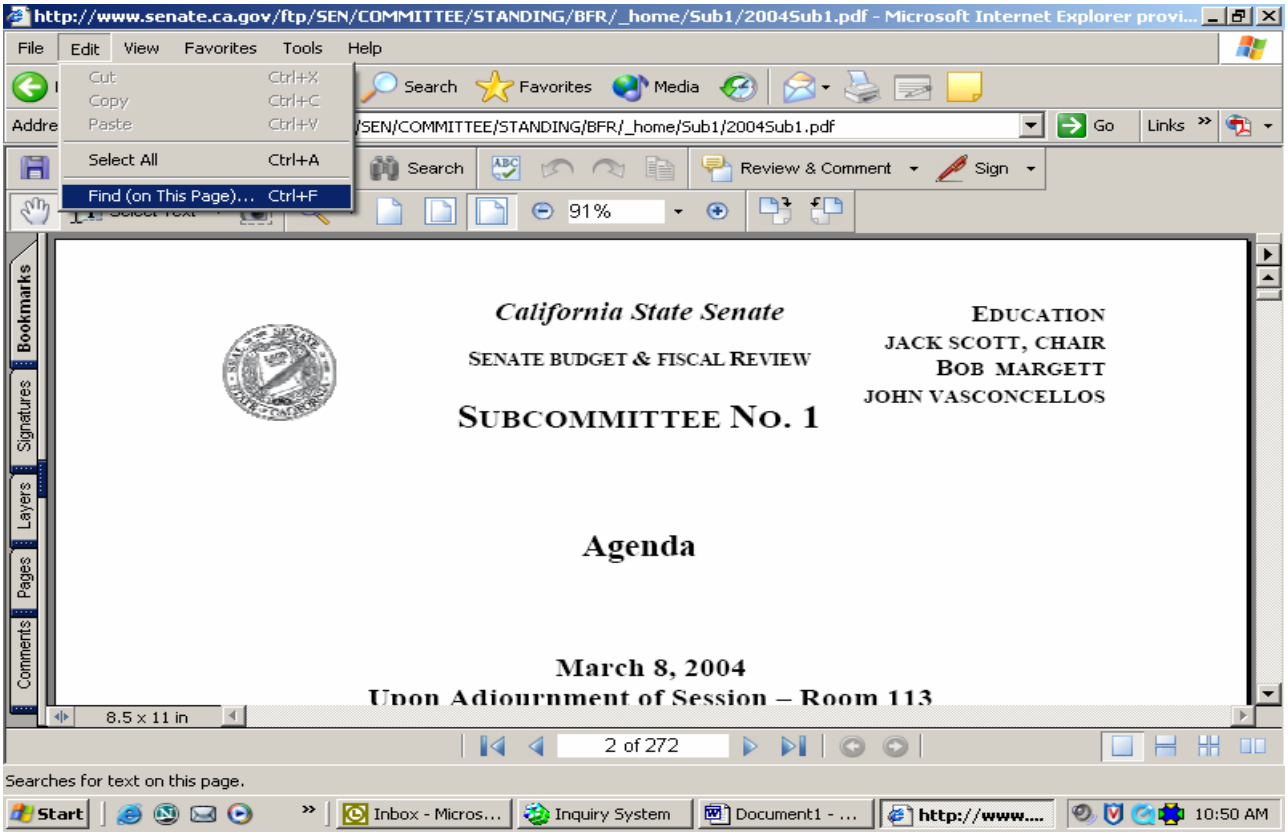
Senate Budget and Fiscal Review

Subcommittee No. 3 2007 Agendas

Complete year 2007 Subcommittee No. 3 agendas in PDF format. They are archived in Adobe to make them more accessible by subject. Please use "Edit" then "find" from the Menu to access information. Use "Bookmarks" from side menu To access agendas by date.



SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Thursday, March 8, 2007
10:00 A.M. or Upon Adjournment of Session
Room 4203 (John L. Burton Hearing Room)
(Eileen Cubanski, Consultant)

Vote-Only Agenda

Discussion Agenda

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.

Discussion Agenda (cont.)

Item Department Page

Vote-Only Agenda

Vote Only Issue 1: OSHPD—Senate Bill 1661 Workload

Description: The Governor's Budget proposes $1.425 million from the Hospital Building Fund ($1.234 million one-time) and three positions to implement SB 1661 (Cox, Chapter 679, Statutes of 2006).

Background: SB 1661 will allow general acute care hospitals to receive an additional two-year extension to January 1, 2015, to meet hospital building seismic safety requirements, if the building project meets specified criteria. In addition, SB 1661 requires all hospitals that have Structural Performance Category (SPC)-1 buildings (those considered hazardous and at-risk of collapse in a major earthquake) to complete a survey reporting specified data on the status of each SPC-1 building and that OSHPD post the hospital survey reports on their website within 90 days of receipt. For buildings that did not request an SB 1661 extension (301 buildings), the survey data is due April 15, 2007. For buildings that did request the extension (809 buildings), the survey data is due by June 30, 2009 and June 30, 2011.

Of the total funding, $1.234 million in one-time funding is proposed for a contract with graduate university students or private engineering firms to visit the 809 hospital buildings that have requested an extension to assist them in filling out the survey report. The requested positions would develop the survey report, assist hospitals in filling out the survey reports, validate the reported hospital data, and post the data on the OSHPD website.

Staff Recommendation: Approve as budgeted. Although it is not known how much of this workload will be ongoing after five years, OSHPD indicates that these positions are particularly difficult to fill and would be more so if the positions are approved on a two-year limited-term basis. OSHPD should be prepared, in future fiscal years, to re-justify the need for these positions.

Vote Only Issue 2: OSHPD—Hospital Fair Pricing Policies

Description: The Governor's Budget provides $688,000 form the California Health Planning and Data Fund ($459,000 one-time) and two positions to develop an on-line system to implement AB 774 (Chan, Chapter 775, Statutes of 2006).

Background: AB 774 requires each general acute care hospital, as a condition of licensure, to maintain policies for full and partial charity care, and to implement a broad range of policies and procedures related to the determination of charity care eligibility. AB 774 also requires OSHPD to collect from each hospital a copy of its charity care policy, discount payment policy, eligibility procedures, review process and application form for financial assistance, and to provide this information to the public. Hospital reporting of this data will begin January 1, 2008.

Of the total funding, $459,000 is one-time to develop a web-based system for document submission and tracking. The requested positions would notify hospitals of the reporting requirements, review required policies for appropriate content and compliance, maintain the web-site, provide technical support to reporting facilities and data users, and develop reports for publication.

Staff Recommendation: Approve as budgeted. The workload request is justified.

Vote-Only Issue 3: OSHPD—Logb ook Database Sy stem Redesign Project

Description: The Governor's Budget proposes $2.429 million from the Hospital Building Fund to provide third-year funding for the redesign of the Logbook Database System. The Logbook Database System is used by OSHPD to track health facility construction projects through the plan review and construction phases. The system also supports the tracking of facility compliance with seismic retrofit projects and facilitates emergency operations in the event of a natural disaster. The system redesign is intended to integrate the current system of add-on modules and poorly integrated database tables to streamline the review of healthcare facility construction plans.

The new system is scheduled for implementation in 2009-10. The total proposed project costs to develop the new system are $11.5 million, including $8.0 million in one-time development costs and $3.5 million in ongoing costs over the six-year project period that began in 2005-06. All costs for the redesign project are funded from the Hospital Building Fund, a special revenue fund supported by fees charged to healthcare facilities for plan review and construction observation.

Staff Recommendation: Approve as budgeted. The development of this system has been delayed by about a year due to a delay in contracting with a software vendor. However, none of the vendor costs have changed and there appear to be no technical problems that would further delay the project.

Vote-Only Issue 4: DADP-Comprehensive Drug Court Implementation (CDCI)

Description: The Governor's Budget redirects $341,000 General Fund from the existing Comprehensive Drug Court Implementation (CDCI) local assistance appropriation to establish four permanent positions to administer the expanded funding provided in the 2006-07 budget for adult felon drug courts and dependency drug courts. The funding transfer and positions have been administratively established in January 2007.

The DADP has not received any additional resources to administer the activities associated with the increased funding levels for CDCI, including the $8.9 million augmentation provided in 2006-07. The DADP expects the counties to expand services in current programs and the number of counties funded to increase. There are currently two positions administering CDCI with a total of $175,000 in General Fund state operations support; the Governor's Budget increases the total to six and $526,000.

Staff Recommendation: Approve as budgeted. The workload seems justified and there have been no issues raised with this proposal.

Vote-Only Issue 5: DADP—Integrated Services for Persons with Co-Occurring Disorders

Description: The Governor's Budget proposes $479,000 in Mental Health Services Act (MHSA) funds and to convert two limited-term positions to permanent. The two limited-term positions were originally provided in 2005-06 for DADP to work collaboratively with the Department of Mental Health in implementing the MHSA and support counties and providers in efforts to coordinate mental health and alcohol and other drug (AOD) prevention and treatment services to individuals with co-occurring disorders (COD). Of the total funding, $240,000 would be for contractual services to evaluate a standardized COD screening tool, develop a classification model, and make recommendations on eliminating barriers to service and improving statewide implementation of services.

Staff Recommendation: Approve as budgeted. The workload associated with MHSA implementation is ongoing. The contract activities are promising in improving the identification and placement of individuals with COD to better ensure that they receive and benefit from the appropriate AOD and mental health treatment services.

Vote-Only Issue 6: CDA—Criminal Record Clearance

Description: The Governor's Budget proposes $293,000 General Fund ($225,000 state operations and $68,000 local assistance) for the California Department of Aging to contract with the California Department of Social Services and the 33 Area Agencies on Aging (AAAs) to process criminal record clearances and conduct fingerprinting locally for Long-Term Care Ombudsmen staff and volunteers as mandated by SB 1759 (Ashburn, Chapter 902, Statutes of 2006). In addition, the Administration proposes trailer bill language to make the criminal record clearances required by SB 1759 contingent on an appropriation in the annual Budget Act or other legislation.

Background: Ombudsmen staff and volunteers help to resolve complaints made by, or on behalf of, residents and ensure that skilled nursing facilities and residential care facilities for the elderly provide quality care for residents. The duties of an Ombudsman place him or her in direct personal contact with residents.

Prior to enactment of SB 1759, criminal background clearances for ombudsmen volunteers and staff were not required. This budget request would enable CDA to use DSS' existing criminal record clearance systems, rather than create the same function within the CDA, and to cover the costs of fingerprinting Ombudsmen staff and volunteers.

Staff Recommendation: Approve the funding request, but reject the trailer bill language that would make background clearances contingent on an appropriation. This language would result in some certified ombudsmen being cleared of criminal backgrounds, while other certified ombudsmen were not. This would lead to potential inequities in and weakening of the protections provided to residents of long-term care facilities by the criminal background clearances.

Vote-Only Issue 7: CDA—Continuation of ADHC Program Reform

Description: The Governor's Budget proposes $194,000 ($94,000 General Fund) and one position to provide legal analysis and consultation on complex issues arising from implementation of Adult Day Health Care (ADHC) Program reforms. Although the bulk of the workload associated with these reforms falls on DHS, the CDA, in their certification role, is also seeing increased legal workload associated with ADHC reform.

Staff Recommendation: Approve as budgeted. The workload request appears justified.

Discussion Agenda

4170 California Department of Aging (CDA)

CDA Issue 1: Caseload Estimates

Description: This issue is to provide a better understanding of the data that CDA is required to report to the Legislature in an effort to make it more useful.

Background: The 2005 Budget Act required the CDA to submit a caseload and funding report for all programs to the Legislature by January 10 of each year. Although the CDA has complied with the requirement, the data is not proving to be useful in policy and budget development. It is important that the Legislature have relevant data in order to make informed decisions about the best investments to make in the long-term care system.

Questions:

1. CDA, please describe the data that the Department is required to collect.

2. CDA, describe how the department uses that data and the information reported to the Legislature.

3. CDA, describe the federal reporting requirements and how this data differs from that.

Staff Recommendation: Direct the LAO to review the federal and state data reports and work with staff to determine what data from the CDA would be helpful in informing the Legislature's decisions.

4140 Office of Statewide Health Planning and Development (OSHPD)

OSHPD Issue 1: Review of Pl ans for Hospital Seismic Safety—Information Only

Description: OSHPD will provide the Subcommittee an update on the status of efforts to improve their review of construction plans for hospital seismic safety.

Background: In budget subcommittee hearings last year, concerns were raised about the timeliness of OSHPD's review process for hospital construction plans and the impact that delays in plan review have on increasing hospital construction costs. To address these concerns, the Administration requested at the May Revision and the Legislature approved 16.0 new positions and $1.3 million from the Hospital Building Fund to improve the efficiency of the hospital facility safety review functions performed by OSHPD.

In addition, trailer bill language was enacted (AB 1808, Chapter 75, Statutes of 2006) that established a program, contingent on funding provided in the annual Budget Act, for training fire and life safety officers and requires OSHPD to prepare a comprehensive report on the training program setting forth the program's goals, objectives, and structure. This report is to be submitted to the Joint Legislative Budget Committee by April 1, 2007. The 2006-07 Budget Act included $1.2 million for the training program. The Department will report to the Subcommittee on its development of the training program and its report in April or May.

Senate Bill 1838 (Perata, Chapter 693, Statutes of 2006) added to the trailer bill language to authorize the establishment of other training programs as necessary to ensure that a sufficient number of qualified personnel are available to review hospital construction plans. It also requires OSHPD to assess the processing time for its review of hospital construction plans and provide an annual update to the appropriate policy and fiscal committees of the Legislature no later than February 1 each year. OSHPD has not yet submitted that report and indicates that it is under review within the Administration.

Questions:

1. OSHPD, please describe the efforts you have undertaken to improve your review time of hospital construction plans, including how the 16 positions and $1.3 million are being used.

2. OSHPD, provide an update on when the required assessment will be provided to the Legislature.

OSHPD Issue 2: Hazards U.S. (HAZUS) Seismic Safety Assessment—Information Only

Description: OSHPD will provide the Subcommittee a description of the Hazards U.S. (HAZUS) seismic safety assessment, how it is being used in California, and an update on the status of OSHPD's work with HAZUS.

Background. In 2001, hospitals underwent a safety evaluation in which they rated their buildings according to how they would perform in a strong earthquake. Structural ratings ranged from Structural Performance Category (SPC)-1 (significant risk of collapse) to SPC-5 (reasonably capable of providing services to the public following strong ground motion). As a result of this evaluation:

- *Buildings Rated SPC-1.* 973 (37 percent) of California's hospital buildings did not meet the Seismic Safety Act standards, and are at risk for collapse in a major earthquake. These buildings must be retrofitted, replaced, or removed from acute care services by January 1, 2008 (or 2013 under certain circumstances).

- *Buildings Rated SPC-2.* 175 buildings (7 percent) do not significantly jeopardize life, but may not be reparable or functional following a strong quake. These buildings must be brought into compliance with the Seismic Safety Act by 2030 or be removed from acute care service.

- *Buildings Rated SPC-3, -4, or -5.* Over 1,400 buildings (56 percent) are considered capable of providing services following a strong quake and may be used without restriction to 2030 and beyond.

At the May Revision last year, the Administration requested, and the Legislature approved $100,000, for an independent contractor to peer review an analysis of the seismic safety risk of hospital buildings using HAZUS, a federal seismic safety assessment tool. HAZUS is a standardized, publicly available, and nationally applicable tool to conduct disaster loss estimations. It will be able to provide a more sophisticated analysis of the structural safety of California's hospitals in the event of a major earthquake. OSHPD is now using the HAZUS program to re-examine the seismic risk of acute health care facilities that are currently rated SPC-1, (those most at-risk of collapse or significant loss of life), and reprioritize these buildings based on a reassessment of their level of risk. The independent consultant is peer reviewing the results of this HAZUS reassessment.

As a result of the HAZUS analysis, OSHPD will be considering the reclassification of some SPC-1 buildings to other structural performance categories. Their current proposal would reclassify an SPC-1 building to an SPC-2 building if it is found by the HAZUS assessment to have a 10 percent or less chance of complete damage. If a SPC-1 building is found to have 10 percent to 15 percent chance for complete damage, the building will be placed in a new SPC-1E category. OSHPD is also considering an extension of 2008/2013 deadline for SPC-1E buildings to 2020.

Questions:

1. OSHPD, please describe the HAZUS assessment.

2. OSHPD, give an update of your implementation of the HAZUS assessment, when you expect it to be completed, and next steps.

4200 Department of Alcohol and Drug Programs (DADP)

DADP Issue 1: Funding for Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA)

Description: The Governor's Budget reduces funding for the Substance Abuse and Crime Prevention Act (SACPA) by $60 million General Fund in 2007-08. Of this $60 million, $35 million is proposed to be redirected to provide an increase to the Substance Abuse Offender Treatment Program (OTP). The remaining $25 million would be one-time General Fund savings. The Administration states that it will revise its budget proposal in the May Revision to move the remaining $60 million in General Fund for SACPA to OTP if the program reforms are not implemented. The Governor's Budget also includes trailer bill language modifying certain provisions of the OTP.

Background:

- **Voters Ap proved SACPA in 2000:** 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.

- **Program Funding:** SACPA appropriated $60 million for 2000-01 and $120 million General Fund annually from 2001-02 through 2005-06. The 2006-07 budget maintained $120 million General Fund for SACPA and provided an additional $25 million to establish the OTP, bringing total funding for SACPA-eligible offenders to $145 million. The 2006-07 budget also included statutory program reforms including flash incarceration, improved judicial oversight of program participants, and expanded options for offender management. However, these statutory reforms are being legally challenged by the proponents of SACPA and have been suspended by judicial injunction. It is not known when or how this legal challenge will be resolved.

- **Concerns Regarding Funding Level:** A number of constituency groups have expressed concern with the Governor's Budget and the proposed level of funding. Based on a 2005 survey of all counties, the total amount needed to fully fund SACPA is $209 million. Due to funding constraints, some counties already currently have waiting lists for residential treatment slots. Clients are provided outpatient services while on those waiting lists. Funding constraints have also resulted in some counties reducing the intensity and duration of treatment, such as providing group counseling instead of individual counseling, and reducing treatment programs from 12 to 8 weeks. The $25 million reduction to the $145 million in overall funding further compounds these treatment shortfalls.

- **UCLA Co st Anal ysis Report:** Researchers at the University of California, Los Angeles (UCLA) released a report on the effectiveness of SACPA in April 2006. The UCLA report included three studies that each documented costs and savings in eight areas: prison, jail, probation, parole, arrest and conviction, treatment, health, and

taxes. CalWORKs and Child Welfare/Foster Care costs and savings were not included in the study. The researchers used administrative data from state databases for SACPA and non-SACPA participants to measure state and local savings.

Overall, UCLA found a benefit-cost ratio of nearly 2.5 to 1, indicating that $2.50 was saved for every $1 in SACPA expenditures. Across the 8 areas assessed, SACPA led to a total cost savings of $2,861 per offender over the 30 month follow up period. For drug treatment completers, SACPA reflected a benefit-to-cost ratio of about 4 to 1, despite higher treatment costs for this group, indicating that approximately $4 was saved for every $1 spent on a treatment completer in SACPA. Total savings across eight areas was $5,601 per offender for completers.

The UCLA researchers came to various conclusions and recommendations about how to further improve SACPA performance. These conclusions and recommendations were the basis of the SACPA changes proposed in 2006-07 and the creation of the OTP. The researchers, Dr. Angela Hawken and Dr. Darren Urada will provide a summary of the study's findings, conclusions, and recommendations for the Subcommittee.

UCLA has completed a data addendum to their 2006 report. The DADP was expected to release this information by late 2006 or January 2007, but it is currently still under review within the Administration.

- **LAO Analysis:** The LAO's own analysis of SACPA finds an overall benefit-cost ratio of 2 to 1, primarily due to diversion of offenders from state prison. Therefore, the proposed reduction of $25 million to SACPA spending could ultimate cost the state more than it would save. The LAO recommends that the Legislature redirect $25 million from the Governor's proposed probation grant program in the California Department of Corrections and Rehabilitation and the $35 million proposed OTP augmentation to restore SACPA funding at $120 million. In addition, the LAO recommends that the Legislature seek legal guidance before deciding to fund all of SACPA programs entirely through the OTP.

Questions:

1. UCLA Researchers Dr. Angela Hawken and Dr. Darren Urada will present their 2006 report.

2. LAO, please present your recommendations.

3. DADP, please provide an update on when the UCLA report addendum will be available.

Staff Recommendation: Hold open pending discussions on CDCR's budget in Subcommittee #4.

DADP Issue 2: Substance Abuse Offender Treatment Program (OTP)

Description: The Governor's Budget redirects $305,000 General Fund from the existing Substance Abuse Offender Treatment Program (OTP) local assistance appropriation to establish 3.5 limited-term positions to administer the OTP. The funding transfer and positions were administratively established in February 2007. The budget also calls for statutory changes to the OTP to modify the drug court requirement, remove the county allocation cap, and eliminate the sunset date.

Background: The 2006-07 Budget Act included $25 million and trailer bill language to establish the OTP. To be eligible to receive OTP funding, counties are required to provide a 10 percent local funding match to the state funds (i.e., provide $1 of local funds for every $9 of OTP funds), and meet specified eligibility requirements including dedicated SACPA court calendars, the presence of drug courts willing to accept felony defendants, the use of drug testing, and assuring the appropriate level of treatment. Under current OTP law, the maximum amount of funding that a county can receive shall not exceed an amount equal to 30 percent of the county's SACPA allocation from DADP for that fiscal year. OTP became operational on July 1, 2006 and has a sunset date of July 1, 2009.

The goal of the OTP is to improve treatment outcomes for SACPA offenders by instituting best practices that UCLA found to be associated with more successful treatment outcomes in their 2006 SACPA study. The specific outcomes expected to be improved through OTP, at a minimum, include: 1) enhanced treatment services, especially residential and narcotic replacement therapy; 2) reduction of delays in providing services; and 3) regularly scheduled reviews of treatment progress through the use of a drug court model and strong collaboration between the criminal justice system and the drug treatment system. The budget trailer bill requires DADP to report during the budget hearings on additional recommendations for improving programs and services, allocations, and funding mechanisms to further improve outcomes.

In the current year, 40 counties applied for OTP funding, one county withdrew their application, and 18 counties did not apply. Of the 18 counties that did not apply, five did not have a drug court, six were unable to provide the required funding match, three cited local politics, and the remaining four were for various reasons. The DADP has allocated $24.7 million to the 39 counties.

The requested 3.5 positions would establish and refine the allocation methodology, review and approve annual work plans, promulgate emergency regulations, track costs separately from SACPA, establish and maintain a quarterly invoicing process, create an audit methodology and conduct the required audits, and create a new data tool to track OTP and SACPA client data.

The proposed trailer bill language would make the following changes:

- *Modify the drug court requirement.* The proposed language would allow greater flexibility in the drug court requirement, which is intended to enable all counties to qualify for OTP funding. The DADP proposes to work with those counties that have not established drug courts to try to assist them in achieving eligibility for OTP funds.

- *Remove the county allocation cap and sunset date.* Due to additional funding proposed to be provided to the OTP in Governor's Budget, DADP proposes to remove the 30 percent statutory limitation. The existing OTP sunset date is proposed to be eliminated to implement the program on a permanent basis.

Questions:

1. DADP, please describe the budget request.

2. DADP, explain the proposed trailer bill language and why it is being proposed.

Staff Recommendation: Hold open pend ing further discussions on the SACPA (Proposition 36) and OTP budget proposals.

DADP Issue 3: Licensing Reform Phase II

Description: The budget requests $1.2 million General Fund and 12.5 positions (4.5 limited-term) in DADP to conduct biennial compliance visits of licensed and/or certified programs, and federally required monitoring reviews and complaint investigations of Drug Medi-Cal providers. The budget also calls for statutory language to permit the collection of fees from all providers to fund these activities and would establish a new fund for the fee revenues. The fees would initially be set at $2,150 biennially (which is what current law requires for-profit providers be charged) and DADP would convene a stakeholder group to determine a permanent fee schedule.

Background: Although DADP describes this request as the second phase of its licensing reform efforts, the DADP is not proposing any new changes to licensing. Rather, this proposal has the following two distinct components to address existing workload:

- **Staff for F acility Licensing and Certifica tion.** All residential treatment facilities operating in California are required to be licensed by DADP. The DADP also certifies both residential and outpatient alcohol and drug treatment facilities. Certification is voluntary for all facilities. Licensed residential treatment facilities have on-site reviews and license renewal every two years. Prior to 2006-07, certified outpatient treatment programs were certified in perpetuity, with no required periodic site-review (other than to investigate complaints) or renewal. For 2006-07, the Administration requested, and the Legislature approved, trailer bill language that requires biennial visits to certified outpatient treatment programs and two new positions to begin conducting those visits. There are currently 895 licensed

residential treatment facilities, of which 612 are also certified, and 1,051 certified outpatient treatment facilities.

- **Staff for Drug Medi-Cal (DMC) Reviews and Investigations.** Under current law, DMC providers are required to undergo on-site compliance reviews to ensure that Title 22 regulations are followed and billings are appropriate for the services provided. Currently, there are 647 DMC providers, statewide, billing for services rendered. In addition, there have been an increasing number of complaints received by DADP against providers for conducting inappropriate activities or program practices and inappropriate billings.

The DADP has conducting a time study of all licensing- and certification-related functions to determine the number of field staff needed to perform adequate facility reviews. This position request is based upon that study.

Questions:

1. DADP, please describe the budget request and workload justification.

Staff Recommendations: Hold open (including proposed trailer bill language) pending further review of the workload data. Staff have asked LAO staff to review the time-study performed by the DADP to provide input on the validity of that data and the appropriateness of the budget request.

DADP Issue 4: California Methamphetamine Initiative (CMI)

Description: The Governor's Budget redirects $197,000 General Fund from existing funding provided for the California Methamphetamine Initiative (CMI) to provide two limited-term positions to DADP to provide state support to the CMI. The requested positions would work with the consultant to develop the media campaign and conduct additional activities to coordinate, support, and disseminate to counties best practices on the prevention and treatment of methamphetamine abuse.

Background: The 2006-07 Budget Act provided $10 million each year until 2008-09 for a multi-media methamphetamine public education campaign. The DADP has recently released a request for proposal (RFP) to procure a media consultant and a public relations consultant to implement the campaign.

The 2006-07 budget trailer bill also requires DADP to submit a methamphetamine prevention plan to the Legislature by April 1, 2007. The plan shall evaluate whether existing state or federal resources for substance abuse activities can be redirected to methamphetamine prevention. The plan is also required to identify potential targeted audiences for prevention, suggest messages for prevention, and consider strategies for using media, community involvement, and public relations to reach the targeted audience. In addition, DADP is required to report on trends in methamphetamine use

and how the prevention strategy will help reduce the use of methamphetamine statewide. DADP will report on the plan to the Subcommittee this April or May.

Questions:

1. DADP, please describe the status of implementation of the CMI, including expected timing of awarding the contract(s) to the media and public relations consultants.

2. DADP, describe the criteria included in the RFP, including the priority areas and populations to be served by the campaign.

3. DADP, are you on target to release the methamphetamine prevention plan to the Legislature on April 1?

Staff Recommendation: Hold open pending release of the DADP' s methamphetamine prevention plan on April 1.

DADP Issue 5: Prison Inmate Aftercare Treatment

Description: The Governor's Budget proposes $519,000 General Fund and six positions (two half-time limited-term) to implement to license and certify additional drug treatment providers as a result of enactment of SB 1453 (Speier, Chapter 875, Statutes of 2006).

Background: SB 1453 requires non-violent prison inmates who participated in drug treatment in prison to enter a 150-day residential aftercare drug treatment program upon their release from prison. Based upon estimates from the California Department of Corrections and Rehabilitation (CDCR), DADP expects that 5,500 parolees annually will be required to participate in an aftercare treatment program. The DADP currently licenses 878 alcohol and other drug (AOD) residential treatment programs with a capacity of 20,596 beds. The 5,500 additional parolees is a 27 percent increase in needed AOD residential treatment beds capacity. This budget proposal is intended to enable DADP to process the anticipated new residential license applications to meet the capacity need, conduct initial on-site reviews, conduct biennial reviews of the programs, and investigate complaints against the programs and counselors.

In discussions of DADP's funding and position request, it has become evident that CDCR's estimate of the number of parolees expected to require aftercare treatment is not final. Therefore, the actual resources needed by DADP to complete the additional workload associated with SB 1453 cannot be determined at this time.

Questions:

1. DADP, please summarize your funding and position request, and provide an update of when you might have better data from CDCR.

Staff Recommendation: Hold open pending better estimates from CDCR regarding the number of parolees required to participate. The workload for DADP associated with licensing additional residential treatment providers seems justified, but the appropriate level of resources for DADP cannot be determined without better data.

DADP Issue 6: Drug Medi-Cal

Description: The Governor's Budget includes $149.0 million ($79.7 million General Fund) for Drug Medi-Cal in 2007-08, an increase of 8.4 percent over the adjusted current year budget due to rate adjustments and caseload.

Background: Drug Medi-Cal treatment is provided through four modalities:

- **Narcotics Treatment Program** (NTP) provides narcotic replacement drugs (including methadone), treatment planning, body specimen screening, substance abuse related physician and nurse services, counseling, physical examinations, lab tests and medication services to persons who are opiate addicted and have a substance abuse diagnosis. The program does not provide detoxification treatment. NTP providers are the primary Drug Medi-Cal providers.

- **Day Care Rehabilitative** provides specific outpatient counseling and rehabilitation services to persons with a substance abuse diagnosis who are pregnant, in the postpartum period, and/or are youth eligible for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program.

- **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 rehabilitation services to pregnant and postpartum women with a substance abuse diagnosis.

Staff Recommendation: Hold open until the May Revision. Drug Medi-Cal caseload estimates will be updated at that time.

Diane Van Maren (w) 651-4103
Senate Budget & Fiscal Review

Subcommittee No. 3: Monday, March 12th

(Use the Agenda for this day as a guide with this document please.)

B. ISSUES FOR "VOTE ONLY" (Items 1 through 3, Page 4 to Page 6)

- **Action:** Approved Items 1 through 3.
- **Vote:** 3-0

C. ISSUES FOR DISCUSSION – State Hospitals (Starts on Page 10)

1. Update on CRIPA & Department's Technical Error (Page 10)

- **Action:** First, the department is to report back to the Subcommittee on April 30th regarding CRIPA implementation. Second, the budgeted amount for the technical error is approved.
- **Vote:** 3-0

2. Proposed Baseline Population at the State Hospitals (Page 14)

- **Action:** Approved as budgeted.
- **Vote:** 3-0

3A. Proposed Evaluation Costs for Changes to SVP Program (Page 16)

- **Action:** Held OPEN until the May Revision.

3B. Caseload Costs at the State Hospitals for Changes to SVP Program (Page 19)

- **Action:** Held OPEN until the May Revision.

3C. DMH Headquarters' Administrative Costs for Changes to SVP (Page 21)

- **Action:** Held OPEN until the May Revision.

4. Coleman v Schwarzenegger Salary Adjustments-Vacaville & Salinas (Page 23)

- **Action:** Approved as budgeted with technical adjustment as noted in the Agenda.
- **Vote:** 3-0

5. Continued Activation of Coalinga State Hospital (CHS) (Page 24)

- **Action:** Approved as budgeted.
- **Vote:** 3-0

6. Request for DMH Headquarters Support —Two Issues (Page 25)

- **Action:** Approve as budgeted the 5.5 positions and to adjust the Staff Counsel III position to be only a Staff Counsel position (lower level).
- **Vote:** 2-1

D. ISSUES FOR DISCUSSION – Community Mental Health (Page 26)

1. Mental Health Medi-Cal Managed Care—*Two Issues (Page 26)*

- **Action:** First, approved as budgeted the technical adjustments. Second, placed the $12 million (General Fund) on our Check List as a priority to fund.
- **Vote:** 3-0 on the first action.
- **Vote:** 2-1 (Cogdill) on the second action.

2. Significant Issues Regarding the Early, Periodic Screening and Treatment (EPSDT) Program Requires Legislative Oversight and Funding (Page 29)

- **Action:** First, the department is to immediately develop a work plan to address the problems outlined and to report back to the Subcommittee on April 30th to present this plan. Second, adopted Budget Bill Language (passed out in Subcommittee) to establish the program in statute.
- **Vote:** 3-0

3. Governor Proposes Elimination of the Integrated Services for Homeless Mentally Ill Program (Assembly Bill 2034 (Steinberg) (Page 35)

- **Action:** Placed $54.9 million (General Fund) on our Check List as a priority to fund.
- **Vote:** 2-1

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

March 12, 2007

10:00 AM

Room 4203
(John L. Burton Hearing Room)

(Consultant: Diane Van Maren)

Item Department

4440 Department of Mental Health *(Selected Issues as Noted)*

- ***State Hospitals***
- ***Community Mental Health***

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. Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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.

Department of Mental Health

A. OVERALL BACKGROUND

Purpose and Description of 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 five State Hospitals—Atascadero, Coalinga, 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.

Purpose and Description of County Mental Health Plans: Though the department oversees policy for the delivery of mental health services, 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 counties 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 children and adolescents, **(4)** mental health treatment services for individuals enrolled in other programs, including special education, CalWORKs, and Healthy Families, and **(5)** programs associated with the Mental Health Services Act (Proposition 63).

Overall Governor's Budget. The **budget proposes expenditures of $4.8 billion ($1.9 billion General Fund) for mental health services, an increase of $652 million (decrease of $217.2 million General Fund) from the revised current-year budget.** It should be noted that the decrease of $217.2 million in General Fund support compared to the revised current-year is due to the large number of increases in the revised current-year budget adjusted after the enactment of the Budget Act of 2006. (These figures exclude proposed capital outlay expenditures.)

Of the total amount, $1.2 billion ($1.1 billion General Fund) and 10,900 positions are proposed to operate the State Hospital system. The remaining $3.4 billion ($762.8 million General Fund) is for community-based mental health programs.

In addition to the above expenditures, the DMH is also proposing capital outlay expenditures of $13.7 million ($6.2 million General Fund and $7.5 million Public Building Construction Fund) for 2007-08. These funds would be used for: (1) the construction of the main kitchen and satellite kitchens at Metropolitan, Napa and Patton state hospitals; (2) a study of the kitchen facilities at Atascadero State Hospital; (3) preliminary plans and working drawings for fencing of secure beds at Metropolitan State Hospital; (4) the replacement of the bulk liquid oxygen storage tank at Napa State Hospital; and (5)

upgrade the telecommunications infrastructure at Metropolitan State Hospital.
Further, it is estimated that almost $1.3 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. The total amount reflects an increase of $90.4 million (County Realignment Funds) or almost 7.4 percent over the anticipated current-year level.

Summary of Expenditures (dollars in thousands)	**2006-07**	**2007-08**	**$ Change**	**% Change**
Program Source				
Community Services Program	$2,934,452	$3,489,904	$555,452	18.9
Long Term Care Services	$1,105,049	$1,233,828	$128,779	11.6
State Mandated Local Programs	$66,000	0	-66,000	100
Subtotal	**$4,105,501**	**$4,723,732**	**$618,231**	**15**
Capital Outlay for State Hospitals	$42,629	$13,698	-$28,931	-67.8
Total, Program Source	**$4,148,130**	**$4,737,430**	**$589,300**	**14.2**
Funding Source				
General Fund (includes Capital Outlay)	$2,131,741	$1,904,283	-$227,458	-10.7
General Fund, Proposition 98	$13,400	$18,400	$5,000	37.3
Mental Health Services Fund (Proposition 63 of 2004)	$515,826	$1,509,954	$994,128	192
Federal Funds	$63,292	$63,334	42	--
Reimbursements	$1,380,526	$1,232,344	-$148,182	-10.7
Traumatic Brain Injury Fund	$1,211	$1,165	-$46	-3.8
CA State Lottery Education Fund	$95	$95	0	0
Licensing & Certification Fund	$357	$357	0	0
Public Buildings Construction Fund	$41,682	$7,498	-$34,184	-82
Total Department	**$4,148,130**	**$4,737,430**	**$589,300**	**14.2**

B. ISSUES FOR "VOTE ONLY" (Items 1 through 3, to Page 6)

1. Healthy Families Program Adjustments for Mental Health Services

Issue: The **budget proposes an increase of $9.8 million ($537,000 General Fund and $9.2 million in Reimbursements from the Managed Risk Medical Insurance Board) for the Healthy Families Program (HFP).** This proposed increase includes $8.4 million for supplemental mental health services and $837,000 for county administration.

The DMH projects total expenditures of $42.5 million (total funds) for the HFP for 2007-08 for supplemental mental health services. Of this total amount, $38.6 million is for services and $3.9 million is for county administration.

Counties are currently responsible to contribute 35 percent of total HFP Program and administrative costs. The remaining 65 percent is funded using federal funds transferred from the Managed Risk Medical Insurance Board (i.e., who administer the HFP Program for the state) to the DMH for this purpose. HFP services provided to legal immigrants are funded using 100 percent state General Fund support.

Background—What is the HFP and How are Supplemental Mental Health Services Provided? The Healthy Families Program provides health insurance coverage, 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.

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 Plans 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.** With respect to legal immigrant children, the state provides 65 percent General Fund financing and the counties provide a 35 percent match.
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.

Subcommittee Staff Comments and Recommendation--Approve: The proposed increase reflects technical adjustments. The adjustment is consistent with the forecast methodology used in past years. No issues have been raised on this proposal. **It is therefore recommended to approve as budgeted.**

(Vote Only Calendar continued)

2. Adjustment for the Early Mental Health Initiative (EMHI)

Issue. The budget proposes a $5 million (Proposition 98 General Fund) increase for the Early Mental Health Initiative (EMHI) for total program expenditures of $15 million (Proposition 98 General Fund) for 2007-08.

EMHI grants are awarded on a competitive basis for three years to public elementary schools to provide services to students in K through Third grades who are experiencing mild to moderate school adjustment difficulties. The chart below displays how the grant funds would be allocated across the three years. School sites must also contribute funding towards their individual program.

	Year 1 Funds Awarded 2006-07	Year 2 Funds Awarded 2006-07	Year 3 Funds Awarded 2004-05	Total
Funding Level	$5 million (one time)	$5 million	$5 million	$15 million
Grants (3 yrs)	50	51	52	153
Sites	139	150	159	448
Children Served	5,273	5,273	5,273	15,819

Background—What is EMHI? EMHI was established in 1991 through Assembly Bill 1650. It is designed to enhance the social and emotional development of young students and to minimize the need for more costly services as they mature. Students from Kindergarten through Third Grade who are enrolled in public schools are the target audience.

The EMHI has been independently evaluated and data is available for 7 years of the program (for both pre and post data participants). These findings indicate that the recipients of EMHI-funded services make significant improvements in social behaviors and school adjustment as evaluated by both teachers and school-based mental health professionals.

Subcommittee Staff Recommendation--*Approve*. No issues have been raised on this proposal. **It is therefore recommended to approve as budgeted.**

(Vote Only Calendar continued)

3. Convert Limited-Term Positions to Permanent for Medicare Part D

Issue. The DMH is **requesting a total increase of $502,000 ($342,000 General Fun d) to fund a total of 8 positions to continue administrative and program responsibilities required to compl y w ith the federal Medicare Prescription Drug Improvement and Modernization Act (Part D).** Of these positions, one would be for DMH headquarters' office and the remaining 7 positions would be located in the State Hospitals.

These 7 positions were provided in the Budget Act of 2005 as two-year limited term positions. This request would make them permanent. The DMH states that these positions are necessary in order to continue to have this program operate smoothly.

Background—Medicare Part D Implem entation in the State Hospitals. The federal Part D established a new prescription drug program effective as of January 1, 2006. The DMH operates its five State Hospital pharmacies as "long-term" care pharmacies and contracts with prescription drug plans for the cost of drugs for enrolled individuals.

Under Part D, Medicare eligible state hospital patients are required to choose a prescription drug plan. If a drug for a state hospital patient is not on the prescription drug plan formulary, the drug will be provided by the State Hospital through other means. About 95 percent of the drugs used by the State Hospital patients will be on the prescription drug plan formulary.

Subcommittee Staff Recommendation--*Approve*. No issues have been raised on this proposal. **It is therefore recommended to approve as budgeted.**

C. ISSUES FOR DISCUSSION – State Hospitals

Overall Background and Funding Sources. The department directly administers the operation of five State Hospitals—Atascadero, Metropolitan, Napa, Patton, and Coalinga. In addition, the DMH administers acute psychiatric programs at the California Medical Facility in Vacaville, and the Salinas Valley State Prison.

Patients admitted to the State Hospitals are generally either (1) civilly committed, or (2) judicially committed. As structured through the State-Local Realignment statutes of 1991/92, County Mental Health Plans (County MHPs) contract with the state to purchase State Hospital beds. County MHPs reimburse the state for these beds using County Realignment Funds (Mental Health Subaccount).

Judicially committed patients are treated solely using state General Fund support. The majority of the General Fund support for these judicially committed patients is appropriated through the Department of Mental Health (DMH).

Background—Overall Classifications of Penal Code Patients. 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.

The DMH uses a protocol for establishing priorities for penal code placements. This priority is used because there are not enough secure beds at the State Hospitals to accommodate all patients. This is a complex issue and clearly crosses over to the correctional system administered by the CA Department of Corrections and Rehabilitation (CDCR). The DMH protocol is as follows:

1. Sexually Violent Predators have the utmost priority due to the considerable public safety threat they pose.
2. Mentally Disordered Offenders have the next priority. These patients are former CDCR inmates who have completed their sentence but have been determined to be too violent to parole directly into the community without mental health treatment.
3. *Coleman v. Schwarzenegger* patients must be accepted by the DMH for treatment as required by the federal court. *Generally* under this arrangement, the DMH must have State Hospital beds available for these CDCR patients as required by the Special Master, J. Michael Keating Jr. If a DMH bed is not available the inmate remains with the CDCR and receives treatment by the CDCR.
4. Not Guilty by Reason of Insanity is the next priority.
5. Incompetent to Stand Trial is the last priority. It should be noted that there are about 250 to 300 individuals who are incompetent to stand trial who are presently residing in County jails due to the shortage of beds within the State Hospital system.

(Overall Background on State Hospitals continued)

Summary Chart of the Overal l State Hospital Population. As noted in the table below, of the total estimated patient population *over 91 percent* of the beds are designated for penal code-related patients and less than 10 percent are to be purchased by the counties, primarily by Los Angeles County (about 242 beds are for them). The largest projected increase is in SVPs, followed by MDO's and then County purchased beds.

DMH State Hospital Caseload Summary Projection *(DMH Estimate)*

Category of Patient	Current Year Caseload (revised)	Budget Year Caseload	Increase Over Current Year
Sexually Violent Predators (SVPs)	889 (618 at Budget Act)	1,329	**440**
Medically Disorder Offenders (MDOs)	1,324	1,377	**53**
Not Guilty by Reason of Insanity	1,314	1,305	**-9**
Incompetent to Stand Trial	1,129	1,091	**-38**
Penal Code 2684s & 2974s (Referred for treatment by CDCR)	752	752	0
Other Penal Code Patients (various)	118	11	0
CA Youth Authority Patients (Metro SH)	30	30	0
SUBTOTAL Penal Code-Related		**6,102**	**446**
County Civil Commitments	520	**542 22**	
TOTAL ESTIMATED PATIENTS	**6,076**	**6,644**	**468**

Overall Budget for the State Hospital Sy stem. Total expenditures of **$1.2billion** ($1.1 billion General Fund) and 10,900 positions are proposed to operate the five State Hospitals which serve a projected total population of 6,544 patients for 2007-08, including patients located at Vacaville and Salinas Valley (CDCR contracts with DMH contracts to administer the psychiatric units at these two facilities).

The budget reflects an increase of $114.8 million ($88.3 million General Fund) and 1,020 positions over the revised current-year.

These pro posed increases are primarily due to: (1) implementation of Proposition 83—Jessica's Law—and Senate Bill 1128 (Alquist), Statues of 2006, both pertaining to sex offenders; **(2)** continued implementation of a settlement agreement with the federal government regarding the Civil Rights for Institutionalized Persons Act (CRIPA); and **(3)** continued implementation of the Coleman Court decision. Each of these issues will be discussed in this Agenda further below.

(Overall Background on State Hospitals continued)

Summary of Projected Patient Popul ation at Each State Hospital. The proposed patient caseload for each State Hospital is shown on the chart below. Each State Hospital is unique, contingent upon its original design, proximity to population centers, types of patients being treated at the facility and types of treatment programs that are available at the facility.

Further, some of the State Hospitals, most notability Atascadero, Patton and Coalinga (recently built and activated) have more comprehensive security than others. As such, there are existing restrictions on where certain penal code patients can be housed. These agreements have been forged with local communities and should be comprehensively discussed if changes are to be proposed by the Administration.

Table: DMH Summary of Population by Hospital *(DMH Estimate)*

Hospital Summary	**Budget Act of 2006 (6/30/2007)**	***Revised* 2006-07 (6/30/2007)**	**Proposed Patient Growth for 2007-08**	**Proposed 2007-08 Population (6/30/08)**
Atascadero	1,295	1,361	7	1,368
Coalinga	717	922 (up 205 all SVP)	440 (all SVP caseload)	1,362
Metropolitan	667	667	21	688
Napa	1,195	1,195	0	1,195
Patton	1,525	1,525	0	1,525
Vacaville	270	270	0	270
Salinas	136	136	0	136
TOTALS	**5,806**	**6,076 (271 more over the Budget Act)**	**468 (over the revised Current Year)**	**6,544**

Discussion of the State Hospital issues begins on the next page (Page 10).

1. Update on CRIPA & Department's Technical Error on Budgeting Positions

Issues. First, the **DMH is requesting an increase of $29.6 million (General Fund) for 2007-08 to fund 331 positions at the State Hospitals.** This request pertains to an error made by the Administration regarding their request for positions related to deficiencies in California's State Hospitals identified by the federal US Department of Justice (US DOJ) under the federal Civil Rights of Institutionalized Persons Act (CRIPA).

Specifically, the Administration entered into a **Consent Judgment** with the US DOJ regarding the State Hospitals in order to comply with necessary requirements, including making significant changes regarding treatment and rehabilitation programming, level-of-care staffing patterns, patient physical health services and reporting requirements. **The DMH received significant increases in staff and funding for the State Hospitals for compliance with the CRIPA Consent Judgment through the Budget Act of 2006.**

The DMH states that in submitting their request to the Legislature for last year, they inadvertently miscalculated the costs for both 2006-07 (short by $14.8 million General Fund) and for 2007-08 (short by $29.6 million General Fund).

Second, the Subcommittee has requested the DMH to provide a status update on meeting the federal CRIPA Consent Judgment requirements. **The Subcommittee is substantially concerned that the DMH is not able to fill key clinical positions, as well as certain public safety and facility operation positions at the State Hospitals.** If momentum is lost by the DMH in filling these positions and making the substantive changes at the State Hospitals for which the Consent Judgment legally demands, then the potential for further erosion of the State Hospital system is potentially imminent.

Background—Deficiencies at State Hospitals Lead to US DOJ Consent Judgment Regarding CRIPA. In July 2002, the U.S. DOJ completed an on-site review of conditions at Metropolitan State Hospital. Recommendations for improvements at Metropolitan in the areas of patient assessment, treatment, and medication were then provided to the DMH. Since this time, the U.S. DOJ identified similar conditions at Napa, Patton, and Atascadero (Coalinga was not involved). **The Administration and US DOJ finally reached a Consent Judgment on May 2, 2006.**

This Consent Judgment provides a timeline for the Administration to address the CRIPA deficiencies and included agreements related to treatment planning, patient assessments, patient discharge planning, patient discipline, and documentation requirements. It also addresses issues regarding quality improvement, incident management and safety hazards in the facilities.

A key component to successfully addressing the CRIPA deficiencies is implementation of the "Recovery Model" at the State Hospitals. Under this model, the hospital's role is to assist individuals in reaching their goals through individualized mental health treatment, and self determination.

The “Recovery Model”, as required by the Consent Judgment, includes such elements as the following:

- Treatment is delivered to meet individual’s needs for recovery in a variety of settings including the living units, psychosocial rehabilitation malls and the broader hospital community.
- There are a broad array of interventions available to all individuals rather than a limited array.
- A number of new tracking and monitoring systems must be put in place to continually assess all major clinical and administrative functions in the hospitals.
- Incentive programs—called “By Choice” will be used to motivate individuals to make positive changes in their lives.

Background—Vacancies Abound at State Hospitals *(See Hand Out*). The DMH has received budget augmentations to fund certain positions at the State Hospitals to implement the CRIPA Consent Judgment, as well as to address treatment needs identified in the *Coleman v Schwarzenegger* agreement (with Special Master Keating). As noted by data below, many of these positions have not been filled.

At the request of the Subcommittee, the DMH provided a listing of vacant *clinical* positions as of December 31, 2006. As noted in this chart, there were 1,181 vacant clinical positions, or 16.5 percent of the clinical positions overall. The following should be noted with respect to these clinical vacancies:

- 725 of the vacant clinical positions, or over 60 percent of the entire vacancies, are for “CRIPA”-related functions;
- 112 vacancies, or 36 percent of this classification, are for Staff Psychiatrists;
- 41.5 vacancies, or 70 percent of this classification, are for Senior Psychologists;
- 101 vacancies, or 30 percent of this classification, are for Rehabilitation Therapist;
- 236 of the vacancies, or 12 percent of this classification, are for Psychiatric Technicians;
- 36 of the vacancies, or 42 percent of these classifications, are for the Pharmacist I and II positions.

In addition, the DMH has also provided a more recent chart (as of February 15, 2007) regarding personnel classifications related to *Coleman v. Schwarzenegger*. This chart (see handouts) displays further erosion in filling positions, most notably the following:

- 43 percent vacancy for Staff Psychiatrists;
- 88 percent vacancy for Senior Psychiatrists;
- 87 percent vacancy for Senior Psychologists; and
- 77 percent vacancy for Supervising Senior Psychologists.

Emergency Contracting—DMH Using Contracts Due to Severe Staff Shortages. Due to the severity of staff shortages at the State Hospitals, primarily in the clinical and professional classifications as noted above, **the DMH is issuing emergency contracts, as authorized by the Department of General Services and Department of Personnel Administration, to contract with *national* providers.** The emergency contracting process can only be utilized for one-year.

The costs of these DMH emergency contracts vary as the fee schedule negotiated and included in the contracts cover such items as travel, per diem, and any special enhancements due to geographical issues or specialty licenses. **To date, the estimated cost of these contracts is $14.4 million (General Fund). However it is anticipated that additional contracts, particularly for clinical staff, will be necessary. At this time, the costs for these emergency contracts are being absorbed within the existing DMH State Hospital budget since General Fund savings due to the state employee vacancies is available.**

Further, it should be noted that the cost of the clinical employees in these contracts in many cases is *double* the amount the DMH equivalent salaried classification receives. As such, this process raises the question of why the Administration has not taken additional measures to recruit and retain the DMH clinical positions, as well as other key safety and administrative positions, such as Hospital Peace Officer, at the State Hospitals.

Background—DMH Salaries Are Not Competitive with CDCR. The Administration, including the Department of Personnel Administration, is well aware of concerns from several state departments responsible for providing medical care, including the DMH, with regard to the availability of qualified medical personnel. While this situation has been critical for some time, it has been further exacerbated by recent court decisions resulting in significant salary increases for medical personnel employed by the CDCR.

Examples of the salary gaps between the DMH and the CDCR for clinically equivalent classifications is contained in the Hand Outs. In many cases, the CDCR salaries are double those provided to DMH employees. As such, many DMH employees have left to work at CDCR facilities. At present this is particularly a problem at Atascadero State Hospital and Napa State Hospital.

Subcommittee Staff Recommendation. Compliance with the US DOJ Consent Judgment regarding CRIPA is of the utmost importance. However, the number of vacancies within the State Hospital system, coupled with the salary disparities, particularly for key clinical positions (such as Psychiatrist) and safety positions (such as Hospital Peace Officers), raises significant issues as to whether the CRIPA requirements and timelines can be effectively met. The use of emergency contracting is only a stop-gap mechanism to be used on time limited basis.

It should be recognized that the employees at the State Hospitals are diligently striving to meet the CRIPA requirements and they should be commended for their extraordinary efforts.

With respect to the budget request, it does indeed appear that the DMH miscalculated

the baseline funding needed to sustain the positions needed for CRIPA. The LAO has also verified the DMH miscalculation. **As such, the Administration's budget request to increase by $29.6 million (General Fund) should be approved.**

Key questions clearly remain regarding next steps. **The federal CRIPA evaluation team has the following upcoming schedule for reviewing the state's implementation efforts:**

- Metropolitan State Hospital — March 12 to March 16, and June 17 to June 22.
- Atascadero State Hospital — April 23 to April 27.
- Patton State Hospital — June 4 to June 8.
- Napa State Hospital — July 23 to July 27.

It is therefore also recommended to require the DMH to report back on the implementation of the CRIPA Consent Judgment in our Subcommittee hearing scheduled for Monday, April 30th. At this time additional information can be obtained regarding the filling of vacancies, the use of emergency contracting and comments made by the federal CRIPA team.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. DMH, Please provide a brief update on the implementation of the US DOJ Consent Judgment regarding CRIPA.
2. DMH, How will the vacancies affect CRIPA requirements, as well as Coleman requirements? In addition to the clinical and medical classifications, are there concerns with filling certain "non-level-of-care" positions, such as Hospital Peace Officer? How has overtime for existing employees been affected?
3. DMH, Are certain State Hospitals, such as Atascadero State Hospital, operating at below their licensed capacity due to the shortage of clinical staff and overall vacancies?
4. DMH, Is the Administration presently seeking any salary adjustments for key clinical staff and key public safety staff in order to have better recruitment and retention at the State Hospitals?
5. DMH, What other options may there be to address the recruitment and retention issues?

2. Proposed Baseline Population at the State Hospitals

Issue. The **budget proposes an increase of $1.1 million** ($502,000 General Fund and $557,000 County Realignment Funds) **to fund 17 positions, including Psychiatric Technicians, Registered Nurses and Teachers to support an increase of 28 patients at the five State Hospitals.**

(This is the Administration's proposed *baseline* population adjustment. Additional patient adjustments, such as for implementation of Jessica's Law and Senate Bill 1228 (Alquist), Statutes of 2006, are discussed below in this Agenda.)

This estimate is based upon a methodology used to project patient population. A level-of-care staffing model is then used to project the number and type of staff to be provided for the baseline patient population. The level-of-care staffing model was developed by the Administration and corresponds to state licensing practices.

Staff Recommendation—Hold Open. The DMH will be recalculating the State Hospital caseload at the time of the Governor's May Revise since they will have more complete caseload data from which to project. As such, it is recommended to hold this issue open pending receipt of this update.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief summary as to how the overall Hospital Population is calculated.

3. Proposed Implementation of SB 1128 (Alquist), Statutes of 2006 & Proposition 83: *Three Issues*—-(A) Evaluation Costs, (B) Estimated State Hospital Population for SVP's, and (C) DMH Administrative Costs

Over All Issue. Senate Bill 1128 (Alquist), Statutes of 2006, and Proposition 83 restructure the state's administration of treating Sexually Violent Predators (SVPs).

The budget proposes *three* adjustments related to these statutory changes for a total proposed increase of $28.9 million (General Fund) in the current year, and a total proposed increase of $73 million (General Fund) for the budget year.

The proposed budget adjustments address the following three areas, as outlined in the table below. Each of these areas of proposed adjustment will be discussed separately in the Agenda below (i.e., Issues A, B, and C).

Governor's Proposed Adjustments for SVP Program Changes

DMH Area of Adjustment	Proposed Current Year Increase (GF)	Proposed Budget Year Increase (GF)	Proposed Total Increase (GF) Across Both Years
Evaluation Costs	$15.2 million	$24.9 million	$40.1 million
State Hospital Caseload Costs	$12.1 million	$43.3 million	$55.4 million
Headquarters' Costs	$1.6 million	$4.8 million	$6.4 million
Total Proposed Increases	**$28.9 million**	**$73 million**	**$101.9 million**

Each of these issues is discussed *individually* in this Agenda below.

3A. Proposed Evaluation Costs for Changes to SVP Program

Issue. The budget proposes **an increase of $15.2 million (General Fund) in the current year and $24.9 million (General Fund) in the budget year for the anticipated increased number of evaluations to be performed for making SVP determinations.** The current year request has been submitted to the Joint Legislative Budget Committee (JLBC) for their consideration.

The DMH request for an increase of $24.9 million (General Fund) in the budget year consists of the components shown in the table below.

Table: Summary of Evaluation Components and Funding

Evaluation Component	Total Amount Requested for 2007-08 (GF)	Requested Increase for Budget Year (GF)	Percent of Cost Increase
Initial Evaluations ($3,835 per service)	$17.8 million (total of 4,644 services)	$15.5 million (increase of 3,717 services)	87%
Initial Court Testimony ($3,660 per service)	$5.4 million (total of 1,486 services)	$5.3 million (increase of 1,410 services)	98%
Evaluation Updates ($2,846 per service)	$2.3 million (total of 743 services)	$2.1 million (increase of 590 services)	91%
Recommitment Evaluations ($4,422 per service)	$533,000 (total of 159 services)	-$800,000 (decrease of 372 services)	-150% (decrease)
Recommitment Court Testimony ($3,828 per service)	$1.1 million (total of 296 services)	$302,000 (decrease of 138 services but increase in cost)	27%
Recommitment Updates ($2,844 per service)	$1.6 million (total of 578 services)	$1.2 million (increase of 291 services)	75%
Other miscellaneous other	$1.6 million	$1.3 million	81%
Totals (rounded)	**$30.4 million**	**$24.9 million**	**82%**

The Administration's proposed increase is primarily based on an increased volume of specified services to be provided due to anticipated caseload, along with a price increase in the contract evaluator rates to meet the current market demand for such services. **As noted above, the DMH is requesting an overall increase of $24.9 million (General Fund) or an 82 percent increase.**

Background—CA Department of Corrections & Rehabilitation (CDCR) Referral to the DMH. Specified sex offenders who are completing their prison sentences are referred by the CDCR and the Board of Parole Hearings to the DMH for screening and evaluation to determine whether they meet the criteria as SVP.

When the DMH receives a referral from the CDCR, the DMH does the following:

- *Screening*. The DMH screens referred cases to determine whether they meet legal criteria pertaining to SVPs to warrant clinical evaluation. Based on record reviews, about 42 percent are referred for evaluation. Those not referred for an evaluation remain with the CDCR until their parole date.

- *Evaluations.* Two evaluators (Psychiatrists and/or Psychologists), who are under contract with the DMH, are assigned to evaluate each sex offender while they are still held in state prison. Based on a review of the sex offender records, and an interview with the inmate, the evaluators submit reports to the DMH on whether or not the inmate meets the criteria for an SVP. If two evaluators have a difference of opinion, two additional evaluators are assigned to evaluate the inmate.

Offenders, who are found to meet the criteria for an SVP, as specified in law, are referred to District Attorneys (DAs). The DAs, then determine whether to purse their commitment by the courts to treatment in a State Hospital as an SVP.

If a petition for a commitment is filed, the clinical evaluators are called as witnesses at court hearings. Cases that have a petition filed, but that do *not* go to trial in a timely fashion may require updates of the original evaluations at the DA's request.

The amount of time it takes to complete the commitment process may vary from several weeks to more than a year depending on the availability of a court venue and the DA's scheduling of cases. While these court proceedings are pending, offenders who have not completed their prison sentences continue to be held in prison. *However*, if an offender's prison sentence has been completed, he or she may be held either in county custody or in a State Hospital.

Background—SB 1128 (Alquist), Statutes of 2006. This legislation made changes in law to generally increase criminal penalties for sex offences and strengthen state oversight of sex offenders. For example, it requires that SVPs be committed by the court to a State Hospital for an undetermined period of time rather than the renewable two-year commitment provided under previous law.

This law also mandates that every person required to register as a sex offender be subject to assessment using the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) a tool for predicting the risk of sex offender recidivism.

Background—Proposition 83 of November 2006—"Jessica's Law". Approved in November 2006, this proposition increases penalties for violent and habitual sex offenders and expands the definition of an SVP. The measure generally makes more sex offenders eligible for an SVP commitment by **(1)** reducing from two to one the number of prior victims of sexually violent offenses that qualify an offender for an SVP commitment, and **(2)** making additional prior offenses "countable" for purposes of an SVP commitment.

Legislative Analyst's Office Recommendation—Reduce Both the Current Year Deficiency Request & the Budget Year Request. The LAO recommends reducing both the 2006-07 deficiency request as well as the Governor's budget year request for the SVP evaluations.

The LAO states that the number of evaluation updates and the number of court testimony episodes to be performed by the clinical evaluators will be lower than the number projected in the Governor's 2006-07 deficiency request and in his January budget plan. The LAO is basing their assessment on more recent data. The differences are shown in the tables below along with the General Fund (GF) savings amounts.

Table: 2006-07 Current Year Comparison and LAO Identified GF Savings

Evaluation Component	DMH Proposed Increase	LAO Calculation	GF Savings
Initial Court Testimony	$3.2 million (867 services)	$769,000 (210 services)	**$2.4 million (-657 services)**
Evaluation Updates	$1.4 million (495 services)	$435,000 (153 services)	**$965,000 (-342 services)**
Totals	$4.6 million	$1.2 million	**$3.4 million**

Table: 2007-08 Budget Year Comparison and LAO Identified GF Savings

Evaluation Component	DMH Proposed Increase	LAO Calculation	GF Savings
Initial Court Testimony	$5.4 million (1,486 services)	$2.6 million (705 services)	**$2.8 million (-781 services)**
Evaluation Updates	$2.1 million (743 services)	$839,000 (295 services)	**$1.3 million (-448 services)**
Totals	$7.5 million	$3.4 million	**$4.1 million**

Subcommittee Staff Recommendation—Hold Open. It is recommended to "hold" this issue "open" pending receipt of the Governor's May Revision and additional data based on current-year experiences, *and* to direct the Legislative Analyst's Office (LAO) to analyze the new information and provide a recommendation to the Subcommittee.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. DMH, Please provide a brief description of the evaluation process and the budget request.

3B. Caseload Costs at the State Hospitals for Changes to SVP Program

Issue. The **budget proposes an increase of $12.1 million (General Fund) in the current-year and $43.3 million (General Fund) in the budget year due to projected increases in the Sexually Violent Predator (SVP) patient caseload at the State Hospitals.** The DMH contends caseload will significantly increase due to implementation of SB 1128 (Alquist), Statutes of 2006 and passage of Proposition 83.

The Administration's proposals are built upon two core assumptions. First, they assume a high-end volume of referrals (i.e., "worst-case scenario") to be sent by the CDCR over to the DMH for evaluation. **Second,** they assume that the same level of commitments—average of 8 percent now—will occur under the new laws (i.e., SB 1128, Statutes of 2006 and Proposition 83). **Both of these assumptions made by the Administration are open to question.**

It should be noted that Proposition 83 reduced from two to one the number of prior victims of sexually violent offenses that qualify an offender for an SVP commitment. Therefore, it will likely be more difficult for District Attorney's (DAs) to prove a pattern of predatory behavior and thus obtain an SVP commitment for sex offences with only one victim compared with two or more victims. **As such, a potentially significantly lower percent (i.e., less than at the 8 percent assumed) of the CDCR referrals to the DMH may ultimately result in an SVP commitment under the new one-victim standard.** (The LAO recognizes this aspect in their analysis as discussed below in this Agenda.)

The tables below outline the Administration's proposal for both years. As required by existing statute, SVPs may only be treated at Atascadero State Hospital and Coalinga State Hospital.

Table: DMH Proposed Increase for 2006-07 (Current Year)

State Hospital	Proposed Caseload Increase	Proposed Staff Increase	Proposed General Fund Increase
Atascadero	66 patients	40 positions	$3.2 million
Coalinga	205 patients	103 positions	$8.9 million
Total	**271 patients**	**143 positions**	**$12.1 million**

For the budget year, an increase of 440 patients is assumed. Again, the DMH has assumed a "worst-case scenario" for their estimate. They assume the CDCR will refer about 5,528 individuals for evaluation and that 8 percent will be committed as SVPs into the State Hospital system.

Table: DMH Proposed Increase for 2007-08 (Budget Year)

State Hospital	Proposed Caseload Increase	Proposed Staff Increase	Proposed General Fund Increase
Atascadero	continues funding for 66 patients (phased-in)	79 positions	$6.3 million
Coalinga	440 patients (new and phased-in)	429 positions	$37 million
Total	**440 patients (new)**	**508 positions**	**$43.3 million**

Legislative Analyst's Office Recommendation—Requested Resources Should be Reduced. The LAO is recommending **(1)** a reduction of $6 million (General Fund) from the current year request; and **(2)** a reduction of $21.6 million (General Fund) from the budget year request. The differences are shown in the table below.

LAO Recommendations on Projected SVP Caseload Costs

Fiscal Year	DMH Proposed Increased Amount (GF)	LAO Recommended Level	LAO Identified Savings (GF)
2006-07	$12.1 million	$6.1 million	$6 million
2007-08	$43.3 million	$21.7 million	$21.6 million
Totals	$55.4 million	$27.8 million	$27.6 million

The LAO is recommending these reductions because they believe that a significantly lower percent of sex offender referrals from the CDCR to the DMH will result in an SVP commitment under the new one-victim standard. The LAO analysis indicates that the Administration's proposal does not sufficiently take into account the shift from a two-victim to a one-victim standard when projecting SVP caseload. **As such, the LAO assumes a 4 percent commitment level on an annual basis versus the 8 percent that the DMH uses.**

In addition, the LAO notes that the current year SVP caseload has *not* been increasing substantially. Specifically, from July 2006 through February 2007 there has only been an increase of 19 new SVP cases. **This increase of 19 SVPs is well below the 271 new SVPs upon which the Administration is basing their current-year request (i.e., the caseload has not yet materialized).**

Subcommittee Staff Recommendation—Hold Open. It is recommended to "hold" this issue "open" pending receipt of the Governor's May Revision and additional data based on current-year experiences, *and* to direct the Legislative Analyst's Office (LAO) to analyze the new information and provide a recommendation to the Subcommittee.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief description of the budget request.
2. DMH, Please discuss where these SVP patients would reside and why.

3C. DMH Headquarters' Administrative Costs for Changes to SVP Program

Issue. The DMH is **requesting an increase of $4.8 million (General Fund) for state support functions relating to changes in the SVP Program.** This request is in addition to a $1.6 million (General Fund) augmentation for the current year for which the LAO recommended approval to the Joint Legislative Budget Committee.

The $4.8 million (General Fund) request for the budget year consists of (1) $3.8 million (General Fund) to support 51.6 positions; **(2)** $215,000 in one-time only funding for consultants; and **(3)** $800,000 for various operating expenses.

As shown in the table below, a total of 44 positions at DMH headquarters in Sacramento and 7.6 positions at Coalinga State Hospital are being requested. The 44 positions at the DMH include 36 positions for the Sex Offender Commitment Program and 8 positions for administration functions.

With respect to the 36 positions requested for the DMH Sex Offender Commitment Program (SOCP) at the headquarters' office, the DMH contends that positions are needed to **(1)** process a higher volume of cases; **(2)** track new SVP cases, **(3)** oversee contract psychiatrist/psychologist evaluators; **(4)** conduct research; and **(5)** supervise the case review process.

Table: DMH Request for 51.6 Positions

Type of Position	DMH Sex Offender Commitment Prog.	DMH Administration & I.T. Support	Coalinga State Hospital
Consulting Psychologist	6		
Mental Health Prog Supervisor	4		
Staff Mental Health Specialist	3		
Associate Governmental Analyst	15	1	
Research Analyst	2		
Data Processing Manager II		1	
Senior Programmer Analyst		1	
Staff Programmer Analyst		1	
Associate Budget Analyst		1	
Senior Accounting Officer		1	
Associate Personnel Analyst		1	
Business Services Officer		1	
Staff Services Analyst			1 two-yrs
Health Records Technician			2
Office Technician	6		1 two-yrs
Hospital Peace Officer			3.6
Totals (51.6 total positions)	**36 positions**	**8 positions**	**7.6 positions**

The 8 administrative positions would be used for **(1)** information systems processing functions related to SVP tracking; **(2)** personnel functions; **(3)** accounting activities related to the payment of consultant evaluators; and **(4)** business services functions related to

various procurements.

The 7.6 positions at Coalinga State Hospital would be used to **(1)** provide security for the independent evaluators conducting the SVP evaluations; **(2)** process caseload materials; and **(3)** manage the workflow of the overall SVP evaluation process.

Background—DMH Sex Offender Commitment Program Staff. This section within the DMH headquarters office consists of 13 staff. These include (1) a Career Executive I, (2) a Consulting Psychologist, (3) a Staff Mental Health Specialist, (4) four Associate Mental Health Specialists, (5) a Research Specialist, (6) a Staff Services Analyst, and (7) four Office Technicians.

In addition to these 13 existing positions, the DMH has been given increased current-year budget authority to hire 12.7 positions, including (1) 7.4 positions within the SOCP; (2) 1.5 positions for information technology activities; and (3) 3.8 positions at Coalinga State Hospital.

Legislative Analyst's Office Recommendation—Hold Pending May Revision. The LAO is withholding their recommendation on this issue pending receipt of the Governor's May Revision. The LAO will have more data at this time as to how the changes in SVP law may result in increased workload for the DMH.

Subcommittee Staff Recommendation—Hold Open. The DMH will need additional resources in the Sex Offender Commitment Program (SOCP), as well as at Coalinga, to address the anticipated increased volume of work. **However, it appears that the DMH request could be adjusted downward.** First, the budget request assumes that 38 of the requested 51.6 positions start on July 1, 2007. Clearly, all of these positions will not be filled at this time, so a more phased-in funding approach could be used.

Second, the DMH only assumes a 40 percent efficiency rate in processing the cases. This work is done by the Associate Governmental Program Analyst positions. Since the DMH uses a lower efficiency rate, they are projecting a higher volume of staff need (i.e., 15 positions).

Third, the DMH is also using a formula for the ratio of clerical staff to professional staff and managerial staff to analyst staff. These ratios may be lower if less staff is needed based upon a revised workload analysis.

It is recommended to withhold any action at this time and to request the LAO to provide a recommendation on this issue at the Governor's May Revision when a more comprehensive workload need is available.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. Please provide a brief description of the budget request and related assumptions.
2. Have the 12.7 positions for the current year been hired as yet? If not, what is the status of these hires?
3. Is it anticipated that this request will be updated at the May Revision?

4. Coleman v Schwarzenegger Salary Adjustments for Vacaville & Salinas

Issue. The DMH **is requesting an increase of $5.5 million (General Fund) for 2007-08 to enable the DMH to have salary parity with the CA Department of Corrections and Rehabilitation (CDCR) for staff at the Salinas Valley and Vacaville Psychiatric programs that provide treatment to CDCR inmates.**

Special Master Keating recommended increasing the compensation provided to CDCR's mental health clinicians including Psychiatrists, Psychologists, Psychiatric Social Workers, Occupational and Recreational Therapists, Registered Nurses, LVNs and medical transcribers, as well as supervisors in all these categories.

As such, the DMH is proposing salary parity for these same mental health classifications for those clinicians working in the DMH psychiatric programs located within the prisons.

Subcommittee Staff Recommendation—Approve with Technical Adjustment. Based on updated information recently obtained from the DMH, the budget request should be reduced by $336,000 (General Fund) to reflect the impact of the employee compensation letter issued by the Department of Personnel Administration. Salary equity for the DMH employees is vital and necessary.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief summary of the proposal and the technical adjustment.

5. Continued Activation of Coalinga State Hospital (CHS)—Non-Level-Of-Care

Issue. The DMH is requesting an increase of $5.6 million (General Fund) to fund 61 "non-level-of-care" positions at Coalinga State Hospital. These positions include a wide variety of personnel classifications such as medical record transcribers, accounting staff, food service workers, housekeeping staff, ware house personnel, pharmacists, engineers and others who are vital to the over all operations of the facility.

It should be noted that of the total increase, $513,000 is identified for recruitment and retention purposes and hiring personnel above the minimum step level.

Generally, this is the same request that was previously approved by the Legislature but was deleted by the Administration when it updated its budget since activation at Coalinga has been slower than anticipated.

Background—Coalinga State Hospital is Gradually Being Activated. CHS, a 1,500 bed facility located adjacent to the Pleasant Valley State Prison, admitted its first patients in September 2005. **However, due to historic problems in attracting personnel to fill vacancies—both clinical and "non-level-of-care"--, which has been compounded by recent CDCR salary increases, Coalinga has been very slow to activate and to fill its beds with patients.**

The DMH states that presently (as of March 1st) Coalinga provides treatment to 452 patients. The DMH notes that an additional 50 bed unit will be activated soon—possibly by May/June, 2007.

Subcommittee Staff Recommendation--Approve. The need to more assertively activate Coalinga is clear in order to appropriately manage the patient population at the State Hospitals. As such, it is recommended to approve this request for "non-level-of-care" staff.

However, if it appears that Coalinga is not phasing in more beds on-line, then this issue may be revised at the time of the Governor's May Revision.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief update on the activation of Coalinga State Hospital.
2. DMH, Please provide a brief summary of the need for the budget request.

6. Request for DMH Headquarters Support in Administration—Two Issues

Issues. **First,** the DMH is requesting **an augmentation of $470,000** ($362,000 General Fund and $108,000 Mental Health Services Fund) **to support 5.5 positions in the DMH headquarters' personnel and labor relations section.** These positions include a Staff Services Manager I, a Labor Relations Specialist, two Associate Personnel Analysts, a Personnel Specialist and a half-time Office Technician.

These positions would be used to address various personnel and labor relations issues due to increases in staff within the State Hospital system related to CRIPA Consent Judgment and *Coleman v. Schwarzenegger,* and the implementation of the Mental Health Services Act (Proposition 63 of 2005).

The DMH states that this proposed increase is essential for them to comply with all of the requirements of personnel administration, state regulations and bargaining contracts.

Second, the DMH is also proposing **an increase of $145,000** (General Fund) to hire a Staff Counsel III in the DMH Legal Office to assist in issues relating to *Coleman v. Schwarzenegger*. The DMH states that this position would participate in meetings, research and prepare written responses to the Special Master, respond to Public Records Act requests, prepare testimony and make court appearances.

Subcommittee Staff Recommendation—Approve with Adjustment. It is recommended to **(1)** approve as budgeted the 5.5 positions for personnel and labor relations given the needs identified, and **(2)** provide an entry level Staff Counsel position in lieu of the higher level Staff Counsel III position since the Attorney General's Office and CDCR are the lead entities on this court case.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief description of the request.

D. ISSUES FOR DISCUSSION – Community Mental Health

1. Mental Health Medi-Cal Managed Care—*Two Issues*

Issues. **First**, the budget reflects an increase of $8.3 million ($4.2 million General Fund) for local assistance. Of this increase, $8.2 million (total funds) is due to an increase in the number of Medi-Cal enrollees accessing County Mental Health Plan services. The remaining amount is attributable to technical adjustments. No issues have been raised regarding the caseload adjustments.

However, the Administration has failed to restore the 5 percent rate reduction enacted in 2003, and has chosen not to provide a medical consumer-price index adjustment which is contained in statute.

As contained in Assembly Bill 1762, Statutes of 2003, the Omnibus Health trailer legislation which accompanied the Budget Act of 2003, the Mental Health Managed Care program's state General Fund appropriation was reduced by 5 percent to reflect a rate reduction. This 5 percent rate reduction was also applied to health care plans participating in the Medi-Cal Managed Care Program administered by the Department of Health Services.

The 5 percent rate reduction was applicable from July 1, 2003 through January 1, 2007 (sunset date). **Funding has been restored for the health care plans within the DHS Medi-Cal Program effective January 1, 2007, but the DMH has chosen *not* to provide the rate restoration (for the current year or budget year).**

An increase of $12 million (General Fund) would be needed to restore the 5 percent rate reduction effective as of July 1, 2007. This would provide funding for the budget year. Any current year adjustment (i.e., from January 1, 2007 to June 30, 2007) would require urgency legislation and an appropriation of about $6 million (General Fund).

It should also be noted that the medical care price index adjustment (medical CPI), as contained in the enabling legislation for this program, was not funded by the Administration. An increase of $9.5 million (General Fund) would be needed to provide for this adjustment. **The last time a medical CPI was provided was in the Budget Act of 2000, or 7 years ago.**

Background—How Mental Health Managed Care is Funded: Under this model, County Mental Health Plans (County 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. **County MHPs access County Realignment Funds (Mental Health Subaccount) for this purpose.**

An annual state General Fund allocation is also provided to the County MHP's. 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 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. **The state's allocation is contingent upon appropriation through the annual Budget Act.**

Based on the most recent estimate of expenditure data for Mental Health Managed Care, County MHPs provided a 47 percent match while the state provided a 53 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—Overview of Mental Health Managed Care: Under Medi-Cal Mental Health Managed Care psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists and some nursing services, are the responsibility of a single entity, the Mental Health Plan (MHP) in each county.

Full consolidation was completed in June 1998. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government. Medi-Cal recipients *must* obtain their mental health services through the County 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 County MHPs to ensure quality of care and to comply with federal and state requirements.

Constituent Concerns On Need for 5 Percent Rate Restoration. The Subcommittee is in receipt of a letter from the CA Mental Health Directors Association (CMHDA) and the CA State Association of Counties (CSAC) who are seeking funding for the 5 percent rate restoration. They contend that without this restoration, coupled with the continued lack of a medical CPI, their ability to provide services to their target population of seriously mentally ill indigent individuals will continue to erode, with more County Realignment revenues going to provide the match for Medi-Cal services.

In addition to the prior year's rate reduction, they note that the medical CPI has not been funded by the state since the Budget Act of 2000. Since this time, medical inflation increases have occurred and the costs for providing Psychiatric services and prescription drugs continue to grow.

Further, CMHDA and CSAC note that although the Mental Health Services Act (i.e., Proposition 63) provided new revenues for mental health services, revenues from this act cannot be used to supplant existing programs.

Subcommittee Staff Recommendation—Approve with Potential Adjustments. Mental Health Managed Care services are a core component to the public mental health system and it is important for the state to be a viable partner in the provision of resources provided towards this effort. The enabling statute for the 5 percent rate reduction had a sunset date that is applicable to all managed care plans. Consistency in the application of the rate restoration is only fair and equitable. Where is the parity for mental health services?

As such, it is recommended to **(1)** approve the technical caseload adjustments as proposed by the Administration, and **(2)** place $12 million (General Fund) for the 5 percent rate restoration on the Check List for consideration to fund at the May Revision.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. DMH, Please provide a brief description of the Administration's budget request.
2. DMH, Why wasn't the five percent reduction restored as of January 1, 2007 as was done for all other Medi-Cal Managed Care health plans?

2. Significant Issues Regarding the Early, Periodic Screening and Treatment (EPSDT) Program Requires Legislative Oversight and Funding

Over All Issues. Significant issues have been raised regarding the DMH's administration of the Early, Periodic Screening and Treatment (EPSD) Program. **These layers of issues are intertwined and include the following:**

- A deficiency request of **at least $302.7 million** (General Fund) for past years owed to the County MHPs, *and* a budget year request for **an increase of $92.7 million** (General Fund);
- An accounting error which represents a significant portion of what is owed to the County MHPs;
- Double billing of the federal government (i.e., Medicaid/Medi-Cal funds) by the state (DMH and DHS);
- A pending federal audit report which *could* have additional General Fund implications;
- A claims processing method (i.e., billing system) which is manually operated;
- Use of an inaccurate methodology for estimating program expenditures for budgeting purposes;
- Use of a "cost settlement" process for closing out costs for past fiscal years;
- A lack of timeliness and accountability on the part of the Administration in informing the Legislature and bringing forth these issues (See hand outs for timeline); and
- Need for the Office of State Audits and Evaluations (OSAE), located within the Department of Finance, to conduct analyses and make recommendations in several areas.

Though monies are owed to County Mental Health Plans (County MHPs) for services provided in the EPSDT Program, the Legislature has a public obligation to conduct due diligence to ensure that public funds are appropriately utilized and that the DMH remedies their administrative missteps which have contributed to this situation.

The seriousness of these issues cannot be overstated. The EPSDT Program is the core public program that provides mental health treatment services to children and their families. It is imperative for the program to operate effectively and efficiently to ensure that quality services are provided to children and their families, and that providers of services are reimbursed in a timely manner (including County MHPs). Total program expenditures are estimated to be over $1 billion (total funds) for the current year.

Each of the issues referenced in the bullets above are described individually below to facilitate discussion and to identify constructive remedies in an effort to move forward.

Issue—Description of the De ficiency Request and the Accounting Error. The magnitude of the issues at hand were initially brought forward through a $243 million (General Fund) deficiency request submitted to the Joint Legislative Budget Committee (JLBC) on November 15, 2006, and then updated by the Administration to be a total of $302.7 million (General Fund) on January 10, 2007.

In a letter dated Januar y 18, 2007, Senator Du cheny, as Chair of the JL BC, articulated consider able concerns to the Administration regarding the various contributing factors that created the de ficiency, as w ell as the late timing and inadequacy of information provided to the Legislature.

The table below displays the compon ent pieces to the deficiency request. In addition, the table also show s the request ed increase of $ million (General Fund) for 2007-08.

Table: Fiscal Summary EPSDT Deficiency Request Received To Date	**Fiscal Year**	**General Fund Amount**
Cost Settlement Amount (closing out of fiscal year)	2003-04	$13.7 million
Shortfall Due to "Misestimating"	2004-05	$17.6 million
Shortfall Due to "Misestimating"	2005-06	$34.7 million
Error Due to Shift In Accounting Per Administration (Shifting GF from DHS to DMH responsibility)	2005-06	$177 million
Subtotal for Prior Years (rounded)		**$243 million**
Requested Increase For the Current Year (CY)	2006-07	**$59.7 million**
Total Deficiency Request (Prior Years & CY)		**$302.7 million**
Request for Budget Year (2007-08)		**$92.7 million**

A brief description of each component, as shown in the table, is provided below:

- Cost Settlement Amount ($13.7 million): The DMH uses a "cost settlement" process as part of its EPSDT claims reimbursement (i.e., billing and reconciliation). The cost settlement is completed prior to the end of the third year, after the close of said fiscal year. This means that the 2003-04 fiscal year is "cost settled" at the time of the May Revision for 2006-07, and the 2004-05 fiscal year will be "cost settled" at the time of the May Revision for 2007-08 (i.e., May 2007 date). In essence, it is how the DMH closes their books for the EPSDT Program for that fiscal year.

- Shortfall Due to Misestimating (total of $52.3 million): The estimating method presently used by the DMH for the EPSDT Program is flawed. The DMH's estimating method was last revised in 2003 at the behest of the Legislature since the prior method was not accurate. The Administration recognizes it needs to be changed and has asked the Office of State Audits & Evaluation to critique it and offer recommendations.

Of the prior year amounts owed by the state, the DMH attributes a total of $52.3 million (for the two fiscal years shown in the table below) to this "misestimating" which reflects the flawed methodology presently used to estimate EPSDT costs for budget purposes. The present estimating methodology is under-estimating the need for resources.

- Error Due to Shift In Accounting Per Administration ($177 million). In an effort to simplify the budget process for the Medi-Cal Program, the Administration has been gradually shifting "non-DHS" Medi-Cal expenditures to the departments who administer the applicable program. Therefore as part of this effort, the General Fund support for the EPSDT Program was shifted from the DHS to the DMH (responsible department for EPSDT mental health services). This shift occurred in the Budget Act of 2006.

  However as part of this shift, the Administration did not recognize that a General Fund adjustment would be necessary since the DHS Medi-Cal Program operates on a "cash" accounting system and the DMH EPSDT operates on an "accrual" accounting system. Therefore as described by the Administration, the shift of resources created a significant funding gap that has resulted in a General Fund shortfall.

- Requested Increase for the Current Year (2006-07) ($59.7 million). The last piece of the deficiency identified by the Administration is a request to increase the current year by $59.7 million (General Fund). Technically, these funds are not yet "owed" to the County MHPs. This $59.7 million is an estimate of the amount the DMH believes it needs to increase by in order to balance this fiscal year once all of the claims are received and processed. County MHPs are presently receiving payments in the current year for services billed to the EPSDT Program (i.e., there are funds available to the DMH to pay claims).

Issue—The Administration Double Billed the Federal Government Which Then Lead to Additional Problems. Late in 2005, the DMH discovered it had been over-billing the federal government (federal Medicaid/ Medi-Cal Program funds) for EPSDT for fiscal years 2003-04 and 2004-05. The DMH notified the DHS (the state's Medi-Cal agency), who in turn, notified the federal Centers for Medicaid and Medicare (CMS) of the possible over-billing.

The DMH stopped the process that caused the over-billing; however, the DMH then needed to review and reconcile all EPSDT claims payments for 2003-04 and 2004-05 to determine the amount of federal funds the state had over-billed and needed to pay back.

For 2003-04, the DMH has completely reconciled the federal funds portion of the EPSDT claims paid to the counties with the receipts of federal fund reimbursements received from the DHS. The state has paid back $128 million (federal funds) of the $136.8 million (federal funds) owed to the federal government. The state paid these funds back using federal funds that had not been expended (i.e., state had excess federal funds due to

double claiming). **However, about $8.8 million still needs to be paid back.**

For 2004-05, the DMH has completed EPSDT claims reconciliations for only the first six months of the fiscal year (i.e., through December 2004). An overpayment of $82.8 million was identified for this period and the state has paid this amount back. **It is anticipated that the DMH will complete their reconciliation of the last two quarters of this fiscal year (i.e., January to June 30, 2005) by the end of March, 2007.**

As a result of this federal over-billing, the DMH and DHS, as well as the federal CMS began stricter and closer reviews of all EPSDT claims being processed and required additional documentation from the County MHPs. **This additional over sight caused backlogs in processi ng *all* claims submitted for pay ment. This contributed to the significant amount o f 2004-05 and 2005-06 General Fund clai ms that had not been processed prior to J uly 1, 2006. Thus pay ments made b y t he DMH to the Cou nty MHPs were extremely slow, lagging by about six months.**

The feder al CMS conducted an audit of th e EPSDT over-billing problem and hel d an exit conference w ith the Administ ration on December 5, 2006; how ever, the federal CMS has not yet issued a final audit report.

Though the Administration states that they do not *anticipate* any f ederal fund exceptions, it is unclear as to w hether th is w ill come to frui tion until more is known. The last six months of the 2004-05 claims need to be reconciled, and comments regarding the federal audit need to be received. Further, the DMH has not yet fully repaid the federal government for some of the over billing. It is not clear why this has not occurred.

Issue—DMH EPSDT Clai ms Processing System (See Hand Out). As noted by OSAE, the LAO and others, the EPSDT claims processing system needs to be restructured. It is a partially manual process that has few checks and balances for oversight. The claims processing system must account for certain county baseline payments, state General Fund payments and federal fund payments, which based on the issues outlined above, it apparently is not doing.

The DMH regulations enable County MHPs to submit claims up to 16 months *after* the month of service. Though most County MHP claims are submitted within 6 months, it takes the state typically 10 months to fully process the claim. Through this process, County MHPs receive an interim payment for services that are anticipated to occur over their baseline (County MHPs have a level of funding they must provide first before state General Fund is used). The program must then be “cost settled”.

This “cost settlement” process does not become finalized until 3 years after the fiscal year (i.e., the 2004-05 fiscal year is “cost settled” at the time of the May Revision in 2007). As discussed above, this has been problematic.

Issue—Inaccurate Methodology for Estimating Expenditures for Budgeting Purposes. As noted by the LAO and OSAE, the DMH needs to completely revamp its method for estimating EPSDT expenditures for budget purposes. The OSAE report provides recommendations for the Administration to consider for these purposes. (The Subcommittee has requested OSAE to discuss these recommendations in the hearing.)

Issue—Lack of Timeliness in Informing the Legislature (See Hand Out). As noted by the LAO, Senator Ducheny's letter, and the Timeline provided by the Administration, the DMH's response to concerns lacked timeliness and contributed to the scope of the issues at hand. Comprehensive "action steps" from the Administration are needed in order to ensure that an efficient, cost-beneficial program is being operated. The Administration needs to provide the Legislature with concrete objectives and timelines for improving the administration of the program, as well as assurances that they will work with collaboratively with their County MHP partners.

Issue—Office of State Audits and Evaluations (Department of Finance) Scope of Work (See Hand Out). As noted in the hand out package, the OSAE has been requested by the Administration to conduct several projects, including the following:

- Evaluation of EPSDT budget estimation methodology (to be released on March 8th);
- Evaluation of EPSDT comprehensively (to be completed in September 2007);
- Evaluation of all other DMH administered local assistance programs (to be completed December 2007).

Background-- How the EPSDT Program Operates. 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. Examples of mental health services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

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, County MHPs are responsible for the delivery of EPSDT mental health services to children

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 Kim 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.

County MHPs must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002. **As such counties provided about $77.3 million in County Realignment Funds to support the EPSDT Program in 2006-07.**

Legislative Analyst's Office—EPSDT Claims Processing and Budget Estimating System Needs an Overhaul. The LAO has articulated significant concerns with the DMH's operation of the EPSDT Program with regards to their claims processing and budget estimating process.

As such, the LAO is recommending to "hold open" both the current year deficiency request, as well as the budget year request, pending receipt of a revised EPSDT estimating methodology as well as receipt of the OSAE findings and recommendations.

The LAO also notes in her *Analysis* on page C-98, that the DMH did not bring forth the EPSDT deficiency problems in a timely manner and that the lapses in timing indicates the lax fiscal administration of this program by the Department.

Subcommittee Staff Recommendation—Hold Open. The DMH needs to immediately develop a comprehensive work plan to address these interlocking issues, and to restore faith in their ability to appropriate administer this vital program. County MHPs do need to be paid monies owed to them for services provided; however, additional information needs to be provided by the Administration before this can reasonably occur. It is recommended for the Administration to report back to the Subcommittee in April, with a work plan and suggested steps to move forward.

Questions. The Subcommittee has requested the DMH *and* OSAE to respond to the following questions.

1. DMH, Using the chart on page 30, please briefly discuss each one of the deficiency issues.
2. DMH, Please provide an update on the federal double billing issue. Is there *any* potential for General Fund risk due to the need to pay back the federal government? Do we know when the federal audit results will be forthcoming?
3. DMH, Is there any potential need for the DMH to recoup EPSDT payments from the County Mental Health Plans?
4. **OSAE**, Please provide a brief summary of your key findings thus far, and a quick summary of future work items for the DMH.
5. DMH, What action steps is the department taking to remedy the existing situation and what are the specific timeframes for these action steps?
6. DMH, What specific changes may the department make to the Cost Settlement process and what are the timelines for making these changes? Does the department have the administrative authority to make changes to this process?
7. DMH, How does the department intend to keep the Subcommittee informed of progress regarding the EPSDT Program and these issues?

3. Governor Proposes Elimination of th e Integrated Services for Homeless Mentally Ill Program (Assembly Bill 2034 (Steinberg), Statutes of 2000)

Issue. The Administration **is proposing elimination of th e Integrated Services for Homeless Mentally Ill Program as esta blished by AB 2034 (Steinberg), for a reduction of $54.9 million (General Fund).**

The Administration notes that AB 2034 projects are efficacious and served as the principle model for the design of Proposition 63—the Mental Health Services Act—of 2005. The reduction is being proposed solely for the purpose of reducing General Fund.

Background—Integrated Services for Homeless Mentally Ill Program (See Han d Out). This is a competitive grant program that provides state General Fund support to counties. The enabling legislation was adopted on a bipartisan basis. Presently, 34 counties receive grants that total $54.9 million. The program has been independently evaluated on several occasions and has had measurable outcomes as noted below:

- 56 percent reduction in the number of days hospitalized;
- 72 percent reduction in the number of days incarcerated;
- 67 percent reduction in the number of days spent homeless;
- 65 percent increase in the number of days employed full-time; and
- 280 percent increase in the number of individuals receiving wages.

The average cost per individual served is $12,000 annually.

Background—Proposition 63 (Mental Health Services Act) . The Mental Health Services Act addresses a broad spectrum of prevention, early intervention and service needs and the necessary infrastructure, technology and training elements that will effectively support the local mental health system.

The Act imposes a one percent income tax on personal income in excess of $1 million. The total resources available in the Mental Health Services Account are $3 billion for 2006-07 and $4.3 billion for 2007-08. Of this amount, the Governor's budget proposes total expenditures of $517.9 million for 2006-07 and $1.5 billion for 2007-08, most of which is for local assistance. (The Subcommittee will discuss this Act in more detail at a later Subcommittee hearing.)

Among other things, the Act requires these funds to be used to supplement and not supplant existing resources. **The clear i ntent of the Act is to expan d mental health funding.**

Subcommittee Staff Recommendation. It is recommended to place the restoration of this program onto the check list to potentially fund at the May Revision.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please explain why such a valuable and efficacious program is proposed for elimination.
2. DMH, Please provide the Administration's perspective on maintenance of effort as it applies to the state's resources as contained in Proposition 63—the Mental Health Services Act.
3. DMH, Does the state have any authority to direct County MHPs on how to expend monies provided under the Mental Health Services Act?

Diane Van Maren (w) 651-4103
Senate Budget & Fiscal Review

Subcommittee No. 3: Monday, March 12th

(Use the Agenda for this day as a guide with this document please.)

B. ISSUES FOR "VOTE ONLY" (Items 1 through 3, Page 4 to Page 6)

- **Action:** Approved Items 1 through 3.
- **Vote:** 3-0

C. ISSUES FOR DISCUSSION – State Hospitals (Starts on Page 10)

1. Update on CRIPA & Department's Technical Error (Page 10)

- **Action:** First, the department is to report back to the Subcommittee on April 30th regarding CRIPA implementation. Second, the budgeted amount for the technical error is approved.
- **Vote:** 3-0

2. Proposed Baseline Population at the State Hospitals (Page 14)

- **Action:** Approved as budgeted.
- **Vote:** 3-0

3A. Proposed Evaluation Costs for Changes to SVP Program (Page 16)

- **Action:** Held OPEN until the May Revision.

3B. Caseload Costs at the State Hospitals for Changes to SVP Program (Page 19)

- **Action:** Held OPEN until the May Revision.

3C. DMH Headquarters' Administrative Costs for Changes to SVP (Page 21)

- **Action:** Held OPEN until the May Revision.

4. Coleman v Schwarzenegger Salary Adjustments-Vacaville & Salinas (Page 23)

- **Action:** Approved as budgeted with technical adjustment as noted in the Agenda.
- **Vote:** 3-0

5. Continued Activation of Coalinga State Hospital (CHS) (Page 24)

- **Action:** Approved as budgeted.
- **Vote:** 3-0

6. Request for DMH Headquarters Support —Two Issues (Page 25)

- **Action:** Approve as budgeted the 5.5 positions and to adjust the Staff Counsel III position to be only a Staff Counsel position (lower level).
- **Vote:** 2-1

D. ISSUES FOR DISCUSSION – Community Mental Health (Page 26)

1. Mental Health Medi-Cal Managed Care—*Two Issues (Page 26)*

- **Action:** First, approved as budgeted the technical adjustments. Second, placed the $12 million (General Fund) on our Check List as a priority to fund.
- **Vote:** 3-0 on the first action.
- **Vote:** 2-1 (Cogdill) on the second action.

2. Significant Issues Regarding the Early, Periodic Screening and Treatment (EPSDT) Program Requires Legislative Oversight and Funding (Page 29)

- **Action:** First, the department is to immediately develop a work plan to address the problems outlined and to report back to the Subcommittee on April 30th to present this plan. Second, adopted Budget Bill Language (passed out in Subcommittee) to establish the program in statute.
- **Vote:** 3-0

3. Governor Proposes Elimination of the Integrated Services for Homeless Mentally Ill Program (Assembly Bill 2034 (Steinberg) (Page 35)

- **Action:** Placed $54.9 million (General Fund) on our Check List as a priority to fund.
- **Vote:** 2-1

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Thursday, March 15, 2007
10:00 am or Upon Adjournment of Session
Room 4203 (John L. Burton Hearing Room)
(Eileen Cubanski, Consultant)

Vote-Only Agenda

Discussion Agenda

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.

Discussion Agenda (continued)

Item Department Page

Vote-Only Agenda

Vote Only Issue 1: Department of Child Support Services – Employer Data File Maintenance

Description: The proposed Governor's Budget requests authority for 6.5 new positions in the Department of Child Support Services (DCSS) to manage and support a centralized statewide Employer Data File (EDF).

Background: California is currently developing a statewide automation system that includes a central repository for employer-related data. Although there are other statewide databases including employer information maintained by the Employment Development Department and the Franchise Tax Board (FTB) for their purposes, the DCSS' EDF will contain more information than those, as well as information on a national level. The positions requested for the workload associated with the EDF were based on an analysis of the number of staff required by FTB to maintain their central employer file (which is smaller than the EDF will be). The $249,000 needed to support the new positions will be redirected from contract savings.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 2: Department of Child Support Services – Transfer of General Fund Authority from the Department of Justice

Description: The proposed Governor's Budget transfers $348,000 General Fund from the Department of Justice (DOJ) budget to the Department of Child Support Services (DCSS) budget. This is a technical adjustment.

Background: Effective July 1, 2007, the DOJ will shift to a simply monthly billing rate method for DCSS, which will streamline the process and make it consistent with the method currently employed by the DOJ's other special fund clients. The DOJ has a companion budget change proposal that conforms to this request.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 3: Department of Child Support Services – Office of Audits and Compliance

Description: The proposed Governor's Budget includes two new positions to staff an Internal Audits Unit within the newly created Office of Audits and Compliance.

Background: The Department of Child Support Services (DCSS) was audited in January 2006 by the Department of Finance for compliance with Fiscal Integrity and

State Managers Accountability Act (FISMA) standards. The audit findings presented a clear need for an internal audit and compliance function to monitor, manage, and improve department policies and procedures by which it oversees its handling of $2 billion in child support collections. The $154,000 needed to support the new positions will be redirected from contract savings.

Staff Recommendation: Approve as budgeted. The workload appears justified.

Vote Only Issue 4: California Heal th and Human Services Agenc y – Child Welfare Leadership and Performance Accountability Act of 2006

Description: The proposed Governor's Budget includes $156,000 ($131,000 General Fund) and two positions to support the work of the California Child Welfare Council established by AB 2216 (Bass, Chapter 384, Statutes of 2006).

Background: AB 2216 established the California Child Welfare Council (Council) within the California Health and Human Services Agency (HHSA). The Council serves as an advisory body that will be responsible for improving the collaboration and processes of the multiple agencies and courts that serve children and youth in the child welfare and foster care systems.

The budget request includes funding for one analyst, who would provide support for the strategic direction of the Council and be responsible for administrative and day-to-day operations. The HHSA will redirect one assistant secretary position to set workload priorities, provide leadership to address the needs of children in the child welfare system, and supervise/coordinate the duties of the analyst. The request also includes $60,000 to support regional meetings of the Council, professional facilitation, and travel funding for foster youth to participate in meetings as required by AB 2216

Staff Recommendation: Approve as budgeted. The workload request is justified.

Discussion Agenda

5180 Department of Social Services (DSS)

Background: Overview of Caseload, Costs, and Outcomes for Children and Family Services

Caseload and Costs Overview

Children and Family Services includes a continuum of programs designed to protect children from abuse, neglect, and exploitation, strengthen families, deliver services to children in out-of-home care, and support the adoption of children with special needs. These programs are operated by county welfare departments, and funded jointly with federal, state, and county resources.

The budget provides $5.1 billion ($1.7 billion General Fund) to support children and family services programs. Federal funding for these programs is provided by Social Security Act Titles IV-B, IV-E, XIX, and XX funding, as well as Temporary Assistance for Needy Families (TANF) funds.

Child Welfare and Foster Care Funding Sources

(dollars in millions)

2006-07	FEDERAL IV-E	OTHER FEDERAL	STATE	COUNTY	TOTAL
Child Welfare Services	$827.3	$557.2	$778.6	$217.6	$2,380.3
Foster Care Grants	473.2	0.0	431.2	664.1	1,568.4
Foster Case Mgmt	37.9	0.0	27.9	9.8	75.6
KinGAP	0.0	0.0	107.7	32.0	139.7
Adoptions	47.5	0.0	59.7	0.5	107.6
AAP	282.3	0.0	291.8	97.3	671.4
Total $1,668.2		**$557.2**	**$1,696.9**	**$1,021.3**	**$4,943.6**

2007-08	FEDERAL IV-E	OTHER FEDERAL	STATE	COUNTY	TOTAL
Child Welfare Services	$841.1	$634.3	$714.0	$211.2	$2400.6
Foster Care Grants	465.1	0.0	419.5	659.6	1,544.2
Foster Case Mgmt	23.8	0.0	17.7	6.1	47.6
KinGAP	0.0	0.0	144.2	47.6	191.8
Adoptions	47.9	0.0	60.3	0.5	108.7
AAP	312.1	0.0	320.4	106.8	739.2
Total $1,690.0		**$634.3**	**$1,676.1**	**$1031.8**	**$5,032.2**

- **Child Welfare Services (CWS).** This program encompasses a variety of services designed to protect children from abuse, neglect, and exploitation.

Services include Emergency Response, Family Maintenance, Family Reunification, and Permanent Placement. Combined average monthly caseload for these programs is estimated to decline by 2.5 percent in the budget year, primarily due to an increase in Kin-GAP caseload, which reduces Permanent Placement services. Total funding for CWS increased by 0.9 percent, to $2.4 billion ($714 million General Fund).

- **Foster Care Program.** The state's Foster Care Program provides support payments for children in out-of-home care, including foster homes, foster family agencies, residential treatment for seriously emotionally disturbed children and group homes. Average monthly foster care caseload is estimated to decrease by 4.4 percent, to 69,000 children. In recent years, group home and foster family agency caseload has been gradually increasing. Foster family homes caseload has been decreasing, primarily due to a shift to the Kin-GAP program. Total foster care funding is expected to decrease by 1.8 percent, to $1.6 billion ($449.7 million General Fund).

- **Kin-GAP and Enhanced Kin-GAP Programs.** The Kin-GAP programs provide support to children in long-term stable placements with relatives. The projected average monthly caseload for both programs is 20,789 children, reflecting an increase of 21.7 percent. The Kin-GAP programs are funded with General Fund Maintenance of Effort (MOE) and county funds. Total funding for Kin-GAP increased by 37.3 percent, to $191.8 million MOE/county funds. The Kin-GAP increase results in a decrease in Foster Family Home and Child Welfare Services – Permanency Planning.

- **Adoptions Programs.** The state's adoptions programs include the Adoptions Assistance Program (AAP) as well as other state and county efforts to improve permanency outcomes for foster children. The AAP provides subsidies to promote permanent placement of children who are older, members of sibling groups, have disabilities, or are otherwise difficult to place. Budget year AAP caseload is expected to be 77,600, an increase of 6.6 percent over current year. Total funding for AAP and other adoptions programs increased by 8.8 percent, to $847.9 million ($380.7 million General Fund).

DSS Issue 1: Children and Family Services Review

Description: The proposed Governor's Budget includes $702,000 ($351,000 General Fund) and five positions to establish a new unit to support federally required Children and Family Services Reviews (CSFRs). Based on federal statute, these reviews will occur every three years. The budget also includes a request to make two limited-term positions related to AB 636 implementation permanent (see DSS Issue 2 for a description of AB 636).

Background:

Children and Family Services Review (CSFR). In 2002, the federal Administration for Children and Families (ACF) conducted a performance review of California's child welfare system for the first time. The performance review included two broad sets of evaluation criteria. Both sets of criteria contained seven separate subareas for review. The first part of the review, referred to as "systemic," focused on factors such as training, statewide data collection, and the state's quality assurance processes. The second part of the review focused on seven measurable outcomes within three broad areas: safety, well-being, and permanency of children involved in the system.

In 2002, California passed two of the seven systemic factors and failed all seven of the outcome measures pertaining to child safety, well-being, and permanency. As a result, the state was required to develop and implement a Performance Improvement Plan (PIP) in order to avoid penalties in the form of reductions in federal funding. The PIP outlined the degree of improvement that the state needed to achieve in order to avoid penalties, as well as a number of action steps that the state was required to take.

As of July 2005, the ACF certified that the state had successfully met all seven of the systemic factors and completed those required action steps in the PIP. In April 2007, the ACF will review the state's performance on the other outcome measures (safety, permanency, and well-being) of the PIP. Although the final data that will be used for the April 2007 review are not yet available, the LAO has compared the state's performance for 2005 and 2006 using the latest available data. The following table summarizes the state's performance. As the chart on the following page shows, California has improved and is now passing in four of the seven safety, permanency, and well-being outcome areas. However, we continue to fail in three of those areas.

Figure 1

Child Welfare Services
California's Performance Improvement Status

Performance Outcomes	Performance Second Quarter 2005 Result	Pass/ Fail	Performance Second Quarter 2006 Result	Pass/ Fail
Safety				
(1) Children are protected from abuse and neglect (two goals)		**F**		**P**
Children with repeat maltreatment ↓	8.7%	P	8.4%	P
Maltreatment of children in foster care ↓	0.78	F	0.66	P
(2) Children are safely maintained in their homes		**F**		**P**
Children with repeat maltreatment ↓	22.6%	F	22.1%	P
Permanency				
(3) Children have permanency and stability in their living situations		**F**		**F**
Children who reenter foster care after exit ↓	10.7%	F	10.9%	F
Children/family reunified within 12 months ↑	68.2	P	68.2	P
Children adopted within 24 months ↑	29.3	P	29.7	P
Children with two or less placements in 12 months ↑	85.2	F	85.7	F
Timely establishment of permanency goals ↑	74.3	P	77.8	P
Proportion of children with goal of long-term foster care ↓	31.3	P	28.8	P
Well-Being				
(4) Children whose family relationships and connections are preserved		**F**		**P**
(5) Families have enhanced capacity to provide for their children's needs		**F**		**F**
(6) Children receive appropriate services to meet their educational needs		**F**		**F**
(7) Children receive adequate services to meet their physical and mental health needs		**F**		**P**

↑ ↓ Arrows indicate direction of desired performance improvement.

(Source: LAO 2007-08 Analysis)

Potential Penalty for PIP Failure. Federal penalties are assessed based on whether the state meets its goal for each outcome. For each goal not met, a penalty of one percent of the state's federal fund allocation is assessed beginning with federal fiscal year 2002. California's penalties have been held in abeyance pending the final review of the state's PIP, although interest (of 12.5 percent) and the penalties continue to accrue. The full penalty amount for the state's failure of the three outcome measures is estimated to be $25.8 million. Penalties could be applied as early as May or June 2007.

Next CFSR Review. California is scheduled for its next CFSR review in Federal Fiscal Year 2007-08. The ACF has introduced a new data measurement method for determining the effectiveness of states' child welfare systems under the CFSR. Unlike the first CFSR, where states were compared to their performance on seven data measures, the next CSFR will include 17 separate elements, 15 of which are new to the CFSR process. The new CSFR measures will also need to be integrated into the state's oversight process, requiring changes in our state accountability system under AB 636 (see DSS Issue 2 for a description of AB 636).

2007-08 Budget Request. The DSS requests $702,000 ($351,000 General Fund) and five positions to establish a new unit to support federally required CSFR activities. In the last federal CSFR, DSS redirected staff to complete the tasks associated with the Statewide Self Assessment but was not able to maintain this redirection to continue work on the PIP. The DSS still does not have the dedicated staff to perform the next self assessment for the 2008 CFSR. The two existing limited-term positions provide targeted technical assistance to counties to implement system changes and improve outcomes in high priority areas.

Questions:

1. Department, please provide an update on our compliance with the PIP. Will we pass in any additional areas or subareas?
2. Department, what is the timeline for final review of the PIP and potential assessment of penalties (i.e., what are the upcoming steps in the process?) Do you think the possibility of partial penalties as described by the LAO is realistic?
3. Department, explain the upcoming CFSR process and the work that needs to be done to prepare for it.
4. Department, describe the activities of the two AB 636 limited-term positions and how the work is going. How will these positions interact with the new CFSR unit?

Staff Recommendation: Approve as budgeted. The workload request appears justified.

DSS Issue 2: Improving Child Welfare Services Outcomes

Description: The proposed Governor's Budget includes $941,000 ($198,000 General Fund) and seven positions to provide state leadership, oversight, and technical support to counties who are working to improve children's programs.

Background: In addition to the federal Children and Family Review Services (CFSR) process described in DSS Issue 1, there are additional significant efforts at the state level that enhance and go beyond the existing CFSR requirements.

AB 636, California Child Welfare System Improvement and Accountability Act: In 2001, the Legislature passed the Child and Family Welfare System Improvement and Accountability Act (AB 636, Steinberg) to replace the state's process-driven county compliance review system with a new system focused on results for children and families. Using the federal CFSR standards as a starting point, AB 636 established a framework for measuring county performance and monitoring improvement in ensuring the safety, permanence, and well-being of children. However, AB 636 also added outcome measures and requirements that were important to California.

Starting in January 2004, counties began engaging their communities in examining performance and developing specific plans for system improvement. In this initial self-assessment phase, counties examined their strengths, service gaps, and needs based on the outcome measure data. Each county prepared and submitted a self-improvement plan to the department and began implementing new practices and policies designed to improve their performance. The system is structured as an ongoing quality improvement program, with each county monitoring its quarterly performance data and adjusting its approach accordingly.

Counties have also been participating in peer quality case reviews focused on areas needing improvement. In these focused reviews, neighboring counties partner with the department to review a random sample of cases and interview social workers to generate qualitative in-depth analysis of case results while promoting best-practice sharing among counties.

CWS Improvement Pilot Projects: Beginning in 2004-05, $13.7 million ($7.8 million General Fund) has been provided to 11 counties for pilot projects to improve their CWS outcomes. The pilots have focused on three methods for improving CWS delivery: (1) differential response intake, (2) standardized safety assessment, and (3) improving permanency and youth services. The success of these pilot projects will help improve outcomes measured by AB 636 and the CFSR.

2006-07 Funding to Further Improve Outcomes: The 2006 Budget Act included over $200 million in on-going funding targeted toward improving child welfare and foster care outcomes. The largest single piece of funding is $98 million ($61.4 million General Fund) provided to county welfare departments to fund needed outcome improvements identified in the counties' system improvement plans developed pursuant to AB 636. The funds are allowed to be used flexibly for local priorities. The County Welfare Directors Association conducted a survey of the twelve largest counties, which represents 79 percent of the funding, to determine how the funds are being spent. The overwhelming majority of the funds are being used by these counties to hire more social workers to reduce caseloads. Additional activities being funded include differential response, prevention services for at-risk children, services to emancipated youth and youth in out-of-home care, and family preservation and wraparound services. In

addition, approximately $29.1 million ($13.1 million General Fund) was provided for county social worker training and to hire additional adoption caseworkers. It is still too soon to have data from the counties to determine if these investments are improving CWS outcomes.

The remaining funding was provided for efforts to help with the adoption of hard-to-place foster children, youth transitioning out of foster care, additional financial aid for foster youth attending college, Kinship programs, transitional housing, and the Title IV-E waiver. The DSS indicates that they have allocated much of this funding, but it is still too soon to see an impact on outcomes as a result of this funding.

2007-08 Budget Req uest: The DSS request includes $941.000 ($198,000 General Fund) and seven positions to provide state leadership, oversight, and technical support to counties who are working to improve children's programs. The DSS notes that a significant investment in local child welfare services was made in 2006-07, but no commensurate increase in state support for these local activities was provided. The positions would be used for the following activities:

- *Increase Child Safety* – Two positions would assist counties in the implementation of the Standardized Safety Assessment System and Differential Response, monitor counties' performances, and assist counties in improving these outcomes.

- *Improve Permanency* – Four existing limited-term positions would be made permanent to provide on-going leadership, oversight, and program expertise to social services and mental health partners at both the state and local levels in order to assure that counties meet the requirements of the Mental Health Services Act (MHSA). The DSS also requests $300,000 in MHSA funds to contract for wraparound training and technical support to counties.

- *Improve Well-Being* – One position would develop and disseminate, in collaboration with the Department of Mental Health, mental health and developmental screening tools for use by physicians to see foster children, provide instruction and consultation to county staff to ensure accurate and adequate documentation of the results of mental health and developmental screens, assessments, and treatment services, and provide on-site county consultation and technical assistance.

Questions:

1. Department, please provide an update on the latest data you have regarding the 11 pilot counties.
2. Department, discuss how you will be measuring the outcomes of the on-going funding provided in 2006-07. When can we expect to know more about effectiveness of the expenditures?
3. Department, describe the budget request for the seven positions.

Staff Recommendations: Staff recommend partial approval of the request. This partial approval includes approval of one of the two positions requested for increasing child safety and converting the four limited-term positions to improve permanency to permanent positions. Approve the one position for improving well-being, but fund this with MHSA funding in lieu of General and Federal Funds for this position.

DSS Issue 3: Child Welfare Services Social Worker Standards and Budget Methodology

Description: There has been an ongoing effort in the Child Welfare Services (CWS) program to determine how many cases a social worker can carry and still effectively do his or her job. This item will discuss caseload standards and a budget methodology proposal that was due from the Department of Social Services (DSS) to the Legislature on February 1, 2007.

Background:

Child Welfare Services Worklo ad Stud y (SB 2030) Findings: In 1998, the Department of Social Services commissioned the SB 2030 study of counties' caseloads. At the time, the study concluded that for most categories the caseloads per-worker were twice the recommended levels. According to the study, it was difficult for social workers to provide services or maintain meaningful contact with children and their families because of the number of cases they were expected to carry. The report also found that the 1984 standards used by the state were based on outdated workload factors, and did not reflect any additional responsibilities that had been placed on social workers by the state and federal governments.

These findings and the minimal and optimal social worker standards proposed by the report have been included in budget discussions regarding staffing standards since the report's release. However, due to the state's budget shortfalls, the department has continued to use the 1984 workload standards, instead of the minimal and optimal standards, as the basis for allocating funds to counties for child welfare services staff. Although the 1984 workload standards are still in use, additional funding of approximately $478.4 million ($232.7 million General Fund) has been provided in recent years to move closer to SB 2030 standards.

Annual Report Requirement: The human services trailer bill for the Budget Act of 2005 requires DSS to report annually at budget hearings on how close the state is to achievement of the SB 2030 standards.

