuals enrolled in other programs, including special education, CalWORKs, and Healthy Families.

Overall Budget of State Department and County Funds

The budget proposes expenditures of **$2.5 billion ($910.7 million General Fund) for mental health services, including state support. This reflects a *net* increase** of $165.9 million ($31.7 million General Fund) over the revised 2003-04 budget. As noted in the table below, $1.8 billion is for local assistance, $735.6 million is for the State Hospitals, and $7 million (General Fund) is for state mandated local programs.

In addition, it is estimated that almost **$1.128 billion will be available in the Mental Health Subaccount (County Realignment Funds) which does not directly flow through the state budget.** Counties use these revenues to provide necessary mental health care services to Medi-Cal recipients, **as well** as indigent individuals.

Realignment revenues are currently the largest revenue source for community mental health services in California. The second largest revenue source is federal Medicaid (Medi-Cal) dollars. Most of the state's General Fund support is expended on state-operated State Hospitals in order to serve Penal Code related patients.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	Percent Change
Program Source:				
Community Services Program	$1,672,199	$1,807,088	$134,889	8
Long Term Care Services	704,631	735,631	$31,000	4.4
State Mandated Local Programs	6	7	1	16.6
Total, Program Source	**$2,376,836**	**$2,542,726**	**$165,890**	**6.9**
Funding Source				
General Fund	$878,929	$910,658	$31,729	3.6
Federal Funds	61,993	61,917	(76)	(.1)
Reimbursements	1,432,942	1,567,332	134,390	9.3
Traumatic Brain Injury Fund	1,575	1,422	(153)	9.7
CA State Lottery Education Fund	1,397	1,397	0	0
Total Department	**$2,376,836**	**$2,542,726**	**$165,890**	**6.9**

B. ISSUES FOR VOTE ONLY (Items 1 Through 3)

(A "yes" vote for this section means adoption of the Subcommittee recommendation as noted in the agenda discussion for each item below.)

1. Adjustments for San Mateo Field Test Model

Background and Governor's Proposed Budget: The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Waiver agreement and state statute as a "field test" since 1995. The field test is intended to test managed care concepts which may be used as the state progresses toward consolidation of specialty mental health services and eventually, a capitated or other full-risk model. As the model has matured and evolved, additional components have been added and adjusted.

The budget proposes an increase of $3.3 million (Reimbursements from the DHS) to reflect an adjustment to the funding levels for this project. This adjustment is needed to reflect (1) the trend factor for pharmacy (nine percent increase), **(2)** the adjustment in the federal fund cost sharing ratio (from 53.3 percent to 50 percent) for the state's Medicaid (Medi-Cal Program), and **(3)** the adjustment needed to account for the shift from accrual to cash in last year's budget.

Subcommittee Staff Comment and Recommendation--Adopt: The budget proposes adjustments which reflect the existing agreement (i.e., Waiver for this Field Test model) the state has with San Mateo. **As such, it is recommended to adopt the budget proposal.**

2. Pre-admission Screening and Resident Review for Mental Illness (PASRR/MI)

Background and Governor's Proposed Budget: Federal law (OBRA of 1987) established each state's responsibility for evaluating persons seeking admission to or residing in nursing facilities for level of care and service needs. The DMH is responsible for administering a contract with an agency that is independent of the state and nursing home industry for the purpose of clinically evaluating each person admitted to or residing in a nursing facility if that person has mental illness. Litigation regarding the design and implementation of the evaluation instrument for this purpose has subsequently occurred.

The budget proposes an increase of $1.9 million ($470,000 General Fund) to fund expenditures associated with a pending Settlement Agreement (Charles Davis vs CA Health and Human Services Agency) regarding PASRR/MI. Of this amount, about $1.5 million would be used for a contractor and the remaining amount is for information-related technology costs. According to the DMH, this funding will support substantial revisions to the evaluation instrument, the training manual and related items.

Subcommittee Staff Comment and Recommendation--Adopt: Subcommittee staff has no issues regarding this proposal and recommends to **adopt the budget proposal**.

B. ISSUES FOR VOTE ONLY *(Continued)*

3. Governor's Proposed Repeal of Residential Care Mandates

Background and Governor's Proposed Budget: SB 155, Statutes of 1985, was enacted to address issues regarding the rates paid to private residential care facilities. According to the DMH, supplemental payments were provided for this purpose in 1989-90 and 1990-91. Then, beginning in 1991-01 (the first year of Realignment), the entire mandate was suspended pursuant to Section 17851 of the Government Code. **The DMH states that the funding that had supported the supplemental payment was included in Realignment and the counties now had the option as to how to spend these dollars. The mandate has remained suspended since this time. No other funding has been provided for this purpose.**

The Governor's budget proposes trailer bill language to eliminate the language that remains in the Welfare and Institutions Code (See Hand Out).

At this point in time it is unclear from the Administration as to whether the elimination of the Welfare and Institutions Code section regarding this issue is even needed since the provision was subsumed under Realignment.

Subcommittee Staff Comment and Recommendation—Delete: Trailer bill language is permanent statutory change that **is needed to implement the Budget Bill. The Administration's proposal is not needed to implement the Budget Bill.** No General Fund savings are identified for the action and it appears that the necessity for the language is as yet, unclear. In either case whether the language is desired for "clean-up" purposes or not, the proposal is not budget-related.

As such, it is recommended to delete this request from the budget and to direct the Administration to introduce a policy bill on the matter.

II. DISCUSSION ITEMS--Community-Based Mental Health Services

Summary of Funding for Community-Based Mental Health Services

Realignment revenues are currently the largest revenue source for community-based mental health services in California. The second largest revenue source is federal Medicaid (Medi-Cal) dollars.

The state's budget proposes expenditures of $1.807 billion (total funds) for community-based local assistance, including Medi-Cal Mental Health Managed Care, Early Periodic Screening Diagnosis and Treatment Program (EPSDT), applicable state support, the Conditional Release Program and related community-based programs. This reflects a *net* increase of $134.9 million (total funds) as compared to the revised 2003-04 budget. **This increase is primarily due to caseload and utilization of services adjustments in the baseline EPSDT Program and Mental Health Managed Care, as well as an adjustment to the San Mateo Field Test Project.**

Realignment Funding: In addition, it is estimated that $1.128 billion will be available in the Mental Health Subaccount (County Realignment Funds) which does not directly flow through the state budget. This estimate is based on the following revenue estimates:

- Sales Tax $834,609,000
- Vehicle License Fee Account $279,108,000
- Vehicle License Fee Growth Account $14,541,000
- Sales Tax Growth Account $-0-

Realignment revenues deposited in the Mental Health Subaccount, as established by formula outlined in statute, are distributed to counties until each county receives funds equal to the previous year's total. Any realignment revenues above that amount are placed into a growth account. The first claim on the distribution of growth funds are caseload-driven social services programs. Any remaining growth (i.e., "general" growth) in revenues is then distributed according to a formula in statute.

As discussed in a recently released report on mental health realignment (AB 328 Realignment Data, Department of Mental Health, February 5, 2003), due to continued caseload growth in Child Welfare services and Foster Care, as well as cost increases in the In Home Supportive Services (IHSS) Program, growth distributions to the Mental Health Subaccount and Health Subaccount have been substantially reduced.

Concerns with Lack of Growth Funds: As discussed in a recently released report on mental health realignment (AB 328 Realignment Data, Department of Mental Health, February 5, 2003), **due to continued caseload growth in Child Welfare services and Foster Care, as well as cost increases in the In Home Supportive Services (IHSS) Program, growth distributions to the Mental Health Subaccount and Health Subaccount have been substantially reduced. This is because the first claim on the Sales Tax Growth Account goes to caseload-driven social services programs, not the Mental Health Subaccount.**

1. Early Periodic Screening Diagnosis and Treatment (EPSDT) Program—Significant Changes Proposed---ISSUES "A" Through "C"

Background—Overall: **Most children receive Medi-Cal services through the EPSDT Program**. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) **recipients under age 21 *any* health or mental health service that is medically necessary** to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, **including services not otherwise included in a state's Medicaid (Medi-Cal) Plan.**

Though the DHS is the "single state agency" responsible for the Medi-Cal Program**, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH)**. Further, **counties are responsible for providing, arranging and managing Medi-Cal mental health services under the supervision of the DMH and DHS. However, eligibility and the scope of services to which eligible children are entitled, are *not* established at the local level.**

Types of Services: The state uses the term **"EPSDT supplemental services**" to refer to EPSDT services which are required by federal law **but are not otherwise covered under the state Medi-Cal Plan for adults**. **Examples of services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.**

EPSDT Litigation—State Has Settlement Agreements: In 1990, a national study found that **California ranked 50th** among the states in identifying and treating severely mentally ill children. **Subsequently due to litigation (T.L. v Belshe' 1994)**, the DHS was required to expand certain EPSDT services, including outpatient mental health services. The 1994 court's conclusion **was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.**

Further in January 2004, the U.S. District Court issued an Interim Order clarifying an earlier ruling regarding the provision of TBS that also required outreach, monitoring and related provisions to ensure that children receive EPSDT services as needed. The Court agreed that TBS utilization was too low statewide and ordered the parties to collaborate to develop a plan to increase TBS approvals.

EPSDT Funding Process—Both County and State Funds Used To Draw Federal Match: The DHS and DMH **crafted an interagency agreement in 1995 to implement expanded services as required by the court.**

Generally, this *original* agreement required County MHPs to provide a "baseline" amount using County Realignment Funds (essentially a county "maintenance-of-effort**") and then the state was responsible for providing the nonfederal share of the growth in the program.**

The baseline amount is established for each county based on a formula. For 2004-2005, the baseline is $65.7 million, plus an additional 10 percent county match ($20 million for the

budget year) which was instituted in the Budget Act of 2002, for a total of $85.7 million (County Realignment Funds). The state will provide funding (via Medi-Cal) for costs above this amount (above the baseline and 10 percent match).

The General Fund dollars and accompanying federal matching funds are budgeted in the DHS and are transferred to the DMH as reimbursements. **The DMH distributes EPSDT funds to the County MHPs responsible for the provision of specialty mental health in each county. Final payment is based on cost settled actual allowable costs, or rates.**

Prevalence Rate for California: Based on a number of studies which estimate the prevalence of children exhibiting various levels of functional impairment, **it is estimated that 20 percent of children suffer from diagnosable mental disorder, and up to 13 percent of these children are estimated to be seriously emotionally disturbed. Given these estimates it is likely that between 500,000 to 1.3 million children and adolescents in California have a severe emotional disturbance.**

As a comparison, the actual statewide average EPSDT penetration rate was 5.29 percent as of 2001-02 and 5.32 percent as of 2002-03.

It should be noted that the **Little Hoover Commission's report** (October 2001) on the existing inadequacies in the children's mental health system considered the potential savings if children's mental health utilization increased by 10 percent—the estimated prevalence rate. In one year, they estimated that California would save $44 million in juvenile justice, $27 million in CYA costs, $78 million in residential treatment and $1.4 million at Metropolitan State Hospital. **A total of $110 million in savings!**

Governor's Proposed Budget Overall: Under the Governor's budget, state support for EPSDT would grow to $365 million (General Fund) in 2004-05, for an **increase of about $112 million (General Fund)** compared to the current year. **This proposed spending level takes into account several technical adjustments, as referenced below, as well as three proposals intended to slow growth in the program and to potentially limit access to EPSDT services.**

The budget proposes the following adjustments to the EPSDT Program:

Technical Baseline Adjustments in Budget (increase of $47.9 million General Fund):

- ***Accrual to Cash:*** Makes an adjustment of $27.8 million (General Fund) in the budget year to reflect the one-time only reduction from 2003-04 which pertained to shifting the Medi-Cal Program from an accrual to cash basis.
- **Federal Medi-Cal Match:** Makes an increase of $ 20.1 million (General Fund) in the budget year to reflect a reduction in the share of costs that is supported by the federal government (Medicaid federal match percentage). In 2003-04 a congressional relief package for states temporarily increased the federal cost-sharing ratio.

Governor's Reduction Proposals:

- ***"Re-Basing" Provider Rates:*** The Administration proposes to change how provider rates are calculated (referred to as "re-basing") for **savings of $60 million ($40 million General**

Fund) in the EPSDT and an additional reduction of $50 million (federal funds) for adult outpatient services. This issue is discussed below (i.e., Issue "A").

- ***EPSDT Program Audits by the DMH:*** The DMH contends that savings of $13 million ($6.4 million General Fund) can be achieved from conducting additional audits of counties and their contractors who provide mental health services. The DMH is seeking an increase of $1.7 million ($844,000 General Fund) to hire consultants to conduct this audit work. This issue is discussed below (i.e., Issue "B").
- ***EPSDT Waiver for Medical Necessity:*** As part of their overall Medi-Cal 1115 Waiver proposal, the Administration is also proposing a Waiver regarding the EPSDT Program. Though details are significantly lacking, the Administration purports to making changes to how "medical necessity" is defined with respect to EPSDT services. The DMH is seeking an increase of $472,000 ($236,000 General Fund) to hire a consultant ($300,000) and to support two new state staff. This issue is discussed below (i.e., Issue "C").

ISSUES "A" to "C" are discussed below.

ISSUE "A" for the EPSDT Program-–—Re-Basing Provider Rates

Background—Existing Rate Structure: Under the Medi-Cal Program there are reimbursement limits. Since EPSDT is a Medi-Cal Program that provides mental health specialty services, it uses different reimbursement limits than other Medi-Cal programs. In some instances County Mental Health Plans negotiate rates with providers. **In other cases, the reimbursement rate is based on the *lowest* of:**

- The **"State Maximum Allowable" cost**, as defined by the DMH and approved by the DHS and federal government;
- The provider's allowable cost; ***or***
- The provider's published charge to the general public, unless the provider is a nominal charge provider.

Most of the reimbursement provided under EPSDT is done through the State Maximum Allowable cost process.

***The State's Maximum Allowable Rate*: The existing "state maximum allowable" (SMA) rate structure is based on 1989-90 cost report data which has been updated annually using cost-of-living-adjustments.** This rate structure is contained within California's State Medicaid (Medi-Cal) Plan submitted to the federal government in 1993. **This Plan also provided that the state would update rates annually until they were "re-based in no more than three years using more current actual cost information". The DMH however has never updated these rates.**

According to the DMH, under the existing rate structure, (1) about 34 percent of all "Short-Doyle" inpatient psychiatric facilities are receiving *less* than their cost, and (2) about 11 percent of all outpatient specialty mental health services are receiving less than their cost.

Governor's Budget Proposal to Re-base Rates: The Governor's budget proposes to reduce the EPSDT Program **by $60 million ($40 million General Fund) and $25 million in federal funds for adult outpatient services.**

It should be noted that this re-basing proposal actually would reduce federal funds by *another $45 million* than assumed in the Governor's budget. However, the budget also assumes that California can obtain approval through a State Plan Amendment to obtain a *"public provider exemption"* for federal funds to be provided *above* California's State Maximum Allowable rate. The federal government has provided this type of exemption before. In essence, the federal reimbursement would be cost-based and not reliant on the State Maximum Allowable rate.

Subcommittee Staff Comment—Proposal is Flawed: **This budget proposal has caused grave concern because the proposed methodology *is fundamentally flawed.*** The proposed re-basing calculation would set the State Maximum Allowable rates based upon the average rates of each type of service using 2001-02 data, updated by COLAs to 2004-05. **However, the average rate is determined (1) after eliminating rates in excess of one standard deviation from the mean, and (2) after the top ten percent of providers with the highest rate are eliminated from the base data to afford cost containment.**

According to the DMH, under this proposed re-basing structure, (1) about 42 percent of all "Short-Doyle" inpatient psychiatric facilities would be receiving less than their cost, and (2) about 47 percent of all outpatient specialty mental health services would be receiving *less* than their cost. As such, this methodology would continually lower rates, whether justified or not.

According to mental health service experts, it is highly unlikely that productivity gains and other program efficiencies can be achieved to meet the significantly lower reimbursement rates. This is particularly true for group services such as day treatment and residential programs. **Many County MHPs have already made significant gains in productivity for individual services.**

The proposal also assumes that the cost of providing services is uniform throughout the state. **It has been well documented that rural areas and large urban areas have higher cost factors that often need to be taken into consideration.**

The bottom-line is that the Administration's re-basing proposal is simply a cost-shift to the County MHPs and/or providers when efficiencies or cost reductions cannot be made. Further, some providers are likely to discontinue services which will likely impact access.

Other potential options are available in lieu of doing the Administration's re-basing proposal.

EPSDT Rate of Growth Slow Down: It should also be noted that the rate of growth under EPSDT has shown recent signs of slowing down considerably. **The DMH January budget estimate assumed a growth rate of 16 percent, *where as recent actual data for EPSDT shows a growth rate of only 8 percent.***

Other Options Are Available: Based on conversations with the DMH and others, it appears that **other options are available** than what has thus far been proposed. **It should be noted however, that *any* option which reduces state General Fund support will result in a cost shift to the County MHPs and/or providers when efficiencies or cost reductions cannot be made.**

Some Other Potential Options for Reducing General Fund

- **Increase the share-of-cost currently paid by County MHPs** from its current 10 percent above the 2001-02 growth to a higher percentage (in lieu of re-basing proposal).
- **Re-base the State Maximum Allowable using a *different* averaging methodology**.

Strategies to Preserve Federal Funds

- **Implement the Public Provider exemption** which enables public entities to obtain increased federal funds. This requires a State Plan Amendment and federal approval.
- **Revise the Cost Settlement process** by establishing the County MHPs as the "sole provider" whereby contract providers are treated as purchased services of the Mental Health Plan. (This is similar to other managed care plans that have the ability to purchase services from individual providers as part of their network of services.

It should be noted that all of these options, like the one proposed by the Administration through the budget, are complex and have their nuisances.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please provide **an update on the status of the growth within the EPSDT Program. Is the growth in the program currently showing a slow-down?**
- **2.** Please provide a brief summary of the re-basing proposal.
- **3.** Please briefly describe other options that may be available for re-calculating the rates.
- **4.** What does the **DMH foresee as the next steps to be taken?**

Budget Issue: Does the **Subcommittee want to (1)** direct the DMH to convene **inclusive workgroups** to further discuss options and report back to the Subcommittee prior to May Revision, **(2)** reject the proposal, **(3)** adopt the Administration's re-basing proposal, or **(4)** develop another option?

ISSUE "B"--EPSDT Program Audits by the DMH

Background—Previous Cost Containment Actions: EPSDT is a federal entitlement under the state's Medi-Cal Program. Due to litigation, as discussed under the background section above, the program operates under a settlement agreement with both the state and County MHPs paying the non-federal share of the program. In the Budget Act of 2002, a 10 percent county match on the growth of the total state matching fund requirement above the 2001-02 level was implemented.

In addition, trailer bill legislation accompanying the Budget Act of 2002 required the DMH to ensure statewide application of managed care principles to the EPSDT Program. Regulations to implement this required were endorsed by the Secretary of State in November 2003. It appears that these recent changes may be having an effect on slowing the rate of growth within the EPSDT.

EPSDT Rate of Growth Slow Down: It should also be noted that the rate of growth under EPSDT has shown recent signs of slowing down considerably. **The DMH January budget estimate assumed a growth rate of 16 percent, *where as recent actual data for EPSDT shows a growth rate of only 8 percent.***

Governor's Budget Proposal and Recent Change to Proposal: The Governor proposes **an increase of $1.7 million ($844,000 General Fund) to hire contractors to conduct additional reviews and oversight of EPSDT Program expenditures, and assumes savings of $13 million ($6.5 million General Fund) from these audit efforts.**

The request for funding the contract audit staff originally assumed that over 300 legal entities that provide EPSDT services would be reviewed on a three-year cycle beginning in 2004-05. **This original proposal assumed a sample size representing almost 90 percent of the total paid claims from 2002-03. However, the DMH is now changing their selection criteria to represent either one of the following:**

- A legal entity that has expenditures of at least $500,000 plus a cost per client of $2,500 or greater **within a particular county**. **(This is suppose to result in a sample size of 21,252 records from 189 legal entities covering more than 77 percent of the total EPSDT dollars).**
- A legal entity that has expenditures of at least $500,000 plus a cost per client of $2,500 or greater **across counties**. (The DMH is presently conducting a data analysis to identify the sample size and number of legal entities involved.)

At this time it is unclear as to what methodology the DMH will be using, as well as whether a change in methodology would result in a need for less General Fund expenditure for the consultant audits.

The estimated savings level contained in the budget was derived by taking the approved claims amount from 2002-03 and dividing by three (since one-third of the entities will be audited each year), then reducing by 11 percent to reflect the dollars that will not be subject to the review. **The DMH then applied a 5.6 percent disallowance (i.e., savings level) to this amount.** This 5.6 percent rate is what was identified through recent audits conducted on Therapeutic Behavioral Services (TBS) reviews. **In essence, the estimated savings level represents about two percent of the total EPSDT Program for 2002-03, the year that will be initially audited.**

Further, the Administration's proposal assumes ***that the state will collect any disallowances directly from the County MHPs, even if a private provider is responsible for the audit exception.***

Constituency Concerns: The Subcommittee is in receipt of letters **expressing concerns with this audit proposal.**

The County Mental Health Directors note that they have no objection to the state fulfilling is obligation to ensure that state and federal funds are being spent appropriately under the EPSDT Program, but they question several aspects of the proposal. **First,** extrapolating limited audit findings across all claims is not consistent with generally accepted accounting principles. **Second,** the criteria for conducting these additional audits has yet to be defined. **Third**, the County Mental Health Plans will be held liable by the state for all recoupments (i.e., whatever the extrapolated amount is) even if the action pertains to a non-county community provider.

The California Council of Community Mental Health Agencies also acknowledges the necessity of audits to ensure services are being provided in accordance with specific and identifiable rules and regulations. **However, among other things, they raise the following concerns. First,** audits need to be based on clearly stated objective criteria made available to agencies before the services being audited have been provided. It is not reasonable to subject an agency to a financial disallowance for a service already provided and documented in a manner which an agency had no reason to believe at the time it was provided would be in violation of state rules. As such, they are advocating for new audits to be done prospectively. **Second,** since agencies are already subject to audits by County Mental Health Plans, if the state is going to audit for particular services, then agencies should not also be audited for the same services by county officials. **Third,** they express concern with the proposal for predicting in advance a yield of $13 million ($6.5 million General Fund) in savings. If audits yield savings, that should be factored into future budgets, but to calculate savings prior to the audits having been conducted assumes there are fraudulent practices when that has not as yet been shown.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. Please describe the budget proposal to conduct audits, including the audit selection process and criteria, and how the criteria will be applied.**
- **2. Please explain how the audit results will be applied to the County Mental Health Plans. What methods of recoupment will be applied?**

- **3. If the audit selection criteria**, which is a key component to determining the fiscal need for the consultant work, **is still in fluctuation**, **how do we know that the requested funding for the audit consultant is accurate?** Will a May Revision proposal be forthcoming on this issue?

Budget Issue: Does the Subcommittee **want to adopt or modify the Administration's proposal** to increase by $1.7 million ($844,000 General Fund) to hire contractors to conduct additional reviews and oversight of EPSDT?

ISSUE "C"--EPSDT Waiver for Medical Necessity, & More? *(See Hand Out)*

Governor's Proposed Budget: The **budget is requesting an increase of $472,000 ($236,000 General Fund) for administrative resources to develop a federal 1115 Medicaid Waiver for the Early Periodic Screening Diagnosis and Treatment (EPSDT) Program.**

The purpose of this waiver would be to redefine medical necessity with the intent of reducing future expenditures for children's mental health services.

DMH Letter—More Information and Proposing A Broader Review: In a very recent letter (dated Friday, March 12), the DMH states that they will be convening stakeholder workgroups as part of the overall proposal by the Administration to craft a comprehensive Medicaid 1115 Waiver. **Through these DMH convened workgroups, recommendations would be provided to the DHS as part of the Administration's overall Waiver process. The DMH intends to convene two stakeholder meetings—March 25th and April 21st. In addition there will be "pre-meetings", primarily for clients and family members, on both of these days as well.**

Attached to the letter is a **"Discussion Paper"** (See Hand Out). In this letter it notes that the Administration is **not only exploring options to increase state flexibility regarding the EPSDT Program, but also input on other potential changes to the Medi-Cal Specialty Mental Health Services benefit (i.e., Managed Care). Preliminary ideas for discussion include, *among other things*, the following:**

- Broaden sites where federal reimbursement for Medi-Cal services can be obtained, including freestanding psychiatric hospitals, and psychiatric health facilities greater than 16 beds serving adults for inpatient services;
- Replacing day treatment intensive and day rehabilitation for adults with partial hospitalization;
- Add recovery oriented consumer operated peer support services for adults at risk of repeat hospitalization;
- Eliminate federal Managed Care regulation requirements except for compliance.
- Clarify requirements and what's allowable, in terms of Medi-Cal federally reimbursable treatment/services.

Subcommittee Staff Comment and Recommendation: First, as noted in the DMH letter, the Administration is clearly exploring **a broader approach in crafting a potential Waiver** for mental health services provided under the Medi-Cal Program, ***not only*** **the EPSDT Program. Further, it is interesting that the DMH is potentially seeking broader changes to the Mental Health Managed Care Program when they are still having difficulty promulgating regulations for the enabling program (discussed under item 7, Issue C, below).**

Second, it is unclear at this point how the Administration intends to more narrowly define "medical necessity" within the EPSDT Program. Certainly, a primary intent is to reduce expenditures within EPSDT. **However if this means that many children will not receive services at all, or only when their condition is extremely severe, then overall expenditures**

for public services will probably not decrease. This is because the most common way that children enter the public mental health system is through the Child Welfare system, juvenile justice system or special education services (AB 3632 pupils). As such, other "entitlements" would need to be utilized. **In addition, studies consistently demonstrate that early intervention minimizes more serious illness, reduces more costly treatments and maximizes an individuals productivity and health. Deferring early diagnosis and treatment usually leads to disabling conditions and higher costs.**

Third, as specifics come forth from the Administration it **will be imperative for the Legislature to thoroughly discuss the policy merits of any proposal and its short-term and long-term implications for providing mental health services to children and adults with potentially disabling mental illness.** Further, the **Legislature will need to maintain legislative authority** over the program in order to preserve the integrity of the overall program and the services provided under it.

It is recommended to delete this proposal from the budget process without prejudice and refer it to the policy committee process. As such it is also recommended to delete the request **for $472,000 ($236,000 General Fund) for administrative resources to develop a Waiver proposal. Any funding request should be contained within a policy bill.**

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please provide **a brief description** of the budget proposal regarding EPSDT, including a description of the Administration's process with respect to the mental health portion of the stakeholder groups.
- **2. Why is a broader focus now being taken regarding other potential changes to Medi-Cal mental health services?**
- **3. What are the timelines for the DMH portion of the process?**

Budget Issue: Does the **Subcommittee want to (1)** adopt the Subcommittee staff recommendation to refer this proposal to the policy committee process, **(2)** adopt the Administration's proposal, or **(3)** craft another option?

2. Governor Proposes To Eliminate Children's System of Care Program

Background—Children's System of Care: Existing law authorizes counties to develop a comprehensive, coordinated children's mental health service system as provided under the Children's Mental Health Services Act. **The target population includes individuals 18 years of age and under who have a diagnosed mental disorder in which the disorder results in *substantial* impairment in two or more areas (such as self care, school performance, family relationships and ability to function in the community). As noted by the DMH, the children served through the program have *complex* needs and require multi-agency services.**

The basic elements of the program include interagency coordination and collaboration, child/family-centered services, culturally competent services, and case management services. Families of the children are full participants in all aspects of the planning and delivery of services. When children with serious emotional disturbances learn to manage behavior through therapy, medication, education, rehabilitative and social services, they are more likely to stay out of trouble, improve school performance and remain stable in their living situation.

Under the program, accountability of services is required through measurable performance outcome goals. Past evaluations of the program have concluded that the program has been **very successful and cost-beneficial, including savings in service expenditures for group homes, special education, and juvenile justice.**

Existing categorical funding for Child Welfare, juvenile justice, alcohol and other drug and mental health services are highly regulated. Accompanying regulations define mandates and limitations that can create obstacles to solutions for these problems. The California Children's system of Care Program was created to address these criticisms for the system serving children with serious emotional disturbance. **It provides a small amount of vital flexible funding that supports locally designed solutions to system shortcomings.**

Legislature Historically Supportive of Program: **The Legislature has been very supportive of the program in the past**. Legislative budget augmentations to facilitate statewide expansion have included **(1)** $1.9 million in 1995, **(2)** $7.1 million in 1996, **(3)** $6 million in 1997, **(4)** $20 million in 1998 which was reduced by Governor Wilson to a total of $4 million, **(5)** $13.4 million in 1999 which was reduced by Governor Davis to a total of $2 million, **(6)** no increase by the Legislature but Governor Davis reduced by $2.1 million (General Fund), and **(7)** no adjustment by the Legislature but Governor Davis **vetoed $15.8 million ($13.8 million General Fund and $2 million federal SAMHSA block grant funds).**

In a veto message that accompanied the Budget Act of 2002, **Governor Davis directed the DMH to restructure the program to provide fuller accountability and to documented cost savings.**

Children's System of Care Outcome Measures—September 2003 Evaluation: In an evaluation published by the DMH in September 2003, results for 3,198 children were reviewed and the evaluators **found that the Children's System of Care Program is successful at helping children stay out of trouble, improve school attendance, and live at home or in another safe environment. It should be noted that the majority of the children in this evaluation had a history of juvenile justice system involvement.**

Among other things, the report sites the following key findings:

- **Staying Out of Trouble:** Following participation in the program, there were 55 percent fewer misdemeanors and 65 percent fewer felony arrests for the children. **A conservative cost savings amount of $1.3 million was identified for this component.**
- **Less Psychiatric Hospitalization Services:** The program's community-based services and supports optimize the potential for psychiatric inpatient services reduction. Over 46 percent of the children evaluated at the time of the enrollment were identified by history or initial assessment as being at risk of psychiatric hospitalization. However following participation in the program (during the six-month update period), only 10.6 percent required psychiatric hospitalization, or a reduction of 57.2 percent in need for inpatient care. **A projected cost savings estimate of $1.1 million was identified for this.**
- **In School Outcome: Children identified as having a serious emotional disturbance are more likely to miss school, fail more classes, and have lower graduation rates than other children with disabilities. The enhanced special day classes and wraparound services of the program are also used to supplement individualized education plan services.** Because services are accessible in the school setting, children are more likely to attend school. Sixty-six percent of the children evaluated at the time of enrollment into the program were identified by history or initial assessment as being at risk for poor school attendance. **According to the evaluation, over 82 percent of children identified as at risk of poor school attendance improved or are maintaining good or excellent levels of school attendance.**
- **Overall: Children's System of Care services help children manage mental health symptoms, develop emotion-management skills, learn positive social skills, and build family cohesion. The development of these skills helps children choose appropriate behaviors and avoid behaviors that lead to arrest and further juvenile justice system actions.**

Constituency Letters and Comment: The Subcommittee is in receipt of several letters expressing concern with the Governor's proposal. **They contend that without a system of care approach, many children will not have coordinated services or receive mental health services unless they are placed in a Group Home (where they become eligible for Medi-Cal), the juvenile justice system (where they have a constitutional right to mental health care), or are placed in special education (where there is a federal entitlement to mental health services). Several of the letters note that without the $20 million for the Children's System of Care Program, increased funding would be needed in many other areas.**

Governor's Proposed Budget—Eliminate All Funding: The Governor is proposing **to eliminate funding for the program-- $20 million General Fund.**

The Governor's budget summary states that…*"given the availability of a wide range of medically necessary services and large numbers of needy children and young adults receiving services under the EPSDT Program, it is no longer necessary to continue the Children's System of Care Program."* However, **no other rationale has ever been given** as to why this efficacious program is being proposed for elimination.

Constituency Comments—Grave Concerns: The **Subcommittee is in receipt of many letters expressing concern regarding the Governor's proposed elimination of this program**. The letters reference the DMH outcome data, as well as individual county successes with the program. They note that without a system of care approach these children will not have coordinated services and more importantly will not, in all likelihood, have any mental health services unless and until they are placed in a group home or juvenile justice facility. In each of these institutional settings, the cost of mental health treatment is likely to be greater than it would have been had it been provided before the children reached this level of care.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. DMH**, **Please briefly describe the results of the evaluation. Is the program producing measurable results and is it successful?**
- **2. DMH**, Please **briefly describe what data has been obtained from the counties** and what the DMH thoughts are about the data.

Budget Issue: Does the Subcommittee want to **(1)** reject the Governor's proposal to eliminate the Children's System of Care Program, **(2)** adopt the Governor's elimination, or **(3)** craft another alternative?

3. Proposed Reduction of Funding for Early Mental Health Program (Proposition 98 Funds)

Background—What is the Program: Under the Early Mental Health Initiative, the state awards grants (for up to three-years) to Local Education Agencies (LEAs) to implement early mental health intervention and prevention programs for students in Kindergarten through Third Grade. Schools that receive grants must also provide at least a 50 percent match to the funding provided by the DMH. Schools use the funds to employ child aides who work with students to enhance the student's social and emotional development.

Students in the program are generally experiencing mild to moderate school adjustment difficulties. Students must have parental permission to participate in the program. In addition, all Early Mental Health Initiative programs are required to contract with a local mental health agency for referral of students whose needs exceed the service level provided in this program.

The Early Mental Health Initiative is an effective school-based program. **It serves children experiencing school adjustment issues who are *not* otherwise eligible for special education assistance or county mental health services because the student's condition is usually not severe enough to meet the eligibility criteria in these other programs (such as the Children's System of Care Program or EPSDT services).**

Existing Funding Level and Grant Cycle: In the current year, **the program is supporting a total of 137 grants, with 73 grants being in their second-year of the three-year grant cycle, and 64 grants being in their third and final year of the cycle.**

According to the DMH, about 51 percent of the school sites funded through the program continue services for at least one year after the three-year grant cycle has ended.

Governor's Proposed Budget: The **Governor proposes to reduce by $5 million (Proposition 98/General Fund)** the Early Mental Health Initiative Program which provides mental health assistance to young children enrolled in school (K to Grade 3). **This proposed reduction would leave a remaining $5 million (Proposition 98/General Fund) to be used for the 73 existing grants that will be in their third year of the grant cycle beginning July 1, 2004. This funding will support about 168 actual sites.**

Subcommittee Staff Comment and Recommendation: Both the short-term and long-term effect of this reduction is that children with mild to moderate school adjustment problems will likely not receive services and may, as a consequence, need more intensive services later. Further, these students may end up doing poorly in school and developing other problems.

However the determining factor in continuing this program is whether the Education System is inclined to utilize Proposition 98 funds for this purpose. Since Senate Subcommittee No 1 has jurisdiction over the appropriation of Proposition 98 funds, it is recommended to refer this funding issue to that jurisdiction.

In the event Subcommittee No. 1 declines to review the issue or determines that additional funds are not available for this purpose, then the Governor's budget proposal would remain intact—an appropriation of $5 million for 2004-05.

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please briefly describe the Governor's budget proposal.

Budget Issue: Does the Subcommittee want to refer this issue to Budget Subcommittee No 1?

4. Healthy Families Program Adjustments—*Supplemental Mental Health Services*

Background: The Healthy Families Program provides health care coverage and dental and vision services to children between the ages of birth to 19 years with family incomes at or below 250 percent of poverty (with income deductions) who are not eligible for no-cost Medi-Cal. Monthly premiums, based on family income and size, must be paid to continue enrollment in the program. **California receives an annual federal allotment of federal Title XXI funds (Social Security Act) for the program for which the state must provide a 34 percent General Fund match, except for supplement mental health services in which County realignment funds are used as the match.** With respect to legal immigrant children, the state provides 100% General Fund financing.

The enabling Healthy Families Program statute linked the insurance plan benefits with a **supplemental program** to refer children who have been diagnosed as being seriously emotionally disturbed (SED). The **supplemental services** provided to Healthy Families children who are SED can be billed by County Mental Health Departments to the state for a federal Title XXI match. **Counties pay the non-federal share from their County Realignment funds (Mental Health Subaccount) to the extent resources are available.**

Under this arrangement, the Healthy Families Program health plans are required to sign Memoranda of Understanding (MOU) with each applicable county. These MOUs outline the procedures for referral. It should be noted that the health plans are compelled, as part of the required Healthy Families benefit package and capitation rate, to provide certain specified mental health treatment benefits prior to referral to the counties.

Governor's Proposed Budget: The budget proposes **to increase by $3 million (federal funds and County Realignment Funds) to reflect caseload adjustments for supplemental mental health treatment services provided by the counties under the Healthy Families Program for children with intensive mental health needs.** According to the DMH, this budget estimate is based on past actual claims data and anticipated caseload for 2004-05.

Subcommittee Staff Comment: Subcommittee staff has raised no issues with this budget adjustment.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please **briefly describe the budget adjustment**.

Budget Issue: Does the Subcommittee want to adopt the budget proposal?

5. Mental Health Services Provided to Special Education Students ("AB 3632")

Background—Mental Health Services to Special Education Pupils: Federal law (PL 94-142 of 1975-- the Education for All Handicapped Children Act—and the later **Individuals with Disabilities Education Act (IDEA) mandates states to provide services to children enrolled in special education, including all related services as required to benefit from a free and appropriate education. Related services include mental health services**, occupational and physical therapy and residential placement.

In California, County MHPs are responsible for providing mental health services to students when required in the pupil's Individualized Education Program (IEP). This is because **AB 3632** (W. Brown), Statutes of 1984, **shifted responsibility for providing these services from School Districts and transferred them to the counties.**

These services are an entitlement and children can receive services irrespective of their parent's income-level. In addition, County MHPs cannot charge families for these services because the children are entitled to a free and appropriate public education under federal law.

What Mental Health Services Are Mandated: **Services to be provided, including initiation of service, duration and frequency of service, are included on the student's IEP and must be provided as indicated. Services can only be discontinued on the recommendation of the County MHP *and* the approval of the IEP team, or by parental decision.** Among other things, **mental health services** include assessments, and all or a combination of individual therapy, family therapy, group therapy, day treatment, medication monitoring and prescribing, case management, and residential treatment.

History of Funding for AB 3632 (Prior to 2003): For the past decade or so, **counties have supported** the program **through a combination of the following:**

- Categorical funding provided by the DMH as appropriated through the state budget process (was $12 million General Fund annually but was eliminated by the state in the Budget Act of 2002);
- Mandate reimbursement claims as obtained via the State Commission on State Mandates process (referred to as the SB 90 process, was suspended in the Budget Act of 2002 and the Budget Act of 2003);

- Realignment funds (only when other resources are not available due to the deferral of the mandate process as noted above); and
- Third-party health insurance when applicable, though parents can chose not to access their insurance for this purpose if they so decide (federal law).

Use of Special Education Funds—Budget Act of 2003: Through the **Budget Act of 2003, $69 million in new federal special education funds were appropriated under Item 6110 (Department of Education) for County MHPs to use to partially off-set the costs for these services.** ***However, these funds have as yet to be allocated to the counties.***

Additional Federal Special Education Funds Available: California will receive an *additional* **$139.5 million in new federal special education funds in 2004-05. The Governor's January budget proposes to expend only $74.5 million of this amount. As such, $65 million in federal funds is unscheduled at this time. Senate Budget Subcommittee No 1—the Subcommittee which directs the appropriation of funds for Education entities—will be discussing the allocation of these funds in their Subcommittee hearings.**

Constituency Concerns: The County Mental Health Directors Association states that **County MHPs provide AB 3632 mental health services to about 27,000 special education pupils for a total annual cost of about $120 million. Though the Governor's budget continues to provide the $69 million in federal special education funds, this amount is insufficient to meet the existing and ongoing need.**

There is also about $150 million to $175 million in *unpaid* SB 90 claims for this program.

This situation has created significant budgeting problems for them and is forcing many counties to significantly reduce services to indigent children and adults in order to fund this education mandate.

Senate Bill 1895 (Burton), Introduced: Senator Burton has introduced legislation regarding potential policy changes to how mental health services are provided to special education students and related administrative issues. This legislation is presently in a spot bill format with constituency group meetings presently occurring.

Governor's Proposed Budget: The budget proposes **to appropriate $69 million (federal special education funds) within the Department of Education's item for expenditure for County MHPs. This maintains the status quo from last year's Budget Act of 2003.**

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please describe **the role of the DMH in trying to work through the AB 3632 issues.**
- **2.** What is the status of the payment allocation to counties from the Department of Education?

- **3.** Please describe the recent litigation filed by San Diego and Contra Costa counties.

Budget Issue: Does the Subcommittee **want to refer this issue to Subcommittee No. 1 that has jurisdiction over the appropriation of federal special education funds?**

6. Community Treatment Facilities—Proposed Trailer Bill Language *(See Hand Out)*

Background: Chapter 1245, Statutes of 1993, established a new category of **secured** (locked and can use seclusion and restraints) **residential care for the treatment of seriously emotionally disturbed (SED) children** referred to as **"Community Treatment Facilities" (CTFs)**.

CTFs were generally created as an alternative to out-of-state placement and state hospitalization for SED children. Specifically, this model was intended to provide more intensive treatment than normally provided in a group home but less oversight than a State Hospital or acute institution.

Under the statute, **the DMH** is responsible for the development and distribution of **400 secured community-based beds** within the five Mental Health Regions (i.e., Los Angeles, Bay Area, Southern, Central and Superior).

The DSS is required to develop licensing regulations for these facilities, and the DMH is responsible for certifying them (i.e., approving that they meet program standards). Regulations to proceed with the development of the CTF beds became effective on July 1, 1998. **However, difficulties arose due to lack of clarity regarding some of the regulations, and problems with adequate funding.**

Through the Budget Act of 2001 and related legislation, an agreement was reached to provide supplemental funding **(both state (40%) and county (60%))** for CTF beds and related services until longer-term solutions could be crafted. **In addition, trailer bill legislation required the DMH and DSS to develop joint protocols for the oversight of these facilities and specifies provisions for establishing payment rates for them.**

Governor's Proposed Budget—Same Funding But Different Trailer Bill Language: The budget provides $1.2 million (General Fund) for supplemental funding for CTF beds. County Realignment funds provide an additional $1.8 million for this purpose. This funding level reflects the same amount as appropriated in prior years.

In addition, trailer bill language is proposed which would modify existing statute to make funding subject to the availability of funds in the annual state budget.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the funding level proposed for this purpose in the Governor's budget. **However, it is recommended to reject the proposed trailer bill language and instead**, adopt only one language change which would simply insert the fiscal year (i.e., 3004-05) for which the supplemental rate is being paid. No other language changes would be taken.

In past years, the language specified the fiscal year, and as such, provided the Legislature with more control over the appropriation.

Subcommittee Request and Question: The Subcommittee has requested the DMH to respond to the following question:

- **1.** Please briefly describe the budget proposal.

Budget Issue: Does the Subcommittee want to reject the Administration's proposed change to the trailer bill language and instead, adopt a fiscal year change instead?

7. Mental Health Managed Care Program—ISSUES "A" & "B"

Overall Background—Overview of Mental Health Managed Care: Implementation of Medi-Cal Mental Health Managed Care has included the consolidation of Medi-Cal psychiatric inpatient hospital services ("Phase I"), which occurred in January 1995 and the consolidation of Medi-Cal specialty mental health services ("Phase II"), which occurred from November 1997 through June 1998.

These two phases of implementation consolidated the two existing Medi-Cal mental health programs (Short-Doyle and Fee-For-Service) into one service delivery system. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government (i.e., HCFA, now the Centers on Medicare and Medicaid—CMS).

Under this delivery system, psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists, and some nursing services**, became the responsibility of a single entity, the Mental Health Plan (MHP) in each county. Medi-Cal recipients *must* obtain services through the MHP.**

The Waiver promotes plan improvement in three significant areas—access, quality and cost-effectiveness/neutrality. The DMH is responsible for monitoring and oversight activities of the MHPs to ensure quality of care and to comply with federal and state requirements.

Under this model, **MHPs generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. An annual state General Fund allocation is also provided to the MHP's.**

Based on the most recent estimate of expenditure data for 2001-02, of California's state share of cost for Mental Health Managed Care, County MHPs provided a 46 percent match while the state provided a 54 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

State General Fund Allocation: **The state General Fund allocation is usually updated each fiscal year to reflect adjustments as contained in Chapter 633, Statutes of 1994 (AB 757, Polanco). These adjustments have typically included, changes in the number of eligibles served, factors pertaining to changes to the consumer price index (CPI)for medical services, and other relevant cost items.**

However, **the state's allocation is contingent upon appropriation through the annual Budget Act. As such in more difficult fiscal years, state General Fund support has *not* been provided for the medical CPI, or the base level of funding has been proposed for reduction (such as this year).**

ISSUE "A"—Funding for Mental Health Managed Care

Background and Budget Act of 2003: Under the consolidated system, as referenced above, County MHPs accept a fixed amount of non-federal funds, based on the amount of resources the state was spending in 1994-95, which is suppose to be adjusted annually to reflect changes in the medical CPI and adjustments in caseload. **However, County MHPs have received no medical CPI adjustment since the Budget Act of 2000, and the Governor's proposed budget does not include this adjustment either.**

Further, in the Budget Act of 2003, a five percent reduction to General Fund support ($11 million) in the program was enacted due to the fiscal crisis. Since this was a reduction to the base funding, it is an ongoing reduction to County MHPs.

Based on the most recent estimate of expenditure data for 2001-02, of California's state share of cost for Mental Health Managed Care, County MHPs provided a 46 percent match while the state provided a 54 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

Background—New Federal Regulations for Waiver: **New federal managed care regulations were issued in June 2002 and must be implemented by the state and MHPs by August 13, 2003.** According to the DMH, the new regulations require significant changes in the operation of the program.

Among other things, the federal regulations would require the following:

- The DMH must arrange for **annual "External Quality Reviews" (EQRs)** of the quality outcomes and timeliness of access to services covered by **each MHP** (56 MHPs—there are two MHPs that cover two counties);
- The methodology used to **reimburse the MHPs must be validated annually by a qualified actuary**. The DMH notes that **the actuarial studies may result in the need to revise current methods since the method currently used for distributing state General Fund support to the MHPs is not actuarially determined.**
- The **state must provide extensive information to clients** about the MHPs and client rights available under the Waiver, including detailed explanations of federal regulations written in a language that can be easily understood by all clients.
- **The County MHPs will be required to (a)** establish advance directive systems, **(b)** establish formal compliance plans and systems, **(c)** finalize and distribute informational materials, **(d)** comply with new administrative requirements related to provider contracts, **(e)** maintain additional documentation of the adequacy of the MHP's provider networks, **(f)**adopt formal practice guidelines, and **(g)** establish a more complex grievance and appeal system.

Generally, the state has three options for meeting the requirements of the regulations. We can either (1) fully comply, (2) request Waivers for certain provisions, or (3) restructure the existing program to meet all of the requirements.

Governor's Proposed Budget: The budget proposes a total state General Fund appropriation of $222.9 million (General Fund) for allocation to the County MHPs to assist in funding the Waiver Program.

This reflects a *net* increase of $10.3 million ($5.1 million General Fund) in the amount the state provides to the counties for Mental Health Managed Care**. No medical CPI adjustment is provided. This equates to a loss of $5.6 million (General Fund) for the County MHPs for 2004-05. A medical CPI adjustment** has not been funded since the Budget Act of 2000.

This net increase consists of the following proposed *key* adjustments:

- No adjustment for the medical consumer price index.
- Increase of $6.2 million (General Fund) for the change in the number of Medi-Cal eligibles.
- Reduction of $53,000 to reflect the one percent adjustment for inpatient growth; and
- Net reduction of $1 million (General Fund) to reflect the elimination of one-time costs associated with new federal regulations and increased costs for informing materials.

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please **provide a brief description of the budget proposal, including what the fiscal effect is for not providing the medical CPI to the counties.**
- **2.** Please **provide an update on the implementation of the new federal regulations**.
- **3.** Will the **state be seeking any further adjustments**—either requesting federal relief from some of the requirements, **or** needing more General Fund support to implement the requirements—**prior to the implementation of the 2004-05 budget?**

Budget Issue: Does the Subcommittee want to hold this item "open" pending receipt of the Governor's May Revision?

ISSUE "B"—Proposed Trailer Bill to Extend Emergency Regulation Authority

Background—Emergency Regulation Authority Is Never Ending: Effective **November 1, 1997,** the DMH adopted emergency regulations for Medi-Cal Mental Health Managed Care as provided for in Section 5775 of Welfare and Institutions Code. **However, this authority was never intended to be on-going.**

Since this time, the DMH has obtained authority to continue the emergency regulations through annual Budget Act Language, including language adopted in 1998, 1999, 2000, 2001, and 2002.

In 2003, this authority was again extended for one more year, but it was done through statutory change. This authority will expire as of June 30, 2004, unless action is taken to extend this authority.

The DMH has **had two public comment periods on the emergency regulations—November 1997 to January 1998, and November-December 1999.** According to the DMH, extensive public comment was received.

Governor's Proposed Budget—Trailer Bill Language (See Hand Out): The Governor's proposed budget requests trailer bill language to **extend the emergency regulation authority to July 1, 2005.**

Subcommittee Staff Comment: **The Department of Mental Health has not had a public hearing on the proposed regulations since 1999, or almost five years ago. As such, the program has been operating under both emergency regulation authority and under the auspices of "All County Letters", which in some circumstances can be viewed as underground rule-making.**

Public discussions need to be re-convened to discuss the existing emergency regulations, as well as the newly proposed federal regulations and their potential effect on the program. Changes that are needed to implement the new federal regulations have not yet had the benefit of full public discourse.

Subcommittee Request and Questions: The Subcommittee has **requested the DMH to respond to the following questions:**

- **1.** Please provide **an update on the status of the emergency regulations for Medi-Cal Mental Health Managed Care**. **Why has the process taken so long?**
- **2.** What else needs to be done to complete the normal regulation process?
- **3.** Does the **DMH think it has the legal authority to subsume the new federal regulations under the existing emergency regulation authority** that was established in 1997? If so, please explain why**.**

8. Governor's Proposal to Eliminate Funding for Sacramento County & Others

Background and Governor's Proposed Budget: The budget proposes **a reduction of $724,000 General Fund by eliminating (1)** $416,000 for supplemental funding to Sacramento County's Psychiatric Health Facility (as established in SB 840, Statutes of 1991), and **(2)** $308,000 (General Fund) used by thirteen counties to match federal rehabilitation funds.

The funds for Sacramento were originally allocated to offset the financial burden imposed on it when the UC Davis Psychiatric unit closed in 1991**. Elimination of this supplemental funding requires trailer bill legislation.**

The thirteen counties include: Contra Costa, El Dorado, Fresno, Kern, Orange, Placer, Riverside, San Bernardino, San Diego, Sonoma, Stanislaus, Ventura, and Los Angeles. All of these counties receive a total of $20,505 each, except for Los Angeles which receives $61,515.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following question:

- **1.** Please briefly describe what the effect of the Administration's elimination of the $724,000 would mean to the counties.

Budget Issue: Does the Subcommittee want to keep this open pending receipt of the May Revision?

III. Discussion Items--State Hospitals & Other State Support Issues

STATE HOSPITAL FUNDING

Background Overall: The department **directly administers the operation of four State Hospitals—Atascadero, Metropolitan, Napa and Patton--, and acute psychiatric programs at the California Medical Facility in Vacaville and the Salinas Valley State Prison.**

As structured through the State-Local Realignment statutes of 1991 and 1992, the department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while *judicially committed patients are treated solely using state funds.*

However, the Governor is proposing changes to this funding partnership by: (1) capping the enrollment of ISTs and NGI patients, and (2) shifting pre-commitment SVPs presently residing at the State Hospitals back to the counties. Therefore, counties would be required to fund these responsibilities using County Realignment Funds (no federal match is available for this patient population) or County General Fund revenues. *(Issues regarding proposed changes to how Sexually Violent Predators are housed and treated will be discussed in a subsequent Subcommittee hearing.)*

Perspective on State Hospital Expenditures: As noted in the table below, State Hospital expenditures vary by facility, contingent on the level of patient care needs, patient population, age of facility and design of the physical plant, and other factors.

State Hospital	2002-03 Reported Expenditures and Inpatient Days	2002-03 Daily Cost & Annual Cost
Atascadero	$146.9 million 412,700 days	$356 ($129,940)
Metropolitan	$131.9 million 278,700 days	$473 ($172,645)
Napa	$155.4 million 383,300 days	$405 ($147,825)
Patton	$165.5 million 475,600 days	$348 ($127,020)
TOTALS	**$599.7 million**	**$388 $141,620**

Summary of Overall Caseload--Primarily Penal Code: The DMH estimates a population of **4,327 patients for 2004-05 (as of June 30, 2005)** at the four State Hospitals-- Napa, Metropolitan, Patton, and Atascadero. **This patient level reflects a proposed *net* decrease of 107 patients as noted in the table below.**

Patient Type	2003-04 Revised Caseload	2004-05 Proposed Caseload	Caseload Percent By Patient Type	Difference
IST	847	815	18.8	-32
NGI	1,198	1,198	27.7	0
MDO	860	879	20.3	19
SVP	550	516	11.9	-34
Other PC	118	118	2.7	0
LPS—county	660	600	13.9	-60
PC 2684/2974	171	171	4	0
CY Authority	30	30	.7	0
Totals	**4,434**	**4,327**	**100 %**	**-107**

Of the total patient population, over 86 percent of the beds are designated for penal code-related patients and only 14 percent are to be purchased by the counties (i.e., Lanterman-Petris-Short beds), primarily Los Angeles County.

Penal Code-related patients include individuals who are classified as: (1) not guilty by reason of insanity (NGI), **(2)** incompetent to stand trial (IST), **(3)** mentally disordered offenders (MDO), **(4)** sexually violent predators (SVP), and **(5)** other miscellaneous categories as noted. **It should also be noted that based on recent patient statistics, about 62 percent of the State Hospital patients have a diagnostic category of Schizoaffective Disorder, including Paranoid Schizophrenia.**

Governor's Proposed Budget Overall: The budget proposes expenditures of **$702.4 million ($561.3 million General Fund) for the State Hospitals**, excluding state headquarters' support of $7.8 million, for a ***net* increase of about $31.6 million ($36.4 million General Fund)** over the Budget Act of 2003.

Specific issues regarding the State Hospitals and related items are discussed below.

1. Oversight Issue: Metropolitan State Hospital *(See Separate Hand Out)*

Background: Located in the City of Norwalk, Metropolitan State Hospital (MSH) **serves about 825 patients, including about 370 penal code-related patients.** It is the **only State Hospital that has a program for children (about 120-beds with a present census of about 80 children).** Adult patients are usually referred to the hospital by either the courts or County Mental Health Plans (County MHPs). Children are admitted to the hospital by County MHPs and the courts as well.

Federal Department of Justice Investigations Via the Civil Rights of Institutionalized Persons Act (CRIPA): The U.S. DOJ has recently released (both within the past year) results from **two investigations into the conditions of services provided at Metropolitan through the Adult Program and the Children's/Adolescents Program.** The investigations by the U.S. DOJ were conducted in June and July of 2002, with reports on the investigations being released in 2003.

The U.S. DOJ investigation regarding the **Children's/Adolescent Program was divided into 12 categories:** Psychiatry, Nursing, Psychology, Pharmacy, General Medical Care, Infection Control, Dental Services, Dietary, Placement, Special Education, Protection from Harm, and First Amendment and Due Process. **The investigation found *significant and wide-ranging problems* with the care and treatment of the children/adolescents, including wrong mental health diagnoses, improper medication management and not enough protection from other patients.** ***A comprehensively documented report (about 60-pages) was provided to the DMH in May 2003. Examples contained in the report include:***

- Doctors diagnosed disorders the patients did not have.
- Over medication was found to be of principal concern.
- Significant use of seclusion and restraint was identified.
- Treatment planning was insufficient.
- General medical care was found lacking.

The U.S. DOJ report for the Adult population was just recently released. **This analysis was divided into 8 categories: Integrated Treatment Planning, Assessments, Discharge Planning and Placement, Specific Treatment Services, Documentation of Patient Progress, Seclusion and Restraints, Medications, Protection from Harm, and First Amendment and Due Process. This investigation uncovered substantial deficiencies in patient assessments, treatment planning and implementation, and discharge planning.**

Similar to the previous report, the U.S. DOJ presented dozens of recommendations to remedy the deficiencies.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please describe **the primary concerns the U.S. DOJ identified for both** the Children's/Adolescent Program and the Adult Program.
- **2.** Using the Hand Out, what are the **key components the DMH has already implemented** at **Metropolitan in response to correct conditions identified in the U.S. DOJ report?**
- **3.** What key components **still need to be implemented at Metropolitan?**
- **4. Please describe the "Safety Risk Management Plan" for Metropolitan.**
- **5.** How is the **DMH involving consumers, advocates and the greater public in resolving issues at Metropolitan?**
- **6.** What are the **next steps regarding follow-up with the U.S. DOJ on Metropolitan?**
- **7. What is the DMH doing at the other State Hospitals to commence with correcting potential issues regarding care and treatment?**

Budget Issue: Does the Subcommittee want to **adopt placeholder trailer bill language to monitor and track the progress of the DMH in addressing the needs identified in the U.S. DOJ report?**

2. Forensic Conditional Release Program (CONREP) Funding Adjustments

Background: Existing statute provides for the **Conditional Release Program (CONREP)** and mandates that the **DMH be responsible for the community treatment and supervision of judicially committed patents, including Not Guilty by Reason of Insanity (NGI), and Mentally Disordered Sex Offenders (MDOs).**

CONREP, in operation since 1986, provides outpatient services to patients in the community and hospital liaison visits to patients continuing their inpatient treatment at State Hospitals who may eventually be admitted into CONREP. **CONREP services are provided throughout the state and are either county-operated *or* private/non-profit operated under contract to the DMH. The goal of CONREP is to ensure greater public protection in California communities via a system of mental health assessment, treatment, and supervision to persons placed on outpatient status.**

Funding for CONREP services is based on the number of outpatient cases and applicable State Hospital patients, and an average cost per patient for services. The Budget Act of 2003 provided a total of $15.2 million (General Fund) for about 740 patients (about $20,405 per patient).

Governor's Proposed Budget: The budget proposes an **increase of $464,000 (General Fund)** for CONREP. This request consists of **(1) an increase of $464,000 to support an increase of 22 patients at a revised cost of $21,091 per patient, (2) $105,000 to reflect the full-year cost for five additional patients who entered into the program in the current-year, and (3) $88,000 in additional costs for State Hospital liaison visits.**

The DMH states that some of these increased costs are the result of the granting of cost-of-living adjustments that were ratified in county bargaining unit contracts, costly medications and funding to meet residential needs for the increased number of patients released from the State Hospitals without resources.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. Please provide a brief description of the budget request.**
- **2. What options may be available to reduce the spiraling costs of CONREP?**

Budget Issue: Does the Subcommittee want **to adopt or modify the request to increase by $657,000 (General Fund) for CONREP?**

3. Governor's Proposed Enrollment Cap on Not Guilty by Reason of Insanity (NGI) and Incompetent to Stand Trial (IST) Patients *(See Hand Out)*

Background: State law **provides for courts to place certain mentally-ill persons in State Hospitals. The courts may determine that a defendant who has been accursed of a crime is "not guilty by reason of insanity" in cases when it finds that the defendant was insane at the time the offense was committed.** The courts may also find a person "incompetent to stand trial" when the defendant is unable to understand the nature of the criminal proceedings or assist in their own defense. Persons found by the court to be IST are not guilty of the crimes charged, but rather their criminal case is suspended until competency is regained. **In the case of either ruling, *the court* must direct the defendant to be confined in a State Hospital or a public or private treatment facility.**

According to a recent State Hospital patient census (March 10th, 2004), **there were 1,183 NGI patients** (about 27 percent) **and 883 IST patients** (about 20 percent) residing there for a total of 2,066 patients, **or almost half of the total State Hospital patients.**

Though state law enables the courts to decide placement of the defendant in either a State Hospital or a public or private treatment facility, **state mental health funding delineates the payment structure for such placements. As structured through the State-Local Realignment statutes of 1991 and 1992, the department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while judicially committed patients placed in the State Hospitals are treated solely using state funds.**

Governor's Mid-Year Reduction and Proposed Budget: As part of his Mid-Year Reduction package, the Governor proposes **to cap enrollment in the State Hospitals for patients deemed to be NGI and IST as of January 1, 2004 for proposed savings of $361,000 (General Fund) in 2003-04, and $3.7 million (General Fund) in 2004-05. This requires statutory change.**

This proposal assumes the state will cap the NGI patient population at 1,198 patients as of January 1, 2004, and that 14 NGI patients would transfer to the counties in the budget year. The IST cap would be 847 as of January 1, 2004, and it is assumed that 32 IST patients would transfer to the counties in the budget year.

The Administration assumes that these mentally ill individuals, who often have a diagnosis of Schizophrenia, will be housed in county jails and therefore, will be funded *entirely* by county funds in lieu of existing state support.

Legislative Analyst's Office Recommendation: In her Analysis, the Legislative Analyst recommends for the Legislature to **adopt the Administration's proposed caps on NGI and IST patients but to amend in a sunset date of January 2006.** The LAO views this proposed cap as an interim action pending enactment of permanent changes that would ensure that expensive State Hospital resources are prioritized for patients who are amenable to treatment.

The LAO believes this proposal has merit because some NGI and IST patients transferred to the State Hospitals by the courts have been unwilling to accept treatment, including medications. Recent court rulings have limited the state's authority to provide such medications to individuals against their will. **Therefore under these circumstances, placing these individuals in intensively staffed treatment facilties such as State Hospitals is not the best use of limited state General Fund.**

The LAO contends that to the extent the imposition of a cap on NGI and IST populations prompted some judges to more carefully consider which offenders it transferred to State Hospitals, it is possible that this change could result in the more cost-effective use of state resources.

Constituency Letters: The Subcommittee is in receipt of several letters expressing significant concern with the proposed caps. **Most of the letters note that county jails are usually an inappropriate placement for seriously mentally ill individuals, and that it would be a violation of a patients rights, as well as state law, that guarantees access to treatment for these individuals. Further, to hold someone who is not convicted of a crime as a criminal in a prison facility instead of a medical facility would seem to be unconstitutional.**

The County Mental Health Directors Association also notes that the proposal is (1) another cost shift to the counties ,and (2) is a significant shift from the agreements crafted under the State-Local Realignment statutes of 1991 and 1992**.**

Subcommittee Staff Comment and Recommendation: This proposed policy change raises several significant issues. First, these mentally ill individuals, who often have a diagnosis of Schizophrenia, would be housed in county jails which is most likely unconstitutional. Second, it is probably unlikely that the caps would withstand a court challenge regarding denial of a patient's right to appropriate and timely mental health treatment. Third, it is likely that such a proposal would be deemed to be a local mandate on counties and the state would have to reimburse for the county jail time and possibly treatment. The potential litigation ensuing from this proposal could be significant. Finally, it should be noted that the Subcommittee has rejected other Administration proposals to enact enrollment caps. **As such, it is recommended to (1) reject this proposal and (2) to direct the DMH to report back to the Subcommittee regarding options that could be used to transition individuals from the State Hospitals to the CONREP Program.**

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Please provide **a brief overview of the budget proposal.**
- **2.** Could the CONREP Program be used in some instances to transition individuals from the State Hospitals to community treatment?

Budget Issue: Does the Subcommittee **want to adopt the Administration's proposal, the LAO recommendation, the Subcommittee staff recommendation, or choose another option?**

4. Activation of Coalinga State Hospital (CSH)

Background: In 2000, the state initiated steps to construct a new 1,500-bed secure mental health treatment facility—Coalinga State Hospital (CHS)—to provide the DMH with additional capacity to treat patients involuntarily committed under the Sexually Violent Predator (SVP) law. **The DMH began construction in 2001, and construction is scheduled to be completed by May 2005. The construction project will be funded by lease-revenue bonds to be sold by no later than Fall of 2004. To date, the state has committed more than $380 million for the construction and preliminary staffing of CSH.**

Other Areas Available for A Portion of Patient Caseload: Among other actions, the Legislature provided **$6.9 million (General Fund)** in the Budget Act of 2001 **to purchase modular buildings for placement at Patton State Hospital and Atascadero State Hospital and to convert program areas into temporary patient living space to accommodate up to 500 additional patients. It should be noted that additional funding for the State Hospital system to staff the 500 additional beds has not been provided to date *because the overall State Hospital population has grown significantly less than the DMH had previously projected.***

Governor's Proposed Budget: The Governor proposes **an increase of $24.9 million (General Fund) for the continued activation of Coalinga State Hospital (CHS), including $3.2 million to support recruitment and retention costs to aid in hiring personnel and $12.2 million for operating expenses and equipment.** The proposal would add almost 165 new positions for CHS in the budget year. The budget plan also requests an augmentation of about $770,000 for about 20 additional positions to activate for the first time 147 of the 500 temporary beds at Atascadero and Patton state hospitals.

Legislative Analyst Office Recommends to Delay Until March 2006: In her Analysis, the Legislative Analyst recommends that **the Legislature delay the activation of Coalinga State Hospital until March 2006 in order to achieve a one-time savings of $20.143 million (General Fund).**

The LAO contends that the state could delay the activation of CSH and still have more than sufficient capacity to meet the projected need for secure treatment beds in 2004-05 and beyond. **In light of the DMH's own projected patient population estimates, the LAO indicates that the DMH will have a surplus of about 600 beds in 2004-05 (the budget year). Specifically, the DMH has estimated it will need to house a total of 3,776 secure patients in the State Hospitals by June 2005. However, the State Hospitals have the capacity to hold up to 4,376 patients in secured treatment settings (including 500 temporary beds at Atascadero and Patton state hospitals) in 2004-05. As such, the anticipated decline in State Hospital populations and the resulting surplus of beds suggest that a delay in the activation of CHS would be possible.**

In order to ensure that the sale of the bonds for the CHS would proceed, **the LAO is also recommending the following Budget Bill Language:**

> "Provision x. In order to address the state's fiscal problems, it is the intent of the Legislature to achieve savings in the 2004-05 fiscal year by delaying some staffing and funding for activation of Coalinga State Hospital until 2005-06. It is further the intent of the Legislature that patients occupy beds at CHS no later than March 2006."

Subcommittee Request and Questions: The Subcommittee has requested the DMH and LAO to respond to the following questions:

- **1.** DMH, Please **provide a brief summary** of the CHS proposal.
- **2.** LAO, Please **present your recommendation.**

Budget Issue: Does the Subcommittee want to **(1)** adopt the LAO recommendation, **(2)** adopt the Administration's proposal, or **(3)** craft another option?

LAST PAGE OF AGENDA

Senate Budget & Fiscal Review
Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Thursday, March 25, 2004
Upon Conclusion of Senate Floor Session
Room 4203

0559 Secretary for Labor and Workforce Development

Purpose: The Labor and Workforce Development Agency brings together the departments, boards and commissions that train, protect and provide benefits to employees and employers of California, such as unemployment insurance and workers' compensation. The roles and responsibilities of the agency are codified in Chapter 859, Statutes of 2002 (SB 1236). The Labor and Workforce Development Agency includes the Department of Industrial Relations, the Employment Development Department, the Agricultural Labor Relations Board and the Workforce Investment Board. The Agency provides policy and enforcement coordination of California's labor and employment programs and policy and budget direction for the departments and boards.

Budget: The Governor proposes $2.1 million ($0, General Fund) and 13.2 positions for the Secretary's budget.

VOTE ONLY ITEM

No issues have been raised with the Secretary's proposed budget.

Budget issue: Does the Subcommittee wish to approve the Secretary's proposed budget?

7100 Employment Development Department

Purpose: The Employment Development Department (EDD) is the primary catalyst for building and sustaining a high quality workforce. The EDD serves the people of California by matching job seekers and employers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, and assists disadvantaged and welfare-to-work job seekers by providing employment and training programs. In addition, EDD collects and provides economic, occupational, and socio-demographic labor market information concerning California's workforce.

Budget: The Governor proposes $12.62 billion ($18.8 million General Fund), a decrease of $836.7 million (6.2 percent) from the current-year budget.

VOTE ONLY ITEMS:

1. Unemployment Insurance Administration

Background: The Employment Development Department administers Unemployment Insurance benefits in California. EDD is responsible for processing of weekly claims, eligibility determinations, appeals and other administrative activities. Federal funding covers most Unemployment Insurance (UI) administration costs. Federal funding for UI administration has declined by 14 percent while workload has increased by 15.6 percent.

According to EDD projections, Unemployment Insurance workload will decrease by 3.6 percent in the current year. Workload remains 15 percent above the 2001-02 level.

Governor's Budget: The budget maintains funding for the administration of unemployment insurance at the current year level. It provides a $20.8 million augmentation from the Employment Development Department Contingent Fund to offset a reduction in available federal Reed Act funds.

Budget issue: Does the Subcommittee wish to maintain the proposed $20.8 million augmentation from the EDD Contingent Fund to offset a reduction in federal funds?

2. Unemployment Insurance Benefit Payment Control

Background: As part of its administration of Unemployment Insurance, EDD makes efforts to assure appropriate payment of benefits and fraud control. The department's benefit payment control activities include review and post-audits of eligibility determinations, benefit payments, and wage records; investigation of fraud and implementation of corrective actions; correction of benefit payment records; and detection and collection of UI benefit overpayments.

Governor's Budget: The budget maintains funding for the UI benefit payment control activities at the current year level. It provides $12.6 million from the Benefit Audit Fund to offset a reduction in available Reed Act funds.

Budget issue: Does the Subcommittee wish to maintain the proposed $12.6 million augmentation from the Benefit Audit Fund to offset a reduction in federal funds?

3. Job Services Program

Background: The Job Service Program works to facilitate the match between employers and qualified workers. It supports CalJOBS, an Internet based job search system where employers post job listings and browse resumes of job seekers; and job seekers store resumes and browse job listings. It also assists unemployed workers with job search activities.

Governor's Budget: The budget provides $16.1 million from the Employment Development Department Contingent Fund to partially offset a loss in federal Reed Act funds to the Job Service 90 Percent program. Job Service program funding will decrease by $12.9 million or 11 percent in the budget year. Absent the proposed augmentation, program funding would decline by 27 percent.

According to the Department, failure to restore the lost federal funding will lead to 360,000 fewer job listings being posted in CalJOBS; 202,000 fewer job seekers finding employment through CalJOBS; 422,000 fewer job seekers receiving employment services; and 14,000 employers not receiving services to register job listings.

DISCUSSION ITEMS:

1. Unemployment Insurance Automation Improvements

Background: Last year, the Legislature provided a $85 million augmentation in Reed Act funds to the Employment Development Department to fund automation improvements that will increase EDD's capacity to detect and control fraud. The funding will support the redesign of the unemployment insurance continued claims system, improve the service levels at the unemployment insurance call centers, and prevent and detect fraud in the unemployment insurance system.

The Continued Claims Redesign (CCR) project will provide new ways for clients to certify for benefits and improve the Department's ability to detect and prevent fraud. The system will include telephone certification, which does not allow certifications to be submitted early, incomplete or incorrect. It will provide data analysis tools to assist the department in detecting and preventing fraud and incorporate use of a Personal Identification Number (PIN), telephone and Internet certification. Lastly, the CCR project will provide software tools to improve the quality of and access to information about UI available on the department's website.

The Department of Finance approved the CCR project in October 2003. The Health and Human Services Data Center (HHSDC) will manage the project in accordance with an interagency agreement between EDD and HHSDC. The HHSDC is in the process of establishing the Project Management Office. Work has begun to obtain services of a vendor to review the project, create detailed system requirements documentation, and assist in the development of the Request for Proposal to hire the primary vendor. The Department plans to award the contract by July 2005 and to implement telephone certification by April 2006. The project will be completed by June 2008.

The Call Center Network Platform & Application Upgrade Project will improve the UI call center platform security and redesign the interactive voice response system. The project includes a redesign of the Interactive Voice Response system to expand self-service information and reduce the number of calls that require assistance from call center staff. A total of $16.4 million has been appropriated for the project. The project will replace the existing call center platform, expand EDD's ability to handle incoming calls, allow EDD to match telephone numbers with Social Security Numbers to reduce fraud and reduce on-going non-personnel services costs by $500,000 per year.

The Department of Finance approved the CCR project in October 2003. The Health and Human Services Data Center will manage the project in accordance with an interagency agreement between EDD and HHSDC. The HHSDC is in the process of establishing the Project Management Office. Work has begun to obtain services of a vendor to review the project, create detailed system requirements documentation, and assist in the development of the Request for Proposal to hire the primary vendor. The department plans to award the contract by December of 2004 and to complete implementation by November 2006.

Subcommittee request: The Subcommittee has requested that the Employment Development Department provide an update on the implementation status of the two UI automation projects funded last year, including timetable to achieve key fraud control capabilities and to completion.

2. Workforce Investment Act

Background*:* The federal Workforce Investment Act of 1998 seeks to strengthen coordination among various employment, education, and training programs, and support the delivery of employment and training services. The 63 member Workforce Investment Board (WIB) advises the Governor on the operations of the state workforce investment system; however, the board's actions are not binding on the Governor. Pursuant to federal law, 85 percent of WIA funds (an estimated $449 million in 2004-05) are allocated to local WIBs, formerly known as Private Industry Councils. The remaining 15 percent of WIA funds ($67 million) is available for discretionary purposes such as administration, statewide initiatives, current employment service programs, or competitive grants. The Governor's budget does not include an expenditure plan for the federal Workforce Investment Act (WIA) discretionary funds. In order to ensure that the WIA discretionary spending is consistent with legislative priorities, the Legislative Analyst Office (LAO)

recommends the subcommittee deny the expenditure authority for these federal funds until an expenditure plan is submitted to the Legislature. (Reduce Item 7100-001-0869 by $16.8 million.)

Budget Issue: Does the Subcommittee wish to adopt the LAO recommendation?

7350 Department of Industrial Relations

The objective of the Department of Industrial Relations is to protect the workforce in California, improve working conditions, and advance opportunities for profitable employment. The department is continually working toward this objective by enforcing workers' compensation insurance laws and adjudicating workers' compensation insurance claims, working to prevent industrial injuries and deaths, promulgating and enforcing laws relating to wages, hours, and conditions of employment, promoting apprenticeship and other on-the-job training, assisting in negotiations with parties in dispute when a work stoppage is threatened, and by analyzing and disseminating statistics which measure the condition of labor in the state.

Budget: The Governor proposes $281.9 million ($62.2 million General Fund), an increase of $2.3 million from the current-year budget.

VOTE ONLY ITEMS

1. Uninsured Employers Fund and Subsequent Injuries Fund Administration

Background: The Budget Act of 2003 and related trailer bills transferred functions and funding for administration of the Uninsured Employers Fund and the Subsequent Injuries Fund from the Department of Industrial Relations to the State Compensation Insurance Fund. The Administration has now determined that transferring the two programs to the State Compensation Insurance Fund will result in increased administration costs.

Governor's Budget: The budget proposes to reinstate 63 positions and $1.1 million in funding to continue DIR administration of the programs.

Budget issue: Does the Subcommittee wish to approve the proposed restoration of positions and funding to support DIR administration of the Uninsured Employers Fund and the Subsequent Injuries Fund?

ITEMS FOR DISCUSSION

1. LAO Option – Consolidate complaint investigations within DIR

Background: As part of the LAO's "Additional Options" list for General Fund expenditure reductions, the LAO provides an option for consolidating complaint investigations. According to the LAO, the Division of Apprenticeship Standards approves and certifies apprenticeship programs for various occupations and trades and investigates complaints related to these programs. These complaint activities could be consolidated into the department's Division of Labor Standards Enforcement (DLSE). The DLSE currently handles all other workplace complaints related to labor standards. This could result in improved investigative efficiencies. The LAO indicates that the

DLSE could work within its $36 million General Fund budget to investigate apprenticeship complaints on a priority basis.

The Administration reports that the Division of Apprenticeship Standards only spends $75,000 General Fund on complaint investigations. To realize the level of savings estimated by the LAO, the Division of would be required to make other program reductions. According to the Department, a $1.7 million General Fund reduction would force DAS to close two to three District offices, and would result in numerous staff layoffs. The remaining staff will not be able to handle the workload of monitoring and overseeing over 70,000 apprentices in California, and assisting employers in staying compliant with laws and regulations.

Subcommittee request: The Subcommittee has requested that the Legislative Analyst's Office briefly describe their option to consolidate complaint investigations for General Fund savings of $1.7 million. The Subcommittee has requested that the Administration discuss the programmatic impact of the LAO option.

2. Implementation of Workers' Compensation Reforms

Background: The Division of Workers' Compensation (DWC) is the state entity that oversees the administration of workers' compensation benefits to approximately 1.5 million Californians who are injured on the job each year. The DWC administers California's exclusive judicial system for resolution of work injury claims. The DWC is also responsible for implementation of recent workers' compensation reforms designed to reduce program costs, increase system efficiency and facilitate prompt resolution of claims. Recent reforms include activities to reduce medical care utilization and costs, development of medical and pharmaceutical fee schedules, and efforts to better manage the care of patients receiving care through workers' compensation. Completion of the required activities and implementation of reforms is critical to realize savings in the workers' compensation system.

Subcommittee request: The Subcommittee requested that the Department of Industrial Relations provide an update on the implementation status of worker's compensation reforms. The Subcommittee has requested that the Administration discuss efforts to assess the level of resources necessary to implement reforms and the process to assure necessary staffing and funding is available to implement reforms and realize workers' compensation savings.

3. Industrial Welfare Commission

Background: The five-member Industrial Welfare Commission was established in 1913 to investigate the safety and welfare of women workers and child workers in California. It was expanded in 1976 to encompass all workers. Its statutorily established duties include the investigation of labor conditions and promulgation of regulations that

promote the health and welfare of the California labor force. The Commission is also required to examine the adequacy of the minimum wage every two years.

The Commission's budget was reduced by 50 percent last year due to state budget constraints and concerns regarding the Commission's activities and its commitment to fulfill its statutorily established mission. The Commission, citing budgetary constraints, reports that it has not accepted new petitions for amendments to wage orders nor has it begun a review of the minimum wage than should have begun in November of 2003.

Governor's Budget: The budget provides $235,000 General Fund for the Commission.

Subcommittee request: The Subcommittee has requested that the Industrial Welfare Commission provide an update on its activities and the extent to which it is meeting its statutory requirements.

Budget issue: Does the Subcommittee wish to maintain the proposed funding for the Industrial Welfare Commission?

8955 Department of Veterans Affairs

The Department of Veterans Affairs has three primary objectives: (1) provide comprehensive assistance to veterans and dependents of veterans in obtaining benefits and rights to which they may be entitled under state and federal laws; (2) afford California veterans the opportunity of becoming homeowners through the medium of loans available to them under the Cal-Vet farm and home loan program; and (3) provide support for California veterans homes where eligible veterans may live in a retirement community and where nursing care and hospitalization are provided. The department operates veterans' homes in Yountville (Napa County), Barstow (San Bernardino County), and Chula Vista (San Diego County). The homes provide medical care, rehabilitation, and residential home services.

Budget: The Governor proposes total expenditures of $293.7 million ($61.2 million General Fund), a decrease of $10.4 million from the current-year budget.

VOTE ONLY ITEMS

1. Alcohol Dependency Treatment Program

Background: California's Veterans Home in Yountville operates a licensed residential substance abuse treatment program. The program is staffed by 6 employees and has a budget of $450,000. According to the Department, the residential program has limited utilization. It serves an average of one patient per day. Alternatives to the program include outpatient programs, community based programs and inpatient or residential treatment programs available at other facilities.

Governor's Budget: The budget proposes to eliminate the treatment program for savings of $450,000 and a reduction of 6 positions.

Budget issue: Does the Subcommittee wish to adopt the proposed reduction?

2. Security Contract - Chula Vista

Background: The Governor's Budget proposes to reduce the current security contract for the Veterans Home in Chula Vista from two officers to one officer per shift for savings of $224,000. The contract change is contingent on a minor change to the facility/campus.

Budget issue: Does the Subcommittee wish to approve the proposed reduction?

3. Consolidation of Veterans Home Distributed Administration

Background: Currently funding and positions for various Department of Veterans Affairs and Veterans Homes administrative activities are approved as part of the budget for individual homes. Positions that have been with the Department since the mid-1990's to

perform budgeting, fiscal oversight and other administrative activities are funded from individual homes. The Governor's Budget proposes to shift 41 positions and $3.4 million in funding from individual homes to the department for administrative activities.

Budget issue: Does the Subcommittee wish to approve the proposed funding and position shift from individual homes to the Department of Veterans Affairs?

ITEMS FOR DISCUSSION

1. Quality Assurance Oversight

Background: The Governor's Budget proposes to redirect 6.0 positions and $670,000 from individual Veterans Homes to the Department of Veterans Affairs for program oversight and quality assurance activities. Specifically, the Department intends to create a state organization of medical, clinical and administrative experts to improve quality of care, assure regulatory compliance and secure maximum reimbursement collection at the homes. The budget proposes to shift to the Department two license vocational nurses, a chief of medicine and an executive secretary from Yountville, a supervising registered nurse from Chula Vista and a pharmacist from Barstow. According to the Department, all the positions to be shifted are currently vacant.

Budget issue: Does the Subcommittee wish to approve the proposed funding and position redirect from individual homes to the Department of Veterans Affairs?

2. Contract for Food Services and Security Functions

Background: The Governor's Budget proposes a $569,000 reduction in General Fund support and the elimination of 120 positions currently providing food and security services at the Yountville home. The budget proposes to contract with a private entity for these services and assumes that contracting out would save 8 percent of current costs.

Both the Barstow and Chula Vista homes contract out for these types of services. Unlike Yountville, they began using private contracts upon their opening. According to the LAO, under current law the department would face a number of hurdles to contract out for these services at the Yountville home, as contracting would displace state workers. The department's savings projection depends on beginning to lay off staff in July 2004. The constitutional amendment proposed by the Governor to facilitate contracting for services provided by state workers will not be considered by the voters until the November 2004 ballot at the earliest. Consequently, the savings projection for the budget year is overstated.

Subcommittee request: The Subcommittee has requested that the Administration describe the proposal and that the LAO comment on their analysis. The Subcommittee has also requested that the Administration comment on the programmatic impact of reducing funding for the Department and the Veterans Homes by $569,000.

3. Morale, Welfare and Recreation Fund

Background: Senate Bill 281 (Chesbro), Chapter 902, Statutes of 1999 established the Morale, Welfare and Recreation Fund to consolidate profits from various Veterans Home operations, revenue derived from the issuance of prisoner-of-war special license plates, donations and funds derived from the estates of deceased members. Moneys from the fund are used at the discretion of the Veterans Home administrator to provide for the general welfare and recreation of veterans, not to cover program costs or medical care costs. Since 1999, the Fund balance of the Morale, Welfare and Recreation Fund has risen to $4.5 million. Revenues have outpaced expenditures by an average of $1 million per year.

Governor's Budget: The Governor's Budget proposes legislation to require that funds derived from the estates of deceased members be used as reimbursement to the Veterans Home General Fund appropriation for savings of $1.35 million in the budget year. The budget would permit use of the continued expenditure of the Morale, Welfare and Recreation Fund balance for the general welfare and recreation of veterans.

Subcommittee request: The Subcommittee has requested that the Administration describe the budget proposal and its impact on funding available for activities that support the general welfare and recreation of veterans.

Budget issue: Does the Subcommittee wish to adopt the proposed legislation to require that funds derived from the estates of deceased veterans be used to as a reimbursement for Veterans Home costs?

Danny Alvarez/ Ana Matosantos **445-5202 (w)**
Senate Budget & Fiscal Review 3/24/04

OUTCOMES for Subcommittee No. 3: March 25, 2004
(Please reference the Subcommittee Agenda in tandem with these outcomes.)

A. 0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY page 2
Issue: budget proposes $2.1 million ($0 General Fund) and 13.2 positions for the Secretary.

Action: Approved as budgeted
Vote: 4 - 1 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz; *No*:McClintock)

B. 7100 EMPLOYMENT DEVELOPMENT DEPARTMENT page 3
1. Unemployment Insurance Administration page 3
Issue: budget provides a $20.8 million augmentation from the EDD Contingent Fund to offset a reduction in federal funds and maintain current level of funding for UI administration.

Action: Approved as budgeted
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No:* McClintock and McPherson)

2. Unemployment Insurance Benefit Payment Control page 3
Issue: budget provides $12.6 million from the Benefit Audit Fund to offset a reduction in federal funds and maintain funding for UI benefit payment control activities at the current level.

Action: Approved as budgeted.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No:* McClintock and McPherson)

3. Job Services Program page 4
Issue: budget provides $16.1 million from the Employment Development Department Contingent Fund to partially offset a loss in federal Act funds to the Job Service program.

Action: Approved as budgeted.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No:* McClintock and McPherson)

DISCUSSION ITEMS:
1. Unemployment Insurance Automation Improvements page 4
Issue: Last year, the Legislature provided a $85 million augmentation in Reed Act dollars to fund automation improvements that will increase EDD's capacity to detect and control fraud.

Action: Informational item. No action taken.

2. Workforce Investment Act page 5
Issue: budget does not provide an expenditure plan for the federal WIA discretionary funds. LAO recommends denial of expenditure authority until a plan is submitted to the Legislature.

Action: Adopted the LAO recommendation. Directed LAO to work with Subcommittee staff and Administration to consider the feasibility of funding the Conservation Corps with WIA funds.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

C. 7350 DEPARTMENT OF INDUSTRIAL RELATIONS page 7

VOTE ONLY ITEMS

1. Uninsured Employers Fund and Subsequent Injuries Fund Administration page 7
Issue: budget reinstates 63 positions and $1.1 million in funding to continue DIR administration of the Uninsured Employers Fund and the Subsequent Injuries Fund.

Action: Kept issue open.

ITEMS FOR DISCUSSION

1. LAO Option – Consolidate complaint investigations within DIR page 7
Issue: LAO provides an option for consolidating complaint investigations within the Division of Labor Standards Enforcement for savings of $1.7 million.

Action: No action at this time on the LAO recommendation.

2. Implementation of Workers' Compensation Reforms page 8
Issue: Subcommittee requested that the DIR provide an update on the implementation status of worker's compensation reforms and discuss efforts to assure necessary staffing and funding is available to implement reforms and realize workers' compensation savings.

Action: Requested that DIR work with DOF and legislative staff to develop a reform implementation plan, including a timetable and the necessary staff and resources, including clerical staff, judges and analysts, to implement reforms in a timely manner.

3. Industrial Welfare Commission page 8
Issue: budget provides $235,000 General Fund for the Commission.

Action: Eliminated funding for the Commission. Directed Subcommittee staff to work with the Administration and the LAO to assess potential workload outside the Commission's control such as work associated with litigation, and to develop options to address this workload.

D. 8955 DEPARTMENT OF VETERANS AFFAIRS

VOTE ONLY ITEMS

1. Alcohol Dependency Treatment Program page10
Issue: budget proposes to eliminate the substance abuse residential treatment program at Yountville for savings of $450,000 and a reduction of 6 positions.

Action: Approved as budgeted.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

2. Security Contract - Chula Vista **page10**

Issue: budget proposes to reduce the current security contract for the Veterans Home in Chula Vista from two officers to one officer per shift for savings of $224,000.

Action: Approved as budgeted.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

3. Consolidation of Veterans Home Distributed Administration **page10**

Issue: budget proposes to shift 41 positions and $3.4 million in funding from individual homes to the department for administrative activities.

Action: Kept the issue open pending development of an administration plan by the Department and justification of why the positions are needed at headquarters.

ITEMS FOR DISCUSSION

1. Quality Assurance Oversight **page10**

Issue: budget proposes to redirect 6.0 positions and $670,000 from individual Veterans Homes to the Department of Veterans Affairs for program oversight and quality assurance activities.

Action: Kept the issue open pending development of an administration plan by the Department and justification of why the positions are needed at headquarters.

2. Contract for Food Services and Security Functions **page11**

Issue: budget proposes a $569,000 reduction in General Fund support and the elimination of 120 positions currently providing food and security services at the Yountville home.

Action: Kept issue open.

3. Morale, Welfare and Recreation Fund **page12**

Issue: budget proposes legislation to require that funds derived from the estates of deceased members be used as reimbursement to the Veterans Home General Fund appropriation for savings of $1.35 million in the budget year.

Action: Rejected the Administration's proposal. Adopt placeholder trailer bill language to require councils to develop an expenditure plan for the funds. Directed staff to consider alternative reductions to realize the $1.35 million in General Fund savings assumed in the budget.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No:* McClintock and McPherson)

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

April 12th, 2004
1:30 PM
Room 4203

(Diane Van Maren, Principal Consultant)

Item	*Description*
4260	**Department of Health Services, Medi-Cal Program issues as follows:**

- Status of Past Year Cost Containment Items
- Administration's Medi-Cal Redesign Proposal
- Managed Care Expansion
- County Organized Health Care Systems
- Quality Assurance Fee for Managed Care
- Graduate Medical Education Funding
- Medi-Cal Anti-Fraud Proposals (various)
- Other issues as noted in agenda

PLEASE NOTE: **Only those items contained in this agenda will be discussed in the hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise determined by the Chair.**

Issues pertaining to the DHS will be reviewed again at the Subcommittee's May 3rd and May 10th "OPEN" issues hearings, and again at the time of the Governor's May Revision. ***Please see the Senate File for dates and times of subsequent hearings***.

Testimony will be limited due to the volume of issues. Please be direct and brief in your oral comments so that others may have the opportunity to testify. Written testimony is also welcomed. Thank you for your consideration.

Item 4260--Department of Health Services, Medi-Cal Program *(Selected Issues)*

A. Background Summary of the Medi-Cal Program

Purpose: The federal Medicaid Program (called Medi-Cal in California) provides medical benefits to low-income individuals who have no medical insurance or inadequate medical insurance. **It is at least three programs in one: (1) a source of traditional health insurance coverage for poor children and some of their parents, (2) a payer for a complex set of acute and long-term care services for the frail elderly and people with developmental disabilities and mental illness, and (3) a wrap-around coverage for low-income Medicare recipients.**

Who is Eligible and Summary of Medi-Cal Enrollment: Generally, Medi-Cal eligibles fall into **four categories of low-income people as follows: (1) aged, blind or disabled; (2) low-income families with children; (3) children only; and (4) pregnant women.** Men and women who are not elderly and do not have children or a disability ***cannot*** qualify for Medi-Cal no matter how low-income they are. **According to the DOF, Medi-Cal provides health insurance coverage to about 17 percent of Californians.**

Generally, Medi-Cal eligibility is based upon family relationship, family income level, asset limits, age, citizenship and California residency status. Other eligibility factors can include medical condition (such as pregnancy or medical emergency), share-of-cost payments (i.e., spending down to eligibility), and related factors that are germane to a particular eligibility category. States are required to include certain types of individuals or eligibility groups under their Medicaid state plans and they may include others—at the state's option.

Medi-Cal caseload is **anticipated to increase by about 220,000 in the budget year for a total of about 6.8 million average monthly eligibles. Of the total Medi-Cal eligibles about 45 percent, or 2.8 million people, are categorically-linked to Medi-Cal through enrollment in public cash grant assistance programs (i.e., SSI/SSP or CalWORKs).**

LAO Table
Major Medi-Cal Eligibility Categories
2003-04

	Maximum Monthly Income or Grant	Asset Limit Imposed?	Spend Down Allowed?	Enrollees (Thousands)	Annual Benefit Costs Per Person
Aged, Blind, or Disabled Persons					
Welfare (SSI/SSP)	$1,419	Yes		1301	$7,938
Medically needy	$9,54	Yes	Yes	247	$7,355
133 percent of poverty equivalent	$1,419	Yes	Yes		
Medically needy-long-term care	Special limits	Yes	Yes	64	
Families					
Welfare (CalWORKS)	$1,150	Yes		1479	$1,459
Section 1931(b)-only	$1,624	Yes		2605	$1,531
Medically needy	$1,190	Yes	Yes		
Children and Pregnant Women					
200 percent of poverty—pregnancy service and infants	$3,157			203	$3,488
133 percent of poverty—ages 1 through 5	$2,130			117	$1,260
100 percent of poverty—ages 6 through 18	$1,624			111	$1,005
Medically indigent—ages 6 through 18	$1,190	Yes	Yes	221	$1,329
Medically indigent adults—all services	$1,190	Yes	Yes	6	$12,001
Emergency Medical Services Only				822	$1,231

Background Summary (continued)

Summary of Overall Funding: The Governor proposes total expenditures of $31.2 billion ($11.6 billion General Fund) which reflects a General Fund increase of $1.6 billion, or 16.2 percent above the Budget Act of 2003. **The General Fund increase primarily reflects the costs of using one-time savings in 2003-04 from the accrual-to-cash accounting change, and the discontinuation of the enhanced federal financial participation provided in the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (**$655.4 million in General Fund required to backfill for federal funding loss)**.**

The budget proposes expenditures for 2003-04 (current year) and 2004-05 (budget year) are as follows:

(Figures Rounded) 2004-05 (Budget Year)	**Total Funds** (Dollars in thousands)	**General Fund** (Dollars in thousands)	**Federal Funds** (Dollars in thousands)	**Other Funds** (Dollars in thousand)s
Medical Care Services	$28,600,000	**$10,825,000**	$15,967,000	$1,807,000
County Administration	2,262,000	**630,500**	1,632,000	
Fiscal Intermediary	354,000	**113,000**	240,000	370
TOTAL	**$31,216,000**	**$11,569,000**	**$17,839,000**	**$1,808,000**
2003-04 (Current Year)				
Medical Care Services	$26,861,000	**$9,082,000**	$15,683,000	$2,095,500
County Administration	2,056,500	**592,000**	1,465,000	118
Fiscal Intermediary	297,000	**91,000**	205,000	424
TOTAL	**$29,214,500**	**$9,765,000**	**$17,353,000**	**$2,096,000**

As noted in the table below, the average cost per eligible for the aged, blind and disabled caseload (including long-term care) is much higher than the average cost per eligible for families and children on Medi-Cal. **As noted by the LAO, almost two-thirds of Medi-Cal spending is for the elderly and disabled, although they account for only about one-fourth of the total Medi-Cal caseload.**

DHS Table Medi-Cal Expenditures by Eligible Category	**Total Funds**	**General Fund**
2004-05 (Budget Year)		
Aged, Blind & Disabled	$16.892 billion	$8.446 billion
Families and Children	$5.838 billion	$2.919 billion
2003-04 (Current Year)		
Aged, Blind & Disabled	$17,097 billion	$8.548 billion
Families and Children	$5.742 billion	$2.871 billion

B. Discussion Items: Medi-Cal Program

1. Status of Cost Containment Actions From Prior Budgets

Background and Subcommittee Staff Comment: The state has an ongoing structural budget problem. The **Legislature has taken action to implement a variety of cost containment measures within the Medi-Cal Program over the past two years (i.e., the Budget Act of 2002 and the Budget Act of 2003) to assist in mitigating expenditures. These actions have required considerable deliberation and have been difficult choices to make.** The intent of most of these actions has been to reduce General Fund expenditures but maintain crucial health care services to those most in need—our children, frail elderly, individuals with developmental disabilities, individuals with severe mental illness, and low-income families who need access to health care.

Actions taken through the budget usually require a complex series of implementing steps, such as hiring and training staff to conduct audits, contracting with a manufacturer to purchase less costly medical products, and analyzing complex data to discern the best approaches to medical utilization controls and payment controls. **If implementation does not proceed efficiently and effectively, General Fund savings goals are not achieved and other actions, which can be more problematic to individuals in need, become necessary to fill the void and to balance a budget.**

Upon review of the Medi-Cal estimate over the past two years, it is evident that implementation of budget cost-containment actions has not been achieving anticipated savings amounts. Tens of millions of General Fund have been lost due to delayed implementation, unfilled positions, and missed opportunities to effectively deployment resources on projects. Here are some examples:

- ***Implement durable medical equipment contracting and laboratory contracting:*** In the Budget Act of 2002, the DHS was given positions to proceed with contracting in this area. It was assumed that implementation would begin as of July 2002 and that savings of $3.3 million General Fund would be achieved (this assumed savings would begin in the fourth quarter). No savings occurred. In the Budget Act of 2003, it was anticipated that contracting would begin as of July 2003 and that this action would achieve $14.3 million in General Fund savings. As of the Governor's January revised budget for 2003-04 (current year), an implementation date of April 2004 is now assumed with estimated savings of $916,450 (General Fund). For 2004-05, it is anticipated that $13.4 million General Fund will be obtained. **As such due to delays in implementation, the state lost about $13 million in General Fund savings in the current year.**
- ***Series of items regarding management of Medi-Cal drug expenditures.*** In the Budget Act of 2003 a series of actions were taken—implement a "step drug therapy" program, conduct more therapeutic drug category reviews on selected drugs, and collect on "aged" drug rebates. In total, these actions were to save about $16.4 million (General Fund) in 2003-04. However, all of these have been delay for many months and the current-year savings level is now slated to only be $3.4 million General Fund. The delays in implementing the step drug

therapy program and conducting more therapeutic drug category reviews is particularly disconcerting because implementation of these actions build in savings in future years and also would serve to potentially boost savings in the generic drug contracting area.

A related issue is generic drug contracting. In the Budget Act of 2002, implementation of generic drug contracting was to commence as of July 2002 and save $26.7 million General Fund. This was subsequently revised in the Governor's January 2002-03 revised budget to commence as of January 2003. It is now slated to commence as of January 1, 2004 for half-year savings of $13.4 million General Fund in 2003-04 and full year savings of $26.7 million (General Fund) in 2004-05.

- ***Implementation of a new methodology for payments to providers for anti-hemophilic blood factor product.*** In the Budget Act of 2003, this action was adopted for anticipated savings of $1.2 million General Fund for 2003-04. However, the Governor's January 2003-04 revised current-year budget reflects no savings because implementation has been delayed until October 2004 due to "system changes".

In some cases where estimated savings did not materialize, the DHS noted in their Medi-Cal estimate package that: "This savings estimate has been reduced due to late budget passage, the elimination of vacant positions, and the requirement that the department develop and receive approval on a reduction plan pursuant to Section 4.10 of the Budget Act of 2003." In addition, the Governor's hiring freeze and need to obtain "freeze exemptions" from the DOF in order to hire positions to commence with some work also was referenced.

It is recognized that a budget is an estimate, and estimates are revised as more accurate and timely data is gathered and analyzed. However, it is a different matter if an estimate is revised downward due to delays in effective implementation.

Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. How does the DHS establish priorities with limited resources? Can't staff be temporarily re-assigned when feasible to address policy changes that achieve cost containment?**
- **2. What steps can be taken to streamline implementation and effectuate timely policy changes?**

Budget Issue: What assurances can be provided by the DHS that anticipated savings will materialize through the implementation of budget actions designed to achieve cost containment?

2. Medi-Cal Redesign Proposal—Seeking Broad Authority for Waiver

Background: The **Governor proposes to seek a federal 1115 Research and Demonstration Waiver to completely restructure the existing Medi-Cal Program.** Several states, most notably Oregon and Utah, have recently obtained this form of federal waiver**. However, each state's waiver is highly unique because 1115 Waivers are research and demonstration efforts designed to provide states with broad authority and flexibility to test new ideas that warrant policy merit**. By definition, all federal waivers must be cost-beneficial (i.e., not result in higher expenditures) over the period of the waiver—usually five years—and then must be renewed with the federal government. All waivers must contain an evaluation component that addresses both policy and fiscal issues.

The Governor's proposed Waiver is presently a framework. The types of changes under consideration by the Administration represent fundamental changes to Medi-Cal and the most significant changes since the Medi-Cal commenced in 1966. The Governor's proposed Waiver *may* include all or any of the following components:

- Simplification by aligning Medi-Cal's eligibility standards and processes with CalWORKs and the SSI/SSP program;
- Development of a multi-tiered benefit/premium structure that provides comprehensive benefits to federally mandated populations and basic benefits to optional eligibles, with more comprehensive benefits available to those willing to pay premiums;
- Requiring co-payments for various services;
- Conform the basic Medi-Cal benefits package to that of private health plans, including making changes to mental health benefits provided under the EPSDT Program for children; and
- Expand Medi-Cal Managed Care to additional counties, review and reform managed care reimbursement policies and encourage the enrollment of the aged, blind and disabled into managed care.

No savings for 2004-05 are identified since only a framework of ideas is proposed at this time. However the Administration assumes savings of $800 million ($400 million General Fund) for 2005-06. No details on this cost calculation are available. The Administration states that this is a "place-holder" figure but that maximizing cost containment is a principal goal of the proposal.

California's Existing Federal Waivers are Extensive: California **presently has twenty federal Medicaid (Medi-Cal) waivers.** Most of these waivers are for uniquely defined populations and services, or provide services using different service delivery models. **These waivers enable the state to save money for services that would otherwise be delivered using a more expensive mechanism. Several of California's *key* waivers include the following:**

- **Family PACT.** This waiver provides pregnancy prevention services, including contraceptives, and sexually transmitted disease preventive services and education. Serves about 1.5 million women and men annually.

- **Los Angeles County.** This waiver allows Los Angeles County to restructure its public health delivery system and increase delivery of outpatient and preventative health care services.
- **County Organized Health Care Systems (COHS).** California has five COHS, including the Health Plan of San Mateo, Partnership Health Plan of California, Santa Barbara Health Initiative, Central Coast Alliance for Health, and Cal OPTIMA. Waivers—primarily to waive an individuals freedom of choice to select a provider—are used to operate each of these under Medi-Cal.
- **Selective Provider Contracting Program.** This waiver enables the state to selective contract with certain hospitals to provide inpatient Medi-Cal services to recipients. It is one of the state's longest operating waivers and has saved the state well over a billion dollars over the past dozen years or so.
- **Specialty Mental Health (Mental Health Managed Care).** This waiver enables the state to contract with County Mental Health Plans (County MHPs) to provide mental health services for enrollees with specified diagnoses requiring treatment by licensed mental health professionals. It is through this waiver that the counties operate and manage the state's Medi-Cal Mental Health Managed Care system.
- **Home & Community-Based Waiver for Individuals with Developmental Disabilities.** This waiver enables the state to provide home and community-based services to individuals with developmental disabilities who are Regional Center clients and reside in the community as an alternative to care provided in an Intermediate Care Facility for the Developmentally Disabled (ICF-DD). About 60,000 individuals are currently enrolled with this number increasing to 70,000 by the end of 2006.
- **Multipurpose Senior Services Program (MSSP).** This waiver provides home and community-based services to Medi-Cal recipients who are 65 years or over and are medically needy. This waiver enables these individuals to live in their home versus living in a nursing care facility.

Each of California's existing waivers, particularly those noted above, required considerable forethought, expert planning and analysis, communication with constituency groups, capacity building with providers, interaction with the Legislature and federal government, and carefully crafted implementation strategies to ensure the continuity of patient care. Most of these waivers required considerable time and concentrated work to phase-in—usually over a period of multiple years.

Status Update on Administration's Proposal and Stated Time Line: The Administration, in conjunction with assistance from the California HealthCare Foundation and The California Endowment, has been convening a series of workgroup meetings. **There are five workgroups which will meet a total of four times between march and April to discuss issues and offer comments. The five workgroups include the following:**

- Benefit Design and Cost Sharing;
- Program Eligibility and Simplification;
- Organized Service Delivery, including Managed Care;

- Aging and Disability Issues; and
- Financing

The CA Health and Human Services Agency states that it is also anticipated the workgroups will meet at least two additional times during the 1115 Waiver development phase (June through October 2004).

The Administration's proposed time table is as follows:

- Mid-March 2004—Start stakeholders meetings and continue throughout the process.
- May 2004—Waiver concept paper submitted to the Legislature.
- July 2004—Obtain budget trailer bill legislation to implement.
- October 2004—Submit waiver to federal Centers for Medicare and Medicaid (CMS).
- December 2004—CMS approval obtained.
- December 2004-June 2005—County and state system changes.
- July 2005 through June 2006—Phased in waiver implementation.

Governor's Proposed Budget: The budget proposes **an increase of $6 million ($2.2 million General Fund) within the DHS item in 2004-05 to (1)** hire 15 new state staff, **(2)** contract with a Mr. Charles Miller to assist the DHS in securing federal Waiver approval (a sole source contract?) at $250,000 ($125,000 General Funds), **(3)** contract with EDS and Delta Dental for staff support at $1.5 million (total funds), and **(4)** contract with EDS at $2.8 million ($700,000 General Fund) for fiscal intermediary-related computer system changes.

Subcommittee Staff Comment: The time table proposed by the Administration is very aggressive particularly given the complexities of modifying an entire program that services 6.8 million recipients, has a statewide network of thousands of various health care providers, and serves a diverse, medically-needy population. **Further, it is unknown at this time how many of the state's existing waivers will be incorporated into this very encompassing waiver.**

As specifics come forth from the Administration it will be imperative for the Legislature to thoroughly discuss the policy merits of the proposal and its short-term and long-term implications for providing health care to medically needy individuals. Further, the Legislature will need to maintain legislative authority over the program in order to preserve the integrity of the overall program and the services provided under it.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please describe the work group process and the proposed Waiver concept.**
- **2. Is the DHS proposing to consolidate some of state's existing Waivers into this proposed 1115 Waiver?**
- **3. Please describe the potential options affecting eligibility and benefits.**
- **4. Please provide an update on the proposed timeframes.**

Budget Issue: Does the Subcommittee want to **hold this issue OPEN pending further discussions with the work groups and receipt of the May Revision?**

3. Potential Expansion of Medi-Cal Managed Care

Background--Overall: The DHS **is the largest purchaser of managed health care services in California with over 3.2 million enrollees in contracting health plans.** The state's Managed Care Program now covers **22 counties through three types of contract models--Two-Plan Managed Care, Geographic Managed Care, and the County Organized Health Systems (COHS). The state has federal approval to operation the Medi-Cal Managed Care Program under State Medicaid Plan authority.**

For people with disabilities, enrollment is *mandatory* in the County Organized Health Systems, and *voluntary* in the Two Plan model and Geographic Managed Care model. About 161,000 individuals with disabilities are enrolled in a Medi-Cal managed care (2002 figure) plan.

In addition, **certain services are "carved-out"** of the Two Plan model and the Geographic Managed Care model, as well as some of the COHS's. **Most notably, the California Children's Services Program is "carved out", except for in selected counties which operate under the COHS model.**

Background--Two Plan Model (in 12 Counties): The Two Plan model was designed in the late 1990's. **The basic premise of this model is that CalWORKS recipients (women and children) are automatically enrolled (mandatory enrollment) in either a public health plan (i.e., Local Initiative) or a commercial HMO. Other Medi-Cal members, such as aged, blind and disabled, other children and families, can voluntarily enroll if they so choose. About 74 percent of all Medi-Cal managed care enrollees in the state are enrolled in this model.**

Plan Name	County	June 2003 Enrollment
Alameda Alliance for Health (LI)	Alameda	73,840
Blue Cross of California	Alameda, Contra Costa, Fresno, Kern, San Francisco, San Joaquin, Santa Clara, Stanislaus, Tulare	360,760
Contra Costa Health Plan (LI)	Contra Costa	41,909
Health Net	Fresno, Los Angeles, Tulare	579,588
Kern Health Systems (LI)	Kern	69,432
La Care Health Plan (LI)	Los Angeles	824,271
Inland Empire Health Plan (LI)	Riverside, San Bernardino	232,318
Molina Healthcare of California	Riverside, San Bernardino	91,702
San Francisco Health Plan (LI)	San Francisco	28,796
Health Plan of San Joaquin (LI)	San Joaquin	56,046
Santa Clara Family Health Plan (LI)	Santa Clara	66,812
Two Plan Model Total		**2,425,474**

Background—Geographic Managed Care (in Two Counties): The Geographic Managed Care model was first implemented in Sacramento in 1994 and then in San Diego County in 1998. In this model, enrollees can select from multiple HMOs. The commercial HMOs negotiate capitation rates directly with the state based on the geographic area they plan to cover. Only CalWORKS recipients are required to enroll in the plans. All other Medi-Cal recipients may enroll on a voluntary basis. Sacramento and San Diego counties contract with nine health plans that serve about 10.6 percent of all Medi-Cal managed care enrollees in California.

Plan Name	County	June 2003 Enrollment
Blue Cross of California	Sacramento and San Diego	92,173
Community Health Group	San Diego	66,086
Health Net	Sacramento and San Diego	39,558
Kaiser Foundation Health Plan	Sacramento and San Diego	29,049
Molina Healthcare of California	Sacramento	20,208
Sharp Health Plan	San Diego	50,238
Universal Care	San Diego	12,810
UC San Diego Healthcare	San Diego	13,344
Western Health Advantage	Sacramento	15,713
TOTAL		**339,179**

Background—County Organized Health Systems (Eight Counties): **Under this model, a county arranges for the provision of medical services, utilization control, and claims administration for *all* Medi-Cal recipients. Since COHS serve all Medi-Cal recipients, including higher cost aged, blind and disabled individuals, COHS receive higher capitation rates on average than health plans under the other Medi-Cal managed care system models (i.e., Two Plan Model and the Geographic model).**

It should be noted that the capitation rates for COHS are confidential since the California Medical Assistance Commission (CMAC) negotiates contracts with each county plan and there is only one plan for all Medi-Cal recipients in said county. **Only those individuals on the CMAC, including the DOF and DHS, know the capitation rates.**

As noted in the chart below, **about 540,000 Medi-Cal recipients** receive care from these plans. This accounts for about 16 percent of Medi-Cal managed care enrollees and about nine percent of all Medi-Cal enrollees. **It should be noted that federal law mandates that only 10 percent of all Medi-Cal enrollees can participate in the COHS model. As such, the state is close to meeting this enrollment limit.**

Plan Name	County	June 2003 Enrollment
CalOptima	Orange	281,839
Central Coast Alliance for Health	Monterey, Santa Cruz	84,363
Partnership Health Plan	Napa, Solano, Yolo	77,704
Health Plan of San Mateo	San Mateo	45,742
Santa Barbara Regional Health Authority	Santa Barbara	50,276
TOTAL		**539,924**

Background—DHS Tracking of Managed Care Contracts: The DHS Medical Review Branch conducts periodic medical reviews of health plans contracted with the DHS. The reviews are designed to assess compliance with the terms of the contract, assist with monitoring overall compliance, and identify areas of deficiency. The essence of the review is to determine whether the plan has the capacity, organization, and structure to fulfill its obligation to both the state and Medi-Cal enrollees.

The DHS Audits and Investigations (A & I) Division reviews contract compliance in the areas of utilization management, continuity of care, availability and accessibility, members' rights, and administrative and organizational capacity. Beginning in 2002, contract compliance in the area of quality management was incorporated into the audit program. The A & I Division also coordinates audits with the Department of Managed Health Care (DMHC) to perform joint reviews where applicable. A & I reviews the plans (about 40) on a tri-annual basis.

Background—DHS Use of HEDIS Data for Quality Improvement: Health Employer Data Information System (HEDIS) measures are used by the DHS to form the basis of their "external accountability set"—a set of standardized performance measures selected by the DHS that focus on services provided to children and women of child-bearing age. The DHS states that plan-specific and systemic-level results are compared to Medicaid rates in other states, national benchmarks, and rates for commercial populations. This information is not only used to establish standards for minimum performance, but more importantly, to identify priorities for quality improvement. Specifically, the DHS notes that this data is currently being used to focus on adolescent health care improvement and will also be used to address issues regarding asthma care, diabetes care, and early child development services in Medi-Cal Managed Care.

Background—DHS External Quality Review Organization (EQRO): As required by federal law, the DHS must have independent reviews done of the Managed Care Program. The DHS has contracted with Delmarva Foundation for Medical Care to be the state's EQRO contractor (as of December 2003). According to the DHS, this contractor has completed 10 of 22 Health Employer Data Information Set (HEDIS) compliance audits and has initiated other required CAHPS surveys (for adults and children) for all 22 plans. The DHS also states that this contractor has provided consultation on design of other statewide quality improvement indicators.

Background--DHS to Start "Rewarding" Managed Care Plans: The DHS has partnered with the California Healthcare Foundation to conduct a research project intended to provide options and recommendations **to incorporate a "rewarding results" methodology based on a plan performance into the department's "default" assignment methodology (when a Medi-Cal recipient does not choose a health care plan within a specified timeframe, they are placed into one). The DHS states that the objective of this project is to create a new assignment methodology that will reward Medi-Cal managed care health plans that perform at a higher level relative to their competitors in Two Plan model and Geographic Managed Care counties.**

Quality measures being considered include Health Employer Information Data Set (HEDIS) data, a requirement that each plan undertake an annual process of setting improvement goals and

improving quality through a process referred to as "internal quality improvement projects" and a measure associated with the submission of encounter data.

An advisory workgroup consisting of representatives from the Local Initiatives, commercial health plans, safety net providers, consumer organizations and DHS staff has been convening to discuss and develop this process.

Governor's Proposed Budget: The DHS proposes **to expand enrollment in Medi-Cal Managed Care for parents and children in an additional 14 counties that current operate under the Medi-Cal fee-for-service system. Based on DHS estimates, this expansion would transition about 414,000 Medi-Cal recipients into managed care.**

The potential geographic areas **include the following 20 counties:**

• Butte	El Dorado	Humboldt	Imperial	Kings
• Lake	Madera	Mendocino	Merced	Nevada
• Placer	San Benito	San Luis Obispo	Shasta	Siskiyou
• Sonoma	Sutter	Tehema	Ventura	Yuba

The DHS notes that most of these 20 counties have service areas that have never had managed care in their counties, and that providers and hospitals may be reluctant to participate. As such, a "county cluster" approach may be used whereby three to five counties (or more) would be clustered in an effort to ensure fiscal viability for the contracting health plan.

The budget requests to increase DHS staff by five positions to implement this expansion at a cost of $400,000 ($200,000 General Fund), as well as $250,000 ($126,000 General Fund) in additional funding for a state contractor that enrolls Medi-Cal recipients in managed care plans (i.e., Health Plans Option contractor).

No local assistance savings are assumed for 2004-05 due to the time needed to develop a plan as discussed further below. However, the DHS assumes savings of $16 million ($8 million General Fund) for 2005-06 as implementation is phased-in. Annual savings of $33 million ($16.5 million General Fund) are anticipated in 2006-07.

The proposed savings are based on the assumption that the state will pay capitation rates to health plans that are equivalent to 95 percent of the Medi-Cal fee-for-service rate.

This geographic expansion would require federal approval of the state's plan (i.e., State Plan Amendment required), the execution of contracts with additional managed care health plans, and changes to existing enrollment efforts. No federal waiver would be required for a geographic expansion

The DHS states that geographic expansions could include amendments to current contracts to add additional service areas. This process would require health plans to obtain a Knox Keene license modification by working with both the Department of Managed Health Care (DMHC) and the DHS**. Geographic expansions could also occur through a competitive procurement. If a competitive procurement is done, the DHS states that implementation of a new contract would take no less than one year to execute.**

The DHS notes that the selection of geographic areas for expansion would involve the analysis of various essential considerations such as follows:

- Size of the mandatory Medi-Cal population;
- Interest *and* capacity of health plans to serve the area;
- Affect on other funding sources, particularly hospital funding sources such as the federal funds received through SB 1255 supplemental payments (these supplemental payment programs are not available for managed care services, only hospital inpatient services);
- Protection of traditional and safety net providers;
- Changes to the state's overall Health Care Options process whereby individuals select their managed care plan, including the development of new enrollment packets, training of county eligibility service representatives, developing enrollment presentations and related items;
- Analysis of how and where Medi-Cal recipients access services (i.e., across county lines, going to regional specialty centers, access to transportation corridors);
- Development of new contracting rates which may involve negotiation of rates through the California Medical Assistance Commission (CMAC); and
- Cost-benefit analysis to discern potential savings.

Legislative Analyst's Office Comment and Recommendation: In her Analysis, the LAO states that while they believe expanding managed care warrants consideration, they do have two concerns with the proposal as follows:

- They believe that only two of the requested five positions will be needed in 2004-05. The other three positions would not be needed until 2005-06 since it is a phased-in proposal. **Therefore, the LAO recommends to delete three positions and $200,000 ($100,000 General Fund).**
- They believe the state could achieve savings on the costs of the enrollment contractor (health plan choice options) by allowing new enrollees who have already decided on a health plan to enroll in that plan at the time they apply for Medi-Cal benefits. **Such a change would reduce the contractor's mailing and enrollment processing costs and expedite the enrollment of the Medi-Cal recipient into the Managed Health Care plan. Though the LAO did not provide an exact estimate, they contend that savings of a few million General Fund could be achieved.**

Subcommittee Staff Comment and Recommendation: Expansion of Medi-Cal Managed Care into additional geographic areas has merit from both a fiscal and policy standpoint. This expansion should continue the mandatory enrollment of CalWORKs enrollees, and the voluntary enrollment of aged, blind and disabled. **Any mandatory enrollment of aged, blind and disabled individuals would require substantially more research, data analysis, quality assurances/improvements, health care service network expansions, and substantial recipient participation in designing a workable and meaningful program.**

It is recommended to direct the DHS to provide the Subcommittee with a more comprehensive proposal—including a more definitive work plan—as to how a proposed geographic expansion can be rolled out successfully for both Medi-Cal recipients and the

potentially contracting health care plans. It is suggested for the DHS to provide this to the Subcommittee prior to the May Revision.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. DHS, Please provide a brief update on existing Managed Care Program activities.**
- **2. DHS, Please describe the budget proposal.**
- **3. DHS,** Is the intent of the proposal to continue to have a voluntary enrollment of the aged, blind and disabled?
- **4.** DHS, **Would mandatory enrollment of aged, blind and disabled individuals into Managed Care require a federal Waiver? Does the DHS have existing authority to request such a Waiver on its own, without the approval of the Legislature?**
- **5.** Are there any on-going efforts to encourage their enrollment without going to a mandatory enrollment?
- **6.** DHS, What is the Administration's perspective on continuing the carve out for the California Children's Services (CCS) Program?
- **7. DHS,** How may you collaborate with both the DMHC as well as the CMAC on proceeding with implementation?
- **8. DHS,** What mechanisms will be used to coordinate efforts with advocacy groups and the contracting health plans?