Child Welfare Services (CWS) Budget M ethodology: As part of the budget process last year, discussions occurred about whether to place the SB 2030 standards in statute with a timeline for achieving them. Instead, the final Budget Act of 2006 provided $98 million ($61.4 million General Fund) that could be used for local priorities, including hiring social workers It also required the Department of Social Services to lead a workgroup, including the California Welfare Director's Association, legislative staff, and

members of organizations representing social workers, to develop a methodology for budgeting the child welfare services program to meet statutory program requirements and outcomes taking into account the SB 2030 standards.

As part of that process, the DSS consulted with the University of California, Davis, Center for Public Policy Research, to conduct an independent review of research including other states' caseload standards. The research showed that California's caseloads are higher than most other states, and it found that the SB 2030 study to be the most extensive and highly regarded effort to date to measure appropriate workload in child welfare.

The proposed budget methodology was due to the Legislature by February 1, 2007, and it is the intent of the Legislature that the budget methodology be implemented in the Budget Act of 2007. However, that report has not yet been submitted. As of the release of this agenda, the Administration cannot commit to a specific release date. This is especially problematic in this case, because the Legislature will not have time to thoroughly analyze and discuss this proposed methodology at the May Revision.

Questions:

1. Department, please explain the SB 2030 standards. How close is the state to achieving those standards?
2. Department, exactly when will the Legislature receive the Child Welfare Services budget methodology?

Staff Recommendation: Hold open pending release of the budget methodology.

DSS Issue 4: Title IV-E Waiver

Description: The proposed Governor's Budget includes $180,000 ($90,000 General Fund) and 1.5 limited-term positions to provide state administrative oversight and evaluation activities related to the development and implementation of the Title IV-E waiver.

Background: On March 31, 2006, the federal government approved the state's request to waive certain provisions of Title IV-E under a IV-E waiver demonstration project. Under the terms of the waiver, up to 20 counties may participate, using federal funds for services that would normally not be eligible for federal reimbursement. The purpose of the waiver is to encourage and allow the use of innovative strategies or intensive services in order to prevent or limit placement in foster care. Two counties have chosen to opt into the waiver, Los Angeles and Alameda. These two counties account for 37 percent of the child welfare caseload.

In exchange for flexibility in use of the federal Title IV-E funds, participating counties will receive a capped allocation. This allocation, combined with the state's General Fund contribution, comprises the total amount available to the counties to fund child welfare

and foster care services. The participating counties may not claim more that this annual allocation. Any unspent allocation will be available to the county in the subsequent year; conversely, and county expenditures in excess of this allocation must be absorbed by the county. The state's agreement with the federal government allows the funding amount for the counties to increase by two percent each of the five years of the waiver period.

LAO Recommendation: In their 2007-08 Budget Analysis, the LAO recommends that the Legislature adopt budget bill language that establishes a reserve fund and sets out conditions for its use. This reserve is intended to mitigate the fiscal risk posed to counties participating in the waiver and any potential safety risk to children that might result from a spike in caseload.

2007-08 Budget Req uest: The DSS is requesting $180,000 ($90,000 General Fund) and 1.5 limited-term positions to provide state administrative oversight and evaluation activities related to the development and implementation of the Title IV-E waiver. The DSS notes that the different funding mechanism will require significant systems changes to the current budgeting, allocation, and claiming processes resulting in additional fiscal and accounting workload. In addition, the DSS cites a number of legal activities that might develop as a result of the waiver.

Questions:

1. Department, please provide an update of the Title IV-E implementation. Do you expect additional counties to participate in the waiver?
2. Department, please describe your budget request and explain the justification for the additional legal staff.
3. LAO, please describe the risks you identified in your 2007-08 Budget Analysis and explain your recommendation.

Staff Recommendation: Approve funding and positions. H old open LAO budget bill language and Title IV-E local assistance funding until the May Revision.

DSS Issue 5: Kinship Guardian Assistance Payment Program

Description: The proposed Governor's Budget includes trailer bill language that would eliminate the Kinship Guardian Assistance Payment Program Plus (Kin-GAP Plus). In addition, the County Welfare Directors Association (CWDA) has identified two additional issues with implementation of the Kinship Guardian Assistance Payment Program (Kin-GAP) for the Subcommittee's consideration.

Background:

Kinship Guardian Assistance Payment Program (Kin-GAP): The Kin-GAP program is intended to enhance family preservation and stability by recognizing that many foster children are in long-term, stable placements with relatives and that these placements

are the permanent plan for the child. Accordingly, a dependent child who has been living with a relative for at least twelve months may receive a subsidy if the relative assumes guardianship and the dependency is dismissed. Kin-GAP rates are equal to 100 percent of the basic foster care rate for children placed in a licensed or approved home.

Kinship Guardian Assistance Payment Program Plus (Kin-GAP Plus): The Kin-GAP Plus program was established in the 2006 budget trailer bill as a voluntary alternative to the existing Kin-GAP program. The goals of the Kin-GAP Plus were the same as those of the "regular" Kin-GAP Program, but the eligibility was expanded to include certain probation youth who have been living with a relative for at least twelve months. As with "regular" Kin-GAP, the Kin-GAP Plus rates are also equal to 100 percent of the basic foster care rate for children placed in a licensed or approved home, but are increased by a clothing allowance and, if eligible, by a specialized care increment. These rate adjustments provide relative caregivers parity with the amounts that foster families receive.

The Kin-GAP Plus program was intended to be funded as a non-TANF/MOE (Temporary Assistance for Needy Families/Maintenance of Effort) program (i.e., as a state-only program), in order to avoid inclusion of these families in the calculation of the state's work participation rate for CalWORKs pursuant to the federal Deficit Reduction Act of 2005. However, it was determined that there would be problems providing child support and Medi-Cal benefits because of the state-only nature of the program. Therefore, this program is proposed to be eliminated in the trailer bill.

Enhanced Kinship Guardian Assistance Payment Program (Enhanced Kin-GAP): The Enhanced Kin-GAP program replaced Kin-GAP Plus. Its goals and enhanced funding are identical to Kin-GAP Plus, but the source of funding is TANF/MOE. This shift in the funding source allows Enhanced Kin-GAP participants to remain eligible for Medi-Cal and child support.

Enhanced Kin-GAP Clean-up Issues: The CWDA has identified two issues with implementation for possible legislative clean-up.

1. County Sharing Ratio for the Clothing Allowance: The trailer bill lacked sufficient clarity on the 100 percent General Fund share of the state clothing allowance add-on to Kin-GAP.

2. Statutory Exclusion from Clothing Allowance: Three counties, Tehama, Plumas, and Colusa, are excluded by statute from providing the state clothing allowance. Adding these counties would cost less than $15,000 General Fund per year.

Questions:

1. Department, please describe the proposed trailer bill language.
2. CWDA, please describe the two clothing allowance issues that you have identified and your proposed solution.

Staff Recommendation: Approve the tr ailer bill language. Hold open the additional trailer bill changes. Staff will need to do further work with the Administration and the CWDA on these proposals.

DSS Issue 6: Transitional Housing Placement Program

Description: The proposed Govenor's Budget includes $29.3 million ($18.9 million General Fund) for the Transitional Housing Placement Program (THPP). The THPP was augmented in the 2006 Budget Act by $4.2 million General Fund and the county share of cost for the program was removed. These changes led to greater than expected growth in the program in the current year. The 2007-08 estimate of total costs will be recalculated at the May Revision.

Background: The Transitional Housing Placement Program (THPP) provides housing assistance to emancipating foster youth aged 16 to 24. Prior to last year, counties had a 60 percent share of cost for THPP services provided to children 18 and older. Once the share of cost was removed, county interest in participation expanded more quickly than anticipated. The Administration is pursuing legislation to provide an augmentation to the program in the current year of $11.9 million General Fund to meet this additional demand by the counties for resources. That bill is AB 845 (Bass, Maze, and Sharon Runner), which is currently in spot form.

Each year, approximately 5,000 youth emancipate from the foster care system in California; many leave without the resources, skills, or abilities to find safe housing and support. These youth are at a critical juncture and may become homeless, out of school, unemployed, and receive CalWORKs or, with housing and other support, become healthy and productive citizens.

Questions:

1. Department, how many additional counties did you anticipate would participate in the current year? How many actually expressed interest in participating?

Staff Recommendation: Hold open until May Revision.

DSS Issue 7: State Support for Adoptions

Description: The Department of Social Services has four requests for state operations funding to support adoption-related activities.

Background:

1. **Mutual Consent Program – Siblings** (AB 2488, Leno, Chapter 386, Statutes of 2006): AB 2488 reduces the age from 21 years to 18 years that the Department of Social Services or an adoption agency may release the names and addresses of

siblings to one another. It also permits an adoptee or sibling under 18 years of age, with permission from his or her adoptive parent or legal parent or guardian, to waive confidentiality of contact information for release to a sibling. In cases where there is no waiver on file, AB 2488 authorizes the court to appoint a confidential intermediary, which could be the Department of Social Services, to search for one sibling on behalf of the other.

The DSS has submitted a request for $274,000 ($187,000 General Fund) and three positions to handle the duties of the confidential intermediary. Although the DSS currently handles post-adoption inquiries, they anticipate increased numbers of these inquiries and that most will petition the court to appoint a confidential intermediary to facilitate contact. It is reasonable to expect that there will be increased workload as a result of this bill, however, the DSS acknowledges that it has no concrete basis for knowing what that increase ultimately will be.

2. **Intercountry Adoptions** (SB 1393, Florez, Chapter 809, Statutes of 2006): SB 1393 provides for an expedited re-adoption process in California with fewer requirements for a foreign-born child adopted by California residents in the child's country. The expedited process is available if DSS has certified that the laws of the foreign country where the child was originally adopted meet or exceed California's adoption laws. SB 1393 requires DSS to certify five specified countries, China, Guatemala, Kazakhstan, Russia, and South Korea, and allows the expedited re-adoption process for any other countries that DSS has certified.

   The DSS has submitted a request for $381,000 General Fund and three positions to implement SB 1393. It is clear that there is additional workload to certify the five countries; however, much of this workload consists of one-time, up front activites related to the certification. It is not clear how much workload will be on an on-going basis. According to DSS, about 90 percent of the intercountry adoptions in California are from the five specified countries. Therefore, it is not known how many additional countries will need to be certified.

3. **Adoption Facilitator Registry** (SB 1758, Figueroa, Chapter 754, Statutes of 2006): SB 1758 requires the DSS to establish and adopt regulations for a statewide registration process, including an appeal process, for adoption facilitators. It also requires the DSS to establish and adopt regulations to require adoption facilitators to post a bond.

   The DSS has submitted a request for $237,000 General Fund and two positions to implement SB 1758. There is clearly additional workload for DSS to establish and adopt regulations for the registration and appeal process and for the bond. Although there will be on-going workload to handle new applicants and appeals, much of the work is one-time in nature. Furthermore, the justification for the on-going need for the requested legal position is to provide legal and litigation support without any justification or prior experience to support that workload.

4. **Hague Convention on Intercountr y Adoption:** The Hague Convention on International Adoption is an international treaty to establish standards for

intercountry adoptions focused on preventing child abduction and child trafficking. In February 2006, the U.S. State Department issued new federal regulations implementing the treaty and the treaty took effect in March of 2006. One of the federal requirements is that agencies providing intercountry adoptions be accredited by the Council on Accreditation if they are involved in adoptions in one of the 47 countries that are signatories to the treaty.

The DSS has submitted a request for $92,000 General Fund and one position to implement policy letters, regulations and forms, and provide training and technical assistance to adoption agencies. The DSS cites a tripling in the rate of intercountry adoptions over the last decade and an (unspecified) increase in the number of adoption agencies providing intercountry adoptions. The DSS also indicates that they have legislation (SB 703, Ducheny) to conform state statute to federal law in this area, with new regulations and adoption reporting requirements to follow.

Questions:

1. Department, please briefly describe each of your state operations requests.

Staff Recommendation:

1. **Approve one position on a permanent basis and two positions on a two-year limited-term basis.** Their amount of on-going workload is not really known and should be clearer with a couple years of experience with the confidential intermediary process.
2. **Approve one Staff Counsel position and the analyst position on a two-year limited-term basis.** The on-going workload for all positions is unknown. At this time, the legal workload also appears speculative.
3. **Approve one analyst on a permanent basis; reject the Staff Counsel position.** Much of the workload associated with the Staff Counsel positions is speculative.
4. **Approve the request for one position, but make it two-year limited-term pending further work on the Hague Convention at the federal level.**

0530 Health and Human Services Agency (HHSA)

HHSA Issue 1: Office of System Integration – CWS/CMS

Description: The proposed Governor's Budget requests funding for two Child Welfare Services/Case Management System (CWS/CMS) issues: 1) $899,000 ($774,000) in the current year and $5.0 million ($2.4 million General Fund) in the budget year for on-going maintenance and operations of the existing CWS/CMS; and 2) $343,000 ($171,000 General Fund) in the budget year for updated planning costs for the new CWS/CMS project.

Background: The Child Welfare Services/Case Management System (CWS/CMS) application provides case management capability for local child welfare services (CWS) agencies, including the ability to generate referrals, county documents, and statistical and case management reports. The system was implemented statewide in 1997 and is now in the maintenance and operations (M&O) phase.

CWS/CMS's current technical architecture is comprised of technologies and concepts that were common for large, mission-critical systems in the mid-1990s. However, the current system has significant limitations today:

- It depends on technologies that are expensive to maintain and update.
- It does not lend itself to enhancement using emerging technologies.
- It does not meet the federal Administration for Children and Families (ACF) functionality requirements for Statewide Automated Child Welfare Information Systems (SACWIS) including: Adoptions Case Management; Automated Title IV-E Eligibility Determination; Interfaces to Title IV-A (CalWORKs), Title IV-D (Child Support), IV-E (Foster Care), and Title XIX (Medi-Cal) systems; Financial Management for Out-of-Home Care and Adoptions Assistance Payments.
- It was developed, built, and is maintained by IBM. While it is not a proprietary system, the Office of System Integration (OSI) and Department of Social Services (DSS) are not able to generate sufficient competition when they go out to bid for reprocurement of M&O due to its size and complexity. This lack of competition is also of concern to the ACF.
- Caseworkers complain that they spend too much time on data entry and maintenance, which is taking time away from their case work.

In light of the current system's limitations, the ACF discontinued federal funding for the project for two years. To restore funding, OSI and DSS conducted an analysis of the system's architecture. That analysis concluded that it would be more cost effective to build a new system than to modify the existing CWS/CMS. OSI received approval of a feasibility study report (FSR) from the Department of Finance in April 2006 and from the

ACF in July 2006. In the current year, OSI and DSS are in the planning phase of the new project.

Although replacement of the existing CWS/CMS is needed due to its significant limitations, the new project is in a stage where the Legislature will need to exercise thorough oversight. Once approval for a project is given beyond the planning phase, the state loses control of the project costs, short of canceling the project altogether. It is critical that OSI and DSS get the business requirements defined accurately for a new CWS/CMS, to ensure that actual project costs do not exceed the expected project costs that comprise the vendor's bid for the project. Should the Legislature approve this budget request for additional planning phase funding, they will have another opportunity to decide whether to go forward with additional investments in the project upon completion of the planning phase.

Questions:

1. Office of System Integration, please describe what CWS/CMS is and the limitations of the current system.
2. Office of System Integration, explain the current and budget year cost increases in M&O for the existing CWS/CMS.
3. Office of System Integration, describe the timeline for development of the new CWS/CMS. When is the planning phase anticipated to be completed?

Staff Recommendation: Approve as budgeted the $5.0 million for on-going M&O. Hold open the request for additional funds for planning of the new system.

5175 Department of Child Support Services (DCSS)

DCSS Issue 1: California Child Support Performance (Information Only)

Description: This item is informational only.

The state receives federal financial incentives and penalties based on five child support performance measures. In Federal Fiscal Year (FFY) 2005, California scored lower than the national average on three out of five measures. For the first time, the budget estimates a 3.1 percent decrease in collections for the current year and a 0.3 percent decrease for the budget year.

In addition, approximately $19.9 billion in child support arrears is currently owed to families in the state. An analysis conducted by the Urban Institute found that approximately $4.8 billion of the state's arrears is collectable, including $2.3 billion of which is owed to the state for CalWORKs reimbursements.

Background:

The five federal performance measures and California's performance on them is described in the following chart. Although California is exceeding the minimum federal performance standards in all categories, the state is below the national average in three of four areas.

Federal Performance Measure	National Ave FFY 2005	California FFY 2006	Federal Minimum Standard
Statewide Paternity Establishment	95%	**110%**	50%
Support Orders Established	76%	**81%**	50%
Collections on Current Support	60%	**50%**	40%
Collections on Arrears	60%	**57%**	40%
Cost-Effectiveness Ratio	$4.58	**$2.03**	$2.00

Cost-Effectiveness: California's child support system collected $2.03 in revenue for every $1.00 spent on collection efforts in FFY 2006. This is significantly lower than the national average of $4.58 in revenue per dollar spent. Among 54 states and territories, California ranks 51st in cost-effectiveness in FFY 2005.

Assistance Collections Declining: In addition to total collections decreasing, the budget anticipates that assistance collections will also decline by 8.0 percent. Assistance collections, which have been declining since 2000-01, reflect payments from non-custodial parents that are redirected to the state and federal government to repay past welfare costs.

The Compromise of Arrears Program (COAP): The Compromise of Arrears Program (COAP) was established in 2003-04 to offer reduced lump sum settlements to parents in exchange for their commitment to make ongoing payments. This program is also intended to reconnect families estranged due to unresolved child support payments. The 2006 Budget Act included $608,000 ($207,000 General Fund) to maintain 7.5 expiring limited-term positions for the COAP, and trailer bill language to extend the sunset date for COAP from June 30, 2006 to January 1, 2008. During the first five months of 2006-07, $14.8 million in arrears was approved for a COAP plan, $2.9 million was agreed to be repaid, and $1.7 million was collected.

Beginning in July 2005, the Department of Child Support Services (DCSS) worked with counties to simplify the program and reduce the amount of paperwork associated with its administration. The DCSS is monitoring the expansion and utilization of COAP. The Department will monitor the recent changes to the program and prepare an evaluation of the program in 2008.

Questions:

1. Department, please explain why the state's performance is significantly lower than the national average for the collections in current support, the collections on arrears and the cost effectiveness ratios. How does the Administration propose to improve the state's performance?
2. Department, why are assistance collections declining? What is the Department doing to improve these collections?
3. Department, why has COAP not been as successful as originally anticipated?

DCSS Issue 2: Child Support Automation

Description: The proposed Governor's Budget reduces the Department of Child Support Services (DCSS) budget by $107.2 million ($11.2 million General Fund) to reflect the current status of the California Child Support Automated System project. This reduction includes: 1) $2.4 million ($800,000 General Fund) to reflect various expiring state contracts; and 2) $104.8 million ($10.4 million General Fund) in local assistance funding to reflect unneeded matching funds and one-time costs.

Background: In September 2006, the Department of Child Support Services applied for federal certification of the California Child Support Automated System (CCSAS). Once the state applied for certification, the federal penalty for not having a single statewide automation system was placed in abeyance.

Since 1998, California has paid a total of nearly $1.2 billion in penalties for failing to have a single statewide automation system. The 2006-07 budget included $220 million to pay the federal penalty for federal fiscal year 2006 (October 2005 through September 2006). The state is currently in the process of becoming certified, during which time the federal penalty is not assessed. Once the system is certified, the federal government will reimburse the state 90 percent ($198 million) of the final penalty paid in 2006-07.

The Governor's budget assumes that the federal government will certify the system and reflects this reimbursement as revenue in 2007-08.

The CCSAS consists of two major components, the State Disbursement Unit (SDU) and Child Support Enforcement (CSE). The SDU collects, processes, and distributes child support payments. The SDU was fully implemented in May 2006. The CSE component of the project provides a central database and case management system to support child support enforcement activities in all Local Child Support Agencies (LCSAs). The CSE portion of CCSAS is being implemented in two phases. The first phase of CSE is Version 1, which created a centralized database and reporting system for two preexisting systems. The second phase is Version 2, which will consolidate the two preexisting systems and create increased child support enforcement capabilities.

Once both the SDU and Version 1 were operational in September 2006, the state applied for federal certification of this "alternative" system, which refers to the joined preexisting systems. This application for certification means that penalties are held in abeyance pending federal certification. The roll-out of Version 2 is scheduled to begin in May 2007, with full implementation by October 2008.

Questions:

1. Department, please describe the current status of CCSAS implementation and the future timeline for completion.

Staff Recommendation: Approve as budgeted.

DCSS Issue 3: Mandatory Parental Fees

Description: The proposed budget includes $1.8 million to cover the costs of the $25 application fee that the federal Deficit Reduction Act of 2005 (DRA) requires states to charge "never-assisted" families whose collections exceed $500. Never-assisted families are those who have never received CalWORKs cash aid.

Background: Beginning in January 2008, in accordance with the Deficit Reduction Act, the federal government will assess an annual fee on the state of $25 for each never-assisted child support case for which $500 or more is collected. The state may choose to recover this fee from: (1) the custodial parent; or (2) the noncustodial parent. Alternatively, the state can choose to absorb this cost, thereby paying it out of state funds. For 2007-08, the fee would be $1.8 million. Because California has never collected a fee related to child support, there are significant automation reprogramming costs associated with attempting collection from the custodial or noncustodial parents.

The DCSS is currently operating the two legacy subsystems, and the single replacement system (Version 2) will not be completed until October 2008 at the earliest. As a result, collecting the fee in the budget year would require the reprogramming of

three separate systems. According to the department, it is not cost-effective to make reprogramming changes at this time.

Since the fee will not be assessed until January 2008, the 2007-08 budget includes $1.8 million General Fund to cover the fee for six months. In 2008-09, the General Fund cost to cover this fee is estimated to be about $3.5 million.

In order to avoid reprogramming costs for three separate systems, the LAO concurs with the decision to use state funds to cover the mandatory fee in 2007-08. However, in the long run, the LAO contends that collecting a fee may have merit. The LAO recommends that the Legislature adopt supplemental report language (SRL) requiring DCSS to provide a report to the Legislature in 2008 on the costs and benefits of collecting a fee.

The following SRL is consistent with this recommendation:

> *Report on the Costs and Benefits of Collecting a Fee. The Department of Child Support Services shall provide a report no later than March 1, 2008 on the costs and benefits of assessing an annual fee of $25 for never assisted child support cases for which $500 or more is collected.*

Questions:

1. Department, please describe the DRA changes and the budget request.
2. LAO, please describe your analysis and recommendation.

Staff Recommendation: Approve the budget request and adopt the LAO SRL.

DCSS Issue 4: Performance Incentive Funding

Description: The proposed 2007-08 budget includes $68 million ($23 million General Fund) for Local Child Support Agencies (LCSAs) to backfill for lost Federal Financial Participation (FFP). The Subcommittee may also wish to consider continuation in 2007-08 of the $12 million ($4 million General Fund) provided in the current year for improved county performance.

Background:

Backfill of Federal Fina ncial Participation. Beginning October 2007, the federal Deficit Reduction Act (DRA) of 2005 eliminated states' ability to utilize federal performance incentives funds as eligible matching dollars for FFP. In order to retain the current funding level for LCSA administration, $68 million ($23 million General Fund) is needed for 2007-08. This represents nine months of backfill funding. For 2008-09, the Department of Child Support Services (DCSS) will request $90 million ($31 million General Fund) to replace the lost federal match of performance incentives.

2006-07 Program Improvement Augmentation. The 2006 Budget Act included a one-time $12 million ($4 million General Fund) increase to county child support administration to provide counties an opportunity to make one-time investments to improve county performance. The funds were allocated to LCSAs based on an agreed-upon budget allocation model that allocated 50 percent of the funding for performance and 50 percent for equity.

Questions:

1. Department, how are LCSAs spending the $12 million?
2. Department, when will we be able to determine whether these funds have improved performance?

Staff Recommendation: Hold open.

DCSS Issue 5: Local Child Support Agency Funding

Description: The Governor's Budget proposes to continue holding administrative funding support for local child support agencies (LCSAs) flat at $710 million ($217.8 million General Fund) in 2007-08. Funding has remained at that level for a number of years, and LCSAs indicate that flat funding has reduced the rate of growth in child support collections. Depending on the availability of funds at the May Revision, the Subcommittee may wish to consider a funding increase for LCSA administration.

Background:

Local Child Support Agency (LCSA) Functions: LCSAs 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.

LCSA Funding Structure: Baseline county funding for the implementation of local child support programs is established according to a statutory formula based on child support collections. This statutory formula has been suspended since 2003-04. Individual county allocations are generally based on historic county expenditures and vary across the state.

LCSA Staffing Reductions: The Child Support Directors Association reports that state and local staffing has declined from 11,070 in 2001-02 to 8,442 in 2006-.7, due to the lack of funding increases. Additional local positions may be eliminated or held vacant in 2007-08 as a result of flat funding.

Funding to support LCSAs has been held flat for the past five years. The Association indicates that flat funding has resulted in an ongoing decline in the rate of growth of

child support collections. The rate of growth in distributed collections has dropped from 10.7 percent in FFY 2001 to a projected -0.3 percent in 2006-07. This represents a 103 percent decline in the rate of growth over the last six years. The Association indicates that chief among the reasons for decline is the loss of approximately 2,628 child support positions over the past five years representing a 24 percent reduction in staffing. While automated systems are important, the Association notes that the single most important factor that contributes to the collection of child support is the ability of staff to work directly with a case.

The Association indicates that LCSAs have also been called upon to provide significant resources to support the state in its effort to develop and implement CCSAS. At last count, nearly 200 child support employees are participating in various capacities to support the project. Only a small number of those staff positions are being reimbursed. Additionally, every county child support department is being required to expend resources around conversion and integration activities that are necessary for the successful implementation of the system. Unlike the Department of Child Support Services (DCSS) or the Franchise Tax Board (FTB), LCSAs have been largely required to absorb the additional workload demands within their current allocation.

LAO Report on Program Improvement. The LAO's May 2006 report entitled "Strategies for Improving Child Support Collections in California" recommended creating a performance-based system that gives counties the flexibility and financial incentives to meet state-established performance benchmarks. Responding to poor California performance on the collections measures, the LAO concluded that the LCSAs were too tightly controlled at the state level, leading to a lack of investment and ownership in the program by the counties and that the counties faced limited fiscal incentives to improve their child support collections performance.

The LAO found that minimal fiscal incentives, lack of program control, and perhaps the lack of federal and state resources in some counties have contributed to poor child support enforcement performance. Although the state is ultimately responsible to the federal government for the performance of the program, there are virtually no fiscal consequences for the local child support agencies if they perform poorly. Moreover, the state has no effective means of encouraging local child support agencies to improve their collections.

The LAO recommended creating a performance-based, county run program that: (1) allows the counties the flexibility to structure their own programs, (2) requires counties to fund a share of the costs for the program, (3) rewards them for good performance on federal performance measures, and (4) provides a funding mechanism to assist those counties which may need additional resources to improve their performance.

Continue Suspension of Health Insurance Incentives and Improved Performance Incentives Programs. The budget proposes trailer bill language to continue the suspension of two programs, the Health Insurance Incentives and the Improved Performance Incentives programs, through 2007-08. These programs were part of the Child Support reform legislation passed in 1999. The Health Insurance Incentives program paid LCSAs $50 for each case for which they obtained third-party health

insurance coverage or insurance for child support applicants or recipients. The Improved Performance Incentives program provided the ten best performing LCSAs with five percent of the amount they collected on behalf of the state for public assistance payment recoupments. The funding received by the LCSAs was required to be reinvested back into the Child Support Program. These programs were suspended for four years beginning 2002-03. The Department of Finance notes that LCSAs are required by DCSS regulations to seek third-party health insurance coverage as part of their normal business processes.

Questions:

1. Department, please present the Governor's Budget for local child support funding. Why has an increase not been proposed?
2. LAO, please present the findings and recommendations in your May 2006 report.

Staff Recommendation: Hold open until the May Revision.

DCSS Issue 6: Options for Child Support Disregard (Information Only)

Description: This item is informational only.

The Deficit Reduction Act of 2005 will increase federal participation in the amount of child support passed through to families who currently receive welfare assistance effective October 2008.

Background: Pursuant to the federal Deficit Reduction Act of 2005 (DRA), beginning in October 2008 the federal government will share the cost of the child support that is passed through to welfare families, or CalWORKs families in California, up to specified limits. Specifically, the federal government will participate in 50 percent of the pass-through of up to $100 for families with one child, and up to $200 for families with two or more children. Currently, California elects to pass through the first $50 per month collected from the noncustodial parent to welfare families at an annual cost of about $30 million General Fund.

Options for the Disregard: Although the federal government will participate in the pass-through of up to $100 for families with one child and $200 for families with two children, the state will ultimately decide how much to pass-through. A decision to increase the current pass-through would result in lost General Fund revenues. This is because child support not passed through would otherwise be retained by the state as General Fund revenue, partially offsetting the cost of the grant provided to welfare families. The table below shows the General Fund costs (revenue losses) of various pass-through options. These alternatives do not account for automation costs that may result from modifying the current pass-through policy. Additionally, the Department of Child Support Services (DCSS) estimated the cost of each alternative based on a one-

month sample of children currently receiving child support, so actual costs could differ from these estimates.

Child Support Pass-Through Alternatives

Alternative	Amount of Pass Through		General Fund Cost (In Millions)		
	1 Child	2+ Children	2008-09	2009-10	2009-10 Change From Current Law
Current Law	**$50**	**$50**	**$19**	**$15**	**—**
Alternative 1	50	100	24	19	$4
Alternative 2	100	100	33	27	12
Alternative 3	100	200	43	34	19

(Source: LAO 2007-08 Budget Analysis)

As shown in the table above, all pass-through alternatives cost more in 2008-09 than 2009-10. This is because the federal government will not begin participating in the pass-through until October 2008, which is three months into the 2008-09 fiscal year. The cost of implementing an increased pass-through policy could be lower in 2008-09, if the Legislature decides to delay any increase until federal participation begins in October 2008. The department indicates that a pass-through policy that requires it to track the number of children in the family in order to determine the amount to pass-through would result in higher automation costs. This is because the current pass-through policy allows for the distribution of the same amount to all families, and does not require a method to track the number of children in each family.

All alternatives would require some automation changes. However, automation modifications to implement alternatives 1 and 3 are likely to cost more, since these alternatives require a method to pass-through a different amount to a family with one child than to a family with two or more children.

LAO Conclusion: By increasing federal participation in the pass-through of child support payments, DRA gives the state increased flexibility when establishing its pass-through policy. In deciding the most appropriate amount to pass-through to child support families, the LAO suggests that the Legislature weigh the General Fund costs of more generous policies against the potential benefits of passing through more child support to families.

Questions:

1. LAO, please describe these alternatives for the disregard and the costs and savings.
2. LAO, what does research show about pass-through policies?

Senate Budget & Fiscal Review Committee
Eileen Cubanski 651-4103

Hearing Outcomes
Subcommittee No. 3
10:00 am, Thursday, March 15, 2007

Vote-Only Agenda

5175 Department of Child Support Services

- Vote-Only Issue 1: Employer Data File Maintenance
  Action: Approve as budgeted.
  Vote: 3-0

- Vote-Only Issue 2: Transfer of General Fund Authority from the Department of Justice
  Action: Approve as budgeted.
  Vote: 2-0

- Vote-Only Issue 3: Office of Audits and Compliance
  Action: Approve as budgeted.
  Vote: 3-0

0530 California Health and Human Services Agency

- Vote-Only Issue 4: Child Welfare Leadership and Performance Accountability Act of 2006
  Action: Approve as budgeted.
  Vote: 2-1 (Cogdill)

Discussion Agenda

5180 California Department Social Services (DSS)

- DSS Issue 1: Children and Family Services Review
  Action: Approved as budgeted.
  Vote: 3-0

- DSS Issue 2: Improving Child Welfare Services Outcomes
  Action: Approved the following: 1) the two positions for increasing child safety; 2) the conversion of the four limited-term positions to permanent for improving permanency; and 3) the one position for improving well-being funded with Mental Health Services Act funds.
  Vote: 3-0

1. The Subcommittee requested a copy of the UC Davis report.
2. The Subcommittee requested the vacancy rates and turnover rates of social workers.

- DSS Issue 3: Child Welfare Services Social Worker Standards and Budget Methodology
  Action: Held open.
  1. The Subcommittee directed the Department to report back to subcommittee staff within one week on when the overdue assessment will be provided to the Legislature.

- DSS Issue 4: Title IV-E Waiver
  Action: Approved state operations as budgeted. Held open local assistance and LAO BBL until May Revision.
  Vote: 2-0

- DSS Issue 5: Kinship Guardian Assistance Program
  Action: Approved TBL. Directed DSS, DOF, CWDA, and subcommittee staff to work out the clean-up issues and come back as necessary.
  Vote: 2-0

- DSS Issue 6: Transitional Housing Placement Program
  Action: Held open until May Revision.

- DSS Issue 7: State Support for Adoptions
  Action: Approved the following: 1) For AB 2488 implementation, one position on a permanent basis and two positions for two-year limited-term; 2) For SB 1393 implementation, one Staff Counsel and one analyst position on a two-year limited-term basis; 3) For SB 1758 implementation, one analyst position on a permanent basis; and 4) For implementing the Hague Convention treaty, the one requested analyst position on a two-year limited-term basis.
  Vote: 2-0

0350 Health and Human Services Agency (HHSA)

- HHSA Issue 1: Office of System Integration – CWS/CMS
  Action: Held open funding for M&O of current system, pending resolution of LAO questions. Held open funding for new system.

5175 Department of Child Support Services (DCSS)

- DCSS Issue 1: California Child Support Performance
  Action: No action taken on this informational item.

1. The Subcommittee requested that the Department provide a plan describing why California does so poorly on arrearage collections and cost effectiveness measures and what actions the Department will take to improve those measures; report back at May 3 hearing.

- DCSS Issue 2: Child Support Automation
  Action: Approved as budgeted.
  Vote: 2-0

- DCSS Issue 3: Mandatory Parental Fees
  Action: Approved as budgeted. Adopted LAO SRL.
  Vote: 2-0

- DCSS Issue 4: Performance Incentive Funding
  1. **Action:** Held open.

- DCSS Issue 5: Local Child Support Agency Funding
  Action: Held open.

- DCSS Issue 6: Options for Child Support Disregard
  Action: No action taken on this informational item.

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

March 26, 2006

1:00 PM

Room 2040
(John L. Burton Hearing Room)

(Diane Van Maren)

Item Department

4280 Managed Risk Medical Insurance Board
- **Managed Risk Medical Insurance Program**
- **Healthy Families Program**

4260 Department of Health Care Services
- **Medi-Cal Program (Selected Issues)**

4265 Department of Public Health
- **SB 437 implementation**
- **Other programs as noted which interact with Medi-Cal**

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.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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.

Managed Risk Medical Insurance Board (MRMIB)

A. OVERALL BACKGROUND (Page 2 through Page 5)

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

Summary of Funding. The budget proposes total expenditures of almost $1.3 billion ($394.7 million General Fund, $776.5 million Federal Trust Fund and $111.1 million in other funds) for all programs administered by the Managed Risk Medical Insurance Board. This funding level represents a net increase of $82.5 million ($32.6 million General Fund) over the revised current-year. The net increase is due to changes in the Healthy Families Program and Access for Infants and Mothers (AIM) Program as discussed below.

Summary of Expenditures (dollars in thousands)	**2006-07**	**2007-08**	**$ Change**	**% Change**
Program Source				
Healthy Families Program (including state support)	$1,023,688	$1,099,685	$75,997	7.4
Major Risk Medical Insurance (including state support)	$44,652	$39,808	-$4,844	10.8
Access for Infants & Mother (including state support)	$128,403	$139,677	$11,274	8.8
County Health Initiative Program	$3,061	$3,168	107	3.5
Totals Expenditures	**$1,199,804**	**$1,282,338**	**$82,534**	**6.9**
Fund Sources				
General Fund	$362,020	$394,669	$32,649	9.0
Federal Funds	$717,402	$776,529	$59,127	8.2
Other Funds	$120,382	$111,140	-$9,242	7.7
Total Funds	**$1,199,804**	**$1,282,338**	**$82,534**	**6.9**

(Overall Background continued)

Overall Background—Description of the Healthy Families Program. The Healthy Families Program (HFP) provides health, dental and vision coverage through managed care arrangements to children (up to age 19) in families with incomes up to 250 percent of the federal poverty level, who are *not* eligible for Medi-Cal but meet citizenship or immigration requirements. The benefit package is modeled after that offered to state employees. Eligibility is conducted on an annual basis.

In addition, infants born to mothers enrolled in the Access for Infants and Mothers (AIM) Program (200 percent of poverty to 300 percent of poverty) are immediately enrolled into the Healthy Families Program and can remain under the HFP until at least the age of two. If these AIM to HFP two-year olds are in families that exceed the 250 percent federal income level, then they are no longer eligible to remain in the HFP.

There are also two "bridge" programs that enable children to transition from Medi-Cal to the HFP, and from the HFP to Medi-Cal. This is done in order to help ensure continued coverage for children who may be going back and forth between the two programs due to family income changes, or a change in their age. It should be noted that with the enactment of Senate Bill 437 (Escutia), Statutes of 2006, the "bridge" programs will phase-out and presumptive eligibility processes will be implemented.

Summary of Eligibility for the Healthy Families Program (HFP) ***(See Chart in Hand Out)***

Type of Enrollee in the HFP	Income Level Based on Federal Poverty	Comments
Infants up to the age of two years who are born to women enrolled in Access for Infants & Mothers (AIM).	200 % to 300 %	If income from 200% 2o 250%, covered through age 18. If income is above 250 %, they are covered up to age 2.
Children ages one through 5 years	133 % to 250 %	Healthy Families Program covers above 133 percent because children below this are eligible for Medi-Cal.
Children ages 6 through 18 years	100 % to 250 %	Healthy Families Program covers children in families above 100 %. Families with two children may be "split" between programs due to age.
Some children enrolled in County "Healthy Kids" programs. These include (1) children without residency documentation; and (2) children from 250 percent to 300 percent of poverty.	Not eligible for Healthy Families Program, including 250 percent to 300 percent	State provides federal S-CHIP funds to county projects as approved by the *MRMIB*. Counties provide the match for the federal funds.

(Overall Background continued)

Background—HFP Benefit Package. The HFP benefit package is modeled after that offered to state employees, including health, dental and vision. The enabling federal legislation—the State's Children's Health Insurance Program (S-CHIP)—required states to use this "benchmark" approach. These benefits are provided through managed care arrangements. The HFP directly contracts with participating health, dental and vision care plans. Participation from these plans varies across the state but consumer choice has always been available.

In addition to these HFP benefits, enrolled children can also access the California Children's Services (CCS) Program if they have a CCS-eligible medical condition. An HFP enrolled child is also eligible to receive *supplemental* mental health services provided through County Mental Health Plans. These additional services are provided in accordance with state statute that created California's Healthy Families Program (i.e., California's S-CHIP). These services are also available to children enrolled in Medi-Cal.

Background—HFP Premiums. Families pay a monthly premium and copayments, as applicable. The amount paid varies according to a family's income and the health plan selected. Families below 200 percent of poverty pay premiums ranging from $4 to $9 per child per month, up to a family maximum of $27 per month. Families that select a health plan designated as a "community provider plan" receive a $3 discount per child on their monthly premiums. Families with incomes between 200 percent and 250 percent of poverty pay $12 to $15 per child per month. The family maximum per month is $45 for these families.

Summary of Budget Year Funding and Enrollment for the HFP. A total of $1.1 billion ($392.2 million General Fund, $689.5 million Federal Title XXI Funds, $2.2 million Proposition 99 Funds, and $6.4 million in reimbursements) is proposed for the HFP, excluding state administration. **This reflects an increase of $75.8 million ($32.5 million General Fund), or 9 percent over the revised current-year. Most of this increase is attributable to caseload increases.**

The budget assumes a total enrollment of 915,598 children as of June 30, 2008, an increase of 73,870 children over the revised current year enrollment level, or a growth rate of 8.8 percent.

This projected enrollment level reflects growth primarily attributable to: **(1)** restoration of the Certified Application Assistance Program and related outreach and enrollment changes contained in the Budget Act of 2006; and **(2)** implementation of Senate Bill 437 (Escutia), Statutes of 2006, which provides for a self-certification process at annual eligibility review.

(Overall Background continued)

Total HFP enrollment of **915,598 children** is summarized by population segment below:

- Children in families up to 200 percent of poverty 607,818 children
- Children in families between 201 to 250 percent of poverty 193,177 children
- Children in families who are legal immigrants 15,810 children
- Access for Infants and Mothers (AIM)-Linked Infants 16,476 children
- New children due to changes in Certified Application Assistance 21,908 children
- New children due to various modifications in the enrollment process 47,173 children
- New children due to implementation of SB 437, Statutes of 2006 13,237 children

(The "Vote Only" Calendar begins on the next page)

B. ISSUES FOR "VOTE ONLY" (Items 1 and 2, through Page 8)

1. Change Administrative Oversight of Managed Risk Medical Insurance Program

Issue. The Board proposes **to redirect $698,000 (Medical Risk Insurance Fund) from the Managed Risk Medical Insurance Program (MRMIP) to state support to fund two Research Program Specialist positions (two-year limited-term) and enact certain administrative changes. Of the $698,000 to be redirected, $263,000 is one-time only (i.e., $435,000 would be ongoing at least for two years).**

The Board states that this proposed redirection over time will lead to program savings that will offset the loss of funding for direct services.

The Board contracts with an "Administrative Vendor" to handle the day-to-day administrative functions of the MRMIP, including eligibility determinations, enrollment transactions and premium processing. Program oversight is provided by the Board's staff in consultation with contracted actuarial consultants. Board staff are also responsible for payments to health plans, the processing of administrative vendor invoices, and the annual reconciliation of claims and payment data.

First, the Board has identified several program enhancements and efficiencies that would be made. **The budget proposal includes $500,000 (Managed Risk Medical Insurance Fund) for the Administrative Vendor contractor to make these program enhancements and efficiencies.** These include the following activities:

- Increasing coordination of eligibility and financial requirements;
- Increasing the available payment mechanisms for making subscriber payments;
- Improving the toll-free telephone line service;
- Creating an independent audit function;
- Performing plan enrollment reconciliation;
- Enhancing the administrative follow-up on incomplete applications;
- Translating materials into Spanish; and
- Creating on-line access to the MRMIP system for Board staff;

Second, two Research Program Specialist positions would be hired on a two-year limited-term basis. The staff is to be hired by September 2007 and will focus on the reprocurement of the administrative vendor contract.

One of the positions would be used to perform various administrative vendor oversight functions, including the design and development of upgraded services, the development of contract amendments and business rules, the testing of changes, and the monitoring of the upgrades.

The second position would design and develop financial and data management improvements to be incorporated into health plan contracts and used in monthly payment and annual reconciliation processes to improve fiscal accountability. These improvements would include performing enrollment reconciliations between the administrative vendor records and plan payments in order to identify billing issues and assure prevention of over-billing, reviewing quarterly claims data to monitor loss ratios and assess plan performance, and working with organizations to identify best practices.

Background—What is the M RMIP? The Board administers the Major Risk Medical Insurance Program (MRMIP) which provides health care coverage to medically high-risk individuals as well as individuals who have been refused coverage through the health insurance market. The program was established in 1991 and has been funded using special fund moneys as described below. **The budget proposes total expenditures of about $40 million (Major Risk Medical Insurance Fund) to ser ve about 8,700 individuals.**

The benefit and administrative costs for MRMIP are funded by subscriber premiums combined with a capped annual subsidy of $40 million in Proposition 99 Funds (Cigarette and Tobacco Product Surtax Funds) which are deposited into the Major Risk Medical Insurance Fund. The program has been capped at the $40 million for many years; however the subscriber premiums usually provide an additional $27 to $29 million annually toward the program. The subscriber premiums go directly to the plans to offset their total costs for providing the benefits.

The Board contracts with an "administrative vendor" to handle the day-to-day administrative functions of the MRMIP, including eligibility determinations, enrollment transactions, and premium processing. Program oversight is provided by the Board's staff in consultation with contracted actuarial consultants. Board staff are also responsible for payments to health plans, the processing of administrative vendor invoices, and the annual reconciliation of claims and payment data.

Subcommittee Staff Recommendation--Approve. Though it is usually *not* desirable to redirect funds from direct services to administrative functions, it is recommended to approve the Board's proposal as requested. The proposed enhancements and efficiencies are needed and the Board's approach seems reasonable.

The MRMIP has historically kept its administrative costs to a minimum. For example, the administrative expenditures in 2004-05 were less than 3 percent. Therefore, this adjustment is *not* being added to any large administrative cost base.

In addition, with the two positions being limited-term (two years), the Legislature will have with another opportunity to revisit the issue.

2. Access for Infants and Mothers (AIM) Program—Program Estimate

Issue. A total of $138.7 million ($60.7 million Perinatal Insurance Fund and $78 million federal funds) is proposed for AIM in 2007-08. This funding level reflects an increase of $11.2 million (total funds) over the revised current-year.

MRMIB states that the increase is due to caseload increases as well as an overall increase in the capitation payment made to health plans (from $9,530 per woman per month to $9,541 per woman per month). The overall increase paid to health plans reflects a change in the distribution of AIM mothers to more slightly more costly plans (i.e., MRMIB negotiates rates separately with each plan and AIM mothers select a plan). No changes to the development of the fiscal calculations are proposed. A total of 13,912 women are expected to utilize AIM.

Additional Background Information. 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. Subscribers pay premiums equal to 2 percent of the family's annual income plus $100 for the infant's second year of coverage.

As of July 1, 2004, infants born to AIM women are automatically enrolled in the Healthy Families Program (HFP) at birth. Infants born during 2004-05 to AIM mothers who enrolled in AIM prior to July 1, 2005 will remain in AIM through two years of age. Therefore, infant enrollment is declining and shifting to the HFP. This is because infants will age out of the AIM Program at two years old while no new infants will be enrolled after July 1, 2004, unless the AIM mother was enrolled prior to that date. Therefore, the AIM Program is transitioning to focusing only on pregnant women and 60-day post partum health care coverage.

Subcommittee Staff Recommendation--Approve. It is recommended to approve this baseline budget pending receipt of the Governor's May Revision. The Governor's May Revision will likely reflect minor adjustments to caseload. No issues have been raised.

C. ISSUES FOR DISCUSSION--Healthy Families *&* Children's Medi-Cal

1. Healthy Families Program-- Update on Federal Funding and Its Reauthorization

Issue. The federal "State Children's Health Insurance Program (S-CHIP), known in California as the Healthy Families Program (HFP), **must be reauthorized by the federal government by September 2007 or additional federal funds will *not* be available for expenditure.** If additional federal funds are not available to California, the HFP and related services to children will be at significant risk for reduction and potentially tens of thousands of children would go without health care coverage.

The federal government provides states with an "allotment" of funding that is capped. The matching percentage for California is 65 percent. Historically, California has received 16 percent of the overall federal appropriation for S-CHIP funding. It should be noted that the S-CHIP matching percentage of 65 percent is higher than what California receives for Medi-Cal (only 50 percent).

California operates the largest program in the nation. We use federal S-CHIP funds to support children's programs in several areas, including the HFP (the majority of the funding), as well as certain expansions for children contained within the Medi-Cal Program, such as waiving the assets test and limited presumptive eligibility while applications are being process (such as when changing between programs).

The President's proposed budget for federal fiscal year 2008 (which commences October 1, 2007) fails to provide sufficient funding for the federal S-CHIP to sustain many state's programs, including California's. In addition, the President's proposal would limit federal S-CHIP funding to states to only cover children in families with incomes at 200 percent or below the federal poverty level. Our Healthy Families Program covers up to 250 percent of poverty, as well as infants born to women enrolled in the Access for Infants and Mothers (AIM) Program as discussed below (i.e., 300 percent of poverty).

Congress is presently discussing the reauthorization but has thus far only focused on concerns regarding the current federal fiscal year. Fourteen states are projected to exhaust their S-CHIP grants in the current year and efforts are underway to redistribute funds to provide assistance to them. (California is not one of these states.) Discussions regarding the federal budget year (commencing October 1, 2007) have not yet begun in earnest.

For the first many years of implementation, California was not fully expending its annual federal S-CHIP allotment. As such, unexpended federal fund allotments were rolled forward to be expended in subsequent years (unspent funds can be rolled forward for up to three years). **However since federal fiscal year 2003, California has been exceeding each year's federal allotment and has been relying on unspent federal funds from prior years to bridge the gap between expenditures and federal allotments.**

Based on an analysis requested by the MRMIB and funded by the California Healthcare Foundation (released on March 7, 2007), **California would need a total of between $6.7 billion and $8.1 billion in federal S-CHIP funds *over the next five years* to meet and sustain *current* programs funded by the federal S-CHIP funds, including the HFP as well as other services provided to children within Medi-Cal as referenced above.** In other words, California would need to receive at least $1.3 billion to $1.6 billion in federal S-CHIP funds annually to continue our existing services to children, assuming continued caseload adjustments and certain cost factors.

Subcommittee Staff Comment—MRMIB Report Back At May Revision. For California to sustain coverage for children in families with incomes up to 250 percent of poverty in the HFP, as well as the other services, we will need to receive about double the amount of federal funding we are presently receiving. Under the President's proposed budget, about 248,000 children currently enrolled in the HFP would be dropped from enrollment due to the lack of federal S-CHIP funding. As such, it will be up to Congress to provide a higher level of reauthorization funding.

The Legislature has communicated the importance of this issue to Senators Feinstein and Boxer, as well as other members of the California delegation.

It is recommended to have the MRMIB report back at the May Revision on the status of federal S-CHIP funding.

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

1. MRMIB, Please provide an update regarding the reauthorization of federal S-CHIP funding, including both the perspective of the President's budget as well as discussions within Congress.
2. MRMIB, When may we know of the funding level? What contingencies, if any, does the Administration have in the event California cannot receive appropriate funding?
3. MRMIB, if California did not receive any additional funds, how long could we sustain our existing program (i.e., when might we fully expend our existing federal match)?

2. Outreach Funding for Healthy Families Program & Medi-Cal Program

Issues. *First*, the Administration proposes to continue several strategies to improve the enrollment of uninsured, eligible children into Medi-Cal and the HFP. These strategies and the proposed increases are shown in the table below. A description of each of these strategies is outlined in the background section below.

A total increase of $13.1 million ($5.6 milli on GF) is proposed for the budget y ear as shown in the table below.

Table: Expenditures for Outreach Strategies to Enroll More Children in Programs

Outreach Strategy	Healthy Families	Medi-Cal Total	Amount	Increase Over 2006-07
County Allocations	N/A	$29.7 million ($12.9 million GF)	$29.7 million ($12.9 million GF)	$10 million ($4.4 million GF)
Certified Application Assistance Fees	$7.9 million ($3.5 million GF)	$1.2 million (federal funds only)	$9.1 million ($3.5 million GF)	$2.9 million ($1.1 million GF)
Toll Free Line		$1.8 million) ($900,000 GF)	$1.8 million) ($900,000 GF	$250,000 ($125,000 GF)
Total for Strategies	**$7.9 million**	**$32.7 million**	**$40.6 million**	**$13.1 million ($5.6 million GF)**

Second, the budget provides increased funding for the HFP and Medi-Cal programs for anticipated increases in caseload which are attributable to the above outreach strategies, as well as to several eligibility enrollment forms and processes that were changed last year.

The table below displays this caseload and funding information. It should be noted that the Administration cannot *directly* track outreach expenditures to caseload increases for every strategy, particularly those related to the Medi-Cal Program.

Table: Estimated Caseload and Funding Associate with Outreach Strategies

Reason/Strategy Caseload Adjustments for Healthy Families	Caseload Adjustments for Medi-Cal	Total Dollars & Caseload	Increase Over 2006-07
Simplified Redetermination Forms in Medi-Cal Program	N/A	$73.9 million ($36.9 million GF) 30,436 caseload	$73.9 million ($36.9 million GF) 30,436 caseload	$29 million ($14.5 million GF) 11,957 caseload
Streamlined Enrollment for the HFP (Initial Application & "Health-e-App" electronic submittal process)	$34.6 million ($12.6 million GF) 49,235 caseload	N/A	$34.6 million ($12.6 million GF) 49,235 caseload	$25.1 million ($9.1 million GF)
Certified Application Assistance Impact	$10.4 million ($3.8 million GF) 19,846 caseload	Not Identified	$10.4 million ($3.8 million GF) 19,846 caseload	$3.5 million ($1.3 million)

Background—What Are the County Allocations? Through the Budget Act of 2006, a total of $19.7 million (total funds) was appropriated to the DHS to establish a county outreach allocation program. Priority for this funding was provided to twenty large counties, with almost $3 million being made available to small, rural counties. Each county must submit a plan to the DHS in order to receive their allocation funds.

It should be noted that the DHS only recently authorized in February for counties to commence with their plans; therefore, it is unlikely that the current-year allocations will be fully expended. In addition, the county allocations will be paid in arrears—i.e., the counties will spend the funds and the state will reimburse the expenditure.

Table 1—Large Counties (County Allocation)

Large County	2006-07 Allocation	2007-08 Allocation	2008-09 Allocation	Total
Los Angeles	$6,140,508	$9,820,764	$9,820,764	$25,782,036
Orange	$1,408,350	$2,252,431	$2,252,431	$5,913,212
San Diego	$1,406,506	$2,249,482	$2,249,482	$5,905,470
San Bernardino	$1,262,191	$2,018,675	$2,018,675	$5,299,541
Riverside	$1,099,788	$1,758,935	$1,758,935	$4,617,658
Fresno	$661,242	$1,057,551	$1,057,551	$2,776,344
Sacramento	$649,302	$1,038,454	$1,038,454	$2,726,210
Alameda	$514,328	$822,586	$822,586	$2,159,500
Kern	$493,188	$788,776	$788,776	$2,070,740
Santa Clara	$465,537	$744,552	$744,552	$1,954,641
San Joaquin	$372,152	$595,198	$595,198	$1,562,548
Tulare	$342,638	$547,995	$547,995	$1,438,628
Stanislaus	$286,193	$457,721	$457,721	$1,201,635
Ventura	$284,685	$455,308	$455,308	$1,195,301
Monterey	$248,695	$397,747	$397,747	$1,044,189
Contra Costa	$230,572	$368,763	$368,763	$968,098
Santa Barbara	$226,983	$363,024	$363,024	$953,031
Merced	$210,309	$336,356	$336,356	$883,021
San Mateo	$201,335	$322,004	$322,004	$845,343
San Francisco	$180,498	$288,678	$288,678	$757,854
Total	**$16,685,000**	**$26,685,000**	**$26,685,000**	**$70,055,000**

Table 2—Small Counties (County Allocation)

Small County	2006-07 Allocation	2007-08 Allocation	2008-09 Allocation	Total
Del Norte	$194,790	$96,258	$89,611	$380,659
El Dorado	$265,315	$288,000	$288,000	$841,315
Humboldt	$258,480	$258,480	$258,480	$775,440
Kings	$268,279	$268,279	$268,279	$804,837
Marin	$175,868	$282,262	$262,771	$720,901
Mendocino	$229,561	$236,301	$235,231	$701,093
Napa	$288,000	$288,000	$288,000	$864,000
San Luis Obispo	$254,943	$219,812	$226,007	$700,762
Santa Cruz	$192,000	$288,000	$288,000	$768,000
Solano	$194,051	$201,917	$219,624	$615,592
Sonoma	$212,100	$284,691	$287,997	$784,788
Yolo	$288,000	$288,000	$288,000	$864,000
Total	**$2,821,387**	**$3,000,000**	**$3,000,000**	**$8,821,387**

Background—What Is the Certified Application Assistance (CAA) Process? Under the CAA process, trained and certified assistors facilitate the enrollment of eligible children and their families into the HFP or Medi-Cal Program. The assistors receive a payment (i.e., fee) as follows for success enrollments: (1) $50 fee for initial enrollment; (2) $50 fee for annual redeterminations; and (3) $60 fee for initial enrollment and annual redeterminations that utilize the electronic "Health-e-App" web-based application. According to the Administration, the CAA process is a time-tested method that has proven effective in ensuring that HFP and Medi-Cal eligible children applicants are successful in enrolling and remaining in the programs.

Subcommittee Staff Recommendation--Approve. The outreach strategies have proven to be effective in enrolling eligible children and when applicable their families. Approximately 428,000 children are eligible for Medi-Cal or the HFP but are not yet enrolled. As such, there is a clear need to continue outreach efforts.

Though it is unlikely that current-year funds will be fully expended for the county allocations, it is recommended at this time to precede with the budget year allocations at the level proposed by the Administration. The May Revision will likely have some minor adjustments to reflect updated caseload impacts. These adjustments can be discussed at that time.

Finally, it is important for the Legislature to maintain its oversight of these outreach strategies to ensure they are reaching diverse communities and are achieving tangible enrollment and retention results.

Questions. The Subcommittee has requested the Administration (DHS/MRMIB) to respond to the following questions.

1. DHCS, Please provide an update on the County Allocation process. What are some key outreach strategies counties will be using and how will reimbursement to the counties flow?
2. Administration, how are the MRMIB and DHCS coordinating the outreach strategies between programs where applicable?
3. MRMIB, When will the "Health-e-App" web-based application be fully public and accessible as proposed through the actions taken in the Budget Act of 2006?

3. Implementation of Senate Bill 437, Statutes of 2006--*Local Assistance Piece*

Issue. The budget proposes several adjustments related to local assistance funding with the Healthy Families Program (HFP) and Medi-Cal Program for the implementation of Senate Bill 437 (Escutia), Statutes of 2006. **The total proposed increase for local assistance functions is $34.7 million ($16.4 million General Fund, $14.2 million federal Medicaid funds, and $2.2 million federal S-CHIP funds).**

SB 437, Statutes of 2006, creates processes to reduce program complexities for the approximately 428,000 children who are eligible for Medi-Cal or the HFP but are not enrolled, by allowing simplified and expedited access to health benefits. (The key aspects of the legislation are discussed in this Agenda under the background section below.)

The following tables display the amounts contained in the budget for each program and related SB 437 component. (The state support costs for SB 437 are discussed in this Agenda under item 4 below.)

Local Assistance: Medi-Cal Program Adjustments for SB 437 for 2007-08 (DHCS)

SB 437 Component	Description Total	Funds	General Fund
Self Certification: Caseload	Two county Pilot for two-years allowing applicants and enrollees to self-certify income and assets. Assumes a 16,472 caseload per month and a July 1 start date.	$20.7 million	$10.3 million
Self Certification: County Administration	County administrative costs for cases added due to self certification pilot.	$6.9 million	$3.5 million
Self Certification: Evaluation	Expenditures for development of the evaluation of the pilots. UCSF will be conducting the evaluation.	$525,000	$263,000
WIC Gateway **&** Changes to Presumptive Eligibility	Contracts for the "feasibility study report" and data processing guidance for systems changes to implement the WIC gateway, HFP presumptive eligibility and Medi-Cal to HFP presumptive eligibility.	$418,000	$176,000
Total for department		**$28.6 million**	**$14.2 million**

Local Assistance: Healthy Families Program Costs for SB 437 for 2007-08 (MRMIB)

SB 437 Component	Description Total	Funds	General Fund
Self Certification: Caseload	HFP enrollment will begin January 1, 2008 for the entire program. Assumes six months of enrollment and an increase of 13,237 children.	$5.5 million	$2 million
Administrative Changes	One-time costs for "Administrative Vendor" changes to be done within the HFP	$600,000	$210,000
Total for MRMIB		**$6.1 million**	**$2.2 million**

The Administration states that Orange County has been selected to be one of the Pilot counties for Medi-Cal self-certification and the second county is still as yet undetermined. They do anticipate selecting a county soon, prior to July 1st.

It should also be noted that the Administration is presently unclear as to whether "feasibility study reports" are needed for the DHCS to proceed with the two presumptive eligibility components as well as the WIC gateway. As such, these costs may not fully materialize.

Background—Description of Senate Bill 437 (Escutia), Statutes of 2006. This legislation includes strategies to promote and maximize enrollment in the Medi-Cal Program and the HFP, improve the retention of children already enrolled, and strengthen county-based efforts to enroll eligible children in existing public programs. These strategies include the following:

- *Self Certification for the HFP.* The MRMIB is required to implement processes by which applicants at the time of annual eligibility review may self-certify income rather than provide income documentation. The MRMIB will establish rules concerning which applicants will be permitted to certify income and the circumstances in which supplemental information may be required by January 2008.
- *Self Certification for the Medi-Cal Program.* The Department of Health Care Services is required to implement a process that allows applicants and enrollees of certain categories of eligibility to self-certify income and assets. This process is to be implemented in two phases. The first phase is a two-year Pilot project to be operated in two counties. **Orange County has been selected to be a pilot and the second county is still pending.** After an evaluation of the Pilot, a statewide rollout can be conducted.
- *Healthy Families Presumptive Eligibility.* This program will replace the existing bridge for Medi-Cal to the HFP and will provide benefits until the HFP eligibility determination has been completed. This new presumptive eligibility process will require an automated/electronic process between the Department of Health Care Services, the MRMIB, and the Department of Public Health. As such, a "feasibility study report" will be required. (These are analyses conducted for all automated/electronic/information processing systems.)
- *Medi-Cal to HFP Presumptive Eligibility.* This program will replace the existing Medi-Cal to HFP accelerated enrollment process by implementing a presumptive eligibility program to provide children screened at Medi-Cal application that meet certain criteria with continuous no cost health care benefits until the child's final eligibility is determined under the HFP.
- *Women, Infant and Children Supplemental Food Program (WIC) Gateway.* The Department of Health Care Services, the MRMIB and the Department of Public Health are required to design, promulgate, and implement policies and procedures for an automated enrollment gateway system. This system will provide presumptive eligibility to qualifying low-income children until a final eligibility determination could be made for enrollment into the Medi-Cal Program or the HFP.

The table below provides more of a description of each of these strategies and their application.

Description of Each Strategy Under Senate Bill 437 (Escutia), Statues of 2006

	Self Certification Of Income & Assets	HFP Presumptive Eligibility	Medi-Cal to HFP Presumptive Eligibility	WIC Gateway (Automatic Application)
Description	Elimination of verification of income and property (Pilot).	Provides full-scope coverage until HFP eligibility is determined.	Full-scope coverage until HFP eligibility determined.	Automatic full-scope coverage until Medi-Cal or HFP eligibility determined.
Persons Impacted	Children and families in Medi-Cal	Children enrolled in Medi-Cal who become ineligible due to property or are determined to have a "share-of-cost".	Any child who goes to County and requests Medi-Cal or HFP, after screening for income within HFP limits.	WIC applicants
Implementation Date	July 2007	After "feasibility study report" approval, federal approval and system development.	After "feasibility study report" approval, federal approval and system development.	After "feasibility study report" approval, federal approval and system development.
Expiration Date	Pilot expires as of June, 2009. Statewide implementation based on outcomes from Pilot.	None.	Three years after implementation.	
Funding Sources	General Fund and federal Medicaid	General Fund and federal S-CHIP	General Fund and federal S-CHIP	General Fund and federal S-CHIP

Legislative Analyst's Office Recommendation—Reduce County Administration. The LAO believes the Administration has over estimated the increased amount for the county administrative processing costs. Specifically, they believe a reduction of $5.4 million ($2.7 million General Fund) should be made to account for savings likely to occur from the reduced processing time per eligibility application with the self-certification pilot.

Subcommittee Staff Recommendation— Concur w ith LAO Recommendation. It is recommended to adopt the LAO recommendation. The DHCS over estimated their calculation.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DHCS and MRMIB, Please provide a brief summary of SB 437, using the tables provided in the agenda, and the proposed budget request.
2. Administration, Please clarify how many "feasibility study reports" are needed for the

information technology changes required by SB 437, and whether the proposed budgeted amount for this can be modified.

4. Implementation of Senate Bill 437, Statutes of 2006—*State Support Piece*

Issue. The budget proposes a total increase of 10 state positions across three areas, including the MRMIB, the Department of Health Care Services (DHCS) and the Department of Public Health (DPH), to implement the components of Senate Bill 437 (Escutia), Statutes of 2006. **The total request for state support is $1.1 million ($467,000 General Fund, $319,000 federal Medicaid funds, and $277,000 federal S-CHIP funds).**

- *Department of Health Care Services—3 positions.* The DHCS is requesting three Associate Governmental Program Analyst positions for total expenditures of $294,000 ($147,000 General Fund). All of the requested positions would be permanent.

  One position would be used to conduct and evaluate the two-year Medi-Cal self-certification Pilot. Two of the positions would be used to coordinate procedural and regulatory changes, oversee systems changes to transmit the necessary data to make an HFP eligibility determination electronic, and other monitoring and evaluation activities needed to implement the two presumptive eligibility programs and the WIC gateway.

- *Department of Public Health (DPH)—3 positions.* The DPH is requesting three positions—two Staff Information Systems Analysts (Systems Analysts), and one Associate Governmental Program Analyst. The total expenditures would be $343,000 ($171,000 General Fund) and all of the positions would be permanent.

  The two Systems Analysts will work with the DHCS, MRMIB, and contractors regarding the development and implementation phases of the WIC gateway. The Associate Governmental Program Analyst would serve as a liaison with the 82 local WIC agencies and would develop policies and training.

- *Managed Risk Medical Insurance Board (MRMIB)—4 positions.* The MRMIB is requesting four Associate Governmental Program Analysts for a total expenditure of $426,000 ($149,000 General Fund). All positions would be permanent.

  These positions would be used to implement the HFP self certification, two presumptive eligibility programs and the WIC gateway. These staff are to coordinate procedural and regulatory changes, oversee changes needed to accept the necessary data to make an HFP eligibility determination electronically, and other monitoring, reporting and evaluation activities.

Legislative Analyst's Office Recommendation—Delete 3 DHCS Positions. The LAO recommends deleting one position since it is *not* justified based on workload. Additionally, they believe the DHCS could *redirect* two positions from a different unit within the DHCS to fill the other two proposed positions. Therefore, the budget request would be reduced by $294,000 ($147,000 General Fund) if this recommendation is adopted.

Subcommittee Staff Recommendation—Modify the Administration's Request. Due to the need for fiscal restraint, it is recommended to modify the Administration's proposal by deleting three positions as noted below. The General Fund savings from this recommendation would be slightly less than the LAO's due to the different federal funding ratios across programs (i.e., MRMIB receives a 65 percent S-CHIP match).

- *Department of Health Care Services Positions*: Delete one of the Associate Governmental Program Analyst (AGPA) positions as recommended by the LAO but approve the remaining two AGPA positions.

- *Department of Public Health Positions:* Approve the two Staff Information Systems Analyst positions to commence with the development of the WIC gateway, but delete the AGPA position which was to serve as a liaison with the WIC agencies. The WIC Program is well staffed overall using 100 percent federal support and can communicate and coordinate with local WIC agencies on a wide variety of issues when appropriate.

- *Managed Risk Medical Insurance Board.* Approve three of the four requested positions to implement the HFP self certification, two presumptive eligibility programs and WIC gateway. It is acknowledged that the WIC gateway will take some time to implement. As such, MRMIB will not be immediately impacted by this change.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. Administration, Please provide a brief summary of the budget request for the 10 positions.

5. Medi-Cal Program—Family Planning Access Care & Treatment (Family PACT)

Issue. California's highly successful Family PACT Program is at significant risk due to the federal Centers for Medicare and Medicaid (CMS) reluctance to approve our Waiver renewal which is required to obtain federal matching funds for the program. The federal CMS wants significant changes made to the state's Waiver as discussed below.

This is a critical issue for it may cost California over $300 million in lost federal funds, may require a significant increase in General Fund resources, and could significantly harm a very effective and cost-beneficial program. Using the federal government's methodology, our existing Family PACT Program generates $2.70 in federal budget savings for every $1 spent. The DHCS states that our existing Family PACT saves the federal government in excess of $400 million annually.

The Schwarzenegger Administration has been negotiating with the federal CMS since Fall of 2004 to renew California's Waiver which was scheduled to expire on November 30, 2004. Since this time, California has been obtaining Waiver extensions, most recently done on a month-by-month basis. **Presently, California's Waiver has been extended to at least April 30, 2007. But it is unclear how long this extension will continue or as to when the federal CMS will formally approve California's Waiver renewal for this program.**

The federal CMS wants California to make changes to our Family PACT Program prior to approving our Waiver renewal. The Schwarzenegger Administration has agreed to make some modifications to the program to address certain federal concerns; however, other federal CMS proposed changes would *not be cost-beneficial* to the state or to the federal government and the state is pushing back on these issues. **The key proposed federal changes are as follows**:

- 1. No Federal Funds For Certain Medical Services: The federal CMS has denied California federal matching funds provided under the Family PACT Program for the following services: mammography screening; Hepatitis B vaccines; five procedures related to complications of particular contraceptive methods; and diagnostic testing to distinguish cancer from genital warts. **The Medi-Cal Program budget does include an increase of $2.5 million (General Fund) to backfill for the loss of federal funds for these important services.** Therefore, the services will continue at the states' cost.

- *2. Change Simple Family PACT Eligibility Process to Full Eligibility Determination.* The federal CMS wants the state to conduct *full* Medi-Cal eligibility determinations under the program. This would add a new layer of administrative cost to the program which does not now exist.

  Presently, Family PACT uses a simplified eligibility process initially conducted by the provider and verified by the state. This simplified process is done to facilitate access to services and care, and to avoid the high cost of doing a full eligibility determination for a program benefit which is very limited and low cost (i.e., basically family planning services and treatment for sexually transmitted disease when applicable).

According to the Schwarzenegger Administration, it would cost the federal government, as well as the state, *more* funding to require a full eligibility determination for the Family PACT than to just continue with the simplified eligibility process and provide the services. Under the Family PACT, the average cost of a family planning benefit is $261 annually of which 75 percent is borne by the federal government. If a full eligibility process is required as desired by the federal CMS, it would cost an *additional* $512 ($256 federal funds) per case for determining eligibility as done by county social services departments. **Therefore, according to DHCS calculations, it would cost hundreds of millions more in federal funds to change to a full eligibility process. In addition, a state General Fund match for these added administrative costs would also be necessary.**

This issue is still in negotiation between the Schwarzenegger Administration and the federal CMS. **If California does not prevail, an additional $300 million or more in state General Fund support *could* be needed in order to fund the existing Family PACT program.**

- *3. Require Social Security Number for All Family PACT Enrollees.* The federal CMS also wants to require California to implement a social security number requirement. California has never required a social security number for participation in the program (it is voluntary) and the Schwarzenegger Administration is opposed to this change. It is viewed as a considerable barrier to services. It should be noted that federal funds are not used to provide family planning services to nonqualified immigrants. The state solely uses General Fund support for this purpose, which is again, cost-beneficial to the state.

The Schwarzenegger Administration has presented considerable information to Secretary Leavitt, U.S. Department of Health and Human Services, and is continuing discussions with their office. Senator Feinstein and Senator Boxer have also letters in support of California's existing program.

Background—Federal Deficit Reduction Act (DRA) of 2006. Among other things, this Act requires all U.S. citizens and nationals who apply for Medicaid (Medi-Cal) to provide evidence of citizenship or national status as a condition of eligibility. Implementation of these DRA requirements is a condition of the state receiving federal funds according to the DHCS. California enacted these changes as required through AB 1807, Statutes of 2006, the Omnibus Health Trailer Bill. Generally, these changes require proof of citizenship and identity, and considerable documentation. The DHCS is in the process of implementing these various requirements.

With respect to the Family PACT Program, the federal CMS would want the full Medicaid (Medi-Cal) eligibility process to include these requirements. The Schwarzenegger Administration as well as many others, including Senator Feinstein and Senator Boxer, do not believe these requirements are applicable to the Family PACT Program and will only serve to create barriers to accessing family planning services.

Background—Existing Budget for Family PACT Program. The budget provides a total of $462 million ($150.5 million General Fund and $311.6 million federal funds) for the Family PACT Program. California presently receives a 90 percent federal match for family planning services and testing services for sexually transmitted infections, and a 50 percent federal match for most other services offered under the program. The program does *not* provide pregnancy care or abortion-related services. Services provided to individuals without documentation are funded at 100 percent General Fund (about 17.79 percent of the enrollees in the program).

Overall Background on the Family PACT Program. Family PACT provides family planning services, reproductive cancer screening, and testing and treatment of sexually transmitted diseases for low-income Californians. Family PACT helps Californians plan their family size and protect their fertility. It does *not* provide pregnancy care or abortion-related services.

The intent of the program is to prevent unplanned pregnancies and the resultant financial and social welfare expense to the federal and state governments related to all unintended pregnancies and births. In addition, it serves to mitigate the spread of sexually transmitted diseases, and provides appropriate treatment for these diseases.

The Family PACT Program was implemented in January 1997. Originally a state-only program, Family PACT is currently funded through a federal Medicaid Family Demonstration Waiver which enabled substantial expansion of the program. The purpose behind the creation of this Waiver program by Congress was to allow states to develop innovative strategies, including systems to demonstrate new cost-effective ways of reducing unintended pregnancies and the resulting costs to Medicaid (Medi-Cal).

Under Family PACT, providers (private providers and clinics) assess a client's self-reported family size, income, need for confidentiality, and other eligibility criteria. If a client meets program criteria, the provider can enroll the client and provider services the same day. Eligibility data is transmitted to the state to review the information and make the final eligibility determination.

Family PACT is an extraordinarily successful program. It has been recognized nationwide for its positive impact on health outcomes and its cost-effectiveness in achieving its goals. It has been lauded in reducing unintended pregnancies.

Background—Family PACT Cost-Effectiveness. The federal government requires "budget neutrality" as a condition of approving any Medicaid Waiver. Budget neutrality means that the program must cost no more in federal financial participation than if the program did not exist and the target population instead utilized services through traditional Medicaid (Medi-Cal) programs. The federal CMS and federal Office of Management and Budget have concluded that California's Waiver has been budget neutral each of the five years of the program. **Based on the most recent year, the Family PACT saved $2.46 for every dollar paid in federal financial participation.**

Subcommittee Staff Recommendation. *First*, it is recommended to approve the $2.5 million (General Fund) to backfill for the loss of federal funds for these important services. These are important services that correspond to appropriate medical practices.

Second, it is recommended to have the DHCS keep the Subcommittee informed as negotiations with the federal CMS continue, and to have them provide an update at our May 7th hearing regarding any necessary next steps.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please clarify the Administration's agreement with the federal CMS as to the status of our Family PACT Waiver—i.e., how long can we continue to receive the month-to-month extensions?
2. DHCS, Please briefly describe the key federal CMS concerns and why their proposed changes would not be cost-beneficial to California.
3. DHCS, Please briefly describe the changes California will be making to Family PACT to address certain federal CMS concerns.
4. DHCS, What does the Administration anticipate the next steps to be in resolving these issues with the federal CMS?

6. AB 2911, Statutes of 2006--California Drug Discount Prescription Drug Program

Issue. The budget proposes to implement the CA Drug Discount Prescription Drug Program as enacted by Assembly Bill 2911 (Nunez), Statutes of 2006. Under the Administration's proposed implementation of this key legislation, the DHCS would conduct drug rebate negotiations, perform drug rebate collection and dispute resolution, and develop program policy, while a contractor would operate and manage the enrollment and claims processing functions.

Specifically, the budget proposes the following adjustments:

- Provides an increase of $8.8 million (General Fund) to support 16 positions within the Department of Health Care Services (DHCS) to conduct various implementation functions and to support a $6.8 million contract to design and implement the enrollment and claims processing functions. This General Fund increase is offset by a special fund appropriation as noted below
- Establishes a new item within the DHCS budget—Item 4260-006-001—which authorizes the State Controller to transfer up to $8.8 million (General Fund) to the DHCS to support the CA Drug Discount Prescription Drug Program (i.e., it transfers General Fund into the new special fund referenced below). Budget Bill Language provides authority to the Department of Finance (DOF) to increase the amount of this transfer after providing a 30-day notification to the Legislature.
- Establishes a new item within the DHCS budget—Item 4260-001-8040 (CA Drug Discount Prescription Drug Program Fund)—which is a special fund to be used to track and appropriate all payments received under the program, including manufacturer drug rebates. This item assumes an appropriation of $8.8 million which will be used to offset the General Fund expenditures for state support. The Administration is proposing trailer bill language to have this special fund be continuously appropriated and not subject to an annual appropriation through the Budget Act.

The DHCS states that considerable work needs to be completed for implementation. Pharmacists and management staff will need to develop policies related to outreach activities, participant enrollment, and drug rebate negotiation and collections. In addition, pharmacist staff will conduct rebate contract negotiations with drug manufacturers. The DHCS also notes that the program will require sophisticated legal analysis of complex issues, including manufacturer and pharmacy provider contracts, as well as addressing issues related to litigation**. Expenditures for the requested 16 staff positions w ould be $2 million, including operating expenses.**

The positions include the following:

- Staff Manager III (to supervise the section);
- 6 Pharmacy-related positions, including recruitment and retention bonuses;
- Staff Counsel III;

- 4 Associate Governmental Program Analysts;
- 2 Senior Information Systems Analysts;
- Associate Administrative Analyst; and
- Executive Secretary

The budget also includes $6.8 million for a contractor to design, develop and implement the client enrollment and claims reimbursement functions of the operations. The enabling legislation allows the DHCS to contract with a vendor for these aspects of the program. The DHCS intends to evaluate information from several vendors through a "request-for-information" (RFI) process. The DHCS will choose the vendor who can provide the highest quality product in the shortest timeframe. The enabling legislation also exempted the Administration from having to complete any normally required Feasibility Study Reports for information technology projects. The $6.8 million amount is a reasonable estimate made by the DHCS based on similar past projects.

It should be noted that the volume of prescription drug dispensing will drive how much reimbursement from the CA Drug Discount Prescription Drug Program Fund will be necessary to cover pharmacy costs. A higher enrollment will result in a higher volume of prescription drug dispensing.

Drug rebates will be collected from the manufacturers on a quarterly basis and deposited into the CA Drug Discount Prescription Drug Program Fund for future payments to the pharmacies. Since the drug rebates will be collected in arrears, the funding necessary to pay pharmacies their portion of the prescription drug reimbursement not paid by the participant in the program, needs to be "floated" by the General Fund. The Item 4260-006-001 transfer, as referenced above, allows for this "float" (i.e., transfer between funds).

In addition, quarterly drug rebate collections to be done by the DHCS will lag behind the actual program expenditures by several months; therefore, additional funding must be available beyond the end of the fiscal year. As such, the Administration is proposing trailer bill language to allow for the CA Drug Discount Prescription Drug Program Fund to be continuously appropriated.

Overall Background—AB 2911 (Nunez), Statutes of 2006. This legislation created the CA Drug Discount Prescription Drug Program to address concerns regarding the lack of access to affordable prescription drugs by lower-income Californians. Recent information has shown that about 1.5 million people living in California needed a prescription drug but could not afford to buy it on their own.

The CA Drug Discount Prescription Drug Program is a drug discount program, not a benefit. The general structure of the program is for the state to negotiate with drug manufacturers and pharmacies for rebates and discounts to reduce prescription drug prices for uninsured and underinsured lower-income individuals.

Participation in the program is eligible to uninsured California residents with incomes below 300 percent of the federal poverty, individuals at or below the median family income with unreimbursed medical expenses equal to or greater than 10 percent of the family's income,

share-of-cost Medi-Cal enrollees, and Medicare Part D enrollees that do not have Medicare coverage for a particular drug.

Enrollment in the program is to be simple and most likely will occur through local pharmacies. The only fees charged to individuals will be a $10 enrollment fee for processing the initial program application and an annual $10 re-enrollment fee. The legislation allows pharmacies and providers to keep the $10 enrollment fee as payment for their assistance to enroll clients in the program.

Legislative Analyst's Office Recommendation—Approve 15 of 16 Positions. The LAO recommends deleting an Associate Governmental Program Analyst position. In addition, they recommend making a Staff Information Systems Analyst position a one-year limited-term position since the work would be one-time only in nature.

Subcommittee Staff Recommendation—Approve All 16 Positions. It is recommended to approve the entire package as proposed by the Administration, including the budget appropriation as well as the trailer bill legislation. This is a critical program that requires considerable work for implementation to occur by January 2008 as contained within the legislation.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a brief summary of how the program would operate overall and what the key operational issues are that need to be completed quickly.
2. DHCS, Please provide a brief summary of the specific budget request.

7. Proposed Reduction to Rates Paid to Pharmacists for Dispensing Drugs

Issue. The **budget proposes a reduction of $88 million ($44 million General Fund) in Medi-Cal by changing the existing payment structure for pharmacy reimbursement from the "Average Wholesale Price" (AWP) to an "Average Manufacturer Price" (AWP) and by implementing the new "Federal Upper Payment Limit" (FUL).** The proposed change requires trailer bill legislation to enact.

This proposed budget reduction assumes an effective date of August 1, 2007. However, it should be noted that the federal CMS has not yet issued federal regulations to standardize the manufacturer calculated AMP. Therefore this proposed budget reduction is a "ballpark" estimate until further direction from the federal CMS can be obtained.

The pharmacy reimbursement consists of two components—a drug ingredient cost and a dispensing fee. Generally, the drug ingredient cost constitutes about 85 percent of the payment per prescription to a pharmacy. The proposed reduction would reduce the amount paid for drug ingredient costs. The existing pharmacy dispensing fee is $7.25 per prescription except for long-term care pharmacies which receive $8.00 per prescription.

The department states that changes in the federal Deficit Reduction Act make the proposed reduction viable for the state since certain drug cost information will now be readily available for comparison purposes which they contend is consistent with federal requirements.

No adjustment to the dispensing fee is proposed by the department at this time. However, the department is presently using a contractor to conduct a study of Pharmacy dispensing fees. Unfortunately, this study will not be completed until late May. This makes it difficult for the Legislature to respond to any needs for a dispensing fee adjustment difficult within the budget timeline constraints. As noted below, the Legislature had provided funding for this study in the Budget Act of 2006 but it was vetoed by the Governor. Therefore the DHCS is having to redirect resources to conduct the study and has later timelines.

Background--Governor's Veto of Legislature's Augmentation for Study of Pharmacy Dispensing Fee. In anticipation of the likelihood that the federal DRA would affect the Medi-Cal Program, the Legislature provided $600,000 ($300,000 General Fund) in the Budget Bill of 2006 for the department to conduct an independent survey of Pharmacy dispensing fees. The last survey was completed in 2002 using data from 2000. Unfortunately, the Governor vetoed this augmentation and the accompanying language.

Background—Existing Medi-Cal Pharmacy Program. Under Medi-Cal, enrollees can obtain prescription drugs from any Pharmacy enrolled as a provider in the Medi-Cal Program. The Pharmacy in turn submits a reimbursement claim to Medi-Cal for the drug cost. This claim is processed through the Medi-Cal on-line claims adjudication system to verify it. The Pharmacy also receives a dispensing fee for each prescription.

Through the Budget Act of 2004, the reimbursement rate paid to Pharmacists under the Medi-Cal Program was changed. **The drug ingredient cost was changed to be "Average**

Wholesale Price" (AWP) minus 17 percent. The dispensing fee was increased from $4.05 per prescription to $7.25 per prescription except for long-term care pharmacies which receive $8.00 per prescription.

Background—Federal Deficit Reduction Act of 2005 and Medicaid Pharmacy Changes. Among other things, the federal Deficit Reduction Act (DRA) made changes to the Medicaid (Medi-Cal) prescription drug program as it pertains to Pharmacy reimbursement. **The first change pertains to the "Average Manufacturer Price" (AMP).**

Prior to the DRA changes, the AMP was *solely* used by the federal government to calculate and determine the federal drug rebate. The AMP was calculated for each drug of a manufacturer and reported on a quarterly basis to the federal CMS. This *confidential* information was used to calculate federal drug rebates.

Under the DRA, drug manufacturers will have to abide by specific rules on the calculation of the AMP and will be required to report this information on a monthly basis, as well as on a quarterly basis. The federal CMS will use this information to calculate the federal drug rebates (as before) *and* to create new "federal upper limit" (FUL) prices. The AMP will now be public and will be provided to all state Medicaid programs.

The federal CMS has informed state Medicaid programs to use the monthly AMP information, when it becomes available, as well as retail price survey information to assess their pharmacy reimbursement rates, including the dispensing fees.

The second change pertains to the "federal upper limit" (FUL). The federal CMS establishes a FUL for generic drugs based on certain criteria. Prior to the DRA changes, a FUL price was calculated using price information obtained from pricing companies (such as First Data Bank) and was generally calculated based on three or more generically equivalent drugs on the market. The DRA changes how the FUL is calculated by requiring there to be only two generically equivalent drugs available on the market and by using the AMP in the calculation. **The affect of this change is that the FUL will decrease the reimbursement rate for generic drugs.**

Background—Existing Medi-Cal Contract Drug Program. California has historically had one of the least expensive Medicaid drug programs in the nation. Generally, Medi-Cal controls costs through two major components—a Medi-Cal List of Contract Drugs, and contracts with about 100 pharmaceutical manufacturers for state 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 rebates are negotiated by the department with manufacturers to provide additional drug rebates above the federal rebate levels.

Constituency Concerns. The Subcommittee is in receipt of constituency concerns from retail pharmacy representatives that the proposed changes would create a hardship on providers if the AMP reduction to the drug ingredient is enacted with no recognition of a need to increase the dispensing fee. They do not believe that the AMP is an accurate measure of drug costs and are very concerned that pharmacies will be hit with substantial cuts and will drop out of the Medi-Cal Program.

Subcommittee Staff Recomm endation—Hold Open. *First*, it is recommended to encourage the DHCS to expedite their study on pharmacy dispensing fees and to provide it to the Subcommittee **as soon as it is completed**. It is very likely that the study will show a need to increase the portion of the reimbursement rate.

Second, it is recommended to hold this issue open pending the receipt of the Governor's May Revision. Additional information from the federal CMS may be available at this time, along with other pending details from the Administration.

Questions. The Subcommittee has requested the department to respond to the following questions.

1. DHCS, Please briefly describe the existing pharmacy reimbursement process and how it would change under the budget proposal.
2. DHCS, When will the study regarding pharmacy dispensing fees be made available to the Subcommittee?
3. DHCS, When may further guidance from the federal CMS be available?

8. Request for Staff for Addressing Drug Rebate Disputes

Issue. The **DHS is requesting an increase of $1. 1 million ($542,000 General Fund) to fund eleven positions which are set to expire on June 30, 2007.** The purpose of these positions is to collect on drug rebates owed to the state by drug manufacturers. These "aged" drug rebates are in dispute and must be reconciled through the department's system with the manufacturers.

The budget also reflects a savings of $8 million ($4 million General Fund) in local assistance which is attributable to the collection of the "aged" drug rebates.

Of the total eleven positions, 5.5 are proposed to be permanently established. These include 4.5 Associate Governmental Program Analysts and one Staff Services Manager I. The other 5.5 positions are proposed to be extended for one more year, until June 30, 2008. These include 4.5 Associate Governmental Program Analysts and one Staff Services Manager I.

These eleven positions were originally authorized in the Budget Act of 2003 on a three-year limited-term basis (until June 30, 2006). The Budget Act of 2006 continued the positions for another year (until June 30, 2007).

The dispute resolution process is complex and requires a high level of skill to operate the Rebate Accounting and Information System (RAIS) and the rebate-related software applications, and to learn the dispensing patterns of drugs. **As such, the DHS contends that continuation of existing staff is important to reduce the rebate backlog.**

Background—"Aged" Drug Rebates. Between 1991 and 2002, the Medi-Cal Program accumulated large rebate disputes with participating drug companies. The federal Office of Inspector General cited California in an audit that was published in 2002 due to these disputes. Originally over $300 million in disputes were identified.

According to the department, about half of the disputes have been resolved and about $49 million ($24.5 million General Fund) has been collected to date. Another $8 million ($4 million General Fund) is estimated to be collected in the budget year.

Background—Why Do Rebate Payment Disputes Occur? According to the department, rebate payment disputes occur when the manufacturer is paying for fewer units than were invoiced by the department (i.e., manufacturer is paying less rebate to the state than calculated by the state). Disputes can be the result of human errors in the drug claiming and rebate processes on the part of pharmacies, manufacturers, and the federal CMS.

There are many reasons why manufacturers dispute their invoices. Examples of dispute reasons include: (1) pharmacies entering the incorrect dispensed quantity into the Medi-Cal claim system; (2) providers buying drugs that are exempt from rebate yet invoicing for full Medi-Cal price which erroneously includes them on the invoice; (3) providers billing the wrong unit of measure to which the rebate per unit is applied; and (4) manufacturers' challenging the state for legal reasons.

Legislative Analyst's Office Recommendation—Approve 5.5 Permanent Positions. The LAO is recommending to approve 5.5 permanent positions, *and* to "hold open" pending the May Revision the remaining 5.5 limited-term positions.

The LAO contends that the 5.5 limited-term positions should be reviewed at the May Revision so that they can review whether any of these positions are vacant. If they are vacant, they would recommend deleting them since it takes about 9 months to train them. Therefore it is unlikely that new staff would be productive over the one year period for which the positions would be provided (i.e., extending them for one year until June 30, 2008).

Subcommittee Staff Recommendation—Modify Administration's Proposal. Addressing the backlog of "aged" drug rebates, as well as new rebate amounts which may be disputed, has been an on-going issue for at least the past five years.

The Administration has made some headway by implementing the RAIS system and making improvements on the edits and cross-checks that the system conducts to mitigate disputes on the front-end of the process. However, state staff are also needed to conduct certain reconciliations of information and to keep abreast of drug manufacturers who owe rebate funds but are slow in paying the state.

The Administration and LAO both note that staff need to be intensively trained to be effective in their collection of the rebate funds, and that limited-term staff are difficult to hold onto due to the uncertainty of their position.

Therefore, it is recommended to provide an increase of 7 permanent Associate Governmental Program Analyst positions for a reduction of $394,546 ($197,273 General Fund). Providing permanent staff will mitigate the need for training new staff and conceivable, will increase productively as the existing staff continue with the work and become more knowledgeable regarding the nuisances of the rebate dispute process.

It should be noted that the DHCS also has 4 existing staff that provide assistance in this area as well.

Questions. The Subcommittee has requested the department to respond to the following questions.

1. DHCS, Please provide a brief description of the budget request and need for the positions.

9. Implementation of the federal Deficit Reduction Act: Medi-Cal Eligibility

Issue. The DHS is requesting an increase of $571,000 ($285,000 General Fund) to support 5 positions to implement various provisions of the federal Deficit Reduction Act of 2005 (DRA) that pertain to enrollment into the Medi-Cal Program. The requested positions include the following:

- Two Associate Governmental Program Analysts (permanent)
- One Associate Governmental Program Analyst (18-month limited-term to 12/30/2008);
- One Staff Counsel (one-year limited-term); and
- One Staff Counsel IV (supervising level) (18-month limited-term to 12/30/2008).

The DHS states three positions (i.e., two Associate Governmental Program Analysts and the Staff Counsel) would be used to work on implementing the DRA provisions relating to citizenship and identity.

The remaining two positions (i.e., a limited-term Associate Governmental Program Analyst and the Staff Counsel IV) would implement the DRA provisions relating to asset eligibility and the additional month of Medi-Cal eligibility for disabled SSI recipients under the age of 21.

Background—Deficit Reduction Act (DRA) of 2005. Among other things, the DRA made changes to the Medicaid Program (Medi-Cal) that deal with citizenship and identity documentation, asset eligibility, and disabled Supplemental Security Income (SSI).

The DRA changed eligibility requirements by requiring that any person who declares to be a citizen or national of the U.S. must now provide that documentation of citizenship and identity. People applying for Medi-Cal must provide that documentation before full scope Medi-Cal can be approved. If this documentation is not provided, Medi-Cal is limited to emergency and pregnancy related services. Enrollees that are now receiving Medi-Cal services who enrolled prior to the DRA changes must provide documentation at their next redetermination in order to receive full-scope continuing Medi-Cal services. This citizenship documentation requirement will affect over 4 million individuals enrolled in Medi-Cal.

With respect to asset eligibility, the DRA requires individuals who are requesting long-term care services or Waiver services will have to undergo an additional asset eligibility determination for payment of those services. Although these individuals may be eligible for Medi-Cal services of all other covered services, they may not be eligible to receive Medi-Cal-funded long-term care and Waiver services.

The asset eligibility changes also apply to individuals requesting services who, in the past, have received Medi-Cal automatically based on an eligibility determination made by the Social Security Administration for SSI/SSP or by CalWORKS.

In addition, the DRA also made changes regarding disabled children (less than 21 years). Specifically, the DRA requires states to provide Medicaid eligibility (Medi-Cal) in the month prior to the first month in which they receive the SSI payment. This change enables disabled children to enroll into Medi-Cal more quickly.

Legislative Analyst's Office Recommendation—Approve 3 of 5 Positions. The LAO recommends approving only three of the requested five positions for a savings of $184,000 ($91,500 General Fund). The Staff Counsel position and one Associate Governmental Program Analyst would be denied. The LAO states that much of the DRA work is one-time in nature and that the DHCS has already completed the bulk of the work.

In addition, the LAO also recommends making all of the three approved positions, including the Staff Counsel IV and two Associate Governmental Program Analysts, limited-term positions which would expire as of December 30, 2008.

Subcommittee Staff Recommendation—Modify Administration's Request. The federal DRA requirements are complex and will require DHCS staff work including legal analysis. **It is recommended to concur with the LAO to eliminate one of the Associate Governmental Program Analyst position but to retain the Staff Counsel position which is only an 18-month limited-term position anyway.**

Further, the requested Staff Counsel IV position is a supervising level position and would require Department of Personnel Administration approval before it could be filled. This level of position for an 18-month appointment seems excessive and most likely would be difficult to fill. Further, the DHCS has other legal staff who could handle this level of expertise if needed for the DRA implementation. **Therefore it is recommended to also down-grade the Staff Counsel IV position to a Staff Counsel position.**

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHS, Please provide a status update regarding the implementation of the DRA requirements.
2. DHS, Please provide a brief summary of the budget request.

10. Implementation of SB 1775, Statutes of 2006—Adult Day Health Care Changes

Issues. There are three budget year adjustments for this issue. Each of these issues is discussed below. *First*, the DHCS is requesting an increase of $3.9 million ($1.8 million General Fund) to fund 46 positions primarily to implement SB 1775 (Chesbro), Statutes of 2006 related to the Adult Day Health Care (ADHC) Program within Medi-Cal.

Second, the Department of Public Health (DPH) is requesting an increase of $99,000 ($49,000 General Fund) to fund an Associate Governmental Program Analyst in the Licensing and Certification Division of the DPH.

Third, the Medi-Cal local assistance budget assumes a reduction of $5 million ($2.5 million General Fund) by implementing more restrictive medical necessity criteria for enrollment into the ADHC Program effective as of January 1, 2008.

All of the requested 47 positions are outlined below by the area of designation.

- *DHCS Audits and Investigations (A&I) Branch—Total of 35 Positions.* A total of 35 positions are requested throughout this branch. The positions and their designated section within the branch are outlined below.

  - ✓ *A&I Financial Audits Section—31 Positions.* This includes **(1)** 20 Health Program Auditor III's (three year limited-term); **(2)** 5 permanent Health Program Auditor III's; **(3)** 3 permanent Health Program Auditor IV's; **(4)** a permanent Health Program Audit Manager I; and **(5)** two Health Program Audit Manager I's (three-year limited-term).

    These positions would primarily be used to audit 350 ADHC cost reports by no later than January 31, 2010 in order to allow for the analysis and calculation of rates that must take place before the rates can be applied to each of the 350 ADHC providers. The DHCS contends that staff needs to be hired and trained, and to commence with audits as soon as feasible. The three Health Program Audit Manager I's (one permanent with two being limited-term) would supervise the audit staff.

  - ✓ *A&I Medical Review Section—2 Positions (permanent).* This includes a Medical Consultant I position and a Nurse Evaluator II position. These positions will focus on revisions to the medical necessity criteria and will assist in determining whether ADHC participants are receiving needed services.

  - ✓ *A&I Investigations Section—2 Positions (permanent).* This includes two Fraud Investigator positions. These positions would be used to perform criminal investigations in cases where fraud and abuse are discovered. The investigators would work closely with the Department of Justice in prosecuting fraud cases that may result.

- *DHCS Office of Legal Services—Total of 9 Positions.* A total of 9 positions are requested throughout this branch. The positions and their designated section within the branch are outlined below.
  - ✓ *Office of Legal Services, Office of Administrative Hearings and Appeals—4 Positions.* These positions include: **(1)** an Administrative Law Judge; **(2)** a permanent Health Program Auditor IV; and **(3)** two Health Program Auditor IV's (three-year limited-term). The DHCS states that these positions will be needed to process appeals filed by ADHCs who are subject to the new audits.

  - ✓ *Office of Legal Services, Administrative Litigation Section—4 Positions.* These positions include: **(1)** two permanent Staff Counsels; **(2)** a Staff Counsel (three-year limited-term); and **(3)** a permanent Senior Legal Typist. The DHCS states that these positions will be needed to handle potential litigation from the upcoming changes.

  - ✓ *Office of Legal Services, Medi-Cal House Counsel.* The DHCS contends that medical reviews resulting from the ADHC Program will result in negotiated settlement agreements. This position would be used for this purpose, as well as to provide legal advice in all aspects of the development of regulations to be developed for the changes.

- *DHCS Medi-Cal Program Area—Two Positions.* First, an existing position would be converted to a Nurse Consultant III position to be used in the Medi-Cal Policy section to coordinate the implementation of reforms. Second, a permanent Research Analyst II position would be hired for the Rate Development section. This position would be used to carry out the workload associated with assisting in the development of a new rate reimbursement methodology.

- *Department of Public Health, Licensing & Certification Division—1 Position.* The budget includes a request for a permanent Associate Governmental Program Analyst position within the DPH's Licensing and Certification Division. This position would be used to update the current licensing regulations so they will conform to the reforms authorized in SB 1775.

The DHCS also assumes a reduction of $5 m illion ($2.5 million General Fund) in local assistance from implementing the medical necessity criteria as of Jan uary 1, 2008. The reduction level assumes the following:

- 30 percent of new users will not meet the revised medical eligibility criteria. This means that 362 individuals will not be eligible to enroll in ADHC services; and
- 15 percent of existing users will not meet the revised medical eligibility criteria. This means that 2,469 individuals will be terminated from ADHC services.

Background—Key Provisions of SB 177 5 (Chesbro), Statutes of 2006. This legislation was crafted in response to federal CMS concerns with California's ADHC Program. Specifically, the federal CMS notified the DHS that certain specified changes needed to occur in the program in order for California to continue to receive federal matching funds. The state will be submitting a "State Plan Amendment" (SPA) to the federal CMS in 2009 that details the authorized reforms once implementation issues have been worked through.

SB 1755 authorizes the DHS to make major reforms to the ADHC Program over the next three years. As authorized by SB 1775, Statutes of 2006, the following significant reforms are to be instituted:

- Establish a set of definitions relating to ADHC services;
- Revise the standards for participant eligibility and medical necessity criteria in receiving ADHC services;
- Set forth new standards for the participant's personal health care provider and the ADHC center staff physician;
- Require the ADHCs to provide a set of core services to every participant every day of attendance; and
- Restructure the rate methodology to a prospective cost-based process requiring audited cost reporting.

The DHCS states that with the gradual implementation of SB 1755 reforms, it is estimated that beginning in 2011-2012 a savings of $121.8 million ($60.9 million General Fund) may be achieved. Savings leading up to 2011-2012 are expected to be limited. Savings are expected to stem from a combination of the following factors:

- Post-payment reviews with subsequent audit recoveries;
- Tightening of medical necessity criteria, eliminating authorization for Medi-Cal enrollees that do not require ADHC services to remain in the community;
- Unbundling of the ADHC all-inclusive procedure code and requiring ADHCs to bill only for those specific services provided that were medically necessary;
- Development of prospective costs reimbursement that tie the ADHC rates to the actual costs of providing the services; and
- Intensive and ongoing audits of ADHCs to prevent and resolve fraud and abuse issues.

Background—What Are Adul t Da y Health Care Services. Adult Day Health Care (ADHC) is a community-based day program providing health, therapeutic and social services designed to serve those at risk of being placed in a nursing home. The ADHC Program is funded in the Medi-Cal Program. The DHS performs licensing of the program and the Department of Aging administers the program and certifies each center for Medi-Cal reimbursement.

The baseline budget for the ADHC Program is $375.8 million ($187.9 million General Fund). The average monthly cost per ADHC user is $931.11. The projected average monthly user of these services is 33,633.

The current reimbursement rate for ADHCs is 90 percent of the nursing facility level A rate. This is a bundled, all-inclusive rate for all ADHC services which was set by a court settlement in 1993. The budget assumes a 4.35 percent rate increase for these services as well which corresponds to existing law.

The bundled reimbursement rate pays for a day of ADHC services (defined as a minimum of four hours, not including transportation) regardless of the specified services actually provided on any given day. The bundled rate assumes that the required ADHC services will be provided to individuals as deemed medically necessary.

Background—Moratorium Continues on New ADHC. Through the Budget Act of 2004 and accompanying trailer bill legislation, a 12-month moratorium on the certification of new ADHCs became effective. This was done to diminish the growth of the centers due to concerns regarding rapid growth and the potential for Medi-Cal fraud, as well as concerns expressed by the federal CMS regarding the operation of California's program (which SB 1775, Statutes of 2006 address). With minor adjustments, this moratorium was extended for 2005 and 2006, and the budget assumes this continuation through 2007-08. Existing statute makes annual renewal of the moratorium the purview of the Director of Health Services (Director Sandra Shewry).

Legislative Analyst's Office Recommendation—Approve 33 of 46 Positions. The LAO recommends approving only 33 of the requested 46 positions for saving of $1.370 million ($685,000 General Fund).

The 13 denied positions include: (1) five Health Program Auditor III's; (2) five Health Program Auditor IV's (three from the Financial Audits Branch, two from the Office of Legal Services); (3) one Research Analyst II; and (4) two Staff Counsel positions (from the Administrative Litigation Section).

No issues have been raised regarding the reduction to local assistance of $5 million ($2.5 million General Fund).

Subcommittee Staff Recommendation—Adopt LAO Recommendation. The SB 1755 will be a significant effort and will require considerable work. However, the number of staff recommended by the LAO is still considerable and will take some time for the DHCS to hire and train. The DHCS can always request any necessary additional resources next year.

Further, the DHCS has considerable staff within the Audits and Investigations area and could, in certain cases, shift staff resources around to meet key priorities when necessary.

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHCS, Please provide a brief summary of the key components of SB 1775 and describe the three proposed budget adjustments.

11. Proposed Trailer Bill—Enteral Nutrition Products & Medical Supplies

Issue (Hand Out). The Administration is proposing *broad* trailer bill language to more assertively pursue contracts for non-drug products offered under the Medi-Cal Program, including various medical supplies, incontinence supplies and enteral nutrition products.

The budget assumes a reduction of $8.4 million ($4.2 million General Fund) solely attributable to this proposed trailer bill language.

The DHCS states that they have expanded its management of the existing contracts for these non-drug products to include contracting for specific manufacturer products. They contend that this change mirrors the model set by the department's drug-contracting program. However, unlike drug contracting, state statute currently does not provide specific language that clarifies the process for these three categories (medical supplies, incontinence supplies and enteral nutrition products). The Administration further notes that this lack of specific authority has inhibited the DHCS from moving forward in some instances and has created disputes with manufacturers.

The language proposes a framework to the contracting process including criteria for product selection. At this time, it is *not clear* how this framework would be applied to the various products covered by the language.

Background—Medi-Cal C ontracting (non-drug). The DHCS maintains the medical supply, enteral nutrition, and incontinence supply benefits that account for about $240 million in total expenditures annually. Existing statute enables the DHCS to contract for these different products. These non-drug product contracts can either be a rebate contract or a guaranteed acquisition cost (i.e., guarantees a provider will not pay more than the contract amount to obtain the product) or a combination of both.

Subcommittee Staff Recomm endation—Hold Open. The proposed language as presently crafted by the Administration is very broad and does not clearly provide appropriate patient protections that are often needed due to the number and diversity of special needs populations that the Medi-Cal Program serves. The medical supply area is a large category that covers hundreds of different and diverse products. As such, it is imperative to ensure that statute does not inadvertently limit access to special needs products.

In addition, the Administration has not yet actively engaged in discussions with constituency groups regarding the language and needs to do so soon.

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHCS, Please provide a summary as to why the proposed trailer bill language is desired and specifically how it would function if implemented.
2. DHCS, How would unique patient needs be addressed under the language?

12. Continued Implementation of Health Insurance Portability & Accountability Act

Issue. The Administration is requesting an increase of $2.4 million ($582,000 General Fund) to fund 20 positions (19 of which are three-year limited-term) to continue the implementation of the federal Health Insurance Portability & Accountability Act (HIPAA). Of the requested increase, 19 of the positions (all three-year limited-term) are for the DHCS and one position is for the Department of Public Health.

Specifically, the 19 positions for the DHCS include the following by function area:

- *Management and Operational Support—4 Positions.* The DHCS states that these positions provide necessary management oversight and coordination. These positions include: a Staff Services Manager III (Branch Chief); a Senior Information Service Supervisor; and two Administrative Analysts.

- *Transaction Code Sets—6 Positions.* The DHCS states that these positions are needed to complete HIPAA code conversion efforts by 2010. The federal CMS is concerned about California completing this activity. The positions include: Dental Consultant; Medical Consultant; two Nurse Consultant III's; a Research Analyst II and a Staff Services Manager I.

- *Security—8 Positions.* The DHCS states that these positions are needed to address HIPAA security rules, including disaster recovery plans and security regarding Medi-Cal enrollee health information. The positions include: a Senior Information Systems Analyst; two Senior Information Systems Analysts; three Staff Information Systems Analysts; and two Associate Information Systems Analysts;

- *Privacy—2 Positions.* The DHCS states that two Associate Governmental Program Analyst positions are needed to address HIPAA rules regarding privacy concerns.

The Department of Public Health is requesting an Associate Governmental Program Analyst position (permanent) to continue HIPAA work for its programs that interact with the Medi-Cal Program.

Background on HIPAA. HIPPA, enacted in 1996, outlines a process to achieve national uniform health data standards and health information privacy in the U.S. It requires the adoption of standards by the federal Secretary of Health and Human Services to support the electronic exchange of a variety of administrative and financial health care transactions.

The federal government has published and continues to publish, multiple rules pertaining to the implementation of HIPAA. These rules will be published in waves and over the next several years. Among the standards are:

- Electronic transaction and data elements for health claims and equivalent encounter information, claims attachments, health care payment and remittance advice, health plan enrollment and disenrollment, health plan eligibility, health plan premium payments, first report of injury, health claim status and other items;

- Unique identifiers for individuals, employers, health plans and health care providers for use in the health care system;
- Code sets and classification systems for the data elements of the transactions identified; and
- Security and privacy standards for health information.

It should be noted that the CHHS Agency has an entire office--Office of HIPAA—that coordinates these issues with the various departments within the Health and Human Services Agency, and individual departments have staff sections which are responsible for day-to-day operations and HIPAA changes.

Legislative Analyst's Office Recommendation—Approve 11 of the Requested 19 Positions. The LAO recommends approving only 11 of the requested 19 positions for savings of $858,000 ($215,000 General Fund).

The 8 positions to be deleted include: **(1)** three Staff Information Systems Analysts; **(2)** two Associate Information Systems Analysts; and **(3)** three Associate Governmental Program Analysts. The LAO contends that the workload for one position is duplicative of a position requested to address new requirements for privacy and use of certain health care information. In addition, they note that the DHCS has a high vacancy rate for certain positions and that the department should fill these vacancies prior to requesting additional positions.

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHCS, Please provide a brief summary of the budget request.

13. Proposed Trailer Bill Language—National Provider Identifier

Issue. The Administration is proposing trailer bill language to change state statute to conform to federal HIPAA requirements regarding provisions to establish the "National Provider Identifier" as the single identifier for health care providers who utilize HIPAA-covered electronic transactions (such as for Medi-Cal and Medicare).

This HIPAA rule requires that providers obtain a single provider number from the federal CMS and requires that only *one number* be used by that provider for *all* billings for all business locations. The DHCS states that implementation of this federal HIPAA rule is to be effective May 23, 2007. They contend that implementation of this rule without state statutory changes would place the DHCS at risk for litigation.

Implementation of this proposed trailer bill legislation would affect **all** Medi-Cal providers. All Medi-Cal providers would need to obtain a National Provider Identifier in order to receive Medi-Cal reimbursement. The DHCS states that this is necessary because without this requirement, the DHCS would have to maintain two separate databases—one using Medi-Cal provider numbers as required by state law and one for those providers who are required to use the National Provider Identifier under federal law.

Therefore, all Medi-Cal providers would need to obtain the identifier from the federal CMS. The DHCS will be working to make certain systems changes to the Medi-Cal reimbursement process in order to accept this identifier. At this time it is unclear as to when this will be completed, though it is to be soon. As such, Medi-Cal providers who do indeed already have a National Provider Identifier and use this to submit their reimbursement claims to the DHCS beginning as of May 23, 2007 as required by federal law, will have their claims rejected and will *not* get paid. These providers will need to resubmit their claims using their Medi-Cal provider number.

Background—National Provider Identifier. This rule under HIPAA establishes a national identifier for all providers that will be used to bill all payers, including Medi-Cal, Medicare, and private insurance. All DHCS programs must be assessed and remediated for their usage of the provider ID.

Subcommittee Staff Recommendation. *First*, it is recommended for the DHCS to keep the Subcommittee informed as to *any* issues that may come forth due to this comprehensive change and the anticipated concerns regarding provider reimbursement claims processing.

Second, it is recommended to adopt the Administration's language as *placeholder* language in the event that any technical aspects need to be modified. If any substantive changes to this language are needed, Subcommittee staff will bring the issue back to the Subcommittee for discussion at the May Revision. However, it is unlikely that this will be necessary.

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHCS, Please briefly describe how the National Provider Identifier is to work and when Med-Cal will be ready to accept this identifier.
2. DHCS, What is being done to inform and work with Medi-Cal providers to ensure a less problematic transition?

14. Implementation of AB 1745, Statutes of 2006--Pediatric Palliative Care

Issue. The DHCS is requesting an increase of $408,000 ($174,000 General Fund) to fund three positions to implement AB 1745 (Chan), Statutes of 2006 regarding pediatric palliative care. The three positions include a Public Health Medical Officer III, a Research Analyst II, and a Health Program Specialist II.

Background—AB 1745 (Chan), Statutes of 2006. This legislation established the Nick Snow Children's Hospice and Palliative Care Act (Act) which allows eligible children and their families to receive palliative care services early in the course of the child's illness, while concurrently pursuing curative treatment for the child's condition.

Specifically, it requires the DHCS to develop and submit a Waiver to the federal CMS to conduct a Pilot to include services available through the existing Medi-Cal hospice benefit, and for the evaluation of the effectives of having a pediatric palliative care benefit for Medi-Cal enrollees aged 21 and under. The Pilot would combine both the medical, as well as special counseling and respite care services that are important for assisting the entire family.

Legislative Analyst Office Recommendation—Approve 2 of Requested 3 Positions. The LAO recommends approving only two of the requested three positions for savings of $112,000 ($56,000 General Fund). The LAO recommends deleting the Health Program Specialist II position.

Subcommittee Staff Recommendation—Approve 2 of Requested 3 Positions. It is recommended to approve only two of the requested three positions but to delete the Research Analyst II position, in lieu of the LAO's recommended Health Program Specialist II position. The work of the Research Specialist II pertains to evaluating expenditure data and monitoring outcomes. As such, this position could be deferred for a later date or some of the workload could be absorbed by the existing Medi-Cal Waiver research staff.

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHCS, Please provide a brief summary of the budget request.

Diane Van Maren (w) 651-4103
Senate Budget & Fiscal Review

Subcommittee No. 3: Monday, March 26th (Room 2040) 1:00 PM
(Use the Agenda for this day as a guide with this document please.)

B. ISSUES FOR "VOTE ONLY" (Items 1 and 2, Page 6 to Page 8)

- **Action:** Approved as budgeted, Items 1 and 2 on the consent calendar.
- **Vote:** 2-0 (Senator Cogdill absent)

C. ISSUES FOR DISCUSSION--Healthy Families *&* Children's Medi-Cal (Page 9)

1. Healthy Families Program-- Update on Federal Funding (Page 9)

- No action necessary, was simply an update.

2. Outreach Funding for Healthy Families & Medi-Cal Program (Page11)

- **Action:** Approved as budgeted.
- **Vote:** 2-0 (Senator Cogdill absent)

3. Implementation of Senate Bill 437--*Local Assistance Piece* (Page 14)

- **Action:** Reduced by $5.4 million ($2.7 million General Fund) as recommended by the LAO.
- **Vote:** 2-0 (Senator Cogdill absent)

4. Implementation of Senate Bill 437—*State Support Piece* (Page 18)

- **Action:** Deleted three positions as contained in the Subcommittee staff recommendation on Page 19.
- **Vote:** 2-0 (Senator Cogdill absent)

5. Medi-Cal Program—Family PACT (Page 20)

- **Action:** Approved the budget increase as proposed and instructed the Administration to keep the Subcommittee informed as negotiations with the federal CMS continue.
- **Vote:** 2-0 (Senator Cogdill absent)

6. AB 2911--California Drug Discount Prescription Drug Program (Page 24)

- **Action:** Approved as budgeted.
- **Vote:** 2-0 (Senator Cogdill absent)

7. Proposed Reduction to Rates Paid to Pharmacists (Page 27)

- **Action**: Held "Open".

8. Request for Staff for Addressing Drug Rebate Disputes (Page 30)

- **Action:**: Approved only 7 positions (all permanent) of the requested 11 and made one of the approved positions a supervising level position.
- **Vote:** 2-0 (Senator Cogdill absent)

9. Implementation of federal Deficit Reduction Act: (Page 32)

- **Action:**: Adopted the Subcommittee staff recommendation as shown on Page 33.
- **Vote:** 2-0 (Senator Cogdill absent)

10. Implementation of SB 1755—Adult Day Health Care Changes (Page 34)

- **Action:**: Approved the LAO recommendation to approve 33 of the 46 positions.
- **Vote:** 2-0 (Senator Cogdill absent)

11. Proposed Trailer Bill: Enteral Nutrition & Medical Supplies (Page 38)

- **Action:** Held "Open".

12. Continued Implementation of HIPAA (Page 39)

- **Action:** Deleted 5 positions—three Associate Governmental Program Analysts (same as the LAO's), and two Associate Information Systems Analysts (same as LAO).
- **Vote:** 2-0 (Senator Cogdill absent)

13. Proposed Trailer Bill Language—National Provider Identifier (Page 41)

- **Action:** Approved trailer bill language.
- **Vote:** 2-0 (Senator Cogdill absent)

14. Implementation of AB 1745--Pediatric Palliative Care (Page 42)

- **Action:** Approved 2 of the three positions, and deleted the Research Specialist II position.
- **Vote:** 2-0 (Senator Cogdill absent)

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Thursday, March 29, 2007
9:30 am
Room 4203 (John L. Burton Hearing Room)
(Eileen Cubanski, Consultant)

Discussion Agenda

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.

Discussion Agenda Summary

Topic 1: CalWORKs Overview

This panel will discuss:

- Issue 1: CalWORKs Requirements and Funding (Page 4)
- Issue 2: CalWORKs Caseload Characteristics (Page 12)

Presenters:

- Charr Lee Metsker, Deputy Director, Welfare to Work, Department of Social Services
- Todd Bland, Legislative Analyst's Office

Topic 2: Update on Implementation of Recent Reforms

This panel will discuss:

- Issue 3: Recent CalWORKs Program Changes (Page 23)

Presenters:

- Charr Lee Metsker, Deputy Director, Welfare to Work, Department of Social Services
- Frank Mecca, Executive Director, California Welfare Directors Association
- Will Lightbourne, Agency Director, Santa Clara County Social Services Agency
- Bruce Wagstaff, Director, Sacramento County Department of Human Assistance
- Michael Herald, Legislative Advocate, Western Center on Law and Poverty

Public Testimony on Topic 1 and Topic 2 will be taken at the conclusion of Topic 2.

Topic 3: CalWORKs Proposals in the 2007-08 Budget

This panel will discuss:

- Issue 4: Proposed 2007-08 CalWORKs Budget (Page 28)
- Issue 5: Sanction and Safety Net Research (Page 30)
- Issue 6: Impact of Recent Policy Changes and the Governor's Budget on the Work Participation Rate (WPR) (Page 33)

Presenters:

- Charr Lee Metsker, Deputy Director, Welfare to Work, Department of Social Services
- Nick Buchen and Jay Kapoor, Department of Finance
- Todd Bland, Legislative Analyst's Office
- Frank Mecca, California Welfare Directors Association
- Michael Herald, Legislative Advocate, Western Center on Law and Poverty

Topic 4: CalWORKs Cost-of-Living Adjustment

This panel will discuss:

- Issue 7: CalWORKs Cost-of-Living Adjustment (COLA) (Page 35)

Presenters:

- Charr Lee Metsker, Deputy Director, Welfare to Work, Department of Social Services
- Michael Herald, Legislative Advocate, Western Center on Law and Poverty

Public Testimony on Topic 3 and Topic 4 will be taken at the conclusion of Topic 4.

Topic 5: Semiannual Reporting

This panel will discuss:

- Issue 8: Semiannual Reporting Trailer Bill Language (Page 37)

Presenters:

- Charr Lee Metsker, Deputy Director, Welfare to Work, Department of Social Services
- Cathy Senderling, Senior Legislative Advocate, California Welfare Directors Association
- George Manalo-LeClair, Director of Legislation, California Food Policy Advocates

Topic 6: Department of Social Services Staff Requests

This panel will discuss:

- Issue 9: State Support for CalWORKs (Page 39)

Presenter:

- Charr Lee Metsker, Deputy Director, Welfare to Work, Department of Social Services

Public Testimony on Topic 5 and Topic 6 will be taken at the conclusion of Topic 6.

Discussion Agenda

5180 Department of Social Services (DSS)

Issue 1: CalWORKs Requirements and Funding

Program Achievements

- Hundreds of thousands of families are working and off time-limited aid since 1995. More adults on aid are working and they are earning more under CalWORKs.

- CalWORKs encourages work and self-sufficiency while maintaining a safety net for low-income children.

Notwithstanding these significant achievements, continued efforts must be made to increase the number of parents who are working without jeopardizing the well-being of their children. This will lead to a higher work participation rate in California and bring these families closer to self-sufficiency.

California Work Opportunity and Responsibility to Kids (CalWORKs) Program

Program Description: CalWORKs provides cash benefits and welfare-to-work services to children and their parents or caretaker relatives who meet specified eligibility criteria including having a family income below the CalWORKs minimum basic standard of adequate care, having less than $2,000 in resources, and having a car valued at $4,650 or less. The average family of three must have an annual net income below $12,782, or 77 percent of the federal poverty level, to be eligible for CalWORKs. Under state law, adults in single-parent families are required to participate in welfare-to-work activities and perform a minimum of 32 hours of work or work-related activities per week. Two-parent families are required to participate for 35 hours per week. Adults have a lifetime limit of five years (60 months) in CalWORKs.

CalWORKs was established by the Legislature and Governor in 1997, in response to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). PRWORA created the Temporary Assistance for Needy Families (TANF) program, which replaced the Aid to Families with Dependent Children (AFDC), Emergency Assistance (EA), and Jobs Opportunities and Basic Skills Training (JOBS) programs. PRWORA significantly changed federal welfare policy and gave states more flexibility in designing their welfare programs under TANF. CalWORKs is California's TANF program.

PRWORA established four purposes for state TANF programs:

1. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

2. End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

3. Prevent and reduce the incidence of out-of-wedlock pregnancies.

4. Encourage the formation and maintenance of two-parent families.

The Department of Social Services (DSS) provides statewide oversight for CalWORKs and counties operate the program. Counties determine eligibility and provide case management, employment training, and supportive services, including substance abuse, mental health, and domestic violence services, child care, transportation assistance, and other work supports.

Funding Summar y: CalWORKs is funded through an annual federal Temporary Assistance for Needy Families (TANF) block grant of $3.7 billion, plus $2.7 billion in state and county funds to meet a federal Maintenance of Effort (MOE) requirement. The state's TANF grant and MOE are based on the level of welfare spending in the state in 1994. The MOE may be adjusted downward for achievement of certain work participation goals. Under PRWORA, MOE-countable state spending must be for aided families or for families who are otherwise eligible for assistance (purposes 1 and 2 above). PRWORA restricted countable spending that promotes the formation and maintenance of two-parent families and teen pregnancy prevention (purposes 3 and 4 above) are for low-income families only. This restriction was changed in the Deficit Reduction Act (see discussion in Deficit Reduction Act section below).

Federal law permits the expenditure of TANF funds on a variety of programs and activities. Unexpended TANF funds can be carried over indefinitely into future years. Permitted TANF expenditures include:

- Any program designed to meet the four purposes of TANF listed above.

- Any purpose permitted under the AFDC program or under AFDC Emergency Assistance (EA). (For example, AFDC-EA could be used for juvenile probation.)

- Up to 10 percent of TANF funds may be transferred to the Title XX Social Services Block Grant and then expended in accordance with Title XX federal rules.

- Up to $961 million in TANF funds may be transferred to the Child Care and Development Block Grant (CCDBG) to fund child care for CalWORKs families.

Of the amount of TANF/MOE spent on CalWORKs, spending has shifted away from cash assistance and toward employment services. "Services" spending includes child care, transportation, case management, job search, vocational assessment, job training,

mental health and substance abuse treatment, services to assist with domestic violence and learning disabilities, and other services aimed at helping CalWORKs clients find and maintain employment. In addition, a significant portion of TANF/MOE funding is spent on eligible programs outside of CalWORKs, which has saved the state $10.2 billion General Fund since 1996.

Deficit Reduction Act of 2005: TANF Reauthorization

Federal Deficit Reduction Act of 2005: TANF Provisions

- Reauthorized the TANF Program through FFY 2010
- Caseload Reduction Credit Rebased from FFY 1995 to FFY 2005
- MOE-Funded Cases Included in Work Participation Rate (WPR)
- Expanded Range of MOE-Countable Programs
- Federal Emergency Regulations effective October 1, 2006, defined:
  - Specific types of cases included in WPR.
  - Countable work activities.
  - Case reporting and documentation requirements.
- New State Penalty for Failure to Verify Work Participation

The federal Deficit Reduction Act of 2005, approved by Congress and the President in February 2006, effectively increased the state's required work participation rate to 50 percent for all CalWORKs cases and 90 percent for two-parent cases. The state's work participation rates are currently 23 percent for all cases and 32 percent for two-parent cases (not including the effects of the CalWORKs changes made last year and the 2007-08 Governor's Budget, which are discussed later in this agenda). The new work participation rate requirements became effective October 1, 2006, in Federal Fiscal Year (FFY) 2007.

The Act also authorized the federal Secretary of Health and Human Services to issue emergency regulations to establish the types of aid cases included in the work participation rate, define federally-countable work activities, and establish reporting and documentation requirements to verify client work hours. These regulations were released in June 2006 and became effective October 1, 2006. Finally, the Act increases funding for child care; California's share is estimated to be approximately $25 million per year.

Calculation of Caseload Reduction Credit

Prior to the Deficit Reduction Act, the caseload reduction credit was based on the caseload reduction since FFY 1995, the base year established in PRWORA. States are allowed to reduce their required WPR by the rate of caseload reduction since the base year. Most states, including California, would not have met the required WPR for FFY 2001 through FFY 2006 absent the caseload reduction credit. For example, since California's caseload dropped by 43.3 percent between 1995 and 2002, the state's All-Families WPR requirement was reduced from 50 percent to 6.7 percent in 2002. California's actual WPR of 27.3 percent in FFY 2002 exceeded the adjusted required WPR of 6.7 percent.

Base Period Reset to FFY 2005: The Deficit Reduction Act set FFY 2005 as the new base year for the caseload reduction credit. This would substantially increase the effective WPR that states are required to meet. States whose caseload have not declined or have increased since FFY 2005 would have to meet the maximum WPR starting in FFY 2007, which began October 1, 2006. The CalWORKs caseload has leveled off in recent years and is not expected to significantly decline without program changes.

More Spending Countable Toward the MOE Requirement

The Deficit Reduction Act expands the definition of what types of state spending may be used to meet the MOE requirement. Currently, countable state spending must be for aided families or for families who are otherwise eligible for assistance. The Act allows state expenditures designed to prevent out-of-wedlock pregnancies or promote the formation of two-parent families (TANF purposes 3 and 4) to count toward the MOE requirement even if the target population is not otherwise eligible for aid. Essentially, the Act removes the requirement that countable spending that promotes the formation and maintenance of two-parent families and teen pregnancy prevention be on behalf of low-income families. The impact of these changes on California's MOE level is discussed in the upcoming section on the 2007-08 Governor's Budget.

Countable Work Activities and Verification Requirements

Required Hours of Work: To comply with federal work participation rates, adults must meet an hourly participation requirement each week. For single-parent families with a child under age 6, the weekly participation requirement is 20 hours. The requirement goes up to 30 hours for single parents in which the youngest child is at least age 6. For two-parent families the requirement is 35 hours per week. The participation hours can be met through unsubsidized employment, subsidized employment, certain types of training and education related to work, and job search (for a limited time period).

New Federal Regulatory Authority: The Deficit Reduction Act gives the Secretary of the U.S. Department of Health and Human Services new authority to promulgate regulations concerning "verification of work and work eligible individuals." These regulations were released in June 2006, and were effective October 1, 2006, at the beginning of FFY 2007. The major provisions of those regulations include:

- Aid cases included in the work participation rate are defined to include families with unaided adults who have aided children, i.e., safety net and sanctioned cases. These cases were previously not required to be included in the calculation of the federal work participation rate.

- The federally-countable work activities defined closely mirror California's definitions of work activity with a few exceptions in which the state has less flexibility in determining which activities will count toward the work participation rate. The state will need to change which activities are counted as vocational education and can only count recipients without a high school diploma/GED as participating in education directly related to employment.

- Reporting and documentation requirements to verify client work hours are narrowly defined and have been standardized. Daily supervision is required and must be documented in order to count activities that are not unsubsidized employment. Only monitored and documented study sessions may be counted; all other study time hours are prohibited from being included. These changes will require additional data collection by the counties and the state.

Calculation of Federal Work Participation Rate (WPR)

To avoid a federal penalty, states must meet an "All-Families" work participation rate (WPR) of 50 percent, and a "Two-Parent Families" WPR of 90 percent, subject to adjustment for any caseload reduction credit. These rates were established in PRWORA and were not changed by the Deficit Reduction Act.

However, prior to the Deficit Reduction Act, the WPR was based only on TANF-funded cases. MOE-funded cases were excluded. This allowed states to avoid penalties for not meeting the two-parent 90 percent WPR by using MOE funds instead of TANF funds for two-parent cases. California, like many other states, excluded two-parent families from the All-Families WPR calculation by using only MOE funds for those

cases. Since the state did not have any TANF-funded two-parent cases, it effectively avoided the two-parent WPR requirement and penalty.

MOE-Funded Cases No Longer Excluded: Subject to certain exceptions, the Deficit Reduction Act requires both TANF and MOE-funded cases with aided adults to be included in the All-Families WPR calculation, effective October 1, 2006. This means that two-parent families will now be included in the All-Families WPR (50 percent participation rate required) and that the state must also meet a 90 percent participation rate for the Two-Parent caseload. Note that if the state meets the All-Families WPR but not the Two-Parent WPR, the penalty would be reduced by about 85 percent because the amount of the penalty is tied to the relative size of the two-parent caseload in comparison to the overall caseload. The following table summarizes the major changes to the WPR calculation.

Deficit Reduction Act of 2005
Major Changes to Work Participation Calculation

Provision	Prior Law/Regulations	Deficit Reduction Act/ Associated Regulations	Impact on Participation Rate Calculation
Calculation of caseload reduction credit (CRC)	Based on reduction since FFY 1995 (46%)	Based on reduction since FFY 2005 (3.5%)	Reduces CRC by 42 percentage points
Separate State Programs (SSP)	Cases in SSP excluded from a work participation calculation	Cases in SSP must be included in work participation calculation	State may no longer avoid 90 percent rate for two-parent families through SSP
Adults in sanction for more than 90 days	When adult is removed from case for sanction, the case is excluded from work participation calculation	Must be included in work participation calculation	Adds 40,100 cases to participation calculation (+40,100 in denominator)
Safety net for children of parent hitting five-year time limit	When adult is removed from a case for time limit, the case is excluded from work participation calculation	Must be included in work participation calculation	Adds 46,000 cases to participation calculation, 9,000 of which are meeting work requirement (+9,000 to numerator, +46,000 to denominator)
Caring for ill or incapacitated family member	Included in work participation calculation	Excluded from work participation calculation	Removes 5,000 cases from work participation calculation (-5,000 from denominator)

FFY = federal fiscal year.
Source: LAO 2007-08 Budget Analysis

Calculation of the All-Families Work Participation Rate (WPR): 50 Percent Requirement

Numerator / **Denominator** = Number of families with aided adult (including sanctioned and safety net families) participating in countable activities for 30 hours (single parent)* or 35 hours (two-parent) per week / Number of families with aided adult**

* 20 hours for a single parent with a child under age 6
**Excludes single parents with children under age 1, Tribal TANF cases and cases sanctioned for less than 3 months in a 12 month period.

Calculation of the Two-Parent Work Participation Rate (WPR): 90 Percent Requirement

Numerator / **Denominator** = Number of two-parent families with aided adults (including sanctioned and safety net families) participating in countable activities for 35 hours per week / Number of two-parent families with two aided adults***

***Excludes Tribal TANF cases and cases sanctioned for less than 3 months in a 12-month period. A two-parent family with a disabled parent is considered a one-parent family in the WPR calculation.

WPR Under Prior and Current Law: As shown in the following table, California's WPR for all families would be almost 28 percent under the prior rules. Under the new rules imposed by the Deficit Reduction Act, the WPR falls to just over 23 percent. This is due to the inclusion of two-parent families, sanctioned families, and safety net families into the denominator of the WPR calculation. Most of the decline is due to sanctioned cases and safety net cases. For two-parent families, the participation rate is 33.6 percent under the new rules.

Work Participation Status—All Families[a] Under Prior and Current Law

	Prior Law and Regulations	Current Law/DRA Regulations	Change From Prior Law
Families meeting requirements	60,148	69,174	9,026
Families subject to participation	215,822	296,975	81,153
	=	=	
Participation rate	27.9%	23.3%	-4.6%

a Based on California data from federal fiscal year 2005.
DRA = Deficit Reduction Act of 2005.
Source: LAO 2007-08 Budget Analysis

Federal Penalties and Increased MOE

Work Participation Rate Penalty and MOE Increase: If the state fails to meet the work participation rate requirements in FFY 2007 (which began October 1, 2006), it is subject to a penalty of up to a five percent reduction in the federal TANF grant, or approximately $149 million, depending on the degree on non-compliance. The state would be required to backfill the penalty amount with General Fund resources. This penalty increases two percent each year, or about $60 million, to a maximum of 21 percent of the TANF grant. The penalty for FFY 2007 performance could be payable as early as state fiscal year 2008-09.

In addition, if the state fails to meet the work participation rate requirements, the state would also be required to increase General Fund MOE spending by five percent or approximately $180 million. If the state fails to meet the required work participation rate for FFY 2007, the effective budget impact would occur in state fiscal year 2009-10.

Work Participation Verification Penalt y: If the state fails to establish or comply with the work participation verification procedures released by the federal HHS Secretary on June 30, 2006, California will be subject to a penalty of between one and five percent, or between about $30 million and $149 million, of the federal TANF grant, based on the degree of non-compliance. This is in addition to the WPR penalty.

Note that the amount of the federal penalties may vary depending on TANF transfers to Title XX, Tribal TANF, and CCDF programs. Also, as previously noted, if the state meets the All-Families WPR but not the Two-Parent WPR, the penalty would be reduced by about 85 percent because the amount of the penalty would be tied to the relative size of the two-parent caseload in comparison to the overall caseload.

Corrective Compliance Plan: Maximum total penalty and increased MOE exposure is $298 million General Fund in 2008-09, and $538 million in 2009-10. However, the state may be able to negotiate a corrective compliance plan with the federal HHS Secretary for either the WPR penalty or the work verification penalty. Corrective compliance plans would reduce or eliminate the federal penalties but also require the state to comply with federal requirements to keep the penalty in abeyance. The increased MOE cannot be waived by the Secretary.

Current state law provides that counties are responsible for up to 50 percent of the federal penalty, although state law also provides that counties may be provided relief if the department determines that there were circumstances beyond the county's control. The trailer bill to the 2006 Budget Act also clarifies that counties are required to backfill the payment of their share of the federal penalty with county general funds.

Issue 2: CalWORKs Caseload Characteristics

CalWORKs Caseload Description

Enrollment Trends: After peaking in March of 1995, CalWORKs enrollment has dropped by 50.4 percent through 2006. The caseload decline is due to a combination of demographic trends (such as decreasing birth rates for young women), California's economic expansion, and welfare reform changes since 1996. After years of declines, enrollment flattened in 2003-04 and has remained relatively stable since then. As of November 2006, caseload was projected to decrease by 1.5 percent in 2006-07 and increase by 0.1 percent in 2007-08. Average monthly enrollment was estimated to be 468,000 cases in 2007-08.

Caseloads are dynamic, with substantial movement in and out of the program. Each month, 18,000 to 19,000 families enter the program and roughly the same number of families leave each month. Over the past ten years, the proportion of families enrolled in the Welfare-to-Work portion of the program has declined, primarily due to the large number of cases that have left the program.

The main reasons families leave CalWORKs are:

1. Increase in employment or family income. Note that families who leave CalWORKs due to excess income often do not submit their final participation report to the counties and therefore are sometimes counted as exiting due to non-compliance (category 3 below).

2. Change in household composition: No longer an eligible child in the home; got married; or parent, spouse, or partner returned home.

3. Frustration with program rules or paperwork; not complying with program requirements; no longer wanted or needed welfare; or welfare benefit not enough to continue receipt of benefits.

The significant number of families that have left CalWORKs due to earnings has been partially offset by an increase in the number of cases without an aided adult.

Time on aid: Measuring the time that families spend in the CalWORKs program is not necessarily a straightforward exercise. Looking at participant data at a point in time will overstate the number of families who have received aid for a longer period of time. This is because those who received aid for shorter periods of time and have exited the program will not be captured in the point-in-time data.

The ideal way to calculate the total time CalWORKs families spend on aid would be to follow a large cohort over the entire span of their child-raising years and calculate the average time spent on aid at the end of this period. Since CalWORKs has existed for only eleven years, the next best way of computing cumulative time on aid is to study a

cohort of those who leave aid in a given year and do not return during a subsequent period. Then the observer can look back in time as far as possible and count total time on aid.

This is the approach used to formulate the following table. This table reports the total time on aid over the period of January 1995 through December 2005 for 154,228 CalWORKs recipients who exited CalWORKs in 2005 and had not returned to aid by December 2006.

Cumulative Time on Aid Over an Eight-Year Period, 1998 Through 2005, For 154,228 Adults Exiting CalWORKs in 2005 and Not Returning in 2006

1. Months/Years of Aid Received At CalWORKs Exit	2. Number Exiting CalWORKs	3. Percent of 154,228 Adults Exiting CalWORKs in 2005	4. Total Months/Years on Aid	5. Cumulative Percent Off Aid After 6 Months, …8 years
Six months or less on aid	29,172	18.9%	6 mos. or less	18.9%
Six months to 1 year on aid	23,474	15.2%	1 yr. or less	34.1%
One year to 18 months on aid	16,665	10.8%	18 mos. or less	44.9%
18 months to 2 years on aid	13,517	8.8%	2 yrs. or less	53.7%
More than 2, less than 3 yrs.	19,854	12.9%	3 yrs. or less	66.6%
More than 3, less than 4 yrs.	14,633	9.5%	4 yrs. or less	76.1%
More than 4, less than 5 yrs.	16,031	10.4%	5 yrs. or less	86.5%
More than 5, less than 6 yrs.	11,391	7.4%	6 yrs. or less	93.8%
More than 6, less than 7 yrs.	5,482	3.6%	7 yrs. or less	97.4%
More than 7, less than 8 yrs.	4,009	2.6%	8 yrs. or less	100.0%
Total Exiting CalWORKs in '05	154,228	100.0%		

Examining the data in this way shows that almost one-fifth (18.9 percent) of all aid recipients exiting CalWORKs in 2005 had six months or less of total time on aid in the eight year period ending December 2005. More than half (53.7 percent) received two years or less of aid during that time. For those exiting CalWORKs in 2005 and not returning in 2006, the median cumulative time on aid during the preceding eight years was 22 months. This means that half of those exiting CalWORKs in 2005 had fewer than 22 total months of aid.

CalWORKs Clients with Multiple Barriers: The proportion of families needing mental health, substance abuse, and/or domestic violence services has also increased. The percent of Welfare-to-Work clients receiving these services increased from 1.2 percent in October 1999 to 8.6 percent in October 2006. Research in Kern and Stanislaus counties found that more than half of the CalWORKs clients surveyed reported they had experienced domestic abuse, were found to have one or more mental health issues,

and/or had abused alcohol or other drugs. About 80 percent reported experiencing domestic violence at some time in their lives, with one-quarter of the respondents identifying domestic violence as the current barrier to employment. In addition to these significant concerns, nearly 44 percent of those interviewed had not achieved a high school diploma and about half had no driver's license.

CalWORKs Families are Diverse: As listed below in the Glossary of Major CalWORKs Case Definitions, CalWORKs families include a broad range of family circumstances and composition. For example:

- pregnant and parenting teens
- older parents and grandparents caring for children
- single- and two-parent families
- parents working, going to school, or in training programs full-time
- parents participating in some combination of part-time work, school, and/or job training
- refugee families (many initially lack English language and other basic job skills)
- families with substance abuse, mental health, domestic violence, and/or learning disability issues
- parents without high school diplomas (40 percent of adults in CalWORKs lack a diploma)
- families where children or adults are ill or disabled
- parents with extensive work experience or job skills
- parents with no work experience or job skills
- families who have received aid for many years and have exceeded the five-year time limit
- families who have never received aid before and stay in the program for a short time

CalWORKs Families are Dyn amic: CalWORKs families' circumstances and case status may change frequently. Major change factors include:

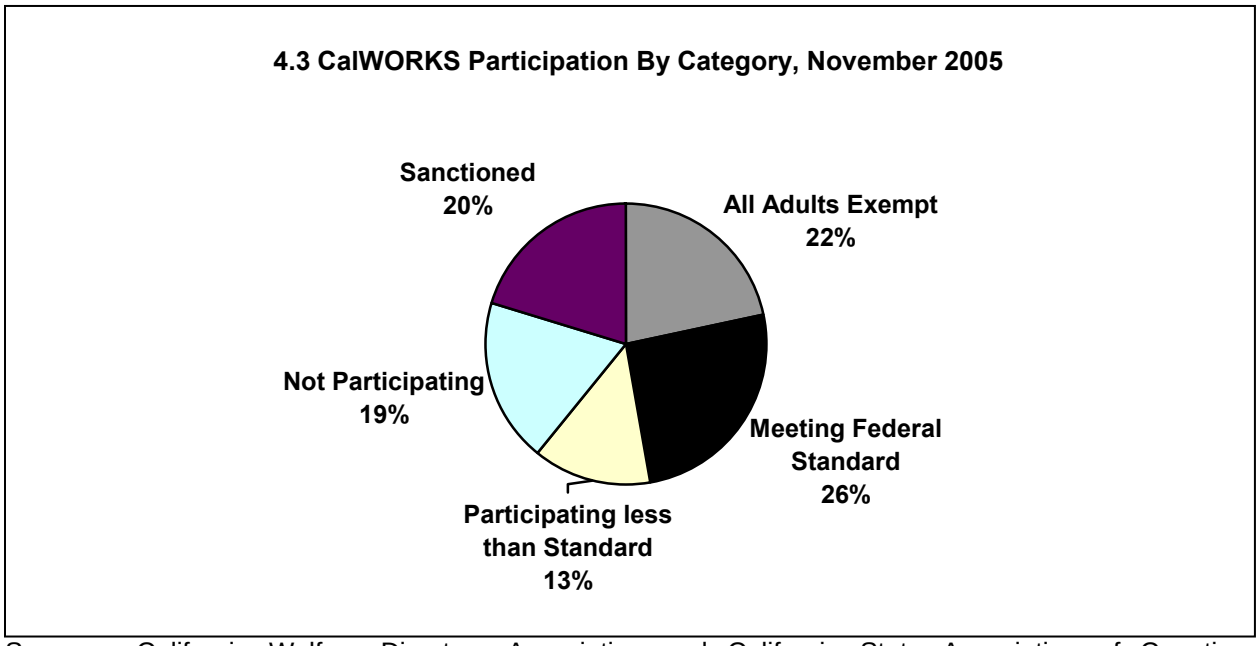
- beginning/termination of employment or education/training programs
- changes in hours or wages of employment or education/training
- birth of a child, teen pregnancy, or removal of a child from the case at age 18
- departure or return of a parent to the household
- family relocation, such as for seasonal employment, homelessness, etc.
- improvements/declines in behavioral or physical health of a child or parent

Often when families apply for aid they are in crisis. Some need an exemption or good cause deferral to resolve the crisis. As they stabilize they may participate in time-limited activities, such as job search or training and then work full- or part-time, perhaps in conjunction with other Welfare-to-Work services. Alternatively, in some cases, parents begin working right away or were already working when they applied for aid.

CalWORKs Participation Trends and Patterns: The California Welfare Directors Association (CWDA) recently conducted research among various county CalWORKs programs. The key findings on participation trends and patterns is described below.

Many CalWORKs clients are participating part-time and/or mixing state and federal activities. Participants today have greater access to employment services than in 1995. Working participants earn more today than in 1994, even after accounting for inflation. One-fifth of the adult caseload is exempt from participating in Welfare-to-Work activities under state law. Finally, the "not participating" group is diverse; just because a client is not participating at a point in time does not mean they are disengaged from the program. As with time on aid, viewing participation over time paints a more complete picture than point-in-time data.

The chart below shows the participation levels in the 15 counties surveyed by CWDA, as of November 2005.[1] It shows that 26 percent of the adults required to participate (unless given an exemption or other good-cause reason for not participating) were doing so for enough hours to meet the federal requirements. Another 13 percent were participating for less than the federal standards.



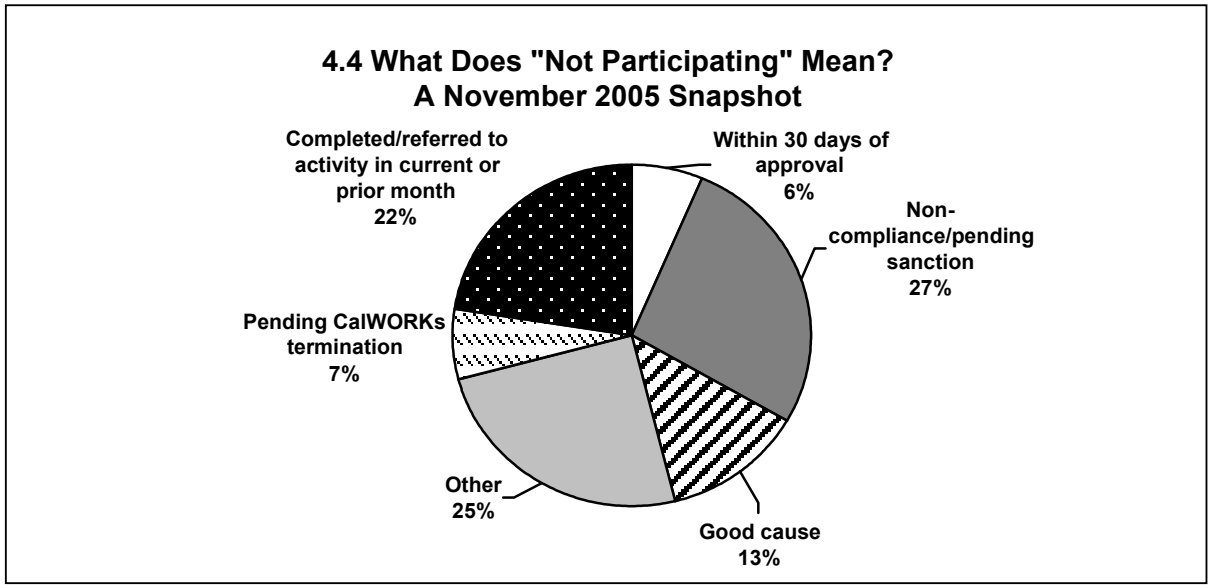
Source: California Welfare Directors Association and California State Association of Counties, *CalWORKs at a Crossroads*, April 2002

The "not participating" group is diverse; just because someone is not participating at a given point in time does not mean they are disengaged from the program. The CWDA collected more detailed information about the cases that were labeled as "not participating" during the month of November 2005. Digging deeper into the reasons for non-participation shows that more than a quarter of recipients are either new to the

[1] Participating counties included: Fresno, Humboldt, Kern, Los Angeles, Mendocino, Monterey, Riverside, San Bernardino, San Diego, San Francisco, Santa Barbara, Santa Cruz, Stanislaus, Sutter, and Yuba.

program (6 percent), are about to leave the program (7 percent), or have been given good cause for not participating (13 percent).

The following chart demonstrates this diversity, suggesting that any efforts to engage the "not participating" group will need to recognize the subgroups within this category.



Source: California Welfare Directors Association and California State Association of Counties, *CalWORKs at a Crossroads*, April 2002

The group includes individuals who are new to the program, those who have good cause for not participating, those who completed or were referred to an activity during the current or prior month – but who have not yet begun a new activity – as well as those who will be leaving the CalWORKs program within a short period of time.[2] It also includes non-compliant participants and those whose sanctions have not yet been activated, but are pending.

Most counties were not able to break their caseloads into finer detail than the categories listed in the previous chart, which explains the relatively large "other" category (25 percent). Counties that were able to further define their caseloads reduced the "other" category to less than 14 percent of cases not participating. The data from these counties, including Los Angeles County, indicates that a significant percentage of the cases in the "other" category are likely between assigned activities and, therefore, would not count as participating for purposes of the state's federal work participation rate.

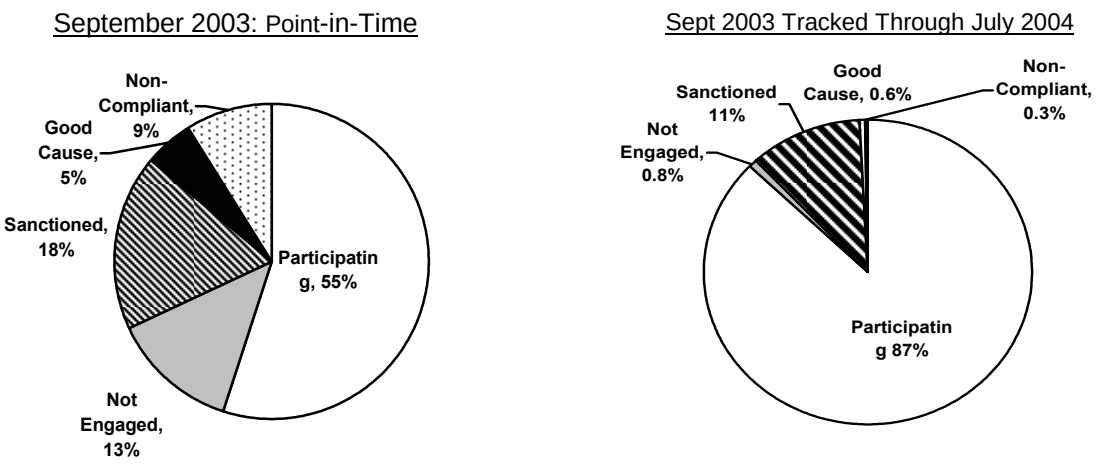
Note also that the "good cause" category essentially represents another group of exempt clients, who would not be considered participating for purposes of the federal rate but are not disengaged from the program, as might otherwise be assumed without

[2] This latter group is shown as "Pending CalWORKs Deregistration" in Chart 4.4.

delving deeper into the data. The diversity among the "not participating" group and the potentially substantial number of cases who are between activities at any given point in time suggests that strategies to engage clients in useful, temporary activities when they are between their formal assignments could be worthwhile.

Data from Riverside County illustrates the importance of viewing participation over time rather than at a specific point in time. The pie charts below paint two very different pictures of program participation. The chart on the left shows point-in-time caseload data; while the chart on the right shows cases tracked over time. As the chart on the right shows, the overwhelming majority of Riverside County's Welfare-to-Work participants during the study time period was engaged, received an exemption from participation, or left the program. Over the 10-month period, only 13 percent of the Welfare-to-Work clients did not participate in the program in any way.

2.3 Riverside County Caseload – Point-in-Time vs. Tracked Over Time



Source: California Welfare Directors Association and California State Association of Counties, *CalWORKs at a Crossroads*, April 2006

A substantial proportion of recipients are participating part-time. Although the state's 2004 federal work participation data for all families shows that only 25 percent of cases were meeting federal work participation requirements, another 21.3 percent were participating in one or more federally recognized activities, but for insufficient hours to count toward the participation rate. The extent to which CalWORKs recipients are participating part-time in federally recognized activities indicates that partial participation is substantial. If these participants could increase their activity level, they could contribute significantly to the state's overall federal participation rate. As an example, DSS data for FFY 2004 show more than 8,800 participants statewide who were single custodial parents with a child under six years of age and were participating for one to 19 hours per week (about four percent of all recipients who are currently counted in the state's federal work participation rate calculation). Many of these participants could meet the federal 20-hour requirement for single parents with a child under six with a relatively small increase in their activity hours.

Glossary of Major CalWORKs Case Definitions

Single-Parent and Two-Parent Cases: Grant includes children and parents.

- **Non-exempt:** Single- or two-parent family required to participate under state and federal rules. Eligible for Welfare-to-Work (WTW), Behavioral Health (mental health, domestic violence, and alcohol and drug treatment), Child Care, and other support services.

    - **Timed-Out:** Non-Exempt families with their federal 60-month clock expired, but state CalWORKs clock may not be expired. Federal clock started December 1, 1996.

    - **Good Cause:** Non-Exempt families where the county has granted a temporary exemption from participation. Most common examples include illness, disability, lack of transportation, child care problems, emotional problems, domestic abuse, attendance at employment/school/training, and legal problems.

- **Federal Exempt:** Single parent with a child under age one. Exempt from participation under federal rules. Eligible for WTW and other services only if the parent volunteers to participate.

- **CalWORKs Exempt:** Families not exempt from participation under federal law, but exempt under state law. Includes parents under age 16 or 60 and older, 16- and 17-year-old parents in high school, parents physically or mentally unable to participate for at least 30 days, and parents caring for a disabled family member. Eligible for WTW and other services only if the parent volunteers to participate. Note that a substantial number of Exempt clients leave aid prior to the expiration of their exemption period, perhaps because they have resolved the crisis that led them to apply for aid.

- **On Aid Less than 60 Days:** WTW orientation is provided within 60 days of a client being determined eligible for aid. Federal participation rates are low among initial applicants, as they often have not yet had their WTW orientation. Clients are eligible for services once they are determined eligible.

Sanctioned Cases: Families where the parent(s) has not complied with various reporting or activity requirements, and the county has reduced the grant to exclude the parent(s) from the case. Clients are generally eligible for WTW and other services if they cure their sanction or comply with their WTW plan.

Safety-Net Cases: Families with federal and state 60-month clock expired. State clock started January 1, 1998. Grants are reduced to reflect removal of parent(s) from assistance calculation. Eligible for two years of child care if participating in their WTW plan.

Child-Only Cases: Grant amount calculation includes only children, not adults.

- **SSI Parent:** Disabled parent(s) eligible for SSI.
- **Non-Citizen Parent:** Generally, citizen children with ineligible non-citizen parents. 92 percent of adults have been in the US five years or longer.
- **Non-Needy Caretaker Relative:** Persons requesting child-only grants for related children in their care (72 percent grand/great-grandparents).

Sanction Caseload Description

CalWORKs Sanction Policy : If a client has been notified that he/she has not met program requirements, he or she is given opportunities to come back into compliance before the county imposes a sanction. Once a sanction is incurred, the grant continues at the reduced level until the client comes into compliance. If a client is sanctioned more than once, the reduced benefit must be paid directly to any applicable vendors for rent and utilities.

Characteristics Data. In 2006, the West Coast Poverty Center conducted a comprehensive review of sanctions studies nationwide and found that there is a body of research that describes the characteristics of sanctioned families and what happens to them over time.

Many studies have found that, compared to those not sanctioned, recipients who are sanctioned have characteristics that have been associated in past research with poor employment outcomes and with a higher likelihood of welfare receipt. Research also consistently finds that sanctioned families face more barriers to employment than non-sanctioned families, such as their own health and mental health problems, disabilities, responsibility for a family member with health conditions or disabilities, domestic violence, and substance abuse. Many studies have also found that the risk of sanctions is higher for TANF families who have lower levels of education, no work history or limited recent work experience, and more children or younger children. Time on welfare has also been found to increase the risk of a sanction in several studies.

There is evidence that sanctioned families face more material hardship than recipients who are not sanctioned. Studies comparing rates of self-reported hardship between sanctioned and non-sanctioned families suggest that sanctioned families more frequently experience trouble paying housing costs, have their phone services cut off, and seek help from a church or charity more often. There is also evidence of worse outcomes for children in sanctioned families including suffering higher levels of material hardship and greater risk of hospitalization. Other studies suggest that children in sanctioned families do worse in several developmental areas than children whose families were never sanctioned.

Nationally, studies find that clients are more likely to be sanctioned early in their spell of benefit receipt; in several states, over half of the sanctions were imposed within the first three months of TANF receipt. Once sanctioned, the majority of those who will comply come into compliance quickly. However, studies find that a substantial share of all recipients who are sanctioned once are sanctioned multiple times.

Data From California Count ies: Sanctioned clients and those facing sanctions represent a significant portion of the caseload in California and they share some common characteristics. The 15 counties surveyed by the CWDA reported 31,937 sanctioned cases in November 2005. This represents 10 percent of the total caseload in these counties and 20 percent of cases with an adult who is either expected to participate in Welfare-to-Work activities or exempt from participation.

In response to concerns about sanctioned participants, Los Angeles County conducted a longitudinal analysis of recipients who entered the program between June and November 2002, following these recipients for 18 months. The county found that most of the sanctioned participants were sanctioned before they participated in any Welfare-to-Work activity at all. Almost two-thirds of those who were sanctioned had failed to attend their scheduled Orientation session. The participants who did attend Orientation were much less likely to be sanctioned than those who did not attend Orientation.

Los Angeles County also found that the majority of sanctioned cases either returned to compliance or left CalWORKs within the first three months of being sanctioned. San Bernardino County and Los Angeles County also found that employed recipients were more likely to be participating satisfactorily and the Los Angeles researchers noted that sanctioned participants who were unemployed at the time that they entered the Welfare-to-Work program were at a 16 percent higher risk of not returning to compliance than those who were employed when they entered the program.

Studies of the characteristics of sanctioned cases also found some commonalities. Generally, both Riverside and Los Angeles counties found that sanctioned CalWORKs recipients were more likely to be single or never married, to be English-speaking, and to be non-white. Riverside noted that the more children a parent had, the more likely the parent would become sanctioned. The Los Angeles study indicated that child age plays a role in whether participants return to compliance, finding that sanctioned parents with a child under one year of age were less likely to return to compliance than those with older children.

Finally, the Los Angeles County study indicated that participants who were receiving supportive services such as child care and transportation were less likely to be sanctioned and those who did not receive such services were more likely to be sanctioned. This illustrates the importance of continuing to provide these supportive services and of identifying the needs of recipients as early as possible in order to ensure they are able to participate in activities such as orientation and job search.

Safety Net Caseload Description

Significantly less is known about the families on the safety net program than is known about those in sanction status. This is problematic since the safety net caseload has been a growing fraction of the CalWORKs caseload. In the first month of the safety net program, safety net cases were 1.7 percent of all CalWORKs cases. By March 2006, they were 13.9 percent. The estimated safety net caseload for 2007-08 is approximately 50,000. California will need to better understand who these families are and the barriers they face to becoming self-sufficient if policymakers are going to formulate policies to increase these families' work participation while ensuring that their children are not harmed.

Much of what is known about the safety net caseload has been inferred from research being done on CalWORKs "leavers," those families in which the adults have reached the 60-month time limit for receipt of cash aid. The Welfare Policy Research Project released its second report from their evaluation of California's five-year time limit in November 2006, which describes CalWORKs families as they approach the 60-month time limit. The researchers interviewed 1,797 CalWORKs recipients in six counties, Alameda, Los Angeles, Orange, Riverside, Sacramento, and Tulare, using a survey that explored demographic characteristics, family employment and employment history, barriers to employment, material hardship, and knowledge of the time-limit policy and the amount of time on aid still available to them.

Some of the key findings of this report are as follows:

- The CalWORKs population nearing the 60-month time limit is ethnically and linguistically diverse. This poses challenges to county welfare offices in serving this population, as well as influences recipients' attitudes toward work, family size and relationships, and their grasp of time-limit policies and their response to them.

- Recipients close to reaching the time limit focus on employment, but their earnings are low and their job-related benefits are limited. The survey found that almost half (47 percent) of recipients were employed. Furthermore, 24 percent reported working 30 hours per week or more. The fact that these individuals were still eligible for cash aid while employed indicates that they had low earnings, close to or below the poverty level.

- Barriers to employment, such as a limiting illness or disability, mental illness, domestic violence, or substance abuse, are pervasive among those approaching the time limit, with 51 percent reporting at least one barrier that interfered with their ability to complete tasks at work, school, or home. Of the total survey respondents, 28 percent reported two or more barriers. Few recipients realized that they might qualify for exemptions or extensions as a result of these barriers, however.

- In addition, 40 percent had not completed high school and another 36 percent had no education past high school. Among foreign-language speakers, 25 percent had not completed even eight years of schooling in their native countries.

- More than half of the CalWORKs families (56 percent) had very young children (less than six years of age) and 46 percent had three or more children.

- CalWORKs families reaching the time limit reported substantial material hardship. Overall, 43 percent reported problems paying rent. Over half, 54 percent, reported problems paying their utility bills and 39 percent reported problems affording food.

Los Angeles County studied a cohort of the first CalWORKs recipients to reach the 60-month time limit in Los Angeles in 2003. They collected data for a six-month period to determine how the time limits affected employment, family structure, housing stability, supportive services, and income. They then collected the same data for a cohort who had not timed out. The key findings from this research were:

- The mean age of CalWORKs participants in the timed-out cohort was 41 years. Approximately 54 percent were currently married. An average of three children lived in timed-out households. Participants whose primary language was English comprised slightly more than 30 percent of the timed-out cohort; Vietnamese, Spanish, and Armenian were the other three primary languages.

- Participants in the timed-out cohort had higher employment rates and a longer average length of employment than the comparison group, but they also tended to work in lower-paying jobs. Although participants in the timed-out cohort were 2.6 times more likely to be employed, the likelihood of earning more than the minimum wage was 59 percent higher among the comparison group.

- Poverty increased in timed-out households. The annualized median income of the timed-out cohort declined by four percent. During the first six months of 2003, the poverty rate among the timed-out cohort increased by eight percent. In families with three people or less, 21 percent fell below the Federal Poverty Threshold after reaching time limits versus 12 percent of the comparison group.

- With the loss of cash aid, Section 8 housing support saved many timed out families from eviction. However, the likelihood of utilization of shelters was higher among timed-out participants relative to the comparison group.

- A high demand for supportive services was reported. Participants in the timed-out cohort were 2.5 times more likely to need substance abuse and domestic violence services.

- Individuals in both groups experienced an average of between one and two barriers to employment. The timed-out cohort experienced significantly higher rates of domestic violence, child care problems, and language barriers.

In general, these studies suggest that safety net families are larger and have younger children; are employed, but do not earn enough to get off aid; are linguistically diverse; face significant barriers to employment including lower educational levels; and suffer significant material hardships.

Issue 3: Recent CalWORKs Program Changes

2006 Budget Act

As part of the 2006 Budget Act, the Legislature and the Administration adopted a comprehensive package to address TANF reauthorization. The major components included:

- **Restoration of County Funding:** The budget included $140 million for county welfare departments' single allocation to bring their funding level up to the actual spending level for 2004-05. This funding is proposed to be continued in 2007-08.

- **Additional Funding for Counties to Increase Work Participation:** The budget included $90 million for county welfare departments to increase the work participation rate. This funding can be used flexibly by counties for such efforts as new or improved engagement strategies, employment and training collaborative programs, and efforts to prevent and cure sanctions. This funding is available for expenditure through 2007-08.

- **Updates of County Plans:** The 2006 Budget Trailer Bill (AB 1808, Chapter 75, Statutes of 2006) requires each county to perform a comprehensive review of its existing CalWORKs county plan and submit a plan addendum detailing how the county will meet the goals of the CalWORKs program, while taking into consideration federal work participation requirements. The plans shall include immediate and long-range actions that the county will take to improve work participation rates among CalWORKs applicants and participants and a description of expected outcomes and how the county will measure those outcomes. These plans were reviewed by the county Board of Supervisors and were due to the Department of Social Services (DSS) by January 1, 2007. To date, 57 counties have submitted their plan addenda and the DSS indicates that they have certified about one-third of these. A summary of the activities proposed by counties in their plan addenda is provided below.

- **County Peer Review Process:** AB 1808 requires DSS to work with counties to develop a CalWORKs county peer review process first in pilot counties and then statewide by July 1, 2007. The peer review process is to include individual CalWORKs data reviews of counties based on existing data. Counties shall receive programmatic technical assistance from teams made up of state and peer-county administrators to assist with implementing best practices to improve their

performance and make progress toward meeting established state performance goals. A summary of the status of DSS' activities is provided below.

- **Master Plan for CalWORKs Data:** AB 1808 requires that DSS publish basic caseload and performance data quarterly, and prepare and present a long-term master plan for data to the Legislature by April 1, 2007. The master plan is to minimally include an assessment of the state's data needs in light of the CalWORKs program goals of increasing work participation, reducing poverty, and improving child well-being; an outline for a new participation report; guidelines, requirements, timeframes, and cost estimates for county automation improvements to collect participation data consistent with the master plan; and a plan for longitudinal data reports.

- **Elimination of Durational Sanctions:** Pursuant to AB 1808, CalWORKs families are now only sanctioned for the month they are non-compliant with CalWORKs requirements, regardless of the number of instances of non-compliance they have had in the past. Under prior law, clients were sanctioned for three months for the second instance of non-compliance and six months for the third instance.

- **Temporary Assistance Program (TAP):** AB 1808 established TAP as a non-MOE state-funded program that would provide CalWORKs-level grants and supportive services to CalWORKs clients who are exempt under state law from work participation requirements. The intent of TAP is to move these clients out of the federal work participation rate calculation in a seamless manner. AB 1808 established April 1, 2007 as the implementation date for TAP, but allowed DSS to request an extension of the implementation date with a letter to the Joint Legislative Budget Committee, which DSS has done. This program is discussed in greater detail below.

- **County Penalty Pass-On:** Under current law, counties are required to take 50 percent of any federal penalty that results from the state's failure to meet federal work participation rates. The pass-on of this penalty would be made by reducing the CalWORKs single allocation to the counties. AB 1808 strengthened these provisions by requiring counties to backfill the reduced allocation with county general funds.

- **Homeless Assistance:** The budget provided $5 million for CalWORKs homelessness prevention and support to prevent housing instability as a barrier to employment.

- **CalWORKs in Community College:** The budget included $9 million in Proposition 98 General Fund to fund work study positions for CalWORKs clients attending community colleges.

- **Employment Training Panel Augmentation:** The budget shifted $13 million in Employment Training Funds from CalWORKs back to the Employment Training Panel (ETP). Beginning July 1, 2006, the ETP began a work pilot program to train

CalWORKs recipients. The ETP has dedicated $2.6 million to the pilot to train 585 individuals. Although the pilot project is in its early stages, ETP's early assessment shows that training is progressing and Welfare-to-Work contractors are generally optimistic regarding the outcomes. The ETP will be sharing data with DSS as the pilot progresses.

Summary of Department of Social Services (DSS) Activities in Implementing Recent CalWORKs Changes

In April 2006, DSS began a series of stakeholder meetings to discuss how to address the changes resulting from TANF reauthorization. Participation included representatives from the California Welfare Directors Association, advocates, the Department of Finance, the California Health and Human Services Agency, Legislative staff, the Legislative Analyst's Office, and DSS staff. These meetings evolved into four workgroups: Workgroup 1: Funding Options; Workgroup 2: Best Practices and Program Reforms; Workgroup 3: Sanctions and Noncompliance; and Workgroup 4: Data Collection and Work Verification. The workgroups have provided an effective forum for advocacy and county stakeholders to provide necessary input on the implementation of TANF reauthorization, for sharing information and ideas, and for all interested parties to work together to move forward on complex policy issues. The workgroup and stakeholder meetings have occurred and continue to occur regularly.

While the workgroup and stakeholder meeting process has progressed well, implementation of the TANF reauthorization provisions of AB 1808 has been mixed so far. The DSS made available a draft of the master plan for selected public comment and is on target to release the final plan by April 1. DSS is also on target to release its first quarterly report of basic caseload and performance data by April 1. The DSS, in conjunction with counties and other stakeholders, have worked diligently to identify existing data sources, outline a new report for gathering performance data, and develop a plan for gathering longitudinal data. Discussions on all of these topics will be ongoing and will include consideration of the collection of additional data to inform achievement of the CalWORKs program goals of increased work, reduced poverty, and improved child well-being.

The DSS' progress in implementing the county peer review process and reviewing the county plan addenda has been slow, however. AB 1808 requires DSS to pilot the county peer review process in a few counties before implementing statewide by July 1, 2007. DSS has not yet commenced the pilot and has a budget change proposal (BCP) requesting positions to pilot the program and implement it statewide. (See Issue 9 for a discussion of the BCP.) In addition, although AB 1808 requires DSS to certify a county's plan addendum within 30 days of receipt of the addendum, to date, DSS has certified about one-third of the plans submitted. While to date, 57 counties have submitted their plan addenda, not all submitted them by the January 1, 2007 due date further contributing to the delay. Although counties do not have to wait for certification to implement provisions of the addendum that are consistent with AB 1808, the state

does not know whether those addenda and the proposed activities are complete and fully comply with the statute until they are certified.

Summary of County Plans

Senate staff conducted a preliminary review of the county plan addenda for 12 counties that collectively serve 61 percent of CalWORKs aided adults and represent counties with large, moderate, and small caseloads. These 12 counties are Alameda, Colusa, Contra Costa, Imperial, Los Angeles, Orange, Riverside, Sacramento, San Joaquin, San Francisco, Santa Clara and Tulare. These counties are employing various strategies in the following areas:

- **Up-Front Engagement Strategies:** Generally, these counties are placing considerable emphasis on up-front engagement strategies. Most counties are planning to combine orientation with appraisal, request that applicants voluntarily attend an orientation prior to receiving approval for aid, offering incentives for recipients to complete orientation, such as gift cards, and setting up reminder phone call systems to alert participants to the date and time of their orientation or appraisal sessions. A few counties are streamlining referrals to support services by bringing representatives of mental health and substance abuse services into the orientation or appraisal sessions or by co-locating the services, providing transportation up front, or offering orientation more frequently.

- **Welfare to Work Tra ining or Working Options:** Most counties are planning to expand their efforts to increase the number and type of work or training activities available to clients. Some common strategies these counties will employ include: enhance collaboration with the local Workforce Investment Board and one-stop employment centers; enhance collaboration with local community colleges, adult basic education, and English as a Second Language training providers; increase the use of job developers to locate additional paid employment positions for clients; attempt to increase the number of places where a client can be placed for unpaid work experience; reward clients who regularly attend or complete a training program or who retain employment for a period of time; and create bridging or filler activities for employed clients who are not working enough hours.

- **Linkages to Other Government Programs:** Almost all counties plan to increase the number of clients who are transferred to the Supplemental Security Income/State Supplementary Program due to a client's disabilities. Many counties intend to assist clients who obtain employment to receive the earned income tax credit.

- **Sanction Prevention and Re-engaging Noncompl iant or Sanctioned Clients:** Sanction prevention and re-engagement appear to be the areas where the most staffing changes are expected. A number of counties are planning some reorganization of staff, staff retraining, or hiring more staff in order to connect trained personnel with those clients with multiple barriers to employment. To prevent sanctions, most counties plan to increase the tracking of clients' participation to staff

can more quickly respond when participation in a work activity stops or diminishes. For clients who are noncompliant or sanctioned, a large number of these counties plan to conduct home visits either by one case worker or a team.

- **Measuring Progress Tow ard Improving Work Participation Rates (WPRs):** Most counties plan to monitor their WPRs more closely and frequently than in the past.

Temporary Assistance Program (TAP)

AB 1808 established TAP as a non-MOE state-funded program that would provide CalWORKs-level grants and supportive services to CalWORKs clients who are exempt under state law from work participation requirements. Current law now requires that the clients in most of California's exemption categories be included in the calculation of the federal work participation rate. However, states can choose to fund TANF programs and services for clients with non-MOE or TANF funds without those clients counting in the calculation of the federal WPR. The intent of TAP is to move California's exempt clients out of the federal work participation rate calculation while still ensuring that these families receive benefits and have access to services to assist them in obtaining work in the future. Although the implementation of TAP alone will not result in California meeting its federal WPR, it is a critical step toward improving the state's caseload reduction credit and WPR, and avoiding federal penalties. Implementation of TAP is expected to increase our CRC by five percent.

AB 1808 established April 1, 2007 as the implementation date for TAP, but allowed DSS to request an extension of the implementation date with a letter to the Joint Legislative Budget Committee (JLBC). On January 19, 2007, DSS notified the JLBC that TAP implementation will be indefinitely delayed due to federal child support distribution rules and their effect on CalWORKs benefits. These federal rules require that child support collected for families who are not TANF recipients be paid directly to the parents. Because TAP would be solely funded with General Fund outside of the TANF/MOE, this requirement would apply to TAP recipients and could adversely affect the amount of benefits those recipients receive. In addition, preliminary information from the federal government indicates that states are prohibited from using the federally-funded child support collections system to collect and recoup such child support payments. If that is the case, a separate state child support collection system and/or separate cost allocation system to account for TAP-related child support payments would need to be developed. The Department of Child Support Services indicates that the development of such a system could take over three years and be costly to the General Fund. However, DCSS has not obtained definitive information and clarification from the federal government on these issues.

Issue 4: Proposed 2007-08 CalWORKs Budget

2007-08 Governor's Budget

Impose Full-Family Sanctions: The Administration proposes to impose a "full-family" sanction whereby a family's entire grant is eliminated for those families with an adult who does not comply with CalWORKs requirements for more than 90 days. This proposal would result in a General Fund cost of $11.4 million because it assumes 70 percent of sanctioned cases would begin working (or participate in an allowable non-work activity) and need child care, as a result of the change. There is trailer bill language proposed to implement this proposal (see attachment). A further discussion of this proposal is below.

Under current law, when an adult fails to meet CalWORKs requirements, the family's grant is reduced by the amount attributable to the adult, but cash aid continues to the children in the family. This "partial-family" sanction is intended to provide a subsistence allowance to preserve the well-being of the children even if their parents have been sanctioned.

As part of this proposal, there is also trailer bill language proposed to count the time the adult is sanctioned toward the 60-month lifetime CalWORKs limit (see attachment). Under current law, the time while the adult is sanctioned does not count toward the 60-month limit because he or she is not receiving cash aid for himself or herself during the time under sanction.

Restrict Safety Net Grants: The Administration proposes to eliminate safety net grants for those children whose parents do not work sufficient hours to meet federal work participation requirements after "timing-out." This proposal would be implemented in November 2007 and would result in General Fund savings of $175.8 million. There is trailer bill language proposed to implement this proposal (see attachment).

CalWORKs adult recipients are limited to 60 cumulative months of cash assistance. Under current law, children continue to receive cash aid until they are 18 years of age, as long as the family meets CalWORKs eligibility guidelines, regardless of how many hours their parents work after timing-out. This proposal assumes that only 26 percent of the safety net caseload will meet the work participation requirements and remain eligible for safety net grants. A further discussion of this proposal is below.

Eliminate Grants for Children of CalWORKs Ineligible Parents: The Administration proposes to eliminate, after 60 months, grants to children whose parents are not eligible for CalWORKs to be consistent with the proposal to restrict safety-net grants. These parents are ineligible because they are undocumented non-citizens or drug felons. The children include US citizen children of undocumented non-citizens. Under current law, the CalWORKs grants provided to children of ineligible parents are not subject to a time limit. This proposal would be implemented in November 2007 and result in General Fund savings of $160 million. There would be no impact to the state's work

participation rate because these adults are already excluded from the work participation calculations. There is trailer bill language proposed to implement this proposal (see attachment).

Suspend CalWORKs Cost-of-Living Adjustment (COLA): The Administration proposes to freeze the amount of CalWORKs grants at their current levels resulting in General Fund savings of $124.4 million. The current maximum grant for a family of three is $723 per month. The 3.7 percent COLA that otherwise would have gone into effect on July 1, 2007, would have increased the grant for a family of three by $27 to $750 per month. There is trailer bill language proposed to implement this proposal (see attachment). A further discussion of this proposal is below.

Change Recipient Reporting Frequency. The Administration proposes trailer bill language to modify the process for redetermining benefit levels for CalWORKs and Food Stamp recipients and to change the reporting frequency for recipients from quarterly to semi-annually. These changes would take effect in 2008-09. A further discussion of this proposal is below.

Excess Maintenance-of-Effort (MOE) Expenditures. The Administration proposes to spend above the federally required MOE level to achieve a caseload reduction credit to reduce California's federal work participation rate requirement. The proposed amount of excess MOE is $470.7 million in 2006-07 and $203.0 million in 2007-08. The DRA expands the definition of MOE spending such that California is able to count some existing spending on higher education tuition assistance (CalGrants and community college fee waivers) and after school programs toward the MOE requirement.

Current federal regulations allow states that spend above their required MOE level to subtract out cases funded with excess MOE for the purpose of calculating the CRC. The federal government has not yet approved California's methodology for determining the amount of excess MOE cases.

Redirect TANF to CWS. The Administration proposes to replace General Fund monies for Child Welfare Services emergency assistance activities with $56 million in TANF federal funds, resulting in General Fund savings of $56 million. Although this shift of TANF funds is permissible under federal law, it diverts available funding away from providing services to CalWORKs clients and is contrary to action taken by the Legislature in the current year budget that shifted TANF funding back from CWS to the CalWORKs program.

Fund Pay for Performance. The budget proposes $40 million from the 2006-07 TANF reserve to pay counties that meet performance goals for work participation and client income measures in 2007-08. The 2006-07 Budget Act delayed implementation of the Pay for Performance program.

Reduce CalWORKs Single Allocation. The budget reduces $16 million in funding to counties for CalWORKs employment and other services, eligibility determination, and child care in 2007-08. The 2006-07 Budget Act also reduced the single allocation by $40 million.

Issue 5: Sanction and Safety Net Research

Families on Sanction Status

Assumptions in the Governor 's Budget. The Administration states that its goal for the sanction proposal is to improve compliance with CalWORKs program requirements through work activities to increase the state's work participation rate. To this end, the budget assumes that 70 percent of cases in sanction status, facing a full-family sanction, will "cure" their sanction through unsubsidized employment or a combination of other eligible participation activities. This is estimated to increase California's work participation rate by nine percent.

According to sample data from 2005, there are about 36,400 cases that have been in sanction status for three months or more. These cases have an average of 1.9 children, so potentially about 70,000 children could lose cash aid until their parents meet work participation requirements. The Administration estimates that it will take 12 months for these changes to occur as recipients may appeal their sanctions. As of November 2008, DSS estimates that 25,450 families will have avoided the full-family sanction through compliance and 10,950 families will receive the full-family sanction. The 10,950 families include about 21,000 children.

The Administration's 70 percent cure rate is based on the following research:

- A DSS report to the Legislature in April 2001, *Good Cause Establishment, Compliance and Curing of Sanction*, which shows that there is a 45 percent cure rate under the existing partial sanction policy.

- A Mathematical Policy Research, Inc. report in 2004, *The Use of TANF Work-Oriented Sanctions in Illinois, New Jersey, and South Carolina, Final Report*, which shows that the data from Illinois and New Jersey suggests that the imposition of a gradual full-family sanction promotes compliance with work requirements and that the threat of full-family sanctions may also have an effect. In Illinois, 67 percent of sanctioned cases eventually came into compliance and of those, 80 percent came into compliance before the imposition of a full-family sanction. In New Jersey those figures were 60 percent and 60 percent.

- A draft report by RAND prepared for DSS, *Sanctions in the CalWORKs Program*, which concludes that California has a relatively weak sanction policy. This draft report also indicates that county reports about the success of their home visit programs suggest that "a clear majority" (about 75 percent) of sanctioned clients are willfully noncompliant, and that the limited available evidence suggests that in the absence of the current sanction policies, compliance with CalWORKs requirements would be much lower. It is important to note that this report has not been released yet, although it was due April 1, 2005, so it is impossible to determine the validity of RAND's assessment.

- The experience of Texas with its full-family sanction policy. Prior to implementation of full-family sanctions in Texas in 2003, 30 percent of adults subject to the work requirement failed to meet it. In October 2003, one month after the policy was implemented, non-compliance dropped to five percent. Since then, the average monthly non-compliance rate has been 11 percent.

Research on San ctions and Work Participation: There is no consensus in the research community on whether stronger sanctions correlate with better employment outcomes for families. This is mostly because there have been no controlled studies that compare the impact of randomly assigned participants to weaker and stronger sanctions. Changes in sanction policy are typically accompanied by other changes, such as time limits and work incentives, making it impossible to distinguish the impact of one policy change from another with an experimental study design. It is also difficult to make comparisons across states of the possible impact of stronger sanction policies because of the variability among states in their sanctions policies and implementation of those policies, as well as differences in TANF programs overall.

In 2006, the West Coast Poverty Center conducted a comprehensive review of sanctions studies nationwide and found that there is some evidence suggesting that sanctions can promote compliance with TANF work requirements. However, that research shows that it is the *level of enforcement* of the sanction policy and *not the rate* of the sanction that appeared to promote compliance. They found that there is no direct evidence about whether sanctions are effective at promoting participation in work activities and that there is no consensus on whether there is sufficient evidence to make a determination about the relative merits of partial and full-family sanctions.

The Texas Experience: In 2003, Texas adopted a full-family sanction policy for infraction of any program requirement. As described above, prior to the implementation of the full-family sanction, 30 percent of adults in Texas subject to the work requirement failed to meet it. In October 2003, one month after the policy was implemented, non-compliance dropped to five percent. Since then, the average monthly non-compliance rate has been 11 percent. Proponents of the full-family sanction policy in Texas point to this data as evidence that the policy has been successful. Although the compliance rate has improved, an analysis by the Center for Public Policy Priorities in Texas indicates that it has been achieved by forcing families off the program. The number of adults served in the Choices program (Texas' version of Welfare-to-Work) has declined 64 percent over the past three years. The full-family sanction has not led to compliance with the rules or increased work participation, but to expulsion from the program.

Estimated Behavioral Response is Overstated: Even if the full-family sanction policy does result in some recipients coming into compliance who otherwise would not have, the 70 percent estimate of cases that will cure their sanction through unsubsidized employment or another federally eligible participation activities is extremely overstated. As the LAO notes in its 2007-08 Budget Analysis, the 45 percent cure rate under the existing partial sanction policy upon which the 70 percent estimate is based was achieved through compliance with various CalWORKs requirements, not just meeting the federal work requirements.

Furthermore, the 36,400 recipients who have been in sanction status for 90 days or more already excludes the 45 percent of clients who cure their sanctions. Therefore, the DSS calculation which led to the 70 percent assumption double-counts the number of cases that cure due to the existing partial sanction policy. The LAO also notes that the 45 percent figure itself is overstated because it is based on aggregate data and not the individual behavior of families returning to compliance.

Families on the Safety Net

Assumptions in the Governor's Budget: The Administration assumes that in 2007-08, 26 percent, or 13,000 cases, will work sufficient hours to maintain eligibility for the safety net. The DSS bases this 26 percent rate on Employment Development Department data indicating that, currently, about 19 percent of safety net cases are meeting the federal participation requirements and, that when faced with complete benefit termination, an additional seven percent who are working part time would increase their hours so as to remain eligible. The budget estimates that the other 37,000 cases, with 94,000 children, would lose aid as of November 2007, rising to 39,600 cases (101,000 children) by June 2008. This proposal is estimated to increase the work participation rate by four percent.

The budget does not assume that any families return to the safety net program once benefits have been terminated, even if the family comes into compliance with the federal work requirements. In practice, these families' incomes will likely be too large for them qualify for CalWORKs, so once these families are off aid, they will never be able to get back into the program.

Research on the Safet y Net an d Work Participation: There is no existing research demonstrating even a correlation between the elimination of safety net benefits leading to increased work participation. As previously discussed, based on a survey conducted by the Welfare Policy Research Program of CalWORKs leavers, almost half (47 percent) are already employed and 24 percent are meeting federal work requirements. It is not known how far from meeting federal work requirements the other 23 percent are. Learning more about why these people are not working enough to meet the federal work participation requirements and crafting policies to assist them in doing so, might be a more reasonable approach to increasing work participation without harming children.

Impact of Poverty on Children

Economic hardship has been linked to a number of adverse educational, health, and other outcomes for children. Low income children are more likely to be in fair or poor health and lack access to quality health care. Researchers repeatedly document that there is a direct relationship between family income and children's academic achievement. Both math and reading scores are negatively related to poverty at kindergarten entry and most poor children either do not catch up or the gap worsens.

Low income children are disproportionately exposed to circumstances that pose risks to healthy social and emotional development. Low income children are more likely to be exposed to parental depression and other parental problems, such as substance abuse and domestic violence. These risk factors have also been linked to a number of short and long term consequences for children, including depression, behavioral problems, and school problems.

Research is increasingly finding that the consequences of poverty on children limits their future productivity. When children grow up in poverty, they are more likely as adults to have lower earnings, which, in turn, reflects lower productivity in the workforce. They are also more likely to engage in crime and have poor health later in life. These outcomes directly impact criminal justice and health care systems costs and lead to a loss of goods and services to the U.S. economy. Research funded by the Urban Institute estimates the costs to the U.S. associated with childhood poverty amount to about $500 billion per year, the equivalent of nearly four percent of the Gross Domestic Product (GDP). Each year, child poverty is estimated to reduce productivity and economic output by 1.3 percent of GDP; raise the cost of crime by 1.3 percent GDP; and raise health expenditures and reduce the value of health by 1.2 percent GDP.

More than a decade of research shows that increasing the incomes of low income families, without any other changes, can positively affect child development, especially for younger children. Welfare programs that increase family income through employment and earnings supplements have consistently shown improvements in school achievement among elementary school-age children. In contrast, welfare programs that increase levels of employment without increasing income have shown few consistent effects on children. Furthermore, findings from welfare-to-work experiments show that when programs reduce income, children are sometimes adversely affected.

All of these findings suggest that although the Administration's CalWORKs budget proposals will result in short-term General Fund savings, the short- and long-term costs resulting from children growing up in poverty could far outweigh those savings. Those other costs are not acknowledged in the Administration's proposed budget. Furthermore, policy changes should consider not just increasing employment rates among CalWORKs recipients, but also changes that will improve the incomes and self-sufficiency of recipients.

Issue 6: Impact of Recent Policy Changes and Governor's Budget on Work Participation Rate (WPR)

It is important to note that the state does not need to implement the Administration's proposals to meet the required federal work participation rate in 2007-08.

The significant policy changes made by the Legislature discussed in the previous section will have a positive effect on California's WPR. The 2007-08 Governor's Budget estimates that together these changes will increase the WPR by 5.3 percent in FFY

2007 (state fiscal year 2006-07) and 11.4 percent in FFY 2008 (state fiscal year 2007-08). The impact of specific policies is summarized in the following table.

Estimated Work Participation Rates—Based on Current Law

	Federal Fiscal Year	
	2007	2008
Base participation rate	23.3%	23.3%
Projected increase from policy changes		
Homeless assistance	0.2%	0.5%
Ending durational sanctions	1.0	1.0
All other policies	4.0	10.0
Subtotals	5.3%	11.4%
Total Estimated Participation Rate	**28.6 %**	**34.7%**

Totals may not add due to rounding.
Source: LAO 2007-08 Budget Analysis

States are required to meet a WPR of 50 percent, less their caseload reduction credit. Currently, California's participation is about 23 percent, but as shown in table above, the budget assumes an increase of 5.3 percent and 11.4 percent in 2006-07 and 2007-08, respectively, as a result of the implementation of the recent policy changes. When the caseload reduction credit is factored in, California is projected to be 16.7 percent below the required WPR in FFY 2007, but 1.7 percent above the requirement in FFY 2008. The calculation of the estimated shortfall and surplus is displayed in the following table.

Estimated Work Participation Shortfall(-)/Surplus Without Governor's Budget Proposals

	Federal Fiscal Year (FFY)	
	2007	2008
Federal requirement	50.0%	50.0%
Caseload reduction credit		
"Natural" caseload decline since FFY 2005	3.5%	4.1%
Excess MOE reduction	1.2	12.9
Total Credit	4.7%	17.0%
Net requirement	45.3%	33.0%
Estimated participation rate (see Figure 5)	28.6%	34.7%
Estimated Participation Shortfall(-)/Surplus	**-16.7 %**	**1.7%**

MOE = maintenance-of-effort.
Source: LAO 2007-08 Budget Analysis

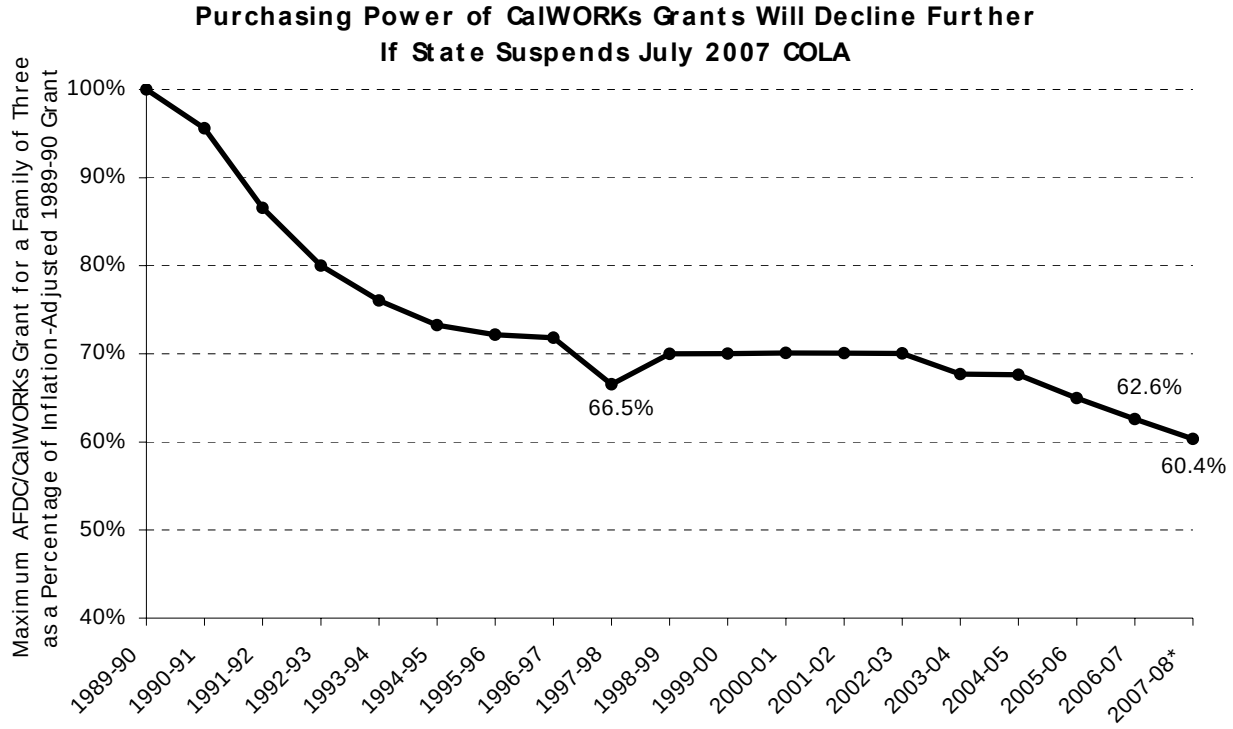
According to the Administration, the full-family sanction and the restricted safety net proposals are intended to increase California's work participation rate. The 2007-08

Governor's Budget estimates that the combination of these policies will result in a six percent increase in FFY 2008 (which is state fiscal year 2007-08) and 13 percent in FFY 2009 (which is state fiscal year 2008-09). The impact of the Administration's proposals would not change the WPR shortfall in FFY 2007, but would increase the surplus to 7.7 percent in 2007-08.

Issue 7: CalWORKs Cost-of-Living Adjustment (COLA)

The Administration proposes to suspend the statutory cost-of-living adjustment (COLA) for CalWORKs grants to achieve savings of $124.4 million. CalWORKs grants have been frozen since 2004-05. Current law requires the CalWORKs grant be adjusted each July based on the change in the California Necessities Index (CNI). From December 2005 to December 2006, the CNI increased by 3.7 percent. (The Governor's Budget was released before the final CNI data was available and estimated the COLA to be 4.2 percent, resulting in a savings of $140.3 million.)

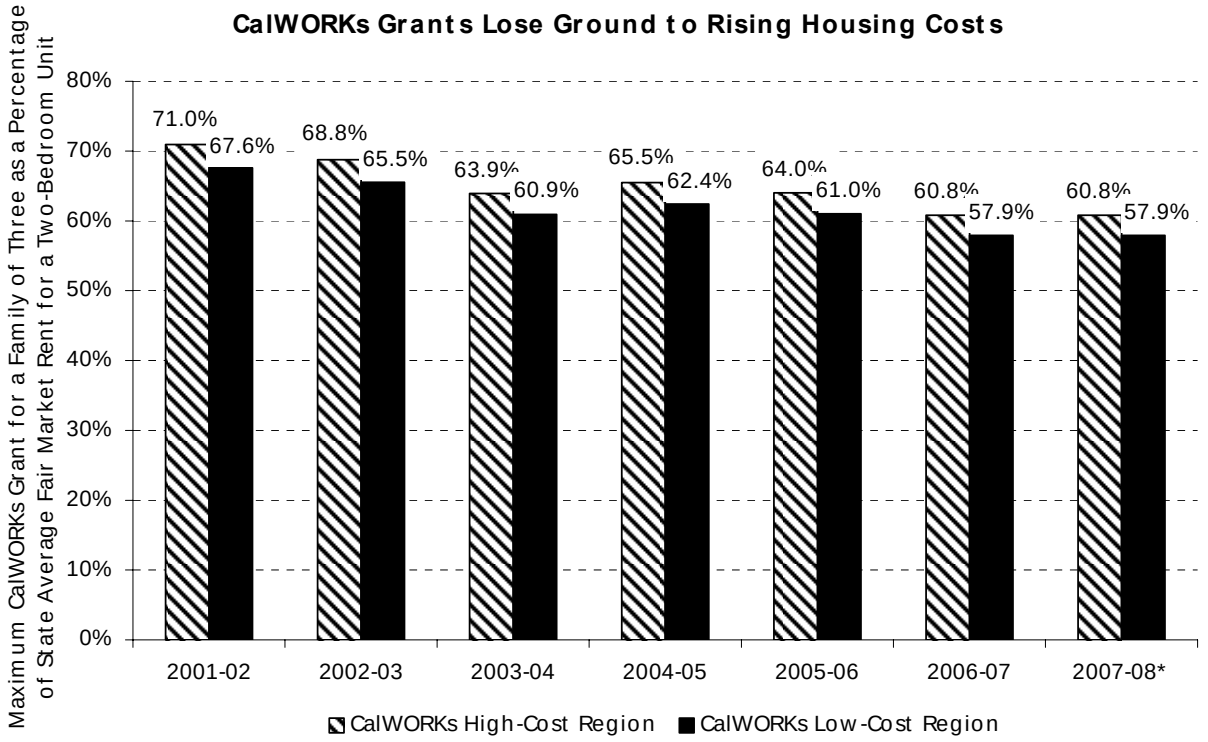
Maximum Aid Payment (MAP) Would be Reduced: Under current law, the maximum monthly grant for a family of three would have increased by $27 to $750 per month. The proposed COLA suspension holds the maximum monthly grant for a family of three with no earnings constant at $723 per month. This grant level is only $29 (4.2 percent) more than the maximum aid amount provided to AFDC recipients in 1989. At the same time, the purchasing power of the grant in 2007-08 is estimated to only be 60.4 percent of the 1989 level, a 37.4 percent drop in purchasing power.



* 2007-08 proposed.
Source: Department of Finance and Department of Social Services Data; chart prepared by the California Budget

Grant Payments Compared to Other States and Housing Costs: The Administration indicates that California's grant levels are currently the highest among the ten most populous states. However, CalWORKs recipients spend much of their grants on rent, due to the high cost of housing in California. According to the U.S. Department of Housing and Urban Development, fair market rents (FMRs) for a two-bedroom apartment in California average $1,189 per month and range from $598 in Glenn County to $1,551 in San Francisco County. The proposed maximum grant for a family of three would be $723.

In 2001-02, the maximum monthly grant for a family of three in high-cost counties equaled 71.0 percent of the average FMR for a two-bedroom unit statewide. By 2007-08, the maximum grant is projected to drop to 60.8 percent of the statewide FMR. Furthermore, FMRs exceed the maximum grant in more than two-thirds of the state's 58 counties.



* Proposed CalWORKs grant level.
Source: California Budget Project analysis of National Low Income Housing Coalition, Department of Social Services, and Department of Finance data

October 2003 Litigation: A superior court has ruled in the *Guillen* court case that the October 2003 COLA (which was tied in statute to reductions in the vehicle license fee) is required by current law. In December 2006, an appellate court heard the state's appeal and in February 2007, ruled in the state's favor. As a result of this ruling, the state has avoided payment of one-time grant costs of $434 million and on-going costs of $114 million. The appellate court reversal of the superior court decision was not unanimous and it is not yet known if the plaintiffs will appeal the reversal.

Issue 8: Semiannual Reporting Trailer Bill Language

Description: The Governor's budget includes proposed trailer bill language to move from the current quarterly reporting system to semiannual reporting. California's quarterly reporting federal waiver will expire on September 30, 2007 and the state needs to either move to a semiannual reporting system or revert to a monthly change reporting system.

Background: Under existing law, the county is required to annually redetermine eligibility for CalWORKs benefits and requires the county to redetermine recipient eligibility and grant amounts on a quarterly basis, using prospective budgeting, and to prospectively determine the grant amount that a recipient is entitled to receive for each month of the quarterly reporting period. Current law requires a CalWORKs recipient to report to the county, orally or in writing, specified changes, such as in income or household composition that could affect the amount of aid to which the recipient is entitled and requires the quarterly redetermination report form to be signed by the recipient under penalty of perjury.

Proposed Trailer Bill Language: Including moving to semiannual reporting, the trailer bill language requires that recipients report at any time during a semiannual reporting period of an increase or decrease in monthly income of $100 or more. The $100 increase or decrease must be reported whether it occurs all at once or accumulates over one or more months of the semiannual period to a point where the recipient's total income has increased or decreased by at least $100. This notification of change constitutes what is termed "change reporting" in the proposed shift to semiannual reporting.

Reporting Mechanisms: There are three main approaches to the reporting of changes between reviews: change reporting, periodic reporting, and no reporting or continuous eligibility. Under food stamp simplified reporting rules:

- Recipients must submit updated information about the household's circumstances every six months. This updated information can be collected through a semiannual, mail-in report form or through the recertification process. States must recertify food stamp eligibility for families at least every 12 months.

- Between semi-annual reports or recertifications, households only have to report a change if it results in the household's income rising above 130 percent of the poverty line. Households may choose to report other changes, such as loss of income, and may receive increased benefits if those changes so warrant.

Federal Food Stam p Benefits and Simplification: Prior to 2001, the federal food stamp reporting rules typically required recipients either to report almost any change in their circumstances, within 10 days, or to submit monthly reports updating eligibility information, regardless of whether any of a household's circumstances had changed. These federal requirements affected all aspects of a welfare office, including the

reporting rules in other programs. Even if a state were interested in less onerous reporting in another program, such as Medicaid, since many participants in those other programs also received food stamps, the Food Stamp Program's rules dominated families' experiences. Administrators often would comment that the food stamp rules constrained simplification in other programs and "drove" the complexity.

The simplified reporting option was added to the Food Stamp Program initially by regulation in 2001 and was expanded as part of the 2002 Farm Bill. Federal and state policymakers were supportive of this approach for several reasons:

- It reduces unnecessary paperwork for food stamp recipients: Concerned about falling participation rates among eligible households, particularly working families, policymakers concluded that the "hassle factor" to participating in the program should be reduced.

- It reduces workload on agencies: States have been particularly interested in this new option, in part, because it should reduce the time caseworkers must spend processing recertifications or reports of changes in circumstances. In addition, the option can help lower states' payment error rates.

- It provides a work incentive: Under semi-annual reporting, recipients whose earnings rise typically do not see an immediate reduction in their food stamp benefits because benefits are not adjusted until the six month point. This gives families a modest additional work incentive.

County Perspective: The California Welfare Directors Association (CWDA) reports that when quarterly reporting was established in 2002, it was hoped that administrative costs would decrease due to fewer reports being received from recipients. Unfortunately, the savings did not materialize because quarterly reporting was structured in a way that resulted in recipients often reporting several times during the quarter and even during the same month. Over a period of several years, despite the continued workload, the budget assumed savings for both CalWORKs and Food Stamps that were far too great. CWDA helped to collect data on actual county experience with the quarterly reporting process, which demonstrated that the estimated savings had not been achieved. Funding was restored to CalWORKs in the 2006-07 Budget Act, in recognition of this fact.

Administration's Cost Estimates: Based on legislation in the 2006-07 session, the Administration estimates that the net cost of moving to semiannual reporting without change reporting will be $40 million per year. Total grant costs would be $71 million due to non-compliant CalWORKs recipients receiving grants for one to five months more than they should be and other situations, which includes such issues as fraud cases receiving additional months of aid and cases that would receive additional months of aid even though they have hit the income limits and income reporting threshold. (The DSS estimates that the cases of fraud receiving additional months of aid would cost $32,300 per year.) The $71 million would be offset by $31 million in CalWORKs administrative savings.

The assumption DSS used to arrive at the number of cases that would inappropriately receive CalWORKs benefits for an additional one to five months is misleading. DSS calculated the number of these cases by looking at the number of cases that were discontinued due to failure to file the monthly report and comparing that to the number of cases that were discontinued due to the failure to file the quarterly report. The only known reason these cases were no longer eligible for the grant was due to their failure to file the reports. These cases may otherwise have been eligible to continue receiving CalWORKs grants. Shifting to semiannual reporting could maintain benefits for recipients who are eligible to receive them. It could be argued that the state was achieving grant savings by imposing administrative hurdles that cut recipients off of aid, rather than by recipients actually receiving higher incomes.

Furthermore, these net costs do not take into account Food Stamp administrative savings of $33 million that DSS estimated would be achieved, which would reduce the estimated net costs further.

Issue 9: State Support for CalWORKs

Description: The budget includes two requests for resources for the Department of Social Services (DSS) to support TANF reauthorization and AB 1808 activities.

1. **Support for TANF Reauthorization.** The budget requests $2.2 million in federal fund authority and 20 positions for DSS to support data collection for federal work participation in each county, including verification of data and reporting procedures, and to perform oversight and field monitoring of county procedures and case documentation for verification of recipient participation hours at the county level. These positions are intended to improve monitoring and measurement of the performance of counties to meet new federal data quality assurance mandates.

2. **Support for AB 1808 Activitie s.** The budget requests $832,000 in federal fund authority and seven limited-term positions for DSS to hold regular performance outcome measurement meetings with the counties to highlight best practices and identify obstacles to performance, and conduct county peer/state reviews to assist counties in improving work participation rates and implementation of the CalWORKs program. The DSS request also includes $250,000 to fund a contract with a consultant to design, develop, and implement a statewide performance indicator system for the CalWORKs program in the counties. In addition, the budget proposes to use $244,000 in TANF funds to support county welfare departments' participation in the county/state peer reviews. These funds would be used for travel, per diem, and backfilling staff costs.

Staff Recommendation: Hold open.

Issue 10: Index of CalWORKs Topics within Issues

Senate Subcommittee #3

On Health, Human Services, Labor and Veteran Affairs

Hand Outs for March 29th

(Administration's Proposed Trailer Bill Language)

SEC. 16. Section 11004.1 of the Welfare and Institutions Code is repealed.

~~11004.1. (a) In addition to Section 11004, this section shall apply to the CalWORKs program.~~

~~(b) The amount of any CalWORKs grant overpayment shall be the difference between the grant amount the assistance unit actually received and the grant amount the assistance unit would have received under the quarterly reporting, prospective budgeting system if no county error had occurred or if the recipient had timely, completely, and accurately reported as required under Sections 11265.1 and 11265.3. No overpayment shall be established based on any differences between the amount of income the county reasonably anticipated the recipient would receive during the quarterly reporting period and the income the recipient actually received during that period, provided the recipient's report was complete and accurate.~~

~~(c) No CalWORKs grant underpayment shall be established based on any differences between the amount of income the county reasonably anticipated the recipient would receive during the quarterly reporting period and the income the recipient actually received during that period.~~

SEC. 17. Section 11004.1 is added to the Welfare and Institutions Code, to read:

11004.1. (a) In addition to Section 11004, this section shall apply to the CalWORKs program.

(b) The amount of any CalWORKs grant overpayment shall be the difference between the grant amount the assistance unit actually received and the grant amount the assistance unit would have received under the semiannual reporting, prospective budgeting system if no county error had occurred and if the recipient had timely, completely, and accurately reported as required under Sections 11265.1 and 11265.3. No overpayment shall be established based on any differences between the amount of income the county prospectively determined for the recipient for the semiannual reporting period and the income the recipient actually received during that period, provided the recipient's report was complete and accurate.

(c) No CalWORKs grant underpayment shall be established based on any differences between the amount of income the county prospectively determined for the recipient for the semiannual reporting period and the income the recipient actually received during that period.

SEC. 18. Section 11020 of the Welfare and Institutions Code, as amended by Section 26 of Chapter 1022 of the Statutes of 2002, is amended to read:

11020. (a) Where a recipient under a categorical aid program other than CalWORKs has received aid in good faith but in fact owned excess property, he or she shall be considered to have been ineligible for aid during the period for which any excess property would have supported him or her at the rate of the aid granted to him

or her. ~~In such case~~ Under these circumstances, the recipient or his or her estate shall repay the aid he received during this period of ineligibility.

(b) With respect to recipients under Chapter 3 (commencing with Section 12000) of this part, overpayments shall be collected by the federal government pursuant to federal law.

(c) Where a CalWORKs recipient has received aid in good faith, but in fact owned excess property, the recipient shall have an overpayment equal to the lesser of the amount of the excess property or the aid received during the period the recipient owned the excess property and the grant was not accurately determined under the ~~quarterly~~ semiannual reporting, prospective budgeting system due to the excess property.

SEC. 19. Section 11265.1 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 826 of the Statutes of 1999, is repealed.

~~11265.1. (a) Except as provided in Section 11265.5, in addition to the requirement for the annual redetermination of eligibility, the department shall establish regulations consistent with federal law to implement a recipient monthly reporting system for use in determining monthly eligibility and the amount of the grant. The department shall define what constitutes a complete report and shall specify the deadlines for submitting a complete report, as well as the consequences of, and good cause for, failure to submit a complete report. The department shall adopt fair and equitable regulations implementing the monthly reporting requirement.~~

~~(b) This section shall become inoperative on the date that the director executes a declaration stating that Section 11265.2, as added by the act adding this subdivision,~~

~~is fully implemented statewide, and shall be repealed on January 1 of the year following the year in which it becomes inoperative.~~

SEC. 20. Section 11265.1 of the Welfare and Institutions Code, as added by Section 30 of Chapter 1022 of the Statutes of 2002, is repealed.

~~11265.1. (a) In addition to the requirement for an annual redetermination of eligibility, counties shall redetermine recipient eligibility and grant amounts on a quarterly basis using prospective budgeting. Counties shall use the information reported on a recipient's quarterly report form to prospectively determine eligibility and grant amount for the following quarterly reporting period.~~

~~(b) A quarterly reporting period shall be three consecutive calendar months. The recipient shall submit one quarterly report form for each quarterly reporting period. Counties shall provide a quarterly report form to recipients at the end of the second month of the quarterly reporting period, and recipients shall return the completed quarterly report form with required verification to the county by the 11th day of the third month of the quarterly reporting period.~~

~~(c) Counties may establish staggered quarterly reporting cycles based on factors established or approved by the department, including, but not limited to, application date or case number.~~

~~(d) The quarterly report form shall be signed under penalty of perjury, and shall include only information necessary to determine CalWORKs and food stamp eligibility and calculate the CalWORKs grant amount and food stamp allotment, as specified by the department. The form shall be as comprehensible as possible for recipients and shall require recipients to provide the following:~~

~~(1) Information about income received during the second month of the quarterly reporting period.~~

~~(2) Information about income that the recipient anticipates receiving during the following quarterly reporting period.~~

~~(3) Any other changes to facts required to be reported, together with any changes to those facts that the recipient anticipates will occur. The recipient shall provide verification as specified by the department with the quarterly report form.~~

~~(c) A quarterly report form shall be considered complete if the following requirements, as specified by the department, are met:~~

~~(1) The form is signed no earlier than the first day of the third month of the quarterly reporting period by the persons specified by the department.~~

~~(2) All questions and items pertaining to CalWORKs and food stamp eligibility and grant amount are answered.~~

~~(3) Verification required by the department is provided.~~

~~(f) If a recipient fails to submit a complete quarterly report form, as defined in subdivision (c), by the 11th day of the third month of the quarterly reporting period, the county shall provide the recipient with a notice that the county will terminate benefits at the end of the month. Prior to terminating benefits, the county shall attempt to make personal contact to remind the recipient that a completed report is due, or, if contact is not made, shall send a reminder notice to the recipient no later than five days prior to the end of the month. Any discontinuance notice shall be rescinded if a complete report is received by the first working day of the first month of the following quarterly reporting period.~~

~~(g) The county may determine, at any time prior to the last day of the calendar month following discontinuance for nonsubmission of a quarterly report form, that a recipient had good cause for failing to submit a complete quarterly report form, as defined in subdivision (e), by the first working day of the month following discontinuance. If the county finds a recipient had good cause, as defined by the department, it shall rescind the discontinuance notice. Good cause exists only when the recipient cannot reasonably be expected to fulfill his or her reporting responsibilities due to factors outside of the recipient's control.~~

SEC. 21. Section 11265.1 is added to the Welfare and Institutions Code, to read:

11265.1. (a) In addition to the requirement for an annual redetermination of eligibility, counties shall redetermine recipient eligibility and grant amounts on a semiannual basis using prospective budgeting. Counties shall use the information reported on a recipient's semiannual report form to prospectively determine eligibility and grant amount for the following semiannual reporting period.

(b) A semiannual reporting period shall be six consecutive calendar months. The recipient shall submit one semiannual report form for each semiannual reporting period. Counties shall provide a semiannual report form to recipients at the end of the fifth month of the semiannual reporting period, and recipients shall return the completed semiannual report form with required verification to the county by the 11th day of the sixth month of the semiannual reporting period.

(c) Counties may establish staggered semiannual reporting cycles based on factors established or approved by the department, including, but not limited to, application date or case number.

(d) The semiannual report form shall be signed under penalty of perjury, and shall include only the information necessary to determine CalWORKs and food stamp eligibility and calculate the CalWORKs grant amount and food stamp allotment, as specified by the department. The form shall be as comprehensible as possible for recipients and shall require recipients to provide the following:

(1) Information about income received during the fifth month of the semiannual reporting period.

(2) Any other changes to facts required to be reported. The recipient shall provide verification as specified by the department with the semiannual report form.

(e) A semiannual report form shall be considered complete if the following requirements, as specified by the department, are met:

(1) The form is signed no earlier than the first day of the sixth month of the semiannual reporting period by the persons specified by the department.

(2) All questions and items pertaining to CalWORKs and food stamp eligibility and grant amount are answered.

(3) Verification required by the department is provided.

(f) If a recipient fails to submit a complete semiannual report form, as defined in subdivision (e), by the 11th day of the sixth month of the semiannual reporting period, the county shall provide the recipient with a notice that the county will terminate benefits at the end of the month. Prior to terminating benefits, the county shall attempt

to make personal contact to remind the recipient that a completed report is due, or, if contact is not made, shall send a reminder notice to the recipient no later than five days prior to the end of the month. Any discontinuance notice shall be rescinded if a complete report is received by the first working day of the first month of the following semiannual reporting period.

(g) The county may determine, at any time prior to the last day of the calendar month following discontinuance for nonsubmission of a semiannual report form, that a recipient had good cause for failing to submit a complete semiannual report form, as defined in subdivision (e), by the first working day of the month following discontinuance. If the county finds a recipient had good cause, as defined by the department, it shall rescind the discontinuance notice. Good cause exists only when the recipient cannot reasonably be expected to fulfill his or her reporting responsibilities due to factors outside of the recipient's control.

SEC. 22. Section 11265.2 of the Welfare and Institutions Code is repealed.

~~11265.2. (a) The grant amount a recipient shall be entitled to receive for each month of the quarterly reporting period shall be prospectively determined as provided by this section. If a recipient reports that he or she does not anticipate any changes in income during the upcoming quarter, compared to the income the recipient reported actually receiving on the quarterly report form, the grant shall be calculated using the actual income received. If a recipient reports that he or she anticipates a change in income in one or more months of the upcoming quarter, the county shall determine whether the recipient's income is reasonably anticipated. The grant shall be calculated~~

~~using the income that the county determines is reasonably anticipated in each of the three months of the upcoming quarter.~~

~~(b) For the purposes of the quarterly reporting, prospective budgeting system, income shall be considered to be "reasonably anticipated" if the county is reasonably certain of the amount of income and that the income will be received during the quarterly reporting period. The county shall determine what income is "reasonably anticipated" based on information provided by the recipient and any other available information.~~

~~(c) If a recipient reports that their income in the upcoming quarter will be different each month and the county needs additional information to determine a recipient's reasonably anticipated income for the following quarter, the county may require the recipient to provide information about income for each month of the prior quarter.~~

~~(d) Grant calculations pursuant to subdivision (a) may not be revised to adjust the grant amount during the quarterly reporting period, except as provided in Section 11265.3 and subdivisions (e), (f), (g), and (h), and as otherwise established by the department.~~

~~(e) Notwithstanding subdivision (d), statutes and regulations relating to (1) the 60-month time limit, (2) age limitations for children under Section 11253, and (3) sanctions and financial penalties affecting eligibility or grant amount shall be applicable as provided in such statutes and regulations. Eligibility and grant amount shall be adjusted during the quarterly reporting period pursuant to such statutes and regulations effective with the first monthly grant after timely and adequate notice is provided.~~

~~(f) Notwithstanding Section 11056, if an applicant applies for assistance for a child who is currently aided in another assistance unit, and the county determines that~~

~~the applicant has care and control of the child, as specified by the department, and is otherwise eligible, the county shall discontinue aid to the child in the existing assistance unit and shall aid the child in the applicant's assistance unit effective as of the first of the month following the discontinuance of the child from the existing assistance unit.~~

~~(g) If the county is notified that a child for whom CalWORKs assistance is currently being paid has been placed in a foster care home, the county shall discontinue aid to the child at the end of the month of placement. The county shall discontinue the case if the remaining assistance unit members are not otherwise eligible.~~

~~(h) If the county determines that a recipient is no longer a California resident, pursuant to Section 11100, the recipient shall be discontinued. The county shall discontinue the case if the remaining assistance unit members are not otherwise eligible.~~

SEC. 23. Section 11265.2 is added to the Welfare and Institutions Code, to read:

11265.2. (a) The grant amount a recipient shall be entitled to receive for each month of the semiannual reporting period shall be prospectively determined and calculated using the income the recipient reported actually receiving in the fifth month of the previous semiannual period and other information reported on the semiannual report form.

(b) Grant calculations pursuant to subdivision (a) may not be revised to adjust the grant amount during the semiannual reporting period, except as provided in Section 11265.3 and subdivisions (c), (d), (e), and (f), and as otherwise established by the department.

(c) Notwithstanding subdivision (b), statutes and regulations relating to the 60-month time limit, age limitations for children under Section 11253, and sanctions and financial penalties affecting eligibility or grant amount shall be applicable as provided in those statutes and regulations. Eligibility and grant amount shall be adjusted during the semiannual reporting period pursuant to those statutes and regulations effective with the first monthly grant after timely and adequate notice is provided.

(d) Notwithstanding Section 11056, if an applicant applies for assistance for a child who is currently aided in another assistance unit, and the county determines that the applicant has care and control of the child, as specified by the department, and is otherwise eligible, the county shall discontinue aid to the child in the existing assistance unit and shall aid the child in the applicant's assistance unit effective as of the first of the month following the discontinuance of the child from the existing assistance unit.

(e) If the county is notified that a child for whom CalWORKs assistance is currently being paid has been placed in a foster care home, the county shall discontinue aid to the child at the end of the month of placement. The county shall discontinue the case if the remaining assistance unit members are not otherwise eligible.

(f) If the county determines that a recipient is no longer a California resident, pursuant to Section 11100, the recipient shall be discontinued. The county shall discontinue the case if the remaining assistance unit members are not otherwise eligible.

SEC. 24. Section 11265.3 of the Welfare and Institutions Code is repealed.

~~11265.3. (a) In addition to submitting the quarterly report form as required in Section 11265.1, during the quarterly reporting period, a recipient shall report the following changes to the county orally or in writing, within 10 days of the change:~~

~~(1) The receipt at any time during a quarterly reporting period of income, as provided by the department, in an amount that is likely to render the recipient ineligible, as provided by the department.~~

~~(2) The occurrence at any time during a quarterly reporting period of a drug felony conviction as specified in Section 11251.3.~~

~~(3) The occurrence, at any time during a quarterly reporting period, of an individual fleeing prosecution or custody or confinement, or violating a condition of probation or parole as specified in Section 11486.5.~~

~~(b) Counties shall inform each recipient of the duty to report under paragraph (1) of subdivision (a), the consequences of failing to report, and the amount of income likely to render the family ineligible for benefits no less frequently than once per quarter.~~

~~(c) When a recipient reports income pursuant to paragraph (1) of subdivision (a) the county shall redetermine eligibility and grant amounts as follows:~~

~~(1) If the recipient reports a change for the first or second month of a current quarterly reporting period, the county shall verify the report and determine if the recipient is financially ineligible. If the recipient is determined to be financially ineligible based on this income, the county shall discontinue the recipient after timely and adequate notice in accordance with rules applicable to the federal Food Stamp program.~~

~~(2) If the recipient reports a change for the third month of a current quarterly reporting period, the county shall not redetermine eligibility for the current quarterly~~

~~reporting period, but shall redetermine eligibility and grant amount for the following quarterly reporting period as provided in Section 11265.2.~~

~~(d) (1) During the quarterly reporting period, a recipient may report to the county, orally or in writing, any changes in income or household circumstances that may increase the recipient's grant.~~

~~(2) Counties shall act upon changes in income reported during the quarterly reporting period that result in an increase in benefits, after verification specified by the department is received. Reported changes in income that increase the grant shall be effective for the entire month in which the change is reported. If the reported change in income results in an increase in benefits, the county shall issue the increased benefit amount within 10 days of receiving required verification.~~

~~(3) (A) When a decrease in gross monthly income is voluntarily reported and verified, the county shall redetermine the grant for the current month and any remaining months in the quarterly reporting period by averaging the actual gross monthly income reported and verified from the voluntary report for the current month and the gross monthly income that is reasonably anticipated for any future month remaining in the quarterly reporting period.~~

~~(B) When the average is determined pursuant to subparagraph (A), and a grant amount is calculated based upon the averaged income, if the grant amount is higher than the grant currently in effect, the county shall revise the grant for the current month and any remaining months in the quarter to the higher amount and shall issue any increased benefit amount as provided in paragraph (2).~~

~~(4) Except as provided in subdivision (c), counties shall act only upon changes in household composition voluntarily reported by the recipients during the quarterly reporting period that result in an increase in benefits, after verification specified by the department is received. If the reported change in household composition is for the first or second month of the quarterly reporting period and results in an increase in benefits, the county shall redetermine the grant effective for the month following the month in which the change was reported. If the reported change in household composition is for the third month of a quarterly reporting period, the county shall not redetermine the grant for the current quarterly reporting period, but shall redetermine the grant for the following reporting period as provided in Section 11265.2.~~

~~(c) During the quarterly reporting period, a recipient may request that the county discontinue the recipient's entire assistance unit or any individual member of the assistance unit who is no longer in the home or is an optional member of the assistance unit. If the recipient's request was verbal, the county shall provide a 10-day notice before discontinuing benefits. If the recipient's report was in writing, the county shall discontinue benefits effective the end of the month in which the request is made, and simultaneously issue a notice informing the recipient of the discontinuance.~~

~~(f) The department, in consultation with the County Welfare Directors Association (CWDA), shall report to the relevant policy and fiscal committees of the Legislature in April 2005 regarding the effects upon program efficiency and integrity of implementation of the midquarter reporting requirement set forth in subdivision (a). The report shall be based on data collected by CWDA and select counties. The~~

~~department, in consultation with CWDA, shall determine the data collection needs required to assess the effects of the specified midquarter report.~~

SEC. 25. Section 11265.3 is added to the Welfare and Institutions Code, to read:

11265.3. (a) In addition to submitting the semiannual report form as required in Section 11265.1, during the semiannual reporting period, a recipient shall report the following changes to the county orally or in writing, within 10 days of the change:

(1) The receipt at any time during a semiannual reporting period of an increase or decrease in monthly income of one hundred dollars ($100) or more. The one hundred dollar ($100) increase or decrease must be reported whether it occurs all at once or accumulates over one or more months of the semiannual period to a point where the recipient's total income has increased or decreased by at least one hundred dollars ($100).

(2) The starting of a new job by any persons whose income is used in the determination of eligibility, or grant amount, or both.

(3) The occurrence at any time during a semiannual reporting period of a drug felony conviction, as specified in Section 11251.3.

(4) The occurrence, at any time during a semiannual reporting period, of an individual fleeing prosecution or custody or confinement, or violating a condition of probation or parole as specified in Section 11486.5.

(5) A change in household composition.

(6) A change of address for the assistance unit.

(b) Counties shall inform each recipient of the duty to report under subdivision (a) and the consequences of failing to report no less frequently than once per semiannual period.

(c) During the semiannual reporting period, a recipient may report to the county, orally or in writing, any changes in income or household circumstances that may increase the recipient's grant.

(d) When a recipient reports increases in income of one hundred dollars ($100) or more pursuant to paragraph (1) of subdivision (a), the county shall redetermine eligibility and grant amounts as follows:

(1) If the recipient reports the increase in income for the first to fifth months, inclusive, of a current semiannual reporting period, the county shall verify the report and determine the recipient's financial eligibility and grant amount.

(A) If the recipient is determined to be financially ineligible based on the increase in income, the county shall discontinue the recipient with timely and adequate notice effective at the end of the month in which the income was received.

(B) If it is determined that the recipient's grant amount should decrease based on the increase in income, the county shall reduce the recipient's grant amount for the remainder of the semiannual period with timely and adequate notice effective the first of the month following the month in which the income was received.

(2) If the recipient reports an increase in income for the sixth month of a current semiannual reporting period, the county shall not redetermine eligibility for the current semiannual reporting period, but shall consider this income in redetermining eligibility

and grant amount for the following semiannual reporting period as provided in Section 11265.2.

(e) Counties shall act upon mandatorily and voluntarily reported changes in income reported during the semiannual reporting period that result in an increase in benefits, after verification specified by the department is received. Reported changes in income that increase the grant shall be effective for the entire month in which the change is reported. If the reported change in income results in an increase in benefits, the county shall issue the increased benefit amount within 10 days of receiving required verification.

(1) (A) When a decrease in gross monthly income is mandatorily or voluntarily reported in the first to fifth months, inclusive, of the semiannual period and verified, the county shall redetermine the grant based on the recipients newly reported income amount for the current month and any remaining months in the semiannual reporting period.

(B) If the recipient mandatorily or voluntarily reports a decrease in income for the sixth month of a current semiannual reporting period, the county shall redetermine the recipient's grant amount. If it is determined that the recipient's grant should increase, the county shall increase the grant for the sixth month of the semiannual period and also consider this decrease in income in redetermining the recipient's eligibility and grant amount for the following semiannual reporting period as provided in Section 11265.2.

(f) Counties shall act upon changes in household composition reported by the recipients during the semiannual reporting period after verification specified by the department is received.

(1) If the reported change in household composition is for the first to fifth months, inclusive, of the semiannual reporting period the county shall redetermine the eligibility and grant amount.

(A) If the assistance unit is determined ineligible due to the change in household composition, the county shall discontinue the case with timely and adequate notice effective at the end of the month in which the change occurred.

(B) If it is determined that the grant amount should be decreased as a result of the change in household composition the county shall reduce the recipient's grant amount for the remainder of the semiannual period with timely and adequate notice effective the first of the month following the month in which the change occurred.

(C) If it is determined that the grant amount should be increased as a result of the change in household composition, the county shall increase the grant for the remainder of the semiannual period effective the first of the month following the month in which the change was reported.

(2) If the reported change in household composition is for the sixth month of a semiannual reporting period, the county shall not redetermine the eligibility or grant amount for the current semiannual reporting period, but shall consider this information in redetermining the eligibility and grant amount for the following semiannual reporting period as provided in Section 11265.2.

(g) During the semiannual reporting period, a recipient may request that the county discontinue the recipient's entire assistance unit or any individual member of the assistance unit who is no longer in the home or is an optional member of the assistance unit. If the recipient's request was verbal, the county shall provide a 10-day notice before discontinuing benefits. If the recipient's request was in writing, the county shall discontinue benefits effective the end of the month in which the request is made, and simultaneously issue a notice informing the recipient of the discontinuance.

SEC. 26. Section 11320.15 of the Welfare and Institutions Code is amended to read:

11320.15. (a) After a ~~participant~~ recipient has received aid for a total of 60 months, pursuant to Section 11454, he or she shall be removed from the assistance unit for the purposes of calculation of aid under Section 11450 ~~and he or she shall no longer be required to participate in welfare-to-work activities. Additional welfare-to-work services may be provided to the recipient, at the option of the county. If the county provides services to the recipient after the 60-month limit has been reached, the recipient shall participate in community service~~.

(b) If the former recipient in the home satisfies the federal work participation requirements of Section 607 of Title 42 of the United States Code, children in the assistance unit may continue to receive aid under Section 11450.

(c) Additional welfare-to-work services may be provided to the former recipient, at the option of the county.

SEC. 27. Section 11320.32 of the Welfare and Institutions Code is amended to read:

11320.32. (a) The department shall administer a voluntary Temporary Assistance Program (TAP) for current and future CalWORKs recipients who meet the exemption criteria for work participation activities set forth in Section 11320.3, and are not single parents who have a child under the age of one year. Temporary Assistance Program recipients shall be entitled to the same assistance payments and other benefits as recipients under the CalWORKs program. The purpose of this program is to provide cash assistance and other benefits to eligible families without any federal restrictions or requirements and without any adverse impact on recipients. Subject to the conditions specified in subdivision (b), the Temporary Assistance Program shall commence ~~no later than April 1, 2007.~~ upon a date specified in a declaration by the director and transmitted to the Joint Legislative Budget Committee, when the director has determined all of the following:

(1) That complying with the provisions of this subdivision are feasible.

(2) That all necessary statutory and regulatory changes have been made.

(3) That there will be no adverse impact on recipients who choose to be aided under the TAP.

(4) That establishing the program has the potential, under federal regulations then in effect, of reducing total state expenditures for aid and services to individuals served by the CalWORKs and TAP programs, including federal penalties imposed upon the state.

~~(b) The department shall review the emergency federal regulations concerning the Temporary Assistance for Needy Families program required by subdivision (e) of Section 7102 of the Deficit Reduction Act of 2005 (P.L. 109-171). If the department~~

~~finds, upon reviewing these regulations and consulting with the Legislature and CalWORKs program stakeholders, that the Temporary Assistance Program provided for by this section would not be feasible or meet the Legislature's stated purposes, it may suspend implementation of the Temporary Assistance Program until October 1, 2007. In order to suspend implementation, the department shall first provide written justification to the Joint Legislative Budget Committee explaining why the Temporary Assistance Program would be infeasible.~~

~~(c)~~

(b) CalWORKs recipients who meet the exemption criteria for work participation activities set forth in subdivision (b) of Section 11320.3, ~~and are not single parents with a child under the age of one year,~~ shall have the option of receiving grant payments, child care, and transportation services from the Temporary Assistance Program. The department shall notify all CalWORKs recipients and applicants meeting the exemption criteria specified in subdivision (b) of Section 11320.3, ~~except for single parents with a child under the age of one year,~~ of their option to receive benefits under the Temporary Assistance Program. Absent written indication that these recipients or applicants choose not to receive assistance from the Temporary Assistance Program, the department shall enroll CalWORKs recipients and applicants into the program. However, exempt volunteers shall remain in the CalWORKs program unless they affirmatively indicate, in writing, their interest in enrolling in the Temporary Assistance Program. A Temporary Assistance Program recipient who no longer meets the exemption criteria set forth in Section 11320.3 shall be enrolled in the CalWORKs program.

(c) Notwithstanding subdivision (b), if the individual is a single parent with a child under the age of one year, the individual may receive benefits under the TAP only if he or she has received assistance through the Temporary Assistance for Needy Families (TANF) program, Part A (commencing with Section 401) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.) for a cumulative total of 12 months or more as a single parent with a child under one year of age. The department shall notify the individual of his or her option to receive benefits under the TAP, pursuant to this subdivision.

(d) Funding for grant payments, child care, transportation, and eligibility determination activities for families receiving benefits under the Temporary Assistance Program shall be funded with General Fund resources that do not count toward the state's maintenance of effort requirements under clause (i) of subparagraph (B) of paragraph (7) of subdivision (a) of Section 609 of Title 42 of the United States Code, up to the caseload level equivalent to the amount of funding provided for this purpose in the annual Budget Act.

(e) It is the intent of the Legislature that recipients shall have and maintain access to the hardship exemption and the services necessary to begin and increase participation in welfare-to-work activities, regardless of their county of origin, and that the number of recipients exempt under subdivision (b) of Section 11320.3 not significantly increase due to factors other than changes in caseload characteristics. All relevant state law applicable to CalWORKs recipients shall also apply to families funded under this section. Nothing in this section modifies the criteria for exemption in Section 11320.3.

(f) To the extent that this section is inconsistent with federal regulations ~~due to be issued June 30, 2006,~~ regarding implementation of the Deficit Reduction Act of 2005, the department may amend the funding structure for exempt families to ensure consistency with ~~the June 30~~ these regulations, not later than 30 days after providing written notification to the chair of the Joint Legislative Budget Committee and the chairs of the appropriate policy and fiscal committees of the Legislature.

SEC. 28. Section 11327.5 of the Welfare and Institutions Code is amended to read:

11327.5. (a) Sanctions shall be imposed in accordance with subdivision (b) or (c), as appropriate, if an individual has failed or refused to comply with program requirements without good cause and conciliation efforts, as described in Section 11327.4, have failed.

(b) The sanctions provided for in subdivisions (c) and (d) shall not apply to an individual who is exempt from the requirements of this article but is voluntarily participating in the program. If ~~such an~~ the individual engages in conduct that would bring about the actions provided for in subdivisions (c) and (d), except for his or her status as a voluntary program participant, the individual shall not be given priority so long as other individuals are actively seeking to participate.

(c) Financial sanctions for failing or refusing to comply with program requirements without good cause shall cause a reduction in the family's grant ~~by removing the noncomplying family member from the assistance unit for a period of time specified in subdivision (d)~~ for up to 90 days, by not considering the noncompliant individual's needs in determining the family's need for assistance and calculating the

amount of the assistance payment under Section 11450. If the individual has not resumed full participation in the activities assigned by the county within the 90-day period of aid reduction, the family's aid under this chapter shall be discontinued.