Budget Issue: Does the Subcommittee want to provide additional resources for the DHS to geographically expand Medi-Cal Managed Care?

4. County Organized Health Systems (COHS)—Fiscal Problems Place State At Risk

Background—What Are COHS: The COHS model, the oldest of the three models used in California, was first implemented in 1982 in Santa Barbara and San Mateo counties. **Under this model, a county arranges for the provision of medical services, utilization control, and claims administration for *all* Medi-Cal recipients.**

Since COHS serve all Medi-Cal recipients, including higher cost aged, blind and disabled individuals, COHS receive higher capitation rates on average than health plans under the other Medi-Cal managed care system models (i.e., Two Plan Model and the Geographic model). COHS provide a broad range of covered services, including physician, hospital and pharmacy, and also provide some services not covered by the other Medi-Cal Managed Care plans—such as the nursing facility room and board benefit.

It should be noted that the capitation rates for COHS are confidential since the California Medical Assistance Commission (CMAC) negotiates contracts with each county plan and there is only one plan for all Medi-Cal recipients in said county. **Only those individuals on the CMAC, including the DOF and DHS, know the capitation rates.**

As noted in the chart below, about 540,000 Medi-Cal recipients receive care from these plans. This accounts for about 16 percent of Medi-Cal managed care enrollees and about nine percent of all Medi-Cal enrollees. It should be noted that federal law mandates that only 10 percent of all Medi-Cal enrollees can participate in the COHS model. As such, the state is close to meeting this enrollment limit.

Plan Name	County	June 2003 Enrollment
CalOptima	Orange	281,839
Central Coast Alliance for Health	Monterey, Santa Cruz	84,363
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Santa Barbara Regional Health Authority	Santa Barbara	50,276
TOTAL		**539,924**

The COHS plans are subject to licensure under the Knox-Keene Health Care Service Plan Act by the Department of Managed Health Care (DMHC). As such, they are obligated to meet certain state requirements meant to ensure financial stability and solvency in order to continue in operation. **Generally, these requirements obligate a health plan to demonstrate that it can achieve a positive cash flow from its operations and can show fiscal soundness by assuming a full financial risk during its history of operation. If these requirements are not met, DMHC can conduct a detailed examination of the health plan and recommend steps that may be taken to ensure the plan's operation.**

Background—Rate Adjustments: From **1985 through 2000, the state's budget had** routinely included additional funding for all managed care plans, including COHS' either annually or every two years. Rate increases were supported by an actuarial analysis as performed by the DHS actuaries. **Typically, the CMAC would negotiate a rate increase for COHS contractors with the exception of Santa Barbara (DHS negotiated this directly), somewhere below the actuarial limit, which traditionally had been calculated under the Medi-Cal Fee-For-Service equivalent.**

Beginning in 2001-02 as a result of the budget deficit, rates were frozen and no funding for rate increases were provided for Managed Care plans, except for San Mateo and Santa Barbara. Rate increases for these two COHS plans were provided as a result of their deteriorating financial conditions. **In 2002-03 no rate increases were provided, and in 2003-04 a rate reduction of five percent was taken. The rate decrease is to occur with each plans next rate determination (As discussed in the March 8, 2004 Subcommittee hearing, the court action does not affect this decrease.).**

The Governor's proposed 2004-05 budget assumes another 10 percent rate decrease. In addition, a Quality Assurance Fee is proposed *(discussed later in this agenda)* that would provide a three percent rate increase to all Medi-Cal Managed Care Plans, including COHS. Implementation of this increase is dependent on federal approval.

Significant Fiscal Solvency Concerns: To-date, **all of the COHS have expressed concerns regarding the tenuous nature of their financial viability, particularly San Mateo, due to the low level of capitation rates. This is particularly true since they all provide services to their aged, blind and disabled populations as well.**

According to the DHS, projected dates (as reported by the plans) when "tangible net equity" (the key measure of fiscal solvency) will fall below standard requirements are as follows:

- Health Plan of San Mateo — August, 2004
- Santa Barbara Regional Health Authority — October 2004
- Central Coast Alliance for Health — December 2004
- Partnership Health Plan of California — June 2005
- Cal Optima — July 2005

When plan reserves decline to the tangible net equity minimum, the plan's ability to remain viable become a concern to regulators (DHS and DMHC) and COHS Boards must consider that insolvency may be imminent. Given the projected dates as noted above, the COHS financial situation is alarming.

Governor's Proposed Budget: The Governor's budget assumes that **(1)** COHS rates will be reduced by another 10 percent, and **(2)** the Health Plan of San Mateo (San Mateo) which provides services to about 50,000 Medi-Cal recipients will close its operations as of June 30, 2004, and revert to Medi-Cal fee-for-service as of July 1, 2004. **Based on an estimate provided**

by the DHS, the budget assumes an increase of about $10 million (General Fund) in the Medi-Cal Fee-for-Service base due to the projected termination of San Mateo.

Potential Option to Use Intergovernmental Transfer Funds: Voluntary intergovernmental transfer mechanisms are currently being used by California to draw down additional federal matching funds for use in the Medi-Cal Program without expenditure of state General Fund support. Specifically this is done under the state's SB 1255 Supplemental Payment Program accessed by certain hospitals. This intergovernmental transfer mechanism is limited by the amount of savings the state is able to achieve through its Selective Provider Contracting Program (whereby the CMAC contracts with certain hospitals for Medi-Cal inpatient days). The federal funds saved by hospital contracting are then allocated back to hospitals for supplemental funding. Due to federal "upper payment limits" ("OBRA" limits), some hospitals are limited on the amount of federal supplemental funding that they can receive.

The Administration has been having discussions with interested parties on the concept of using a similar intergovernmental transfer mechanism for COHS. Key aspects of this discussion have been as follows:

- **What would the source of the funds for the intergovernmental transfer be?**
- **Would federal approval be provided for such a mechanism for COHS?**
- **Would there be any upper payment issues that hospitals or the state would encounter?**

Legislative Analyst's Office Recommendation: In her Analysis, **the LAO recommends for the Legislature to reject the Administration's proposal to budget for the phase-out of San Mateo and to direct the DHS to explore alternatives that would permit it to remain in operation. In addition, the LAO suggests for the Legislature to consider several options** to address the financial problems experienced by the COHS in order to avoid an increase in General Fund costs and other serious consequences of their loss for Medi-Cal recipients.

Subcommittee Request and Questions: The Subcommittee is requesting the DHS and LAO to respond to the following questions:

- **1. DHS,** Please provide your perspective on the present fiscal situation of the COHS.
- **2. DHS, Does the state save money by contracting with COHS?**
- **3. DHS, What is the viability of utilizing an intergovernmental transfer for COHS? What would need to occur for implementation?**
- **4. DHS, Are there any other on-going discussions regarding ways to facilitate the fiscal viability of COHS?**
- **5. LAO, Please discuss your analysis.**

Budget Issue: Does the Subcommittee want to (1) adopt the LAO recommendation, and (2) direct the DHS to report back regarding options for assisting COHS to achieve fiscal stability (since it is in the state's interest to do so)?

5. Quality Assessment Fee for Managed Care Plans *(See Hand Out)*

Background: California utilizes several Medi-Cal Managed Care models for the delivery of health care services, including County Organized Health Care Systems (COHS), the Two Plan model (local initiatives and commercial HMOs), and Geographic Managed Care. **The DHS presently contracts with 31 health plans, many of which are considered *non-public* agencies.**

Under both state and federal requirements, the capitation rates paid under a managed care model must be below the fee-for-service cost equivalent. The rates paid to Medi-Cal Managed Care plans were frozen for the past two years and in the current year (2003-04) a five percent reduction is being enacted as of January 1, 2004.

Under the authority of the Social Security Act, Title 19, Section 1903(w)(7)(A), the state may impose a "quality assessment fee" on managed care contracts providing services under the Medicaid Program (Medi-Cal in California). **This mechanism can be used to then draw down additional federal funds.**

Budget Act of 2003: The Budget Act of 2003, and accompanying trailer bill language, assumed implementation of a "quality assessment fee" for Medi-Cal Managed Care plans and savings of $75 million (General Fund) from this effort. **However implementation issues arose in discussions with the federal Center for Medicare and Medicaid (CMS) as well as with some of the plans.**

Governor's Proposed Budget: The Governor proposes to implement a quality improvement assessment fee on Managed Care plans as of July 1, 2004 in the same manner as approved by the Legislature last year. **The net affect of this proposal would be to increase the rates paid to Medi-Cal Managed Care plans by about three percent and to save $75 million in General Fund support.**

Under the proposal the DHS would assess a quality assurance **fee of 6 percent** on all Medi-Cal Managed Care plans (Two Plan model, Geographic Managed Care and COHS). **The amount actual paid by each plan would vary, depending on their gross Medi-Cal revenue.**

The quality assessment fee would then be used to (1) obtain increased federal funds to provide a rate adjustment for Medical Managed Care plans, and (2) obtain increased funds to offset about $75 million in General Fund support.

Based upon information provided by the DHS, the fiscal arrangement would be as follows:

- 6 percent fee paid by Managed Care plans =$300 million in revenues
- State obtains a federal match on the fee paid by the plans =$300 million (federal funds)
- **State provides plans with rate adjustment** =$450 million ($225 million GF)
    - Net Increase to Managed Care plans =$150 million
    - Net savings to the General Fund =$75 million (net gain of 25% of fee)

The DHS will need to modify the state's existing Medi-Cal "Upper Payment Level" in order to make these funds available to the plans. The DHS would then distribute the "Upper Payment Level" amount to the various Two-Plan Model entities based on the existing DHS rate model that recognizes the cost of providing services in the county, and the plans acuity mix. For Geographic Managed Care Organizations and County Organized Health Care Systems (COHS), the California Medical Assistance Commission (CMAC) would allocate the funds through their existing contract process. In addition, the AIDS Health Care Foundation (as a primary care case management entity) would also be included in the quality assessment fee process.

Subcommittee Staff Comment: This proposal has both fiscal and policy merit. At the time of the release of this agenda, the only unresolved issues primarily pertained to trailer bill language.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please **briefly describe** the proposal to implement a quality assessment fee for Medi-Cal Managed Care plans.
- **2.** Please explain **any unresolved issues regarding approval by the federal CMS or implementation issues which the Managed Care plans may still have.**
- **3 Has consensus been reached on issues regarding the trailer bill language?**

Budget Issue: Does the Subcommittee want to adopt or modify the Governor's quality assessment fee proposal on Managed Care plans?

6. Graduate Medical Education Funding—Eliminate Sunset

Background: The Omnibus Health Trailer Bill to the Budget Act of 1997-- SB 391 (Solis)-- established a method to help fund some graduate medical education costs through the Medi-Cal Program by leveraging voluntary transfers from public entities to obtain federal matching funds. A two-year sunset clause was inserted into the legislation at the request of the Administration. **Since this time, the program has been continually extended for either one or two year increments through budget trailer bill legislation.**

Similar programs in many states have been operating for many years. **California's program includes public teaching hospitals, children's teaching hospitals and major (non-University) teaching hospitals. The purpose of the program is to assist teaching hospitals with services relating to inpatient clinical teaching and medical education activities that are provided to Medi-Cal recipients. The matching non-federal funds are provided by public transferring entities, such as the University of California.**

Governor's Proposed Budget: The budget proposes **expenditures of $66.2 million (federal funds) for the teaching hospitals.** These funds will serve as the federal match to the non-

federal funds provided by the transferring entities. No General Fund moneys are associated with this proposal, nor has there ever been any associated with this discretionary program.

Subcommittee Staff Comment and Recommendation: The existing statute is slated **to expire as of June 30, 2005. As such it is recommended to approve the funding level contained in the Governor's proposed budget and to adopt trailer bill language to eliminate the sunset clause.** The program has been on-going since 1997 and does not affect the General Fund. If the transferring entities cannot provide funding, then no federal match is provided. The state is under no obligation to provide any funding what so ever.

Budget Issue: Does the Subcommittee **want to approve (1) the $66.2 million (federal funds) for the program as budgeted, and (2) eliminate the sunset to continue the Graduate Medical Education Program?**

7. Oversight of Electronic Data System (EDS) Contract with the DHS for Medi-Cal

Background: The state contracts with Electronic Data Systems (EDS) to perform the fiscal intermediary functions for the Medi-Cal Program, including claims processing services. **According to the LAO, state payments to EDS have risen about 23 percent a year during each of the last five years. Total payments to EDS are expected to be $232 million ($69 million General Fund) in 2004-05.**

Department of Finance, Office of State Audits & Evaluations—June 2003 Audit Findings: The DOF conducted an audit of the EDS contract last year because of concerns about the growing scope, size, complexity, and cost of the California Medicare/Medi-Cal Information Systems (MMIS)—the information technology system maintained and operated by the EDS to carry out its fiscal intermediary functions.

The DOF audit found weaknesses in DHS' oversight of the EDS contract, including the following key findings:

- ***Lack of Oversight:*** The DHS has no internal audit function to ensure that the EDS is complying with the terms of the contract and that the MMIS is operating as intended.
- ***Expenditure Information Not Provided:*** DOF budget staff were not provided timely or adequate information about expenditures being made for modifications (changes) authorized by the DHS for the MMIS. The DHS did not specifically track the cost to the state of these changes and therefore, the state had no method for determining whether these modifications were indeed cost-effective.
- ***No Payment Resolution Process:*** In the event the EDS disagreed with the amount paid to it by the state for its services, there were no procedures in place to resolve disputes with the contractor.
- ***State Information Technology Processes Sidestepped:*** The DHS incorporated information technology systems with little connection to the Medi-Cal Program into EDS' Medi-Cal contract to sidestep normal information technology development and procurement procedures. The DHS also circumvented the competitive procurement process without explicitly obtaining an exemption, making it difficult to ensure that that state received the best value for the development of these systems.

DHS to Provide "Information Systems Plan" (ISP) to DOF: According to the DOF, the DHS has been directed to provide an Information Systems Plan (ISP) to them by no later than June 30, 2004. According to the Administration, this ISP document is to provide a planned approach in implementing information systems projects within the Medi-Cal Fiscal Intermediary contract and determine the appropriateness of using the Fiscal Intermediary contract to implement information technology projects.

Specifically, the ISP is to address the current status of the Medi-Cal information management system as a whole and any concerns or issues common with most large systems. The ISP will also include information technology "system development notices" that are expected to be implemented in the upcoming year, as well as using the Fiscal Intermediary contract to develop non-Medi-Cal information system technology projects.

The DOF notes that the DHS will be required to provide the following information regarding any enhancement to the Medi-Cal system:

- Description of the project, including its benefits and impact on the overall system
- Costs and funding source
- How the project meets the DHS' business goals
- Justification for inclusion in the Fiscal Intermediary contract
- Project priority

Legislative Analyst's Office Recommendation: In her Analysis, the LAO notes that the state is at risk for overpaying EDS for Medi-Cal Program activities. Accordingly, the LAO recommends for the **Legislature to adopt Supplemental Reporting Language** directing the DHS to develop and submit a corrective action plan to the DOF and the Legislature, **and submit reports to both entities every six months commencing July 1, 2004. This language is as follows:**

> "It is the intent of the Legislature that the DHS develop and submit a corrective action plan to the DOF Office of State Audits and Evaluations and to the Legislature that identifies the actions it plans to take toward implementing the recommendations described in the report entitled, "Final Audit Report—Examination of the Department of Health Services Fiscal Intermediary Contract with Electronic Data Systems for Medi-Cal Claims Processing." **It is also the intent of the Legislature that on October 1, 2004, and April 1, 2005, that DHS submit semiannual reports to the Office of State Audits and Evaluations and to the Legislature regarding its progress towards implementation of the audit recommendations.** The legislative reports shall be provided in writing to the Chairs of all of the fiscal committees of both houses of the Legislature.

Subcommittee Staff Comment and Recommendation: Subcommittee staff **concurs with the LAO recommendation for Supplement Report Language.**

In addition, it is recommended to reduce the Medi-Cal Fiscal Intermediary appropriation by $100,000 (total funds) to delete an augmentation for "unspecified change orders", and to reduce the Medi-Cal Dental Fiscal Intermediary appropriation by $50,000 (total funds) to delete an augmentation for "unspecified change orders". Though it is recognized that these two items are "placeholders" in case issues emerge that need information systems changes, it is not necessary to budget for them now when there is no specificity as to what is needed. Changes can be made through other means, such as a deficiency letter, revised budget, and related mechanisms, once the true need is identified.

Subcommittee Request and Questions: The Subcommittee has requested the LAO and DHS to respond to the following questions:

- **1.** DHS, Please **briefly describe** what ***key*** actions have been taken to date, and what key actions are still pending, with respect to responding to the DOF audit?
- **2. LAO, Please briefly discuss the LAO recommendation**.

Budget Issue: Does the Subcommittee want to adopt the LAO language and make the described budget reduction or craft another option?

8. Medi-Cal Anti-Fraud Proposals—ISSUES "A" to "J"

Overall Background—How Much Fraud is There?: Most indicators point to provider fraud as being a larger concern in terms of fiscal impact on the Medi-Cal Program than beneficiary fraud. Provider fraud schemes typically include over-billing, double-billing, billing for services not provided, false claims, and falsification of dignoses to support billing for unnecessary medical services.

In previous testimony the DHS has noted that **there is no accurate estimates using California specific data to calculate the level of fraud.** Estimates vary on the amount of fraud in the national health care system as well. **One national expert has estimated the level of provider fraud in the fee-for-service portion of Medi-Cal to be about 10 percent.** This estimate is consistent with those of the federal General Accounting Office in regard to the pervasiveness of fraud generally in government health care programs.

As noted by the LAO, if the 10 percent estimate is correct, provider fraud in fee-for-service Medi-Cal would total $1.8 billion dollars *($850 million General Fund)* before any savings and cost avoidances achieved by the DHS through its array of antifraud efforts were taken into account.

Overall Background—Recent Legislation: **The state has responded with a significant expansion of its antifraud efforts over the past five years, including considerable policy changes as noted below:**

- **SB 708 (Senate Budget & Fiscal Review Committee)** established the Medi-Cal Fraud Prevention Bureau and appropriated funds for this purpose.
- **AB 1107, Statutes of 1999 (Cedillo)** brought two federal sanctions into state law: withhold and temporary suspension. It also enhanced Medi-Cal Program integrity by expanding the definition of provider in state statutes to include all entities directly or indirectly involved in providing Medi-Cal services. It clarified the definition of fraud and abuse, and specified new requirements to tighten the provider enrollment process, including new application procedures, signed provider agreements, and provider disclosure statements.
- **AB 784, Statutes of 1999 (Romero)**, among other things, gave authority for auditors to look at records of suppliers, and allowed for the assessment of financial penalties in certain circumstances.
- **AB 1098, Statutes of 2000 (Romero)** expanded the definition of a crime from any person who knowingly intends to commit fraud to any person who engages in activities related to defrauding or submitting false information to the Medi-Cal Program. **It also (1)** increases the licensure requirements for laboratories, and specifies certain activities as crimes if they endanger public safety; **(2)** defines a list of crimes that could potentially be committed by Medi-Cal providers, such as criminal profiteering activity; **(3)** requires providers to identify their billing agents and billing agents to register with the DHS; (4) does not allow enrollments of applicants that have been convicted of any felony or misdemeanor involving fraud or abuse in any government program and not allowing an applicant to reapply for three years if their application was denied.
- **SB 1699, Statutes of 2002 (Ortiz)** gave the DHS the authority to suspend providers from all programs administered by the DHS if the provider is suspended or under investigation in any DHS program and to deny enrollment if they are under investigation in any program.

- **SB 857 Statutes of 2003 (Speier)** enacts several changes including **(1)** revises the responsibilities of providers and applicants for participation as providers in Medi-Cal, **(2)** imposes restrictions on providers related to certain drugs, devices and tests, and **(3)** authorizes the Director of Health Services to annually update designated coding systems.

Overall Background—Error Rate Study and Federal Payment Accuracy Measurement (PAM) Pilot: One of the key elements to a successful anti-fraud program as outlined by experts is to be able to measure the extent of fee-for-service provider fraud within Medi-Cal. **The DHS is in the process of conducting two analyses—the Error Rate Study and the Payment Accuracy Measurement (PAM)—to better make this determination.**

Through the Budget Act of 2003, the DHS was provided staff and funding to conduct an Error Rate Study in order to estimate the extent of fraudulent claims through a random sampling process. In Fall 2003, the state was awarded $601,000 in new federal funds to participate in an effort to determine how much of the state's fee-for-service provider payments for health care are not legitimate-—this is the PAM Pilot. **According to the DHS, these two projects will be completed in October/November 2004.**

According to the DHS, the studies are basically the same in that they will be determining Medi-Cal claims that were paid in error, either due to an improperly paid claim or the recipient was not eligible for Medi-Cal. The DHS notes that each of these studies use a statistically valid sample from paid claims between October 1, 2003 and December 31, 2003 but the samples for each of the studies are stratified differently. **The Error Rate Study is stratified to sample Medi-Cal services provided through the fee-for-service system and have a higher potential for fraud. The PAM Pilot is stratified based on the payment. As such, it will be more skewed towards hospital and nursing home reimbursement.**

Overall Background—Estimated Savings and Cost Avoidance (Period from July 1998 to June 2003): Cost avoidance and savings are how the DHS gauges the effectiveness of its antifraud efforts.

Cost avoidance results when potentially fraudulent new providers are prevented from enrolling in Medi-Cal. The DHS estimates that **cost avoidances amounting to $316 million ($158 million General Fund) has been achieved and will increase to $409 million ($204 million General Fund) in 2004-05. Specifically, the DHS notes the following figures for cost avoidance:**

Summary of Cost Avoidance

Type of Anti-Fraud Activity	# of Cases	Cost Avoidance (July 1998 to June 2003) Total Funds
Pre-Enrollment Screening of Medi-Cal Providers	1,254	$492 million
Screening of Medi-Cal Enrollment for Labs	37	$83 million
Medical Examination Request in Managed Care (validity of when a recipient wants to move from Managed Care to fee-for-service.)	15,636	$64 million
TOTAL-Cost Avoidance	16,927	**$639 million**

Savings are deemed to occur when providers already enrolled in Medi-Cal are found to be engaging in abuse or fraud and their activities are stopped. **The DHS projects that savings of $855 million ($428 million General Fund) have actually been achieved as noted in the table below. In addition, the Governor's proposed budget assumes savings of $618.2 million ($309.1 million General Fund) above the savings generated from activities that began before 2003-04.**

Summary of Savings **Type of Anti-Fraud Activity**	**# of Cases**	**Savings (July 1998 to June 2003) (Total Funds)**
With holding payments	1,300	$331 million
Re-Enrollment of Providers	87	$102 million
Special Claims Review	604	$172 million
Review of Laboratories	46	$77 million
Provider Prior Authorization	255	$64 million
Temporary Suspensions of Providers	752	$43 million
Beneficiary Identification Card Replacement	5,562	$36 million
Pre-Check Write	276	$30 million
TOTAL--Savings	8,882	**$855 million**

Overall Background—State Staff for Anti-fraud Efforts (See Hand Out): The DHS' anti-fraud **staff is distributed among several offices and divisions within the department. The Audits and Investigations (A&I) Division serves as the central coordination point for anti-fraud activities.** The A&I Division tracks fraudulent providers and recipients involved in various fraud schemes, gathers referrals of cases for investigation, analyzes data, audits providers, conducts investigations and coordinates activities with other governmental agencies, including the Department of Justice, FBI and others. **Additional anti-fraud staff are distributed across the DHS in as noted below:**

Summary Chart of Positions **Area of DHS**	**Positions Administratively Eliminated (**)**	**Net *Existing* Positions (vacancies)**
Audits & Investigations	-6.0	165.5 (40.5 vacant)
Payment Systems Division	-12.0	116.0(6 vacant)
Office of Legal Services	-9.0	27.0 (5 vacant)
Medi-Cal Fraud Prevention Bureau	-10.0	22.0 (none)
Medi-Cal Policy Division	-1.0	16.0 (6 vacant)
Medi-Cal Managed Care Division	-9.0	16.0 (1 vacant)
Program Support Branch	-1.0	4.2 (2 vacant)
Laboratory Field Services	-6.0	4.0 (none)
Financial Management Branch	-1.0	3.0 (1 vacant)
Primary Care & Family Health	--	3.0 (none)
Information Technology Services	--	3.0 (none)
Personnel Management Branch	-1.0	4.0 (none)
Fiscal Forecasting Branch	-1.0	5.0 (2 vacant)
Office of Public Affairs	-1.0	--
TOTALS	**-58 (**)**	**388.7 positions (63.5 vacant)*** **

(**) This includes positions the Administration eliminated due to (1) vacant for one-year, (2) Control Section 4.1 reduction, (3) re-directed by the DHS for other purposes (5 total positions), and (4) positions were two-year limited-term and allowed to expire (3 total positions). ***The DHS states that 45.5 of the vacant positions are pending personnel approval, 11 are being recruited for and 7 are vacant with no pending action at this time.

Overall Background—Contract Efforts: **The DHS also contracts with three vendors—Electronic Data Systems (EDS), Delta Dental, and MEDSTAT Group.** EDS, the state's fiscal intermediary who processes the Medi-Cal claims, performs anti-fraud functions related to provider review. The EDS contract contains an incentive clause that allows EDS to keep 10 percent of the program savings that it generates through its anti-fraud efforts. Delta Dental, the state's Medi-Cal dental claims and treatment review contractor, maintains a surveillance and utilization review unit to combat dental-related fraud.

Another contractor--The MEDSTAT Group-- has a comprehensive Medi-Cal database which it uses to conduct checks on the existing claims systems and to look for over payments to providers that may be due to fraud.

Overall Background—Governor's Proposed Budget for Anti-Fraud Activities: The budget proposes **nine adjustments related to Medi-Cal anti-fraud activities as follows:**

- ***Hospital (non-contract) Field Audits (Issue "A" below):*** This proposal requests an increase of 41 state auditors for expenditures of $2.4 million General Fund for the positions, with associated savings of $12.4 million ($6.2 million General Fund) in 2004-05. **Therefore a *net* savings of $3.8 million General Fund is assumed in 2004-05.**
- ***Convert Limited-Term Positions to Permanent (Issue "B" below):*** This proposal requests to convert 15 limited-term positions to permanent on-going status for certain anti-fraud activities pertaining to the enrollment and re-enrollment of Medi-Cal providers.
- ***Non-Institutional Provider Audits (Issue "C" below):*** This proposal requests to shift existing positions from the State Controller's Office to the DHS to continue the provision of non-institutional provider audits. **This proposal assumes savings of $600,000 ($300,000 General Fund) from the reduction of six state positions.**
- ***Delay Checkwrites (Issue "D" below):*** Under this proposal, the DHS would delay Medi-Cal checkwrites to providers by one week to allow the DHS to investigate potentially fraudulent claims before checks are issued. This proposal assumes one-time only **savings of $144 million (General Fund) in 2004-05** due to the shift of some Medi-Cal payments to 2005-06.
- ***Contacting Certain Medi-Cal Providers (Issue "E" below):*** Under this proposal the DHS would contact Medi-Cal providers with suspicious billing patterns. **This proposal assumes savings of $2.5 million (General Fund) in 2004-05.**
- ***Confirming Medi-Cal Recipient Services (Issue "F" below):*** Under this proposal the DHS would confirm with recipients through mail or on-site visits that they actually received services and products that Medi-Cal has been billed. **This proposal assumes savings of $1 million (General Fund) in 2004-05.**
- ***Curtailing Assets (Issue "G" below):*** The Governor is proposing trailer bill language to enhance Medi-Cal estate recoveries by closing an existing provision of state law used to prevent the state from recovering assets from estates to help offset the cost of medical care**. This proposal assumes savings of $474,000 ($237,000 General Fund) in 2004-**

05 *and* $4.2 million ($2.1 million General Fund) as yet an unspecified amount in 2005-06.

- ***Restrict Medi-Cal Billing for Certain Neurological Tests (Issue "H" below):*** The Governor is proposing trailer bill language to restrict billing for electromyography and nerve conduction tests to specially trained physicians. **The budget assumes savings of $1.7 million ($850,000 General Fund) in 2004-05 and $2.3 million ($1.1 million General Fund) in 2005-06.**
- ***Develop Counterproof Prescription Pads (Issue "I" below):*** The Governor is proposing trailer bill language to require all prescriptions for Medi-Cal recipients to be written on prescription blanks obtained from printing vendors approved by the state. **No budget year savings are identified for this proposal. However, savings of $14 million ($7 million General Fund) to $28 million ($14 million General Fund) are assumed in 2005-06.**

ISSUE "A"—Non-Contracting Hospital Field Audits & Home Office Audits

Background—Hospital Cost Reports: There are about **440 licensed hospitals in California**. Medi-Cal pays about $3.5 billion (total funds) for **inpatient hospital services** annually of which **20 percent or $700 million (total funds) is paid to "non-contract" hospitals.** ***Non-contract* hospitals** are those who provide inpatient services to Medi-Cal patients but do not operate under a contract with the California Medical Assistance Commission (CMAC).

***All* Acute care hospitals who provide care to Medi-Cal patients are required to file an annual cost report with the DHS.** There are currently 428 cost reports submitted annually for this purpose. **Of the 428 cost reports about 210 are cost reports for non-contract hospitals.** The remaining 218 cost reports are for hospitals that are under contract with the CMAC.

The DHS states that they review 100 percent of the cost reports for all hospitals. However, the DHS contends that they do not have enough staff to do "full scope" field audits. The DHS states that during the performance of full field audits, procedures are performed to test the validity and accuracy of the hospital's allowable costs and billings more extensively than during a limited desk review or limited field review. Audit tests are performed to ensure that hospital records support not only the cost report but also the claims submitted to Electronic Data Systems for processing.

Background—Home Office Information: **According to the DHS, there are 62 large corporate healthcare chains (Home Offices) that own many of California's hospitals.** These home offices are also required to file annual cost reports with the DHS. These cost reports show the total costs of the home offices and how they allocate costs—such as central management and administrative services-- to the individual hospitals they own in California.

The home office costs are not reimbursed to the home office directly but are included by cost accounting and allocation methods in the individual hospital reports. According to the DHS, these methods of accounting and allocation can be manipulated to increase Medi-Cal reimbursement to the individual hospital.

The DHS states that with current resources, they perform primarily limited field/desk audits of the non-contract hospitals and limited field audits of only 13 of the 62 home offices (remaining 49 are accepted as filed without audit).

Governor's Proposed Budget: The budget is requesting **an increase of 41 new audit staff for increased costs of $4.7 million ($2.4 million General Fund), including $531,000 (total funds) for out-of-state travel. The DHS contends that with this additional audit staff they will be able to save $12.4 million ($6.2 million General Fund) in 2004-05, or a *net* savings of $3.8 million General Fund in the budget year.**

It should be noted that the Governor's budget contains a technical error and does not presently reflect the full savings level of $6.2 million General Fund, but instead shows only a savings level of $3.8 million General Fund. After discussion with the DOF, we have been informed that this figure was in error and that the appropriate amount is $6.2 million General Fund.

The DHS contends that 41 new positions are required to perform the additional audit workload to audit all 62 home offices (currently doing 13) and 210 non-contract acute care hospitals. Since 20 of the 62 home offices are located outside of California, out-of-state travel is being requested. The DHS states that typically it takes three to four consecutive two-week trips (6 weeks to two months of time) involving three to four audit staff to conduct a home office audit.

DHS Hiring Plan for Budget Proposal: The Subcommittee requested the DHS to provide a work plan as to **how the DHS would hire staff, train staff and deploy staff. In response to this request, the DHS notes the following (The proposed time lines reflect a relatively problem free process.):**

- The DHS is in the process of completing the Auditor I examination and will have civil service lists for selection by May 2004. Promotional lists are already available.
- Assuming a July 1 approval for hiring of the positions, it would take the DHS about one month (to July 30, 2004) to make job offers and to complete hiring documents.
- It takes about 6 to 8 weeks to receive all necessary approvals for completion of an auditor hiring commitment and to allow for a new hire to report to work. As such, the **DHS assumes the auditors are on board by September 30, 2004.**
- Auditor training would commence as of October 2004.
- **Audits of the "home offices" would be done by senior audit staff and would begin September 2004.**
- **The first audits would be completed and issued as of January 2005.**
- **Savings from the first audits would begin April 2005.** The DHS states that no collection of over payments made to a hospital can begin prior to the 61 day after the audit report is issued. Also, home office audits will not result in identification of over payments because Medi-Cal reimbursement is not paid to the home offices directly.

Legislative Analyst Office Recommendation: In her Analysis, the LAO notes that the DHS **received 161.5 additional new positions** for anti-fraud activities in 2003-04**. Of these new positions, the Administration chose to eliminate some as part of the Control Section 4.1 process (as contained in the Budget Act of 2003). In addition, some of these remaining positions are still being recruited for and are as yet not all filled.**

As such, the LAO believes that it is premature to approve further expansion before the DHS has implemented the sizable expansion approved last year and demonstrate that it can achieve the savings that were to have resulted from these additional positions.

Further, the LAO contends that expansion in this area should also wait until the Error Rate Study is completed that will shed light on which types of anti-fraud activities warrant a greater focus. As noted above under the background discussion, this Error Rate Study will not be completed until November 2004.

Subcommittee Request and Questions: The Subcommittee has requested the DHS and LAO to respond to the following questions:

- **1.** DHS, Please briefly explain the budget proposal and the savings associated with it.
- **2.** LAO, Please present the LAO recommendation.

Budget Issue: Does the Subcommittee **want to adopt or modify the Administration's proposal to hire 41 staff to conduct non-contract hospital audits as specified?**

ISSUE "B"—Convert 15 Limited-Term Positions to Permanent

Background—Budget Act of 2002: The Budget Act of 2002 **included 15 limited-term positions to conduct Medi-Cal provider re-enrollment functions. The re-enrollment of providers has proven to serve as a valuable tool in mitigating Medi-Cal fraud.** Of the 15 positions, nine were allocated to the Payment Systems Division and 6 positions were allocated to the Audits and Investigations Division.

Workload associated with re-enrollment consists of an on-going process of selecting and prescreening providers, conducting background verifications and claims history analysis, reviewing applications for deficiencies, denying continued enrollment of unqualified providers, conducing onsite reviews of providers as needed, conducting other licensing or certification reviews of certain providers, and denying continued enrollment of unqualified providers.

The 15 positions include the following:

Payment Systems Division	Audits & Investigations Division
• 1 Staff Services Manager I	3 Nurse Evaluator IIs
• 6 Staff Services Analysts	2 Health Program Auditor IIIs
• 2 Office Technicians	1 Laboratory Examiner II

Governor's Proposed Budget: The budget **proposes to convert the 15 limited-term positions to permanent status for expenditures of $1.3 million ($464,000 General Fund).** The existing positions are slated to expire as of June 30, 2004.

Subcommittee Staff Comment: No issues have been raised regarding this request.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please provide a **very brief summary** of the request.
- **2.** Please **provide a brief update on existing re-enrollment efforts**, including any concerns about a backlog of providers awaiting re-enrollment.

Budget Issue: Does the Subcommittee **want to adopt this proposal to convert 15 limited-term positions to permanent** in order to continue to perform the re-enrollment of providers into the Medi-Cal Program?

ISSUE "C"—Non-Institutional Medi-Cal Services Provider Audits

Background: Medi-Cal has **about 72,000 unduplicated providers enrolled in the program to provide non-institutional services to Medi-Cal recipients.**

Medi-Cal providers who demonstrate a pattern of suspicious billings are placed on utilization controls or more restrictive administrative sanctions such as withholding the provider's Medi-Cal payments. Providers placed on DHS utilization controls or administrative sanctions may ultimately be barred from participating in the Medi-Cal Program for up to ten years if convicted and in certain cases, indefinitely.

In addition to administrative sanctions the State Controller's Office (SCO) and DHS conduct audits of Medi-Cal services performed by non-institutional providers to quantify inappropriate and/or over billings to the program. **Since the DHS is the "single state agency" responsible for the Medi-Cal Program, the DHS is required to direct the SCO on which audits to perform, review the SCO audit findings and issue the final audit report and recovery demand, and handle the administrative appeals. The DHS notes that these audits are an integral part of the Medi-Cal anti-fraud efforts with an average demand of $573,614 per audit.**

The SCO has conducted audits of non-institutional services to Medi-Cal recipients since the early 1990's. **However, the DHS contends that that utilizing the SCO via an Interagency Agreement process is no longer efficient. The DHS has a multidisciplinary staff of medical professionals and financial auditors, as well as the authority to identify abusive providers, impose administrative sanctions, and issues audits. These actions can be performed concurrently resulting in a more efficient process.**

Governor's Proposed Budget: The **budget proposes to transfer the responsibility for the Medi-Cal non-institutional provider audits currently being conducted by the SCO, through an Interagency Agreement (IA), back to the DHS.** The SCO dedicates 26 positions to the audits conducted under the IA at about $4 million ($2 million General Fund). **With the proposed transfer, the DHS is requesting to fund 20 positions which will result in savings of about $600,000 ($300,000 General Fund) from the reduction of the six positions.**

Subcommittee Staff Comment and LAO Comment: The Subcommittee staff and LAO concur that this transfer makes good policy and fiscal sense. The transfer would better centralize the Medi-Cal anti-fraud audit functions and would reduce state staffing needs by six positions. No issues have been raised.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please describe the proposed transfer and why it would be more efficient.
- **2.** Could many of the existing SCO staff currently performing these functions be hired/transferred to the DHS as well?

Budget Issue: Does the Subcommittee **want to approve the proposal to transfer the non-institutional services audits from the State Controller's Office to the DHS?**

ISSUE "D"—Delay Checkwrites One Week

Background and Governor's Proposed Budget: The Medi-Cal Program provides reimbursement to providers through "checkwrites". Normally there are 52 checkwrites (one per week) per year conducted by the state's fiscal intermediary.

The budget proposes to delay by one week the checkwrites for all Medi-Cal Program providers whose claims are processed by the fiscal intermediary (Electronic Data Systems is the contractor). The DHS contends that this one-week delay will enable the DHS to be more effective in its anti-fraud efforts by allowing the A&I Division to perform a more thorough pre-checkwrite review of claims processed and identified as suspect due to normal billing amounts or trends prior to checks being sent to providers. The DHS states that if claims appear suspicious, the claims from that provider will be suspended for further review and not included in the payment process.

The budget assumes savings of $286.6 million ($143.5 million General Fund) by delaying the checkwrite because there will be only 51 checkwrites in 2004-05 instead of 52. The DHS states that this would be a **one-time only budget year savings** because subsequent years would have the normal 52 checkwrites per year. **However, the budget does *not* reflect any savings associated with the DHS identifying savings from their claims review and suspension process. The savings are solely attributable to shifting the checkwrite.**

Subcommittee Staff Recommendation: Based on information regarding savings achieved from the DHS claims review and suspension process, **it is recommended to reduce the Governor's budget by *an additional* $2 million ($1 million General Fund) to reflect the intended outcome of having the DHS delay the checkwrite in the first place—to review suspicious claims and have results.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please briefly describe the budget proposal.

Budget Issue: Does the **Subcommittee want to adopt the Subcommittee staff recommendation, adopt the Administration's proposal, or craft another option?**

ISSUE "E"—Provider Feedback Program

Background: The DHS states that experience has shown that Medi-Cal providers can also be victims of fraud and abuse by having their Medi-Cal provider numbers stolen. These stolen numbers are then used to bill Medi-Cal illegally. In addition the DHS notes that a few providers have been found to abuse the Medi-Cal Program until their billing practices are questioned.

Provider number theft or mis-utilization can occur in a number of fraud schemes as noted below:

- The provider number is stolen with the checks being sent to a new address.
- The billing service for a provider submits additional claims above and beyond the patients that the physician is seeing.
- A new provider within a group receives payment for services but does not realize that their individual provider number is being billed for additional services never performed.

In an attempt to address provider number theft, **the DHS sent about 500 Internal Revenue Services (IRS) 1099 Forms last fiscal year to the home addresses of Medi-Cal providers.** These 500 providers were selected based on a number of factors, such as billing patterns, total billings, and geographic location. **The DHS states that while this pilot did not result in the identification of any identity theft, it did result in these same physicians billing the Medi-Cal Program $5 million (total funds) less over the last 12 months.**

Governor's Proposed Budget: The budget proposes **savings of $5 million ($2.5 million General Fund) by implementing a Provider Feedback Program as of July 1, 2004.** Under this proposal the DHS would send out mid-year Internal Revenue Services (IRS) 1099 Forms to selected Medi-Cal providers at their home addresses. Utilization and billing profiles would also be developed and providers would be notified if their profiles are significantly different than those of their peers. These actions are expected to reduce provider billings as noted. **No additional administrative support is being requested for this proposal.**

This proposed action would be done administratively (i.e., no trailer bill language is proposed).

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following question:

- **1. DHS, Please briefly describe the proposal.**

Budget Issue: Does the **Subcommittee want to adopt the Governor's proposal or craft another option?**

ISSUE "F"—Medi-Cal Recipient "Confirmation" of Services

Background: The DHS conducted two pilot projects—one focused on the distribution of nutritional products to Medi-Cal recipients, and the other focused on the distribution of certain OB products like breast pumps. Under these two pilot projects, the DHS sent out letters to the recipients of these particular products and asked them to respond to questions about whether they needed the products in question and whether they received the products.

From the survey responses the DHS received back on the first pilot, it was found that 9 cases of potential provider fraud needed to be investigated regarding nutritional products because the Medi-Cal recipients did not actually receive the products that were billed by the provider. In another situation, 13 providers are being investigated for potential fraud regarding breast pumps. In addition, it was also found that some providers are now sending out less product overall.

Governor's Proposed Budget: The budget **proposes savings of $2 million ($1 million General Fund)** by instituting two methods (i.e., random and focused) of verifying that Medi-Cal recipients actually received the services that providers billed to Medi-Cal for reimbursement. **These two methods of verification would be to:**

- **Contact a random sample of Medi-Cal recipients by telephone or mail** and **inquire to see if they did indeed receive the medical services**, medical supplies or medical products that were specified; and
- **Contact a Medi-Cal recipient in person or by mail when a review of the provider's billing patterns and diagnosis for the recipient does not appear to match.**

The DHS states that they would work with the state's Medi-Cal fiscal intermediary (EDS) to conduct provider reimbursement and clinical analyses to determine the claims to be verified by the Medi-Cal recipient. Where applicable, the EDS would either (1) send out a "verification" letter to Medi-Cal recipients asking them if they indeed did receive the medical service or product, or (2) contact the Medi-Cal recipient by telephone.

This proposed action would be done administratively (i.e., no trailer bill language is proposed).

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following question:

- 1. DHS, Please provide a brief description of the budget proposal.

Budget Issue: Does the **Subcommittee want to adopt the Governor's proposal or craft another option?**

ISSUE "G"—Curtailing Assets and Third Party Payment *(See Hand Out)*

Background and Governor's Proposed Budget: Recently enacted legislation—SB 620 (Scott), Statutes of 2003, placed restrictions on the marketing of annuities to persons age 65 or older if the purpose is to affect Medi-Cal eligibility.

The Governor is proposing trailer bill language that would place additional restraints on (1) the transfer of assets to qualify for Medi-Cal, (2) the sheltering of assets of otherwise resource ineligible individuals, and (3) the sale of annuities to individuals who are receiving personal care, in-home supportive services, or institutional care. The DHS would be given the authority to implement these changes through the use of "all county letters" sent to the County Welfare Directors. The DHS contends that these changes would bring state statute into compliance with federal law (i.e., the federal Omnibus Budget Reconciliation Act of 1993).

Specifically the Administration's proposed changes would, among other things, address the following items:

- Financial transfers of both the individual living in an institution (nursing home, developmental center, ICF-DD facility and others) and their spouse would be scrutinized;
- The "look-back" period would be extended from 30 months to 36 months and in cases involving trusts it would be 60 months.
- Financial transfers would only be permitted as specifically allowed in federal guidelines and the home is not considered an exempt asset for this purpose. Consequently, the transfer of a home is not a protected event, unless it is made to an individual as described in federal law.
- Requires that annuities, if purchased, be purchased for income rather than as shelters. The purchase price of annuities would be considered a transfer of assets and subject to penalty unless the individual gets equal monthly payments for a number of years less than or equal to life expectancy based on federal CMS tables.
- The purchase price of non-commercial annuities and loans will be considered transfers of assets subject to penalty unless secured by an equal amount of real property.
- DHS would be provided with the authority to recover against annuities, annuity payments or distributions received by any person or entity by reason of distribution, survival or designation as part of a deceased Medi-Cal recipient's estate.
- Prevents the transfer of an individual's interest in a settlement or judgement into a special needs trust before the award is actually made to avoid payment of the Medi-Cal lien.
- Requires that the Director of Health Services be notified whenever assets are added to a special needs trust, that if assets are added to a trust established with the assets of a disabled individual after the individual reaches the age of 65 years, then the added assets are not entitled to exception for disabled individuals with special needs trusts, although the total amount of assets retained by the trust shall still be subject to recovery by the Director for medical assistance provided.

The budget assumes savings of $475,000 ($237,000 General Fund) in 2004-05 and $4.2 million ($2.1 million General Fund) in 2005-06. The DHS states that these savings figures are based on a study of 431 cases in three counties. This study found that case records showed that only 1 percent of cases would be impacted by implementation of the curtailment of asset shelter provisions.

It should be noted that the Department of Developmental Services (DDS) believes that this proposed DHS trailer bill language will have little or no impact on residents living at the state's Developmental Centers.

With respect to consumers with special needs living in the community who are receiving Regional Center services and have special needs trusts, the DDS notes that though they do not have actual data on these individuals, they believe that the numbers are relatively small.

Subcommittee Staff Comment and Recommendation: Subcommittee staff believes the proposed trailer bill has merit. However, due to the complexities of law in this area and the over arching policy issues, **it is recommended for the Subcommittee to adopt the proposed savings level but to refer the actual language to the policy committee process for review and discussion.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following question:

- **1. Please describe the proposed trailer bill language and budget proposal.**

Budget Issue: Does the Subcommittee want to adopt the Subcommittee staff recommendation, or adopt or modify the Governor's proposed trailer bill language to curtail assets as described within the Medi-Cal Program?

ISSUE "H"—Restrict Medi-Cal Billing for Certain Neurological Tests
(See Hand Out)

Background and Governor's Proposed Budget: According to the DHS, currently any physician regardless of their specialty can bill Medi-Cal for electromyography and nerve conduction tests. Annual expenditures for these tests are about $3.2 million (total funds). The DHS contends there has been a considerable amount of fraud and abuse identified in the billing of these tests. This has not only created billings to the program that were inappropriate but also has resulted in substandard quality of care to some patients.

The Governor's budget proposes to restrict the Medi-Cal billing of these services as of October 1, 2004 to (1) neurologists, (2) physicians trained in physical medicine or rehabilitation, or (3) other physicians who have received specialized training in electromyography and nerve conduction tests.

The budget assumes savings of $1.3 million ($652,000 General Fund) from this action in 2004-05 and $2.3 million ($1.1 million General Fund) in 2005-06. The DHS expects annual expenditures to be reduced by almost 70 percent.

Specifically under the DHS proposal, physicians would be required to submit certification documents to the department and the claims processing system would need to be updated to allow payments to be made only to certified physicians.

This proposed action requires trailer bill language.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following question:

- **1.** Please provide a brief description of the trailer bill language and budget proposal.

Budget Issue: Does the **Subcommittee want to adopt or modify the proposed trailer bill language to restrict Medi-Cal billing for certain neurological tests as specified?**

ISSUE "I"-- Develop Counterproof Prescription Pads *(See Hand Out)*

Background and Governor's Proposed Budget: The budget **proposes trailer bill legislation to require all Medi-Cal Program prescriptions to be written on prescription blanks obtained from printing vendors approved by the state. The prescription blanks would be uniform, non-reproducible, non-erasable, and numbered. Once the prescriber writes on the prescription it could not be altered in any manner.**

No budget year savings are identified under this proposal because the DHS contends that it will take some time to proceed with actual implementation. Specifically, the DHS states that it would take time to **(1)** secure a vendor for the special prescription pads, **(2)** coordinate with the California Department of Justice (with their implementation of SB 151 (Burton), Statutes of 2003 regarding special substances and the use of counterfeit-proof prescription pads by January 1, 2005), and **(3)** train Medi-Cal providers on the use of the prescription pads. The Administration states that no new staffing costs are associated with this proposal.

The DHS notes that a few other states—New Jersey, Indiana and Florida—utilize a similar counterfeit-proof prescription pad system. New York is working to implement a secured prescription system for certain abused drugs only.

The Administration states that savings of from $14 million (total funds) to $28 million (total funds) could be achieved in 2005-06 from this effort.

Subcommittee Staff Comment and Recommendation: Subcommittee staff believes the proposal has merit as an anti-fraud approach and would save the state General Fund expenditures in 2005-06. **However since the proposal has no budget year implications, it is recommended to direct the Administration to identify a policy bill and author to proceed through the policy committee process.** There is ample time left in the legislative calendar to proceed in this direction and passage of legislation after the budget deadline of July 1 would not have any material affect on this proposal due to the implementation timeframes. The DHS can proceed with working on the various aspects of the proposal prior to passage of the legislation if so desired by the Administration.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following question:

- **1.** Please briefly describe the trailer bill language and budget proposal.

ISSUE "J"—Report Owed to the Legislature on Fraud Expansion Efforts

Background and Budget Act of 2003: The Budget Act of 2003 contained Budget Act Language which **required the DHS to report to the Legislature effective February 1, 2004 and semiannually thereafter regarding the results of the additional 161.5 positions established under the 2003 Medi-Cal Anti-Fraud Initiative.** The report is to include the results of the error rate study and random claim sampling process, the number of positions filled by division and for each of the components of the initiative, the amount of savings and cost avoidance achieved and estimated, the number or providers sanctioned, and the number of claims and beneficiary records reviewed. **This report, or relevant component pieces of the data as noted, has yet to have been received.**

Governor's Proposed Budget: The Administration did include the same reporting language in the Budget Bill for 2004.

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions.

- **1.** When will the requested information be provided to the Legislature?
- **2.** Since the error rate study will not be available until October 2004, **should a separate reporting requirement be provided for this aspect of the information**?

9. Request for State Staff—Treatment Authorization Requests (TARs) *(See Hand Out)*

Background—What are TARs?: Medi-Cal requires providers to obtain prior authorization for specific medical procedures and services before Medi-Cal reimbursement can be approved. **Generally the purpose of any prior authorization system is as follows:**

- ***Assists in Reviewing Medical Necessity:*** Ensures that patients receive appropriate medical care in a timely manner and that patients do not receive inappropriate treatment.
- ***Assists in Cost Control:*** Mitigates the potential for over utilization of services and serves to direct treatment to facilities with contracted/approved rates.
- ***Assists in Fraud Detection:*** Minimizes the potential for fraud by monitoring providers requesting an unusual quantity of services and patients receiving unusual services.

How Are TARs Processed?: **To file a TAR, providers must fill out one of several types of TAR forms (paper, not electronic) and forward the TAR, usually by mail, to the appropriate DHS TAR office** (six Medi-Cal Field Offices and two Pharmacy Sections). **The DHS then processes the TAR to either (1) approve, (2) modify—such as quantity of service, (3) defer—returned to provider for more information, or (4) deny the request.**

As noted by the California Healthcare Foundation (CHF) in their comprehensive July 2003 report—*Medi-Cal Treatment Authorizations and Claims Processing: Improving Efficiency and Access to Care*— Medi-Cal *takes longer* than other organizations to process TARs. The CHF noted that most of the health organizations they surveyed use the National Committee on Quality Assurance (NCQA) standard of two days turnaround time. In comparison, processing time at Medi-Cal Field Offices averages between 9 and 12 working days, excluding mail-in, mail-out, and mailroom processing time.

Other CHF Report Concerns Regarding the TAR Process: The **CHF report also noted** the following **primary concerns in their analysis:**

- The DHS uses a relatively larger staff than private health plans to process TARs. **Currently the DHS utilizes about 649 positions, including positions under the EDS contract.**
- **The Medi-Cal TAR process is complex.** Medi-Cal requires extensive documentation substantiating the TAR. For some retroactive hospital inpatient stay TARs, Medi-Cal asks for the entire chart to be photocopied to ascertain medical necessity.
- The **DHS does not conduct routine cost-benefit evaluations to determine if requiring prior authorization for certain services and drugs assist in cost control. In addition it was noted that there are no established routine, integrated TAR and claims management reports making it difficult to conduct any integrated analysis** such as tracking whether an authorization ultimately results in a claim, or understanding the cost-benefit by TAR type or drug.
- **The DHS does not use a standardized adjudication methodology for TAR processing.** Having no formal criteria or guidelines means that medical necessity and quality are impacted due to inconsistency. This also causes increased provider confusion and higher appeal rates.

Key CHF Report Recommendations: The CHF Report provided a comprehensive, concrete set of recommendations. **The following highlights key recommendations:**

- **Develop a comprehensive utilization management program**.
- Align Audits and Investigation Division personnel with local Field Offices that process TARs.
- **Create comprehensive guidelines for TAR adjudication** or use standard utilization management programs like other health care provider organizations do.
- **Reduce the number of services that require TARs.** The DHS should identify services that could be managed in ways other than the TAR process.
- **Develop a specific strategy for the evaluation of pharmacy TARs.**
- **Develop different TAR sampling methodologies for providers.** For example, samples could range from 5 to 100 percent , depending upon the services and the provider's TAR and claim history. Based upon provider TAR adjudication patterns and claim history, the Medi-Cal field office could also develop targeted education for the providers.

Governor's Proposed Budget—Request for 36 New Positions: The DHS is requesting **an increase of $4 million ($1 million General Fund) to hire 36 new state positions to process TARs. The requested positions are as follows:**

- 14 Nurse Evaluators II (12 for utilization review and 2 for appeals and litigation).
- 2 Pharmaceutical Consultant II
- 19 Pharmaceutical Consultant I
- 1 Word Processing Technician

It should be noted that approving this proposed budget request would bring the total budget for TAR reviews to about $70 million ($20 million General Fund) and the total staffing level to 685 positions.

The DHS contends that these 36 additional positions are needed in order to keep abreast of the TAR workload. They state that TAR processing has increased by 17 percent from calendar year 2001 to 2002. **In addition they note that this workload level was determined using a formula-driven staffing standards study** (**developed in 1995**).

The DHS is also proposing trailer bill language as part of their budget package; this is discussed below.

DHS Proposed Trailer Bill Language: **The DHS is also proposing trailer bill legislation which would give the department authority to determine the requisite level of TAR reviews for certain TARs or TAR types with high approval rates (i.e., implement a sampling methodology), *without* the need for filing state regulations.**

According to the DHS, this sampling methodology cannot be implemented sooner than July 1, 2005 because they have to select either EDS or another vendor to design, develop and conduct testing to implement an electronic system at the *front end* of the TAR processing.

The DHS notes that their proposal is not to randomly select and automatically approve a certain number of TARs but instead, their proposal is to identify TARs that have a high approval rate and/or low cost and automatically approve them all.

The criterion could change from month-to-month or day-to-day, depending on staff analysis and workload backlogs in the Field Offices. The TARs or TAR types to be sampled is contingent upon conducting a detailed analysis of TAR volume, workload, and savings associated with denials of particular TARs or TAR types.

Legislative Analyst's Office Recommendation: In her Analysis, **the LAO recommends to reject the Governor's request for 36 additional positions, for savings of $4 million ($1 million General Fund)**, because their analysis shows that **increasing the number of staff who process TARs is *not* the most cost-effective way to address the growth in TAR volume.**

They note that the DHS should take steps to reduce TAR workload and believe that the Administration's proposed trailer bill (TAR sampling) is a constructive first step. As such, they recommend approval of the language.

The LAO also notes that the DHS has not yet implemented an internet-based system called Service Utilization Review Guidance and Evaluation (SURGE). SURGE is intended to facilitate faster TAR decisions and processing but it was not yet up and operational. **The LAO believes that such a system would eventually lead to an overall need for state DHS staff in this area.**

Constituency Comments: Generally, **Medi-Cal providers are dissatisfied and frustrated with the TAR process** which they contend results in financial risk to providers and medical risk to Medi-Cal recipients. Various provider groups have been meeting to discuss suggestions for improving the TAR process. **Key suggestions from this process include the following:**

- **Reduce the number of services that require TARs.** It is suggested to use treatment plans and other industry standards to designate diagnoses and procedures as TAR-free (examples cited included Solucient, Ingenix, MedPAR and others). If fraud is an issue for some services, it is further suggested to develop and run sophisticated claims algorithms to identify fraudulent behavior before payments are made rather than utilizing TARs to identify fraud and abuse. **This is similar to the CHF report suggestion.**
- **Reduce the number of TARs processed by the DHS.** It is suggested for the DHS to use a random, statistically significant sampling methodology in lieu of processing every TAR received. This approach would be similar to the proposed DHS trailer bill language.
- **Develop a standard set of adjudication guidelines and publish common instructions for both Field Office staff and providers so that everyone is operating off the same set of expectations.**

In addition to these suggestions, numerous suggestions were offered regarding specific service areas, such as reforms related to TAR processing regarding long-term care, durable medical equipment services, home health and others.

Subcommittee Staff Recommendation: Subcommittee staff concurs with the LAO recommendation **to deny the budget request for 36 new positions for savings of $4 million ($1 million General Fund).** The TAR system is very antiquated and needs substantive change. The sampling approach is a modest step towards improvement **but additional changes as noted in the CHF report and from constituents, should also be considered.** As such, changes to the proposed trailer bill are outlined below.

With respect to the **proposed trailer bill language, the following changes are proposed as noted (differences noted in strikeout and underline)**.

Section 14133.01 **is added** to the Welfare and Institutions Code:

(a) Notwithstanding any other provision of law, the director or his or her designee may apply prior authorization by designing a sampling methodology that will result in a generally acceptable audit standard for approval of a treatment authorization request (TAR), or a class of TARs. The director or his or her designee shall determine the applicable sampling methodology~~.~~ based upon health care industry standards and discussions with applicable Medi-Cal providers or their representatives. This sampling methodology shall be implemented by no later than July 1, 2005, and an outline of it shall be provided to the fiscal and policy committees of both houses of the Legislature. It is the intent of the Legislature for the department to review the sampling methodology on an ongoing basis and updated it as applicable on a periodic basis in order to keep abreast of health care industry trends and the need to manage an efficient and effective Medi-Cal Program.

(b) The department shall pursue additional means to improve and streamline the treatment authorization request process including, where applicable, those identified by independent analyses such as the July 2003 report by the California Healthcare Foundation entitled Medi-Cal Treatment Authorizations and Claims Processing: Improving Efficiency and Access to Care, and those identified by Medi-Cal providers. It is the Legislature's intent that any identified improvements be cost-beneficial to the state and to the Medi-Cal Program as a whole.

(~~b~~) (c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific, this section by means of all-county letters, provider bulletins, or similar instructions. Thereafter, the department may adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Subcommittee Request and Questions: The Subcommittee **has requested the DHS and LAO to respond to the following questions:**

- **1.** DHS, Please **briefly** describe the budget proposal and proposed trailer bill language.
- **2.** DHS, How is SURGE going to be used with the proposed changes?
- **3.** DHS, Please briefly describe those specific actions taken to improve TAR processing since the release of the July 2003 report.
- **4.** LAO, Please briefly describe your recommendation.

Budget Issue: Does the Subcommittee want to adopt the Subcommittee staff recommendation (same as LAO but with noted trailer bill changes), adopt the Administration's proposal, or craft another solution?

10. Non-Contract Hospital 10 Percent Interim Rate

Background: There are about **440 licensed hospitals in California. Medi-Cal pays about $3.5 billion (total funds) for inpatient hospital services annually of which 20 percent or $700 million (total funds) is paid to "non-contract" hospitals.**

Non-contract **hospitals** are those who provide inpatient services to Medi-Cal patients but do not operate under a contract with the California Medical Assistance Commission (CMAC).

Each non-contract hospital is paid an "interim payment" by the DHS. The interim payment provides payments for services provided through the hospitals' fiscal year. The interim rate, which is what the payment is based upon, is calculated closely to approximate the cost for providing services to Medi-Cal recipients. These costs are then reconciled using hospital cost reports within five months of the end of a hospital's fiscal year. If the costs of providing services is greater than the interim payment, the hospital is reimbursed the difference. If costs are lower, the hospital must reimburse the difference to Medi-Cal. **The DHS states that while there is an attempt to approximate cost with the interim rate, in practice, many hospitals are overpaid during the course of the year.**

Governor's Proposed Budget: The Administration is proposing to reduce interim hospital payments for acute inpatient services by ten percent effective December 1, 2003. **The DHS states that savings of $36.2 million ($18.1 million General Fund) are anticipated for 2003-04, and savings of $62 million ($31 million General Fund) are expected for 2004-05.**

It should be noted that the savings from this proposal may be temporary because audits performed in 2005-06 may reveal that costs exceeded the new reduced interim payments, thus causing additional funds to be paid to the hospitals in 2005-06.

Subcommittee Staff Recommendation: Due to the present fiscal condition of the state, **Subcommittee staff recommends to adopt this budget proposal.** In essence the proposal would temporarily reduce the state's up front expenditure but would ensure that hospitals are paid what they are owed once the final reconciliation is completed.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- Please **briefly describe the budget proposal** and its potential affect on non-contract hospitals.

LAST PAGE OF AGENDA

Diane Van Maren (445-5202)
Senate Budget & Fiscal Review
May 3, 2004 (Items done as vote only)

Subcommittee No. 3-- OUTCOMES for April 12th and 19th Subcommittee Hearings

A. Vote Only for Monday, April 12th—Item 4260 Department of Health Services

5. Quality Assessment Fee for Managed Care Plans

Motion: **Keep open, new information from the federal government just received. To be discussed at the May Revision.**
Vote: **Not applicable.**

6. Graduate Medical Education Funding—Eliminate Sunset

Motion: **Adopt trailer bill language to delete the sunset date for the program.**
Vote: **5-0**

7. Oversight of Electronic Data System (EDS) Contract with the DHS for Medi-Cal

Motion: **(1) Adopt the LAO Supplemental Report Language (in agenda from April 12th), and (2) delete $150,000 (total funds) from the Fiscal Intermediary funding that was unscheduled.**
Vote: **5-0**

8B. Medi-Cal Anti-Fraud-- Convert 15 Limited-Term Positions to Permanent

Motion: Approve as budgeted.
Vote: **3-2 (McClintock and McPherson)**

8C. Medi-Cal Anti-Fraud-- Non-Institutional Medi-Cal Services Provider Audits

Motion: HOLD **OPEN** DO TO CHANGING INFORMATION.
Vote: **Not applicable (to be closed out at the May Revision).**

8D. Medi-Cal Anti-Fraud-- Delay Checkwrites One Week

Motion: **Reduce by an additional $2 million (total funds) to reflect anti-fraud review activities.**
Vote: **5-0**

8E. Medi-Cal Anti-Fraud-- Provider Feedback Program

Motion: Approve as budgeted.
Vote: **5-0**

8F. Medi-Cal Anti-Fraud-- Medi-Cal Recipient "Confirmation" of Services

Motion: Approve as budgeted.
Vote: **5-0**

8G. Medi-Cal Anti-Fraud-- Curtailing Assets and Third Party Payment

Motion: Approve the savings amount but refer the language to the policy committee.
Vote: **5-0**

8H. Medi-Cal Anti-Fraud-- Restrict Medi-Cal Billing for Certain Neurological Tests

Motion: Approve as budgeted.
Vote: **5-0**

8I. Medi-Cal Anti-Fraud-- Develop Counterproof Prescription Pads

Motion: Delete the proposal from budget trailer bill language without prejudice since there are no budget year savings associated with the legislation and plenty of time to find a policy bill.
Vote: **5-0**

8J. Medi-Cal Anti-Fraud-- Report Owed to the Legislature on Fraud Expansion Efforts

Motion: Adopt Budget Bill Language directing the DHS to provide the Error Rate Study to the Legislature by no later than November 1, 2004.
Vote: **5-0**

9. Request for State Staff—Treatment Authorization Requests

Motion: **(1)** Reject the Administration's request for 36 positions, and **(2)** adopt amended trailer bill language as noted in the April 12th agenda.
Vote: **5-0**

10. Non-Contract Hospital 10 Percent Interim Rate

Motion: Approve as budgeted.
Vote: **5-0**

B. Vote Only for Monday, April 19th—Item 4300 Department of Developmental Services

1. Cost Containment From Budget Act of 2003 & Governor's Proposed Budget

Motion: **Adopt the proposal with modified trailer bill language (as noted in agenda).**
Vote: 5-0

3. Request for DDS Headquarters' Resources for Selected Cost Containment Issues

Motion: Approve 7 of the 9 positions, and hold open the two positions regarding the statewide purchase of services issue.
Vote: 3-2 (McPherson and McClintock)

4. Update and Potential for Other Federal Funding Options

Motion: Recognize the $29.9 million in increased federal funds and reduce by $29.9 million General Fund from the RC POS item.
Vote: 5-0

8. Transfer of Habilitation Services Program

Motion: Approve as budgeted.
Vote: 3-2 (McPherson and McClintock)

State Developmental Centers

1. Developmental Center Adjustments for Population

Motion: Approve the baseline budget, pending receipt of the Governor's May Revision.
Vote: 5-0

2. Proposal to Contact Out for Certain Services

Motion: Reject the Administration's proposal to contract out services.
Vote: 3-2 (McClintock and McPherson)

LAST PAGE OF OUTCOMES (For April 12th and 19th Hearings).

Senate Budget & Fiscal Review
Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Thursday, April 15, 2004
Upon Adjournment of Senate Floor Session
Room 4203

Consultant, Ana Matosantos

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

5180 Department of Social Services

The Department of Social Services (DSS) administers various programs designed to assist low-income families with children in attaining self-sufficiency by transitioning from welfare to work, to support low-income aged, blind or disabled Californians, and to provide food assistance to low income families. The programs include the California Work Opportunity and Responsibility to Kids (CalWORKs) program, the Cash Assistance Program for Immigrants, Food Stamps and the California Food Assistance Program. These programs serve approximately 2.2 million persons each year. The Governor's Budget provides $5.9 billion in combined federal, state and county funds to support these programs.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	% Change
Program Funding				
CalWORKs	5,062,397	4,702,394	(360,003)	-7.1
Food Stamps Administration	779,577	727,340	(52,237)	-6.7
California Food Assistance Program	16,393	9,947	(6,446)	-39.3
Cash Assistance Program for Immigrants	82,280	80,817	(1,463)	-1.8
Total Program Expenditures	$5,940,647	$5,520,498	-$420,149	-7.1

ITEMS FOR DISCUSSION

I. California Work Opportunity and Responsibility to Kids (CalWORKs)

Background: The California Work Opportunity and Work Responsibility to Kids (CalWORKs) program implements in California the Temporary Aid to Needy Families (TANF) program. TANF, the federal welfare reform law of 1996, ended the federal welfare entitlement, introduced work participation requirements, provided services designed to support employment, and gave states block grant funding and program flexibility. CalWORKs, California's TANF program, became operational January 1, 1998.

CalWORKs provides cash benefits and welfare-to-work services to 1.2 million children and their parents or caretaker relatives. The average family of three must have an annual net income below $11,772 or 77 percent of the federal poverty level, have less than $2,000 in resources, and cannot have a car valued at more than $4,650 to become eligible for CalWORKs. A family of 3 receiving CalWORKs can earn up to $19,596 per year and remain eligible for aid due to California's earned income disregards. CalWORKs recipients are required to participate in welfare-to-work activities and perform a minimum of 32 hours of work activities per week (35 hrs. for two parent families) to remain eligible for benefits.

CalWORKs is overseen by the California Department of Social Services and administered locally by counties. State law establishes eligibility criteria and benefits, and grants counties considerable flexibility to design welfare-to-work services that reflect local conditions and priorities. Counties are provided block grant funding to support program services.

Summary of Enrollment: After peaking in March of 1995, CalWORKs enrollment has dropped by 48.7 percent through 2003. Enrollment decreased by 34.3 percent since the CalWORKs program was implemented in 1998. The caseload decline is due to a combination of demographic trends (such as decreasing birth rates for young women), California's economic expansion, and full implementation of welfare reform. After years of declines, the Department of Social Services estimates enrollment will decrease by 0.7 percent in 2003-2004, and increase by 0.4 percent in 2004-2005. The budget assumes that the final CalWORKs average monthly enrollment will be 469,077.

Issue A - CalWORKs Funding Structure and Maintenance-of-Effort Requirement

Background: CalWORKs is funded through a federal TANF block grant, which combined with required state matching funds amounts to $6.4 billion. As a condition of receiving TANF funds, state funding must be at least 75 percent of the state's federal fiscal year (FFY) 1994 expenditures level ($2.7 billion). As a matter of policy, California has chosen to treat the federally required maintenance of effort (MOE) level as a ceiling for program spending.

Over time, California has broadened its definition of expenditures that can be considered to meet the state's maintenance of effort requirement. Additionally, the state has transferred a growing amount of TANF funds to non-CalWORKs programs. As a result, available direct funding for the CalWORKs program has substantially declined. Since 1998, total funding for the CalWORKs program has decreased by $757.5 million.

Slowing caseload declines, scheduled cost of living adjustments and a growing demand for welfare-to-work services are estimated to increase CalWORKs costs in the budget year. Absent statutory or funding changes, costs are estimated to rise $402.6 million above the maintenance of effort level. A recent court ruling in *Guillen v. Schwarzenegger,* a legal challenge which seeks to compel the state to provide a cost-of-living adjustment, may increase CalWORKs spending to $618.9 million above the TANF maintenance of effort level (an increase of $216.3 million above the aforementioned $402.6 million estimate).

Governor's Budget: The Governor's Budget maintains state spending at the federally required TANF maintenance of effort level and transfers additional TANF funds to offset General Fund costs in non-CalWORKs programs. The budget provides $4.7 billion to support CalWORKs in the budget year. This constitutes a $359.97 million, or a 7.1 percent decrease in CalWORKs expenditures from the current year appropriation.

Under the Governor's Budget, the total CalWORKs program funding reduction from the 1998-99 level will be $757.5 million, equal to a 14 percent reduction. TANF/MOE funding for non-CalWORKs programs has increased by 50 percent to $1.1 billion since 1998-99.

CalWORKs Program Funding

	FY 1998-99	FY 2003-04	FY 2004-05	98-99 to 04-05	
Total TANF Grant/Required MOE	**6,640,971,000**	**6,413,211,000**	**6,401,369,000**	**-239,602,000**	**-3.61%**
CalWORKs Program (*Actuals)*	**5,459,880,441**	**5,062,397,000**	**4,702,394,000**	**-757,486,441**	**-13.87%**
Grants	3,728,895,597	3,072,954,000	2,820,982,000	-907,913,597	-24.35%
Administration	518,317,463	615,931,553	582,485,155	64,167,692	12.38%
Services	418,503,052	776,479,603	734,315,104	315,812,052	75.46%
Child Care	360,733,329	597,031,844	564,611,741	203,878,412	56.52%
Estimated County Share of Admin/Services	60,400,000				
Performance Incentives(budgeted)	373,031,000	0	0	-373,031,000	-100.00%
Probation	**201,413,000**	**201,413,000**	**67,138,000**	**-134,275,000**	**-66.67%**
KinGAP	**0**	**85,310,000**	**92,319,000**	**92,319,000**	
Non-CalWORKs MOE in CDSS	**(11,269,000)**	**(12,363,000)**	**(10,322,000)**	**947,000**	**-8.40%**
Other MOE in CDSS	**305,663,000**	**329,544,000**	**340,155,000**	**34,492,000**	**11.28%**
MOE In Other Department Budgets	**402,839,000**	**460,336,000**	**444,759,000**	**41,920,000**	**10.41%**
State Support	**29,016,000**	**27,242,000**	**27,242,000**	**-1,774,000**	**-6.11%**
Total Expenditures	**6,387,542,441**	**6,153,879,000**	**5,663,685,000**	**-723,857,441**	**-11.33%**
Federal TANF	3,480,389,441	3,474,486,000	2,996,134,000	-484,255,441	-13.91%
General Fund	2,753,530,610	2,478,518,000	2,462,788,000	-290,742,610	-10.56%
Other State Funds *(ETF, Prop 10)*	0	56,400,000	56,400,000	56,400,000	
County Funds	153,622,390	144,475,000	148,363,000	-5,259,390	-3.42%
Total TANF transfers	**284,965,000**	**747,993,000**	**832,627,000**	**547,662,000**	**192.19%**
Non-CalWORKs Transfers	0	100,135,000	194,535,000	194,535,000	
Transfers to Stage 2, Tribal TANF and Reserve	284,965,000	647,858,000	479,657,000	194,692,000	68.32%
Total Available Funding	**7,257,991,000**	**6,996,815,000**	**6,496,312,000**	**-761,679,000**	**-10.49%**
Total TANF/MOE Expends	**6,672,507,441**	**6,901,872,000**	**6,496,312,000**	**-176,195,441**	**-2.64%**
NET TANF Carry-over Funds	585,483,559	94,943,000	0	-585,483,559	-100.00%
CalWORKs contribution to the General Fund	708,502,000	1,155,325,000	1,251,768,000	543,266,000	85.09%

Subcommittee request and questions: The Subcommittee has requested the Department of Social Services answer the following questions:

1. Briefly describe the federal TANF maintenance of effort requirement and the CalWORKs program funding structure.
2. How has total CalWORKs program funding and funding for different program components changed over time?
3. How has California's broader definition of expenditures counted towards the TANF/MOE, its transfer of TANF funds to non-CalWORKs programs, and the slowing caseload decline affected CalWORKs program funding?

Issue B - CalWORKs Grants

Background: CalWORKs provides monthly cash assistance to eligible children and their parents or caretaker relatives. A family's grant depends on its size, available income and resources. Grants also depend on the cost of living of the area in which the family resides. The current maximum grant for a family of 3 on CalWORKs is $704 per month. The annual income of a family of 3 receiving food stamps and the maximum CalWORKs payment is $11,772 or 77 percent of the federal poverty level. A family of 3 receiving CalWORKs can earn up to $19,596 per year and remain eligible for aid.

The CalWORKs grant structure is designed to encourage work participation by allowing recipients to keep much of their earnings while remaining eligible for aid and services. The budget maintains the existing grant structure and earned income disregards.

Governor's Budget: The budget proposes to (1) reduce CalWORKs grants by 5 percent, (2) delink CalWORKs COLAs from the Vehicle License Fee, (3) suspend CalWORKs COLAs, and (4) reduce Safety Net grants for cases with non-working adults by 25 percent for total General Fund savings of $352.9 million and $216.3 million in cost avoidance.

The following chart illustrates the impact of the Governor's Budget on CalWORKs eligibility:

CalWORKs Eligibility Income Levels		
	Current Levels	**Governor's Budget**
Applicant	$981 per month	$936 per month
Recipient	$1,633 per month	$1,563 per month

The following chart illustrates the impact of Governor's Budget on a CalWORKs family of 3 that has no other income and receives the maximum aid payment:

CalWORKs Grant (Families with no other income)	
Current Grant for a Family of 3	$704
October COLA	24
July COLA	21
Grant Under Current Law	**$749**
Total Grant after 5% Grant Reduction	$669
Offsetting Increase in Food Stamps	$37
Lost Income to Families	$43
Work Hours per Month to Replace Income Loss	6.4

* The calculation of "work hours per month to replace income loss" assumes that the CalWORKs participant works at minimum wage.

(1) CalWORKs grant reduction

Background: The current maximum grant for a family of 3 on CalWORKs is $704 per month. The annual income of a family of 3 receiving food stamps and the maximum CalWORKs payment is $11,772 or 77 percent of the federal poverty level. A family of 3 receiving CalWORKs can earn up to $19,596 per year and remain eligible for aid.

Governor's Budget: The budget reduces the maximum aid payment under CalWORKs by 5 percent to $669 for a family of 3 for General Fund savings of $226.4 million.

The budget reduces CalWORKs grants for a family of 3 by $35 per month. The reduction will be partially offset by a $16 increase in monthly food stamps benefits. Families can make up the lost income by working an additional 2.8 hours per month. An average family of 3 with no earned income will experience a decrease in their income from 77 to 75 percent of the federal poverty level or from $981 to $962 per month.

The average family on CalWORKs will lose a smaller percentage of their income as their grant serves as a wage supplement. These families will lose 2.9 percent of their income compared to the 5 percent for families with no earned income. The average family of 3 receiving CalWORKs will experience a decrease in their income from 96 to 93 percent of the federal poverty level.

CalWORKs recipients expend their grants to pay for rent, clothing and other necessities. They expend most of their grant on rent and utilities. According to the U.S Department of Housing and Urban Development, Fair Market Rents for a one-bedroom apartment in California average $633 per month and range from $417 in Colusa to $1,475 in San Jose, $807 in Los Angeles, $596 in Riverside, $987 in Orange and $1,004 in Santa Cruz. Since 1990 rent prices have increased by 41 percent and the purchasing power of a CalWORKs grant has declined by 32.3 percent.

In addition to reducing the resources of families on CalWORKs, the proposed grant reduction will make 6,100 families ineligible for the program. These families will lose their grants, but will remain eligible for 24 months of transitional child care services. The families that become ineligible for CalWORKs as a result of the proposed grant reductions generally have other sources of income, including income from earnings and income from other forms of assistance.

Subcommittee requests and questions: The Subcommittee has asked the Department of Social Services to answer the following questions:

1. Briefly describe the proposed CalWORKs grant reduction.
2. How will the proposals affect low-income families participating in CalWORKs?
3. How many families will become ineligible for CalWORKs as a result of the proposed grant reduction? What are the characteristics of these families? How will these families be affected by the loss of CalWORKs eligibility?

(2) De-link CalWORKs COLA from Vehicle License Fee.

Background: Current law links the provision of a CalWORKs cost of living adjustment to vehicle license fee (VLF) relief. Specifically, the law provides that between the 2001-02 and the 2003-04 fiscal years, when there is an increase in vehicle license fee relief the CalWORKs COLA shall be provided and when there is no vehicle license fee relief the CalWORKs COLA shall be suspended. In June 2003, the Director of Finance determined that there would be a rate increase for VLF payments due on or after October 1, 2003. Because the VLF relief was eliminated, the CalWORKs October 2003 COLA was suspended. In November 2003, the Schwarzenegger administration rolled back the VLF increase triggering fee relief and an assumed requirement to provide the October CalWORKs COLA. The Administration did not provide the CalWORKs COLA and proposed legislation to "de-link" the CalWORKs COLA from the VLF.

In December 2003, three parents receiving CalWORKs filed a class action lawsuit, *Guillen v. Schwarzenegger,* seeking to compel the state to provide the October 2003 cost-of-living adjustment. The Schwarzenegger administration argued that the CalWORKs COLA is not required by current law, that the previous administration's action to increase the VLF was not legal, and that in accordance with the statute, no COLA is required since there was no increase in tax relief. A Superior Court judge recently ruled that California must provide a cost-of-living increase to welfare recipients as a result of the Governor's reduction of the VLF. The judge ruled that the State must pay the COLA to all welfare recipients, retroactive to October 1, 2003 and for future months.

Governor's Budget: The Governor proposes legislation to de-link the CalWORKs annual COLA from the Vehicle License Fee for cost avoidance of $90.5 million in 2003-04 and $125.8 million in 2004-05.

Subcommittee request and questions: The Subcommittee has requested that the Administration provide an update on the status of *Guillen v. Schwarzenegger.*

(3) CalWORKs Cost-of-Living Adjustment Suspension

Background: Current law provides an annual cost-of-living adjustment for CalWORKs grants that is based on the California Necessities Index. Historically, the CalWORKs COLA becomes effective on July 1 of every year. Legislation that had delayed the effective date of the COLA to October 1 expires in the current year making July 1 the effective date for future COLAs. The July 1, 2004 CalWORKs cost-of-living adjustment will increase the maximum CalWORKs grant by $21 per month. Under current law, the maximum CalWORKs grant for a family of 3 will increase to $749 per month in the budget year.

Governor's Budget: The budget proposes to suspend the annual CalWORKs COLA in the 2004-2005 fiscal year to generate savings of $98.5 million General Fund. Suspension of the cost-of-living adjustment will maintain grants at their current level and will not keep pace with cost-of-living increases such as rising housing costs.

The Governor also proposes legislation to permanently change the effective date for the CalWORKs COLA to October 1. Providing the CalWORKs COLA in October, instead of July facilitates implementation of statutory changes to the CalWORKs grant associated with the Budget Act, including suspension of the annual COLA, when approval of a budget is delayed beyond the July 1 deadline.

Subcommittee request and questions: The Subcommittee has requested that the administration describe the budget proposal, the impact of the COLA suspension on CalWORKs families, and the rationale for changing the effective date for the CalWORKs COLA to October 1.

(4) Safety Net Grant Reduction

Background: TANF and CalWORKs establish a 60-month lifetime limit for receiving CalWORKs assistance for adults, unless they meet specified exemption criteria, such as being a victim of domestic violence, being disabled or being over 60 years of age. Upon reaching their time limit, parents are discontinued from aid. Most families continue to receive a safety net grant, which excludes the adult from the grant unit.

Governor's Budget: The budget reduces Safety Net grants received by families with non-working adults by 25 percent for General Fund savings of $28.7 million in 2004-05.

The Safety Net grants effected by this proposal are child-only grants that provide cash assistance to children whose parents have exceeded their 60-month lifetime limit for receipt of cash aid. Under the proposal, the maximum monthly safety net grant for a family of three with non-working adults will be reduced by $163 to $405. The reduction will be offset by a $67 increase in food stamps. A family can avoid the loss of income if the adult works for any amount of earnings, as families that report earnings during the quarter will be considered to be working.

The Governor's Budget assumes that 49.3 percent of safety net cases are not working. The budget does not assume adults in these families will begin to work as a result of the proposed reduction. If the adults begin to work and report any earnings, they will avoid a grant reduction. Changes in the work participation of these adults will reduce budgetary savings.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the characteristics of families receiving safety net grants, the impact on children of the proposed reduction, and why the budget does not assume any behavioral changes on parents as a result of the proposed reduction.

Issue C - Tribal TANF Programs.

Background: Federal welfare reform legislation authorizes Indian tribes, or tribe consortia, to operate TANF programs. Tribes with an approved Tribal Family Assistance Plan are granted the administrative authority to operate a TANF program and receive program funding to meet benefit, administrative, and welfare-to-work service costs. Tribal TANF programs, like county programs, are accountable for delivering services and achieving program outcomes, including moving families from welfare to self-sufficiency.

California currently has six approved Tribal TANF programs. The programs serve Native American families across 21 counties. Additional tribes are reportedly interested in establishing Tribal TANF programs. The Department of Social Services is currently in negotiations with 5 tribal programs.

Tribal TANF programs are funded with combined federal and state dollars. Tribes receive federal funding for Tribal TANF programs directly from the federal government. Federal funding for Tribal TANF reduces the state's TANF block grant by the amount transferred to the Tribal Assistance Grants. Federal funding is based on the number of Native American families that received cash assistance in the 1994 Federal Fiscal Year.

State law provides for General Fund support for tribal TANF programs. The amount of General Fund support is also based on the FFY 1994 caseload. According to DSS, a portion of state funding for tribal TANF programs comes from funds shifted to the tribes from the single allocation of the counties in which the tribes are located. Native American families have the option of receiving CalWORKs services, including grants, from the county where they reside or from the tribe.

Governor's Budget: The budget reduces state funding for Tribal TANF programs by $30.5 million. Federal funding for Tribal TANF programs remains at the prior-year level and is based on the federal fiscal year 1994 caseload levels.

The Governor's Budget provides state funding for tribal TANF programs at the FFY 1994 caseload level for the first two years of operation. After two years, state funding for the programs will be based on actual program caseload.

Constituency Comments: The California/Nevada Tribal TANF Administrators' Association opposes the Governor's Budget proposal and argues that it would have a disproportionate impact on programs serving the neediest Californians. They argue that tribal TANF programs face unique challenges, including a history of deep poverty in Native American communities and large service areas, which require a reasonable period of time for programs to develop. Tribal TANF Administrators argue that the Budget does not account for the need to build infrastructure, develop program components, and "ramp up" Tribal TANF programs. The administrators also argue that the Budget does not accurately reflect program caseload, as they believe the caseload estimate only includes "assistance" cases, not cases receiving preventive services.

Counties support the Governor's proposal to base state funding for tribal TANF programs on actual caseload. They argue that as the state has chosen to reduce county allocations to fund tribal TANF programs, it is critical to have a process to allocate funding to where clients are being served. Counties argue that the current approach is problematic as state funding is based on imprecise caseload estimates and some tribal members may continue to seek CalWORKs services from the county. Counties support the Governor's Budget and request that the savings be returned to the counties whose allocation was originally reduced.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe their budget proposal and its impact on the ability of Native American families to receive program services and assistance.

Issue D - Terminates Funding for Services Delivered by Indian Health Clinics

Background: Since 2000, California has provided funding to 36 Indian health clinics to support the delivery of mental health and substance abuse services to Native Americans. Funding supports a clinician at each of the clinics and the delivery of services designed to assist clients in securing and retaining employment. Program services include outreach, mental health or substance abuse screenings, individual or group treatment services, and assistance to integrate clients into welfare-to-work services.

Governor's Budget: The budget terminates funding for mental health and substance abuse services delivered by Indian Health Clinics for savings of $2.7 million.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the budget proposal and its impact on the ability of Native Americans on CalWORKs to access substance abuse and mental health services.

Issue E - Eliminates Substance Abuse Treatment Program for Low-Income Women

Background: The Low-Income Women Outpatient Substance Abuse Treatment and Supportive Housing Program provides transitional services to low-income women in need of substance abuse treatment who are not eligible for other treatment services.

Governor's Budget: The budget eliminates the Low-Income Women Outpatient Substance Abuse Treatment and Supportive Housing Program for savings of $2 million.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the budget proposal and its impact on the ability of low-income women to access substance abuse treatment.

Issue F - TANF transfer to non-CalWORKs Programs

Background: The federal TANF law allows the state to transfer up to 10 percent of its TANF funds to Title XX. The transferred TANF funds must be spent on children or their families with incomes below 200 percent of the federal poverty level. Once transferred, the funds may be used to support any programs that meet the stated Title XX goals, including, achieving economic self-sufficiency, preventing abuse or neglect, enabling families to stay together, and preventing inappropriate institutional care.

Governor's Budget: The budget increases TANF fund transfers to support non-CalWORKs activities to $194.5 million. The budget proposes the following new or increased TANF transfers: $56 million to the Foster care program, $52.5 million to Child Welfare Services, $48 million to the Department of Developmental Disabilities and $18 million to fund activities associated with implementation of the state's Children's Services Program Improvement Plan. At its March 18 hearing, the Subcommittee rejected the proposed funding for the Child Welfare Services Redesign and redirected the proposed funding to reduce the TANF fund transfer to Child Welfare Services.

Since 1998-99, TANF/MOE funding for non-CalWORKs programs has increased by 50 percent to $1.1 billion. CalWORKs program funding has decreased by $757.5 million in the same period.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the proposed transfers and their impact on the state's ability to fully fund CalWORKs grants and welfare-to-work services.

Issue G - Research and Evaluation

Background: Assembly Bill 1542 (Chapter 270, Statutes of 1997) authorized the Department of Social Services to develop a research design to evaluate CalWORKs and county demonstration projects such as school attendance, monthly change reporting, etc. State law requires that an independent statewide evaluation be conducted. Outcomes derived from the evaluations are provided through individual reports that consider the CalWORKs process, the program's impacts, and the costs and benefits of the CalWORKs Program.

Governor's Budget: The budget provides $6.6 million to fund CalWORKs research and evaluation projects.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the research and evaluation activities being funded by CalWORKs and discuss how the information is distributed and utilized.

Issue H - CalWORKs Employment Services and Administration Funding

Background: County welfare departments are responsible for the local development and implementation of CalWORKs. They receive a block grant from the state and are given substantial flexibility to design and carry out the CalWORKs program within the state and federal program guidelines. Counties develop and implement employment preparation and family support programs. County staff members determine eligibility for the program, provide case management services, develop welfare-to-work plans, and provide referrals to services such as child care and transportation.

California provides counties a single allocation block grant to fund CalWORKs Stage 1 childcare, employment services, transportation and program administration. Program administration funding supports eligibility determination, case management services, fraud

prevention, and issuance of grants. Counties have some flexibility to move funds from one type of expenditure to another within their single allocation.

County single allocations were established during the implementation of CalWORKs and were based on each county's estimate of the funding level necessary to fund their CalWORKs program. The allocations were reviewed and adjusted to reflect actual costs in 1998-99 and 1999-00. California has maintained counties at the 2000-01 funding level in subsequent years.

The Budget Acts of 2002 and 2003 provided single allocation increases to equalize program funding across counties and to support the provision of employment services. This funding augmented available county resources for employment services functions. However, the increase was partially offset by CalWORKs administrative funding reductions.

Governor's Budget: The budget (1) suspends county cost of doing business adjustments; (2) reduces single allocation funding due to the impact of time limits on caseload; (3) reduces single allocation funding due to the implementation of prospective budgeting; and (4) maintains the $191.9 million funding increase for employment services.

(1) County Cost of Doing Business Adjustment

Background: The budget provides $1.9 billion to fund the delivery of CalWORKs services, childcare and CalWORKs administration. This amount reflects a $108 million decrease in local assistance in the budget year. The proposed compensation for county services is based on 1999-2000 county costs and does not include a cost-of-doing business adjustment. Counties estimate that the maintenance of CalWORKs program funding at the 1999-2000 level amounts to a total reduction of $255 million.

State and federal laws require counties to complete specified administrative functions, including determining eligibility and issuing benefit checks, within specified timelines. Counties are given greater flexibility in the provision of employment services. When managing reductions in state funding, including suspension of cost of doing business adjustments, counties must fund mandated activities, such as the provision of eligibility services first. Counties reduce funding in the areas where they have more flexibility including funding for overhead expenses, staffing and available welfare-to-work services.

Subcommittee staff review of county expenditures found that since 2001-02, counties have shifted more than $100 million in program funding from welfare-to-work services to child care and administration. Counties report that CalWORKs funding reductions have led to elimination of employment services, reduced availability of on the job training programs, cancellation of contracts designed to move recipients from cash aid to work, and elimination of outreach programs to engage clients with multiple barriers in welfare-to-work activities.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services briefly answer the following questions:

1. Briefly discuss the proposed funding level for CalWORKs administration and services.
2. What has been the programmatic impact of maintaining funding for CalWORKs program administration and services at the 1999-2000 cost level?
3. How does limited funding for welfare-to-work services affect work participation and CalWORKs grant costs?

(2) 60-month time limits

Background: TANF and CalWORKs establish a 60-month lifetime limit for receiving CalWORKs assistance for adults, unless they meet specified exemption criteria. Upon reaching their time limit, parents are discontinued from aid. They remain eligible for two years of child care services and, at county option, job retention services. Parents began reaching their TANF time limit in December of 2001 and their CalWORKs time limit in January of 2003.

Governor's Budget*:* The budget estimates that in the current year and budget year the average monthly number of cases that will reach their CalWORKs time limit is 31,698 and 53,006. The budget reduces funding for CalWORKs services and administration by $72.98 million in the current year and $100.2 million in the budget year as a result of parents reaching their time limit.

(3) Prospective Budgeting (This issue affects both CalWORKs and Food Stamps)

Background: California was one of eight states that required CalWORKs and food stamps recipients to report, on a monthly basis, changes in their income and eligibility. Monthly reports of income and employment require that counties process more than 700,000 pieces of paper each month, even if most of them include no reported changes. An error is recorded not only if the information is wrong or fraudulent, but also if the monthly report is not processed on a timely basis. California's monthly reporting requirement reportedly contributed to California's high food stamps error rate, which has resulted in significant federal penalties.

Assembly Bill 444 (Chapter 1022 of the Statutes of 2002) required California to implement prospective budgeting/quarterly reporting for CalWORKs, Food Stamps and the California Food Assistance Program. Prospective budgeting will require beneficiaries to report their earnings and other eligibility related information on a quarterly basis instead of every month. The implementation of prospective budgeting is expected to reduce California's error rate and result in significant administrative savings.

Counties began to implement the new prospective budgeting system in November 2003. The system will be implemented statewide by June 2004.

Governor's Budget: The budget reduces funding for CalWORKs and Food Stamps administration by $143.8 million due to the implementation of prospective budgeting. According to DSS, the reduction constitutes a 16 percent decrease in funding for administrative costs.

Constituency Comments: Counties believe that the budget overestimates the administrative savings of implementing prospective budgeting. Based on the experience of counties that have implemented prospective budgeting, counties argue that savings from quarterly reporting do not begin to accrue until after six months of implementation. Further, counties assert that the budget assumes a higher level of savings than can be reasonably expected to materialize. Counties recommend that savings be delayed until six months after implementation and that the savings level be reduced to reflect monthly workload that is not linked to monthly or quarterly reports.

Inadequate CalWORKs and Food Stamps administration funding may undermine the delivery of eligibility services, delaying aid to families. Additionally, reductions to funding for CalWORKs administration costs may further reduce the availability of welfare-to-work services. Reductions to funding for Food Stamps administration may erode the state's progress in reducing its error rate leading to substantial federal penalties.

Subcommittee Concerns and Questions: The Subcommittee has requested that the Department of Social Services to answer the following questions:

1. Briefly discuss the status of implementation of the new prospective budgeting system.
2. Discuss the impact of prospective budgeting on county eligibility worker workload.
3. Are counties that have implemented prospective budgeting experiencing the level of workload reduction assumed in the budget?
4. How will reductions in CalWORKs and Food Stamps administration funding impact the state's error rate and availability of welfare-to-work services?

Issue I - Work Participation Reforms

Background: CalWORKs provides cash benefits and welfare-to-work services to 1.2 million eligible children and their parents or caretaker relatives. CalWORKs recipients are required to participate in welfare-to-work activities and perform a minimum of 32 hours of work activities per week (35 hrs. for two parent families) to remain eligible for benefits. Recipients can satisfy work participation requirements within the first 18 to 24 months by being employed, participating in activities that will lead to employment, including education and training programs, or participating in activities that reduce barriers to employment such as receiving substance abuse or mental health treatment. After the 18-24 month period, recipients must participate in employment or supervised community services to continue receiving aid.

CalWORKs grants counties broad flexibility in the design and implementation of the program. County welfare departments are responsible for the local development and implementation of a CalWORKs plan. Counties develop employment preparation and family support programs that reflect local conditions, including labor market information and availability of services for low-income families. County staff provide case management services, develop welfare-to-work plans, provide referrals to services such as child care and transportation, and monitor participant compliance with program requirements. Counties are responsible for moving CalWORKs recipients into program participation and share in 50 percent of any financial penalties the federal government assesses for not meeting federal TANF work participation requirements.

California has successfully met federal work participation requirements each year since CalWORKs was implemented. As a result, the state's maintenance of effort requirement has been reduced by $180 million to $2.7 billion since the 2000-01 fiscal year and the state has avoided federal penalties. California's success in meeting federal participation requirements is in part due to the state's caseload reductions as the state has benefited from the federal caseload reduction credit. The state's actual work participation rate in the federal fiscal year 2002 was 27 percent, arguably lower than one would expect given the state's work first program design.

According to the Department of Social Services, a significant number of CalWORKs recipients are not participating in the required work activities or are participating for less hours than the required 32 or 25 hours of work participation. Limited participation in work activities negatively impacts the state's work participation rate and may hinder the ability of participants to achieve self-sufficiency within the 60-month lifetime limit for CalWORKs assistance.

Governor's Budget: The Governor proposes to require job search as a condition of eligibility and to require most adults receiving CalWORKs to work or participate in work related activities for at least 20 hours per week, within 60 days of receipt of aid. The reforms seek to strengthen the program's focus on work and to increase California's work participation rate, which currently is 27 percent. The Governor's proposed reforms generate net savings of $31.2 million.

The Governor's proposed changes are consistent with some Congressional TANF Reauthorization proposals, which limit the activities that can be counted towards fulfillment of work requirements. However, enactment of the Governor's proposed reforms will most likely not obviate the need to make changes to the CalWORKs program when Congress approves Reauthorization.

The following chart summarizes key components of the Governor's reform proposals and how they compare to the CalWORKS program and to proposed TANF changes:

	CalWORKs Program	**Governor's Proposal**	**Proposed TANF Changes**
Universal Engagement	• Requires non-exempt aided adults to participate in job search or job club activities. • Provides for an assessment and development of a Welfare-to-Work Plan if the adult does not find employment during the job search period or if the county determines that participation in job search will not lead to employment.	• Requires all aided adults to sign a Welfare-to-Work Plan within 60 days of receipt of aid, or up to 60 days after completion of job search if job search is "initiated" within 30 days of determination of eligibility. • Requires job search as a condition of eligibility. Applicants will follow the same "program flow" as recipients and will be eligible for supportive services.	• Requires that every family with a "work eligible individual" have a family self sufficiency plan within 60 days of opening a case. *Senate version* provides a year to phase-in the requirement for current recipients. • Requires all parents and caretakers receiving assistance to engage in work or alternative self-sufficiency activities.

	CalWORKs Program	Governor's Proposal	Proposed TANF Changes
Work Activities	• Recipients can satisfy work participation requirements within the first 18 to 24 months by being employed, participating in activities that will lead to employment, including education and training programs, or participating in activities that reduce barriers to employment such as receiving substance abuse or mental health treatment. • After the 18-24 month period, recipients must participate in employment or supervised community services to continue receiving aid.	• Eliminates the 18-24 month CalWORKs time limit. • Requires all non-exempt adults to work or participate in work-related activities for at least 20 hours per week within 60 days of receiving aid. • Limits the activities that count towards fulfillment of the 20-hour requirement to employment, supervised community services, job search for up to 8 weeks, on-the-job training and work experience. • Counts hours spent in mental health, substance abuse, and domestic violence services toward the 20-hr requirement when services are necessary for the individual to work, the need for services cannot be fulfilled within the 12 to 15 non-core hours of participation and the person would be otherwise exempt.	• Both proposals are more permissive than the Governor's reforms, but are more restrictive than current CalWORKs law. *House version* requires 24 hours of participation in "primary activities" which include work, on-the-job training, work experience and community service. Permits states to substitute other activities (such as substance abuse treatment) for 3 months in a 24-month period. *Senate version* requires 24 hours of participation in "primary activities" which include all *House version* activities, vocational educational training, job search (8 weeks) and providing childcare for other recipients. Permits substitution of barrier removal activities for 6 months in 24 months.
Hours of Participation	• 32 hours per week for single parent families • 35 hours per week for two parent families • 55 hours per week for two-parent families receiving federally subsidized child care.	• Does not change the state's total required hours of work participation.	*House version* requires 40 hours per week for all family types but provides a partial credit for adults who participate in at least 24 hours of "direct work activities". *Senate version* requires 34 hours for most single parent families, 39 hours for two parent families and provides a partial credit for single parent families (20 hrs) and for two parent families (26).

	CalWORKs Program	Governor's Proposal	Proposed TANF Changes
Work Participation Rate	• California's work participation rate for families in the federally funded CalWORKs program is 27.1 percent. This calculation of the work participation rate excludes the two-parent family caseload, which has a higher rate of work participation than the single parent family caseload.	• According to Department of Social Services estimates, implementation of the welfare reform proposals may increase California's work participation rate to 80 percent if all participants meet the proposed requirements and 49 percent if only half of recipients comply with the requirements.	• 50 % in 2004, 55% in 2005, 60% in 2006, 65% in 2007, 70% in 2008. • Eliminates separate two-parent family rate. • *House version* limits caseload reduction credit to more recent caseload declines. • *Senate version* replaces caseload reduction credit with employment credit, a credit for higher earnings, and credit for using TANF funds for child care.

Additional Information on Governor's Budget Proposals:

Job Search as a Condition of Applicant Eligibility. The Governor's Budget proposes to require job search as a condition of eligibility. According to DSS, applicants will follow the same "program flow" as current recipients. Applicants will participate in a welfare-to-work (WTW) orientation, be appraised and participate in Job Club or job search prior to receiving assistance. Counties will be required to inform applicants of their rights and responsibilities, determine if applicants should be exempt from participation, and provide necessary supportive and barrier removal services. Counties will have to make good cause and exemption determinations, when necessary, for applicants. Applicants who do not comply with the county's job search requirements, without good cause, will have their applications for aid denied.

Staff comment: The Governor's proposal may require a substantial investment in welfare-to-work services and may result in expenditure of limited program resources on families found ineligible for the CalWORKs program. As applicants would be required to follow the same program flow as recipients, counties would provide an orientation, an appraisal, assistance with job search and supportive services to parents who eventually are found ineligible for services. Services provided to ineligible applicants would reduce available resources to fund welfare-to-work services for eligible families.

Welfare-to-Work plans. The Governor's Budget requires all aided adults to sign a Welfare-to-Work Plan within 60 days of receipt of aid, or up to 60 days after completion of job search if job search is "initiated" within 30 days of determination of eligibility. The welfare-to-work plan will be developed once an individual has completed job search and has not obtained employment for the required number of hours, or was determined by the county to not benefit from job search.

Counties will have between 105 and 135 days to enter into a welfare-to-work plan with a newly aided individual, counting the initial 45 days for determining eligibility. Counties will have up to 135 days to develop a WTW plan when the job search activity is initiated within 30 days after

a recipient's eligibility for aid is determined as the 60-day clock begins after completion of the initial job search activity.

Exemptions from CalWORKs work requirements. The Governor's Budget proposes to change the threshold for determining whether a person is exempt from work requirements and provides for a partial exemption from work requirements. The new definition and partial exemption would apply under four categories of exemptions: being disabled, being a caretaker relative caring for a child, being a person whose presence in the home is required due to illness or incapacity of a household member, or being a pregnant woman. The Budget proposes to:

- Change the threshold for exemptions for work requirements from a situation that "significantly impairs the recipient's ability to be regularly employed or participate in welfare to work activities" to a situation that "prevents the recipient from being employed or participating in welfare to work activities."
- Provide a partial exemption from work requirements when there is a condition that impairs the individual's ability to be employed or to participate for the required number of hours, but does not prevent all participation. An individual in this situation will be required to participate for the number of hours s/he is able and must have "good cause" if they do not participate for those hours.

The Department of Social Services has stated that it only intends to allow for partial exemptions and does not intend to change the CalWORKs exemption standard.

Budget Assumptions: The Budget assumes that the proposed changes to work participation requirements will generate net savings of $31.2 million. The Budget assumes savings in grant costs stemming from 5 percent of applicants being deterred by the new job search requirement, a higher number of families in sanctioned status (10,000 cases per month) and lower CalWORKs grants as a result of higher earnings. Grant savings resulting from the proposed changes to work participation requirements are offset by increased child care costs as 30% of parents who will now be participating are expected to use child care services.

The Budget does not assume increased demand for welfare to work services, including employment services, and does not provide increased funding for employment services or transportation. The Department of Social Services states that while the proposed reforms may increase the number of clients accessing services, there are no "new" services being offered. Demand for employment services will likely increase as a result of the proposed requirement that applicants participate in job search activities, an increase in the number of recipients who meet work requirements through community service and work experience programs, and an overall decrease in the sanctioned caseload. However, demand will likely decrease due to the projected increase in cases that meet the proposed week work requirements through employment. Additionally, the Department of Social Services states that components of the reforms will decrease administrative costs, including tracking of the 18/24 month time clock.

Legislative Analyst's Office Analysis and Recommendations:

Universal Engagement. The budget requires all aided adults to sign a Welfare-to-Work Plan within 60 days of receipt of aid, or up to 60 days after completion of job search if job search is "initiated" within 30 days of determination of eligibility.

According to the LAO, the Governor's proposal may help increase work participation, especially among the caseload that is disengaged from the program. However, the proposal may not be the best use of limited county resources as it may result in the need for counties to reassess and modify the welfare-to-work plan using limited county resources, or lead to less desirable long-term employment outcomes. The LAO writes that the proposed requirement may hinder county efforts to use job search and other activities to complete an effective plan for some recipients and hastily completed plans could limit county ability to decide the most effective mix of up-front services and activities for a participant. *The LAO recommends that the Legislature modify the Governor's proposal to provide counties the flexibility to extend the time frame to 120 days for certain recipients to give counties the time needed to more thoroughly explore the needs of the local labor market and the barriers and abilities of the participant.*

Job Search as a Condition of Eligibility. The Governor proposes to require job search as a condition of eligibility. Applicants will participate in a welfare-to-work orientation, be appraised and participate in Job Club or job search prior to receiving assistance. Counties will be required to inform applicants of their rights and responsibilities, determine if applicants should be exempt from participation, and provide necessary supportive and barrier removal services.

According to the LAO, the Governor's proposal may help to increase participation, but the extent to which the Governor's proposal helps to increase work participation will largely depend on county policy design and implementation. The LAO concluded that the proposal may increase county costs particularly, for child care, transportation and administration. *The LAO recommends that the Legislature give counties the option of requiring job search while an individual's application is pending, as it would allow counties to assess what would work best in their communities.*

Staff comment: Adoption of the LAO recommendation would give counties flexibility in determining program eligibility criteria, contrary to the current program design, which establishes uniform eligibility criteria at the state level.

Work Activity Reforms. The Governor proposes to narrow the list of activities that count towards the first 20 weekly hours of required participation.

According to the LAO, the Governor's proposal limits the counties' available options to help participants move from welfare to work. In addition, the proposed requirement is more restrictive than Congressional welfare reauthorization proposals. The LAO cites research done by the Manpower Demonstration Research Corporation which found that welfare programs that offered a mix of work first for some recipients, and education and training for others, were the most successful. LAO argues that the research points to the importance of allowing counties to

maintain flexibility to decide the best course of action for recipients. The LAO also points out that, under current law, counties have a fiscal incentive to ensure that recipients are participating as they will share in federal penalties if the state fails to meet work participation rates contemplated in pending versions of TANF reauthorization. *The LAO recommends that the Legislature retain as much county flexibility as possible with respect to participation activities.*

Subcommittee request and questions: The Subcommittee has requested that the Administration answer the following questions:

1. Please describe the state's work participation data, the source of the data and whether it accurately captures what is happening in the program.
2. Does CalWORKs work participation data match the Department's expectations of the program given CalWORKs work first design?
3. What factors explain CalWORKs work participation data and the number of clients who appear to be out of compliance with program requirements?
4. Please describe the Governor's proposed CalWORKs work reforms.
5. How do the proposed reforms address the factors influencing the state's work participation rates?
6. How will the Governor's proposed reforms impact demand for welfare-to-work services and the adequacy of funding for CalWORKs program services?

Issue J - Reduces Grants in Sanction Status by 25 percent

Background: CalWORKs requires adults receiving cash assistance to participate in work activities and meet program requirements as a condition of receiving aid. Participants who fail or refuse to comply with program requirements, without good cause, are subject to a program sanction. Adults may be sanctioned for failing or refusing to comply with the following requirements: signing a welfare-to-work plan; participating in an assigned activity; providing required proof of progress in an activity; accepting or continuing employment; and continuing employment at the same level of earnings. Prior to sanctioning a client, counties must determine that the client is not complying with program requirements; attempt to contact the client by mail and by phone to inform the client that s/he may be sanctioned; and provide the client an opportunity to comply with program requirements.

CalWORKs sanctions reduce the sanctioned families' grant by the non-compliant adult's portion of the grant. In the first instance of noncompliance without good cause, the sanction remains in effect until the person performs the required activity or an appropriate activity. In the second instance, the sanction remains in effect for three months or until the person performs the required activity or an appropriate activity, whichever is longer. In the third instance of noncompliance, the sanction remains in effect for six months or until the person achieves compliance, whichever is longer. Currently, 18 percent of adults on CalWORKs are in sanction status.

Governor's Budget: The Governor proposes a 25 percent reduction of the grant received by families with an adult who is not complying with CalWORKs requirements after one month of non-compliance. The proposal results in net costs of $26.9 million due to increased child care.

Currently, adults on CalWORKs who do not comply with certain program requirements are sanctioned, and sanctioned families' grants are reduced by the non-compliant adult's portion of the grant. The Governor would further reduce (by 25 percent) the grants for those families that remain in sanction status for two months or longer.

Under the proposal, the maximum monthly grant for a family of three that remains in sanction status for two months or longer will be reduced by $163 to $405. The proposed grant reduction will not be offset by an increase in food stamps benefits since federal rules do not allow such increases when public assistance benefits are reduced due to a sanction.

The Budget assumes that proposed sanction policy changes will impact the behavior of both working and non-working households and will decrease the number of sanctioned cases. The Budget assumes that the more stringent sanction policy will lead 45 percent of non-working cases in sanctioned status to "cure" their sanction. It assumes that the changes in sanction policy will have a stronger impact on non-working cases as these families rely more heavily on their CalWORKs grants than cases with earned income. The Budget does not assume that changes to the CalWORKs sanction policy will impact requests for exemptions or fair hearings.

Legislative Analyst's Office Analysis and Comments: According to the LAO, research is inconclusive as to how large a sanction must be in order to motivate individuals to remedy a sanction. Currently a family's grant is reduced by about $146 when the adult is removed from the case. However, only 45 percent of sanctioned cases "cure". The LAO writes that given inconclusive research, it is difficult to predict how many adults will be motivated to avoid or cure their sanction with an additional grant reduction. The LAO states that the administration provides no basis for its estimate that 34 percent of the cases subject to sanction will cure their sanction status as a result of the proposed policy change. The LAO comments that although it is likely that an additional grant reduction will result in some sanctioned adults complying with program requirements, research is inconclusive as to the magnitude of such a work incentive. The LAO recommends that the Legislature weigh the benefits of higher participation against any potential negative impact of a grant reduction on children.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Briefly describe the proposed changes to the CalWORKs sanction policy.
2. How will the proposed changes to the sanction policy impact participant behavior and compliance with program requirements?
3. What data, research or analysis informs the impact of the proposed changes on compliance with program requirements assumed in the Governor's Budget?
4. How will the loss of income resulting from the Governor's proposal impact children living in families with a non-compliant adult?

Issue K - Child Care Reforms

The Governor's proposed child care reforms have been included in the agenda for informational purposes only as they would affect families on CalWORKs and a portion of estimated program savings is built into the CalWORKs budget.

Background: State law requires that adequate child care must be available to CalWORKs recipients to meet their welfare-to-work requirements. If child care is not available, the recipient does not have to participate in CalWORKs activities for the required number of hours. CalWORKs child care is delivered in three stages:

- ***Stage 1.*** Stage 1 is administered by county welfare departments and begins when a participant enters the CalWORKs program. In this stage, county welfare departments refer families to resource and referral agencies to assist them with finding child care providers. The welfare departments pay providers directly for child care services.
- ***Stage 2.*** County welfare departments transfer families to Stage 2 when the county determines that participants' situations become "stable." The definition of stable varies by county and ranges from the point when the recipient has a welfare-to-work plan or employment to the point when the recipient is off aid. The State Department of Education administers stage 2 through a voucher-based program. Participants can stay in Stage 2 while they are on aid and for two years after the family stops receiving a grant.
- ***Stage 3.*** CalWORKs recipients who reach the end of their two-year time limit are eligible for Stage 3 child care. Recipients timing out of Stage 2 are eligible for Stage 3 if they have been unable to find other subsidized child care. Assuming funding is available, former recipients may receive Stage 3 child care as long as their income remains below 75 percent of the state median income (SMI) level and their children are below age 13.

As discussed in the Legislative Analyst's Office Analysis, as part of the 2003-04 budget package, the Legislature approved a number of child care reforms that affected both CalWORKs and non-CalWORKs child care. The changes to eligibility and provider reimbursement rates include:

- ***Elimination of Child Care Eligibility for 13-Year Olds.***
- ***Elimination of Child Care Eligibility for "Grandfathered" Families.*** Grandfathered families included families with incomes between 75 percent and 100 percent of the state median income (SMI) that were receiving subsidized care in 1997, and would have otherwise become ineligible for care as a result of legislation that reduce child care eligibility to 75 percent of SMI.
- ***Changes in Regional Market Rates.*** The state reimburses Alternative Payment Programs child care providers based on the regional market rate (RMR), a survey of what child care providers charge in each region. The Legislature lowered the maximum reimbursement rate from the 93rd percentile to the 85th percentile of the RMR. Under the new policy, the state will fully reimburse 85 percent of providers, and will not fully reimburse the 15 percent of providers with the highest costs.

Governor's Budget: The Governor's Budget proposes a number of reforms to the CalWORKs and non-CalWORKs subsidized child care systems including changes in program eligibility, family fees, and provider reimbursement. The proposals will generate $33.4 million in Stage 1 child care savings. These savings are built in to the Governor's Budget.

	Current law	**Governor's Budget**
Age Eligibility	Children up to age 13 are eligible for both CalWORKs and non-CalWORKs child care.	Eliminate eligibility for 11 and 12 year olds if after-school programs are available. Grants these children priority for placement in after school programs. ***($75.5 million savings; 18,000 children lose eligibility and move to after-school programs.)***
Stage 3 Child Care	Former CalWORKs participants are eligible for Stage 3 as long as they meet income and age eligibility.	Limit Stage 3 child care to one year (in addition to two years in Stage 2). Families currently in Stage 3 would receive one additional year. ***(No impact in the budget year.)***
Reimbursement Rates	Providers are reimbursed at up to 85th percentile of the RMR.	Creates a six-level reimbursement rate structure that reimburses providers between 40th and 85th percentile of the RMR, depending on licensure, training, and whether they serve private pay clients. ***($57.7 million savings; 95,592 children impacted.)***

*Source Legislative Analyst's Office.

The Governor's Budget would permit a CalWORKs family to seek general child care and sign up on the general child care waiting list as soon as they have earnings. This change would facilitate the integration of CalWORKs families into the general child care system.

Lastly, the Governor proposes legislation to enhance the ability of counties and Alternative Payment Providers to collect overpayments made for child care services. It allows Alternative Payment Providers (AP) to collect overpayments from child care providers and families, changes the definition of a "clear-contract" for APs to reference eligibility, reimbursements, family fees, and overpayments and allows overpayments to be recouped through a reduction in the grant level or the child care subsidy. Counties would keep 12.5 percent of all overpayments collected.

Legislative Analyst's Office Analysis and Recommendations:

Age Eligibility. The administration proposes to eliminate subsidized child care for 11 and 12 year olds, except when after-school programs are not available to serve these children. Under the proposal, 11- and 12- year olds would be given priority in after-school programs.

The LAO writes in their analysis: "Although we believe that the proposal is reasonable given the state's fiscal constraints, our analysis indicates that the administration has significantly overestimated savings resulting from this proposal. In addition, the proposal lacks key details regarding the definition of available as it applies to after-school programs, as well as important implementation details." For example, the administration's policy is unclear as to whether the definition of available would require that after-school programs be available to CalWORKs participants on nights and weekends. As 70 percent of working CalWORKs adults are employed in industries that often require nontraditional work hours and after-school programs typically operate for a limited time period and not on the weekends or the summer, limiting child care for 11 and 12 year olds to these programs may not be viable.

Stage 3 Eligibility Limits. The budget proposes to limit Stage 3 CalWORKs child care to one year once a family has left cash aid and to allow CalWORKs families to sign up for a slot in the non-CalWORKs child care system as soon as they begin to earn income. Families currently in Stage 3 child care would have one more year of eligibility.

The LAO writes in their analysis: "Given limited child care resources, we believe the proposal is reasonable because it addresses the differential treatment of working poor families and families previously in CalWORKs. However, limiting eligibility for Stage 3 child care creates a transition problem for families currently in Stages 2 or 3 of the CalWORKs child care system." The LAO provides the following two options to address the potential transition problem for families in Stages 2 or 3: (1) allow families in Stages 2 and 3 to remain eligible or (2) allow families in Stages 2 and 3 to remain eligible for up to three years. These options would smooth the transition to regular subsidized child care for CalWORKs families, but would lower out-year savings, compared to the Governor's budget.

Reimbursement Rate Reform. The Governor's Budget would create a six-level reimbursement rate structure that reimburses providers between the 40th and 85th percentile of the RMR, depending on licensure, training, and whether they serve private pay clients.

The LAO writes in their analysis that the policy of tying reimbursement rates to the level of training, education, and other factors has merit. However, the LAO withholds recommendation on the administration's proposal to create a tiered child care provider reimbursement structure given uncertainties regarding important definitional, implementation, and administrative details.

Constituency groups have raised numerous implementation issues in relation to these proposals including the fact that the accreditation process is very involved and that accreditation entities have limited capacity to license new providers.

Subcommittee request and questions: The Subcommittee has requested that the Administration briefly describe the proposed reforms, their impact on families receiving CalWORKs and the estimated level of Stage 1 child care savings assumed in the CalWORKs budget.

II. Food Stamps Program

Background: The Food Stamps program provides food assistance at no cost to eligible low-income families and individuals. The program is overseen by the Department of Social Services and is administered by the counties. The Food Stamps program will serve an estimated 1.8 million persons, approximately 57,500 more than last year. The projected caseload growth stems from an increase in the number of families not receiving cash assistance who participate in the food stamps program and full implementation of the restoration of federal food stamp benefits to immigrants who had lost these benefits as a result of the welfare reform law.

The U.S. Department of Agriculture funds the benefit value of food stamps. The federal government also funds 50 percent of the program's administrative costs. The remaining 50 percent is split between the state and counties at a ratio of 70 percent to 30 percent respectively.

Governor's Budget: The budget provides $727.3 million ($272.4 million General Fund) to fund Food Stamps administration costs in the budget year. The budget assumes that the program will provide about $2 billion in food coupons to 1.8 million low-income Californians in 2004-05.

Issue A- Elimination of Transitional Food Stamps Benefits

Background: The federal government recently granted states an opportunity to provide five months of federally funded transitional food stamp benefits for people leaving cash assistance to help families make a successful transition from welfare to work. The Budget Act of 2003 provided funding to implement this federal option in California. Under current law, California was to begin to provide transitional food stamp benefits to families leaving CalWORKs in January of 2004. Counties have begun to implement the program across the state.

Governor's Budget: The Governor proposes to eliminate transitional food stamps benefits for General Fund savings of $1.1 million in the current year and $3.1 million in the budget year.

Elimination of the transitional food stamps program will result in a $165.5 million loss in federal food stamps benefits for 66,000 low-income California households. According to a recent U.S. Department of Agriculture study, for every dollar of federal food stamps, $1.84 in local economic activity is generated. Therefore, elimination of the transitional food stamps benefits will result in a $305 million loss in local economic activity in California.

Legislative Analyst's Office Analysis and Recommendation.
According to the LAO, the proposed elimination of transitional benefits would result in a $3.7 million General Fund revenue loss for California. The LAO cites research that indicates that individuals with income low enough to be eligible for food stamps on average, spend about 45 percent of their income on goods subject to the sales tax. Because additional food coupons result in low-income families spending more of their other resources on taxable goods, the receipt of federal food coupons helps to generate revenue for the state and for local governments. The Analyst recommends that the Legislature reject the Governor's proposal, restore program funding, and recognize $3.7 million in General Fund revenues.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the budget proposal, the resulting loss of federal food stamps benefits and its impact on low-income families. The Subcommittee has also requested that the Legislative Analyst's Office discuss their analysis of the budget proposal and their recommendation.

Issue B - Repeal of Recent Food Stamps Program Reforms

Background: According to the US Department of Agriculture, only half of all eligible Californians access food stamps benefits. Working families, who comprise 71 percent of eligible households, are especially unlikely to participate in the program. Assembly Bill 231 (Chapter 743, Statutes of 2003), seeks to increase participation in the food stamps program among eligible families by simplifying the application process and modifying program eligibility criteria. Specifically, AB 231, establishes criteria for county exemptions from required face-to-face interviews and provides that car ownership and value shall not affect food stamps eligibility. The new law is expected to increase participation in the Food Stamps program by 15,000 households. Counties have begun to implement the eligibility reforms across the state.

Governor's Budget: The Governor proposes to repeal legislation, which sought to increase participation in the food stamps program to realize General Fund savings of $186,000 in the current year and $444,000 in the budget year.

Repeal of recent food stamps program reforms will result in a $37 million loss in federal food stamps benefits for 15,000 low-income California households. The Governor's proposal will result in a $68 million loss in local economic activity in California.

Legislative Analyst's Office Analysis and Recommendation. The LAO concluded in their analysis that the proposed repeal of recent food stamps reforms would result in a $835,000 General Fund revenue loss due to foregone sales tax revenues. The Analyst recommends that the Legislature reject the Governor's proposal, restore Food Stamps and CFAP funding, and recognize $835,000 in General Fund revenues.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the budget proposal, the resulting loss of federal food stamps benefits and its impact on low-income families. The Subcommittee has also requested that the Legislative Analyst's Office discuss their analysis of the budget proposal and their recommendation.

III. Immigrant Programs

Background: California funds and operates various human services programs that provide safety net services to legal immigrants who are aged, blind or disabled and to legal immigrant families. Program services include food assistance, cash assistance and welfare-to-work services for eligible individuals and families. The programs include the Cash Assistance Program for Immigrants, CalWORKs for legal immigrants and the California Food Assistance program.

The Cash Assistance Program for Immigrants (CAPI) was established in 1997 to provide cash benefits to aged, blind and disabled legal immigrants who became ineligible for SSI as a result of welfare reform. This state-funded program is overseen by the Department of Social Services and administered locally by counties. CAPI serves approximately 11,000 individuals each year. Enrollment is relatively stable at this time. However, enrollment may increase beginning in September 2006 as immigrants reach the end of a ten year deeming period that makes many individuals ineligible for assistance due to a presumption that they are supported by a sponsor.

The CalWORKs for legal immigrants program provides cash assistance and welfare-to-work services to otherwise CalWORKs eligible parents or caretaker relatives who are legal immigrants that have been in the United States for five years or less. The program currently serves 5,200 families and enrollment is relatively stable.

The California Food Assistance Program (CFAP) is a state-only food stamp program for legal non-citizens. Full implementation of the restoration of federal food stamps benefits to legal immigrants has dramatically reduced CFAP beneficiaries. The estimated caseload at the end of the budget year is approximately 10,200 individuals.

Issue A - Enrollment Caps

Background: The Governor proposed legislation to cap enrollment for various human services programs, effective April 1, 2004, as part of his proposed Mid-Year reductions. The Governor's Budget assumes implementation of the proposed enrollment caps.

The Governor's proposed enrollment cap would limit enrollment in the CAPI, CalWORKs for legal immigrants and CFAP programs. Under the proposal, counties will be required to screen for eligibility and maintain a waiting list. Beneficiaries will become eligible for services on a first-come, first-served basis. Counties would not consider the relative need of an applicant family or the risk of delaying services when awarding benefits to persons on the waiting list.

The proposed enrollment caps would require counties to establish new administrative procedures including a process to screen applicants and a countywide waiting list. The budget does not provide any funding for increased costs associated with administration of the proposed caps.

The Governor's proposed enrollment caps might increase demand for county funded programs including general assistance. However, the proposed implementing legislation would make applicants for the CalWORKs legal immigrants program who are on a waiting list ineligible for county general assistance programs, reducing cost shifts to counties and reducing a family's options for assistance.

Governor's Budget: The Governor's Budget assumes implementation of the proposed enrollment caps for total current year and budget year General Fund savings of $4.5 million.

The following chart illustrates the proposal, its impact on clients and resulting savings:

PROGRAM	Capped Enrollment Level	2003-04 Caseload Affected **(No Services)**	2003-04 General Fund Reduction	2004-05 Caseload Affected **(No Services)**	2004-05 General Fund Reduction
CA Food Assistance Program. This program provides food assistance to recent immigrants, battered immigrants and persons paroled to the US for humanitarian, health and political reasons. Persons above the cap will need to seek services from food banks or county services.	10,230 individuals	0	$0	1,316	$100,000
Cash Assistance Program for Immigrants. CAPI provides cash benefits to aged, blind and disabled legal immigrants who became ineligible for SSI as a result of federal welfare reform. Persons above the cap will need to seek assistance at the county level.	8,645 individuals	60	$71,000	927	$4.3 million
CalWORKS for Legal Immigrants. This program provides cash assistance and employment services to immigrants who have been in the US for less than 5 years.	5,200 individuals	0	$0	0	$0

Legislative Analyst's Office Analysis and Recommendations

The LAO notes in their analysis that the Governor's proposed enrollment caps raise equity issues as families and individuals that meet the same eligibility requirements are treated differently based on the time when they applied. The LAO also notes that enrollment caps make programs somewhat more costly and difficult to administer as it would require establishment of waiting lists and associated procedures, as well as a mechanism to deal with applicant disputes over disenrollment and re-enrollment in a program. Lastly, the LAO notes that the proposed caps may lead to false economies as applicant circumstances may worsen and become more costly due to a delay in receiving services or assistance.

The following chart, prepared by the LAO, summarizes their recommendations:

Program	**Recommendation/Comments**
CalWORKs for Legal Immigrants	Reject. No savings would be achieved to offset administrative costs.
California Food Assistance Program	Reject. Minor savings achieved from caseload cap probably not worth increased administrative costs and operational problems.
Cash Assistance Program for Immigrants	No recommendation. A reasonable option to consider but raises fundamental policy question about limiting services for this population. There are alternatives for containing the cost of this program.

Staff comment: The Governor proposes to cap enrollment for the CalWORKs legal immigrants program and the CFAP program as part of his proposals to reduce discretionary state programs that serve immigrants. Funding for the CalWORKs legal immigrants program and a portion of the CFAP program is counted towards the TANF MOE. Therefore, funding CalWORKs for legal immigrants and the MOE component of CFAP is as discretionary as funding many components of CalWORKs, including, safety net grants and substance abuse services.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the budget proposal, the impact of the proposal on low-income legal immigrants and the potential for cost shift to county funded human services programs resulting from the proposal. The Subcommittee has also requested that the Legislative Analyst's Office discuss their analysis of the budget proposal and recommendations.

Issue B - Block Grant Funding for Legal Immigrant Services.

Governor's Budget: The Governor's Budget proposes to eliminate CAPI, CFAP and CalWORKs for legal immigrants and instead provide block grant funding to counties to support safety net programs for immigrants effective October 2004 for General Fund savings of $5.9 million. Under the proposal, counties would generally have freedom to move funds among the existing programs and to restructure benefit and eligibility rules. Counties would be free to continue enrollment caps established earlier in the year, or could fund caseload increases through benefit and service reductions or the addition of their own resources. Counties would be required to spend the CalWORKs portion of the block grant and a portion of CFAP funds, in accordance with federal law so that the expenditures would count toward the TANF MOE.

The Governor's Budget proposed funding level for the block grant is based on current funding subject to a cap on new enrollees and reduced by five percent. The budget assumes that counties will be able to achieve efficiencies in delivering block grant programs to legal immigrants and reduces funding by 5 percent to reflect the impact of the anticipated efficiencies. The proposal does not indicate how counties would achieve the assumed efficiencies.

Legislative Analyst's Office Analysis and Recommendations

The LAO notes in their analysis that the Governor's proposal lacks many details including how much flexibility counties will have to restructure programs and move funding among programs and the allocation of the block grant funds among counties. The budget does not specify how counties will achieve budgeted efficiencies without reducing benefits and services for immigrants. The LAO's review suggests that counties are unlikely to achieve the assumed savings administratively, and will probably need to reduce services or benefits to stay within the proposed block grant amount. Lastly, the Governor's proposal does not specify how the amount of the block grant would be adjusted in future years.

The LAO comments that income redistribution programs, including CAPI, CalWORKs and CFAP, should be at the state level as the state has an interest in maintaining uniformity in benefit levels. Variation in benefit levels could lead to migration effects, whereby one county's reduction in benefits spurs others to reduce benefits to avoid becoming a benefit "magnet." The LAO concludes that CAPI, CFAP, and CalWORKs for immigrants are poor candidates for transfer into a block grant and should be left as state responsibilities.

LAO recommends that the Legislature reject the proposed county block grant for immigrant programs because the programs are not well-suited for local control. Counties are unlikely to achieve the administrative efficiencies assumed in the Governor's proposal. The 5 percent savings proposed to be achieved through the block grant represent a further reduction in services or benefits for low-income immigrants.

Alternatives to the Governor's proposal: The LAO comments that the Legislature may wish to consider alternatives to the Governor's proposals including reductions to CAPI grants and changes to the CAPI deeming rules. CAPI grant reductions would reduce program costs. They would also reduce the resources of aged, blind and disabled immigrants and make it harder for program enrollees to cover their housing, utilities and food costs. More stringent CAPI deeming rules would further restrict program eligibility.

California may wish to expand its efforts to assist immigrants in enrolling for the federal SSI program as a way of reducing CAPI costs. Most immigrants who entered the United States prior to August 1996, the majority of the CAPI caseload, should qualify for federal SSI based on revised disability standards. Since March 2002, Los Angeles County's SSI Advocacy program has succeeded in reducing the pre-1996 CAPI caseload by 55 percent by assisting immigrants in becoming enrolled in SSI, saving the state millions in grant costs. Similar efforts in other counties may generate millions in CAPI savings.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the budget proposal, discuss the administrative efficiencies envisioned by the administration, and discuss the impact of the proposal on low-income legal immigrants. The Subcommittee has also requested that the Legislative Analyst's Office discuss their analysis of the budget proposal and recommendations.

CalWORKs Program Funding

Based On Appropriation ***Based on Appropriation***

	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	98-99 to 04-05	
Total TANF Grant/Required MOE	**6,640,971,000**	**6,639,655,000**	**6,457,111,000**	**6,439,482,000**	**6,425,431,000**	**6,413,211,000**	**6,401,369,000**	**-239,602,000**	**-3.61%**
CalWORKs Program (*Actuals)*	**5,459,880,441**	**5,603,957,264**	**5,158,739,424**	**5,001,127,673**	**5,137,898,329**	**5,062,397,000**	**4,702,394,000**	**-757,486,441**	**-13.87%**
Grants	3,728,895,597	3,409,184,226	3,110,590,925	3,128,453,615	2,998,104,490	3,072,954,000	2,820,982,000	-907,913,597	-24.35%
Administration	518,317,463	563,062,953	539,640,224	554,944,600	495,418,320	615,931,553	582,485,155	64,167,692	12.38%
Services	418,503,052	536,646,101	626,447,193	699,463,917	732,595,341	776,479,603	734,315,104	315,812,052	75.46%
Child Care	360,733,329	524,045,984	571,661,082	537,865,541	548,536,178	597,031,844	564,611,741	203,878,412	56.52%
Estimated County Share of Admin/Svcs	60,400,000	60,400,000	60,400,000	60,400,000	60,400,000				
Performance Incentives(budgeted)	373,031,000	510,618,000	250,000,000	20,000,000	302,844,000	0	0	-373,031,000	-100.00%
Probation	**201,413,000**	**201,413,000**	**201,413,000**	**201,413,000**	**201,413,000**	**201,413,000**	**67,138,000**	**-134,275,000**	**-66.67%**
KinGAP	**0**	**0**	**25,519,000**	**69,859,000**	**76,232,000**	**85,310,000**	**92,319,000**	**92,319,000**	
Non-CalWORKs MOE in CDSS	**(11,269,000)**	**(8,429,000)**	**(7,708,000)**	**(14,356,000)**	**(2,330,000)**	**(12,363,000)**	**(10,322,000)**	**947,000**	**-8.40%**
Other MOE in CDSS	**305,663,000**	**334,380,000**	**344,605,000**	**402,604,000**	**384,872,000**	**329,544,000**	**340,155,000**	**34,492,000**	**11.28%**
MOE In Other Department Budgets	**402,839,000**	**410,869,000**	**466,450,000**	**474,184,000**	**377,043,000**	**460,336,000**	**444,759,000**	**41,920,000**	**10.41%**
State Support	**29,016,000**	**26,714,000**	**26,592,000**	**29,198,000**	**23,979,000**	**27,242,000**	**27,242,000**	**-1,774,000**	**-6.11%**
Total Expenditures	**6,387,542,441**	**6,568,904,264**	**6,215,610,424**	**6,164,029,673**	**6,199,107,329**	**6,153,879,000**	**5,663,685,000**	**-723,857,441**	**-11.33%**
Federal TANF	3,480,389,441	3,663,067,264	3,492,317,424	3,458,365,673	3,507,494,329	3,474,486,000	2,996,134,000	-484,255,441	-13.91%
General Fund	2,753,530,610	2,730,207,394	2,555,128,227	2,480,352,660	2,526,260,388	2,478,518,000	2,462,788,000	-290,742,610	-10.56%
Other State Funds *(ETF, Prop 10)*	0	30,000,000	30,000,000	86,700,000	30,000,000	56,400,000	56,400,000	56,400,000	
County Funds	153,622,390	145,629,606	138,164,773	138,611,340	135,352,612	144,475,000	148,363,000	-5,259,390	-3.42%
Total TANF transfers	**284,965,000**	**531,654,000**	**606,149,000**	**497,376,000**	**636,521,000**	**747,993,000**	**832,627,000**	**547,662,000**	**192.19%**
Non-CalWORKs Transfers	0	0	0	0	0	0	0	0	
Transfers to Stage 2, Tribal TANF and Reserve	0	0	0	0	0	0	0	0	#DIV/0!
TANF Grant/Required MOE	6,640,971,000	6,639,655,000	6,457,111,000	6,439,482,000	6,425,431,000	6,413,211,000	6,401,369,000	-239,602,000	-3.61%
Prior Year TANF Carryforward	617,020,000	854,309,000	520,661,000	503,004,000	283,783,000	569,385,000	94,943,000	-522,077,000	-84.61%
Unspent Performance Incentives					600,000,000	0	0		
High Performance Bonus						14,219,000	0		
Total Available Funding	**7,257,991,000**	**7,493,964,000**	**6,977,772,000**	**6,942,486,000**	**7,309,214,000**	**6,996,815,000**	**6,496,312,000**	**-761,679,000**	**-10.49%**
Total TANF/MOE Expends	**6,672,507,441**	**7,100,558,264**	**6,821,759,424**	**6,661,405,673**	**6,835,628,329**	**6,901,872,000**	**6,496,312,000**	**-176,195,441**	**-2.64%**
NET TANF Carry-over Funds	585,483,559	393,405,736	156,012,576	281,080,327	473,585,671	94,943,000	0	-585,483,559	-100.00%
CalWORKs contribution to the General Fund	708,502,000	745,249,000	1,016,574,000	1,126,647,000	1,018,147,000	1,055,190,000	1,057,233,000	348,731,000	49.22%

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

April 19 , 2004
10:00 AM
Room 4203

Item *Description*

- **4300 Department of Developmental Services**
  - **Community-Based Services *(Selected Issues)***
  - **State Developmental Centers *(Selected Issues)***

PLEASE NOTE: **Only those items contained in this agenda will be discussed in the hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise determined by the Chair.**

Issues pertaining to the DDS will be reviewed again at the Subcommittee's May 10th "OPEN" issues hearing, and again at the time of the Governor's May Revision. ***Please see the Senate File for dates and times of subsequent hearings***.

Testimony will be limited due to the volume of issues. Please be direct and brief in your oral comments so that others may have the opportunity to testify. Written testimony is also welcomed. Thank you for your consideration.

A. BACKGROUND

Description of Eligibility & Purpose of Department

The Department of Developmental Services (DDS) administers services in the community through 21 Regional Centers and in state Developmental Centers for persons with developmental disabilities according to the provisions of the Lanterman Developmental Disabilities Services Act. **To be eligible for services, the disability must begin before the consumer's 18th birthday, be expected to continue indefinitely, present a significant disability and be attributable to certain medical conditions, such as mental retardation, autism, and cerebral palsy.**

The purpose of the department is to (1) ensure that individuals receive needed services; **(2)** ensure the optimal health, safety, and well-being of individuals served in the developmental disabilities system; **(3)** ensure that services provided by vendors, Regional Centers and the Developmental Centers are of high quality; **(4)** ensure the availability of a comprehensive array of appropriate services and supports to meet the needs of consumers and their families; **(5)** reduce the incidence and severity of developmental disabilities through the provision of appropriate prevention and early intervention service; and **(6)** ensure the services and supports are cost-effective for the state.

Description and Characteristics of Consumers Served

The department occasionally produces a Fact Book which contains pertinent data about persons served by the department. The sixth annual edition, released in October 2003 contains some interesting data, including the following facts:

Department of Developmental Services—Demographics Data from 2002

Age	Number of Persons	Percent of Total	Residence Type	Number of Persons	Percent of Total in Residence
Birth to 2 Yrs.	20,532	11.0%	Own Home-Parent	131,350	70.3%
3 to 13 Yrs.	54,626	29.2%	Community Care	27,260	14.6%
14 to 21 Yrs.	30,033	16.1%	Independent Living /Supported Living	15,960	8.5%
22 to 31 Yrs.	26,136	14.0%	Skilled Nursing/ICF	8,693	4.7%
32 to 41 Yrs.	23,254	12.4%	Developmental Center	3,603	1.9%
42 to 51 Yrs.	18,820	10.1%			
52 to 61 Yrs.	9,123	4.9%			
62 and Older	4,342	2.3%			
Totals	***186,866***	***100%***		***186,866***	***100%***

Summary of Governor's Proposed Budget Overall

The budget proposes total expenditures of $3.4 billion ($2.169 billion General Fund), for a *net* increase of $131 million ($114.2 million General Fund) over the revised 2003-04 budget, to provide services and supports to individuals with developmental disabilities living in the community or in state Developmental Centers. Though the Governor's budget reflects considerable reductions, the funding level of $3.4 billion (total funds) is an increase of 4 percent over the revised current-year.

Of the total amount, $2.708 billion ($1.8 billion General Fund) is for services provided in the community, $690.1 million ($370.3 million General Fund) is for support of the state Developmental Centers, $31.2 million ($20 million General Fund) is for state headquarters administration and $4 million (General Fund) is for state-mandated local programs.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	% Change
Program Source				
Community Services Program	$2,554,079	$2,708,500	$154,421	6.0
Developmental Centers	$714,844	$690,076	-24,768	-3.5
State Administration	$29,857	$31,251	1,394	4.7
State Mandated Local Program	$4	$4	--	--
Total, Program Source	$3,298,784	$3,429,831	$131,047	4.0
Funding Source				
General Fund	2,054,876	2,169,085	114,911	5.9
Federal Funds	52,200	53,341	1,141	2.2
Program Development Fund	1,431	1,496	65	4.5
Lottery Education Fund	2,221	2,221	--	--
Developmental Disabilities Services	0	300	300	300
Reimbursements: including Medicaid Waiver, Title XX federal block grant and Targeted Case Management	1,188,056	1,203,388	15,332	1.3
Total	$3,298,784	$3,429,831	$131,047	4.0

B. COMMUNITY BASED SERVICES

Background on Regional Centers

The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. The RCs are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. RCs also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.

Background on Growth in RC Caseload and Expenditures *(See Hand Out)*

As noted in the "Regional Centers Budget History" Chart in the Hand Out package, total spending for the Regional Centers budget has increased from $1.4 billion (total funds) in 1998-99 to $2.6 billion (total funds) in 2003-04, for an increase of $1.2 billion (total funds) or almost 86 percent in five years.

The Purchase of Services category expenditures has increased from almost $1.4 million (total funds) in 1998 to over $2.5 billion (total funds) in 2003 for an increase of $1.1 billion in five years, or 82 percent. During this same period, caseload increased by 46,361 individuals, or 32 percent.

According to the LAO, the average annual cost per Regional Center consumer increased steadily between 1998-99 and 2003-04 from about $9,500 to $13,400. The Governor's proposed budget would bring the estimated cost per consumer in 2004-05 to about $13,600.

Last year, the LAO noted that the rate of growth proposed in the budget was greater than for most other major health and social services caseload programs. The LAO also noted that unlike most health and social services provided by the state, the amount of services provided by the Regional Centers is not limited through statewide standards.

The LAO also notes that between 1999-2004 and 2004-05, the Regional Center caseload is projected to grow from about 155,000 to more than 199,000 consumers—an average annual growth rate of about 5.2 percent. If caseload growth trends hold steady over the next five years, it would approach 245,000 by 2008-09. This caseload trend is illustrated in the chart below.

LAO Caseload Chart

Fiscal Year	RC Caseload	Yearly Difference	Percent Increase
1999-2000	154,962		
2000-2001	163,613	8,651	5.6%
2001-02	172,505	8,892	5.4%
2002-03	182,175	9,670	5.6%
2003-04 (Estimated)	190,030	7,855	4.3%
2004-05 (Proposed)	199,295	9,265	4.9%

Several key factors appear to be driving caseload growth trends, including the following:

- Improved medical care and technology has increased life expectancies for individuals with developmental disabilities;
- Significant increase in the diagnosed cases of autism, the causes of which are not yet fully understood;
- Likelihood that medical professionals are identifying more developmentally disabled individuals at an earlier age.

Summary of Governor's Proposed Budget for Community-Based Services

The budget proposes expenditures of $2.7 billion ($1.8 billion General Fund) for community-based services, provided via the RCs, to serve a total of 199,295 consumers living in the community. This reflects **a *net* overall increase of $177.3 million ($108.3 million General Fund), or 7.1 percent, over the revised 2003-2004 budget.**

Most of the proposed increase of $177.3 million ($108.3 million General Fund) is attributable to: (1) the increase in enrollment—9,265 new consumers, **(2)** loss of $38 million in federal matching funds due to the Medicaid match change, **(3)** increase in the utilization of services by consumers, and **(4)** the transfer of the Habilitation Services Program to the DDS.

The funding level includes $420.1 million for RC Operations and about $2.3 billion for local assistance, including funds for the Purchase Of Services for consumers, program development assistance, the Early Start Program, and habilitation services. The **Purchase Of Services (POS) portion** of the Regional Center budget **accounts for about 80 percent of total expenditures, whereas the RC Operations portion accounts for about percent of it.**

Summary of Governor's Proposed Reductions

The Governor proposes to reduce by $100 million (General Fund) community-based services and supports for RC consumers in 2004-05. This reduction amount is in *addition* to the continuing cost containment actions enacted in the Budget Act of 2003 which in total, equate to savings of about $64 million ($52.4 million General Fund) in 2004-05. Further, it should be noted that in order for the Administration to obtain the proposed reduction figure of $100 million General Fund, in actuality, a reduction of about $130 million would need to be enacted due to federal funding interactions.

The Administration contends the reduction will be achieved through a number of proposals to be implemented in 2004-05 *and* 2005-06. Further detail as to how this reduction will be achieved are to be forthcoming at the May Revision. At this time, the Administration has provided only a conceptual outline of assumptions as follows:

2004-05

- Develop and implement uniform statewide purchase of services standards to govern RCs' expenditures for consumers and families;
- Give the state access to funds currently shielded in "special needs" trusts which are established for the care of the consumers;
- Promulgate statutory changes to provide RCs the authority and flexibility to achieve the savings level specified in the budget; and
- Implement a parental co-payment program, as referenced above.

2005-06

- Implement a standard, statewide rate system for major categories of services purchased by the RCs;
- Obtain federal approval to implement a Medicaid (Medi-Cal) "Independence Plus" (self-directed services) model of funding and service delivery, as well as a state-only version (for non-Medi-Cal eligible consumers) of the model in order to cap individual expenditures in exchange for increased consumer control over the services provided; and
- Expand the parental co-payment program for services purchased by RCs to children birth to three years of age as applicable. Federal approval would be required for this action.

It is equally unclear at this time what interaction this proposal will have with the Administration's Medi-Cal Waiver reform concept, the Administration's proposed reductions to the In-Home Supportive Services (IHSS) Program, and the Administration's proposed changes to the definition of "medical necessity" for mental health services provided under the Early Periodic Screening Diagnosis and Treatment (EPSDT) Program.

The Medi-Cal, IHSS and EPSDT programs all provide "generic" services to RC consumers in need of these services. When these generic services are not available, a RC is to purchase the needed service for the consumer. As such, the potential for cost-shifting, conflicts in policy, and potential risks to consumer health and safety could be significant. Considerable discussion and clarity as to both the short-term and longer-term implications of these proposals in combination need to be clearly understood.

It is equally unclear what potential ramifications this proposal will have on California's implementation of the Olmstead Decision (1999, 527 U.S. 581), as well as on our existing Home and Community-Based Waiver (up for federal oversight review in late 2005).

B. ITEMS FOR DISCUSSION

1. Cost Containment From Budget Act of 2003 & Governor's Proposed Budget *(See Hand Out)*

Background—Budget Act of 2003 and Governor's Proposed Continuation of Actions:
Through the Budget Act of 2003, several cost containment actions were enacted in lieu of implementing any over-arching proposal to implement statewide purchase of services standards. **The Governor is proposing to continue all of these cost containment actions through 2004-05, in addition to proposing other cost reduction items as discussed in this agenda.**

Specifically, the proposals include the following items (savings shown reflect updated information for 2003-04).

- Reduced by $10 million (General Fund) the Purchase of Services item to reflect an "unallocated" reduction. **The Governor proposes to continue this same level of adjustment for 2004-05. In addition, the Administration proposes changes to existing statute regarding this provision. Specifically, it does the following:**
    - Changes the fiscal year from 2003-04 to 2004-05 for the reduction.
    - Changes from 30 days to 60 days the time the DDS has to discern each RC's unallocated amount (to total the $10 million).
    - Modifies language so that the RCs provide a final plan to the DDS but that the DDS no longer has to review and approve the plan.
    - Continues the sunset clause, as established in last year's budget, which makes this provision inoperative as of January 1, 2006.

- Decreased by $2.1 million (General Fund) by applying the federal standard for substantial disability to the state's criteria of eligibility. **The budget continues this adjustment for estimated savings of $4.2 million (General Fund) in 2004-05. No statutory changes are proposed.**
- Eliminated the SSI/SSP rate pass-through to Community Care Facilities (CCFs) for savings of $900,000 General Fund. **The budget continues this action for savings of $900,000 (General Fund) in 2004-05. No statutory changes are required.**
- Implemented a service level freeze for CCFs for savings of $7 million General Fund. **The Governor continues this freeze in 2004-05 for savings of $7.6 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**
- Suspended funding for the start-up of new services unless it was associated with the placement of an individual in the community (i.e., directly pertained to the "community placement program"), or was necessary to protect consumers' health or safety for saving of $6 million (General Fund). **The Governor continues this freeze in 2004-05 for savings of $6 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**
- Implemented a rate freeze on Adult Day Programs and in-home respite services related to any program design modifications for savings of $9.8 million (General Fund). **The budget proposes to**

continue this rate freeze for savings of $10.9 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.

- Implemented a rate freeze for vendor-provided services conducted under contract to the Regional Centers. This included vendors for the following types of services: Supported Living, Independent Living, Transportation, socialization training programs, behavior intervention training, community integration training, mobile day programs, creative art programs, supplemental day services, and adaptive skills trainers for savings of $7.2 million (General Fund). **The budget proposes to continue this rate freeze for savings of $8.3 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**
- Continued the action from the Budget Act of 2002 to extend the amount of time allowed for the Regional Centers' to conduct assessment of new consumers from 60 days to 120 days following initial intake for savings of $4.5 million (General Fund). **The budget proposes to continue this rate freeze for savings of $4.5 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**

Governor's Proposed Budget—Continues All Actions: The Governor's budget continues all of the savings proposals enacted in the Budget Act of 2003, as noted above, in his proposed 2004-05 budget for savings of **$64 million ($52.4 million General Fund). The Administration is also proposing trailer bill language as contained in the Hand Out and as referenced above.**

Subcommittee Staff Recommendation: **Subcommittee staff recommends to adopt the proposal as referenced except for one language change. With respect to the "unallocated" reduction trailer bill language, it is recommended *not* to accept the change from 30-days to 60-days for the DDS to decide an allocation method for the unallocated reduction.** The RCs are required to adopt a plan 60-days after enactment of the Budget Act. As such, the DDS needs to inform each Regional Center of the amount of unallocated it needs to absorb within a more timely manner—such as 30-days.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1. Please very briefly describe the budget proposal.**
- **2. Has the DDS identified any significant reduction in services that has occurred due to these actions?**

Budget Issue: Does the **Subcommittee want to adopt the Subcommittee staff recommendation, the Administration's proposal, or craft another option?**

2. Vendor Auditing Issue—Legislative Analyst Office (LAO) Issue *(See Hand Out)*

Background—Vendors for Regional Center Services: As noted by the LAO, many vendors who provider services through the Regional Center system do not participate in the Medi-Cal Program. Although they may provide some services that are similar in nature to those of Medi-Cal providers, they are not subject to the same statewide, centrally coordinated effort aimed at deterring abuse and fraud to which Medi-Cal providers are subject. **As such, the LAO notes that this arrangement does not provide an adequate safeguard for the expenditure of very significant amounts of state funds that flow each year through *non*-Medi-Cal vendor contracts. (Medi-Cal providers are subject to DHS state reviews related to the state's Medi-Cal anti-fraud efforts.)**

Background—Limited State Audit Role: Through the state contract process (Article II Fiscal Provisions, Section 10 Vendor Fiscal Monitoring), the DDS directs the Regional Centers to conduct vendor audits and provide information to the DDS. Existing state law (Section 50606) address what the Regional Centers are to audit and how the resulting audit reports are to be distributed.

The DDS has established Regional Center "vendor audit protocols" to serve as basic guidance to the Regional Centers which are intended to ensure that audits are conducted in a similar manner throughout the state. According to the DDS, overall there are eleven separate, stand-alone, protocols that have been developed for each type of audit a Regional Center would need to conduct. **The eleven vendor audit protocols include the following:** (1) billing—other (other than attendance, mileage, or consultant hours), (2) billing—attendance or mileage, (3) billing—consultant hours, (4) billing—family voucher day care/in-home respite, (5) contract compliance, (6) cost statement—on-site audit, (7) cost statement-desk review, (8) fiduciary—contracted management for consumers', (9) personal & incidental, (10) staffing level, and (11) staffing ratio.

It should be noted that in some cases, a Regional Center may request that DDS participate in an audit of a vendor. However, as noted by the LAO, DDS headquarters is neither staffed to perform vendor audits, nor is this one of their regular functions.

Summary of Regional Center Fiscal Monitoring for 2002-03 (See Hand Out): As shown on the chart, Regional Centers are required to conduct a certain number of audits (see Total Required column). Often times, the Regional Centers actually conduct more vendor audits than required (Total Audits column). **However, the LAO has questioned the level of audit recovery (Fiscal Impact column) that is identified through these audits. They believe that for a program of this magnitude (over $2.7 billion for community programs), additional audit exceptions should on the natural be identified (i.e., as identified by Dr. Sparrow, national expert on abuse and fraud). Further, collection of these audit recoveries (offsets to future payments is usually done) have not always been clearly tracked.**

Legislative Analyst's Office Comment and Recommendation—Shift Responsibility Back to State: **The LAO analysis indicates that the responsibility for vendor field audits should be shifted from the Regional Centers to the state. This would provide the state with a stronger fiscal oversight role of vendors and would serve to better coordinate these efforts on a statewide basis. In addition,** this would relieve the Regional Centers of part of their workload and allow them to focus more on providing services to Regional Center consumers.

Since the DDS is not staffed to perform filed audits of vendors, the LAO contends that about $2.9 million of the $4.4 million in funding now provided for Regional Center audit functions could need to be eventually transferred from the RC Operations budget to the DDS state support budget. This action would also require modifications to the existing RC contracts with the state.

As such the LAO recommends for the DDS to report back to at budget hearings on whether it would be more cost-effective to have the state conduct the audits or to contract out for them. In addition, the DDS should also report back on a timeline necessary for completing such a shift.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the LAO that increased fiscal oversight of vendors is needed and that the state could potentially conduct more comprehensive audits, particularly of larger vendors. **As such, it is recommended to have the DDS provide the Subcommittee with a proposal, including resources, timeline and work plan) and trailer bill language (if needed) for the implementation of a more comprehensive vendor audit process. In addition, any applicable savings that could be attributed to this more comprehensive protocol should also be included.**

Subcommittee Request and Questions: The Subcommittee has requested the LAO and DDS to respond to the following questions:

- **1.** LAO, Please provide a brief presentation of your proposal, including concerns expressed regarding the identification of audit exceptions (i.e., fiscal offsets).
- **2.** DDS, Could the vendor audit process be improved? If so, what suggestions may you have at this time?

Budget Issue: Does the Subcommittee want to direct the DDS to report back at the May Revision as described?

3. Request for DDS Headquarters' Resources for Selected Cost Containment Issues—Finance Letter

Background—Governor's Overall Cost Containment Proposal: **The Governor proposes to reduce by $100 million (General Fund) community-based services and supports for RC consumers in 2004-05. This reduction amount is in *addition* to the continuing cost containment actions enacted in the Budget Act of 2003 which in total, equate to savings of about $64 million ($52.4 million General Fund) in 2004-05. Further, it should be noted that in order for the Administration to obtain the proposed reduction figure of $100 million General Fund, in actuality, a reduction of about $130 million would need to be enacted due to federal funding interactions.**

The Administration contends the reduction will be achieved through a number of proposals to be implemented in 2004-05 *and* 2005-06. Further detail as to how this reduction will be achieved are to be forthcoming at the May Revision. At this time, the Administration has provided only a conceptual outline of assumptions as follows:

2004-05 (Budget Year)

- Develop and implement uniform statewide Purchase of Services Standards to govern RCs' expenditures for consumers and families ***(to be discussed below in item 6 in this Agenda)***;
- Give the state access to funds currently shielded in "special needs" trusts which are established for the care of the consumers; ***(Administration states this is to be postponed to 2005-06)***
- Promulgate statutory changes to provide RCs the authority and flexibility to achieve the savings level specified in the budget ***(tied to statewide POS issue)***; and
- Implement a parental co-payment program ***(to be discussed below in item 5 of this Agenda***).

2005-06 (Out Year)

- Implement a standard, **statewide rate system for major categories of services** purchased by the RCs;
- Obtain federal approval to implement a **Medicaid (Medi-Cal) "Independence Plus" (self-direction of services) model** of funding and service delivery, as well as a state-only version (for non-Medi-Cal eligible consumers) of the model in order to cap individual expenditures in exchange for increased consumer control over the services provided; and
- Expand the parental co-payment program for services purchased by RCs to children birth to three years of age as applicable. Federal approval would be required for this action.

Background—Standardized Rate System: The DDS is required to establish rates for supported-living, non-residential services (including Day Programs and in-home respite), transportation and other services. In some instances, the rate of reimbursement is determined based on negotiations between the Regional Center and the vendor providing the service. As a result, vendors providing the same type of service receive rates that can vary—on a statewide basis and within a Regional Center catchment area.

In other cases, rate methodologies vary across service sectors for other reasons. For example, the Day Program rates can vary considerably due to lower limit and upper limit adjustments. If a Day Program's cost statement rate is below the lower limit or above the upper limit of the allowable range for their peer (like) programs, then it is adjusted up to the lower limit of the range or reduced down to the upper limit of the range respectively.

Another example is that for some services, new vendors receive a temporary payment rate, which is the mean rate for all like programs, determined by utilizing cost data submitted by existing programs. Within 18 months, the new vendor must submit 12 months of actual costs to the DDS for establishment of the vendor's permanent payment rate. As a result, new vendors have their permanent payment rates established based on the most recent 12 months of costs. For existing (older) programs, 12 months of actual costs for the *prior* fiscal year are submitted, but by the time the rates are calculated and the budget process is completed, two years have elapsed. So the rates become staggered over time.

The DDS recognizes that rate reform to establish a rate setting methodology that is fair and equitable to all providers/services and takes into account geographical differences is needed. Further they contend that standardization will provide cost containment.

Background—Self-Directed Services Waiver: Self-Direction pilot projects were develop in accordance with SB 1038 (M. Thompson), Statutes of 1998. Generally, Self-Direction is a funding model based on the principles of freedom (to plan a life with necessary supports) authority (to control a certain sum of dollars), support (to arrange resources and personnel to assist with living in and becoming a part of the community), and responsibility (to accept a valued role in the community and to be accountable for spending public dollars).

Self-Direction has garnered international and bi-partisan support and has been integrated or piloted in at least 17 states. As noted in the longitudinal analysis of the pilots, released in a report in May 2002, self-direction results in high satisfaction among participants and is cost-beneficial. The DDS proposes to design a Self-Direction Program that employs a fair and equitable way to set individual budgets at 90 percent of current expenditures and use half of the ten percent savings to establish a risk pool for unanticipated needs. The DDS notes that a Waiver (Independence Plus) would be used to maximize federal financial participation to have an array of inclusive services and supports. As such, it is anticipated that cost savings will result in 2005-06 in this area.

DDS Finance Letter Request—9 Positions at DDS for Various Cost Containment Activities:

In an April Finance Letter, the DDS is requesting **an increase of $1.5 million ($1.3 million General Fund** and $171,000 Reimbursements from the DHS—of which $86,000 is state General Fund) to:

- Hire **9 state positions at the DDS** for expenditures of $900,000 (total funds);
- Hire **consultant services for rate reform** for one-time expenditures of $500,000 (total funds). These funds would be budgeted in the Regional Center appropriation; and
- Hire **consultant services for Self-Determination Waiver** ("Independence Plus Waiver") for one-time expenditures of $100,000 (total funds). These funds would be budgeted in the Regional Center appropriation.

The DDS states that **the nine state positions are needed as follows:**

- **Standardize Rate System—4 total positions.**
  - One Staff Services Manager position
  - One Community Program Specialist II position
  - One Associate Governmental Program Analyst position
  - One Staff Information Systems Analyst position
- **Self-Directed Services Waiver—2 total positions.**
  - Two Community Program Specialist II positions (two-year limited-term)
- **Legal Office—one position.**
  - One Staff Counsel III—to address in the legal issues that will arise regarding the development and implementation of these issues.
- **Statewide Purchase of Services Standards—2 total positions.**
  - One Community Program Specialist III position
  - One Community Program Specialist II position

With respect to **standardizing rates,** the DDS notes the following key work load requirements:

- A multi-year approach is needed to review with stakeholders the existing methodologies applicable to their programs, identify and develop alternatives, identify and develop statutory and regulatory changes as needed, and implement and revise the methodology as needed.
- Consultant services will be necessary to conduct research and provide technical assistance and recommendations relative to costs and other information to calculate appropriate rates.

With respect to the **Self Directed Services Waiver**, the DDS notes the following key aspects:

- The two positions provided last year by the Legislature were swept by the Administration as part of the Control Section 4.10 reduction.
- This proposal seeks to restore them.

With respect to the **legal support**, the DDS notes the following key aspects:

- The one position is needed to address statute changes, regulatory oversight and related issues that would arise as development and implementation on the cost containment proposals proceed.

With respect to the **Statewide Purchase of Services** the DDS notes the following key aspects:

- The two positions are needed given that the development of these standards will raise the most sensitive and complex policy and legal issues affecting the community developmental services system in many, many years. These standards will impact nearly 200,000 consumers and families and over 60,000 vendors and service providers.
- These positions are needed for researching and resolving complex policy and legal issues, working with stakeholders, writing the standards, and shepherding the package through the regulatory process. To meet the requirements of the Administrative Procedures Act, these standards need to be well crafted, legally sound, acceptable to the community, and defensible. These positions would be needed to provide technical assistance and monitoring on an ongoing basis after adoption.

Subcommittee Staff Comment and Recommendation: Subcommittee staff believes there is merit to developing a standardized rate system and proceeding with the development of the Self-Directed Services Waiver. The DDS rate system is antiquated and sometimes inequitable in its application across services and provider types. The outcomes achieved to-date from the Self-Directed Pilots have shown that it is a model to expand for both consumer-driven reasons as well as for cost containment purposes. In addition, given the magnitude and scope of these items, in addition to issues regarding the receipt of federal funds, the one position for Legal Services is likely needed. **Therefore, it is recommended to approve 7 of the 9 positions, as well as the contract funds, *pending the receipt of the Governor's May Revision*. It should be noted that any statutory changes needed to proceed with implementation of any new rate structure or related statutory changes would have to come back to the Legislature for review and adoption as warranted.**

In addition, it is recommended to keep OPEN the Subcommittee's decision regarding the two positions for development of the statewide Purchase of Services standards until the substantive policy issues are resolved or denied. *(The policy merits of this will be discussed under item 6, below.)*

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1. Please describe the Finance Letter proposal and the need for the positions.**

4. Update and Potential for Other Federal Funding Options *(See Hand Out)*

Background--DDS Efforts to Obtain Increased Federal Funding (See Hand Out): Over the course of the past several years, the state has been aggressively pursing receipt of additional federal funds. **As noted in the Hand Out package, from 1999-2000 to 2003-04 the DDS has been able to increase the state's receipt of federal funds for services provided to individuals with developmental disabilities from $519 million (1999-2000) to an estimated $882.2 million (2004-05) for an increase of almost 70 percent in four years.**

Most notably, receipt of federal funds under the Home and Community-Based Waiver has increased from $270 million (1999-2000) to $546.3 million (2003-04), or over 102 percent during this time. The Waiver has allowed the state to conserve General Fund dollars by shifting Medicaid (Medi-Cal) eligible consumers to Waiver services while granting flexibility and assisting the state in complying with the Coffelt Settlement and the Olmstead Decision**. A portion of the additional federal Waiver funds have also been used to enhance quality assurance measures, service monitoring, and several other items.**

Targeted Case Management (TCM) services has shown a more gradual adjustment. Under TCM, case management services are furnished to consumers in order to provide access to needed medical, educational and social services. Persons with developmental disabilities are identified as being a "targeted" group under California's State Medicaid Plan as provided for under federal law.

This TCM approach enables California to draw a federal match for these services, versus using solely General Fund support. Functions allowed to be claimed under TCM include: (1) consumer assessment, (2) development of a specific care plan, (3) referral and related activities to assist the consumer to obtain needed services, and (4) monitoring and follow-up. In general, allowable services are those that include assistance in accessing a medical or other service, but do not include the direct delivery of the underlying service.

With respect to the Title XX Social Services Block Grant Funds and the Early Start Program, both of these federal fund sources are contingent upon a set amount of funding that the state receives from the federal government in the form of overall block grants. As such, the state is limited in its ability to obtain additional federal funds for these two items unless Congress and the President appropriate additional funds.

Background-- The Home & Community-Based Services Waiver: Under this Waiver, **California can offer services to individuals who would otherwise require the level of care provided in an intermediate care facility for persons with developmental disabilities.** Use of these "waiver services", such as assistance with daily living skills and day program habilitation, **enable people to live in less restrictive environments such as in their home or at a Community Care Facility.**

California obtained federal approval in 2003 to amend the Waiver to increase the number of individuals that can be enrolled each year as follows:

October 1, 2003 to September 30, 2004	60,000 individuals
October 1, 2004 to September 30, 2005	65,000 individuals
October 1, 2005 to September 30, 2006	70,000 individuals

Generally, there are *four basic criteria* required for a consumer to be enrolled on the Waiver. These are that the individual:

- Be enrolled for full-scope Medi-Cal;
- Meet certain level-of-care eligibility criteria (i.e., otherwise need institutional care);
- Live in an eligible residential environment (i.e., not in a health facility); and
- Choose enrollment.

Governor's Proposed Budget: The Governor's budget assumes the **following *key* adjustments** to federal funds as contained in the Regional Center Estimate Package:

- **Delay** in federal approval to add respite voucher services to the Waiver **for a *loss* of about $5 million in funding. Implementation is expected as of October 2004.** The DDS notes that additional discussions with stakeholder groups is needed before regulations are completed. Draft regulations from the DDS are forthcoming shortly.
- **Decrease of $13.2 million** for certain Waiver administrative activities conducted by Regional Centers due to the need for additional DDS analysis as to how to proceed with capturing data.
- Obtained federal approval to lift the existing freeze on enrollment under the Waiver for South Center Los Angeles Regional Center. **Billing for *new* eligible consumers will be retroactive to October 1, 2002.**
- Obtained federal approval to obtain increased federal funds in 2003-04 as contained in the Budget Act of 2003 for (1) certain transportation activities, and (2) supported living arrangements.
- ***Pending* the federal CMS approval,** the budget assumes savings of **$27 million** due to increased federal funds by changing the methodology and re-calculating the Targeted Case Management (TCM) billing rates to more accurately capture federal reimbursements. **However, the federal CMS has had the state's request for a significant period of time and has not yet provided the state with approval.**

Subcommittee Staff Comment: The **DDS has done a tremendous job in capturing federal funds** over the course of the last few years. **However, some additional federal funds can be achieved. First and foremost is additional federal funding for the inclusion of South Central Los Angeles Regional Center (SCLARC) onto the Home and Community-Based Waiver.**

The DHS, as the state's sole state Medicaid entity, has been informed by the federal CMS that California will be able to obtain retroactive approval to 1999-2000 for SCLARC. This retroactive availability of increased federal funds is not captured in the Governor's budget. As such, SCLARC billings for consumers eligible for the Waiver can be recognized for 1999-2000, 2000-01 and part of 2002-03. According to data obtained from the DHS, a total of $29.9 million in additional federal funds has been identified for these two fiscal years. As such, these funds can be used to offset General Fund.

Second, once the state finally receives federal CMS approval for the Targeted Case Management adjustment, the state may be able to go retroactive on this adjustment. At a minimum, California should at least ask the federal government for retroactive application.

Third in the foreseeable future, possibly a year from now, California may be able to capture increased federal funding for the **Early Start Program and for certain residential care facilities—Intermediate Care Facilities for the Developmentally Disabled.**

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1. DDS/DHS, Any comment regarding the $29.9 million now available due to the state's ability to go retroactive to 1999-2000 for SCLARC?**
- **2. DDS, please provide an update on the status of federal discussions regarding the Targeted Case Management Program.**
- **3.** LAO, Please provide comment regarding the potential for capturing federal funds for ICF-DD facilities.
- **4.** DDS, Please provide comment regarding the potential for capturing federal funds for the Early Start Program.
- **5.** DDS, What other options are potentially available for drawing down additional federal funds?

5. Governor's Proposal for a "Family Cost Participation Assessment Program" *(See Hand Out—Flowchart and language)*

Background—Parental Fee Program for Out-of-Home Placements: Under the existing Parental Fee Program, parents who have children between the ages of birth to 18 years who reside in a 24-hour, out-of-home facility, (such as a Developmental Center or ICF-DD facilities) are assessed a fee based on (1)the family's annual gross income, (2) number of persons dependent on that income, and (3) the age of the child with the developmental disability. The fees are capped at a maximum of $662 per month. The DDS administers this program and collects about $1.7 million annually.

Budget Act of 2003: Due to the fiscal crisis, the prior Administration sought to develop a parental co-payment system for families of children aged 3 through 17 years who lived in a family's home, received services through a Regional Center and were not Medi-Cal eligible. **During the budget negotiations, the Senate rejected the proposal for being too onerous financially for families and for not being particularly well crafted since substantial information was either unknown or missing. As such, detailed budget trailer bill language (i.e., Section 4620.2 of Welfare and Institutions Code) was developed which required the DDS to develop a comprehensive report on a co-payment system by April 1, 2004, for the Legislature.** This report has been provided and is discussed below.

Governor's April Proposal for Family Cost Participation Assessment Program: The Administration provided a comprehensive report –"Family Cost Participation Assessment Program"—to the Legislature on April 9th in response to last year's trailer bill legislation. **In this report, the Administration recommends to implement an assessment program by January 1, 2005 for families with children aged 3 through 17 years who live in a family's home, receive services through a Regional Center and are not Medi-Cal eligible.** The assessment would only be applicable to three services—Respite, Day Care and Camp.

In developing the assessment program, **the DDS used the following guiding principles:**

- All families who are financially able to participate in the cost of services provided to their children should do so.
- Family cost participation shall be developed in such a manner that will not create an unacceptable financial burden, will maintain the integrity of the family, and encourage families to continue caring for their children in their own home.
- Family cost participation will not compromise the health and safety of consumes receiving services.
- The assessment of family cost participation will not affect the development of the consumer's Individualized Program Plan (IPP).
- Consideration will be given to the number of family members dependent on the income and the number of children who receive services through the RC, while either in the family's home or out-of-home, including developmental centers.
- The system must be simple and cost effective to administer.
- The amount of the family cost participation assessment will be less than the amount of the parental fee for 24-hour, out-of-home placement in order to encourage families to continue caring for their children in their own home.

- The system must not affect the DDS' eligibility for other funding sources (i.e., Home and Community-Based Medicaid Waiver, Early Start funding, and others).
- The system must react to changes in family economic conditions or unforeseen, unusual family hardships, and allow for the re-determination of the level of cost participation based on those changes.

The Administration's proposed Family Cost Participation Assessment Program would be implemented as of January 1, 2005 and would have the following *key* attributes *(See Hand Out for Flowchart)*:

Potential Effect on Families:

- Based on data provided by the DDS, there were about 22,450 non-Medi-Cal eligible consumers aged 3 to 17 years living in their parent's home (2002 data). It is estimated that there are about **6,800 of these consumers** who have family incomes equal to or greater than 400 percent of the federal poverty level (the proposed threshold).
- Families with children aged 3 through 17 years who live in a family's home, receives services through a Regional Center and are not Medi-Cal eligible **with annual gross income of 400 percent of poverty or above, as adjusted for family size, would share in the cost of services provided to their children. Families with incomes below 400 percent of poverty would be exempt from the proposal.**
- **No enrollment fee would be required**, only a participation fee.
- **A participation fee would be required on three services—Respite, Day Care, and Camping. No other services would be assessed a fee.**
- A consumer's services would still be identified through the Individual Program Plan (IPP) process as now conducted. A family's assessment fee would be applied as part of the purchase of services authorization process, as applicable, based upon the outlined criteria.
- For the families who are assessed a participation fee, **a sliding fee scale would be applied based on the family's annual gross income level**. **This sliding fee scale would range from 5 percent (at 400% of poverty for family income) to 80 percent participation (at 1300 percent of poverty for family income and higher). In addition**, **the assessment would be adjusted to recognize a family with two or more children in the home, receiving one or more of the targeted services** (i.e., Respite, Day Care or Camp), by offsetting the cost of participation for the second child by 50 percent, the third child by 75 percent, and making no assessment on the services for the fourth or additional children. (DDS will be developing a similar "offset" adjustment for families with children living in out-of-home placements and paying fees under the existing Parental Fee Program.)
- **The family's share of cost participation would be re-determined annually to assess the appropriate level of cost participation. A re-determination could be made sooner if there was a significant change in family circumstance, such as a severe illness that added a significant financial burden on the family, or a miscalculation of the assessment amount.**
- **The family's income records gathered by Regional Centers to implement and administer this program would be treated as confidential** and subject to the provisions of

existing statute (Section 4514 of Welfare and Institutions Code) pertaining to the confidentiality of records.

Potential Effect on State Department and Regional Centers for Administration of Program:

- DDS would promulgate regulations and develop a simplified assessment tool to be used by a Regional Center when determining the family's cost participation. No new staff are being proposed for any aspect of the implementation.
- DDS would establish audit protocols to ensure the consistent and accurate application of the program's process. The DDS notes that these protocols would be monitored during the course of routine audits by randomly selecting samples and verifying specific data.
- No collection of moneys by the state or Regional Center is required. As envisioned by the Administration, the Regional Center would pay its portion of the authorized services, and the family would then purchase the remaining authorized services directly from the providers (i.e., Respite, Day Care and Camp).
- **Regional Centers would receive proposed increases as follows:**
  - **$570,000 (total funds) and 11 positions in 2004-05 to perform the cost participation assessment function at the Regional Centers beginning January 2005;**
  - **$912,000 (total funds) and 18 positions for 2005-06 to continue the initial assessments and begin the re-determination process for those families who were phased-in during 2004-05;**
  - **$770,000 (total funds) and 15 positions for 2006-07 to address on-going needs.**

Potential Fiscal Effects:

- **2004-05= No net savings.** It is assumed that $570,000 would be needed for Regional Center staff and that $570,000 (total funds) would be reduced from the Purchase of Services expenditures.
- **2005-06= $2.188 million** (total funds) in savings. It is assumed that $912,000 would be needed for Regional Center staff and that $3.1 million (total funds) in the Purchase of Services expenditures would be reduced.
- **2006-07= $2.7 million (total funds) in *net* savings on an annual, *on-going* basis.** It is assumed that $770,000 and 15 positions would be needed on an **on-going basis** and that $3.5 million in the Purchase of Services expenditures would be reduced.

Proposed Key Milestones for Implementation:

• Trailer bill language is adopted.	July 2004
• DDS develops regulations in consultation with stakeholders.	July to November 2004
• Training provided to the Regional Centers on the program.	December 2004
• Emergency regulations are filed (to Office of Administrative Law)	December 2004
• Family Cost Participation Assessment Program is implemented	January 2005
• Regulation certificate of compliance is issued by OAL.	July 2005

Example of Administration's Proposed Family Cost Participation Assessment Program: In their report, the DDS provides four different examples of how their proposed program would operate. **Here are two of the examples:**

> ***Example 1:*** A family of four persons, including two adults and two children between the ages of 3 and 17 years are residing at home. One of the children has developmental disabilities and is authorized through their Individual Program Plan (IPP) to receive 60 hours per quarter (total of 3 months) of vouchered respite services. The family's annual gross income is $73,600 which is at the 400 percent of federal poverty level. **Therefore under the program, the family would be obligated to participate in 5 percent of the 60 hours, or 3 hours per quarter of respite services. Using the hourly rate for vouchered respite services of $8.57, the family's financial participation would total $25.71 per quarter or $8.57 per month.** The Regional Center would pay for the remaining amount (i.e., the 57 hours) of respite service.
>
> ***Example 2:*** A family of five persons, including the mother, father, and three minor children, one child with developmental disabilities residing in the home, is authorized 72 hours per quarter of vouchered respite services as indicated in the IPP. The family's annual gross income is $280,000 which is 1300 percent above the federal poverty level. **Using the program's assessment schedule, the family would be obligated to participate in 80 percent of the 72 hours, or 58 hours per quarter, of respite services. Therefore, the Regional Center would pay for 14 hours per quarter. Using the hourly rate budgeted for vouchered respite of $8.57 , the family's participation would amount to $497.06 per quarter, or $165.69 pre month.**

Subcommittee Staff Comment and Recommendation: Subcommittee **staff believes this proposal has merit and is a significantly different proposal from last year's parental co-payment concept.**

There are several key aspects to proposal which make it reasonable. These are as follows:

- It does not assess co-payments on services that directly affect the consumer so as to discourage or compromise the development of the consumer. It is limited to three services—respite, day care and camp.
- It begins the assessment at 400 percent of poverty and takes into consideration the size of the family and where or not the family has more than one child receiving services through the Regional Center system. It uses a sliding scale method based on income levels.

- It does not create an administrative bureaucracy for the family, state or Regional Center. In addition, the vendor would process the received family assessment as part of their payment, ***not*** as a revenue to be paid to the Regional Centers or the state.
- It does not affect infants under three years of age.

With respect to the Administration's draft trailer bill language, the following additions are recommended for inclusion:

- **Insert a reporting requirement.** The DDS should be required to report back to the Legislature as of April 2005 on the status of program implementation and initial program operations. Then again as of February 2006, a year after implementation.
- **Insert a clarification regarding emergency regulation authority.** Many departments have over-used emergency regulation authority provided by the Legislature. (The DHS and DMH are primary examples with respect to their managed care programs.) As such, it is recommended that the emergency regulation authority only be in affect for a maximum period of 18 months. Then the standard regulatory process would have to be used.

Though this proposal has merit, it is recommended to hold this issue OPEN pending the receipt of the Governor's May Revision. In addition, the trailer bill language still needs to be finalized.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please briefly describe the budget proposal, including the ***draft*** trailer bill language.
- **2.** What happens **if a family does not pay the assessment?**
- **3.** Does the proposed savings amount only address the amount of services to be paid for by the assessment amount, or does it take into consideration any change in utilization patterns?
- **4.** Please describe how the program would be phased-in across Regional Centers.
- **5. Is the Administration still contemplating that this program would be extended to children birth to three years of age as originally referenced in the Governor's January budget documents**?
- **6.** How would the DDS monitor the affect this program may have on services or produce unintended consequences?

6. Statewide Standards for the Purchase of Services *(See Hand Out)*

Background—The Purchase of Services: The Regional Centers are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. **Regional Centers also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.**

The Governor's budget proposes to expend $2.7 billion ($1.8 billion General Fund) for Regional Center's to purchase services for consumers in 2004-05.

As recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to "generic" services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors.

The DDS, in consultation with the Association of Regional Center Agencies, annually allocates POS funds through a contract process in which each RC receives a base allocation and then subsequent allocations as determined by the DDS. **The allocation of POS funds is primarily based on the previous year's expenditures plus growth which may not be fully reflective of consumers needs in some areas.**

Background—Individualized Program Plan (IPP): The provision of services and supports to consumers is coordinated through the Individualized Program Plan (IPP). **The IPP is prepared jointly by an interdisciplinary team consisting of the consumer, parent/guardian/conservator, persons who have important roles in evaluating or assisting the consumer, and representatives from the Regional Center and/or state Developmental Center.**

Services included in the consumer's IPP are considered to be entitlements (court ruling).

Background—Statewide Standards for POS Have Been Proposed Twice Before and Rejected by the Legislature: Past approaches to implementing a statewide standard for the purchase of services have not been particularly constructive. **Generally, the Administration has desired broad authority to (1)** prohibit any consumer service or support, **(2)** unilaterally reduce provider rates, and **(3)** grant unprecedented authority to the RCs to deny services without any opportunities for consumers to appeal (i.e., no fair hearing process). **Further, in reviewing past actual expenditures, it would be near impossible to achieve this $100 million General Fund savings in addition to the continued cost containment provisions unless certain services are eliminated and provider rates in many service categories are further reduced.**

Governor's Budget Proposal and April 1 Revision (See Hand Outs): As previously noted, the Governor is proposing a series of cost containment proposals regarding the services and supports for individuals with developmental disabilities. **The most over-arching policy and fiscal issue is this proposal to implement statewide standards for POS.**

It is assumed that $100 million (General Fund) will be identified overall with this proposal saving the most substantial portion of the funds. However, no specific dollar reduction has been attributed to this proposal and it is unclear from the revised version (received as of April 12th) if the Administration is proposing to eliminate any services, reduce rates or make other reduction measures.

Subcommittee Staff Comment: Though this proposal is better crafted than prior proposals, there is considerable analytical and policy work that remains to be done prior to any implementation. First and foremost is that the proposed trailer bill language gives the Administration carte blanche authority in making programmatic decisions. The Legislature needs to maintain both the policy and fiscal integrity of the program. Second, it is unclear how an individual's IPP would be affected by statewide standards being established. Third, no definitive fiscal analysis has been provided. Without such an analysis, it is impossible to discern if services are being eliminated, rates are being reduced or other services are being too tightly restricted.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1. Please briefly describe the core POS services that an individual receiving services through the RC system may receive.**
- **2. Please provide a brief description of the proposal, including *key* aspects of the draft regulations.**
- **3. Please present the proposed trailer bill language.**
- **4. Would any services have to be eliminated? If so, which ones?**
- **5. What may be the unintended consequences of this proposal?**
- **6. How may an individual's IPP be affected by this proposal?**

Budget Issue: Does **the Subcommittee want to leave this item OPEN in order for the Administration to contemplate any changes, as well as pending receipt of the May Revision?**

7. Governor's Proposed Reduction to Regional Center Operations *(See Language-below)*

Background on Regional Center Operations: The DDS developed the "Core Staffing" formula in 1978. The purpose of this formula was to estimate personnel and related expenditures across all 21 Regional Centers in order to ensure accurate budgeting and facilitate fiscal equity at the Regional Centers across the state. Since this time, the formula has been periodically modified to account for certain changes or trends. However it has been well documented (Citygate and Associates Report of 1998) that the Core Staffing formula no longer accurately reflects costs at the Regional Centers. That said, it is still the tool DDS uses for the development of the Regional Centers Operations budget.

Generally, the RCs Operations budget consists of four components for staffing and operations purposes. These include: (1) mandated services, (2) support functions, (3) special case add-ons, and (4) non-personnel costs.

- ***Mandated services:*** This includes consumer intake and eligibility assessment, case management, clinical support, community services (such as communications and customer service), activities associated with community placement planning, and fiscal administration (including vendor and consumer custodial payments).
- ***Support functions***: This includes executive and administrative personnel, human resources, internal finance, information systems support, consumer records management and communications and logistics.
- ***Special case add-ons and Contracts:*** This includes items applicable to certain RCs that provide specific services only (such as Foster Grandparents), and items contracted via RC budgets statewide (such as Life Quality Assessments).
- ***Operating expenditures:*** This includes rent and/or mortgage, board governance development and facilitation, and all other administrative costs.

Governor's Proposed Budget—Summary of Baseline and Additional Reduction: The budget proposes total expenditures of **$420.1 million (total funds) for RC Operations**. **This total budgeted amount reflects the following components:**

• Operations Staffing	$374.4 million (total funds)	increase of $1.3 million (total funds)
• Federal Compliance	$27.6 million (total funds)	decrease of $1.4 million (total funds)
• Contracts and Projects	$24.5 million (total funds)	increase of $2.3 million (total funds)
• **Cost Containment**	**($6.458 million) (total funds)**	**reduction of $6.458 million (total funds)**
Proposed Total	**$420.1 million (total funds)**	**Net reduction of $4.7 million**

With respect to the *Operations Staffing* category, the following aspects should be noted.

- **$321.4 million (total funds) is for personal services, including benefits. Of this amount, it is assumed that $268.5 million (total funds) is allocated for "Direct Services" staff for those activities discussed above under the mandated functions.** (This figure reflects a reduction of $4 million (total funds) to account for the adjustment regarding intake and assessment as discussed under item 1 of this agenda.) **Therefore, almost 84 percent of the personal services allocation is assumed to be expended on Direct Services.**

  Of the remaining **$52.9 million (total funds), it is assumed that these funds are used for "Administration" staff who conduct those types of functions as described under support functions, above.** This figure reflects a reduction of $688,000 (total funds) to also account for the adjustment regarding intake and assessment (as discussed under item 1 of this agenda.)

- **$63.5 million (total funds) is for operating expenses. Of this amount, more than half--about $33.4 million—is assumed to be expended on rent.**

The Governor's proposed reduction of $6.458 million (General Fund) in the Operations budget is an "*unallocated*" reduction and represents about a 1.5 percent reduction to the $420.1 million (total funds) RC Operations budget.

The Administration is proposing the following trailer bill language to accompany their proposed reduction as follows:

> **Add Section 4631.6 to Welfare and Institutions Code as follows:**
>
> " It is the intent of the Legislature that Regional Centers, in the 2004-05 fiscal year, save $6.5 million through administrative efficiencies."

Constituency Concerns: The Association of Regional Center Agencies (ARCA) states that the proposed reduction of $6.5 million will be difficult to absorb. They contend that basic functions performed by Regional Centers will be compromised and that Regional Centers cannot be expected to meet existing mandates or absorb any more mandates without additional resources.

Subcommittee Staff Comment and Recommendation: Due to the fiscal crisis, it will be necessary to implement reductions. **If the Subcommittee *chooses* to adopt the Governor's proposed reduction of $6.5 million (General Fund), it is recommended to require the Administration to specifically what activities are to be reduced and where said "administrative efficiencies" are suppose to occur. Otherwise, core direct services—such as case management—that directly pertain to the wellness of consumers could be placed at risk.**

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please **briefly explain** the budget proposal and how the $6.5 million (General Fund) figure was derived.
- **2.** Specifically, what does the Administration want to the Regional Centers to reduce?
- **3. What may be the operational affect of this proposal?**

8. Transfer of Habilitation Services Program

Background: Assembly Bill 1753, Statutes of 2003, transfers administrative responsibility for the Habilitation Services Program from the Department of Rehabilitation (DOR) to the DDS beginning July 1, 2004

Governor's Proposed Budget: The Governor proposes **an increase of $104.9 million (General Fund) to reflect the transfer of the Habilitation Services Program from the Department of Rehabilitation to the DDS and to fund 14 positions for this purpose.** This proposal requests state support positions to maintain federal funding and quality services as required.

This transfer was approved by the Legislature through the Budget Act of 2003 and is to be effective as of July 1, 2004. The total funding for the Habilitation Services Program is $126.6 million (total funds).

Subcommittee Staff Comment and Recommendation: No issues have been raised by either the LAO or Subcommittee staff. The proposal reflects the agreement adopted last year. **Though some administrative issues remain with constituency groups, the Administration is presently working these through with the individual parties involved.**

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please provide a brief description of the budget proposal.
- **2.** Please provide a brief update regarding the transfer of the program.

Budget Issue: Does the Subcommittee **want to adopt the budget proposal?**

C. State Developmental Centers

Summary of Funding and Enrollment

State Developmental Centers (DCs) are fully licensed and federally certified as Medicaid providers via the California Department of Health Services. **They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training.** Education programs at the DCs are also the responsibility of the DDS.

The DDS operates five Developmental Centers (DCs)—Agnews, Fairview, Lanterman, Porterville and Sonoma. setting Porterville is unique in that it provides forensic services in a secure setting. In addition, the department leases Sierra Vista, a 54-bed facility located in Yuba City, and Canyon Springs, a 63-bed facility located in Cathedral City. Both facilities provide services to individuals with severe behavioral challenges.

State operated facilities are entitled to payment for Intermediate Care Facility (ICF) services at actual allowable costs for services for individuals with developmental disabilities. Reimbursement levels for payment of services is based on rates developed by the DDS and approved by the DHS. **Medi-Cal reimbursement is available for most DC services,** except for nine residential units at Porterville DC (no longer eligible due to forensic-related issues).

The budget proposes expenditures of $690.1 million ($370.3 million General Fund), excluding state support, to serve 3,367 residents who reside in the state Developmental Center system. This reflects a caseload decrease of 123 residents and a net decrease in funds of $24.8 million as compared to the revised 2003-04 budget. However, while the proposed budget for 2004-05 reflects savings from the on-going decline in the DC population, these savings are more than offset by increases in retirement costs and other factors, resulting in a net growth in DC expenditures of 1.4 percent in the budget year.

According to recent DDS data, the average cost per person residing at a DC is about $180,000 annually. Due to differences between the DCs, including resident medical and behavioral needs, overall resident population size, staffing requirements, fixed facility costs and related factors, the annual cost per resident varies considerably and is as follows:

- Canyon Springs $255,574 annual cost per resident
- Sierra Vista $213,923
- Agnews $208,935
- Lanterman $158,336
- Sonoma $157,530
- Fairview $147,690
- Porterville $144,015

It should be noted that the Governor's budget proposed to close Agnews Developmental Center as of June 30, 2005. However in a recent letter from Director Allenby, the Administration has decided to delay closure until June 30, 2006. Further, it is the understanding of the Subcommittee staff that issues regarding Agnews Developmental Center will be brought forward at the time of the Governor's May Revision. As such, these issues will be placed on the Subcommittee's agenda at that time.

ITEMS FOR DISCUSSION

1. Developmental Center Adjustments for Population

Background: Each year, **the budget is adjusted to reflect direct care and non-level-of-care staffing requirements in order to meet resident needs and licensing requirements**. These staffing adjustments are based on the projected number of individuals living at the DCs and their individual program needs based on the Client Developmental Evaluation Report (CDER) process.

The DC population is based on three components—admissions, placements from the DCs and deaths.

Population Estimates: At this time, it is estimated that the DC population will be 3,490 residents in 2003-04 and will continue on the present long-term trend and decrease through the remainder of the current fiscal year and the budget year. **Specifically, the DC estimate projects that the average population will be 3,367 for 2004-05, for a net reduction of 123 residents (as of June 30, 2005).**

The budget assumes the following population information for each facility:

Developmental Center	2004-05 Population	Change from Current Year
Agnews	339	-60
Canyon Springs	61	17
Fairview	745	-18
Lanterman	608	-16
Porterville	760	-31
Sierra Vista	56	1
Sonoma	798	-16
TOTALS	**3,367**	**-123**

It should be noted that these caseload adjustments will be updated at the May Revision.

Governor's Proposed Budget: The **budget proposes a net decrease of about $15.2 (decrease of $8.8 million General Fund, and a decrease of $6.4 million in Medi-Cal reimbursements) due to a projected decrease of 123 residents at the DCs.**

However as noted by the LAO, **while the proposed budget for 2004-05 reflects savings from the on-going decline in the DC population, these savings are more than offset by increases in retirement costs and other factors, resulting in a net growth in DC expenditures of 1.4 percent in the budget year.**

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please provide a **brief summary** of the proposal.
- **2. Does this budget year estimate capture all adjustments for employee compensation and retirement changes, or are additional adjustments forthcoming at the May Revision?**
- **3. Does the DDS have any proposals to share regarding options for potential cost-containment at the Developmental Centers?**

Budget Issue: Does the Subcommittee want **to hold this item OPEN pending the receipt of the May Revision?**

2. Proposal to Contact Out for Certain Services

Background—DC Food Preparation: The five DCs all have large, institutional kitchens where food for the DC residents is now prepared by state personnel. Due to the fragile medical condition of many of the DC residents and the resulting dietary restrictions, food preparation at the DCs is more complex than is typically the case for other institutions. Many DC residents have special meal plans prepared for them by dieticians and medical staff.

Background—California State Constitution: Provisions of the California Constitution and case law limit the practice of contracting-out, especially in regard to programs which already have state staffing in place performing a state governmental function.

Governor's Proposed Budget—Contract Out: The **Governor proposes a reduction of $1.6 million ($910,000 General Fund) and 459 state positions by contracting out for food services at the Developmental Centers. Under this proposal the DDS would begin contracting out for food services as of January 1, 2005.**

This proposal would require a state constitutional amendment to enact. For this reason, the Administration has proposed to place an amendment to the State Constitution on the November 2004 ballot so that this proposal and other contracting-out efforts affecting other departments could be implemented in the budget year.

Subcommittee Staff Recommendation: Without regards to the merits of the proposal, adoption of this item by the Subcommittee would be deemed to be illegal. As noted above, and by the LAO, a constitutional amendment would be needed for enactment. **Since the budget must be enacted in July, there is presently no other option but to reject the Governor's proposal and to restore the $1.6 million ($910,000 General Fund) in order to ensure the safety of DC residents.**

LAST PAGE OF AGENDA

Senate Budget & Fiscal Review
Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Thursday, April 22, 2004
Upon Adjournment of Senate Floor Session
Room 4203

Consultant, Ana Matosantos

Due to the volume of issues testimony will be limited.
Please be direct and brief in your comments so that others may have the opportunity to testify.
Written testimony is also welcome and appreciated.
Thank you for your consideration.

5180 Department of Social Services

The Department of Social Services (DSS) administers various programs designed to enable low-income aged, blind and disabled individuals to live independently. The programs include California Veterans Cash Benefit, In-Home Supportive Services, and Supplemental Security Income/State Supplementary Payment. These programs serve approximately 1.5 million persons each year. The Governor's Budget provides approximately $11 billion in combined federal, state and county funds to support these programs.

Summary of Program funding (dollars in thousands)	2003-04	2004-05	$ Change	% Change
Program Expenditures				
California Veterans Cash Benefit Program	4,049	0	-4,049	-100.0
In-Home Supportive Services (IHSS)	3,215,313	2,763,356	-451,957	-14.1
SSI/SSP	8,030,972	8,202,844	171,872	2.1
Total Program Expenditures	$11,250,334	$10,966,200	-$284,134	-2.53
Source of Funding				
General Fund	4,337,286	4,166,650	-170,636	-3.9
Federal Funds	6,294,920	6,314,701	19,781	0.3
County Funds	618,128	484,849	-133,279	-21.6
Total	$11,250,334	$10,966,200	-284,134	-2.53

I. California Veterans Cash Benefit Program

Background: The California Veterans Cash Benefit Program, established by Assembly Bill 1978 (Chapter 143, Statutes of 2000), provides cash assistance to Filipino veterans of World War II who were receiving state supplementary payment benefits on December of 1999 and who have returned to the Republic of the Philippines. The veterans receive a payment equivalent to California's state supplemental payment ($226 per month). The veterans also receive a federal cash benefit, which currently amounts to $414 per month. The California Veterans Cash Benefit program serves approximately 1,700 veterans on an annual basis.

Governor's Budget: The Governor proposes to eliminate the California Veterans Cash Benefit Program for General Fund savings of $1.2 million in the current year and $5.5 million in 2004-05. Veterans will continue receiving existing federal benefits.

Constituency Comments: Opponents of the Governor's proposal argue that the elimination of the California Veterans Cash Benefit Program would be a disservice to the contributions of Filipino veterans who fought side-by-side with U.S. soldiers in World War II. Opponents also argue that the proposal is fiscally unsound as a loss of benefits could trigger veterans to return to the United States and increase their reliance on government funded services including health care services.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the proposal and discuss how the proposal will impact the veterans served by the California Veterans Cash Benefit Program.

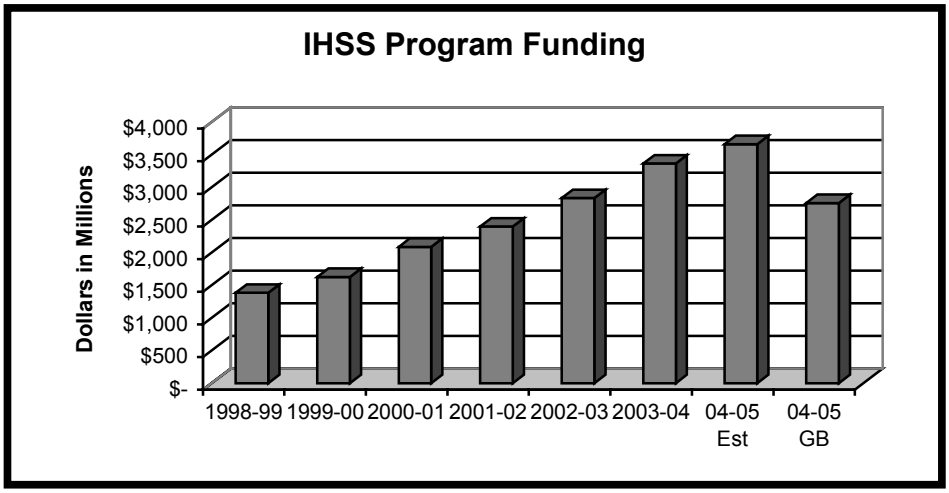
Budget issue: Does the Subcommittee wish to approve the proposed program elimination?

II. In-Home Supportive Services

Background: The In-Home Supportive Services (IHSS) program provides services to 359,000 low-income aged, blind or disabled individuals that allow them to remain safely in their own homes as an alternative to out-of-home care. IHSS is the largest home and community-based program available in California and is a core component of the state's long-term care system. IHSS services include domestic services, nonmedical personal care services, paramedical services, assistance while traveling to medical appointments, teaching and demonstration directed at reducing the need for support, and other assistance. Services are provided through individual providers, county contracts with service providers, or through welfare staff.

Summary of Funding:
IHSS is funded by a combination of federal, state and county funds. Program services eligible for federal financial participation are provided through the Personal Care Services Program (PCSP), while services ineligible for federal reimbursement are provided through the Residual Program. Eighty-one percent of services are provided through PCSP. PCSP services are a Medi-Cal benefit; therefore, the federal government funds approximately 50 percent of program costs. Nineteen percent of IHSS services are provided through the Residual program. The state and counties fund the non-federal share of IHSS costs, including Residual, at a ratio of 65% to 35%.

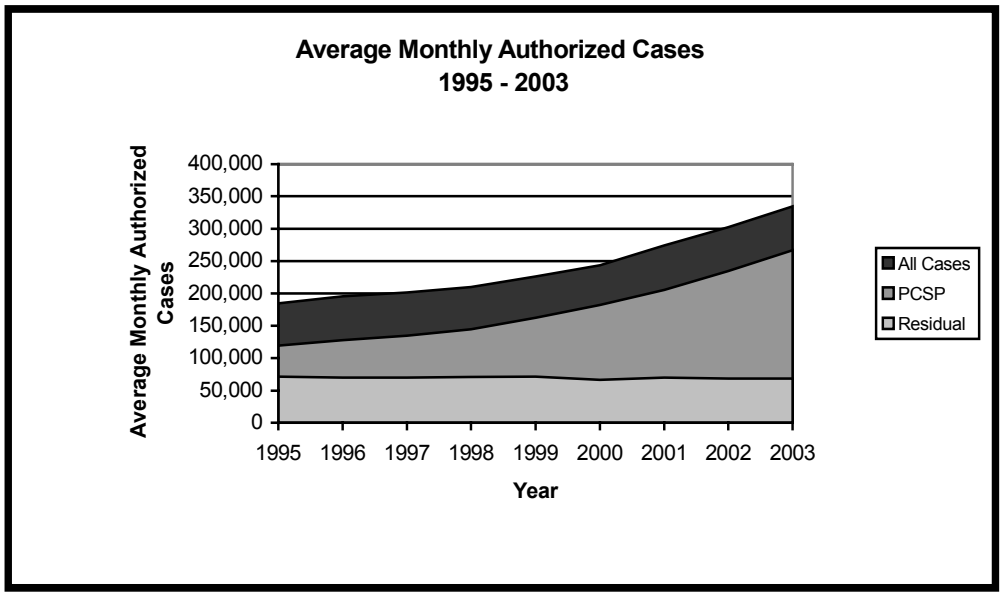
The total cost of the IHSS program has more than doubled from $1.39 billion in fiscal year 1998-99 to $2.8 billion in 2002-03. Absent statutory changes, IHSS program costs are estimated to rise to $3.7 billion ($1.4 billion GF) in 2004-05.



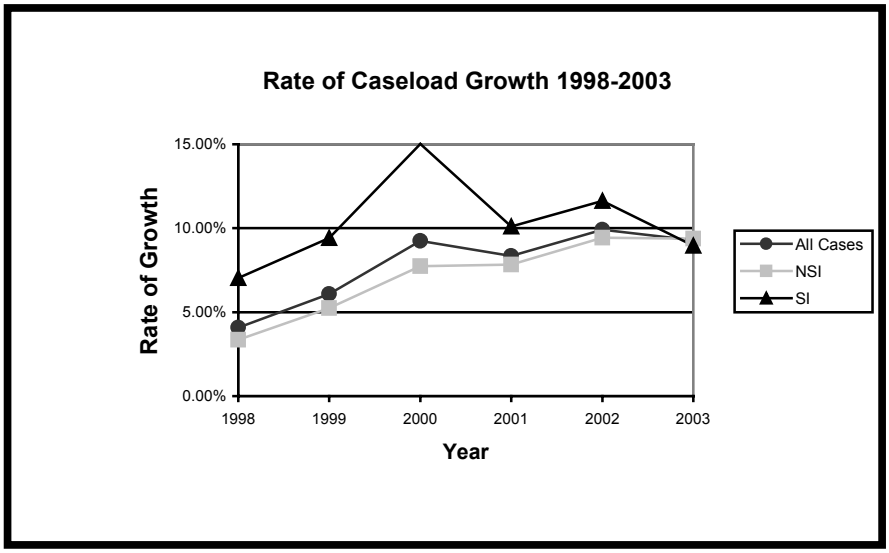
*****The chart illustrates the estimate of IHSS program costs absent statutory changes and the Governor's Budget proposed level of funding for IHSS.***

Summary of Caseload:
IHSS provides services to 359,000 low-income aged, blind or disabled individuals, the vast majority of whom are SSI/SSP and Medi-Cal enrollees. Fifty one percent of IHSS consumers are disabled, 47 percent are aged, and two percent are blind. Persons with developmental disabilities constitute a significant portion of the IHSS caseload (more than 12 percent).

Total IHSS cases increased 64 percent from 1995 to 2003. The PCSP caseload has grown by 96 percent, while the IHSS Residual caseload has declined slightly.

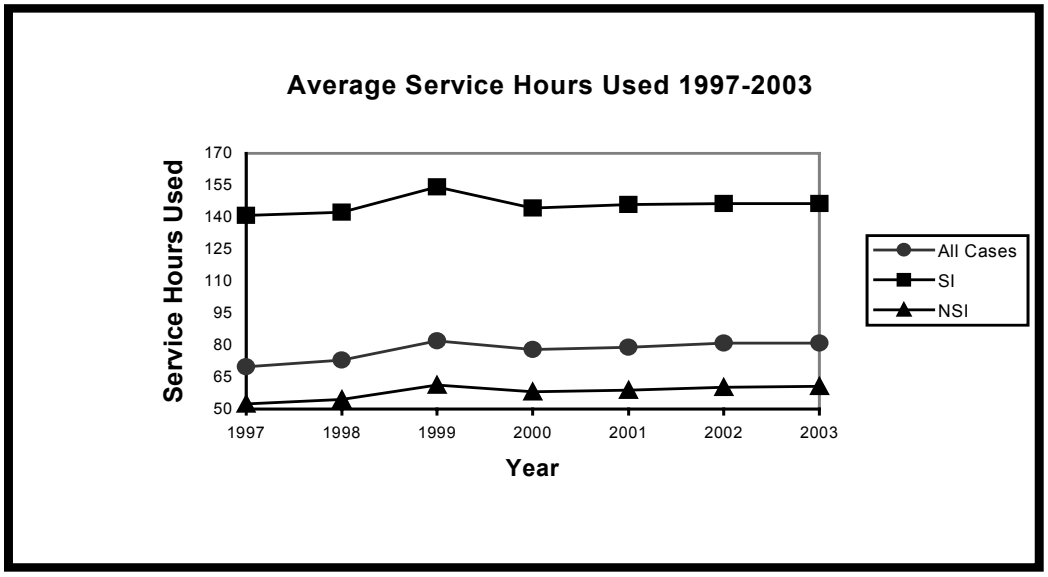


While the IHSS caseload has grown across categories, the proportion of consumers with disabilities has grown at a faster rate. Severely impaired cases have also grown at a faster rate than non-severely impaired cases. (Severely impaired cases are defined as cases that need more than 20 hours of personal care services per week.)



IHSS is serving a growing population of relatively young consumers with disabilities that require more hours of service and remain in the program for a longer period of time. Consumers generally remain in the program for at least 4 years, with aged consumers using services for a shorter period of time, while younger persons with disabilities remain in the program longer.

Summary of Service Hours:
Changes in caseload composition have contributed to a higher utilization of service hours in the IHSS program. The total number of IHSS service hours delivered in a given year has increased by 61 percent since 1997. The average hours utilized in a month per IHSS consumer has risen by 16 percent to 81 hours per case. However, growth in service hour utilization varies by consumer type. Severely impaired (SI) consumers use 4% more hours than they did in 1997, while service hour utilization has increased by 16% among the not-severely impaired (NSI). Additionally, service hour utilization by type of case varies from county to county, but remains below the caps across the state (283 for SI cases, 195 for NSI cases).



Since the mid-1990s the IHSS caseload, hours of service, and program costs have grown. However, to the extent that the program succeeds in keeping low-income aged, blind or disabled individuals in their own homes as an alternative to out-of-home care, it is cost-effective to the state as costs per individual are less than one-fourth the costs of nursing home placement.

Analysis conducted by the California Center for Long-Term Care Integration suggests that IHSS and other home and community-based services may have helped reduce nursing home utilization in California. Since the 1990s, the number of Medi-Cal eligibles over age 65 has increased almost 25%, yet the average nursing home utilization has decreased from almost 44 days per Medi-Cal eligible aged 65+ in 1991 to just over 36 days per eligible in 2001. The Center's findings are consistent with the state's overall decrease in nursing home occupancy rates (from 85 percent in 1992 to 81 percent in 2001), although the state ranks 45th in the nation in terms of number of nursing home beds per resident aged 65 and over. Reductions to IHSS at a time when demographic and programmatic changes are increasing demand for long-term care services may lead to increases in utilization of out-of-home care at substantially higher costs to the state.

Governor's Budget: The Governor's budget proposes to reduce IHSS expenditures by 35 percent from their current law level for total reductions of $991.7 million ($581.2 million General Fund).

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Briefly describe the IHSS program, its purpose, and its target population.
2. What is the role of the IHSS program in the state's long term case system and the system of services that assists low-income people with disabilities in living independently?
3. How have the IHSS caseload and program costs changed over the last decade?
4. How has the IHSS caseload composition and service hour utilization changed over time?
5. Where has the growth in IHSS caseload, hours of service, and program costs occurred?

Issue A - Eliminate the IHSS Residual Program

Background: The Residual program serves 75,000 low-income aged, blind or disabled consumers. The Residual program funds services that are not eligible for federal financial reimbursement through Medicaid. Program consumers meet the same income, resources and disability eligibility criteria as IHSS PCSP beneficiaries. Whether consumers receive services from the Residual program, the PCSP program, or both, depends on whether the services they require and their arrangement for receiving care qualifies for federal financial reimbursement.

The IHSS Residual program funds the following IHSS services: (1) Cases where the recipient receives payment in advance of service delivery; (2) Services delivered to consumers who only require assistance with domestic chores; (3) Services delivered to minor children whose IHSS provider is a parent and services delivered to consumers whose IHSS provider is a spouse; (4) Protective supervision services provided to clients with cognitive impairments who need around the clock care; (5) Restaurant meal allowances to consumers who receive those services.

In November 2003, the utilization of Residual Services was the following:

Categories of Services	Monthly Cases	Percentage	Monthly Expenditures	Percentage
Total	**63,556**		**$42,261,294**	
Advanced Pay	838	1.32%	$1,577,082	3.73%
Domestic Services Only	27,598	43.42%	$7,653,134	18.11%
Relative Caregiver	20,345	32.01 %	$13,210,872	31.26%
Protective Supervision	13,210	20.78%	$17,756,220	42.02%
Misc./Unknown	3,921	6.17%	$2,175,122	5.15%

** Expenditure and caseload data included in this chart is monthly data. As such, the data does not "tie" to the caseload and expenditure numbers referred to in the narrative and in the Governor's Budget.*
***The chart contains some duplication both for cases and expenditures as a case may be considered both domestic service only and relative caregiver. The total number of cases and expenditures is based on unduplicated cases. The percentages are derived from unduplicated cases and expenditures.*

Governor's Budget: The Governor proposes to eliminate the IHSS Residual Program effective April 1, 2004, for $116.1 million ($88.8 million General Fund) in savings in 2003-04 and $485.4 million ($365.8 million General Fund) in savings in 2004-05.

Impact of Proposal: The impact of the proposed elimination of the IHSS Residual program will vary across program categories and consumer types as consumers have different needs and varying levels of alternative resources. Persons that only receive domestic services may have a lower risk of immediate placement in out-of-home care than persons who receive advance pay or protective supervision services. While neither the Administration nor Subcommittee staff know with a degree of certainty how consumers will be affected by the proposal, a review of program data establishes who receives services and provides information on the impact of reductions.

Thirty-three percent of consumers will remain eligible for IHSS services. Specifically, persons whose service provider is a parent or a spouse and persons who receive payment prior to service delivery will remain eligible. To continue receiving services, these consumers will need to alter their existing provider arrangement (i.e. hire a new provider who is not a parent). These consumers account for thirty-five percent of IHSS Residual program expenditures.

Consumers that only receive domestic services will become ineligible for services. They comprise 43 percent of the Residual caseload and account for 18 percent of expenditures. These consumers are relatively more independent than other IHSS Residual clients and are considered less likely to require out-of-home care as a result of losing IHSS. According to DSS program data, 63 percent of consumers that only receive domestic services will require out-of-home care as a result of losing IHSS services.

Consumers that receive protective supervision will lose over 64 percent of the hours of service they currently receive. These consumers constitute 21 percent of the caseload and account for 42 percent of expenditures. According to DSS program data, sixty percent of these consumers need at least some human assistance to perform activities of daily living. Only 3 percent of these consumers are considered independent. According to social worker assessments, 87 percent of consumers receiving protective supervision will require out-of-home care as a result of losing IHSS services.

Budget Assumptions: The Budget assumes that 24 percent of consumers will change their provider arrangement to transition to PCSP. The estimate is based on the number of consumers who receive services from a spouse or ineligible parent. The Budget does not establish a process for these consumers to transition to PCSP. DSS indicates that a notice of action regarding termination of the program may inform consumers of their right to an assessment and that if they receive care from a responsible relative they can receive PCSP services by changing providers.

Potential Cost increases not included in the Budget: The Governor's Budget appears to over estimate the level of savings resulting from the proposed elimination of the Residual program. The Budget underestimates the number of consumers that may transition to PCSP. In addition, the Budget does not account for an increase in Regional Center costs though a portion of Residual expenditures is associated with Regional Center consumers. Lastly, the Budget assumes

that the elimination will not increase demand for out-of-home care although IHSS is required by statute to serve consumers who can not safely remain at home without program services.

Consumers receiving IHSS services from a responsible relative are not the only consumers that can transition to PCSP. Advance pay consumers are eligible for PCSP. Further, consumers receiving protective supervision and consumers receiving domestic services only may be eligible for additional PCSP hours or become eligible for PCSP if re-assessed. The Budget does not fund increased demand for PCSP services among these consumers.

The Governor's Budget does not assume an increase in Regional Center costs resulting from the proposed reductions in IHSS services. Persons with developmental disabilities will remain entitled to like services under the Lanterman Act. In 1997, persons with developmental disabilities represented 12 percent of the IHSS caseload, 69 percent of cases with a parent provider and accounted for 41 percent of protective supervision expenditures. Since December, Subcommittee staff has repeatedly requested from the Administration, data regarding the number of IHSS consumers that are Regional Center clients and the amount and types of services they receive. **The Subcommittee still has not received the requested information, which is necessary to assess the level of savings to be realized from the proposed elimination of the Residual program.**

The budget does not assume an increase in costs for institutional care resulting from the proposed reductions in IHSS services. According to program data, 63 percent of Residual consumers will require out of home community care and 12.6 percent will require out of home medical care without IHSS. A review of consumers terminated from IHSS found that the most common reason consumers left the program was due to death (29%). Fifteen percent of IHSS recipients transitioned to institutions, 10 percent left at their own request, and 22 percent had a change in eligibility. More recent data shows an increase in the number of persons leaving IHSS to out-of-home care, while the number of consumers who leave due to death remains stable. Approximately 20 percent of cases exit IHSS every year.

Alternatives to the Governor's proposal: California may wish to seek increased federal financial participation in IHSS program costs as an alternative to the Governor's proposed elimination of the Residual program. The state could seek such funding through a Medicaid waiver, including a relatively broad 1115 waiver. At least three states, New Jersey, Florida and Arkansas have been approved by the federal government to provide payment to legally responsible relatives using federal Medicaid dollars. States also receive federal Medicaid funds for services similar to protective supervision. For example, New Mexico appears to use federal Medicaid dollars to fund services similar to protective supervision. Additionally, a federal regulatory change that broadened the definition of personal care services may provide federal Medicaid funding for IHSS cases that only require domestic or ancillary services through an amendment to the state Medicaid plan.

When considering the aforementioned options for increased federal financial participation in IHSS program costs, the state will likely benefit from analyzing the implications to the program of operating under Medicaid requirements. Federal Medicaid law generally requires that service

utilization controls consider medical necessity and individual needs, and do not result in arbitrary denial of services. Medicaid law also requires that services made available to any categorically needy individuals not be less in amount, duration, or scope than those services made available to medically needy individuals, and that services made available to any individuals in the categorically needy or medically needy group must be equal in amount, duration, and scope for all individuals within the group. EPSDT requires states to provide eligible children any medically necessary services to correct or ameliorate physical and mental illnesses and conditions, if the services are within the scope of mandatory or optional services under federal law, whether or not such services are covered for adults in the state's Medicaid program. Administering the Residual program in accordance with Medicaid may require program changes.

Subcommittee questions and requests: The Subcommittee has requested that the Administration respond to the following questions:

1. Please briefly describe the Governor's proposal, budget assumptions and the population that receives services from the IHSS Residual program.
2. How will the proposed elimination of the IHSS Residual program impact California's compliance with the *Olmstead* decision?
3. What may happen to consumers receiving services from the Residual program if they lose program services? What types of services or resources will remain available to them? How will consumers receiving advance pay or consumers who require protective supervision manage without program services?
4. What percentage of individuals on the Residual program will require out-of-home care in the absence of IHSS within 6 months and within 12 months?
5. Reductions to IHSS may result in cost increases to other programs. For example, persons with developmental disabilities who lose IHSS services will remain entitled to like services under the Lanterman Act. To what extent may the proposed elimination result in offsetting cost increases, including increased demand for Regional Center service or for out-of-home care?
6. Has the Administration fully explored potential increases in federal financial participation to fund IHSS Residual program costs? What are the obstacles to obtaining increased federal funding for the services currently funded by the Residual program?

Budget issue: Does the Subcommittee wish to approve the proposed program elimination?

Issue B - Eliminate State Participation in IHSS Provider Wages above Minimum Wage

Background: In 1999, California enacted legislation to provide state participation in provider wages up to 50 cents per hour above minimum wage for increases negotiated prior to or during the 1999-2000 fiscal year. Through higher wages for IHSS providers, the state sought to increase the ability of consumers to hire and retain qualified providers; to improve the quality of program services; to reduce service provider turnover; and to more adequately compensate providers for the services they provide. California expanded its commitment to higher wages for IHSS providers in 2000, when it enacted legislation to provide state participation in IHSS provider

wages and benefits up to a maximum of $12.10 per hour. Currently, the state participates in wage costs up to $9.50 per hour, and benefit costs up to $0.60 per hour.

The average wage for IHSS service providers is $8.10 per hour. Twenty-three counties, that together account for more than 80 percent of the state's IHSS caseload, provide health benefits to at least some IHSS providers.

Governor's Budget: The Governor proposes to reduce state participation in IHSS provider wages and benefits from $10.10 to the state minimum wage ($6.75) for savings of $301.6 million ($98 million General Fund) in 2004-05. The budget assumes a phased-in implementation reducing state participation in wages as existing collective bargaining agreements and contracts with private contractors expire. The effect of the Governor's proposal is that upon expiration of current collective bargaining contracts, counties will have to reduce IHSS provider wages or replace current state funding for provider wages with county funds.

According to DSS, the impact of the proposed reductions on the ability of consumers to find and retain qualified providers will depend on the county and on the provider/consumer relationship. DSS notes that the majority of counties (36) pay wages that are at the minimum wage or no greater than minimum wage plus 5.31 percent ($7.11 per hour). Eighty-eight percent of IHSS consumers live in counties that pay higher wages. DSS states that wage reductions may not have a significant impact on the ability of consumers to hire a worker in counties that pay lower wages. However, the vast majority of consumers live in counties that pay higher provider wages.

Opponents of the Governor's proposal argue that reducing state participation in wages to the minimum wage will increase the chances that IHSS workers live in poverty and increase the number of uninsured Californians. IHSS providers on average work less than 23 hours per week and earn $436 per month. Seventy-seven percent of IHSS providers rely on their IHSS wages as their only source of income. Twenty percent of providers rely on the Medi-Cal program for their health insurance. Wage reductions will likely decrease the resources available to IHSS providers and may increase their reliance on public assistance programs.

Opponents of the Governor's proposal also argue that reducing state participation in wages will take millions of dollars out of local economies and will negatively affect quality of care. Opponents state that wage reductions will decrease the number of available providers, increase provider turnover and worsen the quality of care.

Reductions in provider wages may reduce state tax revenues and increase program costs. According to DSS, there are approximately 265,000 IHSS providers in California. Seven percent of providers are CalWORKs recipients. Income decreases for providers enrolled in CalWORKs will likely increase grant costs in the budget year.

Subcommittee request and questions: The Subcommittee has requested that the Administration answer the following questions:

1. Please describe the Governor's budget proposal.
2. How will the Governor's proposal effect the ability of consumers to hire a provider, provide turnover and quality of care?
3. What is the estimated effect of the Governor's proposal on CalWORKs grant costs?

Budget issue: Does the Subcommittee wish to approve the Governor's proposal to reduce state participation in IHSS provider wages to the minimum wage?

Issue C - IHSS Employer of Record and Advisory Committees

Background: In 1992, California enacted legislation to define the role of Public Authorities established by County Boards of Supervisors to provide for the delivery of IHSS. Public Authorities are the employer of record of IHSS providers for purposes of collective bargaining. IHSS consumers retain the right to hire, fire and supervise their service provider. In addition to being the employer of record, Public Authorities are required to establish and operate a provider registry, to investigate the qualifications and background of potential providers, and to provide training for providers. According to DSS, three counties operated public authorities in 1998.

In 1999, California enacted legislation that required counties to establish an employer of record for IHSS providers by January 2003. Most counties established a public authority to meet the employer of record requirement. Five small counties chose to become the employer of record.

Chapter 90, Statues of 1999, (Assembly Bill 1682) also required counties to establish local IHSS Advisory Committees to be comprised of no more than 11 members, at least 50 percent of whom must be current or past consumers of IHSS services. The Committees were required to submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for In-Home Supportive Services. Committees provide ongoing advice and recommendations regarding IHSS to the county board of supervisors and to entities responsible for the administration of the program or delivery of IHSS services.

Governor's Budget: The budget proposes to: (1) repeal the existing IHSS Employer of Record requirement; (2) eliminate state funding for Public Authorities; and (3) make the establishment of county IHSS Advisory Committees optional for savings of $7.6 million ($2.2 million General Fund) in the budget year.

The Governor's proposal may reduce the availability of training for IHSS providers and employee registries as counties would not be required to assume existing public authority responsibilities. Opponents of the Governor's proposal argue that the Governor's proposal will lower IHSS program and administration standards and reduce access to quality assurance efforts including provider screens, training and provider registries. Opponents also argue that the Governor's proposal will reopen litigation regarding the legal status of IHSS workers and the liability of the state as the potential employer.

According to DSS, consumers likely will continue to receive assistance in obtaining a provider as regulations require that counties make reasonable efforts to assist recipients who are unable to obtain a provider independently. Counties are also required to notify recipients of the availability of provider fingerprinting. DSS states that prior to the establishment of Public Authorities, counties had some provider referral services available and that some counties receive Supported Individual Provider funding which permits claims for registry maintenance costs. On the issue of training, DSS states that it is unclear how much training is currently available as the mandate is that there be access to training, not that a certain level of training be provided.

Subcommittee request and questions: The Subcommittee has requested that the Administration briefly describe the budget proposal, its impact on the availability of training and provider registries, and its potential effect on the quality of program services.

Budget issue: Does the Subcommittee wish to approve the Governor's proposals to repeal the existing IHSS Employer of Record requirement, eliminate state funding for Public Authorities, and make the establishment of county IHSS Advisory Committees optional?

Issue D - Selective Elimination of Domestic Services

Background: IHSS supports the provision of domestic services to eligible low-income aged, blind or disabled consumers that need the services to remain safely in their own homes. Domestic services include sweeping, kitchen and bathroom cleaning, changing bed linens, meal preparation and clean-up, laundry services, and shopping for food. Consumers who reside independently can receive these services based on their level of need, subject to a state cap (6 hours per month for domestic services, 3 hours per week for laundry and shopping). Services for consumers who reside in shared living arrangements are pro-rated or reduced to reflect the consumer's use of common areas and shared meals. For example, if an IHSS consumer resides with two other adults, IHSS will fund the time to perform domestic services in one-third of the common areas or one-third of the time required to prepare shared meals. Approximately 39 percent of IHSS consumers reside in shared living situations.

Governor's Budget: The Governor proposes to eliminate coverage for domestic services when consumers reside with other family members to realize savings of $80.9 million ($26.3 million General Fund) in 2004-05.

The Budget assumes savings commensurate with a reduction in the authorized IHSS service hours of 90,000 persons. The estimated impact is based on the assumption that 65% of the 139,000 IHSS consumers in shared living arrangements reside with relatives. The 65% estimate is based on the experiences of the Adult Program Branch's Evaluation and Integrity Staff who conduct home visits and on other anecdotal information.

Services subject to the Governor's proposal include sweeping, kitchen and bathroom cleaning, changing bed linens, meal preparation and clean-up, laundry services, and shopping for food. According to DSS, the definition of family member for purposes of this proposal is under development but current thinking is to define family member as "an adult who resides with the recipient and is related by blood, marriage, including common-law, or adoption."

The budget proposes the following exemptions: (1) when the recipient resides only with minor children; (2) when there is sufficient indication that the need cannot or should not be met in common; or (3) when there is substantiation that the other family members are not able to provide the services. Exemptions will be granted as part of the assessment process, and are not expected to significantly increase county workload. Exemptions based on the family member's inability to provide the services will require medical substantiation and may increase county costs. The budget does not estimate the percentage of cases that will be eligible for exemptions but assumes that the numbers will be small.

Staff Comment: The Governor's proposal may conflict with Medicaid comparability requirements as it would result in disparate treatment for similarly situated beneficiaries. Specifically, federal law requires that services made available to any categorically needy individuals not be less in amount duration or scope than those services made available to medically needy individuals. In addition, services made available to any individual in the categorically needy or medically needy group must be equal in amount, duration and scope for all individuals within the group.

Subcommittee request and questions: The Subcommittee has requested that the Administration answer the following questions:

1. Briefly describe the Governor's proposal, budget assumptions and the population affected by the proposal.
2. What is the basis for the budget assumption that 65 percent of consumers in shared living situations reside with relatives?
3. How will the budget proposal impact consumers?
4. What percentage of hours of service will consumers in shared living arrangements lose?
5. How do you reconcile the proposal with Medicaid comparability rules, which require that services made available to any individual in the categorically needy or medically needy group be equal in amount, duration and scope for all individuals within the group?

Budget issue: Does the Subcommittee wish to approve the Governor's proposal to eliminate coverage for domestic services when a consumer lives with a relative?

Issue E - Quality Assurance

Overview of IHSS Assessment, Quality Assurance and Utilization Control Requirements:

Assessment: State law requires that IHSS be administered in a uniform manner in every county and provides that utilization controls can be established for the PCSP program. Since 1988, the state has used the Uniformity System and the uniform assessment form to determine a consumer's level of need and to authorize service hours. California uses the Uniformity system and the uniform assessment form to authorize service hours under PCSP and Residual.

Using the assessment, state regulations and county policies, county social workers determine the degree of assistance required by a recipient in performing Activities of Daily Living and Instrumental Activities of Daily Living, record the amount of time required to assist the recipient in completing tasks, and assign a Functional Index ranking. (The Functional Index ranking is the consumer's relative need for IHSS. 1 means consumer is independent. 5 means consumer cannot perform function without human assistance.) During the assessment process, social workers identify other resources available to the consumer. Based on the level of needs assessed, the time required to meet the needs, and the level of available resources, social workers authorize IHSS service hours.

California establishes regulatory guidelines for some IHSS services (housework, laundry, and shopping). According to DSS, federal and state regulations do not allow guidelines for meal preparation and cleanup, personal care services and paramedical services. The number of hours authorized for personal care services, paramedical services and meal services is solely based on the social worker assessment, subject to the state's caps of 283 hours for PCSP consumers and Residual consumers who are severely impaired, and 195 for Residual consumers who are not-severely impaired. California does not have a uniform definition of what constitutes an alternative resource or specify how having such resources affects the level of service hours authorized (i.e. How does receipt of meals on wheels or adult day health care services affect the level of IHSS service hours authorized?).

Counties are required to conduct individual assessments at least once a year. Counties are also required to conduct assessments when requested to do so by the beneficiary; when a beneficiary moves to a different county; or when the county has information that indicates that the client's condition or living arrangement has changed. Counties can conduct more frequent assessments but are not funded to do so.

IHSS consumers have a right to challenge eligibility determinations, the social worker assessment and the level of service hours authorized. Information about the number of state hearings filed and the outcome of such hearings is limited. When a county assessment results in a reduction of service hours from the previously approved level, the county is required to maintain the higher level of hours pending the Administrative Law Judge (ALJ) decision. If the beneficiary is requesting an increase to the existing level of hours authorized or is a new consumer, the assessed and approved hours remain pending the ALJ decision.

Quality Assurance: The Department of Social Services has very limited resources to conduct quality assurance efforts (3 staff). Counties also have limited ability to conduct in-home monitoring of quality of care and quality assurance. Generally, to conduct quality assurance counties must redirect staff from required activities to quality assurance efforts. Counties tend to learn of changes in a beneficiary's status when the beneficiary, providers or relatives report such changes or when the county conducts annual assessments.

IHSS and Medicaid law: Services under IHSS PCSP are federally reimbursable under the Medicaid program and as such, are subject to federal Medicaid requirements. A beneficiary eligible for PCSP services can receive personal care services, up to 283 hours per month. There are currently no limitations on the number of personal care services that can be provided within a specified time frame, as long as the monthly hours do not exceed 283. Eligibility for services and the level of hours authorized is based on the Uniformity System and the IHSS assessment.

According to the Department of Health Services (DHS), state law authorizes DHS to adopt utilization controls for PCSP. Utilization controls for personal care services are limited to:

- Prior authorization, which is approval by a department consultant, of a specified service in advance of rendering that service based upon a determination of medical necessity;
- Postservice prepayment audit, which is a review for medical necessity and program coverage after service was rendered but before payment is made;
- Postservice postpayment audit, which is review for medical necessity and program coverage after service was rendered and the claim paid;
- Limitation on number of services, which means certain services may be restricted as to number within specified time frame; and
- Review of services pursuant to Professional Standards Review Organization agreements entered in accordance with Section 14104.

As a Medi-Cal service, IHSS PCSP services are subject to federal Medicaid requirements. Relevant Medicaid requirements include: **(1)Comparability** - requires that services made available to any categorically needy individuals not be less in amount duration or scope than those services made available to medically needy individuals and that services made available to any individuals in the categorically needy or medically needy group must be equal in amount, duration and scope for all individuals within the group; and **(2) EPSDT** which requires states to provide eligible children any medically necessary services to correct or ameliorate physical and mental illnesses and conditions, if the services are within the scope of mandatory or optional services under federal law, whether or not such services are covered for adults in the state's Medicaid program. Generally, federal and state law permits adoption of utilization controls as long as such controls consider medical necessity, consider individual needs, and do not result in arbitrary denials of services. Utilization controls must be consistent with federal and state law, and case law, including specific restrictions to or prohibition of the adoption of controls.

Governor's Budget: The Governor's Budget states that according to DSS case reviews, up to 25 percent of all paid services under the IHSS program may be unnecessary or not actually provided. The Budget establishes the Administration's intent to develop a May Revision proposal to improve the quality of assessments and reduce over-authorization of hours.

The Governor's Budget estimate of 25 percent is based on state reviews of a limited number of IHSS cases conducted over a seven-year period (May of 1996 to April 2003). The state reviewed an average of 37 cases in 22 counties. It is unclear how the cases were selected and the methodology employed in conducting the reviews.

The counties examined by the state account for only 24.5% of total IHSS expenditures. The substantial differences (5% or more) in hours authorized were concentrated in a few counties. In counties that account for 11 percent of expenditures the difference between the state and county authorized hours was 1.31 percent. The Governor's Budget assumes that data gathered over 7 years in counties that serve 13 percent of the caseload is representative of the entire state.

Staff Comments: Although the Administration's estimate of the level of unnecessary expenditures in IHSS may not be representative of what is happening statewide, review of county specific data and anecdotal evidence suggest there are differences between counties and among workers in the number of service hours authorized across case types. California may benefit from development and adoption of quality assurance mechanisms, uniform program guidelines and standardization of social worker training.

Although the IHSS caseload and program expenditures have more than doubled since the early 1990s there have been few systematic efforts to promote effective and efficient program operations. For example, California has not updated regulations since it made personal care services an entitlement for eligible Medi-Cal beneficiaries through the creation of PCSP in 1993. The absence of PCSP regulations leads to different interpretations of program requirements from one county to the next and contributes to decisions by state hearing officers to overturn county decisions in appeals. Additionally, the absence of regulations and different standards between the PCSP and Residual programs may negatively impact fraud prevention and intervention efforts.

According to counties, outdated IHSS workload standards and budgeting methodologies do not allow the level of service necessary to conduct needed quality assurance activities. The Budget grants 11 hours of county time annually per case, intended to encompass all assessment activities, time-sheet processing, annual reassessment, and additional reassessments conducted upon request of the recipient. The Budget does not provide reimbursement for county activities, including required assessments and eligibility services, when consumers are found ineligible for program services. Counties report that even in straightforward cases, assessments can take several hours, including time to interview the client, relatives, and medical professionals. Additionally, counties report that the lack of guidance and adequate funding limits the ability of counties to systematically perform certain activities that may reduce costs, such as periodic reassessments of clients whose condition may improve and require fewer hours of services.

The lack of PCSP regulations and the absence of uniform guidelines contribute to variances in the number of authorized services hours across cases and counties. Standardized training, assessments, fraud prevention and intervention, and quality control programs will likely generate budgetary savings and improve the match of program services to identified client needs. Clearly defining fraud and establishing regulations governing fraud prevention and prosecution will likely reduce its incidence. In addition, the state may benefit from considering IHSS utilization in the context of other available resources and improving coordination of long-term care services.

The Governor's Budget establishes the Administration's intent to develop a proposal to improve the quality of assessments and reduce over-authorization of hours, but provides very limited details of what such a proposal should include. Counties indicate that the following are essential components of an effective IHSS quality assurance program: (1) standardized, updated tools for IHSS staff, including updated regulations and guidelines for assessing clients and calculating service hours; (2) a statewide, standard quality control system; (3) uniform training, both upfront and ongoing; (4) enhanced IHSS fraud investigation; and (5) staff capacity to conduct initial assessments and special, periodic reassessments.

A comprehensive quality assurance program will likely generate budgetary savings and improve program quality. Such a program may also result in a better match of program services to identified client needs. However, depending on how it is crafted, a quality assurance program may alter the IHSS program's design, limit flexibility and impact client access to program services. When developing a comprehensive quality assurance program the state may benefit from stakeholder involvement, including input from consumers, providers and counties.

Development and implementation of a comprehensive quality assurance program may be complicated and require increased state and county administrative resources. For example, efforts to standardize program services may require statutory and regulatory changes. Changes to IHSS PCSP including, adoption of caps on services or changes to the scope of covered services would require federal authority, a change in state law and State Plan amendment. Specifically, changes, additions, or modifications to PCSP must be reflected in the Medicaid State Plan. A state plan amendment would require federal approval. Certain policy changes (i.e., restructuring models of care delivery, changing benefits, etc.) to PCSP would require a federal waiver.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Briefly describe existing IHSS quality assurance and utilization control requirements.
2. What factors impede county staff efforts to monitor quality of care? How does the IHSS Administration funding structure affect quality assurance efforts?
3. How do the interactions between Medicaid law and IHSS impact California's ability to adopt utilization controls and implement quality assurance strategies?
4. What is the basis for the Administration's assertion that up to 25 percent of all paid services under the IHSS program may be unnecessary or not actually provided?
5. What is the Administration's timeline and process to develop a quality assurance proposal? What types of strategies to improve quality assurance is the Administration considering? How might the proposed changes impact consumer access to services?

Budget issue: Does the Subcommittee wish to develop an IHSS quality assurance program that better matches program services to identified client needs and results in budgetary savings?

Issue G - Quality Provider Fee

Background: Under the authority of the Social Security Act, Title 19, Section 1903(w)(7)(A), a state may impose a "quality assessment fee" on certain health care providers. Fee revenues can be used to obtain federal matching funds. The state can use the additional matching funds to support increases in provider reimbursement. The funds can also be used to offset state costs.

Federal law requires (42 CFR 433.68) the fee (maximum of 6 percent) to be uniformly imposed on *all* provider revenues, a class of services, or a bed fee or license fee. The collected fees are then used to draw down additional federal funds. Several states currently use this mechanism for nursing homes and hospitals. The Governor is proposing to use this option for Medi-Cal Managed Care Plans in order to obtain a federal match, provide a rate increase for Medi-Cal Managed Care providers, and save about $75 million in state General Fund support.

Legislative Analyst's Office Comments: The LAO writes that "One potential source of funds to support [an IHSS] quality assurance program would be a fee on providers. Providers would be "held harmless" because the proposed fee would be offset by a corresponding wage increase. All providers would pay the fee and receive the wage increase. The wage increase paid to PCSP providers would draw down federal funds through Medicaid. These federal funds would free up some of the fee revenues that otherwise would be needed to fund the wage increase for PCSP providers. The freed-up fee revenues could be used to fund a quality assurance program".

The LAO generally points out that there may be winners and losers from implementation of a quality assessment fee. Because federal law requires that the fee apply to all providers within a defined class of providers, providers that are required to pay the fee but do not provide services to Medi-Cal beneficiaries would not benefit from a reimbursement increase. When a fee is imposed across a class of medical service providers, any non-Medicaid providers indirectly share part of the burden of caring for Medicaid beneficiaries through their fee payments. While some would contend that it is only fair that the burden of providing health care for the poor be shared in this way, other providers are likely to object to such an arrangement.

Staff Comment: California may benefit financially from requiring a "quality assessment fee" from IHSS providers and using fee revenue to obtain increased federal funds. However, it may not be federally allowable or programmatically feasible to implement the Medicaid "quality assessment fee" in the IHSS program.

Federal law permits the assessment of quality assurance fees on providers of "home health care services". The Department of Social Services is working with the Department of Health Services to determine whether IHSS providers can be considered "home health care services" providers under federal law. The Administration's initial review suggests that under state and federal regulatory definitions, providers of "home health care services" means "home health agencies", and does not include IHSS providers.

Home health agencies are entities licensed by the state to provide skilled nursing services, therapy services, including physical therapy and occupational therapy, medical social services, and home health aide services. Home health aide services are defined as personal care services provided by a person certified by the state as a home health aide under a plan of treatment prescribed by the patient's physician. Some home health agencies participate in the Medi-Cal program, however the vast majority of their business is with the Medicare program, not with Medi-Cal. According to data from the Office of Statewide Health Planning and Development, Medi-Cal accounted for only 6 percent of the reimbursements received by home health agencies in 2001.