(1) For families that qualify for aid due to unemployment of the family's primary wage earner, the ~~sanctioned parent shall be removed from the assistance unit~~ needs of the noncompliant parent shall not be considered in determining the family's need for assistance and calculating the amount of the assistance payment under Section 11450. Unless the spouse or the family's second parent meets the provisions of subparagraph (A) of paragraph (2), if the sanctioned parent's spouse or the family's second parent is not participating in the program, ~~both~~ neither the sanctioned parent ~~and~~ nor the spouse or second parent shall ~~be removed from the assistance unit~~ have their needs considered in determining the family's need for assistance and calculating the amount of the assistance payment under Section 11450. If neither parent is engaged in full participation in the activities assigned by the county within the 90-day period of aid reduction, the family's aid under this chapter shall be discontinued. The county shall notify the spouse of the noncomplying participant or second parent in writing at the commencement of conciliation of his or her own opportunity to participate and the impact on sanctions of that participation.

(2) (A) Except as provided in subparagraph (B), exemption criteria specified in Section 11320.3, conciliation specified in Section 11327.4, and good cause criteria specified in Section 11320.31 and subdivision (f) of Section 11320.3 shall apply to the sanctioned parent's spouse or the family's second parent.

(B) Exemption criteria specified in paragraphs (5) and (6) of subdivision (b) of Section 11320.3 do not apply to a spouse or second parent who is participating to avoid the sanction of the noncomplying parent.

(C) If the sanctioned parent's spouse or the family's second parent chooses to participate to avoid the noncomplying parent's sanction, subsequently fails or refuses to participate without good cause, and does not conciliate, he or she shall be ~~removed from the assistance unit for a period of time specified in subdivision (d)~~ sanctioned in accordance with this subdivision.

(D) If the sanctioned parent's spouse or the family's second parent is under his or her own sanction at the time of the first parent's sanction, the spouse or second parent shall not be provided the opportunity to avoid the first parent's sanction until the spouse or second ~~parent's sanction is completed~~ has performed the activities he or she failed or refused to perform.

(3) For families that qualify due to the absence or incapacity of a parent, only the ~~noncomplying parent shall be removed from the assistance unit~~ needs of the noncomplying parent shall not be considered in determining the family's need for assistance and calculating the amount of the assistance payment under Section 11450.

~~(4) If the noncomplying individual is the only dependent child in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.~~

~~(5) If the noncomplying individual is one of several dependent children in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.~~

(d) An instance of noncompliance without good cause shall result in a financial sanction. This sanction shall terminate at any point if the noncomplying participant performs the activity or activities he or she previously refused to perform.

(e) Sanctions shall become effective on the first day of the first payment-month that the sanctioned individual's needs are ~~removed from aid under this chapter~~ not considered in calculating the family's aid under Section 11450.

(f) In the event this section conflicts with federal law, the department shall adopt regulations to conform to federal law.

SEC. 36. Section 11450.13 of the Welfare and Institutions Code, as amended by Section 40 of Chapter 1022 of the Statutes of 2002, is amended to read:

11450.13. In calculating the amount of aid to which an assistance unit is entitled in accordance with Section 11320.15, the maximum aid payment, adjusted to reflect the removal of the adult or adults from the assistance unit, shall be reduced by the gross monthly income of the adult or adults removed from the assistance unit, ~~averaged over~~

~~the quarter~~ determined for the semiannual period pursuant to Sections 11265.2 and 11265.3, and less any amounts exempted pursuant to Section 11451.5. Aid may be provided in the form of cash or vouchers, at the option of the county.

SEC. 37. Section 11451.5 of the Welfare and Institutions Code, as amended by Section 329 of Chapter 62 of the Statutes of 2003, is amended to read:

11451.5. (a) Except as provided by subdivision (f) of Section 11322.6, the following income, ~~averaged over the quarter~~ determined for the semiannual period pursuant to Sections 11265.2 and 11265.3, shall be exempt from the calculation of the income of the family for purposes of subdivision (a) of Section 11450:

(1) If disability-based unearned income does not exceed two hundred twenty-five dollars ($225), both of the following amounts:

(A) All disability-based unearned income plus any amount of not otherwise exempt earned income equal to the amount of the difference between the amount of disability-based unearned income and two hundred twenty-five dollars ($225).

(B) Fifty percent of all not otherwise exempt earned income in excess of the amount applied to meet the differential applied in subparagraph (A).

(2) If disability-based unearned income exceeds two hundred twenty-five dollars ($225), both of the following amounts:

(A) All of the first two hundred twenty-five dollars ($225) in disability-based unearned income.

(B) Fifty percent of all earned income.

(b) For purposes of this section:

(1) Earned income means gross income received as wages, salary, employer provided sick leave benefits, commissions, or profits from activities such as a business enterprise or farming in which the recipient is engaged as a self-employed individual or as an employee.

(2) Disability-based unearned income means state disability insurance benefits, private disability insurance benefits, temporary workers' compensation benefits, and social security disability benefits.

(3) Unearned income means any income not described in paragraph (1) or (2).

SEC. 38. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) Except as provided in subdivision (c), the amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living. These adjustments shall become effective July 1 of each year, unless otherwise specified by the Legislature. For the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, these adjustments shall become effective October 1 of each year. The cost-of-living adjustment shall be calculated by the Department of Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

(b) The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

(c) (1) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, to reflect any change in the cost of living. For the 1998–99 fiscal year, the cost-of-living adjustment that would have been provided on July 1, 1998, pursuant to subdivision (a) shall be made on November 1, 1998. No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 2005-06 and 2006-07 fiscal years to reflect any change in the cost-of-living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(2) No adjustment to the minimum basic standard of adequate care set forth in Section 11452 shall be made under this section for the purpose of increasing the benefits

under this chapter for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living.

(3) In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is any increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then the increase pursuant to subdivision (a) of this section shall occur. In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is no increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then any increase pursuant to subdivision (a) of this section shall be suspended.

(4) Notwithstanding paragraph (3), an adjustment to the maximum aid payments set forth in subdivision (a) of Section 11450 shall be made under this section for the 2002–03 fiscal year, but the adjustment shall become effective June 1, 2003.

(5) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing benefits under this chapter for the 2007–08 fiscal year.

(d) For the 2004–05 fiscal year, the adjustment to the maximum aid payment set forth in subdivision (a) shall be suspended for three months commencing on the first day of the first month following the effective date of the act adding this subdivision.

(e) Adjustments for subsequent fiscal years pursuant to this section shall not include any adjustments for any fiscal year in which the cost of living was suspended pursuant to subdivision (c).

SEC. 39. Section 11454.2 is added to the Welfare and Institutions Code, to read:

11454.2. (a) An assistance unit shall not be eligible for aid under this chapter when the assistance unit has received aid under this chapter for a cumulative total of 60 months during which no adult was part of the assistance unit because the adults who would otherwise have been members of the assistance unit were in any of the following categories:

(1) A person not lawfully present in the United States.

(2) A person described by subparagraph (A) of paragraph (9) of subdivision (a) of Section 608 of Title 42 of the United States Code.

(3) A person convicted of any offense classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance, as defined in paragraph (6) of Section 802 of Title 21 of the United States Code.

(b) No month in which aid has been received prior to January 1, 1998, shall be taken into consideration in computing the 60-month limitation provided for in subdivision (a).

SEC. 43. Section 18910 of the Welfare and Institutions Code is amended to read:

18910. (a) To the extent permitted by federal law, regulations, waivers, and directives, the department shall implement the prospective budgeting, ~~quarterly~~ semiannual reporting system provided in Sections 11265.1, 11265.2, and 11265.3, and related provisions regarding the Food Stamp Program, in a cost-effective manner that promotes compatibility between the CalWORKs program and the Food Stamp Program, and minimizes the potential for payment errors.

(b) The department shall seek all necessary waivers from the United States Department of Agriculture to implement subdivision (a).

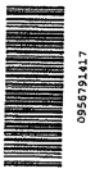
SEC. 44. (a) Sections 16 to 25, inclusive, 34 to 37, inclusive, and 43 of this act shall become operative on January 1, 2009.

(b) Notwithstanding subdivision (a), if a county elects to stagger the reporting periods over six months pursuant to subdivision (c) of Section 11265.1 of the Welfare and Institutions Code, this act shall apply to an individual recipient at the later of the operative date or the sixth month of the semiannual period following that date.

SEC. 45. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to the Welfare and Institutions Code by Sections 16 to 25, inclusive, 34 to 37, inclusive, and 43 of this act through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those amendments no later than July 1, 2010.

(b) The adoption of regulations pursuant to subdivision (a) shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.



Senate Budget & Fiscal Review Committee
Eileen Cubanski 651-4103

Hearing Outcomes

Subcommittee No. 3
9:30 am, Thursday, March 29, 2007

Discussion Agenda

There were no actions taken at this hearing.

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

April 9, 2007

1:00 PM

Room 4203
(John L. Burton Hearing Room)

(Diane Van Maren)

Item Department

4300 Department of Developmental Services

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.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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.

Item 4300 Department of Developmental Services

A. OVERALL BACKGROUND (Through Page 3)

Purpose and Descript ion of Department. The Department of Developmental Services (DDS) administers services in the community through 21 Regional Centers (RC) ***and*** in state Developmental Centers (DC) for persons with developmental disabilities as defined by the provisions of the Lanterman Developmental Disabilities Services Act. Almost 99 percent of consumers live in the community, and slightly more than one percent live in a state-operated Developmental Center.

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 Ch aracteristics of Co nsumers Served. The department annually produces a Fact Book (November 2005 edition) which contains pertinent data about persons served by the department. As noted below, individuals with developmental disabilities have a number of residential options. Almost 99 percent receive community-based services and live with their parents or other relatives, in their own houses or apartments, or in group homes (various models) that are designed to meet their medical and behavioral needs.

Department of Developmental Services—Demographics Data from 2004

Table 1 Age	Number of Persons	Percent of Total	*Table 2* Residence Type	Number of Persons	Percent of Total in Residence
Birth to 2 Yrs.	22,601	11.2%	Own Home-Parent	144,023	71.6 %
3 to 13 Yrs.	57,793	28.7%	Community Care	26,442	13.1%
14 to 21 Yrs.	33,697	16.8%	Independent Living /Supported Living	17,333	8.7%
22 to 31 Yrs.	28,365	14.1%	Skilled Nursing/ICF	8,783	4.4%
32 to 41 Yrs.	22,812	11.3%	Developmental Center	3,231	1.6%
42 to 51 Yrs.	20,298	10.1%	Other	1,239	0.6%
52 to 61 Yrs.	10,635	5.3%			
62 and Older	4,850	2.4%			
Totals	***201,051***	***100%***		***201,051***	***100%***

(Overall Background continued)

Summary of Funding for the Department. The budget proposes total expenditures of $4.3 billion ($2.6 billion General Fund), for a *net* increase of $233 million ($36.5 million General Fund) over the revised current year for the developmental services system. The proposed augmentation represents an increase of 5.7 percent over the revised current year.

In addition, the revised 2006-07 budget proposes a $106.4 million ($71.2 million General Fund) increase from the enacted Budget to address adjustments for employee compensation, caseload and service utilization as well as the effect of the change in the minimum wage.

Of the total amount proposed for 2007-08, $3. 6 billion ($2.2 billion Ge neral Fund) is for services provided in the community th rough Regional Centers, $712.3 million ($393.6 million General Fund) is for support of the state Developmental Centers, and $40.1 million ($26.4 million General Fund) is for state headquarters administration.

Proposed Budget for Department of Developmental Services:

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Program Source				
Community Services Program (RC's)	$3,314,749	$3,566,049	$251,300	7.6
Developmental Centers	$730,629	$712,268	-$18,361	-2.5
State Administration	$40,084	$40,106	22	0.1
Total, Program Source	**$4,085,462**	**$4,318,423**	**$232,961**	**5.7**
Funding Source				
General Fund	$2,572,111	$2,608,617	$36,506	1.4
Federal Funds	$55,144	$55,411	$267	3.6
Public Transportation Account	$0	$143,993	$143,993	100
Program Development Fund	$2,019	$2,012	-$7	-0.3
Lottery Education Fund	$489	$489	$0	0
Developmental Disabilities Services	$41	$0	-$41	-100
Reimbursements: including Medicaid Waiver, Title XX federal block grant and Targeted Case Management	$1,455,658	$1,507,901	$52,243	3.6
Total Expenditures	**$4,085,462**	**$4,318,423**	**$232,961**	**5.7**

B. ISSUES FOR "Vote Only" (Items 1 through 5) (Through Page 7)

1. Technical Correction to the Governor's Budget—Funding Shift Change

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting a fund shift to correct a technical error within the Developmental Centers budget (Item 4300-003-0001). Specifically, the General Fund amount needs to be decreased by $5 million and the Reimbursements need to be increased by $5 million. These Reimbursements are received from the Department of Health Services through the Medi-Cal Program, and as such, reflect the availability of some federal funds.

This technical adjustment is necessary because the funding spilt for salary increases within the Developmental Centers item was incorrectly calculated in the Governor's budget released on January 10, 2007.

Subcommittee Staff Recomm endation--Approve. The Finance Letter reflects a technical correction that is necessary to align funding sources. It is, therefore, recommended to approve the Finance Letter. No issues have been raised.

2. Administration Eliminates "Price Adjustment"—Developmental Centers

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the Developmental Centers budget by $948,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. The purpose of the price adjustment was to assist in funding the price increase that has occurred. The Administration is now proposing to eliminate this original augmentation due to concerns regarding General Fund resources.

Subcommittee Staff Recommendation—Approve. The Department of Finance has informed Subcommittee staff that all Developmental Center caseload adjustments, including food, clothes, and all other resident needs, will be fully funded at the May Revision. Therefore, the Finance Letter price adjustment reduction will not affect resident care at the Developmental Centers. It is recommended to approve the Finance Letter. No issues have been raised.

3. Administration Eliminates "Price Adjustment"—State Headquarters Support

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the State Support budget by $66,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter. This is a minor adjustment to the State Support budget. No issues have been raised.

4. Salary Enhancements for Mental Health Professionals in the DCs

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting an increase of $6.9 million ($4 million General Fund) to increase the salaries for certain mental health classifications in facilities operated by the DDS, including the five DCs, Sierra Vista Community Facility and Canyon Springs Community Facility. The Finance Letter provides funding for the budget year. These increases are necessary to retain and hire key professional staff to provide mental health care, treatment and supervision.

The Administration states that these salary increases will be effective as of April 1, 2006. Any current year expenditures will be funded within existing resources which are available due to vacancies (i.e., no additional appropriation for the current year is necessary).

The DDS states that the proposed salary increases will bring salaries and wages for incumbents in these classifications to: **(1)** five percent less than CA Department of Corrections and Rehabilitation (CDCR) for Psychiatrists and Senior Psychologists, and **(2)** 18 percent less than salaries paid to CDCR for all other mental health-related classifications including: Unit Supervisors, Psychiatric Technicians, Rehabilitation Therapists, and Clinical Social Workers.

Background—CDCR Salary Increases and Effect on DDS. In January 2007, the CDCR increased salaries for mental health classifications as a result of the *Coleman v. Governor Schwarzenegger* federal court order. In less than three months, the DDS lost a total of 98 employees in Coleman-related classifications. The Coleman-related classifications include Psychiatrists, Medical Directors, Unit Supervisors, Psychologists, Social Workers, Rehabilitation Therapists and Psychiatric Technicians. These are key classifications that are required for treatment and direct provision of mental health services, or the supervision of direct services to consumers for licensing and certification and for the overall health and safety of consumers.

Subcommittee Staff Recommendation—Approve. As discussed in the Subcommittee's March 12th hearing regarding the State Hospitals operated by the Department of Mental Health and the significant vacancies in clinical positions, particularly with Psychiatrists and Psychologists, the DDS is experiencing similar issues concerning competitive salaries for recruitment and retention. The Finance Letter provides funding to provide key salary increases as noted. As such, it is recommended to approve this Finance Letter. No issues have been raised.

It should be noted that the DDS is working with the Department of Personnel Administration to implement the enhanced salaries.

5. Continued Implementation of Medicare Prescription Drug (Part D)

Issue. The DDS is requesting an increase of $708,000 ($357,000 General Fund) to fund a total of 8 positions (7 permanent and one limited-term to June 30, 2009). Of these 8 positions, two existing limited-term positions (approved in 2005) would be made permanent, and 6 new positions would be added. These proposed positions would be used to support workload associated with the continuing implementation of Part D of the Medicare Prescription Drug Act of 2003 (Part D).

The DDS states that they have insufficient resources at the headquarters office to implement Part D. Specifically, they are requesting the following positions to manage the workload:

- Pharmacy Services Manager (currently set to expire as of June 30, 2007);
- Senior Programmer Analyst (currently set to expire as of June 30, 2007);
- Staff Programmer Analyst;
- Staff Information Systems Analyst;
- Program Technician II (two positions);
- Associate Program Analyst; and
- Staff Services Analyst (two-year limited-term to expire as of June 30, 2009).

These proposed positions would be used as follows:

Pharmacy Services Manager. This position would continue to be used for pharmaceutical expertise and technical assistance in pharmacy operations and requirements, drug formularies, dispensing practices, automated pharmacy systems, as well as for consultation to Developmental Center pharmacists, physicians, and for contract negotiations and liaison to the Prescription Drug Plans.

Senior Programmer, Staff Programmer and Staff Information Analyst. These three positions would be used for ongoing support of the Part D information technology modules that were added to the health information applications used by the Developmental Centers and were instrumental in processing physicians' drug orders, managing medication information and pharmacy inventory, and generating claims and billing.

Program Technician II's. These two positions would be used to support the processing and adjudicating of claims with the Prescription Drug Plans in which DDS and the DMH consumers are enrolled. These positions would handle the drug charges, insurance payments and account adjustments to DC consumers and State Hospital patient liability created by the necessity to bill Medicare enrollees for drugs.

Associate Governmental Program Analyst and Staff Services Analyst. These two positions would be used to: (1) develop and update system-wide policies, procedures, and operations manuals; (2) assist in providing training curricula; (3) assist in training the Developmental Center staff in Part D documentation requirements; (4) perform required Medicare audits; and (5) renew and manage the Prescription Drug Plans.

Background—Overall Summary of th e Medicare Part D Drug Coverage. The federal Part D established a voluntary prescription drug benefit effective as of January 1, 2006. The federal Centers for Medicare and Medicaid (CMS) is responsible for implementing this benefit which provides new drug coverage through private Prescription Drug Plans.

As a result of Part D, drug coverage for "dual-eligible" enrollees (i.e., eligible for both Medicare and Medi-Cal) was transitioned from Medicaid (Medi-Cal) to Medicare Part D on January 1, 2006. These private Prescription Drug Plans pre-approve and authorize formularies for enrollees, may charge premiums, deductibles, or co-payments for drugs and reimburse pharmacies at negotiated rates for prescriptions filled for enrollees.

Background—Developmental Centers and the Medicare Part D Pro gram. Of the individuals receiving services in the developmental services system, about 40,000 are affected by the Medicare Part D Program and about 2,200 of these individuals live at the five Developmental Centers and receive their drugs through Prescription Drug Plans.

The Prescription Drug Plans must contract with pharmacies to dispense drugs for consumers enrolled in their plans, but DDS has chosen to centrally negotiate contracts for the five Developmental Center pharmacies, rather than expect each pharmacy to separately contract with each of the eight Prescription Drug Plans.

DC physicians and pharmacists must seek prior authorizations before prescribing certain drugs and process requests for exceptions and appeals for drugs which have been denied or are not included on the Prescription Drug Plans formulary. Each of the Prescription Drug Plans determines their own formulary and procedures for prior authorizations, exceptions and appeals. There are seven Prescription Drug Plans that the DDS must work with.

As part of the implementation of the Part D Program at the DCs, the DDS is required to identify the prescription drug and dispensing costs for each dual-eligible consumer (i.e., consumer who is enrolled in Medi-Cal and in Medicare) and bill that consumer's approved costs to their individual Medicare Part D Prescription Drug Plan. Because of the new complexities in billing, DDS chose to bill centrally at the Sacramento Headquarters office.

The federal CMS does not require Prescription Drug Plans to have standard contracts, rates or processes. As such, each plan requires different forms and formats and content for its processes and billing, and the DDS is required to accommodate each of these in its human and automated processes.

Subcommittee Staff Recommendation--Approve. In discussions with the DDS, it is evident that additional positions are necessary in order for the state to appropriately operate the program for the Developmental Centers. There are changing federal requirements and interpretations, demands for information technology adjustments, and the need to work extensively with the several Prescription Drug Plans.

C. ISSUES FOR DISCUSSION-- COMMUNITY-BASED SERVICES

Background on Regional Centers (RCs). 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. **Generally, RCs pay for services only if an individual does not have private insurance or they cannot refer an individual to so-called "generic" services that are provided at the local level by the state, counties, cities, school districts, and other agencies.** For example, Medi-Cal services and In-Home Supportive Services (IHSS) are "generic" services because the RC does not directly purchase these services.

RCs purchase services such as (1) residential care provided by community care facilities; **(2)** support services for individuals living in supported living arrangements; **(3)** Day Programs; **(4)** transportation; **(5)** respite; **(6)** health care; and many other types of services.

Services and supports provided for individuals with developmental disabilities are 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).

In addition, 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. This is intended to be reflected in the IPP process.

Background—Summary of Budget Funding & Consumer Population. The budget proposes **expenditures of $3.6 billion** ($2.2 billion General Fund) for community-based services, provided via the RCs, to serve a total of 220,600 consumers living in the community. This funding level includes $501 million for RC operations and $3.1 billion for the purchase of services, including funds for the Early Start Program and habilitation services.

The budget reflects a *net* overall increase of $251.3 million ($48.5 million General Fund), or 7.6 percent, over the revised current year. The General Fund adjustment represents an increase of 2.3 percent. Most of the increase is attributable to: **(1)** an increase in the utilization of services by consumers; **(2)** an increase of 8,445 consumers for 2007-08; **(3)** adjustments for the minimum wage increases which are to occur; and **(4)** an increase for RC operations.

1. "Baseline" Budget for Regional Centers—RC Purchase of Services *(POS)*

Issues. ***First*****,** the Administration proposes a total of $2.829 billion (total funds) for the purchase of services for the **revised current year (2006-07) which is an increase of $50.181 million ($33.6 million General Fund) over the Budget Act of 2006.** This increase is attributable to **(1)** an increase of $18.3 million related to the minimum wage increase as directed by statute, and **(2)** an increase of $33.4 million related to updated purchase of services utilization and caseload projections.

The Joint Legislative Budget Committee (JLBC) has been notified by the Department of Finance (DOF) of this current-year deficiency request. The DOF states in their notification that funding for this will be forthcoming through a supplemental appropriations bill.

Second**,** the Administration proposes a total of $3.109 billion (total funds) for the baseline RC purchase of services in the budget year (2007-08). (The baseline amount is the funding level prior to any proposed policy changes.) **This represents an increase of $280.4 million (total funds) above the revised current year, as shown in the table below.**

Summary of RC Purchase of Services Funding (Total Funds)

Service Category	Revised Current Year (2006-07)	Budget Year 2007-08	Increased Amount (Total Funds)
Community Care Facilities (CCFs)	$687.8 million	$769.8 million	$82 million
Medical Facilities	$17.8 million	$17.8 million	no change
Day Programs	$699.8 million	$754.2 million	$54.4 million
Habilitation Services	$148.4 million	$150 million	$1.6 million
Transportation	$203.5 million	$214.6 million	$11.1 million
Support Services	$487.6 million	$550.8 million	$63.2 million
In-Home Respite	$165.2 million	$180.5 million	$15.3 million
Out-of-Home Respite	$47.5 million	$48.3 million	$800,000
Health Care	$82.9 million	$91.4 million	$8.5 million
Miscellaneous	$268.3 million	$311.8 million	$43.5 million
Early Start Program	$20.1 million	$20.1 million	
Total Baseline (Prior to key policy changes)	**$2.829 billion**	**$3.109 billion**	**$280.4 million**

The key factors contributing to the $ 280.4 million increase to the RC baseline purchase of services budget for 2007-08 are as follows:

- *Caseload & Utilization of Services.* The RC community caseload is projected to increase by 8,375, or 3.9 percent, for a total of 220,600 consumers for the budget year. The utilization of services is also increasing based upon recent data. As such, about $20.8 million of the increase is attributable to these changes.
- *Minimum Wage.* Of the proposed increased amount for the budget year as compared to the revised current year, $45 million (total funds) is for the California minimum wage increase (to $7.50 per hour as of January 1, 2007 and $8.00 per hour as of January 1, 2008). These increases will impact entry-level direct care staff that provide services in

community care facilities, day and work activity programs, respite care, and supported living.

- *Annualized Effect of Rate Increases.* Through the Budget Act of 2006, an across-the-board rate increase of 3 percent was provided. In addition, other rate increases were provided for supported employment, work activity and day programs. The budget reflects these annualized rate increases across the various purchase of services categories.

Third, on a one-time only basis the Administration is proposing to use $144 million (Public Transportation Account) in lieu of General Fund support to fund RC transportation services, including those provided by public transportation, specialized transportation companies, service providers and families. The Public Transportation Account resources are derived primarily from sales taxes on gasoline and diesel fuels. Section 14506 of the Government Code describes the uses for these funds. The Administration states that using these funds for transportation services to individuals with developmental disabilities through various forms of public transit meets the purposes of the statute.

Further, it should be noted that this is simply a temporary funding shift and that no services would be affected by the proposal.

Background—Summary of the Categ ories of Pu rchase of Services (POS). A brief description of the above-referenced POS categories is provided below:

- *Community Care Facilities (CCFs).* Regional Centers contract with CCFs to provide 24-hour non-medical residential care to children and adults with developmental disabilities who are in need of personal services, supervision, and assistance essential for self-protection or sustenance of daily living activities.
- *Medical Facilities.* The Regional Centers vendor Intermediate Care Facilities (ICF) for consumers *not* eligible for Medi-Cal. The types of ICFs providing services to individuals with developmental disabilities are: ICF-DD (Developmentally Disabled), ICF-DD-H (Habilitative), ICF-DD-N (Nursing), and ICF-DD-CN (Continuous Nursing). (The Department of Health Services operates the Medi-Cal Program and directly reimburses those ICF providers who serve individuals with developmental disabilities who are eligible for Medi-Cal.)
- *Day Programs.* Day Programs are community-based programs for individuals served by a Regional Center. Day Programs are available when those services are included in a person's Individual Program Plan (IPP).
- *Habilitation Services Program.* This area includes the Work Activity Program and the Supported Employment Program. These programs provide opportunities for individuals with developmental disabilities to work.
- *Support Services.* Regional Centers contract with vendors to provide services and supports which include a broad range of services to adults who live in homes they themselves own or lease in the community.

- *Respite Services (In-Home and Out of Home).* Regional Centers contract with vendors to provide respite services to provide support to family members.
- *Health Care.* Regional Centers contract with vendors to provide health care services that are medical and health care related.
- *Miscellaneous Services.* These services are a broad category and include tutors, special education teacher's aides, recreational therapists, speech pathologists, mobility training specialists and counseling.

Subcommittee Staff Recommendation— Approve Pending May Revision. It is recommended to approve the baseline Regional Center (RC) purchase of services budget pending receipt of the May Revision which will address any necessary adjustments for caseload and utilization.

Questions. The Subcommittee has requested the DDS to briefly respond to the following questions:

1. DDS, Please provide a brief summary of the key changes proposed for the RC baseline purchase of services budget.

2. Proposed Changes to the Intermediate Care Facilities (ICF)—DD Bundled Rate

Issue. The Administration **proposes an increase of $44 million in federal fund support and a corresponding reduct ion of $44 millio n in General Fund support** by reconfiguring the rate paid to Intermediate Care Facilities for persons with Developmental Disabilities (ICF-DD), including Habilitative (H) and Nursing (N). (It should be noted that the Administration has a technical error of $17 million within this proposal that will be adjusted at the May Revision.)

Specifically, in order to capture these additional federal funds, the state would have to redefine the ICF-DD facilities as an "all inclusive service" under the California's Medicaid (Medi-Cal) State Plan. **Under the Administration's propo sal, ICF-DD facilities wou ld be responsible for providing Day Programs, transportation, and other assistance (in cases w here generic services are unavailable) . In turn, these services w ould be reflected in the rates paid to the ICF-DD facilities.** Presently, these above described services are *not* part of the ICF-DD rate and are separately paid for by Regional Centers.

Federal regulations allow for a broad definition of the services that can be provided in ICFs with reimbursement under Medi-Cal. Therefore, by using this "all inclusive service" definition, the state can obtain $44 million more in federal funding and can subsequently, reduce state General Fund support by the same amount.

The Administration must submit a "State Plan Amendment" (SPA) to the federal government for approval prior to receipt of any additional federal funds for this purpose. The DHS, as the entity that manages the state's Medicaid Program (Medi-Cal), must submit the SPA. According to the DHS, they intend to submit the SPA to the federal government by no later than September 30, 2007 which should allow for California to claim additional federal funds for services rendered on or after July 1, 2007. (The federal government allows state's to retroactively claim up to 3 months, or one quarter.)

It should be noted that proposals similar to this to increase federal funds by using an "all inclusive rate" have been proposed in prior years by an independent contractor, legislation, and the Legislative Analyst's Office.

Background—Role of the DHS and Description of Intermedi ate Care Facilities (ICF) - DD Servic es. The Department of Health Services (DHS) licenses three types of Intermediate Care Facilities that are available for individuals with developmental disabilities, depending on the nature of their health care needs. These facilities qualify for Medicaid (Medi-Cal) reimbursement for all people in the facilities who are eligible for Medi-Cal.

The DHS, as the single state Medicaid agency for the federal government, is responsible for establishing the rates paid for Medi-Cal reimbursed services. Through the rate setting process, the DHS determines what is, or is not, an allowable cost to be covered under the set rate.

All reimbursement procedures and related Medi-Cal information is contained within California's "State Medicaid" Plan (each state has one), including the rates paid for ICF-DD facilities. Any changes to California's plan, including what is an allowable cost and how to calculate the reimbursement, must be done through a "State Plan Amendment" (SPA) and

submitted to the federal Centers for Medicare and Medicaid (CMS) for approval.

The three facilities affected by the Administration's budget proposal are briefly described below:

- *ICF-DD*. Generally, these facilities provide developmental, training, Habilitative, and supportive health services to individuals who have a primary need for developmental services and a recurring but intermittent need for skilled nursing services. These facilities have certified capacities of 16 people or larger.
- *ICF-DD-H (Habilitative).* Generally, these facilities provide personal care, developmental, training, habilitative and supportive health services for children and adults with developmental disabilities who have a primary need for developmental services and an ongoing, predictable, but intermittent need for skilled nursing services. These facilities have certified capacities from 4 to 15 people.
- *ICF-DD-N (Nursing).* Generally, these facilities provide nursing supervision, personal care, developmental, training, habilitative and supportive health services to medically fragile children and adults with developmental disabilities who have a need for skilled nursing services that are not available through other 4 to15 bed health facilities. These facilities have certified capacities from 4 up to 15 people.

Subcommittee Staff Recommendation—Hold Open, and Have Administration Report Back. This proposed change makes sense because it would allow California to obtain increased federal fund support, but it does require careful and thoughtful planning, and training by the Administration. By directly purchasing day and transportation services, the ICF-DD providers would have a greater ability to obtain services that are consistent with the changing needs of the consumers they serve. Clearly Regional Center support, through case management services, would also continue and would still monitor these services.

Unfortunately, the Administration still has *not* provided Subcommittee staff with any detail as to how the "all inclusive rate" will be structured. These details are clearly important in order for the proposal to work for the various constituency groups affected by the proposed change. In addition, the Administration needs to ensure that the Individual Program Plan (IPP) is the governing process that determines what a consumer needs, and not any other process such as rules which solely govern the Medi-Cal Program. **These details from the Administration are overdue, as such, it is recommended to hold this issue open and have the Administration report back to the Subcommittee on May 7th as to how the change will be accomplished.**

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

1. DHS, Please describe what needs to be done within the Medi-Cal Program to restructure the rate in order for the state to receive the additional federal funds.
2. DHS, What are the timeframes for meeting with providers, clarifying the billing methodology, and submitting the State Plan Amendment to the federal CMS for approval?
3. DDS, How will Day Program providers and transportation providers be reimbursed?

3. Governor Proposes Continuing Tempor ary Cost Containment From Prior Budget Acts

Issue: The Administration proposes to continue several different cost containment actions for 2007-08 that were enacted as part of the Budget Acts of 2002, 2003, 2004, 2005, and 2006. These cost containment actions have been previously adopted by the Legislature in lieu of more sweeping and restrictive actions previously proposed by Governor Davis and Governor Schwarzenegger. **In total, these cost contai nment measures are proposed to save about $250 million ($172.7 million General Fund) for 2007-08.**

The cost containment actions proposed to becontinued by the Administration are discussed individually below. All of these proposed actions require trailer bill legislation.

- *A. Delay in Assessment (RC operations) (-$4,500,000 General Fund):* Through the Budget Act of 2002, trailer bill language was adopted to extend the amount of time allowed for the Regional Center's to conduct assessment of new consumers from 60 days to 120 days following the initial intake. The Governor proposes to continue this extension through 2007-08 through trailer bill language. This is the same language as used in previous years.

- *B. Calculation of Case Management Ratios (RC Operations) (-$32.8 million or -$16.2 million General Fund).* Through the Budget Act of 2003, trailer bill language was adopted to reduce the average RC case manager to consumer ratio from one to 66 (one Case Manager to 66 consumers). Previously, the ratio was one to 62. The Governor proposes to continue this extension through 2007-08 through trailer bill language. This is the same language as used in previous years.

- *C. Non-Community Placement Start-Up Suspension (-$6 million General Fund):* Under this proposal, a Regional Center may not expend any purchase of services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. The Administration's proposed trailer bill language would continue this freeze through 2007-08. The Legislature did provide $3 million (General Fund) for this purpose in 2006-07.

- *D. Freeze on Rate Adjustments for Day Programs, In-Home Respite Agency and Work Activity Programs (-$3.9 million or -$2.9 million General Fund):* The rate freeze means that providers who have a temporary payment rate in effect on or after July 1, 2007 cannot obtain a higher permanent rate, unless the RC demonstrates that an exception is necessary to protect the consumers' health or safety. It should be noted that these programs did receive rate increases in the Budget Act of 2006. As such, their rates for 2007-08 would be frozen at these levels, unless otherwise adjusted as noted.

- *E. Freeze Service Level Changes for Residential Services (-$47.4 million or -$28.4 million General Fund).* This proposed trailer bill language would provide that RCs can only approve a change in service level to protect a consumer's health or safety and the DDS has granted written authorization for this to occur. This action maintains rates at the July 1, 2007 level.

- *F. Elimination of Pass Through to Community-Care Facilities (-$3.2 million, or $1.9 million General Fund):* The SSI/SSP cost-of-living-adjustment that is paid to Community Care Facilities by the federal government is being used to off-set General Fund expenditures for these services for savings of $3.2 million ($1.9 million General Fund).

- *G. Contract Services Rate Freeze (-$160.6 million, or -$190.7 million General Fund):* Some RCs contract through direct negotiations with providers for certain services in lieu of the DDS setting an established rate. Continuation of the rate freeze would mean that RCs cannot provide a rate greater than that paid as of July 1, 2007, or the RC demonstrates that the approval is necessary to protect the consumer's health or safety. The Administration's proposed trailer bill language is the same as last year's, with a date extension to include 2007-08.

- *H. Habilitation Services Rate Freeze (-$2.2 million, or -$2.8 million General Fund):* The Habilitation Services Program consists of the (1) Work Activity Program (WAP), and (2) Supported Employment Program (SEP). The WAP services are primarily provided in a sheltered setting and are reimbursed on a per-consumer-day basis. SEP enables individuals to work in the community, in integrated settings with support services provided by community rehabilitation programs. The Administration's proposed trailer bill language would continue the rate freeze into 2007-08.

  I. Non-Community Placement Start-Up Suspension (-$6 million): Under this proposal, a Regional Center may not expend any Purchase of Services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. The Administration's proposed trailer bill language would continue this freeze through 2007-08.

  With respect to the startup of new programs, the Administration notes that funding would be provided to protect consumer's health and safety or to provide for other extraordinary circumstances as approved by the DDS.

  Limits on this funding were first put into place in 2002. It should be noted that in the Budget Act of 2006, the Legislature did appropriate $3 million (General Fund) for these purposes.

Subcommittee Staff Recommendation—Hold Open Pending May Revision: It is recommended to hold these issues open pending the receipt of the Governor's May Revision.

Questions: The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS,** Please summarize the proposal and why the Administration wants to continue these cost containment strategies into the budget year.

4. Community-Based Preparation for Agnews Closure—*Issues "A" & "B"*

Overall Issue. The **Governor's budget reflects various adjustments related to the Administration's closure of the Agnews Developmental Center by June 30, 2008.** These adjustments are reflected in both the Regional Center item *and* Developmental Center item of the Budget Bill due to the transitioning of consumers from Agnews to other living arrangements.

Overall, the budget proposes a net increase to the developmental services system of $40.3 million ($32.3 million General Fund) due to the anticipated transition of 145 consumers from the Agnews Developmental Center into the community. This net figure includes increases for the Regional Center budget and decreases for the Developmental Centers budget.

Specifically, the Regional Center budget is projected to increase by $50.7 million ($37.9 million General Fund) for the costs of providing services to consumers in the community. The budget for the Developmental Centers (DCs) is projected to decrease by $10.4 million ($5.6 million General Fund), reflecting reduced staffing costs associated with the reduction in the number of Agnews residents. (The DCs budget adjustments are discussed further below under the Developmental Centers section of this Agenda.)

The proposed adjustments are consistent with the Administration's updated plan provided to the Legislature on January 10, 2007, as required by statute. The Administration will be updating the Agnews plan at the time of the Governor's May Revision. However, the principal components of the Agnews plan are expected to remain the same.

The plan to close Agnews Developmental Center was developed over a three-year period and formally submitted to the Legislature in January 2005. Enabling legislation to support the implementation of critical elements of the plan has been enacted, including Assembly Bill 2100 (Steinberg), Statutes of 2004, Senate Bill 962 (Chesbro), Statutes of 2005, Senate Bill 643 (Chesbro), Statutes of 2005, and Assembly Bill 1378 (Lieber), Statutes of 2005.

The Agnews Developmental Center Plan closure is *different* than the two most recent closures of Developmental Centers—Stockton DC in 1996 and Camarillo DC in 1997—both of which resulted in the transfer of large numbers of individuals to other state-operated facilities. **In contrast, the Agnews Plan relies on the development of an improved and expanded community service delivery system in the Bay Area that will enable Agnew's residents to transition and remain in their home communities.**

Among other things, the DDS proposes to achieve this improved and expanded community service delivery system by:

- Establishing a permanent stock of housing dedicated to serving individuals with developmental disabilities;
- Establishing new residential service models for the care of developmentally disabled adults;
- Utilizing Agnew's state employees on a transitional basis in community settings to augment and enhance services including health care, clinical services and quality assurance; and
- Implementing a Quality Management System (QMS) that focuses on assuring that quality services and supports are available in the community, including access to health care services.

Key issues regarding the Regional Center budget adjustments as they pertain to the closure of Agnew s Developm ental Cent er are discussed below , under Issues " A" and "B".

The Devel opmental Center bu dget adjustments as they pertain to A gnews are discussed further below in this Agenda.

Issue "A"—Continued Implementation of the Bay Area Housing Plan ---*Update*

Issue. One of the foundations of the Agnews closure plan is the development of sufficient community capacity to support the transition of Agnew's consumers into the communities that are close to their families. New service and support options are being created that provide choices for each person and reflect the needs of the individual.

The acquisition and development of housing is a critical element. Over 75 percent of the current Agnew's residents will move into Bay Area Housing Plan (BAHP) homes. According to the DDS' most recent housing development plan, a total of 195 consumers are anticipated to reside in BAHP homes as noted in the table below. As of April 1st, 30 homes have been purchased and 8 are in escrow. All 62 homes will be purchased by July 2007.

Table: Summary of Bay Area Housing Plan (For all three Regional Centers)

Type of Home	Number of Homes	Number of Residents
"SB 962" Homes	23	94
Specialized Residential Home	27	71
Family Teaching Home	9	19
Residential Care Facility--Elderly	3	11
Total	**62**	**195**

Specifically by Regional Center, the following can be noted from the DDS' most recent plan **(See Hand Out)**:

- *Golden Gate Regional Center.* It is anticipated that a total of 41 consumers will reside in BAHP homes. With **(1)** 12 consumers living in "SB 962" Homes; **(2)** 26 consumers living in Specialized Residential Homes; and **(3)** three consumers living in Residential Care Facility for the Elderly facilities.

- *San Andreas Regional Center.* It is anticipated that a total of 105 consumers will reside in BAHP homes. With **(1)** 56 consumers to be living in "SB 962" Homes; **(2)** 26 consumers living in Specialized Residential Homes; **(3)** 19 consumers to be living in Family Teaching Homes; and **(4)** four consumers in Residential Care Facility for the Elderly.

- *Regional Center of the East Bay.* It is anticipated that a total of 49 consumers will reside in BAHP homes. With **(1)** 26 consumers living in "SB 962" Homes; **(2)** 19 consumers living in Specialized Residential Homes, and **(3)** four consumers living in Residential Care Facility for the Elderly.

There are several critical steps to the BAHP roll-out, including the acquisition of properties, closure of escrow, working with local zoning and building requirements which can vary across the various jurisdictions (i.e., 13 different cities and towns, plus county requirements), obtaining providers to operate the homes and provide services, obtaining licensing approval, and working closely with consumers and their families.

Background— Bay Area Housing Plan (BAHP). The enactment of Assembly Bill 2100 (Steinberg), Statutes of 2004 and Senate Bill (Chesbro), Statutes of 2005, authorized the DDS to approve proposals from the Bay Area Regional Centers (i.e., San Andreas RC, RC of the East Bay, and Golden Gate RC) to provide for, secure, and assure the payment of leases for housing for people with developmental disabilities.

The Budget Act of 2004 provided $11.1 million (General Fund) for the pre-development costs associated with acquisition and development of housing to implement the BAHP. (These funds can be expended through June 30, 2010 in order to liquidate any encumbrances associated with the BAHP.)

In September 2005, the Department of Finance (DOF) submitted the BAHP and the expenditure plan to the Joint Legislative Budget Committee (JLBC) for review. This plan was approved.

A key component of this plan is a partnership between the DDS, the housing developer—Hallmark Community Services--, the three Bay Area Regional Centers, and the Bay Area non-profit housing development corporations. Through this partnership, they have secured the necessary agreements for bond financing with the California Housing Finance Agency (CalHFA) and construction financing with the Bank of America. These funds are used to acquire properties and either renovate or construct "SB 962" Homes, Family Teaching Homes, and Specialized Residential Homes.

At this time, a total of $70 million in bond financing has been approved by CalHFA for use in acquisition and either renovation or construction of properties associated with the BAHP. The purpose of the taxable and tax-exempt bonds is to fund the permanent financing of the BAHP properties upon completion of respective renovation and occupation by consumers. The entire bond package, issued in phases, will total in the aggregate about $120 million. The bonds will fully amortize over 15 years.

Background—New Models for Residential Services. To address the needs of Agnew's residents, various new models for community-based residential services have been structured. These are briefly described below.

- *"SB 962" Homes.* Senate Bill 962 (Chesbro), Statutes of 2005, directed DDS to establish a new pilot residential project designed for individuals with special health care needs and intensive support needs. Examples of health services that can be provided in this type of home include, but are not limited to, nutritional support; gastrostomy feeding and hydration; renal dialysis; and special medication regimes including injections, intravenous medications, management of insulin, catheterization, and pain management. Nursing staff will be on duty 24-hours per day.

  In addition, an Individual Health Care Plan will be developed and updated at least every six months, and at least monthly face-to-face visits with the consumer by a Regional Center nurse will be done.

  This pilot is a joint venture with the Department of Social Services (DSS) and will serve up to 120 adults, with no more than five adults residing in each facility. This pilot is to be limited to individuals currently residing at Agnews. An independent evaluation of the

pilot will be submitted to the Legislature by January 1, 2009.

- *Specialized Residential Homes.* These homes are designed for individuals with behavioral challenges or other specialized needs, and will serve from three to four consumers per home. These homes provide 24-hour on-site staff with specialized expertise to meet the unique needs of the individuals. These homes have the capability for on-site crisis response.

  It should be noted that when a majority of the consumers living in this model of home turns age 60, the home will need to be re-licensed as a Residential Care Facility for the Elderly (RCFE) (as required by state statute). Therefore, all BAHP Specialized Residential Homes will be constructed to address the physical plan requirements for an RCFE licensure.

- *Family Teaching Homes.* Among other things, Assembly Bill 2100 (Steinberg), Statutes of 2004, added a new "Family Teaching Home" model to the list of residential living options. This new model is designed to support up to three adults with developmental disabilities by having a "teaching family" living next door (usually using a duplex). The teaching family manages the individual's home and provides direct support when needed. Wrap-around services, such as work and day program supports, are also part of this model.

Background—Movement From Agnew s. According to the DDS, as of mid-February, 115 consumers have transitioned from Agnews Developmental Center to the community. One consumer who had moved was returned to Agnews. None of the 115 individuals who have moved have been admitted to another Developmental Center.

As of late March, 244 consumers are residing at Agnews.

Background—Consumer "Pre-Placement". The DDS Coordinator of Consumer Services is meeting with each resident of Agnews to discuss their individualized choices for living options. The DDS states that this coordinator and support staff typically meet with 24 residents per month. Appointments are scheduled with residents one month prior to their Individualized Program Plan (IPP) meeting. The estimated completion date for this project is September 2007.

The DDS states that placement decisions for each consumer are made by an interdisciplinary planning team and reflect the needs of the individual. If a resident is recommended for transition to the community, community-based services are identified and a comprehensive transition process is coordinated by state staff, including the following:

- Day visits to community service providers including the proposed residence, supervised by staff who know the consumer well;
- Overnight visits or weekend visits to the residential placement if the transition is proceeding successfully; and
- A minimum of 15 days prior to community movement, the planning team meets to ensure that all services, including medical services, are ready to help ensure a smooth and safe transition.

If problems arise or it appears that community providers are not able to meet the consumer's needs, the process is delayed or stopped until identified problems can be resolved.

Background—Consumer "Post-Placement" Monitoring. Upon an individual's move to a community living arrangement, state staff and Regional Center staff are to closely monitor the placement to ensure a smooth transition. ***Key* monitoring activities include the following:**

- State staff provide follow-up with the consumer at five days, 30 days, six months, and 12 months after the move;
- Regional Center staff conducts face-to-face visit every 30 days for the first 90 days after the move and as determined by the Individual Program Plan thereafter;
- State staff, in coordination with RC staff, provide additional visits, supports and onsite training to the consumer and service provider as needed to address the individual's service needs;
- For the first year following transition from a Developmental Center, consumers receive enhanced Regional Center case management. For Agnews Developmental Center residents, the enhanced case management is for two years;
- A Quality Assurance Council, consisting of family members, consumers, and providers has been convened to review and monitor the quality of services provided to consumers who have moved from Agnews;
- Medically fragile consumers transitioning from Agnews to homes licensed by the Department of Social Services for consumers with special health care needs will be visited by a nurse at least monthly, or more frequently as appropriate. In addition, these consumers will be seen by a physician at least every 60-days or more frequently if specified in the consumer's healthcare plan;
- For every individual who has moved from a Developmental Center since April 1995, an independent contractor evaluates the consumer's quality of care, programs, health and safety, and satisfaction; and
- The Organization of Area Boards conducts a Life Quality Assessment once every three years for every consumer living in an out-of-home community setting. These assessments assist in ensuring that people are receiving the services they need.

Questions. The Subcommittee has requested the DDS and Regional Centers (i.e., San Andreas, Regional Center of the East Bay and, Golden Gate) to respond to the following questions:

1. DDS, Please briefly describe the "pre-placement" process used to discuss choices for living options with each consumer to be transitioned from Agnews.
2. DDS and Bay Area Regional Centers, Please briefly discuss the housing roll-out and securing service providers to operate the homes.
3. DDS, Please briefly describe how the recently approved Proposition 1C—Housing and Emergency Shelter Fund Act of 2006—may be used to expand affordable housing opportunities as well.

Issue "B"--Health Care Services to be Provided to People Transitioned from Agnews

Issue. The broad provision of health care services, including health, behavioral health and dental, to individuals transitioning from Agnews is of critical concern and is the utmost of importance. As noted in the Administration's Agnews Plan for Closure (latest report of January 2007), 54 percent of the Agnews residents have significant health and extensive personal care needs, and 25 percent are persons with significant behavioral needs.

Though the Specialized Residential Homes and the "SB 962" Homes, as well as certain other existing models of care such as Intermediate Care Facilities-DD, provide certain specialized health care needs in residence, additional health care services need to be accessed and provided in the community.

The DDS states that they have both *short-term* and *longer-term* strategies they are working on with respect to providing health care, including primary care, specialized care, specialized therapies, behavioral health, dental care and vision care.

The three key aspects to their effort to address these needs are as follows:

- Assuring that the comprehensive health needs of each Agnews resident are assessed and a comprehensive individualized health plan is developed prior to any transition;
- Providing medical services to support the transition of Agnews residents to community settings; and
- Developing and implementing a service strategy that assures access to a comprehensive array of health services *after* the closure of Agnews and ongoing.

As described under the background section below, the DDS states that each resident of Agnews will have a comprehensive individualized heath plan. This "Health Transition Plan" specifically states how each health need will be met following transition, as well as the provider of each service.

In addition, the background section below outlines the present efforts being undertaken by the DDS, the three Bay Area Regional Centers and community providers. These various efforts are considerable and are continuing as community resources are identified.

However, the Administration has *not* yet developed a longer-term health care strategy. Specifically, the Department of Developmental Services (DDS) and Department of Health Services (DHS) are working with local health care providers who provide Medi-Cal Managed Care services, including the **(1) Alameda Alliance for Health**, **(2) Santa Clara Family Health Plan**, and **(3) Health Plan of San Mateo**, to provide a *permanent* "health care home" for transitioning Agnew's residents.

The Administration does state that both the Health Plan of San Mateo and Santa Clara Family Health Plan have "special needs plans" (for people who are Medicaid and Medicare eligible) and Alameda is working towards obtaining this designation.

But the detailed specifics of how the Administration intends to proceed in working out all of the arrangements with affected consumers and their families, as well as the arrangements with the above referenced health plans are still in flux.

The Administration states that they are proceeding with the following steps to solidify a longer-term health care strategy:

- *Identify Medical Service Needs of Individuals Transitioning from Agnews (By April 20, 2007).* The DDS and Regional Center of the East Bay are developing a matrix that identifies consumer service needs and clarifies the entity/organization that is responsible for each service. The directors of the three health plans will then meet with Agnews physicians to clarify service needs and to assess their interest in continuing to provide services after the Agnews Developmental Center closure

- *Refine Health Care Strategy (By April 30, 2007).* The DDS, DHS, three Regional Centers and three health plans will meet to review service needs, funding and implementation strategies to assess next steps and to identify any remaining barriers.

- *Develop Funding Strategy for Health Plans (Not Clear).* First, the DDS and DHS will meet by April 30, 2007 to review available cost and utilization data for purposes of establishing an "interim rate" to be paid to the health plans for health care services provided to the consumers. Second, the DHS will then need to determine whether the payment strategy for the health plans will require an amendment to their existing contracts (they all contract under the Medi-Cal Managed Care Program), or whether a new contract is necessary.

  The DHS states that it is likely they will provide an interim rate and then calculate a final settlement to pay the health plans actual costs. The final methodology will need to be agreed to by the health plans as well.

- *Additional Engagement of Consumers and Advocates in Process (By May 15, 2007).* The three Regional Centers will facilitate health plan meetings with consumers, families and advocates in their area. These meetings will be designed to be "listening sessions" to better understand concerns and needs and to provide an orientation for receiving services through one of the health plans.

- *Review Implementation Strategies in Other Areas (By April 6 and May 30, 2007).* DDS is to provide information regarding similar projects in other areas, most notably Minnesota and Massachusetts, to the health plans (by April 6, 2007). The DDS, DHS, health plans and three Regional Centers will then meet with two County Organized Healthcare Systems—CalOPTIMA of Orange County, and Health Plan of San Mateo—to identify implementation issues and strategies (by May 30, 2007).

  It should be noted that both CalOPTIMA and the Health Plan of San Mateo presently serve individuals who have significant health care issues, including individuals who are aged, blind and disabled.

Background--Individualized Health Plan for Each Consumer (See Hand Out). As part of their Individual Program Plan (IPP) process prior to transitioning from Agnews, each Agnews' resident will receive a comprehensive nursing and risk assessment which is comprised of over 60 health-related items. This assessment is then used to develop a Health Transition Plan that is incorporated into the IPP.

The Health Transition Plan specifically states how each health need will be met following transition from Agnews, as well as the provider of each service.

Background—Agnews Developmental Center Outpatient Clinic. In March 2006, the DDS expanded the Agnew's license to provide outpatient medical services to individuals with developmental disabilities who reside in the community (both individuals who have transitioned from Agnews, as well as other individuals with developmental disabilities living in the surrounding area). Medical staff from Agnews is used to provide the services.

Based on recent data, this outpatient clinic at Agnews has provided over 230 services to a total of 185 consumers. The most frequently uses services are dental (accessed 128 times), primary medical care, psychiatry and neurology.

According to the DDS, this outpatient clinic will *likely* end its operation on June 30, 2008, consistent with the identified Agnews Developmental Center closure date. **They note that several factors ultimately determine the longevity of the Outpatient Clinic *past* the June 30, 2008 closure date, including the following:**

- The outpatient clinic will only be licensed and operational as long as Agnews is able to maintain its General Acute Care Hospital license (or make other agreed to arrangements with the Department of Health Services Licensing and Certification Division);
- The staffing capacity at Agnews must be able to support the continued operation of the outpatient clinic; and
- The timing for when the DDS is able to transition outpatient clinic services to the community by partnering with an existing community provider.

Background—Behavioral Health Services. As part of the transition planning, the behavioral health needs of each Agnew's resident are assessed and intervention strategies are identified as appropriate.

Behavioral health services will be provided through various means including the following:

- *"Community Intervention Response Team (CIRT)".* San Andreas Regional Center and Agnews have developed a response team to provide consultation, training, and support to service providers in need of services to transition Agnews' consumers.
  Agnews has dedicated four state staff who receives support from other professional staff (such as psychologists, psychiatrists, pharmacists, and nurses) as needed for this purpose. When a request for service is received, the CIRT assesses the need and deploys staff and resources as appropriate. The staff completes an assessment of the

individual's needs, reviews intervention strategies, and works with the community planning team in the development and implementation of training and treatment plans.

The CIRT is being replicated at Golden Gate RC and the RC of the East Bay.

- *Community Mental Health Services ("generic" service).* Contingent upon an individual's needs certain behavioral health services can be accessed through County Mental Health Plans. The three Regional Centers are working with their local County Mental Health Plans (San Francisco, Santa Clara, Alameda and other counties as appropriate) to coordinate mental health services as appropriate. Memorandums of Understanding (MOUs) exist between these entities with respect to protocols and other matters.

- *Pending Acute Psychiatric Facility.* The three Regional Centers have contracted with Telecare Incorporated to develop an acute psychiatric facility that will be available for persons who are experiencing a behavioral crisis and require *short-term* treatment and stabilization services. The facility will have a capacity to serve 15 persons.

Background—Oral Health Care and Frequent Need for Sedation Dentistry Services. The provision of oral health care is of critical concern since many dental services for this medically fragile population require sedation. **As noted from the Agnews Outpatient Clinic data, dental services are in high demand and are difficult to obtain from traditional dental care providers.** The DDS and Bay Area Regional Centers have proceeded with the following actions to address these needs:

- *Oral Health Assessment of Individuals.* An oral health screening examination will be conducted of each Agnew's resident by the Regional Center Dental Coordinator. These assessments are to be used for transition planning and for referrals to community resources. The DDS also states that each individual will be up-to-date with their dental care services prior to leaving Agnews and that dental services will remain available during the transition period through the Agnews outpatient clinic (while available).
- *"Community Mapping of Available Services".* Each Regional Center has collected information about oral health providers within their geographical area. This mapping project has identified community clinics, dental offices and hospitals that might be sources of treatment for individuals with developmental disabilities. Follow-up is being done with these providers.
- *Survey of Dentists and Dental Hygienists.* The RCs contracted with the University Of the Pacific (UOP) School of Dentistry who has completed a survey of all the dentists and dental hygienists in the Bay Area (600 responded). These professionals will be targeted for further follow-up as sources of care.
- *Continuing Education for Professionals Who Treat Individuals with DD.* UOP is collaborating with the three Regional Centers to provide low-cost continuing education courses for oral health professionals (Spring 2007 first training scheduled). It is anticipated that the attendees will be better prepared to treat individuals with developmental disabilities. Training resources are also being provided by UOP for direct care community staff (who are non-dental professionals) so they can learn to

support good dental hygiene that will promote dental and physical wellness.

- *Establishing Partnerships for Sedation Dentistry Services.* Sedation is often needed when providing dental care and services to individuals with developmental disabilities. San Andreas RC has established a partnership with Sutter Health and Dominican Hospital for these purposes. East Bay RC and Golden Gate RC are working with UOP to identify similar partnerships in their geographical areas.

Background—Cal OPTIMA and the Regional Center of Orange County. After many years of development, Cal OPTIMA (the County Organized Healthcare System of Orange County) is recognized as having a very viable network of health care services for individuals with significant health care needs, including individuals with developmental disabilities.

Cal OPTIMA coordinates the provision of health care services to most Medi-Cal enrollees using managed care principles. Enrollees of Cal OPTIMA are provided services through one of the subcontracting health plans or through Cal OPTIMA "Direct". Through the "Direct" program, enrollees with special health care needs—such as those with dual eligibility (Medi-Cal and Medicare eligible)—receive health care services through a fee-for-service system of providers.

Cal OPTIMA is noted for having strong partnerships with their health plan members, the Regional Center of Orange County, as well as with local non-profit groups and advocacy organizations that provide assistance to diverse individuals, including people with developmental disabilities.

Subcommittee Staff Recommendation—Some Actions Now & Report Back on May 7th. The Administration's longer-term health plan is still being developed as noted above. Therefore, it is suggested to adopt certain recommendations now and to then revisit this issue at the May 7th Subcommittee hearing once more detailed information is obtained from the Administration.

First, it is recommended to increase the Regional Center Operations budget by $503,000 ($126,000 General Fund) to support 4 new positions (i.e., three Chief Health Care Community Specialists at $135,000 each including benefits, and one Assistant Health Care Community Specialist at $98,000 including benefits) at the three Regional Centers. Due to the volume of consumers at San Andreas RC, they will receive the additional Assistant position. These resources are critical in order to ensure that all responsible parties are providing appropriate, high quality health care services to consumers.

It is critically important to have staff at the three Regional Centers to, at a minimum, ensure:

- Development of a complete understanding of how to best meet the needs of persons with developmental disabilities and persons with special health care needs;
- Coordination of services and case management, the monitoring of services, and the overall health and safety of the individual; and

- Coordination between the health care plans, consumers and families and other community-based services.

Second, it is recommended to adopt trailer bill language to ensure continuity of consumer's health care and accountability within the Administration, as well as at the community level between the Regional Centers and the health plans. This proposed trailer bill language is in the Hand Out.

Third, it is recommended to have the DDS and DHS report back at our May 7th Subcommittee hearing regarding the outcomes from their meetings as noted above, and to further discuss the longer-term health care strategies for consumers.

Questions. The Subcommittee has requested the DDS, Department of Health Services (DHS) and Regional Centers to respond to the questions below as appropriate. In addition, the health plans or their representative are also requested to participate in the discussion.

1. DDS, Please briefly describe the key components to the Administration's health plan for individuals transitioning from Agnews, including the role of the Agnews Outpatient Clinic.
2. Regional Centers, Please describe the key components to your activities as they pertain to a consumer's health care, behavioral health and dental services. From your perspective, what needs to occur in order to ensure high quality, health, behavioral health and dental services?
3. DHS, As the administrator of the Medi-Cal Managed Care Program, how will the three health plans— Santa Clara Family Health Plan, Health Plan of San Mateo, and Alameda Alliance for Health—be reimbursed for services *and* what will be their responsibilities?
4. Health Plans, Please share your initial perspectives regarding the Administration's proposal and the next steps that you potentially foresee.

D. ISSUES FOR DISCUSSION—Developmental Centers

Background on Developmental Centers (DCs). State Developmental Centers (DCs) are licensed and federally certified as Medicaid providers via the 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. 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 of these facilities provide services to individuals with severe behavioral challenges.

Background--Summary of Funding and Enrollment. The budget proposes expenditures of $712.3 million ($393.6 million General Fund), excluding state support, to serve *an average of* 2,589 residents who reside in the state DC system. This reflects a caseload decrease of 245 residents or 8.6 percent, as noted in the table below.

Table: Summary of Developmental Center Budget Year Population (Average)

Facility	Revised Current Year 2006-07	Budget Year 2007-08	Difference
Agnews DC	202	82	-120
Canyon Springs (community-based)	61	53	-8
Fairview DC	603	563	-40
Lanterman DC	503	488	-15
Porterville DC	700	673	-27
Sierra Vista (community-based)	46	49	3
Sonoma DC	719	681	-38
Total	**2,834**	**2,589**	**-245**

Background—Transitioning to Commun ity Services. The population of California's Developmental Centers has decreased over time. The development of community services as an alternative to institutional care in California mirrors national trends that support the development of integrated services and the reduced reliance on state institutions.

The implementation of the Coffelt Settlement agreement resulted in a reduction of California's Developmental Center population by more than 2,320 persons between 1993 and 1998. This was accomplished by creating new community living arrangements, developing new assessment and individual service planning procedures and quality assurance systems.

The United States Supreme Court decision in *Olmstead v L.C., et al (1999)* stated that services should be provided in community settings when treatment professionals have determined that community placement is appropriate, when the individual does not object to community placement, and when the placement can reasonably be accommodated.

1. Funding Associated with the Agnews Developmental Center Closure

Issue. The Administration proposes an overall *net* increase to the developmental services system of $40.3 million ($32.3 million General Fund) due to the Agnews closure. This net increase consists of the Regional Center budget component as discussed above and the Developmental Center component. The DC budget adjustment reflects a decrease of $10.4 million ($5.6 million General Fund).

The Administration's adjustments within the Developmental Centers budget specifically for Agnews, for both the revised current-year and budget year, are shown in the table below.

Administration's Fiscal Summary—Agnews Developmental Center

Component Revised	CY 2006-07	Budget Year 2007-08	Difference
1. Agnews DC Base Budget			
Total Dollars	**$83.3 million**	**$73.8 million**	**-$9.3 million**
General Fund	($44.2 million)	($39.3 million)	($4.9 million)
Staff Positions	1,057 staff	975 staff	-82 staff
Beginning Year Residents	280 people	161 people	-119 people
2. Placements into the Community			
Total Dollars	**-$5.7 million**	**-$14.9 million**	**-$9.3 million**
General Fund	(-$3 million)	(-$8 million)	(-$5 million)
Placements	-113 people	-145 people	-32 people
3. Consumer Transfers to Other DCs			
Total Dollars	**$0**	**$-430,000**	**$-430,000**
Transfers		-10 people	-10 people
4. State Employees in the Community			
Total Dollars	**$5.4 million**	**$9.2 million**	**$3.8 million**
Clinical Staff	$1.2 million	$2.1 million	$895,000
Direct Support Services Staff	$3.5 million	$5.3 million	$1.8 million
Support Staff	$0	$449,000	$449,000
Operating Expenses	$616,000	$1.3 million	$694,000
5. Staff Costs for Closure Plan			
Total Dollars	**$716,000**	**$4.9 million**	**$4.2 million**
Staff Transition Costs	$378,000	$628,000	$250,000
Overtime- Consumer Escort	$338,000	$0	$-338,000
Costs for Lump-Sum Buyout	$0	$4.3 million	$4.3 million
6. Facility Preparation	$0	$73,000	$73,000
7. Consumer Relocation Costs	$0	$105,000	$105,000
8. Agnews Staffing Plan	$366,000 (5 positions)	$731,000 (10 positions)	$365,000 (5 positions)
Total Developmental Center Costs			
Total Dollars	**$83.8 million**	**$73.4 million**	**-$10.4 million**
General Fund	($41.8 million)	($36.3 million)	(-$5.6 million)
Staff Positions	980 staff	812.5 staff	-167.5 staff
Year Ending Resident Population	161 people	0	-161 people

It should be noted that the Governor's May Revision will likely make technical adjustments to the above components as more up-to-date information is obtained.

The key adjustments as noted in the table above are discussed below:

- *Agnews Budget Base*. This includes the costs related to the base operations of Agnews DC including personal services, operating expenses and equipment costs.
- *Placements into the Community.* This includes the savings resulting from the relocation of Agnews residents into the community.
- *Consumer Transfers to Other DCs.* This includes the savings resulting from the transfer of 10 Agnews residents to other Developmental Centers.
- *Staff Costs for Closure Plan.* This includes costs for staff transition, staff training, staffing escorts for transportation of consumers, and related aspects.
- *Facility Preparation.* This includes the costs associated with preparing Sonoma to receive Agnew's residents.
- *Consumer Relocation Costs.* This includes costs associated with relocation of consumers, such as moving vans, transportation vehicles and associated expenditures.
- *Agnews Staffing Plan.* This includes costs for non-level-of-care staff in various program areas to ensure adequate staff is maintained during the closure process, as well as maintaining the health and safety of residents.

Subcommittee Staff Recommendation—Keep Open Pending May Revision. The Agnews closure expenditures will be adjusted at the May Revision. As such, it is recommended to keep this item open pending receipt of the May Revision.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. DDS, Please briefly discuss each of the key components of the Agnews DC closure as contained in the table above.

Diane Van Maren (w) 651-4103
Senate Budget & Fiscal Review

Subcommittee No. 3: Monday, April 9th Department of Developmental Services
(Please use the Subcommittee Agenda for this day as a guide with this document please.)

B. ISSUES FOR "Vote Only" (Items 1 through 5; On Pages 4 through 7)

- **Action:** Approve the "**Vote Only" Calendar, Items 1 through 5 on pages 4 through 7 of the Agenda**.
- **Vote: 3-0 on Items 2, 3 and 5.**
- **Vote: 2-1 (Senator Cogdill) on Items 1 and 4.**

C. ISSUES FOR DISCUSSION---COMMUNITY BASED SERVICES

1. "Baseline" Budget for Regional Centers—Purchase of Services *(Page 9)*

- **Action:** Approve the **baseline** Regional Center budget pending receipt of the May Revision.
- **Vote**: 2-1 (Senator Cogdill)

2. Proposed Changes to Intermediate Care Facilities Bundled Rate *(Page 12)*

- **Action:** Held "Open". The DHS/DDS are to provide a comprehensive timeline before the next hearing (May 7th), along with how this is to operate.

3. Governor Proposes Continuing Temporary Cost Containment *(Page 14)*

- **Action:** Held "Open", pending the May Revision.

4. Community-Based Preparation for Agnews Closure—*Issues "A" & "B" (Background on Pages 16 and 17)*

Issue "A"—Continued Implementation of Bay Area Housing---*Update (Page 18)*

- **Action:** None needed, this was an update/oversight review.

Issue "B"--Health Care Services For People Transitioned from Agnews *(Page 22)*

- **Action: The following actions were taken today:**

    1. Increase the Regional Centers Operations budget by $503,000 ($126,000 General Fund) and 4 positions for the three Bay Area Regional Centers for the health care community specialists;
    2. Adopt trailer bill language as contained in the Hand Out (regarding health care protocols); **and**
    3. Required the DHS and DDS to report back at the May 7th Subcommittee hearing to further discuss the longer-term health care strategies for consumers, including the outpatient clinic.

D. ISSUES FOR DISCUSSION—Developmental Centers

(Background on Page 28)

1. Funding Associated with Agnews Developmental Center Closure (Page 29)

- **Action:** Held "open" pending the May Revision.

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Agenda – Part A

Thursday, April 12, 2007
Upon Adjournment of Session
Room 4203 (John L. Burton Hearing Room)
(Eileen Cubanski, Consultant)

Vote-Only Agenda

Discussion Agenda

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.

Vote-Only Agenda

Vote-Only Issue 1: California HIV/Auto-Immune Disorder Demonstration Project

Description: The budget proposes $3.3 million in federal fund authority for the Department of Rehabilitation (DOR) to continue implementation of the California HIV/Auto-Immune Disorder (HIV/AIDS) Demonstration Project. No new positions are requested. The funding is from a federal Social Services Administration (SSA) grant.

Background: Beginning October 1, 2006, DOR was awarded a five-year grant of $12.0 million to study various interventions to assist Supplemental Security Income (SSI) Program beneficiaries with HIV/AIDS in returning to work. The three objectives of the project are to: 1) develop creative and proactive employment supports; 2) increase the self-sufficiency of HIV/AIDS SSI beneficiaries by decreasing their reliance on public benefits; and 3) support a research and evaluation study of the project by Mathematica Policy Research that is being separately funded by the SSA.

The DOR is using a request for proposal (RFP) competitive process to select a contractor for data management and site coordination. The DOR is also using a separate RFP competitive process to select community support services contractors who will work with project participants. The SSA grant requires a non-federal match of five percent to the total funding, or $598,500 over five years, which will be provided entirely by the contracting agencies selected through the RFP process. The project is expected to serve an additional 800 DOR consumers with HIV/AIDS.

Staff Recommendation: Approve as budgeted.

Discussion Agenda

5160 Department of Rehabilitation (DOR)

DOR Issue 1: Office Building (OB) 10 Relocation Support

Description: The budget proposes an increase of $4.0 million ($2.0 million General Fund) for the Department of Rehabilitation (DOR) to furnish, occupy, and operate from OB 10 (721 Capitol Mall) in the summer of 2007. Of the total, $851,000 is one-time.

Background: In fiscal year 2001-02, DOR began discussions with the Department of General Services (DGS) regarding options for DOR to move from their current location at 2000 Evergreen Street back to the downtown area. In May 2003, DOR received formal notification from DGS (with confirmation from the Department of Finance) that DOR would become the occupant of OB 10. The DOR agreed to become the tenant contingent on an augmentation to their budget to cover any increased facilities and moving costs. Without a budget augmentation, DOR will not be able to fund the relocation to and increased rent for OB 10 without redirecting federal Vocational Rehabilitation (VR) funds from services to consumers.

The majority of the requested funds ($3.1 million) would be used to cover increased rent costs. The rental cost is currently an estimate of those costs. The final rent amount will not be known until total bond debt service is calculated and other maintenance costs charged by DGS are known. The DOR indicates that these estimates will be finalized at the May Revision. The remainder of the funds requested are one-time and would be used to complete the move, including furnishing and equipping the new building, moving costs, costs to dispose of private office and modular furniture that can no longer be used, telecommunications costs, and technical support for new IT equipment and network infrastructure.

Questions:

1. Department, please describe the budget request and why the additional costs cannot be absorbed within current resources.

Staff Recommendation: Hold open until May Revision pending final costs for rent at the new facility.

DOR Issue 2: Electronic Records System

Description: The budget requests $466,000 of increased federal fund authority to begin the initial development and procurement process for a new Electronic Records System to replace the existing Field Computer System. The Department of Rehabilitation (DOR) has submitted a feasibility study report to the Department of Finance for this project.

Background: The Department of Rehabilitation (DOR) implemented the Field Computer System in 1990 to partially automate DOR case service functions previously recorded on paper. However, a number of the business functions remain a paper-only process due to limitations of the Field Computer System's design. The technical architecture of the applications supporting the system is based on obsolete technology making the system extremely difficult to maintain. In addition, the Field Computer System cannot track and report performance data now required by the federal government. Inability to provide this information could lead to the loss of federal funds in future fiscal years.

The Electronic Records System would be a commercial off-the-shelf (COTS) product to replace the Field Computer System. The new system would allow DOR to comply with federal reporting requirements as well as fully automate consumer and vendor financial data and payments. The project is scheduled to be completed in 2010-11 at a total cost of $15.8 million.

LAO Concerns: Although the Legislative Analyst's Office (LAO) concurs with the need for new technology, they have concerns about the project timeline and the funding source. The cost of the Electronic Records System is dependent on the proposed project schedule. Based on the LAO's review, they believe that the schedule provided in the approved FSR underestimates the time required for certain activities necessary to prepare users for the implementation of a new system. The LAO notes that the proposed system will require extensive user involvement and training and will require a data conversion effort in order to continue uninterrupted case services and vendor payments. An underestimation of the project schedule will lead to increased costs when the project schedule is revised through the procurement process.

The LAO is also concerned that the federal carryover funds proposed to fund the development and implementation of the Electronic Records System may not be available in future fiscal years. Carryover funds vary from year to year. To the extent that federal funds are not available, it is likely that General Fund support will be required in subsequent years in order to complete the system. The General Fund exposure could be as much as $4.4 million in 2008-09 and $4.6 million in 2009-10.

Questions:

1. LAO, please describe the proposed project and your concerns about it.
2. Department, respond to the LAO, explaining whether, and why, you disagree with their assessment.

Staff Recommendation: Approve as budgeted. The COTS system that will be procured for California's VR program has been successfully implemented in over 20 other states, including other large states, within the proposed timelines. The Legislature will also have another opportunity to provide input to the project as part of the 2008-09 budget process, when the request for proposals will be completed and actual costs are known.

DOR Issue 3: Department of Rehabilitation Requirements in the Statutory Subvention Process

Description: This proposal would result in the enactment of trailer bill language to revise the documents that the Department of Rehabilitation (DOR) provides as part of the statutory subvention process. With the transfer of the Habilitation Services Program to the Department of Developmental Services (DDS) on July 1, 2004, it is no longer appropriate for DOR to use the subvention process as it is currently prescribed in statute for other departments in building their annual budget.

Background: The Vocational Rehabilitation (VR) grant is administered by the federal government and is provided to DOR to provide vocational rehabilitation services to individuals with disabilities. The federal government does not dictate how the grant must be divided between direct services and administration, and the total amount of the VR grant provided to California is not based on the number of consumers served.

The DOR began providing subvention tables to the Department of Finance (DOF) in 2003 for the purposes of budgeting for the Habilitation Services Program. Subvention tables were needed because the Habilitation Services Program is an entitlement program funded with General Fund "local assistance" (subvention) category. The nature of local assistance subvention funding dictates that the funding is given to local providers who in turn perform services directly to consumers. Conversely, VR grant funds are provided by DOR as direct services to consumers; thus the VR funding is not subvented to local providers. However, DOF required that DOR provide subvention tables for both the federal VR funds and the Habilitation Services Program General Funds.

The Habilitation Services Program was transferred to the Department of Developmental DDS commencing July 2004. Therefore, it is not appropriate to include DOR in the existing statutory subvention process. Use of the subvention process for budgeting federal VR funds prevents funds from being allocated in the most programmatically efficient way. Although DOR should still be required to submit caseload and fiscal documents by the existing statutory deadlines in building their budget, the documents should allow DOR to more efficiently use their funds.

Questions:

1. Department, please describe the problem with using the subvention process to budget federal Vocational Rehabilitation funding.

Staff Recommendation: Direct Subcommittee staff to work with the Department of Finance, the Department of Rehabilitation, and the Legislative Analyst's Office to revise the budget documents DOR is statutorily required to submit and develop trailer bill language implementing those revisions.

Senate Budget & Fiscal Review Committee
Eileen Cubanski 651-4103

Hearing Outcomes

Subcommittee No. 3
9:00 am, Thursday, April 12, 2007

Vote-Only Agenda

5160 Department of Rehabilitation

- Vote-Only Issue 1: California HIV/Auto-Immune Disorder Demonstration Project
  Action: Approve as budgeted.
  Vote: 3-0

Discussion Agenda

5160 Department of Rehabilitation (DOR)

- DOR Issue 1: Office Building (OB) 10 Relocation Support
  Action: Held open until May Revision pending final costs for rent at the new facility.
  Vote: 3-0
  1. The Subcommittee requested more detail on what comprises the $851,000 in one-time costs.
  2. The Subcommittee asked DOR to confirm whether the competitive bid process for the move is open to only unionized contractors or all contractors.

- DOR Issue 2: Electronic Records System
  Action: Approved as budgeted.
  Vote: 3-0

- DOR Issue 3: Department of Rehabilitation Requirements in the Statutory Subvention Process
  Action: The Subcommittee directed subcommittee staff to work with DOR, DOF, and the LAO to develop trailer bill language to improve the information provided to the Administration and the Legislature by DOR as part of the budget process. The issue is to be brought back to the Subcommittee in time for the May Revision hearing.
  Vote: 3-0

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 3 Agenda

Chair, Senator Elaine Alquist
Senator Dave Cogdill
Senator Alex Padilla

Agenda – Part "C"

Thursday, April 12, 2007
Upon adjournment of session
John L. Burton Hearing Room (4203)

Consultant, Brian Annis

Labor Agency and Select Departments

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.

Department Budgets Proposed for Consent / Vote-only

7120 California Workforce Investment Board

The federal Workforce Investment Act (Act) of 1998 established new requirements for employment and training programs for adults, youth, and dislocated workers. Pursuant to the provisions of the Act, California established a state Workforce Investment Board (Board) comprised of: (1) the Governor; (2) two members of the Senate, appointed by the President pro Tempore; (3) two members of the Assembly, appointed by the Speaker; and (4) representatives of business, labor organizations, community-based organizations, schools and colleges, state agencies, and local governments, appointed by the Governor. The Board is tasked with developing workforce development programs into an integrated workforce investment system that can better respond to the employment, training, and education needs of its customers.

Proposed Budget: The Governor proposes $4.5 million (federal funds and reimbursements) and 20.9 positions for the Board's budget – a decrease of $428,000 from adjusted current-year expenditures, and no change in positions. The Administration did not submit any Budget Change Proposals for the Board; however, the Administration did make a policy decision to shift $400,000 from the Board to the Employment Development Department. The $400,000 shifted is federal Workforce Investment Act funds that would be used for direct workforce development activities in the EDD budget. No concerns have been raised with this shift.

Staff Recommendation: Approve as budgeted.

Department Budgets Proposed for Discussion and Vote

0559 Secretary for Labor and Workforce Development

The Labor and Workforce Development Agency (Agency) brings together the departments, boards, and commissions, which train, protect and provide benefits to employees. The Agency is primarily responsible for three different types of functions, labor law enforcement, workforce development, and benefit payment and adjudication. The Labor and Workforce Development Agency includes the Department of Industrial Relations, the Employment Development Department, the Agricultural Labor Relations Board (which is heard in Subcommittee #2) 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.

Proposed Budget: The Governor proposes $2.2 million (reimbursements from departments and penalty assessments) and 14.2 positions for the Secretary's budget – a decrease of $135,000 and no change in positions.

Issue for Discussion / Vote:

Issue 1: Employer / Employee Labor-Law Education (Staff Issue)

Description: The Administration requests expenditure authority of $15,000 (Labor and Workforce Development Fund) for the purpose of funding employer/employee education efforts. This relates to two bills passed in 2003 and 2004 (see below). Because revenue received last year, and to-date this year, has exceeded expectations, the Subcommittee may want to consider augmenting funding for this program.

Background / Detail: This issue relates to the following two bills:

- **Assembly Bill (AB) 276 (Chapter 329, Statutes of 2003, Koretz):** This bill increased penalties for violations of specified provisions of the Labor Code and provides that 12.5 percent of the employer penalties for failure to pay wages or unlawfully withholding wages shall be placed in a fund within the Agency to be used to educate employers about state labor laws. The remainder of the penalty is to be deposited in the General Fund. The analysis for AB 276 estimated annual total penalty revenue of $800,000, with about $100,000 of that available to the Agency for education efforts.
- **Senate Bill (SB) 180 9 (Chapter 221, Statutes of 2004, Dunn):** This bill allows employees to bring civil actions to recover civil penalties provided for violations of the Labor Code. These provisions are called the Private Attorneys General Act of 2004. The statute divides the penalties collected between the Agency (75 percent) and the aggrieved employee (25 percent). The Agency share is specified for

education of employers and employees about their rights and responsibilities under the Labor Code. No estimate of civil penalty revenue was included in the analyses of SB 1809.

Staff Comment: The Administration has been more conservative in its estimates of program revenue than the analyses associated with the enacting legislation. Last year, the Administration proposed ongoing expenditure of $15,000. However, when a single penalty payment bumped 2005-06 revenue over $100,000, the Administration agreed to a one-time expenditure increase to $100,000 in 2006-07. The Administration has built $15,000 into the 2007-08 budget; however, recently-paid penalties have resulted in 2006-07 revenue above $500,000. Due to higher revenue for this special fund program, the Subcommittee may want to consider increasing the program up to about $200,000 on an ongoing basis. This ongoing amount could be further adjusted in future years if program revenue changes.

Revised Administration Plan: Recognizing the new revenue, the Administration has recently prepared a $211,000 expenditure plan for implementation in 2008-09. The Administration believes it is too late in the budget process for them to prepare a Finance Letter to implement the new expenditure plan in 2007-08. The new plan would 1) establish a toll-free 800 number that workers could call to get information about worker rights and labor law; 2) create a limited term position to respond to questions on the toll-free line; and 3) create a bus advertising campaign to tell workers about the toll free number.

Questions:

1. Agency, please provide an updated revenue report and explain the new expenditure plan.
2. LAO, please comment on this request and the feasibility of implementing the Administration's new expenditure plan in 2007-08 instead of 2008-09.

Staff Recommendation: Permanently augment this item from $15,000 to $211,000 to accelerate the Administration's new labor-law education plan by one year (from 2008-09 to 2007-08).

7100 Employment Development Department

The Employment Development Department (EDD) administers services to employers, employees, and job seekers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, administers the Paid Family Leave Program, and assists job seekers by providing employment and training programs under the federal Workforce Investment Act of 1998. In addition, the EDD collects and provides comprehensive labor market information concerning California's workforce.

The January Governor's Budget proposed $10.8 billion ($44.4 million General Fund) and 8,739.4 positions, a decrease of $332 million and 242.8 positions from the revised current-year budget. The change primarily results from a revised forecast of benefit payments in 2006-07 and 2007-08. The table below compares current year and proposed budget year expenditures. The budgeted amounts for 2006-07 benefit payments include a 10-percent buffer for uncertainty; therefore, actual 2006-07 benefit payments will likely be less than indicated below.

Expenditure by Program (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Employment & Employment Services	$181,852	$153,065	-$28,787	-15.8
Tax Collections & Benefit Payment				
State Operations	632,749	633,923	1,174	0.2
Disability Insurance Payments*	4,427,751	4,306,570	-121,181	-2.7
Unemployment Insurance Payments*	5,176,629	5,023,681	-152,948	-3.0
School Employees Payments*	87,170	79,181	-7,989	-9.2
Unemployment Insurance Appeals Board	73,008	74,533	1,525	2.1
Administration	54,971	57,259	2,288	4.2
Distributed Administration	(51,194)	(51,194)	0	0.0
Employment Training Panel	53,711	53,939	228	0.4
Workforce Investment Act	446,761	420,491	-26,270	-5.9
National Emergency Grant Program	45,000	45,000	0	0.0
Total	$11,128,408	$10,796,448	-$331,960	-3.0

* 2006-07 amounts include a 10-percent buffer above the forecast

(see next page for issues)

Issues Proposed for Consent / Vote Only
(See following page for Staff Recommendation)

Vote Only Issue 1: Disability Insurance Automation IT Project (BCP #1)

Description: The Administration requests an augmentation of $1.6 million (special funds) and 6.6 positions to fund the second year of a four-year information technology project that is estimated to cost a total of $28.9 million (last year, the Subcommittee approved funding for the first year of the project). The Administration indicates that the system would provide greater access to services for claimants, medical providers, and employers.

Detail / Background: The Disability Insurance Automation Project – Phase 3 (DIAP3) would replace and improve functionality currently provided from key-data-entry personnel and two legacy IT systems. With expected efficiencies that would result in the elimination of 67 positions upon full implementation, the Feasibility Study Report (FSR) indicates a net cumulative project cost that falls to $9.5 million by 2011-12. With annual net savings of almost $9.6 million in 2011-12, the FSR implies this project should pay for itself by around 2013-14.

Vote Only Issue 2: Automated Collection Enhancement IT Project (BCP #4)

Description: The Administration requests 2007-08 funding of $2.8 million ($2.5 million General Fund) and 15 existing limited-term positions for year-two of the Automated Collection Enhancement System (ACES) information technology project (last year, the Subcommittee approved funding for the first year of the project). EDD indicates that this is a seven-year project with a total cost in the range of $93 million. However, EDD also estimates this system will enhance the collection of penalties and back-wages and generate a total of $583 million in additional revenue over a ten-year period (and about $70 million ongoing). Approximately $53 million of the $70 million in ongoing revenue will benefit the General Fund.

Detail / Background: ACES is a collection system modeled after the systems currently used by the Franchise Tax Board and the Board of Equalization. The ten-year $583 million revenue estimate noted above is based on the success of projects of a similar nature implemented by other tax and revenue organizations, both within and outside California.

Vote-Only Issue 3: Federal "WIRED" Grant (April Finance Letter #1)

Description: The Administration requests an increase in budget authority of $2.5 million in 2007-08 (a total of $5 million over 3 years) to expend a Workforce Innovation in Regional Economic Development (WIRED) grant, which was recently awarded to California by the federal Department of Labor.

Detail / Background : The Northern Rural Training and Employment Consortium (NoRTEC) was selected by the federal government as the grantee (via EDD). The purpose of the grant is to promote high-skill, high wage job growth and opportunities. Last year, the Subcommittee approved a similar proposal for a WIRED grant awarded to the California Space Authority.

_____

Staff Recommendation: Approve all the vote-only issues (Issues 1 – 3).

Issues for Discussion and Vote:

Issue 4: Program Benefit Adjustments (October 2006 Revise)

Description: The EDD budget reflects adjusted benefit expenditures in the current year and budget year. The adjustments are a result of recent benefit claim levels and of the October 2006 forecast of future claims. The Department will submit a revised forecast for benefit expenditures as part of the May Revision. The amounts included in the January Governor's Budget for 2006-07 benefit payments include a 10-percent buffer for uncertainty.

- **Unemployment Insurance (UI):** Benefits are proposed to decrease by $475.0 million in 2006-07 (excluding the buffer) and decrease by $157.4 million in 2007-08 (both relative to the 2006 Budget Act base). Additionally, operations expenditures are proposed to decrease by 216.4 personnel years and $16.6 million in 2006-07 and decrease 225.6 personnel years and $18.0 million in 2007-08.
- **Disability Insurance (DI) Program:** Benefits are proposed to increase by $91.1 million in 2006-07 (excluding the buffer) and increase by $382.0 million in 2007-08 (both relative to the 2006 Budget Act base). Additionally, operations expenditures are proposed to increase by 36.6 personnel years and $2.6 million in 2006-07 and increase 63.4 personnel years and $5.1 million in 2007-08.
- **School Employ ees Fund Program:** Benefits are proposed to decrease by $10.0 million (including the buffer) in 2006-07 and decrease by $17.8 million in 2007-08. No staffing changes are requested in either year.
- **Workforce Investment Act (WIA) Program:** WIA expenditures are proposed to decrease by $5.7 million in 2006-07 and decrease by $30.6 million in 2007-08.

Questions:

1. EDD, please describe changes in economic conditions and benefit claims that have occurred since the October forecast. Additionally, describe the outlook for future claims levels and the UI Fund balance.

Staff Recommendation: Hold open for anticipated May Revision changes.

Issue 5: Job Services Program Cut (BCP #5)

Description: The Administration requests a $27.1 million cut to the Job Services Program. This cut would remove all State funding (EDD Contingent Fund) from the Job Services Program and eliminate 271 positions. The program would continue at a reduced level of activity using $138.3 million in federal funds and $14.8 million in reimbursements. This proposal represents a cut of about 16 percent to the program. In addition to the proposed cut, EDD did not receive an augmentation for the cost-of-living (COLA) salary increases related to recent bargaining unit contracts. EDD indicates they would need an additional $5.0 million to fund these COLAs for the remaining positions. Without this funding, EDD will have to hold an additional 47 positions vacant (beyond the eliminated positions).

Background / Detail: Since 1983, the EDD Contingent Fund has been utilized to supplement federal funds in supporting the Job Services Program. The Department indicates the job service centers annually provided services to more than one million job seekers and 53,000 employers. Many job services centers are cooperative ventures with local entities, including local Workforce Investment Boards, and county CalWORKs offices (the CalWORKs aspect of the proposed reduction was discussed by the Subcommittee at the March 29 hearing). In last year's budget, the Administration proposed, and the Legislature approved, an augmentation in EDD Contingent Funds of $6.9 million to maintain 93.0 positions that would have otherwise been eliminated due to federal cuts.

Decreased Federal Support: The decline in federal job funds was summarized last year in a letter dated March 17, 2006, that the Governor wrote to Congressman Ralph Regula, then the Chairman of the Subcommittee on Labor, Health and Human Services Education and Related Agencies, Committee on Appropriations:

Workforce Investment Act (WIA) Programs – Since the initial appropriation for the Workforce Investment Act (WIA) in 2000, the amount allocated by Congress has decreased in each of the last six program years. The decrease in California for WIA's three funding streams has been $196.1 million, over 31 percent. Appropriations for the Wagner-Peyser Act have also decreased in the last five years. The total decrease for California's Job Services program equates to nearly 9 percent. These constant reductions of federal appropriations significantly impair California's ability to provide employment and training services at the level necessary to meet the needs of California's changing and expanding workforce and economy. Maintaining funding for federal WIA programs at the current level is a priority for California.

LAO Recommendation: In the *Analysis of the 2007-08 Budget Bill*, the LAO withholds recommendation pending receipt of supporting information from the Administration. On April 5, 2007, EDD provided the LAO and Committee Staff a detailed Job Services Reduction Plan that indicates positions eliminated by region and office. Attachment I to this agenda is the EDD summary table for position cuts at each office (excluding the 54 central administrative positions that would also be cut).

Questions:

1. EDD and Department of Finance, please describe the service reductions that would result from the cut in positions.
2. EDD and Department of Finance, please indicate how this proposal relates to the CalWORKs proposed reductions.

Staff Recommendation: Keep this issue open for the May Revision and further discussion on the CalWORKs impact of this proposal.

Issue 6: Tax Sharing Ratio Change (BCP #2 and April Finance Letter #2)

Description: The Administration requests a funding shift for tax collection workload. The shift would result in a net-zero change in expenditures, but would increase General Fund expenditures by $13.5 million and reduce Disability Insurance and Employment Training Fund expenditures by $11.1 million and $2.4 million respectively. EDD collects taxes in the following areas: Unemployment Insurance, Disability Insurance, Employment Training, and employer-withholdings for Personal Income Tax. This proposal would shift the funding for the tax-collections positions to reflect the pro rata workload for each tax. The April Finance letter is a technical correction related to this proposal.

Background / Detail: Given the $13.5 million General Fund cost of this proposal, staff has asked EDD what would happen if this shift is delayed a year or more. There was initially some discussion of federal sanctions, but staff now understands from EDD that the federal government does not object to the current funding allocation. The benefit of this proposal seems to focus more on appropriate state accounting.

Question:

1. EDD and Department of Finance, due to the General Fund shortfall for 2007-08 and the difficult reductions proposed (such as the Job Services cut), can this proposal be delayed for a year?

Staff Recommendation: Keep this issue open. If it appears possible to delay this proposal for a year, staff recommends keeping this issue open until the General Fund condition is reassessed with the May Revision of the Governor's Budget.

Issue 7: Workforce Investment Act (LAO Issue)

Description: The LAO recommends the Legislature reallocate federal Workforce Investment Act (WIA) funds to shift $3.4 million from new regional collaboratives to existing parolee employment programs, and adopt related budget bill language. Attachment II to this agenda is an LAO table that summarizes the proposed funding allocation. Regional collaboratives are training projects developed at a regional level by a partnership of business, labor, foundations, and other public agencies. The LAO indicates regional collaboratives were tried in the 1990s and mostly fell short in meeting their job placement goals. The shift of the $3.4 million from Regional collaboratives to the parolee programs would not change the mandated level of parolee programs, but would result in a General Fund savings of the same amount.

Background / Detail: The Administration estimates the State will receive approximately $413.3 million in federal WIA funds for expenditure in the 2007-08 budget. Under federal law, 85 percent of WIA funds are allocated to local Workforce Investment Boards for employment and training services. The remaining 15 percent (about $62 million) is available for State discretionary purposes such as administration, statewide initiatives, and competitive grants for employment and training programs. The LAO produced the chart on Attachment II that shows how proposed 2007-08 allocations differ from 2006-07.

Questions:
1. LAO, please summarize your recommendation.
2. EDD, please comment on the LAO recommendation.

Staff Recommendation: Keep this issue open. There is usually a Workforce Investment Act adjustment proposed with the May Revision. Keep open to hold action until a complete WIA funding picture is known.

Issue 8: Employment Training Panel Funding

Description: The Administration requests a shift of $15.0 million (Employment Training Fund) from the Employment Training Panel (ETP) program to the Department of Social Services' CalWORKs program. This proposal results in General Fund savings of $15.0 million, because absent the shift, the General Fund would incur the CalWORKs cost.

Background / Detail: The Employment Training Panel was created in 1982 to improve the skills of California's workforce and retain businesses in the state. The ETP is funded through the Employment Training Tax, a special tax which is levied on employers who participate in the Unemployment Insurance Program. Historically, revenue has annually averaged $70 million to $100 million. The ETP program primarily funds "employer-focused" job training – more than 90 percent of ETP supports training of incumbent workers. The Employment Training Fund money transferred to CalWORKs supports job training services for CalWORKs clients. The following table shows how Employment Training Fund money has been distributed between ETP and CalWORKs in recent years ($ in millions). Last year, the Governor had proposed a reverse shift of $5 million from CalWORKs back to the Employment Training Panel. The Legislature increased this shift so the Employment Training Panel received an additional $12.9 million.

The CalWORKs aspect of the Employment Training Panel budget was discussed at the March 29, 2007 Subcommittee hearing. As page 24 of the agenda for that hearing noted, the ETP recently began a work pilot program to train CalWORKs recipients. The ETP has dedicated $2.6 million to the pilot to train 585 individuals.

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08*
ETP Appropriation	$75.8	$76.0	$76.0	$18.2	$44.0	$37.8	$58.2	$59.2
Percent to ETP	65%	51%	65%	22%	48%	44%	75%	63%
CalWORKs Appropriation	$30.0	$61.7	$30.0	$56.4	$40.0	$37.9	$20.0	$35.0
Percent to CalWORKs	26%	41%	26%	68%	43%	44%	25%	37%

* Proposed

Questions:

1. Employment Training Panel, please summarize the CalWORKs pilot program.
2. LAO, please comment on the CalWORKs pilot and the proposed ETP budget.

Staff Recommendation: Keep this issue open, so action can be coordinated with the CalWORKs budget as appropriate.

7350 Department of Industrial Relations

The objective of the Department of Industrial Relations (DIR) is to protect the workforce in California; improve working conditions; and advance opportunities for profitable employment. The Department enforces workers' compensation insurance laws and adjudicates workers' compensation insurance claims; works to prevent industrial injuries and deaths; promulgates and enforces laws relating to wages, hours, and conditions of employment; promotes apprenticeship and other on-the-job training; assists in negotiations with parties in dispute when a work stoppage is threatened; and analyzes and disseminates statistics which measure the condition of labor in the state.

The January Governor's Budget proposed $384.5 million ($68.2 million General Fund) and 2,739.0 positions, an increase of $21.8 million (including a General Fund decrease of $211,000) and 31.9 new positions.

Expenditures by Program (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Self-Insurance Plans	$3,731	$3,778	$47	1.3
Mediation/Conciliation	2,358	2,359	1	0.0
Workers' Compensation	166,474	179,024	12,550	7.5
Commission on Health and Safety and Workers' Compensation	3,132	3,080	-52	-1.7
Division of Occupational Safety and Health	89,509	96,652	7,143	8.0
Division of Labor Standards Enforcement	48,909	50,382	1,473	3.0
Division of Apprenticeship Standards	10,478	11,207	729	7.0
Division of Labor Statistics and Research	4,008	3,904	-104	-2.6
Claims, Wages, and Contingencies	34,132	34,132	0	0.0
Administration	30,205	31,366	1,161	3.8
Distributed Administration	(30,205)	(31,366)	-1,161	0.0
Total	$362,731	$384,518	$21,787	6.0

(see next page for issues)

Issues Proposed for Consent / Vote Only
(See page 18 for Staff Recommendation)

Vote Only Issue 1: Licensing and Registration Unit Positions (BCP #2)

Description: The Administration requests an augmentation of $408,000 ($385,000 General Fund and $23,000 Car Wash Workers Fund) to add 5.0 positions (2.5 position permanent, 2.5 positions limited-term) to address the increased workload in the Licensing and Registration Unit. The Licensing and Registration Unit oversees the additional reporting and registration requirement placed on industries that have historically poor records for complying with labor laws. These industries include farm labor contracting, garment manufacturing, and car washing and polishing businesses, among others.

Background / Detail: The Department provided information showing growth in the work backlog between December 30, 2004 and June 30, 2006. The Department indicates that, without this increase, customer service levels will decline and enforcement, which depends on licensing and license verification, will be impeded. Included in the $385,000 General Fund augmentation request is a shift of $160,000 to the General Fund of activities funded by the Car Wash Workers Fund since 2005-06. The Administration indicates this matches Division activities to the appropriate funding source.

Vote Only Issue 2: Senior Safety Engineer Position (BCP #3)

Description: The Division of Occupational Safety and Health requests one new Senior Safety Engineer position and $158,000 General Fund to address increased workload for the Occupational Safety and Health Standards Board. The Board, a seven-member body appointed by the governor, adopts safety and health standards, providing the basis for Division of Occupational Safety and Health enforcement. According to the Department, the new positions would work on federal updates, rulemaking development, petitions, variances, advisory committees, adoption of emergency standards, and special requests. The Department provided data showing growth in the number of variance and petition submittals over the past 4 years, and indicates this is a major workload driver that justifies the addition of the new position. The Administration indicates the General Fund cost of this proposal is offset by savings generated by BCP #4.

Vote Only Issue 3: Funding Shift for Workers' Compensation (BCP #4)

Description: The Division of Labor Standards Enforcement requests to shift $1.1 million and 8.8 positions from the General Fund to the Workers' Compensation Administration Revolving Fund. The Department indicates these positions support workers' compensation enforcement activities, and as such, it is appropriate to use workers' compensation special fund revenue to support them. The Department proposes to use the General Fund savings to fund the following: a restoration of the Industrial Welfare Commission budget (BCP #1, $449,000); a staffing increase in the Licensing and Registration Unit (BCP #2, $383,000); and the addition of one Senior Safety Engineer (BCP #3, 158,000).

Vote Only Issue 4: IT Project Reappropriation / Expenditure Adjustments (BCP #5 & April Finance Letter #1)

Description: The Division of Workers' Compensation requests a reappropriation of $9.4 million, and additional multiyear funding of $12.4 million, for the Electronic Adjudication Management System (EAMS) due to unforeseen delays that occurred in the contract solicitation process and a higher-than-expected project bid. This project was approved by the Legislature with the 2004 Budget Act and has a new total cost of $36 million (Workers Compensation Administration Revolving Fund). A Section 11.00 letter to the Legislature, received in October 2006, notified the Joint Legislative Budget Committee of the cost increase. The Department has since signed a contract with a vendor to implement the system. The EAMS replaces the current on-line Vocational Rehabilitation and Disability Evaluation Unit system with a commercial-off-the-shelf case management, calendaring, document management, and cashiering solution. The Department expects annual savings of 17.3 positions (measured in personnel years) and $3.3 million, which will be redirected to cover baseline operations. The April Finance letter makes further adjustments to the expenditure plan (and related budget bill changes) to account for further delays in procurement.

Vote Only Issue 5: Federal Labor Compliance Funding (BCP #6)

Description: The Division of Occupational Safety and Health requests an increase in federal-fund expenditure authority of $72,000 and one new Associate Safety Engineer position to conduct outreach activities to both employers and employees, provide technical compliance assistance to motivated employers in the tree trimming and reforestation industries, in both English and Spanish. The cost of this position, beyond the new $72,000 in federal funds, would be absorbed within existing special-fund resources.

Vote Only Issue 6: Elevator, Ride, and Tramway Unit Positions (BCP #7)

Description: The Division of Occupational Safety and Health requests an augmentation of $1.9 million (Elevator Safety Fund) and 16.0 positions to fully implement the elevator safety requirements of SB 1886 (Chapter 1149, Statutes of 2002). SB 1886 broadened the type of conveyances covered under the law and required operators to obtain a pre-work permit for new installations. Permit fees would cover the cost of the staff associated with this request. According to the Department, the Legislature approved a Finance letter to add 37 positions for this function in 2003-04; however, many of the positions were lost due to the hiring freeze and position elimination that occurred at that time. As a result, DIR did not fully implement SB 1886, but with this request would begin to perform the pre-build plans reviews.

Vote Only Issue 7: Information Technology Positions (BCP #9)

Description: The Department requests $651,000 ($5,000 General Fund and the remainder various special funds) and 5.6 positions to address ongoing workload in the areas of: data preservation and litigation support; server support; network support; new technologies; and project management and security. The Department indicates 7.0 positions were lost from state-wide position reductions in 2003-04, and that the reduced staff level has resulted in delayed security upgrades and a high level of server crashes.

Vote Only Issue 8: Electrician Certification Unit Positions (BCP #10)

Description: The Division of Apprenticeship Standards requests an augmentation of $323,000 (Electrician Certification Fund) to permanently continue 4.0 positions of 7.0 limited-term positions authorized in 2005-06. Assembly Bill 1087 (Chapter 48, Statutes of 2002) required all electricians in California to take and pass a standardized certification examination. All certified electricians must subsequently submit proof to the Division every three years that they have completed sufficient hours to keep their certification current. The Department indicates that only about 26,000 of an estimated 70,000 electricians have been certified. Current law sets the certification deadline on January 1, 2007. The Department believes that without the requested positions, it will be unable to process workload in a timely manner, and this would delay certain individuals from obtaining employment.

Vote Only Issue 9: Medical Treatment Utilization Review (BCP #12)

Description: The Division of Workers' Compensation requests a net augmentation of $312,000 (special fund) to fully implement medical treatment utilization reviews. Pursuant to the requirements of Senate Bill 228 (Chapter 639, Statutes of 2003), employers must establish a utilization review process to evaluate treatment requests consistent with the medical treatment utilization schedule adopted by the Department. This request would provide for 3 new positions in the Medical Unit (redirected from the Rehabilitation Unit) and $350,000 for two external contracts. These resources would allow the department to investigate, and assess penalties, as warranted, to private companies offering utilization review services.

Background / Detail: The Department is requesting these funds now, instead of when SB 228 became effective, because it has taken time to develop regulations and the utilization schedule. One external contract, estimated at $275,000 annually, would fund an external medical review company to assist Department staff conducting on-site utilization review investigations. The other external contract, estimated at $75,000 annually, would fund a technical reviewer to examine evidence-based medical literature and help with the augmentation of existing utilization review guidelines. The three redirected positions would be reclassed as 2.0 Nurse Consultant II positions and 1.0 Research Analyst II positions, with net savings from the reclass of $38,000. The positions would be transferred from the Rehabilitation Unit, which the Department indicates has a declining workload.

Vote Only Issue 10: Internal Labor Relations Unit (BCP #19)

Description: The Department requests $223,000 (various special funds) and 2.0 new positions to augment staffing in the Labor Relations Unit within the Personnel Office. The requested Labor Relations Manager I and Labor Relations Analyst would increase Unit staff from one to three, which is still less than the peak staff level of four prior to 2002.

Background / Detail: The Department indicates these positions would perform the following workload: develop statewide departmental labor relations policy; conduct meet-and-confer discussions with the various unions; prepare grievance arbitration cases; respond to employee grievances and complaints; and provide training to supervisors and managers on employee-relations matters. According to the Department, additional staff would result in fewer labor/management problems. The Department provided data on labor relations staffing at 8 other large departments. Those departments had total staffing that ranged from 1,850 personnel years to 10,000 personnel years, and had from 2 to 10 Labor Relations positions.

Vote Only Issue 11: Census of Fatal Occupational Injuries Shift (BCP #21)

Description: The Department requests to shift the Census of Fatal Occupational Injures (OFOI) Program from the Division of Labor Statistics and Research to the Division of Occupational Safety and Health (DOSH). The shift would involve 2.0 positions and $112,000 (half federal funds and half General Fund). The OFOI Program has been implemented in all 50 states and collectively produces comprehensive statistics of fatal work injuries. The Department believes that moving the program to DOSH will improve the ability of the Division to analyze fatality data, identify high-hazard occupations and industries, and develop recommendations for injury prevention.

Staff Recommendation: Approve all the vote-only issues (Issues 1 – 11).

Discussion / Vote Issues:

Department-wide or Crosscutting Issues

The following issue affects more than one division at the Department of Industrial Relations.

Issue 12: Statutorily-Required Reports (Staff Issue)

Description: The Department has several overdue reports, and its overall record for submitting reports by statutory dues dates appears to be deficient. The table below shows the current status (as of April 10, 2007) of recently submitted and overdue reports.

Report Division		Statutory Due Date	Status
Report on the Uninsured Employers Benefits Trust Fund for FY 04/05 and 05/06	Workers' Compensation	November 1, annually	Submitted 12/19/06 (late)
Report on the Subsequent Injuries Benefits Trust Fund for FY 04/05 and 05/06	Workers' Compensation	November 1, annually	Submitted 12/19/06 (late)
Job Classifications of Employees Paid from the Uninsured Employers Fund	Workers' Compensation	November 1, annually	Submitted 3/16/07 (late)
Workers' Compensation Appeals Board Hearings Report--First Quarter, 2006	Workers' Compensation	Quarterly	Overdue
Workers' Compensation Appeals Board Hearings Report--Second Quarter, 2006	Workers' Compensation	Quarterly	Submitted 2/5/07 (late)
Workers' Compensation Appeals Board Hearings Report--Third Quarter, 2006	Workers' Compensation	Quarterly	Overdue
Workers' Compensation Appeals Board Hearings Report--Fourth Quarter, 2006	Workers' Compensation	Quarterly	Overdue
Division of Apprenticeship Standards and California Apprenticeship Council Report for 2005	Apprenticeship Standards	Annually	Submitted 2/20/07 (late)
2006 Supplemental Language Report - Cal/OSHA	Occupational Safety and Health	January 10, 2007	Submitted 4/3/07 (late)
Hazard Evaluation System and Service Report	Occupational Safety and Health	December 31, annually	Overdue
2005 Bureau of Field Enforcement Report	Labor Standards Enforcement	March 1, Annually	Overdue
Annual Conveyance Safety Program Report	Occupational Safety & Health	Annually	Overdue
Annual Pressure Vessel Safety Program Report	Occupational Safety & Health	Annually	Overdue

Report Division		Statutory Due Date	Status
Crane Certification and Revenue Report	Occupational Safety & Health	Unspecified	Overdue
DOSH Division Report	Occupational Safety & Health	March 1, annually	Overdue
Division Report of Workers Compensation	Workers' Compensation	March 1, annually	Overdue
Workers Compensation Construction Carve-Out Report	Workers' Compensation	June 30, annually	Overdue
Workers Compensation Carve Out Report	Workers' Compensation	June 30, annually	Overdue

Detail/Background: A September 2006 Bureau of State Audits (BSA) report on the Department's Division of Apprenticeship Standards highlights the Department's lax adherence to meeting statutory report requirements. The BSA found the Division did not submit required reports for calendar years 2003, 2004, or 2005. In June 2006, a copy of the 2004 report was on the Department's website; it did not contain all the required information. The BSA report quotes the Division's Deputy Chief stating that annual reports have not been submitted for various reasons, such as administrative errors and lack of sufficient time to complete them.

In discussions with Committee staff, the DIR has conceded that many reports are late. The Department indicates it will implement appropriate monitoring to rectify the problem. Since some annual and quarterly reports do not have specific due dates in statute, Staff ask the Department if it would be reasonable to expect quarterly reports within 90 days of the quarter's end, and annual reports within 6 months of the year's end – DIR indicates these are reasonable timeframes.

Questions:

1. DIR, please indicate which of the overdue reports will be submitted prior to the Subcommittee's final hearings in mid-May.
2. DIR, please indicate what steps the Department is taking to submit reports by statutory due dates.

Staff Recommendation: Keep this issue open and ask the Department to report at the next hearing how many of the overdue reports have been submitted.

Division of Workers' Compensation

Brief Overview of the Division of Workers' Compensation (DWC). The DWC monitors the administration of workers' compensation claims and provides administrative and judicial services to assist in resolving disputes that arise in connection with claims for workers' compensation benefits. Legislation enacted in 2003 and 2004 resulted in significant changes to the workers' compensation system. Last year, the Administration reported that charged rates were $6.46 for every $100 in payroll in July of 2003, but by September of 2005 those rates were down to $4.42 per $100 in payroll – an actual reduction of 31.6 percent. While the program changes resulted in significant savings for employers, they also added new workload for the Division – employment has increased from 910 positions in 2002-03 to 1,145 positions in 2006-07.

Issue 13: Permanent Extension of LT Positions (BCPs #13, 14, 15, & 16)

Description: The Administration requests approval of four budget change proposals to permanently extend 31.0 limited-term (LT) positions added in 2004-05. These LT positions are associated with SB 899 (Chapter 34, Statutes of 2004) and other workers' compensation reform legislation of that period. Of the 37.5 three-year LT positions added in 2004-05 for workers' compensation reform, this request would continue the 31.0 positions that did not get eliminated through vacant position reductions. The Department indicates the positions were originally made limited term because the long-run workload from Workers' Compensation Reform was difficult to assess in 2004-05. Based on workload data compiled over the past two years, the Department feels the realized workload justifies the permanent extension of these 31.0 positions. Funding for these positions would come from the Workers' Compensation Administration Revolving Fund.

- **Uninsured Employers Benefit Trust Fund Unit Positions (BCP #13).** The Governor requests $784,000 and the continuation of 7.0 Workers' Compensation Consultants and 2.0 Office Assistants. The Uninsured Employers Benefit Trust Fund Unit ensures that injured workers whose employer did not provide workers' compensation protection as required by the law still receive benefits. Statistics from the department show that overall new claims increased by 44 percent from 2003-04 to 2005-06, and that that the average caseload per examiner is already 75-percent above the industry average.
- **San Bernardino Information Service Center Positions (BCP #14).** The Governor requests $787,000 and the continuation of 3.0 Program Technicians (including one supervisor) and 4.0 Office Assistants. The San Bernardino Information Service Center provides phone assistance to users of the workers' compensation system. The Department indicates that call volume has stayed high, and was recently measured at 42 percent above pre-SB 899 levels. The Department has also worked to improve wait times, and the average wait times in early 2006 were 6 to 10 minutes – down from 20 to 25 minutes in 2005.

- **Medical Unit Positions (BCP #15)** . The Governor requests $381,000 and the continuation of 3.0 Workers' Compensation Consultants and 9.0 Office Assistants. These positions are requested to support the review requests for a Qualified Medical Evaluator (QME) panel. With the enactment of SB 899, injured workers are now mandated to go through the process of requesting a QME panel when the sides cannot agree on an Agreed Medical Examiner to resolve medically-determined issues such as permanent disability, apportionment, future medical treatment, etc. The Department indicates that actual workload has been above estimates and is not expected to fall significantly in the future.
- **Audit Unit Positions (BCP #16).** The Governor requests $200,000 and the continuation of 1.0 Staff Services Analyst and 2.0 Office Technicians. The Audit unit reviews insurers, self-insured employers, and third-party administrators to insure they meet their statutory responsibilities. The Department indicates the current staffing level should be continued to rid the system of the egregious violators. While the positions at issue are not auditors, they monitor and compile databases of required filings that help identify violators and prepare evidentiary documents.

Questions:

1. DIR, please indicate if any further changes to workers' compensation staffing are anticipated as one-time workload from the 2003 and 2004 reforms should be nearing completion. Does the 2007-08 staffing request represent the new baseline staffing level (baring fluctuations due to caseload or future legislative changes)?

Staff Recommendation: Approve these funding requests.

Division of Labor Standards Enforcement

Brief Overview of the Division of Labor Standards Enforcement (DLSE): The Division adjudicates wage claims, investigates discrimination and public works complaints, and enforces labor law and the Industrial Welfare Commission wage orders. The Division receives approximately 80 percent of its funding from the General Fund. The Industrial Welfare Commission is an independent body within the Division composed of 5 gubernatorial appointees.

Issue 14: Industrial Welfare Commission (BCP #1)

Description: The Administration requests an augmentation of $449,000 General Fund to restore funding and 3.0 positions for the Industrial Welfare Commission (IWC). In 2004-05 the Legislature eliminated funding and staff for the Commission; however, the statutory responsibilities of the Commission were not amended. Among other responsibilities, the Commission is required to conduct a full review of the adequacy of the minimum wage at least once every two years.

Background / Detail: Staff understands the Legislature deleted funding for the Commission in 2004-05 because it had not fulfilled its statutory obligation to review the adequacy of the minimum wage. The Department indicates that since the Commission was de-funded, it has redirected staff from other areas to provide staff support to the Commissioners. Aside from the minimum wage determination, the Commission may also consider petitions to adopt, amend, or appeal wage order regulation. The Administration indicates that the General Fund cost of this proposal is offset by savings generated by BCP #4.

Staff Recommendation: Reject this BCP (de-fund the Industrial Welfare Commission for 2007-08). The Governor and the Legislature took action to increase the minimum wage last year. Given this, and the continuing General Fund shortfall, it seems prudent to continue the status quo and de-fund the Commission in 2007-08.

Issue 15: Minimum Wage Enforcement and Staffing (Informational Issue)

Description: Last year, the Legislature augmented the proposed budget by $1.5 million (General Fund) and 15 positions to increase enforcement in the area of minimum wage and overtime law compliance in construction, agriculture, garment manufacturing, janitorial, and restaurant employment. Budget bill language was also adopted specifying the expenditure of this augmentation. The Governor retained the positions and funding, but vetoed budget bill language that targeted certain industries for increased enforcement. The veto message said that targeting certain industries in the budget was "unduly restrictive."