In addition to the fact that IHSS providers may not qualify under the definition of providers of "home health care services", there are technical issues that complicate implementation of a quality assessment fee on IHSS providers. Under federal law, quality assessment fees must be uniformly imposed on all provider revenues, a class of services, or a license fee. There are over 250,000 IHSS providers in California that are compensated for varying levels of work in at least ten different reimbursement levels. Twenty-three percent of providers have earnings beyond their IHSS wages. IHSS providers are not licensed and are not the exclusive home health care service providers in the state. Additionally, CMIPS, the IHSS payrolling system, does not have a mechanism to make payroll deductions.

Subcommittee request and questions: The Subcommittee has requested that the Legislative Analyst's Office describe the Medicaid quality assessment fee option and how implementation of this option might benefit the IHSS program. The Subcommittee has also requested that the Administration comment on the feasibility of implementing this fee in the IHSS program.

Budget issue: Does the Subcommittee wish to adopt a "quality assessment fee" in the IHSS program?

III - Supplemental Security Income/State Supplementary Program (SSI/SSP)

General Background: The SSI/SSP program provides cash grants to persons who are elderly, blind and/or too disabled to work and who meet the program's federal income and resource requirements. Individuals who receive SSI/SSP are categorically eligible for the Aged, Blind or Disabled Medi-Cal Program with no share-of-costs They may also be eligible for the In-Home Supportive Services Program and for other programs designed to keep individuals living in the community like the Multipurpose Senior Services Program.

The SSI/SSP program is administered by the federal Social Security Administration. The Social Security Administration determines eligibility, computes grants, and disburses monthly payments to recipients. The state establishes the level of State Supplementary Payment support for individuals and contributes the funds for this portion of the program.

SSI/SSP grant levels vary based on a recipient's living arrangement, marital status, minor status and whether she or he is aged, blind or disabled. Currently there are 19 different SSI/SSP payment standards. These standards are generally adjusted each calendar year. The current maximum grant for an aged or disabled individual living independently is $790 per month. It is $1,399 for couples living independently.

Summary of Enrollment. Approximately 1.2 million Californians receive SSI/SSP. Over two-thirds of the recipients are disabled, 30 percent are elderly, and two percent are blind. The budget estimates that program enrollment will grow by 2.2 percent in the 2003-2004 fiscal year, and by 2.1 percent in the 2004-2005 fiscal year. The total caseload for 2004-2005 is estimated to be 1,178,000. Due to changing demographics and a projected increase in California's aging population, the SSI/SSP program caseload is likely to continue to grow in future years.

Summary of Funding. The budget proposes basic SSI/SSP program costs for the 2004-2005 fiscal year to be $7.7 billion ($2.9 General Fund).

Issue A - Elimination of Pass-Through of Federal SSI Cost-of-Living Adjustment

Background: Federal law provides a cost-of-living adjustment to the SSI portion of grants that is based on the Consumer Price Index. Since January 2004, state law provides automatic pass-through of the federal COLA to SSI recipients. In January 2005, the federal SSI adjustment will increase the maximum grant for an individual by $10 to $800 per month.

Governor's Budget: The Budget proposes to withhold the federal COLA for $62.5 million in General Fund savings. Essentially, the budget proposes to reduce the SSP component of the grant by the same amount as the federally funded January 2005 SSI COLA, thereby reducing state SSP expenditures in the budget year.

Subcommittee request and questions: The Subcommittee has requested that the Administration describe the Governor's proposal, its effect on the level of the SSP payment and its impact on SSI/SSP beneficiaries.

Budget issue: Does the Subcommittee wish to adopt the Governor's proposal to suspend pass-through of the federal January 2005 SSI COLA?

Issue B - Suspension of State SSI/SSP Cost-of-Living Adjustment

Background: Current law provides an annual state COLA for SSI/SSP grants, which is based on the California Necessities Index. The scheduled COLAs will increase the maximum SSI/SSP grant for an individual from $790 to $812, and from $1,399 to $1,438 for couples.

Governor's Budget: The budget suspends the 2004-2005 state cost-of-living adjustment for the SSI/SSP program to realize savings of $84.6 million. Suspension of the state COLA will maintain grants at a level that does not keep pace with cost-of-living increases such as rising housing costs.

California's SSI/SSP beneficiaries are ineligible for Food Stamps benefits and depend on their grants to pay for rent, food, clothing and other necessities. Beneficiaries expend most of their grant on rent and utilities. According to the U.S Department of Housing and Urban Development, fair market rents for a studio apartment in California average $537 per month and range from $341 in Alpine to $1,294 in Santa Clara. Since 1990, rent prices have increased by 41 percent and the SSI/SSP purchasing power has declined by 18 percent.

Subcommittee request and questions: The Subcommittee has requested that the Administration describe the Governor's proposal and its impact on SSI/SSP beneficiaries.

Budget issue: Does the Subcommittee wish to adopt the Governor's proposal to suspend the state SSI COLA in the budget year?

In-Home Supportive Services Program history

1959 California began funding attendant services for persons with disabilities on a limited basis following the discovery of the polio vaccine and a reduction in privately funded services for persons who became disabled from the disease.

1963 California provided eligible disabled persons up to $300 per month for attendant services.

1974 California established the Homemaker Chore program (now IHSS) which was funded by the General Fund, federal Title XX funds, and a limited county share-of-cost (3%). IHSS operated as a capped entitlement in the 1992-93 and 1993-94 fiscal years.

1988 California adopted statutory monthly caps on service hours (283 for severely impaired and 195 for non-severely impaired) to replace fixed monthly dollar caps on funding for services.

1991 State-Local Realignment increased the county-share of funding for IHSS to 35 percent. Realignment authorized DSS to implement a uniform IHSS assessment tool.

1992 California enacted legislation to define the role of Public Authorities (PAs) as the employer of record of IHSS providers for purposes of collective bargaining and made PAs responsible for training providers, operating employee registries, etc.

1992 California pursued a Medicaid State Plan amendment to provide personal care services as a Medi-Cal service. The amendment allowed California to draw down Title XIX funding (Medicaid) for IHSS and established IHSS/PCSP as a service Medi-Cal beneficiaries are entitled to receive if it is determined that they need the service to safely remain at home.

1993 California established the Personal Care Services Program (PCSP) to provide IHSS services to eligible Medi-Cal beneficiaries. PCSP costs are funded by a combination of federal (50%), state (32.5%) and county (17.5%) dollars. California maintained the IHSS Residual program to fund services ineligible for federal funding and services received by consumers whose arrangement for receiving care does not qualify for federal funding. Specifically, the IHSS Residual program funds services of consumers whose provider is a parent or a spouse, protective supervision, services of persons with severe disabilities who receive payment prior to service delivery, services of consumers who only require assistance with domestic chores and restaurant meal allowances.

1994 California eliminated the requirements that a physician "prescribe" personal care services and that a nurse review IHSS assessments as a condition of receiving services.

1997 Legislation provided state participation in funding Public Authority Administration costs.

1999 California implemented the IHSS share-of-cost buy-out whereby the state pays the beneficiary's Medi-Cal share-of-cost to serve the consumer through PCSP. The share-of-cost funded by the state is the difference between the Medi-Cal Medically Needy maintenance need income level ($600) and the maximum SSI/SSP grant ($790).

1999 Legislation provided state participation in provider wages up to 50 cents per hour above minimum wage for increases negotiated prior to or during the 1999-2000 fiscal year. Funding for the non-federal share of wage increases was state (80%) and county (20%).

1999 Legislation required counties to establish an employer of record for IHSS providers by January 2003 and to establish local IHSS Advisory Committees.

2000 California enacted legislation to provide state participation in IHSS provider wages and benefits up to a maximum of $12.10 per hour. Currently, the state participates in wage costs up to $9.50 per hour, and benefit costs up to $0.60 per hour. Funding for the non-federal share of wage and benefit costs is state (65%) and county (35%).

2000 California extended Medi-Cal eligibility to Aged, Blind or Disabled persons with incomes below 133 percent of the federal poverty level.

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

May 3rd , 2004
1:30 PM
Room 2040 (Note Room Change)

(Diane Van Maren, Principal Consultant)

Item	*Description*
Various	**Vote Only Calendar For April 12th & 19th Hearings** ***(Separate Hand Out)***
4300	**Department of Developmental Services--** ***Selected Items as Noted***
4260	**Department of Health Services—*Selected Items as Noted***

PLEASE NOTE: **Only those items contained in this agenda will be discussed in the hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise determined by the Chair.**

Additional issues pertaining to the DHS will be reviewed at the Subcommittee's May 10th "OPEN" issues hearing, and again at the time of the Governor's May Revision. Issues pertaining to the DDS will be reviewed again at the time of the Governor's May Revision. ***Please see the Senate File for dates and times of subsequent hearings***.

I. Vote Only Calendar For April 12th & April 19th Hearings *(See Separate Hand Out)*

II. Vote Only Calendar For Today's Hearing *(All Items Listed Below)*

A. Item 4260 Department of Health Services

1. Convert Limited-Term Positions to Permanent

Background and Governor's Proposed Finance Letter: In the Budget Act of 2002, the DHS received 5.5 positions to implement the Child Health Disability Prevention (CHDP) Gateway. These limited-term positions expire as of June 30, 2004. The DHS is requesting to convert 2.5 of these positions to permanent status in order to address on-going workload associated with the CHDP Gateway, and maintaining federal compliance associated with the Early, Periodic, Screening, Diagnosis and Treatment (EPSDT) Program. Specifically, these positions include two Associate Governmental Program Analysts and half of a Staff Counsel position. **Without these positions, a significant amount of federal funds could be placed at risk.**

Subcommittee Staff Comment and Recommendation: No issues have been raised by this proposal. The Subcommittee staff believes this proposal has merit.

Budget Issue: Does the **Subcommittee want to adopt the Finance Letter?**

2. Adult Influenza Vaccine Purchase

Background and Governor's Proposed Finance Letter: Influenza and pneumonia accounted for 8,167 deaths in California in 2001. Influenza vaccination can reduce both health-care costs and productivity losses associated with influenza illness in all age groups, especially in the older population.

In California, the projected population to be vaccinated with public health vaccine is about 700,000 seniors and chronically-ill persons. The DHS states that the vaccine has proven to be cost-effective by preventing serious illness that can result in hospitalizations. According to the DHS, vaccination can lead to reductions of 34 percent to 44 percent in physician visits, 32 percent to 45 percent in lost workdays, and 25 percent less use for antibiotics in influenza-associated illnesses. **The DHS distributes the vaccine to local health departments for administration in public clinics and other non-profit settings.**

Presently, the annual base for the purchase of influenza vaccine is $3.9 million (General Fund). The cost of influenza vaccine has increased annually by about 24 percent a year.

The DHS states that the estimated cost for vaccine for the upcoming 2005 influenza season is $9.11 per dose, for a total cost of $6.4 million (General Fund) to purchase 700,000 doses. As such, the DHS contends that an increase of $2.5 million (General Fund) is needed to increase the appropriation for this purpose to the $6.4 million.

Subcommittee Staff Comment and Recommendation: No issues have been raised regarding this proposal. It is recommended to approve as proposed.

Budget Issue: Does the Subcommittee want to adopt the Finance Letter to increase by $2.5 million (General Fund) the appropriation to purchase influenza vaccine?

3. Nuclear Planning Assessment Special Account

Background and Governor's Proposed Finance Letter: Under the Radiation Protection Act of 1988 (revised in 1993), the Office of Emergency Services (OES) is responsible for coordinating with state, local and federal agencies to prepare for and implement the State Nuclear Power Plant Emergency Response Plan. The DHS also participates in execution of this planning.

The enabling legislation proved that utilities operating the nuclear power plants pay a portion of the costs to implement the plan, and also specifies the amounts to be used by the OES and DHS for their administrative functions. **According to this existing statute—Section 8610.5 of the Government Code—the amounts available for disbursement for state and local costs as specified shall be adjusted fore each fiscal year by the percentage increase in the California Consumer Price Index (CA CPI) of the previous calendar year.**

The Finance Letter requests **an increase of $14,000 (Nuclear Planning Assessment Special Account) to reflect an increase of 2.3 percent for the 2003 calendar year CA CPI as required pursuant to Section 8610.5 of the Government Code.**

Subcommittee Staff Recommendation: Subcommittee staff concurs with the need for this adjustment. No issues have been raised.

Budget Issue: Does the Subcommittee want to adopt the Finance Letter?

4. Proposed Trailer Legislation to Repeal Various Items in State Statute (See Hand Out)

Governor's Proposed Budget—Trailer Bill Legislation (See Hand Out): Through proposed trailer bill legislation, **the budget proposes to repeal the following enacted legislation:**

- SB 322 (Ortiz), Statutes of 2003, Stem Cell Research
- SB 308 (Ducheny), Statutes of 2003, Targeted Case Management
- SB 617 (Speier), Statues of 2003, Tissue Banks
- AB 1676 (Dutra), Statutes of 2003, HIV Prenatal Testing
- AB 71 (Horton), Statutes of 2003, Tobacco Products

Subcommittee Staff Comment and Recommendation: The purpose of trailer bill legislation is to enact those provisions of state statute that are necessary to implement the Budget Bill. The pieces of legislation that the Administration proposes to eliminate do not directly affect the budget—no cost savings are identified for the budget year. The enacted legislation went through the legislative process and in some cases, received bi-partisan support. If the Administration is now seeking repeal of these statutes, it is recommended for them to proceed with policy legislation to do so, not trailer bill language.

It is therefore recommended to reject the Administration's proposed trailer bill language to repeal these statutes. As such, the existing statute will remain.

Budget Issue: Does the Subcommittee **want to reject the Administration's proposal to repeal the a fore referenced legislation?**

5. County Medical Services Program—Trailer Bill Language *(See Hand Out)*

Background and Governor's Proposed Budget: The County Medical Services Program (CMSP) provides medical and dental care to low-income "medically indigent" **adults who reside in small counties (total of 34 counties)** (populations of 300,000 or less, with a few exceptions) and are **not eligible for Medi-Cal**. The responsibility for providing these services was transferred from the state to the counties as of January 1, 1983.

The CMSP Governing Board is responsible for the administration of pooled funds from the participating counties to provide services to over 65,000 CMSP participants.

Revenues to support the CMSP come from several sources, including County Realignment Funds (i.e., sales tax, vehicle license fees, and growth account), Proposition 99 Funds (selected accounts), Member County Participation Fees, and the General Fund (on deferral for the past 4 years). **In 1993 as part of an overall agreement with the counties, the state capped its participation in the local assistance portion of the CMSP at $20.2 million General Fund. The last time the state actually provided the General Fund support was in 1999.**

The Governor is proposing trailer bill language to defer payment of the $20.2 million in General Fund support for the 2004-05 fiscal year. This proposal is consistent with prior years when the state has chosen not to provide any General Fund support to the program.

Constituency Concerns: The CMSP Governing Board states that the CMSP was intended to be a partnership between the member counties and the state. An essential ingredient of that partnership was the $20.2 million annual General Fund contribution to the program. **The suspension of the $20.2 million each year has consequences for the CMSP's capacity to offer services to its clients. Among other things, they note the following adjustments which are intended to be made, or have already been made, by the Board:**

- Reinforcement of CMSP as a Secondary Payer for savings of $4 million annually. This proposed change will require denial of selected medications by CMSP unless the CMSP

client provides evidence that the client has been determined ineligible for the following state programs and pharmaceutical manufacturer patient assistance programs: ADAP, Family PACT, pharmaceutical manufacturer patient assistance programs for the treatment of Hepatitis-C.

- Elimination of eligibility for individuals with incomes greater than 200 percent of poverty for savings of $10 million annually.
- Assessment of a $5 million county risk allocation. All CMSP counties will be assessed their proportional share of this amount based upon the existing policy adopted by the Board in 1996. (A similar assessment was paid in 2003-04 as well.)
- Reduction of some dental benefits for savings of $3.8 million annually. This proposed change will revise the scope of dental benefits to restrict services to a set of basic services that address episodic dental needs and dental emergencies.
- Elimination of follow-up care for emergency services only clients for savings of $1 million annually. This proposed change will limit coverage for certain inpatient and outpatient services that might be needed as follow-up care after the emergency has been resolved.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the Administration's language to defer General Fund support for 2004-05.

Budget Issue: Does the Subcommittee **want to adopt the Administration's proposed trailer bill language to defer the $20.2 million in General Fund support for one more year?**

6. Electronic Death Registration (Special Fund)

Background and Governor's Proposed Finance Letter: Chapter 857, Statutes of 2002 (AB 2550, Nation), mandates the DHS to, among other things, develop and maintain an Electronic Death Registration System. AB 2550 provided for increased revenues for this purpose (i.e., fees were raised from $7 to $13 in 2003). In January 2005, the fees will decline by $2, leaving the remaining $4 increase to fund the maintenance and operation of the registration system.

The Finance Letter is requesting legislative authority to appropriate **an increase of $338,000 (Health Statistic Fund) to support the maintenance and operations of the Electronic Death Registration System. As required by statute, the system is to be implemented by January 2005.** According to the DHS, this new system will provide timely death data, cross matching with birth certificates for anti-fraud purposes, allow online verification of decedents' social security number and allow online access to fact-of-death information within 24-hours of the occurrence of the death.

The DHS states that the project will be completed through an interagency service agreement with the University of California at Davis (UCD).

Subcommittee Staff Comment: The Subcommittee staff recommends approval of the Finance Letter. No issues have been raised for this special funded project.

Budget Issue: Does the **Subcommittee want to adopt the Finance Letter?**

7. California Nutritional Network—Increased Federal Funds

Background: In the mid-1990's, the federal USDA started strengthening the nutrition education component of the Food Stamp Program. An updated definition of nutrition education was established as "any set of learning experiences designed to facilitate the voluntary adoption of eating and other nutrition-related behaviors conducive to health and well-being", and states were encouraged to use large-scale marketing approaches. Social marketing had emerged in a USDA analysis of the nutrition education field as holding the most promise for achieving healthy eating among large numbers of people.

The California Nutrition Network for Healthy, Active Families (Network) is a social marketing campaign within the DHS. The Network is funded primarily by federal funds awarded by the US Department of Agriculture (USDA) to the California Department of Social Services. Through an annual interagency agreement, the DSS reimburses the DHS for activities conducted for the Network as identified in the USDA approved plan.

The Network qualifies for federal financial participation each year by documenting and compiling the in-kind expenditures of non-federal funds for allowable nutrition education activities to lower income households being made by state and local agencies, submitting a state plan and budget through the DSS, and dispersing the federal funds according tot he USDA-approved plan. Half is returned through local assistance contracts to contributing agencies.

The six key strategic result areas that the Network employs to secure large-scale behavior change among low-income California families are as follows:

- Provide statewide leadership, build infrastructure, and mobilize resources for large-scale social marketing campaigns to promote healthy eating, physical activity, and food security to help prevent serious chronic diseases such as cancer, diabetes, heart disease, and obesity.
- Conduct necessary surveys, research, and evaluation.
- Conduct necessary media and retail promotions.
- Develop and empower lower-income communities.
- Stimulate and enable changes in policies, systems, and environments to make healthy eating and physical activity the easiest choices for lower-income California families.
- Conduct special programs for children.

The Network has grown from $2.8 million in federal fiscal year 1996-07 to a budget of $59.3 million in 2002-03 (about $53 million in local assistance and $6 million in state support).

Governor's Proposed Finance Letter: The Finance Letter proposes to provide an increase of $39.7 million (Reimbursements from the DSS which are all federal funds) to reflect the receipt of increased resources. All of this increase is proposed for local assistance. The increase allows for more community projects, as well as larger-scale collaborations of local agencies for a much larger reach in the Network's target audience of low-income Californians.

Subcommittee Staff Recommendation: It is recommended to adopt the Finance Letter as proposed. No issues have been raised.

Budget Issue: Does the **Subcommittee want to adopt the Finance Letter as proposed?**

8. California Partnership for Long-Term Care *(See Hand Out)*

Background and Governor's Proposed Finance Letter: The California Partnership for Long-Term Care (Partnership) is the state's only program that promotes the purchase of high quality long-term care insurance policies to help reduce the state's looming funding crisis as the long-term care cost burden on the General Fund escalates. Over 60,000 California consumers own Partnership policies. In order to be Partnership-certified, policies are carefully reviewed by Partnership staff to be certain they contain the consumer protections essential for policyholders who have limited ability to pay of-of-pocket for the long-term care costs not covered by the policy.

The Partnership has forced onto the California market more affordable policies of shorter duration that will pay the average cost in a nursing facility for one or two years. The one and two year policies are attractive to modes and middle-income elderly consumers who, in the absence of being able to afford a policy, will require Medi-Cal to pay for their long-term care. The program has clearly demonstrated its cost-effectiveness in the past by avoiding some Medi-Cal funded long-term care facility expenditures.

The Finance Letter is proposing to (1) continue a total of $590,000 ($208,000 General Fund) for five positions, along with applicable contract funding, (2) eliminate the sunset date for the program (currently is January 1, 2005), and (3) add trailer bill language requiring Partnership certified insurance issuers to reimburse the state $20,000 annually to the Partnership for common educational and outreach activities aimed at the Partnership's designated target market.

Subcommittee Staff Recommendation: Subcommittee staff concurs with the Finance Letter and has raised no issues.

9. Vital Record Improvement Act (VRIP)

Background and Governor's Proposed Budget: A number of laws were enacted during the 2001-02 Legislative Session to help deter identity theft crimes. **One of these bills--SB 247 (Speier), Statutes of 2002—requires that informational copies of vital records be printed from a single statewide database.** It also increased fees the public pays for receiving a document to offset the costs to implement and operate the system.

The additional $2 fee was instituted in July 2003 and will extend through December 31, 2005. The funding will be used to implement a single statewide database of imaged birth and death records, electronically redact signatures from these certificates, and make the result electronically available in each county recorder's office and county registrar's office. Beginning January 1, 2006, this fee will be reduced by $1 and will be used to provide ongoing maintenance and operations for these records systems.

The Governor's proposed budget requests an increase of $1.6 million (Health Statistic Fund) for 6 two-year limited-term positions in order to complete the Feasibility Study

Report initiated in 2003 to perform initial tasks to lay the foundation for implementing SB 247, and to generate the Request for Proposal (RFP) to select a contractor to accomplish the project.

Subcommittee Staff Recommendation: Subcommittee staff concurs with the Finance Letter. No issues have been raised.

Budget Issue: Does the **Subcommittee want to approve as proposed the Finance Letter?**

10. Expansion of Tissue Bank Licensure Program

Background and Governor's Proposed Budget: California now licenses 300 tissue banks which supply reproductive tissue, human milk and bone marrow from living donors and ocular tissue, bone, veins, tendons and heart valves from decreased donors to recipients dependent on human tissue. The number of tissue banks has increased since inception in 1993. From 1995 through 2000 about 20-25 new tissue banks were added each year, growing to about 195 in 2000. The current growth has increased since 2000 to now about 45-50 per year totaling 300 in 2003.

Onsite inspections must be conducted assure that this tissue is safely collected, processed, stored and distributed to protect living donors and patients dependent on human tissue.

The Governor's proposed budget requests an increase of $93,000 (Tissue Bank Licensing Fund) to fund one position—Examiner I for Laboratory Field Work.

Subcommittee Recommendation: Subcommittee staff concurs with the need for the position and has raised no issues.

Budget Issue: Does the Subcommittee want to approve as proposed the Governor's budget?

B. Item 4120 Emergency Medical Services Authority (EMSA)

1. Paramedic Investigations

Background and Finance Letter Request: Existing law enables the EMSA to deny, suspend or revoke any Emergency Medical Technician Paramedic's (EMT-P) license, or may place any EMT-P license holder on probation for deficient medical skills, negligence, or other unprofessional conduct.

The EMSA states that their Enforcement Unit has experienced a substantial increase in cases resulting in a significant backlog of cases. The caseload has continued to grow steadily over the past ten years; however, staffing levels have not increased since 1997. Currently, the investigative staff is only able to investigate the most serious patient care cases.

The EMSA is requesting to establish a Special Investigator position and fund it by redirecting $87,000 (EMS Personnel Fund) presently used for contracts and increasing by $17,000 (EMS Personnel Fund) for this purpose.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the need for the position and has raised no issues regarding the proposal.

Budget Issue: Does the Subcommittee **want to adopt the proposed Finance Letter?**

2. Legal Counsel

Background and Finance Letter Request: For the past ten years, the EMSA has contracted with the State Attorney General's (AG's) Office for all of their legal requirements. These include interpretations of legislation, statutes, and regulations for a variety of EMSA programs, as well as the processing of licensure actions against paramedics, including administrative hearing representation and representing EMSA in Superior Court.

As the department's paramedic investigation caseload has continued to increase along with the many mandated programs requiring regulatory oversight and statutory interpretation, the need for legal advice and support has increased proportionally. Currently, the AG's Office charges by the hour for all services provided. Any paramedic or applicant facing any disciplinary action is entitled by law to an administrative hearing before an administrative law judge. **As such, the EMSA's Enforcement Unit has experienced steadily rising legal costs due to increasing caseload and increasing hourly rates for the AG's services to prepare cases and represent the EMSA at the hearings.**

The EMSA is requesting to fund one new position—Staff Counsel—by redirecting funds currently used to purchase AG Office legal services. This adjustment would result in savings of $28,000 (Emergency Medical Services Personnel Fund) annually.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the proposed Finance Letter since it will result in savings and still meet the needs of the EMSA.

Budget Issue: Does the Subcommittee **want to adopt the proposed Finance Letter?**

C. Item 4300 Department of Developmental Services

1. Proposed Organizational Change Related to Protective Services at the DCs *(See Hand Out)*

Background and Governor's Proposed Budget: The budget proposes trailer bill language to amend Sections 4491 and 4493 of Welfare and Institutions Code regarding safety issues at the state Developmental Centers. Specifically, the proposed language (1) provides increased authority to the Director of the DDS to be responsible for preserving the peace, and related security items, at the Developmental Centers, and (2) clarifies the role of the hospital administrator and peace officers at the facilities.

Subcommittee Staff Recommendation: Subcommittee staff has raised no issues regarding this language.

Budget Issue: Does the Subcommittee **want to adopt the Administration's proposed trailer bill language?**

2. Proposed Trailer Bill Language Related to Special Education *(See Hand Out)*

Background and Governor's Proposed Trailer Bill Language: The DDS is proposing trailer bill language to add new language to Section 4659 of Welfare and Institutions Code that would state the following:

> A Regional Center shall not purchase special education or related services described under Part 30 (commencing with Section 56000 of the Education Code).

The Governor's proposed budget contains no cost savings related to this proposed language, nor has a comprehensive analysis been provided to the Subcommittee as to why the language is being proposed through the budget process.

Subcommittee Staff Recommendation: The **Administration's proposed trailer bill language has potentially wide ranging implications which need to be discussed through the policy committee process**. No comprehensive analysis has been provided by the Administration on its potential implications. Further, since no dollar adjustments are recognized for this language, it seems inappropriate to propose it as trailer bill legislation. **As such, it is recommended to reject this language.**

Budget Issue: Does the **Subcommittee want to *reject* the Administration's proposed trailer bill language** as being a part of the budget deliberations?

3. Proposed Trailer Bill Language Related to Regional Center Administrative Reporting

Background and Governor's Proposed Finance Letter: In an effort for both the Legislature and DDS to better ascertain and understand the expenditures of the 21 Regional Centers, the Legislature crafted trailer bill language for reporting purposes. In recent times this language has served two principal purposes. First, is one of accountability. Both the Legislature and DDS now have actual, detailed data regarding the expenditure of the more than $420 million (total funds) in funds for Regional Center Operations. Second, since the Regional Centers know they have to legally report this information, the language assists in serving as another mechanism to dissuade utilizing funds for other purposes than Operations.

It should be noted that the DDS was not regularly collecting any of this data prior to implementation of the legislation.

The DDS is proposing to modify Section 4639.5 of Welfare and Institutions Code as follows:

Section 4639.5 of Welfare and Institutions Code

(a) By December 1 of each year, each regional center shall provide a listing to the state department of developmental services a complete current salary schedule for all personnel classifications used by the regional center. The information shall be provided in a format prescribed by the department. The department shall provide this information to the public upon request.

(b) ~~By December 1 of each year~~ At the request of the Department of Developmental Services, each regional center shall report information ~~to the State Department of Developmental Services~~ on all prior fiscal year expenditures from the regional center operations budget for all administrative services, including managerial, consultant, accounting, personnel, labor relations, and legal services, whether procured under a written contract or otherwise. Expenditures for the maintenance, repair or purchase of equipment or property shall not be required to be reported for purposes of this subdivision. The report shall be prepared in a format prescribed by the department and shall include, at a minimum, for each recipient the amount of funds expended, the type of service, and purpose of the expenditure. The department shall provide this information to the public upon request.

The Administration's proposed language would make it permissive as to when the DDS may or may not collect the data from the Regional Centers, instead of the annual reporting requirement.

Subcommittee Staff Recommendation: Subcommittee staff **recommends to reject the proposed trailer bill change.** If the requirement of providing the data on an annual basis is deleted, then both the Legislature and DDS will not have good, reliable data on over $420 million (total funds) in annual expenditures. Further, under the Administration's proposal there would be no fiscal changes in that the Regional Centers would still have to regularly collect the data in order to be prepared to provide it to the DDS, if the DDS requested it. Therefore, it is recommended to retain the existing statute as presently crafted.

Budget Issue: Does the **Subcommittee want to reject the Administration's proposed trailer bill change?**

4. Family Cost Participation Assessment Program—Trailer Bill Language

Governor's April Proposal for Family Cost Participation Assessment Program: The Administration provided a comprehensive report –"Family Cost Participation Assessment Program"—to the Legislature on April 9th in response to last year's trailer bill legislation. **In this report, the Administration recommends to implement an assessment program by January 1, 2005 for families with children aged 3 through 17 years who live in a family's home, receive services through a Regional Center and are not Medi-Cal eligible.** The assessment would only be applicable to three services—Respite, Day Care and Camp.

In developing the assessment program, **the DDS used the following guiding principles:**

- All families who are financially able to participate in the cost of services provided to their children should do so.
- Family cost participation shall be developed in such a manner that will not create an unacceptable financial burden, will maintain the integrity of the family, and encourage families to continue caring for their children in their own home.
- Family cost participation will not compromise the health and safety of consumes receiving services.
- The assessment of family cost participation will not affect the development of the consumer's Individualized Program Plan (IPP).
- Consideration will be given to the number of family members dependent on the income and the number of children who receive services through the RC, while either in the family's home or out-of-home, including developmental centers.
- The system must be simple and cost effective to administer.
- The amount of the family cost participation assessment will be less than the amount of the parental fee for 24-hour, out-of-home placement in order to encourage families to continue caring for their children in their own home.
- The system must not affect the DDS' eligibility for other funding sources (i.e., Home and Community-Based Medicaid Waiver, Early Start funding, and others).
- The system must react to changes in family economic conditions or unforeseen, unusual family hardships, and allow for the re-determination of the level of cost participation based on those changes.

The Administration's proposed Family Cost Participation Assessment Program would be implemented as of January 1, 2005

Potential Fiscal Effects: The **DDS notes the following proposed fiscal implications:**

- **2004-05= No net savings.** It is assumed that $570,000 would be needed for Regional Center staff and that $570,000 (total funds) would be reduced from the Purchase of Services expenditures.
- **2005-06= $2.188 million** (total funds) in savings. It is assumed that $912,000 would be needed for Regional Center staff and that $3.1 million (total funds) in the Purchase of Services expenditures would be reduced.
- **2006-07= $2.7 million (total funds) in *net* savings on an annual, *on-going* basis.** It is assumed that $770,000 and 15 positions would be needed on an **on-going basis** and that $3.5 million in the Purchase of Services expenditures would be reduced.

Prior Subcommittee Hearing—April 19th: The Subcommittee received significant public and written testimony regarding the Governor's proposal. This information was taken into advisement and used to modify the Administration's proposed trailer bill language.

Subcommittee Staff Recommendation: Subcommittee staff recommends for the Subcommittee to adopt **(1)** the following modified trailer bill language, and **(2)** the Administration's fiscal assumptions. **The proposed modified trailer bill language is as follows:**

§ 4783. Family Cost Participation Assessment Program

(The DDS proposed adding new language—Section 4783-- to Welfare and Institutions Code. Proposed Subcommittee Staff changes are noted by underscores and deletions to the DDS proposed revised language (as of 4/30/04).)

4783 (a) The Family Cost Participation Program is hereby created in the Department of Developmental Services for the purpose of assessing a cost participation to parent(s), as defined in Title 17 of the California Code of Regulations, section 50215, whose children with developmental disabilities ages 3 through 17 years live in the parent(s) home, receive services and supports purchased through the regional center, and are not Medi-Cal eligible. Notwithstanding any other provision of law, the parent(s) shall participate in the Family Cost Participation Program subject to the provisions of this section.

(b) The Department shall develop and establish a Family Cost Participation Schedule (Schedule), which will be used by regional centers to assess the parent(s)' cost participation. The Schedule will consist of a sliding scale for parent(s) with an annual gross income not less than 400 percent of the Federal Poverty Guideline, and be adjusted for the level of annual gross income and the number of persons living in the family home. The Schedule established pursuant to this section shall be exempt from Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Family cost participation assessments will only be applied to respite, day care, and camping services included in the child's individual program plan.

(1) Families with two children who meet the criteria in subsection (c) will be assessed at 75 percent of the respite, day care, and camping services included in ~~the~~ each child's individual program plan for each child living at home.

(2) Families with three children who meet the criteria in subsection (c) will be assessed at 50 percent of the respite, day care, and camping services included in ~~the~~ each child's individual program plan for each child living at home.

(d) If there is more than one minor child living in the parent(s)' home and receiving services or supports paid for by the regional center, or living in a 24-hour out-of-home facility, including a developmental center, the assessed amount will be adjusted as follows:

(3) Families with four children who meet the criteria in subsection (c) will be assessed at 25 percent of the respite, day care and camping services included in ~~the~~ each child's individual program plan for each child living at home.

(4) Families with more than four children who meet the criteria ~~above~~ in subsection (c) shall be exempt from participation.

(e)For each child, the amount of cost participation shall be less than the amount of the parental fee the parent(s) would pay if ~~their~~ the child lived in a 24-hour, out-of-home facility.

(f) Each regional center shall be responsible for administering the Family Cost Participation Program effective January 1, 2005.

(1) Family cost participation assessments or reassessments shall be conducted as follows:

A. By December 31, 2005, the regional centers shall assess the cost participation for all parent(s) of current consumers who meet the criteria of this section. Regional centers will use the most recent individual program plan for this purpose.

B. Regional centers shall assess the cost participation for parent(s) of newly identified consumers at the time of their initial individual program plan.

C. Reassessments for cost participation shall be conducted as part of the individual program plan reviews pursuant to section 4646.2(b).

D. The parent(s) is responsible for notifying the regional center when a change in family income occurs that would result in a change to the assessed amount of cost participation.

~~(e)~~ (2) Parent(s) shall self-certify their gross annual income to the regional center by providing copies of W-2 Wage Earners Statement, payroll stubs, a copy of the prior year's State income tax return, or other documentation, and proof of all other income.

(3) Regional centers shall notify parent(s) of their assessed cost participation within ten working days of receipt of the parent(s) complete income documentation.

~~(f)~~ (4) Parent(s) who have not provided copies of income documentation pursuant to subparagraph (2), shall be assessed the maximum cost participation based on the highest income level adjusted for family size until such time as the appropriate income documentation is provided. Parent(s) who subsequently provide income documentation that results in a reduction in their cost participation shall be reimbursed for the actual cost difference incurred for services identified in the individual program plan for respite, day care and camping, for 90 calendar days preceding the reassessment. The actual cost difference is the difference between the maximum cost participation originally assessed and the reassessed amount using the parent(s)' complete income documentation, that is substantiated with receipts showing that the services have been purchased by the parent(s).

(5) The Executive Director of the regional center may grant a cost participation adjustment for parent(s) who incur an unavoidable and uninsured catastrophic loss with direct economic impact on the family **or, who substantiate with receipts, significant unreimbursed medical costs associated with care for a child who is a regional center consumer** . A re-determination of the cost participation adjustment shall be made at least annually.

(g) A provider of respite, day care or camping services may not charge a rate for the parent(s)' share of cost that is higher than the rate paid by the regional center for its share of cost.

(h) The Department shall develop, and regional centers shall use, all forms and documents necessary to administer this program. These materials shall be posted on the Department's web site. Regional centers shall provide appropriate materials to parent(s) at the initial individual program plan meeting and subsequent individual program plan review meetings. These materials shall include a description of the Family Cost Participation Program.

(i) The Department shall include an audit of the Family Cost Participation Program during its audit of the regional centers.

(j) The parent(s) may appeal an error in the amount of the parent(s) cost participation to the executive director of the regional center within 30 days of notification of the amount of the assessed cost participation. The parent(s) may appeal to the Director of the Department of Developmental Services or his or her designee any decision by the executive director made pursuant to this subsection or to subsection (f)(5) within 15 days of receipt of the written decision of the executive director**. Parent(s) who dispute the decision of the executive director pursuant to subsection (f) (5) shall have a right to a fair hearing as described in Chapter 7, section 4700 et seq., and the regional center shall provide notice pursuant to Chapter 7, section 4700 et seq.**

(k) The Department may adopt emergency regulations to implement this section. The adoption of such regulations is an emergency necessary for the immediate preservation of the public peace, health, safety, and general welfare for purposes of subsection (b) of section 11346.1 of the Government Code. A Certificate of Compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subsection.

(l) By April 1, 2005, and annually thereafter, the Department shall report to the appropriate Legislative policy and budget committees on the status of program implementation. As of April 1, 2006, this report shall include:

(1) The annual total Purchase of Services savings attributable to the Family Cost Participation Program per regional center.

(2) The annual costs to the Department and each regional center to administer the Family Cost Participation Program.

(3) The number of families assessed a cost participation per regional center.

(4) The number of cost participation adjustments granted per regional center under subsection (f)(5).

(5) The number of appeals filed ~~**to the regional center and to the Department**~~ pursuant to subsection (j), and the number granted, modified or denied.

(m) This section shall become inoperative on July 1, 2009, and , as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

Budget Issue: Does the Subcommittee **want to adopt the Subcommittee staff recommendation** to **(1)** use the modified trailer bill language, and **(2)** approve the Administration's fiscal assumptions?

C. Discussion Items

Item 4260 Department of Health Services

1. Infant Botulism—Request for Staff, A Loan and Statutory Change *(See Hand Out)*

Background: Infant botulism occurs when the botulism bacteria temporarily colonizes and produces toxin in the baby's intestine. It is the most common form of human botulism in the United States. About 100 cases occur in the U.S. each year, with about 30 percent of these occurring in California.

BabyBIG is the DHS-sponsored Orphan Drug that treats infant botulism by neutralizing botulinum toxin. It is the only antidote available in the world for this purpose. According to the DHS, the safety and effectiveness of BabyBIG was shown in the department's 5-year statewide clinical trial from 1992-1997.

In October 2003 the federal FDA issued a license to the DHS to manufacture and sell BabyBIG. The manufacturing process of the treatment takes about one year. Production of BabyBIG is done through several contractors, all of whom were specified in the FDA licensure agreement. **Prior to licensure, the DHS had been selling the drug to hospitals at a pre-license charge of $1,560.**

The DHS can now charge the full fee for BabyBIG. Accordingly, the DHS states that as of July 1, 2004 they will be charging $45,300 per dose in order for the program to recover costs and become self-sustaining. This fee may be adjusted in future years once the funds that were borrowed to fund the research and development of the program are paid off, and the program is fully established. According to the DOF, the program presently has $2.9 million in outstanding General Fund loans.

The DHS notes that parents do not pay the fee for BabyBIG. The fee for BabyBIG is paid by the hospital and then pass on to third-party insurers.

Finance Letter Proposal: **The budget proposes to (1)** increase **by $3.8 million (Infant Botulism Treatment and Prevention Fund)** to support the production and distribution of BabyBIG, **(2)** transfer **$500,000 from the Health Statistics Special Fund** to this program to serve as a loan, **(3) provide four new state positions** to initiate the next vaccine production cycle, **(4) amend Section 123707 of Health and Safety Code** authorize the DHS to maintain the licensure for BabyBIG and to exempt the contracts enacted under this program from the competitive bid process and other requirements of the Public Contract Code.

In addition, in order to proceed with the proposed $500,000 loan from the Health Statistics Special Fund, the following **Budget Bill Language** is proposed by the Administration:

> 4260-011-099 (Health Statistics Special Fund)—For transfer by the Controller to the Infant Botulism Treatment and Prevention Fund….($500,000)
>
> The amount transferred by this item is a loan to the Infant botulism Treatment and Prevention Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer. **Principal and interest shall be repaid in full *after* all General Fund loans to the Infant Botulism Program are repaid and no later than June 30, 2007.**

As noted above in the background section of this agenda, BabyBIG presently has $2.9 million in General Fund loans.

Subcommittee Committee Request: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please describe the budget proposal**, including the need for the new staff, trailer bill language and loan from the Health Statistic Fund.**
- **2. Please describe when the loans—to the General Fund and to the Health Statistic Fund-- are to be repaid.**

Budget Issue: Does the Subcommittee **want to adopt or modify the proposed Finance Letter?**

2. Community Challenge Grants—Governor's Proposed Elimination

Background: The Community Challenge Grant (CCG) Program, established via the Budget Act of 1996, provides funds to local organizations to mitigate teen pregnancy and non-marital births. The CCG Program is specifically designed to reduce unwed and teen pregnancies, and absentee fatherhood through community-driven strategies and interventions implemented via a working partnership between the state and local community based organizations, local businesses, and youth and their parents.

According to the DHS, the CCG Program provides multi-faceted prevention and intervention strategies from a comprehensive array of locally determined activities and services. These include abstinence education, academic tutoring, career/job skills development, community mobilization, family life education, father's involvement, male responsibility, mentoring, parenting for teen parents, support/education for parents of teens, and youth development.

The CCG Program has its second three-year funding cycle, along with one extension year (total of 7 years). For 2003-04, the current grant agreement was extended.

Governor's Proposed Budget: **The Governor is proposing to eliminate the appropriation**—a total of $19.9 million (Temporary Assistance to Needy Families (TANF) High Performance Awards Funds)—for the CCG Program. Of this amount to be eliminated, $19 million is for local assistance and the remaining amount is for state operations.

The DHS and DOF contend that no other funding source is available except for state General Fund moneys, and due to the present fiscal situation, these funds are not recommended for appropriation.

Subcommittee Staff Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions:

- **1.** Please **briefly describe why funding is proposed to be eliminated.**
- **2. From a technical assistance perspective, are any other sources of funding available for program continuation?**

Budget Issue: Does the **Subcommittee want to adopt the Governor's proposed elimination of the existing appropriation or keep open pending the receipt of the May Revision?**

3. Prostate Cancer—Current Year and Budget Year Discussion

Background: The Prostate Cancer Treatment Program provides prostate cancer treatment to low-income men who are uninsured. To enroll in the program, a man must be a California resident, have an income at or below 200 percent of poverty, be uninsured and not eligible for Medi-Cal or Medicare. The program is not an entitlement and must operate within its level of appropriation.

Clarification of Prior Years Funding: The Budget Act of 2001 appropriated $20 million (Tobacco Settlement Funds) for the program. Based on expenditures of $8.7 million, a remaining balance of $11.3 million was available for re-appropriation. Due to a mid-year reduction adjustment, the final, revised budget for 2002-03 provided an appropriation of $10 million. Total expenditures were $8.6 million which left $1.4 million available for re-appropriation for 2003-04.

Budget Act of 2003 and Subsequent Revisions: The Budget Act of 2003 appropriated $5 million (General Fund) for the program. **The appropriation was made in Provision 9 of Item 4260-001-0001 and allows for encumbrance of these funds through June 30, 2005 and expenditure through December 31, 2006.**

However as recently noted by the DOF, the Governor's revised 2004 budget as updated in January 2004, contains a technical error regarding the level of funds actually available for re-appropriation from 2002-03 for expenditure. **In total, a re-appropriation amount of $12.7 million is available for 2003-04.**

The Administration, using Budget Control Section 4.1, reduced the program by about $4.5 million (General Fund). ***(This action is discussed further below.)***

In addition, the Budget Act of 2003 also included a transfer of $6 million of overall Tobacco Settlement Funds to the General Fund. The Prostate Cancer Program was reduced by $1.7 million as part of this transfer.

The following chart summarizes the above outlined items which affect 2003-04 :

Budget Act of 2003 Appropriation	$5 million
Governor Schwarzenegger's Control Section 4.1 Reduction	($4.5 million)
Governor's Proposed Revised 2003-04 Appropriation	**$545,000**
Revised Re-Appropriation from Prior Years	$12.7 million
Transfer for Tobacco Settlement Fund	($1.7 million)
Governor's Proposed Total Revised Funding	**$11.5 million**
Anticipated Expenditures	$5 million
Amount Likely Available for Re-appropriation for 2004-05	**$6.5 million**

The DHS notes that the $5 million in anticipated expenditures is based on actual expenditures through December 31, 2003. The DHS has a contract with UCLA for $4.6 million to provide

clinical services, administration, case management, outreach and evaluation. The DHS utilizes the remaining amount for their administration.

It should be noted that 188 men are currently under-going treatment in the program and 103 men are considered new enrollees for a total of 291 men being served in 2003-04.

Legislative Counsel Opinion and Budget Control Section 4.1 of the Budget Act of 2003: At the request of Senator Ortiz, Legislative Counsel conducted an analysis of Budget Control Section 4.1 (Control Section) and the application of it by the DOF specifically to the Prostate Cancer Program. **Through this analysis, Legislative Counsel notes the following key factual aspects:**

- The Control Section **limits the reductions** to a state operation appropriation, and a program, project or function designated in any line of any schedule set forth by that appropriation, **may not be reduced by this section by more than 15 percent** (See **Subdivision h of the Control Section**).
- Item 4260-001-0001 (DHS state support item) was reduced by about $15.5 million from an appropriation of $264.1 million. This equates to less than 15 percent overall. **However, the DOF specifically reduced the Prostate Cancer Program by about 89 percent (i.e., a reduction of $4.5 million from an appropriation of $5 million).**
- Budget Act Language**-- Provision 9 of Item 4260-001-0001--directs that $5 million of the amount appropriated in this Item shall be appropriated for the Prostate Cancer Program. As such, the Legislature authorized a definite sum of money for a specific purpose—the Prostate Cancer Program.**

In an extensive analysis, **Legislative Counsel concludes that, in their opinion, the Control Section does not authorize the Director of Finance to eliminate or reduce an appropriation made in the Budget Act for a program in an amount that exceeds 15 percent if the program is a designated program for which an appropriation has been made (such as the Prostate Cancer Program).**

They state that the DOF's construction of the Control Section in this case is clearly erroneous because applying a 15 percent reduction to a schedule (meaning the entire Item 4260-001-0001) could result in the total elimination of an appropriation for a program for which the Legislature has made a specific designation, which is clearly not intended as noted in Subdivision h of the Control Section.

Governor's Proposed 2004-05 Budget: The budget proposes **(1)** an appropriation of $570,000 (General Fund), and **(2)** re-appropriation language to capture the estimated $6.5 million available from prior years (as referenced above). **Specifically the re-appropriation language is as follows:**

4260-491 (Tobacco Settlement Fund)

(1) Item 4260-001-3020, **Budget Act of 2001**. Notwithstanding any other provision of law, the balance as of June 30, 2004 for the Prostate Cancer

Treatment Program is re-appropriated and is available for expenditure through June 30, 2005.
(2) Item 4260-001-3020, **Budget Act of 2002**. Notwithstanding any other provision of law, the balance as of June 30, 2004 for the Prostate Cancer Treatment Program is re-appropriated and is available for expenditure through June 30, 2005.

Subcommittee Request and Questions: The Subcommittee has requested for the DOF and DHS to respond to the following questions:

- **1. DHS, Please describe the budget proposal (for 2004-05), including the re-appropriation.**

Budget Issue: Does the **Subcommittee want to adopt the re-appropriation language and proposed funding level for 2004-05 as proposed by the Governor?**

4. Implementation of SB 2065 (Kuehl), Statutes of 2002—*Oversight Issue*

Background--Overall: The DHS is the state's lead authority in charge of regulating radioactive materials and the laws pertaining to certification in nuclear medicine technology, as well as all aspects of ionizing radiation use, including public exposure to radiation, the receipt and transfer and disposal of radioactive materials, **and all other pertinent aspects of radiation use.**

LLRW Advisory Group and Chapter 891, Statutes of 2002 (SB 2065): SB 2065 grew out of the Advisory Group on Low-Level Radioactive Waste (Advisory Group), chaired by U.S. President Atkinson. **The Advisory Group recommended that California institute an annual survey of waste generators and receive notification of all LLRW shipments.** Although federal law provides for a nationwide reporting system, it does not provide a level of detail that includes the identification of generators, potential segregation of waste or utilization of on-site storage procedures. The Advisory Group noted that this level of data is needed to better protect the public health and to respond to the needs of the generators. **Without a current and thorough inventory of LLRW in California, decision-makers cannot develop informed waste management policies.**

Among other things, this legislation directs the DHS to conduct an annual inventory of California's 2000-plus licensed low-level radioactive waste (LLRW) generators. They must record how much and what kinds of LLRW are produced, as well as the transport, storage, treatment, disposal or other disposition of this waste. In addition, the legislation requires that a copy of the shipping manifest accompanying each waste shipment for disposal be forwarded immediately to the state. All other toxic waste industries are required to report annually on the production and disposition of their wastes.

Since DHS Has Not Yet Implemented SB 2065, California is Placed At Higher Risk: The **DHS has not yet proceeded with implementation of the SB 2065 requirements. Currently no state agency has comprehensive real time information that would enable them to track shipments or storage of LLRW that could be used in a radiation dispersal devise or dirty bomb. Radioactive materials and waste are also very vulnerable to theft and sabotage during transport. The National Research Council of the National Academy of Sciences, who advises the federal government on scientific issues, notes the following:**

> "Low-Level waste may be a particularly attractive terrorist target: It is produced by many companies, universities, and hospitals, it is not always stored or shipped under tight security, and it is routinely shipped across the country. Although labeled "low-level", some of this waste has high levels of radioactivity and could potentially be used to make an effective terrorism device.

The DHS states that though they have a total budget of $18.1 million (Radiation Control Fund) which supports 118 staff, they do not have sufficient resources to implement SB 2065. They contend that all of these resources are needed for conducting (1) mammography certification and inspection activities, (2) enforcement and compliance activities related to radioactive material and radiation machine inspections, and (3) assist in a wide variety of other radiologic health functions (See Hand Out). **Further they state that the entire Radiation Control Fund will balance to zero (i.e., all revenues will be needed for existing expenditures) in 2004-05. Therefore they contend that no funds are available to implement SB 2065.**

It should be noted that the DHS (1) *utilizes $6.1 million* (Radiation Control Fund) of the $18.1 million *for operating expenses, and (2) $2.9 million for "distributed" costs*. This figure includes the following breakdown of line items:

• General Expense	$1.1 million (6 percent of the total)
• Printing and Postage	$116,000
• Travel In State	$737,000
• Equipment	$360,000
• Technical Scientific Items	$67,000
• Travel Out of State	$142,000
• External Contracts	$3.3 million
• Internal Contracts	$121,000
• Distributed Facility Operations	$968,000
• Distributed Data Processing	$577,000
• Distributed Administration	$768,000
• Distributed Program OH	$390,000

With SB 2065, California would be better prepared to respond as promptly as needed in an emergency dealing with radioactive waste which has been stolen, lost, or released in an attack or accident. **Implementation is needed for tracking shipments of waste, accountability throughout the system, source reduction, and projecting future waste streams.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Has the DHS had any conversations with the California Office of Home Land Security regarding LLRW? If so, please explain.
- **2.** DHS, please provide a brief update as to what activities, if any, have been undertaken to implement SB 2065. Why hasn't more been accomplished?
- **3.** If resources were provided, what is the timeframe for implementation?
- **4.** Why can some of the resources identified above, particularly some of the funds for operating expenses be temporarily redirected for this effort?

Budget Issue: Does the Subcommittee want to keep this oversight issue open, pending the receipt of the Governor's May Revision?

5. Establishment of a Perchlorate Level for California—*Oversight Issue*

Background—Perchlorate in California: Perchlorate and its salts (such as ammonium perchlorate) are used in solid propellant for rockets, missiles, and fireworks. Perchlorate has a number of industrial uses as well, including usage in flares, matches, ordinance and explosives.

As presented in state and federal toxicity evaluations, perchlorate can interfere with iodide uptake by the thyroid gland. **This can result in decreased production of thyroid hormones, which are needed for prenatal and postnatal growth and development, as well as for normal body metabolism.**

According to the DHS in a 1997 analysis, there is widespread perchlorate contamination in California's drinking water. **Results of monitoring by public water systems show it to be in more than 350 drinking water sources, primarily in the counties of Los Angeles, San Bernardino, Riverside and Orange. Other counties with concerns but fewer contaminated wells include Sacramento, Santa Clara, Tulare, Ventura, San Diego, and Sonoma.**

Currently, the DHS recommends that a source be removed from service when perchlorate concentrations are more than ten times the "action level" (i.e., 4 parts per billion is the action level). The action level is the measurement used until the Maximum Contaminant Level—MCL—is established.

Background—Administrative Responsibilities: **California uses a two step process** for establishing safe levels for drinking water. Generally, the first step in the process is for the **Office of Environmental Health Hazard Assessment (OEHHA) to publish a Public Health Goal (PHG) which focuses on protecting human health.** OEHHA evaluates the risk using current principles and methods by practitioners in the fields of epidemiology, risk assessment and toxicology to public health posed by the contaminant. Based on the results of the risk

assessment, OEHHA establishes a PHG. **After the PHG is established by OEHHA then the DHS can establish the Maximum Containment Levels, as discussed below.**

Under the California Safe Drinking Water Act, the DHS is charged with setting primary drinking water standards. These standards must be as stringent as, or more stringent than, the corresponding federal standard for a given entity. **The DHS must set the primary drinking water standards (i.e., the Maximum Contaminant Levels—MCLs) at levels as close as possible to the corresponding PHG, to the extent technologically and economically feasible.**

In order to determine feasibility, DHS evaluates the water treatment technologies that are available to reduce concentrations of the contaminant and the costs of using those technologies. Technical feasibility may include factors such as laboratories' ability to detect or analyze entities. Cost factors may include cost of monitoring and cost of treatment.

After balancing the public considerations of allowing concentrations of the contaminant in public water supplies that are above the PHG against the cost of reducing the concentration, **the DHS sets the MCL that is the enforceable standard and represents the highest concentration of the contaminant that may be present in public water supplies.**

Existing Statute—State Exceeds Timelines for Determining Perchlorate: SB 1822 (Sher), Statutes of 2002, established specific timelines for the issuance of California's PHG and MCL for perchlorate. **Specifically, as contained in Section 116293 of Health and Safety Code, OEHHA was required to establish the PHG for perchlorate by January 1, 2003 and the DHS was required to establish the MCL for it by January 1, 2004.**

OEHHA finally established the perchlorate PHG at 6 parts per billion on March 12, 2004. As such, the DHS can now proceed with the MCL process since the PHG has been established. Until the MCL is established, the DHS will continue to use the 4 parts per billion as the action level.

What is Required to Establish the Maximum Contaminant Level?: Generally, the DHS has known that the PHG would be forthcoming for some time, particularly since the OEHHA had completed a draft proposed PHG of up to 6 parts per billion in March of 2002. As such, some tasks should have commenced since not all of the DHS' tasks are directly dependent on having a final PHG.

Overall, the DHS needs to conduct a technical and economic feasibility study. In this process, the DHS:

- Selects possible draft MCL concentrations for evaluation;
- Evaluates the occurrence data;
- Evaluates available analytical methods and estimates monitoring costs at various draft MCL concentrations;
- Estimates population exposures at various draft MCL concentrations of the chemical;
- Identifies best available technologies for treatment;
- Estimates treatment costs at the possible draft MCL concentrations;
- Reviews the costs and associated health benefits (health risk reductions) that result from treatment at the possible draft MCL concentrations; and
- Selects a MCL for proposal from the possible draft MCL concentrations considered above.

Once the DHS establishes their proposed MCL, which includes a statement of reason and a fiscal impact, the document goes to several agencies for review—DHS' Office of Regulations, DHS' Budget Office, the Department of Finance, and the Health and Human Services Agency. The Office of Administrative Law (OAL) must also review and publish (in the California Notice Register) the availability of the regulation for a 45-day comment period. If changes are made at this point, the document will be put out for another 15-day public comment period. The DHS must respond to each comment.

Governor's Proposed Budget: The **Governor's proposed January budget is moot** with respect to the timeline for the DHS to establish a MCL and to proceed with the rulemaking process. **As such, at this conjuncture it is unknown when the DHS may be able to establish a MCL for perchlorate.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. At what level is perchlorate being detected in public water systems?**
- **2. DHS,** Please describe how the current "action level" process works. Specifically, what guidance has the DHS given to public water systems to address the current contamination?
- **3. When is the DHS' portion of the rule-making going to be completed?**
- **4. What discussions has the DHS had with the federal government to address perchlorate contamination?**
- **5. Are there any other key considerations regarding perchlorate that the Subcommittee should be aware of?**

Budget Issue: Does the **Subcommittee want to propose any adjustments or keep this oversight issue open until May Revision?**

6. Sudden Infant Death Syndrome (SIDS) Mandate Repeal *(See Hand Out)*

Background: Two local mandates regarding SIDS were suspended in the Budget Act of 2002 due to the fiscal crisis. These are described below.

Chapter 268, Statutes of 1991—SIDS Contacts by Local Health Officers—requires the State Controller to reimburse each local health officer for their mandated contact with the person who is caring for a victim of SIDS at the time of death to inform them of the nature and causes of SIDS and provide support, referral and follow services.

Chapter 453, Statutes of 1974—SIDS Notices—requires coroners to notify the local health officer within 24 hours of a presumed death by SIDS. The local health officer must immediately contact the parent of the decreased to provide support, referral, information, and follow up services.

The state historically budgeted funds to pay for mandate claims associated with SIDS. As in many state mandate claim situations, the amount budgeted did not always match the total amount of claims outstanding at the State Controller's Office, or received by them in a given year. **According to the DOF, based on the last time General Fund moneys were budgeted for the mandate was in *2002-03* and was as follows:**

- $1.970 million for SIDS Autopsies:
- $342,000 for Local Health Officer contact requirements:
- $119,000 for SIDS Training for Firefighters; and
- $37,000 for SIDS Notices.

Governor's Proposed Budget—Trailer Bill Language (See Hand Out): The Governor's budget proposes to provide no funding for the SIDS mandates and to repeal **all of the statute** related to the mandates. **This proposed mandate repeal includes: (1) SIDS Contacts by Local Health Officers, and (2) SIDS Notices.**

Subcommittee Staff Recommendation: Assembly Member Laird is the author of several bills regarding the potential suspension or elimination of various mandates, including some as identified in the Governor's proposed budget. **As such, it is recommended to adopt the fiscal assumptions as contained in the Governor's proposed budget (i.e., no General Fund support) and to refer the trailer bill language to the policy committee process being reviewed by Assembly Member Laird.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please briefly describe the budget proposal and the intent of the Governor's proposed trailer bill language.

Budget Issue: Does the Subcommittee **want to adopt the Subcommittee staff recommendation?**

7. Governor's Proposed Elimination of WARP *(See Hand Out*

Background: Through the **Budget Act of 2001** and accompanying trailer bill legislation, an appropriation was provided to serve as a supplemental wage adjustment for long-term care facilities which have a collective bargaining agreement or contract to increase salaries, wages, or benefits for certain staff. Under this proposal, participating providers needed to provide proof of a binding written commitment and a method of enforcement of the commitment. **The program was intended to terminate when the DHS implemented a facility-specific reimbursement methodology for non-hospital based nursing facilities (i.e., freestanding facilities).**

It should be noted that the Supplemental Wage Payment has *never* been allocated to the facilities. The DHS did provide instructions to eligible facilities on October 3, 2003 (See Hand Out for cover letter). **However, these instructions were later abruptly rescinded because stakeholder groups notified the DHS of issues that required amendments to the instructions, and then shortly thereafter, Governor Schwarzenegger issued an Executive Order requiring state agencies to cease processing regulations. Further, the Governor proposed to eliminate this program as part of his Mid-Year Reduction proposals.**

It should be noted that Section 14110.65 of Welfare and Institutions Code which implements this program is slated to become inoperative as of August 1, 2004.

Governor's Proposed Budget: **The budget proposes to eliminate funding for this adjustment for savings of $92 million ($46 million General Fund).**

Budget Issue: Does the **Subcommittee want to keep this issue *open*, pending receipt of the May Revision?**

LAST PAGE OF AGENDA

Diane Van Maren 445-5202 (w)
Senate Budget & Fiscal Review 5/03/2004

OUTCOMES for Subcommittee No. 3: Monday, May 3, 2004

(Please use Agenda from May 3rd as a reference for this document. All agendas are posted to our website.)

Vote Only Calendar For Today's Hearing (Pages 2 through 15 of the Agenda)

1. Convert Limited-Term Positions to Permanent

Approve as proposed.
3-2 (McPherson and McClintock)

2. Adult Influenza Vaccine Purchase

Approve as proposed.
3-2 (McPherson and McClintock)

3. Nuclear Planning Assessment Special Account

Approve as proposed.
3-2 (McPherson and McClintock)

4. Proposed Trailer Legislation to Repeal Various Items in State Statute (See Hand Out)

Reject the Administration's proposal to eliminate existing statute related to the following pieces of chaptered legislation:

- SB 322 (Ortiz), Statutes of 2003, Stem Cell Research
- SB 308 (Ducheny), Statutes of 2003, Targeted Case Management
- SB 617 (Speier), Statues of 2003, Tissue Banks
- AB 1676 (Dutra), Statutes of 2003, HIV Prenatal Testing
- AB 71 (Horton), Statutes of 2003, Tobacco Products

3-1 (McClintock), with Senator McPherson abstaining.

5. County Medical Services Program—Trailer Bill Language

Approve as proposed.
5-0

6. Electronic Death Registration (Special Fund)

Approve as proposed.
4-1 (McClintock)

7. California Nutritional Network—Increased Federal Funds

Approve as proposed.
3-2(McClintock and McPherson)

8. California Partnership for Long-Term Care

Approve as proposed.
5-0.

9. Vital Record Improvement Act (VRIP)

Approve as proposed.
4-1 (McClintock)

10. Expansion of Tissue Bank Licensure Program

Approve as proposed.
3-2 (McClintock and McPherson)

B. Item 4120 Emergency Medical Services Authority (EMSA)

1. Paramedic Investigations

Approve as proposed.
5-0.

2. Legal Counsel

Approve as proposed.
5-0.

C. Item 4300 Department of Developmental Services

1. Proposed Organizational Change Related to Protective Services at the DCs

Approve as proposed.
3-2 (McClintock and McPherson)

2. Proposed Trailer Bill Language Related to Special Education

Reject the Administration's proposal to add trailer bill language regarding special education. This proposal has broad policy implications which should be discussed through the policy committee process.
3-1 (McClintock). Senator McPherson abstaining.

3. Proposed Trailer Bill Language Related to Regional Center Administrative Reporting

Reject the Administration's proposal to change existing statute regarding accountability of the Regional Centers.
5-0

4. Family Cost Participation Assessment Program—Trailer Bill Language

Adopt modified trailer bill language as contained in the agenda, in lieu of the Administration's proposed language, to implement a Family Cost Participation Assessment Program.
5-0

C. Discussion Items

Item 4260 Department of Health Services

1. Infant Botulism—Request for Staff, A Loan and Statutory Change *(See Hand Out)*

Approve as proposed.
3-1 (McClintock). Senator McPherson absent.

2. Community Challenge Grants—Governor's Proposed Elimination

Hold Open pending receipt of requested information from the DHS and the May Revision.

3. Prostate Cancer—Current Year and Budget Year Discussion

Hold Open pending receipt of the May Revision.

4. Implementation of SB 2065 (Kuehl), Statutes of 2002—*Oversight Issue*

Hold Open pending receipt of the May Revision, and information from the DHS as requested.

5. Establishment of a Perchlorate Level for California—*Oversight Issue*

Hold Open pending receipt of the May Revision.

6. Sudden Infant Death Syndrome (SIDS) Mandate Repeal

Adopt (1) the Administration's fiscal assumption—no funds provided--, and (2) refer the proposed trailer bill language to Assembly Member Laird and the policy committee process that is presently reviewing mandates.
3-0 (Ortiz and McPherson absent)

7. Governor's Proposed Elimination of WARP *(See Hand Out*

Hold Open pending receipt of the May Revision.

Senate Budget & Fiscal Review
Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Thursday, May 6, 2004
Upon Adjournment of Senate Floor Session
Room 4203

Consultant, Ana Matosantos

5175 Department of Child Support Services

The Department of Child Support Services (DCSS) administers the child support enforcement program operated by local child support agencies. The Department provides state direction to assure that child support funds are established, collected, and distributed to families, including securing child and spousal support, medical support, and determining paternity. The Department continues to have responsibility for addressing federal fiscal sanctions related to California's failure to develop adequate systems in the past. The department oversees local program and fiscal operations, administers the federal Title IV-D state plan for securing child support, and establishes performance standards for California's child support program. The budget anticipates collections of $2.4 billion in the budget year. The department's overall budget expenditures are proposed to increase by $43.4 million, or 3.5 percent.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	% Change
General Funds	$468,741	$499,272	$30,531	6.5
Federal Funds	478,084	491,479	13,395	2.8
Reimbursements	122	443	321	263.1
Child Support Collection Recovery Fund	298,955	298,063	-892	-0.3
Total	$1,245,902	$1,289,257	$43,355	3.5

DISCUSSION ITEMS:

1. Child Support Collections

Background: In 1999, the Legislature enacted child support reform legislation to improve system accountability to children and their custodial and non-custodial parents, increase enforcement of child support and medical support orders, increase collections and assure statewide uniformity in the operation of child support programs. Since then, California has generally improved its performance on federal outcome standards, although performance continues to vary significantly among counties. California performed significantly above the national average on the establishment of paternity and the percent of cases with a child support order. California's performance is about the national average on collection arrears.

California's performance on cost-effectiveness is significantly below the national average. California collected $2.31 per each dollar expended on collection efforts compared to the national average of $4.13.

Although California has improved program performance and increased collections, its performance on current collections is below the national average. The state also continues to have a significant amount of uncollected child support payments. The state's current arrearage exceeds $18 billion dollars. Approximately $10 billion of the state's total arrears are owed to the state as compensation for CalWORKs and foster care services delivered to families with established support orders.

An analysis of the collectability of California's child support arrears conducted by the Urban Institute found that approximately $4.8 billion of the state's arrears, $2.3 billion of which is owed to the state, is collectable. The report makes a series of findings and recommendations that may improve the state's collections. Specifically, the study recommends that California reduce the number of orders it establishes by default, facilitate the adjustment of child support orders to reflect new income information, consider all relevant income data sources, and grant the DCSS authority to compromise arrearages owed to the state.

Last year, the Legislature adopted a series of reforms to facilitate the establishment of accurate support orders and improve collection of arrears owed to families and to the state. Specifically, AB 1752 (Chapter 225, Statutes of 2003):

- adjusted the presumed income level to full time minimum wage employment;
- made the existing low-income adjustment presumptive;
- established an Offers in Compromise program, modeled on existing FTB and IRS tax collection programs, to permit DCSS to work with noncustodial parents to arrive at negotiated settlements of child support arrears owed to the state;
- applied the Financial Institution Data Match process to all child support cases owing arrears; and
- simplified the process to liquidate securities held by obligors and intended as payment for child support arrears

The reforms were expected to generate an estimated $39.2 million in General Fund revenues and $5.5 million in increased federal incentive funds, which offset state costs for local assistance.

DCSS and local child support programs have been working to implement the recent reforms expeditiously. DCSS has implemented the presumed income level adjustment, the changes to the low-income adjustment and the simplified process to liquidate securities. The state will begin to apply the Financial Institution Data Match process to all child support cases owing arrears by July 2004.

DCSS and local agencies have been working together to develop and implement two offers in compromise programs. The Interim Compromise Of Arrears Program, which was implemented statewide in January 2004, permits DCSS to work with noncustodial parents who do not have a current child support order to arrive at negotiated settlements of arrears owed to the state. The Compromise Of Arrears Program (COAP), recently implemented as a pilot program in five counties, serves parents who both have a current child support order and owe arrears to the state. COAP works to increase collection of arrears owed to the state while maximizing current collections for families.

Governor's Budget: The budget estimates that California will collect $2.4 billion in child support ($364.5 million General Fund) in the budget year. $71 million of the state's estimated collections stem from the child support collection enhancements enacted by the Legislature.

Subcommittee request: The Subcommittee has requested that the Department of Child Support Services briefly discuss program performance on the federal outcome measures, state efforts to

improve performance and provide an update on the implementation status of the child support collections enhancements.

2. Local Child Support Program Compensation

Background: Local child support agencies are responsible for the administration of child support programs at the county level and perform functions necessary to establish and collect child support. Program activities include establishing child support cases, establishing child support orders, collecting current and past-due child support, enforcing medical support orders, and implementing customer service initiatives.

California provides baseline compensation to counties, on a statewide basis, at a level comparable to 13.6% of the estimated level of collections adjusted to reflect county expenditures and available General Fund resources. The Department of Child Support Services allocates resources for administration of local child support programs in a lump sum and does not control county expenditures for program activities and for child support initiatives.

Baseline county funding for the implementation of local child support programs is established according to a statutory incentive formula based on child support collections. It is not based on an analysis of actual expenditures, estimated staff time to meet program requirements, or costs of the different child support activities. Individual county allocations are generally based on historic county expenditures and vary across the state.

Last year, the Legislature considered the effect on program performance of child support administrative funding reductions, and the relationship of existing allocations to program performance and actual costs. Analysis conducted by Committee staff and the LAO revealed substantial differences in per-case funding across counties. Program performance also varied across the state and did not appear to correlate to per-case funding, geographic region, or county economic condition.

The Legislature enacted AB 1752 (Chapter 225, Statutes of 2003) to consider the relationship between allocation methodologies and program performance, and to review alternative methodologies to allocate child support program funding. The law requires the DCSS to work with stakeholders, including counties, to evaluate the existing reimbursement methodology, to consider alternatives and to report to the Legislature by March 31, 2004.

Throughout the fall, DCSS examined the relationship between administrative funding and program performance. The department also convened a series of stakeholder meetings as required by the legislation. Analysis conducted by the department found that on a statewide basis, the level of child support administration funding explains approximately half of the state's distributed collections per case and performance on collections. There is a weaker correlation between funding and performance on other federal outcome measures including paternity establishment, collections on arrears and establishment of support orders. The research found that the correlation between allocation and performance varied across counties. Sixteen counties collected more per case and had a higher level of current collections than what their level of funding would have predicted. Fourteen counties were below their expected level of performance given their allocation, and 22 counties performed at a level consistent with their allocation.

Overall, the data suggests that California can improve its performance without investing new resources in the child support program if under performing local agencies improve their performance. DCSS has completed a draft of the required report and scheduled the final allocation workgroup meeting.

Governor's Budget: The budget provides $833.6 million ($235.5 million General Fund) to fund local child support agency costs, including $124 million for the maintenance and operation of the child support interim automation systems.

Subcommittee request and questions: The Subcommittee has requested that the Department of Child Support Services briefly discuss the relationship between administrative funding and program performance, provide an update on the status of the allocation workgroup and the required report, and discuss potential recommendations that may be included in the report.

Budget issue: Does the Subcommittee wish to take any action regarding local child support program compensation?

3. California Child Support Automation System and Alternative Federal Penalty.

Background: Federal law requires state's to have a single statewide system for the collection of child support. Since 1997, California has been subject to substantial federal penalties due to the state's failure to establish the required system by the federal deadline. The penalty level is based on a percentage of program administration costs and the percentage rises over time. California has reached the maximum percentage level and is estimated to pay $220 million in 2004-05.

California is in the process of developing the California Child Support Automated System (CCSAS) which when implemented on a statewide basis will obviate federal penalties. The CCSAS Project consists of two major systems: the Child Support Enforcement (CSE) and the State Disbursement Unit (SDU). California awarded the contract for completion of the CSE in July 2003. The negotiated contract price for development of the CSE amounts to $801 million payable over eight and a half years. The negotiated contract contains the following key features:

- Establishes shared risk partnership with California and IBM for the development and implementation of a single statewide child support system.
- Reflects a performance-based compensation approach, which makes payment contingent on the achievement of specific outcomes including certification of the system by the federal government, increased worker effectiveness, improved customer service, system maintainability and implementation.
- Establishes two stages for development of the system working to meet federal standards for certification necessary by September of 2006. In the first stage the contractor will develop a statewide database that will link together the ARS and CASES consortia to provide statewide functionality. In the second stage the contractor will further develop the system to include case management and financial accounting functions to establish the full statewide system.

California and its business partners have begun development of the CSE and the project is progressing on schedule. FTB, DCSS, the business partners and local child support agency staff are working on system requirements and system design. State staff and local child support

agencies are particularly focused on the state disbursement unit and the call center as these two components of CCSAS may have the greatest impact on customer service and client satisfaction. Since last year, the state has completed two county automation conversions and is operating on four different automation systems. During the budget year, the business partners will complete 14 county conversions reducing the number of automation systems the state is using to two.

The DCSS and FTB have issued an RFP for the SDU procurement. They expect to receive multiple proposals by the June 10 deadline. Prior to issuing the RFP, FTB and DCSS used the confidential discussion process to consider alternative business options for the SDU and design the RFP in a manner consistent with business practices. The state has issued an RFP addendum to accelerate the implementation schedule for the SDU. DCSS and FTB expect to award the SDU contract by December 2004 and may implement the system as soon as September 2005.

California is considering the feasibility of applying for federal certification of the new CCSAS system by September of 2005. Federal approval of early certification would reduce California's alternative federal penalty by 90 percent in 2005-06.

Governor's Budget: The budget provides $163.3 million in total funding for the CCSAS Project, of which $48.7 million General Fund is in FTB's budget. The budget proposes a $1 million ($347,000 General Fund) increase for support of the CCSAS Project. Of this amount, $191,000 is for activities associated with the procurement and development of the SDU and $828,000 is for oversight and management of the development of the CSE. The budget provides $31.5 million ($8.2 million General Fund) increase in local assistance funding for CCSAS costs, including funding for local staff to assist with the development of the SDU and the CSE, funding for the conversion of two county consortia, and support for post-conversion activities.

Subcommittee request and questions: The Subcommittee has requested that the Department of Child Support Services answer the following questions:

1. Please discuss the status of the CCSAS project, including development of the CSE and procurement of the SDU.
2. Is the CCSAS project is progressing according to the implementation schedule?
3. How is the Administration coordinating the work of DCSS and FTB to reduce duplication of state activities and assure effective and efficient project management?
4. Is the Administration pursuing federal penalty relief, as development of the required automation system is under way?

Budget issue: Does the Subcommittee wish to approve the proposed funding for CCSAS?

4. County-Share of Alternative Federal Penalty

Background: Since 1997, California has been subject to substantial federal penalties due to the state's failure to establish a single statewide system for the collection of child support by the federal deadline. Current law provides for payment of the penalty through a reduction in federal funds for state and county administration of the child support program. Since 1997, California has waived the mechanism for paying the penalty through a reduction in county child support program funds and has appropriated General Fund dollars to pay for the penalty. Last year, the Legislature enacted a one-year 25 percent county share of the alternative federal penalty.

Governor's Budget: The Governor proposes to establish a permanent 25 percent county share of the alternative federal penalty for General Fund revenues of $55 million.

Counties have historically opposed the proposed county share of the alternative federal penalty. Counties argue that they were not responsible for the state's failure to develop the required automation system. They assert that they have no control over development of the new system. Lastly, counties argue that the county share of the penalty reduces available county discretionary funds to support fire, police and other county services.

Budget issue: Does the Subcommittee wish to approve the permanent 25 percent county share of the alternative federal penalty proposed by the Governor?

5. Eliminate County Share of Child Support Collections

Background: Counties receive a portion of child support collections from the distribution of collections made on behalf of families receiving cash assistance or children participating in the Foster Care Program. The county share of child support collections is intended as a mechanism for public assistance cost recovery and is consistent with the county-share of funding for CalWORKs aid payments and Foster Care Payments. The funds are considered county general fund revenues. However, most counties dedicate the county share of child support collections to support human services programs.

Governor's Budget: The budget proposes to eliminate payment of the county share of child support collections for an increase in General Fund revenues of $39.4 million. The budget indicates that the proposal is in lieu of a reduction to the Child Support program. The Governor's proposal will most likely reduce funding for human services programs, including child welfare services and child support services, and may increase demands for county realignment funds.

The County Welfare Directors Association of California opposes the Governor's proposal and argues that it will result in significant service reductions to county social service programs, including Child Welfare Services, Adult Protective Services, and CalWORKs. The proposal will reduce the total amount of County General Fund available to match state and federal funds for county operated social services programs. According to CWDA, every dollar a county loses will result in a much more significant decrease in program funding and activities. CWDA writes that a reduction of $39.4 million translates into a $394 million reduction in social services across California, resulting in increases to the risk of further injury to abused and neglected children; decreases in the number of parents working; and leaving vulnerable adults in abusive situations.

Legislative Analyst's Office Analysis and Recommendation: The LAO writes in their analysis that the child support program is largely driven by state and federal performance measures, as states receive federal incentive funds or penalties based on their performance. Because of the federal measurements, the LAO recommends that the Governor's proposal be modified into an incentive for counties to improve performance. The LAO recommends that counties that meet all

of the established performance measures retain their share of the assistance collections. Adopting the LAO recommendation would reduce General Fund revenue by $12.4 million in 2004-05. ***Subcommittee request and questions:*** The Subcommittee has requested that the Administration answer the following questions:

1. Briefly describe the Governor's proposal to eliminate the county share of collections.
2. What policy rationale underlies the current rules for child support collection distribution?
3. How will the proposal impact available funding for human services programs including Child Support, Child Welfare Services and Adult Protective Services?
4. What is the relationship between the county-share of child support collections and local child support program performance?
5. What will be the effect on services and program outcomes of eliminating the county share of collections?

The Subcommittee has also requested that the LAO discuss their analysis and recommendation.

6. Disregard Payment to Families Receiving CalWORKs

Background: California provides families receiving public assistance the first $50 dollars in child support payments collected on their behalf, in addition to their CalWORKs grant. The state also disregards up to $50 in child support income when determining a family's eligibility for CalWORKs. Lastly, California adjusts custodial parents' CalWORKs time limits to reflect the amount of child support collected on behalf of the family.

California's child support pass-through and disregard policy for families receiving CalWORKs intends to provide an incentive for parents to participate in the child support program and to cooperate with program requirements. Specifically, it creates an incentive for non-custodial parents to pay for support as a portion of their payment is passed on to their children. The policy also intends to increase custodial parent cooperation with child support activities, including paternity establishment and gathering information to locate the non-custodial parent.

California's disregard policy is similar to the policy of most other large states. Nationally, twenty-three states pass-through to families at least $25 in child support income. Twenty states disregard at least $50 in child support income when determining a family's eligibility for cash assistance. Research has found that child support disregard policies encourage non-custodial parents to pay child support. There is no conclusive evidence that disregard policies increase custodial parent cooperation with the child support program or increase the involvement of non-custodial parents in children's lives.

Governor's Budget: The budget provides $28.5 million General Fund to fund the pass-through of child support provided to families enrolled in CalWORKs. The pass-through costs are counted toward the federally required Temporary Aid for Needy Families maintenance of effort level.

Subcommittee request and questions: The Subcommittee has requested that the Administration answer the following questions:

1. Briefly describe California's child support disregard for families receiving CalWORKs.
2. How do child support collections made on behalf of families enrolled in CalWORKs impact CalWORKs time limits?
3. What is the relationship between disregard policies and child support program outcomes?
4. What is the effect of the state's child support policies on families enrolled in CalWORKs?

Budget issue: Does the Subcommittee wish to maintain the proposed funding for the pass-through of $50 in child support collections to families enrolled in CalWORKs?

4130 Health and Human Services Agency Data Center
5180 Department of Social Services - Automation Issues

The Health and Human Services Agency Data Center (HHSDC) seeks to increase efficiency and effectiveness in the use of electronic data processing resources by providing services to departments and agencies within the Health and Human Services Agency in a consolidated manner. HHSDC is supported by reimbursements from departments that contract with the data center for services. HHSDC has two general components: operations and systems management. The operations component provides computer services, telecommunications support, information systems, and training support to departments in the Health and Human Services Agency. The systems management component manages five major projects for the Department of Social Services. The HHSDC budget decreases by $2.3 million from the current year expenditure level.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	$ Change	% Change
HHSDC Revolving Fund	$313,674	$311,362	-$2,312	-0.7
(Operations)	118,348	119,418	1,070	0.9
(Systems Management Services)	195,326	191,944	-3,382	-1.7
Total	$313,674	$311,412	-$2,262	-0.7

VOTE ONLY ITEMS:

1. Electronic Benefit Transfer

Background: Electronic Benefits Transfer (EBT) is the automation of welfare benefit authorization, delivery, redemption and reconciliation. The system will replace paper food stamp coupons and benefit checks with transfers and use of benefits through point-of-sale devices and automated teller machines. Federal welfare reform enacted in 1996 requires states to implement EBT for food stamps by October 2002. State law requires DSS and the Data Center to establish a single statewide EBT system that counties may use for other benefits.

California received a waiver from the October 1, 2002 federally mandated deadline for implementing EBT. According to the current implementation schedule California will implement EBT by September 2004. Forty-six counties, serving 98 percent of the state's caseload have implemented EBT. The remaining counties will implement EBT in the budget year. California's failure to adhere to the implementation schedule may result in a $400 million federal penalty.

Governor's Budget: The budget proposes to reduce funding for the EBT Project by $3.7 million in the current year and $2.3 million in the budget year due to revised caseload projections. The budget also proposes to establish .5 positions in the current year and 7.5 positions in the budget year at a cost of $613,000. The new positions are associated with maintenance and operations activities and migration of San Diego and San Bernadino counties to the EBT system.

Budget issue: Does the Subcommittee wish to approve the proposed new positions for the EBT project and maintain the proposed project funding reduction?

2. Statewide Fingerprint Imaging System

Background: The Statewide Fingerprint Imaging System (SFIS) works to identify duplicate applicants for CalWORKS and Food Stamps benefits. It seeks to protect program integrity by deterring or detecting duplicate-aid fraud. Specifically, SFIS matches fingerprint images of program applicants against a database containing fingerprint images of existing program participants. California has spent an estimated $64.4 million on SFIS and ongoing program costs are estimated to be $8.5 million per year.

Governor's Budget: The budget proposes to increase HHSDC's expenditure authority for the SFIS project by $711,000 to support quality assurance and project oversight activities, user training, and application maintenance. Specifically, the budget provides $536,000 for consultants to support the project and $175,000 for future system changes. Overall costs of the SFIS program will decrease by $2.3 million in the budget year due to lower network costs and revised estimates of the number of CalWORKs and Food Stamps applicants.

Legislative Analyst's Office Analysis and Recommendation: According to the LAO, the budget proposes to hire consultants to perform activities that are similar to activities performed by state staff on other IT projects, generally at a lower cost than consultants. LAO recommends that the Legislature reduce the proposal by $536,000 and direct the administration to resubmit a request after examining the use of state staff.

Budget issue: Does the Subcommittee wish to maintain the proposed increase in SFIS project funding or reduce the proposed increase by $536,000 as recommended by the LAO?

3. Unemployment Insurance Modernization Project

Background: Last year, the Legislature provided an $85 million augmentation in Reed Act funds to the Employment Development Department (EDD) to fund automation improvements that will increase EDD's capacity to detect and control fraud. The funding will support the redesign of the unemployment insurance (UI) continued claims system, improve the service levels at the UI call centers, and prevent and detect fraud in the UI system. Specifically, the Continued Claims Redesign project will provide new ways for clients to certify for benefits and improve the Department's ability to detect and prevent fraud. The Call Center Network Platform & Application Upgrade Project will improve the UI call center platform security and redesign the interactive voice response system. The Health and Human Services Data Center is the state entity responsible for management of the UI Modernization project and for procurement activities.

Finance Letter: A recent Department of Finance (DOF) letter requests that the Legislature increase the Data Center's expenditure authority by $17.8 million and establish 5 new positions to support activities associated with the Unemployment Insurance Modernization Project. The request will maintain funding and positions granted to HHSDC in the current year. According to DOF, federal funds will cover one-time development and implementation costs for the projects. Following implementation, ongoing costs will be funded through EDD baseline reductions.

Budget issue: Does the Subcommittee wish to approve the Finance Letter which requests a $17.8 million increase to the Data Center's expenditure authority and establishment of 5 positions to support activities associated with the UI Modernization Project?

4. Statewide Automated Welfare System (SAWS)

Background: SAWS is a multi-program automated system that provides support for eligibility determination, benefit computation, benefit delivery, case management and management information for CalWORKs, Food Stamps, Medi-Cal, Foster Care, Refugee Assistance and the County Medical Services program. The system is delivered through a multiple county consortium including four consortia: Interim SAWS, 35 counties; Los Angeles Eligibility Automated Determination, Evaluation and Reporting System, 1 county; Welfare Client Data System, 18 counties; and Consortium IV, 4 counties.

The Data Center is responsible for the state-level project management of the Statewide Automated Welfare System Consortium and provides oversight for the four consortia, including review of project documents and budgets, deliverables and risk management.

Governor's Budget: The budget provides a $36 million augmentation to the Consortium IV project. The increased funding will support C-IV implementation in two counties, system and data conversion to C-IV, and maintenance and operations activities similar to those required by other SAWS applications.

Budget issue: Does the Subcommittee wish to approve the proposed augmentation?

DISCUSSION ITEMS:

1. HHSDC Costs and Rates

Background: The Health and Human Services Agency Data Center (HHSDC) provides information technology (IT) services, including computer and communications network services, to the departments within the Health and Human Services Agency. The Data Center also provides services to other state entities and various local jurisdictions. The cost of the center's operations is fully reimbursed by its clients. Client departments reimburse HHSDC for IT services based on the level and type of services they receive and the Data Center's rates. HHSDC's rates are based on the costs and projected utilization. Rates are set by the Data Center and are not subject to review or approval from the Department of Finance.

The Supplemental Report of the 2002 Budget Act directed the HHSDC to perform a study to identify operations that should be improved and would result in reduced rates and costs. The report was requested to assist the Data Center and the Legislature in identifying efficiencies and reducing costs. The 2002 Budget Act did not specify a due date for the required report. Last year, the HHSDC testified that it would not complete the report until July 2003. The Data Center still has not submitted the required report to the Legislature.

HHSDC reports that it reduced the rates it charges departments by approximately 8 percent in July 2003. The rate reductions were made possible by increases in utilization of Data Center services by client departments, not administrative efficiencies or reductions. It is not clear whether the rate reductions actually led to budgetary savings for client departments.

Subcommittee request and questions: The Subcommittee has requested that the Data Center report on actions it has taken to reduce costs and generate savings to client departments. The Subcommittee has also requested that the Legislative Analyst's Office briefly discuss the rate setting mechanism for the Data Center and how it compares to other departments that are funded through reimbursements, including the Department of General Services.

Budget issue: Does the Subcommittee wish to modify the HHSDC's rate setting mechanism?

2. Data Center Consolidation

Background: AB 1752, (Chapter 225 Statutes of 2003), required the Department of Finance to convene a working group to develop a data center consolidation plan by December 1, 2003, and to develop a data server consolidation plan to be implemented by July 1, 2004. The plan must identify consolidated activities that result in savings of no less than $3.5 million General Fund in the 2004-05 fiscal year, and identify data center activities that will produce savings in future fiscal years.

The Department of Finance notified the Legislature in the fall of 2003 that it would delay submitting a data center consolidation plan to allow the new Administration to become familiar with the issues. According to the DOF, a data center consolidation report is under review. Notwithstanding the statutory requirements relative to consolidation, the Administration reports that it will be considering the data center consolidation in the context of its broader efforts to reorganize state government and will notify the Legislature once its review is complete.

The proposed Data Center consolidation provides California an opportunity to streamline administrative activities, deliver data services more efficiently, and generate General Fund savings without reducing services. The consolidation may also provide an opportunity to consider existing and projected data center rates, the potential for rate reductions, and any additional efficiencies that may be realized in the delivery of data center services.

Subcommittee request: The Subcommittee has requested that the Administration provide an update on the status of the data center consolidation efforts, the level of savings to be realized through consolidation, and the timeline to complete the consolidation.

Budget issue: Does the Subcommittee wish to take any action regarding consolidation of the state's data centers or data servers?

3. IHSS - Case Management Information and Payrolling System (CMIPS)

Background: The In Home Supportive Services (IHSS) program provides supportive services to eligible aged, blind and disabled persons that allow them to remain safely in their own homes as an alternative to out-of-home care. Program services are generally delivered by independent providers who are hired, trained and supervised by IHSS consumers. Since 1979, the state has developed and maintained a case management information and payrolling system to facilitate and standardize payments to providers of IHSS services.

Over the years, CMIPS has been modified to incorporate some program changes, including implementation of the Personal Care Services Program, which made IHSS services an entitlement for eligible Medi-Cal beneficiaries, and to support some case management functions. However, CMIPS has not kept pace with recent program changes and lacks important functionalities. For example, the system has limited case management capabilities, does not support employee registries, cannot make most payroll deductions, requires a cumbersome process for updating wage rates and is not capable of tracking benefits.

In 1998, DSS was directed by state control agencies to conduct a competitive procurement for a new contract for CMIPS maintenance. Since September 2000, HHSDC has been conducting the analysis and planning for the IHSS/CMIPS competitive procurement. The Legislature has twice authorized extension of funding and positions for CMIPS II. However, the project remains in the planning stage and the Administration is currently re-evaluating the procurement strategy.

Governor's Budget: The budget proposes to extend funding for CMIPS procurement activities for one year to support re-evaluation of the procurement strategy ($1.7 million General Fund).

In January, the Administration proposed to migrate the CMIPS system to the California Medicaid Management Information System to benefit from enhanced federal financial participation in development costs. The state submitted a request to the federal government to transfer the maintenance and enhancement of CMIPS to the Department of Health Services' Fiscal Intermediary contract in January 2004.

Subcommittee request and questions: The Subcommittee has requested that the Administration answer the following questions:

1. What is your current plan for development of CMIPS II and your procurement strategy?
2. What is the current timeline to develop and implement CMIPS II?
3. What is the status of obtaining federal approval for the new procurement strategy?
4. Briefly discuss how the new strategy might impact system design and functionality.

Budget issue: Does the Subcommittee wish to approve the proposed extension of funding for CMIPS contract procurement activities for one-year? Does the Subcommittee wish to adopt any specifications or requirements relative to development of CMIPS II?

4170 Department of Aging

VOTE ONLY ITEMS

1. Long-Term Care Ombudsman Program

Background: Established in 1972 as a demonstration program, the Office of State Long-Term Care Ombudsman provides a range of services designed to protect persons receiving care from nursing homes and residential care facilities for the elderly. The Ombudsman works to monitor and improve quality of care and quality of life in California's long term care facilities. The Office, which is operated by staff and volunteers, is responsible for the investigation and resolution of complaints made by or on behalf of residents of skilled nursing facilities, distinct part skilled nursing facilities and residential care facilities for the elderly. Additionally, Office staff visit residents, provide consultations to facilities, train facility staff, and conduct community education sessions. The California's Ombudsman serves residents of California's 7,400 SNF, Distinct Part SNF and RCFE facilities, which have a combined total of 277,000 beds.

Finance Letter: A recent Department of Finance letter requests that the Legislature reduce funding for the Long-Term Care Ombudsman program by $2.9 million because the federal Center for Medicare and Medicaid decided that the program is not eligible for federal Medicaid funding. Total program funding in the budget year would be reduced to $9.3 million.

Budget issue: Does the Subcommittee wish to adopt the Finance letter?

2. Multipurpose Senior Services Program

Background: The Multipurpose Senior Services Program (MSSP) provides case management services to frail elderly or functionally impaired adults that are eligible for SSI/SSP and for the Medi-Cal program. MSSP operates on a fixed funding basis and is not an entitlement. There are 41 MSSP sites across the state serving approximately 13,000 enrollees. MSSP operates at an approximate cost of $4,000 per client. The program is funded with state and federal funds, at an approximate ratio of 1 to 1.

Finance Letter: A Department of Finance letter requests that the Legislature decrease General Fund support for MSSP administration by $53,250 and adopt a corresponding reimbursement increase to reflect increased federal funding for skilled medical personnel costs.

Budget issue: Does the Subcommittee wish to adopt the Finance letter?

4200 Department of Alcohol and Drug Programs

VOTE ONLY ITEMS

1. Substance Abuse Prevention and Treatment Block Grant

Background: California applies for, and receives on an annual basis, federal Substance Abuse Prevention and Treatment Block Grant funds from the Substance Abuse and Mental Health Services Administration to support substance abuse prevention and treatment services. SAPT funds must be used to plan, carry out, and evaluate activities to prevent and treat substance abuse. In California, SAPT funding supports all treatment modalities and prevention activities.

Finance Letter: A recent Department of Finance letter requests that the Legislature increase local assistance funding for alcohol and drug programs by $277,000 to reflect an increase in the federal Substance Abuse Prevention and Treatment Block Grant. The total increase in federal funding was $1.1 million, however, the Administration proposes to allocate $823,000 to support Performance Partnership Grant activities and to offset General Fund costs for state operations.

Budget issue: Does the Subcommittee wish to adopt the $277,000 local assistance funding increase requested by the Department of Finance?

2. Substance Abuse and Crime Prevention Act

Background: In November 2000, California voters approved Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA), to provide substance abuse treatment instead of incarceration to non-violent drug offenders. SACPA changed state sentencing laws, effective July 1, 2001, to require adult offenders convicted of nonviolent drug possession to be sentenced to probation and drug treatment instead of prison, jail or probation without treatment. SACPA requires that the state provide $120 million annually through 2005-06, to be deposited to a new Substance Abuse Treatment Trust Fund, and distributed to counties to pay for the costs of treatment and related programs. Funds may be used for substance abuse assessment, treatment, vocational training, family counseling, literacy training, probation supervision and court monitoring of offenders.

Finance Letter: A Department of Finance letter requests that the Legislature shift $428,000 in SACPA funding from local assistance to state operations and establish 6.5 new positions to support audit activities. Previous audits have identified some county non-compliance and have identified $6.5 million in reported and proposed audit disallowances.

Budget issue: Does the Subcommittee wish to adopt the SACPA funding shift requested by the Department of Finance?

3. Office of Problem Gambling

Background: AB 673, (Chapter 210 Statutes of 2003), seeks to reduce the incidence of problem gambling in California. It requires the Department of Alcohol and Drug Programs (DADP) to establish the Office of Problem Gambling to develop a comprehensive gambling prevention program for problem gamblers. The program must include: public awareness and prevention efforts; a toll-free information and referral telephone service; empirically driven research programs; and training of health care professionals, educators, law enforcement, non profit organizations and gambling industry personnel in the identification of problem gambling behavior and knowledge of referral services and treatment programs.

The Budget Act of 2003 provided $3 million from the Indian Gaming Special Distribution Fund to support implementation of the program. The Governor's Budget for 2004-05 proposed to eliminate funding for the Office of Problem Gambling and to repeal the requirement that DADP establish the Office of Problem Gambling.

Finance letter: A Department of Finance letter requests that the Legislature provide a $3 million augmentation from the Indian Gaming Special Distribution and 3 new positions to support the establishment of the Office of Problem Gambling.

According to DADP, 30 percent of persons who need alcohol and other drug treatment are compulsive gamblers and possibly 50 percent of compulsive gamblers abuse alcohol/drugs. Governmental agencies in at least 16 other states are working to address problem gambling.

Budget issue: Does the Subcommittee wish to adopt the augmentation and positions requested by the Department of Finance and reject the proposed legislation to repeal AB 673?

5180 Department of Social Services

VOTE ONLY ITEMS

1. Community Care Licensing Caseload

Background: The Department of Social Services Community Care Licensing Division (CCLD) establishes standards for, and oversees eighteen types of community facilities that provide care and supervision to Californians. These facilities include adoption agencies, foster care homes and agencies, childcare homes and centers, and residential care facilities for disabled and elderly adults. The state monitors approximately 85,000 homes and facilities, with a capacity to serve more than 1.4 million individuals.

CCLD offers provider orientations; applicant screenings; and pre-licensing facility visits to applicants and potential applicants for community care licenses. CCLD visits licensed facilities regularly, investigates complaints, and exercises a variety of enforcement actions, including consultation, fines, penalties, and license suspension or revocation.

Historically, foster family agencies (FFA) were responsible for investigating complaints filed against certified family homes. SB 933 (Chapter 311 Statutes of 1998) shifted responsibility for investigating complaints filed against certified family homes from FFAs to CCLD to avoid potential conflicts of interest for the agencies.

Governor's Budget: The budget provides a $1.3 million augmentation ($1.2 million General Fund) and establishes 18.5 positions due to an increase in the number of certified family homes and the number of complaints filed against the homes.

Budget issue: Does the Subcommittee wish to adopt the proposed increase and positions?

2. Disability Determinations

Background: The Department of Social Services is the state entity responsible for determining whether persons applying for various health and human services programs are eligible for services on the basis of their disability. Specifically, DSS determines whether applicants for SSA/SSI, SSI/SSP, Medi-Cal, and other programs, as well as program enrollees meet the federal definition of disability. DSS conducts more than 450,000 disability determinations per year.

Governor's Budget: The budget provides a $7.8 million augmentation ($1.5 million General Fund) and establishes 60.6 positions to support increased disability determination workload. Specifically, the budget proposes 45.6 federally funded positions to process increased SSA/SSI claims and 15 positions to process increased Medi-Cal disability workload.

Budget issue: Does the Subcommittee wish to adopt the proposed increase and positions?

3. Child Welfare Services Program Improvement Plan

Background: Federal law required California to negotiate with the federal government a Program Improvement Plan (PIP) to address system deficiencies identified in the Child and Family Services Review and to improve the state's outcomes. The PIP outlines steps California will take to improve its outcomes; includes timeframes for achieving improvement; and commits to dozens of specific program performance improvements and thousands of specific action steps. The state is required to submit to the federal government quarterly PIP reports that document the state's progress in achieving the required outcomes.

Governor's Budget: The budget provides $8.3 million ($3.5 million General Fund) in the current year and $10.6 million ($749,000 General Fund) in the budget year to support state and county activities associated with the state's Program Improvement plan. The budget provides $572,000 ($286,000 General Fund) and establishes 6 new positions to complete workload associated with the PIP, including data analysis, preparing quarterly PIP reports and conducting the PIP survey.

Budget issue: Does the Subcommittee wish to adopt the proposed increase in funding and positions to support PIP activities at the state level?

4. Electronic Benefit Transfer

Background: Electronic Benefits Transfer (EBT) is the automation of welfare benefit authorization, delivery, redemption and reconciliation. The system will replace paper food stamp coupons and benefit checks with transfers and use of benefits through point-of-sale devices and automated teller machines. Federal welfare reform enacted in 1996 requires states to implement EBT for food stamps by October 2002. State law requires DSS and the Data Center to establish a single statewide EBT system that counties may use for other benefits. California received a waiver from the October 2002 federally mandated deadline. According to the current implementation schedule, California will implement EBT by September 2004.

Governor's Budget: The budget extends, for one-year, two limited-term positions to provide program support and oversight of the EBT project at a cost of $161,000 ($58,000 General Fund).

Budget issue: Does the Subcommittee wish to adopt the proposed extension of two limited-term positions at a cost of $161,000 ($58,000 General Fund)?

5. IHSS - Case Management Information and Payrolling System

Background: The In Home Supportive Services program provides supportive services to eligible aged, blind and disabled persons that allow them to remain safely in their own homes. Program services are generally delivered by independent providers who are hired, trained and supervised by the consumers. Since 1979, the state has developed and maintained a case management information and payrolling system to facilitate payments to providers of IHSS services.

Over the years, CMIPS has been modified to incorporate some program changes. However, CMIPS has not kept pace with recent reforms and lacks important functionalities. In 1998, DSS was directed by state control agencies to conduct a competitive procurement for a new CMIPS contract. Since September 2000, DSS and HHSDC have been conducting analysis and planning for CMIPS II. The Legislature has twice authorized extension of funding and positions for CMIPS II. The project remains in the planning stage and the Administration is currently re-evaluating the procurement strategy.

Governor's Budget: The budget proposes to extend funding for CMIPS II procurement activities for one year to support re-evaluation of the procurement strategy and proposes new funding for contracted Independent Verification and Validation services ($1.7 million General Fund).

Budget issue: Does the Subcommittee wish to approve the proposed extension of funding for CMIPS contract procurement activities and the funding increase to support IV&V activities?

6. State Council on Developmental Disabilities

Background: The Department of Social Services (DSS) provides administrative support to the State Council on Developmental Disabilities (State Council). Specifically, the state assists the Council with routine accounting, personnel and business services functions.

Governor's Budget: The budget provides $651,000 in increased reimbursements and establishes 6.8 positions for DSS to provide administrative support to the State Council.

Budget issue: Does the Subcommittee wish to adopt the proposed increase and positions?

7. Proposed Workload Relief Associated with Reductions in State Operations

Background: Control Section 4.10 of the Budget Act of 2003 authorizes the administration to reduce state operations appropriations, abolish positions, and reallocate funds among items of appropriation to achieve budget savings in the current year. Specifically, Control Section 4.10 requires that the Director of Finance abolish as many as 16,000 positions throughout state government, reduce individual state operations appropriations by up to 15 percent and achieve $1 billion in savings.

The Department of Social Services contributed $5.9 million in General Fund savings to the Control Section 4.10 reduction. It eliminated a total of 330.5 positions across department divisions. The Governor's Budget assumes that the reductions to state operations will be ongoing and proposes the following statutory changes to permanently reduce the department's workload:

Issue A - Eliminate the Child Care Advocate Program

Background: Current law requires that the Department of Social Services establish a child care ombudsman program. The program provides information to the general public on child care licensing standards and regulations, serves as a liaison to local entities and child care providers, disseminates information on the state's licensing role, and investigates complaints.

Governor's Budget: The Governor's proposed legislation to implement the Budget Act makes it optional for the DSS to establish a Child Care Ombudsman program and renames the program as the Child Care Advocate Program.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue B - Processing of Applications for Trustline Certification

Background: Trustline is a registry of child care providers who have received a criminal background clearance in California. It considers fingerprint records from the California Department of Justice's California Criminal History System, the Child Abuse Central Index of California, and the FBI Criminal History System. The program is jointly administered by the Department of Social Services and the Child Care Resource and Referral Network. Specifically, the DSS processes applications and grants criminal record clearances, and the Network maintains the Trustline registry.

Governor's Budget: The Governor's proposed legislation to implement the Budget Act shifts the responsibility of receiving Trustline applications and submitting provider fingerprints to the Department of Justice from the DSS to the Child Care Resource and Referral Network.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue C - Expand Activities Supported by the Technical Assistance Fund

Background: Established in 1995, the Technical Assistance Fund supports the creation and maintenance of licensing staff to provide technical assistance to residential care facilities for the elderly, foster care providers, child care providers and other community care facilities licensed by the Department of Social Services. Licensing fee revenue in excess of $6 million is deposited in the Technical Assistance Fund and is subject to legislative appropriation.

Governor's Budget: The Governor's proposed legislation would broaden the activities supported by the Fund to include administrative and other licensing activities.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue D - Certification and Monitoring of Out-of-State Group Homes

Background: High profile incidents of abuse and maltreatment of foster youth and the debate ensuing from these incidents triggered Senate Bill 933, a comprehensive legislative reform of the foster care system. SB 933 (Chapter 311 Statutes of 1998) instituted a series of reforms designed to improve the quality of care received by foster children in group homes and to increase foster child safety. Specifically, the bill established rigorous licensing requirements for foster care providers and prohibited the placement of foster youth with unlicensed out-of-state providers. It required that DSS perform initial and continuing inspections of out-of-state group homes, as well as investigate any threat to the health and safety of California children placed in these homes.

Since the enactment of SB 933, the placement of California foster children in out-of-state group homes has declined substantially. According to DSS, a total of three hundred foster children are placed in twelve licensed out-of-state group homes. The children placed in these out-of-state group homes tend to be served by probation departments, not county social services agencies.

Governor's Budget: The Governor's proposed legislation would eliminate the requirement that the Department of Social Services certify and monitor out-of-state group homes.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue E - Eliminate Claimants Rights for Rehearings

Background: Counties, as well as applicants for and recipients of public social services, have a statutory right to request a rehearing when dissatisfied with a decision from an administrative law judge (ALJ) regarding eligibility for or amount of aid or services. The rehearings provide the last opportunity within the administrative process to challenge a county decision or ALJ ruling.

Absent rehearings, individuals and counties can seek redress through the courts. However, court involvement tends to be more costly and consume more time than administrative processes.

Governor's Budget: The Governor's proposed legislation would eliminate the statutory authority for claimants and counties to request rehearings from the Department of Social Services.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue F - CalWORKs Mental Health Pilot Program

Background: AB 444 (Aroner), Chapter 222 Statutes of 2001, authorized counties to participate in a pilot program to cover the costs of CalWORKs mental health employment assistance services as part of a Medi-Cal mental health managed care program. The bill required the Department of Social Services to develop a plan for operation of the pilot program and to report on program implementation to the Legislature during budget hearings in 2005.

Governor's Budget: The Governor's proposed legislation eliminates the requirement that DSS develop a plan for operation of the pilot program and report to the Legislature by 2005.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue G - Group Home Rates

Background: Current law establishes a biennial rate setting process for establishing or revising group home rates and foster family agency rates to reflect changes in costs staffing and level of services provided by the home. Current law also provides for non-provisional program audits of group home programs and requires DSS to reimburse providers with less than $300,000 in federal funding for the costs, up to $2,500, of completing required audits.

Governor's Budget: The Governor's proposed legislation makes the following changes to state law: (1) imposes a 3-year suspension of the biennial rate-setting requirements applicable to group home programs and foster family agencies; (2) authorizes a 3-year suspension of non-provisional program audits; and (3) removes the requirement for the department to reimburse certain providers for audit costs.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

8. CalWORKs Research and Evaluation

Background: Assembly Bill 1542 (Chapter 270, Statutes of 1997) authorized the Department of Social Services to develop a research design to evaluate CalWORKs and county demonstration projects such as school attendance, monthly change reporting, etc. State law requires that an independent statewide evaluation be conducted. Outcomes derived from the evaluations are provided through individual reports that consider the CalWORKs process, the program's impacts, and the costs and benefits of the CalWORKs Program.

Governor's Budget: The budget provides $6.6 million to fund CalWORKs research and evaluation projects.

Budget issue: Does the Subcommittee wish to maintain the proposed level of funding for CalWORKs research?

9. Food Stamps Program

Issue A- Elimination of Transitional Food Stamps Benefits

Background: The federal government recently granted states an opportunity to provide five months of federally funded transitional food stamp benefits for people leaving cash assistance to help families make a successful transition from welfare to work. The Budget Act of 2003 provided funding to implement this federal option in California. Under current law, California was to begin to provide transitional food stamp benefits to families leaving CalWORKs in January of 2004. Counties have begun to implement the program across the state.

Governor's Budget: The Governor proposes to eliminate transitional food stamps benefits for General Fund savings of $1.1 million in the current year and $3.1 million in the budget year.

Elimination of the transitional food stamps program will result in a $165.5 million loss in federal food stamps benefits for 66,000 low-income California households. According to the LAO, the proposed elimination of transitional benefits would result in a $3.7 million General Fund revenue loss for California. The Analyst recommends that the Legislature reject the Governor's proposal, restore program funding, and recognize $3.7 million in General Fund revenues.

Budget issue: Does the Subcommittee wish to adopt the Governor’s proposal to eliminate transitional food stamps benefits?

Issue B - Repeal of Recent Food Stamps Program Reforms

Background: According to the US Department of Agriculture, only half of all eligible Californians access food stamps benefits. Working families, who comprise 71 percent of eligible households, are especially unlikely to participate in the program. Assembly Bill 231 (Chapter 743, Statutes of 2003), seeks to increase participation in the food stamps program among eligible families by simplifying the application process and modifying program eligibility criteria. Specifically, AB 231, establishes criteria for county exemptions from required face-to-face interviews and provides that car ownership and value shall not affect food stamps eligibility. The new law is expected to increase participation in the Food Stamps program by 15,000 households. Counties have begun to implement the eligibility reforms across the state.

Governor's Budget: The Governor proposes to repeal legislation, which sought to increase participation in the food stamps program to realize General Fund savings of $186,000 in the current year and $444,000 in the budget year.

Repeal of recent food stamps program reforms will result in a $37 million loss in federal food stamps benefits for 15,000 low-income California households. The LAO concluded in their analysis that the proposed repeal of recent food stamps reforms would result in a $835,000 General Fund revenue loss. The Analyst recommends that the Legislature reject the Governor's proposal, restore Food Stamps and CFAP funding, and recognize $835,000 in revenues.

Budget issue: Does the Subcommittee wish to adopt the Governor's proposal to repeal recent food stamps reforms?

10. California Veterans Cash Benefit Program

Background: The California Veterans Cash Benefit Program, established by Assembly Bill 1978 (Chapter 143, Statutes of 2000), provides cash assistance to Filipino veterans of World War II who were receiving state supplementary payment benefits on December of 1999 and who have returned to the Republic of the Philippines. The veterans receive a payment equivalent to California's state supplemental payment ($226 per month). The veterans also receive a federal cash benefit, which currently amounts to $423 per month. The California Veterans Cash Benefit program serves approximately 1,700 veterans on an annual basis.

Governor's Budget: The Governor proposes to eliminate the California Veterans Cash Benefit Program for General Fund savings of $1.2 million in the current year and $5.5 million in 2004-05. Veterans will continue receiving existing federal benefits.

Budget issue: Does the Subcommittee wish to approve the proposed program elimination?

OUTCOMES for Subcommittee No. 3: May 6, 2004

- (Please reference the Subcommittee Agenda in tandem with these outcomes.)

I. 5175 DEPARTMENT OF CHILD SUPPORT SERVICES pages 2 - 10

1. Child Support Collections page 2

Key issue: budget estimates that California will collect $2.4 billion in child support ($364.5 million General Fund) in the budget year. $71 million of the state's estimated collections stem from the child support collection enhancements enacted by the Legislature.

Action: No action taken. Informational item.

2. Local Child Support Program Compensation page 4

Key issue: Last year, the Legislature enacted AB 1752 to consider the relationship between allocation methodologies and program performance, and to review alternative methodologies to allocate child support program funding.

Action: Kept issue open.

3. California Child Support Automation System and Alternative Federal Penalty page 5

Key issue: Since 1997, California has been subject to substantial federal penalties due to the state's failure to establish the required system by the federal deadline. California is in the process of developing the California Child Support Automated System which when implemented on a statewide basis will obviate federal penalties.

Action: Kept issue open.

4. County-Share of Alternative Federal Penalty page 6

Key issue: budget proposes to establish a permanent 25 percent county share of the alternative federal penalty for General Fund revenues of $55 million.

Action: Kept issue open.

5. Eliminate County Share of Child Support Collections page 7

Key issue: budget proposes to eliminate payment of the county share of child support collections for an increase in General Fund revenues of $39.4 million. The proposal will most likely reduce funding for human services programs and may increase demands for county realignment funds.

Action: Kept issue open.

6. Disregard Payment to Families Receiving CalWORKs page 8

Key issue: California provides families receiving public assistance the first $50 dollars in child support payments collected on their behalf in addition to their CalWORKs grant at a cost to the General Fund of $28.5 million.

Action: No action at this time.

4130 HEALTH AND HUMAN SERVICES AGENCY DATA CENTER page10
5180 DEPARTMENT OF SOCIAL SERVICES - AUTOMATION ISSUES

VOTE ONLY ITEMS:

1. Electronic Benefit Transfer page10

Key issue: budget proposes to reduce funding for the EBT Project by $3.7 million in the current year and $2.3 million in the budget year due to revised caseload projections.

Action: Approved as budgeted.
Vote: 4 - 1 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz; *No:* McClintock)

2. Statewide Fingerprint Imaging System page11

Key issue: budget proposes to increase HHSDC's expenditure authority for the SFIS project by $711,000 to support quality assurance and project oversight activities, user training, and application maintenance. LAO recommends that the Legislature reduce the proposal by $536,000 and direct the administration to resubmit a request after examining the use of state staff.

Action: Reduced proposed funding by $536,000. Adjusted DSS's budget accordingly.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

3. Unemployment Insurance Modernization Project page11

Key issue: Finance letter requests that the Legislature increase the Data Center's expenditure authority by $17.8 million and establish 5 new positions to support activities associated with the Unemployment Insurance Modernization Project.

Action: Kept issue open.

4. Statewide Automated Welfare System (SAWS) page12

Key issue: budget provides a $36 million augmentation to the Consortium IV project to support C-IV implementation in two counties, system and data conversion to C-IV, and maintenance and operations activities similar to those required by other SAWS applications.

Action: Approved as budgeted.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No:* McClintock and McPherson)

DISCUSSION ITEMS:

1. HHSDC Costs and Rates page12

Key issue: cost of HHSDC's operations is fully reimbursed by its clients. Client departments reimburse HHSDC based on the level and type of services they receive and the Data Center's rates. HHSDC's rates are not subject to review or approval from the Department of Finance.

Action: Adopted placeholder budget bill language and trailer bill language that mirrors proposed rate reforms for the Department of General Services, including a requirement that HHSDC's rates be subject to review and approval by the Department of Finance.

Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McClintock and McPherson)

2. Data Center Consolidation page13

Key issue: AB 1752 required the Department of Finance to convene a working group to develop a data center consolidation plan by December 1, 2003, and to develop a data server consolidation plan to be implemented by July 1, 2004 to realize at least $3.5 million General Fund in savings.

Action: Kept issue open.

3. IHSS - Case Management Information and Payrolling System (CMIPS)

Key issue: budget proposes to extend funding for CMIPS procurement activities for one year to support re-evaluation of the procurement strategy ($1.7 million).

Action: Directed Subcommittee staff to develop trailer bill language to specify the components that CMIPS II must include and establish a deadline to begin procurement of the new system.

4170 DEPARTMENT OF AGING

VOTE ONLY ITEMS

1. Long-Term Care Ombudsman Program page15

Key issue: Finance letter requests that the Legislature reduce funding for the Long-Term Care Ombudsman program by $2.9 million because the federal Center for Medicare and Medicaid ruled that the program is not eligible for federal Medicaid funding.

Action: Adopted Finance letter.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

2. Multipurpose Senior Services Program page15

Key issue: Finance letter requests that the Legislature decrease General Fund support for MSSP administration by $53,250 and adopt a corresponding increase in federal reimbursements.

Action: Adopted Finance letter.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

4200 DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

VOTE ONLY ITEMS

1. Substance Abuse Prevention and Treatment Block Grant page16

Key issue: Finance letter requests that the Legislature increase local assistance funding for alcohol and drug programs by $277,000 to reflect an increase in the federal SAPT funding.

Action: Adopted Finance letter.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

2. Substance Abuse and Crime Prevention Act page16

Key issue: Finance letter requests that the Legislature shift $428,000 in SACPA funding from local assistance to state operations and establish 6.5 new positions to support audit activities.

Action: Adopted Finance letter.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

3. Office of Problem Gambling page17

Key issue: Finance letter requests that the Legislature provide a $3 million augmentation from the Indian Gaming Special Distribution and 3 new positions to support the establishment of the Office of Problem Gambling.

Action: Will consider the Administration's proposal at hearings on the May Revision.

5180 DEPARTMENT OF SOCIAL SERVICES

VOTE ONLY ITEMS

1. Community Care Licensing Caseload page18

Key issue: budget provides a $1.3 million augmentation ($1.2 million General Fund) and establishes 18.5 positions due to an increase in the number of certified family homes and the number of complaints filed against the homes.

Action: Approved as budgeted.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

2. Disability Determinations page18

Key issue: budget provides a $7.8 million augmentation ($1.5 million General Fund) and establishes 60.6 positions to support increased disability determination workload.

Action: Approved as budgeted.
Vote: 3 - 1 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock)

3. Child Welfare Services Program Improvement Plan page19

Key issue: budget provides $572,000 ($286,000 General Fund) and establishes 6 new positions to complete workload associated with the PIP, including data analysis, preparing quarterly PIP reports and conducting the PIP survey.

Action: Approved proposed funding and positions for state PIP activities.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

4. Electronic Benefit Transfer page19

Key issue: budget extends, for one-year, two limited-term positions to provide program support and oversight of the EBT project at a cost of $161,000 ($58,000 General Fund).

Action: Approved as budgeted.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

5. IHSS - Case Management Information and Payrolling System page19

Key issue: budget proposes to extend funding for CMIPS II procurement activities for one year to support re-evaluation of the procurement strategy and proposes new funding for contracted Independent Verification and Validation services ($1.7 million General Fund).

Action: Kept issue open.

6. State Council on Developmental Disabilities page20

Key issue: budget provides $651,000 in increased reimbursements and establishes 6.8 positions for DSS to provide administrative support to the State Council.

Action: Approved 4 positions and $390,000 in reimbursements for DSS to provide administrative support to the State Council.
Vote: 4 - 1 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz; *No*: McClintock)

7. Proposed Workload Relief Associated with Reductions in State Operations page20

Issue A - Eliminate the Child Care Advocate Program page20

Key issue: budget proposes legislation to make it optional for the DSS to establish a Child Care Ombudsman program and renames the program as the Child Care Advocate Program.

Action: Adopted the proposed legislation.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

Issue B - Processing of Applications for Trustline Certification page21

Key issue: budget proposes legislation to shift the responsibility of receiving Trustline applications and submitting provider fingerprints to the Department of Justice from the DSS to the Child Care Resource and Referral Network.

Action: Rejected the proposed legislation.

Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

Issue C - Expand Activities Supported by the Technical Assistance Fund page21

Key issue: budget proposes legislation to broaden the activities supported by the Fund to include administrative and other licensing activities.

Action: Adopted the proposed legislation.
Vote: 4 - 1 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz; *No*: McClintock)

Issue D - Certification and Monitoring of Out-of-State Group Homes page21

Key issue: budget proposes legislation to eliminate the requirement that the Department of Social Services certify and monitor out-of-state group homes.

Action: Rejected the proposed legislation.
Vote: 4 - 1 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz; *No*: McClintock)

Issue E - Eliminate Claimants Rights for Rehearings page22

Key issue: budget proposes legislation to eliminate the statutory authority for claimants and counties to request rehearings from the Department of Social Services.

Action: Rejected the proposed legislation.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

Issue F - CalWORKs Mental Health Pilot Program page22

Key issue: budget proposes legislation to eliminate the requirement that DSS develop a plan for operation of the pilot program and report to the Legislature by 2005.

Action: Adopted the proposed legislation.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

Issue G - Group Home Rates page22

Key issue: budget proposes legislation to (1) impose a 3-year suspension of the biennial rate-setting requirements applicable to group home programs and foster family agencies; (2) authorize a 3-year suspension of non-provisional program audits; and (3) remove the requirement for the department to reimburse certain providers for audit costs.

Action: Rejected the proposed legislation.
Vote: 3 - 2 (*Aye:* Chesbro, Cedillo and Ortiz; *No*: McClintock and McPherson)

8. CalWORKs Research and Evaluation page23

Key issue: budget provides $6.6 million to fund CalWORKs research and evaluation projects.

Action: Reduced proposed funding by $2.6 million.
Vote: 5 - 0 (*Aye:* Chesbro, Cedillo, McClintock, McPherson and Ortiz)

9. Food Stamps Program

Issue A- Elimination of Transitional Food Stamps Benefits page23

Key issue: Governor proposes to eliminate transitional food stamps benefits for General Fund savings of $1.1 million in the current year and $3.1 million in the budget year.

Action: Rejected budget proposal and restored program funding.
Vote: 4 - 0 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz)
Action: Recognized $3.7 million in increased General Fund revenues.
Vote: 3 - 0 (*Aye:* Chesbro, Cedillo and Ortiz)

Issue B - Repeal of Recent Food Stamps Program Reforms page24

Key issue: Governor proposes to repeal legislation, which sought to increase participation in the food stamps program to realize General Fund savings of $186,000 in the current year and $444,000 in the budget year.

Action: Rejected budget proposal and restored program funding.
Vote: 4 - 1 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz; *No:* McClintock)
Action: Recognized $835,000 in increased General Fund revenues.
Vote: 3 - 0 (*Aye:* Chesbro, Cedillo and Ortiz)

10. California Veterans Cash Benefit Program

Key issue: budget proposes to eliminate the California Veterans Cash Benefit Program for General Fund savings of $1.2 million in the current year and $5.5 million in 2004-05.

Action: Rejected budget proposal and restored program funding.
Vote: 4 - 1 (*Aye:* Chesbro, Cedillo, McPherson and Ortiz; *No:* McClintock)

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

May 10th, 2004
1:30 PM
Room 112

Item	*Description*
4440	**Department of Mental Health—*Selected Issues as Noted***
4260	**Department of Health Services--*Selected Issues as Noted***

PLEASE NOTE: **Only those items contained in this agenda will be discussed in the hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise determined by the Chair.**

All remaining budget issues for the DHS and DMH will be reviewed at the Subcommittee's May 21st and 22nd May Revision hearings. ***Please see the Senate File for dates and times of these hearings***.

I. Vote Only Calendar (All Items as Listed Below)

4440 Department of Mental Health

1. Reduction to Substance Abuse & Mental Health Services Administration Block Grant

Background and Finance Letter: The federal Substance Abuse and Mental Health Services Administration (SAMHSA) has notified the DMH that the federal block grant is being decreased from $55.6 million to $54.5 million, or a decrease of $1.1 million (federal funds) for fiscal year 2004-05.

To account for this reduction, the Administration is proposing a decrease of $1.1 million (federal funds) for the last year of the Youth Development and Crime Reduction Demonstration projects. The Administration notes that reducing these projects will be the least disruptive and avoids having to reduce base allocations for counties overall.

Subcommittee Staff Comment and Recommendation: It is unfortunate that the federal government is reducing California's grant funds. Given this reduction, the Administration's decision to reduce demonstration projects appears to be the best alternative. As such, Subcommittee staff has raised no issues with this proposal.

Budget Issue: Does the Subcommittee want to **adopt the Administration's Finance Letter?**

2. Projects for Assistance in Transition from Homelessness (PATH) Formula Grant

Background and Finance Letter: PATH provides funding to assist persons who are homeless (or at risk of becoming homeless) and have a mental illness. Counties receiving PATH funds must annually develop a service plan and budget for utilization of the funds. The service plan must describe each program setting and the services and activities to be provided. Allowable services include service coordination, alcohol and drug treatment, community mental health, housing services, supportive services in residential settings, and staff training.

The federal government has notified California that an additional $1 million (federal funds) will be available for PATH for a total amount $6.7 million (federal funds). As such the Administration has submitted a Finance Letter requesting an augmentation in this amount.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the request and has raised no issues with this proposal.

Budget Issue: Does the Subcommittee want to **adopt the Administration's Finance Letter?**

3. Budget Bill Language—Capital Outlay Related to Metropolitan State Hospital

Background and Governor's Finance Letter Request: The Administration is requesting that Item 4440-496 be included in the Budget Bill to revert $3.873 million (Public Building Construction Fund) from Item 4440-301-660 of the Budget Act of 2003 for the Metropolitan State Hospital project—construct new kitchen and remodel satellite service kitchens. This project consists of design and construction of a new kitchen building and renovation of satellite serving kitchens in several buildings throughout the hospital campus.

This funding needs to be reverted because the nature of the improvements are not compatible with lease-revenue financing as originally was thought when they were budgeted in the 2003-04 fiscal year. As such, the Governor's proposed budget utilizes General Fund support for this purpose.

Budget Issue: Does the Subcommittee want to **adopt the Administration's Finance Letter?**

4. Budget Bill Language—Capital Outlay Related to Patton State Hospital

Background and Governor's Finance Letter Request: The Administration is seeking to add Item 4440-491 to the Budget Bill in order to re-appropriate $228,000 (Public Construction Fund) for improvements related to fire and life safety concerns at Patton State Hospital for the admissions suite and EB Building. According to the Administration, the use of these funds is consistent with the scope and purposes identified in the Legislative Analyst's Office Supplemental Reporting Language as contained in the Budget Act of 2003.

Budget Issue: Does the Subcommittee want to **adopt the Administration's Finance Letter?**

5. Budget Bill Language—Capital Outlay Related to Metropolitan State Hospital

Background and Governor's Finance Letter Request: The Administration is seeking to add Item 4440-491 to the Budget Bill in order to re-appropriate $6.7 million (Public Construction Fund) for constructing a school building at Metropolitan State Hospital. The Administration states that this re-appropriation is needed due to a delay in the start of the working drawings phase of the project.

Budget Issue: Does the Subcommittee **want to adopt the Administration's Finance Letter?**

II. Items for Discussion

A. 4440 Department of Mental Health

1. Status Update--Administration's Proposal for the EPSDT Program for Mental Health ISSUES "A" and "B"

Background—Overall: **Most children receive Medi-Cal services through the EPSDT Program**. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) **recipients under age 21 *any* health or mental health service that is medically necessary** to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, **including services not otherwise included in a state's Medicaid (Medi-Cal) Plan.**

Though the DHS is the "single state agency" responsible for the Medi-Cal Program**, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH)**. Further, **counties are responsible for providing, arranging and managing Medi-Cal mental health services under the supervision of the DMH and DHS. However, eligibility and the scope of services to which eligible children are entitled, are *not* established at the local level.**

Types of Services: The state uses the term **"EPSDT supplemental services**" to refer to EPSDT services which are required by federal law **but are not otherwise covered under the state Medi-Cal Plan for adults**. **Examples of services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.**

EPSDT Litigation—State Has Settlement Agreements: In 1990, a national study found that **California ranked 50th** among the states in identifying and treating severely mentally ill children. **Subsequently due to litigation (T.L. v Belshe' 1994)**, the DHS was required to expand certain EPSDT services, including outpatient mental health services. The 1994 court's conclusion **was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.**

Further in January 2004, the U.S. District Court issued an Interim Order clarifying an earlier ruling regarding the provision of TBS that also required outreach, monitoring and related provisions to ensure that children receive EPSDT services as needed. The Court agreed that TBS utilization was too low statewide and ordered the parties to collaborate to develop a plan to increase TBS approvals.

EPSDT Funding Process—Both County and State Funds Used To Draw Federal Match: The DHS and DMH **crafted an interagency agreement in 1995 to implement expanded services as required by the court.**

Generally, this *original* agreement required County MHPs to provide a "baseline" amount using County Realignment Funds (essentially a county "maintenance-of-effort**") and then the state was responsible for providing the nonfederal share of the growth in the program.**

The baseline amount is established for each county based on a formula. For 2004-2005, the baseline is $65.7 million, plus an additional 10 percent county match ($20 million for the budget year) which was instituted in the Budget Act of 2002, for a total of $85.7 million (County Realignment Funds). The state will provide funding (via Medi-Cal) for costs above this amount (above the baseline and 10 percent match).

The General Fund dollars and accompanying federal matching funds are budgeted in the DHS and are transferred to the DMH as reimbursements. **The DMH distributes EPSDT funds to the County MHPs responsible for the provision of specialty mental health in each county. Final payment is based on cost settled actual allowable costs, or rates.**

Prevalence Rate for California: Based on a number of studies which estimate the prevalence of children exhibiting various levels of functional impairment, **it is estimated that 20 percent of children suffer from diagnosable mental disorder, and up to 13 percent of these children are estimated to be seriously emotionally disturbed. Given these estimates it is likely that between 500,000 to 1.3 million children and adolescents in California have a severe emotional disturbance.**

As a comparison, the actual statewide average EPSDT penetration rate was 5.29 percent as of 2001-02 and 5.32 percent as of 2002-03.
It should be noted that the **Little Hoover Commission's report** (October 2001) on the existing inadequacies in the children's mental health system considered the potential savings if children's mental health utilization increased by 10 percent—the estimated prevalence rate. In one year, they estimated that California would save $44 million in juvenile justice, $27 million in CYA costs, $78 million in residential treatment and $1.4 million at Metropolitan State Hospital. **A total of $110 million in savings!**

Governor's Proposed Budget Overall: Under the Governor's budget, state support for EPSDT would grow to $365 million (General Fund) in 2004-05, for an **increase of about $112 million (General Fund)** compared to the current year. **This proposed spending level takes into account several technical adjustments, as referenced below, as well as three proposals intended to slow growth in the program and to potentially limit access to EPSDT services.**

The budget proposes the following adjustments to the EPSDT Program:

Technical Baseline Adjustments in Budget (increase of $47.9 million General Fund):

- ***Accrual to Cash:*** Makes an adjustment of $27.8 million (General Fund) in the budget year to reflect the one-time only reduction from 2003-04 which pertained to shifting the Medi-Cal Program from an accrual to cash basis.
- **Federal Medi-Cal Match:** Makes an increase of $ 20.1 million (General Fund) in the budget year to reflect a reduction in the share of costs that is supported by the federal

government (Medicaid federal match percentage). In 2003-04 a congressional relief package for states temporarily increased the federal cost-sharing ratio.

Governor's Reduction Proposals:

- ***"Re-Basing" Provider Rates:*** The Administration proposes to change how provider rates are calculated (referred to as "re-basing") for **savings of $60 million ($40 million General Fund) in the EPSDT** and an additional reduction of $50 million (federal funds) for adult outpatient services. **This issue is discussed below (i.e., Issue "A").**
- ***EPSDT Program Audits by the DMH:*** The DMH contends that savings of $13 million ($6.4 million General Fund) can be achieved from conducting additional audits of counties and their contractors who provide mental health services. The DMH is seeking an increase of $1.7 million ($844,000 General Fund) to hire consultants to conduct this audit work. **This issue is discussed below (i.e., Issue "B").**
- ***EPSDT Waiver for Medical Necessity:*** As part of their overall Medi-Cal 1115 Waiver proposal, the Administration is also proposing a Waiver regarding the EPSDT Program. Though details are significantly lacking, the Administration purports to making changes to how "medical necessity" is defined with respect to EPSDT services. The DMH is seeking an increase of $472,000 ($236,000 General Fund) to hire a consultant ($300,000) and to support two new state staff. **This proposal was rejected by the Subcommittee as noted below in the March 22nd hearing.**

Prior Subcommittee Hearing—March 22nd: In the March 22nd hearing, **the Subcommittee rejected the Administration's proposal** to provide an increase of $472,000 ($236,000 General Fund) to hire a consultant and to support new state staff to proceed with a Waiver to redefine medical necessity for EPSDT services provided through County Mental Health Plans (MHPs). **Further, the Subcommittee directed that if the Administration wants to proceed with a Waiver in this area, they would need to introduce policy legislation and not proceed with trailer bill legislation. Therefore, this issue is closed out.**

ISSUES "A" and "B" are discussed below.

ISSUE "A" for the EPSDT Program-–—Re-Basing Provider Rates

Background—Existing Rate Structure: Under the Medi-Cal Program there are reimbursement limits. Since EPSDT is a Medi-Cal Program that provides mental health specialty services, it uses different reimbursement limits than other Medi-Cal programs. In some instances County Mental Health Plans negotiate rates with providers. **In other cases, the reimbursement rate is based on the *lowest* of:**

- The **"State Maximum Allowable" cost**, as defined by the DMH and approved by the DHS and federal government;
- The provider's allowable cost; ***or***
- The provider's published charge to the general public, unless the provider is a nominal charge provider.

Most of the reimbursement provided under EPSDT is done through the State Maximum Allowable cost process.

***The State's Maximum Allowable Rate*: The existing "state maximum allowable" (SMA) rate structure is based on 1989-90 cost report data which has been updated annually using cost-of-living-adjustments.** This rate structure is contained within California's State Medicaid (Medi-Cal) Plan submitted to the federal government in 1993. **This Plan also provided that the state would update rates annually until they were "re-based in no more than three years using more current actual cost information". The DMH however has never updated these rates.**

According to the DMH, under the existing rate structure, (1) about 34 percent of all "Short-Doyle" inpatient psychiatric facilities are receiving *less* than their cost, and (2) about 11 percent of all outpatient specialty mental health services are receiving less than their cost.

Governor's Budget Proposal to Re-base Rates: The Governor's budget proposes to reduce the EPSDT Program **by $60 million ($40 million General Fund) and $25 million in federal funds for adult outpatient services.**

It should be noted that this re-basing proposal actually would reduce federal funds by *another $45 million* than assumed in the Governor's budget. However, the budget also assumes that California can obtain approval through a State Plan Amendment to obtain a *"public provider exemption"* for federal funds to be provided *above* California's State Maximum Allowable rate. The federal government has provided this type of exemption before. In essence, the federal reimbursement would be cost-based and not reliant on the State Maximum Allowable rate.

Subcommittee Staff Comment—Proposal is Flawed: **This budget proposal has caused grave concern because the proposed methodology *is fundamentally flawed.*** The proposed re-basing calculation would set the State Maximum Allowable rates based upon the average rates of each type of service using 2001-02 data, updated by COLAs to 2004-05. **However, the average rate is determined (1) after eliminating rates in excess of one standard deviation from the mean, and (2) after the top ten percent of providers with the highest rate are eliminated from the base data to afford cost containment.**

According to the DMH, under this proposed re-basing structure, (1) about 42 percent of all "Short-Doyle" inpatient psychiatric facilities would be receiving less than their cost, and (2) about 47 percent of all outpatient specialty mental health services would be receiving *less* than their cost. As such, this methodology would continually lower rates, whether justified or not.

According to mental health service experts, it is highly unlikely that productivity gains and other program efficiencies can be achieved to meet the significantly lower reimbursement rates. This is particularly true for group services such as day treatment and residential programs. **Many County MHPs have already made significant gains in productivity for individual services.**

The proposal also assumes that the cost of providing services is uniform throughout the state. **It has been well documented that rural areas and large urban areas have higher cost factors that often need to be taken into consideration.**

The bottom-line is that the Administration's re-basing proposal is simply a cost-shift to the County MHPs and/or providers when efficiencies or cost reductions cannot be made. Further, some providers are likely to discontinue services which will likely impact access.

Other potential options are available in lieu of doing the Administration's re-basing proposal.

EPSDT Rate of Growth Slow Down: It should also be noted that the rate of growth under EPSDT has shown recent signs of slowing down considerably. **The DMH January budget estimate assumed a growth rate of 16 percent, *where as recent actual data for EPSDT shows a growth rate of only 8 percent.***

Other Options Are Available: Based on conversations with the DMH and others, it appears that **other options are available** than what has thus far been proposed. **It should be noted however, that *any* option which reduces state General Fund support will result in a cost shift to the County MHPs and/or providers when efficiencies or cost reductions cannot be made.**

Some Other Potential Options for Reducing General Fund

- **Increase the share-of-cost currently paid by County MHPs** from its current 10 percent above the 2001-02 growth to a higher percentage (in lieu of re-basing proposal).
- **Re-base the State Maximum Allowable using a *different* averaging methodology**.

Strategies to Preserve Federal Funds

- **Implement the Public Provider exemption** which enables public entities to obtain increased federal funds. This requires a State Plan Amendment and federal approval.
- **Revise the Cost Settlement process** by establishing the County MHPs as the "sole provider" whereby contract providers are treated as purchased services of the Mental Health Plan. (This is similar to other managed care plans that have the ability to purchase services from individual providers as part of their network of services.

It should be noted that all of these options, like the one proposed by the Administration through the budget, are complex and have their nuisances.

DMH Convenes Meeting to Discuss Re-basing Concept and Other Options (See Hand Out):
The DMH convened a stakeholders meeting (April 29, 2004) regarding their re-basing proposal to solicit comments and seek additional options. A summary of these comments are contained in the Hand Out Package.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please **summarize the comments from the April 29th stakeholders** meeting as contained in the Hand Out.
- **2.** May the DMH be modifying the proposal at May Revision to address some of these comments?
- **3.** Generally, **what might some additional alternatives be to draw down additional federal funds in this area?**

Budget Issue: Does the **Subcommittee want to hold this issue OPEN pending receipt of the May Revision?**

ISSUE "B"--EPSDT Program Audits by the DMH

Background—Previous Cost Containment Actions: EPSDT is a federal entitlement under the state's Medi-Cal Program. Due to litigation, as discussed under the background section above, the program operates under a settlement agreement with both the state and County MHPs paying the non-federal share of the program. In the Budget Act of 2002, a 10 percent county match on the growth of the total state matching fund requirement above the 2001-02 level was implemented.

In addition, trailer bill legislation accompanying the Budget Act of 2002 required the DMH to ensure statewide application of managed care principles to the EPSDT Program. Regulations to implement this required were endorsed by the Secretary of State in November 2003. It appears that these recent changes may be having an effect on slowing the rate of growth within the EPSDT.

EPSDT Rate of Growth Slow Down: It should also be noted that the rate of growth under EPSDT has shown recent signs of slowing down considerably. **The DMH January budget estimate assumed a growth rate of 16 percent,** ***where as recent actual data for EPSDT shows a growth rate of only 8 percent.***

Governor's Budget Proposal and Recent Change to Proposal: The Governor proposes **an increase of $1.7 million ($844,000 General Fund) to hire contractors to conduct additional reviews and oversight of EPSDT Program expenditures, and assumes savings of $13 million ($6.5 million General Fund) from these audit efforts.**

The request for funding the contract audit staff originally assumed that over 300 legal entities that provide EPSDT services would be reviewed on a three-year cycle beginning in 2004-05. **This original proposal assumed a sample size representing almost 90 percent of the total paid claims from 2002-03. However, the DMH is now changing their selection criteria after meeting with stakeholder organizations. An outline of this revised criteria is contained in the Hand Out Package.**

The estimated savings level remains the same as was contained in the Governor's proposed budget. The estimated savings level contained in the budget was derived by taking the approved claims amount from 2002-03 and dividing by three (since one-third of the entities will be audited each year), then reducing by 11 percent to reflect the dollars that will not be subject to the review. **The DMH then applied a 5.6 percent disallowance (i.e., savings level) to this amount.** This 5.6 percent rate is what was identified through recent audits conducted on Therapeutic Behavioral Services (TBS) reviews. **In essence, the estimated savings level represents about two percent of the total EPSDT Program for 2002-03, the year that will be initially audited.**

Further, the Administration's proposal assumes ***that the state will collect any disallowances directly from the County MHPs, even if a private provider is responsible for the audit exception.***

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. Please describe the revised sampling methodology in detail, including the audit selection process and criteria, and how the criteria will be applied.**
- **2. Please explain how the audit results will be applied to the County Mental Health Plans. What methods of recoupment will be applied?**
- **3. Will the results from the audits be made available for improving the quality of services at all?**

Budget Issue: Does the Subcommittee **want to hold OPEN the Administration's revised proposal pending receipt of the May Revision?**

B. 4260 Department of Health Services

1. DHS Not Reimbursing for Services Provided by Some Contractors

Constituency Concerns: The Subcommittee **has received dozens of letters** expressing significant concerns regarding the complete lack of reimbursement for services rendered under a wide variety of contracts, principally in the public health area.

Many of these contracts-- for such services as provided under Local Health Jurisdictions, the Male Involvement Program, HIV/AIDS information and referral hotline, and HIV treatment services, among others—are for services that are on-going in nature, have funds appropriated for them, and received letters from the DHS notifying them that services should commence as of July, 2003 (for current year functions) and that contract extensions would be forthcoming. Due to historical delays in the state contracting process, the contractors thought it was "business as usual"—they would provide the services and front the cash flow until the state began reimbursing them.

As such, many organizations have provided services and have not been paid for them for almost an entire fiscal year. Contractors have been providing the DHS with the required documentation of expenditure reports for services rendered but still have not been paid. Further, these contractors did not received any notice of termination for services from the state, as such they continued to provide the services ("in good faith") as required in the DHS contracts.

Background on DHS Contract Process: According to the DHS, **they process about 3,000 contracts annually.** The processing time associated with contract development and approval varies considerably and is a function of the contract type, program staff workload, contract staff workload, the complexity of the contract, and the contractors' approval process. **The large volume of contracts processed by the DHS, coupled with other factors such as additional Department of General Services contract requirements, vacant positions and reduced positions, limits their ability to respond effectively and has resulted in an elongated contract process with delays. As such, many contracts were not fully processed as of December 2003 for the 2003-04 fiscal year (July 1 2003 to June 30, 2004).**

This already potentially lengthy process has been made even more difficult by a new approval process associated with obtaining a contract ban exemption (as discussed below).

DOF Budget Letter Number 03-43)—Limits Contracts (See Hand Out): As noted in a Budget Letter from the Department of Finance, **Executive Order S-4-03** was signed by the Governor on December 5, 2003 to prohibit state agencies and departments from **(1) entering into any new service contract or making any changes to an existing contract that would increase the amount or *extend the term* of *any* contract**, or **(2)** entering into any new contracts or agreements to lease or purchase equipment.

The letter also provides for *exemptions as referenced in the letter*. This list, among other things, includes the following:

(1) Activities *specifically required by statute*;
(2) Purchases of prescription drugs and *medically necessary services*, and
(3) Activities that are not funded by the General Fund, as long as the fund is solvent and would not lead to a fee increase.

Any department requesting an exemption would need to proceed with an Exemption Form (referred to as a "DF-170") and receive the Department of Finance's (DOF) approval. Under this process, departments must submit a request for exemption through their respective agency (in this case the Health and Human Services Agency) to the DOF for approval before the contract can be approved and submitted to the Department of General Services (DGS) for processing.

Subcommittee Staff Comment: In reviewing many of the letters submitted by DHS contractors who have not received reimbursement, it appears that some of the contracts were **for extensions (i.e., the DHS provided formal notification to current contractors to extend for one more year to June 30, 2004). This is because contracts are often done for two or three years and contain contingency clauses (such as services must be provided at the same rate as prior year and that an appropriation is provided for the program).** (An example is contained in the Hand Out package.)

In addition, it appears that many of the services rendered pertain to either (1) statutorily required services, or (2) medically necessary services. As such, it would appear that exemptions would be in order.

Further, it appears that most of the rendered services would also be potentially eligible for submitting a claim to the Government Claims Program of the Victim Compensation and Government Claims Board (Board) since services were provided in good faith. Specifically, the Board resolves claims filed against the State of California alleging a legal liability on the part of the state as well as claims requesting equitable consideration for damages when the claimant may have no legal remedy. The Board also administers special programs mandated by the Legislature for the purpose of providing appropriate specified financial relief for citizens who have incurred damages due to natural disasters, **or through the actions or inactions of state government.** Pursuant to Government Code Sections 900 - 965.9, any person may file a claim with the Board for money or damages against a state agency under the California Tort Claims Act.

Finally, this process raises the question of trust in future business dealings—i.e., why would Local Health Jurisdictions and other contractors ever again provide any services in "good faith" until fully executed contracts are completed? If it takes the DHS and DGS several months to

complete contracts before services can be rendered, then individuals who need services will most certainly suffer.

Subcommittee Request and Questions: The Subcommittee has requested the DOF and DHS to respond to the following questions:

- **1. DOF, Please describe the need for the contract freeze. How much General Fund savings is to be attributable to this process? What about increased administrative processing costs?**
- **2. DOF**, **How is medical necessity determined with respect to the DHS' request for contract exemptions?** For example, why would a contract for training health care organizations to offer outreach to sexually active people who are diagnosed with HIV/AIDS, not be considered medically necessary?
- **3. DOF, Aren't many contractors at risk since they are providing services in good faith and are not sure if they will be reimbursed?**
- **4. DOF, How long will this process continue and what happens if it is not rectified before the start of the new fiscal year?**
- **5. DHS Please describe your process for obtaining contract exemptions**—i.e., what types of situations, the process required, and the general timeframe it has taken to complete.
- **6. How many contracts has (does) the DHS need to request an exemption on**? Do most of the requested exemptions pertain to specific programs or a wide variety of programs? Can't an exemption be obtained for a specific program area in lieu of individual contracts if they are the same (such as a one-year extension)?
- **7. Have any requests for exemptions been *denied* after the contractor has already provided services as required in the contract? If so, who are these contractors and what other recourse may be available to them?**
- **8. For those contractors who are approved for exemption, what exactly is the schedule for reimbursement since payments are late?**

2. Genetic Disease Testing Fund—ISSUES "A", "B", and "C"

Overall Background on Newborn Screening Program and Prenatal Screening Program: The Genetic Disease Branch is responsible for the management and operation of **two screening programs—the Newborn Screening Program and the Prenatal Screening Program. Both of these programs provide clinical analyses to prevent the occurrence, or ameliorate the effects, of certain disorders.** Newborns are screened for a series of heritable preventable metabolic disorders. The Prenatal Screening Program screens pregnant women for neural tube defects and chromosomal abnormalities.

The Newborn Screening Program screens **about 525,000 infants, or 99 percent of the annual births, in about 325 maternity hospitals.** The Prenatal Screening Program **screens over 350,000 pregnancies annually and serves about 7,000 prenatal care providers.**

Summary of Fee Adjustments: All screening is fee supported. Fees are collected from individuals, their health insurance, hospitals, birthing centers and Medi-Cal. All fee collections are deposited in the Genetic Disease Testing Fund. **As noted by the DHS, efficient collection of fees is critical to program operations and solvency of the fund.** Fee changes require regulatory action by the DHS. **Here is a summary of the fee adjustments:**

Newborn Screening Program	**Adjustment**	**Total Fee Amount**
1991	$5	$35
1993	$5	$40
1994	$2	$42
Jan 2002	$14	$56
July 2002 to Present	$4	$60
Prenatal Screening Program	**Adjustment**	**Total Fee Amount**
1986		$40
1999	$9	$49
1992	$4	$53
1993	$2	$55
1994-Present	$2	$57
Expanded Prenatal Screening	**Adjustment**	**Total Fee Amount**
1995		$115
1998-Present	($10)	$105

It should also be noted that due to a shortfall in the fund, in the Budget Act of 2002 a General Fund loan of $5 million was provided for program operations. (This loan is separate and apart from the two other General Fund loans provided for the Screening Information System (SIS) Project discussed below).

Lack of Clarity on Status of Genetic Disease Testing Fund Reserve: **The Governor's proposed January budget estimates a reserve of $4.3 million (Genetic Disease Testing Fund) as of 2004-05. However, an updated fund condition statement provided by the Administration as of April, reflects a reserve of only $2.3 million, *or $2 million less* than shown in the proposed budget.**

ISSUE "A" Screening Information System (SIS)

Background—SIS Has Had a Troubled Past: The Genetic Disease Branch developed the existing information technology system in 1980. Since then, the system has been upgraded and maintained to hold over 10 million newborn records and over 3 million prenatal records.

Beginning in 1995, the Branch identified a need to re-engineer and modernize the information technology support. After a number of issues were finally resolved, in September 2000, an award was made to Deloitte Consulting for an 18-month project. **However, because of a protest, the contract was not finalized until 2001 and the Feasibility Study Report (as required for all information technology projects) was not approved by the DOF until 2002. Due to concerns with the project, the Legislature crafted Budget Act Language, as contained in the Budget Act of 2002, requiring a legal review prior to project commencement. System development on the project finally began in October 2003.**

This system--**the Screening Information System (SIS)**—is intended to re-engineer the information technology system that supports the clinical services provided by the statewide newborn and prenatal screening services. **The SIS is a $25.9 million project. Of the total amount, $14.2 million is for one-time development costs and $11.6 million is for ongoing costs for seven years. Funding is provided through the Genetic Disease Testing Fund and also includes a $5.3 million General Fund loan from 2003-04, and a proposed loan of $5 million for 2004-05. Screening fees were increased $4 to help fund the project in 2002.**

It should be noted that the existing system cannot support additional data bases resulting in the *inability* to expand the Newborn Screening Program to cover additional disorders such as congenital adrenal, hyperplasia and cystic fibrosis. DHS states that screening for these and other conditions cannot be added until there is a new information technology support system.

Concerns of the Legislature and Additional Reporting Requirements: **As a condition of the General Fund loan and due to past concerns with the management of the project, the Legislature required the DOF to conduct a review of the SIS Project and also required the DHS to provide quarterly reports to the Legislature beginning October 1, 2003.**

The DOF conducted their review and provided this information to the Legislature (discussed below). However, the DHS still *has not provided* any quarterly reports. Specifically, the DHS quarterly reports are suppose to provide the Legislature with updates on (1) the status of the project, and (2) expenditures, revenues , and the overall fund condition status of the Genetic Disease Testing Fund.

Department of Finance Review and Oversight Report (April 1, 2004): In March, the DOF conducted an assessment of the SIS Project. **Their required report to the Legislature noted the following key aspects:**

- Project deadlines have been missed and **the project is about 6 weeks behind** the DOF approved project schedule (schedule approved by the DOF in January 2004). **However, it is clear that the project is necessary and remains worthwhile to complete.** Progress on the development is occurring though improvements are needed (as referenced below).
- A Project Steering Committee was formed and the team is in place. **However, the DOF expressed concern that the Steering Committee lacked making timely decisions.**
- All project vendors have now been procured for project management, development and project oversight. They note that the project oversight vendor is producing oversight reports and appears to be identifying appropriate project risks.]
- **The project financial data provided by the DOF did not demonstrate a level of detail sufficient for the project team to adequately track costs against the project budget.** An inability to accurately track all project costs makes it difficult to report actual project costs after completion, or to validate the current and ongoing costs associated with implementing and supporting the system.
- **The majority of the project management plan has not been approved and the resulting lack of clarity regarding the roles and responsibilities has caused delays on the project.**
- **There was a lapse in the contract for the vendor project manager, which likely caused delays in reviewing and completing some project deliverables.**
- **The project schedule reviewed by the DOF was incomplete and insufficient to achieve the approved project timeframes.** Baseline information was not included and progress updates were not current.

Finally, the DOF states that they are supportive of the project provided the following DHS actions are completed by *May 1, 2004*:

- Provide the DOF with an accurate, realistic, and comprehensive project schedule for approval.
- Finalize and approve all project plans. Present a strategy to ensure roles and responsibilities are not just included in plans, but are implemented, practiced and supported.
- Provide complete project cost information which demonstrates the capability to track costs against budget for each category in the Feasibility Study Report with separation by fiscal year and by one-time and ongoing costs.
- Provide either a cost management plan, or a description of the cost tracking practices to be employed on the project.
- The Project Oversight Consultant will continue to provide monthly reports to the DOF.

In closing, *the DOF states that based upon the May 1 DHS response*, subsequent implementation of these planned actions and/or additional risks identified by the Project Oversight Consultant, *the DOF may schedule a follow-up assessment of the project.*

Governor's Proposed Budget: The Governor's **budget proposes an *additional* $5 million** (General Fund) loan to the Genetic Disease Testing Fund for the ongoing development of the SIS Project for 2004-05. **According to the latest projections, it is anticipated that sufficient revenues would be available from the Genetic Disease Testing Fund (funded by fees) to repay the two General Fund loans (loan from 2003-04 and budget year) in 2009.**

Legislative Analyst's Office Concern: In her Analysis, the LAO recognizes the importance of the project yet **is considerably concerned that no quarterly reports on the project have been provided. Because the Legislature has not been provided with the information it needs to assess the status of the project and the financial condition of the Genetic Disease Testing Fund, the *LAO is recommending to deny the loan unless* (1) the reports are submitted, and (2) the DHS is able to demonstrate in these reports its ability to manage the project.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. DHS**, When will the Legislature receive **the most recently completed quarterly report,** (i.e., the April 1, 2004 report) **or some other analysis (such as the required DOF report) that provides the Legislature with appropriate information?**
- **2. DHS, has the required May 1 information on the SIS Project been provided to the DOF?**
- **3. DOF, when will your analysis of the May 1 information be available and is the DOF going to be conduct a follow-up assessment of the project?**

Budget Issue: Does the **Subcommittee want to provide the General Fund loan when key progress reports that were required by the Legislature as a condition of providing the loan have not been provided and questions remain regarding the management of the project (as referenced in the DOF analysis)?**

ISSUE "B" Request for State Staff for Genetic Disease Testing Program

Background: The Genetic Disease Testing Program (Newborn Screening Program and Prenatal Screening Program) has been plagued by administrative processing issues for several years. **In a 1997 Bureau of State Audits Report, the following was noted:**

- Bill health plans directly for prenatal testing fees.
- Continue to bill patients who fail to pay.
- Establish a process for attaching to a patient's tax refund if the patient does not pay the bill.
- Collect from Medi-Cal in a timely manner.
- Develop procedures to refund over payments of prenatal testing fees.

The DHS states that while they have made progress to satisfy these concerns, **it is not able to both maintain basic customer service *and* work on implementing improved billing, collecting, and accountability policies.**

In April 2003, a DHS internal audit noted that the Branch does not adequately separate duties over receipting and depositing payments. The audit also noted that Branch staff did not make regular site visits to monitor performance of its "lock box" contractor (receives and deposits checks) and its clearinghouse contractor (takes insurance information data entered by DHS staff and puts it into HIPAA compliant format for transmittal to third-party payers. **The DHS states that these site visits have lower priority than direct customer service and can only be done by adding staff.**

Budget Act of 2003—Control Section 4.1 Adjustment: Through Budget Control Section 4.1, the DHS administratively **reduced the Genetic Disease Testing Program by $721,000 ($673,000 Genetic Disease Testing Fund and $48,000 General Fund) and 9 state positions**. **These reductions were made in the current-year (late Fall of 2003) even with the DHS report findings of April 2003.**

Governor's Proposed Finance Letter Request: The DHS is requesting **an increase of 7 positions for an increase of $394,000 (Genetic Disease Testing Fund) to conduct administrative work.** They contend that these positions are needed to address existing backlog and on-going workload for revenue collection (obtaining the fees) and customer service. **Specifically, the DHS is seeking to hire:**

- Accountant Supervisor — permanent
- Two Account Clerk II — permanent
- Three Account Clerk II — two-year limited-term appointments
- One Office Assistant — two-year limited-term appointment

The DHS offers the following information to illustrate why they are requesting these positions:

- The branch **is five months behind on submitting bills** in the Prenatal Screening Program to insurance companies. They state that this results in delayed revenue collection of about $1.9 million

(Genetic Disease Testing Fund). Delay in submitting bills in respect to date of service can result in denial of claims by both insurance companies and Medi-Cal, which can become uncollectable.

- Bills for the New Born Screening program are also backlogged. They have received numerous telephone calls and mail from families upset over the delayed billings because sometimes the insurance companies have not paid them due to being late.
- Every year the Branch forwards **about $12 million in unpaid bills (about 18 percent of the total revenues collected) to the Franchise Tax Board (FTB)for offset against tax returns.** As such, about **15 percent of the daily correspondence** received is regarding these FTB notices.
- A major daily workload is check processing which includes endorsing, researching account numbers, crediting/debiting patient accounts, depositing checks and related activities. To be in compliance with the State Administrative Manual, these activities must be completed on a daily basis and require a separation of duties over receipting, depositing, and inputting the payment information into the computer system. The DHS states that these activities must take priority over direct customer response.

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions:

- **1. Why did the DHS reduce the program by 9 positions through the Control Section 4.1 process even when an internal audit (April 2003 report) expressed significant concerns?**
- **2. What program efficiencies can be implemented to streamline and simplify the outlined workload? (such as improved billing collection and accountability processes)**
- **3. Please provide an update on the backlog, and how long these programs been operating in a "backlog" mode?**
- **4. If these positions are approved, when would individuals be hired and will "freeze exemptions" be approved by the DHS? What is the projected length of time for the backlog to be processed and completed?**
- **5. What assurances can the Administration provide the Legislature that this program will be better administered and operated efficiently?**

Budget Issue: Does the **Subcommittee want to adopt or modify this request for 7 new positions?**

ISSUE "C"--Proposal to Expand the Newborn Screening Program--Tandem Mass

Background: Under the Newborn Screening Program, newborns are screened for a series of heritable preventable metabolic disorders, such as phenylketonura (PKU), hypothyroidism, galactosemia (GALT), and Sickle Cell Disease. At the time of birth, the heel of the infant is pricked and a drop of blood tested for different disorders. These birth defects have no immediate visible effects on a baby but, unless detected and treated early, can cause physical problems, mental retardation, and death.

When test results are abnormal, early diagnosis and proper treatment can make the difference between lifelong impairment and healthy development. Further, significant cost savings can be achieved through early detection and in some cases, simple dietary treatment of some disorders. Cost benefit analyses have found that expanded newborn screening produces significant net benefits. The DHS estimates that for every dollar spent on expanded screening, two dollars and fifty-nine cents ($2.59) is saved in average lifetime medical costs alone.

Pilot Project Ends (See Hand Out): **California's Tandem Mass Spectrometry Pilot Program screened for 24 disorders between January 2002 and June 2003 (as required by AB 2427, Kuehl, Statutes of 2000). Under the Tandem Mass Spectrometry Pilot, the DHS offered families, who consented to participate in the test screening, additional newborn screening for disorders at no increased cost. Over 320,000 newborns were tested in this pilot. The pilot program ended when one-time state funding (Genetic Disease Testing Fund) was expended.** ***However, though the enabling legislation required the DHS to submit a report to the Legislature on the outcomes of the pilot, no report has been provided.***

In a letter from Senator Alpert, as Chair of the Senate Select Committee on Genetics, Genetic Technologies and Public Policy, to Secretary Kimberly Belshe', it was noted that only limited information was made available regarding the pilot (no report), and that *California has fallen miserably behind* in its efforts to prevent mental retardation and infant morality from treatable metabolic disorders.

Though data from the pilot has not been provided to the Legislature as yet, in a February 2004 hearing chaired by Senator Alpert's select committee**, the DHS noted that expansion of the state's existing Newborn Screening Program is under consideration and they are looking at the specific benefits, costs, and logistics that would be involved in statewide implementation of the Tandem Mass Spectrometry.**

Management of the Pilot Project: It should be noted that management of the pilot was done separately from the state's "routine" New Born Screening Program. **The pilot used *private contractors* for laboratory analysis, computer support and follow-up data collection.**

Mass spectrometers are used in many laboratories throughout the world to analyze thousands of compounds such as those present in our bodies, our environment, foods, medicines, and criminal evidence.

Other States Ahead of California and California Charges Higher Fee (See Hand Out): As noted in a recent federal GAO Report—Newborn Screening, Characteristics of State Programs (March 2003)—**many other states are screening newborns for many more disorders. Further, California's program has a higher expenditure per infant screened than most other states.**

Birth defects are the leading cause of infant death in California and the United States. Yet California conducts newborn screening for only the following disorders: PKU, GALT, sickle Cell Disease, and congenital hypothyroidism. Recent technological advances have made it possible and affordable to screen for larger numbers of treatable metabolic disorders, more than 20 from a single blood sample as done with tandem mass spectrometry. **At least 26 states have implemented this new technology.**

Senate Bill 142 (Alpert), As Amended--May 3rd: Among other things, SB 142 would expand the existing Newborn Screening Program to include tandem mass spectrometry screening for selected disorders of fatty and organic acid disorder and congenital adrenal hyperplasia by no later than July 1, 2005. If the department is unable to provide statewide screening of these disorders, the legislation would require the department to temporarily utilize one or more laboratories through a competitive bid process. Fees for the program would be done through the regulation process in consultation with the Department of Insurance and the Department of Managed Health Care.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please provide a very brief summary of the key results of the Pilot Project. Was it successful and does it make sense that California should seek expansion of the existing Newborn Screening Program? When will the report on the Pilot Project be available?**
- **2. Why hasn't the DHS expanded the Newborn Screening Program when other states provide screening for many more services?**

Budget Issue: Does the Subcommittee **want to adopt SB 142 as placeholder trailer bill language** as an effort to continue discussions with the Administration on expanding and improving the Newborn Screening Program?

3. Governor's Proposed Trailer Bill Language—Eliminate Methadone Lab Regulation

Background: The DHS is required to operate a Methadone Laboratory Regulation Program. This program was first codified in 1972 under Welfare and Institutions Code and later re-codified in 1977 under the Health and Safety Code. **Laboratories regulated under this program conduct lab tests to determine if any type of controlled or illegal drugs is present in specimens taken from individuals in drug treatment programs (such as the Methadone Maintenance), on probation or incarcerated, or required to test for employment purposes.**

This DHS regulation program is responsible for licensing and regulating the laboratories that conduct testing for about 32,000 Methadone Maintenance patients in the state. According to the DHS, there are presently *three laboratories in California and one out-of-state laboratory approved by the DHS to conduct testing*.

Specifically, the major activities of the DHS Methadone Laboratory Regulation Program include (1) proficiency testing of the laboratories, **(2)** qualification of supervisory laboratory staff, and **(3)** periodic on-site inspections of the laboratories. According to some representatives of the lab industry, the DHS' rigorous proficiency standards assure validity and reliability by utilizing "blind sampling" that sends "spiked" samples along with those submitted by clinics. **These are tested and validated for accuracy and the state's standards are more stringent than the federal standards. For example, California's lab results exceed the 90 percent reliability standard.**

Budget Control Section 4.1 Reduction Eliminated Program: Through this control section, the DHS eliminated the existing resources for this program—specifically, a Public Health Chemist III and a Staff Services Analyst—for savings of $131,000 (General Fund). As noted in the budget discussion below, the DHS intends to shift regulatory responsibility for oversight to the Clinical Laboratory Improvement Act as operated by the DHS.

Background—DHS Lab Activities & the Clinical Laboratory Improvement Amendment (CLIA): **According to the DHS, there are currently about 17,500 laboratories doing business in California, including those in physician offices, clinics and the like.**

The DHS Laboratory Field Services section is responsible for the oversight of clinical laboratories, clinical laboratory personnel, blood banks and all cytology laboratories in the state. These activities are to be supported with fee revenue obtained from those entities for whom the state provides oversight and monitoring. **These fees are deposited in the Clinical Laboratory Improvement Fund (CLIF) and are used for this purpose.**

In 1992 Congress, though the Clinical Laboratory Improvement Amendment (CLIA), implemented federal standards on all clinical laboratories. Of key importance in this action was that it immediately brought about *10,000 physician office laboratories and clinics* in California under oversight. These facilities had previously been exempted by state law from inspections or fee requirements.

In the early 1990's the DHS determined that it would be in the best interest of laboratories for California to seek an exemption from federal oversight (CLIA exemption) and SB 113 (Senator Maddy), Statutes of 1996 was chaptered. As part of this package, emergency regulations were enacted by the DHS that temporarily postponed the collection of duplicate fees from those laboratories newly brought under state oversight (i.e., physician office laboratories and others) until CLIA exemption could be achieved.

However, the DHS was notified in 2000 that the federal CMS was going to impose an administrative overhead fee of $2.4 million annually on California to sustain CLIA exemption. Therefore, the *DHS declined to further pursue CLIA exemption*. *Further, the emergency regulations that postponed fee collection of laboratories in California has continued to this time.* In the Hand Out Package, there is a chart which depicts which laboratory classifications are presently paying fees and which are not.

The bottom line is that the DHS notes that there are not enough fee revenues to conduct all of the laboratory activities associated with complaint investigations, proficiency testing, consultation, Medi-Cal approvals, fraud investigations , onsite inspections, and other enforcement activities. They state that this has resulted in the postponement of licensing examinations, delays in implementation of new licensing regulations and delays in many other functions.

Clinical Laboratory Technology Advisory Committee Meeting of March 2004: According to information provided at public meeting regarding clinical laboratory activities, **it was noted that due to the lack of sufficient resources the following issues, *among others*, have been found:**

- 42 laboratories in California are awaiting onsite inspections prior to opening (backlog 6 months)
- 40 laboratories outside of California have been waiting for inspections for at least 6 months.
- 450 laboratory license renewals are backlogged by 4 months.
- 32 laboratories are awaiting approval to do HIV testing.
- 650 phlebotomy applicants (pertains to blood) are awaiting certification.
- Tissue Bank licenses are being issued without inspection.
- Blood Banks are only being inspected every 3 to 3 and one half years.
- 75 individuals awaiting genetic scientists licensure.

Governor's Proposed Budget—Proposed Trailer Bill Language (See Hand Out): The Governor is **proposing to (1)** eliminate existing statute which requires the DHS to operate a Methadone Laboratory Regulation Program in California, and **(2)** shift regulatory responsibility for the oversight of these laboratories to the Clinical Laboratory Improvement Amendment (CLIA) as operated by the DHS.

The DHS states that this proposal is only eliminating the state-only requirements for Methadone laboratory certification and that the laboratories would still operate under their federal laboratory certifications. The DHS contends this proposed action would ensure continued public health support to the states narcotic treatment clinics and their patients while reducing government duplication.

The DHS further states that the Department of Alcohol and Drug Programs (DADP) has no concerns with this DHS change though the DADP will need to re-write its Narcotic Treatment Program regulations to reflect the change (which the DHS claims is minor). The Subcommittee has received no communication from the DADP on this issue and can therefore, not verify their perspective directly.

Constituency Concerns: The Subcommittee is in receipt of letters which oppose the elimination of the states oversight for Methadone Drug Laboratories. Specifically, they note that the certification of these "forensic toxicology" laboratories is distinguished from the CLIA certification because CLIA does not require, nor have a mechanism to perform, proficiency testing for laboratories that perform forensic toxicology tests. However, the federal Substance Abuse and Mental Health Administration (SAMSHA) has an approval process for laboratories and competency testing. As such, some laboratories may want to seek federal approval versus state oversight.

In lieu of the Administration's proposal, they are requesting a two-year sunset for the existing state oversight and for the DHS to make a formal request that the federal Substance Abuse and Mental Health Administration (SAMSHA) expedite the approval process for state laboratories that are in transition from state to federal methadone drug analysis of laboratories.

Subcommittee Staff Comment and Recommendation: Based on the above outlined information regarding the need to have stringent proficiency testing for methadone laboratories, problems with resource allocations in the CLIA program, and a federal option with SAMSHA that can be explored, **it is recommended to reject the Administration's proposal to eliminate the statute.** Further, due to the myriad of issues in the laboratory oversight area, it is recommended to not propose a two-year sunset date until such time as the DHS has better resolved how it will address on-going CLIA issues, as well as have discussions with the federal SAMSHA about their process.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please explain the budget proposal to eliminate the statute.
- **2. Please provide an update on CLIA and CLIF resources. Does the DHS have any short-term or longer-term solutions here?**

Budget Issue: Does the Subcommittee **want to reject the Administration's proposal to eliminate this statute?**

4. Cancer Research Program Funding—Control Section 4.1 and Budget Year

Background and Clarification of Prior Years Funding: Chapters 755 and 756, Statutes of 1997 (AB 1554, Ortiz and SB 273 Burton), created the Cancer Research Act of 1997. From 1998 to 2001, the annual Budget Act provided $25 million (General Fund) for this program.

Due to fiscal constraints, the Budget Act of 2002 and accompanying legislation (1) reduced the appropriation level to $12.5 million, **(2)** allowed for the receipt of private donations to the program, **(3)** capped the indirect costs for the grants at 25 percent, ***and*** **(4)** provided for multiple-year contracting for the grants. **However, a Mid-Year Reduction (Control Section 3.90) adjusted this appropriation to $6.25 million (General Fund) for 2002-03.**

The Omnibus Health Trailer Bill (Chapter 1161, Statutes of 2002) provided for unencumbered and unexpended balances from prior fiscal years (1999-2000, 2000-01 and 2001-02) for the Cancer Research Program to be re-appropriated and to be available for encumbrance and expenditure until July 30, 2005 (this date was chosen due to the multiple year nature of research grants). **This re-appropriation provided an additional $2.6 million. Therefore, total resources available for expenditure for 2002-03 was $8.8 million (including the appropriation and re-appropriation). Actual expenditures were $6.1 million (as of June 2003). Therefore, about $2.7 million was remaining as a balance for re-appropriation.**

The Budget Act of 2003 appropriated $3.125 million (General Fund) for the program. The appropriation was made in Provision 14 of Item 4260-001-0001. The Administration, using Budget Control Section 4.1, eliminated the entire General Fund appropriation. ***(This action is discussed further below.)***

The Budget Act of 2003 also included re-appropriation language that allows for the expenditure of unspent Cancer Research Funds appropriated in the Budget Act of 2002. As such the $2.7 million was the amount that was unspent; however, the DHS states that $1.9 million is the anticipated expenditure and encumbrances as of May 5, 2004. **Therefore, about $800,000 is likely to be available for re-appropriation.**

Legislative Counsel Opinion and Budget Control Section 4.1 of the Budget Act of 2003: At the request of Senator Ortiz, Legislative Counsel conducted an analysis of Budget Control Section 4.1 (Control Section) and the application of it by the DOF specifically to the Prostate Cancer Program. **Through this analysis, Legislative Counsel notes the following key factual aspects:**

- The Control Section **limits the reductions** to a state operation appropriation, and a program, project or function designated in any line of any schedule set forth by that appropriation, **may not be reduced by this section by more than 15 percent** (See **Subdivision h of the Control Section**).
- Item 4260-001-0001 (DHS state support item) was reduced by about $15.5 million from an appropriation of $264.1 million. This equates to less than 15 percent overall. **However, the DOF specifically eliminated funding for the Cancer Research Program.**

- Budget Act Language**-- Provision 14 of Item 4260-001-0001--directs that $3.125 million of the amount appropriated in this Item shall be appropriated for the Cancer Research Program. As such, the Legislature authorized a definite sum of money for a specific purpose—the Cancer Research Program.**

In an extensive analysis, **Legislative Counsel concludes that, in their opinion, the Control Section does not authorize the Director of Finance to eliminate or reduce an appropriation made in the Budget Act for a program in an amount that exceeds 15 percent if the program is a designated program for which an appropriation has been made (such as the Prostate Cancer Program).**

They state that the DOF's construction of the Control Section in this case is clearly erroneous because applying a 15 percent reduction to a schedule (meaning the entire Item 4260-001-0001) could result in the total elimination of an appropriation for a program for which the Legislature has made a specific designation, which is clearly not intended as noted in Subdivision h of the Control Section.

Governor's Proposed Budget: The Governor's budget proposes no appropriation for the Cancer Research Program. However, re-appropriation language (in Item 4240491-0589) is included which allows for expenditures of any unspent Cancer Research Funds appropriated in the Budget Act of 2002 (less than $800,000).

Subcommittee Request and Questions: The Subcommittee has requested for the DOF and DHS to respond to the following questions:

- **1. DHS, Please describe the budget proposal (for 2004-05), including the re-appropriation.**
- **2. DOF, Please explain the Control Section 4.1 process and the elimination of the funds for Cancer Research.**

5. Continued Implementation of Proposition 50 by the DHS

Background on DHS' Drinking Water Program: The DHS has been responsible for regulating and permitting public water systems since 1915. **The Drinking Water Program provides for ongoing surveillance and inspection of public water systems, issues operational permits to the systems, ensures water quality monitoring is conducted and takes enforcement actions when violations occur. The program oversees the activities of about 8,500 public water systems that serve more than 34 million Californians (about 98 percent of the population).**

The DHS is designated by the federal Environmental Protection Agency as the primacy agency responsible for the administration of the federal Safe Drinking Water Act. Under the federal Safe Drinking Water Act, California receives funding to finance low-interest loans and grants for public water system infrastructure improvements. **In order to draw down these federal capitalization grants, the state must provide a 20 percent match.** Proposition 13 bond funds had been used as the state match for this purpose in previous years. **However, the state match for future capitalization grants is now provided by Proposition 50, as contained in the Proposition. Proposition 50 bond funds are also used for additional purposes as discussed below.**

CALFED Program Relationship: The **DHS is also a participant with other state and federal agencies in the CALFED Program.** The CALFED Program, pursuant to SB 900, Statutes of 1996 was authorized to develop by means of Programmatic Environmental Impact Statement/Report a preferred alternative of programs, actions, projects and related activities which will provide solutions to water management problems in the Bay-Delta Region. The DHS' involvement relates to drinking water improvement projects.

Background on Proposition 50 and Chapters Applicable to the DHS Drinking Water Program: Proposition 50—the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002—was approved by the voters **to provide *$3.4 billion* in funds to a consortium of state agencies and departments to address a wide continuum of water quality issues.** The bond measure contains 11 chapters, or subdivisions, which delineates the funding level to be provided over the course of the bond and the activities and functions which are to be addressed. **It also contains language throughout the measure that provides authority to the Legislature to *"enact such legislation as is necessary"* to implement certain chapters.**

Several chapters within the Proposition 50 bond measure pertain to functions conducted by the DHS as it pertains to the Drinking Water Program, including Chapter 3 and Chapter 4**. The DHS anticipates receiving as much as $528 million over the course of the bond measure. This funding is discussed below.**

Background on Chapter 3—Water Security ($50 million total from bonds proposed for DHS): Proposition 50 **provides a total of $50 million for functions that pertain to water security, including the following:** (**1)** Monitoring and early warning systems; **(2)** Fencing; **(3)** Protective structures; **(4)** Contamination treatment facilities; **(5)** Emergency interconnections; **(6)** Communications systems; and **(7)** Other projects designed to prevent damage to water treatment, distribution, and supply facilities. It is anticipated that this total amount will be utilized over a four-year period.

Background on Chapter 4—Safe Drinking Water ($435 million total from bonds for DHS): Proposition 50 provides that $435 million be available to the DHS for expenditure for grants and loans for infrastructure improvements, and related actions to meet safe drinking water standards. **About $17 million will be used as the state's matching funds to access the federal capitalization grants for public water system infrastructure improvements. These state matching funds will be spent over 5 years.**

With respect to the other projects, the Proposition states that the funds can be used for following types of projects: ,**(1)** Grants to small community drinking water systems to upgrade monitoring, treatment or distribution infrastructure; **(2)** Grants to finance development and demonstration of new technologies and related facilities for water contaminant removal and treatment; **(3)** Grants for community water quality; **(4)** Grants for drinking water source protection; **(5)** Grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards; and **(6)** Loans pursuant to the Safe Drinking Water State Revolving Fund (i.e., the existing program whereby the state draws down an 80 percent federal match).

In addition the Proposition requires that not less than 60 percent of the bond funds pursuant to Chapter 4 be available for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use as specified.

Governor's Proposed Budget & Finance Letter Request: The **Administration proposes to provide the following funding for 2004-05 to the DHS:**

- ***For Chapter 3 Functions (Total of $10.4 million for 2004-05):*** **(1)** $10.1 million for local assistance projects, and **(2)** $262,000 for on-going state support and administration.
- ***For Chapter 4 Functions (Total of $99.8 million for 2004-05):*** **(1)** $17 million for state match funds to access federal capitalization grants for public water system infrastructure improvements, **(2)** 80.8 million for local assistance projects, and **(3)** $1.9 million for administration.

Subcommittee Staff Comment—Issue of Private Entities and the DHS Draft Guidelines: The **DHS has issued draft guidelines for Proposition 50 bond funds that would allow private water agencies to compete for bond funds.** The Legislative Counsel as well as legal counsel for the DHS have issued legal opinions that contend private water agencies are eligible for bond funds. The California Public Utilities Commission regulates investor owned water utilities and mutual water companies. Traditionally, these utilities have been relatively small utilities that serve small jurisdictions. **However in recent years, larger investor owned utilities have purchased many of these small utilities.**

It should be noted that SB 909 (Senator Machado) is currently pending before the Legislature and would specifically allow grants of state bond funds to be made to investor owned water utilities and mutual water companies.

However, other interested parties contend that while Proposition 50 did not explicitly exclude private water companies within the text of the enabling statutory language, there is

similarly no explicit inclusion of private water company eligibility either. Further, they note that the official voters guide told voters that the bond funds would be available for expenditure by various state agencies and for loans and grants to local agencies and non-profit associations. They also contend that some of the larger investor owned utilities and mutual water companies have greater access to the capital markets for the purposes of financing projects than many municipal utilities.

To-date, the other state agencies administering water-related grant programs have not published guidelines that explicitly allow private water agencies to compete for bond funds.

Subcommittee staff has been advised that the Administration is currently considering this policy issue internally.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please **describe the budget proposal for the funding**, including both Chapters 3 and 4.
- **2.** What is the **schedule for distributing the bond funds** to local agencies?
- **3.** What is the **timeline for the Administration's timeline for determining whether to allow private water companies to compete for bond funds?**
- **4.** Are there **any other pending aspects of this bond appropriation and allocation that the Subcommittee should be made aware of?**

Budget Issue: Does the Subcommittee **want to (1) approve the appropriation as budgeted and (2) adopt Budget Bill Language that would allow for the DHS to provide bond funds to private water companies *only if* legislation which allows for this passes in the current session and is chaptered?**

6. Federal Bioterriorism—New Funds, More State Staff, and Application Coming

Background—Overall Summary: The Emergency Supplemental Appropriations for Recovery & Response to Terrorist Attacks on the US Act (Public Law 107-117 of 2002), and subsequent federal legislation, **provided states with additional federal funds to support and address both local and state concerns regarding the threat of bioterrorism.**

Under this federal law there are two funding streams made available to California—one from the federal Centers for Disease Control (CDC), and one from the federal Health Resources and Services Administration (HRSA). The CDC grant is in support of state and local public health measures to strengthen the state against bioterrorism via a "Cooperative Agreement" to the DHS. The HRSA grant is for the development and implementation of regional plans to improve the capacity of hospitals, their emergency departments, outpatient centers, emergency medical systems and related matters.

The grants require California to meet specified benchmarks and activities. As such California must submit a Cooperative Agreement application to the federal government for their review and approval. However, California is assured by the federal government that grant funds will be provided, once the application is approved.

The DHS notes that they are responsible for detecting and responding to bioterriorism acts. Regardless of source, surveillance of infectious diseases, detection, and investigation of outbreaks, identification of etiologic agents and their modes of transmission, and the development of prevention and control strategies are the responsibility of state and local public health agencies. **They also note that the ultimate responsibility for protecting the public and environmental health of the population on the ground lies with the Local Health Jurisdictions, especially during biological or chemical incidents.**

CDC Cooperative Agreement Grant Overall: This grant is for upgrading the state and local public health jurisdictions' critical capacities related to preparedness for and response to bioterriorism in **seven focus areas as follows:** Planning and Readiness Assessment, Surveillance and Epidemilogy Capacity, Communications and Information Technology, Health Risk Communications and Information Dissemination, and Education and Training. As a condition of the funding, the DHS must meet 16 critical capacities and 25 benchmarks.

HRSA Grant Overall: This grant is focused on activities for the Hospital Bioterrorism Preparedness Program. These funds are to be used for hospitals, outpatient facilities, local emergency medical systems, and poison control centers. A needs assessment of hospitals' and clinics' capabilities to respond to a bioterriorism event has been completed and funds have been provided to hospitals and clinics for planning and preparedness activities. A Joint Advisory Committee has been established, as required by the federal government, to allocate the grant funds to local entities and to address inter-hospital and regional planning issues regarding the management of a bioterrorism incident.

Budget Act of 2003 and Administration's Section 8 Letter: Since these bioterriorism grants operate on a federal fiscal year and also require states receiving funds to summit a detailed application which requires federal approval, **the timing of the process does not neatly correspond to California's state budget cycle or fiscal year. For example, the federal government provides states with guidelines for development of the applications in mid-May. States usually have 45 days after receipt of the federal guidelines. In addition, the federal government usually makes some changes to these applications. As such, the Legislature is at risk of appropriating funds with little detail as to its potential expenditure in some cases.**

In the Budget Act of 2003, the Legislature agreed that about half of the new federal funds for the August 31, 2003 to August 30, 2004 cycle be funded in the budget and the remaining amount be appropriated through SB 678 (Senator Ortiz). **This was done in order to give the DHS ample opportunity to work with major constituency groups—Local Health Jurisdictions, County Health Officers, hospitals, and related core emergency/disaster-related response entities—on specifically how the funds were to be spent (and to correspond to the state's federally –approved applications).**

SB 678 stalled on the Assembly floor at the end of session last year due to issues unrelated to the content of the legislation, the remaining federal funds were appropriated through authority provided via the Joint Legislative Budget Committee and the Section 8 process in the Fall of 2003. These funds are shown in the fiscal chart below. However, SB 678 was just recently signed by the Governor in April 2005 so all other aspects of the legislation are now in place.

Summary of Recent Federal Grant Funds—2002, 2003 and 2004: In the table below, the allocation of funds by ***focus area*** for the past several ***federal fiscal years*** is shown.

A. Grant Cycle—(Combined) August 31, 2001 to August 30, 2003 ***(Shown by Grant and Focus Area)***	**State Funding**	**State Positions**	**Local Health Funding**	**Hospital & Health Care Providers**	**TOTAL FUNDING**
1. CDC Grant	**$17.5 million**	**71**	**$41.7 million**		**$62.2 million**
A—Preparedness Planning & Readiness Assessment	4.5 million		17.9 million		22.4 million
B—Surveillance & Epidemiology Capacity	3.6 million		8.8 million		12.4 million
C—Laboratory Capacity-Biologic	3.8 million		3.6 million		7.4 million
D—Laboratory Capacity-Chemical	2 million				2 million
E—Health Alert Network & Communications			4.4 million		4.4 million
F—Communicating Health Risks & Health Information Dissemination	1.1 million		2.3 million		3.4 million
G—Education & Training	2.3 million		4.7 million		7 million
General Fund Backfill to repay local health subvention			3 million		3 million
2. HRSA Grant	**$1.4 million**			**$8.5 million**	**$9.9 million**
TOTAL (both grants)	**$18.9 million**	**71**	**$44.7 million**	**$8.5 million**	**$72.1 million**

B. Grant Cycle **August 31, 2003 to August 30, 2004** ***(Shown by Grant and Focus Area)***	**State Funding**	**State Positions**	**Local Health Funding**	**Hospital & Health Care Providers**	**TOTAL FUNDING**
1. CDC Grant	**$21.5 million**	**76**	**$48.6 million**		**$70.1 million**
A—Preparedness Planning & Readiness Assessment	3.3 million		11.3 million		14.6 million
B—Surveillance & Epidemiology Capacity	5.3 million		10.1 million		15.4 million
C—Laboratory Capacity-Biologic	2.9 million		6.6 million		9.5 million
D—Laboratory Capacity-Chemical	1.5 million				1.5 million
E—Health Alert Network & Communications	2.5 million		6.7 million		9.2 million
F—Communicating Health Risks & Health Information Dissemination	1.4 million		3.5 million		4.9 million
G—Education & Training	2.8 million		6.6 million		9.4 million
Strategic National Stockpile (forward deployment of medical and pharmaceutical supplies)	1.7 million		3.8 million		5.5 million
2. HRSA Grant	**$5.3 million**			**$33.5 million**	**$38.8 million**
TOTAL (both grants)	**$26.7 million**		**$48.6 million**	**$33.5 million**	**$108.8 million**

California Must Submit New Application to Obtain Federal Grant Funds: A new federal grant cycle is approaching which will require the state to submit an application for federal approval. **As with last year (as discussed above)**, **the Budget Bill will be completed prior to the completion of the Cooperative Agreement application being submitted, reviewed and approved by the federal government.** According to the DHS, states are to receive the guidelines in **mid-May** and are then expected to submit an application to the federal government within 45 days.

Governor's Proposed Budget & Finance Letter—New Federal Funds, New Positions & Budget Bill Language Requested: The Governor is proposing **two adjustments** regarding this federal bioterrorism funding. **First, the DHS is requesting an increase of $76.5 million (federal funds) for total expenditures of $108.9 million (federal funds) in 2004-05.**

Second, the DHS is requesting an increase of 28.8 new state positions in addition to an existing base of 76 positions for this purpose. Of these total new positions, 10 are requested to be made permanent and 18.8 are limited-term (through June 30, 2005).

As noted in the table below, of the total amount, (1) $36.5 million, is for state support and related functions, (2) $47.1 million would be provided to Local Health Jurisdictions, and (3) $25.2 million would be provided for local assistance associated with the HRSA grant requirements.

Third, the DHS is seeking approval of Budget Bill Language (both in the state support item and local assistance item) that would allow for expenditure and encumbrance of these federal funds through August 30, 2006. This is one year longer than the state's fiscal year and one year past the federal fiscal year for which the funds are allocated to California. **Specifically, this proposed language is as follows:**

> "Notwithstanding any other provision of law, moneys made available for bioterrorism preparedness pursuant to this Act shall be available for expenditure and encumbrance until **August 30, 2005**."

Summary of Bioterriorism Funding for 2004-05 *(State Fiscal Year)*

DHS Proposed Budget & Finance Letter for Bioterrorism 2004-05 (State Fiscal Year)	State Support (Positions)	Local Health Jurisdictions	Hospitals, EMS & Related Entities	TOTALS
1. CDC Grant ***(anticipated)***	$23 million (76 + 18.8 positions = 94.8)	$47.1 million	N/A	$70.1 million
2. HRSA Grant ***(anticipated)***	$13.5 million (0 + 10 = 10 positions)	N/A	$25.2 million	$38.7 million
TOTAL Amounts	**$36.5 million**	**$47.1 million**	**$25.2 million**	**$108.8 million**
Baseline Amount	**($7.3 million)**	**($25 million)**	**0**	**($32.3 million)**
CDC Baseline	$6.8 million	$25 million	N/A	$31.8 million
HRSA Baseline	$488	N/A	0	$488
Requested Increase	**$29.2 million**	**$47.2 million**	**$25.2 million**	**$76.5 million**
CDC Baseline	($16.2 million)	($22 million)	N/A	($38.2 million)
HRSA Baseline	($13.1 million)	N/A	($25.2 million)	($38.3 million)

With respect to state support, the DHS contends it needs an additional 28.8 positions in addition to the base of 76 positions because (1) the federal government added more requirements, and **(2)** positions are needed to track all fiscal aspects of the grants. The DHS states that all activities outlined in the Cooperative Agreement must be performed by the recipient agency (i.e., DHS) as a condition of the CDC award. In addition, the DHS states that HRSA has added numerous benchmarks required benchmarks as a condition of funding.

Although the DHS will address some of these requirements through interagency agreements and contracts, an additional 10 permanent positions and 18.8 limited-term positions (until June 30, 2005) are needed to ensure coordinated planning and response efforts between the state and Local Health Jurisdictions.

Constituency Comments: Some constituency groups have expressed a desire to place a portion of the federal bioterriorism funds into SB 431 (Ortiz) (as amended January 5, 2004) as was similarly done last year (as discussed above in this agenda).

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please explain when the state will be receiving guidance from the CDC and HRSA on the grant applications, and **the state's schedule for submitting the application. How will the state incorporate the needs of the Local Health Jurisdictions and other interested parties?**
- **2. Does the federal government (either CDC or HRSA) ever make changes to the state's application?**

- **3. Please provide a brief summary of the budget and Finance Letter proposal to increase funds and to add 28.8 additional staff.**
- **4. Are any of the existing 76 authorized positions vacant? If so how many and what are the DHS' plans for filling them?**
- **5. Is California at risk of losing any existing federal grant funds in the current-year?**
- **6. Could any of the state DHS' federal bioterrorism funds be used to support the activities associated with SB 2065 (Kuehl), Statutes of 2002 regarding conducting an inventory of low-level radioactive waste (as discussed in the May 3rd Subcommittee Agenda)? If not, why not since these materials do pose a bioterriorism risk (such as a dirty bomb)?**

Budget Issue: Does the **Subcommittee want to modify the appropriation for the federal bioterriorism funds?**

LAST PAGE OF AGENDA

Diane Van Maren 445-5202 (w)
Senate Budget & Fiscal Review 5/10/2004

OUTCOMES: Subcommittee No. 3: Monday, May 10th, 2004

(USE the Subcommittee Agenda as a reference)

Senate Budget Subcommittee No. 3: Monday, May 10th

I. Vote Only Calendar

1. Reduction to Substance Abuse & Mental Health Services Administration Block Grant

- Approve as proposed.
- Vote 5-0

2. Projects for Assistance in Transition from Homelessness (PATH) Formula Grant

- Approve as proposed.
- Vote 5-0

3. Budget Bill Language—Capital Outlay Related to Metropolitan State Hospital

- Approve as proposed.
- Vote 3-2 (McClintock and McPherson)

4. Budget Bill Language—Capital Outlay Related to Patton State Hospital

- Approve as proposed.
- Vote 4-1 (McClintock)

5. Budget Bill Language—Capital Outlay Related to Metropolitan State Hospital

- Approve as proposed.
- Vote 4-1 (McClintock)

II. Items for Discussion (Page 4 of Agenda)

A. 4440 Department of Mental Health

1. Status Update--Administration's Proposal for the EPSDT Program for Mental Health ISSUES "A" and "B"

- Both issues held OPEN pending receipt of the May Revision.

B. 4260 Department of Health Services (Page 12 of Agenda)

1. DHS Not Reimbursing for Services Provided by Some Contractors

- **Action: (1) Directed the DHS to work with the constituents to clarify any remaining issues, and (2) Adopted Budget Bill Language for the DHS to notify the Legislature by November 1, 2004 as to what actions have been taken to improve their overall contracting process (Diane Van Maren will provide language).**
- Vote 5-0

2. Genetic Disease Testing Fund—ISSUES "A", "B", and "C" (Page 15)

ISSUE "A" Screening Information System (SIS) (Page 16)

- **Action: Deleted $2 million from the $5 million General Fund loan (i.e., changes the provision language amount).**
- **3-2 (McClintock and McPherson). Substitute motion of deleting the entire amount failed on a 2-3 vote (Chesbro, Ortiz, and Cedillo).**

ISSUE "B" Request for State Staff for Genetic Disease Testing Program (Page 19)

- **Action: Rejected the request to add positions as requested in the budget.**
- **Vote 5-0.**

ISSUE "C"--Proposal to Expand the Newborn Screening -Tandem Mass (Page 21)

- **Action: Adopted the contents of SB 142 as trailer bill legislation.**
- **Vote: 5-0**

3. Governor's Proposed Trailer Bill—Eliminate Methadone Lab Regulation (Page 23)

- **Action: Rejected the Administration's proposal to eliminate the statutory provisions regarding the regulation of methadone laboratories.**
- **Vote 3-2 (McClintock and McPherson)**

4. Cancer Research Program Funding—Control Section 4.1 and Budget Year (Page 26)

- **Action: Keep OPEN pending receipt of the May Revision.**
- **Vote: N/A**

5. Continued Implementation of Proposition 50 by the DHS (Page 28)

- **Action: Keep OPEN pending receipt of the May Revision.**
- **Vote: N/A**

6. Federal Bioterriorism—New Funds, More State Staff, and Application Coming (Page 31)

- **Chairs Motion to Be Placed On Vote Only at May Revision: (1)** Reduce the support item by $2.3 million (which is 10 percent of the CDC grant portion of the states support amount) (This appropriation will be placed in Senator Oritz's legislation), **(2)** Adopt Budget Bill Language directing the DHS to include implementation of SB 2065, Statutes of 2002, in the state's application to the CDC, and **(3)** Adopt Budget Bill Language directing the DHS to provide notification to the Legislature regarding any changes the federal government makes to the state's application, including funding and policy changes.
- **Vote: N/A (To be taken up at May Revision)**

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Agenda 2

May 10, 2004
Room 112 – 1:30 p.m.

Consultants, Brian Annis and Ana Matosantos

VOTE ONLY ITEMS

5180 Department of Social Services

1. Proposed Legislation to Repeal Various Items in State Statute

Through proposed trailer bill legislation, the budget proposes to repeal the following enacted legislation:

- **AB 408 (Chapter 813, Statutes of 2003) - Foster Children Relationships**
  AB 408 modified dependency laws in an effort to increase the chances that older foster children will be permanently placed with adoptive families, and to help older foster children maintain relationships with individuals who are important to them.
- **AB 529 (Chapter 744, Statutes of 2003) - Children in Family Day Care Homes**
  AB 529 allows one child enrolled in kindergarten to be treated the same as a child aged six or older for purposes of adding to the limit on the number of children who can be cared for by family day care homes.
- **SB 577 (Chapter 878, Statutes of 2003) - Protection and Advocacy agencies**
  SB 577 clarified and consolidated state laws related to California's protection and advocacy agency, Protection and Advocacy, Inc. (PAI), to conform to federal law.
- **AB 1151 (Chapter 847, Statutes of 2003) - Duty to Foster Children**
  AB 1151 established legislative intent that the "state has a duty to care for and protect the children that the state places into foster care" and extended the statute of limitations for a claim of injury or death of a minor in foster care.

Staff Comment and Recommendation: The purpose of trailer bill legislation is to enact provisions of state statute that are necessary to implement the Budget Act. The Administration proposes trailer bill legislation that is not necessary to implement the Governor's Budget. The proposed language would repeal recently enacted legislation considered by the Legislature through the policy process. Therefore, it is recommended that the Subcommittee reject the proposed trailer bill language, which is not necessary to implement the Governor's Budget.

Budget Issue: Does the Subcommittee wish to adopt the staff recommendation to reject the proposed repeal of the aforementioned legislation?

2. Suspension of State Mandate

Background: California law requires that child abuse defendants successfully complete no less than one year of treatment and counseling as approved by the county probation department. The Commission on State Mandates ruled that the recent law, which requires county probation departments to approve treatment and perform activities associated with the defendant's progress reports, constitutes a state mandate. The Legislature suspended this mandate in the current year.

Governor's Budget: The budget proposes to suspend this mandate for the budget year.

Budget issue: Does the Subcommittee wish to adopt the proposed mandate suspension?

3. Immigrant Programs

Background: California funds and operates various human services programs that provide safety net services to legal immigrants who are aged, blind or disabled and to legal immigrant families. Program services include food assistance, cash assistance, and welfare-to-work services for eligible individuals and families. The programs include:

- Cash Assistance Program for Immigrants (CAPI), which provides cash benefits to aged, blind and disabled legal immigrants who became ineligible for SSI as a result of welfare reform.
- California Work Opportunity and Responsibility for Kids (CalWORKs) for legal immigrants program which provides cash assistance and welfare-to-work services to otherwise CalWORKs eligible parents or caretaker relatives who are legal immigrants that have been in the United States for five years or less.
- California Food Assistance Program (CFAP), a state-only food stamp program for legal non-citizens.

Governor's Budget: The Governor proposed legislation to cap enrollment for various human services programs, effective April 1, 2004, as part of his proposed Mid-Year reductions. The Governor's Budget assumes implementation of the proposed enrollment caps for total current year and budget year General Fund savings of $4.5 million.

The Governor's Budget also proposes to eliminate CAPI, CFAP and CalWORKs for legal immigrants and instead provide block grant funding to counties to support safety net programs for immigrants effective October 2004 for General Fund savings of $5.9 million.

Staff comment and Chair's recommendation: At its April 15 hearing, the Subcommittee considered the Governor's proposed cap to enrollment and block grant for various human services programs. The Chair's recommendation at the April 15 hearing was to reject the Governor's proposals and to direct Subcommittee staff to develop alternative proposals to achieve savings including implementation of SSI advocacy efforts across the state to reduce the CAPI caseload.

Budget issue: Does the Subcommittee wish to reject the Governor's proposals, restore program funding, and direct Subcommittee staff to develop trailer bill legislation to implement SSI advocacy efforts statewide to reduce the CAPI caseload and realize General Fund savings?

7350 Department of Industrial Relations (DIR)

1. Reappropriation for the Case Management System IT Project (Finance Letter #1)

Background: The Budget Act of 2003 appropriated $960,000 for the Division of Labor Standards Enforcement's centralized Case Management System (CMS) information technology project. The DIR indicates the CMS will improve data analysis and enforcement, and provide easy access to statewide information for staff and members of the public. The total cost for the CMS is estimated at $3.7 million through 2007-08 (excluding the cost of redirecting existing staff). Contract award for the project has been delayed due to procurement changes and DIR now anticipates the contract will be awarded in October 2004.

Finance Letter: The Administration proposes to reappropriate up to $960,000 to reflect the revised timetable for the CMS project.

Budget issue: Does the Subcommittee wish to approve the proposed reappropriation?

4140 OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

1. Family Physician Training Program

Background: The Song-Brown Family Physician Training Program seeks to increase the number of general practice health care providers by providing clinical training opportunities to physician residents, physician assistants, and family nurse practitioners. Song-Brown funds 40 institutions that provide clinical training to approximately 403 family practice providers each year.

In 2001-02, Song-Brown providers served approximately 350,000 patients from underserved areas of the state. These providers are a valuable source of health care services in rural California and low-income communities across the state. Song-Brown providers deliver primary care services in the majority of California's teaching hospitals, community health centers, and county facilities. They are 4.5 times more likely than the average physician to practice in underserved areas of the state and generally choose to work in the community where they are trained.

Governor's Budget: The proposed budget provides $4.5 million ($4.1 million General Fund) to support the Song-Brown program, including $235,000 for state operations costs.

Staff comment: The Song-Brown Family Physician Training Program has traditionally been funded by the General Fund. Similar workforce development and training programs operated by the Office of Statewide Health Planning and Development (OSHPD) are funded with fee revenue, including surcharges imposed on specific health care provider licenses.

At the request of Subcommittee staff, the Legislative Analyst's Office examined alternative funding sources for the Song-Brown Program. The LAO concluded that the state could utilize the California Health Data and Planning Fund in lieu of the General Fund for the state operations portion of the program.

The California Health Data and Planning Fund (CHDP) is comprised of revenues generated by fees assessed on licensed health facilities. The revenues are to be used for health planning, data consolidation, and other health-related programs that are required to be administered by OSHPD. Currently, CHDP supports OSHPD's data collection activities. The Governor's Budget proposes to shift administrative costs for the State Loan Repayment Program and the Health Manpower Pilot Projects Program from the General Fund to CHDP. Sufficient resources remain in CHDP to cover the state administrative portion of the Song-Brown program.

Subcommittee request and questions: The Subcommittee has requested that the Legislative Analyst's Office discuss the feasibility of funding the Song-Brown program with CHDP funds instead of the General Fund.

Budget issue: Does the Subcommittee wish to utilize CHDP funds to support the Song-Brown program and realize General Fund savings?

5180 DEPARTMENT OF SOCIAL SERVICES

1. Increase in Background Check Workload

Background: The Department of Social Services Community Care Licensing Division (CCLD) establishes standards for, and oversees eighteen types of community facilities that provide care and supervision to Californians. The facilities include adoption agencies, foster care homes and agencies, childcare homes and centers, and residential care facilities for disabled and elderly adults. CCLD is responsible for the enforcement of state requirements that persons licensed to operate these facilities, provide care to facility clients, or reside at the facility location, receive a comprehensive criminal background check.

CCLD requires that individuals receive a fingerprint-based check of their criminal history from both the Department of Justice and the Federal Bureau of Investigation. Persons associated with children's facilities are also subject to a check with the Child Abuse Central Index. If criminal history information indicates a conviction, CCLD evaluates the individual's history, the type of conviction received, the frequency and recentness of the convictions, and efforts made towards rehabilitation, to determine if the individual can be involved in a licensed facility. If an arrest is identified, CCLD will independently investigate the circumstances of the arrest, and determine if the allegations can be substantiated according to licensing standards ("preponderance of evidence" instead of "beyond a reasonable doubt"), to determine if the individual should be allowed to have contact with clients in a facility. If an individual is determined to be unsuitable, CCLD will deny an associated license application, revoke or suspend an existing license, or exclude the person.

Since 2002, CCLD has experienced a significant increase in the number of subsequent arrests and subsequent convictions information that it receives. Historically, CCLD received 580 rap sheets from DOJ each week, or an estimated 33,000 per year. CCLD now receives 1,559 rap sheets per week, or an estimated 81,000 per year. The number of rap sheets received by CCLD and the resulting workload continues to rise.

Governor's Budget: The budget provides a $4.6 million augmentation ($2.6 million General Fund) and establishes 58.2 new positions due to the increase in the number of rap sheets received by CCLD and the resulting increase in background check workload. The budget reflects an increase in the number of positions authorized by the Department of Finance in November 2003 to process the increased background check workload.

Staff comment: Several departments across the Health and Human Services Agency are responsible for the licensing, including conducting background checks, of different categories of providers. The departments operate according to different statutory requirements, evidentiary standards, and licensing criteria. The state's decentralized licensing system may lead to unnecessary duplication and inconsistency across programs. California may benefit from examining its licensing system and developing reforms that reduce duplication and increase standardization in licensing functions, including conducting criminal background checks.

Budget issue: Does the Subcommittee wish to approve the proposed positions to process the increased background check workload and to take any action to streamline licensing functions?

7100 Employment Development Department

Purpose: The Employment Development Department (EDD) is the primary catalyst for building and sustaining a high quality workforce. The EDD serves the people of California by matching job seekers and employers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, and assists disadvantaged and welfare-to-work job seekers by providing employment and training programs. In addition, EDD collects and provides economic, occupational, and socio-demographic labor market information concerning California's workforce.

Budget: The Governor proposes $12.62 billion ($18.8 million General Fund), a decrease of $836.7 million (6.2 percent) from the current-year budget.

DISCUSSION ITEMS:

1. Delete the Manufacturing Technology Program Provisional Language (Finance Letter #1).

Background*:* The Governor's Budget includes $2.1 million in Employment Training Fund resources for an interagency agreement between the Employment Training Panel and the Business, Transportation, and Housing Agency for the purpose of funding the Manufacturing Technology Program (MTP). The MTP provides small and medium-sized manufacturers with access to a wide range of inexpensive business assistance including technical consultative services, workforce training, and professional development. The Employment Training Panel has separately approved training funds for the MTP's two regional offices.

Finance Letter: The Administration proposes to eliminate the provisional budget bill language that specifies $2.126 million of the $18.353 million Employment Training Fund appropriation shall be made available for the interagency agreement with the Business, Transportation and Housing Agency for the MTP. The total appropriation would not be reduced from $18.353 million. While deletion of the provisional language would not prohibit the interagency agreement, the Employment Training Panel indicates that training grants are a higher-priority than the MTP, and the MTP would not be funded in 2004-05. The Administration also indicates that Employment Training Panel funding for the MTP, whether for consulting or training, should be within ETP's purview and not a Budget Act provision.

Subcommittee request: The Subcommittee has requested that the Administration briefly explain why the MTP is a lower funding priority than training grants.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

2. Workers' Compensation Savings and Employment Training Panel Augmentation of up to $40 Million (April 1 Finance Letter)

Background: The Employment Training Panel (ETP) is a statewide economic development program that supports the California economy by providing worker training. The program seeks to assist employers, primarily small businesses, compete in the global economy while providing

workers higher wages and secure employment. The ETP is funded by the Employment Training Tax deposited into the Employment Training Fund. California employers participating in the Unemployment Insurance System pay this tax. ETP expenditures from the Employment Training Fund exceeded $100 million in both 2001-02 and 2002-03; however, expenditures are estimated at $18 million in 2003-04 and $14 million in 2004-05. The appropriations and expenditures have declined due to falling Employment Training Tax revenue, and increased expenditures out of the fund by the Department of Social Services.

The Employment Training Fund also supports local assistance expenditures for the CalWORKs program administered by the Department of Social Services. The Employment Training Fund appropriation for CalWORKs was $30 million in 2002-03, but was increased to $56 million in 2003-04, and is proposed to be $56 million in 2004-05.

The Governor's Budget proposed a new General Fund transfer of up to $40 million to support the Employment Training Panel to be funded by workers' compensation savings. The transfer would be contingent on workers' compensation savings, but also permissive for the Director of Finance should those savings be realized. If the workers' compensation savings did not materialize or if the Finance Director did not choose to make the transfer, the ETP would be funded solely by the Employment Training Fund – with an appropriation of $18.353 million (the 2003-04 appropriation was $40.313 million, but expenditures were reduced to $22.915 million after anticipated revenues did not materialize – approximately $4.7 million of each years' appropriation supports operations of the tax collection branch).

Finance Letter: The Administration now proposes a different mechanism that would achieve a similar result to what was proposed in the Governor's Budget. A new Control Section 6.60 is proposed to allow the Director of Finance to survey departments for workers' compensation savings and transfer these savings to the General Fund. Instead of using the workers' compensations savings for a transfer to the Employment Training Fund, the Administration now proposes to augment (by up to $40 million) the General Fund CalWORKs appropriation, reduce the CalWORKs Employment Training Fund appropriation by the same amount, and increase (by up to $40 million) the Employment Training Panel Employment Training Fund appropriation. This would result in no net change to CalWORKs funding.

Subcommittee request: The Subcommittee has requested that the Administration briefly describe their current expectation for the level of General Fund workers' compensation savings and explain why the Administration is proposing permissive language.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

Senate Budget & Fiscal Review
Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Consultant, Ana Matosantos

Thursday, May 20, 2004
1:30 p.m.
Room 4203

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

5180 Department of Social Services

I. In-Home Supportive Services

Background: The In-Home Supportive Services (IHSS) program provides services to 359,000 low-income aged, blind or disabled individuals that allow them to remain safely in their own homes as an alternative to out-of-home care. IHSS is the largest home and community-based program available in California and is a core component of the state's long-term care system. IHSS services include domestic services, nonmedical personal care services, paramedical services, assistance while traveling to medical appointments, teaching and demonstration directed at reducing the need for support, and other assistance. Services are provided through individual providers, county contracts with service providers, or through welfare staff.

Summary of Funding:
IHSS is funded by a combination of federal, state and county funds. Program services eligible for federal financial participation are provided through the Personal Care Services Program (PCSP), while services ineligible for federal reimbursement are provided through the Residual Program. Eighty-one percent of services are provided through PCSP. PCSP services are a Medi-Cal benefit; therefore, the federal government funds approximately 50 percent of program costs. Nineteen percent of IHSS services are provided through the Residual program. The state and counties fund the non-federal share of IHSS costs, including Residual, at a ratio of 65% to 35%.

The total cost of the IHSS program has more than doubled from $1.39 billion in fiscal year 1998-99 to $2.8 billion in 2002-03. Absent statutory changes or funding changes, IHSS program costs are estimated to rise to $3.7 billion ($1.4 billion GF) in 2004-05.

Summary of Caseload:
IHSS provides services to 359,000 low-income aged, blind or disabled individuals, the vast majority of whom are SSI/SSP and Medi-Cal enrollees. Fifty-one percent of IHSS consumers are disabled, 47 percent are aged, and two percent are blind. Persons with developmental disabilities constitute a significant portion of the IHSS caseload (more than 12 percent). Total IHSS cases increased 64 percent from 1995 to 2003.

Summary of Service Hours:
Changes in caseload composition have contributed to a higher utilization of service hours in the IHSS program. The total number of IHSS service hours delivered in a given year has increased by 61 percent since 1997. The average hours utilized in a month per IHSS consumer has risen by 16 percent to 81 hours per case. Service hour utilization by type of case varies from county to county, but remains below the caps across the state (283 for severely impaired cases, 195 for not severely impaired cases).

Since the mid-1990s the IHSS caseload, hours of service, and program costs have grown. However, to the extent that the program succeeds in keeping low-income aged, blind or disabled individuals in their own homes as an alternative to out-of-home care, it is cost-effective to the state as costs per individual are less than one-fourth the costs of nursing home placement.

Analysis conducted by the California Center for Long-Term Care Integration suggests that IHSS and other home and community-based services may have helped reduce nursing home utilization in California. Since the 1990s, the number of Medi-Cal eligibles over age 65 has increased almost 25%, yet the average nursing home utilization has decreased from almost 44 days per Medi-Cal eligible aged 65+ in 1991 to just over 36 days per eligible in 2001. The Center's findings are consistent with the state's overall decrease in nursing home occupancy rates (from 85 percent in 1992 to 81 percent in 2001), although the state ranks 45th in the nation in terms of number of nursing home beds per resident aged 65 and over. Reductions to IHSS at a time when demographic and programmatic changes are increasing demand for long-term care services may lead to increases in utilization of out-of-home care at substantially higher costs to the state.

Governor's Budget: The Governor's budget proposes to reduce IHSS expenditures by 35 percent from their current law level for total reductions of $991.7 million ($581.2 million General Fund).

VOTE ONLY ITEMS:

Issue A - Eliminate the IHSS Residual Program

Background: The Residual program serves 75,000 low-income aged, blind or disabled consumers. The Residual program funds services that are not eligible for federal financial reimbursement through Medicaid. Program consumers meet the same income, resources and disability eligibility criteria as IHSS PCSP beneficiaries. Whether consumers receive services from the Residual program, the PCSP program, or both, depends on whether the services they require and their arrangement for receiving care qualifies for federal financial reimbursement.

The IHSS Residual program funds the following IHSS services: (1) Cases where the recipient receives payment in advance of service delivery; (2) Services delivered to consumers who only require assistance with domestic chores; (3) Services delivered to minor children whose IHSS provider is a parent and services delivered to consumers whose IHSS provider is a spouse; (4) Protective supervision services provided to clients with cognitive impairments who need around the clock care; (5) Restaurant meal allowances to consumers who receive those services.

In November 2003, the utilization of Residual Services was the following:

Categories of Services	Monthly Cases	Percentage	Monthly Expenditures	Percentage
Total	**63,556**		**$42,261,294**	
Advanced Pay	838	1.32%	$1,577,082	3.73%
Domestic Services Only	27,598	43.42%	$7,653,134	18.11%
Relative Caregiver	20,345	32.01 %	$13,210,872	31.26%
Protective Supervision	13,210	20.78%	$17,756,220	42.02%
Misc./Unknown	3,921	6.17%	$2,175,122	5.15%

Governor's Budget: The Governor proposed to eliminate the IHSS Residual Program effective April 1, 2004, for $116.1 million ($88.8 million General Fund) in savings in 2003-04 and $485.4 million ($365.8 million General Fund) in savings in 2004-05.

May Revision: On May 3, 2004, the Administration submitted an application for a Medicaid 1115 waiver to secure federal financial participation in the IHSS Residual program, in lieu of the elimination proposed by the Governor in November. If approved as submitted, the waiver program will operate according to existing IHSS Residual program requirements and maintain program services for consumers. Transition from the Residual program to the waiver will be transparent to the recipient, but may require administrative work from counties and the state.

The May Revision restores program funding and assumes that the waiver will be approved and that California will receive federal funding for IHSS Residual program costs. A May Finance letter requests that the Legislature establish 9.5 new positions and provide $734,000 ($367,000 General Fund and $367,000 Reimbursements) in increased funding for Department of Social Services staff to develop, implement and manage the IHSS Plus waiver. The May Revision also proposes to establish 5 new positions at the Department of Health Services to oversee the waiver.

Staff recommendation: (1) Adopt the IHSS residual program restoration and assumed increase in federal funding as proposed in the May Revision; (2) Approve 6 of the 9.5 positions requested for waiver oversight; (3) Adopt placeholder trailer bill legislation to implement the IHSS waiver and facilitate the transition of consumers from the Residual Program to the waiver; and (4) Retain the existing statutory framework for the Residual program.

Issue B - Eliminate State Participation in IHSS Provider Wages above Minimum Wage

Background: In 1999, California enacted legislation to provide state participation in provider wages up to 50 cents per hour above minimum wage for increases negotiated prior to or during the 1999-2000 fiscal year. Through higher wages for IHSS providers, the state sought to increase the ability of consumers to hire and retain qualified providers; to improve the quality of program services; to reduce service provider turnover; and to more adequately compensate providers for the services they provide. California expanded its commitment to higher wages for IHSS providers in 2000, when it enacted legislation to provide state participation in IHSS provider wages and benefits up to a maximum of $12.10 per hour. Currently, the state participates in wage costs up to $9.50 per hour, and benefit costs up to $0.60 per hour.

Governor's Budget: The Governor proposes to reduce state participation in IHSS provider wages and benefits from $10.10 to the state minimum wage ($6.75) for savings of $301.6 million ($98 million General Fund) in 2004-05. The budget assumes a phased-in implementation reducing state participation in wages as existing collective bargaining agreements and contracts with private contractors expire. The effect of the Governor's proposal is that upon expiration of current collective bargaining contracts, counties will have to reduce IHSS provider wages or replace current state funding for provider wages with county funds.

Reductions in provider wages may increase provider turnover, limit the ability of consumers to hire a provider, and worsen the quality of care. Lower IHSS provider wages may reduce state tax revenues and increase program costs.

Staff recommendation: Reject the Governor's proposal and restore program funding.

Issue C - IHSS Employer of Record and Advisory Committees

Background: In 1992, California enacted legislation to define the role of Public Authorities established by County Boards of Supervisors to provide for the delivery of IHSS. Public Authorities are the employer of record of IHSS providers for purposes of collective bargaining. IHSS consumers retain the right to hire, fire and supervise their service provider. In addition to being the employer of record, Public Authorities are required to establish and operate a provider registry, to investigate the qualifications and background of potential providers, and to provide training for providers. According to DSS, three counties operated public authorities in 1998.

In 1999, California enacted legislation that required counties to establish an employer of record for IHSS providers by January 2003. Most counties established a public authority to meet the employer of record requirement. Five small counties chose to become the employer of record. Chapter 90, Statues of 1999, (Assembly Bill 1682) also required counties to establish local IHSS Advisory Committees.

Governor's Budget: The budget proposes to: (1) repeal the existing IHSS Employer of Record requirement; (2) eliminate state funding for Public Authorities; and (3) make the establishment of county IHSS Advisory Committees optional for savings of $7.6 million ($2.2 million General Fund) in the budget year. The Governor's proposal may reduce the availability of training for IHSS providers and employee registries as counties would not be required to assume existing public authority responsibilities.

Staff recommendation: Reject the Governor's proposals and restore program funding.

Issue D - Selective Elimination of Domestic Services

Background: IHSS supports the provision of domestic services to eligible low-income aged, blind or disabled consumers that need the services to remain safely in their own homes. Domestic services include sweeping, kitchen and bathroom cleaning, changing bed linens, meal preparation and clean-up, laundry services, and shopping for food. Consumers who reside independently can receive these services based on their level of need, subject to a state cap. Services for consumers who reside in shared living arrangements are pro-rated or reduced to reflect the consumer's use of common areas and shared meals. Approximately 39 percent of IHSS consumers reside in shared living situations.

Governor's Budget: The Governor proposes to eliminate coverage for domestic services when consumers reside with other family members to realize savings of $80.9 million ($26.3 million General Fund) in 2004-05. The proposal conflicts with Medicaid comparability requirements, as it would result in disparate treatment for similarly situated beneficiaries.

May Revision: A May Finance letter requests that the Legislature restore funding to maintain domestic services for consumers who reside with family members. The Administration plans to pursue a waiver of the Medicaid comparability requirement to implement the reduction in the

future. The Finance letter proposes trailer bill legislation to implement the proposed service reduction "to the extent permissible under federal law".

Staff recommendation: Adopt the funding increase requested in the May Revision and reject the Administration's proposed trailer bill language.

ITEM FOR DISCUSSION

Issue A - Quality Assurance

Overview of IHSS Assessment, Quality Assurance and Utilization Control Requirements:

Assessment: State law requires that IHSS be administered in a uniform manner in every county and provides that utilization controls can be established for the PCSP program. Since 1988, the state has used the Uniformity System and the uniform assessment form to determine a consumer's level of need and to authorize service hours. California uses the Uniformity system and the uniform assessment form to authorize service hours under PCSP and Residual.

Using the assessment, state regulations and county policies, county social workers determine the degree of assistance required by a recipient in performing Activities of Daily Living and Instrumental Activities of Daily Living, record the amount of time required to assist the recipient in completing tasks, and assign a Functional Index ranking. (The Functional Index ranking is the consumer's relative need for IHSS. 1 means consumer is independent. 5 means consumer cannot perform function without human assistance.) During the assessment process, social workers identify other resources available to the consumer. Based on the level of needs assessed, the time required to meet the needs, and the level of available resources, social workers authorize IHSS service hours.

California establishes regulatory guidelines for some IHSS services (housework, laundry, and shopping). According to DSS, federal and state regulations do not allow guidelines for meal preparation and cleanup, personal care services and paramedical services. The number of hours authorized for personal care services, paramedical services and meal services is solely based on the social worker assessment, subject to the state's caps of 283 hours for PCSP consumers and Residual consumers who are severely impaired, and 195 for Residual consumers who are not-severely impaired. California does not have a uniform definition of what constitutes an alternative resource or specify how having such resources affects the level of service hours authorized (i.e. How does receipt of meals on wheels or adult day health care services affect the level of IHSS service hours authorized?).

Counties are required to conduct individual assessments at least once a year. Counties are also required to conduct assessments when requested to do so by the beneficiary; when a beneficiary moves to a different county; or when the county has information that indicates that the client's condition or living arrangement has changed. Counties can conduct more frequent assessments but are not funded to do so.

IHSS consumers have a right to challenge eligibility determinations, the social worker assessment and the level of service hours authorized.

Quality Assurance: The Department of Social Services has very limited resources to conduct quality assurance efforts (3 staff). Counties also have limited ability to conduct in-home monitoring of quality of care and quality assurance. Generally, to conduct quality assurance counties must redirect staff from required activities to quality assurance efforts. Counties tend to learn of changes in a beneficiary's status when the beneficiary, providers or relatives report such changes or when the county conducts annual assessments.

- *IHSS and Medicaid law:* Services under IHSS PCSP are federally reimbursable under the Medicaid program and as such, are subject to federal Medicaid requirements. A beneficiary eligible for PCSP services can receive personal care services, up to 283 hours per month. There are currently no limitations on the number of personal care services that can be provided within a specified time frame, as long as the monthly hours do not exceed 283. Eligibility for services and the level of hours authorized is based on the Uniformity System and the IHSS assessment. According to the Department of Health Services (DHS), state law authorizes DHS to adopt specified utilization controls for PCSP.

As a Medi-Cal service, IHSS PCSP services are subject to federal Medicaid requirements. Relevant Medicaid requirements include: **(1) Comparability** - requires that services made available to any categorically needy individuals not be less in amount, duration, or scope than those services made available to medically needy individuals and that services made available to any individuals in the categorically needy or medically needy group must be equal in amount, duration, and scope for all individuals within the group; and **(2) EPSDT** which requires states to provide eligible children any medically necessary services to correct or ameliorate physical and mental illnesses and conditions, if the services are within the scope of mandatory or optional services under federal law, whether or not such services are covered for adults in the state's Medicaid program. Generally, federal and state law permits adoption of utilization controls as long as such controls consider medical necessity, consider individual needs, and do not result in arbitrary denials of services. Utilization controls must be consistent with federal and state law, and case law, including specific restrictions to or prohibition of the adoption of controls.

Governor's Budget: The Governor's Budget establishes the Administration's intent to develop a May proposal to improve the quality of assessments and reduce over-authorization of hours.

May Revision: The May Revision proposes to implement various measures intended to reduce IHSS program costs and increase standardization in the authorization of services by improving the IHSS assessment process. Specifically, the Administration proposes to (1) require and support quality assurance functions in each county, (2) increase state resources for monitoring and supporting county quality assurance functions, (3) provide standardized assessment training for county IHSS workers, (4) provide periodic written notices to providers that remind them of their legal obligations to submit accurate timesheets, including a requirement that timesheets are signed under penalty of perjury, and (5) develop controls for assessed hours subject to prior authorization by the State, based on certification by a physician or medical professional. The May Revision assumes $17 million in net General Fund savings associated with this proposal.

The May Revision assumes that increased quality assurance efforts will reduce the number of cases that receive protective supervision services by 3,000 and that the average hours for new and reassessed cases will be reduced by 5%. The May Revision requests an increase in state operations to establish 18 new positions at DSS and an increase in local assistance to fund 40.5 new county social worker positions to implement quality assurance measures.

According to the County Welfare Directors Association, the state can realize additional savings in the budget year through quality assurance. CWDA argues that an additional $4.8 million General Fund increase in local assistance funding to support improved initial assessments and reassessments can generate estimated savings of $6.7 million General Fund in the budget year and a full-year savings of $13.2 million. Additionally, CWDA argues that additional county quality control unit staff, at a cost of $2.8 million General Fund, would result in an estimated budget year savings of $5.8 million General Fund.

Subcommittee request: The Subcommittee has requested that the Administration discuss its May Revision proposal to reduce IHSS program costs and increase standardization in the authorization of IHSS services through increased quality assurance efforts.

Staff recommendation: (1) Adopt placeholder trailer bill language to assure the appropriate statutory framework for the IHSS program is in place to prevent fraud, protect consumer access to services, and achieve program integrity through quality control activities that assure that the level of IHSS services approved is based on the consumers' level of need. (2) Adopt $32.3 million General Fund in savings resulting from implementation of IHSS quality assurance activities. (3) Approve the Administration's proposed funding increase and new positions for state level quality assurance activities. (4) Adopt a $10.7 million increase in General Fund support for local quality assurance activities.

II. Supplemental Security Income/State Supplementary Program

General Background: The Supplemental Security Income/State Supplementary Program (SSI/SSP) provides cash grants to persons who are elderly, blind and/or too disabled to work and who meet the program's federal income and resource requirements. Individuals who receive SSI/SSP are categorically eligible for the Aged, Blind or Disabled Medi-Cal Program with no share-of-costs. They may also be eligible for the In-Home Supportive Services Program and for other programs designed to support individuals living in the community.

The SSI/SSP program is administered by the federal Social Security Administration. The Social Security Administration determines eligibility, computes grants, and disburses monthly payments to recipients. The state establishes the level of State Supplementary Payment support for individuals and contributes the funds for this portion of the program.

SSI/SSP grant levels vary based on a recipient's living arrangement, marital status, minor status and whether she or he is aged, blind or disabled. Currently there are 19 different SSI/SSP payment standards. These standards are generally adjusted each calendar year. The current

maximum grant for an aged or disabled individual living independently is $790 per month. It is $1,399 for couples living independently.

Summary of Enrollment. Approximately 1.2 million Californians receive SSI/SSP. Over two-thirds of the recipients are disabled, 30 percent are elderly, and two percent are blind. The total caseload for 2004-2005 is estimated to be 1,178,000. Due to changing demographics and a projected increase in California's aging population, the SSI/SSP program caseload is likely to continue to grow in future years.

Summary of Funding. The budget proposes basic SSI/SSP program costs for the 2004-2005 fiscal year to be $7.7 billion ($2.9 General Fund).

VOTE ONLY ITEMS:

Issue A - Elimination of Pass-Through of Federal SSI Cost-of-Living Adjustment

Background: Federal law provides a cost-of-living adjustment to the SSI portion of grants that is based on the Consumer Price Index. Since January 2004, state law provides automatic pass-through of the federal COLA to SSI recipients. In January 2005, the federal SSI adjustment will increase the maximum grant for an individual by $10 to $800 per month.

Governor's Budget: The Budget proposes to withhold the federal COLA for $76.3 million in General Fund savings. Essentially, the budget proposes to reduce the SSP component of the grant by the same amount as the federally funded January 2005 SSI COLA, thereby reducing state SSP expenditures in the budget year.

Staff recommendation: Reject the Governor's proposal and restore program funding.

Issue B - Suspension of State SSI/SSP Cost-of-Living Adjustment

Background: Current law provides an annual state COLA for SSI/SSP grants, which is based on the California Necessities Index. The scheduled COLAs will increase the maximum SSI/SSP grant for an individual from $790 to $812, and from $1,399 to $1,438 for couples.

Governor's Budget: The budget suspends the 2004-2005 state cost-of-living adjustment for the SSI/SSP program to realize savings of $71.1 million. Suspension of the state COLA will maintain grants at a level that does not keep pace with cost-of-living increases such as rising housing costs.

Staff recommendation: Reject the Governor's proposal and restore program funding.

4140 Office of Statewide Health Planning and Development

1. Family Physician Training Program

Background: The Song-Brown Family Physician Training Program seeks to increase the number of general practice health care providers by providing clinical training opportunities to physician residents, physician assistants, and family nurse practitioners. Song-Brown funds 40 institutions that provide clinical training to approximately 403 family practice providers each year.

In 2001-02, Song-Brown providers served approximately 350,000 patients from underserved areas of the state. These providers are a valuable source of health care services in rural California and low-income communities across the state. Song-Brown providers deliver primary care services in the majority of California's teaching hospitals, community health centers, and county facilities. They are 4.5 times more likely than the average physician to practice in underserved areas of the state and generally choose to work in the community where they are trained.

Governor's Budget: The proposed budget provides $4.5 million ($4.1 million General Fund) to support the Song-Brown program, including $235,000 for state operations costs.

Staff comment: The Song-Brown Family Physician Training Program has traditionally been funded by the General Fund. Similar workforce development and training programs operated by the Office of Statewide Health Planning and Development (OSHPD) are funded with fee revenue, including surcharges imposed on specific health care provider licenses.

At the request of Subcommittee staff, the Legislative Analyst's Office examined alternative funding sources for the Song-Brown Program. The LAO concluded that the state could utilize the California Health Data and Planning Fund in lieu of the General Fund for the state operations portion of the program.

The California Health Data and Planning Fund (CHDP) is comprised of revenues generated by fees assessed on licensed health facilities. The revenues are to be used for health planning, data consolidation, and other health-related programs that are required to be administered by OSHPD. Currently, CHDP supports OSHPD's data collection activities. The Governor's Budget proposes to shift administrative costs for the State Loan Repayment Program and the Health Manpower Pilot Projects Program from the General Fund to CHDP. Sufficient resources remain in CHDP to cover the Song-Brown program.

Subcommittee request and questions: The Subcommittee has requested that the Legislative Analyst's Office discuss the feasibility of funding the Song-Brown program with CHDP funds instead of the General Fund.

Staff recommendation: Shift Song-Brown program costs from the General Fund to CHDP and adopt uncodified trailer bill language to require that OSHPD develop non-General Fund strategies to support Song-Brown and report on the strategies at budget hearings.

4170 Department of Aging

VOTE ONLY ITEMS

1. Older American's Act Program Funding

Background: The federal Older Americans Act provides funding to support a series of programs designed to support seniors in living healthy and independent lives. The Act supports congregate nutrition meal programs, home delivered meals, ombudsman services, services to family caregivers, such as counseling and respite care, and other supportive social services, which include transportation and legal assistance.

California will receive a net increase of $2.6 million in federal Older American Act program funding in the budget year. Funding for supportive services will decrease, while funding for home-delivered nutrition, congregate meals, preventive health, the Family Caregiver Support Program, and for the State Office of Long-term Care Ombudsman will increase.

May Revision: A May Finance Letter requests that the Legislature provide an increase in federal funding for Older Americans Act programs of $2.6 million, $1.1 million of which will be expended on a one-time basis.

Staff recommendation: Adopt the May Finance Letter.

2. Aging and Disability Resource Centers

Background: The Department of Aging recently received a federal grant to develop two "one-stop" aging and disability resource centers. The resource centers will serve individuals who need long-term care support, their caregivers and those planning for future long-term care needs. Center services will include benefits counseling, assistance with long-term care planning, health promotion and access to information about available long-term care services. A three-year federal grant, totaling $800,000 and a required local agency match will support center services.

May Revision: A May Finance Letter requests that the Legislature appropriate $267,000 in increased federal grant funds to the Department of Aging for support of Aging and Disability Resource Centers.

Staff recommendation: Adopt the May Finance Letter.

4200 Department of Alcohol and Drug Programs

VOTE ONLY ITEM:

1. Drug Medi-Cal

Background: The Drug Medi-Cal program provides specified substance abuse treatment services to low-income parents, children, seniors and persons with disabilities enrolled in the Medi-Cal program. Drug Medi-Cal is overseen by the Department of Alcohol and Drug Programs and administered locally by county alcohol and drug programs, in collaboration with county welfare departments. The program is funded by state and federal matching funds at an approximate ratio of 1 to 1.

In fiscal year 2003-04, Drug Medi-Cal serves approximately 64,100 persons through one of four treatment modalities, Narcotic Treatment Program, Day Care Rehabilitative, Outpatient Drug Free, and Perinatal Substance Abuse Services.

Governor's Budget: The budget increases funding for the Drug Medi-Cal program by $5.4 million ($3.1 million General Fund) to $109.6 million. The proposed program funding increase reflects a reduction in the level of federal financial participation and small caseload increases. The budget proposes to reduce provider rates to the 2002-03 reimbursement levels.

May Revision: A May Finance Letter requests that the Legislature reduce General Fund supports for Drug Medi-Cal by $450,000 and increase reimbursements by $392,000 to reflect caseload changes and lower dosing and counseling rates.

Staff recommendation: Adopt the May Revision.

DISCUSSION ITEM:

1. Dependency Drug Courts

Background: California's drug court programs work to reduce drug usage and recidivism through the provision of court supervised substance abuse treatment. They integrate drug treatment with other rehabilitation services to promote long-term recovery and reduce social and financial costs of substance abuse. Judges modify program services based on client needs and exercise different enforcement options to assure client compliance with treatment. Drug courts are diverse and serve different populations. Generally, drug court clients have abused alcohol or other drugs for ten or more years and received little or no substance abuse treatment.

Dependency drug courts work to reduce foster care costs and increase permanency for children by providing substance abuse treatment to parents who are involved in dependency court cases. These courts have succeeded in increasing access to substance abuse treatment for parents involved in the child welfare services system, increasing the number of families that are reunified, shortening the time to reunification and reducing children's length of stay in foster

care. California currently funds three dependency drug courts through the Comprehensive Drug Court Implementation Program.

Independent evaluations of San Diego's dependency drug court, Substance Abuse Recovery Management System (SARMS) and of Sacramento's dependency drug court (DDC) have found the following:

- **More families reunified.** 33% of the DDC families and 19% of comparison families reunified, creating cost savings of $2,141,056. 58% of families in SARMS were reunified compared to 40% of families in the comparison group.
- **Families reunified faster.** DDC families reunified in 5.6 months and comparison families reunified in 7 months, creating foster care savings of $2,873 per child and overall program savings of $413,712. SARMS families reunified in 8 months, half the time to reunification of the comparison group.
- **Achieved permanency faster.** Time to permanency in unsuccessful reunification cases was shorter for SARMS cases. An alternative permanency plan was ordered in 17 months for SARMS cases and 45 months for comparison group cases.
- **Children had shorter stays in foster care.** The average length of stay in foster care for children in DDC was 10.3 months versus 22.8 months for the comparison group. Under SARMS, children had considerably shorter stays in out-of-home care. 14 months for SARMS to 46 months for the comparison group.
- **Fewer subsequent removals.** Subsequent removals and subsequent substantiated child abuse reports were less common among SARMS participants. Subsequent removals occurred in 20% of SARMS families compared to 35% in comparison group families. The incidence of subsequent substantiated child abuse reports was 24% in SARMS cases and 46% in comparison group cases.

Given estimates that 60 to 80 percent of the state's substantiated cases of child abuse and 60 to 80 percent of foster care cases involve substance abuse, the state will likely benefit from treatment modalities that effectively reduce the incidence of substance abuse among parents involved in dependency court.

Prior Subcommittee Hearing: At its March 18 hearing, the Subcommittee considered testimony regarding the potential of realizing foster care savings through the establishment of dependency drug court programs. The Subcommittee directed staff to work with stakeholders to document the level of foster care savings to be realized through dependency drug courts and to consider strategies to improve access to treatment for parents involved in dependency court.

Staff review of available outcome data suggests that dependency drug court programs may generate foster care savings. However, available data is likely insufficient to establish a conclusive relationship between funding dependency drug courts and realizing state savings. The state may wish to provide non-General Fund resources to support development of dependency drug courts and examine the extent to which the courts succeed in generating state savings.

Staff recommendation: Appropriate $250,000 from the Children's Trust Fund to DADP for support of dependency drug court programs. Adopt placeholder trailer bill legislation to require, as a condition of receiving funding, that programs report specified outcomes including: (1) rates of reunification, (2) number of days in foster care, (3) the length of time to permanency plan, and (4) the number of substance-free newborns.

2. Office of Problem Gambling

Background: AB 673, (Chapter 210 Statutes of 2003), seeks to reduce the incidence of problem gambling in California. It requires the Department of Alcohol and Drug Programs (DADP) to establish the Office of Problem Gambling to develop a comprehensive gambling prevention program for problem gamblers. The program must include: public awareness and prevention efforts; a toll-free information and referral telephone service; empirically driven research programs; and training of health care professionals, educators, law enforcement, non profit organizations and gambling industry personnel in the identification of problem gambling behavior and knowledge of referral services and treatment programs.

The Budget Act of 2003 provided $3 million from the Indian Gaming Special Distribution Fund to support implementation of the program. The Governor's Budget for 2004-05 proposed to eliminate funding for the Office of Problem Gambling and to repeal the requirement that DADP establish the Office of Problem Gambling.

Finance letter: A Department of Finance letter requests that the Legislature provide a $3 million augmentation from the Indian Gaming Special Distribution and 3 new positions to support the establishment of the Office of Problem Gambling.

According to DADP, 30 percent of persons who need alcohol and other drug treatment are compulsive gamblers and possibly 50 percent of compulsive gamblers abuse alcohol/drugs. Governmental agencies in at least 16 other states are working to address problem gambling.

Subcommittee request: The Subcommittee has requested that the Administration discuss the relationship between compulsive gambling and substance abuse and its budget proposal.

Staff recommendation: Adopt the Finance letter request to retain the requirement that the DADP establish the Office of Problem Gambling and to provide associated funding and staff support.

5160 Department of Rehabilitation

The Department of Rehabilitation assists people with disabilities to obtain and retain employment and to maximize their ability to live independently in the community. The department operates the Vocational Rehabilitation Services program, funded primarily with federal funds, to provide vocational services to persons with disabilities. Some of these services are provided through cooperative agreements with other state and local agencies. The department provides habilitation services, vocational and supported employment services for persons with developmental disabilities, using state funds and federal Home and Community Services Medicaid reimbursements. It also provides support services for Community Rehabilitation Programs, including independent living centers. The budget is anticipated to be $350.6 million ($44.2 million General Fund) in the budget year. It reflects a 26 percent decrease from prior-year funding resulting from the transfer of the Habilitation Services program from the Department of Rehabilitation to the Department of Developmental Services.

Vocational Rehabilitation Services

Background: The Vocational Rehabilitation Services (VR) program assists individuals with disabilities to prepare for, enter into, and retain competitive employment. It is the Department of Rehabilitation's primary program and accounts for 94 percent of the department's proposed budget. Vocational Rehabilitation Program services include client assessments, counseling and guidance, purchase of individualized rehabilitation services, job skills training and job placement services. Department staff members stationed in approximately 120 field offices throughout the state deliver program services to approximately 77,000 individuals who have a full range of physical and mental disabilities.

The VR program is not an entitlement program and lacks the necessary funding to serve all eligible clients. Accordingly, the Department has established an Order of Selection process to assess applicants and to grant priority for services to persons with the most significant disabilities. Thirty-seven percent of VR cases receive SSI, SSDI or both.

VR is funded by combined federal, state, and other funds. The program receives approximately $4 dollars in federal funds for each state dollar invested and has a federally required match that can be met with General Fund, reimbursements, or third-party in-kind dollars.