Background / Detail: According to information provided last year by DIR, employment grew by 44 percent from 1983 to 2003, while Division of Labor Standards Enforcement (DLSE) staff fell from 434 to 403 over the same period. The Governor's Budget proposes 423.7 DLSE positions for 2007-08. The Department provided statistics that indicate there were 46 minimum wage citations issued in 2006, with 1 in the construction industry, none in agriculture, 2 in garment manufacturing, 3 in janitorial, and 17 in restaurants (and 23 in other industries). Last year, the Department indicated the number of citations would likely increase in 2007 due to the higher minimum wage.

Questions:

1. DIR, please indicate if the experience, to date, in 2007 indicates an increase in minimum wage violations due to the increase from $6.75 to $7.50 (effective January 1, 2007).
2. DIR, given recent and future increases in the minimum wage, does the Division need additional staff to adequately protect workers' rights?

Staff Recommendation: Informational issue – no action necessary.

Division of Occupational Health and Safety

Brief Overview of the Division of Occupational Health and Safety (DOSH): The Division protects workers from safety hazards through its Cal/OSHA program and provides consultative assistance to employers. In addition to ensuring safe and healthful working conditions, the DOSH has two major units devoted to conducting inspections to protect the public from safety hazards: The Elevator, Ride and Tramway Unit conducts public safety inspections of elevators, amusement rides -- both portable and permanent -- and aerial passenger tramways, or ski lifts. The Pressure Vessel Unit conducts public safety inspections of boilers, air and liquid storage tanks, and other types of pressure vessels.

Issue 16: Audit Report (Staff Issue)

Description: A February 2006 Bureau of State Audits (BSA) report on San Francisco – Oakland Bay Bridge Worker Safety highlighted deficiencies in contractors' reporting of injures and found the Division of Occupational Health and Safety failed to adequately followup on three of the six complaints received and DOSH lacks procedures to ensure the reasonable accuracy of employers' annual injury reports (Form 300). The BSA recommended that if the Division does not have the resources necessary to improve its procedures it should seek additional funding from the Legislature. In the first response to the audit, the Labor Agency indicated the Department would study options for reviewing the "Form 300" injury reports. In the six-month response, the Labor Agency indicated a review process for Form 300 reports would be "impossible to implement without having an electronic information management system," and that currently enforcement data management is controlled by a system operated by the federal Occupation Health and Safety Administration.

Questions:

1. DIR, please explain why the Department is unable to follow the BSA's recommendation to use the Form 300s to prioritize inspection activity.
2. DIR, the Department's audit response suggested a comprehensive electronic system was not feasible, but would it be beneficial to manually examine these forms for large projects so that limited inspection visits can be better focused?

Staff Recommendation: Informational issue – no action necessary.

Issue 17: CalOSHA Staffing (Staff Issue)

Description: Last year, the Legislature augmented the proposed budget by $1.5 million (General Fund) and 16 positions to increase enforcement in the area of worker safety. Supplemental Report Language was also adopted requiring a report to the Legislature by January 10, 2007, that covered staffing vacancy rates, a statistical comparison with other states, and other data. The Governor vetoed the augmentation and related staffing, but the Supplemental report requirements remain in place. The required report is overdue.

Background: The due date for the staffing report was set in coordination with the Department for January 10, 2007, so Committee staff could review the report and the Subcommittee could discuss the data during budget hearings. The report was submitted April 4, 2007; however, this late submittal date has left insufficient time for Staff to review this report with the Department prior to this hearing. Since this report was specifically required to address to budgetary oversight issues, its lateness weakens legislative oversight in this area.

Questions:

1. DIR, why was this report summitted three months late – after more than half of the legislative budget-review time has already passed?
2. LAO, please comment.

Staff Recommendation: Keep issue open for discussion at a future hearing after DIR submits the required report.

Issue 18: Elevator, Ride, and Tramway Unit Budget Realignment (BCP #8 and Trailer Bill)

Description: The Administration requests a budget realignment and new fees that will result in a net General Fund savings of $88,000 and new fees on public-sector owners of elevators, amusement rides, and tramways totaling approximately $2.6 million.

Detail/Background: The Elevator, Ride, and Tramway Unit is charged with inspecting public and private elevators, permanent amusement rides, portable amusement rides, and tramways. Current law prohibits the Department from charging public entities, so the cost of providing that service is currently born by a private fee payers and the General Fund. The Department indicates it is not permissible over the long-term to have private operators subsidize public operators, and the condition of the General Fund does not allow for an augmentation of $2.2 million to fund the cost of service for public entities. The Administration proposes the following:

- Discontinue the current General Fund support for the Unit of $448,000.
- Adopt budget trailer bill language to shift the deposit of fees collected (about $360,000 annually) for inspection of private portable amusement rides and tramways from the General Fund to the Elevator Safety Account. (These first two bullets would result in net savings of $88,000 for the General Fund.
- Adopt budget trailer bill language to allow the Unit to bill public sector entities for the cost of performing inspections of elevators, permanent amusement rides, and tramways. Total annual fees would be approximately $2.6 million.
- Eliminate the Permanent Amusement Ride and Safety Fund and transfer the fund balance and deposit future revenues into the Elevator Safety Account.

Questions have been raised concerning the legal ability of the State to charge the local governments for inspection activity. The Department indicated that this proposal would not constitute a reimbursable mandate because it applies to both private and public entities and that it is appropriately classed as a fee increase instead of a tax increase because the charge is tied to the cost of the service. There were, additionally, some concerns about new Constitutional requirements added by Proposition 1A in 2004 (see the first question below).

Questions:

1. DIR and Department of Finance, can the State legally charge locals for these inspections given the new Constitutional restrictions (Section 6 of Article XIIIB) added by Proposition 1A in 2004?
2. LAO, please comment.

Staff Recommendation: Keep open for further analysis.

Division of Apprenticeship Standards

Brief Overview of the Division of Apprenticeship Standards (DAS): The Division of Apprenticeship Standards (DAS) administers California apprenticeship law and enforces apprenticeship standards for wages, hours, working conditions and the specific skills required for state certification as a journeyperson in an apprenticeable occupation. The Division does not receive General Fund support, but is instead supported by various special funds.

Issue 19: Audit Report (Staff Issue)

Description: A September 2006 Bureau of State Audits (BSA) report on the Department's Division of Apprenticeship Standards found multiple deficiencies.

Audit Findings:

1. The division suspended program audits in 2004 and did not follow up on corrective action related to audits it had started.
2. The division has not resolved apprentice complaints in a timely manner, taking over four years in some cases to investigate the facts of complaints.
3. The division has not adequately monitored the apprentice recruitment and selection process. In particular, it has not conducted Cal Plan reviews since 1998.
4. Division consultants did not consistently provide oversight through attendance at committee meetings.
5. The division's staffing levels have not increased in step with legal obligations, and it has failed to document priorities for meeting these obligations for existing staff.
6. The division did not report annually to the Legislature for calendar years 2003 through 2005, and the annual reports contain grossly inaccurate information about program completion.
7. The department is slow to distribute apprenticeship training contribution funds. Only $1.1 million of the roughly $15.1 million that had been deposited into the training fund by June 30, 2005, has been distributed as grants.
8. The division does not properly maintain its data on the status of apprentices.

Auditor Recommendations:

1. Follow through on its planned resumption of audits, and ensure that recommendations are implemented and that audits are closed in a timely manner.
2. Establish time frames for resolving complaints and develop a method for ensuring that complaints are resolved within these time frames.
3. Conduct systematic audits and reviews of apprenticeship recruitment and selection to ensure compliance with Cal Plan requirements and state law.
4. Ensure that it submits annual reports to the Legislature that are accurate, timely, and consistent with state law.
5. Request increased budgetary authority as necessary to distribute apprenticeship training contribution fund money received each fiscal year first to the division for its estimated expenses to administer the grants program for the year the distribution is made and then as grants to applicable programs.

6. Establish a process for regularly reconciling information on the current status of apprentices in the division's database with information maintained by committees.

Agency Response: The Agency indicated in a response letter that they would work to implement all of the audit recommendations. Budget Change Proposal #11 (see the issue on the next page) would assist in addressing some of the audit recommendations, but other audit recommendations are not addressed for 2007-08 and the Administration indicates it may submit additional budget requests next year.

Background / Detai l: The State Auditor released a draft copy of the Audit to the Department in August 2006. While that date is late in the developmental process for the Governor's January 10 Budget, it is unclear why the Administration did not submit an April Finance Letter to fully address the issues raised by the audit (again, the response letter indicated the Department would work to implement all the audit recommendations). Note, the Apprenticeship Training Contribution Fund has an ending fund balance of $12.3 million in 2006-07 and $13.4 million in 2007-08, so funding does not appear to be a major constraint.

Staff understands the following key audit deficiencies are unlikely to be fully addressed by the Governor's Budget:

- Audit Recommendation 1: Discussions with DIR suggest that the 3.0 new positions requested (see issue on the following page) will likely be insufficient to perform all of the audits required in current statute.
- Audit Recommendation 5: DIR has not requested to increase its budget authority so it can offer additional apprenticeship training grants, and suggests this will be considered for 2008-09. The fund balance suggests grants could easily be doubled from $1.2 million to $2.4 million without reducing the fund reserve.
- Other Recommendations: DIR suggests process improvements instead of staffing augmentations to address the other deficiencies. It is unclear if process improvements will fully address all of the deficiencies.

Questions:

1. DIR, are additional audit positions necessary (beyond the Governor's Budget request) to meet statutory audit requirements?

2. DIR, since the fund balance seems adequate for additional apprenticeship training grants, why isn't the Administration requesting a budget increase for this purpose?

3. DIR, for the audit deficiencies not addressed by question 1 and 2, is existing staff and process improvements adequate to fully address all the audit deficiencies?

Staff Recommendation: Keep issue open for further discussion. The Subcommittee may want to consider augmenting staffing and funding for the Division (using special funds) so additional audit deficiencies can be corrected.

Issue 20: Apprenticeship Audit Positions (BCP #11)

Description: The Administration requests an augmentation of $339,000 (Apprenticeship Training Contribution Fund) to add 3.0 Apprenticeship Consultant positions. The Labor Code requires that programs with more than five apprentices be audited once every five years and the Division is not meeting this requirement.

Background / Detail: This request is related to the audit issue on the prior pages, and as that was suggested, there is concern that this request is not sufficient to address all the deficiencies revealed by the audit.

Staff Recommendation: Keep open for further review.

Attachment I – EDD Job Service Position Reduction Plan

	CURRENT STAFFING LEVEL							POSITION REDUCTIONS						
Statewide Total	857	98	23	19	11	60	1068	131	18	5	2	1	60	217
	EPR	EPMI	EPMII	EPMIII	EDA	PI	TOTAL	EPR	EPMI	EPMII	EPMIII	EDA	PI	TOTAL
Northern Administration	6	2	0	0	3	0	11	0		0	0	1	0	1
Region 1														
0330 Oakland	32	3	1	0		1	37	5	1	0	0	0	1	7
0690 Campbell	36	3	0	1		1	41	5	1	0	0	0	1	7
0960 Pleasant Hill	14	2	1	0		0	17	2	0	0	0	0	0	2
							95							16
Region 2														
0550 Mendo-Lake	7	1	0	0		0	8	1	0	0	0	0	0	1
1290 North Bay Job Service	32	2	0	1		1	36	5	1	0	0	0	1	7
5040 San Francisco	33	3	0	1		1	38	5	1	0	0	0	1	7
1340 Eureka	6	0	1	0		0	7	1	0	0	0	0	0	1
							89							16
Region 3														
0590 Sacramento Midtown	36	3	0	1		2	42	5	0	0	0	0	2	7
0820 North Valley	17	1	1	0		3	22	3	0	0	0	0	3	6
1310 North Eastern Co.	8	2	0	0		0	10	1	1	0	0	0	0	2
1600 Roseville	27	2	1	0		1	31	4	0	0	0	0	1	5
							105							20
Region 4														
0450 Salinas	10	0	1	0		1	12	1	0	0	0	0	1	2
0620 Modesto	19	3	0	1		4	27	3	1	0	0	0	4	8
1750 Stockton	16	2	0	1		2	21	3	0	0	0	0	2	5
0470 Capitola	6	1	0	0		1	8	1	0	0	0	0	1	2
							68							17
Northern Total	305	30	6	6	3	18	368	45	6	0	0	1	18	70
LA/Ventura Administration	3	2	0	1	4	0	10	1	0	0	0	0	0	1
Region 5														
0100 San Fernando	22	3	0	0		1	26	3	1				1	5
0110 Canoga Park	15	2	1	0		1	19	2	1				1	4
1020 Lancaster	18	1	1	0		1	21	3	0				1	4
1360 Oxnard	13	1	1	0		1	16	2	0				1	3
							82							16
Region 6														
0140 LA/South Bay	19	3	1	0		2	25	3	1				2	6
1030 LA So. Central/Compton	14	2	1	0		1	18	2	0				1	3
1680 Crenshaw SC	36	4	0	1		3	44	6	1				3	10
							87							19
Region 7														
0010 El Monte	38	4	1	1		1	45	6	1	1			1	9
0030 Glendale	24	3	0	1		2	30	3	1				2	6
							75							15
Region 8														
1220 East Los Angeles/Hub Cit	24	3	0	1		1	29	3	1				1	5
1250 Norwalk	17	2	1	0		2	22	2	0				2	4
1550 Long Beach	13	2	1	0		0	16	2	1				0	3
							67							12
LA Ventura Total	256	32	8	5	4	16	321	38	8	1	0	0	16	63
Southern Administration	11	3	1	1	4	0	20	2	0	0	0	0	0	2
Region 9														
0390 Rancho Cucamonga	35	3	1	1		2	42	6		1			2	9
1610 Riverside West	36	4	1	1		3	45	6		1			3	10
							87							19
Region 10														
0420 Santa Ana	29	3	1	1		1	35	4		1			1	6
0740 Anaheim	20	3	1	0		2	26	3	1				2	6
							61							12
Region 11														
0480 El Centro	33	4	1	1		5	44	6	1	1			5	13
0810 Oceanside	17	2	1	0		3	23	3					3	6
1460 San Diego South	34	4	1	0		2	41	5	1				2	8
							108							27
Region 12														
0720 Santa Maria	19	2	0	1		0	22	3			1		0	4
1240 Visalia	11	1	0	1		1	14	1			1		1	3
1260 Fresno Service Center	25	4	1	0		2	32	4	1				2	7
1350 Bakersfield	26	3	0	1		5	35	5					5	10
							103							24
Southern Total	296	36	9	8	4	26	379	48	4	4	2	0	26	84

EPR: Employment Program Representative; EPM: Employment Program Manager; EDA: Employment Program Administrator; PI: Permanent Intermittent

Attachment II – WIA Expenditure Chart
(From the LAO *Analysis of the 2007-08 Budget Bill*).

Figure 1

Workforce Investment Act (WIA) State Discretionary Funds

(In Millions)

Budget Bill Schedule/Project	Estimated 2006-07	Proposed 2007-08
(1) WIA Administration and Program Services	$28.5	$27.6
(2) Growth Industries		
Biotechnology	$1.0	—
Community colleges WIA coordination	0.6	$0.6
High wage/high skill job training	2.1	2.7
Regional collaboratives	—	1.3
Incentive grants[a]	0.2	0.2
Subtotals	($3.7)	($4.8)
(3) Industries With a Statewide Need		
Nurse Education Initiative	$6.2	$6.2
Nurses/healthcare/construction/logistics[b]	8.0	4.9
Regional collaboratives	—	1.3
Subtotals	($14.2)	($12.4)
(4) Removing Barriers for Special Needs Populations		
Female Offenders' Treatment and Employment Program	$1.7	$1.1
Parolee services	7.9	5.2
Regional collaboratives	—	1.4
Incentive grants[a]	0.5	0.5
Services to long-term unemployed[a]	1.7	1.7
Governor's award for veterans' grants	5.0	3.0
Veterans/disabled veterans' employment services	0.7	0.7
Department of Education WIA coordination	0.5	0.3
Youth grants[a]	1.0	2.0
Low wage earners	1.7	1.3
Subtotals	($20.7)	($17.2)
Total Proposed Expenditures	**$67.1**	**$62.0**

a For 2006-07, these grants were listed under Administration and Program Services.
b For 2006-07, these grants were for nurse and other healthcare providers only.
Detail may not total due to rounding.

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Agenda – Part B

Thursday, April 12, 2007
Upon Adjournment of Session
Room 4203 (John L. Burton Hearing Room)
(Consultant: Bryan Ehlers)

Discussion Agenda

Vote-Only Agenda

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.

8950 Department of Veterans Affairs

The California Department of Veterans Affairs (CDVA) has three primary objectives: (1) to 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) to afford California veterans the opportunity to become homeowners through loans available to them under the Cal-Vet farm and home loan program; and (3) to 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. With $50 million in general obligation bonds available through Proposition 16 (2000), $162 million in lease-revenue bonds (most recently amended by AB 1077 [Chapter 824, Statutes of 2004]), and federal funds, new homes will be constructed in West Los Angeles, Lancaster, Saticoy, Fresno, and Redding.

The Governor's budget funds 1,608.6 positions (including 8.0 new positions) and budget expenditures of $349 million for the department, including the veterans' homes.

For the three veterans' homes, the Governor proposes a four percent funding increase, as shown below.

Home	Funding 2006-07*	Proposed Funding 2007-08*
Yountville	$82,333	$85,172
Barstow	15,535	18,303
Chula Vista	26,348	26,020
TOTALS	$124,216	$129,495

(*dollars in thousands)

DISCUSSION AGENDA:

CDVA Issue 1: Steps Taken to Correct Deficiencies in Fiscal Controls as Well as Inconsistencies in Budget Documents

Last year, in response to budgeting errors and inconsistencies in budget documents produced by the CDVA, the Legislature adopted the following Budget Bill Language (Provision 2 of Item 8955-001-0001):

> *The Department of Veterans Affairs shall, in consultation with the Department of Finance, provide a report to the Legislature by January 10, 2007, on the status of its efforts to identify and correct deficiencies in fiscal controls as well as*

inconsistencies in budget documents. The report shall include a summary of its findings and steps taken to ensure that appropriate processes are in place to produce accurate budget documents that support effective fiscal oversight.

Staff Comments: Given the number and magnitude of new CDVA requests, the Subcommittee may wish the CDVA to briefly outline the steps it has taken to address the issues which prompted the legislative action.

CDVA Issue 2: Finance Letter – Negative BCP for Equipment Replacement Program & Baseline Adjustment for Operating Expense & Equipment

The CDVA is seeking to reduce a General Fund augmentation originally requested in the amount of $3,205,000 by $1,205,000 for a new base total of $2,000,000 for ongoing maintenance and equipment replacement at the veterans homes and headquarters. Additionally, the CDVA is seeking to reduce a General Fund augmentation originally requested in the amount of $1,527,000 by $702,000 for a new base total of $825,282 for operating expenses and equipment costs specifically related to residents and census.

Staff Comments: The LAO noted concerns with the methodology and accuracy of the two original BCPs addressed in this Finance Letter. This proposal corrects errors in those BCPs (BCP#35 and BCP#36) and addresses the issues raised by the LAO; however, given the concerns noted above in Issue #1, the Subcommittee may wish the CDVA to explain how these significant budgeting oversights (totaling nearly $2 million) still occurred in the face of increased vigilance.

Staff Recommendation: APPROVE the Finance Letter.

VOTE:

CDVA Issue 3: BCP – GLAVC Veterans Homes Start-up Costs for Construction and Staffing

The CDVA requests 8.0 positions and $995,000 General Fund in Budget Year (BY) and 20.0 positions and $2.1 million General Fund in BY+1 for the construction and pre-activation phases of the Greater Los Angeles/Ventura Counties (GLAVC) Veterans Homes.

The CDVA is engaged in the development of new homes in West Los Angeles, Ventura, and Lancaster that will add approximately 616 beds to the veterans' home system. Current bidding and construction schedules show that the bids for all three homes are to be received in February 2007 with construction to start in July. Construction will last 18 months for both Lancaster and Ventura and 30 months for West Los Angeles.

Staff Comments: The LAO expresses concern that the proposed staffing plan is overly aggressive given that the CDVA would be hiring many staff 18 and 30 months in

advance of the homes being completed. Additionally, the LAO notes that some equipment costs appear dramatically overstated (for example, five Blackberry devices at $8,000 each). The LAO recommends reducing the proposal by $374,000, including $228,000 in personal services relating to the timing of positions and $146,000 in operating expenses and equipment.

Staff Recommendation: APPROVE the LAO recommendation.

VOTE:

CDVA Issue 4: BCP – Enterprise-wide Veterans Homes Information System (VHIS)

The CDVA requests funding to procure and implement a new Veterans Homes Information System (VHIS) for the new West Los Angeles, Ventura, and Lancaster veterans homes located in the Greater Los Angeles/Ventura Counties (GLAVC) and to replace the current Meditech system utilized at the existing homes in Yountville, Barstow, and Chula Vista.

Staff Comments: According to the CDVA, this request is driven by two factors:

1. The CDVA has been unable to renegotiate a support and maintenance contract with Meditech, the author of the off-the-shelf health care information system currently used in the three existing veterans homes. Due to the CDVA's immediate support needs, the Department of General Services has allowed the CDVA to enter into a one-year non-competitive bid contract with a third-party vendor.
2. The CDVA must provide a computerized information system at the new GLAVC homes in order to collect Medicare reimbursements from the federal government and the current Meditech system is not a plausible option given issues cited above. Additionally, utilizing a computerized information system will eventually create efficiencies for caregivers and allow them to spend more time with patients and less time documenting, thereby improving quality of patient care.

Staff notes that the CDVA has explored electronically integrating the State Veterans Home Electronic Medical Record with the VistA system used by more than 1,300 federal Veterans Affairs facilities, but to-date has not met with success (the federal government has never granted read/write VistA access to any state). According to the CDVA, the state of Oklahoma spent more than 18 months attempting to gain similar access but ultimately implemented its own version of the VistA software.

This proposal can be accurately labeled as California's "Oklahoma" option, and appears to represent a reasonable option given the apparent infeasibility of integrating with the federal VistA system at this time. However, the Subcommittee will want the CDVA to verify that this project has an approved Feasibility Study Report and may wish the Office of Technology Review, Oversight, and Security to comment on the proposal.

Staff Recommendation: APPROVE as budgeted.

VOTE:

CDVA Issue 5: BCP – Information Technology Infrastructure Upgrade

The CDVA requests 1.0 two-year limited-term personnel year, $6.5 million in Budget Year (BY), and $928,000 in BY+1, for a one-time Information Technology (IT) Infrastructure Upgrade to replace aged and obsolete hardware and software.

Staff Comments: Currently, 80 percent of the CDVA's business operations are related to administering the healthcare-related services provided at the Veterans' Homes. As a result, the operational capacity and reliability of the CDVA's technical infrastructure and computer systems are integral to providing quality medical and long-term care, as well as remaining compliant with state and federal regulations. The project Feasibility Study Report (FSR) documents the fact that 90 percent of the CDVA IT infrastructure is at least five years or older and in need of an upgrade.

However, staff notes the FSR also indicates that certain elements of the request (for example, the voice telecommunications infrastructure at Chula Vista and Headquarters) will reach end of life over the next four years and are not necessarily in need of immediate replacement. While the CDVA proposes to purchase most of the requested IT components in BY, given current General Fund constraints, the Subcommittee may wish to consider shifting the purchase of the PBX Telecommunications at Chula Vista and Headquarters into BY+1, requiring the CDVA to make-do with existing technology for an additional year, and saving approximately $820,000 in BY.

Similar to Issue 4 above, the Subcommittee will want the CDVA to verify that this project has an approved Feasibility Study Report and may wish the Office of Technology Review, Oversight, and Security to comment on the proposal.

Staff Recommendation: APPROVE request, but shift expenditures for PBX Telecommunications at Chula Vista and Headquarters to BY+1.

VOTE:

CDVA Issue 6: BCP – Reverse Budgetary Authority Levels Approved FY 05/06 for Chula Vista RCFE to ICF Conversion

The CDVA seeks to reverse the budgetary authority levels approved for the Chula Vista veterans' home in a Fiscal Year 2005-06 BCP because the CDVA has not implemented the planned conversion of the Residential Care Facility for the Elderly (RCFE) into an Intermediate Care Facility (ICF). This request would:

1. Decrease General Fund reimbursement authority by $1,498,000.
2. Decrease Federal Trust Fund reimbursement authority by $485,000.
3. Increase General Fund authority by $940,000.

Staff Comments: The CDVA originally planned to convert, at minimal cost, the 55-bed RCFE at the Chula Vista home to a 55-bed ICF. However, during the conversion implementation process, the CDVA became aware that the project was not physically or financially feasible due to fire and building code regulations, the need for revised architectural drawings and specifications, and increased project costs. The CDVA indicates that approximately $5,100 was expended on the conversion before it was abandoned.

From a budgeting perspective this proposal represents a net cost to the General Fund because under the previous proposal the state expected to receive increased General Fund and Federal Fund reimbursements through Medicare, Medi-Cal, and higher federal Veterans Administration per diem payments resulting from providing ICF beds instead of RCFE beds. However, staff notes that the requested return to 2004-05 funding levels is necessary in order to fully fund the care required by current occupants of the Chula Vista RCFE. Despite the failed conversion, a shortage of beds at all levels of care at veterans' homes warrants continued funding of the RCFE.

Staff Recommendation: APPROVE as budgeted.

VOTE:

CDVA Issue 7: BCP – Reopen 40-Bed VHC-Barstow SNF (20 beds in 07/08 and 20 beds in 08/09)

The Veterans Home of California-Barstow (VHC-B) requests 18.0 PYs and $2.3 million in Budget Year (BY) and 51.0 PYs and $4.5 million in BY+1 to reopen the Skilled Nursing Facility (SNF) beginning January 2008.

Staff Comments: In March 2003, the CDVA voluntarily suspended the SNF license at the Barstow facility due to a history of inconsistent practices in meeting the state licensing and federal certification requirements. As a result, SNF residents who did not choose to arrange their own care had to be relocated.

Subsequently, the United States Department of Veterans Affairs (USDVA) notified the CDVA that unless the VHC-B exceeded a 75 percent use rate, the state would be required to repay the USDVA approximately $18.75 million in federal construction grants. With current use at under 40 percent, the CDVA responded by preparing a 6-year plan to bring the VHC-B's census back up to near capacity.

The proposed 6-year plan would add 40 SNF beds in 2007-08, and reach a total of 100 by 2011-12. Given that the CDVA reports a waiting list of several hundred for SNF beds and estimates 206 SNF beds will be needed at Barstow by 2010 based upon its catchment area, there appears to be an existing as well as an ongoing demand for the requested beds and associated resources. However, the Subcommittee may wish to have the CDVA outline the steps that have been taken to ensure that the health and safety of residents and the VHC-B's SNF license will not be placed in jeopardy again in the future.

Staff Recommendation: APPROVE as budgeted.

VOTE:

CDVA Issue 8: BCP – Position Funding Alignment

The CDVA requests 25.0 full-time positions and $2.8 million in ongoing General Fund.

Staff Comments: The requested positions were previously special funded under the Farm and Home Program; however, they were realigned to the General Fund in 2006-07 due to a significant decline in program activity. During last year's hearings, the CDVA was unable to provide adequate justification to keep the positions and funding on a permanent basis, and Provision 1 of Item 8955-001-0001 was adopted as part of the Budget Act of 2006, to require the CDVA to bring forth a more thorough-going workload analysis in the 2007-08 budget cycle.

This request reflects the above requirement, and contains workload data intended to document the ongoing need for the 25.0 positions. However, staff still has questions outstanding regarding the analytical basis for the data submitted and continues to work with CDVA staff to verify the accuracy of the workload provided.

Staff Recommendation: HOLD OPEN and request the CDVA to continue working with staff to clarify workload justification.

VOTE-ONLY AGENDA:

Vote-Only Issue 1: BCP – Baseline Adjustment for Increased Federal Reimbursements and Increased Medicare Costs

The CDVA requests (1) an additional $4.7 million in federal reimbursement authority to reflect an increase in the per diem rate the United States Department of Veterans Affairs pays the veterans homes; and (2) $1.8 million in additional General Fund authority to reflect an increase in Medicare costs. Because the federal reimbursements act as an off-set to the General Fund, this request would result in a net General Fund benefit of $2.9 million.

Vote-Only Issue 2: BCP – Personal Services Contracts Adjustment

The CDVA requests $71,000 to fund increased Personal Services contract costs for the two existing Southern California Veterans Homes (Chula Vista--$53,000; and Barstow--$18,000). The Service Employees International Union Local 1000 recently negotiated general salary increases for employees within its nine bargaining units effective July 1, 2006 and statute requires Personal Service contracts to include employee compensation valued at no less than 85 percent of the state employer cost of providing comparable wages and benefits to state employees performing similar duties. This proposal would support the increased costs that will be incurred at the Southern California Veterans Homes.

Vote-Only Issue 3: BCP – Veterans Claims Representation at District Offices

The CDVA requests conversion of 2.0 two-year limited-term (LT) positions to permanent at the CDVA Veteran Services District Office in Los Angeles and San Diego. These positions were established as LT in the 2005-06 budget cycle and will expire on June 30, 2007.

Vote-Only Issue 4: COBCP – Improve Kitchen Cooling System

The CDVA, Veterans Home of California in Barstow requests $153,000 General Fund to upgrade an ineffective evaporative cooling (swamp cooler) system with an air conditioning system in the kitchen.

Vote-Only Issue 5: COBCP – Member Services Building Renovation

The CDVA requests $13,381,000 in Federal Trust Fund authority to utilize a Federal grant for the construction phase of an ongoing building renovation project. The state share of the project was authorized in the Budget Act of 2006.

Vote-Only Issue 6: COBCP – Kennedy Hall (Section 'H') Parking Lot

The CDVA, Veterans Home of California in Yountville (VHC-Y) requests $226,000 General Fund to increase the amount of Americans with Disabilities Act-compliant, adequately lighted, and properly drained parking for the elderly female veterans who reside in Kennedy Hall (Section H) at the VHC-Y.

Vote-Only Issue 7: COBCP – Emergency Generator

The CDVA, Veterans Home of California in Barstow requests $445,000 General Fund to purchase an emergency generator system in order to be able to provide air conditioning to nursing patients during a power outage.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE as budgeted.

VOTE on Vote-Only Issues 1 through 7:

Senate Budget & Fiscal Review Committee
Bryan Ehlers 651-4103

Hearing Outcomes: Agenda Part B

Subcommittee No. 3
9:00 am, Thursday, April 12, 2007

Discussion Agenda

8950 Department of Veterans Affairs (CDVA)

- CDVA Issue 1: Steps Taken to Correct Deficiencies in Fiscal Controls as Well as Inconsistencies in Budget Documents
  Action: None (informational only)

- CDVA Issue 2: Finance Letter – Negative BCP for Equipment Replacement Program & Baseline Adjustment for Operating Expense & Equipment
  Action: Approved Finance Letter with Budget Bill Language requiring the CDVA to provide a list each year of the equipment proposed for replacement.
  Vote: 3-0

- CDVA Issue 3: BCP – GLAVC Veterans Homes Start-up Costs for Construction and Staffing
  Action: Approved the LAO recommendation to reduce the proposal by $374,000 ($228,000 in personal services and $146,000 in operating expenses and equipment).
  Vote: 3-0

- CDVA Issue 4: BCP – Enterprise-wide Veterans Homes Information System (VHIS)
  Action: Approved as budgeted.
  Vote: 3-0

- CDVA Issue 5: BCP – Information Technology Infrastructure Upgrade
  Action: Approved request, but shifted $860,000 in GF authority for the purchase of PBX Telecommunications at Chula Vista and Headquarters to Budget Year+1.
  Vote: 3-0

- CDVA Issue 6: BCP – Reverse Budgetary Authority Levels Approved FY 05/06 for Chula Vista RCFE to ICF Conversion
  Action: Approved as budgeted.
  Vote: 3-0

- CDVA Issue 7: BCP – Reopen 40-Bed VHC-Barstow SNF (20 beds in 07-08 and 20 beds in 08/09)

Action: Approved with Budget Bill Language requiring the CDVA to report on lessons learned and steps taken as a result of the events that lead to the voluntary suspension of the VHC-Barstow Skilled Nursing Facility License. (Staff will work with department, DOF, and LAO to develop language, and then circulate.)
Vote: 3-0

- CDVA Issue 8: BCP – Position Funding Alignment
  Action: Held Open. Chair requested CDVA to continue working with staff to clarify workload justification.

Vote-Only Agenda

8950 Department of Veterans Affairs (CDVA)

- Vote-Only Issue 1: BCP – Baseline Adjustment for Increased Federal Reimbursements and Increased Medicare Costs
  Action: Approve as budgeted.
  Vote: 3-0

- Vote-Only Issue 2: BCP – Personal Services Contracts Adjustment
  Action: Approve as budgeted.
  Vote: 3-0

- Vote-Only Issue 3: BCP – Veterans Claims Representation at District Offices
  Action: Approve as budgeted.
  Vote: 3-0

- Vote-Only Issue 4: COBCP – Improve Kitchen Cooling System
  Action: Approve as budgeted.
  Vote: 3-0

- Vote-Only Issue 5: COBCP – Member Services Building Renovation
  Action: Approve as budgeted.
  Vote: 3-0

- Vote-Only Issue 6: COBCP – Kennedy Hall (Section ‘H’) Parking Lot
  Action: Approve as budgeted.
  Vote: 3-0

- Vote-Only Issue 7: COBCP – Emergency Generator
  Action: Approve as budgeted.
  Vote: 3-0

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

April 16, 2007

(Upon Adjournment of Senate Session)

Room 3191
(John L. Burton Hearing Room)

(Diane Van Maren)

Item Department

4265 Department of Public Health—Selected Issues

4260 Department of Health Care Services—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.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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.

A. ISSUES FOR "Vote Only" for Both Departments (DHCS & DPH)
(Item 1 through Item 10) (Pages 2 through 10)

1. Elimination of "Pri ce Adjustment--D epartment of Health Care Services (DHCS)

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the Department of Health Care Service's administrative budget by a total of $714,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

2. Elimination of "Price Adjustment--Department of Public Health (DPH)

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the Department of Public Health's administrative budget by a total of $485,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

3. Richmond Laboratory—Capitol Outlay (Department of Public Health--DPH)

Issue—Finance Letter. The **Subcommittee is in receipt of a Finance Letter requesting an increase of $482,000 (General Fund) and Budget Bill Language for preliminary plans and working drawing phases to upgrade the "Viral and Rickettsial Disease Laboratory located at the state's Richmond Laboratory campus.** This proposed upgrade is needed in order to meet federal guidelines related to Biosafety Level III laboratories as determined by the U.S. Department of Agriculture, Centers for Disease Control and Prevention, and National Institutes for Health.

The DPH states that this upgrade is necessary to meet new federal guidelines for safely working with highly pathogenic influenza viruses. **The DPH states that this project will provide an appropriate environment for the identification and handling of avian influenza viruses and other pathogens brought into the state.**

It should be noted that the Finance Letter only requests funding for preliminary plans and working drawings. The construction phase is estimated to cost $2.520 million and will be addressed in the future.

The DPH states that the projected scope of the laboratory enhancements will require design and construction to modify the "Viral and Rickettsial Disease Laboratory located at the state's Richmond Laboratory campus to provide the following:

- Unidirectional shower-out capability;
- Hands-free faucets;
- A pass-through autoclave sterilizer;
- An equipment decontamination area;
- HEPA filtration of the exhaust side of the HVAC system;
- Positive sealing dampers on the HVAC system and through-wall ports for the safe gaseous decontamination of the laboratory; and
- Electronic monitoring systems within the HVAC system.

Of the six laboratories at the Richmond Campus, the Viral and Rickettsial Disease Laboratory was selected for these laboratory enhancements because of its primary role as an infectious disease reference laboratory to local county and city public health laboratories for the diagnosis, identification, and isolation of viruses ad Rickettsial pathogens. This laboratory also serves as a basic public health virology laboratory for counties without a public health laboratory (such as the small counties)

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter as proposed since the state should have a laboratory that meets these standards in order to appropriately address the diagnosis, identification and isolation of highly pathogenic influenza viruses. Clearly, these improvements are needed to maintain the health and safety of all involved in this work.

4. Nuclear Planning Assessment Special Account (CPI) Adjustment

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter to increase by $32,000 the Nuclear Planning Assessment Special Account within the Department of Public Health. This increase is required by Section 8610.5 of the Government Code which provides for a consumer price index adjustment. Total expenditures with this augmentation are $902,000 (Nuclear Planning Assessment Special Account).

These funds are used to support the existing Nuclear Power Preparedness Program. Legislation mandating the Nuclear Power Preparedness Program has been continuous since 1979, enacted as Government Code Section 8610.5, the Radiation Protection Act. The program is funded by utilities through a special assessment fund managed through the State Controller.

While the state Office of Emergency Services has absolute coordination authority during emergency response, the Department of Public is assigned the technical lead responsibility during ingestion pathway and recovery phases of an emergency. The goal during ingestion pathway response is preventing contaminated water, food, and food animals from reaching the consumer. The goal during recovery is restoring areas to pre-accident conditions.

In California there are two operating nuclear power plant sites—Diablo Canyon (San Luis Obispo) and San Onofre Nuclear Generating Station (San Diego).

Subcommittee Staff Recommendation—Approve. This is simply a technical adjustment that conforms to existing law. No issues have been raised.

5. X-Ray Inspection Staffing

Issue. The Department of Public Health (DPH) is responsible for conducting annual X-Ray machine inspections. The budget proposes an increase of $984,000 (Radiation Control Fund) to fund eight Associate Health Physicists to conduct X-Ray Machine inspections to help ensure the machines do not pose a public and worker health hazard and that they are used safely. The Administration states that each of these inspectors will conduct 300 annual inspections, for a total of about 2,400 additional inspections annually.

According to the department, 9,000 inspections must be conducted annually (Inspection rates vary depending on the type of X-Ray machine). Presently, there are 18 inspectors who perform 5,400 inspections annually. Therefore, there are about 3,600 inspections that are not being performed due to additional workload increases (i.e., more machines) and inadequate staffing levels.

The DPH notes that anticipated efficiencies through the use of new technologies will address the work of four otherwise requested Health Physicists. These new technologies pertain to the inspection of dental X-Ray machines.

All fees from the registration of X-Ray machines are deposited into the Radiation Control Fund which is used to support X-Ray inspection and investigation actions. Based on the most recent fund condition statement, there are sufficient funds to support the requested 8 new positions.

Subcommittee Staff Recommendation—Approve. The request for these positions is reasonable and necessary to protect public health and safety, and special funds are available specifically for this purpose. No issues have been raised.

6. Administrative Support for Licensing & Certification Program

Issue. The budget proposes an increase of $177,000 (Licensing and Certification Fund) to fund two positions—a Staff Services Analyst and an Associate Accounting Analyst—to provide administrative support to the 155.5 permanent positions authorized through the Budget Act of 2006. The purpose of these positions is to (1) conduct personnel functions, such as recruitment and hiring activities; and (2) monitor the collection of revenues from facilities and track expenditures within the Licensing & Certification (L&C) Division.

The L&C Division has 15 District Offices and one headquarters office throughout California. Presently there are 5 positions that perform the personnel and facilities operations activities for about 750 employees. The additional 155.5 positions added in the Budget Act of 2006 is a 17 percent increase in staffing. This requires additional personnel work for which the proposed Staff Services Analyst position is designated.

The Associate Accounting position would be used to track, monitor and project program revenue and expenditures, as well as reconciling the various special funds (including the L&C Fund, federal funds and citation accounting funds). In addition, this position would be used to calculate fees annually based on L&C Division surveyor workload and expenditures for over 20 categories of facilities which the state licenses and certifies.

Subcommittee Staff Recommendation—Approve. These positions are warranted given the magnitude of the changes implemented in the Licensing and Certification area, and the need to appropriate track revenues and expenditures across the entire program area. No issues have been raised.

7. Legal Support for Increased Licensing & Certification Enforcement

Issue. The budget **proposes an increase of $711,000** ($355,000 Licensing & Certification Fund and $356,000 federal funds) **to fund 6.5 positions** (two-year limited-term) **to handle legal-related workload** that will flow from the 114 new Licensing and Certification (L&C) surveyor positions, and 14.5 L&C investigative staff provided in the Budget Act of 2006.

The Department of Public Health notes that the new L&C surveyor staff will increase the enforcement and disciplinary actions against licensees who are found to be in violation of L&C standards. Without sufficient legal staff resources to handle the additional workload, the department will not be able to promptly take legal actions necessary for the protection of public health and safety (such as in a facility crisis, the processing of citations and civil money penalties, license violations and the like).

The requested limited-term positions are:

- 1 Staff Counsel
- 4 Health Facility Evaluator Specialists
- 0.5 Senior Legal Typist
- 1 Staff Services Manager

These positions will be used to conduct various activities associated with notices of deficiency, appointments of temporary managers/receiverships, informal citation review conferences, procedural legal questions, and other enforcement issues.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the request given the volume of work that is likely to materialize in 2007-08 from the increases in the surveyor work. No issues have been raised.

8. Medi-Cal Community-Living Support Benefit Waiver Pilot Project

Issue. The budget proposes **a total increase of $405,000** ($202,000 as an intergovernmental transfer from the City and County of San Francisco, and $203,000 federal funds) **to fund a total of 4 positions** (eighteen month limited-term) **to implement Assembly Bill 2968 (Leno), Statutes of 2006.**

The purpose of this legislation is to increase access to needed health-related and psychosocial services for eligible Medi-Cal enrollees residing in the City and County of San Francisco. Specifically, it will provide community-based alternatives to residents of Laguna Honda Hospital and Medi-Cal enrollees at-risk of institutionalization. As noted in the funding stream, San Francisco is providing matching funds for this purpose.

Three of the requested positions are for the Medi-Cal Program, within the Department of Health Care Services, to develop, implement and administer this pilot project. Two of these positions will be used to craft a federal Medicaid (Medi-Cal) Waiver for the project, while the remaining position will be used to implement quality assurance and quality improvement plans.

The remaining position—a Health Facilities Evaluator Nurse—will be assigned to the Licensing and Certification Division within the Department of Public Health. This position will have responsibility for the development, implementation, and monitoring of facilities compliance with Wavier assurances regarding the health, safety, and welfare of individuals enrolled in the Waiver.

Overall these positions will be used to work with the federal Centers for Medicare and Medicaid Services (CMS), various state departments, and the City and County of San Francisco to resolve issues regarding administration, eligibility, coverage and benefits, delivery system, access, quality assurance, cost neutrality, systems support, implementation timeframes, and reporting.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the budget request for it meets the purposes of the enabling legislation, and the workload is justified. No issues have been raised.

9. Specialty Mental Health Waiver—Department of Health Care Services Staff

Issue. The budget **proposes an increase of $108,000** ($54,000 Mental Health Services Account and federal funds) **to extend a Staff Services Manager I for an additional two-year period.** This position is assisting in expanding services required under the Mental Health Services Act (MHSA) in relation to the Medi-Cal Specialty Mental Health Services Consolidation Waiver. This Waiver is expected to be extended through 2009.

This position is responsible for managing work in relation to the Waiver. An extension of this position would provide for the ongoing management, supervision and staff oversight required to ensure the timely renewal of the Waiver and to manage the interagency agreement with the Department of Mental Health.

Among other things, this position does the following:

- Supervises the work of three staff related to Waiver functions;
- Oversees issues related to Waiver development, federal monitoring, cost neutrality and reporting requirements;
- Serves as liaison to the federal Centers for Medicare and Medicaid (CMS) during the Wavier review, implementation, monitoring and program evaluation process;
- Provides advice and consultation to management, other agencies, provider associations and consumer advocates regarding federal Waivers and related policies and procedures; and
- Provides linkage for the Department of Health Services Waiver operations and the MHSA process.

Subcommittee Staff Recommendation—Approve. The position would be funded using special fund moneys and the workload is justified. The Medi-Cal Specialty Mental Health Services Consolidation Waiver is a significant Waiver for the state and it is important to maintain it and potentially expand it in relation to the Mental Health Services Act. No issues have been raised.

10. Medi-Cal Supplemental Reimbursement for Health Facilities-- Assembly Bill 959 (Frommer), Statutes of 2006

Issue. The **budget requests an increase of $54, 000 (Reim bursements from local government) to support an Associate Governmental Program Anal yst to administer the expansion of the Medi-Cal Supplemen tal Reimbursement process for healt h facilities.**

Assembly Bill 959 (Frommer), Statutes of 2006, expanded the definition of various facility types that could participate in two different Medi-Cal supplemental payment programs. Specifically, the legislation included county clinics and other governmental health providers to allow these providers to obtain increased federal funding without any state cost (i.e., no General Fund).

Assembly Bill 959 requires participating facilities to contract with the state to pay for the state's administrative expenses; thereby, the requested position would be funded solely by local reimbursement.

Subcommittee Staff Recommendation—Approve. No issues have been raised with this proposal.

B. ISSUES FOR DISCUSSION—Both Departments

1. AIDS Drug Assistance Program (ADAP) & Potential Trailer Bill Language

Issue. The **budget proposes to continue funding for the AIDS Drug Assistance Program (ADAP) at its *current* level of $299.4 million** ($107.6 million General Fund, $100.9 million federal grant funds and $90.8 million AIDS Drug Rebate Fund) to serve about 25,000 clients. **In addition, constituency groups are seeking trailer bill language changes to address concerns with providing flexibility in making changes to the ADAP formulary.**

Each of these issues is discussed separately below.

First, the budget proposes to continue the same level of funding for the ADAP in 2007-08, as presently provided in the current year (i.e., no fiscal change). The Office of AIDS states that this estimate is based on using a new forecasting model referred to as the "New Drug Cost Worksheet Model" for projecting expenditures for 2007-08.

This new forecasting model, which is based on the federal Health Research Services Administration (HRSA) budgeting tool, should be more accurate than past regression models that were used. Specifically, this new model begins with the previous year's local assistance drug costs and identifies factors (or changes to the program) that are likely to have a fiscal impact. For each factor, there is a corresponding increase or decrease to the budget.

The Office of AIDS notes that because they are using a new model of forecasting, they are monitoring all ADAP drug expenditures on a monthly basis to determine the model's accuracy and viability as a forecasting tool. **Therefore, there *may be* a need to make adjustments at the May Revision.**

Second, constituency groups have been working with staff to craft language to exempt the AIDS Drug Assistance Program (ADAP) from the Administrative Procedures Act to add or delete drugs from the ADAP formulary.

An exemption from the Administrative Procedures Act would enable the program to adjust the formulary in response to new generic drugs becoming available, the need for restrictions on the use/prescribing of some drugs, and the need to delete drugs when newer more efficacious drugs are added to the formulary. (The formulary includes a wide variety of drugs due to secondary infections and other medical issues associated with HIV infection and AIDS.)

According to the department, on average, it takes 12 months to complete the emergency rulemaking process and at least 18 months to complete the regular rulemaking process. Therefore, the ADAP formulary would not be as responsive to serving clients appropriately, and the budget could be adjusted more appropriately, including the collection of drug rebate funds from manufacturers

As noted in the language below, the ADAP would still continue to use the ADAP Medical Advisory Committee to discuss and advice on changes to the ADAP formulary. In addition, the Legislature would receive timely notification (within 15 days) of any changes.

It should also be noted that the Medi-Cal Program already *has* a statutory exemption from the Administrative Procedures Act to add or delete drugs on the Medi-Cal formulary.

The proposed language is below (underlining displays proposed changes).
Amend Health and Safety Code Section 120955 (a) (2) as follows:

> The Director, in consultation with the AIDS Drug Advisory Program Medical Advisory Committee, shall develop, maintain, and update as necessary a list of drugs to be provided under this program. The list shall be exempt from the requirements of the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law. In addition, the Director shall notify the fiscal and policy committees of the Legislature of any additions, deletions or restrictions to the list within 15 business days of the action. At a minimum, this notification shall describe the specific change to the formulary, the reason for the action taken, the estimated number of people it may affect, and any estimate of costs or savings where applicable.

Background—How Does the AIDS Drug Assistance Program Serve Clients? ADAP is a subsidy program for low and moderate income persons with HIV/AIDS who have no health care coverage for prescription drugs and are *not* eligible for "no-cost" Medi-Cal Program.

ADAP clients with incomes between $39,200 (400 percent of poverty) and $50,000 are charged monthly co-pays for their drug coverage. A typical client's co-payment obligation is calculated using the client's taxable income from a tax return. The client's co-payment is the lesser of (1) twice their annual state income tax liability, less funds expended by the person for health insurance premiums, or (2) the cost of the drugs.

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 (over 150 drugs). The formulary includes anti-retrovirals, opportunistic infection drugs, hypolipidemics, anti-depressants, vaccines, analgesics, and oral generic antibiotics. Since the AIDS virus can quickly mutate in response to a single drug, medical protocol now calls for Highly Active Anti-retroviral Treatment (HAART) which minimally includes three different anti-viral drugs.

Background—ADAP Uses a Ph armacy Benefit Manager. Beginning in 1997, the DHS contracted with a pharmacy benefit manager (PBM) to centralize the purchase and distribution of drugs under ADAP. Presently here are over 240 ADAP enrollment sites and over 3,300 pharmacies available to clients located throughout the state.

Background—Cost Benefit of the AIDS Drug Assistance Program (ADAP). 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 quality for Medi-Cal. About 50 percent of Medi-Cal costs are borne by the state, as compared to only 28 percent of ADAP costs.

Studies consistently show that early intervention and treatment adherence with HIV/AIDS-related drugs prolongs life, minimizes related consequences of more serious illnesses, reduces more costly treatments, and increases the HIV-infected person's health and productivity.

Background—ADAP Drug Rebates (Federal and State Supplemental). Both federal and state law require ADAP drug manufacturer 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 CMS.

California also negotiates additional supplemental rebates under ADAP via a special national taskforce, along with eight other states. The mission of this taskforce is to secure additional rebates from eight manufacturers of anti-retroviral drugs (i.e., the most expensive and essential treatment therapies). The DHS has also begun to negotiate supplemental rebates on non-antiretroviral drugs.

Subcommittee Staff Recommendation—Approve Budget & Adopt Trailer Language. It is recommended to adopt the Governor's budged amount for the AIDS Drug Assistance Program (ADAP) and to adopt the trailer bill language as crafted working with constituency groups. The proposed funding level is reasonable and the language is needed in order to ensure that the ADAP formulary is current and that applicable medical uses can be maintained.

Questions. The Subcommittee has requested the Department of Public Health, Office of AIDS, to respond to the following questions.

1. Office of AIDS, Please briefly describe the program, and the budget request.
2. Office of AIDS, Please comment on the proposed trailer bill language drafted by constituency groups and staff.

2. Local Assistance Funding for Name-Based HIV Reporting Activities

Issue. Local assistance funding provided by the state to Local Health Jurisdictions for HIV/AIDS surveillance and epidemiologic studies is proposed to total $9.7 million ($9.1 million General Fund and $2 million federal funds) for 2007-08. This reflects an increase of $2 million (General Fund) over the current year.

An increase of $2 million (General Fund) is proposed to provide an accelerated HIV reporting effort in the 62 Local Health Jurisdictions as directed by Senate Bill 699 (Soto), Statutes of 2006. The Administration states it is their intent to provide this funding for the next three fiscal years (2007-08, 2008-09 and 2009-2010).

According to the Department of Public Health, the $2 million would be allocated to the top 11 counties/city with the highest number of reported non-name code HIV cases and cumulative AIDS cases in the HIV/AIDS case registry. These top 11 areas represent 86 percent of California's HIV/AIDS cases.

The funds would be provided as an augmentation to each of these counties' baseline surveillance budget. **The table below displays the proposed allocation of the $2 million augmentation.** Surveillance funding for the remaining areas of the state would remain the same.

Table: Proposed Allocation for HIV Names Reporting ($2 million)

Local Health Jurisdiction	HIV/AIDS Cases	Percentage Funds	Allocated
Los Angeles County	58,571	37.58%	$710,817
San Francisco City/County	32,819	21.05	$398,291
San Diego County	17,642	11.32	$214,103
Orange County	8,913	5.72	$108,168
Alameda County	7,833	5.03	$95,061
Riverside County	6,775	4.35	$82,221
City of Long Beach	6,508	4.18	$78,981
Santa Clara County	4,664	2.99	$78,089
San Bernardino County	4,644	2.98	$78,089
Sacramento County	4,195	2.69	$78,089
Contra Costa County	3,309	2.12	$78,089
Total	**155,873**	**100%**	**$2,000,000**

SB 699, Statutes of 2006, makes HIV infection reportable by name and requires health care providers and laboratories to provide this information to Local Health Jurisdictions. It also requires local health jurisdictions to report unduplicated HIV cases to the Department of Public Health. Previously, HIV infections were reported to the state using a non-name code instead of a patient's name.

SB 699, Statutes of 2006, was the result of changes at the federal level which would affect California's receipt of federal Ryan White CARE Act funds. Specifically, the federal government declared that HIV data would not be accepted unless it was reported

by name. Starting in federal fiscal year 2007, HIV counts in addition to AIDS counts will be used to allocate Ryan White CARE Act moneys to states. California presently receives about $122 million in Ryan White CARE Act Title II funds. **Without the implementation of SB 699, California is at risk of losi ng about $50 million in these federal funds annually. An accelerated HIV reporting e ffort will assist Calif ornia in avoiding federal grant reductions.**

According to the department, each local health jurisdiction's HIV/AIDS surveillance program will be responsible for developing a performance measured plan based on state requirements and specific federal guidelines. The department will provide technical training where needed and will monitor the progress of implementation.

Background--- Overvie w of HIV/AIDS Surveillance. The Office of AIDS, within the Department of Public Health, is the lead state agency in California for coordination of care, treatment, and prevention strategies addressing the HIV/AIDS epidemic. The Office of AIDS maintains the statewide registry of AIDS and HIV cases and provides statewide coordination of case reporting throughout California. Staff from the state, including communicable disease investigators, information technology staff, and researchers visit all Local Health Jurisdictions to review and observe program operations, assess security and confidentiality practices, provide training, and provide feedback the locality's surveillance efforts. Local assistance funds are allocated to Local Health Jurisdictions for HIV/AIDS surveillance activities.

Subcommittee Staff Recommendation—Approve. The department has developed an approach for implementation that is reasonable and has the consensus of constituency groups. These funds are needed in order to meet federal requirements and to help ensure that California can retain its appropriate share of federal funds through the Ryan White CARE Act.

Questions. The Subcommittee has requested the Department of Public Health to respond to the following questions.

1. Department, Please provide a brief summary of the budget request and how the determination was made to allocate the funds in this manner.
2. Department, Is California at risk for losing any federal Ryan White CARE Act funds at present or will our implementation of SB 699 facilitate maintaining all of our funding?

3. Medi-Cal Managed Care Rates—Multiple Issues on Rate Structure

Issue. Significant questions regarding the existing Medi-Cal Managed Care rate structure have been evolving for several years. As noted by various constituency groups, reports, and even by the DHCS who administers the Medi-Cal Managed Care Program, the existing rate methodology is outdated. **A rational approach to establishing the rates needs to be crafted and applied *equability* across health plans participating in Medi-Cal Managed Care.**

Issues abound as to the methodology and "actuarially" soundness of the rates paid under the state's Medi-Cal Program, both in the Fee-For-Service Program and in Medi-Cal Managed Care.

Many of these issues have evolved over time due to **(1)** incomplete, inaccurate and unreliable data for which to base rates on, **(2)** establishing rates based upon the availability of General Fund support, **(3)** varying definitions of what constitutes "actuarial" soundness, **(4)** a lack of clarity on how to link quality of care with rates, **(5)** difficulties in discerning health plan financial viability, and profit margin factors, **(6)** a need to trend data in an accurate manner, and many, many others.

Background—Key Recommendations from the Mercer Report. The DHCS contracted with Mercer to conduct an analysis regarding Medi-Cal Managed Care Program rates. The key recommendations contained within the Mercer Report (released February 2007 to the Legislature) are as follows:

- Use health plan encounter data and supplemental cost data submitted by the plans in conjunction with other data/information as the base source data for rate development efforts. Improve the usefulness of financial reporting from the contracted health plans by implementing a Medi-Cal specific financial reporting requirement.
- Develop a county or health plan model specific rate development process: (1) Two Plan; (2) GMC; (3) County Organized Healthcare System. Utilize Two Plan Model data for Two Plan Model rate development, COHS for COHS and GMC for GMC. In addition to increasing the underlying data representation by contract type, it would also decrease capitation rate reliance upon a small percentage of the total managed care population. Area/geographic adjustment factors could also be moderated under this scenario.
- Conduct detailed reviews of health plan financial statements to identify appropriate costs and/or other factors for use in developing rates.
    - Validation Tool for encounter and supplemental data;
    - Indicator for efficient plans
- Consider use of maternity supplemental payment method to cover the cost of all deliveries. Use normalized risk.
- Reflect the Administrative Allowance as a percentage of the capitation payment.

- Utilize a combined underwriting profit/risk/contingency.
    - Assumption Range: 2 percent to 4 percent
    - Most government programs are closer to 2 percent
- Develop a mechanism to measure the relative risk of each health plan in order to identify adverse/positive selection.
- Consider use of performance incentives to reward better plan performance.

The DHCS states that they *may be forthcoming* at the Governor's May Revision to address some of these issues and begin to incorporate both short-term changes and a longer-term strategy to continue the viability of the Medi-Cal Managed Care Program, particularly within the context of health care reform.

Background—Existing Medi-Cal Managed Care Rate Structure. Though the DHS did change its rate methodology in order to meet federal law requirements to be "actuarially" based, amongst other things, the DHS does not use encounter data to make rate determinations.

The "base cost" is the part of the rate that relates to experience from the past. Generally, to calculate the base cost, an attempt is made to find a group of individuals that will be similar to the group for which the rates are being set. Claims tapes for four COHS's is used for determining the Two Plan Model rates. Therefore, the base data set used for this process is comprised of only 8 percent of the Medi-Cal managed care membership.

Various adjustment factors are applied to the base costs, such as for age/sex population mix, enrollee's duration of Medi-Cal enrollment, trend factors for hospital inpatient and outpatient services, trend factors for pharmacy, and other factors. In addition, changes made through the state budget process are also to be factored in as part of the process.

The DHCS has established capitated rates using this process for six eligibility aid codes as follows: (1) Family; (2) Disabled; (3) Aged; (4) Adult; (5) AIDS; (6) Breast and Cervical Cancer Treatment Program. In addition, as a result of the Medicare Part D, there has been an additional three codes added to this (Disabled, Aged and AIDS are separated into "with Medicare" and "without Medicare").

Currently there are contract provisions that provide for an administrative remedy and an appeals process when disputes are raised by the plans regarding contract issues. These provisions are included in the Two Plan Model, Geographic Managed Care and the COHS contracts. Specifically, there is (1) an initial "notice of dispute" process, (2) an administrative appeals process, and (3) a Writ of Mandate process which is filed with the Superior Court to protest the Administrative Appeal decision. Within the last two-years, 15 plans have filed some form of Administrative Appeal regarding rates. Four cases have been taken to Superior Court.

Background—Budget Act of 2006. The Budget Act of 2006 made two adjustments to the rates paid to Managed Care plans. **First**, a 5 percent rated reduction required by AB 1762, Statutes of 2003 (Omnibus Health Trailer), sunset as of December 2006 (was in effect from January 1, 2004 through December 31, 2006). As such, an adjustment was made to restore this reduction.

Second, the DHCS conducted a financial review of the 22 Managed Care plans to determine fiscal solvency (as it pertained to "tangible net equity"—TNE). Based on the DHCS review and their criterion, 6 plans received rate increases. These included the following: Central Coasts Alliance for Health (COHS); Health Plan of San Mateo (COHS); Partnership Health Plan (COHS); Santa Barbara Health Authority (COHS); Contra Costa Health Plan (COHS); and San Diego Community Health Group (Geographic).

Background—5 Per cent Rate Redu ction From Prior Years. All Medi-Cal Managed Care Plans were affected by an actuarially equivalent 5 percent rate reduction effective January 1, 2004 through December 31, 2006.

Background—Quality Improvemen t Assessment Fee Rat e Increase. Medi-Cal Managed Care Plans, except for COHS', are participating in the "Quality Improvement Assessment" fee effective as of July 1, 2005. This arrangement enables plans to pay the state a fee (6 percent) that is then matched with federal funds to provide a rate increase. The state was able to offset General Fund expenditures from this arrangement as well. This arrangement enabled plans to receive about a 3 percent increase on average. This program is scheduled to end by 2009 due to recent changes in federal law.

Background—Loss of Confidence in Rate Calculations as Managed Car e Expanded. When Managed Care plans became part of the program, the state's obligation and method of payment changed. The state now had to begin paying a fix amount per member to a health plan each month, and the health plan would agree to pay for the member's medical care. At this time, the federal CMS imposed a requirement that payments to managed care plans could not exceed, in the aggregate, what the state would have spent had the individuals remained in Fee-For-Service.

By the end of 1997, a major portion of Medi-Cal eligibles were enrolled in Managed Care plans. As such, the rate calculations for Managed Care plans had to be changed because of the loss of sufficient Fee-For-Service data. The validity of the data was compromised.

The decision was made to create a new methodology for the Two Plan Model that would place less emphasis on Fee-For-Service cost data, and gradually move to a methodology based on managed care encounter data.

Background—Expansion of Medi-Cal Managed Care to Additional Counties. Through the Budget Act of 2005, the Legislature approved for the DHCS to work with health plans to expand Medi-Cal Managed Care to 13 additional counties, including El Dorado, Imperial, Kings, Lake, Madera, Marin, Mendocino, Merced, San Benito, San Luis Obispo, Sonoma, Placer and Ventura. Enrollment is to include the mandatory enrollment of families and children linked to CalWORKS, and the voluntary enrollment of aged, blind and

disabled populations (i.e., as presently done under the existing Medi-Cal Managed Care Program).

It should be noted that the Administration's original schedule for expansion into these counties has changed considerably. Originally the Administration believed expansion would occur by April 2008; however this has now been updated to extend to July 2009 (for the last county of expansion). It should be noted that any expansion needs to be done well, and not rushed. **However, the development of appropriate rates for this expansion to occur has been one of the issues that have required a longer roll out of this effort.**

Background—Overview of Medi-Cal Managed Care. The DHCS is the largest purchaser of managed health care services in California with over 3.2 million enrollees, or about 50 percent of 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 County Organized Health Systems (COHS). Twenty health plans have contracts with Medi-Cal within the 22 counties. Some of the plans—like commercial plans—contract with Medi-Cal under more than one model (i.e., commercial plan in Two Plan Model and participate in the Geographic Managed Care model for example).

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 280,000 individuals with disabilities are enrolled in a Medi-Cal Managed Care plan.

Each of these models is briefly described below.

- *Two-Plan Model.* The Two Plan Model was designed in the 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, 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.

- *Geographic Managed Care Model.* 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 11 percent of all Medi-Cal managed care enrollees in California.

  It should be noted that the capitation rates for each of the health plans participating in the Geographic Managed Care model are confidential since the California Medical Assistance Commission (CMAC) negotiates contracts with each health plan. Only those individuals on the CMAC, including the DOF and DHS, know the capitation rates.

- *County Organized Healthy Systems (COHS).* 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 costs aged, blind and disabled individuals, COHS receive higher capitation rates on average than health plans under the other Medi-Cal managed care system models. About 550,000 Medi-Cal recipients receive care from these plans. This accounts for about 16 percent of Medi-Cal Managed Care enrollees.

  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.

Constituency Concerns. The Subcommittee is in receipt of several letters expressing continued concerns regarding the rate structure utilized within the Medi-Cal Managed Care Program and the amount of reimbursement rate paid. Among other things, these concerns include the following:

- Accounting for hospital costs, particularly when the CA Medical Assistance Commission negotiates rate increases for hospitals and then the DHCS does not account for these rate increases within the Medi-Cal Managed Care Program.
- Disconnect between the DHCS and the CA Medical Assistance Commission in how rates are established for certain plans (four of the COHS and both Geographic Managed Care plans) that presently must cross-walk between the two entities.
- Lack of clarity in how rates are established overall, including considerations of medical inflation and tangible net equity levels (fiscal solvency), as well as specialty care services needed for aged, blind and disabled individuals (such as for the COHS).
- Lack of timeliness in establishing rates. The DHCS often does not establish rates until well after (sometimes as long as six to eight months) the fiscal year for the health plans contracts has begun. For example, the most recent capitation rate manual for the Two-Plan Model was just released as of March 6, 2007 for the rates being paid from October 1, 2006 through September 30, 2007.
- Concern with how "budget adjustment factors" are applied by the DHCS to the Medi-Cal Managed Care rates. Through the budget process, decisions are made that affect expenditures within the overall Medi-Cal Program. As part of their rate-setting process, the DHCS takes into consideration these "budget adjustment factors". Several health care plans believe these adjustments are not "actuarially" sound.

Subcommittee Staff Recommendation—Hold Open Pending May Revision. Significant issues regarding the structure of the Medi-Cal Managed Care rate reimbursement system continue to be of concern. At this time, it is recommended to hold this issue open pending the receipt of the May Revision and further discussions with constituency groups as well as the Administration.

However, at a minimum, the Subcommittee should consider the crafting of trailer bill legislation to begin to build upon a more definitive structure for the development of rates within Medi-Cal Managed Care.

Questions. The Subcommittee has requested the Medi-Cal Program to respond to the following questions.

1. DHCS**,** Please provide a brief description of how the rates for Medi-Cal Managed Care plans are now constructed.
2. DHCS, Please provide a brief description of the key aspects contained in the Mercer analysis.
3. DHCS, What next steps are necessary in order to craft more rational rates for the Medi-Cal Managed Care Program?

4. Medi-Cal Program-- County Performance Measures & Trailer Bill Language

Issue. The Administration is proposing trailer bill language to change its agreement with the counties regarding performance measures used to administer Medi-Cal eligibility processing. **Specifically, they are seeking to increase the performance standards from a 90 percent compliance rate to a 95 percent compliance rate.**

In addition, the department is requesting an increase of $195,000 ($97,000 General Fund) to support two Associate Medi-Cal Eligibility Analysts to maintain oversight of this county performance measure system.

Background—Existing County Performance Measures for Medi-Cal Program. Federal Medicaid (Medi-Cal) law requires states to use a governmental entity to make eligibility determinations. In California county social services departments are 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 2003 the Legislature enacted comprehensive "county performance standards". Under these standards, counties must meet specified criteria regarding completing Medi-Cal Program eligibility determinations and performing timely re-determinations. **A 90 percent threshold was specifically chosen to reflect the complexity of the Medi-Cal Program.**

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 2 percent as determined by the Department of Health Care Services. Further, implementation of a corrective action plan in those counties that fail to meet one or more of the standards are required.

The county performance standards address the following *key* requirements:

- Medi-Cal **eligibility application** processing;
- Medi-Cal **annual redetermination** processing; and
- Bridging processing (used to shift children between Medi-Cal and Healthy Families as appropriate based on program eligibility standards).

As contained in the Medi-Cal Estimate for 2007-08, these ongoing county performance standards are estimated to save *at least* $450 million ($222.8 million General Fund).

Background—Medi-Cal Eligibility Determination System (MEDS) Reconciliation. Additional standards were implemented in the Budget Act of 2003, and accompanying trailer bill language to ensure that counties were appropriately reconciling their Medi-Cal eligibility files with the state's system. This included the establishment of standards regarding the processing of error "alerts", as well as submitting quarterly reconciliation files to the DHS for data verification and correcting any subsequent identified errors. **If a county fails to follow these standards, the DHS will request a Corrective Action Plan from the county. If the county fails to meet the Corrective Action Plan's benchmarks, the DHS may reduce the county administrative allocation for Medi-Cal**

by two percent.

Background—Medi-Cal Eligibility Processing is Complex. 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 a 900-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. The budget proposes expenditures of about $1.4 billion ($662.5 million General Fund) for county administration of the Medi-Cal Program.

Federal Deficit Reduction Act Adds Complexity to Medi-Cal Eligibility Processing. Among other things, the DRA made changes to the Medicaid Program (Medi-Cal) that deal with citizenship and identity documentation, asset eligibility, and disabled Supplemental Security Income (SSI). These requirements have placed additional administrative requirements on to counties for Medi-Cal eligibility processing.

The DRA changed eligibility requirements by requiring that any person who declares to be a citizen or national of the U.S. must now provide that documentation of citizenship and identity. People applying for Medi-Cal must provide that documentation before full scope Medi-Cal can be approved. If this documentation is not provided, Medi-Cal is limited to emergency and pregnancy related services. Enrollees that are now receiving Medi-Cal services who enrolled prior to the DRA changes must provide documentation at their next redetermination in order to receive full-scope continuing Medi-Cal services. **This citizenship documentation requirement will affect over 4 million individuals, or about 62 percent, enrolled in Medi-Cal**.

With respect to asset eligibility, the DRA requires individuals who are requesting long-term care services or Waiver services will have to undergo an additional asset eligibility determination for payment of those services. Although these individuals may be eligible for Medi-Cal services of all other covered services, they may not be eligible to receive Medi-Cal-funded long-term care and Waiver services.

The asset eligibility changes also applies to individuals requesting services who, in the past, have received Medi-Cal automatically based on an eligibility determination made by the Social Security Administration for SSI/SSP or by CalWORKS.

Constituency Concerns—County Welfare Directors Association. The Subcommittee is in receipt of a letter from the County Welfare Directors Association (CWDA), the state's partner in administering the Medi-Cal Program. The CWDA is requesting modifications to the Administration's proposal as follows:

- Modify the existing performance schedule to recognize the challenges associated with implementing the citizenship and identify documentation requirements of the federal Deficit Reduction Act (DRA).
- In lieu of increasing the performance percentage from 90 percent to 95 percent, increase the percentage to 92 percent beginning as of January 2009.
- Requiring the state to provide additional support to counties to identify best practices in eligibility determination and annual redetermination processing, and to update conflicting state rules and regulations.

A key aspect of the CWDA letter is that the Medi-Cal process overall—its administration and eligibility processing—need to be simplified. If the directions from the state were established in one set of comprehensive instructions for the counties to use, and if the Medi-Cal eligibility process was more streamlined (less forms, pre-populating the annual redetermination forms and other aspects), a higher performance standard could be achieved.

Subcommittee Staff Recommendation. **First**, it is recommended to **delete** the $195,000 ($97,000 General Fund) to fund two Associate Medi-Cal Eligibility Analysts. The DHCS received 4 positions to oversee county performance standards originally and has received additional positions to conduct on-site fiscal reviews of counties to verify the accuracy of Medi-Cal claimed costs (for eligibility processing). In addition, the DHCS has a comprehensive Medi-Cal Division (over 1,700 employees) which has core staff available to oversee the counties. Further, the DHCS has an Audits and Investigations Division that can also be used to oversee county functions when applicable.

Second, it is recommended to **hold open the trailer bill legislation** to see if a compromise can be obtained. Subcommittee staff concurs with the CWDA that a 95 percent level is unworkable at this time due to the need for the state to improve its own operations, as well as the need to implement the federal DRA requirements which will be quite difficult and should be focused on.

In addition, the state needs to be a better business partner. The state needs to undertake a review of the Medi-Cal Program manual, regulations and all-county letters. Counties, as well as advocacy groups, should have clear instructions about how the program operates and the requirements they need to fulfill. As such, trailer bill language regarding the states efforts to proceed with this should be part of any compromise language.

Questions. The Subcommittee has requested the Medi-Cal Program to respond to the following questions:

1. Medi-Cal, Please provide a brief summary of how the state monitors the county's administration of Medi-Cal eligibility processing and how the present monitoring standards are operating.
2. Medi-Cal Program, Please provide a brief summary of the budget proposal and the trailer bill language.

5. Administration's Trailer Bill Language-- AB 1629 Nursing Home Rates

Issue (See Hand Out). The Administration is proposing trailer bill legislation to modify Assembly Bill 1629 (Frommer), Statutes of 2004, which implemented a facility specific rate setting system for facilities providing long-term care services (nursing homes). **The Administration's language proposes *three key* changes.**

First, a reduction of $28.8 million ($14.4 million General Fund) is proposed by reducing the maximum annual rate increase or "growth cap" to 4.5 percent, instead of the presently required 5.5 percent as contained in statute. The proposed 4.5 percent would be effective as of January 1, 2008. The Administration contends this change is necessary due to recent federal law changes regarding "Quality Assurance Fees", as well as an overall need to reduce General Fund expenditures.

Second, it would provide that beginning with the 2008-09 rate year, the maximum annual increase in the weighted average Medi-Cal rate for nursing homes would be adjusted based on a "medical" consumer price index (language needs to be fixed), and not by other factors as presently contained in statute. This aspect of the proposal would reduce and flatten-out future rate increases for nursing homes.

Third, the Administration would extend the sunset date for this nursing home rate methodology by one year, from July 31, 2008 to July 31, 2009.

Background---Summary of Key Aspects of Assembly Bill 1629 (Frommer), Statutes of 2004. This legislation created a *"facility-specific"* Medi-Cal reimbursement methodology for nursing homes, and authorized a provider *"Quality Assurance Fee"* to assist in providing a Medi-Cal rate increase.

The purpose of these changes were to devise a rate-setting methodology that: (1) encouraged access to appropriate long-term care services; (2) enhanced quality of care; (3) provided appropriate wages and benefits for nursing home workers; (4) encouraged provider compliance with state and federal requirements; and (5) provided administrative efficiency.

The key components of the nursing home rate methodology contained in this enabling legislation are as follows:

- Establishes a **baseline reimbursement rate** (weighted average rate) *and* state maintenance of effort level (methodology in effect as of July, 2004 plus certain specified adjustments). (The facility-specific rate and "Quality Assurance Fee" rate increases are built upon this baseline.)
- Establishes a **"facility-specific" Medi-Cal reimbursement methodology** for nursing homes. Payment is based upon each facility's projected costs for five major cost categories: (1) labor costs; (2) indirect care non-labor costs; (3) administrative costs; (4) capitol costs—"fair rental value system"; and (5) direct pass-through costs (proportional share of actual costs, adjusted by audit findings).

- Imposed a **"Quality Assurance Fee"** on all nursing homes (about 1,200 facilities), not to exceed 6 percent, which is deposited in the state treasury and is used to fund the specified rate increases, as well is used to offset some General Fund expenditures (amounts vary each year for the rate increase and General Fund savings levels).

- Limits growth in the overall Medi-Cal reimbursement rate for nursing homes through the use of spending caps. These spending "caps" were agreed to because facility-specific reimbursement systems can be inflationary. The spending "caps" contained in the enabling legislation are:

  - ✓ 2005-06 8 percent (of the weighted average rate for 2004-05);
  - ✓ 2006-07 5 percent
  - ✓ 2007-08 5.5 percent **(note: Administration wants to reduce to 4.5 percent)**

Background—"Quality Assurance Fees" and the Federal Changes. California presently uses a "Quality Assurance Fee" for the "AB 1629" nursing home rate methodology, as well as within the Medi-Cal Managed Care Program. These fees are collected from providers on a quarterly basis and are used by the state to obtain additional federal funds to provide rate increases for these two areas. In addition, net General Fund revenues (savings) are obtained from these actions.

Generally, within specified requirements, federal Medicaid law allows states to collect fees from providers for expenditure in the Medicaid Program (Medi-Cal Program in California). Several states use these "Quality Assurance Fees" to support their programs.

Effective January 2008, the federal government is lowering the 6 percent threshold for fees to 5.5 percent. According to the DHCS, this change will not affect the state's General Fund support in 2007-08, but will result in a loss of about $12 million General Fund in 2008-09. (The amount of Quality Assurance Fee collected by the state and going into the state treasury will be reduced. A portion of the Quality Assurance Fee is used to fund Medi-Cal reimbursement rates and a portion is used to offset General Fund expenditures overall.) **The Administration's proposed trailer bill language would conform state statute to this upcoming federal change.**

From a technical perspective, the state's threshold percentage is calculated based on "non-Medicare" revenues but does not presently capture expenditures facilities have to pay related to licensing and certification fees. The federal government's threshold percentage is calculated base on revenues, including Medicare and is supposed to include licensing and certification expenditures. **The bottom line here is that the state needs to clarify the exact dollar amount to be captured under the state's threshold percentage. They will be clarifying this aspect with the industry shortly.**

Background—Bureau of State Audits Report—February 2007 Report. In a recent audit, the Bureau raised the following concerns regarding the DHCS administration of the AB 1629 process. *Key* concerns included the following:

- DHCS has not appropriately documented the methodology underlying the reimbursement rate system as designed by Navigator (contractor used to calculate the

AB 1629 rate system). The DHCS needs to document this process as well as any future rate changes made.

- DHCS, through the fiscal intermediary claims billing system, inadvertently authorized duplicate payments of $3 million for some facilities. The DHCS needs to formalize a rate change process that documents the reason for a rate change and provides a notification of the rate change to the fiscal intermediary (Electronic Data Systems).
- DHCS has not yet been able to collect all of the Quality Assurance Fees owed to the state.

Generally, the DHCS concurred with the audit findings and in the process of making changes. **They intend to provide a 60-day response to this audit report to the Bureau which will document the rate development system and address other issues.** This report should be forthcoming within a week or so.

Background—Table of Expenditures Comparing Prior System to New System. The Medi-Cal Program has prepared a chart to display the benefit of the AB 1629 rate method, as compared to the prior rate method, for both the state and constituency groups. As noted below, the AB 1629 rate method, because of the use of the Quality Assurance Fees, has enabled the state to save resources and for more overall funding to be placed into the nursing home system.

Summary Table Displaying the Benefit of the AB 1629 Rate Method *(Dollars in thousands)*

I. Prior System	2005-06	2006-07	2007-08
Reimbursements to Nursing Homes	**$3,038,026**	**$3,144,357**	**$3,254,410**
Federal Cost	$1,519,013	$1,572,178	$1,627,205
State General Fund Cost	$1,519,013	$1,572,178	$1,627,205
Net Cost to State	**$1,519,013**	**$1,572,178**	**$1,627,205**
II. AB 1629 Rate System			
Reimbursements to Nursing Homes	**$3,343,374**	**$3,510,543**	**$3,703,622**
Federal Cost	$1,671,687	$1,755,271	$1,851,811
State General Fund Cost	$1,671,687	$1,755,271	$1,851,811
Quality Assurance Fee (offsets GF) (100% collection rate)	$233,150	$244,807	$258,272
Net Cost to State	**$1,438,537**	**$1,510,464**	**$1,593,540**
General Fund Savings (comparison)	**$80.5 million**	**$61.7 million**	**$33.7 million**

Constituency Concerns with Governor's Proposal. The Subcommittee is in receipt of letters from industry organizations, labor organizations and others expressing considerable concern with the Administration's proposal. The key concern is the reduction to the reimbursement rate (by lowering the spending cap to reduce the percentage of rate increase).

Organizations state that this reduction undermines the basis for the "Quality Assurance Fee". They contend that the industry and labor have been assuming a certain level of rate adjustment for the upcoming year based upon the existing statute. As such, the proposed reduction would be problematic.

Subcommittee Staff Recommendation—Hold Open. It is recommended to hold this issue open pending the May Revision for discussions with the Administration and constituency groups to continue and to obtain an update on the state's revenue situation.

Questions. The Subcommittee has requested the Department of Health Care Services to respond to the following questions.

1. Medi-Cal, Please provide a brief summary of how the existing "AB 1629" nursing home reimbursement rate works, and how it would change under the budget proposal including both the reduction to 4.5 percent *and* the medical consumer price change.
2. Medi-Cal, Please clarify why the Administration wants to extend the sunset date for only one-year (from June 30, 2008 to June 30, 2009).

C. ISSUES FOR DISCUSSION—Licensing & Certification Division

1. Administration Proposes Substantial Fee Increases

Issue. The Administration is proposing to substantially increase the fees paid by health care providers to be licensed and certified by the Department of Public Health. **These proposed fee increases are attributable to several factors, including the following:**

a) The Administration proposes to eliminate $7.2 million General Fund from the program and shift these expenditures to the L&C Fund, and thereby increase fees accordingly.

b) The Administration's budget change proposals, including increases for administrative support and chaptered legislation, equate to an increase of $11.5 million in L&C Fund expenditures if they are adopted without modification.

c) The Administration's baseline adjustments for labor and personnel, such as employee compensation and retirement, as well as operating expenses equate to an increase of $3.7 million (L&C Fund).

d) The Administration's pro rata adjustment for the L&C Division equates to an increase of $4.2 million (L&C Fund). (This is a technical adjustment that reflects the Divisions share of the Department of Public Health's portion of funding for pro rata.)

By deleting the General Fund support, and by adding in additional expenditures onto the base L&C Program as referenced above, the L&C Division then applies calculations as contained in Section 1266 of Health & Safety Code to determine the individual health care facility fees. The table below reflects the Administration's proposed L&C fee schedule.

Administration's Proposed Fee Schedule (Also see Hand Out re: Frequency of L&C Survey)

Facility Type	Fee Category	2006-07 Fee (Budget Act 2006)	Administration's 2007-08 Fee	Difference (+/-)
Referral Agencies	per facility	$5,537.71	$6,798.11	$1,260.40
Adult Day Health Centers	per facility	4,650.02	4,390.30	-259.72
Home Health Agencies	per facility	2,700.00	5,568.93	2,868.93
Community-Based Clinics	per facility	600.00	3,524.27	2,924.27
Psychology Clinic	per facility	600.00	3,524.27	2,924.27
Rehabilitation Clinic (for profit)	per facility	2,974.43	3,524.27	549.84
Rehabilitation Clinic (non-profit)	per facility	500.00	3,524.27	3,024.27
Surgical Clinic	per facility	1,500.00	3,524.27	2,024.27
Chronic Dialysis Clinic	per facility	1,500.00	3,524.27	2,024.27
Pediatric Day Health/Respite	per bed	142.43	139.04	-3.39
Alternative Birthing Centers	per facility	2,437.86	1,713.00	-724.86
Hospice	per facility	1,000.00	2,517.39	1,517.39
Acute Care Hospitals	per bed	134.10	309.68	175.58
Acute Psychiatric Hospitals	per bed	134.10	309.68	175.58
Special Hospitals	per bed	134.10	309.68	175.58
Chemical Dependency Recovery	per bed	123.52	200.62	77.1
Congregate Living Facility	per bed	202.96	254.25	51.29
Skilled Nursing	per bed	202.96	254.25	51.29
Intermediate Care Facility (ICF)	per bed	202.96	254.25	51.29
ICF-Developmentally Disabled	per bed	592.29	701.99	109.70
ICF—DD Habilitative, DD Nursing		1,000 per facility	701.99 per bed	3,211.94 per facility
Correctional Treatment Centers	per bed	590.39	807.85	217.46

As required by statute, the Administration published a list of the above *estimated* fees on February 1, 2007 and has provided additional background to several constituency groups regarding how the fees are calculated. However, since this is the first year for implementation of a new methodology, several organizations are not clear on how their particular health care category of fees was fully determined.

With respect to the cost fa ctors iden tified above (a through d), the follow ing comments are offered. The Administration's proposed elimination of General Fund support and shifting to fees is contrary to the agreement crafted through the Budget Act of 2006. The Administration has made a policy choice by accelerating the phase-in of the fee schedule, as discussed more below. The adjustment for employee compensation is reasonable since it pertains to the cost of doing business.

The Administration's proposed $4.2 million pro rata adjustment is a new expenditure for which the L&C Division will need to incur due to Department of Finance requirements. In essence, a pro rata adjustment is the recovery from special funds of costs incurred by central service agencies (such as Department of Personnel Administration, Department of Finance and the State Controller's Office).

Background—Budget Act of 2006 & G eneral Fu nd Sup port Provided. Through the Budget Act of 2006, a total of 155 positions, including 96 Health Facility Evaluator Nurse (HFEN) positions, 16 HEFN Supervisors, and 8 Pharmacy Consultants were provided.

A key aspect of this agreement last year was the acknowledgement that the L&C Division was woefully understaffed and not meeting standards for ensuring patient safety and medical quality, including not responding to complaints at nursing homes on a timely basis. As such, these positions were added to commence with numerous improvements.

Another key aspect of this agreement was that a revised fee system, along with the establishment of a special fund to capture the fees, would be phased-in over a three year period (i.e., would become fully fee supported by no later than 2009-2010). **The revised fee system has m any com plexities, in cluding the implementation of a more comprehensive timekeeping system to mo re appropriately track HFEN surveyo r work and "billable" t ime, as w ell as id entifying an overall appropriate *program base* from which to build.**

As noted in extensive discussions in Subcommittee last year, the L&C Division sustained a reduction of 166 positions over a period of several years due to unallocated General Fund reductions on state support. Specifically, vacant positions were swept and counted as General Fund savings since the program had not yet established a special fund. These actions were as follows:

- 2000-2001 (vacancy reduction) 21 positions were reduced of which 20 where Health Facilities Evaluation Nurses.
- 2001-02 (unallocated reduction) 15 positions were reduced and all of them were Health Facilities Evaluation Nurses.

- 2002-03 (vacancy reduction) 39 positions were reduced and all were professional classifications (HFENs, analysts and pharmacy-related), except for 11 that provide clerical and data support.
- 2003-04 (unallocated reduction) 91 positions were reduced of which 32 were nursing classifications, 15 were other professional classifications (analysts, information specialists, and legal) and 44 that provide clerical and data support.

Therefore in many ways, the additional 155 positions provided in the Budget Act of 2006 was an effort to restore the L&C Division to a base program level.

Background—Need to Fill Vacant Positions. The L&C Division has historically had difficulty filling positions, some of which is due to a persistent nursing shortage.

The L&C has taken several steps to recruit nurses to fill vacancies, including the use of new proactive recruitment strategies. In addition, they have shortened the length of time it takes to get a newly hired nurse trained and tested from 18 to 24 months to 12 to 18 months. However, as noted by the LAO and a recently released Bureau of State Audits Report (April 12, 2007), L&C is still having difficulty in filling vacancies.

The Bureau of State Audits has recommended for the L&C Division to work with the Department of Personnel Administration (DPA) regarding employee compensation. In response, the DHCS stated their intent to submit a comprehensive plan to the DPA regarding the hiring and retention of qualified individuals to perform surveys and complaint investigations.

Background—Need to Improve Overall L&C Division Consistency and Efficiencies. Various health care facilities have raised issues over the past several years regarding interpretations made of licensing and certification policies and procedures at L&C Field Offices. There have been variances across the state as to how certain policies are to be implemented, as well as to what paperwork is required for processing certain documents, including the certification process (which enables a provider to obtain Medi-Cal reimbursement). **Further, various inefficiencies have been identified by health care facilities who are seeking an "efficient service" for which they pay a fee.**

The L&C Division states they are *beginning* to address some of these multi-layered issues, and have provided some examples as follows:

- Centralized the application process for nursing homes and ICF-DD facilities to ensure standardized processing. Work still needs to be done to centralize the application processing for Home Health Agencies.
- Application forms for nursing homes, ICF-DD facilities, community clinics and Home Health Agencies can now be uploaded from the DHCS Licensing and Certification Division web page.
- The documentation and write-up phases of complaint investigations have been streamlined and they content this new protocol has been tested to ensure that there has been no diminution of complaint findings.
- L&C Division will soon be meeting with Community Clinic providers to conduct a joint training in August. L&C has revised their website to list forms that need to be submitted by Community Clinic applicants when applying for a new license, certification or "Change or Ownership" (CHOW).

- L&C Division will be crafting a "District Office Memorandum" with policies and procedures related to Community Clinic provider licensing and affiliate clinic licensing surveys. These policies and procedures are presently being discussed with constituency groups.

Overall Background—Purpose of Licensing & Certification. The DHCS L&C Division conducts licensing and certification inspections (surveys) in facilities to ensure their compliance with minimum federal certification and state licensing requirements in order to protect patient health and safety.

L&C is also responsible for investigating complaints from consumers, consumer representatives, the Ombudsmen, and anonymous sources, against health facilities. L&C is a statutorily mandated enforcement agency.

Certification is a federal prerequisite for health facilities and individual providers wanting to participate in and receive reimbursement from both Medicare and Medicaid (Medi-Cal). The DHS is the designated entity under contract with the federal CMS to verify that health facilities meet minimum certification standards. Federal grant funds are allocated to California to conduct work associated with Medicare. In addition, L&C fees are collected from the various facilities and are placed into the L&C Fund. General Fund support is also provided for some facilities to support L&C functions.

There are over 7,000 public and private health care facilities throughout the state, including hospitals, nursing homes, clinics and home health agencies.

Constituency Concerns Continue. Though progress has been made in several areas, the Subcommittee is in receipt of letters expressing substantial concerns regarding the substantial fee increases, the elimination of the $7.2 million General Fund support provided in 2006-07, and the overall perceived lack of "service" for the various fees that is being paid (or proposed to pay). Examples of concerns with service include the following:

- Continued difficulties for Community Clinic providers to obtain licensure and certification of affiliate clinics (existing statute provides for a streamlined process).
- Continued and on-going backlogs for licensing and certification (in order to receive Medicare and Medi-Cal reimbursement) approvals. There is a considerable backlog for Home Health Agencies in particular.
- L&C staff who are not well trained and have an inconsistent understanding of licensing and certification requirements.
- Lack of clarity as to how L&C surveyor workload hours are attributed to the various healthcare facilities for the determination of fees to be paid. Several organizations are concerned because the workload hours L&C is using for fee determinations may not be accurate they believe.

Subcommittee Staff Recomm endation. The L&C division is making considerable progress, but it is acknowledged that considerably more work needs to be accomplished. Vacant positions need to be filled, more streamlining needs to be put into action, and coordination and consistency across the L&C Field Offices is needed.

Many of these issues are documented and discussed at length within the Bureau of State Audits Report, "It's Licensing and Certification Division is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities", released on April 12, 2007.

As such, it is still very much another transition year. Therefore, to have the program fully fee supported places an undue burden on many health care providers. In addition, it was the intent of the Legislature last year to have a phased-in approach to the fees. Therefore, it is recommended to place $7.2 million (General Fund) on the Subcommittee's priority list to fund.

Further, it is recommended for the L&C Division to report back to the Subcommittee on May 7th as to what additional streamlining actions they have taken to meet constituency needs and those that could be taken in the near future.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. L&C Division, Please provide a brief update as to key changes that have been recently implemented.
2. L&C Division, Where is the Administration in providing the Department of Personnel Administration with a plan regarding recruitment and retention, and employee compensation?
3. L&C Division, Please provide a brief description of how the Administration's L&C Fee schedule was determined. Why did the Administration delete the $7.2 million in General Fund support?

2. Implementation of Senate Bill 1312 (Alquist), Statutes of 2006 & Trailer

Issue. The Administration is requesting **an increase of $2.5 million** (Licensing and Certification Fund) to support 16 positions, and augment a contract the state has with Los Angeles County, to implement the provisions of Senate Bill 1312 (Alquist), Statutes of 2006. In addition, the Administration is proposing trailer bill language (April 12, 2007 version) to clarify certain aspects of the enabling legislation.

Senate Bill 1312 (Alquist), Statutes of 2006, requires the Licensing and Certification (L&C) Division of the Department of Public Health to do the following:

- Identify all state law standards for the staffing and operation of long-term health care facilities;
- Reinstate periodic licensing surveys for all long-term health care facilities; and
- Authorize the imposition of administrative penalties for incidents occurring at facilities on or after January 1, 2007.

Prior to SB 1312, the state was no longer conducting state surveys in certified facilities where federal surveys were conducted. However, under SB 1312, regardless of the federal survey results, a state licensure survey is required. L&C Division surveyors may review the outcomes of the federal surveys to identify areas where problems were previously identified in a facility; however, the facility would still need to meet the state standards.

First, **a total of 16 positions are requested for the Licensing and Certification (L&C) Division at a cost of $1.9 million.** The L&C Division assumes that they would conduct a joint federal *and* state survey and inspect facilities' compliance with state standards "to the extent that those standards provide greater protection to residents, or are more precise than federal standards." **Specifically, the L&C Division would inspect for any differences between the state and federal requirements and they estimate this would add 20 hours to the federal survey. This standard equates to 13 permanent L&C Division field positions** (i.e., 10 Health Facility Evaluator Nurses, 1.5 Health Facility Evaluator Nurses—Supervisor, and 1.5 Program Technicians).

An additional Health Facility Evaluator Specialist is requested to identify state standards for the staffing and operation of long-term care facilities and to begin using those standards for the reinstated licensing inspections.

The remaining two positions are for legal services. These include 1.5 Staff Counsel positions and 0.5 Administrative Law Judge. These positions are requested to implement the administrative penalties and handle legal issues that arise from conducting these additional surveys.

Second, as previously noted, the state contracts with Los Angeles County to conduct licensing and certification work in that region. As such, an increase of $559,000 (Licensing and Certification Fund) is necessary for the county to meet the requirements of the enabling legislation.

Third, the Administration is proposing trailer bill language to clarify a few aspects of the enabling legislation. **First**, it clarifies that the L&C Division will inspect for compliance with provisions of state law and regulations during a state periodic inspection *or* at the same time as a federal periodic inspection. **Second**, it clarifies that the cost of the additional inspections and surveys may be recovered by an increase in initial license and renewal fees for long-term care facilities. **Third**, it clarifies the administrative penalties to be imposed on hospitals. This clarification was needed due to an overlap with other chaptered legislation (i.e., AB 774, Statutes of 2006).

Subcommittee Staff Recommendation--Approve. It is recommended to adopt the April 12, 2007 version of the trailer bill language, as contained in the hand out, and to approve the budget request for the positions.

Questions. The Subcommittee has requested the L&C Division of the Department of Public Health to respond to the following questions.

1. L&C Division, Please explain how the state surveys are to be conducted.
2. L&C Division, Please provide a brief summary of the budget request.
3. L&C Division, Are there any concerns with any of the implementation aspects regarding SB 1312? If so, please explain.

3. Senate Bill 1301 (Alquist)—Hospital Inspections & Reporting (DPH)

Issue. The Administration is proposing **a total increase of $7.4 million** (Licensing and Certification Fund) to implement Senate Bill 1301 (Alquist), Statutes of 2006, *and* to develop the internet-based information system required by Assembly Bill 893 (Alquist), Statutes of 1999, and modified by Senate Bill 1301.

This request includes the follow ing: (1) $5.6 million for 45 state positions; **(2)** $1.2 million to augment the Los Angles County contract; and **(3)** $569,000 in additional funds for reporting requirements related to the Licensing and Certification website.

Senate Bill 1301 (Alquist), Statutes of 2006, amended existing statute to **(1)** establish a system for the timely reporting of medical errors in hospitals; **(2)** increase the frequency of licensing inspections of hospitals that report serious medical errors; **(3)** report these errors to the public; and **(4)** require the Department of Public Health's Licensing and Certification (L&C) Division to track and report this information.

In order to meet these requirements, the Administration is re questing additional resources. Each of the three fiscal components is discussed below.

- ***(1)*** *Licensing and Certification (L&C) Division Staff (Total Increase of $5.6 million for 45 staff).* The Licensing & Certification Division is requesting a total of 45 positions to complete the work associated with implementing this legislation. These positions are needed in four areas— inspections, regulations, information technology development, and support functions. **Each of these areas is discussed below.**

  (A) *L&C Division Inspection Staff (42 Positions)*. The Administration states that hospital reporting of adverse events will dramatically increase time spent inspecting hospitals. Additional staff is requested to conduct the additional on-site inspections, follow-up, and annual inspections of adverse events as required by the legislation.

  Specifically, the following positions are requested for the inspection team:

  - 1 Health Facilities Evaluator II--Supervisor
  - 21 Health Facilities Evaluator Nurses;
  - 5 Medical Consultants;
  - 5 Pharmacy Consultants;
  - 1 Public Health Nutrition Consultant;
  - 5 Medical Records Consultants; and
  - 4 Program Technician II's

  With respect to the Health Facilities Evaluator Nurses, the L&C Division states that the 21 positions are based on the fact that it takes 14 hours to conduct a reported incident investigation, and it takes an additional 14 hours to conduct on-site follow-up visits when adverse events are reported. There were 1,050 reported incidents in 287 hospitals last year. Therefore 1,050 incidents multiplied by 28 total hours equates to 21 positions (assuming 1,364 hours annually per position).

(B) *L&C Division Regulation Staff (One Staff).* The L&C Division is requesting an Associate Governmental Program Analyst position to develop regulations to clarify the language in the legislation regarding such terms as "adverse events".

(C) *L&C Division Information & Technology (Four Staff).* The L&C Division is requesting one Senior Information Systems Analyst, one Staff Programmer Analyst, and two Associate Information System Analysts to design and implement the database necessary to track and report adverse events at hospitals as required by the legislation. These positions would also provide (1) system training to the new inspection surveyors to capture the survey findings and issue civil money penalty citations, and (2) on-going system maintenance support.

(D). *Administration Division (2 Staff).* The Administration Division within the Department of Public Health is requesting support for personnel and accounting functions. Specifically they are requesting (1) a 0.5 Personnel Analyst; (2) a 0.5 Personnel Specialist; (3) a 0.5 Accountant, and (4) a 0.5 Accounting Technician. They contend these positions are needed for recruitment, hiring and retention, as well as for processing travel claims and related accounting functions associated with the additional L&C Division inspection staff.

- ***(2)*** *Los Angeles County Contract (Increase by $1.2 million).* The state contracts with Los Angeles County to conduct certification surveys within the county. As such, an increase in the contract of $1.2 million (Licensing and Certification Fees) is proposed to hire staff to meet the requirements. The methodology used to calculate this adjustment is consistent with past practices.

- ***(3)*** *L & C Website (Increase of $569,000).* According to the Administration, the total project cost is $1.6 million for 2007-08, including the four information systems positions above. The Feasibility Study Report for the project was approved as of March 14, 2007 by the DOF. The $1.6 total project cost consists of $1.2 million in one-time expenditure for software, hardware and project management. The ongoing costs total $390,000. The propose increase is primarily for certain software customization.

  The L&C Division states that this website will meet the requirements contained in Assembly Bill 893 (Alquist), Statutes of 1999, as well as those contained in Senate Bill 1301 (Alquist), Statutes of 2006. The Administration has revised its timeline to have the long-term care facilities component of the website operational by December 2007.

Overall Background—Senate Bill 1301 (Alquist, Statutes of 2006). SB 1301 increases governmental oversight and promotes disclosure of errors directly to the affected patient and to the public. Specifically, it requires that hospitals (General Acute Care, Acute Psychiatric and Special Hospitals) report 27 adverse events for which they were not previously required. It defines the adverse events, reporting requirements, and consequences of not reporting. Hospitals must begin reporting adverse events on July 1, 2007, and the L&C Division must make this information available to the public.

The law also requires the L&C Division to make an on-site inspection within 48 hours of receipt of a written or oral complaint that indicates an ongoing threat of imminent danger of bodily harm or death.

Background on the Internet-Based Information and Repo rting. Assembly Bill 893 (Alquist), Statutes of 1999, requires the Department of Public Health's Licensing and Certification (L&C) Division to establish and develop an internet based consumer information system to provide updated information to the public and consumers regarding long-term care facilities. Though the legislation contained an operational date of July 1, 2002, it has yet to be implemented.

The consumer information service system is to include, at a minimum, all of the following elements:

- An on-line inquiry system accessible through a statewide toll-free number and the internet;
- Long-term care health facility profiles, with data on services provided, a history of all citations and complaints for the last two full survey cycles, and ownership information. This profile is to include a description of the facilities services, information regarding substantiated complaints and state citations, and any special resolution pertaining to a citation; and
- Where feasible, the department is to interface the consumer information service system with its "automated certification and licensure information management system".

Senate Bill 1301 (Alquist), Statutes of 2006, added hospitals, including general acute care hospitals, acute psychiatric hospitals and special hospitals, to this overall requirement.

Subcommittee Staff Recommendation—Appro ve and Adjust Budget Bill Language. It is recommended to approve the budget proposal and to technically adjust Budget Bill Language to reflect the updated Finance Letter expenditures.

Questions. The Subcommittee has requested the L&C Division to respond to the following questions.

1. L&C, Please provide a brief description of the entire request, including the need for the positions.
2. L&C, Please discuss the timeline for the implementation of the website.

4. Nursing Home Administrator Program

Issue. The budget proposes a net increase of $57,000 (Nursing Home Administrator's State License Examining Fund), along with a redirection of $110,000 (from operating expenses within the program) to fund a Staff Services Manager I and 1.5 Associate Governmental Program Analysts to investigate complaints and citations received by the Nursing Home Administrator Program and to ensure that statutory and regulatory duties are met.

The department states that the Nursing Home Administrator's Program is currently understaffed and unable to meet the mandates of state law. Presently there is 2.5 staff working within the program at the L&C Division. When the program was operated by the Department of Consumer Affairs, five staff was utilized. **Among other things, the L&C Division states that the program has been *unable* to do the follow ing due to a shortage of staff:**

- Promptly investigate complaints and citations. There is currently a backlog of about 83 complaints and over 800 citations. This number continues to increase each month.
- Review and update procedures to ensure that individuals licensed as nursing home administrators will, during any period that they serve as an administrator, comply with the required standards.
- Maintain the relevancy and currency of the state nursing home administrator exam.
- Provide paper-based and onsite monitoring of the Administrators-in-Training Program to ensure that people are being appropriately trained.
- Randomly audit certification forms and certificates provided by Nursing Home Administrators as proof of completion of continuing education courses for license renewal to substantiate completion of said courses.

The proposed 2.5 positions would primarily be used to: **(1)** conduct investigations and enforcement activities; **(2)** ensure that nursing home administrator's applicants meet required standards for licensure; ensure the timely approval of continuing education providers and courses; and **(3)** maintain the relevancy of the state licensing examination.

The department believes that 40 complaint cases per year can be investigated and that the current backlog will be eliminated in about two years. Further, they intend to have the program develop, monitor evaluate and update as necessary an annual work plan for accomplishing the mandates set forth in the Nursing Home Administrator's Act (Assembly Bill 1409, Statutes of 2001). This annual plan is to identify goals and objectives, required activities, resources needed, timeframes, and expected outcomes that will result in the accomplishment of the defined mandates.

Background—Nursing Home Administrator Program. The purpose of this program is to protect the health and safety of the public by ensuring that only qualified persons are licensed and appropriate standards of competency are established and enforced.

Among other things, the Nursing Home Administrator's Act (Act) specifies licensing requirements for administrators, including the applications, examination, qualifications and continuing education requirements. The Act also addresses fees for state and national examinations and provides procedures for out-of-state Nursing Home Administrators licensees to obtain a one-year provisional license. In addition, the Act establishes a designated citation and administrative fine assessment system, streamlines enforcement functions and requires the Nursing Home Administrators Program to develop a specified administrator-in-training (AIT) program.

Besides investigating self-reported incidents, the Nursing Home Administrators Program is required to routinely review the citation logs and files of the Nursing Home Administrators whose facilities have received citations from the Licensing and Certification Division to determine if remedial or disciplinary actions against the administrator is warranted based on the administrator's involvement or culpability in the citations.

Subcommittee Staff Recommendation—Approve with Budget Bill Language. It is recommended to approve the budget request and to adopt Budget Bill Language as follows:

For Item 4265-001-0001:

"The Department of Public Health shall provide the fiscal and policy committees of the Legislature, by no later than January 15, 2008, a copy of the annual work plan for accomplishing the mandates set forth in the Nursing Home Administrator's Act. This work plan will identify goals and objectives, required activities, resources needed, timeframes, and expected outcomes that will result in the accomplishment of the defined mandates."

Questions. The Subcommittee has requested the L&C Division to respond to the following question.

1. L&C Division, Please provide a brief summary of the budget request.

5. Temporary Manager/Receiverships for Long-Term Care Facilities

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting a one-time only increase of $1.9 million ($1.4 million state Health Facility Citation Penalty Account and $466,000 federal Health Facility Citation Penalty Account) to fund temporary manager/receiverships for long-term care facilities. With this increase, the total amount to be appropriated for this purpose in 2007-08 is $5 million (both accounts).

The department states that the $1.9 million increase is a one-time only adjustment while they gather sufficient expenditure and revenue data to determine a more permanent and workable funding mechanism for temporary manager/receiverships. This is because the funds would become insolvent in future years based on this continued expenditure level.

The department states that the overall 2007-08 cost estimate is based on the availability of facility cash resources for ongoing operational costs, the number of beds in the facilities, whether the facilities are federally certified to receive Medi-Cal funding to offset operational costs, and whether the receivership will require the relocation of residents.

It should be noted that temporary manager/receiver expenditures have been increasing as noted in the chart below. Further, the department notes that these two citation funds (state and federal) cannot maintain expenditure levels after 2007-08. **Therefore, the department will need to analyze, identify, and propose an alternative funding source for the temporary managers/receiverships for future fiscal years.**

Table: Department's Data on Cost of Temporary Managers/Receiverships

Fiscal Year	Amount Expended
2004-2005	$2.3 million
2005-2006	$6.5 million
2006-2007 (estimated)	$8.9 million
2007-2008 (proposed but could be higher)	$5.0 million

Background—Temporary Manager/Receiverships. The L&C Division is the entity responsible for overseeing the quality of health care provided in health facilities statewide and the appointment of Temporary Managers. The L&C Division must fund Temporary Managers and Receiverships and maintain facility operations to protect the health and safety of residents of long-term care facilities.

State statute requires the department to take action to protect the health and safety of residents of long-term care facilities. It authorizes the Director of the Department of Public Health to appoint a Temporary Manager when the following conditions exist:

- The residents of the long-term care facility are in immediate danger of permanent injury or death by virtue of the failure of the facility to comply with federal or state requirements applicable to the operation of the facility; and
- When the facility fails to comply with state law related to reducing transfer trauma of residents that are to be transferred due to the change in status of a facility's license or operations.

In addition, the Director may petition the Superior Court in the county in which the long-term care facility is located for an order appointing a receiver to temporarily operate the long-term care facility where certain circumstances exist, as contained in statute.

Background—Source of Funding. Funding for this program is comprised of moneys collected as a result of citation penalties levied against long-term care facilities and deposited into the Health Facilities Citation Penalties Account (state citation fund) and the Federal Citation Penalties Account (federal citation account).

Both of these funds provide immediate access to financial resources in emergency situations threatening the health and well being of residents in long-term care facilities.

The state citation fund consists of moneys collected as a result of state citation civil penalties levied against long-term care facilities. These funds can be used for many purposes including for long-term care resident relocation expenses; maintenance of facility operation pending corrections or closure (such as temporary management); reimbursing residents for personal funds lost; and the costs associated with informational meetings.

The federal citation fund consists of receipts for federal civil money penalties for federal survey deficiencies collected by the federal Centers for Medicare and Medicaid Services (CMS) and remitted to the state.

Bureau of State Audits Report (April 12, 2007). The BSA recommends for the L&C Division to take steps to gain assurance from temporary management companies that the funds they request and receive are necessary. Documentation for expenditures needs to be obtained. In addition, they should expand the pool of qualified temporary management companies to ensure that they have sufficient numbers of temporary management available and receive competitive prices.

Subcommittee Staff Recommendation. It is recommended to approve the budget request, along with the following Budget Bill Language:

For Item 4265-001-0001:

"By no later than November 1, 2007, the Department of Public Health shall provide the fiscal and policy committees of the Legislature with an action plan to address issues related to fiscal accountability and the selection process for temporary management appointments as identified in the Bureau of State Audits Report (2006-106)."

Questions. The Subcommittee has requested the L&C Division to respond to the following questions.

1. L&C Division, Please provide a brief overview of the Temporary Manager/Receiver process and how the budget request is to address the needs identified.
2. L&C Division, What is on the horizon for addressing the issues identified in the Bureau of State Audits Report regarding this area?

6. Health Care Associated Infections-Senate Bill 739 (Speier), Statutes of 2006

Issue. An increase of $2 million ($1.562 million General Fund and $431,000 Licensing and Certification Fund) is proposed to support 14 positions and various contracts to implement Senate Bill 739, Statutes of 2006, which requires the establishment of a Healthcare Associated Infection Program.

The DHS states that two positions are presently used to address infection control issues, including a Public Health Medical Officer III located within the Division of Communicable Disease, and a Nurse Consultant located within the Licensing and Certification Program.

Specifically, the Department of Public Health (DPH) is proposing to hire a total of 14 positions which would be utilized in two divisions of the DPH as follows:

A. *Division of Communicable Disease Control.* Overall, this division will focus on the following core aspects: (1) development and analysis of reporting methods for healthcare facilities; (2) outbreak investigations and consultations; (3) development of guidelines for institutional infection control; (4) epidemiology and surveillance functions; and (5) laboratory support. These functions will specifically be conducted by the Infectious Disease Branch and the Microbial Diseases Laboratory Branch. **All of the 11 positions in the Division of Communicable Disease Control would be funded with General Fund support.**

- ✓ *Infectious Disease Branch—Total of 6 Positions.* An increase of six positions is requested including: two Public Health Medical Officer III's; a Nurse Consultant III (Specialist); two Research Scientist III (Epidemiology Biostatistics); and a Health Program Specialist I. These positions would be used to conduct the following key functions:
  - Plan, organize and coordinate the surveillance activities of the program, including the development of state guidelines to control and prevent hospital infections.
  - Review and develop hospital infection policies.
  - Coordinate implementation of policies with healthcare facilities and local health jurisdictions.
  - Provide consultation to various entities to control healthcare facility infections.
  - Direct analyses of surveillance data on health care and community infections statewide and identifies areas of greatest need to direct special attention and resource allocation.
  - Conduct data analyses and prepare analytic reports.
  - Monitor contracts.
- ✓ *Microbial Diseases Laboratory--Total of 5 Positions.* An increase of 5 positions is requested, including a Research Scientist III, Research Scientist II, two Public Health Microbiologist II's, and a Public Health Laboratory Technician. These positions would be used to conduct the following key functions:
  - Assist in the investigation and follow-up of clusters and outbreaks of health care facility associated infections.

- Provide sufficient laboratory efforts to support health care facilities and local health jurisdictions with pathogen identification, molecular epidemiology and anti-microbial susceptibility testing for the investigation of outbreaks.
- Oversee the development and evaluation of new tests and testing technologies for rapid detection and strain typing of hospital care associated infections.
- Perform scientific research studies of moderate scope and complexity for the detection of hospital care associated infections.

B. *Division of Licensing and Certification—Total of 3 Positions.* An increase of three positions, including two Nurse Consultant III's and a Research Scientist II (Epidemiology/Biostatistics) are requested. **These positions would be funded using special fee revenues deposited into the Licensing and Certification Fund.** These positions would be used to conduct the following core functions:

- Serve as the program's principal infection control resources for enforcement activities, regulations interpretation and development, and staff training and development.
- Review, interpret and revise the California Code of Regulations related to infection control.
- Prepare and present instructional materials and conduct ongoing training related to infection surveillance, prevention and control for internal training of surveyors.
- Conduct statistical analyses of and provide reports on licensing and certification data on healthcare associated infections and infection control.

The $214,000 (total funds) in contract funds assumes consist of the following: (1) $30,000 is used for the Health Care Infection Advisory Committee; (2) $20,000 is for laboratory services; (3) $64,000 is for a contract position in Los Angeles (for licensing and certification purposes); and (4) $100,000 for reporting systems (as yet undetermined).

Background—Senate Bill 739, Statutes of 2006. This legislation requires the Department of Public Health (DPH) to: (1) implement a healthcare associated infection surveillance and prevention program; (2) investigate the development of electronic reporting, adopt new administrative regulations; and (3) evaluate the compliance of facilities with policies and procedures to prevent healthcare associated infections.

Core aspects of this enabling legislation are as follows:

- By July 1, 2007, the department shall require that each hospital, in accordance with Centers for Disease Control (CDC) guidelines, take specified actions regarding infection control measures.
- Requires each hospital, at least once every three years, to prepare a written report that examines the hospital's existing resources and evaluates the quality and effectiveness of the hospital's infection surveillance and prevention program.
- By January 1, 2008, requires the department to: (1) implement a Health Care Infection surveillance and prevention program; (2) investigate the development of electronic reporting databases and report its findings to the Advisory Committee; (3) revise

existing and adopt new administrative regulations, as necessary, to incorporate current Centers for Disease Control and Prevention guidelines and standards for health care infection prevention.

- Beginning January 1, 2008, requires 450 hospitals (General Acute Care) to report various data to the department, and the department must then make this information available to the public within 6 months.
- Appoint a "Health Care Associated Infection" Advisory Committee, as specified by July 1, 2007, that will make recommendations for the prevention and reporting of these infections.

Background—Concerns with Infections in Health Care Settings. According to the department, health care acquired infections are a major public health problem in California. California's 450 hospitals account for an estimated 240,000 infections, 13,500 deaths, and $3.1 billion dollars in excess healthcare costs annually. Many more infections occur in California's 1,500 nursing homes and long-term care facilities, 800 Intermediate Care Facilities (ICFs), 600 ambulatory surgical centers, and 350 dialysis centers.

Legislative Analyst's Office (LAO) Recommendation—Modify. The LAO recommends using Licensing and Certification (L&C) Fund support, in lieu of General Fund support for all *but* $170,000 (General Fund). Therefore under this recommendation, fees to healthcare facilities would be increased to account for this shift. The L&C Funds would be used to support most of the positions within the Division of Communicable Disease (i.e., infection control and microbial diseases laboratory). A savings of $1.4 million (General Fund) would be achieved by shifting to the L&C Fund.

The LAO contends that L&C Funds should be used for this purpose because the program will benefit hospitals by reducing their costs, ensuring the health and safety of patients, and providing technical assistance.

Subcommittee Staff Recommendation—Modify to Delete Two Positions. It is recommended to modify the budget request by deleting two positions within the Division of Communicable Disease. The positions recommended to delete are a Research Scientist III (Epidemiology Biostatistics) from the Infectious Disease Branch, and a Research Scientist III from the Microbial Diseases Laboratory. About $200,000 in General Fund savings would be obtained, including operating expenses.

These positions are recommended to be reduced for several reasons. First, positions and funding were added last year in the Division of Communicable Disease to partially address overall infrastructure needs, including infectious diseases. As such, these positions can serve to facilitate progress on this issue area, particularly in the area of mitigating the spread of influenza.