Governor's Budget: The budget provides $327.4 million ($43.7 million General Fund) to support the Vocational Rehabilitation Program.

Issue A - Social Security Reimbursement Reduction

Background: When the Department of Rehabilitation (DOR) succeeds in its efforts to assist consumers who are receiving Social Security Income (SSI) or Social Security Disability Insurance (SSDI) in securing employment, thereby reducing the cost of benefits, it receives reimbursements for some of its costs from the Social Security Administration (SSA). Over the last five years, DOR has received approximately $15 million annually in SSA reimbursements. California has used these funds to offset General Fund costs, achieving state savings while

maintaining program services. Specifically, the state uses SSA reimbursements to fund vocational rehabilitation counseling and placement services, the business enterprise program, and the Orientation Center for the Blind.

SSA reimbursements have declined in the current year. This decrease in SSA reimbursements has created a need for the state to backfill funding or to make program reductions.

Finance Letters: Recent Finance letters propose a series of adjustments to manage the reduction in SSA reimbursements and maintain program services. According to the Department of Rehabilitation (DOR), the proposed adjustments are necessary to avoid layoffs of VR staff, limited access to VR services, increased costs in the Habilitation Services Program and increased demand for public assistance programs, including SSI/SSP.

The Finance letters request that the Legislature: (1) reduce Social Security Reimbursement funding for personal services and local assistance by $4.3 million; (2) redirect $2.8 million from operating expenses to offset the personal services reduction; and (3) permanently redirect $4 million in savings from lower program costs to personal services.

The Administration proposes a series of reductions to permit redirection of funds to personal services. In its April Finance letter, the department proposed to eliminate a DOR contract with the Center for the Partially Sighted (CPS) for services delivered to VR consumers, as data suggested that few consumers who received services from CPS were VR consumers. Recent data provided to DOR by CPS demonstrates a higher rate of utilization. Therefore, a May Finance letter proposes to support CPS's delivery of VR services through a case services contract and to give CPS an opportunity to competitively bid for federal grant funding.

Staff recommendation: Adopt the requested reductions in SSA reimbursement funding and the proposed redirections to personal services.

Issue B - Assistive Technology

Finance Letter: The April Finance letter proposes a $960,000 reduction to assistive technology grants. These grants, which are provided to the California Foundation of Independent Living Centers, support two counselors at each center to provide outreach, community education, consumer assistance in obtaining devices, and to maintain a registry of equipment.

Staff recommendation: Adopt the requested reduction in funding for assistive technology grants.

Issue C - Caseload Adjustment

May Revision: A May Finance letter requests that the Legislature reduce VR funding by $1.4 million ($90,000 General Fund) to reflect increased caseload and decreased program costs; and make a technical correction to a Mid-Year revision. VR program costs decreased by $5.5 million from the Governor's Budget. However, the Administration proposes to redirect $4 million of the savings to offset the loss in available reimbursements.

Staff recommendation: Adopt the Finance letter.

5175 Department of Child Support Services

VOTE ONLY ITEMS:

1. Federal Incentives Funding

Background: The federal government provides states with child support incentives based on a state's program performance relative to other states. Incentives consider the establishment of paternity and support orders, collections, cost effectiveness, and data reliability.

May Revision: The May Finance Letter requests that the Legislature increase General Fund support for local child support administration by $888,000 to offset an anticipated reduction in the amount of federal child support incentives California will receive. The budget estimated that California would receive $48.8 million in federal child support incentives in the budget year.

Staff recommendation: Adopt the May Revision.

2. Child Support Recovery Fund

Background: The Department of Child Support Services (DCSS) collects child support on behalf of families receiving public assistance. These collections are generally distributed to the federal, state, and county governments as recovery of public assistance costs. Federal guidelines require the state to transfer the federal portion of assistance collections to a special account and use these funds to support program administration before drawing down federal child support funds.

May Revision: A May Finance letter requests that the Legislature make technical changes to the proposed budgets for the Department of Child Support Services to accurately reflect the use of the federal share of foster care collections.

Staff recommendation: Adopt the requested change to accurately reflect the use of federal foster care collections.

3. Child Support Administration Funding

May Revision: A May Finance letter requests that $715,000 in 2003-04 net General Fund savings be reverted. The savings stem from a lower federal penalty payment and increased federal incentives.

Staff recommendation: Adopt the May Revision.

4. Electronic Data Processing Equipment

Background: The Governor's Budget included $123,966,000 ($42,149,000 GF) for Electronic Data Processing maintenance and operations costs. The federal government has informed DCSS

that pursuant to federal depreciation rules, federal financial participation requested for hardware equipment costs needs to be claimed over a five-year period.
May Revision: A May Finance letter requested a $440,000 General Fund increase to backfill reduced federal financial participation resulting from the requirement that hardware equipment costs be claimed over a five-year period.

Staff recommendation: Adopt the May Revision.

5. California Child Support Automation System

Background: Federal law requires states to have a single statewide system for the collection of child support. Since 1997, California has been subject to substantial federal penalties due to the state's failure to establish the required system by the federal deadline. The penalty level is based on a percentage of program administration costs and the percentage rises over time. California has reached the maximum percentage level and is estimated to pay $220 million in 2004-05.

California is in the process of developing the California Child Support Automated System (CCSAS) which when implemented on a statewide basis will obviate federal penalties. The CCSAS Project consists of two major systems: the Child Support Enforcement (CSE) and the State Disbursement Unit (SDU). California awarded the contract for completion of the CSE in July 2003. The state and the contractors have begun development of the CSE. The project is progressing on schedule. In addition, the DCSS and Franchise Tax Board (FTB) have issued an RFP (request for proposal) for the SDU procurement. They expect to receive multiple proposals and to award the contract by December 2004, and implement the system as soon as September 2005.

California is considering the feasibility of applying for federal certification of the new CCSAS system by September of 2005. Federal approval of early certification would reduce California's alternative federal penalty by 90 percent in 2005-06.

Governor's Budget: The budget provides $163.3 million in total funding for the CCSAS Project, of which $48.7 million General Fund is in FTB's budget.

May Revision: A May Finance letter requests the following changes relative to the CCSAS Project. The letter requests: (1) a $27.3 million ($6.2 million General Fund) augmentation to support CCSAS activities, including interface modifications on two local automation systems; (2) budget bill language that would allow the Department of Finance to augment funding for the CCSAS project and State Disbursement Unit, if needed, to achieve certification (augmentations would require a 30-day notification to the Legislature); and (3) budget bill language to reappropriate prior-year funds for county conversions to reflect changes in the project schedule.

At its May 6 hearing, the Subcommittee considered the Governor's proposed funding for CCSAS and directed staff to develop language to require DCSS and FTB to report on the status of the project at budget hearings. The Subcommittee may wish to adopt the following language:

The DCSS, FTB, and Department of Finance shall jointly report during the annual budget subcommittee hearings on the status of the Child Support Automation Project in meeting 2004-05 major milestones in the project schedule such as documentation of the software requirements for the design of Version 2, award of the State Disbursement Unit contract, and conversion of the remaining 14 counties to CASES.

Staff recommendation: Adopt the Finance letter and adopt the proposed budget bill language to require FTB and DCSS to report on the status of CCSAS at budget hearings.

6. Alternative Federal Penalty

Background: California is subject to substantial federal penalties due to the state's failure to establish a single statewide system for the collection of child support by the federal deadline. The penalty level is based on a percentage of program administration costs and the percentage rises over time. California has reached the maximum percentage level and is estimated to pay $220 million in 2004-05.

Current law provides for payment of the penalty through a reduction in federal funds for state and county administration of the child support program. Since 1997, California has waived the mechanism for paying the penalty through a reduction in county child support program funds and has appropriated General Fund dollars to pay for the penalty. Last year, the Legislature enacted a one-year 25 percent county share of the alternative federal penalty.

Governor's Budget: The budget appropriates $220 million General Fund for payment of the alternative federal penalty in the budget year. It also proposes to establish a permanent 25 percent county share of the alternative federal penalty for General Fund revenues of $55 million.

The Department of Finance recently informed the Subcommittee that the federal government has allowed the state to pay the federal fiscal year 2005 penalty by September 30, 2005. Therefore, the state does not need to appropriate funds to pay the penalty in the budget year.

Staff recommendation: (1) Eliminate the proposed $220 million for payment of the alternative federal penalty in the budget year. (2) Reject the proposed legislation to require a county share of the alternative federal penalty. (3) Reduce the DCSS's revenue estimate by $55 million.

7. Eliminate County Share of Child Support Collections

Background: Counties receive a portion of child support collections from the distribution of collections made on behalf of families receiving cash assistance or children participating in the Foster Care Program. The county share of child support collections is intended as a mechanism for public assistance cost recovery and is consistent with the county-share of funding for CalWORKs aid payments and Foster Care Payments. The funds are considered county general fund revenues. However, most counties dedicate the county share of child support collections to support human services programs.

Governor's Budget: The budget proposes to eliminate payment of the county share of child support collections for an increase in General Fund revenues of $39.4 million. The budget indicates that the proposal is in lieu of a reduction to the Child Support program. The Governor's proposal will most likely reduce funding for human services programs, including child welfare services and child support services, and may increase demands for county realignment funds.

Staff recommendation: Reject the Governor's budget proposal.

5180 Department of Social Services

VOTE ONLY ITEMS

1. Proposed Legislation to Repeal Various Items in State Statute

Through proposed trailer bill legislation, the budget proposes to repeal the following enacted legislation:

- **AB 408 (Chapter 813, Statutes of 2003) - Foster Children Relationships**
  AB 408 modified dependency laws in an effort to increase the chances that older foster children will be permanently placed with adoptive families, and to help older foster children maintain relationships with individuals who are important to them.
- **AB 529 (Chapter 744, Statutes of 2003) - Children in Family Day Care Homes**
  AB 529 allows one child enrolled in kindergarten to be treated the same as a child aged six or older for purposes of adding to the limit on the number of children who can be cared for by family day care homes.
- **SB 577 (Chapter 878, Statutes of 2003) - Protection and Advocacy agencies**
  SB 577 clarified and consolidated state laws related to California's protection and advocacy agency, Protection and Advocacy, Inc. (PAI), to conform to federal law.
- **AB 1151 (Chapter 847, Statutes of 2003) - Duty to Foster Children**
  AB 1151 established legislative intent that the "state has a duty to care for and protect the children that the state places into foster care" and extended the statute of limitations for a claim of injury or death of a minor in foster care.

Staff Comment: The purpose of trailer bill legislation is to enact provisions of state statute that are necessary to implement the Budget Act. The Administration proposes trailer bill legislation that is not necessary to implement the Governor's Budget. The proposed language would repeal recently enacted legislation considered by the Legislature through the policy process.

Staff recommendation: Reject the proposed trailer bill language.

2. Suspension of State Mandate

Background: California law requires that child abuse defendants successfully complete no less than one year of treatment and counseling as approved by the county probation department. The Commission on State Mandates ruled that the recent law, which requires county probation departments to approve treatment and perform activities associated with the defendant's progress reports, constitutes a state mandate. The Legislature suspended this mandate in the current year.

Governor's Budget: The budget proposes to suspend this mandate for the budget year.

Staff recommendation: Adopt the proposed mandate suspension.

3. Immigrant Programs

Background: California funds and operates various human services programs that provide safety net services to legal immigrants who are aged, blind or disabled and to legal immigrant families. Program services include food assistance, cash assistance, and welfare-to-work services for eligible individuals and families. The programs include:

- Cash Assistance Program for Immigrants (CAPI), which provides cash benefits to aged, blind and disabled legal immigrants who became ineligible for SSI as a result of welfare reform.
- California Work Opportunity and Responsibility for Kids (CalWORKs) for a legal immigrants program which provides cash assistance and welfare-to-work services to otherwise CalWORKs eligible parents or caretaker relatives who are legal immigrants that have been in the United States for five years or less.
- California Food Assistance Program (CFAP), a state-only food stamp program for legal non-citizens.

Governor's Budget: The Governor proposed legislation to cap enrollment for various human services programs, effective April 1, 2004, as part of his proposed Mid-Year reductions. The Governor's Budget assumes implementation of the proposed enrollment caps for total current year and budget year General Fund savings of $4.5 million. The Governor's Budget also proposes to eliminate CAPI, CFAP and CalWORKs for legal immigrants and instead provide block grant funding to counties to support safety net programs for immigrants effective October 2004 for a General Fund savings of $5.9 million.

Staff comment and Chair's recommendation: The Subcommittee considered the Governor's proposed cap to enrollment and block grant for various human services programs at its April 15 hearing. The Chair's recommendation at the April 15 hearing was to reject the Governor's proposals and to direct Subcommittee staff to develop alternative proposals to achieve savings including implementation of SSI advocacy efforts across the state to reduce the CAPI caseload.

At the Chair's direction, Subcommittee staff has developed placeholder trailer bill legislation to implement SSI advocacy efforts statewide for net General Fund savings of $3.1 million in the budget year. The proposed legislation requires counties to assist CAPI applicants/recipients in the application process for the SSI program and permits counties to contract for the provision of these services. The legislation would also require DSS to reimburse counties for legal fees incurred during successful SSI appeals, subject to a cap.

May Revision: The May Revision rescinds the Governor's proposed enrollment caps and block grants for human services programs serving immigrants and requests that the Legislature restore $5.7 million in program funding.

Staff recommendation: (1) Rescind the proposed enrollment caps and block grants; (2) Restore program funding; (3) Adopt placeholder trailer bill legislation to implement SSI advocacy efforts across the state; and (4) Reduce funding for CAPI by $3.1 million General Fund.

4. Increase in Background Check Workload

Background: The Community Care Licensing Division (CCLD) oversees eighteen types of community facilities that provide care and supervision to Californians. CCLD requires that individuals receive a fingerprint-based check of their criminal history from both the Department of Justice and the Federal Bureau of Investigation. Persons associated with children's facilities are also subject to a check with the Child Abuse Central Index. If criminal history information indicates a conviction, CCLD evaluates the circumstances to determine if the individual can be involved in a licensed facility. If an arrest is identified, CCLD will independently investigate the circumstances of the arrest to determine if the individual should be allowed to have contact with clients in a facility. If an individual is determined to be unsuitable, CCLD will deny an associated license application, revoke or suspend an existing license, or exclude the person.

Since 2002, CCLD has experienced a significant increase in the number of subsequent arrests and subsequent convictions information that it receives. Historically, CCLD received 580 rap sheets from DOJ each week, or an estimated 33,000 per year. CCLD now receives 1,559 rap sheets per week, or an estimated 81,000 per year. The number of rap sheets received by CCLD and the resulting workload continues to rise.

Governor's Budget: The budget provides a $4.6 million augmentation ($2.6 million General Fund) and establishes 58.2 new positions due to the increase in the number of rap sheets received by CCLD and the resulting increase in background check workload.

The Subcommittee considered the proposed funding and position increase at the May 10 hearing. The Chair directed staff to develop trailer bill legislation that requires the Health and Human Services Agency to examine existing background check processing, develop alternatives to streamline and standardize background check processing within departments under the Agency, and report to the Legislature at budget hearings.

May Revision: A May Finance letter requests an increase of $334,000 in federal funds and one new position to support conviction information processing for individuals licensed by the DHS and the DSS. The proposal may reduce workload associated with investigating arrest reports.

Staff recommendation: Approve the May Finance letter. Adopt trailer bill language that requires the Health and Human Services Agency, to the extent feasible, to examine existing background check processing, develop alternatives to streamline and standardize background check processing within departments under the Agency, and report at budget hearings.

5. State Council on Developmental Disabilities

Background: The Department of Social Services (DSS) provides administrative support to the State Council on Developmental Disabilities (State Council). Specifically, the state assists the Council with routine accounting, personnel and business services functions.

Governor's Budget: The budget provides $651,000 in increased reimbursements and establishes 6.8 positions for DSS to provide administrative support to the State Council. The Subcommittee approved 4 positions and $390,000 in reimbursements to support the DSS workload.

May Revision: A Finance letter requests that the Legislature reduce the proposed reimbursement authority by $162,000 to reflect the level of reimbursements that was already included in the DSS budget for support of the State Council.

Staff recommendation: Adopt the requested $162,000 reimbursement authority decrease.

6. Community Care Licensing

May Revision: A May Finance letter requests a $678,000 increase in federal funding to upgrade 87.8 supervisory positions. The request is consistent with a directive from the Department of Personnel Administration to DSS relating to field operations managers and supervisors.

Staff recommendation: Adopt the requested increase in federal funding.

7. Caseload Adjustments

May Revision: A May Finance letter requests the following adjustments to the Governor's Budget:

(1) $17.1 million increase ($9.4 million General Fund) to children and adult services programs due to Child Welfare Services caseload growth and funding increases for relative home approvals, county self-assessments and peer quality care reviews;
(2) $3.8 million augmentation ($1.3 million General Fund) to county administration and automation project funding (General Fund increase is primarily attributable to a higher CFAP caseload estimate); and
(3) $177.2 million increase (a reimbursement increase of $178.9 million and a $1.7 million General Fund decrease) due to a decrease in the IHSS caseload estimate, an increase in the SSI caseload, and an increase in federal funding for the IHSS program.
(4) $46.4 million increase (a federal funding increase of $51.7 million and a $5.3 million General Fund decrease) for assistance payments to reflect revised caseload estimates.

Staff recommendation: Adopt the requested increases in local assistance.

DISCUSSION ITEMS:

I. Child Welfare Services

Background: The Child Welfare Services (CWS) system provides a range of services to protect children from abuse, neglect and exploitation. The services are designed to prevent, help alleviate and remedy the problems that cause abuse, neglect or exploitation of children. The services also work to prevent the unnecessary separation of children from their families; arrange to restore children to homes from which they have been removed; and identify children who

should be temporarily or permanently removed from their homes. CWS serves an estimated 174,000 youth each month.

Governor's Budget: The budget provides $2.1 billion total federal, state and county funds ($610.3 million General Fund) to support the CWS system.

VOTE ONLY ITEMS:

Issue A - Program Improvement Plan Funding

Background: Federal law required California to negotiate with the federal government a Program Improvement Plan (PIP) to address system deficiencies identified in the Child and Family Services Review and to improve the state's outcomes. The PIP outlines steps California will take to improve its outcomes; includes timeframes for achieving improvement; and commits to dozens of specific program performance improvements and thousands of specific action steps.

Governor's Budget: The budget provides $10.6 million ($749,000 General Fund) in the budget year to support state and county activities associated with the state's Program Improvement plan.

May Revision: The May Revision reduces the amount of TANF funds transferred from CalWORKs to support PIP activities and reduces overall funding by $25,000.

Staff recommendation: Adopt May Revision adjustments to PIP funding and reject proposed TANF funding for PIP activities.

Issue B - Child Welfare Outcomes and Accountability System

Background: California has been engaged in the development and implementation of a new system, based on federal performance reviews, to measure specific county outcomes. Assembly Bill 636 (Steinberg) requires California to establish an outcome-based system to evaluate county operations of child welfare services. The new California Child Welfare Outcomes and Accountability System includes web-based reporting of county outcomes, and requires counties to conduct self-assessments and develop system improvement plans. AB 636 will provide unprecedented access to county specific information about child welfare services program outcomes and will yield county specific plans to improve program performance.

Governor's Budget: The budget provides $9.5 million ($3.2 million General Fund) in the budget year to fund Child Welfare Outcomes and Accountability System activities.

May Revision: The May Revision increases funding for AB 636 implementation by $2.9 million ($2.2 million General Fund) to support the development of county self-assessments, development of county improvement plans and peer quality case reviews.

Staff recommendation: Adopt May Revision adjustments.

DISCUSSION ITEMS:

Issue A - Child Welfare Services Redesign

Background: California recently concluded its three-year CWS Stakeholders Group process, which examined California's child welfare services programs and recommended changes. The group released its CWS Redesign report in September 2003. The Redesign outlines a broad long-term plan to improve the child welfare services system. The plan includes the development of partnerships between CWS agencies and community based organizations, as well as efforts to improve access to preventative services and supportive services for families.

The CWS Redesign articulates the Stakeholders' vision for the Child Welfare Services system and discusses strategies to realize that vision. It does not constitute an implementation plan. The Redesign does not outline the law, regulatory and practice changes necessary for implementation. It does not provide an estimate of costs or specify measurable outcomes. Implementation of the Redesign may require changes in state and federal law and regulations. Redesign implementation may also require significant increases in program funding.

Governor's Budget: The budget provides $19.1 million ($558,000 General Fund) in the budget year to support various CWS Redesign activities.

The Subcommittee considered the proposed funding for the CWS Redesign at the March 18 hearing and voted to reject the proposed funding and redirect savings to offset TANF funding for AB 636 and PIP activities. The Subcommittee expressed willingness to reconsider the Redesign proposal during the May Revision, contingent on the development of an implementation plan.

May Revision: The May Revision provides $18.7 million ($558,000 General Fund) to support Redesign activities including development and implementation of a standard safety assessment system and differential response in 11 counties.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Please describe the CWS Redesign and the current Redesign implementation strategy.
2. Please describe the proposed funding increase, the specific activities to be supported by the funding and the measurable outcomes to be achieved.
3. Has the Department prepared a Redesign implementation plan including necessary changes to state and federal law, costs of implementation and measurable outcomes?

Staff recommendation: (1) Adopt $8.2 million to fund CWS Redesign activities; (2) Redirect $6 million in proposed Redesign funding to support PIP activities; (3) Conform to the Assembly action to adopt budget bill language to allow DSS to reappropriate unspent current year Redesign funding in the budget year.

Issue B - Senate Bill 2030 and the CWS Augmentation

Background: Senate Bill 2030 (Costa), Chapter 785 of the Statutes of 1999, required that the Department of Social Services conduct an independent evaluation of the adequacy of the state's child welfare services budgeting methodology, and funded caseload and service levels, and to make recommendations to the Legislature. The SB 2030 Child Welfare Services Workload Study found that caseworkers were seriously overburdened and carrying much larger caseloads than were ideal. The study recommended that California implement minimum caseload standards, devise and implement a staff recruitment plan, as well as revise its budget methodology.

Assembly Bill 2876, Chapter 108, Statutes of 2000, required the DSS to develop a plan to implement the recommendations of the SB 2030 study. Among the actions proposed by a workgroup formed to advise the department on implementation was the adoption of minimum caseload standards and phased-in augmentations to reach the proposed minimum standards by the 2005-06 fiscal year.

Beginning in 1998, the Legislature and the Administration provided an augmentation to the CWS program to address program under-funding and provide workload relief. Assembly Bill 1656, Chapter 324, Statutes of 1998, authorized an initial CWS program augmentation of $40 million General Fund. Assembly Bill 1740, Chapter 52, Statutes of 2000 provided an additional augmentation of $34.3 million General Fund. In 2002-03, then Governor Davis reduced the CWS augmentation by $17.2 million and reduced CWS program funding by another $10.8 million for a total reduction in state funding for CWS of $28 million.

Counties are not required to provide a match for the CWS Augmentation. However, they are required to fully match their base CWS allocations to receive these funds.

May Revision: The May Revision proposes to add a county share-of-cost to the CWS Augmentation for General Fund savings of $17 million. The proposal extends the county share-of-cost for the CWS base program to the CWS Augmentation.

Counties oppose the proposed county match requirement for the CWS Augmentation and estimate that it would result in the loss of 212 front-line child welfare workers. If counties are unable to generate the required funds, CWS funding could decrease by as much as $90 million and result in the loss of 700 social workers. The reduction would coincide with a period of increased state and federal scrutiny of CWS, when the state faces the potential of federal penalties for its program performance.

Subcommittee request: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Describe the May Revision proposal and its impact on funding for Child Welfare Services.
2. How will the proposal impact local child abuse prevention and intervention services?
3. What is the interaction between the proposed county-match requirement, proposed foster care reforms, the federally required Program Improvement Plan, and state efforts to reduce the foster care caseload through the provision of preventive and supportive services to families?

Staff recommendation: Reject the Governor's May Revision proposal.

II. Foster Care Program

Background: The Foster Care program provides support payments for children in out-of-home care as a result of a judicial order or a voluntary placement agreement. The program provides payment to foster care service providers, including foster homes, foster family agencies, residential treatment for seriously emotionally disturbed children and group homes. The program is administered by the Department of Social Services and operated by county welfare departments. It serves an estimated average of 78,700 youth a month, reflecting a 1.2 percent increase in caseload in the budget year.

Governor's Budget: The budget provides $1.8 billion ($462.8 million General Fund) to support the foster care system.

VOTE ONLY ITEMS:

Issue A - Child Support Recovery Fund

Background: The Department of Child Support Services collects child support on behalf of families receiving public assistance. These collections are generally distributed to the federal, state, and county governments as recovery of public assistance costs. Federal guidelines require the state to transfer the federal portion of assistance collections to a special account and use these funds to support program administration before drawing down federal child support funds.

May Revision: A May Finance letter requests that the Legislature make technical changes to the proposed budgets for the Department of Child Support Services and the Department of Social Services to accurately reflect the use of the federal share of foster care collections.

Staff recommendation: Adopt the Finance letter.

Issue B - Implementation of *Rosales* v. *Thompson*

Background: The Ninth Circuit court decision in *Enedina Rosales and the California Department of Social Services v. Tommy G. Thompson* (321 F.3d 835) significantly expanded eligibility for federal foster care funding to thousands of low-income relatives caring for foster children. Under *Rosales*, a child who lived, at any time during the six months prior to removal or at the time of removal with a relative, is federally eligible for foster care because only the child's income will be taken into account when conducting the means test. Prior to the court decision, relatives who were caring for children who were deemed ineligible for the federal foster care program were provided with a CalWORKs child-only grant ($350 per month). Under the new eligibility rules, families will receive a regular foster care grant (an average of $678 per month).

The court recently ruled that the *Rosales* decision applies retroactively back to December of 1997 in cases that were open on March 3, 2003. Relatives, if found otherwise eligible for a foster care payment, will receive a payment for the difference between the CalWORKs grant and the Foster Care grant for the relevant months back to 1997.

Governor's Budget: The budget increases foster care funding by $36.7 million ($7.5 million General Fund) to implement the *Rosales v. Thompson* court decision. The budget reflects an offsetting reduction in CalWORKs costs of $14.1 million in the budget year.

The Legislative Analyst's Office comments in their analysis that the budget understated General Fund savings associated with implementation of the *Rosales* decision and estimated potential General Fund savings of $5.3 million. The Subcommittee adopted the LAO's estimated level of savings at its March 18 hearing.

May Revision: A May Finance letter requests that the Legislature increase program funding by $25.8 million ($3.8 million General Fund) to implement the *Rosales v. Thompson* court decision. The May Revision assumes savings from more children becoming eligible for federally funded foster care and adoption assistance payments. Overall, implementation costs have increased as the decision is now retroactive.

Staff recommendation: Rescind the prior Subcommittee action and adopt the May Revision.

DISCUSSION ITEMS:

Issue A - Relative Home Assessment

Background: The federal Adoption and Safe Families Act (ASFA) requires that states apply the same licensing standards to both relative provider and foster family homes. Assembly Bill 1695, Chapter 653, Statutes of 2001, establishes state requirements that mirror the federal requirement and mandates that counties conduct an in-home assessment prior to placing a child in the home of a relative or the home of a non-relative extended family member. In addition to the state requirement, federal law requires counties to conduct additional in-home assessments when one or more relatives or non-relative extended family members seek approval to have a related foster child placed with them. During in-home assessments counties evaluate the safety of the home and the ability of the relative to care for the child. Counties are required to visit all willing relatives or non-related extended family members to establish viable placement options.

In 2002, California's licensing practices for relative home providers were challenged in *Higgins v. Saenz.* The State was essentially out of compliance with the federal requirement that licensing standards be the same across foster homes. California negotiated a settlement in the case, which will bring the state into compliance with federal requirements. In addition to the court action, the federal government found California out of compliance with federal law leading to a loss of $45 million in federal funding. Since November 2001, the state and counties have been working to demonstrate compliance with the federal requirements and achieve restoration of federal funding.

Governor's Budget: The budget provides $12 million to support the required home assessments.

May Revision: The May Revision increases funding for required assessments to $15.4 million. It assumes that the assessments can be completed in seven hours. Counties report that the average time to complete an assessment is 16 hours and that the proposed funding level is insufficient funding to complete the relative home assessments required by state and federal law.

Staff recommendation: Adopt the May Revision funding increase for relative assessments.

III. California Work Opportunity and Responsibility to Kids (CalWORKs)

Background: The California Work Opportunity and Work Responsibility to Kids (CalWORKs) provides cash benefits and welfare-to-work services to 1.2 million children and their parents or caretaker relatives. The average family of three must have an annual net income below $11,772 or 77 percent of the federal poverty level, have less than $2000 in resources, and cannot have a car valued at more than $4,650 to become eligible for CalWORKs. A family of 3 receiving CalWORKs can earn up to $19,596 per year and remain eligible for aid due to California's earned income disregards. CalWORKs recipients are required to participate in welfare-to-work activities and perform a minimum of 32 hours of work activities per week (35 hrs. for two parent families) to remain eligible for benefits.

CalWORKs is overseen by the California Department of Social Services and administered locally by counties. State law establishes eligibility criteria and benefits, and grants counties considerable flexibility to design welfare-to-work services that reflect local conditions and priorities. Counties are provided block grant funding to support program services.

Summary of Enrollment: After peaking in March of 1995, CalWORKs enrollment has dropped by 48.7 percent through 2003. Enrollment decreased by 34.3 percent since the CalWORKs program was implemented in 1998. After years of declines, CalWORKs caseload has become relatively stable. DSS estimates that enrollment will decrease by 1.4 percent in the current year increase slightly in the budget year.

VOTE ONLY ITEMS:

Issue A - CalWORKs Grants

Governor's Budget: The budget proposes to (1) reduce CalWORKs grants by 5 percent, (2) delink CalWORKs COLAs from the Vehicle License Fee, (3) suspend CalWORKs COLAs, and (4) reduce Safety Net grants for cases with non-working adults by 25 percent for total General Fund savings of $352.9 million and $216.3 million in cost avoidance.

The following chart illustrates the impact of Governor's Budget on a CalWORKs family of 3 that has no other income and receives the maximum aid payment:

CalWORKs Grant (Families with no other income)	
Current Grant for a Family of 3	$704
October COLA	24
July COLA	21
Grant Under Current Law	**$749**
Total Grant after 5% Grant Reduction	$669
Offsetting Increase in Food Stamps	$37
Lost Income to Families	$43
Work Hours per Month to Replace Income Loss	6.4

(1) CalWORKs grant reduction

Governor's Budget: The budget reduces the maximum aid payment under CalWORKs by 5 percent to $669 for a family of 3 for General Fund savings of $226.4 million.

The budget reduces CalWORKs grants for a family of 3 by $35 per month. An average family of 3 with no earned income will experience a decrease in their income from 77 to 75 percent of the federal poverty level or from $981 to $962 per month. In addition to reducing the resources of families on CalWORKs, the proposed grant reduction will make 8,000 families ineligible for assistance. Since 1990 rent prices have increased by 41 percent and the purchasing power of a CalWORKs grant has declined by 32.3 percent.

May Revision: The May Revision maintains the Governor's proposal to reduce CalWORKs grants by 5 percent, but delays the effective date for the reduction to October, reducing budget year savings by $57.8 million.

Staff recommendation: Reject the Governor's proposal and restore program funding.

(2) CalWORKs Cost-of-Living Adjustment Suspension

Background: Current law provides an annual cost-of-living adjustment for CalWORKs grants that is based on the California Necessities Index. Historically, the CalWORKs COLA becomes effective on July 1 of every year. Legislation that had delayed the effective date of the COLA to October 1 expires in the current year making July 1 the effective date for future COLAs.
The July 1, 2004 CalWORKs cost-of-living adjustment will increase the maximum CalWORKs grant by $21 per month. Under current law, the maximum CalWORKs grant for a family of 3 will increase to $749 per month in the budget year.

Governor's Budget: The budget proposes to suspend the annual CalWORKs COLA in the 2004-2005 fiscal year to generate savings of $98.5 million General Fund. Suspension of the cost-of-living adjustment will maintain grants at their current level and will not keep pace with cost-of-living increases such as rising housing costs.

The Governor also proposes legislation to permanently change the effective date for the CalWORKs COLA to October 1.

Staff recommendation: Reject the Governor's proposals and restore program funding.

(3) Safety Net Grant Reduction

Background: TANF and CalWORKs establish a 60-month lifetime limit for receiving CalWORKs assistance for adults, unless they meet specified exemption criteria, such as being a victim of domestic violence, being disabled or being over 60 years of age. Upon reaching their time limit, parents are discontinued from aid. Most families continue to receive a safety net grant, which excludes the adult from the grant unit.

Governor's Budget: The budget reduces Safety Net grants received by families with non-working adults by 25 percent for General Fund savings of $23.4 million in 2004-05.

Staff recommendation: Reject the Governor's proposal and restore program funding.

Issue B - Tribal TANF Programs

Background: Federal welfare reform legislation authorizes Indian tribes, or tribe consortia, to operate TANF programs. Tribes with an approved Tribal Family Assistance Plan are granted the administrative authority to operate a TANF program and receive program funding to meet benefit, administrative, and welfare-to-work service costs. Tribal TANF programs, like county programs, are accountable for delivering services and achieving program outcomes, including moving families from welfare to self-sufficiency.

California currently has six approved Tribal TANF programs. The programs are funded with combined federal and state dollars. Tribes receive federal funding for Tribal TANF programs directly from the federal government based on the number of Native American families that received cash assistance in the 1994 Federal Fiscal Year.

State law provides for General Fund support for tribal TANF programs. The amount of General Fund support is also based on the FFY 1994 caseload. According to DSS, a portion of state funding for tribal TANF programs comes from funds shifted to the tribes from the single allocation of the counties in which the tribes are located. Native American families have the option of receiving CalWORKs services, including grants, from the county where they reside or from the tribe.

Governor's Budget: The budget reduces state funding for Tribal TANF programs by $30.5 million. Federal funding for Tribal TANF programs remains at the prior-year level and is based on the federal fiscal year 1994 caseload levels.

The Governor's Budget provides state funding for tribal TANF programs at the FFY 1994 caseload level for the first two years of operation. After two years, state funding for the programs will be based on actual program caseload.

Constituency Comments: The California/Nevada Tribal TANF Administrators' Association opposes the Governor's Budget proposal and argues that it would have a disproportionate impact on programs serving the neediest Californians. Counties support the Governor's proposal to base state funding for tribal TANF programs on actual caseload and argue that as the state has chosen to reduce county allocations to fund tribal TANF programs, it is critical to have a process to allocate funding to where clients are being served.

Staff recommendation: (1) Adopt budget bill language to reappropriate $15.5 million in current year unspent Tribal TANF funds to fund the programs in the budget year; and (2) maintain $15 million reduction in program funding to be implemented as an across the board reduction to all the Tribal TANF programs.

Issue C - CalWORKs Employment Services and Administration Funding

Background: County welfare departments are responsible for the local development and implementation of CalWORKs. They receive block grant funding and are given substantial flexibility to design and carry out the CalWORKs program within the state and federal program guidelines.

Counties receive a single allocation to fund CalWORKs Stage 1 childcare, employment services, transportation and program administration. Program administration funding supports eligibility determination, case management services, fraud prevention, and issuance of grants. Counties have some flexibility to move funds from one type of expenditure to another within their single allocation.

County single allocations were established during the implementation of CalWORKs and were based on each county's estimate of the funding level necessary to fund their CalWORKs program. The allocations were reviewed and adjusted to reflect actual costs in 1998-99 and 1999-00. California has maintained counties at the 2000-01 funding level in subsequent years.

Governor's Budget: The budget (1) suspends county cost of doing business adjustments; (2) reduces single allocation funding due to the impact of time limits on caseload; (3) reduces single allocation funding due to the implementation of prospective budgeting; and (4) maintains the $191.9 million funding increase for employment services.

May Revision: The May Revision adjusts funding for employment services and administration to reflect a lower level of savings from the implementation of prospective budgeting, increased child care costs, and a higher level of savings from parents reaching their CalWORKs time limit. Funding for CalWORKs employment services and administration, excluding child care, decreases by $162.6 million between the current year and the budget year.

Staff recommendation: (1) Restore $100 million for CalWORKs employment services and administration. (2) Adopt trailer bill legislation to reappropriate to counties unspent current year CalWORKs single allocation funds by October 1, 2004.

Issue D - Work Participation Reforms

Background: CalWORKs recipients are required to participate in welfare-to-work activities and perform a minimum of 32 hours of work activities per week (35 hrs. for two parent families) to remain eligible for benefits. Recipients can satisfy work participation requirements within the first 18 to 24 months by being employed, participating in activities that will lead to employment, including education and training programs, or participating in activities that reduce barriers to employment such as receiving substance abuse or mental health treatment. After the 18-24 month period, recipients must participate in employment or supervised community services to continue receiving aid.

Governor's Budget: The Governor proposes to (1) require job search as a condition of eligibility; (2) to require most adults receiving CalWORKs to work or participate in work related activities for at least 20 hours per week, within 60 days of receipt of aid; and (3) to require all aided adults to sign a Welfare-to-Work Plan within 60 days of receipt of aid, or up to 60 days after completion of job search. The reforms seek to strengthen the program's focus on work and to increase California's work participation rate.

May Revision: The May Revision modifies the Governor's proposed reforms to authorize (instead of require) counties to require job search as a condition of eligibility. The May Revision estimates that the Governor's proposed reforms will generate net savings of $32.9 million.

Staff comment: The Governor's proposed changes are consistent with (although more restrictive than) some Congressional TANF Reauthorization proposals, which limit the activities that can be counted towards fulfillment of work requirements. The proposed reforms constitute a significant departure for the current CalWORKs model, which grants counties flexibility in design programs that reflect local priorities and conditions. Enactment of the Governor's proposed reforms will most likely not obviate the need to make changes to the CalWORKs program when Congress approves Reauthorization.

Staff recommendation: Reject the Governor's proposed reforms and restore program funding.

Issue E - Reduces Grants in Sanction Status by 25 percent

Background: CalWORKs requires adults receiving cash assistance to participate in work activities and meet program requirements as a condition of receiving aid. Participants who fail or refuse to comply with program requirements, without good cause, are subject to a program sanction. Adults may be sanctioned for failing or refusing to comply with the following requirements: signing a welfare-to-work plan; participating in an assigned activity; providing required proof of progress in an activity; accepting or continuing employment; and continuing employment at the same level of earnings. Prior to sanctioning a client, counties must determine that the client is not complying with program requirements; attempt to contact the client by mail and by phone to inform the client that s/he may be sanctioned; and provide the client an opportunity to comply with program requirements.

Governor's Budget: The Governor proposes a 25 percent reduction of the grant received by families with an adult who is not complying with CalWORKs requirements after one month of non-compliance. The proposal results in net costs of $22.8 million.

Staff recommendation: Reject the Governor's proposal and reduce program funding accordingly.

Issue F - Child Care Reforms

Governor's Budget: The Governor's Budget proposes a number of reforms to the CalWORKs and non-CalWORKs subsidized child care systems including changes in program eligibility, family fees, and provider reimbursement. The proposals will generate $33.4 million in Stage 1 child care savings. These savings are built in to the Governor's Budget.

	Current law	**Governor's Budget**
Age Eligibility	Children up to age 13 are eligible for both CalWORKs and non-CalWORKs child care.	Eliminate eligibility for 11 and 12 year olds if after-school programs are available. Grants these children priority for placement in after school programs. ***($75.5 million savings; 18,000 children lose eligibility and move to after-school programs.)***
Stage 3 Child Care	Former CalWORKs participants are eligible for Stage 3 as long as they meet income and age eligibility.	Limit Stage 3 child care to one year (in addition to two years in Stage 2). Families currently in Stage 3 would receive one additional year.
Reimbursement Rates	Providers are reimbursed at up to 85th percentile of the RMR.	Creates a six-level reimbursement rate structure that reimburses providers between 40th and 85th percentile of the RMR, depending on licensure, training, and whether they serve private pay clients. ***($57.7 million savings; 95,592 children impacted.)***

*Source Legislative Analyst's Office.

The Governor's Budget would permit a CalWORKs family to seek general child care and sign up on the general child care waiting list as soon as they have earnings. This change would facilitate the integration of CalWORKs families into the general child care system.

Lastly, the Governor proposes legislation to enhance the ability of counties and Alternative Payment Providers to collect overpayments made for child care services. It allows Alternative Payment Providers (AP) to collect overpayments from child care providers and families, changes the definition of a "clear-contract" for APs to reference eligibility, reimbursements, family fees, and overpayments and allows overpayments to be recouped through a reduction in the grant level or the child care subsidy. Counties would keep 12.5 percent of all overpayments collected.

May Revision: The May Revision makes changes to the Governor's proposed reforms, decreases the estimated savings by approximately $45 million, primarily due to a reduced level of savings assumed from the proposed transition of 11 and 12 year olds to after school programs. The May Revision makes the following changes to the proposed reforms:

- Allows current recipients of Stage 3 child care to shift into guaranteed slots in existing general subsidized child care programs without time limits. Non-aided recipients of Stage 1 and 2 child care would be eligible for two years of Stage 3 eligibility when they reach Stage 3.
- Creates an exception to the proposed limitation of child care to two years for families participating in a training or education program when the family is working at least 20 hours per week.
- Proposes a $3.1 million increase to support 35 new county fraud investigator positions, for net costs in the budget year of $1.6 million. The May Revision also proposes trailer bill legislation which makes substantial policy changes to existing child care program requirements.

The May Revision also reduces the TANF fund transfer to Stage 2 child care to $346.1 million.

Staff recommendation: Reject the proposed reforms, restore funding for Stage 1 child care, and adopt the reduced TANF fund transfer to Stage 2 child care.

Issue G - Funding for Services Delivered by Indian Health Clinics

Background: Since 2000, California has provided funding to 36 Indian health clinics to support the delivery of mental health and substance abuse services to Native Americans. Funding supports a clinician at each of the clinics and the delivery of services designed to assist clients in securing and retaining employment. Program services include outreach, mental health or substance abuse screenings, individual or group treatment services, and assistance to integrate clients into welfare-to-work services.

Governor's Budget: The budget terminates funding for mental health and substance abuse services delivered by Indian Health Clinics for savings of $2.7 million.

Staff recommendation: Maintain the Governor's proposed reduction.

Issue H - Eliminates Substance Abuse Treatment Program for Low-Income Women

Background: The Low-Income Women Outpatient Substance Abuse Treatment and Supportive Housing Program provides transitional services to low-income women in need of substance abuse treatment who are not eligible for other treatment services.

Governor's Budget: The budget eliminates the Low-Income Women Outpatient Substance Abuse Treatment and Supportive Housing Program for savings of $2 million.

Staff recommendation: Maintain the Governor's proposed reduction.

Issue I - Community Challenge Grants

May Revision: A May Finance letter requests that the Legislature transfer $20 million in TANF funds to the Department of Health Services for support of Community Challenge Grants. The Community Challenge Grant (CCG) Program provides funds to local organizations to mitigate teen pregnancy and non-marital births. The CCG Program is specifically designed to reduce unwed and teen pregnancies, and absentee fatherhood through community-driven strategies and interventions implemented via a working partnership between the state and local community based organizations, local businesses, and youth and their parents.

Staff recommendation: Adopt the May Revision.

Issue J - TANF transfer to non-CalWORKs Programs

Background: The federal TANF law allows the state to transfer up to 10 percent of its TANF funds to Title XX. The transferred TANF funds must be spent on children or their families with incomes below 200 percent of the federal poverty level. Once transferred, the funds may be used to support any programs that meet the stated Title XX goals, including, achieving economic self-sufficiency, preventing abuse or neglect, and preventing inappropriate institutional care.

Governor's Budget: The budget increases TANF fund transfers to support non-CalWORKs activities to $176.5 million. The budget proposes the following new or increased TANF transfers: $56 million to the Foster care program, $52.5 million to Child Welfare Services, and $48 million to the Department of Developmental Disabilities.

Since 1998-99, TANF/MOE funding for non-CalWORKs programs has increased by 50 percent to $1.1 billion. CalWORKs program funding has decreased by $757.5 million in the same period.

Staff comment: Last year, the Legislature rejected a proposed TANF transfer to Title XX to offset General Fund costs in the IHSS program. The Department of Finance subsequently proposed to carry out the transfer that had been denied by the Legislature.

The LAO suggests that if the Legislature rejects proposed TANF transfers, it may want to include language that prevents the administration from implementing the transfers the Legislature has previously rejected. The LAO proposes the following language:

> *The Director of Finance is authorized to approve transfers not to exceed $162,191,000 from the federal Temporary Assistance for Needy Families (TANF) block grant to and in augmentation of any program for which TANF funds have been appropriated in this act, only if the request (1) meets all of the conditions set forth in Section 28.00 of this act, or (2) is consistent with Provision 4 of Item 5180-101-001. Notwithstanding any other provision of law, funds in this item may not be transferred into the Social Services Block Grant (Title XX).*

Staff recommendation: (1) Reject the proposed TANF transfers to Title XX; (2) Reject the proposed trailer and budget bill language associated with the transfers; (3) Adopt the budget bill language suggested by the LAO; (4) Increase General Fund support to offset the reduction in Title XX funding; and (5) Direct the TANF dollars to fund CalWORKs grant costs.

Issue K - CalWORKs Reserve

Governor's Budget: The budget proposed to appropriate $210.1 million in TANF funds to a CalWORKs reserve for contingencies.

May Revision: A May Finance letter requests that the Legislature reduce the amount of TANF funding appropriation to the CalWORKs Reserve by $47.9 million to $162.2 million.

Staff recommendation: Adopt the May Revision.

IV. Food Stamps Program

VOTE ONLY ITEM:

Issue A- Repeal Food Stamps Reforms

Governor's Budget: The budget proposed to eliminate transitional food stamps benefits and to repeal legislation which sought to increase participation in the food stamps program to realize General Fund savings of $3.5 million in the budget year.

The budget proposals will result in a $202.5 million loss in federal food stamps benefits for 81,000 low-income California households. According to the LAO, the proposed elimination of transitional benefits would result in a $4.5 million General Fund revenue loss for California. The Analyst recommended that the Legislature reject the Governor's proposals, restore Food Stamps and CFAP funding, and recognize the resulting General Fund revenues. The Subcommittee adopted the LAO recommendation at its May 6 hearing.

May Revision: The May Revision rescinds the proposed elimination of transitional food stamps benefits and repeal of food stamps reforms and requests $5.3 million ($3.5 million General Fund) in increased program funding. According to the Department of Finance, the proposal will generate ongoing annual General Fund revenue of $4.5 million.

Staff recommendation: Rescind prior Subcommittee action and adopt the May Revision.

5180 Department of Social Services - Automation Issues
4130 Health and Human Services Agency Data Center

VOTE ONLY ITEMS:

1. Operations and Infrastructure investments

Background: The HHSDC provides computer services, telecommunications support, information systems, and training support to departments in the Health and Human Services Agency. The budget provides $119.4 million to fund HHSDC operations.

May Revision: The May Revision requests a $2.2 million increase to the HHSDC spending authority to fund increased operational costs and establish 12.2 positions. Specifically, the May Revision requests $1.3 million to fund the upgrade of a shared central processing unit and augment the HHSDC enterprise disk storage capabilities, and $843,000 for system, server and storage support.

Data Center Consolidation: Chapter 225, Statutes of 2003, required the Administration to submit a plan by December 1, 2003, to consolidate the Health and Human Services Agency Data Center and the Teale Data Center to realize General Fund savings of $3.5 million. The May Revision requests approval of Control Section language that would allow the Director of Finance to realign appropriations for the purpose of implementing data center consolidation. Additionally the Control Section would allow a transfer of $3.5 million from the Teale Data Center Revolving Fund to the General Fund. The Administration has provided to the Legislature an "Outline for Consolidation" but has not developed a final consolidation plan.

Legislative Analyst's Office Recommendation: The LAO does not raise any concerns with the requested hardware increase of $962,000. However, the LAO recommends rejection of the requested staffing increases (12 positions) and associated funding ($1.2 million) as the administration intends to consolidate HHSDC and Teale, and has not examined the staffing needs of the consolidated data center.

Staff recommendation: Adopt the LAO recommendation.

2. Unemployment Insurance Modernization Project

Background: Last year, the Legislature provided an $85 million augmentation in Reed Act funds to the Employment Development Department (EDD) to fund automation improvements that will increase EDD's capacity to detect and control fraud. The funding will support the redesign of the unemployment insurance (UI) continued claims system, improve the service levels at the UI call centers, and prevent and detect fraud in the UI system. Specifically, the Continued Claims Redesign project will provide new ways for clients to certify for benefits and improve the Department's ability to detect and prevent fraud. The Call Center Network Platform & Application Upgrade Project will improve the UI call center platform security and redesign the interactive voice response system. The Health and Human Services Data Center is the state entity responsible for management of the UI Modernization project and for procurement activities.

Finance Letter: A recent Department of Finance (DOF) letter requests that the Legislature increase the Data Center's expenditure authority by $17.8 million and establish 5 new positions to support activities associated with the Unemployment Insurance Modernization Project. The request will maintain funding and positions granted to HHSDC in the current year. According to DOF, federal funds will cover one-time development and implementation costs for the projects. Following implementation, ongoing costs will be funded through EDD baseline reductions.

Staff recommendation: Adopt the Finance letter.

3. Case Management Information and Payrolling System (CMIPS)

Background: The In Home Supportive Services (IHSS) program provides supportive services to eligible aged, blind and disabled persons that allow them to remain safely in their own homes as an alternative to out-of-home care. Program services are generally delivered by independent providers who are hired, trained and supervised by IHSS consumers. Since 1979, the state has developed and maintained a case management information and payrolling system to facilitate and standardize payments to providers of IHSS services.

Over the years, CMIPS has been modified to incorporate some program changes, including implementation of the Personal Care Services Program, which made IHSS services an entitlement for eligible Medi-Cal beneficiaries, and to support some case management functions. However, CMIPS has not kept pace with recent program changes and lacks important functionalities. For example, the system has limited case management capabilities, does not support employee registries, cannot make most payroll deductions, requires a cumbersome process for updating wage rates and is not capable of tracking benefits.

In 1998, DSS was directed by state control agencies to conduct a competitive procurement for a new contract for CMIPS maintenance. Since September 2000, HHSDC has been conducting the analysis and planning for the IHSS/CMIPS competitive procurement. The Legislature has twice authorized extension of funding and positions for CMIPS II. However, the project remains in the planning stage and the Administration is currently re-evaluating the procurement strategy.

Governor's Budget: The budget proposes to extend funding for CMIPS procurement activities for one year to support re-evaluation of the procurement strategy ($1.7 million total funds).

In January, the Administration proposed to migrate the CMIPS system to the California Medicaid Management Information System to benefit from enhanced federal financial participation in development costs. The Administration is now pursuing enhanced federal financial participation in CMIPS II as part of its IHSS Plus Waiver.

May Revision: A May Finance letter requests that the Legislature reduce General Fund support for CMIPS procurement activities by $293,000 and increase reimbursements by the same amount to reflect an increase in federal financial participation.

Staff recommendation: Adopt the Finance letter and adopt trailer bill language to specify the components that CMIPS II must include and establish a deadline to begin procurement.

DISCUSSION ITEM:

1. Child Welfare Services/ Case Management System

Background: Federal and state laws require the state to provide automated case management support to child welfare workers. California accomplishes this goal through the Child Welfare Services Case Management System (CWS/CMS). CWS/CMS has been in operation for seven years. The system is operated by an independent contractor and is based in Boulder, Colorado.

Since 1994, California has received enhanced federal financial participation for CWS/CMS development costs to support the development of an automation system that meets federal Statewide Automated Child Welfare Information System (SACWIS) compliance. Federal rules provide enhanced federal financial participation to states pursuing SACWIS compliance and require states to return enhanced funding if the state does not meet the federal automation system requirements. CWS/CMS meets 61 of the 87 federally required functionality requirements, and is not a fully SACWIS compliant system.

As a result of long-standing concerns, regarding the CWS/CMS maintenance and operations contract and the fact that the system is not SACWIS compliant, the federal government reduced funding for the maintenance and operation of CWS/CMS effective July 2003. The federal government has continued to provide federal funding for system costs but has not participated at the enhanced level of funding.

The Schwarzenegger Administration has been working with the federal Health and Human Services Agency to address federal concerns and secure continued federal funding for CWS/CMS. California submitted a CWS/CMS "go-forward plan" to the federal Health and Human Services Agency on May 12. The plan outlines how California will proceed in areas of key federal concerns: moving the CWS/CMS application to a State Data Center; conducting a competitive procurement for an application maintenance contract, and examining potential technical architecture solutions for the future of the system. The Administration for Children and Families is reviewing the state's plan and has expressed pleasure with the state's effort to move towards a competitive procurement for CWS/CMS maintenance, to evaluate program requirements and to adopt a system architecture that meets the state's programmatic needs.

May Revision: The May Revision contains a series of proposed changes relative to CWS/CMS. Specifically, a May Finance letter requests that the Legislature adopt the following changes to the Governor's Budget: (1) provide a $10.2 million General Fund increase due to the lower level of federal financial participation in the non-SACWIS system; (2) decrease program funding by $6.1 million ($3 million General Fund) due to a delay in development of the Expanded Adoptions Subsystem; (3) Adopt budget bill language that authorizes the Department of Finance to augment DSS and HHSDC in order to transition the CWS/CMS system from the contractor to a State Data Center; and (4) the Administration's CWS/CMS go-forward plan.

Legislative Analyst's Office Analysis and Recommendations: According to the LAO, it is unclear at this time if the federal government will approve the requested 40 percent funding level for the project. If funding is not restored at the 40 percent level, General Fund costs will be higher than those assumed in the May Revision. The LAO raises the following concerns about the proposed "go-forward plan": (1) the Administration proposes to take one year to analyze three alternatives for the technology to support the system; (2) the Administration does not propose to include a non-SACWIS alternative; and (3) the proposed solutions may result in a single contract, instead of a procurement strategy that maximizes competition.

The LAO recommends that the Legislature: (1) reduce the CWS/CMS costs by $19.4 million ($11.7 million General Fund); (2) adopt budget bill language that requires: DSS to provide the highest priority to the CWS/CMS planning and procurement efforts; the plan to be completed by December 1, 2004; a non-SACWIS alternative be examined; the technology alternatives be based on open systems standards and architectures; and alternatives use multi-procurement strategies; and (3) adopt trailer bill language that requires the state control agencies to expedite their reviews and authorizes DSS to use outside legal expertise in its contract negotiation.

Subcommittee request and questions: The Subcommittee has requested that the Administration briefly discuss the proposed "go-forward plan" and the CWS/CMS changes proposed in the May Revision. The Subcommittee has also requested that the LAO discuss their analysis of the Administration's proposal and their recommendation.

Staff recommendation: (1) Adopt the $6.1 million reduction and the budget bill language proposed by the Administration in the May Revision; (2) Adopt, as placeholder language, the budget and trailer bill language proposed by LAO; and (3) Reduce project funding by 10 percent.

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Agenda 1

May 21, 2004
Room 4203 – 9 a.m.

Consultant, Brian Annis

7100 Employment Development Department

Purpose: The Employment Development Department (EDD) is the primary catalyst for building and sustaining a high quality workforce. The EDD serves the people of California by matching job seekers and employers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, and assists disadvantaged and welfare-to-work job seekers by providing employment and training programs. In addition, EDD collects and provides economic, occupational, and socio-demographic labor market information concerning California's workforce.

Budget: The Governor proposes $12.62 billion ($18.8 million General Fund), a decrease of $836.7 million (6.2 percent) from the current-year budget.

VOTE ONLY ITEMS:

1. Delete the Manufacturing Technology Program Provisional Language (April 1 Finance Letter).

Background*:* The Governor's Budget includes $2.1 million in Employment Training Fund resources for an interagency agreement between the Employment Training Panel and the Business, Transportation, and Housing Agency for the purpose of funding the Manufacturing Technology Program (MTP). The MTP provides small and medium-sized manufacturers with access to a wide range of inexpensive business assistance including technical consultative services, workforce training, and professional development. The Employment Training Panel has separately approved training funds for the MTP's two regional offices.

Finance Letter: The Administration proposes to eliminate the provisional budget bill language that specifies $2.126 million of the $18.353 million Employment Training Fund appropriation shall be made available for the interagency agreement with the Business, Transportation and Housing Agency for the MTP. The total appropriation would not be reduced from $18.353 million. While deletion of the provisional language would not prohibit the interagency agreement, the Employment Training Panel indicates that training grants are a higher priority than the MTP, and the MTP would not be funded in 2004-05. The Administration also indicates that Employment Training Panel funding for the MTP, whether for consulting or training, should be within ETP's purview and not a Budget Act provision.

May 10 Hearing: The Subcommittee heard this issue on May 10, and it was left open.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

2. Control Section 6.60: Workers' Compensation Savings and Employment Training Panel Augmentation of up to $40 Million (April Finance Letter)

Background: The Employment Training Panel (ETP) is a statewide economic development program that supports the California economy by providing worker training. The program seeks to assist employers, primarily small businesses, to compete in the global economy while providing workers higher wages and secure employment. The ETP is funded by the Employment Training Tax deposited into the Employment Training Fund. California employers participating in the Unemployment Insurance System pay this tax. ETP expenditures from the Employment Training Fund exceeded $100 million in both 2001-02 and 2002-03; however, expenditures are estimated at $18 million in 2003-04 and $14 million in 2004-05. The appropriations and expenditures have declined due to falling Employment Training Tax revenue and increased expenditures out of the fund by the Department of Social Services.

The Employment Training Fund also supports local assistance expenditures for the CalWORKs program administered by the Department of Social Services. The Employment Training Fund appropriation for CalWORKs was $30 million in 2002-03, but was increased to $56 million in 2003-04, and is proposed to be $56 million in 2004-05.

The Governor's Budget proposed a new General Fund transfer of up to $40 million to support the Employment Training Panel to be funded by workers' compensation savings. The transfer would be contingent on workers' compensation savings, but also permissive for the Director of Finance should those savings be realized. If the workers' compensation savings did not materialize or if the Finance Director did not choose to make the transfer, the ETP would be funded solely by the Employment Training Fund – with an appropriation of $18.353 million. The 2003-04 appropriation was $40.313 million, but expenditures were reduced to $22.915 million after anticipated revenues did not materialize – approximately $4.7 million of each years' appropriation supports operations of the tax collection branch.

Finance Letter: The Administration now proposes a different mechanism that would achieve a similar result to what was proposed in the Governor's Budget. A new Control Section 6.60 is proposed to allow the Director of Finance to survey departments for workers' compensation savings and transfer these savings to the General Fund. Instead of using the workers' compensations savings for a transfer to the Employment Training Fund, the Administration now proposes to augment (by up to $40 million) the General Fund CalWORKs appropriation, reduce the CalWORKs Employment Training Fund appropriation by the same amount, and increase (by up to $40 million) the Employment Training Panel Employment Training Fund appropriation. This would result in no net change to CalWORKs funding.

May 10 Hearing: The Subcommittee heard this issue on May 10, and it was left open.

Budget Issue: Does the Subcommittee wish to adopt Control Section 6.60 and the related budget bill changes?

3. Forecast Revision to the Unemployment Insurance (UI) Benefits Program (May Revision Finance Letter)

Background: The UI Program provides and maintains an employer-funded system to pay benefits to individuals who become unemployed through no fault of their own. Individuals file claims with the EDD and, if determined eligible, are paid UI benefits. The EDD's Program Estimates Group has adjusted the projections for UI workload and estimated UI claims based on historical trends and projected improvements to the California economy.

Finance Letter: The Administration requests a reduction of $877.364 million to Item 7100-101-0871 to reflect a projected decrease in UI benefit payments. The 2003-04 benefit expenditure is now estimated to be $394.851 million less than previously projected. The request change represents an adjustment to expenditure projections and not a cut to the program.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

4. Unemployment Fund Loan Interest (May Finance Letter)

Background: The UI program is a federal-state program, authorized in federal law but with broad discretion for states to set benefit and employer contribution levels. The program is financed by unemployment tax contributions paid by employers for each covered worker. Employers pay unemployment taxes on up to $7,000 in wages paid to employees. The actual tax rate for each employer depends on the past utilization of the UI program by the employer's workers. Current law establishes a series of contribution rate schedules ranging from A to F, with each rate schedule tied to various potential conditions of the UI fund. Chapter 409, Statutes of 2001 (SB 40) provided for a total increase in the maximum weekly benefit from $230 to $450 by January 2005. Chapter 409 did not change the employer contribution schedule.

Due to higher UI claims in recent years, higher benefit levels, and caps on employer contributions, the UI fund was projected to become insolvent and the EDD applied for a federal loan during the fall of 2003. The EDD reports that it took a federal loan in April 2004 and the entire balance will be repaid in May 2004. However, additional borrowing may be needed as early as October 2004, and if additional borrowing occurs in calendar year 2004, the interest incurred on the April and May loan amount will become due once the second loan is initiated.

Finance Letter: The Administration requests provisional budget language allowing the EDD to augment the Employment Development Contingent Fund in order to make interest payments on a federal Unemployment Fund loan.

The LAO has no objection to this proposal, but indicates that the Legislature could ask the administration to seek expenditure authority for interest payments when it submits its legislative package to address the UI insolvency.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

5. Disability Insurance (DI) Program and Benefit Adjustments (May Finance Letter)

Background: California DI is a worker-funded program that provides benefits to workers who are unable to work due to non-work related illness, injury, or pregnancy. The budget is based on estimated workload projections by the Program Estimates Group within EDD.

Finance Letter: The Administration requests the below DI adjustments for the EDD and the California Unemployment Insurance Appeals Board (CUIAB) based on revised workload projections. The requested adjustments do not represent a cut to the program.

	State Fiscal Year 2003-04		State Fiscal Year 2004-05	
	PYs	Dollars	PYs	Dollars
Workload adjustments				
CUIAB workload adjustment	-7.9	-$723,000	-5.4	-$512,000
EDD workload adjustment	-28.6	-$1,774,000	-26.3	-$1,691,000
Workload Adjustment Total	-36.5	-$2,497,000	-31.7	-$2,203,000
Benefits changes		-$90,690,000		-$45,187,000
Total DI authority request	-36.5	-$93,187,000	-31.7	-$47,390,000

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

6. School Employees Fund Adjustments (May Revision Finance Letter)

Background: The School Employees Fund (SEF) Program is a joint, pooled-risk fund administered by the EDD, which collects contributions based upon a percentage of total wages paid by public schools and community college districts. Money deposited in the SEF is used to reimburse the Unemployment Insurance (UI) Fund for the cost of UI benefits paid to former employees of those school employers who have elected this option in lieu of paying the tax-rated method, as is required of private sector employees. The contribution rate is calculated annually based upon the formula established in California Unemployment Insurance code Section 823.

Finance Letter: The Administration requests to adjust the benefits authority to correspond with the current projected expenditure level. The requested adjustments are as follows:

- 2003-04 Local Assistance increase of $4,585,000.
- 2004-05 Local Assistance increase of $27,650,000.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

7. Workforce Investment Act Adjustments (May Revision Finance Letter)

Background: The Workforce Investment Act Title I funds are available through three programs: Adult Employment and Training; Youth Activities; and Dislocated Workers. In accordance with the Department of Labor regulations, the EDD administers the WIA funds in consultation with the California Workforce Investment Board.

Finance Letter: The Administration requests the following adjustments to realign the budget with new projections of WIA resources:

- 2003-04 State Support increase of $1,146,000.
- 2003-04 Local Assistance decrease of $3,218,000.
- 2004-05 State Support increase of $1,988,000.
- 2004-05 Local Assistance increase of $1,606,000.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

DISCUSSION ITEMS

1. Workforce Investment Act Discretionary Funds (May Revision Finance Letter)

Background: The federal Workforce Investment Act of 1998 seeks to strengthen coordination among various employment, education, and training programs, and support the delivery of employment and training services. The 63 member Workforce Investment Board (WIB) advises the Governor on the operations of the state workforce investment system; however, the board's actions are not binding on the Governor. Pursuant to federal law, 85 percent of WIA funds (an estimated $449 million in 2004-05) are allocated to local WIBs, formerly known as Private Industry Councils. The remaining 15 percent of WIA funds ($67 million) are available for discretionary purposes such as administration, statewide initiatives, current employment service programs, or competitive grants.

The Governor's budget does not include an expenditure plan for the federal Workforce Investment Act (WIA) discretionary funds. In order to ensure that the WIA discretionary spending is consistent with legislative priorities, the Legislative Analyst Office (LAO) recommends the subcommittee deny the expenditure authority for these federal funds until an expenditure plan is submitted to the Legislature. (Reduce Item 7100-001-0869 by $16.8 million).

March 25 Hearing: The subcommittee adopted the LAO recommendation to reduce WIA expenditure authority by $16.8 million until the administration submits an expenditure plan.

May Finance Letter: The Administration submitted a WIA discretionary fund expenditure plan with the May Revision. After review of the expenditure plan, the LAO recommends that the subcommittee rescind the prior action, which reduced WIA expenditure authority by $16.8 million and approve the Finance Letter.

Alternative Proposal for California Conservation Corps (CCC): WIA funds could be used to support training for California Conservation Corps members as firefighters. The LAO indicates such expenditures would be consistent with Item 7100-001-0869, Schedule 8, Removing Barriers for Special Needs Populations, and it appears up to $2.5 million may be available for this purpose. Of this $2.5 million, $310,000 is the suggested amount for CCC training, and this amount could be specified for allocation to the CCC with budget bill provisional language.

To implement this alternative, the LAO suggests the following language:

Add provision 5 to Item 7100-001-0869:

5. Up to $310,000 of the funds in Schedule 8 shall be used to provide fire and fuel reduction training for California Conservation Corps members participating in the fuels management partnership.

Budget Issue: Does the Subcommittee wish to restore the $16.8 million WIA discretionary fund expenditure authority and add provisional language to specify $310,000 shall be for support training for the California Conservation Corps?

7350 Department of Industrial Relations (DIR)

The objective of the Department of Industrial Relations is to protect the workforce in California, improve working conditions, and advance opportunities for profitable employment. The department is continually working toward this objective by enforcing workers' compensation insurance laws and adjudicating workers' compensation insurance claims, working to prevent industrial injuries and deaths, promulgating and enforcing laws relating to wages, hours, and conditions of employment, promoting apprenticeship and other on-the-job training, assisting in negotiations with parties in dispute when a work stoppage is threatened, and by analyzing and disseminating statistics which measure the condition of labor in the state.

Budget: The Governor proposes $281.9 million ($62.2 million General Fund), an increase of $2.3 million from the current-year budget.

VOTE ONLY ITEMS:

1. Reappropriation for the Case Management System IT Project (April Finance Letter)

Background: The Budget Act of 2003 appropriated $960,000 for the Division of Labor Standards Enforcement's centralized Case Management System (CMS) information technology project. The DIR indicates the CMS will improve data analysis and enforcement, and provide easy access to statewide information for staff and members of the public. The total cost for the CMS is estimated at $3.7 million through 2007-08 (excluding the cost of redirecting existing staff). Contract award for the project has been delayed due to procurement changes and DIR now anticipates the contract will be awarded in October 2004.

Finance Letter: The Administration proposes to reappropriate up to $960,000 to reflect the revised timetable for the CMS project.

Budget issue: Does the Subcommittee wish to approve the proposed reappropriation?

2. Reappropriation for Studies Required by Chapter 6, Statutes of 2002 (May Finance Letter)

Background: Chapter 6, Statutes of 2002 (AB 749), requires the DIR and the Commission on Health and Safety and Workers' Compensation to complete a medical study and a physical education and training study. Funds for these studies were appropriated in the 2003 Budget Act.

May Revision: The requests to reappropriate up to $350,000 to allow the DIR to contract with the RAND Corporation to complete the medical study and up to $300,000 to allow DIR to complete a physical education and training study.

Budget issue: Does the Subcommittee wish to approve the request?

3. Uninsured Employers Fund and Subsequent Injuries Fund Administration

Background: The Budget Act of 2003 and related trailer bills transferred functions and funding for administration of the Uninsured Employers Fund and the Subsequent Injuries Fund from the Department of Industrial Relations to the State Compensation Insurance Fund. The Administration has now determined that transferring the two programs to the State Compensation Insurance Fund will result in increased administration costs.

Governor's Budget: The budget proposes to reinstate 58 positions, establish 5 new positions, and provide $1.1 million in funding to continue DIR administration of the programs.

Budget issue: Does the Subcommittee wish to approve the proposed restoration of positions and funding to support DIR administration of the Uninsured Employers Fund and the Subsequent Injuries Fund?

4. Reductions to Generate General Fund Savings (May Finance Letter)

Background: At the March 25 hearing, the subcommittee voted to eliminate funding for the Industrial Welfare Commission. If implemented, this action would result in General Fund savings of $235,000 and the elimination of two positions.

May Revision: The Administration requests the following actions to generate General Fund savings totaling $2.010 million:

- Eliminate the Industrial Welfare Commission (this action was already taken by the subcommittee).
- Eliminate $92,000 from the Division of Occupational Safety and Health. New federal funds allow this reduction without impacting the program.
- Eliminate General Fund support for the Apprenticeship Program and backfill with the Apprenticeship Training Contribution Fund (ATCF). The DIR indicates that the elimination of General Fund support would not impact the Apprenticeship Program because the ATCF contains a sufficient fund balance to allow redirection of ATCF funds to finance Apprenticeship Program expenditures currently paid out of the General Fund. Based on the current ATCF condition statement, the existing fund balance, combined with the ongoing contributions of contractors into the fund, should be able to sustain Apprenticeship Program expenditures for 2004-05, and for several years beyond.

Budget issue: Does the Subcommittee wish to approve the request?

DISCUSSION ITEMS

1. Workers' Compensation Reform and Baseline Adjustments (May Finance Letter)

Background: California's workers' compensation system has had three significant reforms in the past three years: Chapter 749, Statutes of 2002 (AB 749); Chapter 639, Statutes of 2003 (SB228); and Chapter 34, Statutes of 2004 (SB 899). Funding of $9.252 million and 72 positions was provided to the various workers' compensation programs at the DIR for implementation of AB 749 in 2003-04.

May Revision: The Administration requests the following related to workers' compensation reform:

- An augmentation of $20.106 million from the Workers' Compensation Administration Revolving Fund and the establishment of 249.0 positions (174.3 personnel years) for implementation of SB 228 and baseline funding for the courts.
- Authority for the Director of Finance with 30 day notification to the Legislature, to augment by up to 10 percent of the Workers' Compensation Administration Revolving funds appropriated to the DIR to fund implementation of SB 899. The requested provisional language would also allow the DIR to submit an expenditure plan for the implementation of SB 899 no later than August 1, 2004.
- Authority to upgrade entry level support staff to the Program Technician series for recruitment and retention purposes, which the Department indicates was the recommendation of a RAND study.
- An appropriation of $2.543 million for the development of the workers' compensation case management system.

Subcommittee request: The Subcommittee has requested that the Administration describe the proposal and the anticipated workload to implement this year's workers' compensation reform.

Budget issue: Does the Subcommittee wish to approve the request?

8955 Department of Veterans Affairs

The Department of Veterans Affairs has three primary objectives: (1) provide comprehensive assistance to veterans and dependents of veterans in obtaining benefits and rights to which they may be entitled under state and federal laws; (2) afford California veterans the opportunity of becoming homeowners through the medium of loans available to them under the Cal-Vet farm and home loan program; and (3) provide support for California veterans homes where eligible veterans may live in a retirement community and where nursing care and hospitalization are provided. The department operates veterans' homes in Yountville (Napa County), Barstow (San Bernardino County), and Chula Vista (San Diego County). The homes provide medical care, rehabilitation, and residential home services.

Budget: The Governor proposes total expenditures of $293.7 million ($61.2 million General Fund), a decrease of $10.4 million from the current-year budget.

VOTE ONLY ITEMS

1. Contract for Food Services and Security Functions

Background: The Governor's Budget proposes a $569,000 reduction in General Fund support and the elimination of 120 positions currently providing food and security services at the Yountville home. The budget proposes to contract with a private entity for these services and assumes that contracting out would save 8 percent of current costs.

Both the Barstow and Chula Vista homes contract out for these types of services. Unlike Yountville, they began using private contracts upon their opening. According to the LAO, under current law the department would face a number of hurdles to contract out for these services at the Yountville home, as contracting would displace state workers. The department's savings projection depends on beginning to lay off staff in July 2004. The constitutional amendment proposed by the Governor to facilitate contracting for services provided by state workers will not be considered by the voters until the November 2004 ballot at the earliest. Consequently, the savings projection for the budget year is overstated.

March 25 hearing: This issue was heard and left open at the March 25 hearing. Finance had indicated there might be a May Revision letter on this issue.

May Finance Letter: The Administration requests the withdrawal of the Governor's Budget proposal to contract for food services and security functions at the Veterans Home of California, Yountville. The Administration indicates this proposal could not be implemented without amendments to the State Constitution. This Finance letter would increase General Fund expenditures by $569,000.

Budget Issue: Does the Subcommittee wish to adopt the May Revision Letter and restore the General Fund expenditures that were reduced in the Governor's Budget?

2. Consolidation of Veterans Home Distributed Administration

Background: Currently, funding and positions for various Department of Veterans Affairs and Veterans Homes administrative activities are approved as part of the budget for individual homes, even though the staff is located at the Sacramento headquarters. Positions that have been with the Department since the mid-1990's to perform budgeting, fiscal oversight and other administrative activities are funded from individual homes. The Governor's Budget proposes to shift 41 positions and $3.4 million in funding from the budgets of individual homes to the headquarters budget for administrative activities. Veterans Affairs indicates this is a budgetary recognition of the existing organizational structure.

Budget issue: Does the Subcommittee wish to approve the proposed funding and position shift from individual homes to the Department of Veterans Affairs?

DISCUSSION ITEMS

1. Augment General Fund and Adjust Reimbursements to Historical Levels (May Finance Letter)

Background: Over the past several years, actual reimbursements have been significantly less the budgeted amounts at the Veterans Home of California, Yountville. Consequently, Veterans Affairs has requested and been approved for deficiency augmentations or other relief. In some cases relief was provided through loan forgiveness, and in other cases deficiency requests were approved. The shortfalls have been as follows:

1999-00:	$2.0 million
2000-01:	$2.9 million
2001-02:	$6.3 million
2002-03:	$4.3 million
2003-04:	$1.7 million (currently requested)

May Finance Letter: The Administration requests a $2 million General Fund augmentation and a $2 million reduction in reimbursement authority. The Administration argues that this change would ultimately not increase General Fund costs, because without this funding the Department will likely need to submit a deficiency request during 2004-05.

Subcommittee request: The Subcommittee has requested that the Administration indicate whether approval of this proposal will eliminate the need for future deficiency requests.

Budget Issue: Does the Subcommittee wish to adopt the May Revision Letter to augment General Fund and reduce budgeted reimbursements?

2. Quality Assurance Oversight / Position Reductions (May Finance Letter)

Background: The Governor's Budget proposed to redirect 6.0 positions and $670,000 from individual Veterans Homes to the Department of Veterans Affairs for program oversight, and quality assurance activities. Specifically, the Department requested to create a state organization of medical, clinical and administrative experts to improve quality of care, assure regulatory compliance and secure maximum reimbursement collection at the homes. The budget proposed to shift to the Department two license vocational nurses, a chief of medicine and an executive secretary from Yountville, a supervising registered nurse from Chula Vista and a pharmacist from Barstow. According to the Department, all the positions to be shifted are currently vacant.

May Revision: The Administration now proposes to abolish five of the six positions originally proposed for quality assurance oversight, but retains the request to shift a pharmacist from Barstow for quality assurance. In addition to abolishing the five positions, the Administration proposes to eliminate a Stock Clerk from headquarters and a Stationary Engineer from Chula Vista. The elimination of these seven positions would reduce General Fund costs by $426,000.

Staff Alternative Proposal: The Subcommittee may want to retain the General Fund savings requested in the May Finance Letter, but delete positions in the headquarters instead of positions in the homes. Upon staff request, the Department provided the alternative of deleting a Data Processing Manager III and one Account Administrator I position, as well as giving up $150,000 in various operating expense funds (all in headquarters) to generate the $426,000 in General Fund savings. This alternative would also deny the redirection of a Pharmacist position from Barstow to headquarters for quality assurance work.

Subcommittee request: The Subcommittee has requested that the Administration describe the proposal. The Subcommittee has also requested that the Administration comment on the programmatic impact of generating this same level of savings by eliminating only headquarters positions and retaining all the positions at the homes.

Budget issue: Which of the following actions would the Subcommittee like to take:

1. Approve the Administration proposal to generate $426,000 in General Fund savings by eliminating two headquarters positions and five positions at the homes. Redirect a Pharmacist position in Barstow to headquarters for quality assurance work.
2. Approve the staff alternative to generate $426,000 in General Fund savings, but take the entire reduction in headquarters. Deny the redirection of a Pharmacist position in Barstow to headquarters.
3. Deny the General Fund reduction.
4. Other.

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Decisions Agenda 1

May 21, 2004
Room 4203 – 9 a.m.

Consultant, Brian Annis

7100 Employment Development Department

Purpose: The Employment Development Department (EDD) is the primary catalyst for building and sustaining a high quality workforce. The EDD serves the people of California by matching job seekers and employers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, and assists disadvantaged and welfare-to-work job seekers by providing employment and training programs. In addition, EDD collects and provides economic, occupational, and socio-demographic labor market information concerning California's workforce.

Budget: The Governor proposes $12.62 billion ($18.8 million General Fund), a decrease of $836.7 million (6.2 percent) from the current-year budget.

VOTE ONLY ITEMS:

1. Delete the Manufacturing Technology Program Provisional Language (April 1 Finance Letter).

Background*:* The Governor's Budget includes $2.1 million in Employment Training Fund resources for an interagency agreement between the Employment Training Panel and the Business, Transportation, and Housing Agency for the purpose of funding the Manufacturing Technology Program (MTP). The MTP provides small and medium-sized manufacturers with access to a wide range of inexpensive business assistance including technical consultative services, workforce training, and professional development. The Employment Training Panel has separately approved training funds for the MTP's two regional offices.

Finance Letter: The Administration proposes to eliminate the provisional budget bill language that specifies $2.126 million of the $18.353 million Employment Training Fund appropriation shall be made available for the interagency agreement with the Business, Transportation and Housing Agency for the MTP. The total appropriation would not be reduced from $18.353 million. While deletion of the provisional language would not prohibit the interagency agreement, the Employment Training Panel indicates that training grants are a higher priority than the MTP, and the MTP would not be funded in 2004-05. The Administration also indicates that Employment Training Panel funding for the MTP, whether for consulting or training, should be within ETP's purview and not a Budget Act provision.

May 10 Hearing: The Subcommittee heard this issue on May 10, and it was left open.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

Action: **Approved April Letter 5-0**

2. Control Section 6.60: Workers' Compensation Savings and Employment Training Panel Augmentation of up to $40 Million (April Finance Letter)

Background: The Employment Training Panel (ETP) is a statewide economic development program that supports the California economy by providing worker training. The program seeks to assist employers, primarily small businesses, to compete in the global economy while providing workers higher wages and secure employment. The ETP is funded by the Employment Training Tax deposited into the Employment Training Fund. California employers participating in the Unemployment Insurance System pay this tax. ETP expenditures from the Employment Training Fund exceeded $100 million in both 2001-02 and 2002-03; however, expenditures are estimated at $18 million in 2003-04 and $14 million in 2004-05. The appropriations and expenditures have declined due to falling Employment Training Tax revenue and increased expenditures out of the fund by the Department of Social Services.
The Employment Training Fund also supports local assistance expenditures for the CalWORKs program administered by the Department of Social Services. The Employment Training Fund appropriation for CalWORKs was $30 million in 2002-03, but was increased to $56 million in 2003-04, and is proposed to be $56 million in 2004-05.

The Governor's Budget proposed a new General Fund transfer of up to $40 million to support the Employment Training Panel to be funded by workers' compensation savings. The transfer would be contingent on workers' compensation savings, but also permissive for the Director of Finance should those savings be realized. If the workers' compensation savings did not materialize or if the Finance Director did not choose to make the transfer, the ETP would be funded solely by the Employment Training Fund – with an appropriation of $18.353 million. The 2003-04 appropriation was $40.313 million, but expenditures were reduced to $22.915 million after anticipated revenues did not materialize – approximately $4.7 million of each years' appropriation supports operations of the tax collection branch.

Finance Letter: The Administration now proposes a different mechanism that would achieve a similar result to what was proposed in the Governor's Budget. A new Control Section 6.60 is proposed to allow the Director of Finance to survey departments for workers' compensation savings and transfer these savings to the General Fund. Instead of using the workers' compensations savings for a transfer to the Employment Training Fund, the Administration now proposes to augment (by up to $40 million) the General Fund CalWORKs appropriation, reduce the CalWORKs Employment Training Fund appropriation by the same amount, and increase (by up to $40 million) the Employment Training Panel Employment Training Fund appropriation. This would result in no net change to CalWORKs funding.

May 10 Hearing: The Subcommittee heard this issue on May 10, and it was left open.

Budget Issue: Does the Subcommittee wish to adopt Control Section 6.60 and the related budget bill changes?

Action: **Approved April Letter with staff-recommended provisional language change of "may" to "shall." 5-0**

3. Forecast Revision to the Unemployment Insurance (UI) Benefits Program (May Revision Finance Letter)

Background: The UI Program provides and maintains an employer-funded system to pay benefits to individuals who become unemployed through no fault of their own. Individuals file claims with the EDD and, if determined eligible, are paid UI benefits. The EDD's Program Estimates Group has adjusted the projections for UI workload and estimated UI claims based on historical trends and projected improvements to the California economy.

Finance Letter: The Administration requests a reduction of $877.364 million to Item 7100-101-0871 to reflect a projected decrease in UI benefit payments. The 2003-04 benefit expenditure is now estimated to be $394.851 million less than previously projected. The request change represents an adjustment to expenditure projections and not a cut to the program.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

Action: **Approved May Letter 5-0**

4. Unemployment Fund Loan Interest (May Finance Letter)

Background: The UI program is a federal-state program, authorized in federal law but with broad discretion for states to set benefit and employer contribution levels. The program is financed by unemployment tax contributions paid by employers for each covered worker. Employers pay unemployment taxes on up to $7,000 in wages paid to employees. The actual tax rate for each employer depends on the past utilization of the UI program by the employer's workers. Current law establishes a series of contribution rate schedules ranging from A to F, with each rate schedule tied to various potential conditions of the UI fund. Chapter 409, Statutes of 2001 (SB 40) provided for a total increase in the maximum weekly benefit from $230 to $450 by January 2005. Chapter 409 did not change the employer contribution schedule.

Due to higher UI claims in recent years, higher benefit levels, and caps on employer contributions, the UI fund was projected to become insolvent and the EDD applied for a federal loan during the fall of 2003. The EDD reports that it took a federal loan in April 2004 and the entire balance will be repaid in May 2004. However, additional borrowing may be needed as early as October 2004, and if additional borrowing occurs in calendar year 2004, the interest incurred on the April and May loan amount will become due once the second loan is initiated.

Finance Letter: The Administration requests provisional budget language allowing the EDD to augment the Employment Development Contingent Fund in order to make interest payments on a federal Unemployment Fund loan.

The LAO has no objection to this proposal, but indicates that the Legislature could ask the administration to seek expenditure authority for interest payments when it submits its legislative package to address the UI insolvency.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

Action: **Approved May Letter 3-2**

5. Disability Insurance (DI) Program and Benefit Adjustments (May Finance Letter)

Background: California DI is a worker-funded program that provides benefits to workers who are unable to work due to non-work related illness, injury, or pregnancy. The budget is based on estimated workload projections by the Program Estimates Group within EDD.

Finance Letter: The Administration requests the below DI adjustments for the EDD and the California Unemployment Insurance Appeals Board (CUIAB) based on revised workload projections. The requested adjustments do not represent a cut to the program.

	State Fiscal Year 2003-04		State Fiscal Year 2004-05	
	PYs	Dollars	PYs	Dollars
Workload adjustments				
CUIAB workload adjustment	-7.9	-$723,000	-5.4	-$512,000
EDD workload adjustment	-28.6	-$1,774,000	-26.3	-$1,691,000
Workload Adjustment Total	-36.5	-$2,497,000	-31.7	-$2,203,000
Benefits changes		-$90,690,000		-$45,187,000
Total DI authority request	-36.5	-$93,187,000	-31.7	-$47,390,000

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

Action: **Approved May Letter 5-0**

6. School Employees Fund Adjustments (May Revision Finance Letter)

Background: The School Employees Fund (SEF) Program is a joint, pooled-risk fund administered by the EDD, which collects contributions based upon a percentage of total wages paid by public schools and community college districts. Money deposited in the SEF is used to reimburse the Unemployment Insurance (UI) Fund for the cost of UI benefits paid to former employees of those school employers who have elected this option in lieu of paying the tax-rated method, as is required of private sector employees. The contribution rate is calculated annually based upon the formula established in California Unemployment Insurance code Section 823.

Finance Letter: The Administration requests to adjust the benefits authority to correspond with the current projected expenditure level. The requested adjustments are as follows:

- 2003-04 Local Assistance increase of $4,585,000.
- 2004-05 Local Assistance increase of $27,650,000.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

Action: **Approved May Letter 3-2**

7. Workforce Investment Act Adjustments (May Revision Finance Letter)

Background: The Workforce Investment Act Title I funds are available through three programs: Adult Employment and Training; Youth Activities; and Dislocated Workers. In accordance with the Department of Labor regulations, the EDD administers the WIA funds in consultation with the California Workforce Investment Board.

Finance Letter: The Administration requests the following adjustments to realign the budget with new projections of WIA resources:

- 2003-04 State Support increase of $1,146,000.
- 2003-04 Local Assistance decrease of $3,218,000.
- 2004-05 State Support increase of $1,988,000.
- 2004-05 Local Assistance increase of $1,606,000.

Budget Issue: Does the Subcommittee wish to adopt the Administration's request?

Action: **Approved May Letter - two votes: (1) State Support 3-2, (2) Local Assistance 5-0**

DISCUSSION ITEMS

1. Workforce Investment Act Discretionary Funds (May Revision Finance Letter)

Background: The federal Workforce Investment Act of 1998 seeks to strengthen coordination among various employment, education, and training programs, and support the delivery of employment and training services. The 63 member Workforce Investment Board (WIB) advises the Governor on the operations of the state workforce investment system; however, the board's actions are not binding on the Governor. Pursuant to federal law, 85 percent of WIA funds (an estimated $449 million in 2004-05) are allocated to local WIBs, formerly known as Private Industry Councils. The remaining 15 percent of WIA funds ($67 million) are available for discretionary purposes such as administration, statewide initiatives, current employment service programs, or competitive grants.

The Governor's budget does not include an expenditure plan for the federal Workforce Investment Act (WIA) discretionary funds. In order to ensure that the WIA discretionary spending is consistent with legislative priorities, the Legislative Analyst Office (LAO) recommends the subcommittee deny the expenditure authority for these federal funds until an expenditure plan is submitted to the Legislature. (Reduce Item 7100-001-0869 by $16.8 million).

March 25 Hearing: The subcommittee adopted the LAO recommendation to reduce WIA expenditure authority by $16.8 million until the administration submits an expenditure plan.

May Finance Letter: The Administration submitted a WIA discretionary fund expenditure plan with the May Revision. After review of the expenditure plan, the LAO recommends that the subcommittee rescind the prior action, which reduced WIA expenditure authority by $16.8 million and approve the Finance Letter.

Alternative Proposal for California Conservation Corps (CCC): WIA funds could be used to support training for California Conservation Corps members as firefighters. The LAO indicates such expenditures would be consistent with Item 7100-001-0869, Schedule 8, Removing Barriers for Special Needs Populations, and it appears up to $2.5 million may be available for this purpose. Of this $2.5 million, $310,000 is the suggested amount for CCC training, and this amount could be specified for allocation to the CCC with budget bill provisional language.

To implement this alternative, the LAO suggests the following language:

Add provision 5 to Item 7100-001-0869:

5. Up to $310,000 of the funds in Schedule 8 shall be used to provide fire and fuel reduction training for California Conservation Corps members participating in the fuels management partnership.

Budget Issue: Does the Subcommittee wish to restore the $16.8 million WIA discretionary fund expenditure authority and add provisional language to specify $310,000 shall be for support training for the California Conservation Corps?

***Action*: Approved May Letter, added Provision 5 to provide $310,000 for fire and fuel training for the California Conservation Corps. 4-1 vote**

7350 Department of Industrial Relations (DIR)

The objective of the Department of Industrial Relations is to protect the workforce in California, improve working conditions, and advance opportunities for profitable employment. The department is continually working toward this objective by enforcing workers' compensation insurance laws and adjudicating workers' compensation insurance claims, working to prevent industrial injuries and deaths, promulgating and enforcing laws relating to wages, hours, and conditions of employment, promoting apprenticeship and other on-the-job training, assisting in negotiations with parties in dispute when a work stoppage is threatened, and by analyzing and disseminating statistics which measure the condition of labor in the state.

Budget: The Governor proposes $281.9 million ($62.2 million General Fund), an increase of $2.3 million from the current-year budget.

VOTE ONLY ITEMS:

1. Reappropriation for the Case Management System IT Project (April Finance Letter)

Background: The Budget Act of 2003 appropriated $960,000 for the Division of Labor Standards Enforcement's centralized Case Management System (CMS) information technology project. The DIR indicates the CMS will improve data analysis and enforcement, and provide easy access to statewide information for staff and members of the public. The total cost for the CMS is estimated at $3.7 million through 2007-08 (excluding the cost of redirecting existing staff). Contract award for the project has been delayed due to procurement changes and DIR now anticipates the contract will be awarded in October 2004.

Finance Letter: The Administration proposes to reappropriate up to $960,000 to reflect the revised timetable for the CMS project.

Budget issue: Does the Subcommittee wish to approve the proposed reappropriation?

Action: **Approved April Letter 4-1**

2. Reappropriation for Studies Required by Chapter 6, Statutes of 2002 (May Finance Letter)

Background: Chapter 6, Statutes of 2002 (AB 749), requires the DIR and the Commission on Health and Safety and Workers' Compensation to complete a medical study and a physical education and training study. Funds for these studies were appropriated in the 2003 Budget Act.

May Revision: The requests to reappropriate up to $350,000 to allow the DIR to contract with the RAND Corporation to complete the medical study and up to $300,000 to allow DIR to complete a physical education and training study.

Budget issue: Does the Subcommittee wish to approve the request?

Action: **Approved May Letter 3-2**

3. Uninsured Employers Fund and Subsequent Injuries Fund Administration

Background: The Budget Act of 2003 and related trailer bills transferred functions and funding for administration of the Uninsured Employers Fund and the Subsequent Injuries Fund from the Department of Industrial Relations to the State Compensation Insurance Fund. The Administration has now determined that transferring the two programs to the State Compensation Insurance Fund will result in increased administration costs.

Governor's Budget: The budget proposes to reinstate 58 positions, establish 5 new positions, and provide $1.1 million in funding to continue DIR administration of the programs.

Budget issue: Does the Subcommittee wish to approve the proposed restoration of positions and funding to support DIR administration of the Uninsured Employers Fund and the Subsequent Injuries Fund?

Action: **Approved Governor's Budget request 3-2**

4. Reductions to Generate General Fund Savings (May Finance Letter)

Background: At the March 25 hearing, the subcommittee voted to eliminate funding for the Industrial Welfare Commission. If implemented, this action would result in General Fund savings of $235,000 and the elimination of two positions.

May Revision: The Administration requests the following actions to generate General Fund savings totaling $2.010 million:

- Eliminate the Industrial Welfare Commission (this action was already taken by the subcommittee).
- Eliminate $92,000 from the Division of Occupational Safety and Health. New federal funds allow this reduction without impacting the program.
- Eliminate General Fund support for the Apprenticeship Program and backfill with the Apprenticeship Training Contribution Fund (ATCF). The DIR indicates that the elimination of General Fund support would not impact the Apprenticeship Program because the ATCF contains a sufficient fund balance to allow redirection of ATCF funds to finance Apprenticeship Program expenditures currently paid out of the General Fund. Based on the current ATCF condition statement, the existing fund balance, combined with the ongoing

contributions of contractors into the fund, should be able to sustain Apprenticeship Program expenditures for 2004-05, and for several years beyond.

Budget issue: Does the Subcommittee wish to approve the request?

Action: **Approved May Letter 5-0**

DISCUSSION ITEMS

1. Workers' Compensation Reform and Baseline Adjustments (May Finance Letter)

Background: California's workers' compensation system has had three significant reforms in the past three years: Chapter 749, Statutes of 2002 (AB 749); Chapter 639, Statutes of 2003 (SB228); and Chapter 34, Statutes of 2004 (SB 899). Funding of $9.252 million and 72 positions was provided to the various workers' compensation programs at the DIR for implementation of AB 749 in 2003-04.

May Revision: The Administration requests the following related to workers' compensation reform:

- An augmentation of $20.106 million from the Workers' Compensation Administration Revolving Fund and the establishment of 249.0 positions (174.3 personnel years) for implementation of SB 228 and baseline funding for the courts.
- Authority for the Director of Finance with 30 day notification to the Legislature, to augment by up to 10 percent of the Workers' Compensation Administration Revolving funds appropriated to the DIR to fund implementation of SB 899. The requested provisional language would also allow the DIR to submit an expenditure plan for the implementation of SB 899 no later than August 1, 2004.
- Authority to upgrade entry level support staff to the Program Technician series for recruitment and retention purposes, which the Department indicates was the recommendation of a RAND study.
- An appropriation of $2.543 million for the development of the workers' compensation case management system.

Subcommittee request: The Subcommittee has requested that the Administration describe the proposal and the anticipated workload to implement this year's workers' compensation reform.

Budget issue: Does the Subcommittee wish to approve the request?

Action: **Approved May Letter 3-2**

8955 Department of Veterans Affairs

The Department of Veterans Affairs has three primary objectives: (1) provide comprehensive assistance to veterans and dependents of veterans in obtaining benefits and rights to which they may be entitled under state and federal laws; (2) afford California veterans the opportunity of becoming homeowners through the medium of loans available to them under the Cal-Vet farm and home loan program; and (3) provide support for California veterans homes where eligible veterans may live in a retirement community and where nursing care and hospitalization are provided. The department operates veterans' homes in Yountville (Napa County), Barstow (San Bernardino County), and Chula Vista (San Diego County). The homes provide medical care, rehabilitation, and residential home services.

Budget: The Governor proposes total expenditures of $293.7 million ($61.2 million General Fund), a decrease of $10.4 million from the current-year budget.

VOTE ONLY ITEMS

1. Contract for Food Services and Security Functions

Background: The Governor's Budget proposes a $569,000 reduction in General Fund support and the elimination of 120 positions currently providing food and security services at the Yountville home. The budget proposes to contract with a private entity for these services and assumes that contracting out would save 8 percent of current costs.

Both the Barstow and Chula Vista homes contract out for these types of services. Unlike Yountville, they began using private contracts upon their opening. According to the LAO, under current law the department would face a number of hurdles to contract out for these services at the Yountville home, as contracting would displace state workers. The department's savings projection depends on beginning to lay off staff in July 2004. The constitutional amendment proposed by the Governor to facilitate contracting for services provided by state workers will not be considered by the voters until the November 2004 ballot at the earliest. Consequently, the savings projection for the budget year is overstated.

March 25 hearing: This issue was heard and left open at the March 25 hearing. Finance had indicated there might be a May Revision letter on this issue.

May Finance Letter: The Administration requests the withdrawal of the Governor's Budget proposal to contract for food services and security functions at the Veterans Home of California, Yountville. The Administration indicates this proposal could not be implemented without amendments to the State Constitution. This Finance letter would increase General Fund expenditures by $569,000.

Budget Issue: Does the Subcommittee wish to adopt the May Revision Letter and restore the General Fund expenditures that were reduced in the Governor's Budget?

Action: **Approved May Letter 4-1**

2. Consolidation of Veterans Home Distributed Administration

Background: Currently, funding and positions for various Department of Veterans Affairs and Veterans Homes administrative activities are approved as part of the budget for individual homes, even though the staff is located at the Sacramento headquarters. Positions that have been with the Department since the mid-1990's to perform budgeting, fiscal oversight and other administrative activities are funded from individual homes. The Governor's Budget proposes to shift 41 positions and $3.4 million in funding from the budgets of individual homes to the headquarters budget for administrative activities. Veterans Affairs indicates this is a budgetary recognition of the existing organizational structure.

Budget issue: Does the Subcommittee wish to approve the proposed funding and position shift from individual homes to the Department of Veterans Affairs?

Action: **Approved Governors Budget request 5-0**

DISCUSSION ITEMS

1. Augment General Fund and Adjust Reimbursements to Historical Levels (May Finance Letter)

Background: Over the past several years, actual reimbursements have been significantly less the budgeted amounts at the Veterans Home of California, Yountville. Consequently, Veterans Affairs has requested and been approved for deficiency augmentations or other relief. In some cases relief was provided through loan forgiveness, and in other cases deficiency requests were approved. The shortfalls have been as follows:

1999-00:	$2.0 million
2000-01:	$2.9 million
2001-02:	$6.3 million
2002-03:	$4.3 million
2003-04:	$1.7 million (currently requested)

May Finance Letter: The Administration requests a $2 million General Fund augmentation and a $2 million reduction in reimbursement authority. The Administration argues that this change would ultimately not increase General Fund costs, because without this funding the Department will likely need to submit a deficiency request during 2004-05.

Subcommittee request: The Subcommittee has requested that the Administration indicate whether approval of this proposal will eliminate the need for future deficiency requests.

Budget Issue: Does the Subcommittee wish to adopt the May Revision Letter to augment General Fund and reduce budgeted reimbursements?

Action: **Approved May Letter 4-1**

2. Quality Assurance Oversight / Position Reductions (May Finance Letter)

Background: The Governor's Budget proposed to redirect 6.0 positions and $670,000 from individual Veterans Homes to the Department of Veterans Affairs for program oversight, and quality assurance activities. Specifically, the Department requested to create a state organization of medical, clinical and administrative experts to improve quality of care, assure regulatory compliance and secure maximum reimbursement collection at the homes. The budget proposed to shift to the Department two license vocational nurses, a chief of medicine and an executive secretary from Yountville, a supervising registered nurse from Chula Vista and a pharmacist from Barstow. According to the Department, all the positions to be shifted are currently vacant.

May Revision: The Administration now proposes to abolish five of the six positions originally proposed for quality assurance oversight, but retains the request to shift a pharmacist from Barstow for quality assurance. In addition to abolishing the five positions, the Administration proposes to eliminate a Stock Clerk from headquarters and a Stationary Engineer from Chula Vista. The elimination of these seven positions would reduce General Fund costs by $426,000.

Staff Alternative Proposal: The Subcommittee may want to retain the General Fund savings requested in the May Finance Letter, but delete positions in the headquarters instead of positions in the homes. Upon staff request, the Department provided the alternative of deleting a Data Processing Manager III and one Account Administrator I position, as well as giving up $150,000 in various operating expense funds (all in headquarters) to generate the $426,000 in General Fund savings. This alternative would also deny the redirection of a Pharmacist position from Barstow to headquarters for quality assurance work.

Subcommittee request: The Subcommittee has requested that the Administration describe the proposal. The Subcommittee has also requested that the Administration comment on the programmatic impact of generating this same level of savings by eliminating only headquarters positions and retaining all the positions at the homes.

Budget issue: Which of the following actions would the Subcommittee like to take:

1. Approve the Administration proposal to generate $426,000 in General Fund savings by eliminating two headquarters positions and five positions at the homes. Redirect a Pharmacist position in Barstow to headquarters for quality assurance work.
2. Approve the staff alternative to generate $426,000 in General Fund savings, but take the entire reduction in headquarters. Deny the redirection of a Pharmacist position in Barstow to headquarters.
3. Deny the General Fund reduction.
4. Other.

Action: **Approved May Letter, but restored the funds and positions abolished at the homes, redirect the funds and the Pharmacist position back from headquarters to the home. Eliminate an additional $331,000 in headquarters funding and associated positions to generate the same General Fund savings as is requested in the May Letter. 4-1**

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

May 21st, 2004 (Friday)
9:00 AM
Room 4203

Item	*Description*
0530	**CA Health & Human Services Agency *(Vote Only)***
4120	**Emergency Medical Services Authority *(Vote Only)***
4270	**California Medical Assistance Commission *(Vote Only)***
4280	**Managed Risk Medical Insurance Board** • **Healthy Families Program** • **Access for Infants and Mothers**
4440	**Department of Mental Health** • **Community Mental Health** • **State Hospitals *(Will be heard on Saturday, May 22nd)***
4260	**Department of Health Services** • **Medi-Cal Program** • **Public Health**

***PLEASE NOTE*:**
(1) ALL previous actions taken by the Subcommittee remain, unless the Subcommittee otherwise modifies the proposal at the May Revision hearing.
(2) The "VOTE ONLY" CALENDAR for each department may include the modification or denial of proposals, as well as acceptance of proposals. This will be noted in the Agenda as applicable.
(3) Only those issues in today's agenda are before the Subcommittee.
(4) The Subcommittee will be completely closed out at our *Saturday, May 22nd* hearing. All remaining issues will be heard at that time. Item 4300, the Department of Developmental Services will be heard on Saturday, May 22nd, as well as any remaining issues for the Department of Mental Health (State Hospitals) and the Department of Health Services, if necessary. Thank you.

I. ISSUES RECOMMENDED FOR "VOTE ONLY" *(Not in Item Order)*

A. Item 4280--Managed Risk Medical Insurance Board *(Vote Only)*

1. County Health Initiative Matching Fund (CHIM) Program

Background: The CHIM Program, established by Chapter 648, Statutes of 2001, allows county or local public agency funds to be used to match unused federal S-CHIP (State Children's Health Insurance Program) funds to provide health care for children with family incomes between 250 percent and 300 percent of the poverty level, and for parents with family incomes up to 200 percent of the poverty level. However due to delays in federal approval, the matching federal S-CHIP funds have not yet been provided to counties and local agencies. Specifically, the state submitted a State Plan Amendment in March 2003, with changes in March 2004, and we are still awaiting federal approval.

The Governor's January budget proposed expenditures of $153.8 million in funding to support potential projects from county-based initiatives as submitted to the MRMIB according to the enabling statute. Currently there are four pilot counties—Alameda, San Francisco, San Mateo and Santa Clara—who have submitted proposals that have been forwarded for federal approval. All of these counties have implemented coverage expansions for children.

Governor's May Revision: The May Revision anticipates that federal approval for CHIM will be achieved in the budget year. **However due to adjustments in local funding amounts, the May Revision proposes a decrease of $38.4 million ($13.4 million CHIM Fund and $25 million in federal funds). As such, a revised total of $115.1 million is proposed for this purpose.**

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the May Revision. No issues have been raised.

Budget Issue: Does the **Subcommittee want to approve the May Revision?**

B. Item 4120—Emergency Medical Services Authority *(Vote Only)*

1. Emergency Medical Services Terrorism Response Training

Background and Governor's May Revision: The Emergency Medical Services Authority (EMSA) **is requesting expenditure authority of $250,000 (Reimbursements** from the California Military Department through federal funds received by the Office of Homeland Security) **to hire a one-year limited-term Associate Governmental Program Analyst and fund a contract to implement a terrorism response training evaluation project and establish training standards for Emergency Medical Services responders. The contract will be for $120,000.**

The EMSA states that the resulting training standards can be used to prepare those personnel who provide emergency response to terrorism events in a manner that will protect the responders and victims. The EMSA will be working collaboratively with the California Military Department, the Office of the State Fire Marshal, the DHS and many others to identify and develop the training standards for multiple disciplines of first responders. Further they note that they will be using an existing committee established by SB 1350 (McPherson), Statutes of 2002 to provide expert advice and to assist in developing the curriculum content.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the May Revision. No issues have been raised.

Budget Issue: Does the **Subcommittee want to approve the May Revision?**

C. Item 4270— California Medical Assistance Commission *(Vote Only)*

1. Hospital Contracting

Background—Selective Provider Contracting Program: The Selective Provider Contracting Program was established in 1982. The program operates under a federal Waiver (1915 b). Through this program, the state selectively contracts, on a competitive basis, with those hospitals in California that desire to provide services to Medi-Cal recipients. The Selective Provider Contracting Program has operated successfully for almost 19 years. As noted by CMAC, competitive contracting has assured continued hospital access for recipients while at the same time, saving the state and federal governments substantial funds.

Background—CMAC: CMAC not only operates the Selective Provider Contracting Program, but also manages four other hospital financing programs in California. These include: (1) the Emergency Services and Supplemental Payments Fund (SB 1255 program); (2) the Construction and Renovation Reimbursement Program (SB 1732 program); (3) the Small and Rural Hospital Supplemental Payment Program;, and (4) Medical Education Program. Through these programs, the CMAC allocates over $2 billion (Intergovernmental Transfer Funds and federal funds)in net funds to hospitals.

As contained in statute, the CMAC consists of seven voting members and two ex-officio members (non-voting members). **The seven voting members are appointees (three by the Governor, and two each by the Senate Rules Committee and the Speaker of the Assembly), while the ex-officio members are the Department of Finance and the Department of Health Services.**

Governor's May Revision: The **May Revision proposes to provide an increase of $121,000 ($61,000 General Fund) to restore a Supervising Hospital Negotiator position which was deleted under the Control Section 4.1 process.** The CMAC states that this position will have key responsibilities in the contract negotiation process, internal office and project management duties.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the need for the Supervising Hospital Negotiator position. In addition, it is recommended to amend Section 14165.1 of the Welfare and Institutions Code to add the Legislative Analyst's Office to the membership of the CMAC as an ex-officio (non-voting) member. Due to the magnitude of funds allocated by the CMAC, as well as the complexity and importance of the state's hospital financing, the Legislature should also have a non-partisan fiscal representative serving in an ex-officio capacity.

The Subcommittee staff's proposed amendment is as follows:

> The Commission shall be composed of seven voting members and ~~**two**~~ **three** ex-officio members. The voting members shall be selected from persons with experience in management of hospital services, risk management insurance or prepaid health programs, the delivery of health services, the management of county health systems, and a representative of recipients of service. The Directors of the Department of Health Services and the Department of Finance, or their designees, **and the Legislative Analyst**, **or their designee**, shall serve ex-officio non-voting members of the commission.

Budget Issue: **Does the Subcommittee want to (1)** approve the May Revision, ***and*** **(2)** amend existing statute to include the LAO as an ex-officio (non-voting) member of the CMAC in order to have a non-partisan, legislative fiscal expert to provide oversight?

D. Item 4440 — Department of Mental Health *(Vote Only)*

1. DMH Request for Additional Staff Resources for HIPAA Implementation

Background: HIPAA was signed into law in 1996. The standards pertaining to HIPAA are still being developed by the federal HHS and involve the following:

- Privacy (covered information, covered entities, disclosures)
- Transactions (claims and encounters, enrollment eligibility)
- Code sets (diseases, injuries, impairments, and procedures)
- Unique identifiers (provider, employer, health plan, individual)
- Security (administrative procedures, physical safeguards, technical security services, and technical security mechanisms)

The DMH contracted with a consulting group—Science Applications International Corporation/Fox Systems to conduct an initial detailed assessment with respect to current practices and to assist the department in determining the course of action and changes needed to comply with HIPAA rules. The DMH states that they have met the initial requirements, but more needs to be done.

The DMH presently has 5 staff assigned to the implementation of HIPAA.

In addition, the CHHS Agency has an Office of HIPAA which is funded at $3.5 million (total funds) and has ten authorized positions.

Governor's Budget: The budget proposes **an increase of $246,000 (General Fund) to hire three more positions to be dedicated for HIPAA purposes.**

Subcommittee Staff Comment and Recommendation: **It is recommended to reject this request.** The department has 5 dedicated positions for this purpose already. Limited General Fund moneys can be utilized in other areas with higher legislative priorities.

Budget Issue: Does the **Subcommittee want to reject this request to provide an increase of $246,000 (General Fund) and three new positions?**

2. Healthy Families Program Adjustments—*Supplemental Mental Health Services*

Background: The Healthy Families Program provides health care coverage and dental and vision services to children between the ages of birth to 19 years with family incomes at or below 250 percent of poverty (with income deductions) who are not eligible for no-cost Medi-Cal. Monthly premiums, based on family income and size, must be paid to continue enrollment in the program. **California receives an annual federal allotment of federal Title XXI funds (Social Security Act) for the program for which the state must provide a 34 percent General Fund match, except for supplement mental health services in which County realignment funds are used as the match.** With respect to legal immigrant children, the state provides 100% General Fund financing.

The enabling Healthy Families Program statute linked the insurance plan benefits with a **supplemental program** to refer children who have been diagnosed as being seriously emotionally disturbed (SED). The **supplemental services** provided to Healthy Families children who are SED can be billed by County Mental Health Departments to the state for a federal Title XXI match. **Counties pay the non-federal share from their County Realignment funds (Mental Health Subaccount) to the extent resources are available.**

Under this arrangement, the Healthy Families Program health plans are required to sign Memoranda of Understanding (MOU) with each applicable county. These MOUs outline the procedures for referral. It should be noted that the health plans are compelled, as part of the required Healthy Families benefit package and capitation rate, to provide certain specified mental health treatment benefits prior to referral to the counties.

Governor's May Revision: The May Revision proposes an increase of $275,000 (Reimbursements) to reflect minor technical adjustments to the HFP supplemental mental health services. This adjustment is due to updated paid claims data and county administration adjustments.

Subcommittee Staff Comment and Recommendation: It is recommended **to approve** the May Revision.

Budget Issue: Does the Subcommittee **want to adopt the May Revision?**

3. Governor's Proposal to Eliminate Funding for Sacramento County & Others

Background and Governor's Proposed Budget: The budget proposes **a reduction of $724,000 General Fund by eliminating (1)** $416,000 for supplemental funding to Sacramento County's Psychiatric Health Facility (as established in SB 840, Statutes of 1991), and **(2)** $308,000 (General Fund) used by thirteen counties to match federal rehabilitation funds.

The funds for Sacramento were originally allocated to offset the financial burden imposed on it when the UC Davis Psychiatric unit closed in 1991**. Elimination of this supplemental funding requires trailer bill legislation.**

The thirteen counties include: Contra Costa, El Dorado, Fresno, Kern, Orange, Placer, Riverside, San Bernardino, San Diego, Sonoma, Stanislaus, Ventura, and Los Angeles. All of these counties receive a total of $20,505 each, except for Los Angeles which receives $61,515

Subcommittee Staff Comment and Recommendation: It is recommended to reject the proposal, including the related trailer bill legislation.

Budget Issue: Does the Subcommittee **want to reject** the proposal to reduce county funding and the related trailer bill language?

4. Proposed Reduction of Funding for Early Mental Health Program (Prop 98)

Background—What is the Program: Under the Early Mental Health Initiative, the state awards grants (for up to three-years) to Local Education Agencies (LEAs) to implement early mental health intervention and prevention programs for students in Kindergarten through Third Grade. Schools that receive grants must also provide at least a 50 percent match to the funding provided by the DMH. Schools use the funds to employ child aides who work with students to enhance the student's social and emotional development.

Students in the program are generally experiencing mild to moderate school adjustment difficulties. Students must have parental permission to participate in the program. In addition, all Early Mental Health Initiative programs are required to contract with a local mental health agency for referral of students whose needs exceed the service level provided in this program.

The Early Mental Health Initiative is an effective school-based program. **It serves children experiencing school adjustment issues who are *not* otherwise eligible for special education assistance or county mental health services because the student's condition is usually not severe enough to meet the eligibility criteria in these other programs (such as the Children's System of Care Program or EPSDT services).**

Existing Funding Level and Grant Cycle: In the current year, **the program is supporting a total of 137 grants, with 73 grants being in their second-year of the three-year grant cycle, and 64 grants being in their third and final year of the cycle.**
According to the DMH, about 51 percent of the school sites funded through the program continue services for at least one year after the three-year grant cycle has ended.

Governor's Proposed Budget: The **Governor proposes to reduce by $5 million (Proposition 98/General Fund)** the Early Mental Health Initiative Program which provides mental health assistance to young children enrolled in school (K to Grade 3). **This proposed reduction would leave a remaining $5 million (Proposition 98/General Fund) to be used for the 73 existing grants that will be in their third year of the grant cycle beginning July 1, 2004. This funding will support about 168 actual sites.**

Subcommittee Staff Comment and Recommendation: Both the short-term and long-term effect of this reduction is that children with mild to moderate school adjustment problems will likely not receive services and may, as a consequence, need more intensive services later. Further, these students may end up doing poorly in school and developing other problems.

Therefore, it is recommended to reject the Governor's proposal. This action would provide $10 million in funds.

Budget Issue: Does the Subcommittee **want to reject** the Governor's proposal to reduce by $5 million (Proposition 98 Funds)?

5. County Costs for Incompetent to Stand Trial

Governor's May Revision: The May Revise requests a decrease of $360,000 General Fund and an increase in Reimbursements of $360,000, to reflect the impact of enacting trailer bill language that **would require County MHPs to be financially responsible for any patients in the hospitals who are deemed Incompetent to Stand Trial (IST), committed pursuant to Penal Code Sections 1372(e) and for any patients committed pursuant to Penal Code Sections 1372 (a) who remain in the hospital more than 10 days after a certificate of restoration of competency has been received by the courts.**

The Administration believes that by assigning responsibility to the counties for PC 1372 patients, the counties will have incentive to develop community-based options for patients restored to competency. However, due to the continuing stagnation of realignment revenues, it is unclear which funds counties are expected to use for this population.

Subcommittee Staff Comment and Recommendation: It is recommended to reject the May Revision because it represents a considerable departure from the existing Realignment agreements. This is just another attempt at cost shifting to the counties.

Budget Issue: Does the Subcommittee **want to reject the Administration's proposal,** to yet again, cost shift to the counties?

6. State Hospitals—Population Adjustment

Background Overall: The department directly administers the operation of four State Hospitals—Atascadero, Metropolitan, Napa and Patton--, and acute psychiatric programs at the California Medical Facility in Vacaville and the Salinas Valley State Prison.

As structured through the State-Local Realignment statutes of 1991 and 1992, the department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while *judicially committed patients are treated solely using state funds.*

Prior Subcommittee Hearing (March 22nd): In this hearing, **the Subcommittee rejected the Governor's proposed cap on enrollment for the Incompetent to Stand Trial (IST) and Not Guilty by Reason of Insanity (NGI) patient population.** The remainder of the State Hospital population estimate was adopted pending receipt of the May Revision.

Governor's May Revision: The **May Revision proposes a net increase of $31.2 million** (General Fund) and a decrease of $933,000 (Reimbursements). **The proposed changes are as follows:**

- **Increase of $19.1 million** ($15.5 million General Fund) **for employee compensation costs** initiated in 2003-04 that were not previously budgeted by the Department of Finance. (The current year costs are included in SB 1842, the Omnibus Deficiency Bill.)
- **Increase of $11.1 million** ($15.6 million General Fund) **and 134.1 positions for staffing needs due to the projected increase in the State Hospital population.** The State Hospital population is projected to be 4,580 patients. This reflects an increase of 253 patients, or 5.8 percent above the Governor's January budget. This projection reflects the Governor conforming to the Subcommittee's action to not cap enrollment for the IST or NGI patient populations.
- **Increase of $24,000** (Lottery Education Funds) to reflect an increase in funds for educational supplies at the State Hospitals.
- **Increase of $5.940 million** (Proposition 99 Funds—Unallocated Account) to backfill for General Fund support for caseload and related adjustments at the State Hospitals. These funds became available due to adjustments in the Access for Infants and Mothers (AIM) Program operated by the Managed Risk Medical Insurance Board (MRMIB) under Item 4280.

Subcommittee Staff Comment and Recommendation: No issues have been raised by these adjustments. They reflect standard caseload and population-related adjustments. The use of Proposition 99 Funds (Unallocated Account) to offset General Fund in the State Hospital item is unusual. However, these funds became available due to reasonable adjustments in the AIM Program and are available for expenditure. Further, in the late 1980's/early 1990's, mental health programs used to receive a portion of Proposition 99 Funds for expenditure. **It is recommended to adopt the May Revision.**

7. Adjustments to Existing Mental Health Waiver for Federal Regulations

Governor's May Revision: The **May Revision requests an increase of $175,000** ($87,000 General Fund) for a contract to develop performance improvement projects and to provide training and technical assistance to County Mental Health Plans related to the implementation of new federal regulations governing the Medi-Cal Specialty Mental Health Services Consolidation/Managed Care requirements.

It also requests a reappropriation of $500,000 ($250,000 General Fund) from 2003-04 on a one-time basis for a contract to develop federally-required informing materials to Medi-Cal beneficiaries.

Prior Subcommittee Hearing (March 22nd): In this hearing, the Subcommittee discussed these new federal requirements and kept the item open pending the receipt of the May Revision.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concur with this request. In addition, the California Mental Health Directors Association has strongly indicated to DMH that extensive technical assistance from DMH to the MHPs will be needed to ensure compliance with the new federal regulations.

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

8. Early Periodic Screening Diagnosis and Treatment—Rescind Re-basing

Governor's May Revision: The May Revision rescinds the Governor's January Budget proposal to rebase (re-calculate) EPSDT provider rates. This restoration includes $60 million for the EPSDT ($60 million total funds and $40 million General Fund) and $25 million (Reimbursements-federal funds from the DHS).