Second, with the elimination of these two positions, there would still be other Research Scientist and data specialist positions provided, just not as many. Further as previously noted, there are two existing positions (Public Health Medical Officer III and a Nurse Consultant) doing infection control work. In addition, the CDC guidelines will serve as a core focal point for the development of the overall program. As such, information can be

obtained from the CDC in many areas.

Third, it is recommended not to shift a portion of the General Fund expenditures to L&C Fund support. Many of the activities to be conducted by the Division of Communicable Disease is public health related, including working with local health jurisdictions to mitigate the spread of communicable diseases within the community that can enter into a health care environment (such as a hospital or nursing home). As such, using fees for this purpose would be broadening the purpose of the fee.

Questions. The Subcommittee has requested the Department of Public Health to respond to the following questions.

1. Department of Public Health, Please provide a brief description of the key aspects of the enabling legislation and how the budget request is intended to implement it.

7. Hospitals Fair Pricing Policies—Assembly Bill 774 (Chan), Statutes of 2006

Issue. The budget proposes a total increase of $699,000 ($252,000 General Fund, $195,000 L&C Fund, and $252,000 federal funds) to support a total of 6 positions (two-year limited-term) to implement Assembly Bill 774 (Chan), Statutes of 2006. Among other things, this enabling legislation requires hospitals to maintain written policies about discount payment and charity care for financially qualified patients as one condition of licensure.

Of the total amount, the **Department of Health Care Services** (DHCS) is to receive $504,000 ($252,000 General Fund) to support **4.5 positions** (two-year limited-term) to audit hospitals' compliance with new pricing policies required for licensing as contained in the enabling legislation. The positions include four Health Program Auditor III positions and a half-time Health Program Auditor Manager.

The DHCS would use these positions to complete financial reviews of the hospitals (including general acute care, acute psychiatric, and special). These reviews would be done over three years (one third each year is 150 hospitals) and would include any issues regarding overpayments made by patients and remittance of any such over payments. The number of auditors requested for this purpose is consist with past workload calculation practices.

The remaining **$195,000** (L&C Fund) is to support **1.5 positions** within the Department of Public Health (Licensing and Certification Division), including a half-time Staff Counsel position and a Health Facility Evaluator Nurse. These positions are requested to review hospital policies to ensure that they contain the prescribed components of law. The L&C Division states that these requirements will increase the survey time during licensing, renewal licensing, and complaint surveys. In addition, the partial Staff Counsel position is requested to develop and implement detailed policies to comply with the requirements, and to provide legal advice as issues of interpretation arise during enforcement actions.

Background—Assembly Bill 774 (C han), Statutes of 2006. This enabling legislation requires hospitals to maintain written policies about discount payment and charity care for financially qualified patients as one condition of licensure. The Department of Health Care Services (DHCS) and the Department of Public Health (DPH) are required to enforce the provisions of this legislation and must ensure that any overpayment made by patients pursuant to this policy are returned to the patients.

Core requirements of this legislation include the following:

- Requires hospitals as a condition of licensure to maintain an understandable, written policy regarding discount payments for qualified persons, as well as a written charity care policy.
- Provides eligibility for a hospital's charity care or discount payment policies for uninsured patients or patients with inadequate insurance who are at or below 350 percent of poverty ($70,000 for a family of four);
- Requires the DHCS and DPH to enforce the provisions of the legislation by ensuring

that fair pricing is applied to uninsured and underinsured patients along with discount payments to financially qualified patients, and to ensure that any overpayments are returned to the patient.

Legislative Analyst's Office Recommendation--Modify. The LAO is recommending to modify the proposal by (1) shifting all proposed expenditures to the L&C Fund, in lieu of General Fund support; and (2) reducing by one the DHCS requested positions (for a total of 3.5 positions) and making these audit positions permanent. The requested positions for the L&C Division within the Department of Public Health would be approved as proposed.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the proposal as budgeted. The positions as requested have been justified from a workload standpoint and it is recommended not to shift any additional expenditures to the L&C Fund. Funding audit positions with L&C Funds would be broadening the use of these funds.

Questions. The Subcommittee has requested the department to respond to the following questions.

1. Department, Please provide a brief summary of the key aspects of the enabling legislation and how the proposed budget would implement it.

8. Automated Drug Delivery System—Assembly Bill 2373 (Aghazarian), Statutes of 2006

Issue. The budget is requesting an increase of $592,000 (L&C Fund) to support 4 (limited-term) positions to implement Assembly Bill 2373 (Aghazarian), Statutes of 2006 regarding automated drug delivery.

Specifically, the Licensing and Certification (L&C) Division is requesting the following positions:

- Two Pharmaceutical Consultant II's (one-year limited-term);
- A Pharmaceutical Consultant II (four-year limited-term); and
- An Office Technician (four-year limited-term).

The L&C Division states that key activities of these positions include the following:

- Review a facility's medication training, storage, security, and administrative procedures to ensure that safeguards are in place and drugs are delivered appropriately.
- Review and approve each submitted written request for utilization of an automated drug delivery system (ADDS) prior to implementation.
- Review on an annual basis during the certification survey the ADDS.
- Generate reports regarding approvals and denials, deficiencies and develop a tracking system plan review.

The L&C Division estimates that 15 percent of the 1,400 nursing homes, or 210 nursing homes, will use ADDS. Onsite inspection of the facilities using these systems must be conducted by a Pharmaceutical Consultant II

Background—Assembly Bill 2373 (A ghazarian), Statutes of 2006. This enabling legislation requires each nursing home facility planning to use an automated drug delivery system to notify the department prior to the utilization of the system, with information on its design, policy and procedures covering staff training, storage of drugs, and security measures. It will allow nursing homes to dispense multiple drugs at one time. (Presently, there are a few nursing homes that have devices that dispense only one drug at a time.)

Background—Automated Drug Delive ry System (ADDS). ADDS are secure drug storage devices or cabinets that electronically dispense medications in a controlled fashion and track medication use. Their principal advantage lies in permitting licensed personnel to obtain medications for patients at the point of use.

These automated dispensing systems can be stocked by centralized or decentralized pharmacies. Most systems require user identifiers and have security systems to track personnel accessing the system.

With respect to usage in nursing homes, there are currently a few nursing homes that have

similar devices as part of a pilot program, but these devices only dispense one drug at a time.

Legislative Analyst's Office Recommendation—Modify Request. The LAO recommends: (1) deleting a Pharmacy Consultant position (limited-term) given that the estimated number of hours to complete specified one-time activities equates to one position; and (2) deleting the Office Technician position since their functions can be absorbed by other newly requested positions and existing positions with the L&C Division.

Subcommittee Staff Recommendation—Concur with LAO. It is recommended to adopt the LAO recommendation to delete a total of two positions, including the Pharmacy Consultant and the Office Technician positions.

Question. The Subcommittee has requested the department to respond to the following question.

1. L&C Division, Please provide a brief summary of the key components of the enabling legislation, and how the budget request implements it.

Diane Van Maren (w) 651-4103
Senate Budget & Fiscal Review

Outcomes for Subcommittee No. 3: Monday, April 16th

General Hearing Information*:*

A. ISSUES FOR "Vote Only" for Both Departments
(Item 1 through Item 10) (Pages 2 through 10)

- **Action:** For **Vote Only Items, Items 1, 2 and 4 through 10 on pages 2 through 10, approved as budgeted.**
- **Vote: 3-0**

- **Action:** For **Vote Only Item 3**
- **Vote: 2-1 (Cogdill)**
-

B. ISSUES FOR DISCUSSION—Both Departments

1. AIDS Drug Assistance Program (ADAP) & Potential Trailer Bill (Page 11)

- **Action:** Adopted the proposed trailer bill as contained in the agenda and approved the funding level.
- **Vote: 3-0**

2. Local Assistance Funding for Name-Based HIV Reporting (Page 14)

- **Action:** Approve as proposed.
- **Vote: 3-0**

3. Medi-Cal Managed Care Rates—Multiple Issues on Rate Structure (Page 16)

- **Action:** Left open pending May Revision and further discussions.

4. Medi-Cal Program-- County Performance Measures & Trailer Bill (Page 22)

- **Action:** Rejected the funding request for staff and left open the trailer bill language to provide more time for discussion.
- **Vote: 2-1 (Cogdill)**

5. Administration's Trailer Bill-- AB 1629 Nursing Home Rates (Page 25)

- **Action:** Left open pending May Revision.

C. ISSUES FOR DISCUSSION—Licensing & Certification Division

1. Administration Proposes Substantial Fee Increases (Page 29)

- **Action:** Placed the $7.2 million General Fund support on the Priority To Fund List, and directed the L&C Division to report back to the Subcommittee on May 7th regarding additional streamlining actions that can be taken to improve the process. (This issue will be closed-out at the May Revision once updated figures are obtained.)
- **Vote: 3-0**

2. Implementation of Senate Bill 1312 (Alquist) & Trailer (Page 34)

- **Action:** Approved the proposal along with the modified trailer bill language (dated April 16, 2007).
- **Vote: 2-1 (Cogdill)**

3. Senate Bill 1301 (Alquist)—Hospital Inspections & Reporting (Page 36)

- **Action:** Approved the proposal (budget and Finance Letter) along with the modified Budget Bill Language to reflect the correct funding amount for the website.
- **Vote: 2-1 (Cogdill)**

4. Nursing Home Administrator Program (Page 39)

- **Action:** Approved the proposal along with the Budget Bill Language.
- **Vote: 3-0**

5. Temporary Manager/Receiverships for Long-Term Care Facilities (Page 41)

- **Action:** Approved the proposal along with the Budget Bill Language.
- **Vote: 3-0**

6. Health Care Associated Infections-Senate Bill 739 (Speier) (Page 43)

- **Action:** Deleted the two positions within the Division of Communicable Disease as noted in the agenda.
- **Vote: 3-0**

7. Hospitals Fair Pricing Policies—Assembly Bill 774 (Chan) (Page 47)

- **Action:** Approve as proposed.
- **Vote: 2-1 (Senator Cogdill)**

8. Automated Drug Delivery System—Assembly Bill 2373 (Page 49)

- **Action:** Adopt the LAO's modified recommendation to approve two positions, including a Pharmacy (four-year limited-term) position and an Office Technicians position.
- **Vote: 3-0**

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Thursday, April 19, 2007
Upon Adjournment of Session
Room 4203 (John L. Burton Hearing Room)
(Eileen Cubanski, Consultant)

Vote-Only Agenda

Discussion Agenda

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.

Discussion Agenda (continued)

Item Department Page

Vote-Only Agenda

5180 Department of Social Services (DSS)

Vote Only Issue 1: Continuation of *Gresher v. Anderson* Court Order

Description: The budget requests $478,000 ($350,000 General Fund) and 5.5 permanent positions for DSS to implement the *Gresher v. Anderson* court order.

Background: On February 24, 2005, the California Court of Appeal in the *Gresher v. Anderson* case ordered DSS to change its criminal background check process to notify persons denied an exemption to work in a community care facility of the basis for the denial in terms sufficiently specific to permit the person to make an informed decision about whether to pursue an administrative appeal of the denial.

Under current law, people with criminal convictions are excluded from employment at a community care facility unless DSS grants an exemption. The DSS may grant an exemption if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. Although DSS notified the individual and potential employer of the exclusion, they did not provide information on the specific conviction(s) that led to the exclusion. Excluded individuals have 15 days to file a written appeal on the denial of their application for an exemption or the denial becomes final.

The Administration originally requested and the Legislature approved $596,000 and 6.0 limited-term positions in 2005-06 for implementation of the *Gresher* decision. The current request of $498,000 ($350,000 General Fund) and 5.5 permanent positions continues those positions and reflects an updated workload and resource analysis based on actual implementation experience.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 2: Continuing Education Online

Description: The budget proposes to provide a 0.5 position to the Department of Social Services to implement Assembly Bill (AB) 2675 (Strickland, Chapter 421, Statutes of 2006). The position will be funded through the Certification Fund without additional expenditure authority.

Background: Under current law, administrators of Adult Residential Facilities (ARFs) and Group Homes (GHs) must meet certification requirements, which consist of an initial 35 and 40 hours of training, respectively, and a passing score on a written test developed by the Department of Social Services (DSS). Administrators of both ARFs and GHs must complete 40 hours of continuing education every two years. The DSS

approves organizations and individuals who provide continuing education to facility administrators.

AB 2675 allows up to 20 of the 40 hours of continuing education to be completed through online study courses. The online courses are subject to DSS approval. The 0.5 position requested by DSS would draft regulations to implement AB 2675, and review, monitor, and approve or deny online curricula.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 3: Child Care Facilities – Parental Notification

Description: The budget proposes $46,000 General Fund and 0.5 positions for the Department of Social Services (DSS) to implement Assembly Bill (AB) 633 (Benoit, Chapter 545, Statutes of 2006).

Background: AB 633 requires each licensed child day care facility to make accessible to the public licensing reports or other documents pertaining to a substantiated complaint investigation, conferences in which issues of noncompliance are discussed, or accusations indicating DSS' intent to revoke the facility's license. Each facility is required to tell parents in writing about how they can obtain that information. AB 633 also requires each licensed child day care facility to provide to parents copies of any Type A citation that represents an immediate risk to the health, safety, or personal rights of the children. Finally, AB 633 requires facilities to secure verification within 90 days of employment that the facility director has completed an orientation given by DSS.

The DSS is requesting resources to handle increased workload associated with providing additional orientation sessions. The Community Care Licensing (CCL) Division within DSS currently provides orientations for child care providers at their regional offices one or more times each month depending on the need in the community. The orientation has three components: one covers the licensure application process; one is a face-to-face interview with the licensee; and the final covers aspects of the day-to-day operations of the child care facility.

Staff Recommendation: Approve as budgeted. The requested resources are consistent with approved workload standards.

Vote Only Issue 4: Health and Care Facilities: Background Checks

Description: The Governor's Budget proposes an increase of $225,000 in reimbursement authority and 1.5 positions (1.0 limited-term) for the Department of Social Services (DSS) to process background checks on Long-Term Care Ombudsmen staff and volunteers on behalf of the California Department of Aging (CDA) as mandated by SB 1759 (Ashburn, Chapter 902, Statutes of 2006). The CDA has a corresponding funding proposal, which was approved by Subcommittee #3 on March 8, 2007.

Background: Ombudsmen staff and volunteers help to resolve complaints made by, or on behalf of, residents and ensure that skilled nursing facilities and residential care facilities for the elderly provide quality care for residents. The duties of an Ombudsman place him or her in direct personal contact with residents.

Prior to enactment of SB 1759, criminal background clearances for ombudsmen volunteers and staff were not required. This budget request would enable DSS to use its existing criminal record clearance systems, rather than create the same function within the CDA.

Staff Recommendation: Appr ove as budgeted. This action would conform to the Subcommittee's approval of the companion request from the California Department of Aging on March 8, 2007.

Discussion Agenda

5181 Department of Social Services (DSS)

DSS Issue 1: Supplemental Security Income/State Supplementary Program (SSI/SSP) and Cash Assistance Program for Immigrants (CAPI)

Description: The budget provides $140.3 million General Fund to fully fund the State Supplementary Program (SSP) cost-of-living-adjustment (COLA) of 4.2 percent. The proposal would also pass on $34.4 million in additional federal funds to fully fund the federal 1.2 percent COLA for Supplemental Security Income (SSI).

Background:

- **Program Description.** 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. Beneficiary grants generally reflect the maximum grant less any offsetting personal income. Individuals who receive SSI/SSP are categorically eligible for the Aged, Blind or Disabled Medi-Cal Program with no share of cost, for the In-Home Supportive Services Program, and may be eligible 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.

  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. There are over twenty different SSI/SSP payment standards. Both the federal and state grant payments for SSI/SSP recipients are adjusted for inflation each January through COLAs. Federal law provides an annual SSI COLA based on the Consumer Price Index, and state law provides an annual SSP COLA based on the California Necessities Index.

  The Cash Assistance Program for Immigrants (CAPI) program 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 (DSS) and administered locally by counties. CAPI grants are $10 less than SSI/SSP grants for individuals and $20 less than SSI/SSP grants for couples.

- **Enrollment Summary.** The budget projects SSI/SSP average monthly enrollment will grow by 2.1 percent, from 1,239,000 in 2006-07 to 1,265,000 in 2007-08. Approximately eight percent of recipients are under age 18, 49 percent are age 18 to 64, and 43 percent are age 65 and older. CAPI caseload is projected to increase by 29.1 percent in 2007-08, to 11,415 average monthly recipients.

- **Funding Summary.** SSI/SSP grants have two components: the SSI component, which is federally funded, and the SSP component, which is state funded. Total funding for SSI/SSP is estimated to be $8.7 billion ($3.5 billion General Fund) in 2006-07, and $9.4 billion ($3.9 billion General Fund) in 2007-08. General Fund expenditures are projected to increase by 9.9 percent, to reflect an increase in caseload and funding of the 2008 state and federal COLAs. The federal funds in the SSI portion of the grant are not included in the state budget, as they are federally administered. Total funding for the CAPI program is estimated to be $95.9 million General Fund in 2006-07 and $129.5 million General Fund in 2007-08. In addition to caseload, this 34.1 percent increase is due to the increased caseload resulting from the expiration of the ten-year sponsor deeming period for the first round of CAPI recipients.

- **2008 Federal SSI and State SSP COLAs.** The budget provides $140.3 million General Fund to fully fund the state SSP COLA of 4.2 percent. At the time the Governor's Budget was released, the California Necessities Index (CNI), upon which the SSP COLA is based, was an estimate. The final CNI is actually 3.7 percent, which results in an estimated SSP COLA cost of $124.4 million General Fund, a $45.1 million General Fund reduction from the January estimate. As a result, the maximum SSI/SSP grant would increase from $856 to $888 for individuals and $1,502 to $1,558 for couples. These grants also include the $34.4 million in additional federal funds to fully fund the federal 1.2 percent COLA for SSI.

Questions:

1. Department, please describe the proposal to provide the SSI/SSP COLA.
2. LAO, describe your SSI/SSP recommendation.

Staff Recommendation: Approve $124.4 million General Fund for the revised SSP COLA of 3.7 percent and **approve the pass-through of $34.4 million** for the federal SSI COLA of 1.2 percent.

DSS Issue 2: In-Home Supportive Services (IHSS) Caseload

Description: The Governor's Budget includes $4.4 billion ($1.4 billion General Fund) for the In-Home Supportive Services (IHSS) Program in 2007-08. IHSS caseload is estimated to be 395,100 in 2007-08.

Background:

- **IHSS Program Description.** The In-Home Supportive Services (IHSS) program funds personal care services for low-income aged, blind or disabled individuals who are at risk for institutionalization. IHSS services include domestic services (such as meal preparation and laundry), 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 hired by the consumer, county contracts with service providers, or through welfare staff. County welfare departments visit consumers in their homes to determine authorized hours of service.

- **IHSS Enr ollment.** The budget estimates that IHSS caseload will increase to 395,100 in 2007-08, an increase of 5.4 percent over 2006-07 caseload. Caseload, hours of service by case, and program costs have grown significantly faster than population growth since the mid-1990s.

- **Funding Summary.** The budget proposes $4.4 billion ($1.4 billion General Fund) for the IHSS program in 2007-08. This represents an increase of $101.3 million ($27.7 million General Fund) above the current year funding level, a 2.3 percent increase.

  IHSS costs have steadily increased in recent years. Nonetheless, the average annual cost per individual, approximately $10,300 ($3,399 General Fund), is still less than one-fifth the cost of nursing home placement. The program's growth has been fueled by multiple factors, including the establishment of a state entitlement for personal care services, population increases, and an increase in the proportion of IHSS consumers who are severely disabled, greater utilization of service hours by case, and higher provider rates. In addition, demographic trends and a programmatic shift to support the elderly and persons with disabilities in community settings have increased the number of beneficiaries.

  Wage increases have reportedly contributed to enrollment growth and increases in the numbers of hours used, as higher wages have made it easier for beneficiaries to hire providers and fully utilize authorized hours of care. This is in addition to the direct impact of provider wage increases on IHSS costs. The State has participated in IHSS provider wages above the minimum wage since 1999-2000. In the current year, the State participates in wages and benefits up to $11.10 per hour, although actual wage rates vary by county. Most wage rates are determined by the board of supervisors and public authority that negotiates a contract with providers. The budget proposes changes to the State's participation in provider wages (see discussion in DSS Issue 3 below).

- **LAO Analysis.** The Legislative Analyst's Office (LAO) 2007-08 Analysis concludes, based on an examination of the actual caseload for the first six months of 2006-07, that the Governor's caseload projections for the current and budget year are overstated. Therefore, the LAO recommends that proposed spending for IHSS be reduced by $77.6 million ($26.9 million General Fund) in 2006-07 and $97.7 million ($33.9 million General Fund) for 2007-08. Assuming the LAO's caseload estimates, the revised IHSS average caseload would be 367,000 (rather than 375,000) in 2006-07 and 385,000 (rather than 395,000 in 2007-08).

Questions:

1. Department, please describe overall IHSS caseload and funding.
2. LAO, discuss your analysis and caseload recommendation.

Staff Recommendation: Hold open until May Revision when the IHSS caseload will be updated.

DSS Issue 3: Freeze State Participation in IHSS Provider Wages

Description: The budget proposes statutory changes that would limit the State's participation in the cost of In-Home Supportive Services (IHSS) provider wages and benefits to those in effect as of January 10, 2007. The budget assumes that this proposal will result in cost avoidance of at least $14.1 million in the current year and unknown future cost savings. Note that, notwithstanding this proposal, the budget includes $7.8 million ($2.5 million General Fund) in the current year and $16.5 million ($5.4 million General Fund) in the budget year to fund the recently enacted minimum wage increases. The trailer bill language to implement this proposal is included in Attachment 1.

Background: The federal, state, and local governments share in the cost of the IHSS program. The federal government pays for 50 percent of program costs that are eligible for reimbursement through the Medicaid Program (about 93 percent of IHSS cases receive federal funding). The State pays 65 percent and the counties pay 35 percent of the nonfederal share of provider wages.

State participation in wage increases of up to $1 per year after 2000-01 is contingent upon meeting a revenue "trigger" whereby state General Fund revenues and transfers grow by at least five percent since the last time wages were increased. Pursuant to this revenue trigger, the State currently participates in wages of $10.50 per hour plus 60 cents for health benefits, for a total of $11.10 per hour. Based on current revenue estimates, the final trigger increasing state participation in wages and benefits to $12.10 per hour would be pulled for 2007-08. It is estimated that if all counties opted into the highest wage level, the cost exposure to the State would be approximately $350 million.

2007-08 Governor's Budget: The budget proposes to freeze state participation in wages and benefits. Such a freeze would result in an estimated savings of $14.1 million in 2007-08. This is because some counties already pay providers over $11.10, and absent this proposal, the State would have to increase its participation in those wages and benefits up to $12.10 per hour. As shown on the chart on the next page, four counties currently pay over $11.10 per hour. Depending on the degree to which the remaining counties would have increased wages absent this proposal, the Governor's approach would result in additional, unknown cost avoidance in 2007-08.

The Governor's proposal does not limit the wages or benefits paid to IHSS providers; rather, it caps state participation in the funding of those wages and benefits to the level

in effect on the date the freeze is enacted. Counties that elect to pay wages and benefits above what they were paying as of the freeze would, in effect, cover the State's share and share such wage cost increases with the federal government (50 percent county and 50 percent federal). The State would continue to pay its 65 percent share of the nonfederal costs of wages and benefits up to the county wage and benefit level in place on the date of the wage freeze. This means that the counties that have higher wages and benefits in place at the time of the freeze would lock in a greater degree of state participation prospectively than the counties with lower wages and benefits as of that date. The following chart shows the current hourly wages and benefits paid to IHSS providers by county as of January 10, 2007.

IHSS Hourly Wages and Benefits by County Approved by January 10, 2007

Alameda	$11.42	Orange	$9.00
Alpine	7.50	Placer	9.60
Amador	8.85	Plumas	8.75
Butte	8.75	Riverside	9.60
Calaveras	8.98	Sacramento	11.10
Colusa	7.50	San Benito	9.50
Contra Costa	11.83	San Bernardino	9.23
Del Norte	8.75	San Diego	9.67
El Dorado	9.10	San Francisco	12.30
Fresno	9.80	San Joaquin	9.53
Glenn	7.75	San Luis Obispo	9.60
Humboldt	7.50	San Mateo	11.38
Imperial	7.50	Santa Barbara	10.60
Inyo	7.50	Santa Clara	13.30
Kern	8.55	Santa Cruz	11.10
Kings	8.60	Shasta	7.50
Lake	7.50	Sierra	8.75
Lassen	7.50	Siskiyou	7.50
Los Angeles	8.96	Solano	11.10
Madera	7.50	Sonoma	11.10
Marin	11.10	Stanislaus	8.85
Mariposa	7.75	Sutter	8.85
Mendocino	9.60	Tehama	8.10
Merced	8.10	Trinity	7.50
Modoc	7.50	Tulare	8.10
Mono	7.50	Tuolumne	7.50
Monterey	11.10	Ventura	9.60
Napa	11.10	Yolo	11.10
Nevada	8.75	Yuba	9.10

Current Year Issues: The original budget proposal was that all future wage and benefit increases collectively bargained at the local level and those existing agreements

that take effect after January 10, 2007, would be financed by the counties. Although the Administration believes it has the administrative authority to freeze state participation in wages to January 10, 2007 levels in 2006-07, the Administration now indicates that it will continue to participate in post-January 10, 2007 wage increases until its urgency legislation proposal prospectively limiting state participation is enacted by the Legislature. Senate Bill 782 (Cogdill) is the urgency bill that would provide statutory authority for this proposal in the current year. SB 782 was heard by the Senate Labor and Industrial Relations Committee on March 28, where testimony was offered, but no action was taken.

Impacts on Recipients and Providers: In the short term, the Legislative Analyst's Office (LAO) assesses that freezing wages at their current levels will have minimal influence on the supply of available IHSS providers. However, in the long run, if counties decide that they cannot afford to increase wages without state participation, there may be a reduction in the supply of providers. This could impact the quality of care for IHSS recipients, as it may be more difficult to find skilled providers. Additionally, about 43 percent of IHSS providers are immediate family members, and assuming the provider lives with the recipient, a long-term wage freeze may limit the household income of the provider and the recipient.

Currently, many county collective bargaining agreements contain provisions that nullify wage levels if the State removes its share of funding. A freeze in state funding would, in effect, roll back wages. To the extent that this jeopardizes the stability of caregivers providing for the elderly and disabled and results in an increase in the institutionalization of these individuals, the proposal could substantially erode the State's avoidance of institutionalization costs.

Questions:

1. Department, please describe the budget proposal.
2. Department, what is the status of the current year component of the proposal?
3. LAO, describe your analysis on the potential impact of the proposal.

Staff Recommendation: Reject the Governor's proposal (including the implementing trailer bill language) to freeze state participation of IHSS provider wages and benefits.

DSS Issue 4: Assessment of Quality Assurance (QA) Initiative

Description: This is an informational item. The Department of Social Services (DSS) will report to the Subcommittee on the impact of the In-Home Supportive Services (IHSS) Quality Assurance regulations as required by provisional language in the 2006-07 Budget Act.

Background: The IHSS program relies on county social workers to determine the number of hours for each type of IHSS task that a recipient needs in order to remain

safely in his/her own home. Typically, social workers conduct reassessments once every 12 months to determine whether the needs of a recipient have changed. After the social worker has determined the appropriate tasks and time needed for each, a notice of action (NOA) is sent informing the recipient of the number of assigned hours for each task.

Prior to the Quality Assurance (QA) initiative, social workers relied significantly on their own judgment when determining the number of service hours to provide to IHSS recipients. As a result, IHSS recipients with similar disabilities, but residing in different counties, may not have been granted similar hour allocations. Another way to identify social worker variance in assigning hours is to compare the average hour allocations per case among the ten largest counties. Among California's ten largest counties in 2006-07, average hours per case ranged from 69 to 101 hours. The assumption is that these large counties are serving similar populations. Thus, differences in the average hours assigned are likely to be the result of social worker discretion and practice.

Quality Assurance I mplementation: The 2004-05 Budget Act established an IHSS QA program to make county determinations of service hours consistent throughout the State, and to comply with federal waiver requirements. Quality Assurance was not intended to result in an arbitrary loss of hours for consumers. Quality Assurance includes: 1) QA functions in each county, 2) state resources for monitoring and supporting county activities, 3) standardized assessment training for county IHSS workers, and 4) periodic written notices to providers that remind them of their legal obligations to submit accurate timesheets.

To meet the requirements of the 2004-05 Budget Act, DSS led a workgroup composed of state representatives, county staff, legislative staff, and advocacy groups. The workgroup collected information from each county on the average number of hours granted per IHSS case. They then considered various levels of IHSS recipient ability, and developed corresponding ranges of times that would be appropriate for 12 of the 15 tasks identified by the workgroup. From this workgroup and after lengthy debate and consultation, hourly task guidelines (HTG) were created to provide social workers with a standardized tool to ensure that service hours are authorized consistently and accurately throughout the State. Due to ongoing concerns that HTG might result in substantial decreases in hours not attributed to a decrease in consumer need, the 2004-05 Budget Act required DSS to assess the initial impact of HTG.

Since September 2006, HTG have been used statewide by social workers during their assessments. The guidelines help social workers to determine a recipient's level of ability to perform each IHSS task. After determining a recipient's level of ability, the social worker decides if the number of hours of assistance needed per week is within the HTG range for a particular task. The HTG do not take away the individualized assessment process, but instead require a social worker to provide a written justification if a recipient is assessed as needing hours that are outside (either above or below) the range established by the HTG. These task guidelines are intended to increase the probability of consistent assessments throughout the State.

In a further effort to achieve uniformity, the IHSS Social Worker Training Academy was developed as a standardized method to educate social workers on the IHSS Program, quality assessment practices, and the proper usage of the HTG tool. Interviews with county workers suggest that HTG and uniform training will likely increase the uniformity of assessments among counties so that IHSS recipients moving from one county to another will not likely experience large increases or decreases in their hour allocations.

Quality Assurance Fiscal Effect: The budget includes estimated savings resulting from QA implementation of $29.6 million ($9.6 million General Fund) in 2006-07 and $161.8 million ($52.6 million General Fund) in 2007-08. These savings result from statewide uniformity in needs assessments and service authorizations and the use of uniform assessment guidelines, the hiring of additional county staff, earlier reassessments of IHSS participations, and anti-fraud activities.

2006-07 Legislative Budget Review: In 2006, the Legislature adopted Supplemental Report Language requiring DSS to report to the Legislature quarterly on IHSS utilization data by county, task, and client level. The data was also to report the number of exceptions by county, task and client level. Budget Bill Language was also adopted to require DSS to report at budget hearings on the impact of the IHSS QA regulations.

The Legislative Analyst's Office (LAO) indicates in their 2007-08 Analysis that unaudited monthly case expenditures are running below expectations. This generates concerns in the advocacy community that adoption of HTGs are resulting in IHSS consumers receiving lower hours and may affect the ability of consumers to "ensure the health, safety, and independence of the recipient" as required by statute.

Questions:

1. Department, what is the status of the QA regulations?
2. Department, what do you know about the impact of the QA regulations to date?
3. Department, please report on IHSS utilization data.

DSS Issue 5: Update on the Implementation of Direct Deposit

Description: This is an informational item. The Department of Social Services (DSS) will provide an update to the Subcommittee on the implementation of direct deposit to all In-Home Supportive Services (IHSS) caregivers.

Background: Although IHSS is a county-administered program, the State Controller makes the payment for IHSS providers by issuing individual checks to each provider. Currently, only a small number of IHSS clients who receive "advance pay" receive their funds through a direct deposit payment.

The 2006-07 Budget Act requires DSS to expand its direct deposit system to all IHSS caregivers.

Question:

1. Department, please provide an update on the status of direct deposit implementation.

DSS Issue 6: Adult Protective Services

Description: This is an information item. The budget includes $123.6 million ($61.3 million General Fund) for Adult Protective Services (APS) in 2007-08, an increase of five percent reflecting higher federal fund levels. The state funding level for APS has remain unchanged since 2002-03, while demand for services increases.

Background:

- **Program Description:** The Adult Protective Services (APS) Program is a statewide program providing 24-hour emergency response to incidents of abuse and neglect of seniors (persons 65 years of age and older) and dependent adults (defined as persons 18 to 64 years of age with a significant disability that limits their ability to protect or care for themselves). Each of California's 58 counties is required to investigate, intervene, and provide services to ensure the safety and protection of seniors and dependent adults. The Department of Social Services (DSS) provides policy development and oversees the administration of the APS Program.

- **Program Funding Histor y:** Prior to 1998, the APS Program existed for decades with differing service levels across counties. The State was using County Services Block Grant monies to fund APS services, but there was no mandate for counties to respond to adult abuse on a 24-hour emergency hotline. In 1998, Senate Bill (SB) 2199 (Chapter 946, Statutes of 1998, Lockyer) was enacted to establish statewide standards and uniform administration of the APS Program. The legislation established a uniform process for receiving and immediately responding to referrals from the community and coordinated response from local APS agencies.

  The passage of this bill required the State to begin funding an APS augmentation, which started as an additional $1 million General Fund for 1998-99 and grew to an additional $56.2 million for the program by 2001-02. The original concept for the program envisioned further expansion to a total of $80 million General Fund for APS as counties ramped up their programs. However, the State's poor fiscal condition, beginning in 2001-02, prevented this expansion from occurring. In 2002-03, as part of an overall ten percent reduction to county administered programs human services, the APS Program was cut by $6 million General Fund. Since 2002-03, the state funding level has been essentially frozen for APS, although there has been a slight increase in federal County Services Block Grant funding devoted to the program.

The 2007-08 budget includes $123.6 million ($61.3 million General Fund) for the APS Program, an increase of five percent. The increase reflects a higher level of Title XIX reimbursements.

- **Demand for Program Services:** Recent data for the APS Program provided by DSS illuminate trends in the APS Program. From 2000-01 to 2005-06:
  - The number of reports of abuse/neglect received by APS each year increased by 24.2 percent, an increase of 19,920 reports. A report is defined as a verbal or written account of an incident of suspected elder or dependent adult abuse that is received by a county.
  - The number of opened cases increased 21.9 percent, an increase of 15,702 cases.
  - The number of investigations completed increased by 25.6 percent, an increase of 17,423 investigations. Investigations are defined as an activity undertaken by APS to determine the validity of a report of elder or dependent adult abuse.
  - The monthly average for active APS cases decreased 5.4 percent, a decrease of 1,145 active cases a month.

  In addition:
  - APS hotline responses that are identified as needing "No Initial Face to Face Investigation" increased 118.1 percent from 2002-03 to 2005-06, an increase of 6,194 cases.
  - Information and referral calls made to counties increased by 15.4 percent from 595,015 in 2001-02 to 686,695 in 2005-06, an increase of 91,680 calls.

  The California Welfare Directors Association (CWDA) also provides the following statistics:
  - There has been a 40 percent increase in "confirmed" and "non-conclusive" reports between January 2004 and June 2006.
  - Financial abuse cases alone have increased 21 percent since 2001. Counties reported a 32 percent increase in the number of cases alleging financial abuse.
  - Self-neglect cases have increased by 7 percent since 2001. Neglect by other has increased by 16 percent.
  - The number of active cases managed by APS social work staff increased by 18 percent between January 2004 and June 2005.
  - There was a 23 percent increase in the number of cases assigned to APS staff for investigation between 2001 and 2005.
  - Between 2001 and 2005, county APS staff increased by four percent.

Over the last five years, the number of mandate reporters has grown, resulting in more APS cases. The inclusion of banks as mandate reporters next year resulting from enactment of SB 1018 (Chapter 140, Statutes of 2006, Simitian) will continue to increase the number of cases sent to APS. In addition, APS casework often involves complicated legal and financial elements that require more work than was anticipated when the program was established in 1998. However, counties have been provided essentially flat funding to meet the increasing workload. As a result, the array of services provided has been reduced and counties are pressured to close cases early to keep up with the mandated workload. The CWDA reports that the trend for case increase is 14 percent and that there is a simultaneous 21 percent decrease in the time spent investigating cases.

Questions:

1. Department, please describe the APS Program, your role in administering it, and total funding for the program.
2. CWDA, describe the demand for APS services and the adequacy of funding.

DSS Issue 7: Community Care Licensing Facilities Inspections

Description: The budget requests $2.5 million ($2.4 million General Fund) and 34.5 positions to increase the number community care facility inspections and follow-up visits. Of the 34.5 positions, 28 would be used to increase from 20 percent to 30 percent the number of facilities that are randomly selected for annual visits and to ensure that required follow-up visits are conducted. The remaining 6.5 positions would be used to address Department of Social Services (DSS) follow-up enforcement deficiencies identified in the May 2006 BSA audit.

Background: The Community Care Licensing (CCL) Division of DSS licenses over 85,000 community care facilities across the State. These facilities have the capacity to serve over 1.4 million clients requiring different types of care and supervision. Licensees include childcare facilities, certified foster family homes, foster family agencies, residential care facilities for the elderly, residential care facilities for the chronically ill, adoption agencies, transitional housing, and adult day care. Licensing activities are primarily carried out by state staff, although some counties are responsible for licensing child care and foster family homes. CCL staff currently visit a randomly selected 20 percent of facilities annually, and visit all facilities no less than once every five years. At-risk facilities are visited at least annually.

The proposed budget includes $119.9 million ($38.2 million General Fund) and 1,187.6 positions for CCL in 2007-08. This represents a 6.3 percent increase over the current year funding of $112.8 million ($32.3 million General Fund) and 1,114.1 positions. Approximately 15 percent of funding is for county licensing activities, and the remaining funding is for state licensing activities.

Facility Visits: Historically, CCL was required to make annual visits to most types of facilities, and to visit childcare homes triennially. Budget reductions sustained by CCL during the 1990s significantly reduced the length and thoroughness of the required annual inspections. Upon additional budget reductions, DSS 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.

The 2003-04 Budget Act, and its implementing legislation, eliminated the required annual or triennial visits and instead required DSS to annually visit facilities with specified compliance problems or federally required annual visits. All other facilities were subject to an annual inspection based on a 10 percent random sampling method, with each facility required to be visited at least once every five years. The 2003-04 Budget Act changes also included an escalator clause to trigger annual visits for an additional 10 percent of facilities if citations increase by 10 percent or more. However, sufficient resources were not provided to allow CCL to visit facilities at least once every five years – this would have required 20 percent of the facilities to be subject to random inspections, rather than 10 percent.

The 2005-06 Budget Act included additional resources to reflect caseload growth in the number of facilities licensed by CCL. In addition, DSS began a series of management and operational reforms to improve the efficiency of the program.

2006-07 Licensing Reforms: The 2006-07 Budget Act included $6.7 million and 80 new positions for CCL to complete required licensing workload and increase visits to facilities. The most significant components include:

- 38 permanent positions to increase the number of random visits from 10 percent of facilities to 20 percent each year.

- 29 two-and-a-half-year limited-term positions and $110,000 for overtime to eliminate the significant backlog in licensing visits

- 1 one-year limited-term personnel position to assist with hiring the requested licensing positions.

- 5 permanent positions to operate a training academy for new licensing staff.

- 2.5 permanent positions to share the DSS database of excluded or abusive employees with other HHS departments.

- 4.5 permanent positions to handle information regarding convictions after arrest provided by the Department of Justice.

The 2006-07 budget also included trailer bill language to clarify that the department shall conduct unannounced visits to at least 20 percent of facilities per year.

Bureau of State Audits (BSA) Report: The BSA presented a report with findings and recommendations in May 2006 entitled, *Department of Social Services: In Rebuilding Its Child Care Program, the Department Needs to Improve its Monitoring Efforts and Enforcement Actions*. The report identified many critical licensing findings including missed inspection visits, lack of follow-up to critical deficiencies and enforcement actions, inadequate program oversight and accountability, and inconsistencies in licensing business practices among the 36 offices throughout the State. The BSA made numerous recommendations to ensure that DSS continues to make timely monitoring visits and improves its enforcement actions including improving reliability of data used; revising and clarifying policies for field staff; improving oversight of regional offices; developing automated management information; and continuing efforts to make all nonconfidential information about monitoring visits more readily available to the public.

2007-08 Budget Proposal: The budget requests $2.5 million ($2.4 million General Fund) and 34.5 positions to increase the number of community care facility inspections and follow-up visits. The 34.5 positions are proposed for the following activities:

- 15.5 field staff would be used to increase from 20 percent to 30 percent the number of facilities that are randomly selected for annual visits and to ensure that required follow-up visits are conducted. These resources would enable CCL to comply with the statutory trigger that the number of facilities visited annually be increased by ten percent if total citations issued by DSS exceed the previous year's total by ten percent.

- 11.5 support staff would be used to ensure that health and safety information is current and available to support field staff. Currently, field staff is responsible for performing support activities, which is resulting in fewer facility visits, slower processing time for new licensure application, longer time to complete investigations, and slower response time to requests for technical assistance.

- 6.5 positions would be used to conduct follow-up visits to facilities when a revocation order, a Temporary Suspension Order, or an exclusion order has been served. These resources would address DSS follow-up enforcement deficiencies identified in the May 2006 BSA audit.

- 1 existing limited-term personnel position set to expire would be continued in 2007-08 to process all the additional personnel who would be hired.

2007-08 T railer Bill Langu age: The budget proposes a statutory change to the existing trigger language that requires annual visits for an additional 10 percent of facilities if citations increase by 10 percent or more. This trigger language was enacted in 2003-04 when the facility visit protocol was changed to due to budget constraints and intended to be a safeguard to ensure that monitoring visits would increase as violations increased. However, as DSS has increased licensing staff due to budget augmentations in the past two years, the number of monitoring visits has increased,

resulting in an increased number of citations, as would be expected. This increase in citations does not necessarily indicate that more violations are occurring at facilities.

The proposed trailer bill language, included in Attachment 2, is intended to revise the trigger calculation to consider the net increase in citations relative to visits and only trigger an increase in random visits if the net change in citations is over 10 percent. These changes are intended to control for the effect of increasing the number of visits on the increasing number of citations that would trigger more random visits. Although the intent of this change is reasonable, the specific proposed language is vague and does not clearly maintain the original intent of the trigger language.

April Finance Letter: The January 10 budget originally requested $4.9 million ($4.6 million General Fund) and 65 positions, but there were errors in DSS' workload calculations. A spring finance letter submitted on April 1 corrected those errors and reduced the original request by $2.4 million ($2.3 million General Fund) and 30.5 positions. The description in this agenda reflects the revised budget request.

Questions:

1. Department, please describe recent trends in the numbers of monitoring visits and facility citations resulting from the increased resources provided in the past two years.
2. Department, please describe the budget request.
3. Department, describe the proposed trailer bill language and why it is being proposed.

Staff Recommendations:

1. **Approve the budget request as modified by the April Finance Letter.** This would provide $2.5 million ($2.4 million General Fund) and 34.5 positions to DSS to increase licensing visits as required by statute and consistent with approved workload standards.

2. **Reject the proposed trailer bill language. Approve instead trailer bill language suspending the trigger requirement for one year and requiring DSS to propose alternative trailer bill language by February 1, 2008, that reflects better indicators to trigger increased licensing visits as a result of increases in facility citations. The DSS should work with legislative staff, the LAO, and interested stakeholders in developing this alternative language.**

DSS Issue 8: Licensing Reform Automation

Description: The budget requests $1.7 million ($1.5 million General Fund) and ten positions for the Department of Social Services (DSS) to begin a project to upgrade its information technology systems supporting the licensing program. Although already identified as a need in DSS' IT Strategic Plan, this proposal responds to findings of

deficiencies in enforcement and inadequate program oversight and accountability in an audit of DSS' efforts to rebuild the child care program completed in May 2006 by the Bureau of State Audits (BSA). This IT project is expected to take two years to complete.

Background: As discussed previously, the BSA presented a report with findings and recommendations in May 2006 entitled, *Department of Social Services: In Rebuilding Its Child Care Program, the Department Needs to Improve its Monitoring Efforts and Enforcement Actions*. The report identified many critical licensing findings including missed inspection visits, lack of follow-up to critical deficiencies and enforcement actions, inadequate program oversight and accountability, and inconsistencies in licensing business practices among the 36 offices throughout the State. According to DSS, most of the reported problems are due to known weaknesses and limitations in information technology (IT) systems supporting the licensing program.

In the past, the Legislature has expressed interest in two areas with regard to Community Care Licensing (CCL): 1) ensuring that CCL is effectively monitoring and enforcing facility safety; and 2) providing facility compliance information on the Internet. In 2006-07, CCL could not provide key information related to enforcement activities with noncompliant facilities. As a result, the Legislature required that DSS provide a report by April 1, 2007, on the costs to track this information in the future. The DSS has not yet provided this report. The Legislature also provided $366,000 for DSS to place facility inspection reports on the Internet, but these funds were subsequently vetoed by the Governor.

The DSS provided the Legislature an IT Strategic Plan in 2006 that describes the upgrades to automation that will improve its operations and enable it to address previous concerns expressed by the Legislature and the BSA. The IT Strategic Plan identifies five critical business areas that need to be enhanced including Field Office Automation, Public Web Services, Licensee Web Services, Background Check Process, and Central Office Support Services. The Strategic Plan estimates that these improvements will take a total of four years (contingent on available funding) and will be completed in two phases. The proposed automation project represents the most critical business area and comprises the majority of Phase One. It is estimated to be completed in two years. Phase One of the Strategic Plan also includes developing the ability to display facility inspection reports and file facility complaints on the Internet.

LAO Analysis: In its 2007-08 Analysis, the Legislative Analyst's Office (LAO) notes that the budget proposal will address some of the concerns of the Legislature by enabling CCL to track the effectiveness of monitoring and enforcement. However, the proposed automation project does not include providing access to any licensing information on the Internet. The DSS indicated that it must first make fundamental improvements to the basic tracking and management of licensing operations and providing information on the Internet cannot currently be done within fiscal constraints. The LAO observes that the automation project will not meet the schedule outlined in the Strategic Plan and will not address a key legislative goal.

The LAO recommends that DSS report during the budget hearing on estimated time and cost to complete all of the features outlined in Phase One of the Strategic Plan, including making licensing information available on the Internet.

Questions:

1. Department, please describe the budget request, including what the proposed positions are for and how many would be permanent versus limited-term.
2. LAO, describe your analysis of the proposal and recommendation.
3. Department, what is the estimated time and cost to complete all of the features outlined in Phase One, including making licensing information available on the Internet? What is the estimated time and cost to complete all of the features outlined in Phase Two?
4. Department, what is the status and anticipated release date of the CCL report? Does this budget request reflect all or a part of the costs that will be identified in that report?

Staff Recommendation: Hold open pending release of the CCL report and additional information from DSS. The Subcommittee should direct DSS to provide information to legislative staff and the LAO on the estimated time and cost to complete each of the components of the IT Strategic Plan by May 4, 2007, in time for consideration for the May Revision. Although improved IT systems supporting licensing activities is clearly needed, more information on the costs to implement the entire IT Strategic Plan and the costs that are supposed to be provided in the overdue CCL report would provide necessary context for making a decision about this request.

DSS Issue 9: County Costs for Operating Social Services Programs

Description: The Governor's Budget continues to freeze state participation in county administrative costs in health and social services programs. State support is adjusted for caseload and workload in the proposed budget, but not for inflation. Most of these programs have not received cost of doing business increases since 2000-01, and have also received budget cuts in recent years.

Background:

- **County Administration Description:** County administration covers a range of activities depending on the program. Sometimes county administration means administrative, clerical, or supportive efforts that facilitate delivery of a service or a benefit (for example, determining eligibility for benefits, payment of service provider bills, personnel management, accounting, and fraud prevention/investigation). The Medi-Cal Program generally fits this description. Counties receive approximately $1.2 billion to cover the cost of county eligibility workers who determine if applicants are eligible for Medi-Cal benefits. Another example is the CalWORKs program where county staff determine an individual's eligibility for the program, including

determining the amount of the cash grant and employment services to be received by the recipient.

In other programs, county workers may not be providing a specific cash payment or "benefit." Instead, the salaries and support for the staff constitute the entire program. For example, the Child Welfare Services (CWS) program provides: (1) social workers who respond to allegations of child abuse; (2) services to children and families where abuse or neglect has occurred; and (3) services to children in Foster Care who have been removed from their parents. Most of the services are provided by county social workers in the form of case management and counseling. In addition, the social workers are supported by a county administrative structure that provides services including accounting, personnel management, and clerical support. In sum, all program costs are for social workers and related county administrative staff.

- **Budget Methodology for County Administration:** During the 1990s, most budgets for county administration of health and social services programs were set through the Proposed County Administrative Budget (PCAB) process. Under PCAB, counties submitted proposed budgets and staffing levels for their programs based on estimated costs, caseload, and workload. These requests included adjustments for inflation. State departments such as the Department of Social Services (DSS) or the Department of Health Services (DHS) then reviewed these proposed budgets to determine if the requests were "reasonable" and "consistent" with current state law and made any necessary adjustments. Under PCAB, administrative budgets reflected increased costs due to workload and inflation.

- **No Inflationary Adjustments for Most County Administration Social Services Budgets Starting in 2001-02:** During the State's budget crisis, the Governor and Legislature began to freeze county administrative allocations within DSS. Beginning in 2001-02, most county-administered social services programs were held at their 2000-01 budget level, adjusted for caseload. No adjustment for inflation was provided. The one exception was for the CWS program. This program received an increase for inflation for 2001-02. Since 2001-02, there have been no adjustments to county administrative allocations to account for inflation in any DSS programs. In contrast to the social services programs operated by DSS, county administrative allocations for Medi-Cal have been adjusted annually for inflation through 2006-07.

  Attachment 3 contains a table prepared by the California State Association of Counties, the Urban Counties Caucus, and the County Welfare Directors Association, which shows the impact of the freeze on county social services administrative allocations. According to estimates provided by these organizations, the total annual impact of unfunded cost of doing business increases and budget cuts since 2000-01 is $1.2 billion ($761.8 million General Fund) for non-child support programs. The DSS notes that they have not been able to confirm these estimates.

- **Meeting State Objectives:** Each of the programs that would be subject to the proposed freeze was enacted by the Legislature with specific state goals and

objectives. Counties administer these programs as agents of the State with the aim of meeting the state established program goals. Unless the counties elect to use their own general purpose revenues to cover inflationary costs, lack of state funding for inflation could slowly erode service levels. In addition, questions have been raised about whether the funding freeze constitutes a cost shift in violation of Proposition 1A.

- **2006-07 Budget Actions:** Assembly Bill (AB) 1808 (Chapter 75, Statutes of 2006), the 2006-07 budget trailer bill, requires DSS to estimate the costs for county administration using county-specific cost factors in the programs' budget methodology and requires county certification of "reasonable" costs for specified county social services programs. AB 1808 requests DSS to develop, in consultation with CWDA, a survey process to collect reasonable county specific costs data. Commencing with the 2007-08 May Revision, DSS is required to identify in its budget documents the estimates developed and the difference between these estimates and proposed funding levels.

  The survey process is currently underway and the 2007-08 Governor's Budget documents have a placeholder for the estimates that are developed.

Questions:

1. Department, please provide the status of the county survey.
2. DOF, what is the Administration's position on whether the funding freeze violates Proposition 1A and why?

Staff Recommendation: Hold open pending May Revision.

0530 Health and Human Services Agency – Office of System Integration (OSI)

OSI Issue 1: Statewide Automated Welfare System (SAWS)

Description: The budget includes $235.1 million ($92.6 million General Fund) in 2006-07 and $230.0 million ($82.9 million General Fund) in 2007-08 for the Statewide Automated Welfare System (SAWS), which is comprised of five automation systems and a project management office.

Background: The Statewide Automated Welfare System (SAWS) automates the eligibility, benefit, case management, and reporting processes for a variety of health and human services programs operated by the counties: CalWORKs, Food Stamps, Foster Care, Medi-Cal, Refugee Assistance, and County Medical Services Program. SAWS includes four primary systems managed by local consortia, a statewide time-on-aid tracking system, and a statewide project management and oversight office.

Statewide Automated Welfare System (dollars in millions)

		2006-07		2007-08	
Program Region		**Total Funds**	**General Fund**	**Total Funds**	**General Fund**
LEADER	Los Angeles County (37% of caseload)	$8.9	$2.0	$12.6	$2.9
LEADER Replacement		$1.6	$0.6	$2.0	$0.8
ISAWS	35 counties (13% of caseload)	$37.0	$14.4	$36.7	$14.3
ISAWS Migration	Migration of 35 ISAWS counties to C-IV	$2.8	$1.3	$2.3	$1.0
C-IV	4 counties (13% of caseload)	$48.6	$17.4	$48.7	$17.5
CalWIN	18 counties (36% caseload)	$112.8	$42.3	$117.5	$44.3
WDTIP	Statewide time on aid tracking	$4.0	--	$3.9	--
Statewide Project Mgmt	Statewide project management and oversight	$6.5	$2.8	$6.3	$2.7
Total		**$222.2**	**$80.8**	**$230.0**	**$83.5**

Los Angeles Eligibility , Automated De termination, Evaluation and Reporting (LEADER): The Governor's Budget includes a total of $14.6 million ($3.7 million General Fund) for the LEADER system, used by Los Angeles County. Of this, $12.6 million ($2.9 million General Fund) is for maintenance and operations (M&O) of the existing system. LEADER system implementation was completed on April 30, 2001. The initial contract term for LEADER M&O expired on April 30, 2005. A contract

amendment for a 24-month extension was executed and expires April 30, 2007. Los Angeles County negotiated another contract amendment to extend that contract for five years, through April 2012, with three optional one-year extensions.

The remaining $2.0 million ($800,000 General Fund) is to continue planning activities for replacing LEADER. The planning phase for a replacement system began in 2005-06 and had an original completion date of 2006-07. The planning phase has now been extended to 2007-08 to account for more realistic workload and review time estimates. In addition, the procurement scope has been expanded. Initially, the procurement approach would have resulted in the release of an RFP requiring vendors to propose the transfer of a California-based SAWS system that would meet the County's requirements to take advantage of the significant investment already made to develop systems appropriate for California's social services programs. Once planning activities began, DSS, OSI, and Los Angeles County concluded that a procurement strategy based on the County's business and technical requirements could result in other viable proposals. At the conclusion of the planning phase, Los Angeles County will have completed and released a request for proposals, evaluated the proposals received, selected a vendor, and negotiated a contract with the selected vendor.

Interim Statew ide Automated Welfare System (ISAWS): The Governor's Budget includes $36.7 million ($14.3 million General Fund) for ongoing maintenance and operations of the ISAWS system. The budget also includes $2.3 million ($1.0 million General Fund) in 2007-08 for planning costs to migrate the 35 ISAWS counties to Consortium IV (C-IV). The ISAWS system was completed in the early 1990's. Due to technology and functionality problems, including manual workarounds and a proprietary mainframe architecture, the ISAWS counties have evaluated options to migrate to another SAWS system. They have chosen to migrate to C-IV. Planning activities for ISAWS migration will began in July 2006 and will continue through April 2008. One-time transition costs to migrate the ISAWS counties to C-IV are roughly estimated at $136 million. Funding for transition costs will be requested as part of the May Revision. Once the transition to C-IV is complete, ongoing maintenance and operations costs for the 35 ISAWS counties are expected to decline by $10.8 million.

Consortium IV (C-IV): The Governor's Budget includes $48.7 million ($17.5 million General Fund) for ongoing maintenance and operations of the C-IV system in 2007-08. C-IV began system development in 2001 and completed implementation in 2004. The budget reflects savings of $128,000 for 2006-07 for services supporting the C-IV Joint Powers Authority. The budget request for 2007-08 is $60,000, essentially flat from the current year.

CalWORKs Information Netw ork (CalWIN): The Governor's Budget includes $117.5 million ($44.3 million General Fund) to continue implementation and operations of the CalWIN system. Implementation of this system began in Sacramento County in March 2005 and was completed in July 2006. Current year funding for CalWIN reflects savings of $4.6 million due largely to one-time reduced print charge costs. Funding for 2007-08 includes one-time implementation costs of $33.0 million and ongoing maintenance costs of $84.5 million.

LAO Concerns: The Legislative Analyst's Office (LAO) 2007-08 Analysis does not express concerns with funding for SAWS except for the LEADER replacement. Specifically, the LAO questions why Los Angeles County cannot join one of the other existing SAWS systems (potentially with some modifications) rather than replace LEADER with an entirely new system. Given the substantial costs in developing a new system (probably over $200 million total funds), this strategy would build upon a SAWS system that has already proven to be successful in supporting the delivery of social services programs. The LAO recommends that the Department of Social Services (DSS) and the Office of System Integration (OSI) report at the budget hearings why Los Angeles County cannot join one of the other existing systems and on the costs and benefits associated with development of a new system, and that funding for LEADER planning activities be withheld until a cost-benefit analysis is provided to the Legislature.

In response to these concerns, DSS, OSI, and Los Angeles County have provided additional documentation intended to justify the need for a new system. LEADER was designed to support a number of business functions in Los Angeles, such as: automated support for the county's General Relief program; automated eligibility determinations for the CalWORKs Homeless Assistance program; automated transaction logs for all users and creation of a history every time an update is made; mandatory supervisory reviews and checks for the presence of verification information before passing an eligibility determination; multi-layered security profiles; and online policy help. The other SAWS systems do not have these features and would need to be modified to accommodate the county's particular business needs.

Furthermore, DSS, OSI and Los Angeles County argue that the risk to operations, eligibility determinations, county staff training, data conversion, quality control and the project timeline will be lowest by considering the full range of possible systems. By promoting competition, this strategy will also minimize costs. The State and county point out that the existing SAWS vendors are eligible to compete for the LEADER replacement contract and that modification of one of the existing systems could be the most efficient solution. However, the most efficient solution cannot be identified without a fully open, competitive process.

Questions:

1. OSI, please present the Governor's Budget proposal for LEADER.
2. LAO, present your analysis of the proposal to replace the LEADER system.
3. OSI and Los Angeles County, respond to the LAO analysis.

Staff Recommendation: Hold open pending May Revision.

OSI Issue 2: County Equipment Replacement and User Support

Description: The Governor's Budget does not include funding for hardware replacements for the CWS/CMS, CalWIN, C-IV, and LEADER statewide automation systems and currently only includes placeholder funding for help desk staff to support

CalWIN. The total estimated costs to fund the hardware replacement and help desk staff is $27.8 million ($11.3 million General Fund).

Background: Beginning in 2006-07, the Administration established a new policy eliminating local equipment replacement funding from the statewide system budgets and funded county CalWIN help staff well below recommended levels. The Legislature took action to restore funding of $16.8 million ($7.4 million General Fund) for CWS/CMS and CalWIN equipment replacement and for CalWIN help desk staff; however, the Governor vetoed this funding from the final budget. The Administration's proposed 2007-08 budget again excludes funding for equipment replacement and includes only placeholder funding levels for the CalWIN help desk staff.

County welfare department staff use computers to access case information, check family history with the child welfare system, and assess eligibility for public benefits. Failure of these computers and the ability to access help desk staff could result in inaccurate decisions or inappropriate terminations from aid or inappropriate decisions about whether to remove children from their homes in potentially life-threatening situations. The Gartner Group, a nationally recognized independent information technology expert, recommends replacing computer workstations every three to five years. A number of workstations were installed in 2001-02 and will be six years old in 2006-07.

The $27.8 million ($11.3 million General Fund) is comprised of the following components:

- CWS/CMS: $5.4 million ($2.6 million General Fund)
- LEADER: $7.1 million ($2.8 million General Fund)
- CalWIN: $10.5 million ($4.0 million General Fund)
- C-IV: $4.8 million ($1.9 million General Fund)

The Legislative Analyst's Office (LAO) notes that the Administration's policy makes sense for systems that are web-based, where the operation of the system is not reliant on local equipment. However, in the "client-server" environment, where the system is dependent upon local equipment that is obtained specifically to operate the system, the costs of replacement equipment should be funded as part of maintenance and operation for the system. The CWS/CMS, CalWIN, and existing LEADER systems are client-server based. Staff also notes that funding for equipment replacement has never been provided to counties as part of their administrative funding. To expect them to absorb replacement costs now within their existing administrative budgets is, in effect, another budget cut.

Questions:

1. OSI and DOF, please explain the State's policy on funding for workstation replacement.
2. LAO, what is your analysis of this policy?

Staff Recommendation: Hold open pending May Revision.

OSI Issue 3: Case Management, Information and Payrolling System (CMIPS) II Procurement

Description: The Governor's Budget proposes $25.0 million ($11.6 million General Fund) for a new automation system to replace the existing Case Management, Information and Payrolling System (CMIPS). Development of the new system, known as CMIPS II, is necessary to meet state and federal program requirements for IHSS.

Background:

Existing CMIPS: The existing CMIPS provides client case management and provider payrolling functions for the In-Home Supportive Services (IHSS) program. CMIPS is a 20-year old system. Maintenance and operating costs for CMIPS are $11.9 million ($4.1 million General Fund) annually.

Justification for CMIPS II: Development of CMIPS II is necessary to meet state and federal program requirements for IHSS, such as business payroll and tax requirements for prompt and accurate reporting to the IRS, EDD, and SCO. Manual workarounds on the existing CMIPS are currently being performed to meet some state and federal requirements, as CMIPS cannot be enhanced without risk of system failure. In addition, OSI indicates CMIPS II will be able to connect to the Department of Health Services Medi-Cal automation system, known as CA-MMIS. This connection will allow better Medi-Cal benefits coordination and oversight. Furthermore, OSI indicates that CMIPS II will improve the efficiency of state and county IHSS business processes.

Finally, the federal government has indicated concerns in continuing the sole-source maintenance contract for CMIPS, and will withdraw federal matching funds if the state does not conduct a competitive procurement for CMIPS II.

Costs and Funding for CMIPS II: The budget includes $25.6 million ($12.8 million General Fund) for contract planning, procurement, and implementation activities for CMIPS II in 2006-07. Based on OSI cost models, the total estimated cost for the development of CMIPS II is $98 million over three years, and for maintenance and operations is $129 million over seven years. Actual costs are not yet available, as the final contract has not been awarded.

Status of CMIPS II: Contract development and procurement for CMIPS II began in fiscal year 1999-00. Between 1999-00 and 2006-07, a total of $15 million will be spent on procurement planning. Procurement has been delayed due to funding reductions in 2003, major program changes in 2004, and the efforts of OSI and DSS to ensure that competition to build the new system is maximized.

The request for proposals (RFP) was finally released and final proposals from bidders were received on August 28, 2006. The incumbent contractor is the sole bidder. An

independent cost assessment of the vendor's final proposal was to be completed by March 2, 2007, with notification of intent to award to have taken place by March 14, 2007. The contract award is to be made on July 1, 2007.

Questions:

1. OSI, please briefly describe the status of CMIPS II procurement.
2. OSI, what are the updated estimated total project costs and how long will development of the new system take?

Staff Recommendation: Hold open pending May Revision when project costs will be updated.

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Thursday, April 19, 2007

Attachment 1

SEC. 39. Section 11454.2 is added to the Welfare and Institutions Code, to read:

11454.2. (a) An assistance unit shall not be eligible for aid under this chapter when the assistance unit has received aid under this chapter for a cumulative total of 60 months during which no adult was part of the assistance unit because the adults who would otherwise have been members of the assistance unit were in any of the following categories:

(1) A person not lawfully present in the United States.

(2) A person described by subparagraph (A) of paragraph (9) of subdivision (a) of Section 608 of Title 42 of the United States Code.

(3) A person convicted of any offense classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance, as defined in paragraph (6) of Section 802 of Title 21 of the United States Code.

(b) No month in which aid has been received prior to January 1, 1998, shall be taken into consideration in computing the 60-month limitation provided for in subdivision (a).

SEC. 40. Section 12306.1 of the Welfare and Institutions Code is amended to read:

12306.1. (a) When any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium under Section 12301.6, then the county shall use county-only funds to fund ~~both the county share and the state~~ the nonfederal share, including employment taxes, of any increase in the cost of the

program~~, unless otherwise provided for in the annual Budget Act or appropriated by statute~~. No increase in wages or benefits negotiated or agreed to pursuant to this section shall take effect unless and until, prior to its implementation, the department has obtained the approval of the State Department of Health Services for the increase pursuant to a determination that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act, and unless and until all of the following conditions have been met:

(1) Each county has provided the department with documentation of the approval of the county board of supervisors of the proposed public authority of nonprofit consortium rate, including wages and related expenditures. The documentation shall be received by the department before the department and the State Department of Health Services may approve the increase.

(2) Each county has met department guidelines and regulatory requirements as a condition of receiving state participation in the rate.

(b) Any rate approved pursuant to subdivision (a) shall take effect commencing on the first day of the month subsequent to the month in which final approval is received from the department. The department may grant approval on a conditional basis, subject to the availability of funding.

(c) The state shall pay 65 percent, and each county shall pay 35 percent, of the nonfederal share of wage and ~~benefit increases~~ benefits negotiated by a public authority or nonprofit consortium pursuant to Section 12301.6 and associated employment taxes, ~~only~~ in accordance with subdivisions (d) ~~to (f), inclusive~~ and (e).

~~(d) (1) The state shall participate as provided in subdivision (c) in wages up to seven dollars and fifty cents ($7.50) per hour and individual health benefits up to sixty cents ($0.60) per hour for all public authority or nonprofit consortium providers. This paragraph shall be operative for the 2000–01 fiscal year and each year thereafter unless otherwise provided in paragraphs (2), (3), (4), and (5), and without regard to when the wage and benefit increase becomes effective.~~

~~(2) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to nine dollars and ten cents ($9.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the nine dollars and ten cents ($9.10) per hour shall be used to fund wage increases above seven dollars and fifty cents ($7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative for the 2001–02 fiscal year and each fiscal year thereafter, unless otherwise provided in paragraphs (3), (4), and (5).~~

~~(3) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to ten dollars and ten cents ($10.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the ten dollars and ten cents ($10.10) per hour shall be used to fund wage increases above seven dollars and fifty cents ($7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of~~

~~General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenue, excluding transfers, for the year in which paragraph (2) became operative.~~

~~(4) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to eleven dollars and ten cents ($11.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the eleven dollars and ten cents ($11.10) per hour shall be used to fund wage increases or individual health benefits, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenues, excluding transfers, for the year in which paragraph (3) became operative.~~

~~(5) The state shall participate as provided in subdivision (c) in a total cost of wages and individual health benefits up to twelve dollars and ten cents ($12.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the twelve dollars and ten cents ($12.10) per hour shall be used to fund wage increases above seven dollars and fifty cents ($7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5~~

~~percent, the most current estimate of revenues, excluding transfers, for the year in which paragraph (4) became operative.~~

~~(c) (1) On or before May 14 immediately prior to the fiscal year for which state participation is provided under paragraphs (2) to (5), inclusive, of subdivision (d), the Director of Finance shall certify to the Governor, the appropriate committees of the Legislature, and the department that the condition for each subdivision to become operative has been met.~~

~~(2) For purposes of certifications under paragraph (1), the General Fund revenue forecast, excluding transfers, that is used for the relevant fiscal year shall be calculated in a manner that is consistent with the definition of General Fund revenues, excluding transfers, that was used by the Department of Finance in the 2000–01 Governor's Budget revenue forecast as reflected on Schedule 8 of the Governor's Budget.~~

~~(f) Any increase in overall state participation in wage and benefit increases under paragraphs (2) to (5), inclusive, of subdivision (d), shall be limited to a wage and benefit increase of one dollar ($1) per hour with respect to any fiscal year. With respect to actual changes in specific wages and health benefits negotiated through the collective bargaining process, the state shall participate in the costs, as approved in subdivision (c), up to the maximum levels as provided under paragraphs (2) to (5), inclusive, of subdivision (d).~~

(d) For the remainder of the 2006–07 fiscal year and any fiscal year thereafter, the state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to the level of wages and benefits approved by the department for each county on or before the effective date of this section made by this act.

(e) The level of state participation provided for in subdivision (d) may increase as necessary to accommodate wage increases that are solely due to increases in the state minimum wage. The level of state participation provided for in subdivision (d) may also increase and remain at a higher level if funds are specifically appropriated for this purpose in the Budget Act or subsequent legislation.

SEC. 41. Section 14124.93 of the Welfare and Institutions Code is amended to read:

14124.93. (a) The Department of Child Support Services shall provide payments to the local child support agency of fifty dollars ($50) per case for obtaining third-party health coverage or insurance of beneficiaries, to the extent that funds are appropriated in the annual Budget Act.

(b) A county shall be eligible for a payment if the county obtains third-party health coverage or insurance for applicants or recipients of Title IV-D services not previously covered, or for whom coverage has lapsed, and the county provides all required information on a form approved by both the Department of Child Support Services and the State Department of Health Care Services.

(c) Payments to the local child support agency under this section shall be suspended for the 2003–04, 2004–05, 2005–06, ~~and 2006–07~~ 2006–07, and 2007–08 fiscal years.

SEC. 42. Section 16605 of the Welfare and Institutions Code is amended to read:

16605. (a) The department shall, subject to the availability of funds appropriated therefor, conduct a Kinship Support Services Program that is a grants-in-aid program

SUBCOMMITTEE NO. 3 **Agenda**

Health, Human Services, Labor & Veteran's Affairs

Thursday, April 19, 2007

Attachment 2

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17706 of the Family Code is amended to read:

17706. (a) It is the intent of the Legislature to encourage counties to elevate the visibility and significance of the child support enforcement program in the county. To advance this goal, effective July 1, 2000, the counties with the 10 best performance standards pursuant to clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 17704 shall receive an additional 5 percent of the state's share of those counties' collections that are used to reduce or repay aid that is paid pursuant to Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code. The counties shall use the increased recoupment for child support-related activities that may not be eligible for federal child support funding under Part D of Title IV of the Social Security Act, including, but not limited to, providing services to parents to help them better support their children financially, medically, and emotionally.

(b) The operation of subdivision (a) shall be suspended for the 2002–03, 2003–04, 2004–05, 2005–06, ~~and 2006–07~~ 2006–07, and 2007–08 fiscal years.

SEC. 2. Section 1534 of the Health and Safety Code is amended to read:

1534. (a) (1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

(i) When a license is on probation.

(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.

(iii) When an accusation against a licensee is pending.

(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

(B) (i) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subparagraph (A). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. ~~If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an evaluation under subparagraph (A). The department may request additional resources to increase the random sample by 10 percent.~~

(ii) If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an evaluation under subparagraph (A). The department may request additional resources to increase the random sample by 10 percent.

(C) Under no circumstance shall the department visit a community care facility less often than once every five years.

(D) In order to facilitate direct contact with group home clients, the department may interview children who are clients of group homes at any public agency or private agency at which the client may be found, including, but not limited to, a juvenile hall, recreation or vocational program, or a nonpublic school. The department shall respect the rights of the child while conducting the interview, including informing the child that he or she has the right not to be interviewed and the right to have another adult present during the interview.

(E) Notwithstanding clause (ii) of subparagraph (B), beginning with the 2007–08 fiscal year, the department shall increase the random sample by an additional 10 percent if the total citations issued by the department exceed the previous year's total by 10 percent after accounting for the increase in the number of citations attributable to increases in the number of visits. The department may request additional resources to increase the random sample by 10 percent pursuant to this subparagraph.

(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(b) (1) Nothing in this section shall limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any

aspect of a program where a licensed community care facility is certifying compliance with licensing requirements.

(2) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the family home. The family home shall be afforded the due process provided pursuant to this chapter.

(3) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(4) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(5) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(6) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The certified or prospective

foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(7) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be by a preponderance of the evidence.

(8) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(9) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of employment by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

SEC. 3. Section 1569.33 of the Health and Safety Code is amended to read:

1569.33. (a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) When a facility requires an annual visit as a condition of receiving federal financial participation.

(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) (1) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. ~~If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.~~

(2) If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years.

(e) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(f) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(g) As a part of the department's annual evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.

(h) Notwithstanding paragraph (2) of subdivision (c), beginning with the 2007–08 fiscal year, the department shall increase the random sample by an additional 10 percent if the total citations issued by the department exceed the previous year's total by 10 percent after accounting for the increase in the number of citations attributable to increases in the number of visits. The department may request additional resources to increase the random sample by 10 percent pursuant to this subdivision.

SEC. 4. Section 1597.09 of the Health and Safety Code is amended to read:

1597.09. (a) Each licensed child day care center shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit to a licensed child day care center under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a child day care center by the department is no longer at the facility.

(c) (1) The department shall conduct an annual unannounced visit to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. ~~If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.~~

(2) If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a licensed child day care center less often than once every five years.

(e) Notwithstanding paragraph (2) of subdivision (c), beginning with the 2007–08 fiscal year, the department shall increase the random sample by an additional 10 percent if the total citations issued by the department exceed the previous year's total by 10 percent after accounting for the increase in the number of citations attributable to increases in the number of visits. The department may request additional resources to increase the random sample by 10 percent pursuant to this subdivision.

SEC. 5. Section 1597.55a of the Health and Safety Code is amended to read:

1597.55a. Every family day care home shall be subject to unannounced visits by the department as provided in this section. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(a) The department shall conduct an announced site visit prior to the initial licensing of the applicant.

(b) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a family day care home by the department is no longer at the facility.

(c) (1) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology

developed by the department. ~~If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.~~

(2) If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a licensed family day care home less often than once every five years.

(e) A public agency under contract with the department may make spot checks if it does not result in any cost to the state. However, spot checks shall not be required by the department.

(f) The department or licensing agency shall make an unannounced site visit on the basis of a complaint and a followup visit as provided in Section 1596.853.

(g) An unannounced site visit shall adhere to both of the following conditions:

(1) The visit shall take place only during the facility's normal business hours or at any time family day care services are being provided.

(2) The inspection of the facility shall be limited to those parts of the facility in which family day care services are provided or to which the children have access.

(h) The department shall implement this section during periods that Section 1597.55b is not being implemented in accordance with Section 18285.5 of the Welfare and Institutions Code.

(i) Notwithstanding paragraph (2) of subdivision (c), beginning with the 2007–08 fiscal year, the department shall increase the random sample by an additional 10 percent if the total citations issued by the department exceed the previous year's total by 10 percent after accounting for the increase in the number of citations attributable to increases in the number of visits. The department may request additional resources to increase the random sample by 10 percent pursuant to this subdivision.

SEC. 6. Section 11831.2 of the Health and Safety Code is amended to read:

11831.2. The department ~~may~~ shall charge a ~~reasonable~~ fee ~~as the department deems necessary~~ for the certification ~~or renewal certification of a program that voluntarily requests the certification. The fee shall be set at a level sufficient to cover administrative costs of the program certification process incurred by the department. In calculating the administrative costs, the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs~~ of programs, in accordance with Chapter 7.3 (commencing with Section 11833.01).

SEC. 7. Section 11831.5 of the Health and Safety Code is amended to read:

11831.5. (a) Certification shall be granted by the department pursuant to this section to any qualified alcoholism or drug abuse recovery or treatment program, regardless of the source of the program's funding, upon approval of a completed application and payment of the required fee. The certification shall be valid for a period of not more than two years. The department may extend the certification period upon

SUBCOMMITTEE NO. 3 **Agenda**
Health, Human Services, Labor & Veteran's Affairs

Thursday, April 19, 2007

Attachment 3

County Human Services Program Funding

Program	Description	Accountability/ Performance Monitoring	Average Monthly Caseload 2006-07	2006-07 Budget	Sharing Ratio	Budget Methodology	*Annual* Impact of Cuts Since 2000-01*
CalWORKS Eligibility, Welfare to Work Services, and Child Care	The State's welfare reform program that began 1997-98. Counties perform eligibility determination, benefit issuance, welfare-to-work services, and child care to qualifying low-income families.	50 percent share of work participation penalty	467,667	$1.93 billion total funds	$1.5 billion Federal TANF Funds $378.1 million State $58 million County	The Budget funds costs at the 2000-01 level, creating a program shortfall. Changes in caseload are budgeted, but the costs of serving that caseload are frozen at the 2000-01 level, exacerbating the program shortfall. Budget adjustments are for premises that can increase or decrease the budget. Originally based on PCAB (Proposed County Administrative Budget), a process to determine actual county costs.	$277.8 million unfunded cost-of-doing-business increases $180.4 million cut to county operations and services
Food Stamps Administration	Counties provide eligibility determination and benefit issuance to eligible low-income families.	Federal error-rate penalty	836,712	$512.4 million total funds	50 percent Federal 35 percent State 15 percent County	The Budget funds costs at the 2000-01 level, creating a program shortfall. Changes in caseload are budgeted, but the costs of serving that caseload are frozen at the 2000-01 level, exacerbating the program shortfall. Budget adjustments are for premises that can increase or decrease the budget. Originally based on PCAB, a process to determine actual county costs.	$160.6 million unfunded cost-of-doing-business increases $75.2 million reductions to county operations and services
Medi-Cal Eligibility	Counties provide eligibility determination for health insurance to low-income families	Performance Monitoring Quarterly Reconciliation Healthy Families Bridge Performance Standards	6.6 million	$1 billion	50 percent Federal 50 percent State	Since 2003-04 based on an annual Budget Worksheet request submitted to and approved by DHS. The worksheet is a method to determine actual Medi-Cal costs.	$58 million cut to county operations and services

Program	Description	Accountability/ Performance Monitoring	Average Monthly Caseload 2006-07	2006-07 Budget	Sharing Ratio	Budget Methodology	*Annual* Impact of Cuts Since 2000-01*
Adoptions	Counties provide adoptions placements for abused or neglected children in foster care.	Federal Children and Family Services Review State Outcomes and Accountability System (AB 636)	72,803	$72.8 million total funds	43.67 percent Federal 56.33 percent State	The Budget funds costs at the 2000-01 level. Counties are funded with a total of 560.55 full-time equivalent workers statewide. Originally based on the unit cost for an annual adoption worker in each county multiplied by the number of full-time equivalent workers.	$5.9 million unfunded cost-of-doing-business increases $12.8 million cut to county operations and services
Child Welfare Services	Counties provide a broad range of services to abused and neglected children and families at risk of abuse and neglect including emergency response, assessment, family maintenance, family reunification, and permanent placement.	State Outcomes and Accountability System (AB 636) Federal Children and Family Services Review	159,038	$1.39 billion total funds	50 percent Federal 35 percent State 15 percent County	The Budget funds costs at the 2001-02 level, creating a program shortfall. Changes in caseload are budgeted, but the costs of serving that caseload are frozen at the 2001-02 level, exacerbating the program shortfall. Budget adjustments are for premises that can increase or decrease the budget. Originally based on PCAB (Proposed County Administrative Budget), a process to determine actual county costs.	$228 million unfunded cost-of-doing-business increases $27.1 million cut to county operations and services
Foster Care Eligibility	Counties determine eligibility and establish federal eligibility to create State General Fund savings. In addition, counties determine benefit issuance of foster payments to group homes, foster family homes, guardians, and relative caretakers	Federal IV-E Foster Care Eligibility Review	72,315	$97.4 million total funds	50 percent Federal 35 percent State 15 percent County	The Budget funds costs at the 2000-01 level, creating a program shortfall. Changes in caseload are budgeted, but the costs of serving that caseload are frozen at the 2000-01 level, exacerbating the program shortfall. Budget adjustments are for premises that can increase or decrease the budget. Originally based on PCAB (Proposed County Administrative Budget), a process to determine actual county costs.	$30.8 million unfunded cost-of-doing-business increases $2.6 million cut to county operations and services

Program	Description	Accountability/ Performance Monitoring	Average Monthly Caseload 2006-07	2006-07 Budget	Sharing Ratio	Budget Methodology	*Annual* Impact of Cuts Since 2000-01*
Adult Protective Services	Counties respond to reports of elder and dependent adult abuse and provide assessment, investigation, and case management services including emergency shelter care, food, and transportation.		20,566	$88.3 million total funds	$50.2 million State General Fund Federal Title XIX	Costs have been frozen at the 2002-03 level. Budget adjustments are for changes in estimated federal Title XIX reimbursements only.	$19.2 million unfunded cost-of-doing-business increases $17.7 million cut to county operations and services
In-Home Supportive Services Administration	Counties provide both eligibility determination and assessment for the types and numbers of hours of service for eligible clients. Low-income elderly and disabled adults and disabled children receive in-home care services from providers (i.e. personal care, meal preparation, housecleaning).	Quality Assurance Initiative	374,999	$273.4 million total funds	49.06 percent Federal 35.66 percent State 15.28 percent County	Counties receive funding for a specific number of hours of social worker time. However, the number of hours does not reflect the amount of social worker time needed to determine eligibility and assess the types and numbers of hours of service. Caseload adjustments funded at 2000-01 costs. There has been no increase in cost-of-doing-business since 2000-01.	$70.9 million unfunded cost-of-doing-business increases
Total Annual Impact of cuts through 2006-07 Budget.						**$1.17 billion Total Funds $761.8 million State General Funds**	

Cumulative annual impacts include cuts to county operations and services ($373.8 million) and unfunded cost-of-doing-business increases ($793.2 million) since 2000-01. Cuts include those adopted by the Legislature and funds vetoed by the Governor.

Senate Budget & Fiscal Review Committee
Eileen Cubanski 651-4103

Hearing Outcomes

Subcommittee No. 3
Upon Adjournment of Session, Thursday, April 19, 2007

Vote-Only Agenda

5180 Department of Social Services

- Vote-Only Issue 1: Continuation of *Gresher v. Anderson* Court Order
  Action: Approved as budgeted.
  Vote: 3-0

- Vote-Only Issue 2: Continuing Education Online
  Action: Approved as budgeted.
  Vote: 3-0

- Vote-Only Issue 3: Child Care Facilities – Parental Notification
  Action: Approved as budgeted.
  Vote: 3-0

- Vote-Only Issue 4: Health and Care Facilities: Background Checks
  Action: Approved as budgeted.
  Vote: 3-0

Discussion Agenda

5180 Department of Social Services (DSS)

- DSS Issue 1: Supplemental Security Income/State Supplementary Program (SSI/SSP) and Cash Assistance Program for Immigrants (CAPI)
  Action: Approved $171.6 million General Fund for the revised SSP COLA of 3.7 percent and pass-through of $34.4 million for the federal SSI COLA of 1.2 percent.
  Vote: 2-1 (Cogdill)

- DSS Issue 2: In-Home Supportive Services (IHSS) Caseload
  Action: Held open pending May Revision.

- DSS Issue 3: Freeze State Participation in IHSS Provider Wages
  Action: Rejected the budget proposal, including the trailer bill language, to freeze state participation in IHSS provider wages and benefits.
  Vote: 2-1 (Cogdill)

- DSS Issue 4: Assessment of Quality Assurance (QA) Initiative
  Action: No action taken on this informational item.

- DSS Issue 5: Update on the Implementation of Direct Deposit
  Action: No action taken on this informational item.

- DSS Issue 6: Adult Protective Services
  Action: No action taken on this informational item.

- DSS Issue 7: Community Care Licensing Facilities Inspections
  Action: 1) Approved the budget request as modified by the April Finance Letter for $2.5 million ($2.4 million General Fund) and 34.5 positions; and 2) rejected the proposed trailer bill language and approved instead trailer bill language suspending the trigger requirement for one year, and requiring DSS to propose alternative trailer bill language by February 1, 2008 that reflects better indicators to trigger increased licensing visits as a result of increases in facility citations and to work with legislative staff, the LAO, and interested stakeholders in developing the alternative language.
  Vote: 2-0

- DSS Issue 8: Licensing Reform Automation
  Action: Held open pending release of the CCL report due April 1, 2007 and additional fiscal and timing information on DSS' IT Strategic Plan.

- DSS Issue 9: County Costs for Operating Social Services Programs
  Action: Held open pending May Revision.

0530 Health and Human Services Agency – Office of System Integration (OSI)

- OSI Issue 1: Statewide Automated Welfare System (SAWS)
  Action: Held open pending May Revision.

- OSI Issue 2: County Equipment Replacement and User Support
  Action: Held open pending May Revision.

- OSI Issue 3: Case Management, Information and Payrolling System (CMIPS) II Procurement
  Action: Held open pending May Revision.

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

April 30, 2007

9:00 AM

Room 3191

(Diane Van Maren)

Item Department

4400 Department of Mental Health—Selected Issues

4260 Department of Health Care Services—Selected Issues

4265 Department of Public Health—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.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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.

A. ISSUES FOR "Vote Only" for All Departments (DHCS, DPH & DMH)

1. Water Operator Certification Program

Issue. The DHCS is requesting an increase of $91,000 (Drinking Water Operator Certification Fund) to fund an Environmental Scientist to assist in implementing the Water Operator Certification Program. Presently there is a staff of eight within the program.

The DHCS contends that this additional position is necessary to meet the certification requirements of nearly 30,000 operators in California. Specifically, they are presently unable to adequately respond to the level of inquiries and requests for re-evaluations from the operators regarding their qualifications for testing and certification. The operators must be recertified every three years and new operators are being certified continuously.

The requested position would be used to prepare test material, evaluate applicant experience and education and coordinate procedures with the water supply industry and the compliance branches of the Drinking Water Program within the Department of Public Health. In addition, the position would be used to follow up on actions regarding operators who are not in compliance.

Background---Water Operator Certification. State law requires public water systems to utilize certified operators. There are about 30,000 operators in the state and recertification occurs every three years. The Department of Public Health is responsible for the implementation of the program. The program is fully fee supported.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the budget request. No issues have been raised.

2. Small Water System and Safe Drinking Water Revolving Fund

Issue. The Drinking Water Program within the Department of Public Health (DPH) is requesting an increase of $601,000 (Public Water System, Safe Drinking Water State Revolving Fund) to fund 5 Associate Sanitary Engineers to increase the inspection frequency of small water systems. This increase would bring the total number of staff in this area to 30 positions.

Currently, the program is able to inspect those systems with significant compliance issues on an annual basis. The DHCS contends that by providing the five positions, additional surveillance will be provided to these systems. The DPH needs to annually inspect over 37,000 systems, biennially inspect over 20,000 systems and inspect another 19,000 systems every three years.

Funds in the Public Water System account are from federal sources. As such, no increases in fees or the General Fund would occur with this proposed adjustment.

Background—Small Water Systems. California has primacy agreements with 36 counties which allow the counties to regulate small water systems with less than 200 service connectors. The state regulates all other small water systems in the remaining 22 counties, along with the small water systems serving between 200 and 1,000 service connections in primacy counties. In total, the state regulates about 2,5000 small water systems (from 15 connections to 1,000 connections).

The DPH notes that small water systems have the greatest number of violations and compliance problems, thereby requiring more regulatory oversight and technical assistance than the large water systems. In addition, small water systems are less able to respond to incidents of contamination because they often lack the technical and financial resources to respond quickly. Therefore, these systems require a higher degree of regulatory oversight and technical assistance.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the budget request. Based on information provided by the DPH, additional oversight of small water systems appears necessary.

3. Child Health Disability Prevention (CHDP) Program

Issue. The budget proposes an increase of $111,000 (General Fund) over the revised current-year for total expenditures of $3 million ($2.950 million General Fund) for the CHDP Program. **This adjustment reflects the standard methodology used for the program.** Specifically, the estimate uses a base projection that uses data from the latest five years to forecast average monthly screens and cost per screen. **No policy changes are proposed.**

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).

Children in families with incomes at or below 200 percent of poverty can pre-enroll in fee-for-service Medi-Cal under the presumptive eligibility for children provisions of the Medi-Cal and Healthy Families programs. This pre-enrollment takes place electronically at CHDP provider offices at the time the children receive health assessments. This process, known as the CHDP Gateway, shifts most CHDP costs to the Medi-Cal Program and to Healthy Families. As such, CHDP Program funding needs to continue only to cover services for children who are eligible for limited-scope Medi-Cal benefits (such as immunizations).

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. 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.

Subcommittee Staff Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended to approve as proposed.

4. Intermediate Care Facility DD-CN —Positions & Sunset Extension

Issue. The Administration is requesting a total increase of $262,000 ($81,000 General Fund, $20,000 L&C Funds and $161,000 in federal funds) to fund four positions on a two-year limited-term basis (from January 1, 2008 to January 2010) to continue to comply with the Intermediate Care Facility for Developmentally Disabled-Continuous Nursing (ICF DD-CN) Wavier requirements, close out the project and prepare an amendment to the State's Medi-Cal Plan to add this service to the Medi-Cal Program.

Three of the requested positions would be within the Department of Health Care Services (DHCS) and would be used to continue the management of the existing pilot, continue certain evaluation analyses, provide clinical monitoring and related activities. The other position would be used within the Department of Public Health to continue monitoring of the pilot and to develop policies and procedures for licensing the facilities once they are added to the State's Medi-Cal Plan.

The Administration is also proposing trailer bill language to extend the ICF DD-CN pilot to January 1, 2010. This is being proposed to allow sufficient time to fully evaluate the pilot and then to take steps to include this as part of the State's Medi-Cal Plan.

The Administration notes that there has been consistently positive feedback from consumers, families and physicians regarding this pilot. In fact, the DHCS is moving forward with the development of licensing regulations and other efforts to prepare for inclusion of these services more fully within the Medi-Cal Program. The table below displays the participating ICF DD-CN facilities.

Facility	Location	Number of Beds (36)	Date Opened
Allen Spees	Fresno	6	April 3, 2002
Baird House	Santa Rosa	6	June 1, 2002
4 J's	San Bruno	6	December 6, 2002
Haber House	Desert Hot Springs	6	November 7, 2002
MVM Home II	Gardena	6	August 23, 2002
Valley Village	Sylmar	6	August 5, 2002

Overall Background—ICF DD-CN. Assembly Bill 359 (Aroner), Statutes of 1999, required the DHCS to establish an ICF DD-CN Waiver pilot under the Medi-Cal Program. The purpose of the ICF DD-CN model is to explore more flexible and effective models of facility licensure to provide 24-hour skilled nursing in a residential community versus an institutionalized setting. The pilot was originally established as a two-year pilot but the federal Centers for Medicare and Medicaid Services (CMS) has since approved two additional three-year Waiver periods and is expected to approve the fourth request (for October 2007 through September 2009).

Subcommittee Staff Recommendation—Approve. The workload has been justified and no issues have been raised. The pilot has produced effective results by improving the lives of many consumers with developmental disabilities in terms of developmental achievements and improved health. It appears that this may be due to the intensive and individual medical and developmental services the consumers have received.

5. Website for CA Rx Prescription Drug Discount Program

Issue. The DHCS is requesting an increase of $96,000 (General Fund) to fund an Associate Governmental Program Analyst (two-year limited-term) to establish and administer a website that will provide information to California residents and health care providers about options for obtaining prescription drugs at affordable prices as required by Assembly Bill 2877 (Frommer), Statutes of 2006.

Background—Assembly Bill 2877 (Frommer), Statutes of 2006. The key components of this legislation are:

- Requires the DHCS to establish a website before July 1, 2008 and to provide a minimum of information as follows:
    - Prescription drug benefits available to Medicare enrollees;
    - State programs that provide drugs at discounted prices;
    - Pharmaceutical manufacturer patient assistance programs that provide free or low-cost prescription drugs to qualifying individuals;
    - Other websites as deemed appropriate by the DHCS that help residents obtain prescription drugs at affordable prices;
    - Typical prices charged by licensed pharmacies in the state of at least 150 commonly prescribed prescription drugs.
- Exempts the project from having to develop a Feasibility Study Report.
- Exempts the project from the state's competitive bidding process.
- Requires the DHCS to ensure that the website does not duplicate or conflict with other website information about prescription drugs.
- Allows for the DHCS to request resources through the Budget Act for this purpose.

Subcommittee Staff Recommendation—Approve. The workload is justified and the website compliments existing efforts to inform and provide low-cost prescription drugs to Californians. No issues have been raised.

6. CA Mental Health Disease Management Program (CalMEND)

Issue. The Department of Health Care Services is requesting an increase of $133,000 ($66,000 from the Mental Health Services Fund—Proposition 63, and $67,000 from federal funds) to increase the existing contract services for the development of additional clinical evidence-based medication algorithms, to expand the development of clinical performance measures and to evaluate future health information technology needs.

Specifically, the increase is to be used to:

- Develop additional medication algorithms for children and adolescents with severe mental disorders and to pilot program implementation into two additional service sites.
- Include the client and family member self-management and shared decision making modules developed in 2006-07 as part of the implementation process.
- Begin development of incentives to support changes in provider practice.
- Include additional work on CalMEND health information technology planning

The overall purpose of CalMEND is to tie future drug and treatment purchasing and payment decisions to evidence-based guidelines.

Background—What is CalMEND. The Medi-Cal Program provides psychotherapeutic drugs to nearly 300,000 persons per month. The cost to Medi-Cal for the purchase of psychotherapeutic drugs needed to treat various mental health conditions was nearly $1 billion (total funds) in 2003-04. The DHCS estimates that about 10 to 15 percent of the cost of provision of drugs for the treatment of mental disorders is attributable to the inappropriate prescribing of more than one antipsychotic to an individual, which, for the most part, is considered to be an inappropriate prescribing practice.

The Department of Health Care Services (DHCS) and Department of Mental Health (DMH) have initiated this joint effort-CalMEND-- to improve mental health outcomes, while managing pharmaceutical costs. **CalMEND aims to reduce pharmaceutical costs and improve prescribing patterns and access to the quality mental health care services delivered to persons with certain mental health disorders.**

The DHCS states that CalMEND will directly address the necessary improvement of the cost-effectiveness of mental health services delivered and/or paid for by state organizations by developing best clinical and administrative practices.

The DHCS and DMH are working with the CA Institute of Mental Health (CiMH), Texas Medication Algorithm Project (TMAP), other experts in the field, and consumers during the planning phase to develop deliverables. Specifically, CalMEND is to build upon the following existing models of mental health disease management and current state efforts to achieve its deliverables:

- The Texas Medication Algorithm Project and the CA Medication Algorithm Project, which is adapting the Texas model for use in local County Mental Health Plans, which uses evidence-based medication algorithms as a central component; and
- The efforts of the Common Drug Formulary System and Policy Oversight Committee developed in January 2003, in response to SB 1315 (Sher), Statutes of 2002, by several state departments, under the direction of the Department of General Services.

When full implemented, CalMEND is to have the following deliverables:

- Develop and implement clinical evidence-based treatment approaches including medication algorithms or equivalent clinical decision support systems for providers to use when making clinical treatment decisions;
- Improve client self-efficacy and compliance with medication and other treatment and mental health support regimens;
- Change the practice environment to support improved quality of care; and
- Develop a data infrastructure to improve upon data collection and analysis based upon common data sets and uniform documentation standards.

Subcommittee Staff Recommendation—Approve. The increase is does not affect the General Fund and is an appropriate use of Proposition 63 funds. No issues have been raised with the request.

7. Implementation of Senate Bill 1260 (Ortiz), Statutes of 2006—Stem Cell

Issue. The budget proposes **an increase of $208,000 (General Fund) to fund a Research Specialist I position and a contract with the University of California at San Francisco to conduct oversight of human embryonic stem cell research in California as contained in SB 1260 (Ortiz and Runner), Statutes of 2006.**

In addition, the budget proposes $50,000 (Maternal and Child Health federal funds) to support the 13 member Human Stem Research Advisory Committee which was established pursuant to SB 322 (Ortiz), Statutes of 2006.

SB 1260, Statutes of 2006, continues the provisions of SB 322 (Ortiz, 2003) for oversight of human embryonic stem cell research by

Background—California Stem Cell Research and Cures Act : This Act was established in 2004 through Proposition 71 which created the California Institute for Regenerative Medicine (CIRM). Among other things, the purpose of this institute is to make grants and loans for stem cell research, research facilities, and other vital research opportunities to realize therapies, protocols, and medical procedures that will result in the cure or substantial mitigation of diseases and injuries.

The Independent Citizen's Oversight Committee (ICOC) is composed of appointed members who perform various functions with regard to the CIRM, including establishing standards applicable to research funded by the CIRM.

Subcommittee Staff Recommendation—Approve. The budget request is consistent with the legislation. No issues have been raised. It is recommended to approve as budgeted.

8. Health Insurance Recovery Group—Third Party Liability

Issue. The DHCS is requesting an increase of $551,000 ($138,000 General Fund) to permanently establish 7 positions which are set to expire as of June 30, 2007. These positions are in the Health Insurance Recovery section of the Medi-Cal Program and are used to recover from liable private insurance carriers any payments made by Medi-Cal when a private carrier is found to have primary payment responsibility. These are the only positions in this section doing this type of work.

These positions were provided in the Budget Act of 2005 as two-year limited-term. The purpose of these positions was to increase commercial insurance recoveries by pursuing unpaid health insurance claims. The DHCS states that these third party carriers often fail to pay claims for a variety of reasons. As such, this staff has been doing the following key functions:

- Work with health insurance carriers to ensure that these claims are paid;
- Research and collect payments on aged accounts receivable; and
- Update health coverage information and coding in the Medi-Cal Eligibility Data Systems (MEDS), the Medi-Cal Management Information System (MMIS), and the Third Party Liability system to ensure future Medi-Cal cost savings.

According to the DHCS, these positions achieve about $3.6 million (total funds) in annual savings for the Medi-Cal Program through both cost recovery efforts as well as cost avoidance efforts.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the budget request. The positions are cost-beneficial and assist in preserving the fiscal integrity of the Medi-Cal Program through the recovery of inappropriate expenditures.

9. Elimination of "Price Adjustment--Department of Mental Health (DMH)

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the Department of Mental Health's General Fund budget items by a total of $2.4 million (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This adjustment reflects a reduction of $1.7 million in the State Hospitals, with the remaining amount being taken in other state support. This action is eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

10. Information Privacy & Physical Security

Issue. The DHCS is proposing a reduction of $148,000 (total funds) by adding three positions in lieu of using contract staff to meet requirements regarding various policies and procedures related to information security and privacy. Specifically, a contractor at a cost of $450,000 (total funds) had been conducting the work. By using staff employees, the DHCS states they will achieve the savings and have ongoing assistance with these issues.

The DHCS has a Privacy Office that is responsible for ensuring that information privacy and physical security policies and procedures are in place to protect personal confidential information and for implementing Health Insurance Portability and Accountability Act (HIPAA). The three positions will provide assurance that (1) appropriate levels of physical security are provided for all DHCS offices; (2) on-going monitoring for compliance with policies and procedures is conducted, (3) information security breaches are reported timely and fully investigated; and (4) all DHCS employees receive annual training on information security and privacy and their related roles and responsibilities.

Subcommittee Staff Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended to approve as budgeted.

11. Implementation of Senate Bill 611 (Speier), Statutes of 2006 –Meat Recalls

Issue. The Department of Public Health (DPH) is requesting an increase of $389,000 (General Fund) to support three positions (two Food and Drug Investigators, 0.5 Food and Drug Supervisor, and 0.5 Associate Governmental Program Analyst) to implement Senate Bill 611 (Speier), Statutes of 2006.

The staff will be used to conduct the following key activities:

- Review documents regarding meat recalls;
- Perform recall effectiveness checks;
- Conduct facility inspections to determine non-compliance;
- Contact firms that provide incomplete data;
- Conduct enforcement actions against non-compliant firms;
- Determine disposition of recalled products;
- Provide information to local health jurisdictions; and
- Summarize recall effectiveness efforts.

Background—Senate Bill 611 (Speier), Statutes of 2006. This enabling legislation requires meat or poultry suppliers, distributors, brokers, or processors to immediately notify the DPH and their customers when these firms have or will have recalled product that meets the U.S. Department of Agriculture (USDA) criteria for a Class I or Class II recall. In addition, it requires: (1) businesses to provide the DPH with an electronic list of all their customers that have or will receive any product subject to the recall; (2) DPH to notify local health officers and environmental health directors of the distribution of recalled product within their jurisdiction; and (3) the public to be notified.

Subcommittee Staff Recommendation--Approve. No issues have been raised. The workload is justified and the resources are addressing a critical issue for Californians.

12. Proposed Trailer Bill—Emergency Physicians & Proposition 99 Funds

Issue. The Administration is proposing to appropriate $24.803 million (Proposition 99 Funds) to reimburse physicians, surgeons and hospitals for uncompensated emergency medical services. This appropriation is consistent with appropriations made for this purpose for the past several years, since 2000. These funds are used at the county level to reimburse physicians for uncompensated emergency medical services to persons who cannot afford to pay for such services.

However, the Administration's proposed trailer bill language which accompanies the appropriation is not consistent with language adopted in some prior years.

Subcommittee Staff Recommendation— Modify Tr ailer Bill Language. After working with constituency groups, it is recommended to add a provision to the language which would have it conform to previous statute to ensure that any county who has an existing special fee schedule can allocate funds to their hospitals and physicians accordingly. The added provision is as follows:

> (c) (2) If a county has an Emergency Medical Services Fund Advisory Committee that includes both emergency physicians and emergency department on-call back-up panel physicians, and if the committee unanimously approves, the administrator of the Emergency Medical Services Fund may create a special fee schedule and claims submission criteria for reimbursement for services rendered to uninsured trauma patients, provided that no more than 15 percent of the tobacco tax revenues allocated to the county's Emergency Medical Services Fund is distributed through this special fee schedule, that all physicians who render trauma are entitled to submit claims for reimbursement under this special fee schedule, and that no physician's claim may be reimbursed at greater than 50 percent of losses under the special fee schedule.

In conversations with the Administration, they are *not* opposed to the above recommended change. Therefore, it is recommended to modify the proposed trailer language as noted.

B. ISSUES FOR DISCUSSION—Department of Mental Health

1. San Mateo Pharmacy and Laboratory Services Project—Three Issues

Issue. The Administration **is proposing two fiscal adjustments for the San Mateo Pharmacy and Laboratory Project (San Mateo Project).** In addition, the Office of State Audits and Evaluations (OSAE), within the Department of Finance, is in the process of conducting a review of the San Mateo Project, including the forecasting methodologies used to project costs as well as the claims processing system for state reimbursement. Each of these issues is discussed below.

First, a deficiency appropriation of $8.7 million (General Fund) is requested for prior year obligations (from 2004-05 and 2005-06). This request is tied to the accounting error that occurred between the DMH and the Department of Health Services (DHS) which was discussed in the Subcommittee's March 12th hearing as it pertained to the Early Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Unfortunately, the error also affected the San Mateo Project.

Specifically when the Medi-Cal Program, administered by the DHS, shifted to a cash-based accounting system, the DMH did not make adjustments in its programs to appropriately account and budget for this change. As such, the DMH is requesting the $8.7 million General Fund increase to fund prior year obligations as noted.

Second, the DMH is seeking a technical baseline adjustment to reflect a reduction of $139,000 (General Fund) from the current year (2006-07) and a related adjustment of $231,000 ($139,000 General Fund) for the budget year (2007-08). No concerns have been raised regarding this adjustment.

Third, the OSAE has been reviewing the San Mateo Project and will be providing the DMH with recommendations for improvements to budget estimating, claims processing, and other related fiscal aspects of the project. This OSAE analysis is to be released at the end of June, 2007. As such, OSAE is still in their fact finding and review mode and cannot yet provide their recommendations.

According to the DMH's overall work plan on "Medi-Cal Fiscal Services Management", the DMH will be developing an "action plan" to implement fiscal reforms for the San Mateo Project by August 2007.

Background—What is the San Mateo Project? The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Medicaid (Medi-Cal) Waiver agreement and state statute since 1995. This "field test" was enacted into state law to allow the DMH to test managed care concepts in support of an eventual move to a capitated or other full risk model for the delivery of Medi-Cal specialty mental health services.

Effective July 1, 2005, the San Mateo Project was modified but it continues to cover pharmacy and related laboratory services, in *addition* to the required Mental Health Managed Care services that other County Mental Health Plans provide. San Mateo is the only county that has this added responsibility.

The San Mateo Project is funded at $8.8 million ($4.4 million General Fund and $4.4 million federal funds) for 2007-08.

Subcommittee Staff Recommendation. **First,** it is recommended to hold "open" the prior year request for $8.7 million, as well as the budget year reduction, since the Governor's May Revision may propose adjustments to these figures.

Second, it is recommended to adopt the following **two pieces of uncodified trailer bill language** regarding the San Mateo Project. **The first piece of language** pertains to having the DMH conduct a policy analysis of the project. A policy analysis is over due for this 12-year pilot project and it is reasonable that one should be conducted by the Administration and shared with the Legislature. **The second piece of language** pertains to the DMH's commitment to craft an action plan in response to the OSAE's review. This information should be shared with the Legislature to ensure fiscal oversight. The proposed language is as follows:

- The Department of Mental Health, in direct collaboration with the Department of Health Care Services as the state's lead Medicaid entity, shall provide the fiscal and policy committees of the Legislature, by no later than March 1, 2008, with a policy analysis of the San Mateo Pharmacy and Laboratory Services Project. At a minimum this policy analysis shall: (1) articulate best practices learned from the pilot and whether these best practices could be replicated statewide; (2) offer suggestions to improve the project; (3) clarify the project's relationship to other local and statewide efforts related to pharmaceutical usage and purchasing, such as those conducted through the Health Plan of San Mateo and the CalMEND project, as well as others.

- The Department of Mental Health shall provide the fiscal and policy committees of the Legislature, by no later than September 1, 2006, with their action plan to implement fiscal reforms regarding the San Mateo Pharmacy and Laboratory Services Project. This action plan will respond to issues identified by the Office of State Audits and Evaluations, as well as any other applicable concerns identified by the department, stakeholders, and control agencies.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief overview of the San Mateo Pharmacy and Laboratory Services Project, and the two fiscal requests proposed by the Administration.
2. DMH, Please provide a *brief* perspective on how the department intends to craft a San Mateo Project "action plan".

2. Department's Update on Status of Developing a Plan for Changes to EPSDT

Issue (Hand Out). As directed by the Subcommittee in the March 12th hearing regarding the numerous missteps by the DMH on the management of the Early Periodic Screening Diagnosis and Treatment Program (EPSDT), the DMH has crafted an overall fiscal management plan and will be presenting this plan today for discussion.

Additional Background—Prior Subcommittee Hearing on March 12th. In the March 12th hearing, the Subcommittee expressed significant concerns regarding the numerous missteps by the DMH regarding the management of the EPSDT Program. The funding issue was left "open" due to the need to obtain more information. But two actions were taken. The Subcommittee directed the DMH to prepare a plan and report back on April 30th, and adopted Budget Bill Language regarding the future adoption of policy legislation to craft a framework for the EPSDT Program.

Significant issues have been raised regarding the DMH's administration of the Early, Periodic Screening and Treatment (EPSD) Program. These layers of issues are intertwined and include the following:

- A deficiency request of **at least $302.7 million** (General Fund) for past years owed to the County MHPs, *and* a budget year request for **an increase of $92.7 million** (General Fund);
- An accounting error which represents a significant portion of what is owed to the County MHPs;
- Double billing of the federal government (i.e., Medicaid/Medi-Cal funds) by the state (DMH and DHS);
- A pending federal audit report which *could* have additional General Fund implications;
- A claims processing method (i.e., billing system) which is manually operated;
- Use of an inaccurate methodology for estimating program expenditures for budgeting purposes;
- Use of a "cost settlement" process for closing out costs for past fiscal years;
- A lack of timeliness and accountability on the part of the Administration in informing the Legislature and bringing forth these issues (See hand outs for timeline); and
- Need for the Office of State Audits and Evaluations (OSAE), located within the Department of Finance, to conduct analyses and make recommendations in several areas.

Though monies are owed to County Mental Health Plans (County MHPs) for services provided in the EPSDT Program, the Legislature has a public obligation to conduct due diligence to ensure that public funds are appropriately utilized and that the DMH remedies their administrative missteps which have contributed to this situation.

The seriousness of these issues cannot be overstated. The EPSDT Program is the core public program that provides mental health treatment services to children and their families.

It is imperative for the program to operate effectively and efficiently to ensure that quality services are provided to children and their families, and that providers of services are reimbursed in a timely manner (including County MHPs). Total program expenditures are estimated to be over $1 billion (total funds) for the current year.

Background--Office of State Audits and Evaluations, Depa rtment of Finance-- Scop e of Work. As noted in the hand out package, the OSAE has been requested by the Administration to conduct several projects, including the following:

- Evaluation of EPSDT budget estimation methodology (was released on March 8th);
- Evaluation of EPSDT comprehensively (to be completed in September 2007);
- Evaluation of all other DMH administered local assistance programs (to be completed December 2007); and
- Evaluation of all DMH accounting and administrative controls (to be completed by January, 2008).

Background-- How the EPSDT Program Operates. 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. Examples of mental health services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

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, County MHPs are responsible for the delivery of EPSDT mental health services to children

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 Kim Belshe' 1994), the DHS w as 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.

County MHPs must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002. **As such counties provided about $77.3 million in County Realignment Funds to support the EPSDT Program in 2006-07.**

Subcommittee Staff Recommendation. **First**, it is recommended to continue to hold open the prior year and budget year fiscal requests pending receipt of the Governor's May Revision.

Second, it is recommended to adopt the following **uncodified trailer bill language** regarding the DMH's work plan.

> The Department of Mental Health (DMH), in direct collaboration with the Department of Health Care Services as the state's lead Medicaid entity, shall provide the fiscal and policy committees of the Legislature with specified work products as contained in the DMH work plan. The purpose of the work plan is to significantly improve the management of fiscal systems as they pertain to the Medi-Cal Program, including the Early Periodic Screening Diagnosis and Treatment Program, Mental Health Managed Care, and Short/Doyle Medi-Cal services. The work products to be provided and their delivery dates include, at a minimum, the following: (1) Accounting and Administrative Control Review recommendations (October 2007); (2) detailed implementation plan to implement Accounting and Administrative Control Review recommendations (March 2008); and (3) Action Plan to address reforms regarding Mental Health Managed Care and Short/Doyle services (March 2008).

Third, it is recommended to modify the Subcommittee's Budget Bill Language as adopted on March 12th to reflect an amendment requested by the Administration. The revised Budget Bill Language is as follows (with underline and strike-out notations to display the changes):

> Item 4440-101-0001 (DMH, Local Assistance)
>
> It is the intent of the Legislature for the department to work collaboratively with the Legislature to develop an appropriate administrative structure for the ~~a restructured~~ Early, Periodic Screening, Diagnosis and Treatment (EPSDT) Program for implementation in 2008-2009, including the passage of legislation to establish the administrative structure ~~program~~ in state statute within the two-year period of the 2007-2008 legislative session.

Questions. The Subcommittee has requested the Department of Mental Health to respond to the following questions.

1. **DMH,** Please provide a brief summary of the DMH Work Plan (Hand Outs).
2. **DMH**, What *key immediate* actions have been taken to-date with respect to EPSDT claims processing, accounting modifications, cost settlement changes or the like?
3. **DMH**, Has the state heard back from the federal CMS regarding the federal audit outcomes? If not, when may this occur?

C. ISSUES FOR DISCUSSION—Both Departments (DHCS & DPH)

1. Proposition 50 Bond Funds-- Extend Limited-Term Positions *&* Obtain Update

Issue. The budget proposes an increase of $873,000 (Proposition 50 Bond Funds of 2002) to extend seven positions for two years (until June 30, 2009) to continue performing various functions associated with expenditure of the Proposition 50 bond funds for drinking water improvements. The seven positions to be extended include an Environmental Scientist and six Associate Sanitary Engineers. (The Hand Out package contains a current-year and budget-year listing of the Proposition 50 bond fund commitments.)

Presently, the Department of Public Health (DPH) utilizes a total of 20.5 positions, including these seven positions which are set to expire as of June 30, 2007, for Proposition 50 activities.

The DPH states that the renewal of the seven positions is necessary to meet workload needs related to the following key Proposition 50 activities:

- Review technical "pre-applications" for Proposition 50 funding and rank proposals.
- Create a project priority list based on the priority ranking of the projects.
- Evaluate full project applications and prepare extensive technical report documents for each project.
- Review and evaluate the plans and specifications for each project and conduct construction inspections and a final inspection of each project.
- Review proposal for reduction or removal of drinking water contaminants and participate in demonstration projects such as ultraviolet treatment processes.
- Review and comment on draft environmental documents prepared for drinking water projects to assure compliance with the CA Environmental Quality Act (CEQA).
- Review final environmental documents for the department's funded and permitted projects, and prepare review summaries and findings.
- Conduct program fiscal management and administration.
- Conduct final project inspection and certify completion.

The budget request also includes a $50,000 interagency agreement with the Department of General Services to conduct certain CA Environmental Quality Act (CEQA) activities. The DPH states that there are several projects each year that will require specialized CEQA knowledge outside the capabilities of their in-house staff. These include instances where there is a need for biological habitat suitability studies, archeological reports, cultural resources surveys and biological field surveys.

Background—Proposition 50, Statutes of 2002 & Chapters Applicable to the DPH. Proposition 50 was approved by the voters in 2002 to provide funds to a consortium of state agencies and departments to address a wide continuum of water quality issues.

Several chapters within the Proposition 50 bond measure pertain to functions conducted by the Department of Public Health (DPH) as it pertains to the overall Drinking Water Program, including Chapter 3 and Chapter 4 of the Proposition. **The DPH anticipates receiving as much as $485 millio n over the course of the bond measure. The Hand Out package contains a current-y ear and budget- year listing of the Pr oposition 50 bond f und commitments.**

- Chapter 3—Water Security ($50 million). Proposition 50 provides a total of $50 million for functions pertaining 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, (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.**

- Chapter 4—Safe Drinking Water ($435 million total for DHS). Proposition 50 provides $435 million to the DHS for expenditure for grants and loans for infrastructure improvements and related actions to meet safe drinking water standards. A portion of these funds will be used as the state's match to access federal capitalization grants (see table below). **It is anticipated that this total amount will be utilized over a *seven-year* period.**

  With respect to the other projects, the Proposition states that the funds can be used for the 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 drinking water source protection; **(6)** grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards; and **(7)** loans pursuant to the Safe Drinking Water State Revolving Fund (i.e., where by the state draws down 80 percent federal match). In addition, it is required that not less than 60 percent of the Chapter 4 funds be available for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use.

Background—Safe Drinking Wate r State Revolving Fund Pr ogram. This program also uses Proposition 50 bond funds as a match to draw down federal funds. The Department of Public Health (DPH) is designated by the federal Environmental Protection Agency as the primacy agency responsible for the administration of the federal Safe Drinking Water Act for California. Under the federal Safe Drinking Water Act (Act), **California receives federal funding to finance low -interest loans and grants for public w ater sy stem infrastructure improvements. In order to draw down these federal capitalization grants, the state must provide a 20 percent match.**

Senate Bill 1307, Statutes of 1997, enacted the Safe Drinking Water State Revolving Fund. It established the framework to implement the federal Act and authorized the DPH to enter into assistance agreements for capitalization grants with the federal government.

General Fund support was used for a period of time in order to provide the 20 percent state match for the federal grants. Proposition 13 bond funds were then used until these funds were fully expended. **Proposition 50 bond funds are presentl y being used and w ill continue until these funds are exhausted for this purpose. Proposition 84 funds w ill then be used.**

The table below provides a summary of the capitalization grants and state match. It should be noted that, as required by state statute, a very small portion of these funds are "set aside" to be used for small water system technical assistance, capacity development, water security, and source water protection projects.

Table: Safe Drinking Water State Revolving Fund Program

State Fiscal Year	20 Percent State Match	Federal Fund Amount	Total Amount
Current Year	$17 million (Proposition 50)	$84.8 million	$101.8 million
Budget Year	$13.4 million (Proposition 50)	$67.1 million	$80.5 million
2008-09	$13.6 million (Proposition 50)	$68.1 million	$81.7 million
2009-2010	$13.6 million (Proposition 50 &84)	$68.1 million	$81.7 million
2010-2011	$13.6 million (Proposition 84)	$68.3 million	$81.9 million
2011-2012	$15.3 million (Proposition 84)	$76.5 million	$91.8 million
2012-2013	$15.3 million (Proposition 84)	$76.5 million	$91.8 million

Overall Background on DHS Drinking Water Program. The Department of Public Health (DPH) 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 progr am oversees the activities of abo ut 8,000 pu blic water systems (including b oth small and large water systems) that serve more than 34 million Californians.**

Subcommittee Staff Recommendation. It is recommended to approve the requested positions. The work load is justified.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. DPH, Please provide a brief update regarding the Proposition 50 grants, and how the budget request would facilitate allocation of the grant funds for projects.

2. Implementation of Proposition 84 Bond Act of 2006 on Safe Drinking Water

Issue. The Department of Public Health (DPH) is requesting two budget adjustments to begin implementation of Proposition 84—the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Projection Bond Act of 2006.

First, the DPH is requesting an appropriation of $2 million (Proposition 84 Bond Funds) to fund:

- 16.5 staff (primarily engineers, scientists and support staff) at the DPH;
- Contract for $200,000 for technical assistance outreach to disadvantaged and severely disadvantaged communities;
- Contract for $50,000 to analyze and annually update household income data in selected areas which is used to determine "disadvantaged" and "severely disadvantaged" communities as referenced in the proposition;
- Implement an interagency agreement for $50,000 with the Department of General Services (DGS) to conduct certain CA Environmental Quality Act (CEQA) activities. The DPH states that there are several projects each year that will require specialized CEQA knowledge outside the capabilities of their in-house staff. These include instances where there is a need for biological habitat suitability studies, archeological reports, cultural resources surveys and biological field surveys. (This is also done under Proposition 50.)

Second, the DPH is requesting local assistance expenditure authority of $47.3 million (Proposition 84 Bond Funds) for the budget year. In addition, the Administration is proposing Budget Bill Language to enable the $47.3 million to be available for expenditure through 2010. This longer expenditure period provides for flexibility in working with the small community water systems and recognizes the timeframes that some of the projects may require due to the engineering work and construction work often involved in the projects.

The $47.3 million consists of the following components:

- $9.1 million (Proposition 84 Bond Funds) for Emergency Grants. This would appropriate the entire amount available for this purpose.
- $27.2 million (Proposition 84 Bond Funds) for small community water drinking systems. The DPH assumes that this amount will be expended annually, over the course of six-years, for total expenditures of $163 million.
- $9.1 million (Proposition 84 Bond Funds) for prevention and mitigation of ground water contamination. The DPH assumes that this amount will be expended annually, over the course of six-years, for total expenditures of $54.3 million.

Background—Proposition 84, Safe Drinking Water & Water Quality Projects. This act contains several provisions that pertain to the Department of Public Health (DPH). It should be noted that 3.5 percent (annually) of the bond funds are to be used to service the bond costs, and up to 5 percent (annually) can be used for DPH state support expenditures. The remaining amounts are to be used for local assistance. A summary of the provisions for which the local assistance funds can be used is as follows:

- $10 million for Emergency Grants. Section 75021 of the proposition provides funds for grants and direct expenditures to fund emergency and urgent actions to ensure that safe drinking water supplies are available. Eligible project criteria includes, but is not limited to: (1) providing alternate water supplies including bottled water where necessary; (2) improvements to existing water systems necessary to prevent contamination or provide other sources of safe drinking water; (3) establishing connections to an adjacent water system; and (4) design, purchase, installation and initial operation costs for water treatment equipment and systems. Grants and expenditures *shall not exceed $250,000* per project.

- $180 million for Small Community Drinking Water. Under Section 75022 of the proposition, grants for small community drinking water system infrastructure improvements and related actions to meet safe drinking water standards will be available. Statutory authority requires that priority be given to projects that address chemical and nitrate contaminants, other health hazards, and by whether the community is disadvantaged or severely disadvantaged.

  Eligible recipients include public agencies, schools, and incorporated mutual water companies that serve disadvantaged communities. Grants may be made for the purpose of financing feasibility studies and to meet the eligibility requirements for a construction grant.

  Construction grants are limited to $5 million per project and not more that 25 percent of the grant can be awarded in advance of actual expenditures. Up to $5 million of funds from this section can be made available for technical assistance to eligibility communities.

- $50 million for Safe Drinking Water State Revolving Fund Program. As discussed under Agenda issue #1—Proposition 50 implementation, the Safe Drinking Water State Revolving Fund Program enables California to provide a 20 percent state match to draw down federal capitalization funds. Once the Proposition 50 bond funds are exhausted for this purpose, the Proposition 84 bond funds will be used. This conforms to Section 75023 of the proposition.

- $60 million Regarding Ground Water. Section 75025 provides for grants and loans to prevent or reduce contamination of groundwater that serves as a source of drinking water. Statutory language requires the DPH to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Language in the proposition also provides that the Legislature may enact additional legislation on this provision as necessary.

Subcommittee Staff Recommendation—Hold Open. No issues have been raised regarding the request for the 16.5 positions. In addition, the Safe Drinking Water Division within the department has managed previous water bond projects well. However, discussions are ongoing regarding other bond appropriations within the budget process; therefore, it is recommended to hold this issue open pending May Revision to ensure continuity across the Subcommittees within the Senate.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. **DPH**, Please provide a brief summary of Proposition 84 as it pertains to the DPH, and how the budget proposal specifically meets this intent.
2. **DPH**, When will the Proposition 84 criteria be released by the DPH?
3. **DPH**, Specifically, what will the DPH be doing to encourage and assist disadvantaged and severely disadvantaged communities to apply for grants?

3. Personalized Provider Directories for Medi-Cal Managed Care—Trailer Bill

Issue. The Department of Health Care Services (DHCS) is proposing trailer bill language to save $2 million ($1 million General Fund) by changing how the Medi-Cal Managed Care Program structures the provider directories provided to each person enrolling into a Medi-Cal Managed Care Program. The savings assumed by the DHCS are from a reduction in paper, printing, provider directory packet assembly and postage costs.

According to the DHCS, they want to implement a *"personalized"* provider directory which would enable the "health care options" process to provide up-to-date, accurate, enrollee-friendly provider information to be distributed to enrollees based on their area of residence, school, or work address or other address specified by the applicant, at a reduced administrative cost to the state.

The DHCS proposal requires trailer bill language since existing law requires that Medi-Cal Managed Care enrollees receive provider directories listing *all* primary care providers, clinics, specialists, and hospitals participating in *each* managed care plan.

Specifically, the trailer bill language proposed by the Administration does the following:

- Provides the DHCS with *considerable flexibility* in how the department may provide health care options information. Specifically it provides, at the department's discretion, that health care options information may be provided by telephone, mail, in person, or online in order to provide beneficiaries with maximum access to the information.
- Provides the DHCS with *considerable flexibility* regarding the geographic area to be used by the department to provide information to the Medi-Cal recipient. Specifically the language states that the department can use *any* individualized geographic areas as they determine including a Medi-Cal applicant's residence address, the minor applicant's school address, the applicant's work address, *or* any other factor as deemed appropriate by the department.
- Enables a Medi-Cal applicant or enrollee to receive, *but only if specifically requested*, the directories of the entire service area of the health care plans participating in the Medi-Cal Managed Care Program.
- Requires participating health care plans to provide updated information regarding their provider networks to the DHCS on a monthly basis and to send this information electronically.

Background—Providing Choice to Medi-Cal Managed Care Enrollees. The Medi-Cal Program is required to provide a choice of health care providers to Medi-Cal recipients enrolling into managed care. In order to meet this requirement, the DHCS does the following:

- Contracts with an enrollment contractor (Maximus), as discussed in more detail below.
- The enrollment contractor (Maximus) is required to mail health plan selection materials to the Medi-Cal eligible within three business days. These materials are comprised of a county-wide provider directory, and an "informing booklet" containing the Consumer Guide, Plan Comparison Chart and Choice Form (to select a participating health care plan).
- The enrollment contractor performs an evaluation of each Medi-Cal eligible (interested in managed care)to determine the type of notification to be sent, based on aid code, zip code, language and county code.
- The Medi-Cal eligible person has 45 days to choose a plan or one will be automatically assigned to them (defaulted).
- 13 days after the original mailing, a reminder notice is sent if no choice has been made.
- The Medi-Cal eligible person can indicate their choice of a personal care physician on their choice form and that information is forwarded to the plan of choice.
- The enrollment contractor also offers face-to-face presentations explaining the managed care program and how to make a health care plan choice. These presentations are available at both the County Social Services Department (since Medi-Cal eligibility is conducted here) and at some community-based organizations.

Background—Health Care Options Enrollment Contractor. Under Medi-Cal Managed Care, there is a "health care options" contractor who is responsible for enrolling Medi-Cal recipients into participating health plans in the Two Plan Model areas (12 counties), the two Geographic Managed Care regions (Sacramento and San Diego), and two other counties where managed care is an option (Sonoma and Marin). (It should be noted that County Organized Health Care Systems (COHS) are not included in the health care options process since COHS are their own plan.)

Maximus, Inc. is presently the enrollment contractor for the Medi-Cal Managed Care Program, and has been since October 1, 1996. The current contract is expected to end on September 30, 2008 (a new state bid process will have to be executed for the next contract period).

Background—Overview of Medi-Cal Managed Care. The DHCS is the largest purchaser of managed health care services in California with over 3.2 million enrollees, or about 50 percent of 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 County**

Organized Health Systems (COHS).

Each of these models is briefly described below.

- *Two-Plan Model.* The Two Plan Model was designed in the 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, 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.

- *Geographic Managed Care Model.* 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 11 percent of all Medi-Cal managed care enrollees in California.

- *County Organized Healthy Systems (COHS).* 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 costs aged, blind and disabled individuals, COHS receive higher capitation rates on average than health plans under the other Medi-Cal managed care system models. About 550,000 Medi-Cal recipients receive care from these plans. This accounts for about 16 percent of Medi-Cal Managed Care enrollees.

Concerns from Constituency Groups. The Subcommittee is in receipt of several letters, from both health plans participating in Medi-Cal Managed Care as well as consumer groups, expressing concerns with the proposed trailer bill language. Some of these concerns include the following:

- Provides broad discretion to the DHCS to create the personalized directories;
- Limiting the provider directory to 24-pages to list providers would be too limiting in many zip codes where there are many clinics and physicians. This could potentially limit the number of providers listed to under a 10 miles radius further restricting the perception of limits on choice.
- Prospective enrollees might not be aware that the directory is partial and not see their current provider and therefore, not choose the plan that actually has contracted with the provider;
- The limited provider directory will *not* provide information on specialist available with a network; and
- The limited provider directory would be difficult to compile with sufficient information for prospective members to understand "provider network rules".

Subcommittee Staff Recomm endation—Hold Open. It is recognized that Medi-Cal enrollment materials, including materials regarding the choice of Managed Care plans, need to be streamlined and simplified.

However, the Administration's trailer bill language is poorly crafted. It gives broad discretion to the DHCS and the Administration needs to do more work with constituency groups to see where a compromise can be reached.

Therefore, it is recommended to hold this issue open pending May Revision in order to reach a compromise on the language.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. Medi-Cal, Please briefly describe the existing provider directory process and how the changes proposed in the budget process would modify this process. What are the pros and cons of the department's proposed changes?

4. Third Party Health Plan Recoveries—Proposed Trailer Bill Language

Issue. The Administration is proposing trailer bill language to modify state statute to comply with certain requirements regarding Medicaid (Medi-Cal) cost avoidance and cost recovery activities as contained in the federal Deficit Reduction Act (DRA) (Section 6035) of 2005.

The DHCS states that California statute does not comply with the federal DRA which requires pharmacy benefit managers and self-insured plans to be liable to Medi-Cal as third party health insurers. As a result, Medi-Cal is unable to avoid costs and recover funds from these entities.

The DHCS also states that third party carriers can deny the Medi-Cal Program's claims for recovery based on procedural reasons (such as untimely filing and claim format). The DRA states that a health insurer cannot deny a claim solely on the basis of the date of submission of the claim, the format of the claim, or not having proper documentation at the point-of-sale.

Specifically the language would modify state statute to **(1)** revise the definition of "private health care coverage"; **(2)** expand the state's ability to submit claims to health insurance carriers by enabling follow-up action for a period of up to six years after the DHCS' original claim was submitted; and **(3)** restrict health insurance carriers from denying the state's claims based solely on timelines, claim format, or the state's failure to immediately provide documentation.

The DHCS believes that these state statutory changes will enable them to increase recoveries by about $2 million ($1 million General Fund) due primarily to the inclusion and responsibility of pharmacy benefit managers, as a legally defined health insurer, to pay claims for health care items or services provided to Medi-Cal Program enrollees.

Background—Federal Deficit Reduction Act (DRA) of 2005. Among many things, the DRA specifies that self-insured plans, managed care organizations, pharmacy benefit managers, and other statutorily or contractually liable parties are included as legally responsible third parties for payment of a claim for a health care item or service.

Additionally, the DRA requires insurers to submit eligibility and claims data for Medi-Cal enrollees on a regular basis to enhance identifying third party health coverage. It also reinforces the Medi-Cal Program's rights by requiring insurers to pay claims for Medi-Cal enrollees that are submitted within three years of the date of service, regardless of the format of the claim.

Historically, pharmacy benefit managers and self-insured plans have contended that they are not legally defined as health insurers and, therefore, not responsible for payment of claims, or subject to Medi-Cal's timely filing requirements and subrogation rights. Over the years, the Medi-Cal Program has had little success in recovering funds from these entities.

Subcommittee Staff Recommendation—Approve Language and Adjust Funding. The DHCS has not received any concerns with respect to this trailer bill language, nor has the Subcommittee. The language would conform state statute to federal law. **Therefore, it is recommended to approve the trailer bill language as proposed. In addition, it is recommended to reduce the Medi-Cal local assistance budget by $2 million ($1 million General Fund) to reflect the fact that this language will save funding.** The DHCS acknowledges this fact but inadvertently did not capture the savings when crafting the budget.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a brief summary of the proposed trailer bill language and how it conform state law to federal statute.

5. Protection of DHCS Director's Right to Recover Medi-Cal Expenses—Proposed Trailer Bill Language

Issue. The Administration is proposing trailer bill language as the result of a recent United States Supreme Court decision in *Arkansas Department of Health and Human Services v. Ahlborn* (2006) (Ahlborn) that held recovery of a personal injury lien for Medicaid services was limited to the portion of the settlement that represented payment for medical expenses.

The DHCS states that as a result of *Ahlborn*, there is no requirement that the portion of the settlement allocation dedicated to medical expenses be *sufficient* to repay the states' actual costs of providing the health care (through Medi-Cal). Therefore, settlements may be manipulated by others to claim that a minimal amount was allocated to medical expenses, or that medical expenses be waived altogether. As such the ability of the DHCS to participate in or to decide the reduction of the Medi-Cal lien could be circumvented, or recovery defeated altogether.

The DHCS contends that unless modified, settlement manipulation would benefit attorneys because more funds would be allocated to their client, versus repayment to the Medi-Cal Program for services rendered. Insurance carriers would also benefit because the pain and suffering portion of a personal injury settlement is routinely based on the scope and amount of medical treatment the injured party received.

Background. Both federal and state laws require the state to seek reimbursement of Medi-Cal funds expended on behalf of Medi-Cal enrollees when a third party is liable. This is because Medicaid (Medi-Cal) is a payer of last resort.

The DHCS Medi-Cal Program has a Personal Injury Recovery Program to mitigate Medi-Cal costs. The Director of the DHCS is required to seek recovery from third parties for Medi-Cal funds expended for injury-related services and to ensure that Medi-Cal is the payer of last resort. The Personal Injury Recovery Program identifies the third parties and recovers Medi-Cal expenditures by asserting claims for the state in personal injury tort actions. Half of all recovered funds are returned to the General Fund, and the other portion is returned to the federal government (since they provide the match).

Existing state law provides a framework for applying the personal injury recovery process. Section 14124.72 (d) requires a 25 percent reduction of the state's claim plus a pro-rated share of litigation costs, which represents the state's reasonable share of attorney fees when a Medi-Cal recipient obtains legal representation for his or her personal injury case. Section 14124.78 requires the state to reduce its claim to half of the net settlement amount, which permits the Medi-Cal recipient to receive the other half of the settlement. This statute provides a monetary incentive for Medi-Cal recipients to pursue a settlement for his or her personal injury case. The net amount is the remainder of the settlement *after* deducting the full amount of the attorney's fees and litigation costs.

Subcommittee Staff Recommendation--Approve. The DHCS contends that the Medi-Cal Program could potentially loose $22 million (General Fund) annually from not recouping on personal injury actions that pertain to a Medi-Cal enrollee and a third-party judgment. The DHCS has not received any letters of opposition, nor has the Subcommittee. Therefore, it is recommended to adopt the proposed trailer bill language.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a summary of how the Medi-Cal lien process works now when a third-party judgment is involved, and how the *Ahlborn* case changed this process.
2. DHCS, Please then explain how the proposed trailer bill language then enables the state to obtain recovery of funds.

6. Planning & Development for Replacement Medi-Cal Management Info System

Issue. The Administration is requesting resources to begin *preliminary* work needed to re-procure the Medi-Cal fiscal intermediary contract, including a Medi-Cal Management Information System (MMIS) replacement component. This is a significant undertaking and will proceed over the course of the next several years. The Administration assumes that the state will receive 90 percent federal matching funds for this replacement MMIS

There are two budget requests related to this process.

First, they are requesting $1 million ($500,000 General Fund) in the Medi-Cal Program to contract with a vendor to develop detailed business requirements and provide assistance with the next "Request for Proposal" (RFP) for MMIS maintenance and operations. The DHCS states that the vendor will be selected from the CA multiple award schedule contractor list.

Second, they are requesting a total increase of $2.7 million ($677,000 General Fund) to fund 24 positions on a three year limited-term basis (July 1, 2007 to June 30, 2010). Of these requested positions, 22 would be in the Department of Health Care Services (DHCS) and two would be in the Department of Public Health (DPH). The table below provides a listing of these positions.

The Administration states th at these positi ons are necessar y to assist w ith the identification and development of the (1) MMIS business rules; (2) "Medi-Cal Information Technology Architecture"; (3) "Planning Advance Planning Document"; (4) "Implementation Advanced Planning Document"; and (5) Request for Proposal (RFP). Several of these documents are necessary in order to meet federal CMS requirements as outlined below.

In addition, these staff are to provide subject matter expertise, oversee various contractors assisting in this effort, approve contractor invoices, and verify and document thousands of medical and business rules that constitute the MMIS.

The requested positions are listed in the table below.

Division To Receive Positions (24 total)	Type and Number of Positions Requested
Payment Systems Division (9 total positions)	• Data Processing Manager IV • Data Processing Manager I • Staff Services Manager I • 3 Staff Information Systems Analysts • 3 Associate Governmental Program Analyst
Medi-Cal Managed Care Division	• Associate Governmental Program Analyst
Medi-Cal Policy Division (7 total positions)	• Staff Services Manager I • Medical Consultant II • Nurse Consultant III • 4 Associate Governmental Program Analysts
Medi-Cal Operations Division (2 total positions)	• Field Office Administrator II • Nurse Consultant III
Primary Care & Family Health Division (5 total positions, two would be in the DPH)	• Nurse Consultant III • 3 Associate Governmental Program Analyst • Health Program Specialist I

The federal CMS has requirements for states to follow as they replace their MMIS systems. Specifically, they have a **"Medicaid Information Technol ogy Architecture" (MITA)** initiative which addresses mainstream technical architecture and business planning concepts. As part of this process, the federal CMS requires states to conduct "Self Assessments", which includes the following components: (1) list and prioritize the state's goals and objectives; (2) define the state's current business model and map to the federal MITA initiative; (3) assess the state's current capabilities; and (4) determine the state's target business capabilities.

The federal CMS also requires an "Advance Planning Documents" to be prepared in order to receive "enhanced federal funds" (90 percent match) for the project.

Table: DHCS Proposed Timetable for Completion of Process

Task Name	DHCS Start Date	DHCS End Date
Develop Medi-Cal Information Technology Architecture	July 2, 2007	October 4, 2007
Identify, Verify & Document Medi-Cal Policy Rules	August 1, 2007	July 15, 2008
Draft Request for Proposal (RFP)	September 1, 2007	June 24, 2008
Release RFP	August 25, 2008	August 25, 2008
Evaluation of RFP Bids	August 26, 2008	April 30, 2009
Notice of Intent to Award	April 31, 2009	April 31, 2009

Background—Contract w ith "Eclip se Solutions" for MMIS Assessment. In March 2006, the DHCS contracted with Eclipse Solutions to perform an assessment of the MMIS. This assessment noted the following key aspects:

- The MMIS needs to be replaced as soon as possible. The core MMIS components have reached a point where continued maintenance is problematic and costly.
- California must ensure that the replacement take place within the guidelines sponsored by the federal CMS regarding the "Medicaid Information Technology Architecture" (MITA) initiative. This is necessary to meet requirements and to maximize federal funding.
- The DHCS must properly identify all Medi-Cal business rules and policies deeply imbedded in system logic today. This is necessary so a comprehensive RFP can then be developed.

Background—Fiscal Intermediar y Contr act & the Medi-Cal Management Information System (MMIS). The DHCS administers the Medi-Cal Program, including the management and monitoring of the Fiscal Intermediary contract which maintains the Medi-Cal Management Information System (MMIS). This system is presently operated through a $184 million (total funds) per year administrative contract with Electronic Data Systems Corporation (EDS), as the state's "Fiscal Intermediary".

The last "Request for Proposal" (RFP) was awarded to the EDS for the time period of February 1, 2003 through June 30, 2007, with the ability of the DHCS to add on three one-year extensions. Therefore, the legal authority for an executed RFP to operate the MMIS ends June 30, 2010, at the latest.

The MMIS is a critical component of the administration of the Medi-Cal Program. The MMIS

can be viewed as a portfolio of applications, at the core of which is the claims processing system, along with its support subsystems for maintenance of provider, recipient, and reference data, and reporting. The technical footprint consists of over 90 applications written in seven computer languages, managed through five different software version management tools, five data management systems, and hosted across three major hardware architectures.

The primary purpose of the MMIS is to assure timely and accurate claims processing for the 100,000 Medi-Cal providers (physicians, hospitals, clinics, pharmacies, etc.) who submit claims for reimbursement for services provided to over 6 million Medi-Cal enrollees. The system processes about 16 million claims every month.

According to the DHCS and consultants, the MMIS has significantly exceeded the average industry lifespan for an information technology system of its size. The MMIS was first implemented in 1978 and is approaching 30 years of age. Based upon its size and the funding acquisition, and approval process that will likely be involved, the replacement of the MMIS is likely to take several years at least

The DHCS states that the Medi-Cal Fiscal Intermediary contract is one of the largest and most complex contracts in state government. It is anticipated that the next contract will likely be valued in the $700 million to $1 billion range for a multi-years contract covering from July 2010 to June 2015.

Legislative Analyst's Office Recommendation—Reduce Request by 7 Positions. The LAO recommends reducing by 7 positions the DHCS request. This would provide for a total of 17 approved positions for the two departments (i.e., 15 for the DHCS and two for the DPH).

The LAO contends that a substantial portion of the workload DHCS staff would be required to perform will depend upon the work the contractor is able to perform and, as such, remains undetermined until the contractor begins its work.

The LAO would deny the following positions from the DHCS budget request: (1) four Associate Governmental Program Analysts; (2) a Staff Information Systems Analyst; (3) a Nurse Consultant III; and (4) a Staff Services Manager.

Subcommittee Staff Recommendation--Modify. **First**, it is recommended to modify the $1 million in contractor expenditures to reflect the fact that the state can receive a 75 percent federal match for this work, not the 50 percent match assumed. As such, a savings of $250,000 (General Fund) can be achieved (i.e., $1 million of which $750,000 is federal match). **Second**, it is recommended to concur with the LAO on the staffing reduction.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. **Administration**, Please provide a brief summary of the need for the MMIS project and how the budget request is to address that need.

7. Information Technology Support for Third Party Liability Medicare Operations

Issue. The DHCS is proposing an increase of $729,000 ($182,000 General Fund) to fund 5 positions to support system modifications created for implementation of the federal Medicare Part D Drug Program. The requested positions include three Associate Information Systems Analysts, a Staff Information Systems Analyst, and an Associate Information Systems Analyst. In addition, the proposal will also provide $180,000 annually to the Data Center for specified operations.

The DHCS states that information services technology resources are needed to provide system support for the interfaces needed to process Medicare and Medi-Cal dual eligible transactions accurately and quickly. **Specifically, these positions are to do the following key activities:**

- Implement required business rule changes for the system;
- Complete nine interfaces and monthly exchanges of Medicare Part D data with the federal CMS;
- Maintain new Medicare Part D Drug Program computer modules;
- Complete data reconciliations; and
- Monitor the system overall.

Background—Federal Medicare Part D Drug Prog ram. The federal Medicare Part D Drug Program shifts responsibility for prescription drug coverage for individuals eligible for both the Medi-Cal Program and Medicare Program ("dual eligibles") from the state to the federal government. To comply with the federal regulations, existing Medi-Cal automated systems are being modified to interface appropriately with Medicare Part D systems. The DHCS states that a team of 11 contractors were hired in 2005 to develop new sub-systems (Medicare Part D related modules) and enhancements to over 40 existing system modules.

Legislative Analyst's Office Recommendation—Delete Two Positions. The LAO notes that the DHCS request for 5 positions does not reflect that many of the functions these positions would perform are one-time in nature. For example, the modification of existing Medi-Cal automated systems to interface with Medicare Part D systems should nee to occur only once. Furthermore, some of the workload cited to justify these positions should be completed before the start of the budget year.

Therefore, the LAO recommends deleting two Associate Information Systems Analyst positions from the request for savings of $592,000 ($148,000 General Fund). No issues were raised regarding the $180,000 for the Data Center use.

Subcommittee Staff Recommendation—Concur with LAO. It is recommended to concur with the LAO and delete the two positions.

Questions. The Subcommittee has requested the DHCS to respond to the following question.

1. DHCS, Please provide a brief description of the budget request and why the positions are requested for the interface with the Medicare Part D Drug Program.

8. Continuation of Federally Funded Bioterrorism Efforts *(See Hand Out)*

Issue. The Department of Public Health (DPH) **is proposing to extend 94.8 limited-term positions scheduled to expire as of June 30, 2007, for an additional two-years (to June 30, 2009), for expenditures of $8.7 million** (federal grant funds from the federal Centers for Disease Control, and from the Health Resources and Services Administration). In addition to these 94.8 limited-term positions, there are also 10 permanent DPH positions which focus on these efforts. The 94.8 limited-term positions were authorized for two years through the Budget Act of 2005. However, many grant functions first commenced in 2002 and 2003 as discussed in the background section below.

As noted in the table below, the 104.8 total positions are located in several sections throughout the DPH, with many being in the Emergency Preparedness Office and in Prevention Services. A description of the 94.8 limited-term positions to be extended is contained in the Hand Out package.

Table: Summary of DPH Positions Funded with Federal Grants for Bioterrorism Efforts

Name of Department of Public Health Division/Section	Number of Positions
• Emergency Preparedness Office	46.8 Total Positions
• Prevention Services	55.0 Total Positions
o Binational Border Health	2
o Division of Communicable Disease Control	34
o Division of Drinking Water & Environmental Mgmt	7
o Division of Food, Drug & Radiation Safety	8
o Division of Laboratories	3
• Office of Public Affairs	1.0 Total Positions
• Accounting	2.0 Total Positions
TOTAL Positions for DPH	**104.8 Total Positions** ***(94.4 limited-term)***

According to the DPH, these positions support ongoing emergency preparedness workload to prepare for and manage the state's response to public health emergencies through functions such as planning response procedures, laboratory testing, public information, surveillance and epidemiology, electronic communications, operation of the public health "Joint Emergency Operations Center", training DPH and local health jurisdiction staff, management of emergency supplies of pharmaceuticals, oversight of local health jurisdiction preparedness, and coordination of public health and medical care response capabilities.

The DPH notes that they are responsible for detecting and responding to all bioterrorism acts. Regardless of the 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.

Background—Federal Law & Grants. 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 *key* 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. California allocates 70 percent of the CDC grant funds to support local public health jurisdictions and DPH state operations within the remaining 30 percent.

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. Among other things, the HRSA grant has provided funding for over 300 of California's approximately 400 hospitals to purchase medical supplies and equipment such as pharmaceutical caches, personal protective equipment, communications equipment, cots, emergency generators, and isolation capacity systems.

The table below summarizes the total federal funds that have been received from these grants to date. These funds have been used for both state and local health jurisdiction purposes.

CDC Award	Year 3	Year 4	Year5	Year 6	Year 7	Total
Description	8/01 - 8/03	8/03 - 8/04	8/04 - 8/05	8/05 - 8/06	8/06 - 8/07	
Amount (in millions)	$62.1	$70.1	$59.2	$67.2	$72.0	$330.6 Total

HRSA Award	Year 3	Year 4	Year5	Year 6	Year 7	Total
Description	9/02 - 8/03	9/03 - 8/04	9/04 - 8/05	9/05 - 8/06	9/06 - 8/07	
Amount (in millions)	$0.96	$38.0	$38.9	$39.2	$38.3	$164.36 Total

It should be noted that the DPH is required to provide the Legislature with annual information regarding the expenditure of these funds, as well as funds expended by the Office of Homeland Security and related state entities involved in these efforts. The 2006 report has been received.

The federal government also has specified goals, outcomes and measurements which the DPH must report on in order to obtain the federal grant funds.

Subcommittee Staff Recommendation--Approve. It is recommended to approve the request to continue the 94.8 positions using federal grant funds as noted. No issues have been raised.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. DPH, Please provide a brief summary of the budget request, including key activities that the positions have and will perform.

9. Audit Positions--Reviewing Expenditures of Local Federal Bioterrorism Efforts

Issue. The Subcommittee is in receipt of a Finance Letter which requests an increase of $347,000 (Reimbursements from the DPH which are federal bioterrorism funds) for the Department of Health Care Services to fund three Health Program Auditor IV positions to comply with existing state statute regarding audits. These positions would be two-year limited-term (to June 30, 2009).

Specifically, Section 101317 (g) (3) of the Health & Safety Code requires that the Administration audit each local health jurisdiction's use of the federal bioterrorism and emergency preparedness funds every three years, commencing in January 2007, to determine compliance with federal requirements and consistency with overall program requirements.

The Department of Health Care Services would conduct these audits under an interagency agreement with the Department of Public Health who administers these federal grant funds (both the federal Centers for Disease Control grant and the Health Resources and Services Administration grant).

According to the DPH, Local Health Jurisdictions have received a total of about $130 million (federal grant funds) from 1999 to 2006 for various bioterrorism and emergency preparedness activities and functions.

Subcommittee Staff Recommendation—Appr ove & Add Tr ailer Bill Language. It is recommended to approve the positions and to amend Section 101317(g)(3) as follows:

> (3) It is the intent of the Legislature that the department shall audit the cost reports every three years, commencing in January 2007, to determine compliance with federal requirements and consistency with local health jurisdiction budgets, contingent upon the availability of federal funds for this activity, and contingent upon the continuation of federal funding for emergency preparedness and bioterrorism preparedness. All cost compliance reports and audit exceptions or related analyses or reports issued by the Department of Public Health regarding the expenditure of funding for emergency and bioterrorism preparedness by local health jurisdictions shall be made available to the Legislature upon request.

The purpose of amending this section is to enable the Legislature to obtain information readily without having to seek a public information request.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. Administration, has any existing fiscal review or audit activity identified any concerns with how Local Health Jurisdictions have expended funds? If so, how were the concerns addressed?
2. Administration, Please describe the budget request and how the positions are to be used.

10. Trailer Bill Legislation for Federal Bioterrorism Local Assistance Funds

Issue. The Administration is proposing trailer bill language **to extend for 5 y ears** existing state statute regarding the federal funding for bioterrorism preparedness at the local level. This proposed extension would affect Sections 10315 through 101320 of the Health & Safety Code. Existing statute sunsets as of September 1, 2007.

The Administration states that it is seeking this extension for two key reasons. **First,** the existing allocation methodology appears to be working and they would like to continue the current practice (Generally, after a baseline minimum, each Local Health Jurisdiction receives funds based upon a per capita amount). **Second,** the Administration wants to continue the existing exemption from public contract code requirements. The DPH contends that without this exemption from public contract code, they would be required to engage in a lengthy contracting process that would prevent full expenditure of the federal emergency preparedness funds during the federal award year, and would seriously delay meeting emergency preparedness requirements.

Background-- Existing State St atute for Local Allocations: Existing statute provides a framework for the DHS to contract with, and allocate to, Local Health Jurisdictions for expenditure of bioterrorism funds (local assistance).

Among other things, existing statute (1) requires the DHS to develop a plan with representatives of local governments for submittal to the federal government for receipt of the grant funds, (2) requires the DHS to develop a streamlined process for continuation of bioterrorism preparedness funding that will address any new federal requirements and will assure continuity of local plan activities, (3) enables the DHS to contract with public or private entities to meet the federally-approved bioterrorism plan and these contracts shall be exempt from the State Contract Act, and (4) enables the DHS to allocate these funds to Local Health Jurisdictions *generally* on a per capita basis.

Background—Legislative History. Discussions regarding the allocation and expenditure of federal bioterrorism funds at the local level have occurred in both the fiscal and policy committee processes. Key legislation has been as follows:

- Chapter 1161, Statutes of 2002. This Omnibus Health Trailer bill established the purposes to which federal funding for bioterrorism and other public health threats may be allocated and expended.
- Senate Bill 406 (Ortiz), Statutes of 2002. This legislation appropriated new federal funding and established procedures by which federal funds could be allocated and expended by Local Health Jurisdictions. It also provided for the allocation of funds by agreements that would not be subject to the Public Contract Code.
- Senate Bill 678 (Ortiz), Statutes of 2004. This legislation adjusted the expenditure authority for the funds and broadened the exemption to public contract code requirements.
- Chapter 228, Statutes of 2004. This Omnibus Health Trailer bill enacted a sunset date of January 1, 2008 to the management of the provisions contained in Sections 101315 through 101320. These sections provide the authority and guidance for distribution of

public health emergency preparedness funds to the Local Health Jurisdictions.

Subcommittee Staff Recommendation—Extend for 3 Years. In order to better ensure oversight of this area by the Legislature, it is recommended to extend the sunset by three-years, versus the proposed five-years.

Questions. The Subcommittee has requested the DPH to respond to the following question.

1. DPH, Please provide a brief description of the requested trailer bill language.

11. Adjustments to the "Surge" Proposal Regarding Health Care Capacity

Issue. In response to a letter from the Joint Legislative Budget Committee, chaired by Senator Ducheny, the Administration has submitted a Finance Letter to the Subcommittee requesting two adjustments to the Governor's January budget. **First**, the Administration is proposing to revert $37.7 million (General Fund) in unexpended funds in the current-year originally appropriated in the Budget Act of 2006 for certain health care supplies and equipment as part of the Administration's "Surge Initiative".

Second, the Finance Letter requests a *reappropriation* of $8.5 million (General Fund) from the 2006-07 appropriation for the Surge Initiative, and to authorize expenditure of this funding until June 30, 2011. The purpose of this reappropriation is to enable the Department of Public Health (DPH) to store certain medical supplies purchased for "surge" events in regional warehouses over a 48-month period. The Administration is proposing Budget Bill Language which accompanies this reappropriation as well.

The Administration notes that since enactment of the Budget Act of 2006, they have received additional information regarding the content of the medical caches to be purchased for "alternative care sites" as originally proposed in the Surge Initiative, and the storage approach for these supplies. The impact of these changes is a reduction in the cost of each cache. In addition, storage needs shifted from purchasing trailers for this purpose to relying on leased warehouse space which can better manage perishable supplies (refrigeration is easier in this environment).

The revised cache, which covers a longer patient stay and a mix of supplies for a broader range of emergencies, is estimated at $1,600 per patient (versus $4,000 per patient previously). Most of the cost reductions are due to the purchase of a smaller number of monitors (EKG monitors and pulse oximeter monitors) and elimination of the trailers for storage (going to use warehouse space).

With respect to the warehouse storage, funds are needed for the lease of warehouse space. The additional costs for warehouse space include leasing 283,280 square feet of space for 48 months, installation of HVAC, pallet racks, security, utilities and leasing fees (done through the Department of General Services). This will require the $8.5 million (General Fund) reappropriation for the three-year period.

Background—Budget Act of 2006 and the "Surge Initiative". During emergency events, the health care system must convert quickly from their existing patient capacity to "surge capacity"—a significant increase beyond usual capacity—to rapidly respond to the needs of affected individuals. Local health departments and communities must be prepared to address gaps when the capacity of health care systems is exceeded.

Among many other actions regarding emergency preparedness, the Legislature appropriated $194.8 million (total funds) to the Department of Health Services to address health care "surge" capacity needs, including the purchase and storage of alternate care supplies, equipment, antivirals, and respirators. Specifically, the Administration is purchasing 3.7 million treatment courses of antivirals, 25 million respirators, and supplies to

operate 21,000 alternate care site beds.

Need for Quarterly Report to Legislature—Over Due. As part of the bipartisan agreement regarding the Surge Initiative, the Legislature and the CA Health & Human Services (CHHS) Agency agreed to trailer bill language as contained in Chapter 74, Statutes of 2006, (Omnibus Health Trailer Bill).

Section 82 of this legislation requires the CHHS Agency to provide quarterly updates on the state's progress in acquiring disaster preparedness equipment and supplies, as well as on how these efforts have affected the state's ability to respond in the event of a public health disaster.

This quarterly report was due to the Legislature in March 2006. Though inquiries have been made, it is unknown at this time when this information will be provided.

Subcommittee Staff Recommendation—Modify Budget Bill Language. The Administration's Finance Letter is consistent with the direction provided to the Administration from the Joint Legislative Budget Committee (JLBC).

However, the Budget Bill Language provided by the Administration to accompany the $8.5 million reappropriation request for the warehouse storage needs to be modified because it is too broadly written. The recommended changes are noted below.

> 4265-491—Reappropriation, Department of Public Health. The amount specified in the following citation is reappropriated to the Department of Public Health for the purposes of ~~provided for in Chapter 241, Statutes of 2006 (SB 162)~~ providing warehouse storage space and any related modifications to this space to ensure the safe and appropriate storage of emergency preparedness materials and products, including pharmaceutical and medical supplies. The amount specified shall be available for encumbrance or expenditure until June 30, 2011.
>
> 0001 General Fund
> (1) $8,476,000 in Item 4260-111-0001, Budget Act of 2006

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DPH, Please provide a brief summary of the Finance Letter request and how the supplies and equipment are to be stored.

12. Stop Tobacco Access to Kids Enforcement (STAKE)—City of Los Angeles

Issue. The Department of Public Health (DPH) is requesting authority to establish five positions, within their existing resources, for the STAKE Program to conduct 900 additional annual tobacco compliance checks and to administer the City of Los Angeles contract (contract in place since 2000).

The DPH states that two Food and Drug Investigators can conduct an average of 400 undercover tobacco compliance checks per year. Therefore, four of these positions are being requested, along with a Management Services Technician position for administrative support, to conduct 900 more compliance checks.

The City of Los Angeles is contracting for undercover compliance checks of tobacco retailers in order to reduce illegal tobacco product sales to minors. Currently, the City of Los Angeles has a sales rate to minors of over 35 percent. Without approval of this proposal the state may be unable to keep statewide tobacco sales rates to minors under 20 percent and could potentially lose over $100 million a year in federal funds (funds received by the Department of Alcohol and Drug).

The DPH positions will conduct these investigations under contract to the City of Los Angeles and has sufficient reimbursement authority in the STAKE reimbursement fund to absorb this additional revenue.

Background—Compliance Checks. Compliance checks include contacting and briefing the undercover youth operative, pre-surveillance of the area and tobacco retailers to be checked, travel to and from the operation area, actual compliance check time, notifying retailers of violations, and case preparation. About 2,000 tobacco retailers are checked statewide each year. These checks yield the illegal compliance sales rate to minors.

Background Overall. Within the existing Department of Health Services, there are two separate programs that administer the provisions of the STAKE Act funded annually by $2 million (federal Substance Abuse and Treatment block grant). These programs are the Tobacco control Section, which has three positions, and the Food and Drug Branch Stop Tobacco Access Kids Enforcement (STAKE) unit which has 15 positions, plus two additional positions at the Los Angeles City Attorney's Office to conduct compliance checks within their jurisdiction. About $400,000 of $2 million in existing funds is allocated for tobacco education and contract services. It should be noted that the DHS has authority (Section 22953 (b) of Business and Professions Code) to collect civil penalties, not to exceed $300,000, and deposit the penalties into the Sale of Tobacco to Minors Control Account.

Subcommittee Staff Recommendation. It is recommended to approve the budget request to establish the positions.

Questions. The Subcommittee has requested the DPH to respond to the following:

1. DPH, Please provide a brief summary of the budget request and how it will address issues in Los Angeles regarding the high rate of sales to minors (35 percent).
2. DPH, What additional activities may be implemented to provide assistance?

Diane Van Maren (w) 651-4103
Senate Budget & Fiscal Review

Subcommittee No. 3: Monday, April 30th (Room 3191)
(Please use the Subcommittee Agenda for this day as a guide with this document please.)

A. ISSUES FOR "Vote Only" for All Departments as Noted (Item 1 through Item 13) (Pages 2 through 13)

- **Action:** For the **Vote Only Items, Items 1 through 13 on pages 2 through 13,** as contained in the Subcommittee staff recommendation.
- **Vote: 2-0 (Senator Cogdill absent)**

The DHS is also going to provide additional information as requested in the hearing to the Subcommittee regarding issue 7 (Stem Cell oversight), on page 9.

B. ISSUES FOR DISCUSSION: Department of Mental Health (Page 14)

1. San Mateo Pharmacy and Laboratory Services Project—Three Issues

- **Action.** Adopted the uncodified trailer bill language for the legislative oversight of the San Mateo Project as noted in the Agenda.
- **Vote: 2-0 (Senator Cogdill absent)**

2. Department's Update on Status of Developing a Plan for EPSDT (Page 16)

- **Action.** Adopted the uncodified trailer bill language for the legislative oversight of the EPSDT Program as contained in the Agenda, along with the modified Budget Bill Language. The fiscal funding remains "open".
- **Vote: 2-0 (Senator Cogdill absent)**

C. ISSUES FOR DISCUSSION—Both Departments (DHCS & DPH)

1. Proposition 50 Bond Funds-- Extend Limited-Term Positions & Update (Page 19)

- **Action.** Approved as budgeted.
- **Vote: 2-0 (Senator Cogdill absent)**

2. Implementation of Proposition 84 Bond Act of 2006 (Page 22)

- **Action.** OPEN (DHS to provide the Subcommittee with information as requested in the hearing.)

3. Personalized Provider Directories for Medi-Cal—Trailer Bill (Page 25)

- **Action** OPEN

4. Third Party Health Plan Recoveries—Trailer Bill Language (Page 29)

- **Action.** Approved as proposed.
- **Vote: 2-0 (Senator Cogdill absent)**

5. Protection of DHCS Director's Right to Recover Medi-Cal Expenses—Trailer (Page 31)

- **Action** OPEN

6. Planning & Development for Replacement Medi-Cal Management Info System (Page 33)

- **Action.** Modified the proposal by (1) reducing the 7 positions as recommended by the LAO, and (2) reducing by $250,000 General Fund the contract to reflect the receipt of additional federal funds for this purpose.
- **Vote: 2-0 (Senator Cogdill absent)**

7. Information Technology Support for Third Party Liability Medicare (Page 36)

- **Action.** Approved as budgeted (DHS to provide additional information as requested.)
- **Vote.** 2-0 (Senator Cogdill absent)

8. Continuation of Federally Funded Bioterrorism Efforts (Page 37)

- **Action.** Approved as proposed.
- **Vote.** 2-0 (Senator Cogdill absent)

9. Audit Positions--Reviewing Expenditures of Local Federal Bioterrorism (Page 40)

- **Action.** Approved the budget request *and* to add trailer bill language as noted in the agenda so the Legislature will have appropriate oversight.
- **Vote.** 2-0 (Senator Cogdill absent)

10. Trailer Bill Legislation for Federal Bioterrorism Local Assistance Funds (Page 41)

- **Action.** Extended the trailer bill language for only 3 years (not 5 years), and added trailer bill language to require an evaluation for the need to continue whether these efforts should be exempt from following public contract code requirements. (The DHS is to provide additional information as requested by the Subcommittee at the hearing.)
- **Vote.** 2-0 (Senator Cogdill absent)

11. Adjustments to the "Surge" Proposal Regarding Health Care Capacity (Page 43)

- **Action.** Adopted modified Budget Bill Language as noted in the agenda. (The Administration testified that the requested report would be forthcoming hopefully this week.)
- **Vote.** 2-0 (Senator Cogdill absent)

12. Stop Tobacco Access to Kids Enforcement (STAKE)—City of Los Angeles (Page 45)

- **Action.** Approved as proposed.
- **Vote.** 2-0 (Senator Cogdill absent)

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Agenda – Part A

Thursday, May 3, 2007
9:00 a.m., Room 112
(Eileen Cubanski, Consultant)

Vote-Only Agenda

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.

Vote-Only Agenda (continued)

Discussion Agenda

Vote-Only Agenda

4700 Department of Community Services and Development (CSD)

Vote Only Issue 1: CSD – Energy Utility Program Positions

Description: The budget proposes to redirect six positions from the temporary help blanket to regular, ongoing positions within the Department of Community Services and Development's (CSD's) budget. No additional resources are requested as the positions are funded through existing fees paid by utility companies for the services provided.

Background: The CSD works with a network of 47 Energy Program service providers throughout the state. Federal funding provided to CSD for Energy Programs has increased from $86 million to $170 million in 2006. Over the same period, CSD's position authority was reduced from 54 to 46 positions due to Control Section 4.10 cuts in prior fiscal years. However, CSD has continued to fund the eliminated positions through its temporary help blanket.

The six positions that are requested to be permanently established are currently working in the Utility Program, one of the Energy Programs administered by CSD. The Utility Program provides eligibility verification and program verification for low-income Reduced Rate Programs (RRPs) offered by California utility companies. The CSD receives reimbursement from utility companies for these services. The amount of reimbursement is $368,000 in 2006-07. The six positions would be funded entirely by these existing reimbursements.

Staff Recommendation: Approve as budgeted.

5180 Department of Social Services (DSS)

Vote Only Issue 2: DSS – Services to Non-citizen Victims of Trafficking and Severe Crime

Description: The budget includes $93,000 General Fund and one position for the Department of Social Services (DSS) to implement Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006, Kuehl), which extended eligibility for certain public social services to non-citizen victims of human trafficking, domestic violence, and other serious crimes.

Background: SB 1569 extended eligibility to the above-described victims for public social services to the same extent as those persons eligible under the federal Refugee Act of 1980. These services include: Refugee Cash Assistance, Refugee Medical Assistance, Refugee Social Services, California Work Opportunity and Responsibility to Kids, Food Stamps, Cash Assistance Program for Immigrants, Supplemental Security Income/State Supplemental Payment (SSI/SSP), and Health Family Program benefits.

Eligibility for these services would extend to victims before they have been certified as trafficking victims as long as they can show proof that they have filed an application for certification as a trafficking victim within one year.

There are approximately 185 persons who have received certification as trafficking victims residing in California; it is unknown how many more people have applied or will apply for such certification. However, the DSS January estimates assume that approximately 3,200 people in California will be eligible for services and benefits under SB 1569. These estimates, and the associated local assistance funding, will be updated at the May Revision.

SB 1569 requires DSS to adopt regulations to implement the provisions of the bill no later than July 1, 2008. There is also significant one-time workload associated with implementing and administering the program. Notwithstanding the uncertainty concerning the number of persons who will apply for certification, DSS will need to conduct on-going annual monitoring of the program consistent with that done for other refugee programs.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 3: DSS – Human Resources Staffing

Description: The budget requests $1.1 million ($457,000 General Fund) and nine positions for the Department of Social Services' (DSS') human resources office to support workforce management, payroll and benefits, and consultation to supervisors and managers. Included in the total is $395,000 in ongoing workforce development funding.

Background: The DSS has identified a number of deficiencies in their human resources office including the following:

- **Employee Payroll Services** – During the past year, Employee Payroll Services has had a staff turnover rate of 50 percent which as led to a roster size of over 400 employees per Personnel Transaction Specialist. A recent study conducted by Cooperative Personnel Services finds that the normal roster size for a Personnel Transaction Specialist in departments of comparable size range from 200:1 to 240:1. The high roster size has led to payroll errors, leave discrepancies, errors on separation transactions, illegal appointments, a negative internal control review from the Department of Finance, and CalPERS violations. This request would provide eight new positions and bring the roster size to 230:1.

- **Management Consultation and Employee Discipline** – There is insufficient staff to provide consultation to supervisors and managers regarding preventative and progressive measures in addressing disciplinary issues, drafting and serving employee actions, and ensuring compliance with civil service laws, rules, and regulations. Over the past year, there has been a significant increase in adverse

actions, consultations, and Family Medical Leave and catastrophic leave requests. As new managers and supervisors enter DSS, consultation with human resources personnel in these areas becomes crucial to prevent critical and costly errors and to support and retain supervisors. One position is requested to assist with this workload.

- **Staff Development** – An analysis conducted by DSS of their workforce data indicates a serious staff replacement and development problem at all levels of the Department. In the next five years, DSS estimates it will have to replace 62 percent of its workforce, approximately 2,200 employees. Currently, 42 percent of staff and 69.5 percent of managers and supervisors are 50 years of age or older. This request would provide $395,000 to cover ongoing annual training costs for managers, analysts, and attorneys.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 4: DSS – Medi-Cal Disability Claims Workload

Description: The budget includes two requests related to workload in the Department of Social Services (DSS) related to Medi-Cal disability claims. One request is a Budget Change Proposal for $2.333 million ($1.167 million General Fund) and 11 limited-term positions to process a backlog of Medi-Cal medically needy disability applications and to avoid future backlogs. The other request is an April Finance Letter for $650,000 ($325,000 General Fund) and four permanent positions to obtain needed information from Limited English Proficiency (LEP) Medi-Cal medically needy disability applications via telephone translation service.

Background: Through an interagency agreement with the Department of Health Services (DHS), DSS has the responsibility for determining medical eligibility for California residents who have applied for Medi-Cal disability under the provisions of Title XIX of the federal Social Security Act. Applications for Medi-Cal disability are taken by county welfare departments and forwarded to DSS for the development of medical and vocational evidence and a determination of medical eligibility based on the evidence. There is a 90-day federal regulatory processing requirement (including both county and state processing time).

The Western Center for Law & Poverty (WCLP) recently filed a lawsuit against DHS and DSS for failure to meet the required federally mandated 90-day processing requirement for thousands of pending medically needy applications. At the end of 2005-06, the cumulative backlog was 13.571 cases with a wait of over 285 days before a decision is rendered. Although DSS has developed a plan to steadily reduce and ultimately eliminate the backlog, within a specified timeframe, and has tried to negotiate a settlement with WCLP, WCLP has recently decided to go forward with the suit. The DSS believes that their plan, as reflected in the Budget Change Proposal, will position the state well in that lawsuit.

In addition, DHS and DSS are under investigation by the federal Health and Human Services Office for Civil Rights (OCR) as a result of a complaint that alleges the Departments discriminate against LEP applications. The proposed settlement of that complaint requires DSS to translate all applicant forms and letters into multiple languages. This settlement is expected to be signed soon and DSS will be required to have a process in place within 360 days of the effective date of the settlement to ensure that effective communication occurs with LEP applicants. The proposed approach in the April Finance Letter has been agreed to as an appropriate settlement.

The two budget requests are intended to address the WCLP lawsuit and the settlement of the OCR investigation:

- The budget request of $2.333 million ($1.167 million General Fund) and 11 positions would enable DSS to eliminate the backlog of Medi-Cal medically needy applications and to keep pace with incoming applications. The backlogged cases will begin to be addressed in the current year with overtime. Additional overtime hours combined with the 11 limited-term positions in the budget year will allow elimination of the remaining backlog by the end of 2007-08.

- The budget request of $650,000 ($325,000 General Fund) and four permanent positions will enable DSS to obtain needed information from LEP Medi-Cal medically needy disability applications via a telephone translation service. The annual cost of conducting the application process completely in writing for LEP medically needy applicants is estimated at over $3 million. The alternative proposed by DSS would have the applicant respond to written requests for information by completing the form and then telephoning DSS where a three-way call with the applicant, DSS staff, and a telephone interpreter services will be initiated. This process is also expected to expedite the processing of the applicant's claim since obtaining written translation would result in delays.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 5: DSS – Office Building Renovation

Description: The budget requests $2.009 million ($1.240 million General Fund) to fund one-time and new continuing costs associated with the first year of a three-year project to consolidate selected Department of Social Services (DSS) staff into state-owned office buildings in Sacramento. The consolidation project will result in increased rent, facilities, and information technology expenditures for DSS. The cost in 2008-09 is projected to be $8.611 million ($4.353 million General Fund).

Background: The renovation of Office Buildings (OBs) #8 and #9, which DSS will occupy, was initially approved in the 2002-03 Budget Act, which appropriated $107.3 million to the Department of General Services (DGS) to fund the renovation project. The DSS currently occupies OB #8 and the 2007-08 and 2008-09 costs are associated

with leasing other space to temporarily house 260 staff and renovate OB #8. The costs in the third year of the project (2009-10) are associated with renovating OB #9 and moving staff into it once the relocation is complete.

The renovations of OBs #8 and #9 include upgrades of: the structural systems, mechanical systems, electrical systems, fire and life safety systems, plumbing systems, hazardous material abatement, ADA access, tenant improvement upgrades, on-site child care facility, and maximization of building space and program efficiency through the use of open space planning and modular systems furniture. Once the renovation is complete, the DGS currently projects that the rent will increase from $1.66 to $3.65 per square foot.

The DSS is obligated, by its contract with DGS, to vacate OB #8 within a specified timeframe, necessitating the resources requested in this April Finance Letter in 2007-08.

Staff Recommendation: Approve as budgeted.

0530 Health and Human Services Agency – Office of System Integration (OSI)

Vote Only Issue 6: OSI – Child Welfare Services/Case Management System (CWS/CMS)

Description: On March 15, the Subcommittee discussed the budget request for funding two Child Welfare Services/Case Management System (CWS/CMS) issues: 1) $1.5 million ($774,000 General Fund) in the current year and $5.0 million ($2.4 million General Fund) in the budget year for on-going maintenance and operations of the existing CWS/CMS; and 2) $343,000 ($171,000 General Fund) in the budget year for updated planning costs for the new CWS/CMS project.

Background: The Child Welfare Services/Case Management System (CWS/CMS) application provides case management capability for local child welfare services (CWS) agencies, including the ability to generate referrals, county documents, and statistical and case management reports. The system was implemented statewide in 1997 and is now in the maintenance and operations (M&O) phase.

CWS/CMS's current technical architecture is comprised of technologies and concepts that were common for large, mission-critical systems in the mid-1990s; however, the current system has significant limitations today. The OSI and DSS conducted an analysis of the system's architecture that concluded that it would be more cost effective to build a new system than to modify the existing CWS/CMS. OSI received approval of a feasibility study report (FSR) from the Department of Finance in April 2006 and from the ACF in July 2006. In the current year, OSI and DSS are in the planning phase of the new project.

During the Subcommittee discussion on March 15, the Legislative Analyst's Office raised questions about the request for on-going M&O for the project. As a result, the Subcommittee left the entire request open. The OSI has resolved those questions to the LAO's satisfaction.

Staff Recommendation: Approve as budgeted funding for M&O. Hold open new system funding until May Revision.

5175 Department of Child Support Services (DCSS)

Vote Only Issue 7: DCSS – California Child Support Automation System (CCSAS)

Description: The Department of Child Support Services (DCSS) has submitted an April Finance Letter requesting $40 million ($12.7 million General Fund) in adjustments to align the California Child Support Automation System (CCSAS) budget with recently approved CCSAS project changes. The funding for these adjustments is proposed to be provided through the reappropriation of unexpended funds from 2004-05, 2005-06, and 2006-07. In addition, DCSS proposes to use reappropriated funding for any unanticipated system needs necessary for certification. This Finance Letter corresponds to a Control Section 11 letter submitted to the Joint Legislative Budget Committee on March 30, 2007.

Staff Recommendation: Approve as budgeted.

4170 California Department of Aging (CDA)

Vote Only Issue 8: CDA – Evidence-Based Health Promotion Initiative for Older Californians

Description: The budget requests increased federal fund authority of $547,000 in 2007-08 for the California Department of Aging (CDA). The CDA received an $840,000 three-year federal grant to implement an evidence-based health promotion community-based program designed to encourage older adults with chronic health problems to learn skills to better manage their health conditions.

Background: The local Area Agencies on Aging (AAAs) and more than 30 local public health and non-profit organizations in five counties (Fresno, Los Angeles, Madera, San Diego, and Sonoma) will participate in implementing various evidence-based health promotion programs. The day-to-day implementation activities of the grant will be managed by the Partners in Care Foundation. The programs to be implemented include:

- **Chronic Disease Self-Management Program** – a six session series of weekly workshops presented by two trained leaders, at least one of whom has a chronic disease.

- **A Matter of Balance** – eight classes presented by two trained leaders using an exercise program to improve the strength, coordination, and balance of participants.

- **Medication Management** – involves a care manager reviewing with his or her client all of the client's prescriptions using a software program designed to flag potential drug interactions.

- **Healthy Moves** – trains care managers and motivational coaches to teach two non-equipment movements to homebound, frail, low-income seniors.

Staff Recommendation: Approve as budgeted.

Vote Only Issue 9: CDA – Improving Access to Mental Health Services for Older Persons and Adults With Disabilities

Description: The budget requests $93,000 in Mental Health Services Act (MHSA) funds and one permanent position for the California Department of Aging (CDA) to coordinate and monitor efforts to improve access to mental health services for older persons and adults with disabilities.

Background: An estimated 20 percent of adults aged 55 years and over experience mental disorders that are not a part of normal aging, although some studies indicate that mental disorders in older adults are substantially underreported. Older adults have the highest suicide rates in the U.S. population. Although older adults represent 13 percent of the U.S. population, they receive only six percent of community mental health services.

The requested position would provide programmatic expertise on the mental health issues of the population served by the CDA. Specifically, the position would: 1) facilitate and provide technical assistance to local entities in their efforts to establish and/or expand mental health services models responsive to the needs of older adults and/or adults with disabilities; 2) serve as an internal consultant to CDA programs on promising practices that increase access to effective mental health services for older persons and adults with disabilities; and 3) support CDA's active participation in the state level policy and implementation activities pertaining to the implementation of the MHSA.

Staff Recommendation: Approve as budgeted.

4140 Office of Statewide Health Planning and Development (OSHPD)

Vote Only Issue 10: OSHPD – Consolidation of Facilities Development Division (FDD) Staff

Description: The budget requests a one-time appropriation of $1.4 million from the Hospital Building Fund to consolidate staff from the Facilities Development Division (FDD) within the Office of Statewide Health Planning and Development (OSHPD). One hundred forty-six (146) FDD staff will be relocated from three buildings in downtown Sacramento to one building. Any on-going costs are expected to be minimal and will be absorbed by OSHPD.

Background: The consolidation of all FDD staff in one location is expected to result in faster review of hospital construction plans. It is intended to increase overall productivity, improve communication, ease the scheduling of meetings, improve customer service, and create an overall cohesiveness among the Sacramento plan review, field region, and administrative staff within the FDD and the department.

The $1.4 million will be used for the following one-time expenditures: purchasing new modular furniture; installing telephone system and data lines; installing network infrastructure; making improvements to the building to accommodate the new tenants; purchasing supplies; physically moving staff; covering IT expenses associated with the move; and purchasing miscellaneous equipment for conference and training rooms.

Staff Recommendation: Approve as budgeted.

5160 Department of Rehabilitation (DOR)

Vote Only Issue 11: DOR – Mental Health Services Act (MHSA) Positions

Description: The budget proposes $203,000 in Mental Health Services Act (MHSA) funds and two limited-term positions for the Department of Rehabilitation (DOR) to assist in the implementation of provisions of the MHSA that relate to assisting persons with severe psychiatric disabilities to obtain employment and independent living skills. The 2005-06 Budget Act provided MHSA funding and two 2-year limited-term positions to DOR; the 2007-08 proposed budget continues that funding and positions for another two years.

Background: The DOR has third party cooperative agreements with 25 county mental health agencies and four state hospitals that provide a wide array of individualized vocational services specifically targeted to the needs of mental health consumers. In 2005-06 and 2006-07, the percentage of DOR consumers statewide who had mental health disabilities increased as a result of the MHSA. In addition, the percentage of

mental health consumers served by Independe nt Living Centers (ILCs) has also increased with the implem entation of MHSA. It is expe cted that as more counties ' MHSA plans are approved and programs are f unded, there will be furt her increases in referrals to the DOR/mental health cooperative programs and ILCs.

In the past two years , the MHSA staff in DOR have served as liaisons for training, technical assistance, and support for local co llaborative efforts to identify opportunities for new or expanded c ooperative programs and servic es with county mental health and education agencies. In the next two years, the requested pos itions will continue to support local efforts to ident ify opportunities for new co operative programs and provide technical assistance for futu re expansions of existin g cooperative programs; begin monitoring and reviewing new cooperativ e pr ograms to ensure they meet state and federal requirements; and continue to act as a liais on between ILCs and the coun ty mental health agencies.

Staff Recommendation: Approve as budgeted.

Discussion Agenda

4700 Department of Community Services and Development (CSD)

CSD Issue 1: Naturalization Services Program

Description: The budget includes $3.0 million for the Naturalization Services Program (NSP). This program assists legal permanent residents in obtaining citizenship. The Urban Institute estimates that approximately 2.7 million Californians are eligible but have not applied for citizenship.

Background: The NSP funds local organizations that conduct outreach, intake and assessment, citizenship application assistance, citizenship testing and interview preparation. In 2006, the program is expected to assist an average of 12,000 individuals in the completion of citizenship applications. Total funding for the program in 2006-07 is $3.0 million General Fund. Positive outcomes as a result of NSP and citizenship include improved employment opportunities for citizens, and reduced caseload for state-only programs such as the Cash Assistance Program for Immigrants (CAPI), as citizens may quality for the federally-funded Supplemental Security Income (SSI) program.

Catholic Charities of California provides this additional information about NSP:

- Since the first $2 million budget appropriation for NSP in 1996, the State has committed more than $26 million to the program through the annual budget bill process. Over 90,000 citizenship-eligible residents have been served by the resulting provider network.

- This funding represents "seed money" to the many non-profit community-based organizations throughout the State as they assist citizenship-eligible Californians in the completion of their naturalization applications. These non-profits, in turn, enlist the financial and logistical support and volunteer services of local governments, businesses, community groups, labor unions, and others.

Related Programs in Department of Education: There is significant funding for adult education in the California Department of Education (CDE); current funding for the Adult Education Program is $728.4 million in on-going state and federal funding. However, only a small portion is used specifically for citizenship preparation. Enrollment data from CDE for 2004-05, the latest year available, indicates that only 0.3 percent, or 3,300 persons, were enrolled in citizenship preparation classes funded through Adult Education. This is down from 3,683 persons in 2003-04 and 5,178 persons in 2002-03.

Nonetheless, in addition to traditional classroom activities, the CDE indicates that the following activities are authorized under this funding:

- Activities that support outreach and recruitment of legal permanent residents who are eligible for citizenship.
- Preparation and assistance activities nec essary to successfully complete the naturalization application and interview process.
- Child care and transportation for participants in CPE activities.

Advocates indicate that NSP is better aligned with the comm unities it serves than the CDE-sponsored progr ams. NS P has deeper roots in the communities and immigrants tend to trust their local CBOs as opposed to an adult education center. NSP also differs from the CDE programs becaus e it allows for more services to be provided than just civics classes. NSP allows outreach, applic ation assistance, referrals to classes and in some cases legal assistance.

Questions:

1. Department, please describe the Naturalizat ion Servic es Program and your role in administering it.
2. Department, what data does the State have regarding outcomes of the Naturalization Services Program (that is, do you hav e information on how many participants have naturalized)?
3. Department, what do you know about the unmet need for naturalization services?

Staff Recommendation: Approve as budgeted.

5180 Department of Social Services (DSS)

DSS Issue 1: Food Stamps Program

Desciption: This is an informational item describing the Food Stamps Program and Food Stamp participation rates.

Program Background: The Food Stamps Program provides food benefits via Electronic Benefit Transfer (EBT) cards to eligible low-income families and individuals. The Department of Social Services (DSS) provides statewide oversight, and counties perform eligibility determination and employment services functions. Families eligible for CalWORKs are automatically eligible for Food Stamp benefits. Low-income working families and individuals are also eligible for Food Stamp benefits, even if they have not enrolled in the CalWORKs program.

Enrollment Summary: The DSS estimates that average monthly Food Stamp caseload in 2007-08 will be 2.1 million persons, a 2.3 percent increase over 2006-07. Approximately 68 percent of these beneficiaries are not receiving cash assistance. The proportion of "non-assistance" Food Stamp caseload in the program has grown significantly in recent years, and increased enrollment among non-assistance households has been the driving factor in overall program growth since 2000-01.

Funding Summary: Food Stamp benefits are funded entirely by federal funds. These funds are not included in the state budget, as the U.S. Department of Agriculture provides funding for food directly to beneficiaries via EBT cards. Californians are estimated to receive approximately $2.7 billion in federal Food Stamp benefits in 2007-08. The federal government also funds 50 percent of the program's eligibility determination and administrative costs. The remaining 50 percent is split between the State and counties at a ratio of 70 percent to 30 percent, respectively. The budget anticipates that funding for county activities will be $706.5 million ($305.5 million General Fund), an increase of $24.1 million ($9.2 million General Fund) compared to the current year, due to increasing caseload.

California Food Assistance Program (CFAP): The State also administers the CFAP, a state-only food stamp program for legal non-citizens. Total funding for benefits and eligibility costs is estimated to be $27.7 million General Fund in 2007-08, to provide benefits to 23,600 beneficiaries.

Food Stamp Error Rate: In Federal Fiscal Years 2000, 2001, and 2002, Calfornia's Food Stamp Error Rate was 13.99 percent, 17.37 percent, and 14.84 percent respectively. As a result, the State received a federal sanction penalty totaling $187 million for exceeding the national tolerance levels. A settlement agreement between California and the federal government on the $187 million was reached in January 2005 that resulted in no cash payment and $62.5 million of the penalty held in abeyance over a five year period with potential for having $12.5 million of that total waived each year if the State's error rate is below 7.4 percent for each of FFY 2003 through 2007.

The State has made significant improvement in the error rate over the past four years:

- FFY 2003 – California's error rate declined to 7.96 percent. Although the penalty was not waived, California did receive a performance bonus of $6.8 million for being the most improved state in the nation.
- FFY 2004 – California's error rate was 6.32 per cent, an all time low for the State. The State avoided a sanction and had $12.5 million in penalties waived for that year.
- FFY 2005 – California's error rate was 6.38 percent, again avoiding a sanction and having $12.5 million waived.
- FFY 2006 – The projected rate is 6.91 percent. The final rates will be released in June 2007.

Food Stamp Participation Rate: According to the U.S. Department of Agriculture (USDA), California's Food Stamp participation rate ranks last in the country, with only 46 percent of eligible recipients participating. This low rate may result in a significant amount of lost federal funds for the state's economy, as well as reduced nutrition and increased hunger for low-income families.

California has maintained that the USDA underestimates the State's participation rate. The USDA methodology for calculating states' participation rates does not accurately take into account California's Supplementary Security Income (SSI) recipients who receive a food stamp cash-out. Approximately 1.2 million potential eligible food stamp recipients receive cash payments in the SSI/SSP program in place of food stamp benefits. According to the University of California Data Archive & Technical Assistance, if 80 percent of the SSI/SSP population were counted, which is the percentage of the SSI/SSP population eligible for Food Stamp benefits, California's Food Stamp participation rate would increase somewhere between 7 and 10.5 percent to 53 to 56 percent respectively. This would place California closer to rates of other large states and put us between 38th and 44th in the national rankings.

The State has also taken steps, since 2004, to improve the participation rate. These efforts have included enacting legislation to provide transitional Food Stamp benefits for people leaving CalWORKs and providing Food Stamp benefits to individuals with certain felony drug violations who were previously excluded, implemented outreach programs in conjunction with the California Association of Food Banks and H&R Block, and worked with other state agencies to identify eligible individuals. The DSS has also instituted some administrative simplifications around eligibility redeterminations.

Nonetheless, California's poor performance has led to further examination of additional policies that may improve barriers to eligible families accessing food stamps including the following:

- *Finger imaging* – California is one of four states that use finger imaging in the Food Stamp Program (Texas, Arizona, and New York are the other three). The State requires that all adult household members, not eligible for an exemption, be finger printed. (Exemptions are permitted for persons with medically verified

physical conditions that renders them unable to comply. Temporary exemptions also exist for households certified to have specified hardship conditions.) This makes California's application process different from most other states where, in most cases, only one adult needs to make a trip to the food stamp office. With finger imaging, all adult household members, even if working, elderly, or disabled, must go into the office to be imaged. In addition, the finger imaging requirement limits California's ability to use online applications, phone interviews, and other administrative simplifications to increase access to food stamps. Removal of the finger imaging requirement from the Food Stamp program only (finger imaging is also required in the CalWORKs program) continues to be discussed.

- *Categorical eligibility* – The USDA allows states to take steps to align certain rules in the Food Stamps Program with those of cash aid programs. Recipients of TANF (called CalWORKs in California) are deemed categorically eligible for Food Stamps. Since the need for cash aid has already been determined, the income and assets of recipients are not redetermined for Food Stamp applicants. This helps to align programs, remove duplication, and ease administration.

  Advocates have proposed that Medi-Cal recipients be made eligible to receive a TANF-funded service so that they can be made categorically eligible for Food Stamps. Food Stamp-eligible families are now more likely to be participating in Medi-Cal than in cash aid programs. There is believed to be agreement between advocates and the Administration over the benefits of this policy approach, but there are concerns over the fiscal impacts.

- *Simplified reporting* – Moving to semiannual reporting and eligibility determination has the potential to simplify administration and improve Food Stamp participation. The Administration's proposal to move from quarterly reporting to semiannual reporting was discussed by the Subcommittee in the March 29, 2007 hearing and was left open until the May Revision.

Questions:

1. Department, please describe the Food Stamp Program, its funding and caseload levels.
2. Department, discuss the progress that has been made in improving the error rate and what steps have been taken to improve the error rate.
3. Department, what actions have been taken in recent years to improve the participation rate?

DSS Issue 2: Emergency Food Assistance Program (EFAP)

Description: This is an informational item describing the Emergency Food Assistance Program (EFAP).

Background: The EFAP provides about 68 million pounds of donated food annually to 49 local county food banks and over 2,300 distribution sites to serve approximately 1 million needy individuals monthly in low-income households. To be eligible for EFAP, recipients must certify that they meet the income eligibility requirements of the program (150 percent of the poverty level) and that they are a resident of the county. The EFAP also provides food to congregate feeding sites throughout the state that serves thousands of homeless individuals. The food comes from two sources:

1. *U.S. Department of Agriculture (USDA)* – The USDA provides the bulk of food distributed to the needy by the EFAP. The USDA allocates approximately $16 million in entitlement commodities annually to California. In addition, in 2005-06, USDA provided California bonus (free) commodities valued at over $13 million (21 million pounds). The USDA makes these purchases to remove surpluses throughout the nation in order to provide price stability in the farming marketplace.

2. *California Donate/Don't Dump (DDD) Program* – The DDD Program was enacted by a Governor's Proclamation in 1995 to salvage fresh fruit and vegetables throughout California and distribute them to the needy of this State. The California Department of Social Services (DSS) partners with California Emergency Foodlink, a non-profit organization, to collect, salvage, and distribute to the local county food banks approximately 10 million pounds of fresh fruits and vegetables annually.

The EFAP also annually provides USDA and DDD food to displaced victims of disasters such as earthquakes, floods, fires, drought, and potential acts of terrorism. Since EFAP uses "household" pack size food in its program versus "congregate feeding" pack sizes (used in soup kitchens, schools, and Red Cross mass shelter locations), EFAP is only involved in disasters where the victims have the capability to independently cook for themselves. Since neither USDA nor the State typically provides food for disasters, EFAP normally holds about 16 truckloads (640,000 pounds) of a mixed variety of USDA food in reserve as a safety net.

Recent Emergency Allocations to Food Banks: Since January 2007, DSS has allocated $4.7 million in funds from the Disaster Response-Emergency Operations Account to local food banks and the California Emergency Foodlink in response to the recent freeze disaster. The funds have been used for the purchase and distribution to affected individuals and the purchase of food to replenish and increase the State's reserve to prepare for future emergency distributions to counties. In addition, the Federal Emergency Management Agency announced that federal disaster aid is available to provide disaster unemployment insurance and commodities for individuals affected by the freeze. The federal commodities, which began arriving in April, supplement state and local recovery efforts and diminish the future need for state funding to purchase food. To date, $4.1 million of the $4.6 million has been spent, of which 92 percent was used for the direct purchase of food. The remainder has been spent on administrative and operating costs, such as personnel, transportation, and storage.

Unmet Need for Food: Despite California's recent rapid and effective response to the freeze disaster, there remain an estimated five million Californians who report that they are unable to afford the food they need, including many seniors and working parents. Food banks play a critical role in meeting this need, although there is no ongoing state funding for food banks. In addition, federal emergency food programs have been shrinking. The total food provided to California by USDA declined from 97 million pounds in 2002 to 57 million pounds in 2006.

Questions:

1. Department, please describe the Emergency Food Assistance Program and your role in administering it.
2. Department, discuss the recent emergency allocations to food banks. How have those funds been used and how many people have been served?

0530 Health and Human Services Agency – Office of System Integration (OSI)

OSI Issue 1: Electronic Benefit Transfer (EBT) System

Description: The Governor's Budget proposes $37.9 million ($7.6 million General Fund) for the Electronic Benefit Transfer (EBT) System. Of this total, $37.1 million ($7.3 million General Fund) is for ongoing maintenance and operations of the current EBT System and $863,000 ($278,000 General Fund) is for planning for reprocurement of a new contract for EBT services.

Background: The EBT System provides cash and food benefits to CalWORKs and Food Stamp clients via debit card technology and retailer point-of-sale terminals. Implementation of this system began in August 2002 and was completed in May 2005. The original contract with the vendor was to expire in August 2008, with the possibility of two 1-year extensions. The state recently exercised the optional years due to a negotiated price reduction for the EBT System in California. The price reduction will result in overall savings of $6.6 million in 2006-07 and an additional $4.7 million in 2007-08.

The Administration is proposing $863,000 ($278,000 General Fund) to continue the planning for reprocurement of a new contract for EBT services. The planning began in September 2005 and a contract is expected to be awarded in May 2008.

Questions:

1. OSI, please describe the justification of the need for a new EBT contract.
2. OSI, what is the status of the reprocurement planning?
3. OSI, what is the total reprocurement cost currently projected to be?

Staff Recommendation: Approve as budgeted.

5175 Department of Child Support Services (DCSS)

DCSS Issue 1: Report on Performance Improvements

Description: This is an information item.

During the March 15, 2007 hearing, the Subcommittee requested that the Department of Child Support Services (DCSS) report back to the Subcommittee at the May 3rd hearing with information regarding child support program collections and cost effectiveness performance, and DCSS' strategies to improve the child support program's collections performance. The DCSS submitted a written report to the Subcommittee on April 30 and will discuss that report in the hearing.

Questions:

1. Department, please summarize your report and the strategies you propose to improve child support collections and cost effectiveness.

DCSS Issue 2: California Child Support Automation System (CCSAS) Functionality

Description: The Department of Child Support Services (DCSS) has submitted an April Finance Letter requesting position authority for nine permanent positions and two 1-year limited-term positions to address workload associated with implementation of the California Child Support Automation System (CCSAS). The DCSS proposes to redirect savings from existing contracts to fund the positions.

Background:

The requested positions would be used for the following activities:

- **Resolution of Participant Financial and Data Exceptions:** These exceptions occur as a result of duplicate cases open in multiple local child support agencies (LCSAs), incorrect names, dates of birth, or social security numbers that impacts the ability to merge data as needed, and processing errors of employer checks and money transfers. DCSS requests six permanent positions to develop and implement an on-going data quality program.

  The LCSAs perform financial and data exceptions work for single county child support cases. The DCSS currently contracts with a vendor for the resolution of the financial and data exceptions for the cases that cross multiple counties. According to DCSS, the workload is proving to be on-going; therefore, they are proposing to move the workload from the vendor to the Department. The DCSS would extend $372,000 of the contract to enable the vendor to provide knowledge transfer to the

State and redirect $697,000 ($237,000 General Fund) of the contract to fund the six positions.

- **Database Management:** The Child Support Enforcement (CSE) database, within CCSAS, needs to be expanded to retain information on cases pursuant to federal tax law. The DCSS requests one permanent position and to redirect funding of $93,000 ($32,000 General Fund) to support the hardware, software, and database implementation, maintenance, and operation. The request also includes one-time redirected funding of $100,000 ($34,000 General Fund) for the procurement of network storage housed at the Department of Technology Services (DTS).

- **User Administration:** The DCSS is responsible for performing CCSAS user administration functions including the establishment and maintenance of user security profiles and access permissions, and for gathering, verifying, and processing security and conflict of interest information on each DCSS CCSAS user. The current infrastructure support of CCSAS user administration inadvertently omitted this workload when the CCSAS project was assigning responsibilities between the FTB and DCSS.

- **Administration of the Enterprise Call Center:** The DCSS is merging the SDU Non IV-D Customer Services Support Center and the Full Collections Program Call Center into one statewide call center beginning in May 2007. The DCSS requests two positions and $186,000 ($63,000 General Fund) to ensure all systems are running throughout the State by providing system administration and technical support. The DCSS overlooked system administration workload when resources were originally requested for 2006-07.

Questions:

1. Department, please describe the budget request.

Staff Recommendation: Hold open until the May Revision. Subcommittee staff requested information on the contract savings that is proposed to be used to fund these positions. That information was submitted too late for consideration for this hearing. In addition, holding the item open until the May Revision will enable the Subcommittee to consider all additional budget requests from DCSS, including any that may be submitted at the May Revision.

DCSS Issue 3: Recovery of Non-Sufficient Funds (NSF)

Description: The Department of Child Support Services (DCSS) has submitted an April Finance Letter requesting position authority for seven permanent positions and three 1-year limited-term positions for the research, analysis, and processing of Non-Sufficient Funds (NSF) returned items. The DCSS proposes to redirect $872,000 ($296,000 General Fund) in savings from existing contracts to fund the positions and administrative funds currently provided to Local Child Support Agencies (LCSAs).

Background: Historically, a certain percentage of child support payments are drawn on accounts with non-sufficient funds. Prior to the implementation of the State Distribution Unit (SDU), each LCSA was responsible for collecting their respective NSF items. With the implementation of CCSAS, child support payments are received and processed at the SDU and distributed to families within two days. This creates a loss to the State if a payment is returned by a bank. Annual projected NSF are estimated at about 9,000 cases totaling $5.7 million, with a projected recovery of $3.3 million based on the current recovery percentage of 57.6 percent. Processing efficiencies, both manually and through the system, are being made, which may increase this collection percentage.

The DCSS is currently redirecting 10 positions from the Full Collection Program to cover this workload. The requested new positions will allow the existing 10 positions to resume their collections activities while conducting the manual activities necessary to recover NSF items and maintain the current level of recovered funds. There is no expected increase in the percentage of NSF being recovered as a result of this request.

Questions:

1. Department, please describe the budget request.

Staff Recommendation: Hold open until the May Revision. Subcommittee staff requested information on the contract savings that is proposed to be used to fund these positions. That information was submitted too late for consideration for this hearing. In addition, holding the item open until the May Revision will enable the Subcommittee to consider all additional budget requests from DCSS, including any that may be submitted at the May Revision.

DCSS Issue 4: State Distribution Unit (SDU) Bank Exceptions

Description: The Department of Child Support Services (DCSS) has submitted an April Finance Letter requesting position authority for two permanent positions and one 1-year limited-term position to perform increased accounting activities for analyzing and processing bank exceptions. The DCSS proposes to redirect $288,000 ($98,000 General Fund) in savings from existing contracts to fund the positions.

Background: Exceptions to normal bank processing occur due to a variety of situations. Banking exceptions include checks that are negotiated for an amount other than the legal amount on the check, duplicate items, stale-dated items, payment stopped items, closed account items, and others. Each banking exception requires individual analysis and processing by accounting staff in order to ensure that the proper corrective action is taken. Prior to the State Distribution Unit (SDU), banking exceptions were resolved by each Local Child Support Agency. With the implementation of CCSAS, the SDU has assumed responsibility for resolving banking exceptions.

The DCSS has temporarily redirected other accounting staff to work on banking exceptions. However, the workload has been increasing and cannot continue to be absorbed without sacrificing other core accounting activities.

Questions:

1. Department, please describe the budget request.

Staff Recommendation: Hold open until the May Revision. Subcommittee staff requested information on the contract savings that is proposed to be used to fund these positions. That information was submitted too late for consideration for this hearing. In addition, holding the item open until the May Revision will enable the Subcommittee to consider all additional budget requests from DCSS, including any that may be submitted at the May Revision.

DCSS Issue 5: Information Security Office

Description: The Department of Child Support Services (DCSS) has submitted an April Finance Letter requesting position authority for six permanent positions to expand the Information Security Program. The DCSS proposes to redirect $677,000 ($230,000 General Fund) in savings from existing contracts to fund the positions.

Background: There are ongoing activities specifically identified in the Federal Certification Questionnaire Review that are in need of further development in DCSS in order to satisfy federal certification requirements. These include risk management, disaster recovery, system monitoring, vulnerability assessments, and oversight of system security. According to DCSS, preliminary feedback from the Federal Certification team indicates that they have approved the organizational structure in place to manage statewide security and privacy; however, the team expressed concern regarding the adequacy of existing and proposed DCSS staffing to support the organizational structure and security activities required for certification. The DCSS indicates that the requested positions are those that are urgently needed for certification.

The DCSS currently has seven positions assigned to the Information Security Office. The six requested positions would develop and implement a Statewide Risk Management Program, replace two contract positions currently managing the DCSS' disaster recovery efforts, perform ongoing monitoring of the access and use of CCSAS systems and support systems, and perform security review, assessment, and verification activities related to CCSAS.

Questions:

1. Department, please describe the request.

Staff Recommendation: Hold open until the May Revision. Subcommittee staff requested information on the contract savings that is proposed to be used to fund these positions. That information was submitted too late for consideration for this hearing. In addition, holding the item open until the May Revision will enable the Subcommittee to consider all additional budget requests from DCSS, including any that may be submitted at the May Revision.

DCSS Issue 6: Centralized Financial Worker

Description: The Department of Child Support Services (DCSS) has submitted an April Finance Letter requesting position authority for three 2- year limited-term positions to manage, maintain, and resolve suspended collections to financial data. The DCSS proposes to redirect $250,000 ($85,000 General Fund) in savings from existing contracts to fund the positions.

Background: Suspended collections are those payments that the automated system is unable to identify a participant or a case. The State Distribution Unit (SDU) processes more than a million payments each month. Most can be identified as a particular case or individual and processed and distributed to the appropriate party. However, there are some for which the system is unable to make this decision and manual intervention is needed.

In the 2006-07 Budget Act, the DCSS was provided 10 positions to work on suspended collections. The actual suspended collections workload is larger than originally anticipated, however. Suspended collections are expected to continue to grow although it is not known by how much. Existing Full Collections program staff are currently being redirected to ensure that all suspended collections are processed in a timely manner to eliminate any negative impact on custodial parents, but that redirection has resulted in an estimated loss of collections of approximately $4.3 million ($555,000 General Fund) in the current year.

Questions:

1. Department, please describe the budget request.

Staff Recommendation: Hold open until the May Revision. Subcommittee staff requested information on the contract savings that is proposed to be used to fund these positions. That information was submitted too late for consideration for this hearing. In addition, holding the item open until the May Revision will enable the Subcommittee to consider all additional budget requests from DCSS, including any that may be submitted at the May Revision.

4170 California Department of Aging (CDA)

CDA Issue 1: Caseload Estimates

Description: On March 8, 2007, the Subcommittee discussed the caseload and fiscal data that the California Department of Aging (CDA) is required to report to the Legislature by January 10 of each year. The Subcommittee directed the Legislative Analyst's Office (LAO) to work with CDA to determine what data from CDA would be helpful in the Legislature's budget decision-making process.

Background: The 2005 Budget Act required the CDA to submit a caseload and funding report for all CDA programs to the Legislature by January 10 of each year. Although the CDA has complied with the requirement, the data is not proving to be useful in policy and budget development. It is important that the Legislature have relevant data in order to make informed decisions about the best investments to make in the long-term care system.

LAO Review and Recommendation: In reviewing the current state report submitted by CDA, the LAO found that a majority of the data provided in the state report is preliminary because of the January 10 due date. Additionally, the CDA does not forecast caseload growth, so the reported budget year caseload is the same as the most recent estimate of the current year caseload. The LAO notes that CDA conducts a manual data collection for this report, so preparing the report represents substantial workload.

In reviewing the federal reports required to be submitted by the CDA, the LAO found that the report only includes data on those programs that receive federal funds. However, the report includes some demographic data that is not provided on the state report. The federal report is due by January 31 and includes actual data for the prior fiscal year. The LAO notes that this report is also produced by manually collecting the data.

The LAO notes that CDA produces program fact sheets for all state and federal programs that they administer. These fact sheets provide the same level of data that is provided in the federal report. They also provide expenditure and caseload data, but do not provide caseload estimates for the current or budget year. These fact sheets are typically completed by March 15 each year; however, CDA will not meet the March 15 time frame this year due to the manual workload associated with producing both the state and federal reports.

The CDA is currently in the process of implementing a web-based database, the California Aging Reporting System (CARS), which CDA informed the LAO would eliminate much of the workload associated with the state and federal reports because the manual data collection would be eliminated. CARS is scheduled to be completed by March of 2009.

The LAO recommends that the requirement to produce the state report be suspended until January 2010 and that in the interim, CDA data be provided by the program fact sheets. At that point in time, CDA's automated data collection system will be fully operational and the Legislature can consider whether to permanently eliminate the state data report. The LAO also recommends that the program fact sheets be provided by March 1 rather than March 15. This would give the Legislature time to consider the data as part of the budget subcommittee process and still provide a realistic deadline for CDA to compile the fact sheets since the state report would be suspended.

Questions:

1. LAO, please describe your review and recommendations.
2. Department, describe the expected benefits of the California Aging Reporting System.

Staff Recommendation: Adopt the LAO recommendation to enact trailer bill language suspending, for two years, the requirement for the state report and requiring the program fact sheets to be posted and provided to the Legislature by March 1 of each year.

4200 Department of Alcohol and Drug Programs (DADP)

DADP Issue 1: Licensing Reform Phase II

Description: On March 8, 2007, the Subcommittee discussed the budget request of $1.2 million General Fund and 12.5 positions (4.5 limited-term) in DADP to conduct biennial compliance visits of licensed and/or certified programs, and federally required monitoring reviews and complaint investigations of Drug Medi-Cal providers. The Subcommittee directed the Legislative Analyst's Office (LAO) to review the time and motion study that DADP was using to justify the budget request and determine whether the study supports the request. The Subcommittee also discussed proposed statutory language to permit the collection of fees from all providers to fund these activities and to establish a new fund for the fee revenues.

Background: The budget proposal has two distinct components to address existing workload: 1) six staff for facility licensing and certification; and 2) 6.5 staff for drug Medi-Cal (DMC) Reviews and Investigations. The DADP conducted a time study of all licensing- and certification-related functions to determine the number of field staff needed to perform adequate facility reviews. This position request is based upon that study.

LAO Review: Pursuant to the Subcommittee's request, the LAO reviewed the time study conducted by DADP to determine whether the study supports the request. Based upon that review, the LAO concludes that the time and motion study is generally reasonable and that the workload would likely exceed the requested resources.

Proposed Trailer Bill Language: The proposed budget includes trailer bill language that would permit the collection of fees from all providers to fund DADP's licensing and certification activities and to establish a new fund for the fee revenues. Under current law, only for-profit providers are charged these fees. The fees would initially be set at $2,150 biennially (which is what current law requires for-profit providers be charged) and DADP would convene a stakeholder group to determine a permanent fee schedule. According to the LAO, the first meeting with stakeholders to discuss a permanent fee schedule will be on May 2, 2007.

Questions:

1. LAO, please describe your analysis of the DADP time study.
2. Department, describe the May 2nd stakeholder meeting on the fee schedule. What was the outcome and what are the next steps?

Staff Recommendations: Approve the request for positions and funding as budgeted. Approve modified trailer bill language that would require legislative approval of any proposed fee changes.

Senate Budget & Fiscal Review Committee
Eileen Cubanski 651-4103

Hearing Outcomes
Subcommittee No. 3
9 a.m., Thursday, May 3, 2007

Vote-Only Agenda

4700 Department of Community Services and Development

- Vote-Only Issue 1: Energy Utility Program Positions
  Action: Approved as budgeted.
  Vote: 2-0

5180 Department of Social Services

- Vote-Only Issue 2: Services to Non-citizen Victims of Trafficking and Severe Crime
  Action: Approved as budgeted.
  Vote: 2-0

- Vote-Only Issue 3: Human Resources Staffing
  Action: Approved as budgeted.
  Vote: 2-0

- Vote-Only Issue 4: Medi-Cal Disability Claims Workload
  Action: Approved as budgeted.
  Vote: 2-0

- Vote-Only Issue 5: Office Building Renovation
  Action: Approved as budgeted.
  Vote: 2-0

0530 Health and Human Services Agency – Office of System Integration

- Vote-Only Issue 6: Child Welfare Services/Case Management System (CWS/CMS)
  Action: Approved as budgeted funding for M&O. Held open new system funding until May Revision.
  Vote: 2-0

5175 Department of Child Support Services

- Vote-Only Issue 7: California Child Support Automation System (CCSAS)
  Action: Approved as budgeted.
  Vote: 2-0

4170 California Department of Aging

- Vote-Only Issue 8: Evidence-Based Health Promotion Initiative for Older Americans
  Action: Approved as budgeted.
  Vote: 2-0

- Vote-Only Issue 9: Improving Access to Mental Health Services for Older Persons and Adults With Disabilities
  Action: Approved as budgeted.
  Vote: 2-0

4140 Office of Statewide Planning and Evaluation

- Vote-Only Issue 10: Consolidation of Facilities Development Division (FDD) Staff
  Action: Approved as budgeted.
  Vote: 2-0

5160 Department of Rehabilitation

- Vote-Only Issue 11: Mental Health Services Act (MHSA) Positions
  Action: Approved as budgeted.
  Vote: 2-0

Discussion Agenda

4700 Department of Community Services and Development

- CSD Issue 1: Naturalization Services Project
  Action: Approved as budgeted.
  Vote: 2-0

5180 Department of Social Services (DSS)

- DSS Issue 1: Food Stamps Program
  Action: No action taken on this informational item.

- DSS Issue 2: Emergency Food Assistance Program
  Action: No action taken on this informational item.

0530 Health and Human Services Agency – Office of System Integration

- OSI Issue 1: Electronic Benefit Transfer (EBT) System
  Action: Approved as budgeted.
  Vote: 2-0

5175 Department of Child Support Services

- DCSS Issue 1: Report on Performance Improvements
  Action: No action taken on this informational item.

- DCSS Issue 2: California Child Support Automation System (CCSAS) Functionality
  Action: Held open until May Revision.

- DCSS Issue 3: Recovery of Non-Sufficient Funds
  Action: Held open until May Revision.

- DCSS Issue 4: State Distribution Unit (SDU) Bank Exceptions
  Action: Held open until May Revision.

- DCSS Issue 5: Information Security Office
  Action: Held open until May Revision.

- DCSS Issue 6: Centralized Financial Worker
  Action: Held open until May Revision.

4170 California Department of Aging

- CDA Issue 1: Caseload Estimates
  Action: Adopted the LAO recommendation to enact trailer bill language suspending the requirement for the state report for three years until 2010 and requiring the program fact sheets to be posted and provided to the Legislature by March 1 of each year.
  Vote: 2-0

4200 Department of Alcohol and Drug Programs

- ADP Issue 1: Licensing Reform Phase II
  Action: Approved funding and positions as budgeted. Approved modified trailer bill language that requires legislative approval of any fee changes.
  Vote: 2-0

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Agenda – Part B

Thursday, May 3, 2007
9:00 am
Room 3191
(Consultant: Bryan Ehlers)

Vote-Only Agenda

Discussion Agenda

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.

8950 Department of Veterans Affairs

The California Department of Veterans Affairs (CDVA) has three primary objectives: (1) to 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) to afford California veterans the opportunity to become homeowners through loans available to them under the Cal-Vet farm and home loan program; and (3) to 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. With $50 million in general obligation bonds available through Proposition 16 (2000), $162 million in lease-revenue bonds (most recently amended by AB 1077 [Chapter 824, Statutes of 2004]), and federal funds, new homes will be constructed in West Los Angeles, Lancaster, Saticoy, Fresno, and Redding.

The Governor's budget funds 1,608.6 positions (including 8.0 new positions) and budget expenditures of $349 million for the department, including the veterans' homes.

For the three veterans' homes, the Governor proposes a four percent funding increase, as shown below.

Home	Funding 2006-07*	Proposed Funding 2007-08*
Yountville $82,333		$85,172
Barstow 15,535		18,303
Chula Vista	26,348	26,020
TOTALS	$124,216	$129,495

(*dollars in thousands)

VOTE-ONLY AGENDA:

Vote-Only Issue 1: BCP – Position Funding Alignment

The CDVA requests 25.0 full-time positions and $2.8 million in ongoing General Fund.

Staff Comments: The requested positions were previously special funded under the Farm and Home Program; however, they were realigned to the General Fund in 2006-07 due to a significant decline in program activity. During last year's hearings, the CDVA was unable to provide adequate justification to keep the positions and funding on a permanent basis, and Provision 1 of Item 8955-001-0001 was adopted as part of the Budget Act of 2006, to require the CDVA to bring forth a more thorough-going workload analysis in the 2007-08 budget cycle.

This request reflects the above requirement, and contains workload data intended to document the ongoing need for the 25.0 positions. When this issue was heard in a previous hearing, staff noted concern regarding the analytical basis for the data submitted and the Chair requested the CDVA to continue working with staff to verify the accuracy of the workload provided. The CDVA subsequently provided additional data addressing staff concerns.

Vote-Only Issue 2: Finance Letter – Veteran's Quality of Life Fund

The CDVA requests a one-time appropriation of $110,000 from the Veterans Quality of Life Fund (Fund) so that these monies can be distributed to the veterans' homes for discretionary use as determined by the residents. The Fund was created under Chapter 143, Statutes of 2005 (AB 357 – S. Horton) as a depository for voluntary contributions made by taxpayers in excess of their tax liability. Statute requires a legislative appropriation for dispersal of the funds to veterans' homes, and the amount requested reflects the approximate balance in the fund as of June 30, 2006.

Staff Comments: The requested appropriation represents the approximate balance in the Fund as of June 30, 2006, and the CDVA indicates there is no advantage to delaying the appropriation of these funds. Based on the proportional number of residents at each of the three veterans' homes, the funds would be divided as follows:

Yountville: (67 percent)
Chula Vista: (23 percent)
Barstow: (10 percent)

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE Vote-Only Issues 1 and 2.

VOTE on Vote-Only Issues 1 and 2:

DISCUSSION AGENDA:

CDVA Issue 1: Finance Letter – Consolidation of Veterans Homes Appropriations

The CDVA requests consolidation of the appropriations for the three existing Veterans Homes with the Veterans Home Division staff appropriations into a single departmental organization code (currently there are four). This proposal represents a net zero transfer, and is intended to greatly simplify the CDVA budget process while maintaining the transparency of expenditures at each home.

Staff Comments: Historically, the CDVA headquarters (HQ) and the Veterans Home of California -Yountville (VHC-Y), which was founded in 1884, maintained separate budgets. As CDVA operations expanded with the opening of the Veterans Home of California – Barstow (VHC-B) and the Veterans Home of California – Chula Vista (VHC – CV), the segregated budget structure was maintained, with each of the four entities receiving a separate appropriation under a distinct organization code. Although this arrangement provides budget transparency and allows each home considerable discretion over its spending, there are significant downsides. For example, in the event a home needs to spend less than budgeted in any given year, but another home experiences an emergency and needs to spend more, the CDVA may not transfer the savings from one appropriation to avoid a deficiency in the other. Additionally, the separate appropriations create significant workload to account for expenses since invoices for goods for all homes have to be split so that the State Controller's Office can issue multiple checks to a single vendor for the same service or commodity. Besides adding to staff workload, such practices increase the chance for budgeting and accounting errors. The CDVA notes concern that as the number of veterans' homes increases in the coming years with the imminent addition of the three homes comprising the Greater Los Angeles/Ventura Counties veterans' home project (GLAVC), and the proposed addition of homes in Fresno and Redding, the existing budget structure will become increasingly untenable. The CDVA also notes that this proposal would support the corrective action plan recently submitted to the Legislature because of budgetary errors and inconsistencies during the 2006-07 budget process.

Under the consolidation plan, all veterans' homes would be funded within the same appropriation; however, each veterans' home budget would be displayed as a separate "element." This would allow the entire CDVA budget to be viewed as a whole and maintain the transparency of each Home's budget, but would also provide new flexibility (under Control Section 26.00 of the Budget Act) for the CDVA to transfer funds between homes as needed. Staff notes that Control Section 26.00 requires the Director of Finance to approve all such transfers, requires Finance to report each year to the Legislature on the transfers made, limits individual transfer amounts to no more than $200,000 without 30-day notice to the Legislature, and limits the total annual amount that may be transferred. Thus, the consolidation plan would not necessarily place the budget of any veteran home in danger of being plundered for the benefit of another. To the contrary, CDVA staff indicate transfer requests would be reserved for unanticipated emergencies, and the veterans' homes would be expected to manage to their resources.

On an administrative level, this request would necessarily provide greater "power of the purse" to HQ. For example, as proposed, the Budget Office (at HQ) would be

responsible for allocating the appropriate funds to each Home (either on a quarterly basis or annually with a reserve), and monitoring each Home's expenditures. On a monthly basis, the Budget Office would coordinate with the Home administrators in reviewing the allocations and ensuring that they were adequate for the Home's needs. By way of comparison, the homes currently spend out of their own appropriations at any rate they see fit and HQ has responsibility, but limited power, to manage the departments' resources effectively.

Despite the apparent necessity of providing HQ with the increased authority to efficiently administer the budgeting and accounting of the growing number of veterans' homes, staff notes concern that the CDVA is not fully prepared to exercise this authority. That is, questions remain as to whether the department has a plan to address the organizational shift that would necessarily occur when decisions that were formerly based at the homes need to be made at HQ. For example, if disagreements arise between the Budget Office and the Home administrators when savings at one home are needed to fund an emergency at another home, who would break the deadlock? The CDVA provided staff with a transitional plan "Executive Summary," but will need to demonstrate to the Subcommittee that it has thought through the implications of this proposal and has a plan (and the staff to implement it) to address any challenges.

Questions:

1. Does the CDVA have a completed, written transition plan for the consolidation? Besides the basic consolidation of the budgeting and accounting operations, what other changes are necessary for the CDVA to implement this proposal?
2. The CDVA provided staff with a proposed organization chart reflecting the need for additional positions in Administrative Services. The department indicated these positions would be requested in a subsequent BCP either as part of the GLAVC project or in a separate proposal. What is the expected nature of this "separate proposal?" Is it linked to the department's corrective action plan for its budget office? If so, how will the CDVA effectively implement the consolidation plan in the absence of these positions?

Staff Recommendation: HOLD OPEN and request the CDVA to work with staff and the LAO to provide additional information on the department's transition plan.

VOTE:

CDVA Issue 2: Finance Letter – Professional Medical Services

The CDVA requests 5.0 permanent positions (Certified Nursing Assistants) and $325,000 ongoing General Fund to address workload increases in 1-to-1 care at the Yountville veteran's home

Staff Comments: The CDVA indicates that existing staffing levels have allowed the Veterans' Home of California – Yountville (VHC-Y) to "marginally" meet Department of Health Services-mandated nursing staff-to-patient ratios; however, a recent policy shift within the medical profession toward a "restraint free" environment has significantly

increased the demand for 1-to-1 care, resulting in approximately 150 more overtime shifts per month.

According to the CDVA, the new "restraint free" policy for confused and demented residents was introduced over the last three years and applies to both physical and chemical restraints. The new standard requires anywhere from one-to-one Certified Nurse Assistant (CNA) care (at the high end) to the addition of a single CNA per nursing ward who acts as a "hall monitor."

The new "restraint free" policy prioritizes and seeks to safeguard the dignity of veterans' home residents, and the Legislature wants to support this goal. However, staff is not aware of any other state departments requesting additional resources in order to institute "restraint free" practices. Rather, other departments have instituted these policies within existing resources. The Subcommittee will want the CDVA to clarify the steps it has taken to implement its "restraint free" policy.

Questions:

1. What was the historic incidence of the VHC-Y's use of restraints (prior to the introduction of the "restraint free" policy)?
2. What is the incidence in the use of restraints now (if more than zero)? How does the VHC-Y measure this?
3. What standards and accountability measures has the VHC-Y instituted to promulgate the "restraint free" policy?
4. What training program does the CDVA have in place for the implementation of the "restraint free" policy?
5. Has the CDVA consulted or coordinated with other agencies (for example, the Department of Mental Health) in the implementation of its "restraint free" measures, standards, or training?
6. Why is the VHC-Y's "restraint free" policy now threatened, and how did this request arise as a spring instead of a fall issue? Why is the CDVA different from other state departments in requiring more resources to institute a "restraint free" policy?

Staff Recommendation: HOLD OPEN.

VOTE:

CDVA Issue 3: Finance Letter – Increase Resources to Address Deferred Infrastructure Repairs and Maintenance

The CDVA requests 8.0 one-year limited-term positions and $1.9 million one-time General Fund to address deferred repair and maintenance required to maintain health and safety at the veterans' homes. Of the total request, $1 million is proposed for maintenance and repairs at the Veterans' Home of California – Yountville (VHC-Y), $100,000 for improvement to wheelchair ramps at the Veteran's Home of California - Chula Vista (VHC-CV), and the remaining $800,000 is for Operating Expenses & Equipment (OE&E) associated with the requested staff. Following completion of a VHC-Y study funded by the Budget Act of 2006 and due out in late 2007, the CDVA

anticipates developing an ongoing program to address infrastructure repairs and deferred maintenance.

Staff Comments: The CDVA indicates the practice of "deferred maintenance" was developed at the VHC-Y during recession years and has continued for decades, eventually expanding to the Barstow and Chula Vista homes. Typically, costly infrastructure maintenance and repair projects were put on hold, with only direct patient care issues receiving attention. According to the CDVA, this has resulted in infrastructure deteriorating at a faster rate than if repairs and maintenance were performed on a timely schedule. The CDVA additionally notes that redirection of OE&E funding to meet nursing shortage costs has only exacerbated the shortage of resources available for repair and maintenance projects.

As mentioned above, the vast majority of the resources requested are proposed to address aging infrastructure at VHC-Y, where the average building is over 70-years old. With 120 buildings (1.2 million square feet of floor space), 8 miles of roads, 6 miles of sidewalks, and 35 miles of plumbing, the CDVA estimates the current cost to address all deferred repair and maintenance would be between $30 and $50 million dollars. However, many of the home's major needs will have to go through a capital outlay process and will be a part of the ongoing maintenance and repair program that will come out of the study alluded to above. According to the CDVA, this request reflects the resources necessary to perform only the repairs and maintenance immediately necessary, including but not limited to:

- VHC-Y: (1) roof repair; (2) sidewalk maintenance; (3) interior and exterior building maintenance; (4) fire life safety improvements; (5) power and energy management; and (6) asbestos removal
- VHC-CV: improvements to wheelchair ramps

Although the CDVA makes the case that substantial repair and maintenance is needed, particularly at VHC-Y, staff notes that this request does not present an explicit maintenance schedule tied to the level of dollars or staffing requested.

Questions:

1. If the repair and maintenance identified in this request is high priority and necessary to protect the health and safety of veterans' home residents, why wasn't this proposal part of the Governor's Budget?
2. How did the CDVA prioritize the repairs to be funded under this request versus those that will be deferred to a future time, and why should the Legislature not wait until the VHC-Y infrastructure study is complete and there is a comprehensive repair and maintenance plan before funding these expenditures?

Staff Recommendation: HOLD OPEN until after the May Revise so that the CDVA may provide additional information on the proposed repairs and the Legislature will have a clearer picture of the state of the General Fund.

VOTE:

CDVA Issue 4: Finance Letter – Salary Increase for Mental Health Personnel

The CDVA requests $1.2 million ongoing General Fund to increase salaries for certain mental health professionals serving at California Veterans' Homes to make them more competitive with Department of Corrections and Rehabilitation (CDCR) salary rates for the same classifications. CDCR medical personnel received a significant pay increase as a result of recent court decisions (*Plata*, *Coleman*, and *Perez*) and this request is intended to help the CDVA recruit and retain similar personnel serving California veterans, including psychiatrists, psychologists, social workers, therapists, and Chiefs of Medicine.

Staff Comments: According to the CDVA, the Department of Personnel Services has approved the proposed increases for all of the non-CDCR departments (including the Department of Mental Health and the Department of Developmental Services who have made similar spring requests for mental health professional classifications). However, staff notes that the increases are still subject to union negotiations and Memorandum of Understanding approval.

Staff additionally notes that this request reflects only the Coleman positions currently filled and not all of the CDVA's authorized Coleman positions. Therefore, an additional request of unknown magnitude will be necessary to fully fund the requested increase across all authorized positions within the Coleman classifications. The CDVA indicates a May Revise request will be forthcoming to address this need.

Staff Recommendation: HOLD OPEN pending May Revise salary increase request for authorized but unfilled mental health personnel.

VOTE:

CDVA Issue 5: Finance Letter – Salary Increase for Medical Services Personnel

The CDVA requests $86,000 ongoing General Fund to increase salaries for particular medical professional classifications serving at California Veterans' Homes to make them more competitive with Department of Corrections and Rehabilitation (CDCR) salary rates for the same classifications. As noted above (Issue 5), CDCR mental health personnel received a significant pay increase as a result of recent court decisions and this request is intended to help the CDVA recruit and retain personnel serving California veterans, including physical and occupational therapists, speech pathologists, and respiratory care staff.

Staff Comments: According to the CDVA, all of the classifications included in this BCP are the remaining healthcare professional classifications, outside of the *Plata*, *Coleman* and *Perez* decisions, whose salary ranges are not competitive with the current prevailing market rates and in some situations, far below the private sector rates. The CDVA indicates not all required data has been provided to the Department Personnel Administration (DPA), but the CDVA is currently obtaining the appropriate information

from the Homes and anticipates meeting with DPA staff before the budget is signed to provide the necessary substantiation.

As the agency with the perspective and expertise to evaluate the necessity and likely impact of salary increase proposals, staff notes concern that the requested increase has not yet received DPA approval.

Questions:

1. What is the current pay disparity between the CDVA and Corrections for the classifications affected by this request? (A representative example will suffice.) Would this request close the pay gap entirely?
2. How did the CDVA prepare this request if it is still in the process of collecting data from the Homes for DPA?
3. What is the case the CDVA plans to make to DPA? For example, based on the pay differential just noted, how has CDVA recruitment and retention been adversely impacted?
4. In the absence of DPA-approval, what was the basis for the Department of Finance approving this request?

Staff Recommendation: HOLD OPEN pending additional information on CDVA discussions with the DPA.

Senate Budget & Fiscal Review Committee
Bryan Ehlers 651-4103

Hearing Outcomes: Agenda Part B

Subcommittee No. 3
9:00 am, Thursday, May 3, 2007

Note: Senator Cogdill absent for all votes.

Vote-Only Agenda

8950 Department of Veterans Affairs (CDVA)

- Vote-Only Issue 1: BCP – Position Funding Alignment
  Action: Approve as budgeted.
  Vote: 2-0

- Vote-Only Issue 2: Finance Letter – Veteran's Quality of Life Fund
  Action: Approve as budgeted.
  Vote: 2-0

Discussion Agenda

8950 Department of Veterans Affairs (CDVA)

- CDVA Issue 1: Finance Letter – Consolidation of Veterans Homes Appropriations
  Action: Held Open. Chair requested the CDVA to work with staff and LAO to provide additional information on the department's transition plan.

- CDVA Issue 2: Finance Letter – Professional Medical Services
  Action: Approved. (Staff will contact department and other parties to discuss potential reporting language to better inform Legislature on the CDVA's "restraint free" practices.)
  Vote: 2-0

- CDVA Issue 3: Finance Letter – Increase Resources to Address Deferred Infrastructure Repairs and Maintenance
  Action: Held Open. Chair requested the CDVA to provide a list of proposed repairs.

- CDVA Issue 4: Finance Letter – Salary Increase for Mental Health Personnel
  Action: Held Open pending May Revise salary increase request for authorized but unfilled mental health personnel.

- CDVA Issue 5: Finance Letter – Salary Increase for Medical Services Personnel
  Action: Held Open pending additional information on CDVA discussions with DPA.

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

May 7, 2007

Upon Adjournment of Session

Room 3191

(Diane Van Maren)

Item Department

4120 Emergency Medical Services Authority

0530 CA Health & Human Services Agency—Selected Issues

4280 Managed Risk Medical Insurance Board—Selected Issues

4300 Department of Developmental Services—Selected Issues

4260 Department of Health Care Services—Selected Issues

4265 Department of Public Health—Selected Issues

4400 Department of Mental Health—Selected Issues

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. ***Please note—the May Revision hearing for these departments will be on Tuesday, May 22nd, as noted in the Senate File.***

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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.

A. ISSUES FOR "Vote Only" (Page 2 through Page 9)

1. Emergency Medical Services Authority—Technical Adjustment

Issue. The Subcommittee is in receipt of a Finance Letter from the Emergency Medical Services Authority (EMSA) requesting a technical reduction of $143,000 from the EMS Personnel Fund (Item 4120-001-312) to align the budget authority with the expected expenditures for 2007-08. This fund is a fee supported fund used for state administration.

Subcommittee Staff Recommendation—Approve. This is a technical adjustment and no issues have been raised.

2. Emergency Medical Services Authority—Advanced Registration for Volunteer Health Professionals

Issue. The Subcommittee is in receipt of a Finance Letter from the EMSA requesting an increase of $222,000 (Reimbursements from the Department of Public Health which are federal grant funds) to support two positions to continue to develop and implement California's "Emergency System for Advanced Registration of Volunteer Health Professionals" (ESAR-VHP). The two positions include a Health Program Specialist I and a Staff Information Systems Analyst.

The ESAR-VHP is a national effort by the Health Resources and Services Administration (HRSA) to develop a statewide computerized system that registers and credentials a wide range of health professionals before an emergency or disaster occurs. States are expected to develop their own system but follow national guidelines in order to allow for potential future integration.

The ESAR-VHP system will be used to address medical surge and pandemic flu response as well as other types of public health emergencies. The pre-registration and pre-credentialing system for medical volunteers will streamline California's response and offers a tool that can call-up, track, and deploy volunteers.

In the Budget Act of 2005, the EMSA received federal grant funds through the Department of Health Services to begin development. This funding has been utilized to conduct a Feasibility Study Report, develop operational pans with counties and operational areas, integrating into the SEMS/NIMS systems, developing core training, resolving core legal issues and conducting a pilot program which ends May 31, 2007. The two requested positions will continue this effort.

Subcommittee Staff Recommendation—Approve. It is recommended to approve this Finance Letter. No issues have been raised.

3. Emergency Medical Services Authority (EMSA)—Elimination of Price

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the EMSA's administrative budget by a total of $21,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

4. Emergency Medical Services Authority (EMSA)--Legal Assist for Legal Counsel

Issue. The EMSA is requesting an increase of $77,000 (Emergency Medical Services Personnel Fund) to establish a Legal Assistant position to address the increased disciplinary legal caseload regarding Emergency Medical Technicians—Paramedics (EMT-Ps). This position will provide assistance to the EMSA's existing staff counsel.

The EMSA has identified five priorities for which the disciplinary actions regarding EMT-Ps are critical to protect the public health and safety of California. These priorities are: sexual assaults; alcohol and drug abuse; fraud and dishonest; violence; and theft. This renewed focus on these areas of EMT-P discipline has created an overwhelming legal caseload for the EMSA staff counsel.

The average number of EMT-P discipline open cases in the legal office has grown from 30 in 2004-05 to 74 in 2005-06 which is an increase of 146 percent. The type of legal cases currently being reviewed for possible discipline include paramedics who are: (1) acting outside of medical control; (2) failure to follow procedures; (3) acts of negligence; or (4) the identification of paramedics who are in violation of Health and Safety Code Section 1798.200 (threats to public heath and safety).