Prior Subcommittee Hearing (March 22nd): The Subcommittee discussed this issue at length and had expressed grave concerns with the concept.

Staff Recommendation: It is recommended to adopt the May Revision.

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

E. Item 4260 — Department of Health Services *(Vote Only)*

1. Governor Rescinds Transfer of Non-Institutional Medi-Cal Provider Audits

Background: Medi-Cal has **about 72,000 unduplicated providers enrolled in the program to provide non-institutional services to Medi-Cal recipients.** Medi-Cal providers who demonstrate a pattern of suspicious billings are placed on utilization controls or more restrictive administrative sanctions such as withholding the provider's Medi-Cal payments. Providers placed on DHS utilization controls or administrative sanctions may ultimately be barred from participating in the Medi-Cal Program for up to ten years if convicted and in certain cases, indefinitely.

In addition to administrative sanctions the State Controller's Office (SCO) and DHS conduct audits of Medi-Cal services performed by non-institutional providers to quantify inappropriate and/or over billings to the program. The SCO has conducted audits of non-institutional services to Medi-Cal recipients since the early 1990's.

Governor's May Revision: The **May Revision rescinds the January budget proposal to transfer the responsibility for the Medi-Cal non-institutional provider audits currently being conducted by the SCO, through an Interagency Agreement (IA), back to the DHS.** Therefore, **no changes will occur** to current operations.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the May Revision to rescind (delete) the January budget proposal.

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

2. Medi-Cal 1115 Waiver Redesign Proposal—Update & State Staff Request

Background—January Proposal: Through his January budget, the **Governor proposed to seek a federal 1115 Research and Demonstration Waiver to completely restructure the existing Medi-Cal Program.** The Waiver was presented as a framework with the intent to seek stakeholder views and perspectives.

No savings for 2004-05 were identified since only a framework of ideas was proposed. However the Administration assumed savings of $800 million ($400 million General Fund) for 2005-06. No details on this cost calculation were made available since the figure was intended to be a placeholder. But it was noted that cost containment is a principal goal of the proposal.

Stakeholder Process: The Administration, in conjunction with assistance from the California HealthCare Foundation and The California Endowment, has been convening a series of workgroup meetings. **There are five workgroups which meet a total of four times between**

March and April to discuss issues and offer comments. The five workgroups include the following:

- Benefit Design and Cost Sharing;
- Program Eligibility and Simplification;
- Organized Service Delivery, including Managed Care;
- Aging and Disability Issues; and
- Financing

The Administration states that the goal of this process was to solicit input on general concepts that would be addressed in restructuring the Medi-Cal Program, and that it was not intended to produce a consensus on the Medi-Cal redesign.

Background—May Revision: Given the magnitude and complexity of the proposed redesign effort, the Administration has noted that it wants to carefully review and consider all available input and expertise before moving forward with significant, and in some cases, far-researching initiatives. **Therefore, the Administration intends to submit a Waiver proposal and legislative bill language on August 2, 2004. Their intent is to proceed forward and obtain necessary statutory changes by the end of the Legislative Session (August 30th).**

However, the Administration also states that because cost containment is a primary goal for 2005-06, if the Legislature's approval of programmatic and financing reforms is not secured by the end of the 2003-04 Legislative Session, the Administration will work with the federal government in September to secure any necessary State Plan Amendments or Waivers and return to the Legislature in January 2005 for concurrence.

Finally, it should be noted that an added component to the redesign effort is to restructure existing hospital financing with regards to intergovernmental transfer funds and disproportionate share hospital inpatient funding. Medi-Cal provides over $3 billion in supplemental funding assistance to hospitals. It is highly likely that any changes in this area will require both federal approval as well as state statutory change.

Governor's January Budget: The January budget proposed **an increase of $6 million ($2.2 million General Fund) for the DHS to (1) hire 15 new state staff**, **(2)** contract with a Mr. Charles Miller to assist the DHS in securing federal Waiver approval (a sole source contract) at $250,000 ($125,000 General Funds), **(3)** contract with EDS and Delta Dental for staff support at $1.5 million (total funds), and **(4)** contract with EDS at $2.8 million ($700,000 General Fund) for fiscal intermediary-related computer system changes.

Subcommittee Staff Comment and Recommendation: The original schedule proposed by the Administration was aggressive particularly given the complexities of modifying an entire program that services 6.7 million recipients, has a statewide network of thousands of various health care providers, and serves a diverse, medically-needy population. As such, it is welcomed news that a more deliberative process is now forthcoming.

In light of the Administration's revised schedule and the need to deliberate the Administration's forthcoming August submittal to the Legislature, **it is recommended to delete the**

Administration's proposed increase of $6 million ($2.2 million General Fund). Approval of any budgetary augmentation would be premature at this time. Any appropriation for this purpose should be considered in the context of the legislation.

Budget Issue: Does the **Subcommittee want to delete this request from the budget?**

3. Potential Expansion of Medi-Cal Managed Care—State Staff

Background-Overall: The DHS is the largest purchaser of managed health care services in California with over 3.2 million enrollees in contracting health plans. The state's Managed Care Program now covers 22 counties through three types of contract models--Two-Plan Managed Care, Geographic Managed Care, and the County Organized Health Systems (COHS). The state has federal approval to operation the Medi-Cal Managed Care Program under State Medicaid Plan authority.

For people with disabilities, enrollment is *mandatory* in the County Organized Health Systems, and *voluntary* in the Two Plan model and Geographic Managed Care model. About 161,000 individuals with disabilities are enrolled in a Medi-Cal managed care (2002 figure) plan.

In addition, **certain services are "carved-out"** of the Two Plan model and the Geographic Managed Care model, as well as some of the COHS's. **Most notably, the California Children's Services Program is "carved out", except for in selected counties which operate under the COHS model.**

Governor's January Budget—Five Staff and Contract Resources: The DHS proposes **to expand enrollment in Medi-Cal Managed Care for parents and children in an additional 14 counties that current operate under the Medi-Cal fee-for-service system. Based on DHS estimates, this expansion would transition about 414,000 Medi-Cal recipients into managed care.**

The potential geographic areas **include the following 20 counties:**

• Butte	El Dorado	Humboldt	Imperial	Kings
• Lake	Madera	Mendocino	Merced	Nevada
• Placer	San Benito	San Luis Obispo	Shasta	Siskiyou
• Sonoma	Sutter	Tehema	VenturaYuba	

The DHS notes that most of these 20 counties have service areas that have never had managed care in their counties, and that providers and hospitals may be reluctant to participate. As such, a "county cluster" approach may be used whereby three to five counties (or more) would be clustered in an effort to ensure fiscal viability for the contracting health plan.

The proposed savings are based on the assumption that the state will pay capitation rates to health plans that are equivalent to 95 percent of the Medi-Cal fee-for-service rate.

This geographic expansion would require federal approval of the state's plan (i.e., State Plan Amendment required), the execution of contracts with additional managed care health plans, and

changes to existing enrollment efforts. No federal waiver would be required for a geographic expansion

The DHS states that geographic expansions could include amendments to current contracts to add additional service areas. This process would require health plans to obtain a Knox Keene license modification by working with both the Department of Managed Health Care (DMHC) and the DHS. Geographic expansions could also occur through a competitive procurement. If a competitive procurement is done, the DHS states that implementation of a new contract would take no less than one year to execute.

The Governor's January budget proposed to increase DHS staff by five positions to implement this expansion at a cost of $400,000 ($200,000 General Fund), as well as $250,000 ($126,000 General Fund) in additional funding for a state contractor that enrolls Medi-Cal recipients in managed care plans (i.e., Health Plans Option contractor).

No local assistance savings are assumed for 2004-05 due to the time needed to develop a plan as discussed further below. However, the DHS assumes savings of $16 million ($8 million General Fund) for 2005-06 as implementation is phased-in. Annual savings of $33 million ($16.5 million General Fund) are anticipated in 2006-07.

Subcommittee Staff Comment and Recommendation: As discussed in the agenda item above, the Administration intends to submit a Waiver proposal and legislative bill language on August 2, 2004. **Further, the Administration has noted that a key aspect of any potential Waiver redesign effort is to restructure existing hospital financing with regards to intergovernmental transfer funds and disproportionate share hospital inpatient funding. These issues are critical to any substantial Managed Care expansion. Therefore, it is recommended to reject the request for these resources at this time and to instead, consider them in the fuller context of the Waiver and legislative bill package.**

Budget Issue: Does the Subcommittee **want to reject the budget proposal** to augment by $650,000 ($326,000 General Fund) and five new state staff?

4. South Central Los Angeles Regional Center (SCLARC) Waiver Funds

Background-- The Home & Community-Based Services Waiver: Over the course of the past several years, the Department of Developmental Services has been aggressively pursing receipt of additional federal funds in order to serve individuals with developmental disabilities in the community. Most notably, receipt of federal funds under the Home and Community-Based Waiver has more than doubled from 1999-2000 to 2003-04.

Under this Waiver, California can offer services to individuals who would otherwise require the level of care provided in an intermediate care facility for persons with developmental disabilities. Use of these "waiver services", such as assistance with daily living skills and day program habilitation, enable people to live in less restrictive environments such as in their home or at a Community Care Facility.

The Waiver has allowed the state to conserve General Fund dollars by shifting Medicaid (Medi-Cal) eligible consumers to Waiver services while granting flexibility and assisting the state in

complying with the Coffelt Settlement and the Olmstead Decision**.** A portion of the additional federal Waiver funds have also been used to enhance quality assurance measures, service monitoring, and several other items.

Background—South Central Los Angeles Regional Center (SCLARC): For a Regional Center to participate in the Home and Community Based Waiver, they must be certified by the state and the federal CMS. Over the course of three years, SCLARC was unable to obtain approval to enroll consumers under the Waiver. During this period the DDS provide considerable technical assistance to SCLARC to remedy certain fiscal processing concerns. The DHS, as the sole Medicaid (Medi-Cal) entity, also conducted an analysis and provided technical assistance to the DDS. (These issues and their oversight have been discussed within the purview of this Subcommittee over the past two fiscal years.).

Through these combined state efforts, the state and SCLARC obtained federal approval to lift the existing freeze on enrollment under the Waiver. Billing for *new* eligible consumers will be retroactive to October 1, 2002. Increased federal funds for this aspect of the Waiver was captured in the Governor's January budget.

Prior Subcommittee Hearing (April 19th): In addition to the federal funds identified in the Governor's January budget, the federal CMS informed California that retroactive approval for SCLARC was available back to 1999-2000. As such, SCLARC billings for consumers eligible for the Waiver can be recognized for 1999-2000, 2000-01 and part of 2002-03. According to data obtained from the DHS, a total of $29.9 million in additional federal funds is available.

The Subcommittee discussed SCLARC and the availability of these funds in its April 19th hearing. In this hearing, the Subcommittee adopted the $29.9 million as an offset to the General Fund within Item 4300, the Department of Developmental Services.

Governor's May Revision: The May Revision now identifies this same $29.9 million (federal funds) as being available to offset General Fund; however, the May Revision proposes to use this offset within Item 4260, the Department of Health Services.

Subcommittee Staff Comment and Recommendation: It is **recommended to sustain the Subcommittee's April 19th action to capture the federal funds and offset General Fund support in the DDS item.** The reason these increased federal funds are available is because the services were provided through SCLARC as a Home and Community-Based Waiver service to individuals that meet the criteria for being enrolled on this Waiver. Both the DDS and DHS provided valuable assistance to SCLARC in order for them to meet federal CMS requirements, including approval to obtain retroactive federal funding. However, the funds should be recognized within the budget Item that is responsible for providing the services.

In order to sustain the Subcommittee's prior action of April 19th, it is recommended to reject the Governor's May Revision for this issue within the DHS. It should be noted that either action saves $29.9 million General Fund.

Budget Issue: Does the **Subcommittee want to sustain its April 19th action and reject this May Revision proposal as a conforming action?**

5. Trailer Bill Language to Continue the 250 Percent Working Disabled Program

Background and Governor's May Revision Budget: AB 155 (Migden), Statutes of 2002, established the 250 Percent Working Disabled Program within Medi-Cal. This program allows working disabled persons to buy into the Medi-Cal Program. To be eligible for the program an individual must be disabled (according to federal standards), have a net income less than 250 percent of the federal poverty level (at or below $23,275 for an individual in 2004), be eligible to receive Supplemental Security Income/State Supplementary Program (SSI/SSP), and have resources less than $2,000 for an individual or $3,000 if the working disabled person is married. The program served approximately 810 individuals last year and the DHS projects an enrollment of 950 per month in 2004-05. **The enabling statute sunsets as of April 1, 2005 (Section 14007.9 of Welfare and Institutions Code).**

The Governor's May Revision contains funds to continue the program through June 30, 2005 (the end of the fiscal year).

Subcommittee Staff Comment and Recommendation: It is recommended to adopt trailer bill language to extend this important program through September 1, 2008. Trailer bill language on this issue is recommended because the funds are contained in the budget proposal and the program is set to expire during the upcoming fiscal year. In addition, it is recommended to extend the program out and establish a sunset date later in the year so a policy bill can be used to deliberate the issue in the future.

Budget Issue: Does the **Subcommittee want to adopt trailer bill language that would extend the sunset date of this important program from April 1, 2005 to September 1, 2008 (basically a three-year extension)?**

6. Proposed Reversion of Prior Year Savings in Medi-Cal & Public Health

Governor's May Revision: The May Revision **has identified $5.855 million in General Fund savings and $1.482 million in Tobacco Settlement Fund moneys (which can be used to backfill for General Fund support) which are unexpended from prior years and as such, are available for reversion. The proposed Budget Bill Language to revert these funds is as follows:**

4260-496—Reversion, Department of Health Services. As of June 30, 2004, the balances specified below, of the appropriations provided for in the following citations shall revert to the fund balance from which the appropriation was made:

0001—General Fund

(1) $2,855,000 from Program 20-Health Care Services in Item 4260-001-0001, Budget Act of 2000 (Ch. 52, Stats of 2000)

(2) $400,000 from Program 20-Health Care Services in Item 4260-001-0001, Budget Act of 2000 (Ch. 52, Stats of 2000) as reappropriated by Item 4260-491, Budget Act of 2001 (Ch. 106, Stats of 2001), and Budget Act of 2002 (Ch. 379, Stats of 2002)

(3) $500,000 from Program 20-Health Care Services in Item 4260-001-0001, Budget Act of 2001

(Ch. 106, Stats of 2001) as reappropriated by Item 4260-490, Budget Act of 2002 (Ch. 379, Stats of 2002)

(4) $2,100,000 from Program 20.10.020-Fiscal Intermediary Management in Item 4260-117-0001, Budget Act 2002 (Ch. 379, Stats of 2002)

3020—Tobacco Settlement Fund

(5) $1,482,535 from Program 20-Health Care Services in Item 4260-001-3020, Budget Act of 2001 (Ch. 106, Stats of 2001)

Subcommittee Staff Comment and Recommendation: Subcommittee staff has reviewed these reversions and concurs that the funds are available and can be reverted.

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

7. Richmond Laboratory Information Technology Support

Background: The Richmond Laboratory is a state of the art laboratory that was dedicated in April 2001. The Richmond Laboratory represents the consolidation of seven decentralized laboratories. This laboratory serves as major support for local, state and federal agencies that have public health and environmental enforcement roles. **DHS' laboratory services programs provide analytical, diagnostic, developmental, evaluative, epidemiological, reference, quality control, education, training and consultative laboratory services.**

The DHS states that the laboratories have both special needs and obligations with regard to information, data processing, and security requirements. They note that the laboratories require up-to-date information technology infrastructure and support at the Richmond campus. **They** further articulate that the laboratories will produce information and databases upon which public and environmental policy is developed and through which regulatory action is taken to protect and promote public and environmental health. Finally, they note that the research performed at this campus is also a critical component in the department's ability to respond to bioterriorism threats.

Governor's Proposed Budget: The budget proposes **an increase of $1.2 million ($424,000 General Fund, $633,000 in federal funds and $193,000 in various special funds) to purchase computer hardware and interconnect certain staff via computer connection (e-mail and the like).** It also provides access to health-related resources at the state's data centers, the internet, and connectivity to other state, federal, county, and local entities.

Specifically, the $1.250 million ($424,000 General Fund) request is for the following:

- $250,000 Network equipment
- $350,000 Servers
- $302,000 Installation and project management
- $348,000 Ongoing data center network and support

Subcommittee Staff Comments and Recommendation: Due to the lack of General Fund resources and the difficult choices regarding direct health care services, Subcommittee staff suggests to **(1) approve the request, minus the $424,000 in General Fund support**, and **(2)**

direct the DHS to review the availability of other funding sources that may be suitable for this purpose, such as other federal funds for bioterrorism, or other special funds.

Budget Issue: Does the **Subcommittee want to delete the $424,000 General Fund from the request but allow the special funds to be used ?**

8. Proposed Trailer Bill Language to Expedite Procurement Contract

Governor's May Revision: The **May Revision proposes to seek legislative approval to enter into a sliding administrative fee based contract for some activities that would supplement current state resources and potentially increase savings in the Medi-Cal anti-fraud arena.** The DHS states that there are areas that are not currently subject to the state's audit and investigations "audit for recovery" review process due to resource limitations. They contend that leveraging additional resources for performing audits, outsourcing could also expand the scope of DHS reviews to uncover unknown schemes of waste, fraud and abuse. **The DHS contends that the state would be at no risk for this contract, based on a sliding administrative fee determined by competitive bid and based on collection of funds.**

Specifically, the proposed contractors would be responsible for data analysis, onsite audits, and identification of over payments for providers such as home health agencies, dialysis, mobile diagnostic radiology, emergency and non-emergency transportation, air ambulance, as well as specialized pharmacy types like closed-door pharmacies and those providing infusion therapy services. For appeals and during litigation, they would also be responsible for providing expert testimony about the work they performed. **The DHS estimates that an additional 250 to 300 audits would be performed annually in accordance with the proposed contractual arrangements. The DHS also notes that the timeframe from the start of the legislative approval process to the awarding of the contract could take up to 18 months.**

No savings have been identified for this issue in 2004-05.

Subcommittee Staff Comment and Recommendation: The May Revision proposal on this issue is incomplete. No trailer bill language had been provided at the time of preparation for this analysis. In lieu of legislative action through the budget process, the Administration could include this proposal in their forthcoming Medi-Cal redesign package (August 2). In addition, as noted in the Subcommittee's May 10th hearing, the DHS is experiencing considerable issues regarding the timely processing of contracts. As such, further deliberation on this proposal is probably warranted.

Budget Issue: Does the **Subcommittee want to reject the proposal since trailer bill language was not provided and further deliberation on this proposal is probably warranted?** (It can be included in discussions with the Medi-Cal redesign in August if needed.)

9. Community Challenge Grants—Restore Funding

Background: The Community Challenge Grant (CCG) Program, established via the Budget Act of 1996, provides funds to local organizations to mitigate teen pregnancy and non-marital births. The CCG Program is specifically designed to reduce unwed and teen pregnancies, and absentee fatherhood through community-driven strategies and interventions implemented via a working partnership between the state and local community based organizations, local businesses, and youth and their parents.

According to the DHS, the CCG Program provides multi-faceted prevention and intervention strategies from a comprehensive array of locally determined activities and services. These include abstinence education, academic tutoring, career/job skills development, community mobilization, family life education, father's involvement, male responsibility, mentoring, parenting for teen parents, support/education for parents of teens, and youth development. The CCG Program has its second three-year funding cycle, along with one extension year (total of 7 years). For 2003-04, the current grant agreement was extended.

Governor's January Budget--Elimination: The Governor's January budget proposed elimination of the program for a reduction of $19.9 million (Temporary Assistance to Needy Families (TANF) High Performance Awards Funds).

Prior Subcommittee Hearing: In the May 3rd hearing, **the Subcommittee urged the DHS and Administration to seek funding to restore the program.**

Governor's May Revision—Restores: In his May Revision, the Administration restored full funding for the program.

Subcommittee Staff Recommendation: It is recommended to approve the May Revision.

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

10. California Nutritional Network—Increased Federal Funds

Background: In the mid-1990's, the federal USDA started strengthening the nutrition education component of the Food Stamp Program. An updated definition of nutrition education was established as "any set of learning experiences designed to facilitate the voluntary adoption of eating and other nutrition-related behaviors conducive to health and well-being", and states were encouraged to use large-scale marketing approaches. Social marketing had emerged in a USDA analysis of the nutrition education field as holding the most promise for achieving healthy eating among large numbers of people.

The California Nutrition Network for Healthy, Active Families (Network) is a social marketing campaign within the DHS. The Network is funded primarily by federal funds awarded by the US Department of Agriculture (USDA) to the California Department of Social Services. Through an annual interagency agreement, the DSS reimburses the DHS for activities conducted for the Network as identified in the USDA approved plan.

The Network qualifies for federal financial participation each year by documenting and compiling the in-kind expenditures of non-federal funds for allowable nutrition education activities to lower income households being made by state and local agencies, submitting a state plan and budget through the DSS, and dispersing the federal funds according tot he USDA-approved plan. Half is returned through local assistance contracts to contributing agencies.

Prior Subcommittee Action (May 3rd): The Subcommittee approved a Finance Letter to provide an increase of $39.7 million (Reimbursements from the DSS which are all federal funds) to reflect the receipt of increased resources. All of this increase was for local assistance.

Governor's May Revision: The May Revision

11. Health Insurance Portability & Accountability Act (HIPAA) Compliance

Background and Governor's Budget: The DHS is requesting **to extend 13 limited-term positions for an additional three-years** and to reduce the Genetic Disease Branch's special fund allocation for HIPAA activities by $1.7 million (Genetic Disease Testing Fund). These positions will be used for the purpose of complying with the published final rules, changes to those rules, and provide support to the Department's Privacy Officer in the Office of Legal Services. These positions include key leaders of the Office of HIPAA compliance. The DHS states that they need to continue staff at the current level to facilitate the implementation and maintenance of the HIPAA regulations department-wide.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the budget request.

Budget Issue: Does the **Subcommittee want to adopt the budget as proposed?**

12. Proposed Trailer Bill Language To Eliminate Flexibility in Special Fund Allocation

Background: The DHS Tobacco Control Programs, established using Proposition 99 Funds (Cigarette and Tobacco Product Surtax Funds), have been shown to be highly efficacious. **The anti-tobacco media campaigns, television ads and other anti-tobacco advertising have been evaluated on numerous occasions and have shown to be highly effective in mitigating the spread of smoking in our society, and thus, the deplorable health affects of cancer, heart disease and related illnesses.**

The Health Education Account of the Proposition 99 Funds (Cigarette and Tobacco Product Surtax Funds) is used to support the Tobacco Control Program and the various "media buys" that are done for the program. **Funds deposited in the Health Education Account are not "fungible"** to the General Fund. As a matter of practicality, for the past many years (since the mid-1990's), through the annual budget trailer bill process, the Tobacco Control program has been granted authority to roll forward unexpended Health Education Account funds. **Often times due to the nature of the media buys, funds cannot be expended by the end of the**

fiscal year but would be expended by fall. As such the Omnibus Health Trailer bill had regularly included language to account for this accommodation. **In AB 1762, the Omnibus Health trailer bill that accompanied the Budget Act of 2003, a provision was added to the language to continue this cash-flow on to future fiscal years.**

Governor's Proposed Budget: The budget **proposes trailer bill language to repeal the action taken in the Budget Act of 2003 by eliminating Section 104466 of Health and Safety Code related to the DHS Tobacco Control Program.**

Subcommittee Staff Comment and Recommendation: The Legislature's action taken in AB 1762, Statutes of 2003 was intended to continue past practices for providing appropriate funding for the Tobacco Control Program using special funds that by law, and Proposition 99, cannot be used for anything else. Further, the Tobacco Control Programs are highly effective as demonstrated by numerous independent evaluations. As such, there is no reason to repeal the action taken through last year's budget. Therefore, it is recommended to reject this proposal.

Budget Issue: Does the Subcommittee **want to reject** the proposed trailer bill language?

13. Governor's May Revision Trailer Bill Language for Inpatient Hospital Rates

Governor's May Revision: The May Revision **proposes trailer bill language that (1)** technical adjusts a provision contained in AB 1762, Statutes of 2003 (Omnibus Health Trailer Legislation for the Budget Act of 2003) regarding inpatient hospital rates for 2004-05, and (2) recognizes an adjustment needed for the state to appropriately adjust the interim rate for non-contracting hospitals. **The proposed trailer bill language is as follows:**

Uncodified Trailer Bill

(a) The Legislature finds and declares that the state faces a fiscal crisis that requires unprecedented measures to be taken to reduce General Fund expenditures.

(b) (1) Notwithstanding any other provision of law, for acute care hospitals not under contract with the State Department of Health Services, the amounts paid for inpatient services provided to Medi-Cal recipients during the 2004-05 fiscal year shall not exceed the amount determined pursuant to paragraphs (3) and 4

(2) For purposes of this subdivision, the reimbursement for inpatient services includes the amounts paid for all categories of inpatient services allowable by Medi-Cal. The reimbursement includes the amounts paid for routine services, together with all related ancillary services.

(3) The maximum payment for services provided during 2004-05 shall be calculated using the "as audited" cost per day (including ancillary costs) for the hospital's fiscal period ending in the ~~2002~~ 2003 calendar year~~, adjusted for one years' increase as reflected in the Medicare Economic Index as defined in Section 1395u(i)(4) of Title 42 of the United States Code~~.

(4) When calculating a hospital's cost report settlement for a hospital's fiscal period ending in the 2004-05 fiscal year that is subject to paragraph (1), the settlement shall be limited to the lower of either the hospital's cost per day for inpatient services provided during the 2004-05 fiscal year, or the "as audited" cost per day for the hospital's fiscal period ending in the ~~2002~~ 2003 calendar year ~~increased by an~~

~~adjustment as reflected in the Medicare Economic Index as described in paragraph (3)~~, multiplied by the number of inpatient days rendered during the 2004-05 fiscal year.

(c) Notwithstanding any other provision of law, for acute care hospitals not under contract with the Department of Health Services pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, the amounts paid for inpatient hospital services provided during the 2004-05 fiscal year as interim payments shall be reduced by 10 percent with respect to the interim rate on file and in effect on January 1, 2004, as established pursuant to Section 51536 of Title 22 of the California Code of Regulations. The room rates on file for purposes of Section 51536 of Title 22 of the California Code of Regulations on January 1, 2004, shall be used for the period July 1, 2004, through June 30, 2005, and requests for room rate increases shall not be processed. This section shall not affect the final settlement process or amounts as determined pursuant to subdivision (b) or Section 51536 of Title 22 of the California Code of Regulations.

~~(c)~~(d) It is the intent of the Legislature that the California Medical Assistance Commission freeze all Medi-Cal reimbursement rates paid to hospitals for inpatient services at their 2003-04 contract rate, or at a lower level, whichever is applicable based on contract negotiations.

~~(d)~~(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the Director of Health Services may implement subdivision (b) by means of a provider bulletin, or similar instruction, without taking regulatory action.

~~(e)~~(f) The Director of Health Services shall promptly seek all necessary federal approvals in order to implement this section, including necessary amendments to the state plan.

Subcommittee Staff Comment and Recommendation: The proposed trailer bill language is needed in order to incorporate an action taken in the Budget Act of 2003 which respect to freezing inpatient rates for 2004-05 with the Governor's proposed action to reduce the interim payment made to non-contract hospitals in 2004-05. The Subcommittee did adopt the Governor's proposal to reduce the interim payments made to non-contract hospitals in the May 3rd hearing. As noted in the April 12th and May 3rd hearings where this issue was discussed, the hospitals will still be receiving their full payment once reconciliation is completed. It is just the interim payment that will be reduced (i.e., less float for the state to pay initially). **It is recommended to adopt these technical trailer bill language changes.**

Budget Issue: Does the Subcommittee **want to adopt the proposed May Revision** trailer bill language?

14. Continued Implementation of Proposition 50 by the DHS

Background on DHS' Drinking Water Program: The DHS has been responsible for regulating and permitting public water systems since 1915. **The Drinking Water Program provides for ongoing surveillance and inspection of public water systems, issues operational permits to the systems, ensures water quality monitoring is conducted and takes enforcement actions when violations occur. The program oversees the activities of about 8,500 public water systems that serve more than 34 million Californians (about 98 percent of the population).**

The DHS is designated by the federal Environmental Protection Agency as the primacy agency responsible for the administration of the federal Safe Drinking Water Act. Under

the federal Safe Drinking Water Act, California receives funding to finance low-interest loans and grants for public water system infrastructure improvements. **In order to draw down these federal capitalization grants, the state must provide a 20 percent match.** Proposition 13 bond funds had been used as the state match for this purpose in previous years. **However, the state match for future capitalization grants is now provided by Proposition 50, as contained in the Proposition. Proposition 50 bond funds are also used for additional purposes as discussed below.**

CALFED Program Relationship: The **DHS is also a participant with other state and federal agencies in the CALFED Program.** The CALFED Program, pursuant to SB 900, Statutes of 1996 was authorized to develop by means of Programmatic Environmental Impact Statement/Report a preferred alternative of programs, actions, projects and related activities which will provide solutions to water management problems in the Bay-Delta Region. The DHS' involvement relates to drinking water improvement projects.

Background on Proposition 50 and Chapters Applicable to the DHS Drinking Water Program: Proposition 50—the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002—was approved by the voters **to provide *$3.4 billion* in funds to a consortium of state agencies and departments to address a wide continuum of water quality issues.** The bond measure contains 11 chapters, or subdivisions, which delineates the funding level to be provided over the course of the bond and the activities and functions which are to be addressed. **It also contains language throughout the measure that provides authority to the Legislature to *"enact such legislation as is necessary"* to implement certain chapters.**

Several chapters within the Proposition 50 bond measure pertain to functions conducted by the DHS as it pertains to the Drinking Water Program, including Chapter 3 and Chapter 4**. The DHS anticipates receiving as much as $528 million over the course of the bond measure. This funding is discussed below.**

Background on Chapter 3—Water Security ($50 million total from bonds proposed for DHS): Proposition 50 **provides a total of $50 million for functions that pertain to water security, including the following:** (**1)** Monitoring and early warning systems; **(2)** Fencing; **(3)** Protective structures; **(4)** Contamination treatment facilities; **(5)** Emergency interconnections; **(6)** Communications systems; and **(7)** Other projects designed to prevent damage to water treatment, distribution, and supply facilities. It is anticipated that this total amount will be utilized over a four-year period.

Background on Chapter 4—Safe Drinking Water ($435 million total from bonds for DHS): Proposition 50 provides that $435 million be available to the DHS for expenditure for grants and loans for infrastructure improvements, and related actions to meet safe drinking water standards. **About $17 million will be used as the state's matching funds to access the federal capitalization grants for public water system infrastructure improvements. These state matching funds will be spent over 5 years.**

With respect to the other projects, the Proposition states that the funds can be used for following types of projects: ,**(1)** Grants to small community drinking water systems to upgrade monitoring, treatment or distribution infrastructure; **(2)** Grants to finance development and demonstration of new technologies and related facilities for water contaminant removal and

treatment; **(3)** Grants for community water quality; **(4)** Grants for drinking water source protection; **(5)** Grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards; and **(6)** Loans pursuant to the Safe Drinking Water State Revolving Fund (i.e., the existing program whereby the state draws down an 80 percent federal match).

In addition the Proposition requires that not less than 60 percent of the bond funds pursuant to Chapter 4 be available for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use as specified.

Governor's Proposed Budget & Finance Letter Request: The **Administration proposes to provide the following funding for 2004-05 to the DHS:**

- ***For Chapter 3 Functions (Total of $10.4 million for 2004-05):*** **(1)** $10.1 million for local assistance projects, and **(2)** $262,000 for on-going state support and administration.
- ***For Chapter 4 Functions (Total of $99.8 million for 2004-05):*** **(1)** $17 million for state match funds to access federal capitalization grants for public water system infrastructure improvements, **(2)** 80.8 million for local assistance projects, and **(3)** $1.9 million for administration.

Issue of Private Entities and the DHS Draft Guidelines: The **DHS has issued draft guidelines for Proposition 50 bond funds that would allow private water agencies to compete for bond funds.** The Legislative Counsel as well as legal counsel for the DHS have issued legal opinions that contend private water agencies are eligible for bond funds. The California Public Utilities Commission regulates investor owned water utilities and mutual water companies. Traditionally, these utilities have been relatively small utilities that serve small jurisdictions. **However in recent years, larger investor owned utilities have purchased many of these small utilities.**

However, other interested parties contend that while Proposition 50 did not explicitly exclude private water companies within the text of the enabling statutory language, there is similarly no explicit inclusion of private water company eligibility either. Further, they note that the official voters guide told voters that the bond funds would be available for expenditure by various state agencies and for loans and grants to local agencies and non-profit associations. They also contend that some of the larger investor owned utilities and mutual water companies have greater access to the capital markets for the purposes of financing projects than many municipal utilities.

To-date, the other state agencies administering water-related grant programs have not published guidelines that explicitly allow private water agencies to compete for bond funds.

Subcommittee staff has been advised that the Administration is currently considering this policy issue internally.

Prior Subcommittee Hearing (May 10th): In this hearing, the Subcommittee discussed the proposal and accepted public testimony. The issue was held open pending the receipt of the May Revision. **In addition, the Chair requested the LAO to review the issue of private water agencies receiving bond funds.**

Legislative Analyst Office Report—May 2004: In a report released on May 19th, the LAO provides an analysis regarding the legal, tax, and policy issues for legislative consideration in evaluating the funding eligibility of private water companies under Proposition 50. **Based on their review, they conclude that the broad public purpose of Proposition 50 bond funds would be served by including private entities as eligible recipients of such funds.** ***That said, the LAO also identifies several significant legal, tax, and policy-related concerns regarding the use of these bond funds for private entities that they believe should be addressed by legislation.***

Subcommittee Staff Comment and Recommendation: Based on information obtained from Legislative Counsel, the LAO, and other interested parties, it is evident that legislative direction is needed regarding the complexities of the policy issue related to the state (DHS) providing bond funds to private water companies. **It would be beneficial if the DHS could delete this aspect from their guidelines until the policy issue has been more fully deliberated by the Legislature. However at this time, it is unknown if they are willing to do so. In the absence of an answer, it is recommended for the Subcommittee to adopt the following Budget Bill Language:**

> "The Department of Health Services shall not allocate funds made available by the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 to private water companies, unless legislation is passed during the 2003-04 Legislative Session that expressly allows for such allocation.

Budget Issue: Does the Subcommittee **want to (1) approve the appropriation as budgeted (January and Finance Letter), and (2) adopt Budget Bill Language that would allow for the DHS to provide bond funds to private water companies *only if* legislation which allows for this passes in the current session and is chaptered?**

15. Federal Bioterriorism—New Funds, More State Staff, and Application Coming

Background—Overall Summary: The Emergency Supplemental Appropriations for Recovery & Response to Terrorist Attacks on the US Act (Public Law 107-117 of 2002), and subsequent federal legislation, provided states with additional federal funds to support and address both local and state concerns regarding the threat of bioterrorism.

Under this federal law there are two funding streams made available to California—one from the federal Centers for Disease Control (CDC), and one from the federal Health Resources and Services Administration (HRSA). The CDC grant is in support of state and local public health measures to strengthen the state against bioterrorism via a "Cooperative Agreement" to the DHS. The HRSA grant is for the development and implementation of regional plans to improve the capacity of hospitals, their emergency departments, outpatient centers, emergency medical systems and related matters.

The grants require California to meet specified benchmarks and activities. As such California must submit a Cooperative Agreement application to the federal government for their review and

approval. However, California is assured by the federal government that grant funds will be provided, once the application is approved.

The DHS notes that they are responsible for detecting and responding to bioterriorism acts. Regardless of source, surveillance of infectious diseases, detection, and investigation of outbreaks, identification of etiologic agents and their modes of transmission, and the development of prevention and control strategies are the responsibility of state and local public health agencies. They also note that the ultimate responsibility for protecting the public and environmental health of the population on the ground lies with the Local Health Jurisdictions, especially during biological or chemical incidents.

CDC Cooperative Agreement Grant Overall: This grant is for upgrading the state and local public health jurisdictions' critical capacities related to preparedness for and response to bioterriorism in seven focus areas as follows: Planning and Readiness Assessment, Surveillance and Epidemilogy Capacity, Communications and Information Technology, Health Risk Communications and Information Dissemination, and Education and Training. As a condition of the funding, the DHS must meet 16 critical capacities and 25 benchmarks.

HRSA Grant Overall: This grant is focused on activities for the Hospital Bioterrorism Preparedness Program. These funds are to be used for hospitals, outpatient facilities, local emergency medical systems, and poison control centers. A needs assessment of hospitals' and clinics' capabilities to respond to a bioterriorism event has been completed and funds have been provided to hospitals and clinics for planning and preparedness activities. A Joint Advisory Committee has been established, as required by the federal government, to allocate the grant funds to local entities and to address inter-hospital and regional planning issues regarding the management of a bioterrorism incident.

Budget Act of 2003 and Administration's Section 8 Letter: Since these bioterriorism grants operate on a federal fiscal year and also require states receiving funds to summit a detailed application which requires federal approval, **the timing of the process does not neatly correspond to California's state budget cycle or fiscal year. For example, the federal government provides states with guidelines for development of the applications in mid-May. States usually have 45 days after receipt of the federal guidelines. In addition, the federal government usually makes some changes to these applications. As such, the Legislature is at risk of appropriating funds with little detail as to its potential expenditure in some cases.**

In the Budget Act of 2003, the Legislature agreed that about half of the new federal funds for the August 31, 2003 to August 30, 2004 cycle be funded in the budget and the remaining amount be appropriated through SB 678 (Senator Ortiz). **This was done in order to give the DHS ample opportunity to work with major constituency groups—Local Health Jurisdictions, County Health Officers, hospitals, and related core emergency/disaster-related response entities—on specifically how the funds were to be spent (and to correspond to the state's federally – approved applications).**

SB 678 stalled on the Assembly floor at the end of session last year due to issues unrelated to the content of the legislation, the remaining federal funds were appropriated through authority provided via the Joint Legislative Budget Committee and the Section 8 process in the Fall of

2003. However, SB 678 was just recently signed by the Governor in April 2005 so all other aspects of the legislation are now in place.

California Must Submit New Application to Obtain Federal Grant Funds: A new federal grant cycle is approaching which will require the state to submit an application for federal approval. **As with last year (as discussed above), the Budget Bill will be completed prior to the completion of the Cooperative Agreement application being submitted, reviewed and approved by the federal government.** According to the DHS, states are to receive the guidelines in **mid-May** and are then expected to submit an application to the federal government within 45 days.

Governor's Proposed Budget & Finance Letter—New Federal Funds, New Positions & Budget Bill Language Requested: The Governor is proposing **two adjustments** regarding this federal bioterrorism funding. **First, the DHS is requesting an increase of $76.5 million (federal funds) for total expenditures of $108.9 million (federal funds) in 2004-05.**

Second, the DHS is requesting an increase of 28.8 new state positions in addition to an existing base of 76 positions for this purpose. Of these total new positions, 10 are requested to be made permanent and 18.8 are limited-term (through June 30, 2005).

As noted in the table below, of the total amount, (1) $36.5 million, is for state support and related functions, (2) $47.1 million would be provided to Local Health Jurisdictions, and (3) $25.2 million would be provided for local assistance associated with the HRSA grant requirements.

Third, the DHS is seeking approval of Budget Bill Language (both in the state support item and local assistance item) that would allow for expenditure and encumbrance of these federal funds through August 30, 2006. This is one year longer than the state's fiscal year and one year past the federal fiscal year for which the funds are allocated to California. **Specifically, this proposed language is as follows:**

> "Notwithstanding any other provision of law, moneys made available for bioterrorism preparedness pursuant to this Act shall be available for expenditure and encumbrance until **August 30, 2005**."

Summary of Bioterriorism Funding for 2004-05 *(State Fiscal Year)*

DHS Proposed Budget & Finance Letter for Bioterrorism 2004-05 (State Fiscal Year)	State Support (Positions)	Local Health Jurisdictions	Hospitals, EMS & Related Entities	TOTALS
1. CDC Grant ***(anticipated)***	$23 million (76 + 18.8 positions = 94.8)	$47.1 million	N/A	$70.1 million
2. HRSA Grant ***(anticipated)***	$13.5 million (0 + 10 = 10 positions)	N/A	$25.2 million	$38.7 million
TOTAL Amounts	**$36.5 million**	**$47.1 million**	**$25.2 million**	**$108.8 million**
Baseline Amount	**($7.3 million)**	**($25 million)**	**0**	**($32.3 million)**
CDC Baseline	$6.8 million	$25 million	N/A	$31.8 million
HRSA Baseline	$488	N/A	0	$488

Requested Increase	$29.2 million	$47.2 million	$25.2 million	$76.5 million
CDC Baseline	($16.2 million)	($22 million)	N/A	($38.2 million)
HRSA Baseline	($13.1 million)	N/A	($25.2 million)	($38.3 million)

With respect to state support, the DHS contends it needs an additional 28.8 positions in addition to the base of 76 positions because (1) the federal government added more requirements, and **(2)** positions are needed to track all fiscal aspects of the grants. The DHS states that all activities outlined in the Cooperative Agreement must be performed by the recipient agency (i.e., DHS) as a condition of the CDC award. In addition, the DHS states that HRSA has added numerous benchmarks required benchmarks as a condition of funding.

Although the DHS will address some of these requirements through interagency agreements and contracts, an additional 10 permanent positions and 18.8 limited-term positions (until June 30, 2005) are needed to ensure coordinated planning and response efforts between the state and Local Health Jurisdictions.

Constituency Comments: Some constituency groups have expressed a desire to place a portion of the federal bioterriorism funds into SB 431 (Ortiz) (as amended January 5, 2004) as was similarly done last year (as discussed above in this agenda).

Prior Subcommittee Hearing (May 10th): In this hearing, the Subcommittee deliberated the issue and received public testimony. The Chair expressed his intents of addressing constituency concerns by following a similar path as last year and providing an appropriation through both the Budget Bill and a legislative policy bill.

Subcommittee Staff Comment and Recommendation: Based on the perspective of the Chair, it is recommended to **(1)** appropriate the full increase for the local assistance item as contained in the January budget and Finance Letter (i.e., $47.2 million federal CDC grant and $25.2 million federal HRSA grant), **(2)** appropriate the full increase for the state appropriation for the federal HRSA grant, **(3)** reduce the state appropriation for the CDC federal grant amount by $2.3 million so these funds can be appropriated after the Cooperative Agreement with the federal government is completed (probably in July), **(4)** adopt Budget Bill Language directing the DHS to include implementation of SB 2065, Statutes of 2002 (low-level radioactive inventory as it pertains to bioterrorism) in the state's application to the CDC, **(5)** adopt Budget Bill Language directing the DHS to provide notification to the Legislature regarding any changes the federal government makes to the state's application, including funding and policy changes (as stated below), and **(6)** adopt the Budget Bill Language proposed by the Administration (as discussed under their proposal, above).

Budget Bill Language:

> 4260-001-0001
> Provision x.
> "The Department of Health Services shall include a request for funding in the state's application for Cooperative Agreement for funding from the federal Centers for Disease Control and Prevention's Public Health Preparedness and Responses to Bioterriorism Program regarding the state's efforts to establish reporting procedures for low-level-radioactive waste as contained in Chapter 891, Statutes of 2002."

"The Department of Health Services (DHS) shall notify the fiscal and policy committees of the Legislature in a timely manner regarding the federal government's approval of the state's application for Cooperative Agreement for funding from the federal Centers for Disease Control and Prevention's Public Health Preparedness and Response to Bioterriorism Program. This notification shall include a summary of all policy and fiscal changes made by the federal government to the state's application submittal. If additional changes are made through out the fiscal year, the DHS shall so notify the fiscal and policy committees in a similar manner.

Budget Issue: Does the Subcommittee **want to adopt the Subcommittee staff recommendation, based on the Chairs direction** as provided in the May 10th hearing, as shown?

16. In Home Supportive Services "Independence Plus" Waiver—Request for Staff

Background: The DHS is the single Medicaid agency in California. As such, the DHS is involved in all aspects of developing, implementing and monitoring Medicaid (Medi-Cal) Waivers for all of the state's programs, including those programs operated by the state Department of Social Services (DSS).

The Independence Plus Waiver is a new federal waiver process intended to provide guidance and assistance to states wishing to implement programs to support the self-direction of services and supports by persons with developmental disabilities and their families. It provides states with the ability to offer individuals or families who require long-term supports and services greater opportunities to take charge of their own health and direct their own services.

Under this Waiver, California can apply for Medicaid (Medi-Cal) reimbursement for provider wage payments to the parents of minor children and spouses, advance pay to individuals who hire and train their own caregivers, protective supervision services to those who may have cognitive impairments, domestic services for those receiving personal care and related services, and restaurant meal allowances for those who have disabilities that prohibit or make unsafe meal preparation in their own home.

The May Revision is proposing to seek this federal Waiver to secure federal funding for the In Home Supportive Services (IHSS) Residual Program in lieu of the Governor's January proposal to eliminate the program operated by the Department of Social Services. Proposed legislation to implement the Waiver maintains services for Residual consumers to the extent federal funding is available, subject to the terms and conditions of this Waiver. *(This proposed trailer bill language and related policy issues were discussed by the Subcommittee during the May Revision hearing for the Department of Social Services.)*

The May Revision also requests an increase of $734,000 ($367,000 General Fund) to hire 9.5 new staff positions within the Department of Social Services to develop, implement and manage this IHSS Plus Waiver.

Governor's May Revision—DHS State Positions: The May Revision for the DHS requests an increase of $450,000 ($225,000 General Fund) **to support 5 new state staff** (two-year, limited-term) **to develop, implement and provide oversight of this proposed Waiver.**

Subcommittee Staff Comment and Recommendation: It is recommended to approve the May Revision.

Budget Issue: Does the **Subcommittee want to adopt the May Revision.**

17. AIDS Drug Assistance Program (ADAP)—Adjustments to January Budget

Overall Background on the ADAP: ADAP is a subsidy program for low and moderate income persons (individual income cannot exceed $50,000) with HIV/AIDS who have no health care coverage for prescription drugs and are *not* eligible for the Medi-Cal Program. There are about 22,733 clients enrolled in ADAP (as of February 18, 2004).

Under the program eligible individuals receive drug therapies through participating local pharmacies under subcontract with the statewide contractor. The state provides reimbursement for drug therapies listed on the ADAP formulary (about 151 drugs currently). The formulary includes anti-retrovirals, hypolipidemics, anti-depressants, vaccines, analgesics, and oral generic antibiotics.

ADAP is cost-beneficial to the state. Without ADAP assistance to obtain HIV/AIDS drugs, infected individuals would be forced to (1) postpone treatment until disabled and Medi-Cal eligible or (2) spend down their assets to qualify for Medi-Cal. About 50 percent of Medi-Cal costs are borne by the state, as compared to only 30 percent of ADAP costs.

Since the AIDS virus can quickly mutate in response to a single drug, medical protocol now calls for Highly Active Antiretroviral Treatment (HAART) which minimally includes three different anti-viral drugs. As such, expenditures in ADAP have increased. Under the program, individuals receive drug therapies through participating local pharmacies under subcontract with a statewide contractor. Studies consistently demonstrate that early intervention, minimizes more serious illness, reduces more costly treatments and maximizes an individuals productivity and health.

The DHS notes that ADAP has grown in response to (1) increased demand brought about, in part, by the development of new, more efficacious but costly therapies, (2) increased caseload, and (3) changes in drug utilization as therapies shift due to drug resistance over the course of treatment as individuals live with AIDS.

Prior Subcommittee Action (March 8th): In the March 8th hearing, the Subcommittee took the following actions: **(1)** rejected the Governor's proposed cap on enrollment into the program, **(2)** enacted program efficiencies to save $800,000 (General Fund), **(3)** adopted trailer bill legislation to establish a special fund for capturing HIV/AIDS drug rebate funds appropriately for usage in the program, and **(4)** provided a net increase of $15 million (rebate funds) for the ADAP.

Governor's May Revision: The May Revision proposes an increase of $26.911 million ($2.760 million General Fund, $3.151 million federal funds, and $21 million Drug Rebate Funds) to the ADAP in order to provide appropriate funding for the program and to meet necessary federal Ryan White Care Act maintenance-of-effort requirements. In addition, the May Revision deletes the Governor's January cap on enrollment proposal.

Subcommittee Staff Comment and Recommendation: The May Revision proposal is a significant improvement compared to the January proposal. **The Governor has conformed to the Legislature's direction regarding not capping enrollment on the program and has recognized that Drug Rebate funds should be appropriated for expenditure when available.** Further, based on additional information, the Administration has recognized the need to provide additional General Fund support in order to meet federal Ryan White CARE Act maintenance-of-effort provisions. In addition, the state was recently notified of the availability of additional federal funds. **As such, it is recommended to rescind the prior Subcommittee action from the March 8th hearing, except for establishment of the trailer bill legislation to establish a special fund for ADAP Drug Rebates, and adopt the Governor's May Revision funding level for the program.**

Budget Issue: Does the **Subcommittee want to (1) adopt the Governor's May Revision** for funding the program, and **(2) retain the trailer bill language** to establish a special fund for Drug Rebates?

18. West Nile Virus—New State Staff and Contract to Develop a Plan

Governor's May Revision: The Governor's May Revision proposes **an increase of $1.0 million (General Fund)** to fund **(1)** two new state positions (one Epidemiology/Bio-statistics positions and one Research Scientist IV--Veterinary), and **(2)** an external contract for $671,000 to develop a strategic plan and program to address the establishment and spread of West Nile Virus.

The DHS states that is has no dedicated funding specifically for West Nile Virus and that funding is not available from the state Department of Food and Agriculture or from other state agencies. Federal funds from the Centers for Disease Control (CDC) have not been provided on the longer-term, only "seed funding" was established for selected states. **As such California, through the Public Health Foundation Enterprises (PHFE), does receive $500,000 in federal funds from the CDC on an annual basis. The PHFE subcontracts with two collaborating laboratories—the Arbovirus Research Unit Laboratory at UC Davis, and the California Animal Health and Food Safety Laboratory.**

Subcommittee Staff Comment and Recommendation: The **prior Administration proposed a similar proposal at the May Revision last year, which was denied due to limited General Fund resources.**

The DHS presently employs **about 200 employees in its Communicable Disease Control Division. This Division consists of several branches as follows: (1)** Disease Investigation and Surveillance Branch, **(2)** Vector Control Section (i.e., mosquito), **(3)** Viral and Rickettsial

Disease Laboratory, **(4)** Microbial Disease Laboratory, **(5)** TB Control, and **(6)** Sexually Transmitted Disease. Further, the DHS also has other branches within it purview—Environmental Health Investigations, Epidemiology and Prevention, and others—that have potential positions **which could be re-directed for this effort.**

Local mosquito and vector control agencies are funded through a variety of mechanisms, such as property taxes, services charges, and benefit assessments. **Though these funds are not available to state agencies, they serve to mitigate mosquitos and thus, West Nile Virus.**

Other approaches than increase General Fund expenditures seem to be available. The DHS could seek addition CDC funds for this purpose (the CDC is providing $500,000 now), the State Department of Food and Agriculture could potential utilizing some of their special funds for this purpose, foundation funds could be used to develop an advertising campaign in lieu of using state General Fund support, and the DHS could re-direct existing resources for this purpose. **As such, it is recommended to deny the May Revision due to limited General Fund resources.**

Budget Issue: Does the Subcommittee want to **(1) deny the proposal**, and **(2) instruct the DHS to redirect existing positions for this purpose?**

19. Medical Marijuana Identification Card—Implementation of SB 420, Statutes of 2003

Background: SB 420 (Vasconcellos), Statutes of 2003, is intended to clarify and implement the provisions of Proposition 215 (Compassionate Use Act of 1996 or the Medical Use of Marijuana Initiative). It requires the DHS to establish and maintain a voluntary medical marijuana identification card and registry program for qualified patients and their primary caregivers through county health departments, or the county's designee. To implement the program, the DHS must establish application and renewal fees to cover DHS' costs of the card registry program. Each county would collect and forward these fees to the DHS and also establish their own fees to cover county health department costs.

Several other states, including Arizona, Alaska, Colorado, Hawaii, Maine, Nevada, Oregon and Washington, have already implemented similar programs.

Major activities associated with DHS implementing SB 420 include the following:

- Development and maintenance of program policies, procedures, protocols, forms and regulations;
- Conducting surveys and meetings with counties and other stakeholders;
- Establishment, review and adjustment of fees which are sufficient to fully reimburse program costs;
- Creation of a special fund, accounting system, and the like to allow counties to transmit fees they collect to the state;
- Providing the 24-hour/7 days a week interactive voice response system;

- Establishment and operation of an appeal process within DHS for patients whose application for a card is denied;
- Identification of county departments or their designees responsible for operating the program at the county level; and
- Pilot testing the program with counties to evaluate the effectiveness of the program and make any identified adjustments.

Governor's May Revision: The May Revision proposes **to establish a loan of $983,000 from the Health Statistics Fund to begin implementation of the Medical Marijuana Identification Card Program.** This loan will provide funds for the first year and one-half of the program, and fees collected from the card program users and their caregivers would be used to repay the loan and continue the operation of the program in subsequent years.

These resources would be used to fund (1) 5 permanent, and 3 two-year limited-term positions, (2) card production, and (3) a 24-hour/ seven days a week interactive voice response system. As referenced above.

Subcommittee Staff Commend and Recommendation: It is recommended to approve the May Revision.

Budget Issue: Does the Subcommittee **want to adopt the May Revision?**

20. Criminal Background Clearance

Background: State law mandates criminal background screening for all Certified Nurse Assistants (CNAs), Home Health Aides (HHAs), and for specific individuals who are employed in a variety of health facilities licensed and certified by the DHS. While about 90 percent of all applications and renewals are cleared without conviction, the remaining 10 percent for individuals with criminal backgrounds create the complex, increasing workload and backlog within the DHS Licensing and Certification-Fingerprint Investigation Unit.

The DHS receives criminal offender record information from the DOJ on current or potential caregivers. The DHS must review the results of these criminal background checks at three different points through the process as required by statute. **Therefore, in order to expedite these reviews and to ensure their accuracy, automated system changes are necessary to improve the Department of Justices' criminal history information used by the DHS.**

Governor's May Revision: The May Revision **requests an increase of $602,000 ($302,000 General Fund) of which $508,000 (total funds) is a one-time only appropriation**, **with $15,500 as an on-going expenditure.** The purpose of the request is to direct funding to the Department of Justice to make programming changes to their automated systems that support criminal history information used by the DHS Licensing and Certification Program.

Subcommittee Staff Commend and Recommendation: It is recommended to approve the May Revision.

Budget Issue: Does the Subcommittee **want to adopt the May Revision?**

21. Child Health Disability Prevention (CHDP) Program

Background: Overall Background: The Child Health Disability Prevention (CHDP) Program **provides pediatric prevention health care services to (1)** infants, children and adolescents up to age 19 who have family incomes at or below 200 percent of poverty, and **(2)** children and adolescents who are eligible for Medi-Cal services up to age 21 (Early Periodic Screening Diagnosis and Treatment—EPSDT).

CHDP services play a key role in children's readiness for school. All children entering first grade must have a CHDP health examination certificate or an equivalent examination to enroll in school.

The benefit package provided under the *CHDP-only* program is limited to providing a physical examination, nutritional assessment, vision and dental assessments, hearing assessment, laboratory tests and immunizations. Local health jurisdictions work directly with CHDP providers (private and public) to conduct planning, education and outreach activities, as well as to monitor client referrals and ensure treatment follow-up. With respect to funding, services for

Governor's May Revision: The **May Revision proposes total expenditures of $5.7 million** ($5.4 million General Fund and $300,000 Childhood Lead Poisoning Prevention Funds) for the program. **No policy changes are proposed.** The May Revision does reflect a 5 percent rate reduction which is consistent with the Budget Act of 2003.

Subcommittee Staff Recommendation: It is recommended to adopt the May Revision.

Budget Issue: Does the Subcommittee **want to adopt the May Revision?**

22. Clarifying State Law for County Organized Health Systems (COHS) & Local Initiatives for Purposes of Intergovernmental Transfer

Background--Potential Option to Use Intergovernmental Transfer Funds: Voluntary intergovernmental transfer mechanisms are currently being used by California to draw down additional federal matching funds for use in the Medi-Cal Program without expenditure of state General Fund support. Specifically this is done under the state's SB 1255 Supplemental Payment Program accessed by certain hospitals. This intergovernmental transfer mechanism is limited by the amount of savings the state is able to achieve through its Selective Provider Contracting Program (whereby the CMAC contracts with certain hospitals for Medi-Cal inpatient days). The federal funds saved by hospital contracting are then allocated back to hospitals for supplemental funding. Due to federal "upper payment limits" ("OBRA" limits), some hospitals are limited on the amount of federal supplemental funding that they can receive.

The Administration has been having discussions with interested parties on the concept of using a similar intergovernmental transfer mechanism for COHS and the Local Initiatives. Key aspects of this discussion have been as follows:

- What would the source of the funds for the intergovernmental transfer be?
- Would federal approval be provided for such a mechanism for COHS?
- Would there be any upper payment issues that hospitals or the state would encounter?

Prior Subcommittee Hearing (April 12th): In this Subcommittee hearing, discussions pertaining to the fiscal viability of County Organized Health Systems were discussed. The DHS noted that there may be other mechanisms available to assist with their fiscal viability, as well as the Local Initiatives as part of the Two-Plan Model for Medi-Cal Managed Care.

Subcommittee Staff Recommendation: As noted in the April 12th hearing, discussions with the Administration have been occurring to see if the state can better articulate to the federal CMS that COHS and Local Initiatives are indeed public authorities that could participate in the intergovernmental transfer process, and therefore, obtain additional federal funds. **As such, it is recommended to adopt placeholder trailer bill language to be worked out with the Administration on** this topic. Further, it is the understanding of Subcommittee staff that the Administration is interested in this topic conceptually and would be interested in pursuing the conversation through Conference Committee.

Budget Issue: Does the **Subcommittee want to adopt placeholder trailer bill language** which further articulates that COHS' and Local Initiatives are public entities and can participate in the intergovernmental transfer process?

23. Non-Contracting Hospital Field Audits & Home Office Audits (BCP and May Revise

Background—Hospital Cost Reports: There are about **440 licensed hospitals in California**. Medi-Cal pays about $3.5 billion (total funds) for **inpatient hospital services** annually of which **20 percent or $700 million (total funds) is paid to "non-contract" hospitals.** ***Non-contract*** **hospitals** are those who provide inpatient services to Medi-Cal patients but do not operate under a contract with the California Medical Assistance Commission (CMAC).

All **Acute care hospitals who provide care to Medi-Cal patients are required to file an annual cost report with the DHS.** There are currently 428 cost reports submitted annually for this purpose. **Of the 428 cost reports about 210 are cost reports for non-contract hospitals.** The remaining 218 cost reports are for hospitals that are under contract with the CMAC.

The DHS states that they review 100 percent of the cost reports for all hospitals. However, the DHS contends that they do not have enough staff to do "full scope" field audits. The DHS states that during the performance of full field audits, procedures are performed to test the validity and accuracy of the hospital's allowable costs and billings more extensively than during a limited desk review or limited field review. Audit tests are performed to ensure that hospital records support not only the cost report but also the claims submitted to Electronic Data Systems for processing.

Background—Home Office Information: According to the DHS, there are 62 large corporate healthcare chains (Home Offices) that own many of California's hospitals**.** These home offices are also required to file annual cost reports with the DHS. These cost reports show the total costs

of the home offices and how they allocate costs—such as central management and administrative services-- to the individual hospitals they own in California.

The home office costs are not reimbursed to the home office directly but are included by cost accounting and allocation methods in the individual hospital reports. According to the DHS, these methods of accounting and allocation can be manipulated to increase Medi-Cal reimbursement to the individual hospital.

The DHS states that with current resources, they perform primarily limited field/desk audits of the non-contract hospitals and limited field audits of only 13 of the 62 home offices (remaining 49 are accepted as filed without audit).

Governor's January Budget and May Revision: The budget is requesting **an increase of 41 new audit staff for increased costs of $4.7 million ($2.4 million General Fund), including $531,000 (total funds) for out-of-state travel. The DHS contends that with this additional audit staff they will be able to save $12.4 million ($6.2 million General Fund) in 2004-05, or a *net* savings of $3.8 million General Fund in the budget year.**

The DHS contends that 41 new positions are required to perform the additional audit workload to audit all 62 home offices (currently doing 13) and 210 non-contract acute care hospitals. Since 20 of the 62 home offices are located outside of California, out-of-state travel is being requested. The DHS states that typically it takes three to four consecutive two-week trips (6 weeks to two months of time) involving three to four audit staff to conduct a home office audit.

Legislative Analyst Office Recommendation: In her Analysis, the LAO notes that the DHS **received 161.5 additional new positions** for anti-fraud activities in 2003-04**. Of these new positions, the Administration chose to eliminate some as part of the Control Section 4.1 process (as contained in the Budget Act of 2003). In addition, some of these remaining positions are still being recruited for and are as yet not all filled.**

As such, the LAO believes that it is premature to approve further expansion before the DHS has implemented the sizable expansion approved last year and demonstrate that it can achieve the savings that were to have resulted from these additional positions.

Further, the LAO contends that expansion in this area should also wait until the Error Rate Study is completed that will shed light on which types of anti-fraud activities warrant a greater focus. As noted above under the background discussion, this Error Rate Study will not be completed until November 2004.

Subcommittee Staff Comment and Recommendation: Subcommittee staff also has concerns similar to those articulated by the LAO in that, the DHS typically has difficulties hiring staff, training staff and bringing them on board to achieve the level of cost containment savings that are assumed in their budget proposals. **Further discussions regarding necessary staff needs and a hiring plan need to be further discussed. As such, it is recommended to send this proposal to Budget Conference Committee.**

Budget Issue: Does the Subcommittee **want to (1) provide a total of 20 new audit staff, and (2) assume the same level of local assistance savings as the May Revision (i.e., $12.4 million**

total funds)? (This will send the issue to the Budget Conference Committee for further discussions regarding the necessary staffing levels.)

24. Prostate Cancer—Budget Year Discussion

Background: The Prostate Cancer Treatment Program provides prostate cancer treatment to low-income men who are uninsured. To enroll in the program, a man must be a California resident, have an income at or below 200 percent of poverty, be uninsured and not eligible for Medi-Cal or Medicare. The program is not an entitlement and must operate within its level of appropriation.

Clarification of Prior Years Funding: The Budget Act of 2001 appropriated $20 million (Tobacco Settlement Funds) for the program. Based on expenditures of $8.7 million, a remaining balance of $11.3 million was available for re-appropriation. Due to a mid-year reduction adjustment, the final, revised budget for 2002-03 provided an appropriation of $10 million. Total expenditures were $8.6 million which left $1.4 million available for re-appropriation for 2003-04.

Budget Act of 2003 and Subsequent Revisions: The Budget Act of 2003 appropriated $5 million (General Fund) for the program. **The appropriation was made in Provision 9 of Item 4260-001-0001 and allows for encumbrance of these funds through June 30, 2005 and expenditure through December 31, 2006.**

However as recently noted by the DOF, the Governor's revised 2004 budget as updated in January 2004, contains a technical error regarding the level of funds actually available for re-appropriation from 2002-03 for expenditure. **In total, a re-appropriation amount of $12.7 million is available for 2003-04.**

The Administration, using Budget Control Section 4.1, reduced the program by about $4.5 million (General Fund). ***(This action is discussed further below.)***

In addition, the Budget Act of 2003 also included a transfer of $6 million of overall Tobacco Settlement Funds to the General Fund. The Prostate Cancer Program was reduced by $1.7 million as part of this transfer.
The following chart summarizes the above outlined items which affect 2003-04 :

Budget Act of 2003 Appropriation	$5 million
Governor Schwarzenegger's Control Section 4.1 Reduction	($4.5 million)
Governor's Proposed Revised 2003-04 Appropriation	**$545,000**
Revised Re-Appropriation from Prior Years	$12.7 million
Transfer for Tobacco Settlement Fund	($1.7 million)
Governor's Proposed Total Revised Funding	**$11.5 million**
Anticipated Expenditures	$5 million
Amount Likely Available for Re-appropriation for 2004-05	**$6.5 million**

The DHS notes that the $5 million in anticipated expenditures is based on actual expenditures through December 31, 2003. The DHS has a contract with UCLA for $4.6 million to provide clinical services, administration, case management, outreach and evaluation. The DHS utilizes the remaining amount for their administration.

It should be noted that 188 men are currently under-going treatment in the program and 103 men are considered new enrollees for a total of 291 men being served in 2003-04.

Legislative Counsel Opinion and Budget Control Section 4.1 of the Budget Act of 2003: At the request of Senator Ortiz, Legislative Counsel conducted an analysis of Budget Control Section 4.1 (Control Section) and the application of it by the DOF specifically to the Prostate Cancer Program. **Through this analysis, Legislative Counsel notes the following key factual aspects:**

- The Control Section **limits the reductions** to a state operation appropriation, and a program, project or function designated in any line of any schedule set forth by that appropriation, **may not be reduced by this section by more than 15 percent** (See **Subdivision h of the Control Section**).
- Item 4260-001-0001 (DHS state support item) was reduced by about $15.5 million from an appropriation of $264.1 million. This equates to less than 15 percent overall. **However, the DOF specifically reduced the Prostate Cancer Program by about 89 percent (i.e., a reduction of $4.5 million from an appropriation of $5 million).**
- Budget Act Language**-- Provision 9 of Item 4260-001-0001--directs that $5 million of the amount appropriated in this Item shall be appropriated for the Prostate Cancer Program. As such, the Legislature authorized a definite sum of money for a specific purpose—the Prostate Cancer Program.**

In an extensive analysis, **Legislative Counsel concludes that, in their opinion, the Control Section does not authorize the Director of Finance to eliminate or reduce an appropriation made in the Budget Act for a program in an amount that exceeds 15 percent if the program is a designated program for which an appropriation has been made (such as the Prostate Cancer Program).**

They state that the DOF's construction of the Control Section in this case is clearly erroneous because applying a 15 percent reduction to a schedule (meaning the entire Item 4260-001-0001) could result in the total elimination of an appropriation for a program for which the Legislature has made a specific designation, which is clearly not intended as noted in Subdivision h of the Control Section.

Governor's Proposed 2004-05 Budget: The budget proposes **(1)** an appropriation of $570,000 (General Fund), and **(2)** re-appropriation language to capture the estimated $6.5 million available from prior years (as referenced above). **Specifically the re-appropriation language is as follows:**

4260-491 (Tobacco Settlement Fund)

(1) Item 4260-001-3020, **Budget Act of 2001**. Notwithstanding any other provision of law, the balance as of June 30, 2004 for the Prostate Cancer

Treatment Program is re-appropriated and is available for expenditure through June 30, 2005.
(2) Item 4260-001-3020, **Budget Act of 2002**. Notwithstanding any other provision of law, the balance as of June 30, 2004 for the Prostate Cancer Treatment Program is re-appropriated and is available for expenditure through June 30, 2005.

Prior Subcommittee Hearing (May 3rd): The Subcommittee heard public testimony regarding the program and the need for the re-appropriation language. The issue was kept open, pending receipt of the May Revision.

Governor's May Revision: The Governor's May Revision reiterates that the re-appropriation will enable the program to continue to expend $6.5 million (Tobacco Settlement Funds) for 2004-05

Budget Issue: Does the **Subcommittee want to adopt** the Governor's budget as proposed?

25. Cancer Research Program Funding—Budget Year

Background and Clarification of Prior Years Funding: Chapters 755 and 756, Statutes of 1997 (AB 1554, Ortiz and SB 273 Burton), created the Cancer Research Act of 1997. From 1998 to 2001, the annual Budget Act provided $25 million (General Fund) for this program.

Due to fiscal constraints, the Budget Act of 2002 and accompanying legislation (1) reduced the appropriation level to $12.5 million, **(2)** allowed for the receipt of private donations to the program, **(3)** capped the indirect costs for the grants at 25 percent, ***and*** **(4)** provided for multiple-year contracting for the grants. **However, a Mid-Year Reduction (Control Section 3.90) adjusted this appropriation to $6.25 million (General Fund) for 2002-03.**

The Omnibus Health Trailer Bill (Chapter 1161, Statutes of 2002) provided for unencumbered and unexpended balances from prior fiscal years (1999-2000, 2000-01 and 2001-02) for the Cancer Research Program to be re-appropriated and to be available for encumbrance and expenditure until July 30, 2005 (this date was chosen due to the multiple year nature of research grants). **This re-appropriation provided an additional $2.6 million. Therefore, total resources available for expenditure for 2002-03 was $8.8 million (including the appropriation and re-appropriation). Actual expenditures were $6.1 million (as of June 2003). Therefore, about $2.7 million was remaining as a balance for re-appropriation.**

The Budget Act of 2003 appropriated $3.125 million (General Fund) for the program. The appropriation was made in Provision 14 of Item 4260-001-0001. The Administration, using Budget Control Section 4.1, eliminated the entire General Fund appropriation. ***(This action is discussed further below.)***

The Budget Act of 2003 also included re-appropriation language that allows for the expenditure of unspent Cancer Research Funds appropriated in the Budget Act of 2002. As such the $2.7 million was the amount that was unspent; however, the DHS states that $1.9 million is the anticipated expenditure and encumbrances as of May 5, 2004. **Therefore, about $800,000 is likely to be available for re-appropriation.**

Legislative Counsel Opinion and Budget Control Section 4.1 of the Budget Act of 2003: At the request of Senator Ortiz, Legislative Counsel conducted an analysis of Budget Control Section 4.1 (Control Section) and the application of it by the DOF specifically to the Prostate Cancer Program. **Through this analysis, Legislative Counsel notes the following key factual aspects:**

- The Control Section **limits the reductions** to a state operation appropriation, and a program, project or function designated in any line of any schedule set forth by that appropriation, **may not be reduced by this section by more than 15 percent** (See **Subdivision h of the Control Section**).
- Item 4260-001-0001 (DHS state support item) was reduced by about $15.5 million from an appropriation of $264.1 million. This equates to less than 15 percent overall. **However, the DOF specifically eliminated funding for the Cancer Research Program.**
- Budget Act Language**-- Provision 14 of Item 4260-001-0001--directs that $3.125 million of the amount appropriated in this Item shall be appropriated for the Cancer Research Program. As such, the Legislature authorized a definite sum of money for a specific purpose—the Cancer Research Program.**

In an extensive analysis, **Legislative Counsel concludes that, in their opinion, the Control Section does not authorize the Director of Finance to eliminate or reduce an appropriation made in the Budget Act for a program in an amount that exceeds 15 percent if the program is a designated program for which an appropriation has been made (such as the Prostate Cancer Program).**

They state that the DOF's construction of the Control Section in this case is clearly erroneous because applying a 15 percent reduction to a schedule (meaning the entire Item 4260-001-0001) could result in the total elimination of an appropriation for a program for which the Legislature has made a specific designation, which is clearly not intended as noted in Subdivision h of the Control Section.

Governor's Proposed Budget: The Governor's budget proposes no appropriation for the Cancer Research Program. However, re-appropriation language (in Item 4240491-0589) is included which allows for expenditures of any unspent Cancer Research Funds appropriated in the Budget Act of 2002 (less than $800,000).

Budget Issue: Does the Subcommittee want to adopt the Governor's budget for 2004-05?

26. Legislative and Governmental Affairs—Send to Conference

Background: Within the Department of Health Services, the Legislative and Governmental Affairs Office provides analyses regarding legislation, assists in the crafting of trailer bill language, responds to legislative inquiries regarding the department's programs and activities, and generally serves an important liaison function between the department and the Legislature, as well as with the Administration.

Subcommittee Staff Comment and Recommendation: The Legislative and Governmental Affairs Office serves a critical role in providing assistance for the development of legislation and subsequently, state law. However, concerns have arisen with respect to some operations of the office and discussions have been instituted to remedy the communication and to facilitate a constructive outcome. But this has not come to full fruition. Therefore, it is recommended to delete one Legislative Coordinator position and all related dollars (about $80,000) to send the issue to Conference Committee so that discussions can continue.

Budget Issue: Does the **Subcommittee want to delete one Legislative Coordinator position and related funding?**

F. Item 0530 — CA Health & Human Services Agency *(Vote Only)*

1. California Health and Human Services (CHHS) Agency—Request for Staff

Background: The Administration is committed to having the CHHS Agency play a strong and active role in the health and human services arena that is policy focused and outcome oriented. Specifically, CHHS Agency's role will be one of policy leadership and oversight, and its focus will be toward reducing duplication and fragmentation among CHHS departments in policy development and implementation, improving coordination among departments on common programs, ensuring programmatic integrity, and advancing the Governor's priorities in health and human services. The CHHS Agency oversees 12 departments and one board.

Budget Act of 2003: During budget deliberations for the Budget Act of 2003, the CHHS Agency **was reduced by $807,000 (General Fund) due to the fiscal condition of the state.** As such, the appropriation for the CHHS Agency in the current year (2003-04) is $1.9 million, excluding the Office of HIPAA Implementation. In effect, the Legislature determined that only core activities should be supported by state operations in order to prioritize available state funding for the direct provision of health services for clients.

Governor's Finance Letter Request: The Administration is requesting **an increase of $1.372 million (General Fund), or an increase of *over 70 percent*, to (1)** fund existing 13 positions **unfunded positions for increased expenditures of $1.163 million, and (2) fund 4 newly requested positions to support the work of the CHHS Agency for increased expenditures of $209,000 (General Fund).**

The total amount for the CHHS Agency would be almost $3.3 million (General Fund), excluding the Office of HIPAA, if this request were approved.

In addition, in the March 8th hearing, **the Subcommittee provide funds of $364,000 for two positions and contract funding to establish the new California Health Care Quality Improvement and Cost Containment Commission.**

The existing unfunded positions are the following:

- 1 Undersecretary (exempt)
- 1 Agency Information Officer
- 2 Assistant Secretaries—Program and Fiscal
- 3 Associate Governmental Program Analysts
- 2 Office Technicians
- 1 Chief Legal Counsel
- 1 Assistance Secretary-Ethnic Media
- 1 Special Assistance to the Secretary
- 1 Executive Assistant

It should be noted that all of the above non-exempt, unfunded positions will have been vacant for six months as of July 1, 2004; therefore, the CHHS Agency is also requesting that these positions be administratively re-established.

The requested new positions are the following:

- 1 Associate Governmental Program Analyst
- 1 Executive Assistant
- 1 Office Technician
- 1 Office Technician

Legislative Analyst's Office (LAO) Recommendation: Based on the LAO's analysis of information provided by the Administration, **the LAO recommends the following modifications to the proposed Finance Letter (reduces by $970,000 General Fund, and provides an *additional* $400,000 General Fund above the current-level):**

- **Delete one of the four new proposed** agency positions **and the associated $57,000 (General Fund);**
- **Delete funding and position authority for five of the 13 vacant positions for which the administration proposes to restore funding. This would reduce the Administration's request by an additional $585,000 (General Fund);**
- **Eliminate six positions and $329,000 in state General Fund support (as well as some additional associated federal funding) for six positions which had been borrowed in the past from other state departments, but who would be replaced at agency as a result of the Governor's budget request.**
- **Adopt Budget Bill Language** requiring advance legislative notification and review of any additional borrowing of staff by the agency from other departments during the 2004-05 fiscal year.

The LAO states that a total of 11 positions would be provided --three new positions (of the four positions requested) and eight additional positions for which the Agency already has position authority.

Also, six other "borrowed" positions in other departments would be abolished. The LAO contends that the Agency's budget request did not justify the return of certain departmental positions and resources to lending departments. However, in general, the LAO concluded that the Administration's proposal to reduce its borrowing of staff for agency functions from other departments has merit and would contribute to a "truth-in-budgeting" approach.

In essence, the LAO's recommendation restores about 50 percent of the amount reduced in the Budget Act of 2003, and provides additional positions.

The LAO's proposed Budget Bill Language is as follows:

> Provision x.
>
> "The Secretary of the California Health and Human Services Agency shall not approve the borrowing of any additional positions from any state department for the support of agency activities unless the approval is made in writing and notification has been provided in writing not later than 30 days prior to the effective date of the approval to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of both houses of the Legislature."

Budget Issue: Does the **Subcommittee want to adopt the LAO recommendation?**

II. ITEMS FOR DISCUSSION *(Shown by Department)*

A. Item 4280--Managed Risk Medical Insurance Board (*Discussion Items*)

The Managed Risk Medical Insurance Board (MRMIB) administers programs, which provide health coverage through private health plans to certain groups without health insurance. **The MRMIB administers the (1) Healthy Families Program, (2) Major Risk Medical Insurance Program, and (3) Access for Infants and Mothers (AIM) Program.**

1. Healthy Families Program Estimate—*Baseline Children's Estimate*

Background—Overall on the HFP: The Healthy Families Program provides health, dental and vision coverage through managed care arrangements to uninsured children in families with incomes **up to 250 percent of the federal poverty level. In addition, in accordance with the Budget Act of 2003, infants born to mothers enrolled in the Access for Infants and Mothers (AIM) Program who** enter the program on or after July 1, 2004, will be enrolled in the HFP at birth.

Families pay a monthly premium and co-payments as applicable. Families typically pay between $4 to $9 per child each month (with a monthly maximum of $27 per family) for the HFP. The amount paid varies according to a family's income and the health plan selected.

The benefit package is modeled after that offered to state employees. Eligibility is conducted on an annual basis. California receives an annual federal allotment of Title XXI funds (federal State-Children's Health Insurance Program) for the program for which the state must provide a 35 percent General Fund match.

Governor's January Budget: The Governor's January budget **proposed significant changes to the Healthy Families Program, including implementation of an enrollment cap and county block grant, and development of a two-tiered benefit structure.**

Prior Subcommittee Action (March 8th Hearing)—Rejected Caps and Other Items: The **Subcommittee rejected** the Administration's proposals **to cap enrollment, create a county block grant and to develop a two-tiered benefit structure. Increased General Fund support was provided to backfill for these items. In addition, the Subcommittee deleted $500,000 ($175,000 General Fund) for a consumer survey.**

Governor's Proposed May Revision: In his **May Revision, the Governor rescinds his January proposal to implement an enrollment cap and county block grant, and to develop a two-tiered benefit structure. In addition, caseload and other technical adjustments to the baseline are proposed.**

The May Revision proposes total expenditures of $872 million ($319.1 million General Fund, $544.1 million federal funds, $1 million in Proposition 99 Funds—Unallocated, and $7.8 million in Reimbursements**)**. **This level of funding assumes a total enrollment of 774,077 children** as of June 30, 2005.

The May Revision reflects an increase of $32.9 million ($13.6 million General Fund) over the Governor's January budget. The key factors included in this adjustment are as follows:

- **Caseload increase of 59,631 children** as compared to January. **This is primarily due to the elimination of the enrollment cap proposal,** as well as other adjustments related to enrollment from the Child Health Disability Prevention (CHDP) Gateway.
- **$91.46 (average cost) for health, dental, and vision plan payments per child per month** (eligible children aged 1 to 19 years). This assumption is the same as in the current year.
- With respect to infants born to Access for Infants and Mothers (AIM) who enrolled on or after July 1, 2004, the May Revision assumes a negotiated "lump sum" rate which covers the infant for the first two-months of enrollment after which the current (existing rate) for the Healthy Families Program infant rate will be used for the remaining ten months (total of one-year). It is assumed that 67 percent of these AIM infants will be under 250 percent of poverty (and therefore eligible for a 65 percent federal match). **Further, it should be noted that MRMIB anticipates federal approval of a State Plan Amendment to draw down a federal match (65 percent under Title XXI S-CHIP) for those infants in families with incomes between 251 percent to 300 percent federal poverty level.**
- The average premium payment per child per month is assumed to be $5.50, which is the same as the current-year.
- Continues the Rural Health Demonstration Projects at $2.887 million ($1.047 million Proposition 99 Funds and $1.840 million federal funds) at the same level as proposed in January.
- Provides an increase of $240,000 ($84,000 General Fund) to fulfill a contractual agreement with the HFP Administrative Vendor (MAXIMUS) to obtain the services of a state-approved independent audit firm to perform periodic compliance audits and internal control evaluations.

Subcommittee Request and Questions: The Subcommittee has requested the MRMIB to respond to the following question:

- Please **very briefly** summarize the key changes of the Governor's May Revision.

Budget Issue: Does the **Subcommittee want to (1) adopt the baseline adjustments as outlined above which now conform to the Subcommittee's prior action to reject the January enrollment caps, delete the county block grant and reject the proposed to develop a two-tiered program, and (2) retain the Subcommittee's action to delete funds for the consumer survey ($175,000 General Fund)?**

2. Governor's Proposed Change to Healthy Family Program Premiums *(See Hand Out)*

Background—Summary of Existing Premium Structure: Families pay a monthly premium and co-payments as applicable. Families typically pay between $4 to $9 per child each month (with a monthly maximum of $27 per family) for the HFP. The amount paid varies according to a family's income and the health plan selected.

There are no health plan co-payments for preventive services and a $5 co-payment for non-preventative services. The HFP has an annual cap of $250 per family for co-payments.

Governor's Proposed May Revision—Increase Premiums as of July 1, 2005: In his May Revision, the **Governor proposes to increase HFP premiums beginning July 1, 2005 in lieu of proceeding with a two-tiered benefit proposal.** The Subcommittee rejected the Governor's January proposal regarding the two-tiered benefit concept in its March 8th hearing.

No budget year savings are proposed since implementation would occur in 2005-06. However, the Administration states that this policy change would result in savings of about $5.4 million (General Fund) in 2005-06, with a small amount of increased savings in future years due to caseload growth.

In the May Revision, the Administration is seeking trailer bill language (See Hand Out) to change the premium and an increase of $750,00 ($263,000 General Fund) to make system changes. These items are discussed further below.

Specifically under this proposal, **all HFP children with family incomes between 201 percent and 250 percent of the federal poverty level would have their premiums increased. The monthly premiums would be increased from $9 per child to $15 per child and from $27 for three or more children to $45 for three or more children.** According to the Administration's figures, **an estimated 225,000 children would pay higher premiums** under this proposal in 2005-06, assuming a July 1, 2005 implementation date.

The Administration states that even with this proposed premium increase, families' total out-of-pocket costs (premiums and co-payments) would not exceed the five percent maximum allowed under federal regulations. The Administration states that the increased premium would represent 2.3 percent of the federal maximum. They determined this percentage as follows:

- 200 percent of federal poverty for a **family of four** = $3,068 per month or $36,816 annually
- **5 Percent** of the annual income = $1,841
- Administration's Proposed Premiums and Co-Payments (Effective July 1, 2005) Calculation:
    - Proposed annual premium of $15 per child = $360 annually
    - Annual Family Cap on Health Co-Payments = $250 annually
    - Dental and Vision Co-Payments (12 months @$5 per child) = $240 annually
        - **Total Proposed Premiums and Co-Payments = $850 annually**
        - Percent of Family's Annual Income = 2.3 percent

The Administration notes that 12 other states have increased their program's premium payments. However, 8 of these states do not have any co-payment requirement—families only pay a premium. Whereas California has premiums and co-pays (for health, dental and vision) as noted above.

Governor's May Revision Request for System Changes: **For purposes of the budget year, the Administration is seeking an increase of $750,000 ($263,000 General Fund) to conduct system changes to prepare for the premium increase.** The Administration states that several activities would need to occur in order to implement the premium change. These include the following:

- Administrative Vendor would need to "re-program" the system logic that calculates the HFP premium and the posting logic for HFP accounts and monthly billing statements. These changes would need to begin at least three months in advance of the program change.
- Notices would need to be mailed out to families. The MRMIB states that these notices would have to be mailed out in March 2005.

Subcommittee Staff Comment and Recommendation: Based on the proposed implementation schedule to conduct system changes, there is considerable time available for the Administration to proceed with policy legislation on this topic. **First,** the proposal has provided no rational as to why $15 (from $9) per child per month, and $45 (from $27) for three or more children were selected. The jump to $15 and $47 respectively represents a 66 percent increase over the existing premiums. Further analysis is warranted for such a substantial change. **Second**, any cost sharing changes proposed for the HFP should be discussed in the broader framework of the cost to live and subside in California based on family incomes of 200 to 250 percent of poverty. Third, the requested appropriation for system changes is putting the chart before the horse. The policy implications for such a proposal need to be analyzed prior to funding any system changes. An appropriation could be included in the enabling legislation.

Subcommittee Request and Questions: The Subcommittee has requested for the MRMIB to respond to the following questions:

- **1. Please provide a brief summary of the May Revision proposal.**
- **2. Why were the premium payments of $15 and $45 respectively selected? What is the basis for the figures exactly?**
- **3. Why can't a policy bill be crafted on this issue so fuller deliberations can take place?**

Budget Issue: Does the **Subcommittee want to reject the request** to increase by $750,000 ($263,000 General Fund) for system changes to implement a monthly premium increase for HFP children commencing as of July 1, 2005?

3. Access for Infants and Mothers (AIM) Program—*Several Adjustments*

Background—What is AIM?: The **Access for Infants and Mothers (AIM) Program provides health insurance coverage to women during pregnancy and up to 60 days postpartum, and covers their infants up to two years of age. Eligibility is limited to families with incomes from 200 to 300 percent of the poverty level. Eligible women select coverage from one of the nine participating health plans. Subscribers pay premiums equal to 2 percent of the family's annual income plus $100 for the infant's second year of coverage.**

Beginning July 1, 2004, infants in families between 200 and 250 percent of poverty are funded through the Healthy Families Program using General Fund and federal Title XXI funds (35 percent/65 percent). AIM infants in families between 250 and 300 percent of poverty (above the Healthy Families Program income threshold) are funded with 100 percent state funds (General Fund and Proposition 99 Funds). This fiscal arrangement enables the state to more effectively utilize available federal funds and state funds.

Governor's May Revision: The May Revision proposes **total expenditures of $118.6 million** ($100.2 million Perinatal Insurance Fund—receives Proposition 99 Funds--, $6.4 million General Fund, and $11.9 million federal funds). **This reflects a *net* increase of $445,000 (increase of $676,000 Perinatal Insurance Fund, and a decrease of $81,000 General Fund and $150,000 in federal funds) from January and is based on several key adjustments—*rate increases and caseload reductions*.**

First, it reflects an adjustment to caseload. This level of funding assumes an average monthly enrollment of 12,540 women and infants, compared to 14,140 women and children as originally proposed in the Governor's January budget. As such, a reduction of about 1,600 women and children is expected.

Second, the average, one-time capitation fee was increased from $7,665 to 8,275 based on negotiated rates approved by the MRMIB on April 28, 2004. **This rate is about $609, or almost 8 percent higher than the current year.**

Third, the rates for infants born to Moms enrolled on or after July 1, 2003 has been revised to about $545 based on negotiated rates also approved by the MRMIB Board. **This rate is about $41 higher than the current year. In addition, the average fee for infants from one to two years increased to $128, or an increase of about $10.78.**

Subcommittee Request and Questions: The Subcommittee has requested the MRMIB to respond to the following questions:

- 1. Please provide a brief summary of the May Revision, including the rate increases.

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

4. Access for Infants and Mothers (AIM) Program Reserve—LAO Recommendation

Legislative Analyst Office Recommendation—AIM Reserve Funds Available: In her Analysis, the **Legislative Analyst recommends for the Legislature to repeal the statutory requirement that the AIM Program maintain a reserve in the Perinatal Insurance Fund, thereby achieving about $1 million in Proposition 99 Funds. (These funds can be used to backfill for General Fund support in certain program areas.)**

The LAO's analysis indicates that there is no need for a separate and special reserve fund for AIM. **In the event that AIM Program expenditures exceed the 2004-05 budgeted amount, an alternative source of funding is available to fund unanticipated expenses. Specifically, a separate reserve is maintained for state programs supported through Proposition 99. The Governor's budget also sets aside some reserves for uncertainties.**

Prior Subcommittee Hearing Action (March 8th): The **Subcommittee adopted the LAO recommendation** to repeal the statutory requirement that the AIM Program maintain an additional reserve. **However at the time of the hearing, the $1 million in Proposition 99 Funds that is attributable to this reserve was not allocated, pending the receipt of the May Revision.**

Subcommittee Staff Comment and Recommendation: Since the Governor's May Revision directs unspent Proposition 99 Funds from AIM (dollars not needed in the program due to decreases) to backfill a portion of General Fund support in the State Hospital item, it is recommended to do the same with this reserve (almost $1 million)**. As such, it is recommended to appropriate the additional $1 million to the State Hospital item.**

Subcommittee Request and Questions: The Subcommittee has requested the LAO to respond to the following questions:

- **1.** LAO, is this reserve amount still available?
- **2.** LAO, is it viable to use this reserve amount to backfill for additional General **Fund support in the State Hospitals?**

Budget Issue: Does the Subcommittee want to adopt using the $1 million (Proposition 99 Funds) to backfill for General Fund support in the State Hospital item?

B. Item 4440 Department of Mental Health (*Discussion Items*)

COMMUNITY BASED ISSUES

Overall Background—County Mental Health Plans: **Though the department sets overall policy for the delivery of mental health services, County Realignment revenues are currently the largest revenue source for community mental health services in California. The second largest revenue source is federal Medicaid (Medi-Cal) dollars. Most of the state's General Fund support is expended on state-operated State Hospitals in order to serve Penal Code related patients.**

Counties (i.e., County Mental Health Plans) have the primary funding and programmatic responsibility for the majority of local mental health programs as prescribed by State-Local Realignment statutes enacted in 1991 and 1992.

Specifically, County Mental Health Plans are responsible for the provision of services for the following:

(1) All mental health treatment services provided to low-income, uninsured individuals with severe mental illness, within the resources made available;

(2) The Medi-Cal Mental Health Managed Care Program;

(3) The Early Periodic Screening Diagnosis and Testing (EPSDT) Program for adolescents (state entitlement program provided by the counties via a state Settlement Agreement);

(4) Mental health treatment services for individuals enrolled in other programs, including special education, CalWORKs, and Healthy Families.

Concerns with Lack of Growth Funds: As discussed in a recently released report on mental health realignment (AB 328 Realignment Data, Department of Mental Health, February 5, 2003), **due to continued caseload growth in Child Welfare services and Foster Care, as well as cost increases in the In Home Supportive Services (IHSS) Program, growth distributions to the Mental Health Subaccount and Health Subaccount have been substantially reduced. This is because the first claim on the Sales Tax Growth Account goes to caseload-driven social services programs, not the Mental Health Subaccount.**

1. Mental Health Managed Care Program—No Medical Adjustment Again

Overview of Mental Health Managed Care: Implementation of Medi-Cal Mental Health Managed Care has included the consolidation of Medi-Cal psychiatric inpatient hospital services ("Phase I"), which occurred in January 1995 and the consolidation of Medi-Cal specialty mental health services ("Phase II"), which occurred from November 1997 through June 1998.

These two phases of implementation consolidated the two existing Medi-Cal mental health programs (Short-Doyle and Fee-For-Service) into one service delivery system. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government (i.e., HCFA, now the Centers on Medicare and Medicaid—CMS).

Under this delivery system, psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists, and some nursing services**, became the responsibility of a single entity, the Mental Health Plan (MHP) in each county. Medi-Cal recipients *must* obtain services through the MHP.**

The Waiver promotes plan improvement in three significant areas—access, quality and cost-effectiveness/neutrality. The DMH is responsible for monitoring and oversight activities of the MHPs to ensure quality of care and to comply with federal and state requirements.

Under this model, **MHPs generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. An annual state General Fund allocation is also provided to the MHP's.**

Based on the most recent estimate of expenditure data for 2001-02, of California's state share of cost for Mental Health Managed Care, County MHPs provided a 46 percent match while the state provided a 54 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

State General Fund Allocation: **The state General Fund allocation is usually updated each fiscal year to reflect adjustments as contained in Chapter 633, Statutes of 1994 (AB 757, Polanco). These adjustments have typically included, changes in the number of eligibles served, factors pertaining to changes to the consumer price index (CPI)for medical services, and other relevant cost items.**

***However*, the state's allocation is contingent upon appropriation through the annual Budget Act. As such in more difficult fiscal years, state General Fund support has *not* been provided for the medical CPI, or the base level of funding has been proposed for reduction (such as this year).**

Background and Budget Act of 2003: Under the consolidated system, as referenced above, County MHPs accept a fixed amount of non-federal funds, based on the amount of resources the state was spending in 1994-95, which is suppose to be adjusted annually to reflect changes in the medical CPI and adjustments in caseload. **However, County MHPs have received no medical CPI adjustment since the Budget Act of 2000, and the Governor's proposed budget does not include this adjustment either.**

Further, in the Budget Act of 2003, a five percent reduction to General Fund support ($11 million) in the program was enacted due to the fiscal crisis. Since this was a reduction to the base funding, it is an ongoing reduction to County MHPs.

Based on the most recent estimate of expenditure data for 2001-02, of California's state share of cost for Mental Health Managed Care, County MHPs provided a 46 percent match while the state provided a 54 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

Governor's May Revision—No COLA Yet Again: The May Revision proposes a total state General Fund appropriation of $222.4 million (General Fund) for allocation to the County MHPs to assist in funding the Waiver Program. This reflects a net decrease of $480,000 (General Fund) in the amount the state provides to the counties for Mental Health Managed Care. Most of this net decrease is due to an adjustment of caseload. **It should also be noted that no medical CPI adjustment is provided. This equates to a loss of $15.8 million ($7.9 million) for the County MHPs for 2004-05. (These funds are used to draw down the federal match too.)**

Subcommittee Staff Comment and Concern: The **County MHPs are shouldering a continuing larger fiscal burden for the state's Mental Health Managed Care Program.** Cumulatively, the state has either not provided medical CPI adjustments, as once agreed to, or has made rate reductions. **As noted in the summary below, the state has saved at least $28.3 million (General Fund) from 2001-02 to 2003-04 by not providing the County MHPs General Fund support as originally contemplated in the agreement with the counties. This figure does not take into account any compounding fiscal effect that would have occurred over the years from these actions.**

In addition, the proposed May Revision adds an additional reduction of $15.8 million ($7.9 million General Fund) to this figure for a total minimum amount of $36.2 million (General Fund) in state savings. The specifics of this figure are shown below:

- **Reduction of $11 million (General Fund) by reducing by 5 percent** the state's allocation in the Budget Act of 2003.
- **Reduction of $13.3 million** ($6.2 million General Fund) by not providing the medical CPI adjustment in 2003-04.
- **Reduction of $11.6 million** ($5.6 million General Fund) by not providing the medical CPI adjustment in 2002-03.
- **Reduction of $10.4 million** ($5.5 million General /Fund) by not providing the medical CPI adjustment in 2001-02.

Due to the current fiscal situation, it is recommended to adopt the Governor's May Revision proposal. **But as discussed under the EPSDT Program below, it is also recommended to not cost shift any further additional fiscal burden to the counties because these previous years' reductions are now taking their toll in the provision of not providing services and limiting access to services.**

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. DMH,** Is it **factually accurate** that the County MHPs **have not received about $36.2 million in state General Fund support over the past several years?**
- **2. DMH, Please present the May Revision proposal.**

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

2. Early Periodic Screening Diagnosis and Treatment Program—*Issues "A" to "C"*

Background—Overall: **Most children receive Medi-Cal services through the EPSDT Program**. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) **recipients under age 21 *any* health or mental health service that is medically necessary** to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, **including services not otherwise included in a state's Medicaid (Medi-Cal) Plan.**

Though the DHS is the "single state agency" responsible for the Medi-Cal Program**, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH)**. Further, **counties are responsible for providing, arranging and managing Medi-Cal mental health services under the supervision of the DMH and DHS. However, eligibility and the scope of services to which eligible children are entitled, are *not* established at the local level.**

Types of Services: The state uses the term **"EPSDT supplemental services**" to refer to EPSDT services which are required by federal law **but are not otherwise covered under the state Medi-Cal Plan for adults**. **Examples of services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.**

EPSDT Litigation—State Has Settlement Agreements: In 1990, a national study found that **California ranked 50th** among the states in identifying and treating severely mentally ill children. **Subsequently due to litigation (T.L. v Belshe' 1994)**, the DHS was required to expand certain EPSDT services, including outpatient mental health services. The 1994 court's conclusion **was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.**

Further in January 2004, the U.S. District Court issued an Interim Order clarifying an earlier ruling regarding the provision of TBS that also required outreach, monitoring and related provisions to ensure that children receive EPSDT services as needed. The Court agreed that TBS utilization was too low statewide and ordered the parties to collaborate to develop a plan to increase TBS approvals.

EPSDT Funding Process—Both County and State Funds Used To Draw Federal Match: The DHS and DMH **crafted an interagency agreement in 1995 to implement expanded services as required by the court.**

Generally, this *original* agreement required County MHPs to provide a "baseline" amount using County Realignment Funds (essentially a county "maintenance-of-effort**") and then the state was responsible for providing the nonfederal share of the growth in the program.**

The baseline amount is established for each county based on a formula. For 2004-2005, the baseline is $65.7 million, plus an additional 10 percent county match ($20 million for the budget year) which was instituted in the Budget Act of 2002, for a total of $85.7 million

(County Realignment Funds). The state will provide funding (via Medi-Cal) for costs above this amount (above the baseline and 10 percent match).

The General Fund dollars and accompanying federal matching funds are budgeted in the DHS and are transferred to the DMH as reimbursements. **The DMH distributes EPSDT funds to the County MHPs responsible for the provision of specialty mental health in each county. Final payment is based on cost settled actual allowable costs, or rates.**

Background—Previous Cost Containment Actions: EPSDT is a federal entitlement under the state's Medi-Cal Program. Due to litigation, as discussed under the background section above, the program operates under a settlement agreement with both the state and County MHPs paying the non-federal share of the program. In the Budget Act of 2002, a 10 percent county match on the growth of the total state matching fund requirement above the 2001-02 level was implemented.

In addition, trailer bill legislation accompanying the Budget Act of 2002 required the DMH to ensure statewide application of managed care principles to the EPSDT Program. Regulations to implement this required were endorsed by the Secretary of State in November 2003. It appears that these recent changes may be having an effect on slowing the rate of growth within the EPSDT.

EPSDT Rate of Growth Slow Down: It should also be noted that the rate of growth under EPSDT has shown recent signs of slowing down considerably. **The DMH January budget estimate assumed a growth rate of 16 percent,** ***where as recent actual data for EPSDT shows a growth rate of only 8 percent.***

ISSUES "A" Through "C" begin on the next page.

(The EPSDT restoration of the re-basing issue is under the Vote-Only Calendar)

ISSUE "A"—Revision to EPSDT Program Audits by the DMH

Governor's January Budget Proposal—State Support Item: The Governor's January budget proposed **an increase of $1.7 million ($844,000 General Fund) in state support to hire contractors to conduct additional reviews and oversight of EPSDT Program expenditures.**

The request for funding the contract audit staff originally assumed that over 300 legal entities that provide EPSDT services would be reviewed on a three-year cycle beginning in 2004-05. **This original proposal assumed a sample size representing almost 90 percent of the total paid claims from 2002-03.**

However, the DMH is now changing their selection criteria after meeting with stakeholder organizations. An outline of this revised criteria was discussed in the Subcommittee's May 10th hearing. Generally, the new sampling process will use the following new parameters:

- Will use the April-June 2004 period as the audit period for reviews conducted in 2004-05;
- Will use patient claims, not clients; and
- Will recoup the moneys owed from future payments due to the County MHPs;

This new methodology will involve less workload.

Governor's May Revision—Local Assistance Adjustment: The May Revision proposes changes to the level of reduction anticipated from the EPSDT audits. The DMH notes that in developing the details of the program the January budget calculation certain factors were not adjusted for appropriately. As such, the May Revision proposes an increase of $4.5 million (Reimbursements of which $2.6 million is General Fund from the DHS) to reflect these technical adjustments. **Therefore, it is assumed that these EPSDT audits will result in savings of $3.9 million (General Fund).**

Subcommittee Staff Comment and Recommendation: The DMH has responded to the concerns of the constituencies involved and to the Subcommittee's concerns expressed in the March 22nd hearing. **This is a workable approach that makes sense.** However, one technical adjustment is proposed due to the change in the audit approach. **It is recommended to reduce the state support item by $400,000 ($200,000 General Fund) to account for the change in the workload. This adjustment will serve as a placeholder until staff can meet with the DOF to better calculate the amount.**

Budget Issue: Does the **Subcommittee want to (1)** adopt the May Revision adjustments for the local assistance portion, and **(2)** reduce the state support item by $400,000 ($200,000 General Fund), pending discussions with the DOF?

ISSUE "B"—EPSDT Program—*Proposed Increase to County Match*

Governor's May Revision: The **May Revision reflects a reduction of $98.4 million (Reimbursements from the DHS of which $42.8 million is General Fund) to reflect an updated caseload forecast.** This new estimate is based on more recent data **which projects a 10 percent rate** of growth compared to the 16 percent projected in the Governor's January budget. As such, total expenditures for the program are estimated to be $352.6 million (General Fund) (cash basis). Clearly, existing cost containment measures have curbed some of the EPSDT expenditure growth.

However, the May Revision proposes to save $12.6 million (General Fund) by requiring the County MHPs to increase their share of county participation from 10 percent to 20 percent for counties with a population in excess of 200,000.

Constituency Concerns: The Subcommittee is in receipt of numerous letters articulating **significant concerns with this proposed increased share of county cost.** They contend that such an increase will result in an actual cap on spending in nearly every county. **This is due to the extreme stress county budgets are under including the estimated $300 million in anticipated reductions in mental health services at the county level, which are pending before county Board of Supervisors.**

Subcommittee Staff Comment and Recommendation: It is recommended to adopt the caseload and technical adjustments related to the EPSDT Program **but to reject** the increased shift to the counties. **As such, an increase of $12.6 million (General Fund) is required to backfill for this amount.** As noted under the Mental Health Managed Care item, above, the County MHPs have already sustained substantial reductions to state General Fund support and must already stretch their County Realignment Funding to provide necessary services.

Further, the proposal is flawed policy because it treats all counties the equally, regardless of what their current EPSDT penetration rates are, their cost per child, and their total costs for Medi-Cal recipients.

In addition, it is recommended to adopt the following trailer bill language:

> "No state agency may adopt any policy, restrictions, contract amendments, regulations or other requirements for the provision of mental health services pursuant to the Early and Periodic screening, diagnosis, and treatment program as set forth in subdivision (v) of Section 14132 which shifts a cost from the state to the counties or providers of care or which restricts mental health services eligible for funding under that program unless such state agency action is specifically authorized by statute."

This language will serve as a safeguard that the Administration cannot act unilaterally to institute a higher share of county cost as was done in the Budget Act of 2002.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. Please provide a brief overview of the May Revision proposal.**
- **2. Does the DMH believe the County MHPs can provide this increased level of match and still sustain services to the other populations they are required to serve?**

Budget Issue: Does the **Subcommittee want to (1)** adopt all EPSDT technical adjustments, **(2)** reject the increased shift to the County MHPs and provide an increase of $12.6 million (General Fund) to backfill for the May Revision shift, and **(3)** adopt placeholder trailer bill legislation as noted?

C. Item 4260 Department of Health Services (*Discussion Items*)

MEDI-CAL PROGRAM ISSUES

1. Medi-Cal Baseline Estimate Package

Background on Governor's May Revision: The **Medi-Cal Program local assistance** expenditures **for 2004-05 are estimated to be $27.3 billion ($11.9 billion General Fund),** excluding special funds provided to hospitals through intergovernmental or voluntary governmental transfers. **This reflects a *net* increase of $1.6 billion ($339 million General Fund), based on the Governor's May Revision proposed policy changes.**

Of the proposed $27.3 billion, (1) $25.3 billion is for Medical Care Services, **(2)** $1.731 billion is for County Administration and related items, and **(3)** $311.7 million is for the Fiscal Intermediary.

In addition to these expenditures, a total of $5.4 billion (all special funds and federal funds) is provided to fund payments for Disproportionate Share Hospitals, voluntary governmental transfers for supplemental hospital funding and capital debt projects for hospitals.

Subcommittee Staff Recommendation for Baseline Adjustments: The Governor's May Revision **contains the following key baseline adjustments in which the *Subcommittee staff has raised no issues, or which the Subcommittee has approved through prior action.***

A. Medi-Cal Fee-For-Service Rate Reductions—Rescinded Due to Litigation: As discussed in the **March 8th Subcommittee hearing, litigation has enjoined implementation of the 5 percent rate reduction for fee-for-service Medi-Cal providers that was to occur as of January 1, 2004.** The DHS has appealed this federal court order and contends that they expect to prevail. However, the date of the decision on the appeal is unknown at this time. Further, as discussed in the December 10, 2003 and March 8th Subcommittee hearings, **the Governor had proposed an additional 10 percent rate reduction as part of this Mid-Year Reduction Package.**

The May Revision rescinds the current-year rate reduction of 5 percent for fee-for-service Medi-Cal providers pursuant to the court case, and deletes the additional rate reduction of 10 percent for increased expenditures of about $947 million (General Fund) for the two actions across the eighteen months . It should be noted that the 5 percent reduction, as contained in the Budget Act of 2003, has been applied to Medi-Cal Managed Care plans effective January 1, 2004 for total savings of $123 million ($61.5 million General Fund).

B. Enrollment Caps for Certain Medi-Cal Programs—Rescinded: In his Mid-Year Reduction Package and also in the January budget, the Governor proposed to cap enrollment, effective January 1, 2004, in several Medi-Cal programs. **The Subcommittee rejected these proposed caps in its March 8th hearing. The May Revision conforms to this action by rescinding all of the proposed enrollment caps within Medi-Cal.**

C. Los Angeles County Reconciliation: The May Revision **reduces by $66.7 million ($33.3 million General Fund) to reflect a reconciliation of state and county Medi-Cal eligibility records within Los Angeles County.** Through this reconciliation process, about 130,000 recipients will receive notices that their Medi-Cal eligibility is in question and that they must respond or be terminated from the program. It is assumed that 60 percent, or about 78,000 eligibles are enrolled in managed care and the remaining 52,000 are fee-for-service. Of those enrolled in managed care, it is assumed that 75 percent of the managed care costs will be saved because they will not be eligible for services.

D. County Performance Accountability Standards: A total of $167.2 million ($83.6 million General Fund) will be saved in 2004-05 by having the counties complete re-determinations on a timely basis and holding them accountable through a reduction to their administrative overhead if they are not meeting the statutorily specified performance measures. These standards were enacted as par of SB 26 (First Extraordinary Session), Statutes of 2003.

E. Frequency Limits on Laboratory Services: A total of $10.7 million ($5.4 million General Fund) will be saved in 2004-05 by the DHS placing limits on the number of laboratory tests which could be claimed without prior authorization under the Medi-Cal Program. Once the laboratory limit is reached, additional services would be subject to medical review for determination of medical necessity. This proposal was implemented as part of the Budget Act of 2003.

F. Medical Case Management: Under this on-going activity, nurse case managers coordinate cost-effective services and ensure quality and continuity of care for Medical recipients suffering from chronic or catastrophic illness. A total of $36 million ($8.3 million General Fund) will be saved through this medical management.

G. Emergency Services and Supplemental Payment Funds for Hospitals ("SB 1255"): A total of almost $1.6 billion (special funds) is available to reimburse select hospitals having contracts with the California Medical Assistance Commission (CMAC) to provide enhanced inpatient services. The budget reflects a reduction in payments due to new federal Upper Payment limit restrictions.

H. Medical Education Funds for Teaching Hospitals: A total of $66.2 million (federal funds), is available for certain teaching hospitals for services relating to inpatient clinical teach and medical education activities that are provided to Medi-Cal recipients.

I. Disproportionate Share Hospital Payments: Based on recent federal changes pertaining to the Medicare Prescription Drug Act (HR1), the revised DSH payment for 2004-05 is anticipated to be $2.7 billion ($1.342 billion federal and $1.342 billion special fund). It should be noted that $1.2 million of these funds will be used to conduct an independent audit of program as required by HR1. Further, the state's allocation from these funds remains at $85 million which is used to offset General Fund expenditures in Medi-Cal local assistance.

J. Orthopaedic Hospital Settlement: As required by the settlement agreement, the fourth and final rate increase in Medi-Cal reimbursement for hospital outpatient rates will occur as of July 1, 2004 and will reflect a total adjustment of 43.44 percent over the

2000-01 base period. Total expenditures for 2004-05 for this action are $212.9 million ($106.5 million General Fund).

K. Electromyography & Nerve Conduction: In the April 12th hearing, the Subcommittee adopted this proposal to restrict the billing of these services to neurologists, physicians trained in physical medicine or rehabilitation, or other physicians who have received specialized training in electromyography and nerve conduction tests. Savings of $1.3 million ($652,000 General Fund) are projected for 2004-05.

L. Billing Audits for Medicare Payments: The Budget Act of 2003 provided the DHS with 12 staff to perform additional audit procedures of Nursing Home facilities in order to identify, calculate, and recover the overpayments being made as a result of inappropriate billings and payments relating to Medicare and Medi-Cal crossover recipients. Savings of $15 million ($7.5 million General Fund) are anticipated from these efforts in 2004-05.

M. Increased Personal Injury Recoveries and Estate Recoveries: The Budget Act of 2003 augmented DHS staff by 21 positions to increase the number of cases in which a recovery of Medi-Cal funds is possible due to third-party reimbursement (as in personal injury recovery cases) and estate recoveries. Savings from these two activities is anticipated to be $18 million ($9 million General Fund) in 2004-05.

N. Contracting for Laboratory and Durable Medical Equipment: The Budget Act of 2002 requires the DHS to contract for durable medical equipment and clinical laboratory services. The DHS states that savings of $15.1 million ($7.5 million General Fund) are anticipated for 2004-05.

O. Postage and Printing for Treatment Authorization Requests Processing: The May Revision provides an increase of $300,000 ($150,000 General Fund) for postage and printing.

Budget Issue: Does the Subcommittee **want to adopt the base estimate? This action would align the baseline budget to reflect caseload and all other related adjustments. (Other issues as referenced below will be discussed individually.)**

2. Delay Checkwrite for June 2005 to July 2005 *(Shift to Next Fiscal Year)*

Background and Governor's January Proposed Budget: The Medi-Cal Program provides reimbursement to providers through "checkwrites". Normally there are 52 checkwrites (one per week) per year conducted by the state's fiscal intermediary.

The Governor's January budget proposed to delay by one week the checkwrites for all Medi-Cal Program providers whose claims are processed by the fiscal intermediary (Electronic Data Systems is the contractor). The DHS stated that this one-week delay in the checkwrite would enable the DHS to be more effective in its anti-fraud efforts by allowing the A&I Division to perform a more thorough pre-checkwrite review of claims processed and identified as suspect due to normal billing amounts or trends prior to checks being sent to providers. The DHS stated that if claims appear suspicious, the claims from that provider will be suspended for further review and not included in the payment process. The Governor's January budget **assumed savings of $286.6 million ($143.5 million General Fund)** from this action.

Prior Subcommittee Action (April 12th): The **Subcommittee (1)** adopted the budget proposal to reduce by the amount proposed, and **(2)** reduced by an additional $2 million ($1 million General Fund) to reflect potential savings associated with the DHS identifying savings from their claims review and suspension process.

Governor's May Revision—Delay Checkwrite & Shift A Checkwrite to Next Fiscal Year: The May Revision proposes **(1)** to implement the proposal to delay a checkwrite as contained in his January budget for updated savings of $287.4 million ($143.9 million General Fund), and **(2)** shift the June 2005 checkwrite to July 2005 for additional savings of $286 million ($143 million). The providers would still receive their Medi-Cal reimbursement but it would be delayed by no more than one week. It should be noted that under this proposal, the 2004-05 fiscal year would contain a total of 50 checkwrites (versus the standard 52) and that the 2005-06 fiscal year payments would be increased in recognition of this cost shift.

Subcommittee Staff Comment and Recommendation: It is recommended to **(1)** adopt the Governor's May Revision, ***and*** **(2)** continue the Subcommittee's prior action to recognize an additional $2 million ($1 million General Fund) to reflect potential savings associated with the DHS identifying savings from their claims review and suspension process.

Subcommittee Request and Question: The Subcommittee has requested the DHS to respond to the following questions:

- Please briefly explain the May Revision proposal.

Budget Issue: Does the Subcommittee want to adopt the May Revision and recognize the additional $2 million (total funds) in savings?

3. Non-Contract Hospitals—10 Percent Interim Rate *(See Hand Out)*

Background: There are about **440 licensed hospitals in California. Medi-Cal pays about $3.5 billion (total funds) for inpatient hospital services annually of which 20 percent or $700 million (total funds) is paid to "non-contract" hospitals.**

Non-contract **hospitals** are those who provide inpatient services to Medi-Cal patients but do not operate under a contract with the California Medical Assistance Commission (CMAC).

Each non-contract hospital is paid an "interim payment" by the DHS. The interim payment provides payments for services provided through the hospitals' fiscal year. The interim rate, which is what the payment is based upon, is calculated closely to approximate the cost for providing services to Medi-Cal recipients. These costs are then reconciled using hospital cost reports within five months of the end of a hospital's fiscal year. If the costs of providing services is greater than the interim payment, the hospital is reimbursed the difference. If costs are lower, the hospital must reimburse the difference to Medi-Cal. **The DHS states that while there is an attempt to approximate cost with the interim rate, in practice, many hospitals are overpaid during the course of the year.**

Governor's January Budget: The January budget proposed to reduce interim hospital payments for acute inpatient services **by ten percent effective December 1, 2003.** As such, savings of **$36.2 million ($18.1 million General Fund) for 2003-04, and savings of $62 million ($31 million General Fund) for 2004-05 were assumed.**

Prior Subcommittee Action (April 12th): The Subcommittee adopted the January budget proposal as requested.

Governor's May Revision: The May Revision continues the proposal **to reduce interim hospital payments for acute inpatient services by ten percent, but it changes the effective date to September 1, 2004** ***and*** **proposes trailer bill language for implementation purposes. Savings from this proposal are now assumed to be $57.3 million ($28.6 million General Fund) for 2004-05 with no savings attributed to the current year.**

It should be noted that the savings from this proposal may be temporary because audits performed in 2005-06 may reveal that costs exceeded the new reduced interim payments, thus causing additional funds to be paid to the hospitals in 2005-06.

Subcommittee Request and Question: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please briefly explain the May Revision, including the new trailer bill language.

Subcommittee Staff Comment and Recommendation: It is recommended to adopt the May Revision with modified trailer bill language to serve as a placeholder in order to adjust for technical changes to the language.

Budget Issue: Does the Subcommittee **want to adopt the Subcommittee staff recommendation** as noted above?

4. Three Percent Rate Adjustment-- County Organized Health Systems (COHS)

Background: The COHS model, the oldest of the three models used in California, was first implemented in 1982 in Santa Barbara and San Mateo counties. **Under this model, a county arranges for the provision of medical services, utilization control, and claims administration for *all* Medi-Cal recipients.**

Since COHS serve all Medi-Cal recipients, including higher cost aged, blind and disabled individuals, COHS receive higher capitation rates on average than health plans under the other Medi-Cal managed care system models (i.e., Two Plan Model and the Geographic model). COHS provide a broad range of covered services, including physician, hospital and pharmacy, and also provide some services not covered by the other Medi-Cal Managed Care plans—such as the nursing facility room and board benefit.

About 540,000 Medi-Cal recipients receive care from these plans. This accounts for about 16 percent of Medi-Cal managed care enrollees and about nine percent of all Medi-Cal enrollees. The COHS plans are subject to licensure under the Knox-Keene Health Care Service Plan Act by the Department of Managed Health Care (DMHC). As such, they are obligated to meet certain state requirements meant to ensure financial stability and solvency in order to continue in operation.

Prior Subcommittee Hearing Action (April 12th): In the April 12th hearing, the Subcommittee discussed concerns regarding the fiscal solvency of the COHS and heard detailed testimony from the plans themselves. Specifically, all of the COHS expressed concerns regarding the tenuous nature of their financial viability due to the low level of capitation rates, particularly since they provide services to their aged, blind and disabled populations as well. **As such, the Subcommittee requested the DHS to report back to the Subcommittee regarding options for assisting the COHS to achieve fiscal stability.**

Governor's May Revision: The May Revision proposes **an increase of $30.3 million ($15.1 million General Fund) to provide the County Organized Health Systems with a rate** increase of about 3 percent. The rate adjustment would be effective with each plan's 2004-05 rate period as follows:

• CalOPTIMA	10/1/04	Health Plan of San Mateo	7/1/04
• Santa Barbara Regional	1/1/05	Partnership Health Plan	5/1/05
• Central Coast Alliance	1/1/05		

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

5. Quality Assessment Fee for Managed Care Plans *(See Hand Out)--Update*

Background: California utilizes several Medi-Cal Managed Care models for the delivery of health care services, including County Organized Health Care Systems (COHS), the Two Plan model (local initiatives and commercial HMOs), and Geographic Managed Care. **The DHS presently contracts with 31 health plans, many of which are considered *non-public* agencies.**

Under both state and federal requirements, the capitation rates paid under a managed care model must be below the fee-for-service cost equivalent. The rates paid to Medi-Cal Managed Care plans were frozen for the past two years and in the current year (2003-04) a five percent reduction is being enacted as of January 1, 2004.

Under the authority of the Social Security Act, Title 19, Section 1903(w)(7)(A), the state may impose a "quality assessment fee" on managed care contracts providing services under the Medicaid Program (Medi-Cal in California). **This mechanism can be used to then draw down additional federal funds.**

Budget Act of 2003: The Budget Act of 2003, and accompanying trailer bill language, assumed implementation of a "quality assessment fee" for Medi-Cal Managed Care plans and savings of $75 million (General Fund) from this effort. **However implementation issues arose in discussions with the federal Center for Medicare and Medicaid (CMS) as well as with some of the plans.**

Governor's January Budget (Assumed July 2004 Implementation): The Governor proposed to implement a quality improvement assessment fee on Managed Care plans as of July 1, 2004 in the same manner as approved by the Legislature last year. **The net affect of this proposal would be to increase the rates paid to Medi-Cal Managed Care plans and save General Fund support.** Under the proposal the DHS would assess a quality assurance **fee of 6 percent** on all Medi-Cal Managed Care plans (Two Plan model, Geographic Managed Care and COHS). **The amount actual paid by each plan would vary, depending on their gross Medi-Cal revenue.**

The quality assessment fee would then be used to (1) obtain increased federal funds to provide a rate adjustment for Medical Managed Care plans, and (2) obtain increased funds to offset about $75 million in General Fund support (*assumed a July 1, 2004 start date*).

Prior Subcommittee Hearing (April 12th): The Subcommittee discussed this issue and accepted public testimony. It was agreed by most Members that this proposal had both fiscal and policy merit. **The only unresolved pertained to trailer bill language.**

Governor's May Revision (Assumes January 1, 2005 Implementation): The May Revision proposes the same basic framework as the Governor's January budget proposal, **except that an implementation date of January 1, 2005 is assumed and therefore, net General Fund savings of only $12.5 million (General Fund). In addition, proposed trailer bill language has evolved as discussions with interested parties have progressed.**

Specifically, trailer bill language is needed as follows *(See Hand Out):*

- Trailer bill language from the Administration (as modified on May 14th) (See Attachment);
- Trailer bill language which clarifies that total operating revenue does not include amounts received by a managed care plan pursuant to a subcontract with Medi-Cal (See Attachment); and
- Trailer bill language which provides a technical adjustment to accommodate a limited liability company which provides Medi-Cal Managed Care services (See Attachment);

These pieces are needed to clarify how the Quality Improvement Fee would operate.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please **briefly** present the **May Revision proposal** to implement a quality assessment fee for Medi-Cal Managed Care plans.
- **2. Please step through the proposed trailer bill language.**

Budget Issue: Does the Subcommittee want to **(1)** adopt May Revision fiscal assumptions, and **(2)** the proposed pieces of trailer bill language as noted above?

6. Adult Day Health Centers—(a) Moratorium, (b) Waiver, (c) Rate Reduction

Background Over All—Existing Program: Adult Day Health Care (ADHC) is a community-based day program which provides nursing, physical therapy, occupational therapy, speech therapy, meals transportation, social services, personal care, activities and supervision designed for low-income elders and younger disabled adults who are *at risk* for being placed in a nursing home.

ADHC has been a successful model for elderly individuals for they can obtain many services in one location. For these individuals, particularly those with mobility challenges, going to one place for health care results in better compliance with therapy, medication, nutrition, and exercise regimens. Under Medi-Cal, individuals can participate in ADHC from one to five days per week, but usually average about three days a week.

The general concept behind providing ADHC services is that they delay or defer individuals from going into nursing homes or other more costly forms of care and therefore, it saves Medi-Cal money**.** Compared to the monthly Medi-Cal cost of a nursing home at about $3,400 per month, ADHC can cost as much as three to four times less.

Currently, there are about **37,940 Medi-Cal recipients who receive ADHC services** in any given month. This figure is anticipated to increase to be about 46,400 participants, or about 8,460 new participants enrolled over the upcoming fiscal year. ADHC participants must be approved by a Medi-Cal field office using "treatment authorization requests" (TAR) processes for the ADHC facility to receive Medi-Cal reimbursement.

Further, there are about 300 ADHC facilities in the state who are certified in the Medi-Cal Program. Typically, each ADHC has the capacity to serve between 40 and 100 clients per day. According to the LAO, about 56 percent of the total number of ADHCs were located in Los Angeles County.

Background—ADHC Facility Application Process: In order to become an ADHC provider, there are many steps that are required to be met, including the following:

- Complete a prospective Provider Application and submit to the state in order to obtain licensing and certification approval.
- Obtain a facility site and secure qualified staff in preparation of obtaining approval.
- Field work is completed by the state and licensing and certification is approved. The applicant is now a certified Medi-Cal provider.

Recent Concerns with ADHC Growth: Both the DHS and the California Association for Adult Day Services (Association) have noted that the ADHC Program began to grow in 1999 after many years of exceedingly slow growth. Generally, some of the reasons for this growth included: (1) changes in the state's aging and immigrant demographics, and (2) the lifting of statutory restrictions against "for profit" ADHC providers.

Background on Rates: Currently Medi-Cal reimburses **ADHCs at a "bundled rate"—a single rate which is paid per recipient, per day (minimum of a four-hour stay required).** This rate

includes payment for all required ADHC services as specified in Title 22, California Code of Regulations. **This rate is set at 90 percent of the state's reimbursement rate for Nursing Facility—Level A ($69.58 per day).** This rate structure **was the outcome of a legal settlement agreement done in 1993. This list of required services includes, among other, physical therapy, occupational therapy, speech therapy and recipient transportation to and from the ADHC facility.**

Background Over All--Federal Government Direction To Do a Waiver: In a letter dated December 11, 2003, the federal CMS notified the state that California needs to submit a federal Waiver (1115 or 1915 (c)) in order to continue to receive federal financial participation (i.e., federal matching funds) for ADHC recipients and services. The federal CMS has made it clear that changes to eligibility, the services offered, and the reimbursement methodology will likely need to be made under a Waiver. Transitioning to a Waiver Program will require considerable fore thought particularly given federal requirements pertaining to cost-neutrality, eligibility, service structure and relates aspects.

As discussed in a recent Senate Health and Human Services Committee informational hearing on the ADHC Program, considerable work will need to be undertaken to work through core program issues before a Waiver can be submitted and approved, including policy bill legislation.

Governor's May Revision—Three Issues Intertwined: The **May Revision proposes three significant changes to the ADHC Program. Specifically, these three issues are as follows:**

- ***Trailer Bill Language—Implement a Waiver:*** The Administration has proposed trailer bill language to redesign the ADHC Program by submitting a Home and Community-Based Waiver (1915 (c)).
- ***Moratorium & Rate Redesign ("unbundling"):*** The Administration is proposing trailer bill legislation to implement a **moratorium on the growth of new ADHC sites effective October 1, 2004. In addition, no requested increase to the licensed capacity at existing ADHC centers will be approved. Trailer bill language is also proposed to unbundle the current all-inclusive per diem rate.**

  The May Revision assumes savings of $24.9 million ($12.5 million General Fund) for implementation of the moratorium, and $4.4 million ($2.2 million General Fund) for the proposed unbundling of the rate.

The baseline funding for ADHC is proposed to be $386.4 million ($193.2 million General Fund). This baseline level assumes that 8,400 participants are added over the course of the year.

However, Subcommittee staff has questioned the level of the proposed growth rate contained in the baseline funding because the processing of ADHC applications for licensing and certification purposes has been considerably backlogged. According to the DHS, there are currently 141 ADHC applications depending state review for licensing and certification purposes. The state cannot and will not provide reimbursement under the Medi-Cal Program unless a facility has been certified (i.e., has meet the criteria for Medi-Cal enrollment to

provide services). As such, if ADHC sites are not being certified, they cannot provide services to Medi-Cal recipients (but could serve third-party payers and others).

Based on updated information obtained from the Administration regarding new data on the number of estimated ADHC facilities to be licensed and certified, it appears that the baseline level should be reduced and the savings for the moratorium should be reduced as follows:

Category	New Facilities Per Year	Total Funds	General Funds
Base Estimate:			
• May Estimate	60	$386,458,000	$193,229,000
• Revised Calculation	**30**	$362,615,000	$181,308,000
• **Difference**	**30**	**($23,843,000)**	**($11,921,000)**
Moratorium			
• May Estimate		($16,769,000)	($8,385,000)
• Revised Calculation		($9,246,000)	($4,623,000)
• **Difference**		**$7,523,000**	**$3,762,000**
Net Change *(More Savings)*		**($16,320,000)**	**($8,159,000)**

Subcommittee Staff Comment and Recommendation: It is **recommend to (1)** adopt the ***revised*** fiscal amounts for the baseline and the moratorium since this represents a more accurate depiction of 2004-05 at this time, **(2)** delete the Waiver language from trailer bill legislation and refer it to the policy committee process, and **(3)** adopt placeholder trailer bill language regarding the moratorium (recognizing that work needs to continue).

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please briefly describe each of the three May Revision changes—the Waiver, moratorium and rate redesign.
- **2.** In the view of the Administration, could the Waiver proposal be crafted via the policy committee process?
- **3. Please describe the updated estimate based on new data.**

Budget Issue: Does the Subcommittee want to **(1)** delete the Waiver language from the trailer bill legislation and refer it to the policy committee process, **(2)** adopt placeholder trailer bill language regarding the moratorium (recognizing that work needs to continue), **(3)** adopt the revised fiscal amount as shown in the chart for the baseline and moratorium amounts, and **(4)** adopt the May Revision fiscal amount for the rate unbundling.

7. Governor's May Revision Proposal to Adjust Pharmacy Reimbursement *(See Hand Out)*

Background—Existing Medi-Cal Reimbursement: Existing federal and state statute require that Medi-Cal base its reimbursement for drugs **on an amount that is "the Department's best estimate of the price generally and currently paid by providers for a drug product sold by a particular manufacturer or principal labeler in a standard package** (Section 14105.46 of W & I Code).

Generally, the DHS calculates **Pharmacy reimbursement based on a formula that has two basic components: (1) a professional dispensing fee, and (2) a drug ingredient costs.** This is the maximum rate that can be paid because in some instances a provider bills the Medi-Cal Program a "usual and customary amount" that is lower than this calculated amount. **In addition, the DHS reduces every drug claim by 50 cents (10 cents if the Medi-Cal recipient is in a nursing facility).**

Medi-Cal's **dispensing fee of $4.05 has not changed since 1986 and reductions of 10 to 50 cents per claim continue as a cost-cutting measure in the Medi-Cal Program.**

Currently, the reimbursement level for the drug ingredient cost is the lowest of the (1) Federal Acquisition Cost, **(2)** state Maximum Allowable Ingredient Cost (MAIC), **(3)** Average Wholesale Price (AWP) minus 10 percent, ***or*** **(4)** Average Selling Price (ASP)

The DHS notes that current reimbursement formulas, such as Medi-Cal's existing AWP minus 10 percent plus the dispensing fee, traditionally have over-reimbursed the drug ingredient component and under reimbursed the professional fee. This was made evident in the department's contracted study regarding Medi-Cal pharmacy reimbursement (2002). This study showed that the weighted mean cost to dispense a prescription in 2000 was $7.21 per prescription (versus the $4.05 paid by Medi-Cal). **The study also indicated that the DHS was significantly over paying on the drug ingredient portion of the reimbursement, both for brand name drugs and generic drugs.**

The DHS also notes that the California Attorney General's Office (AG's Office) announced that **the use of Average Wholesale Price (AWP) as a price indicator will be eliminated in the near future in favor of a different price reference number, such as Average Selling Price (ASP). The AWP is now viewed as a fictitious number (much like the manufacturers suggested retail price for automobiles).**

However, the use of AWP has been and continues to be the dominant pricing approach used by virtually all third-party payers because other pricing information, such as Average Selling Price, is not yet widely available.

Governor's May Revision: The May Revision **proposes a reduction of $158.5 million** ($79.3 million General Fund) by **(1)** implementing **a new acquisition rate for prescription and over-the-counter drugs**, ***and*** **(2)** providing **an increase in the professional dispensing fee**. The May

Revision assumes implementation of this action **by September 1, 2004**. **This proposed action also requires statutory change** ***(See Hand Out).***

The ***net annual*** **savings are anticipated to be about $200 million (total funds). This is derived as follows:**

- **Increase the dispensing fee** from $4.05 to **$8.30** and eliminate the 50 cent/10 cent reduction to each claim. **This results in expenditures of about $243 million** (total funds).
- Changes the drug ingredient cost **from AWP minus 10 percent to AWP minus 20 percent, or the Average Selling Price (ASP)**

The new drug ingredient rate of AWP minus 20 percent is proposed as a single, blended rate, meaning that there would be no distinction between brand name drugs and generics. The DHS states that AWP minus 20 percent is still significantly higher than the pharmacy acquisition cost of generic drugs. However, it is much closer to the price a pharmacy pays for brand name drugs, which account for the majority of expenditures (nearly 80 percent) in the Medi-Cal program. **According to First Data Bank, the department's source for AWP pricing, AWP minus 20 percent is a much better estimate of the "price generally and currently paid by providers for a drug."**

The DHS also conducted an analysis of the dispensing fee. Based on the 2000 study (as previously referenced), as well as statistics from the Bureau of Labor Statistics information on the historical trend change in professional specialty and technical occupations (which includes Pharmacists), the DHS states that a 13.5 percent increase should be applied to the $7.21 cost to dispense a prescription (shown as the cost in the 2000 study). Adding in a 1.5 percent margin (i.e., 15 percent), **the dispensing fee amount would be about $8.30.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please **provide a summary of the proposal**, including how the dispensing fee amount was derived as well as the proposed drug ingredient change (AWP minus 20 percent).
- **2.** Please **briefly describe the proposed trailer bill language**.

Budget Issue: Does the Subcommittee want to adopt or modify the May Revision request?

8. Trailer Bill Language for Medical Supplies to Parallel Pharmacy Concept *(See Hand Out)*

Governor's May Revision: The **May Revision proposes trailer bill language to (1)** repeal Section 14105.2 of Welfare and Institutions Code pertaining to the markup allowed for dispensing of medical supplies, and **(2) add** a new Section 14105.2 of Welfare and Institutions Code which parallels pharmacy language regarding Average Selling Price (See Attachment.). **The *May Revision does not identify any savings* associated with this trailer bill proposal.**

The existing provision proposed for repeal is as follows:

Repeal Section 14105.2 of Welfare and Institutions Code:
~~(a) The allowable markup payable for the dispensing of medical supplies by assistive device and sickroom supply dealers and pharmacies shall not exceed 23 percent of the cost of the item dispensed, as defined by the department.~~

~~(b) Payment for diabetic testing supplies shall not exceed the cost of the item dispensed, as defined by the department, plus a fee equal to the maximum professional fee component used in the payment for legend generic drug types.~~

Constituency Concerns: The Subcommittee is in receipt of several letters expressing concerns with this proposal. Among other things, the following is noted by interested parties:

- **No study has been conducted**, nor has a review been done, on the cost of dispensing medical supplies, as was done with the pharmacy reimbursement.
- **Too much authority being provided to the DHS in trailer bill language** so that the DHS can change prices and covered items via a Medi-Cal Provider Bulletin.
- In the Budget Act of 2002, the DHS **was given expanded authority to both contract for disposable medical supplies and diabetic test strips and the mark-up was reduced from 25 to 23 percent**. **The DHS has yet to contract for any supplies other than incontinence supplies** and they have also failed to make diabetic test strips a pharmacy benefit only benefit.
- In the Budget Act of 2002, the DHS requested and was granted authority to establish maximum allowable product costs which were to be based upon the mean of the wholesale selling price. It was not implemented and they now propose another methodology.
- **Medical supplies are relatively inexpensive even when purchased for patients in quantities for 30 to 90 day supply.** Providers who stock and dispense these types of disposable supplies must inventory a variety of sizes and product styles.

Subcommittee Request and Questions: The Subcommittee **has requested the DHS to respond to the following questions:**

- **1.** Please describe the proposed May Revision trailer bill language and why it is needed?
- **2.** Please provide some concrete examples of how the proposed methodology would work and how that is different than existing statute.

- **3.** Is information readily available regarding how one defines the Average Selling Price for medical supply products?

Budget Issue: Does the Subcommittee **want to reject** the proposed trailer bill language?

9. Administration's Proposals Regarding Federally Qualified Health Care Centers (FQHCs) and Rural Health Care Clinics (RHCs)—Significant Changes Proposed

Background—Summary of Federal Law Change and Budget Act of 2001: Prior to 2001, the state provided "cost based" reimbursement for clinics with an FQHC or RHC designation as directed by federal law. Under this "cost based" system, FQHCs and RHCs would submit cost reports, the DHS would review and audit the reports and a cost-settlement process would then determine the final Medi-Cal payment.

Through a federal law change—the Consolidated Appropriations Act of 2001—a new *"Prospective Payment System" (PPS)* was to take effect as of January 1, 2001.

Generally under a PPS, a *base* payment year would be established to pay a FQHC's/RHC's average reasonable cost. Then beginning in federal fiscal year 2002 and for each year thereafter, each FQHC/RHC would receive the *per visit base payment* increased by the percentage in the federal Medicare Economic Index (MEI) for primary care services, *and* adjusted to take into account any increase or decrease in the "scope of services".

As such, the clinic would be paid up front and, when applicable, a cost adjustment (i.e., MEI) would be provided along with any service level adjustment (i.e., scope of service changes). The purpose of this federal law was to drive increased efficiencies at the clinic level and to make program expenditures more predictable.

Under this federal law change, a state could also utilize an *"Alternative Payment Methodology"* in lieu of PPS, if certain conditions were met.

Background--California's Choice: **As discussed below, California opted to implement *both* a PPS and an Alternative Payment Method.** The state adopted the Alternative Payment Method as a compromise.

The key components to the agreed to state's process are: (1) establishment of a base payment rate (i.e., clinic selects either a PPS or alternative payment), (2) adjust future payments as appropriate using the MEI, *and* (3) adjust future payments as appropriate based on "scope of service" changes.

Budget Act of 2001 and Specifics of California's Agreement: Through the Budget Act of 2001 and subsequent legislation—SB 36 (Chesbro), Statutes of 2003—**California submitted a State Plan Amendment to the federal CMS for the state's PPS *and* Alternative Payment Methodology. Clinics were given the option of selecting either** the PPS method of

reimbursement or the Alternative Method of reimbursement **for establishing a *base* rate per clinic visit.**

Under California's agreement, the following framework was established:

- **PPS *Base* Reimbursement:** This methodology consists of taking a FQHCs/RHCs 1999 and 2000 cost reported data and calculating an average cost per visit from the two fiscal years.

- **Alternative *Base* Reimbursement:** This methodology consists of utilizing 2000 cost reported data and calculating an average cost per visit from this year alone. About **67 percent of the FQHCs/RHCs chose this base reimbursement method**.

- **Medicare Economic Index:** As contained in federal law, a FQHC's/RHC's base reimbursement (either PPS or the Alternative Method) would be adjusted by the Medicare Economic Index (MEI), effective each federal fiscal year (commencing with October 1, 2001).

- **Scope of Service Change (80/20 Method):** As contained in federal law and state law, an adjustment in the reimbursement rate is required whenever a FQHC/RHC has a "scope of service" change. **A scope of service change is defined *as an addition or deletion of a service or a change in the type, intensity, duration, or amount of services.***

  All scope of service changes must first be documented by the FQHC/RHC and approved by the DHS. Further, because of the complexity in trying to measure the appropriate dollar amount assigned to the scope of service change, a methodology was developed—the "80/20" method.

  Generally under the "80/20" method, *only* 80 percent of the cost difference from the previous fiscal year to the scope of service fiscal year is attributable to the scope of service change. The remaining 20 percent of the cost change is assumed to be normal operating increases. As such, the scope of service change is discounted from the beginning.

- **Managed Care Differential:** DHS is required to reimburse FQHCs/RHCs that provide services to Medi-Cal recipients enrolled in Managed Care Plans (Plan) an amount up to the FQHC's/RHC's PPS rate for all billable services rendered to the applicable recipients. Since the rate paid by the Plan is lower than the PPS rate, an interim rate is paid. Final reconciliation will identify the remaining differential payment that needs to be paid to the FQHCs/RHCs.

- **Medicare/Medi-Cal Crossovers:** DHS is required to reimburse FQHCs/RHCs that provide services to Medicare/Medi-Cal recipients an amount up to the FQHC's/RHC's PPS rate for all billable services rendered to the Medicare/Medi-Cal recipient. Since the rate paid by Medicare is lower than the PPS rate, an interim rate is currently paid to the FQHC/RHCs to make up for part of the difference between what Medicare pays and the PPS rate. Final reconciliation will identify the remaining differential payment that needs to be paid to facilities.

Status of the State's PPS and Alternative Payment Method—Not Yet Implemented: First, the state's PPS, including the Alternative Rate Method, that has **been under development since 2001 has not yet been fully implemented. Though clinics have effectuated scope of service changes, the DHS has not calculated the "scope of service" changes since the forms and process for calculating them were just recently completed. Federal approval of this process, as submitted in a State Plan Amendment in January 2004, is still pending.**

Therefore, the state is in arrears for paying the FQHCs/RHCs for Medi-Cal Program services provided in past years in many areas, including (1) scope of service changes, (2) MEI adjustments, (3) Managed Care adjustments, and (4) Medicare Crossover payments.

***As estimated by the DHS*, these in arrears payments that the state owes the clinics is about $115 million (total funds), *plus* ongoing expenditures for 2004-05. (See Chart below.)**

Governor's May Revision: The **May Revision contains several adjustments as shown in the table below. Each of these issues is then discussed further below.**

Summary Chart: Policy Changes Shown on *Cash Basis* (cash paid out in that year)

Component	2004-05 (January) (Total Funds)	2004-05 (May) (Total Funds)	Difference (Rounded)
1. Medicare Economic Index (MEI)	$31.9 million	$31.4 million	($600,000)
2. Scope of Service Change			
• Retroactive	$95.6 million	$56.8 million	($38.8 million)
• Ongoing	$19.9 million	N/A	($19.9 million)
• Ongoing—impact of retro		$17.7 million	$17.7 million
• Ongoing—new scope changes		$6.7 million	$6.7 million
3. Managed Care			
• Retroactive	$33 million	$33.8 million	$800,000
• Ongoing	$22.3 million	--	($22.3 million)
4. Medicare Crossovers			
• Retroactive	$29.2 million	$23.2 million	($6 million)
• Ongoing	$4.7 million		($4.7 million)
5. Audit Savings Adjustment	$10 million	$10 million	--
6. Eliminate Alternative Method	($64.5 million)	($9.8 million)	$54.7 million
• **TOTALS**	**$182.3 million**	**$169.9 million**	**($12.4 million)**

- ***Eliminates Alternative Rate Methodology:*** The **May Revision** continues the Governor's January Budget proposal to **eliminate the Alternative Rate Method, effective October 2004, for identified savings of $9.8 million ($4.9 million General Fund).** This savings level is substantially less than proposed in January for two reasons. It assumes an October elimination date, versus an April date, and it assumes that fewer clinics will have a scope of service change (68 percent now). Generally, newer clinics will be most impacted by this elimination. **In the March 8th hearing, the Subcommittee rejected this proposal.** It should be noted that the DHS contends that they can proceed with a unilateral elimination of this method via a State Plan Amendment but has withheld this action until closure of the budget.

- ***Scope of Service Changes:*** The May Revision reflects **an increase of $81.2 million** ($40.6 million General Fund) for the scope of services changes (retroactive and ongoing). Most of this amount is for retroactive payments. **The May Revision also assumes that 100 percent of the retroactive payments for January 2001 through June 30, 2004 will be paid in 2004-05.**

- ***Other Factors—MEI, Medicare Crossovers, Managed Care:*** These three areas reflect relatively minor technical adjustments. No issues have been raised for these factors.

Significant Constituency Concerns: The Subcommittee is in receipt of letters which express significant concern **regarding the lack of implementation for the scope of service changes and the proposed elimination of the Alternative Rate Method.**

The proposed elimination of the Alternative Rate Method is very significant. They note that federal law sets a payment floor for FQHCs/RHCs (i.e., the minimum federal payment) and provides that states are free to adopt any equivalent or more generous payment methodology so long as a clinic consents to the alternative. California is not currently in a position to calculate the minimum federal payment because it has not yet calculated the scope of service changes which have occurred since 2001. **It is strongly desired to have the scope of services changes implemented and fully paid in 2004-05, along with other payments that are retroactively owed.**

Further it is noted that the existing agreement—choice of the PPS base payment or Alternative Payment Method—was an agreed to compromise which has clearly not been enacted, and yet, the state now wants to change the deal.

Subcommittee Staff Comment and Recommendation: As noted in the discussion above, implementation of the entire **Prospective Payment System/Alternative Rate Method is still pending almost four years later. However the DHS has been facilitating several meetings with interested parties to finalize the necessary forms and processes, and to reconcile fiscal estimates. The department has moved along considerably and should be commended for convening these meetings to reconcile differences.**

Based on discussions between the DHS and constituency groups, the following action is recommended:

- **1. Retain the prior Subcommittee action to reject the Administration's proposal to eliminate the Alternative Payment Method, but use the updated May Revision figure.** As such an increase of $9.8 million ($4.9 million General Fund) is required.
- **2. Adopt uncodified trailer bill legislation to recognize the Administration's intent to pay 100 percent of retroactive payments for January 1, 2004 through June 30, 2004 in fiscal year 2004-05. Suggested language is as follows:** It is the Legislature's intent that retroactive payments owed to Federally Qualified Health Centers and Rural Health Centers for the period that began January 1, 2001 and proceeds through June 30, 2004, shall be made in the 2004-05 fiscal year.
- **3. Adopt trailer bill legislation to facilitate implementation of the scope of service changes.** Suggested language is as follows:

  - **Add Section 14132.105 to Welfare and Institutions Code:**

  (a) The director may adopt emergency regulations to implement Section 14132.1 of the Welfare and Institutions Code in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

  (b) The adoption of emergency regulations described in subdivision (a) shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filling with the Secretary of State and publication in the California Code of Regulations.

  (c) Notwithstanding subdivisions (a) and (b), the director may issue such instructions and forms that are consistent with and necessary to implement subdivisions (e), (f), (h) and (i) of Section 14132.100 of the Welfare and Institutions Code, and Sections (A) and (D) through (L), at pages 6 through 6R of Attachment 4.19-B to The California Medicaid State Plan in effect on January 1, 2003, relating to the reimbursement rate methodologies for federally qualified health center services and rural health clinic services. Adoption of such instructions and forms shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of title 2 of the Government Code). Actions pursuant to this subdivision must be taken within 30 days following the date that this section becomes effective.

  (d) The authority to grant emergency or expedited regulations under this section expires on June 30,2006.

- **Add Section 14132.107 to Welfare and Institutions Code**

14132.107 Claims for reimbursement under subdivisions (e) and (h) of Section 14132.100 shall be finalized by the department within 150 days of receipt, and claims paid within 30 days thereafter, except that payment of those amounts that are disputed shall be subject to the requirements and time frames and procedures set out in Section 14171. Scope changes going forward shall be finalized within 90 days of receipt.

- **Add Section 14132.108 to Welfare and Institutions Code**

Notwithstanding any other provision of law, requests for rate adjustments for scope of service rate changes under paragraph 4 of subdivision (e) of Section 14132.100, for an FQHC's or RHC's fiscal year ending in 2004 shall be deemed to have been filed in a timely manner so long as filed within 90 days following the end of the 150 day time frame applicable to scope of service changes occurring from January 1, 2001, to the end of an FQHC's or RHC's 2003 fiscal year, as set out in paragraph (6) of subdivision (e) of Section 14132.00

- **4. Adopt trailer bill language to clarify how consolidated cost reports will be handled. Suggested language is as follows:**

Delete (D) from Section 14131.100 as follows:
~~(D) The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHC's and RHC's filing consolidated cost reports for multiple sites, the FQHC's or RHC's rate equals or exceeds the lesser of 1.75 percent or ten thousands dollars ($10,000), on a aggregated basis. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.~~

Insert new (D) for Section 14131.100 as follows:

(D) The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHCs and RHCs that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75 percent threshold shall be applied to the average per visit rate of all sites for the purposes of calculating the cost associated with a scope-of –service change.

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions:

- **1. Please provide a brief summary of the May Revision.**
- **2. Please explain how the DHS calculated the scope of service change information when actual data is currently not yet available.**
- **3. Please step through the proposed trailer bill language.**

10. County Administration of Medi-Cal –Proposed Cost Containment

Background—Medi-Cal Eligibility Processing: Each county is responsible for implementing Medi-Cal eligibility and for interpreting state guidance on policies and procedures. Counties determine eligibility for Medi-Cal under a set of complex rules that require staff to collect and verify a variety of information. **In fact, the DHS provides counties with an 800-plus page state Medi-Cal Eligibility Procedures Manual** that is updated on a constant basis through state issued "All County Letters". There are more than **150 aid codes**, and dozens of state Medi-Cal related forms.

Counties are provided with an annual allocation from the state to conduct Medi-Cal Program eligibility processing activities for the state (federal law requires that a governmental entity complete all Medicaid (Medi-Cal) applications). The allocation is contained within the annual Medi-Cal Estimate Package provided to the Legislature as part of the annual budget deliberations.

SB 26 (X1), Statutes of 2003—County Performance Standards: Through SB 26 (First Extra Ordinary Session), Statutes of 2003, the Legislature enacted comprehensive "county performance standards". Under these standards, counties must meet specified criteria regarding completing eligibility determinations and performing timely re-determinations. Specific work standards—including timeframes and percentages that need to be completed—are outlined in the enabling statute. **If a county does not meet these performance standards, their administrative funding may be reduced by up to two percent as determined by the Department of Health Services.** Further, implementation of a corrective action plan in those counties that fail to meet one or more of the standards is required. **As noted under the Medi-Cal baseline estimate discussion in this agenda (See Item 1, above), continued implementation of the county performance standards is estimated to save $229 million ($114.5 million General Fund) in 2004-05.**

Further, the DHS was provided 9 new positions in 2004-05 to implement and monitor the County Performance Standards.

Governor's May Revision: The May Revision **proposes to reduce County Administrative expenditures by $46.8 million ($23.4 million General Fund) by implementing a "cost control" plan to limit the growth in allocations associated with Medi-Cal eligibility determinations. The DHS states that the initial phase of this proposed plan would be in effect for the 2004-05 allocation process.**

The DHS contends that the purpose of this plan is to ensure that counties have sufficient staff to complete required eligibility activities and annual re-determination in the most cost-effective manner. **Further they note that as the plan is developed, it is suppose to include staffing guidelines, policies to control overhead costs, and the ability to limit county employee wage costs, while still maintaining the integrity of the eligibility determination process.**

The **Administration has proposed Budget Bill Language** as part of this proposal. The proposed language is as follows:

> **"**In ***any*** given fiscal year, allocations to accommodate county wage increases shall not exceed the average COLA granted to State workers or the California Necessities Index, whichever is greater.**"**

Subcommittee Staff Comment and Recommendation: First, the May Revision makes reference to the DHS developing a "cost containment" plan. **However, no plan has been presented to the Legislature and it is unclear as to its actual contents. Therefore, it is difficult to discern how the proposed savings will be achieved and what may or may not be needed in future fiscal years to ensure a cost-efficient, high quality Medi-Cal eligibility processing system.**

As such, it is recommended to adopt uncodified trailer bill language in order to have the DHS complete a plan and to provide it to the Legislature. This proposed language is as follows:

> **"**The department, in collaboration with the County Welfare Directors Association shall develop options and recommendations for modifying the budgeting and allocation methodologies for county Medi-Cal administration. The recommendations shall at a minimum consider the number of eligible cases, the complexity of cases, the way in which caseload growth funds are allocated, and the workload associated with denied applications. The department shall consider options for the establishment of productivity features that result in efficient and effective administration of the Medi-Cal program, including accurate and timely determinations of eligibility and redeterminations and reasonable access to eligibility services for potential eligibles. The department shall report their options and recommendations to all fiscal committees of both houses of the Legislature by January 10, 2005."

Second, the Administration's proposed Budget Bill Language is unnecessary and meaningless. The state is under no obligation to fund county COLAs and in fact, has not provided counties with funds for "doing the cost of business" in Medi-Cal on several occasions. Third, with a dollar reduction being taken, there is no statutory language that would require the state to provide an additional amount, other than what is appropriated for this purpose. Lastly, Budget Bill Language is only applicable for one-year, not multiple fiscal years as the language references. If the Administration wants to modify how total costs are determined, it is suggested to more thoroughly discern what the cost drivers are and to work with the counties on an applicable approach with a plan.

Budget Issue: Does the **Subcommittee want to (1) adopt the Administration's May Revision reduction of $46 million (total funds), (2) delete the Administration's Budget Bill Language**, and **(3) adopt trailer bill language as outlined above?**

11. Quarterly Medi-Cal Reconciliation *(See Hand Out)*

Background and Explanation of State's Concerns: Due to **computer processing differences, county eligibility and state eligibility data files can show different Medi-Cal eligibility data. Automated and manual processes exist to minimize the impact of these data discrepancies but they still occur.**

In 1970, **the DHS set up a state Medi-Cal Eligibility Data System (MEDS)** reconciliation process for counties in order to synchronize the state's MEDS and county eligibility changes and eliminate any data discrepancies found on the county and state records **through daily or batch transaction processing to MEDS**. Through this system, **when data discrepancies occur, the state's system issues routine alerts to the counties that are to be worked to correct the data.**

The MEDS reconciliation process compares the records on MEDS with the county files to identify any records on MEDS that are not on the county system. Reconciliations are done on cases that are shown as active on MEDS, but are not shown on the county system as eligible. **Counties are required to manually resolve cases that are newly found to be eligible on MEDS but not eligible on the county system. Counties are given up to 12 months to resolve these data differences manually. According to the DHS, this gives the counties as many as three sequential alerts to correct each discrepancy.**

Presently, the DHS terminates a Medi-Cal eligible record if the person is not eligible on the county file, but is eligible on MEDS, and where there has been no eligibility update on the record in 12 months. The DHS notes that at this time, not all counties properly complete the reconciliation process or work their alerts as required, so some MEDS records are not appropriately being terminated. Therefore, Medi-Cal recipients remain on MEDS for 12 months or more, even though there is not a county record. Medi-Cal Managed Care capitation payments are, therefore, made for persons that the county data system shows as ineligible and there has not been a MEDS transaction for 12 months. Generally, this is what occurred in Los Angeles County, as referenced in this agenda under item 1, above.

Governor's May Revision: The May Revision **proposes (1) a reduction of $18 million ($9 million General Fund) in local assistance funding, (2) trailer bill language to add new statutory provisions regarding county requirements, *and* (3) an augmentation of $100,000 ($50,000 General Fund) to fund a new state staff position (Associate Governmental Program Analyst) to implement and monitor the reconciliation process.**

Among other things, the Administration's proposed trailer bill *(See Hand Out)* would do the following:

- **Shorten the time the state carries an inactive county eligibility record from 12 months to 6 months;**
- Requires counties to work on a **routine basis *any* error alert** from the state's MEDS system within 5 working days;
- Requires the counties **to fix *any* data discrepancies** within 5 working days of receipt of the alert;

- Requires counties to conduct reconciliations every quarter (three months) and in a format as determined solely by the DHS;
- Subjects counties to yet another potential loss of two percent of their county administration funds.

Constituency Concerns—Modify Trailer Bill Language: The County Welfare Directors Association **(CWDA) have provided the Subcommittee with examples of "alerts" which are relatively meaningless, and do not affect an individual's Medi-Cal eligibility.** They note that older automation systems such as **MEDS lack the sophistication to recognize and automatically correct minor discrepancies**, making it necessary to employ an alert-based system and devote scarce county staff resources to this task. **As just one example, San Bernardino receives about 1,000 daily alerts and over 70,000 quarterly alerts.** Further, the same case can generate more than one alert, including both critical and non-critical issues.

Subcommittee Staff Comment and Recommendation (See Hand Out): Though there are many existing automated and manual processes to minimize data discrepancies, **an improved process is warranted due to recent circumstances. However, alternative trailer bill language is recommended which more clearly articulates expectations and focuses on the *key* problem at hand—resolving those alerts that affect eligibility or the share of Medi-Cal cost.**

The DHS Eligibility Quality Control Branch currently has one Staff Services Manager II, three Staff Services Manager I, 15 Analysts and three support staff. Further, the DHS was provided with 9 positions to enact the county performance standards as discussed in the above item. **Yet another position to monitor a function that should be a core responsibility of the department is not recommended.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. DHS, Please present the May Revision proposal, including the trailer bill legislation.**

Budget Issue: Does the **Subcommittee want to (1)** adopt **alternative** trailer bill language, **(2) adopt the May Revision savings level**, and **(3) deny the DHS position** and save an additional $100,000 ($50,000 General Fund)?

12. Validation of Medi-Cal Eligibility—Contingency Contract *(See Hand Out)*

Background: The **DHS states that at least 2 percent of Medi-Cal recipients receive Medi-Cal benefits erroneously.** They contend that most of this is due to difficulties in processing eligibility information between the counties and the state MEDS, as discussed under the agenda item above. **As such, the Administration believes that a Third-party vendor should be hired on a contingency basis to go to counties and complete case reviews to verify that eligibility determinations are done correctly.**

This proposal would be in addition to (1) the codified county performance standards process, and (2) the quarterly data reconciliation process.

Governor's May Revision: The May Revision **proposes savings of $6 million ($3 million General Fund) by contracting with a Third-Party Vendor to review Medi-Cal eligibility determinations made by counties on-site.** The savings level assumes that 9,700 individuals are discontinued from Medi-Cal. Implementation would commence as of March 2005. The proposed savings figure assumes expenditures of $714,000 ($357,000 General Fund) for the contract in 2004-05.

According to the DHS, the contractor would receive a payment for each ineligible person removed from the state's MEDS files for a period exceeding three months. In other words, a potentially ineligible person would be notified by the county and then that person would have to undergo eligibility approval again before three months time, or be removed from the program. If the individual is removed due to said ineligibility, then the Vendor would receive a payment as an incentive. It should be noted that the Vendor would not make any final eligibility determination, but would return to the county any case record findings that the Vendor finds was potentially determined incorrectly.

The proposal also states that the department may charge the counties the fixed-price paid to the Third Party Vendor by reducing the county's Medi-Cal administrative funds.

The Administration is proposing trailer bill language *(See Hand Out)* **that, among other things, would do the following:**

- Provides the DHS with authority to hire a Third-Party Vendor to review and validate county eligibility determinations;
- States that the Third Party Vendor would not make any final determinations of eligibility;
- Requires counties to evaluate any Third Party Vendor finding and to take corrective action accordingly within 15 days of notice by the Vendor;
- Requires the DHS to make any final eligibility determinations if there is a disagreement regarding the validity of eligibility between the county and the Third Party Vendor;
- Specifies that the Third Party Vendor will receive a "fixed-price" for every case for which the Vendor finds that an eligibility determination is made incorrectly as stated;
- Provides that the DHS can charge counties a fixed-price for the contract with the Third Party Vendor by reducing county Medi-Cal administrative funds;

- Grants sole authority to the DHS to conduct a procurement of the Third Party Vendor contract and that the DHS can implement the provisions of the statute through "All County Letters", provider bulletins or generally, any other means that is suitable to the DHS; and
- Directs that the DHS will only implement this action if federal financial participation is available.

Subcommittee Staff Comment and Recommendation: This proposal is flawed and should be denied. **First**, it is unlikely that the federal government would allow for a Third Party Vendor to invalidate a Medi-Cal eligibility determination made by a governmental entity due to the existing federal law structure. The DHS even recognizes this or the federal funding exception provision would not have been added to the proposed trailer bill language.

Second, **there were several significant actions taken last year (i.e., county performance standards, semi-annual eligibility determinations) regarding Medi-Cal eligibility and two more comprehensive proposals in this May Revision. These proposals need to be monitored and implemented appropriately prior to adding on yet another layer of oversight and processing.** Both the county performance standards from last year, as well as the May Revision proposal on quarterly data reconciliation (see above agenda item) also serve as fiscal incentives to the counties due to the potential of loosing 2 percent of their county Medi-Cal administrative funds if certain requirements are not met.

Third, it is likely that some portion of the proposed savings would be negated by increased fair hearings due to questions arising as to one's eligibility.

Fourth, the state needs to also review its own MEDS process to see what improvements can be done—such as system changes for more edits or manual checks—to improve on the other side of the county-state partnership.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please briefly explain the proposal, including how the Third Party Contractor would conduct business and be paid, as well as the trailer bill language.**
- **2. Would the potential contractor be selected through a competitive bid process or other means?**
- **3.** Do you **believe federal approval would be easily granted?**

Budget Issue: Does the **Subcommittee want to reject this proposal?**

13. Federal Medicare Prescription Drug Act Implementation—Request for Staff

Background: The Federal Medicare Prescription Drug, Improvement, and Modernization Act (Act) was signed into law in December 2003. A key component of the Act is that Medicare will take over responsibility for providing prescription drugs for dual eligibles administered through qualified managed care plans. Among other things, states will have the option of covering dual eligibles at state-only expense when the dual eligible does not volunteer for Part D or needs drugs that may be not available through a Part D managed care plan.

The DHS states that they will incur new burdens of responsibility as the infrastructure obligations, eligibility worker training, and other administrative requirements of the Act require implementation. There is no funding for these efforts from the federal government, only the normal state and federal funding can be used.

The DHS states that there are many functions contained in the Act that must be addressed, including the following:

- Require an annual independent audit of Medi-Cal's Disproportionate Share Program for safety net hospitals;
- State legislation is needed to define the Medicare drug benefit as the drug benefit for people on Medi-Cal and Medicare;
- States will be required to finance much of the drug coverage for dual eligibles through the federal "clawback" requirement;
- States, via the counties, will be responsible for screening to determine premium and cost-sharing subsidies for low-income beneficiaries' eligibility.

Governor's May Revision: The May Revision is requesting **an increase of $437,000 ($151,000** General Fund) **to hire 5 new state staff and make changes to the Medi-Cal Eligibility Data System (MEDS)** to implement provisions of the Act. Specifically, the DHS states the following needs:

- Contractor funding for information technology services to add data elements to identify, track, and report on full-benefit dual eligibles in the amount of $308,000 (total funds) is requested.
- Contractor funding is needed to secure a contractor for the required annual, independent audit of Medi-Cal's Disproportionate Share Hospital Program for safety net hospitals. (This issue is addressed in the Medi-Cal local assistance item.)
- Funding for state positions is requested. The positions include: Two Analysts (two-year limited-term), one Health Program Auditor III (two-year limited-term), one Associate Information Systems Analyst (two-year, limited-term), and one Analyst (permanent).

Legislative Analyst's Office: Based on their initial review, the **LAO is not convinced that all of the requested positions are justified.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please briefly describe the May Revision and the need for the requested resources.
- **2.** Why do all of these resources need to be provided in 2004-05?

Budget Issue: Does the Subcommittee want to modify or adopt the request for staff and contracting resources?

14. Proposed New Automated System to Track/Cost Monitor the Fiscal Intermediary Contract

Background: The state contracts with Electronic Data Systems (EDS) to perform the fiscal intermediary functions for the Medi-Cal Program, including claims processing services. **According to the LAO, state payments to EDS have risen about 23 percent a year during each of the last five years. Total payments to EDS are expected to be $232 million ($69 million General Fund) in 2004-05.**

Department of Finance, Office of State Audits & Evaluations—June 2003 Audit Findings: The DOF conducted an audit of the EDS contract last year because of concerns about the growing scope, size, complexity, and cost of the California Medicare/Medi-Cal Information Systems (MMIS)—the information technology system maintained and operated by the EDS to carry out its fiscal intermediary functions.

The DOF audit found weaknesses in DHS' oversight of the EDS contract, including the following key findings:

- ***Lack of Oversight:*** The DHS has no internal audit function to ensure that the EDS is complying with the terms of the contract and that the MMIS is operating as intended.
- ***Expenditure Information Not Provided:*** DOF budget staff were not provided timely or adequate information about expenditures being made for modifications (changes) authorized by the DHS for the MMIS. The DHS did not specifically track the cost to the state of these changes and therefore, the state had no method for determining whether these modifications were indeed cost-effective.
- ***No Payment Resolution Process:*** In the event the EDS disagreed with the amount paid to it by the state for its services, there were no procedures in place to resolve disputes with the contractor.
- ***State Information Technology Processes Sidestepped:*** The DHS incorporated information technology systems with little connection to the Medi-Cal Program into EDS' Medi-Cal contract to sidestep normal information technology development and procurement procedures. The DHS also circumvented the competitive procurement process without explicitly obtaining an exemption, making it difficult to ensure that that state received the best value for the development of these systems.

Prior Subcommittee Action (April 12th Hearing): The Subcommittee discussed the oversight of the EDS Fiscal Intermediary contract at length and heard from the LAO on their analysis of the various concerns raised. As such the Subcommittee adopted **Supplemental Reporting Language,** as recommended by the LAO, directing the DHS to develop and submit a corrective action plan to the DOF and the Legislature, and submit reports to both entities every six **months** commencing July 1, 2004. **This language is as follows:**

> "It is the intent of the Legislature that the DHS develop and submit a corrective action plan to the DOF Office of State Audits and Evaluations and to the Legislature that identifies the actions it plans to take toward implementing the recommendations described in the report entitled, "Final Audit Report—Examination of the Department of Health Services Fiscal Intermediary Contract with Electronic Data Systems for Medi-Cal Claims Processing." **It is also the intent of the Legislature that on October 1, 2004, and April 1, 2005, that DHS submit semiannual reports to the Office of State Audits and Evaluations and to the Legislature regarding its progress towards implementation of the audit recommendations.** The legislative reports shall be provided in writing to the Chairs of all of the fiscal committees of both houses of the Legislature.

In addition, the Subcommittee eliminated a $100,000 (total funds) appropriation for the Fiscal Intermediary contract as contained in the Governor's January budget for "unspecified change orders", and reduced the Medi-Cal Dental Fiscal Intermediary appropriation by $50,000 (total funds) for the same reason (unspecified change orders).

Governor's May Revision: The May Revision **proposes an increase of $590,000 ($194,000 General Fund) to (1) establish four positions-- three permanent and one two-year, limited-term--, and (2) purchase computer software and equipment to develop an automated invoice tracking/cost monitoring system.** This request for resources is in response to the DOF evaluation, as noted above.

Specifically, this request includes the following:

- Two Associate Administrative Analysts to perform additional detailed analysis and to track costs in the manner recommended in the DOF audit;
- Two Health Program Auditor IV positions to perform continuous financial and performance oversight of the Fiscal Intermediary contract;
- $87,000 to contract for the design and development of a new database accounting system;
- $61, 000 to enter into a separate interagency agreement with the DOF to conduct a follow-up audit of the Fiscal Intermediary contract;
- $61,000 to enter into an interagency agreement with the DOF to develop and maintain an information technology framework for projects implemented via the Fiscal Intermediary contract.

Legislative Analyst's Office Comment: Based on their review**, the LAO recommends to reject all of the requested positions and all of the requested funding. The LAO noted the following:**

- The department already has sufficient staff in the view of the LAO to provide adequate oversight of the contract and to address the DOF concerns.

- If necessary, to improve its oversight of the EDS contract, the department may need to closely evaluate the responsibilities of existing staff and reprioritize workload to achieve its goal of implementing the audit's recommendations.
- The DHS currently uses a spreadsheet for tracking system contract costs.
- The first DOF audit was paid for out of the DHS' existing resources. The LAO believes that the cost for this second audit should also be paid out of the department's existing resources.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the LAO analysis. Therefore, it is recommended to reject the May Revision.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please briefly present the May Revision.**

Budget Issue: Does the Subcommittee want to adopt the **LAO recommendation to reject this May Revision request?**

15. Governor's Proposed Elimination of WARP

Background: Through the **Budget Act of 2001** and accompanying trailer bill legislation, an appropriation was provided to serve as a supplemental wage adjustment for long-term care facilities which have a collective bargaining agreement or contract to increase salaries, wages, or benefits for certain staff. Under this proposal, participating providers needed to provide proof of a binding written commitment and a method of enforcement of the commitment. **The program was intended to terminate when the DHS implemented a facility-specific reimbursement methodology for non-hospital based nursing facilities (i.e., freestanding facilities).**

It should be noted that the Supplemental Wage Payment has *never* been allocated to the facilities. The DHS did provide instructions to eligible facilities on October 3, 2003 (See Hand Out for cover letter). **However, these instructions were later abruptly rescinded because stakeholder groups notified the DHS of issues that required amendments to the instructions, and then shortly thereafter, Governor Schwarzenegger issued an Executive Order requiring state agencies to cease processing regulations. Further, the Governor proposed to eliminate this program as part of his Mid-Year Reduction proposals.**

It should be noted that Section 14110.65 of Welfare and Institutions Code which implements this program is slated to become inoperative as of August 1, 2004.

Governor's January Budget: **The budget proposes to eliminate funding for this adjustment for savings of $92 million ($46 million General Fund).**

Prior Subcommittee Hearing (May 3rd): The Subcommittee discussed this issue and received testimony. The issue was held open pending receipt of the Governor's May Revision.

Governor's May Revision: **The May Revision assumes elimination of this funding for the current year.** This is the **same proposal as contained in the Governor's January Budget.**

Budget Issue: Does the **Subcommittee want to restore or adopt the Governor's proposal to eliminate?**

D. Item 4260 Department of Health Services (*Discussion Items-continued*)

PUBLIC HEALTH ISSUES

1. California Children's Services Program—*Several Issues*

Overall Background on CCS: The California Children's Services (CCS) Program provides medical diagnosis, case management, treatment and therapy to financially **eligible children with specific medical conditions, including birth defects, chronic illness, genetic diseases and injuries due to accidents or violence**. **The CCS services must be deemed to be *"medically necessary"* in order for them to be provided.**

The CCS is the oldest managed health care program in the state and the only one focused specifically on children with special health care needs. It depends on a network of specialty physicians, therapists and hospitals to provide this medical care. **By law, CCS services are provided as a separate and distinct medical treatment (i.e., carved-out service). CCS was included in the State-Local Realignment of 1991 and 1992. As such, counties utilize a portion of their County Realignment Funds for this program.**

CCS enrollment consists of children enrolled as: (1) CCS-only (not eligible for Medi-Cal or the Healthy Families Program), **(2)** CCS and Medi-Cal eligible, and **(3)** CCS and Healthy Families eligible. **Where applicable, the state draws down a federal funding match and off-sets this match against state funds as well as county funds.**

Background on CCS Carve Out: During the 1990's, as California began enrolling increasing numbers of Medi-Cal recipients, including children, into managed health care plans, health experts and advocates became concerned that CCS-eligible children would not obtain appropriate, specialized health care services, particularly those children with significant medical needs. **As a result, in 1994 a "carve-out" for CCS-eligible children who are enrolled in Medi-Cal Managed Care**, became law, requiring these children to continue receiving highly specialized care for their CCS-eligible condition through CCS, while receiving preventive and general care through a managed care plan. **County Organized Health Systems (COHS) currently are the only plans that have CCS-eligible children and their needed services incorporated into their systems. Existing statute contains a sunset of August 1, 2005. The sunset has been extended twice before.**

The statute which created the carve-out also authorized the DHS to approve, implement, and evaluate limited pilot projects to test alternative managed care models tailored to the special healthcare needs of children under the CCS Program. The law requires the DHS to submit an evaluation to the Legislature of any pilot program. **To date, no pilot programs have been implemented and therefore, no evaluation has been completed.**

Prior Subcommittee Action (March 8th): In this hearing, the Subcommittee discussed several core issues regarding the CCS Program—**(1)** the Governor's proposed cap on enrollment, **(2)** drug rebates for blood factor products as well as potentially other items, such as medical supplies

and durable medical equipment, and **(3)** the Governor's proposed additional 10 percent rate reduction.

The Subcommittee took action to (1) reject the Governor's cap on enrollment, and (2) recognize $2.5 million (General Fund) savings by proceeding with obtaining rebates for various drug products and contract savings.

Governor's May Revision: The **May Revision proposes total program expenditures of $220.5 million ($82.5 million General Fund, $75.3 million County Realignment Funds**, **$51.1 million federal Title XXI funds,** $11.1 million federal Maternal & Child Health block grant funds, and $500,000 patient enrollment fees). **The Governor has conformed to the Senate action by eliminating his enrollment cap proposal as contained in his January Budget. In addition, the proposed additional rate reduction of 10 percent has been removed as well.** The May Revision does include a five percent rate reduction as adopted in the Budget Act of 2003.

Subcommittee Staff Comments and Recommendation: **First, it is recommended for the Subcommittee to adopt the CCS Program baseline estimate** (caseload, rate reimbursement levels and related expenditures) since the Governor conformed with the Legislation in not proceeding with caps or with an additional 10 percent rate reduction**.**

Second, it is recommended for the Subcommittee to retain the $2.5 million in General Fund savings through the collection of drug rebate funds and implementation of other contract savings, such as medical supplies and durable medical equipment (as was proposed in the Budget Act of 2003 and discussed at the March 8th hearing). The DHS was provided with three positions last year to address this issue. (This savings figure was based on the fact that the CCS Program provides over $130 million in direct services annually and that 30 percent of these services are for such items as medical supplies, durable medical equipment and blood factor product).

Third, **it is recommended to adopt trailer bill language to extend the sunset date for the carve out to September 1, 2008. This would provide for a three-year extension.** It is further recommended to make a technical change to the statute to clarify the name of the Santa Barbara Regional Health Authority. **It should be noted that the proposed language does not address any issues related to the expansion of Medi-Cal Managed Care.** This issue can, if desired, be more thoroughly discussed in August, when the Administration presents their discourse and information regarding their proposed Medi-Cal Program Redesign.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please provide a brief summary of the Governor's May Revision.

Budget Issue: Does the **Subcommittee want to (1)** adopt the Governor's May Revision, **(2)** retain the $2.5 million (General Fund) in savings by achieving more drug rebate and contract savings as done in the March 8th hearing, and **(3)** adopt trailer bill language as outlined to extend the sunset by three years and make a clarifying amendment regarding Santa Barbara?

2. Genetically Handicapped Persons Program (GHPP)—*Several Issues*

Overall Background: The GHPP **provides diagnostic evaluations, treatment services, and medical case management services for adults with certain genetic diseases**, including cystic fibrosis, hemophilia, sickle cell disease, Huntington's disease, and certain neurological metabolic diseases. **The services covered by the GHPP include all the medically necessary medical and dental services needed by the client, not just the services related to the GHPP-eligible condition. (GHPP differs from the California Children's Services (CCS) Program in that CCS covers only services related to the CCS eligible condition.)**

GHPP is suppose to be the "payer of last resort" (as a 100 percent General Fund program) meaning that third-party health insurance and Medi-Cal coverage are to be used first. GHPP authorized services are **reimbursed according to the following guidelines** established by the DHS:

- **For GHPP-only clients** (non-Medi-Cal eligible) **with no health insurance**, GHPP reimburses providers using **solely General Fund support at Medi-Cal fee-for-service rates with claims adjudicated through EDS (state's fiscal intermediary);**
- GHPP clients with health insurance are required to use their health insurance first before GHPP state support is used. **Providers are to bill third-party health insurance first for these clients;**
- **Medi-Cal clients enrolled in GHPP may be enrolled in Medi-Cal Managed Care plans *or* be in fee-for-service Medi-Cal and are provided assistance as follows:**
- **Managed care Medi-Cal clients** are only eligible for GHPP special care center team assessment and evaluation services which are reimbursed fee-for-services. All other benefits are covered by the health plans under the managed care arrangement.
- Fee-for-service Medi-Cal clients have services paid by Medi-Cal but are case managed by GHPP.

DHS Notes Substantial Cost Increases Over Past Years: **Expenditures for the GHPP have been rapidly increasing over several years.** In fact, the program **increased well over 340 percent from 1996 to 2004** (from $12 million General Fund to **$53 million General Fund).**

Prior Subcommittee Action (March 8th): In this hearing, the Subcommittee discussed several core issues—(1) the Governor's proposed cap on enrollment for the program, (2) the Governor's proposed co-payment for enrollees, (3) the drug factor rebates owed to California from the 2002-03 fiscal year, and (4) contract rebate savings and related cost containment measures.

The Subcommittee took action to (1) reject the Governor's cap on enrollment, **(2)** adopted trailer bill legislation to establish a special fund for the collection of GHPP and CCS rebates, **(3)** appropriated the $4.1 million in identified rebates from 2002 for the GHPP (owed to the state by specified manufacturers), **(4)** used $89,000 (collected drug rebates funds) of the identified drug rebates for a new Associate Governmental Program Analyst position to assist with the various functions for cost containment, and use the remaining amount to offset General Fund in 2004-05, **(5)** recognized increased savings of $5 million (General Fund) for contracts, pharmaceutical rebates, medical supplies and related items, above the Administration's January Budget proposal of only $1.5 million (General Fund).

Governor's May Revision: The **May Revision proposes total expenditures of $52.9 million** ($52.8 million General Fund and $200,000 in Fees). **The Governor has conformed to the Subcommittee's action by eliminating his enrollment cap proposal as contained in his January Budget. In addition, the proposed additional rate reduction of 10 percent has been removed, and the Administration has eliminated their proposal to implement a new co-payment provision.** The May Revision does include a five percent rate reduction as adopted in the Budget Act of 2003.

Subcommittee Staff Comment and Recommendation: It is recommended to **(1)** adopt the Governor's May Revision, **(2)** retain the $5 million in additional rebates, to offset General Fund moneys, for contracts, and drug rebates as done in the March 8th hearing, **(3)** retain the trailer bill language to establish a special fund for the collection of GHPP and CCS rebates as done in the March 8th hearing, **and (4)** retain the action to use $89,000 (drug rebates) for a new Associate Governmental Program Analyst position to assist with the various functions of cost containment

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1.** Please provide a brief summary of the Governor's May Revision.
- **2.** Please provide an update on the blood factor rebates.

Budget Issue: Does the Subcommittee want to adopt the above Subcommittee staff recommendation?

3. Proposition 99 Funded Programs

Overall Background—General : Proposition 99, the Tobacco Tax and Health Protection Act of 1988, established a surtax of 25 cents per package on cigarettes and other tobacco products, and provided a major new funding source for health education, indigent health care services, and resources programs.

Under the provisions of Proposition 99, **revenues are allocated across six accounts based on specified percentages. These are**: **(1)** Health Education Account—20 percent, **(2)** Hospital Services Account—35 percent, **(3)** Physician Services Account—10 percent, **(4)** Research Account—5 percent, **(5)** Unallocated Account—25 percent, and **(6)** Public Resources Account—5 percent (discussed in Subcommittee No. 2).

Governor's May Revision—Revenues: Proposition 99 **revenues are projected to increase slightly to be a total of $334.5 million in May for all accounts. It should also be noted that, as required by Proposition 10, the State Board of Equalization transferred as necessary to offset the loss in revenue to the Health Education and Research accounts.**

Governor's May Revision—Expenditures: The May Revision makes a series of small adjustments due to the increase in revenues. **These are discussed below.**

Health Education Account Programs:

- Provides $3.6 million for the DHS Tobacco Education and Research Oversight.
- Provides **$15.7 million for the Media Campaign**
- Provides **$15.4 million for Competitive Grants**
- Provides **$16.2 million for Local Lead Agencies**

Health Care Programs (Hospital Services, Physicians', & Unallocated Accounts):

- Provides **$392,000 for Children's Hospitals.**
- Provides **$6.8 million for EAPC Clinics.**
- Provides **$45.3 million for the CA Healthcare for Indigents Persons Program**, of which **$22.3 million is for uncompensated hospital emergency services.**
- Provides **$4.7 million for Rural Health Services.**
- Provides **$11.3 million for the Breast Cancer Early Detection Program.**
- Provides **$4.4 million for DHS administration of various programs.**

Budget Issue: Does the **Subcommittee want to approve as proposed in the May Revision?**

4. Radiation Control Fund---Issue of Solvency

Background—Radiation Control Program: This program area covers (1) mammography certification and inspection activities, (2) enforcement and compliance activities related to radioactive material and radiation machine inspections, and (3) assists in a wide variety of other radiologic health functions.

In the Governor's January Budget, the DHS budget for this program showed expenditures and revenues of $18.1 million (Radiation Control Fund). Information received by the Subcommittee noted that the expenditures were for 118 staff *plus* other expenditures.

These other expenditures included (1) *$6.1 million* (Radiation Control Fund) *for operating expenses, and (2) $2.9 million for "distributed" costs*. The following breaks down these line items:

• General Expense	$1.1 million (6 percent of the total)
• Printing and Postage	$116,000
• Travel In State	$737,000
• Equipment	$360,000
• Technical Scientific Items	$67,000
• Travel Out of State	$142,000
• External Contracts	$3.3 million

- Internal Contracts $121,000
- Distributed Facility Operations $968,000
- Distributed Data Processing $577,000
- Distributed Administration $768,000
- Distributed Program OH $390,000

Prior Subcommittee Hearing (May 10th): In this hearing, the Subcommittee requested to receive a more detailed break down of these expenditures. **This information has *not yet* been provided. Further, it was unclear at the time of the hearing what level of revenue collection from fees would be obtained.**

Governor's May Revision—Proposes Questionable Budget Bill Language: The May Revision proposes Budget Bill Language to reduce expenditures to be more in line with revenues. **However, it is unknown at this time what programmatic affect reductions will have because no detail has been forthcoming on what would actually be reduced and its potential affect on the citizens of California. The proposed May Revision language is as follows:**

> "Of the amount appropriated in this Item, $6,050,000 shall not be available for expenditure on the Radiologic Control Program, except to the extent that fee revenues above the $12 million that is currently projected for 2004-05 are deposited in the Fund."

Subcommittee Staff Comment and Recommendation: No information has been provided as requested in the May 10th Subcommittee hearing, and no details on what would, or would not, be reduced has been provided. **As such it is recommended to reject this proposal.**

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions:

- **1.** Please describe the May Revision proposal.
- **2.** Specifically, what services will not be provided?
- **3.** Why is there a problem here—is it revenues or over expenditures?
- **4.** When will the Subcommittee receive the requested information from the May 10th hearing?

Budget Issue: Does the Subcommittee **want to reject this proposal?**

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

May 22nd, 2004 (Saturday)
9:00 AM
Room 4203
(Diane Van Maren, Principal Consultant)

Item	*Description*
4440	**Department of Mental Health—*Remaining Issues***
4300	**Department of Developmental Services—*Remaining Issues***

***PLEASE NOTE*:** **ALL previous actions taken by the Subcommittee remain, unless the Subcommittee otherwise modifies the proposal at the May Revision. The "VOTE ONLY" CALENDAR may include the modification or denial of proposals, as well as acceptance of proposals. This will be noted in the Agenda as applicable.**

No public testimony will be taken on "Vote Only" items.

Testimony will be limited today due to time constraints in processing the Governor's May Revision. Please be direct and brief in your oral comments so that others may have the opportunity to testify. Written testimony is also welcomed. Thank you for your consideration.

I. ITEMS RECOMMENDED FOR "VOTE ONLY"

A. Item 4440--Department of Mental Health (DMH)

1. Enforce Mental Health Parity—Proposed Uncodified Trailer Bill Language (Vote Only)

Background and Governor's January Budget: Recent legislation required all managed care plans to provide "parity" between physical health and mental health treatment. Counties are continuing to provide and pay for services for private managed care enrollees, especially crisis services, because the managed care plans do not have adequate services and do not reimburse county mental health for services provided to their covered populations. For example, one County Mental Health Plan (County MHPs) documented that four percent of services provided to the covered populations were reimbursed by the plans.

As part of the January budget package, the Administration made reference to "enforcing existing regulations that require private managed care plans to provide access to crisis services for their enrollees." **In follow-up conversations with the Administration, the following information was noted:**

- There are now federal parity requirements and increasingly, more states like California are requiring parity;
- **Existing state regulations should be enforced by either ensuring that managed care plans have an adequate crisis network or that they reimburse county mental health programs** if they're using that resource to meet the needs of their enrollees;
- **County MHPs report that private managed care plans are increasingly using county mental health crisis services to meet the needs of their enrollees.** This is cost that is being shifted from the private to the public sector. Reimbursing counties for these urgent/emergent services or providing access through their network for this service would reduce some of the burden on an overwhelmed public mental health system.

According to very preliminary fiscal estimates from the Administration, if mental health parity was enforced more consistently, there could be from $5 to $10 million in private managed care funding that could be provided to the County MHPs.

Though this issue was raised in budget documents (Governor's Budget Summary—"A" Pages), no other details have been forthcoming from the Administration.

Subcommittee Staff Comment and Recommendation: In response to the Administration's proposal, it is recommended to adopt the following **uncodified trailer bill language as follows:**

> "The Department of Mental Health, in collaboration with the Department of Managed Health Care, Department of Insurance and applicable representatives from the California public and private mental health systems shall identify the core reasons mental health parity in California is not potentially being achieved, the barriers to achieving it, and what approaches over the short-term and longer-term can be done in order to effectuate a more comprehensive mental health system in California, both public and private." This information shall be provided to the Legislature by March 1, 2005."

2. Technical Adjustment to Governor's May Revision—CDC Beds for State Hospitals

Governor's May Revision—Technical Correction: The Subcommittee has been informed that a technical correction is needed to the State Hospital item in order **to capture an additional $2 million in reimbursements from the Department of Corrections to hire 26.3 positions in the budget year to provide services to 25 CDC–related patients.**

The DMH did not request these resources in the May Revision because the DMH was not aware that the May Revision would include these funds in the CDC budget. **As such, the Department of Finance has requested the Subcommittee to take this action to make the correction in the May Revision.**

Subcommittee Staff Comment and Recommendation: **Subcommittee staff concurs** with the need to make this technical adjustment for the Governor's May Revision to be balanced.

Budget Issue: Does the **Subcommittee want to make a technical adjustment to the May Revision to provide an increase of $2 million (Reimbursement) in the DMH State Hospital budget** to account for the 25 CDC beds?

3. Sexually Violent Predator Evaluations

Background and Governor's May Revision: Sexually Violent Predators (SVPs) have committed two felony acts of sexually violent crimes, as defined in law: rape, child molestation, and other horrible crimes. They also have a diagnosed mental health illness that predisposes them to re-offend. There are currently nearly 500 individuals at Atascadero State Hospital who are SVPs.

The May Revision requests a reduction of $1.5 million (General Fund) to reflect a decrease in the number of SVP evaluations to be performed by private contractors and decreased costs for evaluator testimony.

Subcommittee Staff Comment and Recommendation: The Subcommittee staff concurs with the May Revision.

Budget Issue: Does the Subcommittee **want to adopt** the May Revision?

4. Sexually Violent Predator Conditional Release Population Increase

Background and Governor's May Revision: Sexually Violent Predators (SVPs) have committed two felony acts of sexually violent crimes, as defined in law: rape, child molestation, and other horrible crimes. They also have a diagnosed mental health illness that predisposes them to re-offend. There are currently nearly 500 individuals at Atascadero State Hospital who are SVPs.

Governor's May Revision: The May Revision requests an increase of $218,000 (General Fund) to support the costs associated with the release of additional Sexually Violent Predators from the State Hospitals into the Conditional Release Program. This request is based on full year funding for six clients and half-year funding for five clients. These costs include treatment and living costs, as well as the overall contract with Liberty Healthcare.

Budget Issue: Does the Subcommittee **want to adopt** the May Revision?

B. Item 4300--Department of Developmental Services (DDS) (Vote Only)

1. Proposed Organizational Change Related to Protective Services at the DCs

Background and Governor's January Budget: The January Budget proposed trailer bill language to amend Sections 4491 and 4493 of Welfare and Institutions Code regarding safety issues at the state Developmental Centers. Specifically, the proposed language (1) provided increased authority to the Director of the DDS to be responsible for preserving the peace, and related security items, at the Developmental Centers, and (2) clarified the role of the hospital administrator and peace officers at the facilities.

Prior Subcommittee Hearing (May 3rd): The Subcommittee adopted the January proposal.

Governor's May Revision—Rescinds January Language and Proposes New Changes: The May Revision proposes additional changes to the January proposal. Specifically, the proposed language (1) provides increased authority to the Chief of the Office of Protective Services to be responsible for preserving the peace, and related security items, at the Developmental Centers, and (2) clarifies the role of the hospital administrator and peace officers at the facilities. **The proposed May Revision language is as follows:**

Amend Welfare and Institutions Code section 4491 as follows:

The ~~hospital administrator~~ *Chief of the Office of Protective Services* shall be responsible for preserving the peace ~~in the hospital buildings and grounds~~ *at facilities operated by the Department of Developmental Services* and may arrest or cause the arrest and appearance before the nearest magistrate for examination, of all persons who attempt to commit or have committed a public offense thereon.

Amend Welfare and Institutions Code section 4493 as follows:

~~The hospital administrator of each state hospital may designate, in writing, as a police officer, one or more of the bona fide employees of the hospital.~~ The ~~hospital administrator~~ *Chief of the Office of Protective Services may designate as a* ~~and each such~~ peace officer *those investigators and peace officers assigned to the Office of Protective Services. The Chief of the Office of Protective Services, and each peace officer and investigator shall have the powers and authority conferred by law upon peace officers as specified in Section 830.38 and 830.3(h)* of *the Penal Code. Under the direction of the Chief,* such ~~police~~ *peace* officers *and investigators* ~~shall receive no compensation as such and the additional duties arising therefrom shall become a part of the duties of their regular positions. When and as directed by the hospital administrator, such police officers~~ shall enforce *all* ~~the~~ laws, *and the* rules and regulations of the ~~hospital~~ *facility*, *to* preserve peace and order ~~on the premises thereof~~, and protect and preserve the property of the state.

Subcommittee Staff Comment and Recommendation: Subcommittee staff **recommends to (1)** rescind the April 19th action to adopt the Governor's January proposal, **and (2)** reject the May Revision. **The May Revision reflects a different policy course than January and, as such, illustrates that this issue should be brought forth as a policy bill. There are no dollar savings attributable to the proposal and there is no apparent need as to why this action is required for any budgetary reason.**

Budget Issue: Does the Subcommittee **want to (1) rescind its April 19th action to adopt the Governor's January budget regarding trailer bill language, and (2) reject the** May **Revision?** *(This action would delete the discussion from the budget deliberations.)*

2. Trailer Bill Language Regarding Conversion of Habilitation Programs—Postpone Job-Coach 1:4 For Habilitation

Background: Section 19356.6 of Welfare and Institutions Code, amended in the omnibus bills that accompanied the Budget Act of 2002, changed the minimum Habilitation Supported Employment group size from three consumers to four, effective July 1, 2002, with funding to continue for existing groups of three consumers until June 30, 2004. **It has been recently recognized that there will be some Habilitation Service Providers who are operating at a consumer-to-job-coach ratio of 1 to 3, and who will be unable to achieve the required job-coach-to-consumer ratio of 1 to 4 effective by the July 1, 2004 cut-off date.**

Governor's May Revision: The **May Revision proposes an increase of $1.7 million (General Fund) in the Regional Center estimate for the Purchase of Services because there will be about 108 groups (324 people) who will not successfully transition.** As such, the May Revision assumes that these people will lose their jobs and be placed in more expensive, non-employment programs (i.e., Day Programs) at a cost of about $1.7 million.

Subcommittee Staff Comment and Recommendation: Since some supported employment groups of three will not be able to transition by the July 1, 2004 date, **it is recommended to (1) adopt trailer bill language** to just for programs as specified below, and **(2) reject the $1.7 million** increase because it would not be necessary. **The suggested trailer bill language is as follows:**

> Section 4865.1. A regional center shall continue to pay the existing rate for a supported employment placement group composed of three consumes when the provider submits to the Department of Developmental Services and the regional center, by July 30, 2004, documentation that the:
>
> a. Group was established prior to July 1, 2002, and
> b. Group was at the 1:3 ratio on May 1, 2004, and
> c. employer will only accommodate a group of 3.
>
> In consultation with the regional center, the Department of Developmental Services shall determine whether the requirements of 4665.1 have been met. The Department's decision shall be final.
>
> Groups paid under this section shall meet the requirements of subdivision (r) of Section 4851 by July 1, 2005 or be subject to termination of funding pursuant to subsection (b) of Section 4860.

Budget Issue: Does the **Subcommittee want to (1) adopt trailer bill language as referenced above, and (2) reduce by $1.7 million?**

3. Fund Shift Related to Title XX Funds—Provide General Fund Backfill

Background: The federal Temporary Assistance for Needy Families (TANF) law allows the **state to transfer up to 10 percent of its TANF funds to Title XX.** The transferred TANF funds must be spent on children or their families with incomes below 200 percent of poverty.

Once transferred, the funds may be used to support any programs that meet the stated Title XX goals, including achieving economic self-sufficiency, preventing abuse or neglect, enabling families to stay together, and **preventing inappropriate institutional care.**

The DDS currently receives about $48 million in transferred Title XX funds from the Department of Social Services. The DDS portion of the Title XX moneys is determined by the DSS in accordance with the level of funding needed for CalWORKS.

Governor's May Revision: The May Revision increases TANF fund transfers to support **non-CalWORKS activities to $176.5 million. The May Revision proposes the following new or increased TANF transfers: (1) $56 million to Foster Care, (2) $52.5 million to Child Welfare Services, and (3) $48 million to the DDS.**

Subcommittee Staff Comment and Recommendation: Since 1998-99, TANF funding for **non-CalWORKS programs has increased by 50 percent to $1.1 billion, whereas CalWORKS Program funding has decreased by $757.5 million in the same period.** The core CalWORKS Program needs to utilize the TANF Funds to sustain core aspects of the program, such as providing direct public assistance (food and basic housing).

Therefore, it is recommended to reject the Title XX transfer and restore an equal amount of General Fund support which is $48 million (General Fund).

Budget Issue: Does the Subcommittee **want to adopt the staff recommendation**, as noted above?

4. California Developmental Disabilities Information System (CADDIS) Project

Background and Governor's May Revision: The CADDIS is an integrated case management and fiscal accounting system that is being implemented at the Regional Centers. The target date for implementation of CADDIS in all 21 Regional Centers had been June 2004. **However, the May Revision proposes to delay implementation until December 2004, or six months later. This delay is the result of testing and data conversion issues.**

The May Revision proposes to expend $5.1 million (General Fund) appropriated for this purpose in the Budget Act of 2001, but that will revert on June 30, 2004, be re-appropriated to allow for expenditure in 2004-05. The Administration has also requested $1.1 million (General Fund) for CADDIS maintenance and support, and $1 million (General Fund) for increased data storage and data security (for the Health and Human Services Data Center).

Legislative Analyst Office Recommendation: The LAO notes that several of the Administration's proposal to increase federal funds are contingent on implementation of

CADDIS. **While the project is clearly needed, the LAO is concerned about the DDS' ability to successfully implement this new system.**

Therefore, the LAO is recommending approval of the May Revision to continue funding for CADDIS, as well as Budget Bill Language as follows (two pieces):

Item: 4300-001-0001

Provision X. On or before **October 1**, 2004, the Department of Finance shall provide to the chairpersons of the budget committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee an oversight report on the Department of Developmental Services' California Developmental Disabilities Information System Project. The report shall include, but is not limited to, an overall project status report identifying the project's tasks that have been completed and those which are still outstanding, an assessment of the project's ability to meet critical deadlines, and actions the department must take to address project and contract management issues identified by the project's independent oversight consultant and the Department of Finance.

Provision X. Beginning July 1, 2004, the Department of Developmental Services shall provide, on a quarterly basis, to the Chairperson of the Joint Legislative Budget Committee copies of the monthly status and oversight reports submitted to the Department of Finance for the California Developmental Disabilities Information System Project.

Subcommittee Staff Recommendation: Subcommittee staff concurs with the LAO.

Budget Issue: Does the **Subcommittee want to adopt the LAO recommendation to (1)** adopt the May Revision fiscal amount for CADDIS, and **(2)** adopt Budget Bill Language as crafted by the LAO?

5. Reversion for the Bay Area Project

Background and Governor's May Reversion: The May Revision proposes that Item 4300-495 be added with language to permit the reversion of $5 million (General Fund) for the Bay Area Project in 2003-04 due to the one-year delay in the closure of Agnews Developmental Center. **The proposed language is as follows:**

> " 4300-495 Reversion, Department of Developmental Services. As of June 30, 2004, the balances specified below of the appropriations provided in the following citations shall revert to the balance of the fund from which the appropriation was made:
> 0001 –General Fund
> (1) Item 4300-003-0001, Budget Act of 2002 (Chapter 379, Statutes of 2002), as reappropriated in Item 4300-490, Budget Act of 2003 (Chapter 157, Statutes 2003). $5,00,000 in (1) 20-Developmental Centers Program.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the May Revision to revert these funds in the current year due to the delay in the closure of Agnews Developmental Center.

Budget Issue: Does the **Subcommittee want to adopt the May Revision?**

6. Administration's Revised Day Program Rate Freeze Trailer Bill Language

Governor's May Revision and Prior Subcommittee Action (April 19th): The Administration has proposed the following trailer bill language to clarify the Day Program rate freeze. This rate freeze, enacted as part of the Budget Act of 2003 deliberations, is to be continued from the 2004-05 fiscal year into the next fiscal year.

The Administration's revised trailer bill language is as follows:

Notwithstanding any other provision of law or regulation, during the 2004-05 fiscal year, the department may not approve any rate adjustment for a habilitation services program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2004, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumer's health and safety and the department has granted prior written authorization.

Subcommittee Staff Comment and Recommendation: Subcommittee staff has raised no issues with this proposed language.

Budget Issue: Does the Subcommittee **want to adopt the May Revision?**

II. ITEMS FOR DISCUSSION

A. Item 4440 Department of Mental Health

STATE HOSPITAL FUNDING

1. Sexually Violent Predators (SVPs)—Several Issues

Background Overall: The SVP statute has been in effect since January 1, 1996. SVPs have committed two felony acts of sexually violent crimes, as defined in law: rape, child molestation, and other defined sexual crimes. They also have a diagnosed mental health illness that predisposes them to re-offend.

All SVPs first serve their sentence in a CDC prison. About six months prior to the end of their sentence, they are referred to the DMH for treatment evaluation. The DMH orders evaluations to determine whether the offender potentially qualifies for a SVP commitment. The **Superior Courts are always the arbiters of commitments. If a jury or judge find that it is likely that an individual would re-offend, then the individual is committed to the DMH for treatment and supervision. The statutory length of commitment is two years.** The DMH states that **almost all SVPs are recommitted every two years.** There are currently nearly **500 individuals at Atascadero State Hospital who are SVPs.**

The Sex Offender Commitment Program designed for SVP patients is organized into five phases. The treatment model is based on relapse prevention. **The first four phases are inpatient.** The patient graduates to the next phase based on their completion of specific tasks, rather than a time line. Because of a variety of factors such as the waxing and waning of patient motivation overt time, it will take each patient a different length of time to complete a particular phase of treatment.

The fifth phase of the treatment program is intended to be outpatient and is presently conducted under the auspices of the Conditional Release Program. Liberty HealthCare is responsible for all aspects of SVP Phase V treatment throughout California. The Liberty contract now costs $886,602 (General Fund). There have been three SVPs released as of March 2004. Liberty currently supervises two SVPs in the community.

Governor's January Budget: The Governor's January Budget proposed significant changes to the state' SVP Program. **These proposed changes and their savings are as follows:**

- **1. Reduction of $10.7 million (General Fund)** in the State Hospital item to reflect a proposal to **return 100 pre-commitment SVPs** (those individuals who have not completed the SVP commitment process) **to local jurisdiction** (county jail of last CDC commitment) until the judicial process had been completed and a commitment has been ordered.
- **2. Reduction of $823,000** (General Fund) from the State Hospital item to reflect a proposal to restructure the treatment program for SVPs, to include a new secure SVP residential licensing category. The SVP patients would be divided into three categories with two of the groups attending treatment on an "outpatient" basis within the Coalinga State Hospital. This would reduce the number of level-of-care staff that would be required.
- **3. Reduction of $2 million** (General Fund) in the department support item for SVP evaluations and court testimony **based on the on the enactment of statute that would replace the current two-year SVP commitment period with one that would be *indeterminate* in length.** The DMH contends that this is intended to eliminate the costly and time consuming judicial process that is currently required to be must be completed every two years to renew an SVP commitment.

The DMH has also proposed very extensive trailer bill language with this package.

Subcommittee Staff Comment and Recommendation: The policy issues presented under the proposals are complex and potentially wide ranging, including issues of constitutionality. **As such, it is recommended for the Subcommittee to adopt the Administration's estimated budget savings but to send the entire SVP trailer bill package to the Policy Committee process, most likely Public Safety.**

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** DMH, Please **provide a brief summary** of each of the proposals.

Budget Issue: Does the **Subcommittee want to adopt the proposed budget savings and send the entire SVP trailer bill language package to Policy Committee?**

B. Item 4300 Department of Developmental Services *(Discussion)*

State Developmental Centers

1. Agnews Developmental Center—$11.1 Million Proposed for Unclear Plan

Background—Past Year: In 2003-04, the Administration announced its intent to close Agnews Developmental Center (Agnews) as of July 2005. **With this announcement, DDS commenced the development of a closure plan. Among other things, the plan is to address:**

- The **impact on residents and their families.**
- **Anticipated alternative placements** for residents.
- **Where services will be obtained** that, upon closure of the DC, will no longer be provided by that facility.
- **Potential job opportunities for DC employees** and other efforts made to mitigate the effect of closure on employees.

An ***Advisory Committee*** consisting of consumers currently and formerly living at Agnews, their families, employees of Agnews, Regional Centers, advocates, and others **was established and first met on February 22, 2003. In addition to this Advisory Committee, the DDS also established various *Planning Teams* with responsibility to assist in the closure process.**

Because all but about 50 individuals living at Agnews are consumers of the three Bay Area Regional Centers—Golden Gate RC, San Andreas RC, and RC of the East Bay—the effort has been termed **the Bay Area Project. One of the primary objectives of the closure plan will be to identify and propose ways to strengthen the Bay Area services system to ensure the development of services and supports throughout the region so individuals may remain in their home communities. The three RCs are actively participating in this effort and are working together as a team to facilitate comprehensive planning for the entire region rather than just for their own, individual areas.**

The Planning Teams include, among others, the following:

- A "**Futures Planning Team**" to develop and implement a person-centered planning process that will **result in the identification of a preferred future for *each* Agnews resident**.
- A **"Community Development Team"** to coordinate the development of services and supports that will be responsive to the needs of Agnews' residents transitioning to community services.
- A **"Quality of Services Planning Team"** to assure that Agnews continues to provide services consistent with the residents' needs.

Agnews presently has about **400 residents**. **Over 85 percent have families who play a significant role in their lives. Over two-thirds of those families reside in the Bay Area. About 60 percent have lived at Agnews for over 20 years. Further, about 37 percent require extensive assistance with personal care, eleven percent have enduring medical needs, and 50 percent need a highly structured service that supports positive behaviors.**

Administration's April 1, 2004 Announcement: In a letter dated **April 1, 2004**, the Administration announced the **postponement of the Agnews closure until June 30, 2006** (one-year later than originally thought). The decision to postpone the closure was based on the Administration's assessment of the existing capacity of the Bay Area community to provide the range and types of services needed by 2005.

The letter stated also that postponement was needed in recognition that (1) *up to 100* Agnews residents would need to be transferred to *Lanterman DC*, and (2) more community capacity was needed in order to ensure the health and safety of placing Agnews' residents in the community.

The letter also notes that a closure plan developed pursuant to Section 4474.1 of Welfare and Institutions Code will be completed and submitted no later than April 1, 2005 (i.e., code requires that a plan be presented to the Legislation by April of the year before closure.)

The DDS further articulated with stakeholders' recommendations that the following issues **must be addressed prior to the closure:**

- The stability of living arrangements must be assured;
- An appropriate array of service options designed to meet the special need of Agnews' residents must be available;
- Systems must be in place to ensure continuity of services.
- On-going quality of care must be assured.

Governor's May Revision: The **May Revision proposes an increase of $11.1 million (General Fund) to commence with transitioning 200 individuals from Agnews**.

Specifically, $11 million of this amount is proposed for facility preparation at Sonoma Developmental Center to renovate buildings that have been used for other purposes to accommodate about 200 consumers currently residing at Agnews that would be transferred to Sonoma in 2005-06. Most of the request for facility preparation expenditures is to purchase Day Treatment portable buildings ($8.5 million General Fund). The remaining **$150,000 would be used to fund increases in employee costs related to staff training for assistance in career transitioning to the community.**

It should be noted that the May Revision reflects two substantial changes from the April 1 letter. The May Revision increases from 100 to 200 residents going from Agnews to another Developmental Center, and it shifts the proposed transfer of individuals from the Lanterman DC to Sonoma DC.

Subcommittee Staff Comment and Recommendation: It is well recognized that the transition of consumers to new living arrangements, as well as all of the many myriad of issues that need to be discussed, resolved and planning for, in the closure of a large facility is extremely complex, particularly given the intensive medical needs of many of the consumers who reside at Agnews. **This is exactly why the Legislature crafted Section 4474.1 of Welfare and Institutions Code—to have the Administration provide a comprehensive plan, replete with policy and fiscal implications as one package**. Such a package was provided to the Legislature with the closure of both Stockton and Camarillo Developmental Centers.

In the absence of having such a comprehensive plan, or similar document that offers a perspective on the policy options and fiscal considerations associated with those options, it is extremely difficult to know what the next steps are and how this particular proposal fits into that vision. Though the Administration has been crafting a plan, said plan has not yet been released due to continued deliberations within the Administration. This is completely understandable given the complexities of issues that need to be resolved and the reality of having a new Administration.

With respect to the policy and fiscal issue presented at the May Revision, expanding Sonoma DC is not a particularly constructive proposal for several reasons. First, Sonoma is a large campus already and adding 200 additional residents is very significant. It is equivalent to an increase of 25 percent in the number of residents (800 residents now to 1, 000 residents if approved). **Second, this arrangement is intended to be temporary but it is not clear as to what that would mean.** Further, is it prudent policy to expend at least $11.1 million, likely to increase to be much more once facility operations commence, for temporary arrangements of potentially less than one year? Let alone all of the transition aspects for the consumers themselves.

Three, what of the other policy and fiscal issues? How will these be addressed? Specifically, issues of building capacity in the greater-Bay Area for community placement and supports has not been addressed at all in this proposal.

Therefore, in an effort to facilitate the closure of Agnews by 2006 but to also provide oversight by the Legislature as to the comprehensive policy and fiscal options that will be coming forward, it is recommended to (1) establish a special Item within the budget (Item 4300-105-0001 for example) and appropriate the $11.1 million (General Fund) to this Item, (2) adopt Budget Bill Language (as shown below), and (3) reject the administration's proposal.

Item 4300-105-0001. Special Item for Agnews Transition
Provision X.

> "Funds within this Item may only be expended to facilitate the development of community-based living options for current residents of Agnews Developmental Center. The Department of Developmental Services, through the California Health and Human Services Agency, shall submit an expenditure plan for these funds to the Joint Legislative Budget Committee. The plan shall not be effective without the approval of the Chairperson of the Joint Legislative Budget Committee and shall be implemented no sooner than 30 days after being submitted to the Joint Legislative Budget Committee and no sooner than 30 days after a comprehensive closure plan for Agnews Developmental

Center, developed pursuant to Section 4474.1 of the Welfare and Institutions Code, has been submitted to the Legislature."

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please provide **a brief update on the progress of the Bay Area Project.**
- **2.** Please **provide a brief summary of the key policies that will need to be discussed and decided over the course of the next 6 months.**
- **3.** Please **provide a brief summary of the May Revision, including timelines for facility prepartion and the potential transition for consumers.**
- **4.** When **may a comprehensive plan on Agnews be provided to the Legislature**—July or later?

Budget Issue: Does the **Subcommittee want to (1)** establish **a special item for appropriation** of the $11.1 million (General Fund) (4300-105-0001), and **(2) adopt Budget Bill Language** which serves as a mechanism to allocate the funds through the Administration and Legislature as needed and determined?

2. Developmental Centers Resident Population Estimate and Related Adjustments

Background: State Developmental Centers (DCs) are fully licensed and federally certified as Medicaid providers via the California Department of Health Services. **They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training.** Education programs at the DCs are also the responsibility of the DDS.

The DDS operates five Developmental Centers (DCs)—Agnews, Fairview, Lanterman, Porterville and Sonoma. setting Porterville is unique in that it provides forensic services in a secure setting. In addition, the department leases Sierra Vista, a 54-bed facility located in Yuba City, and Canyon Springs, a 63-bed facility located in Cathedral City. Both facilities provide services to individuals with severe behavioral challenges.

Governor's May Revision: **The May Revision proposes expenditures of $714.6 million ($362 million General Fund),** excluding state headquarter's support**, to serve 3,307 residents who reside in the state Developmental Center system. This reflects a caseload decrease of 60 residents and a net decrease in funds of $243,000 ($32,000 General Fund) compared to the Governor's January budget. However, while the proposed budget for 2004-05 reflects savings from the on-going decline in the DC population, these savings are more than offset by increases in retirement costs and other factors, resulting in a net growth in DC expenditures of 1.4 percent in the budget year.**

The Developmental Center estimate consists of the following *core* assumptions:

- **Reduces by $2.5 million** ($1.2 million General Fund) and 28 positions at the DC's to **reflect a reduced staffing** need due to a decline in the DC population. In addition, a decrease of one position is requested to allow redirection of resources for community facilities staffing contracts for critical but hard-to-fill positions.
- **Increase of $12.9 million** ($7.3 million General Fund) **to reflect the affect of increased employee compensation** costs that began in 2003-04 and are continuing into 2004-05. The current-year costs are included in the Omnibus Deficiency Bill (SB 1842).
- Rescinds the Governor's January Budget proposal to contract out for food services. **The Subcommittee *rejected* this proposal in it's April 19th hearing. As such, the Governor is conforming with the Legislature. No adjustment on this item is needed since the Subcommittee already increased funding by $1.6 million ($910,000 General Fund) to account for this proposal. The Subcommittee's prior action will therefore be retained.**
- Provides an increase of $2.3 million ($1.8 million General Fund) for janitorial contracts as needed at the DCs.
- Increases by $750,000 (Reimbursements) for the Life Services Alternatives Project to assist consumers transitioned from the Agnews DC.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- Please **provide a very brief overview** of the May Revision.

Subcommittee Staff Comment and Recommendation: Subcommittee staff recommends to **(1)** adopt the May Revision baseline estimate as noted, and **(2) retain the Subcommittee's prior action from the April 19th hearing to restore funding to have state employees provide food** services (i.e., not contract out, since it is illegal).

Budget Issue: Does the Subcommittee **want to (1) adopt the May Revision base-line estimate and (2) retain the Subcommittee's prior action from April 19th to restore funding to have state employees provide food services?**

Community-Based Services and Regional Centers

1. May Revision "Base-Line" for the Purchase of Services at the Regional Centers (Current & Budget Years)

Background-- Purchase of Services (POS): The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. RCs purchase services for consumers and their families from approved vendors when "generic" services are not available or appropriate, and coordinate consumer services with other public entities. The **Purchase Of Services (POS) portion** of the Regional Center budget **accounts for about 80 percent of total expenditures**.

For budget development and allocation purposes, the **POS budget consists of four key categories—Residential Placement, Day Programs, Transportation and Other Services which includes health care, respite, support services and other miscellaneous services.**

Background on Regional Center Operations: The RC Operational budget covers the staff who provide the RCs' direct services to consumers and their families, and the organizational functions in which they operate. **Generally, the RCs Operations budget consists of four components—(1) mandated services, (2) support functions, (3) special case add-ons, and (4) non-personnel costs.**

Governor's May Revision—Current Year (2003-04) Reduction: The May Revision for the current-year **clearly reflects the affects of the cost containment instituted through the Budget Acts of 2002 and 2003.** (These specific cost containment actions were discussed and listed in the Subcommittee's agenda from April 19th.) **As noted in the chart below, the current-year expenditures have decreased by $68.2 million (decrease of $76.9 million General Fund).**

Table: ***Current-Year (2003-04) May Revision Comparison***

Regional Center POS and Operations	January Budget 2003-04	May Revision 2003-04	Difference (millions)
Purchase of Services	$2,085 billion	$2,018 billion	($67.5 million)
Early Start	$20.1 million	$19.8 million	($300,000)
Rehabilitation	$22.9 million	$22.5 million	($400,000)
Subtotal	**$2,128 billion**	**$2,060 billion**	**($68.2 million)**
Operations			
Totals	**$424.8 million**	**$424.8 million**	**--**
General Fund	**$1,670.4 billion**	**$1,593.5 billion**	**($76.9 million)**
Reimbursements	$832.9 million	$841.6 million	$8.7 million
Program Development	$1.1 million	$1.1 million	--
Federal Funds	$49.3 million	$49.3 million	--
Totals	**$2,553.7 billion**	**$2,485.5 billion**	**$68.2 million**

With respect to the Purchase of Services (POS) *reduction* of $68.2 million (total funds), most of this reduction--$49.7 million—was in the base estimate. As such, Regional Centers are purchasing services at a lower rate.

Governor's May Revision—Budget Year (2004-05): The May Revision reflects total expenditures of $2.293 billion (total funds) **which is about $26.2 million (total funds) more** than estimated in the Governor's January Budget.

This revised amount is a combination of (1) a reduction in the base due to recently enacted cost containment from 2003-04 and prior years, **(2)** a reduction in the growth trend due to these prior cost containment actions, **(3)** proposed statewide standards for the Purchase of Services (POS), and **(4)** a series of technical adjustments. The cost containment and growth trend reductions are discussed first, below. (The proposed statewide standards for POS are discussed separately under item 2 of this agenda, below.)

First, the May Revision for the Purchase of Services assumes cost containment actions that total **to savings of $100 million (General Fund). A summary of these measures is shown in the table below.**

Table: ***Proposed Cost Containment Measures (2004-05) To Achieve $100 million***

Proposed Cost Containment Issue	Total Savings	General Fund Savings	Reimbursements Savings
Adjustment to Base from 2003-04	$67.5 million	$67.5 million	0
Proposed Purchase of Services Standards	$15.4 million	$11.9 million	$3.5 million
Family Cost Participation Program	$600,000	$500,000	$100,000
Reduced Growth Trend	$11.4 million	$11.4 million	0
Increased Federal Fund Participation	0	8.7 million	($8.7 million)
TOTAL SAVINGS	**$94.9 million**	**$100 million**	**$5.1 million *net***

Again, as illustrated in the May Revision for the current year, the budget year May Revision estimate reduces the base because the cost containment enacted through the Budget Acts of 2002 and 2003 are having an effect at curtailing expenditures in the Purchase of Services item. These cost containment actions have reduced the base and have reduced the growth trend.

The Subcommittee has already taken action on several of these cost containment measures. These are referenced below.

Prior Subcommittee Hearing (April 19th)—Continue Prior Cost Containment: **The Subcommittee adopted continuation of all prior year cost containment measures, along with trailer bill language as designated in that hearing. These actions remain in effect and will be technically fiscally updated to reflect the May Revision caseload changes. The cost containment measures are summarized below.**

- Reduction of $10 million as an unallocated reduction.
- Continue application of the federal standard for substantial disability.
- Continue elimination of the SSI/SSP rate pass-through to Community Care Facilities.

- Continue a service level freeze for Community Care Facilities.
- Continue suspension of funding for start-up of new services unless it was associated with the placement of an individual in the community.
- Continue a rate freeze on Adult Day Programs and in-home respite services related to any program design modifications.
- Continue a rate freeze for vendor-provided services conducted under contract to the Regional Centers.
- Continued to extend the amount of time allowed for the Regional Centers' to conduct assessment of new consumers from 60 days to 120 days following initial intake.

Prior Subcommittee Hearing (May 3rd)—New Cost Containment of Co-Payment: The Subcommittee adopted modified trailer bill language to implement the Administration's Family Cost Participation Program. The fiscal assumptions of the Administration-- no savings in 2004-05 ($570,000 POS off-set and a $570,000 RC Operations cost), and annualized savings of about $2 million thereafter. **This action remains in effect.** There were no proposed May Revision changes by the Administration to this item.

Second, the estimate **reflects a series of technical adjustments. These are as follows:**

- $17.4 million increase based on updated expenditure data for base costs and related adjustments.
- $12.6 million increase for community placement plan and continuation costs based on the annual January Regional Center survey.
- $2 million decrease to reflect updated savings for Community Care Facilities.
- $1.8 million decrease to reflect decreased need for Gap Resource Development.
- $3.1 million decrease to reflect updated caseload data for Habilitation Services.

Third, federal reimbursements are up by $8.7 million due to revised expenditure and eligibility data (for the Home and Community Based Waiver). These federal reimbursements are used to off-set General Fund support.

Subcommittee Staff Recommendation: It is recommended to **(1)** retain the Subcommittee's actions from the April 19th hearing regarding cost containment (as noted above) but to update the fiscal estimates to conform with the May Revision for these items, **(2)** retain the Subcommittee's action from the May 3rd hearing regarding the Family cost Participation (as noted above), **(3)** adopt the series of technical adjustments, **(4)** adopt the revised reimbursement levels. **These recommendations conform to the Governor's proposed baseline estimate for the May Revision.**

(The proposed statewide standards for the Purchase of Services is discussed below.)

Budget Issue: Does the **Subcommittee want to adopt the Governor's baseline estimate for the May Revision as recommended?**

2. Governor's Proposed Statewide Standards for the Purchase of Services

Background—The Purchase of Services: The Regional Centers are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. **Regional Centers also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.**

As recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to "generic" services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors.

The DDS, in consultation with the Association of Regional Center Agencies, annually allocates POS funds through a contract process in which each RC receives a base allocation and then subsequent allocations as determined by the DDS. **The allocation of POS funds is primarily based on the previous year's expenditures plus growth which may not be fully reflective of consumers needs in some areas.**

Background—Individualized Program Plan (IPP): The provision of services and supports to consumers is coordinated through the Individualized Program Plan (IPP). **The IPP is prepared jointly by an interdisciplinary team consisting of the consumer, parent/guardian/conservator, persons who have important roles in evaluating or assisting the consumer, and representatives from the Regional Center and/or state Developmental Center.**

Services included in the consumer's IPP are considered to be entitlements (court ruling).

Background—Statewide Standards for POS Have Been Proposed Twice Before and Rejected by the Legislature: Past approaches to implementing a statewide standard for the purchase of services have not been particularly constructive. **Generally, the Administration has desired broad authority to (1)** prohibit any consumer service or support, **(2)** unilaterally reduce provider rates, and **(3)** grant unprecedented authority to the RCs to deny services without any opportunities for consumers to appeal (i.e., no fair hearing process). **Further, in reviewing past actual expenditures, it would be near impossible to achieve a significant level of savings in addition to the continued cost containment provisions unless certain services are eliminated and provider rates in many service categories are further reduced.**

Governor's May Revision—Similar Standards Proposed for Less Identified Savings: The **May Revision continues the Governor's original concept from January of implementing statewide standards for the Purchase of Services (POS).** ***However,*** the assumed dollar reduction from the POS standards is significantly less in the May Revision than from January. **This is because the prior year cost containment measures, as discussed above, have reduced the base level funding more than anticipated.** As such, the Administration is assuming a smaller effect from the POS standards in order to achieve the $100 million in cost savings as originally desired for a reduction level.

Specifically, the DDS assumes a phased-in approach to the POS standards. Because Individual Program Plan's are review once every three-years, the fiscal assumptions assume that it will take three years to fully implement (one third of the consumers each year as their IPP is reviewed.). As such, the following fiscal is assumed by the DDS:

- ***2004-05:*** Reduction of **$15.5 million** ($11.9 million General Fund savings and a loss of $3.5 million in federal funds.).
- ***2005-06:*** Reduction of **$30.9 million** ($23.9 million General Fund savings and a loss of $7.1 million in federal funds).
- ***2006-07:*** Reduction of **$46.4 million** ($35.8 million General Fund savings and a loss of $10.6 million in federal funds).

Key May Revision Assumptions: In the May Revision, a fiscal estimate is provided which displays the level of savings the DDS ***anticipates will be achieved for each of the specified POS standards***. **Some of the POS standards provisions that are anticipated to achieve the most significant level of savings (*annual* savings are shown) are the following:**

- Provision (a 6): "The cost of providing services by different vendors, if available, shall be reviewed and the least costly vendor who is able to meet the consumer's needs, as identified in the consumer's IPP shall be selected." (Savings of $22.7 million annually).
- Provision (a-15): "At least annually, RCs shall provide the consumer or the parents of minors or the conservator a statement of RC purchased services and supports for the purpose of ensuring that units purchased are delivered. The statement shall include the type, unit, month and cost of services and supports." (Savings of $5.7 million annually).
- Provision (a-14): "RCs shall establish an internal process to ensure all of the following: A) adherence to all laws and regulations…, E) Final decision regarding the consumer's IPP…are made within the context of the consumer's plan meeting…." (Savings of $5.7 million annually).

Subcommittee Staff Comment: Though this proposal is better crafted than prior proposals, there is considerable analytical and policy work that remains to be done prior to any implementation.

First and foremost is that the proposed trailer bill language gives the Administration carte blanche authority in making programmatic decisions. The Legislature needs to maintain both the policy and fiscal integrity of the program. **Second, it is unclear how an individual's IPP would be affected by statewide standards being established.** Without such an analysis, it

is impossible to discern if services are being eliminated, rates are being reduced or other services are being too tightly restricted.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1. Please provide a brief description of the May Revision proposal, including *key* policy and fiscal assumptions.**
- **2. How may this proposal interact with the other cost containment proposals?**
- **3. How may an individual's IPP be affected by this proposal?**
- **4. What may be the unintended consequences of this proposal?**

Budget Issue: Does **the Subcommittee want to modify, adopt or reject the Administration's proposal to implement statewide POS standards?**

3. Governor's May Revision -- Regional Center Operations Adjustments

Background on Regional Center Operations: The DDS developed the "Core Staffing" formula in 1978. The purpose of this formula was to estimate personnel and related expenditures across all 21 Regional Centers in order to ensure accurate budgeting and facilitate fiscal equity at the Regional Centers across the state. Since this time, the formula has been periodically modified to account for certain changes or trends. However it has been well documented (Citygate and Associates Report of 1998) that the Core Staffing formula no longer accurately reflects costs at the Regional Centers. That said, it is still the tool DDS uses for the development of the Regional Centers Operations budget.

Generally, the RCs Operations budget consists of four components for staffing and operations purposes. These include: (1) mandated services, (2) support functions, (3) special case add-ons, and (4) non-personnel costs.

Governor's May Revision: The May Revision proposes total expenditures of $435.6 million (total funds) for Regional Center Operations. This reflects the following **key adjustments.**

- **Unallocated reduction of $6.5 million** as a cost containment measure. (January proposed trailer bill language was rescinded.)
- **Increase of $6.1 million for Regional Center staff** to assist in implementing the proposed statewide **POS Standards**.
- **Increase of $570,000 to implement the Family Cost Participation Program.** (This augmentation was already adopted by the Subcommittee in its May 3rd hearing.)
- **Increase of $2.8 million** to allow for accelerated enrollment of consumers on the federal Home and Community-Based Services Waiver up to the federal enrollment cap. *(This will assist in drawing down more federal reimbursements to offset General Fund support.)*

Prior Subcommittee Action (May 3rd): The Subcommittee adopted the Administration's fiscal assumptions for implementing the Family Cost Participation Program which provided $570,000 to the RCs for staff.

Subcommittee Staff Comment and Recommendation: It is **recommended to (1)** adopt the Administration's proposal to reduce by $6.5 million (unallocated), **(2)** reject the increase of $6.1 million for RC staff to implement the POS statewide standards, **(3)** retain the Subcommittee's prior action from May 3rd to provide the $570,000 to implement the Family Cost Participation Program, **(4)** adopt the increase of $2.8 million for the accelerated enrollment of consumers on the Waiver, and **(5)** make any conforming technical adjustments related to caseload and staffing.

Budget Issue: Does the Subcommittee want to adopt the staff recommendation as noted above?

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please provide a **brief overview of the May Revision**

DDS State Headquarter Support

1. DDS Positions for Implementing Statewide POS Standards

Governor's Finance Letter: In a Finance Letter, the Administration requested 9 positions and an increase **of $1.5 million ($1.3 million General Fund)** for the DDS to conduct specified cost containment actions, including activities related to implementation of (1) statewide POS standards, (2) standardized rates, (3) Self-Determination Waiver, and (4) legal requirements regarding these items.

With respect to the **Statewide Purchase of Services** the DDS notes the following key aspects:

- The two positions are needed given that the development of these standards will raise the most sensitive and complex policy and legal issues affecting the community developmental services system in many, many years. These standards will impact nearly 200,000 consumers and families and over 60,000 vendors and service providers.
- These positions are needed for researching and resolving complex policy and legal issues, working with stakeholders, writing the standards, and shepherding the package through the regulatory process. To meet the requirements of the Administrative Procedures Act, these standards need to be well crafted, legally sound, acceptable to the community, and defensible. These positions would be needed to provide technical assistance and monitoring on an ongoing basis after adoption.

Prior Subcommittee Action (April 19th): In this hearing, **the Subcommittee approved 7 of the 9 positions and related funding as requested. This action included all specified functions except for the two positions and related dollars for the implementation of the statewide standards for POS.**

Subcommittee Staff Recommendation: It is recommended **to reject these two positions** and the associated funding.

Budget Issue: Does the Subcommittee **want to reject these two positions** and their associated funding?

LAST PAGE OF AGENDA

Senate Budget & Fiscal Review
Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Consultant, Ana Matosantos

Agenda 1

Saturday, May 22, 2004
9:00 a.m.
Room 4203

5180 Department of Social Services

1. Foster Care Program

Background: The Foster Care program provides support payments for children in out-of-home care as a result of a judicial order or a voluntary placement agreement. The program provides payment to foster care service providers, including foster homes, foster family agencies, residential treatment for seriously emotionally disturbed children and group homes. The program is administered by the Department of Social Services and operated by county welfare departments. It serves an estimated average of 75,800 youth a month.

Governor's Budget: The budget provides $1.8 billion ($462.8 million General Fund) to support the foster care system.

VOTE ONLY ITEMS

Issue A - Title IV-E Waiver

Background: Title IV-E is the principal source of federal funding for child welfare. It funds maintenance payments to foster and adoptive families, placement and administrative costs, including case management, eligibility determination, licensing, and court preparation; and training for staff and foster and adoptive parents. Children who are placed in out-of-home care or who are adopted out of the foster care system are eligible for IV-E funding if they meet certain income eligibility criteria. IV-E income eligibility is based on each state's Aid to Families with Dependent Children eligibility standards that were in place when that cash welfare program was replaced by the Temporary Assistance for Needy Families block grant in 1996. Because the 1996 standards have never been adjusted for inflation, the number of children who meet IV-E eligibility is declining over time.

May Revision: A May Finance letter requests to extend 4 limited term positions and to establish 3.5 limited term positions to develop and implement a Title IV-E Waiver Demonstration Project. The letter also requests continuation of contract funding for a federally required evaluation.

California is developing a Title IV-E waiver application to obtain increased flexibility in the use of this federal funding stream. The state proposes to use IV-E funds to provide services to children and families before abuse or neglect occur. Activities that may be funded through the waiver include: in-home services, such as respite care, or counseling, to families who are at risk of having their children removed; family needs assessments and service plan development; and services to families, without filing a dependency petition with the court. The state plans to use a "capped allocation" fiscal strategy that would be available for up to 20 counties.

The Assembly approved the requested extension of 4 limited term positions and continuation of contract funding to provide state oversight of the IV-E waiver.

Staff recommendation: Conform to the Assembly action.

Issue B - Foster Care Reforms

Governor's Budget: The budget assumes $20 million General Fund in savings resulting from development and implementation of programmatic reforms that shorten the period of time children spend in foster care. The budget stated that reforms could include performance-based contracts; restructuring of foster care rates; and receipt of a federal waiver that permits use of federal foster care funds for child welfare purposes. The Administration intended to submit specific reform proposals to the Legislature as part of the Governor's May Revision.

May Revision: The May Revision proposes a series of foster care reforms for total budget year savings of $41.1 million ($15.2 million General Fund). The proposed reforms include the following short-term and long-term strategies:

a. Non-related legal guardians: The Administration proposes to reduce the rates for non-related legal guardians appointed by the Probate Court. Under current law, non-related legal guardians who are caring for children unknown to Child Welfare Services and not at risk of abuse or neglect receive the full Foster Care basic rate. Relatives caring for abused and neglected dependent children that do not satisfy federal IV-E requirements are only eligible for the lower CalWORKs program grant. The Administration proposes to reduce the rate for non-related legal guardians to the CalWORKs level for **budget year savings of $9.8 million General Fund**.

Staff recommendation: Adopt the May Revision proposal.

b. Eligibility determination: Federal law rules require annual evaluation of foster care eligibility. State regulations require that counties examine foster care eligibility twice per year. The Administration proposes to require only one annual foster care eligibility redetermination for **budget year savings of $4.5 million General Fund.**

The Assembly adopted the proposed trailer bill language and adopted the savings as a reduction to foster care aid payments.

Staff recommendation: Conform to the Assembly action.

c. Financial Audit Reimbursements: California currently reimburses providers who receive less than $300,000 in federal foster funds for the costs of independent financial audit reports up to a cap of $2,500. The Administration proposes to eliminate this supplemental state reimbursement available to small group homes and foster family agencies for **budget year savings of $.2 million General Fund.**

Staff recommendation: Adopt May Revision.

d. Foster Family Agency rates: Foster family agencies are nonprofit organizations that recruit foster parents, certify them for participation in the program, and provide them with training and support services. They were created in the mid-1980s as an alternative to group home care. FFA reimbursement rates vary according to the age of the child and range from $1589 to $1787 per month. Five FFAs receive "grandfathered" rates, which are higher than other FFAs statewide. The Administration proposes to reduce the rates received by the "grandfathered" agencies to the current schedule for **budget year savings of $.7 million General Fund**.

Staff recommendation: Reject May Revision proposal.

e. Audit reforms: The Administration proposes to make a series of changes to the group home audit process to streamline the process and reduce workload for the state. Proposed trailer legislation would allow the department to adjust a group home's rate based on a non-provisional program audit (three-month period), eliminate the informal hearing process for non-provisional audits, and to restrict applications for rate increases of providers who fail provisional audits. **The May Revision does not identify budget year savings associated with these proposals.**

Constituency comments: Representatives of providers oppose the proposed audit reforms. They argue that short-term audits could be punitive to providers who are actually meeting their RCL points over the year, but have a change in staffing during the audit period. They oppose the proposed elimination of the informal appeal process, as formal appeals require more resources from providers and from the state. Lastly, they oppose the proposed restriction for rate increases of providers who fail provisional audits and argue that it would eliminate the flexibility of a new group home program to increase the level of care and services it provides.

Staff recommendation: Reject the May Revision proposal.

f. Relative providers: The Administration proposes trailer bill legislation to reduce the grant amount for foster parents that are relatives, who have not moved toward permanency after 4 years. If these relatives have not taken steps to adopt the children or become their legal guardians their grants will be reduced to the CalWORKs child-only grant level, a difference of over $400 per month. No grant reductions will be made until 2006. Therefore, **the May Revision does not assume any savings associated with this proposal in the budget year.**

Staff recommendation: Reject the May Revision proposal.

DISCUSSION ITEM:

g. Performance Based Contracting and Rate Reforms: A May Finance letter requests 6.5 limited term positions and $850,000 for contractor services to: (1) develop a performance-based contracting system for foster care group homes and foster family agencies, (2) conduct a review of the specialized rate structures which support foster family homes and (3) fund an independent evaluation. The May Revision also proposes trailer bill legislation to authorize DSS to implement a performance based contracting pilot project in participating counties.

Currently, group home providers are reimbursed by the state and counties based on the qualifications of their staff and the intensity of the services they provide. Foster family agencies are reimbursed at varying rates depending on the age of the child and whether they are classified as "treatment" or "non-treatment". Group homes and foster family agencies are required by law to meet the care and supervision needs of each child in placement. However, payment rates are based upon services provided, not on results achieved.

Under the Children and Families Services Review and California's CWS Outcomes and Accountability system, the state and counties are expected to meet or exceed specified child and family outcomes. Future federal fiscal penalties are tied to program performance and to the state's ability to meet specific program improvements. The Administration proposes to develop and implement a performance-based system for the oversight and reimbursement of foster family agencies and group homes that is consistent with the overall programmatic shift to focus on child and family outcomes. **The May Revision does not assume budget year savings associated with this proposal.**

Staff comment: While implementation of performance based contracting for foster care providers may be beneficial to children and to the child welfare system, the May Revision proposal is conceptual and lacks important details. For example, the proposal lacks details including the performance or outcomes that will be measured, how performance would be measured, and information regarding the nexus between the provider's authority and the performance outcomes. The proposed trailer bill legislation authorizes the Department of Social Services to implement a performance based contracting system for foster care providers, but does not specify what such a system would involve. Such a system could involve significant program changes, impact program costs, and affect provider availability and system capacity.

Subcommittee request: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Please describe the May Revision proposal.
2. What would the proposed performance based contracting for foster care providers involve?
3. What outcomes or performance standards would the state expect providers to achieve?
4. Would performance measurements be consistent with provider authority?
5. What changes to the current system design, if any, would be associated with the proposal?

Staff recommendation: Reject the May Revision proposal.

II. Community Care Licensing

1. Increase Community Care Licensing fees to cover program costs.

Background: California began assessing fees from a wide range of facilities licensed by the Department of Social Services in 1992. The fees were established to cover a modest portion of the costs for the state's licensing program. They are assessed on a per facility basis, with the exception of fees levied on child care centers operating more than one facility.

Since 1992, DSS fees had remained unchanged. The Budget Act of 2003 and its implementing legislation substantially increased the CCLD fees, established a new fee on foster family agencies and eliminated the cap on certain child care center fees. Fees on child care providers generally doubled, while fees on residential care providers increased by at least 25 percent. CCLD fees will now generate $14 million in revenue and will cover 40 percent of the General Fund costs of the Community Care Licensing Division.

Governor's Budget: The budget proposes to increase fees paid by CCLD licensees over a three-year period to fully fund the state community care licensing costs with fee revenue. The Governor's Budget assumes $5.8 million in revenue resulting from the proposed fee increases.

Over the next three years licensing fees will double to reach the necessary level of revenue. The Department of Social Services is currently working with representatives of providers to review its existing fee structure and develop a new fee schedule consistent with the Governor's proposal.

Licensees subject to the fee increases include childcare providers, adult care facilities, children residential programs, and senior care providers. The state and counties are the primary, and in some cases the sole, purchasers of services provided by CCLD licensees. Substantial CCLD fee increases are tantamount to a rate reduction for some providers. Such increases may result in a loss of available providers and additional pressure for adjustment of reimbursement rates.

Currently, the CCLD fee revenues are considered General Fund revenue and as such are deposited into the General Fund along with all other General Fund revenues. The Analyst believes that this practice makes it difficult for the Legislature to determine whether or not the fees are adequate to fund the General Fund portion of the CCLD budget. The LAO recommends that the Legislature establish a special fund to capture licensing fee revenue and assure that the proposed fee increases yield a stable funding source for the Community Care Licensing Division.

The Subcommittee considered the Governor's proposal at its March 11 hearing and requested that DSS work with stakeholders to develop a fee proposal that would meet the General Fund target, while considering the impact of fee increases on the availability of providers and continued access to services for program consumers.

Staff recommendation: (1) Reject proposed trailer bill legislation to increase CCLD fees to replace General Fund support for the CCLD; (2) Require that licensing fees paid by CCLD licensees be deposited into the Technical Assistance Fund; and (3) Assume $5.8 million in increased fee revenues and adopt placeholder trailer bill to realize the specified level of revenues.

III. In-Home Supportive Services - Residual program

May Revision: On May 3, 2004, the Administration submitted an application for a Medicaid 1115 waiver to secure federal financial participation in the IHSS Residual program, in lieu of the elimination proposed by the Governor in November. The May Revision restores program funding and assumes that the waiver will be approved and that California will receive federal funding for IHSS Residual program costs.

A May Finance letter requests that the Legislature establish 9.5 new positions and provide $734,000 ($367,000 General Fund and $367,000 Reimbursements) in increased funding for Department of Social Services staff to develop, implement and manage the IHSS Plus waiver. The May Revision also proposes to establish 5 new positions at the Department of Health Services to oversee the waiver.

The Subcommittee took the following action at its May 20 hearing: (1) Adopted the IHSS residual program restoration and assumed increase in federal funding as proposed in the May Revision; (2) Approved 6 of the 9.5 positions requested for waiver oversight; (3) Adopted placeholder trailer bill legislation to implement the IHSS waiver and facilitate the transition of consumers from the Residual Program to the waiver; and (4) Retained the existing statutory framework for the Residual program.

Department of Finance request: The Department of Finance has informed Subcommittee staff that the May Finance letter included an error regarding the scheduling of resources for staff in the DSS state support item. DOF has requested that the Legislature make a technical correction to the IHSS Plus Waiver support Finance letter to reflect the correct program for the funding.

Staff recommendation: (1) Amend prior Subcommittee action to approve 6 positions for waiver oversight, to be reflected in Schedule 25 - Social Services and Licensing of Item 5180-001-0001.