The EMSA states that without the additional legal resources, the timely processing of cases will continue to backlog and California will be unable to assure the safety of its citizens who require emergency medical care and transport.

Subcommittee Staff Recommendation—Approve. It is recommended to approve this proposal. No issues have been raised.

5. CA Medical Assistance Commission (CMAC)—Elimination of Price

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the CMAC's administrative budget by a total of $4,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

6. Managed Risk Medical Insurance Board (MRMIB)—Elimination of Price

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the MRMIB's administrative budget by a total of $8,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

7. Managed Risk Medical Insurance Board (MRMIB)—Payment Error Rate

Issue. The Subcommittee is in receipt of a Finance Letter for the Managed Risk Medical Insurance Board (MRMIB) requesting a total increase of $216,000 ($76,000 General Fund) to support two Auditor positions.

The federal Center for Medicare and Medicaid (CMS) directed the MRMIB in February 2007 on their implementation of the "Federal Medicaid Payment Error Rate Measures (PERM) regulations. These federal regulations require all states to implement new audit procedures for the State's Children's Health Insurance Program (S-CHIP) funds (known as the Healthy Families Program in California).

Under PERM, reviews will be conducted in three areas: (1) fee for services; (2) managed care; and (3) program eligibility. The results of these reviews will be used to produce the national program's error rates, as well as state-specific error rates. States are responsible for measuring program eligibility and for coordination with federal CMS hired national contractors on the measures of other areas.

PERM also requires the use of an independent auditor contract in addition to duties performed by the MRMIB. Costs for this independent auditor will be reflected in the upcoming May Revision estimate.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter. No issues have been raised. The adjustment is needed in order to meet federal requirements.

8. CA Health & Human Services (CHHS) Agency—Community Choices

Issue. The California Health and Human Services (CHHS) Agency is requesting an increase of $900,000 (federal grant funds—Real Choice Systems Transformation Grant) to: (1) fund a Staff Services Manager II position to serve as a project director of the California Community CHOICES program; and (2) fund an interagency agreement with Sonoma State University to continue work in progress.

The purpose of the position is to oversee the grant's implementation over a five-year period and coordinate statewide activities related to the grant, all of which support implementation of the Olmstead decision in California. The position will be required to manage complex statewide activities, requiring a high level of expertise in long-term care issues. The federal grant requires that a full-time position be dedicated to grant oversight.

The CHHS Agency states that they are in the strategic planning process which should be completed soon. Upon approval of the strategic plan, the project director will begin oversight and administration of project implementation, which will outline specific goals and timelines for the term of the project.

Background—California Community CHOICES Project. The purpose of this project is to help build the state's long-term care system infrastructure and to increase the capacity of the home and community-based services system.

The federal government has awarded California a five-year, $3 million "Real Choice Systems Transformation" grant. The CHHS Agency partnered with Sonoma State University and the CA Institute on Human Services to oversee the grant's strategic planning and policy development components.

The grant is to address the following three goals: (1) improved access to long-term support services; (2) transformation of information technology systems; (3) creation of a system that more effectively manages the funding for long-term supports that promote community living options.

Subcommittee Staff Recommendation—Approve. It is recommended to approve this proposal. No issues have been raised.

9. Department of Mental Health-- Capital Outlay for the State Hospitals

Issues. The Department of Mental Health is proposing an increase of $10.8 million ($3.3 million General Fund and $7.5 million Public Buildings Construction Funds—bonds funds) to prepare preliminary plans and working drawings, and begin construction on a variety of projects to maintain the existing State Hospitals. Each of the requested capital outlay projects is shown in the table below. (The Metropolitan State Hospital Fence Project is under the items to discuss section of this Agenda, below).

Table: Capital Outlay Projects for State Hospitals

Project Title	2007-08	Source of Funding
Metropolitan State Hospital: • Telecommunications Upgrade (all phases)	$353,000	General Fund
Metropolitan State Hospital: • Construction of New Kitchen & Remodel Satellite Kitchens (construction)	$1.432 million $7.5 million	General Fund Bond Funds
Napa State Hospital: • Install A Liquid Oxygen System (all phases)	$122,000	General Fund
Napa State Hospital: • Construction of New Kitchen & Remodel Satellite Kitchens (working drawings)	$761,000	General Fund
Atascadero State Hospital: • Kitchen Study	$200,000	General Fund
Patton State Hospital: • Construction of New Kitchen & Remodel Satellite Kitchens (working drawings)	$463,000	General Fund
Total	**$10.8 million** ($3.3 million) ($7.5 million)	**Total Funds** General Fund Bond Funds

A brief description of each of these projects by State Hospital follows:

- Metropolitan State Hospital—Hospital Telecommunications Project. Currently, the telecommunications infrastructure is at maximum capacity. This proposal would increase the fiber optic cabling, hubs, switches and other aspects to provide a telecommunications system that is capable of transmitting to ensure appropriate. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Metropolitan State Hospital— Construct New Kitchen and Remodel Satellite Kitchens. This project would construct a new single story Central Kitchen Facility and would renovate six existing satellite kitchens and dining facilities. This includes new kitchen equipment, high capacity food storage, receiving dock, cook/chill system, an emergency generator and other design features for a Central Kitchen Facility. The satellite kitchen

improvements include new kitchen equipment, seating capacity and other related items. The project does still have about $5.2 million in existing current-year authority for the project. The budget year request does take this into consideration. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Napa State Hospital—Install Liquid Oxygen System. This project would provide for the installation of a 1,500 gallon bulk liquid oxygen storage tank and associated electrical, mechanical and structural components to be installed. The bulk storage tank will replace the existing out-dated system. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Napa State Hospital—Construct New Kitchen and Remodel Satellite Serving Kitchens. This project would provide for "working drawings" for a 29,000 square foot Central Kitchen with cook/chill food preparation system and all dietary support systems. This proposal would also remodel and upgrade all 14 satellite kitchens and dining rooms to meet requirements of licensing. The project has been divided into two separate funding sources—Bond Funds and General Fund support.

  The new main kitchen component is to be Bond funded. The $20.7 million (Bond Funds) appropriation for this was in the Budget Act of 2006.

  The 14 satellite kitchens are to be funded using General Fund support. In the Budget Act of 2006, $598,000 (General Fund) was appropriated for preliminary plans. Funding for the working drawings is requested for 2007-08 in the amount of $761,000 (General Fund). The construction phase will be proposed in 2008-09 and is estimated to be $10.6 million.

- Atascadero State Hospital—Kitchen Study. These funds would be used to conduct a study to better understand whether the DMH should remodel the existing facility or construct a new one. The study would address all dietary support facility needs, including installation of a cook/chill food preparation system. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Patton State Hospital—Construct New Kitchen and Remodel Satellite Serving Kitchens. This proposal would develop the "working drawings" for the construction of a 29,000 square foot Central Kitchen, as well as the satellite kitchens. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

Subcommittee Staff Recommendation. It is recommended to approve these proposals since they are needed to maintain state licensure, as well as fire, life and safety requirements. No issues have been raised.

10. Department of Developmental Services—Finance Letter for Capital Outlay

Issue. The Subcommittee is in receipt of a Finance Letter requesting a reduction of $191,000 (General Fund) to reflect updated estimates of the cost for preliminary plans and working drawings for: (1) the Fairview Developmental Center, including installation of personal alarms (used to protect employees and residents) and installation of air conditioning at the school and activity center on the campus; and (2) the Porterville Developmental Center, including the installation of personal alarms.

Subcommittee Staff Recommendation. It is recommended to approve the Finance Letter. No issues have been raised. Projected expenditures are just being updated.

B. ISSUES FOR DISCUSSION--Department of Developmental Services

1. Need for Clinic Services & Comprehe nsive Health Care Services for People with Developmental Disabilities

Prior Subcommittee Hearing—Apr il 9th—and Follow -Up for Today . In the April 9th hearing, the Subcom mittee received testimony from consumers and their family members, local health plans from the Bay Area—the S anta Clara Family Heal th Plan, and Alameda Alliance for Health--, the three Bay Area Re gional Centers and many other interested constituencies regarding the br oad provis ion of health care services, including he alth, behavioral health and dental, to indiv iduals transitioning from Agnews Developmental Center.

After this informative and compelling testimony, the Subcommittee took the following actions:

(1) Increased the Regional C enters Operations budget by $503,000 ($126,000 General Fund) and 4 positions for the three Bay Area Region al Centers for them to hire three Chief Health Care Community Specialists and one Assistant Health Care Community Specialist. These resources are critical to ensure that all responsible parties are providing appropriate, high quality health care services to consumers.

(2) Adopted trailer bill language to ens ure the continuit y of consumer's health care, b y requiring the Secretary of the Health and Human Servic es Agency to verify that the Department of Developm ental Services and the Departm ent of Health Care Servic es have established protocols to ensure accountability within the Administration, as well as at the community level between the Regional Centers and the health plans participating in the Medi-Cal Program who will be providing services to consumers.

The Subcommittee extensively quer ied the Administration regardi ng their int ent to continue to operate the Agnews Develop m ental Center Outpatient Clin ic beyond the Administration's projected closure date of Agnews (i.e., June 30, 2008). Public t estimony strongly urged continuation of the comprehensive health care services provided at this site.

Since the Administration needed to conduct further research as to the options available for continuation of these services, the Subcommi ttee directed the Administr ation to provide additional information, such as clarification of state licensure requirem ents, the potential for operation after June 30, 2008 and related matters for this May 7th hearing.

Senator Alquist, as t he Chair of the Subc ommittee, also directed Subcommittee staff to review options for increasing the existing health care services capacity in the community for people with disabilities since data from the Agnews Outpatient Clinic sho wed the need for services for consumers living in the surrounding community as well.

In addition, the Subcommittee received testimony from the Santa Clara Family Health Plan and the Alameda Alliance for Health who are two of the three Bay Area health plans that the Department of Developmental Services and the Department of Health Care Services are working with to provide a *permanent* "health care home" for transitioning Agnew's residents.

During the hearing, the Department of Health Care Services (DHCS) testified that it was their intent to reimburse the above health care plans at an initial *interim rate* (not yet established), the health care plans would then provide utilization data regarding the health care services provided, and the DHCS would then "settle-up" the remaining costs. It should be noted that though a verbal description was provided, no written information has been provided and no existing statutory authority can be cited for this mechanism.

Background—Agnews Developmental Center Outpatient Clinic. In March 2006, the DDS expanded the Agnew's license to provide outpatient medical services to individuals with developmental disabilities who reside in the community (both individuals who have transitioned from Agnews, as well as other individuals with developmental disabilities living in the surrounding area). Medical staff from Agnews is used to provide the services.

As discussed in the April 9th hearing, the outpatient clinic at Agnews has provided over 230 services to a total of 185 consumers. The most frequently uses services are dental (accessed 128 times), primary medical care, psychiatry and neurology.

Background--Individualized Health Plan for Each Consumer. As part of their Individual Program Plan (IPP) process prior to transitioning from Agnews, each Agnews' resident will receive a comprehensive nursing and risk assessment which is comprised of over 60 health-related items. This assessment is then used to develop a Health Transition Plan that is incorporated into the IPP.

The Health Transition Plan specifically states how each health need will be met following transition from Agnews, as well as the provider of each service.

Background—Agnews Developmental Center Closure. The plan to close Agnews Developmental Center was developed over a three-year period and formally submitted to the Legislature in January 2005. Enabling legislation to support the implementation of critical elements of the plan has been enacted, including Assembly Bill 2100 (Steinberg), Statutes of 2004, Senate Bill 962 (Chesbro), Statutes of 2005, Senate Bill 643 (Chesbro), Statutes of 2005, and Assembly Bill 1378 (Lieber), Statutes of 2005.

The Agnews Developmental Center Plan closure is *different* than the two most recent closures of Developmental Centers—Stockton DC in 1996 and Camarillo DC in 1997—both of which resulted in the transfer of large numbers of individuals to other state-operated facilities**.** In contrast, the Agnews Plan relies on the development of an improved and expanded community service delivery system in the Bay Area that will enable Agnew's residents to transition and remain in their home communities.

Subcommittee Staff Recommendation. At the direction of the Chair, the following recommendations are proposed:

(1) Adopt trailer bill language to have the DDS continue operation of the Agnews Outpatient Clinic until the state disposes of the Agnews property in order to continue the continuity of care for consumers. (See Hand Out for proposed language.)

(2) Adopt Budget Bill Language (Item 4300-101-0001) to utilize funds appropriated for the Wellness Initiative for the DDS to purchase two Mobile Clinics which will be specifically outfitted to provide a range of health and medical services, as determined by the DDS in working with constituency groups as deemed appropriate. The DDS may purchase these Mobile Clinics using a competitive process but is to be exempted from public contract code due to the need to ensure the protection of public health and welfare. (See Hand Out for proposed language.)

(3) Adopt placeholder Trailer Bill Language to codify the Department of Health Care Services verbal commitment to the Subcommittee and the local health plans regarding the reimbursement to be provided under the Medi-Cal Program for services to be provided for individuals transitioned from Agnews to the community. (See Hand Out for proposed placeholder language.)

Regarding the future use and operation of the Mobile Clinics, Subcommittee staff notes that that the clinics *could be* eventually granted to (1) a non-profit entity, such as a Regional Center and/or the three Bay Area health plans (all are non-profit entities); (2) a County (i.e, Santa Clara, Alameda and/or San Francisco) to be operated as a Federally Qualified Health Care (FQHC) Clinic to obtain cost-based reimbursement as recognized by the federal government; and/or (3) used under Sonoma Developmental Center's license and be operated by state employees (including Agnews employees). There are many options available that need to be further explored but offer benefits to the community and can be made workable from a fiscal perspective. A community-state partnership is needed and is necessary to make all of this work.

Subcommittee staff notes that through the Budget Act of 1998 (Change Book issue #202), the Legislature first appropriated $1 million (General Fund) to the DDS for the Wellness Initiative. The DDS was provided these funds for the purposes of improving the health, welfare and safety of people with disabilities living in the community. Since this time, the DDS has had the ability to utilize these funds as deemed appropriate to meet a wide variety of identified needs, such as determining best practices for meeting nutritional needs for individuals or for providing dental services, as well as many, many other uses.

These Wellness Initiative funds have been continued as part of the budget since this time. Subcommittee staff has been informed by the DDS that there presently are no identified projects as yet for 2007-08 for the expenditure of these funds. **As such, they are available for this purpose.**

2. Proposed Modifications to Reporting Information-- Agnews DC Closure

Prior Subcommittee Hearing and Subcommittee Staff Recommendation. In the April 9th Subcommittee hearing, interest in capturing additional information regarding the Agnews transition was expressed. As such, it is recommended to add the following provisions to existing Budget Bill Language, which was originally crafted in 2005. (The proposed additions are noted with underlining.)

> "The state Department of Developmental Services shall provide the fiscal and policy committees of the Legislature with a comprehensive status update on the Agnews Plan, on January 10, 2008 and May 15, 2008, which will include at a minimum all of the following:
>
> (a) A description and progress report on all pertinent aspects of the community-based resources development, including the status of the Agnews transition placement plan.
>
> (b) An aggregate update on the consumers living at Agnews and consumers who have been transitioned to other living arrangement, including a description of the living arrangements (model being used) and the range of services the consumers receive.
>
> (c) An update to the Major Implementation Steps and Timelines.
>
> (d) A comprehensive update to the fiscal analyses as provided in the original plan.
>
> (e) An update to the plan regarding Agnew's employees, including employees who are providing medical services to consumers on an outpatient basis, as well as employees who are providing services to consumers in residential settings.
>
> (f) Specific measures the state, including the Department of Developmental Services and the Department of Health Care Services, is taking in meeting the health, mental health, medical, dental, and overall well-being of consumers living in the community and those residing at Agnews until appropriately transitioned in accordance with the Lanterman Act.

D. ISSUES FOR DISCUSSION—Health Issues (Both Departments)

1. Medi-Cal Managed Care—Need to Improve Services to Aged, Blind & Disabled Populations

Issue. Under the support and direction of the California Healthcare Foundation, a comprehensive report prepared by several researchers was **released in November 2005** entitled: "Performance Standards for Medi-Cal Managed Care Organizations Serving People with Disabilities and Chronic Conditions".

This **92 page report** was the outcome from various workgroup discussions convened during 2005 when discussions were at the forefront regarding improving Medi-Cal services to people who happen to be in the aged, blind or disabled categories of the Medi-Cal Program (i.e., Fee-For-Service or Medi-Cal Managed Care). **Core objectives at this time included the following recommendations for the Administration to pursue:**

- Develop performance standards and measures to foster improvements in quality of care for people with disabilities and chronic illness;
- Develop recommendations for how the DHS and other departments can support improvements in quality of care for this population;
- Develop recommendations for monitoring contract compliance; and
- Develop a tool to assess managed care plan readiness to serve people with disabilities.

The report recognized the need for considerable analysis and continued workgroup discussions around key topics, including: Accessibility; Provider Networks; Enrollment and Member Services; Benefit Management; Care Management; Coordination of Carved-Out and "Linked" Services; Quality Improvement; and Performance Measurement. ***Examples* of recommendations from the report included the following:**

- Conduct initial screen to identify immediate access and medical needs;
- Provide materials in alternative formats upon request;
- Provide assistance with navigating managed care;
- Expand cultural competency and diversity training requirements;
- Expand definition of "access";
- Determination of medical necessity should take into account maintenance of function;
- Broaden requirements to provide out-of-network services;
- Conduct quality improvement activities to address needs of people with disabilities and multiple chronic conditions;

The Administration was to craft a written analysis which responds to the report's recommendations. However, though numerous requests for this information have been made by constituency groups and Members of the Legislature, no information has been forthcoming to date.

Since this information has not been forthcoming, it has been unclear as to the Administration's intent and commitment regarding the provision of services to people with disabilities within the Medi-Cal Program (Managed Care and Fee-for-Service).

Background—Information Regarding People with Disabilities Enrolled in Medi-Cal. In California there are **over 1 million people with disabilities enrolled in the Medi-Cal Program.** People who qualify for Medi-Cal based on disability (SSI determination) are very heterogeneous; there is no one category that can be labeled as "the disabled".

People with disabilities have a wide variety of physical impairments, mental health, and developmental conditions, and other chronic conditions. In addition, as noted by the California Healthcare Foundation, these individuals:

- Are increasing in numbers and account for a growing percentage of Medi-Cal expenditures;
- Have limited access to primary and preventive care services;
- Use a complex array of specialty, ancillary, and supportive services;
- Are much more likely to have multiple chronic or complex conditions;
- Require *personalized* durable medical equipment;
- Often need additional supports to access services (e.g., transportation, interpreters, and longer appointments); and
- Experience a dizzying array of physical, communication, and program barriers.

About 20 percent (280, 000 or so people) of the Medi-Cal enrollees with disabilities are enrolled in the Medi-Cal Managed Care Program. The vast majority of those enrolled in managed care reside in one of the five, not-for-profit County Organized Healthcare Systems (covering eight counties). County Organized Healthcare Systems (COHS) require the "mandatory" enrollment of all Medi-Cal individuals. However, some people with disabilities who reside in counties with the Two-Plan Model (twelve urban counties) or Geographic Managed Care Model (Sacramento and San Diego) have voluntarily enrolled in Managed Care.

Questions. The Subcommittee has requested the Medi-Cal Program to respond to the following questions.

1. Medi-Cal, Please provide a date as to when this information will be provided.

2. Medi-Cal, How is the state presently ensuring that people with disabilities are receiving appropriate health care under the current system, including individuals receiving services in the Medi-Cal Fee-For-Service Program?

3. Medi-Cal, When will additional work be completed in this area? (The Medi-Cal Program was provided resources in the Budget Act of 2005 and 2006 for specific follow-up work in this area.)

2. Medi-Cal Fee-For-Service Rate Report was Due March 15, 2007

Issue. The Administration was to provide the Legislature with a report by no later than March 15, 2007 regarding a comparison of Medi-Cal Fee-For-Service reimbursement rates to the reimbursement rates paid under the federal Medi-Care Program, *excluding* rates applicable to dental services, pharmacy, federally qualified health clinics and rural clinics, and health facilities. These entities were excluded for a variety of reasons.

The intent of the report was to have an up-to-date comparison of reimbursement rates in core procedure codes, such as physician's services, office visits, and many others.

Where applicable, the report was to provide an estimate of the cost for increasing all Medi-Cal reimbursement rates that are comparable to the federal Medicare Program rates, up to a minimum of 50 percent of the rate paid under the federal Medicare Program. This estimate was to take into account increases necessary to keep managed care rates comparable.

In addition, for those procedures reimbursed only under the Medi-Cal Program, a prioritized listing of services and procedure codes, as determined by the DHS, that may merit adjustment based on a review by the department or a contractor, was to be included in the report.

In response to Subcommittee staff inquiries regarding the status of the report, Administration representatives stated that changes to a draft report needed to be done to ensure clarity regarding the factual contents of the report. **However, a definitive date as to when the report will be provided to the Legislature has not yet been obtained.**

Background—Budget Act of 2006. Through passage of the Omnibus Health Trailer legislation which accompanied the Budget Act of 2006, the Legislature provided $300,000 ($150,000 General Fund) for the DHS to hire a contractor and report back to the Legislature by no later than March 15, 2007 regarding a report on Medi-Cal Fee-For-Services Rates.

The language contained in the trailer bill regarding the contents and timing of the report was voted out of the Joint Budget Conference Committee on a 6-0 vote and was agreed to by the Administration.

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHCS, When will the Legislature specifically be provided the report?

3. Expansion of the Newborn Hearing Screening Program

Issue. The Department of Health Care Services (DHCS) is requesting an increase of $1.9 million ($1.5 million General Fund) to expand the existing Newborn Hearing Screening Program. All of these funds would be used for external contracts.

This augmentation is requested in response to Assembly Bill 2651 (Jones), Statutes of 2006, which requires that all general acute care hospitals with licensed perinatal services participate in the Newborn Hearing Screening Program, and screen the hearing of all newborns delivered in these facilities.

Of this requested increase: **(1)** $1.5 million would be used to contract with the Hearing Coordination Centers; **(2)** $300,000 would be used to purchase services to track and monitor all infants participating in the Newborn Hearing Screening Program; and **(3)** $100,000 (one-time only) would be used to revise, produce and distribute informational and educational materials used by the program. **The ongoing cost components are described below:**

- $1.5 million for the Hearing Coordination Centers (Centers). The Centers are presently funded at $2.0 million to provide existing services. The $1.5 million in additional funding would support staffing and infrastructure to provide technical assistance and consultation to 100 new hospitals to (1) familiarize them with the Newborn Hearing Screening Program inpatient screening provider standards; (2) assist them in developing a program that meets the standards; (3) review and assist them in developing a program that meets the standards; and (4) perform site visits to assure that program standards are being met.

- $300,000 for Tracking and Monitoring. This component is presently budgeted at $300,000 per year for data management. An increase of $300,000 (becomes $225,000 in the out-years) is proposed for tracking and monitoring based on the number of hospital facilities, outpatient screening providers, users, and infants screened. With the expansion there will be almost twice as many hospitals and over 137,000 additional infants.

Background—Newborn Hearing Screening Program. The purpose of this program, originally established through Chapter 310, Statutes of 1998, is to provide a comprehensive coordinated system of early identification and provision of appropriate services for infants with hearing loss. The major focus of the program is to assure that every infant, who does not pass a hearing test, is linked quickly and efficiently with the appropriate diagnostic and treatment services and with the other intervention services needed for the best possible outcome.

Presently, all California Children's Services (CCS) approved hospitals offer hearing screenings to all newborns born in their hospitals. Assembly Bill 2651 (Jones), Statutes of 2006, expands this screening to all general acute care hospitals with licensed perinatal services. About 400,000, or over 70 percent of the total births in California, are presently served. Funding is provided to separately reimburse hospitals for the testing of infants whose care is paid for by the Medi-Cal Program.

The program also uses geographically-based Hearing Coordination Centers (Centers)—four of them in five services areas. **The function of the Centers includes the following:**

- Assisting hospitals to develop and implement their screening programs;
- Certifying hospitals to participate as screening sites;
- Monitoring programs of the participating hospitals;
- Assuring that infants with abnormal heari ng screenings receiv e necessary follow-up including re-screening; and
- Providing information to families and provider s so they can more effectively advocat e with commercial health plans to access appropriate treatment.

Research shows infants with hearing loss, who have appropria te diagnosis, treatment and early intervention services initiated before si x months of age, are lik ely to develop nor mal language and communication skills.

Subcommittee Staff Recomm endation--Approved. No iss ues hav e been raised regarding this issue. It is recommended to approve as proposed.

Questions. The Subcommittee has requested th e Administration to respond to the following questions.

1. DPH, Please provide a brief overview of the program and the need for the budget request.

4. Dispensing of Hearing Aids within the Medi-Cal Program

Issue. The Subcommittee is in receipt of a request to compel the Medi-Cal Program to improve access to hearing aids for Medi-Cal enrollees by contracting, on a bid or negotiated basis with a hearing aid purchasing intermediary.

Existing state statute, as contained in Section 14105.3 of Welfare and Institutions Code, provides the Medi-Cal Program with among other things, the ability to contract with manufacturers, distributors, dispensers, or suppliers of appliances, durable medical equipment, medical supplies, and other product-type health care services. However to-date, the Medi-Cal Program has not fully exercised their authority as provided under the statute. Specifically, the Medi-Cal Program could contract (including multiple contracts) either through a competitive bid process, or on a negotiated basis, to purchase hearing aids and has not.

In discussions with the Department, it is evident that savings could be achieved within the program by contracting to purchase hearing aids. It would leverage the state's volume purchasing capability under the Medi-Cal Program and improve access to hearing aids and hearing aid related services. The Department has been hesitant to contract for hearing aids primarily because it is a small area in relation to all of the other medical product/supply areas. It should be noted that the Department was provided positions through the Budget Act of 2002, when Section 14105.3 was amended to provide them with broader contracting authority.

There is interest by hearing aid provider businesses to have the DHCS work with them to contract with the state to purchase hearing aids in quantity at reduced prices. As such, they are requesting a modification to existing statute, as shown below, to compel the DHCS to work towards this effort. The proposed modification to existing statute would be as follows:

Amend (underlined section) Section 14105.3 (b) of Welfare & Institutions Code as follows:

> (b) The department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of appliances, durable medical equipment, medical supplies, and other product-type health care services and with laboratories for clinical laboratory services for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service. This subdivision shall not apply to pharmacies licensed pursuant to Section 4080 of the Business and Professions Code.
>
> <u>(1) In order to ensure and improve access of Medi-Cal hearing aid beneficiaries to both hearing aid appliances and provider services, and to assure that the state obtains the most favorable prices, the department shall by January 1, 2008 enter into exclusive or nonexclusive contracts on a bid or negotiated basis for purchasing hearing aids.</u>

Background—Hearing Aids. Medi-Cal's hearing aid professional services may include assessment, exam, fitting, screening, evaluation and impressions. Prior treatment authorization is required for the purchase of hearing aids, and professional services.

Medi-Cal reimbursement for hearing aids, accessories and related services are to be paid at the usual charges made to the general public, not to exceed a maximum level. For a provider to be reimbursed by Medi-Cal, a "Treatment Authorization Request" (TAR) must be submitted and approved by a Medi-Cal Field Office. Often times when a Medi-Cal provider must submit a TAR for payment, they encounter delayed payment or may be inadvertently denied payment. This occurs because the Medi-Cal Fiscal Intermediary (reimbursement and claims processing system) has no access to the TAR system. As such, there can be delays and problems with reimbursement.

Some constituency interests believe this has been a contributing factor to the drop-off in hearing aid providers. Based on information obtained from the Medi-Cal Program, between 2001 and 2006, the number of Medi-Cal Program and California Children's Services (CCS) Program hearing aid providers (and audiologists) will to utilize these two public programs has deteriorated.

Subcommittee Staff Recommendation—Adopt Trailer Bill Language. Based on information obtained from constituency groups, there does appear to be compelling reasons for the Medi-Cal Program to seek contracts in this area. The proposed trailer bill language would require the DHS to proceed with these efforts. Though existing statute does enable the DHCS to contract now, there has been reluctance on their part to venture into the smaller product areas.

Questions. The Subcommittee has requested the Medi-Cal Program to respond to the following question.

1. Medi-Cal, Please comment regarding the potential for contracting for hearing aids.

5. Establishing the Department of Public Health—Follow Up to March Hearing

Issues--Prior Subcommittee Hearing Follow-Up & Finance Letter. In the March 5th Subcommittee hearing, considerable discussion was had regarding the division of the Department of Health Services into two separate departments pursuant to Senate Bill 162 (Ortiz), Statutes of 2006. **The key issues discussed in this March 5th hearing were as follows:**

- The proposed organizational structure of the new Department of Public Health (DPH), including the newly proposed "programmatic centers", as well as all Administrative functions;
- Clarification of positions to be established and reclassified as part of the new proposed structure for the DPH;
- The costs associated with the reorganization that must be absorbed; and
- The need for overall transparency in the establishment of the new DPH.

At the March 5th hearing, the Subcommittee **(1)** questioned the costs to be incurred due to the split; **(2)** directed staff to craft fiscal accountability language; and **(3)** directed staff to see if any special fund resources would be available (without fee increases) to support some of the positions being transferred to the DPH. **Therefore, today's hearing will provide follow-up recommendations for these areas.**

The Subcommittee is *also* in receipt of a Finance Letter which proposes a series of adjustments to the Governor's January budget. The Administration states that the proposed adjustments are technical corrections to generally **(1)** realign programs between the two departments; **(2)** adjust the fiscal impact of redirecting and reclassifying positions; **(3)** reallocating distributed administration costs relative to the split; (4) make adjustments for salary savings and related matters. **The technical Finance Letter adjustments are as follows.**

- Aligns position calculation adjustments to salary savings. The Department of Health Care Services salary savings position level will now be 6.6 percent (was 8.2 percent). The Department of Public Health's salary savings position level was at 5.1 percent and it will now be at 6.6 percent—the same level for both departments. The Administration states that salary savings calculations should have been applied equitably to the department's position authority, and this technical correction will do that. Therefore, 51.5 positions, overall, were reduced from DPH to reflect this change.
- Makes adjustments for the federal pass-through of funds from the Department of Health Care Services to the Department of Public Health. The Administration states that these adjustments will ensure that federal Medicaid (Title XIX Funds) can be received and expended by the DPH. Additionally, it will ensure that federal Title V funds, which are awarded to the DPH, can be received and expended by the DHCS.
- Makes adjustments for reimbursement authority to allow the Department of Health Care Services to enter into Interagency Agreements with the Department of Public Health for information technology and audit services.
- Makes a correction to reflect that the Seasonal Agricultural Worker and the Rural Health

Services clinic programs are within the Department of Health Care Services, not within the DPH.

- Makes corrections for the payment of rent for the Department of Public Health.
- Reflects a correction for a baseline error within the Child Health Safety Fund for the Department of Public Health.

The Legislative Analyst's Office (LAO) reviewed the Finance Letter adjustments, along with Subcommittee staff, and no issues have been raised; however, the Administration is requesting a technical adjustment to their Finance Letter as discussed below.

Background--Summary of the Organizational Structure for the New Department of Public Health: As discussed in the March 5th Subcommittee hearing, there are two key components to the proposed organizational structure of the new department—**(1)** creation of new "programmatic centers" and **(2)** development of a traditional administrative structure, for example a Director's Office, personnel, and fiscal, that does not now presently exist.

As part of the creation of the new department, the Administration has reorganized its structure into five "programmatic centers". This programmatic center structure was *not* part of the enabling legislation. The Administration contends that this proposed structure actually flattens the organization overall and will lead to more direct accountabilities.

Proposed Programmatic Organization ("Centers")	Positions Added for Each
1. Center for Chronic Disease Prevention & Health Promotion • Chronic Disease & Injury Control • Environmental & Occupational Disease Control	**6 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Associate Analyst Support Staff (2)
2. Center for Infectious Disease • Office of AIDS • Communication Disease Control	**6 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Associate Analyst Support Staff (2)
3. Center for Family Health • Women, Infant & Children Supplemental Food • Maternal, Child, and Adolescent Health • Genetic Disease	**4 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Support Staff
4. Center for Environmental Health • Food, Drug & Radiation Safety • Drinking Water & Environmental Management	**6 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Associate Analyst Support Staff (2)
5. Center for Healthcare Quality • Licensing & Certification • Laboratory Field Services	**3 Total Positions** Deputy Director Assistant Deputy Support Staff
Total Positions for the Centers	**25 Positions**

In addition to the above programmatic centers, the new DPH needs to establish an administrative structure, including an Office of the Director, Information Technology Services, Office of Legal Services, Internal Audits, Personnel Administration, Office of Civil Rights, Fiscal Management, and other related administrative functions.

In order to establish the administrative structure, a total of 57 positions are to be used. The chart below provides a summary of the positions to be reconfigured.

Department of Public Health: Summary of Positions for Restructuring	**Positions**
1. New Programmatic Centers	25 Positions
2. Administrative Structure for New Dept.	57 Positions
Total Positions to be Reconfigured	**82 Positions**

Subcommittee Staff Recommendation. **First**, it is recommended to approve the Administration's Finance Letter that makes a series of technical adjustments to their January budget to divide the department as required. **Second**, it is recommended to adopt a technical funding adjustment to the Administration's Finance Letter which they are requesting. Specifically, the federal funding and reimbursement funds amounts need to be adjusted to reflect a fund shift that was not accounted for in the Finance Letter. **No issues have been raised regarding these two recommendations.** The LAO concurs with them.

Third, it is recommended to approve two pieces of language, crafted by the LAO after discussions with staff of both houses, to assure fiscal accountability and transparency. **The two pieces of language are as follows:**

- **Add Section 13343 to the Government Code as follows:**

(a) The Department of Finance shall revise the Governor's budget documents display for the state Department of Public Health to include a display of the supplemental local assistance appropriation summary, including actual past year, estimated current year, and proposed budget year expenditures for each branch in the department.

(b) No later than January 20, the Department of Public Health shall annually provide expenditure information for actual past year, estimated current year, and proposed budget year for the following: (1) Proposition 99, (2) statewide AIDS/HIV programs, (3) AIDS Drug Assistance Program, (4) Title V Maternal, Child, and Adolescent Health Grant funds, (5) Women, Infants, and Children Supplemental Nutrition Program, (6) Health Resources and Services Administration Bioterrorism Grant funds, and (7) Centers for Disease Control and Prevention Public Health Emergency Preparedness Grant funds.

- **Supplemental Report Language**

No later than January 20, the Department of Public Health (DPH) shall annually provide a vacancy report effective December 1 of the previous calendar year to the Joint Legislative Budget Committee and the chairs of the fiscal committees in both houses. This report shall identify both filled and vacant positions within the DPH by center, division, branch, and classification.

Fourth, it is recommended to restore funding for a **total of 12 positions** that have been redirected due to the department's split. Eleven of these positions are within the DPH and one is within the DHCS. This restoration can be done using existing special fund reserves without needing any fee increases. This funding restoration would help mitigate the adverse programmatic effects of redirecting staff (mainly from program to administrative functions) to establish the new department. **The positions and their funding sources are as follows:**

Branch	Description	Cost & Fund Source
Food, Drug & Radiation	Associate Health Physicist	$96,000 Radiation Control Fund
Food, Drug & Radiation	Associate Health Physicist	$96,000 Radiation Control Fund
Drinking Water—Field Ops	Associate Sanitary Engineer	$112,000 Safe Drinking Water
Drinking Water—Field Ops	Office Technician	$47,000 Safe Drinking Water
Environmental Control	Associate Safety Engineer	$112,000 Childhood Lead Prevention
Communicable Disease	Office Technician	$47,000 Clinical Lab Improvement
Children's Medical (Dept of Health Care Services)	Management Services Technician	$55,000 Clinical Lab Improvement
Women, Infants & Children	Office Technician	$47,000 Federal Funds
Genetic Disease	Associate Governmental Program Analyst	$77,000 Genetic Disease Testing
Food, Drug & Radiation	Program Technician II	$50,150 Radiation Control Fund
Drinking Water	Office Technician	$53,759 Safe Drinking Water
Primary Care & Family Health	Associate Governmental Program Analyst	$80,166 Federal Funds
TOTAL		**$873,075**

A thoughtful and deliberate transition from the current structure to the new reorganization configuration is crucial to the success of the reorganization. **A poorly executed reorganization could potentially handicap the new departments unnecessarily.** Senate Bill 162 (Ortiz) contained legislative intent language to have the department split be budget neutral, resulting in no increases to the General Fund or other state funds. However, it was not known at that time what the impact of the reorganization would be—57 new positions needed for administration and the programmatic centers, the need for change management consultants and $5 million in expenditures that would have to be absorbed. Adoption of this recommendation would *not* result in new fees or fee increases or affect General Fund expenditures. It would very modestly mitigate the adverse programmatic effects of redirecting staff to establish the new department.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. **DPH**, Please provide a *brief* update regarding the status of having a fully operational Department of Public Health as of July 1, 2007.
2. **DPH**, Please provide a brief summary of any *key* fiscal changes being proposed.

6. Response to Subcommittee: Discussion of Licensing & Certification Fees

Prior Subcommittee Hearing (April 16th). As discussed in the Subcommittee's April 16th hearing, the Administration is proposing to substantially increase the fees paid by health care providers to be licensed and certified by the Department of Public Health. The Administration's proposed fee increases are attributable to several factors, including the following:

- Administration's proposal to eliminate $7.2 million General Fund from the program and shift these expenditures to the L&C Fund, and thereby increase L&C fees;
- L&C Division staff increases to expand regulatory and oversight functions, L&C survey work, complaint follow-up, administrative support and chaptered legislation;
- Baseline adjustments for labor and personnel, such as employee compensation and retirement, as well as operating expenses; and
- Pro rata adjustment for the L&C Division. (This is a technical adjustment that reflects the Divisions share of the Department of Public Health's portion of funding for pro rata.)

In the April 16th hearing, the Subcommittee took actions regarding appropriations for increased L&C Division staff to expand regulatory and oversight functions. In addition, the Subcommittee placed $7.2 million (General Fund) on its "check list" for consideration at the May Revision hearing (May 22nd). **However, the over arching issue of fee increases for the various facilities was left "open" to continue conversations with constituency groups and the Administration, and to obtain additional information overall.**

Issues. Several specific issues regarding the calculation of the L&C Fees are presented for discussion at this hearing. These issues are as follows:

1. Unspent Current Year (2006-07) L&C Funds. According to information recently obtained from the Administration, there will be about $7 **million (L&C Fund) in *unspent* Licensing and Certification Funds for 2006-07 due to salary savings** (i.e., existing, funded positions being vacant for a period of time). As such, there is a reserve in the Licensing and Certification Fund that could be used on a *one-time only basis* to *offset* some L&C Fee increases for the budget year. The Legislative Analyst concurs with this observation.

   Specifically, the Legislature approved about 155 total positions last year (i.e., 2006-07) to begin to restore the L&C Division back to its 2000-2001 staffing level. Recall, as referenced in the April 16th hearing, that the Administration had significantly reduced the number of Health Facility Evaluator Nurse positions during 2003, 2004 and 2005, in an effort to meet so called "unallocated" General Fund reductions, even though facilities were indeed paying fees for services; however, these fees were deposited at that time into the General Fund (i.e., no special fund yet established).

   Though the L&C Division has been assertively recruiting and hiring for the new positions provided by the Legislature in 2006-07, as well as trying to keep existing professional and clinical staff positions filled, there are vacant positions for which L&C Fees are being

paid to support by the various health care facilities. This is generally how the unspent L&C Funds have materialized.

Therefore, Subcommittee staff recommends to recognize $7 million (L&C Fund) of the current-year unspent amount and to utilize these funds on a *one-time only basis* in the budget year to offset L&C Fee increases. Specifically, it is recommended for this one-time only adjustment to be applied in the same manner as was the General Fund subsidy provided by the Legislature through the Budget Act of 2006.

2. Legislative Analyst's Office Recommendation—$400,000 Budget Year Adjustment for Salary Savings. Upon the collective review of the Administration's budget change proposals which were adopted by the Subcommittee in the April 16th hearing, the LAO is recommending a technical adjustment to reduce by $400,000 (Licensing and Certification Fees) to reflect natural salary savings that will occur as part of the hiring process.

   Specifically, the Subcommittee approved an overall increase of 32 Health Facility Evaluator Nursing positions for the L&C Division through the various budget change proposals. The Administration's budget assumes that all of these positions will be hired and filled by July 1, 2007. Since this will *not* occur, the LAO recommends a technical adjustment that assumes a *one-time only savings* which assumes that a few of the positions will be filled by October versus July. This adjustment would be applied across those health care facilities for which the said positions were originally applied to in the budget change proposal. This adjustment would very slightly reduce the L&C Fees to be paid by some of the health facilities.

   The Assembly Subcommittee #1 approved this LAO adjustment. **Subcommittee staff recommends approval of the LAO adjustment to conform to the Assembly action.**

3. "Bundled" Groupings of Facilities by Administration Need to be Unbundled. Through discussions between the Administration and clinic constituency groups, it has came to light that various "clinics" are being *grouped* together ("bundled") for purposes of calculating L&C fees, *instead of* spreading the costs of the L&C Division services as applicable, across the *individual* clinic facility types (such as Psychology Clinics, Primary Clinics, Dialysis Clinics, Specialty Clinics—Rehabilitation (for profit and not-for-profit), and Specialty Clinics—Surgical and Chronic. Existing statute (Section 1266 of the Health & Safety Code) directs the Administration to calculate L&C Fees by type of facility as noted, including individual clinic facility type. It should be noted that the Administration has been open about discussing this nuance with clinic provider groups and Subcommittee staff.

   Based on preliminary data calculated by the Administration at the request of the Subcommittee, if the Administration re-calculated the L&C Fees by individual clinic facility types, as noted above, the L&C Fees for community clinics would be considerably reduced.

   Subcommittee staff recommends for the Subcommittee to direct the L&C Division to *re-calculate* the clinics L&C Fees by individual clinic facility types.

Subcommittee staff believes that this is the intent of existing statute as contained in Section 1266.

4. Other L&C Revenues. Through discussions with the Administration, it has come to light that some revenues, though not substantial, are being collected for deposit into the L&C Fund that are not presently being recognized through the L&C Fee methodology as an offset to the L&C Fees charged to facilities. Specifically, revenues obtained by the L&C Division for **(1)** new, initial surveys; **(2)** changes of ownerships—"CHOWs"; and **(3)** late payment fees made by facilities that did not pay their L&C Fees on time.

   Subcommittee staff recommends adopting "placeholder" trailer bill language that would capture these revenues as a part of the overall L&C Fee methodology process as contained within Section 1266 of the Health and Safety Code. The exact language has not yet been fully crafted but Subcommittee staff recommends adopting this in concept in this hearing, with follow-up discussions to be had at the Subcommittee's May Revision hearing on May 22nd.

5. Budget Bill Language to Have the DOF's Office of State wide Audits & Evaluations (OSAE) Review L&C Methodology. The methodology used to compute the L&C Fees has many nuances and complexities. For example, there is the diversity of the facilities being surveyed; different types of workload requirements for the different facilities; how L&C staff allocate and charge their timekeeping system to develop data to then apply this information back across individual facility types for fee calculations; technical adjustments regarding salary savings and pro rata; and many other aspects.

   The L&C Division is doing its best to identify issues, work with constituency groups, and to check and recalculate figures. **However, because the L&C Division has a substantial workload, and an independent entity would offer a different perspective, Subcommittee staff recommends adopting the following Budget Bill Language for an OSAE review.**

   Item 4265-001-3098 (Department of Public Health, State Support, L&C Fund).

   > "It is the intent of the Legislature that the Office of State Audits and Evaluations (OSAE) review, document, and where appropriate evaluate, the various aspects of the methodologies used by the Department of Public Health (DPH) in the development and calculation of fees for the payment of services provided by the Licensing and Certification Division. The OSAE shall provide their analysis to the DPH by February 1, 2008. This analysis will be available to the public within the standard OSAE release period. The DPH shall reimburse the OSAE for their services in an amount not to exceed $150,000 (Licensing and Certification Funds) and this funding shall be identified within the existing appropriation by the DPH.

6. Keep Issue Open Pending the May Revision. As noted previously, in its April 16th hearing, the Subcommittee placed $7.2 million (General Fund) on its "check list" to be applied to reducing the L&C Fees. It is recommended that if constituency groups have additional issues regarding the L&C Fees to provide them in writing to the Subcommittee as soon as feasible, but by no later than May 11th, for potential consideration at the May

Revision hearing.

Additional Backgro und—Administration's Proposed L&C Fee Increases (Jan uary 10th). The chart below summaries the Admini stration's propos ed L&C fee increases by health facility type.

Administration's Proposed Fee Schedule

Facility Type	Fee Category	2006-07 Fee (Budget Act 2006)	Administration's 2007-08 Fee	Difference (+/-)
Referral Agencies	per facility	$5,537.71	$6,798.11	$1,260.40
Adult Day Health Centers	per facility	4,650.02	4,390.30	-259.72
Home Health Agencies	per facility	2,700.00	5,568.93	2,868.93
Community-Based Clinics	per facility	600.00	3,524.27	2,924.27
Psychology Clinic	per facility	600.00	3,524.27	2,924.27
Rehabilitation Clinic (for profit)	per facility	2,974.43	3,524.27	549.84
Rehabilitation Clinic (non-profit)	per facility	500.00	3,524.27	3,024.27
Surgical Clinic	per facility	1,500.00	3,524.27	2,024.27
Chronic Dialysis Clinic	per facility	1,500.00	3,524.27	2,024.27
Pediatric Day Health/Respite	per bed	142.43	139.04	-3.39
Alternative Birthing Centers	per facility	2,437.86	1,713.00	-724.86
Hospice	per facility	1,000.00	2,517.39	1,517.39
Acute Care Hospitals	per bed	134.10	309.68	175.58
Acute Psychiatric Hospitals	per bed	134.10	309.68	175.58
Special Hospitals	per bed	134.10	309.68	175.58
Chemical Dependency Recovery	per bed	123.52	200.62	77.1
Congregate Living Facility	per bed	202.96	254.25	51.29
Skilled Nursing	per bed	202.96	254.25	51.29
Intermediate Care Facility (ICF)	per bed	202.96	254.25	51.29
ICF-Developmentally Disabled	per bed	592.29	701.99	109.70
ICF—DD Habilitative, DD Nursing		1,000 per facility	701.99 per bed	3,211.94 per facility
Correctional Treatment Centers	per bed	590.39	807.85	217.46

As required by statute, the Adm inistration published a list of the above *estimated* fees on February 1, 2007 and has prov ided additional backgr ound to several constituency groups regarding how the fees are calc ulated. However, since this is the first year for implementation of a new methodology, s everal organizations a re not clear on how t heir particular health care category of fees was fully determined.

The Administration's proposed eliminati on of Ge neral Fund support and shifting solely to fees is contrar y to the agreem ent crafted through the Budget Act of 20 06. The Legislative Analyst's Office made this notation in public testimony provided in the Monday, April 16th hearing. The Administration clearly made a policy choice in the development of the Governor 's January budget by accelerating the phase-in of the fee schedule.

7. Implementation of Senate Bill 1379 (Perata and Ortiz) Regarding Biomonitoring

Issue. The Administration proposes a gradual, five-year phase-in of Senate Bill 1379 (Perata and Ortiz) which establishes the groundbreaking, comprehensive CA Environmental Contaminant Biomonitoring Program (Biomonitoring Program). **Specifically, the Administration proposes total expenditures of about $1.5 million (General Fund) as shown in the table below. Most of this funding—about $1.2 million—would be provided to the Department of Public Health (DPH).** (Only the DPH appropriation will be discussed by this Subcommittee. The other two appropriations are within the purview of Subcommittee #2.)

The proposed $1.2 million (General Fund) for the DPH would be used to hire three positions and to contract with the federal Centers for Disease Control (CDC). Two of the positions—a Research Scientist III and an Associate Governmental Program Analyst—would located in the Environmental Health Investigations Branch. The other position— a Research Scientist III (Chemical) would be in the Environmental Health Laboratory Branch. All of the positions would be located at the state's Richmond Laboratory campus.

These staff would be used to: (1) develop a detailed outline of the study design and plans for participant recruitment; **(2)** prepare draft versions of participant questionnaires; **(3)** facilitate the initial meeting of the Scientific Guidance Panel; and **(4)** develop a candidate chemical list and evaluation of appropriate matrix types (blood and/or urine). Laboratory outcomes would include selecting the most appropriate laboratory equipment, evaluating half-lives of candidate chemicals, and determining the method detection limits to allow meaningful measurements of chemicals of concern.

The $847, 000 (General Fund) contract would be with the federal CDC to provide for specialized consultative and technical services to assist with: **(1)** developing a study design that will provide a representative sample of California's diverse population; and **(2)** data management procedures for the Biomonitoring Program that will accommodate California-specific content and correspond to those presently used by the federal CDC.

The Administration states that implementation of the Biomonitoring Program will be an intense collaborative effort among several state departments, as noted below, as well as with the University of California and the federal CDC.

Table: Administration's Proposed Funding for Implementation of SB 1379 (Perata and Ortiz)

State Department	2007-08 Funding	Summary Description
Department of Public Health	$1.2 million (General Fund)	3 Positions, as discussed above and $847,000 to contract with the federal CDC.
Office of Environmental Health Hazard Assessment (OEHHA)	$167,000 (General Fund)	3 Positions primarily to support the Science Guidance Panel, develop list of candidate chemicals including a database, and collaborate with others regarding environmental exposures.
Department of Toxic Substances Control (DTSC)	$123,000 (General Fund)	1 Position to plan laboratory purchases, organize the quality assurance and quality control systems for the labs for use in human monitoring.
Administration's Total	**$1.5 million**	

Background—Senate Bill 1379 (Perata-Ortiz), Statutes of 2006. Senate Bill 1379 created the California Environmental Contaminant Biomonitoring Program (Biomonitoring Program) to address the new science of Biomonitoring of the human environment through biospecimens such as urine and blood for the presence of chemicals of concern.

Scientific breakthroughs over the past decade in conjunction with the advances in genome projects and laboratory sciences allow scientists to measure the impact of chemicals on human health. New scientific findings reveal that smaller amounts of chemicals are more likely to disrupt the chemical conversations in our bodies that produce chronic diseases later in life starting with chemical contaminations in utero.

When fully implemented the Biomonitoring Program will do the following:

- Systematically collect, analyze, and archive blood and other human biological specimens from a statistically valid, representative sample of California's population;
- Mesh with existing federal Centers for Disease Control (CDC) Biomonitoring program; and
- Create a reliable database to be used as a foundation for future health-based scientific research.

The Biomonitoring Program will provide data allowing state scientists and regulators to evaluate existing environmental programs, identify and prioritize emerging environmental health issues, and provide a solid scientific basis for future policy and budgetary decisions.

Specifically, the findings from the Biomonitoring Program will be used to:

- Determine baseline levels of environmental contaminants in Californian's blood and other biological samples;
- Establish trends in levels of these contaminants in people over time; and
- Assess the effectiveness of public health efforts and regulatory programs to reduce exposures of Californians to specific chemical contaminants.

Background—Scientific Guidance Panel. SB 1379 (Perata and Ortiz) **created a nine-member external Scientific Guidance Panel (Panel) comprised of experts from the University of California and other academic institutions.** Five members will be appointed by the Governor, two members by the Speaker of the Assembly and two members by the Senate Rules Committee. All members of the Panel are to be appointed by no later than September 2007.

Panel members are to include scientists with expertise in public health, epidemiology, biostatistics, environmental medicine, risk analysis, exposure assessment, developmental biology, laboratory sciences, bioethics, and maternal and child health with a specialty in breastfeeding.

The Panel will recommend chemicals for inclusion in the Biomonitoring Program using criteria specified in SB 1369, starting with substances in the federal Centers for Disease Control (CDC) Biomonitoring program. The Panel will be staffed and supported

by OEHHA, with assistance from the DPH, as noted in the table above.

Background—Federal Center for Disease Control (CDC) Efforts. The federal CDC has administered four Biomonitoring tests and has issued three reports on these results with a four report to be released in 2007. The federal CDC has made a commitment to California to provide technical assistance, as noted by the contract funds contained in the DPH proposal and some in-kind assistance as well.

Subcommittee Staff Recommendation—Accelerate the Administration's Phase-In. As noted above, the Administration proposes a phased-in approach over a five-year period, with 2007-08 being the first year and being solely devoted to planning efforts.

However, due to the urgent need to establish a state baseline survey in a timelier manner, and to proceed to collect biospecimens for analysis in this effort, **it is recommended to augment the DPH's proposal to include an additional $2.2 million (General Fund).**

This augmentation would be used to support 4 additional staff and to purchase laboratory equipment for the first year of implementation. Specifically, the following positions would be added:

- Research Scientist Supervisor II
- Research Scientist Supervisor I
- Two Research Scientist II's
- Associate Governmental Program Analyst

The laboratory equipment purchases would include the following, along with assorted technical supplies for the samples:

- Coupled Plasma Mass Spectrometry
- High Performance Liquid Chromatography
- Liquid Chromatography Tandem Mass Spectrometry
- Gas Chromatograph Mass Spectrometry

By hiring additional scientific staff now and by purchasing equipment, the DPH can work closer with the federal CDC and the Scientific Guidance Panel to establish laboratory protocols for the test design, field sampling and implementation. Specifically, staff would (1) conduct systems testing for the equipment and the range of chemicals and biospecimens to be tested; (2) validate analytical methodologies for chemical classes, (3) develop and test sample tracking and the archiving of protocols and procedures; (4) establish quality assurance and quality control in the laboratories; (5) write the standard operating procedures and manuals for the program; and (6) write the Memorandum of Understanding with the federal CDC for the training and laboratory implementation at the Richmond Laboratory.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DPH, Please provide a brief summary of the budget request and how the Administration envisions its five-year phase-in process.

8. Foodborne Illness—Request for State Staff and Research Funds

Issue. The Department of Public Health (DPH) proposes **an increase of $2.1 million (General Fund) to fund nine positions, $215,000 in equipment, and $670,000 in contract expenditures to investigate foodborne illnesses and foodborne outbreaks.**

The DPH states that an expansion of their existing efforts is needed because they do not have enough staff in their "Emergency Response" unit. The "Emergency Response" unit within the Food and Drub Branch of the DPH conducts investigations of foodborne illnesses. Presently there is one team consisting of two investigators and one scientist.

The requested nine positions would establish three *additional* teams of investigators, scientists, laboratorians, and administrative support to provide emergency outbreak investigation capacity. The positions would **: (1)** coordinate with local, state and federal health agencies; **(2)** investigate foodborne illness; **(3)** conduct environmental and trace back investigations; **(4)** provide effectiveness checks on recalled commodities; and **(5)** work with affected industries to implement preventive changes.

The requested positions include the following:

- Food & Drug Branch—7 Positions. These positions include an Associate Governmental Program Analyst, a Research Scientist II, a Research Scientist III, and a Research Scientist V, a Senior Food & Drug Investigator, and two Food & Drug Specialists.

    - *Associate Governmental Program Analyst*. This position would maintain current records of recalls and investigations in a web-based database accessible to county environmental and public health officers, act as a liaison with county health jurisdictions, provide logistical support during outbreaks and set-up educational conferences.

    - *Research Scientist II.* This position would provide food safety expertise and support during food emergency response activities, capture and analyze data relevant to the investigation (e.g., water sources and quality, grower identification, location of livestock), maintain and analyze databases from previous investigations and provide input into sampling plans.

    - *Research Scientist III.* This position would serve as scientific advisor and assist lower-level scientists providing food safety expertise during food emergency response activities, including developing sampling plans; reviewing, and summarizing investigative findings including trace back and trace forward information.

    - *Research Scientist V—Epidemiology.* This position would provide scientific leadership and epidemiologic expertise in food emergency response activities. Coordinates investigations, findings, and technical reports with federal, state, and local agencies. Plans, organizes, and directs complex studies to determine the causes of food contamination, evaluates each investigation and provides recommendations on improving emergency responses during intentional and unintentional food contamination events.

- *Senior Food Investigator.* This position would respond to and investigate outbreaks; review documents received during foodborne illness outbreaks; contact firms to obtain complete incoming product records; processing records; perform environmental investigations; conduct enforcement actions against non-compliant firms; determine disposition of products, and provide information to local health jurisdictions. (This is a peace officer classification.)

- *Food & Drug Program Specialists (Two).* These positions would develop standard investigation procedures and technical report formats; train industry on emergency response procedures for quickly providing information to the DPH during an investigation; train local health officers; coordinate notification to local health officers; analyze data to determine gaps in statute or regulations; and oversee complex enforcement actions against non-compliant firms. These positions will deploy during outbreak events. (These are peace officer classifications.)

- Food & Drug Laboratory Branch—2 Positions. These positions include a Research Scientist II, and a Research Scientist IV.

  - *Research Scientist II.* This position would perform laboratory testing of microbiological and toxicological agents in various food products, assist with training on collection and processing of laboratory samples, and enter and report data.

  - *Research Scientist IV.* This position would provide oversight for the laboratory testing of complex microbiological or toxicological agents in various food matrices; cooperate with and provide technical assistance to local agencies; and develop a training program for collection and processing of laboratory samples in foodborne illness outbreak investigations.

The DPH is also requesting the following additional resources in their request:

- $215,000 one-time only for the following:
  - $90,000 for three vehicles to be used by the investigators;
  - $40,000 for ongoing service contracts for maintenance and repairs to the vehicles, shooting range qualifications and training for peach officer classifications
  - $80,000 to purchase three portable satellite dishes for each field team and field grade laptops and satellite phones for each team member; and
  - $45,000 for laboratory equipment including freezers, refrigerators, incubators, microscope and autoclaves.

- $170,000 for communication systems operations as follows:
  - $90,000 for a contract for satellite imagery, aerial photography, and geographic information system (GIS) consultant to provide mapping and related services;
  - $50,000 to contract for technical consultation and services to support the emergency response early warning message system used to send health alerts and recall notices to manufacturers, retailers, local jurisdictions and other entities;

- $30,000 to contract for satellite communications/internet access to provide rapid communications at remote locations during environmental investigations; and
- $20,000 for laboratory supplies to purchase media, reagent powders, and disposable laboratory items such as Petri dishes and test tubes.

- $500,000 for an interagency agreement with University of California at Davis to support basic and applied research via Request for Proposals (probably two to four proposals/awards) in the following areas:
  - Conduct field studies to identify sources and vectors for E. coli in the environment and factors that affect the degree and extent of contamination of leafy greens in the field or in processing locations;
  - Identify mitigation strategies and technologies from planting to retail to reduce levels of E. Coli and other enteric pathogens both on and in leafy greens;
  - Determine the potential for the internalization of E. Coli into leafy greens tissue during the growth of plans and their subsequent harvesting, cooling, processing and transport;
  - Access the impact of transport practices and conditions on the survival and growth of leafy greens contaminated with E. Coli; and
  - Determine the ability of E. Coli and other enteric pathogens to survive composting processes as currently required and the potential for multiplication of the surviving pathogens in composted materials in the fields under optimal conditions.

Background—Responsibilities for Food Safety. The Food and Drug Branch within the Department of Public Health (DPH) is responsible for ensuring that certain foods are safe, are not adulterated, misbranded, or falsely advertised. As such, the DPH insects about 5,500 food processors and distributors in California, and also investigates outbreaks and incidents of foodborne illness.

The DPH has the authority to take all steps necessary to investigate foodborne illnesses, including inspecting food processors and obtaining and reviewing their records, reviewing growing and harvesting practices on farms, and embargoing contaminated products.

The DPH works closely with the Federal Food and Drug Administration (FDA) when investigating interstate foodborne illness outbreaks. To facilitate investigations, the DPH and FDA have created the **California Food Emergency Response Team (CalFERT)**, a specially trained group of federal and state staff with expertise in farm food safety investigations whose members jointly conduct investigations and share all related records and reports.

Other state departments involved in food safety include the following:

- CA Department of Food & Agriculture. This department ensures the safety of milk and dairy foods and meat and poultry products exempt from federal inspection.
- Department of Pesticide Regulation. This department samples fresh product to test for pesticide residue.

- University of California. The UC system conducts research on food safety issues.

Legislative Analyst's Office Recommendation—Reduce Proposal. The LAO recommends a reduction of $1.5 million (General Fund) by deleting five of the requested nine positions for the Emergency Response Unit, reducing related equipment and operating expenses, and eliminating the $500,000 that was to be provided to the UC system for research.

Specifically, the LAO would *approve* a Senior Food & Drug Investigator, a Food & Drug Specialist, a Research Scientist, and a Food & Drug Laboratory Scientist to add *one* more complete team (for an overall total of two teams versus the Administration's total of four teams), plus laboratory support.

The LAO states that since the DPH already regulates and routinely inspects food processors for sanitary conditions, and as such, it should be able to use this expertise on an as needed basis during outbreaks. In addition, the LAO does not believe that the other two positions for administrative and laboratory support are justified on a workload basis since only four positions would be added (i.e., under the LAO recommendation).

In addition, the LAO notes that $4.6 million in contributions were recently provided to the University of Davis to specifically conduct produce safety-related research regarding spinach and lettuce, as well as other produce and fruits.

Subcommittee Staff Recommendation—Modify Proposal. Subcommittee staff concurs with the LAO that the full DPH augmentation—to add three more teams in 2007-08—is not warranted based on workload.

However, it is recommended to approve the other requested Food & Drug Specialist position to **(1)** provide training to industry to establish procedures to enable firms to quickly provide information to the DPH in the event of contamination; **(2)** provide training to local health jurisdictions regarding outbreaks, reporting and follow-up; and **(3)** assist with tracking foodborne illness information (including distribution information and product recall information), and reporting writing as necessary.

Second, Subcommittee staff concurs with the LAO regarding the elimination of the $500,000 (General Fund) for the UC system to conduct research. Not only have contributions recently come forward specifically regarding produce research, the UC system has $280 million (General Fund) within their budget arena for research, as well as the ability to obtain federal funds, seek grants from foundations and to obtain other donations and contributions.

In addition, the state Department of Food and Agriculture has recently provided $500,000 to UC Davis for this purpose, and UC Davis also recently directed $150,000 within their budget towards leafy green research as well.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DPH, Please provide a brief update regarding the present status of investigations being conducted in California regarding the E. coli outbreaks related to Spinach and Lettuce.

2. DPH, What short-term steps are presently being taken by the DPH to help ensure public safety?
3. DPH, Please describe the budget request, including the need for the positions and the request for the research funds.
4. DPH, Please describe how the research funds will be awarded, and how the research findings will be available to the Legislature and the public?

D. ISSUES FOR DISCUSSION—Department of Mental Health (DMH)

1. Continued Implementation of Proposition 63---Request for State Support

Issue: The Subcommittee is in receipt of a Finance Letter requesting an augmentation of $17.8 million (Mental Health Services Fund) in 2007-08 for state support, primarily for the DMH, related to continued implementation of the Mental Health Services Act—Proposition 63 of 2004. The details of this request are provided below.

It should be noted that Mental Health Services Act local assistance funding, primarily provided to County Mental Health Plans, is *continuously appropriated* and is therefore, *not* subject to an annual budget appropriation. Whereas all state administrative activities *are* indeed subject to an annual budget appropriation.

Approval of the proposed $17.8 million (Mental Health Services Fund) augmentation for the DMH would bring the department's total state support expenditures for the Act's implementation to $34.4 million (Mental Health Services Fund), with a total of 174 positions. Table 1 below displays the DMH's *total* proposed state support budget for this program.

Table 1: Department of Mental Health's (DMH) Proposed State Support Funding

Area of Expenditure (MHSA Funds)	2005-06	2006-07 Proposed	Increase (Finance Letter)	Total 2007-08 (As of April)
Positions at DMH	89.5 positions	106 positions	109.2 positions	174 positions
Personal Costs	$6 million	$8.1 million	$7.7 million	$14.3 million
Operating Expenses	$1.4 million	$2.3 million	$2.1 million	$6.3 million
Subtotal	**$7.4 million**	**$10.4 million**	**$9.8 million**	**$20.6 million**
Contracts	**$9.4 million**	**$11 million**	**$8 million**	**$13.8 million**
TOTALS	**$16.8 million**	**$21.4 million**	**$17.8 million**	**$34.4 million**

(**Footnote**: It should be noted that the 109.2 positions consist of 63.2 new positions and conversion of 46 limited-term positions to permanent status. Therefore, the total number of positions for 2007-08 if the Finance Letter is approved would be 174 positions.)

Specifically, the augmentation of $17.8 million for state support would be used to fund the following:

- A total of 109.2 positions which consist of 63.2 new positions and conversion of 46 limited-term positions to permanent status for expenditures of about $7.7 million (Mental Health Services Act Funds); (Please see **Table 2** *below* for more specifics.)
- $8 million (Mental Health Services Act Funds) for consulting and professional contracts; and
- $2.1 million (Mental Health Services Act Funds) in operating expenditures, including $813,000 for in-state travel and $39,000 for out-of-state travel.

Table 2, below, provides a display of the increase of 109.2 positions as proposed in the Finance Letter. These positions, coupled with existing DMH positions, would bring the total for 2007-08 for implementation of the Mental Health Services Act to 174 positions (as shown in Table 1, above). As noted in the table below, 63.2 positions within the DMH would be "new" positions.

Table 2—Summary of *Finance Letter* Augmentation 0f 109.2 Positions

Division/Branch	Number of Positions
1. Department of Mental Health (DMH)	**100.2 Total Positions**
• Mental Health Services Act—Program Support	4.0
• Systems of Care Unit	15.2
• Mental Health Services Act Unit	9.0
• Office of Multicultural Services	2.0
• Information Technology	14.0
• Administrative Support	19.5
Subtotal "New" Positions for DMH	**63.2 Positions**
• Existing Limited-Term Converting to Permanent	37.0 Positions
2. Mental Health Services Act Oversight Commission (OAC)	**9.0 Total Positions**
• Existing Limited-Term Converting to Permanent	6.0
• Re-establish position authority (Technical adjustment)	3.0

The DMH states that the continued implementation of the Mental Health Services Act (Act) requires additional resources in the following areas:

- Staff and support to continue an extensive and enhanced statewide stakeholder process;
- Staff for ongoing policy and program design and implementation including the development of program requirements for all Act components and the corresponding regulations;
- Staff for ongoing local Act integrated plan reviews and related technical assistance to counties;
- Staff for the DMH's Office of Multicultural Services for ongoing and increasing activities to further infuse cultural competence throughout implementation of the Act for an increasingly diverse California and to provide effective performance outcomes and accountability;
- Staff for the Mental Health Services Oversight and Accountability Commission (OAC);
- Staff for the CA Mental Health Planning Council; and
- Administrative support for the DMH to support new staff and expanded functions.

Background—Mental Health Services Oversight & Accountability Commission (OAC). The Mental Health Services Oversight and Accountability Commission (OAC) is established to implement the Act and has the role of reviewing and approving certain county expenditures authorized by the measure. Members of the OAC are appointed by the Governor, Speaker of the Assembly, and the Senate Rules Committee.

Through the Executive Director of the OAC (Ms Jennifer Clancy), the OAC adopted a two-year work plan that provides a road map to effectively implement the OAC's statutory responsibilities. **Key responsibilities of the OAC include the following:**

- Provide the vision, leadership, and oversight necessary to prevent mental illness from becoming severe and disabling and transform the public and private systems charged with providing services, care, and support to California's living with mental illness.
- Ensure public *transparency* in all aspects of the Mental Health Services Act (Act) implementation, including planning, implementing, evaluating, and program and quality improvement.
- Advise the Governor and Legislature regarding actions the state may take to improve care and services for individuals experiencing mental illness.
- Provide oversight over the Act and ensure accountability to the intent and purpose of the Act through: **(1)** review and comment on *all* county plans for following the components of the Act; *and* **(2)** review and approve *all* county program expenditures using Mental Health Services Funds.
- Oversee the implementation of the Act's (1) Part 3—Community Services and Supports; (2) Part 3.1—Education and Training; (3) Part 3.2—Innovative Programs; and (4) Part 3.6—Prevention and Early Intervention.
- Identify critical issues related to the performance of County Mental Health programs and refer the issues to the Department of Mental Health
- Ensure funding from the Act leads to the intended outcomes of the Act.
- Develop and promote a statewide policy agenda that promotes a public mental health system prepared to reduce the long-term adverse impact on individuals, families, and state and local budgets resulting from untreated mental illness.

Background—Summary of Key Aspects of Mental Health Services Act (Proposition 63 of 2004), including Local Assistance Funding. The Mental Health Services Act (Act) addresses a broad spectrum of prevention, early intervention and service needs and the necessary infrastructure, technology and training elements that will effectively support the local mental health system. It is intended to expand mental health services to children and youth, adults and older adults who have severe mental illnesses or severe mental health disorders and whose service needs are not being met through other funding sources (i.e., funds are to supplement and not supplant existing resources).

Most of the Act's funding will be provided to County Mental Health programs to fund programs consistent with their approved local plans. The Act provides for a *continuous appropriation* of the funds to a special fund designated for this purpose.

The Act requires that each County Mental Health program prepare and submit a three-year plan which shall be updated at least annually and approved by the Department of Mental Health (DMH) after review and comment by the Mental Health Services Oversight and Accountability Commission (OAC).

The Act imposes a 1 percent income tax on personal income in excess of $1 million. The Act is projected to generate (i.e., revenues) about $1.363 billion in 2005-06, $1.528 billion in 2006-07, and $1.694 billion in 2007-08.

Table 3 below displays the Administration's January 2007 projection with respect to available Proposition 63 "receipts" (i.e., cash available). As noted in the table, *presently*, the cash receipts are above the original estimate as projected in the Proposition as forecasted in 2005. These local assistance funds are continuously appropriated as required by Proposition 63. As such, unexpended funds from one year roll forward to the next year and are available for expenditure to meet the requirements of the Proposition.

Table 3: Administration's January 2007 Forecast of Available Proposition 63 Funds

Proposition 63 Funds	**2004-05**	**2005-06**	**2006-07**	**2007-08**
Original Estimate (2005)	$254 million	$683 million	$690 million	$733 million
January 2007 Estimated Receipts	$254 million	$906 million	$992 million	$1.523 billion

The six components and the required funding percentage specified in the Act for 2004-05 (initial implementation) through 2007-08 are shown in the table below.

Table 4: Percent Funding by Component as required by the Act

Six Component of MHSA Act	**2004-05**	**2005-06**	**2006-07**	**2007-08**
Local Planning	5%	5%	5%	5%
Community Services & Supports	0	55%	55%	55%
Education & Training	45%	10%	10%	10%
Capital Facilities & Technology	45%	10%	10%	10%
State Implementation/Admin	**5%**	**5%**	**5%**	**5%**
Prevention	0	20%	20%	20%
TOTALS	100 %	100 %	100 %	100 %

Table 5: Administration's Proposed *Expenditures* by Component *(January)*

Six Components of Mental Health Services Act (MHSA)	2005-06 (Actual)	2006-07 (Estimated)	2007-08 (Projected as of January)
Local Planning	--	--	--
Community Services & Supports	$153.3 million	$494.4 million	$540.3 million
Education & Training	--	--	$294.8 million
Capital Facilities & Technology	--	--	$294.8 million
Prevention	--	--	$363.5 million
TOTAL for Local Assistance	**$153.3 million**	**$494.4 million**	**$1.493 billion**
TOTAL for State Implementation (Including all Departments)	$18.2 million	$23.5 million	$37.8 million
TOTAL Overall	**$171.5 million**	**$517.9 million**	**$1.531 billion**

It should be noted that the funds displayed above in Table 5, Proposed Expenditures, will be updated at the May Revision to reflect increased expenditures as approved by the Mental Health Services Act Oversight and Accountability Commission (OAC). This includes substantial funds to be expended on housing, as well as additional funds to be expended on education and training, and prevention and early intervention.

The following descriptions outline the various local assistance components to the Act.

- Local Planning (County plans): Each county must engage in a local process involving clients, families, caregivers, and partner agencies to identify community issues related to mental illness and resulting from lack of community services and supports. **Each county is to submit for state review and approval a three-year plan for the delivery of mental health services within their jurisdiction.** Counties are also required to provide annual updates and expenditure plans for the provision of mental health services.
- Community Services and Supports. These are the programs, services, and strategies that are being identified by each county through its stakeholder process to serve unserved and underserved populations, with an emphasis on eliminating racial disparity.
- Education & Training. This component will be used for workforce development programs to remedy the shortage of qualified individuals to provide services to address severe mental illness.
- Capital Facilities and Technology. This component is intended to support implementation of the Community Services and Supports programs at the local level. Funds can be used for capital outlay and to improve or replace existing information technology systems and related infrastructure needs.
- Prevention & Early Intervention. These funds are to be used to support the design of programs to prevent mental illness from becoming severe and disabling.

Legislative Analyst's Office Recommendation—BBL and Limited-Term Positions. The LAO has two concerns with the DMH regarding their implementation of Proposition 63 (The Mental Health Services Act).

First, the process for reviewing the County Mental Health Plans three-year plans and contract amendments as designed by the DMH has been implemented in such a way as to generate significant workload for *both* the state and counties. It is unclear if all of the detailed reporting by counties, and review by the DMH is necessary to comply with the Mental Health Services Act. **Second,** the reporting requirements placed upon the counties and review protocols used by the DMH could potentially impede the timely flow of the funds to counties.

Therefore, the LAO recommends for the Subcommittee to adopt Budget Bill Language to direct the Office of State Audits and Evaluations (OSAE) within the Department of Finance to conduct an audit to evaluate specific aspects of the DMH's administration of the Proposition 63 Funds. It should be noted that the OSAE is also doing considerable work at the DMH presently regarding their EPSDT Program, San Mateo Pharmacy & Laboratory Project, Mental Health Managed Care and overall fiscal operations. As such, OSAE will have a command of the DMH operations to complete this work.

The LAO's proposed Budget Bill Language is as follows:

"It is the intent of the Legislature that the Office of State Audits and Evaluations (OSAE) review specific aspects of the administration of the Mental Health Services Act (MHSA) by the Department of Mental Health. The OSAE shall examine the following: **(1)** the extent to which DMH's review process of county mental health program and expenditure plans is consistent with the MHSA; **(2)** how the DMH protocols for the review of county mental health program and expenditure plans could be adjusted to improve departmental efficiency, and **(3)** appropriate measures that could be taken by the DMH to ensure that counties receive MHSA funds in a timely manner. The OSAE shall report its findings June 1, 2008 to the Chair of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature."

It addition, the LAO recommends to make the 14.5 positions, requested by the DMH in the Finance Letter associated with reviews of county plans, two-year limited-term. This would include the eleven positions requested for the Systems of Care County Support Branch, and the 3.5 positions for the Administrative Support Contracts Office. The LAO believes that the OSAE audit will provide additional information on whether these positions merit approval on a permanent basis.

Subcommittee Staff Recommendation—Modify. **First**, it is recommended to adopt *both* of the LAO recommendations for the Budget Bill Language and the limited-term positions. Subcommittee staff concurs that OSAE can provide constructive assistance with these issues.

Second, it is recommended to increase by $895,000 (Mental Health Services Act Funds), above the Finance Letter, for the Mental Health Services Oversight and Accountability Commission (OAC) by **(1)** providing an additional six Staff Mental Health Specialist positions; and **(2)** increasing the contracts appropriation.

The additional 6 positions and contract funds are necessary to meet the following core requirements of the OAC:

- Provide oversight over the Act and ensure accountability to the intent and purpose of the Act through: **(1)** review and comment on *all* county plans for following the components of the Act; *and* **(2)** review and approve *all* county program expenditures using Mental Health Services Funds.
- Oversee the implementation of the Act's (1) Part 3—Community Services and Supports; (2) Part 3.1—Education and Training; (3) Part 3.2—Innovative Programs; and (4) Part 3.6—Prevention and Early Intervention.
- Identify critical issues related to the performance of County Mental Health programs and refer the issues to the Department of Mental Health.

Specifically, these positions will conduct the following key activities:

- Serve as lead in Prevention/Early Intervention and Innovation review teams. This includes reading all County Plans and reviewing them based on requirements and expenditure needs, and making recommendations to the Commissioners on the OAC.
- Craft, along with the Department of Mental Health, the requirements for "on-site" county review teams. This includes assisting in the development of the team protocol as well as participating in the teams and assessing Mental Health Services Act funded programs.
- Conduct analysis of early performance outcomes of Community Services and Supports component of the Act.
- Actively engage in the stakeholder process for the Prevention/ Early Intervention and Innovation component.
- Actively engage in reviewing and providing comment on Workforce Development, and Capital and Information Technology components of the Act.

The contract funds (about $320,000) would be used to: (1) contract with the Department of Justice to have independent legal counsel (i.e., from the DMH); (2) contract with the University of California at Davis for developing a statewide surveillance system as required by the Act; and (3) contract with the Center for Collaborative Policy at CA State University at Sacramento to assist in providing technical assistance toward development of policy collaboration with other organizations having statutorily mandated oversight responsibilities of Mental Health Services Act Funding.

If this recommended increase is approved in additi on to the Finance Letter, the total budget for 2007-08 for the Mental Health Servic es Act Oversight and Accountability Commission (OAC) would be a bout $3.2 million (Mental Health Se rvices Act Funds), inc luding cont ract funds and funds for 20 staff positions.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. **DMH**, Please provide a *brief* status update on the implementation of Proposition 63.
2. **DMH**, Please provide a *brief* summary of the Finance Letter.
3. **Ms Clancy, Executive Director, OAC** , Please provide your per spective of the role of the OAC and the work which needs to be completed.

2. CA Health Interview Survey (CHIS)—Vital Tool for Research and Reforms

Issue. There is constituency interest in expanding the California Health Interview Survey (CHIS) for 2007 to support three *additional* survey components that would facilitate the implementation of the Proposition 63—the Mental Health Services Act (Act). These three additional survey components are *not* presently being funded under the existing contract with the Administration.

The three additional survey components at issue include the following:

- Collect information on the mental health status of adolescents in California. This information has not yet been comprehensively obtained and would facilitate implementation of the Act.

- Collect information regarding "co-morbidity" in the adult and adolescent CHIS interview, including the use of alcohol and tobacco (adults and adolescents) and illegal drug use (adolescents). The measurement of these co-morbidity factors is essential to track and implement the Act's emphasis on prevention and early intervention.

- Increase the sample size for CHIS in order to obtain sufficiently robust data on mental health status, perceived need for mental health services, and utilization of mental health services, as well as the co-morbidities as referenced above. The CHIS sample size is the linchpin that permits disaggregating California's diverse population along numerous, critical dimensions such as race/ethnicity, nativity, age, location (county) and poverty status. Additional funding will ensure an adequate sample to meet the needs of mental health service planners and providers at the state and local levels.

The University of California at Los Angeles Center for Health Policy Research (UCLA Center), where the CHIS researchers reside, presently has a $732,190 (Mental Health Services Act Funds) existing contract with the Department of Mental Health.

Background—Funding for CA Health Interview Survey (CHIS). Funding for CHIS has been provided by a variety of federal, state, and local government agencies, as well as private foundations and other organizations.

Background—CA Health Interview Survey (CHIS). The CA Health Interview Survey (CHIS) is the most comprehensive source of health information on Californians. The survey provides information for the entire state and most counties on a variety of health topics for California's diverse population, focusing on access to health care, health insurance coverage, health behaviors, chronic health problems, mental health treatment, cancer screening and other health issues.

CHIS is the largest state health survey in the United States. It is conducted every two years. The first survey was conducted in 2001. CHIS 2005 completed interviews with 45,659 households, including 43,020 adults, 4,029 adolescents, and 11,358 children. The survey was administered in English, Spanish, Chinese (Mandarin and Cantonese), Korean, and Vietnamese. The 2005 survey also includes comprehensive information on diet and

physical activity, as well as a module on the family history of cancer.

Results and data files from CHIS are available in a variety of ways, including the following:

- Reports, policy briefs, and fact sheets in print and online.
- "Ask CHIS", an easy-to-use online data query system, enables users to conduct their own simple analyses and obtain survey results on health topics, populations groups, and geographic areas. This is a free service.
- Public-use data files and accompanying documentation can be downloaded from the CHIS website at no cost.
- Technical assistance through regional workshops and consultation is available to agencies, community organizations and researchers using CHIS data.
- UCLA Center for Health Policy Research Data Access Center enables researchers to work with confidential files in a secure environment. Programming and statistical consulting services are also available.

CHIS researchers reside within the University of California at Los Angeles (UCLA) Center for Health Policy Research (UCLA Center). CHIS is the largest research program at the UCLA Center. The UCLA Center, established in 1994, is one of the nation's leading health policy research centers. Research at the UCLA Center focuses on eight key areas: (1) health insurance coverage; (2) access to and quality of health care; (3) disparities in health care access and health status based on race, ethnicity, immigration, income and area of residence; (4) women and health; (5) the elderly and their health; (7) American Indians/Alaska Natives and their health; and (8) economics of health care.

Subcommittee Staff Recommendation. It is recommended to increase the Department of Mental Health's contract appropriation to **include an increase of $1 million** ($700,000 Mental Health Services Act Funds and $300,000 reimbursements which are federal funds to be obtained from either the DHS through the Medi-Cal Program or through the Managed Risk Medical Insurance Board's Healthy Families Program). It is estimated that this funding level would meet most of the three objectives, as noted above. The proposed funding also assumes a 30 percent federal match which Subcommittee staff believes should be attainable since some of the mental health issues cross-over into federally supported programs.

Questions. The Subcommittee has requested responses to the following questions from selected constituents.

1. **Dr. Rick Brown, Executive Director, UCLA Center for Health Policy Research**, Please provide a brief summary of how CHIS provides information and how this would facilitate the purposes of the Mental Health Services Act.

3. Administration's Proposed Fence at Metropolitan State Hospital

Issue—January Proposal & Changes in Finance Letter. In January, the Administration proposed an increase of $2.9 million (General Fund) for preliminary plans and working drawings in 2007-08 to complete the planning stages for the construction of a secure fence at Metropolitan State Hospital. This original proposal would have constructed two separate security fences which would encircle two buildings on the campus, as well as make other modifications, in preparation for expanding Metropolitan State Hospital to include additional penal code-related patients at the facility.

The DMH states that this "secure fence" project would secure an additional 505 beds overall at Metropolitan.

In a **Finance Letter** received by the Subcommittee on May 1st, the Administration is now deferring the working drawings phase of this original project for a reduction of $1.150 million (General Fund). The preliminary plans phase would still continue. The Administration noted at this time that total estimated expenditures for construction of this project is about $22 million.

Senator Calderon Letter to the Subcommittee *(See Hand Out).* In a letter from Senator Calderon to the Subcommittee, he respectfully requests for the Subcommittee to deny the DMH's request for several key reasons. First, there has been no discussion of this proposal with the greater Norwalk community. It is extremely unsound policy for a state department to proceed with such a highly-community changing proposal without first informing the public.

Second, this proposal would lead to the more than *doubling* of the number of penal code patients who reside at Metropolitan. Presently there are about 460 penal-code related patients which is about 70 percent of Metropolitan's patient population. If 500 more penal code patients were housed at Metropolitan, in essence it would become a de facto correctional facility.

Background—Metropolitan State Hospital. Metropolitan State Hospital is located in the heart of Norwalk, California**. Urban residential areas buttress up against the facility. Due to its location and the design of the facility, it has always had the least number of penal code placements within the State Hospital system and the Legislature in the past has specifically required this limit due to community public safety concerns.**

It is the smallest of the State Hospitals from a bed-capacity standpoint. The patient population in the budget year is estimated to be 688 patients and the patient mix is as follows:

- 248 patients who are Incompetent to Stand Trial (IST's);
- 228 patients who are civilly-committed by the counties;
- 122 patients who are Not Guilty by Reason of Insanity (NGI's);
- 53 patients who are Mentally Disordered Offenders (MDO's)
- 7 patients who are other penal-code categories; and
- 30 patients who are adolescents and are affiliated with the CA Youth Authority.

Background on State Hospitals. The department directly administers the operation of five State Hospitals—Atascadero, Metropolitan, Napa, Patton, and Coalinga. In addition, the DMH administers acute psychiatric programs at the California Medical Facility in Vacaville, and the Salinas Valley State Prison.

Background—Overall Classifications of Penal Code Patients. 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.

Constituency Concerns and Proposal For a "Shepard's Hook" Fence. The Subcommittee is in receipt of a letter from the City of Norwalk, who have been in discussions with Senator Calderon's office, Subcommittee staff and the Administration.

The City of Norwalk is seeking a "shepard's hook" fence to be installed around the perimeter of Metropolitan. As noted in Senator Calderon's letter to the Subcommittee, increased security at the facility is needed due to a recent escape from Metropolitan by a penal code patient. In discussions with the Administration, it appeared that they were open to exploring this option, pending any other decisions regarding Metropolitan.

It should be noted that the DMH has made various security improvements at Metropolitan and has been working with the City of Norwalk and Senator Calderon on these issues.

Subcommittee Staff Recommendation—Reject Proposal. It is recommended to reject the Administration's proposal, and to adopt Budget Bill Language to proceed with the "shepard's hook" fence.

The Administration had absolutely no discussions with local community leaders or the Legislature *prior* to releasing this January proposal. Since the first penal code-related patients were housed at Metropolitan, beginning in the mid-1990's, there have been explicit limits expressed by the Legislature due to community concerns as to whom these patients would be (i.e., low-level risk patients, skilled nursing and the like), as well as the number of overall penal code-related patients which would be allowed. The Administration's proposal would substantially change this agreement. Further analysis by the Administration regarding the State Hospital system overall needs to take place.

In addition to rejecting the entire $2.9 million (General Fund) from the budget as proposed, it is recommended to adopt the following Budget Bill Language:

> "The Department of Mental Health shall work with the City of Norwalk, and other interested parties as appropriate, to develop a capital outlay budget package which will address the scope of the shepard's hook fence project at Metropolitan State Hospital. This shall be completed within existing funds as determined by the Department of Finance.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide brief comment regarding the DMH proposal, and regarding the proposed changes as recommended by Subcommittee staff.

4. Capital Outlay—Problems at Atascadero State Hospital with New Bed Addition

Issue. The Subcommittee is in receipt of a Finance Letter requesting an increase of $6.6 million (Public Construction Bond Funds) to remediate the recent 250-bed addition at Atascadero State Hospital in order to eliminate sources of water intrusion, remove mold in the building, and pursue litigation to recoup project costs. This project will repair all windows and other identified points of water entry, thereby eliminating a potential health risk to staff and patients.

According to the DMH, this building has had a noticeable water leakage problem cine it was first occupied six years ago. Since attempts by the contractor to repair the building have been unsuccessful.

Subcommittee Staff Recommendation--Approve. It is recommended to approve the Finance Letter in order to mitigate the damage, protect patient health and safety, and to maintain the state's asset.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a *brief* history of the project and what is being done to fully mitigate any problems.

5. Proposed Reappropriation of Funds for Patton State Hospital Capital Outlay

Issue. The Subcommittee is in receipt of a Finance Letter seeking a reappropriation of $28.982 million (Public Construction Bond Funds) for the construction phase of renovating the admission suite and "Ed Bernath" (EB) Building at Patton State Hospital. In addition, the DMH is requesting an extension of the liquidation period for working drawing funds and the reappropriation of construction funds due to the lack of "swing space" being available on the campus which is needed to relocate patients while the project takes place.

This renovation project combines three projects within the EB Building for construction. The project will upgrade several areas to meet fire, life safety codes, as well as construct an interior environment within the admissions suite that provides for the identified functions of an admission unit. The DMH indicates that the renovations should be completed and patients transferred by the summer of 2011.

It should be noted that the DMH would be required to use General Fund support to pay back about $1.7 million (General Fund) expended to date for the design of this project if the construction funds are reverted. This is due to complexities regarding the sale of the bond and commitments made by the State Public Works Board.

Subcommittee Staff Recommendation--Approve. This project has had difficulty in proceeding over the years due to various reasons. However, there is no other solution that comes to mind other than approving the Administration's Finance Letter to spread the time frame for the project.

Question. The Subcommittee has requested the DMH to provide a *brief* overview of the project and the proposed Finance Letter solution.

Diane Van Maren (w) 651-4103
Senate Budget & Fiscal Review

Outcomes from Senate Subcommittee No. 3: Monday, May 7th
(Please use the Agenda as a guide along with this outcome listing.)

A. ISSUES FOR "Vote Only" (Page 2 through Page 9)

- **Action:** Approved the Vote Only-- Items 1 through 10 on pages 2 through 9.
- **Vote:** 2-0 (Cogdill absent)

B. ISSUES FOR DISCUSSION--Department of Developmental Services

1. Need for Clinic Services & Comprehensive Health Care Services for People with Developmental Disabilities (Page 10)

- **Action:** Adopted trailer bill language and Budget Bill Language as contained in the hand out to: **(1)** have the DDS continue operation of the Agnews Outpatient Clinic until DDS no longer has possession of the property; **(2)** purchase two mobile clinics to be specifically outfitted to provide a range of health and medical services as determined by the DDS in working with constituency groups; and **(3)** codify the Medi-Cal Program's verbal commitment to the Subcommittee and local health plans regarding reimbursement for Medi-Cal services provided for people transitioned from Agnews to the community.
- **Vote:** 2-1 (Senator Cogdill)

2. Modifications to Reporting Information-- Agnews DC Closure (Page 13)

- **Action:** Adopted revised reporting language as contained in the Agenda on page 13.
- **Vote:** 3-0

ISSUES FOR DISCUSSION—Health Issues (Both Departments) (Page 14)

1. Medi-Cal —Need to Improve Services to Aged, Blind & Disabled (Page 14)

- **Action:** DHS provided a draft report one hour prior to the hearing. As such, this issue was left "open".

2. Medi-Cal Fee-For-Service Rate Report was Due March 15, 2007 (Page 16)

- **Action:** Subcommittee requested the DHS to provide this information as soon as possible.

3. Expansion of the Newborn Hearing Screening Program (Page 16)

- **Action:** Approved as proposed.
- **Vote:** 3-0

4. Dispensing of Hearing Aids within the Medi-Cal Program (Page 19)

Action: Left open pending more information.

5. Establishing the Department of Public Health—Follow Up (Page 21)

- **Action #1:**
  - **(1) Approved the Finance Letter; (2) Adopted the technical change to the Finance Letter; *and* (3) Adopted the two pieces of language as shown on page 23.**
- **Vote: 3-0**
- **Action #2: Provide funding for the 12 positions as shown on page 24.**
- **Vote:** 2-1 (Senator Cogdill)

6. Response to Subcommittee: Licensing & Certification Fees (Page 25)

- **Action:** The following actions were taken: **(1)** recognized $7 million in current-year unspent L&C funds to use on a on-time only basis to offset budget year L&C fee increases and to apply this in the same manner as was the General Fund subsidy provided by the Legislature through the Budget Act of 2006; **(2)** recognized $400,000 (L&C Fees) as a salary savings adjustment (one-time only) to reflect natural salary savings that will occur as part of the hiring process; **(3)** directed the DHS to re-calculate the clinic L&C Fees by individual clinic facility type (unbundled); **(4)** adopted placeholder trailer bill language to capture revenues, including revenues from new, initial surveys, changes in ownership and late payment fees made by facilities as part of the overall L&C Fee methodology process as contained within Section 1266 of Health and Safety Code; and **(5)** adopted Budget Bill Language to have the Office of Statewide Audits and Evaluations review the L&C methodology. Further discussions to be had at May Revision regarding additional issues.
- **Vote: 3-0, except for issue #4 which was 2-1 (Senator Cogdill).**

7. Implementation of Senate Bill 1379 (Perata) -- Biomonitoring (Page 29)

- **Action: Provided an augmentation of $2.2 million (General Fund) to fund 5 additional positions and equipment as shown on Page 31.**
- **Vote:** 2-1 (Senator Cogdill)

8. Foodborne Illness—Request for State Staff and Research Funds (Page 32)

- **Action: (1)** Eliminated the research funds as recommended by the LAO, and **(2)** provided a total of 5 positions (deleting 4 positions).
- **Vote:** 3-0

D. ISSUES FOR DISCUSSION—Department of Mental Health (Page 37)

1. Continued Implementation of Proposition 63---(Page 37)

- **Action**: (1) Adopted both of the LAO recommendations to adopt Budget Bill Language and to make 14.5 of the DMH's requested positions two-year limited-term; and **(2)** Augmented the OAC's budget by an additional $895,000 (Mental Health Services Act Funds), *above* the Finance Letter, for the purposes noted on Page 43 of the Agenda.
- **Vote:** 2-0 (Senator Cogdill absent)

2. CA Health Interview Survey—Vital Tool for Research and Reforms (Page 45)

- **Action:** Increased by $1 million ($700,000 Mental Health Services Act Funds) to increase the funding for the CA Health Interview Survey.
- **Vote:** 2-0 (Senator Cogdill absent)

3. Administration's Proposed Fence at Metropolitan Hospital (Page 47)

- **Action**. Rejected the Administration's proposal and *instead*, adopted the Budget Bill Language as contained in the Agenda to proceed with a study regarding the shepard's hook fence.
- **Vote:** 2-0 (Senator Cogdill absent)

4. Capital Outlay—Problems at Atascadero State Hospital (Page 49)

- **Action:** Approved the proposal.
- **Vote:** 2-0 (Senator Cogdill absent)

5. Proposed Reappropriation of Funds for Patton State Hospital (Page 49)

- **Action:** Approved the proposal.
- **Vote:** 2-0 (Senator Cogdill absent)

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Agenda – Part A

Monday, May 21, 2007
9:00 a.m.
Room 3191
(Eileen Cubanski, Consultant)

Vote-Only Agenda

Discussion Agenda

Due to the volume of issues, testimony will be limited. Please be direct and brief in your comments so that other may have the opportunity to testify. Written testimony is also welcomed and appreciated. Thank you for your consideration.

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.

Vote-Only Agenda

Vote-Only Issue 1: Reduction in the Price Increase – Multiple Departments

Description: The Governor submitted a spring finance letter to the Legislature on March 29, 2007, requesting a 50 percent reduction in the previously proposed price increase for state support of health and human services departments. The following departments are subject to the proposed General Fund reduction:

- 4140 Office of Statewide Planning and Development: -$2,000
- 4170 Department of Aging: -$14,000
- 4200 Department of Alcohol and Drug Programs: -$47,000
- 5160 Department of Rehabilitation: -$630,000
- 5176 Department of Child Support Services: -$426,000
- 5180 Department of Social Services: -$539,000

Staff Recommendation: Approve the requested adjustments.

0530 Health and Human Services Agency – Office of System Integration (OSI)

Vote-Only Issue 1: Statewide Automated Welfare System (SAWS)

Description: In the April 19, 2007 hearing, the Subcommittee discussed funding for the Statewide Automated Welfare System (SAWS), which is comprised of five automation systems and a project management office.

Background: The Statewide Automated Welfare System (SAWS) automates the eligibility, benefit, case management, and reporting processes for a variety of health and human services programs operated by the counties: CalWORKs, Food Stamps, Foster Care, Medi-Cal, Refugee Assistance, and County Medical Services Program. SAWS includes four primary systems managed by local consortia, a statewide time-on-aid tracking system, and a statewide project management and oversight office.

Program Region	
LEADER	Los Angeles County (37% of caseload)
LEADER Replacement	
ISAWS	35 counties (13% of caseload)
ISAWS Migration	Migration of 35 ISAWS counties to C-IV
C-IV	4 counties (13% of caseload)
CalWIN	18 counties (36% caseload)
WDTIP	Statewide time on aid tracking
Statewide Project Mgmt	Statewide project management and oversight

Staff Recommendation: Approve the budget request for LEADER, including LEADER replacement, ISAWS maintenance and operation, C-IV, WDTIP, and project management.

(ISAWS Migration and CalWIN are discussed below in OSI Issue 1.)

Vote-Only Issue 2: Electronic Benefit Transfer (EBT)

Description: The May Revision requests that Item 0530-001-9732 be augmented by $872,000 and 12.0 limited-term positions to ensure that a new system is in place by the current system's August 2010 contract expiration date. Of the 12.0 requested positions, 4.0 will begin in March 2008 and 8.0 will begin in May 2008. These resources are needed to facilitate the completion of the planning phase and begin system implementation activities. Although staff does not have particular concerns with this request, the Administration needs to work towards complying with the appropriate January and April deadlines for submission of these types of requests, which are inappropriate changes to be making at the May Revision. Future late submissions of these changes may not be able to be approved due to the lack of time for review.

Staff Recommendation: Approve the requested adjustment.

4170 California Department of Aging (CDA)

Vote-Only Issue 3: Alzheimer's Demonstration Project Grant Budget Bill Language

Description: The May Revision requests that language be added to Item 4170-101-0890 and that Item 4170-101-0001 be amended to reflect this change. This request would authorize expenditure of up to $320,000 Federal Trust Fund to continue the support of home and community-based services for persons afflicted with Alzheimer's disease and their caregivers, upon the approval of the Department of Finance. The California Department of Aging (CDA) has received this grant for 15 years. Although the 2007-08 Governor's Budget assumes continuation of the grant, the CDA expects official notification of receipt of the grant in July 2007.

Staff Recommendation: Amend the requested budget bill language to require notification of the Joint Legislative Budget Committee within 10 days of approval by Department of Finance to the Department of Aging to expend the funds.

Vote-Only Issue 4: Senior Legal Hotline

Description: The statewide Senior Legal Hotline (SLH) efficiently handles a large volume of cases using phone, mail, fax and Internet, freeing time and resources at

overburdened local programs to help more of the needies t with representation and to conduct community education. Its statewide perspective has also led the hotline to assume a central role in coordination, training, and communication among the state's 38 local senior legal providers. It is quick to notice and respond to trends affecting large numbers of California seniors.

Even without state funding until now, California's SLH has become the largest in the country and is considered a national model and leader in quality, efficiency, and innovation. It handled nearly 20,000 cases in 2005-06. With sufficient resources, these numbers would be much higher, but instead they are falling due to lost federal funding, and California seniors are at risk of losing the program altogether.

Staff Recommendation: Provide $250,000 General Fund to the Senior Legal Hotline. Add a schedule to Item 4710-101-0001 as follows:

(4.5) 97.20.004 Local Projects…....$250,000
(a) Legal Services of Northern California: Senior Legal Hotline

4200 Department of Alcohol and Drug Programs (ADP)

Vote-Only Issue 5: Funding for Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA)

Description: The Governor's Budget reduced funding for the Substance Abuse and Crime Prevention Act (SACPA) by $60 million General Fund in 2007-08. Of this $60 million, $35 million is proposed to be redirected to provide an increase to the Substance Abuse Offender Treatment Program (OTP). The remaining $25 million would be one-time General Fund savings. Originally, the Administration stated that it would revise its budget proposal in the May Revision to move the remaining $60 million in General Fund for SACPA to OTP if the program reforms are not implemented. However, the Administration reversed that position in light of recent legislation regarding prison reform. Nonetheless, the budget continues to reduce overall funding for community substance abuse treatment by $25 million.

Background: Researchers at the University of California, Los Angeles (UCLA) released a report on the effectiveness of SACPA in April 2006. The UCLA report included three studies that each documented costs and savings in eight areas: prison, jail, probation, parole, arrest and conviction, treatment, health, and taxes. CalWORKs and Child Welfare/Foster Care costs and savings were not included in the study. The researchers used administrative data from state databases for SACPA and non-SACPA participants to measure state and local savings.

Overall, UCLA found a benefit-cost ratio of nearly 2.5 to 1, indicating that $2.50 was saved for every $1 in SACPA expenditures. Across the 8 areas assessed, SACPA led to a total cost savings of $2,861 per offender over the 30-month follow up period. For drug treatment completers, SACPA reflected a benefit-to-cost ratio of about 4 to 1,

despite higher treatment costs for this group, indicating that approximately $4 was saved for every $1 spent on a treatment completer in SACPA. Total savings across eight areas was $5,601 per offender for completers.

Based on the latest survey of counties, the total estimated amount needed to fully fund Proposition 36 is $265 million.

Staff Recommendation: Add $60 million General Fund to Proposition 36 to restore funding to the current year level. Maintain the total $60 million that the Administration has proposed for the Offender Treatment Program. This will bring the total for substance abuse treatment under SACPA and the OTP to a total of $180 million in 2007-08, $35 million more than in 2006-07.

Vote-Only Issue 6: California Methamphetamine Initiative (CMI)

Description: The Governor's Budget redirects $197,000 General Fund from existing funding provided for the California Methamphetamine Initiative (CMI) to provide two limited-term positions to the Department of Alcohol and Drug Programs (DADP) to provide state support to the CMI. The requested positions would work with the consultant to develop the media campaign and conduct additional activities to coordinate, support, and disseminate to counties best practices on the prevention and treatment of methamphetamine abuse.

Background: The Subcommittee originally discussed this request in its March 8, 2007 hearing and held the item open pending submission of a statutorily required methamphetamine prevention plan to the Legislature by April 1, 2007. This report was submitted in early April and is generally consistent with the activities described in this budget request.

Staff Recommendation: Approve as budgeted.

Vote-Only Issue 7: Prison Inmate Aftercare Treatment

Description: The Governor's Budget proposes $519,000 General Fund and six positions (two half-time limited-term) to license and certify additional drug treatment providers as a result of enactment of Senate Bill (SB) 1453 (Speier, Chapter 875, Statutes of 2006).

Background: SB 1453 requires non-violent prison inmates who participated in drug treatment in prison to enter a 150-day residential aftercare drug treatment program upon their release from prison. Based upon estimates from the California Department of Corrections and Rehabilitation (CDCR), the Department of Alcohol and Drug Programs (DADP) expects that 5,500 parolees annually will be required to participate in an aftercare treatment program. The Subcommittee discussed this request in the March 8, 2007 hearing and held the item open pending updated estimates from the

CDCR at the May Revision. CDCR has not changed their projections for participation in this program.

Staff Recommendation: Approve as budgeted.

Vote-Only Issue 8 Drug Medi-Cal

Description: The May Revision requests that Item 4200-103-0001 be increased by $8,044,000 and Reimbursements be increased by $7,924,000 to reflect revised caseload and utilization estimates, as well as a correction to reimbursement rates for the Narcotic Treatment Program (NTP) modality proposed in the Governor's Budget. The Administration determined that a formula component used to develop the 2007-08 NTP rates undercounted the number of NTP clients in the maintenance phase of treatment. This erroneous client count was then applied against cost components of the rate, and as such, understated the appropriate rate reimbursement level. The rate correction represents $5.3 million General Fund of the requested increase.

The Regular Drug Medi-Cal population is projected to be 193,502 in 2007-08, an increase of 11,876, or 6.5 percent, from the Governor's Budget. In addition to caseload adjustments, the May Revision Estimate projects a net increase in units of service for the program. These increases are a result of expanded treatment capacity and an increase in the number of substance abuse treatment and recovery providers over the last several years.

The May Revision further requests that Item 4200-102-0001 be increased by $620,000 and Reimbursements be increased by $620,000 to reflect revised caseload estimates for the Perinatal Drug Medi-Cal population, and increased provider reimbursement rates for the NTP modality. Revised caseload and utilization projections account for $590,000 of the requested change, and the rate correction represents $30,000 General Fund. In addition to the rate correction, this change reflects a minor increase in caseload and an increase in average units of service. Caseload is projected to be 9,644 in 2007-08, an increase of 535, or 5.9 percent, from the Governor's Budget.

Staff Recommendation: Approve the requested adjustments.

4700 Department of Community Services and Development (CSD)

Vote-Only Issue 9: Naturalization Services Program

Description: The budget includes $3.0 million for the Naturalization Services Program (NSP). This program assists legal permanent residents in obtaining citizenship. The Urban Institute estimates that approximately 2.7 million Californians are eligible but

have not applied for citizenship. The Subcommittee originally discussed this issue at the May 3, 2007 hearing.

Background: The NSP funds local organizations that conduct outreach, intake and assessment, citizenship application assistance, citizenship testing and interview preparation. In 2006, the program is expected to assist an average of 12,000 individuals in the completion of citizenship applications. Total funding for the program in 2006-07 is $3.0 million General Fund. Positive outcomes as a result of NSP and citizenship include improved employment opportunities for citizens, and reduced caseload for state-only programs such as the Cash Assistance Program for Immigrants (CAPI), as citizens may quality for the federally-funded Supplemental Security Income (SSI) program.

Staff Recommendation: Provide an additional $2.0 million General Fund for the Naturalization Services Program. In light of the bipartisan immigration bill that was introduced last week in the U. S. Senate that would enable more than 12 million illegal immigrants to live and work in the United States legally, it is even more critical than ever to ensure that California's immigrant residents have a path to citizenship.

5160 Department of Rehabilitation (DOR)

Vote-Only Issue 10: Office Building (OB) 10 Relocation Support

Description: The May Revision requests that Item 5160-001-0001 be decreased by $1,749,000 and Item 5160-001-0890 be decreased by $136,000. As a result of a decrease in bond payments scheduled for fiscal year 2007-08, the rent costs charged to the Department of Rehabilitation will decrease by $2,609,000 ($1,903,000 General Fund). However, the overall reduction will be partially offset by $724,000 ($154,000 General Fund) for four months of dual rent payments required as a result of unanticipated moving delays.

The budget proposes an increase of $4.0 million ($2.0 million General Fund) for the Department of Rehabilitation (DOR) to furnish, occupy, and operate from OB 10 (721 Capitol Mall) in the summer of 2007. Of the total, $851,000 is one-time.

The Subcommittee originally discussed this issue in the April 12, 2007 hearing and held the item open pending an updated estimate of the rent costs at the May Revision.

Staff Recommendation: Approve the requested adjustment.

Vote-Only Issue 11: Department of Rehabilitation Requirements in the Statutory Subvention Process

Description: In the April 12, 2007 hearing, the Subcommittee discussed a proposal to revise the documents that the Department of Rehabilitation (DOR) provides as part of the statutory subvention process. The Subcommittee directed staff to work with the Department of Finance, the DOR, and the Legislative Analyst's Office (LAO) to revise the budget documents DOR is statutorily required to submit and develop trailer bill language implementing those revisions.

The LAO convened all parties to discuss alternatives for DOR to the existing subvention process and DOR has submitted new tables as a part of the May Revision. However, how to revise the trailer bill language is still being discussed.

Staff Recommendation: Adopt placeholder trailer bill language that reflects the revised information submitted by the Department of Rehabilitation at the May Revision.

Vote-Only Issue 12: May Revision Caseload Adjustments

Description: The May Revision caseload estimates from the Department of Rehabilitation (DOR) reflected no growth in funding between 2006-07 and 2007-08. In large part, this is due to the fact that the large majority of DOR's funding is from the federal Vocational Rehabilitation (VR) grant, which is not expected to change from this year to next.

In addition, DOR funds services for persons with developmental disabilities through the Supported Employment Program (SEP) and Work Activity Program (WAP). The SEP and WAP were provided a rate increase in 2006-07, which led to increased costs and caseloads in the current year. These costs did not reflect a full-year of implementation costs because the rate increases were phased in to providers as new cases came in. In 2007-08 all providers will be receiving the higher rates. However, the DOR estimate does not reflect any increase in SEP or WAP caseloads as a result of the 2006-07 changes and does not reflect the increased costs of full year implementation of the higher rates.

The 2007-08 estimate may be deficient by as much as $4.4 million due to the flat funding and caseload. Without additional General Fund, the Administration will cover this shortfall by cutting existing services to, and funding used for, DOR VR consumers, and redirecting those funds to the SEP and WAP. However, rather than acknowledge the need to make that difficult choice due to the fiscal situation of the State, it appears that the Administration has chosen simply not to update SEP and WAP caseload information.

Staff Recommendation: Approve the Department of Rehabilitation estimate as budgeted. Adopt placeholder trailer bill language that requires the Department of Rehabilitation to track the exact number of SEP and WAP consumers for 2007-08, how much it costs to serve them, and from what other programs funds were redirected to serve them if the costs exceed the budgeted amount. The DOR shall submit this information to the Legislature on January 10, 2008 and May 15, 2008. The Department of Rehabilitation shall also submit to the Legislature a proposed methodology for projecting caseload and funding growth in the SEP and WAP for 2008-09 and beyond by April 1, 2008.

5175 Department of Child Support Services (DCSS)

Vote-Only Issue 13: Performance Incentive Funding

Description: The proposed budget includes $68 million ($23 million General Fund) for Local Child Support Agencies (LCSAs) to backfill for lost Federal Financial Participation (FFP). Beginning October 2007, the federal Deficit Reduction Act (DRA) of 2005 eliminated states' ability to utilize federal performance incentives funds as eligible matching dollars for FFP. In order to retain the current funding level for LCSA administration, $68 million ($23 million General Fund) is needed for 2007-08. This represents nine months of backfill funding. For 2008-09, the Department of Child Support Services (DCSS) will request $90 million ($31 million General Fund) to replace the lost federal match of performance incentives. The Subcommittee originally discussed this request on March 15, 2007 and left the item open pending the May Revision.

Staff Recommendation: Approve as budgeted.

Vote-Only Issue 14: Continue Suspension of Health Insurance Incentives and Improved Performance Incentives Programs

Description: The budget proposes trailer bill language to continue the suspension of two programs, the Health Insurance Incentives and the Improved Performance Incentives programs, through 2007-08. These programs were part of the Child Support reform legislation passed in 1999. The Health Insurance Incentives program paid LCSAs $50 for each case for which they obtained third- party health insurance coverage or insurance for child support applicants or recipients. The Improved Performance Incentives program provided the ten best performing LCSAs with five percent of the amount they collected on behalf of the state for public assistance payment recoupments. The funding received by the LCSAs was required to be reinvested back into the Child Support Program. These programs were suspended for four years beginning 2002-03. The Department of Finance notes that LCSAs are required by

DCSS regulations to seek third-party health insurance coverage as part of their normal business processes.

Staff Recommendation: Approve the proposed trailer bill language.

Vote-Only Issue 15: Various Spring Finance Letter Requests

Description: The Department of Child Support Services (DCSS) submitted the following April Finance Letter requests, which the Subcommittee originally discussed on May 3, 2007. The Subcommittee held the items open pending receipt of contract information from the DCSS. That information was submitted to and analyzed by Subcommittee staff.

A. California Child Support Automation System (CCSAS) Functionality

DCSS submitted an April Finance Letter requesting position authority for nine permanent positions and 2 one-year limited-term positions to address workload associated with implementation of the California Child Support Automation System (CCSAS). The DCSS proposes to redirect savings of $1,161 million ($394,000) from existing contracts to fund the positions.

B. Recovery of Non-Sufficient Funds (NSF)

DCSS has submitted an April Finance Letter requesting position authority for seven permanent positions and 3 one-year limited-term positions for the research, analysis, and processing of Non-Sufficient Funds (NSF) returned items. The DCSS proposes to redirect $872,000 ($296,000 General Fund) in savings from existing contracts to fund the positions and administrative funds currently provided to Local Child Support Agencies (LCSAs).

C. State Distribution Unit (SDU) Bank Exceptions

DCSS has submitted an April Finance Letter requesting position authority for two permanent positions and 1 one-year limited-term position to perform increased accounting activities for analyzing and processing bank exceptions. The DCSS proposes to redirect $288,000 ($98,000 General Fund) in savings from existing contracts to fund the positions.

D. Information Security Office

DCSS has submitted an April Finance Letter requesting position authority for six permanent positions to expand the Information Security Program. The DCSS proposes to redirect $677,000 ($230,000 General Fund) in savings from existing contracts to fund the positions.

E. Centralized Financial Worker

DCSS has submitted an April Finance Letter requesting position authority for 3 two-year limited-term positions to manage, maintain, and resolve suspended collections to financial data. The DCSS proposes to redirect $250,000 ($85,000 General Fund) in savings from existing contracts to fund the positions.

Staff Recommendation: Approve the requested adjustments in A. through E. with a permanent redirection of funds from Items 5175-002-0001 and 5175-002-0890 to Items 5175-001-0001 and l5175-001-0890.

Vote-Only Issue 16: California Child Support Automation System (CCSAS) Federal Certification

Description: The May Revision proposes that Item 5175-490, which was requested to be added in a Finance Letter dated March 29, 2007, be revised to increase the proposed reappropriation authority by $9.9 million, for total authority of $49,702,000. These funds would be reappropriated from unspent 2005-06 appropriations. The funds would be used for various CCSAS changes related to federal certification of the system. The language also would allow the Department of Child Support Services to reappropriate additional unspent funds from 2004-05, 2005-06, and 2006-07 to cover further costs associated with implementation of the CCSAS and obtaining federal certification, after a 30-day notification to the Legislature.

Staff Recommendation: Approve the reappropriation of unspent funds from the 2004-05 and 2005-06 appropriations, but delete the reappropriation language for 2006-07. The amount of the 2006-07 funds that will be unspent is unknown and the reappropriation request is premature.

Vote-Only Issue 17: Federal Dispute Resolution Grant

Description: The May Revision requests that Item 5175-101-0890 be increased by $200,000 and that Item 5175-101-0001 be amended to reflect an updated schedule for the federal dispute resolution grant. Although there is no net change to the total expenditures for this grant program, this change represents a shift in federal authority of unspent 2006-07 funds to 2007-08 and 2008-09. This change is the result of pilot counties taking longer than anticipated to implement dispute resolution programs.

Staff Recommendation: Approve the requested adjustment.

Vote-Only Issue 18: CCSAS State Distribution Unit (SDU)

Description: The May Revision requests that Item 5175-101-0001 be decreased by $3,033,000 and that Item 5175-101-0890 be decreased by $3,874,000 to reflect changes in costs related to the CCSAS SDU. This includes a decrease of $7,008,000 ($3,033,000 General Fund) for Service Provider payments to reflect lower than estimated transaction volume and an increase of $101,000 federal funds for reimbursement to the Franchise Tax Board for increased staff costs.

Staff Recommendation: Approve the requested adjustments.

Vote-Only Issue 19: CCSAS Child Support Enforcement (CSE) System

Description: The May Revision requests that Item 5175-101-0001 be decreased by $640,000 and that Item 5175-101-0890 be decreased by $1,240,000. This change reflects a decrease of $1,944,000 ($662,000 General Fund) in CSE Maintenance and Operations cost for the local child support enforcement agencies (LCSAs). It also reflects an LCSA request to increase funding by $65,000 ($22,000 General Fund) due to increased costs for maintenance support.

Staff Recommendation: Approve the requested adjustments

5180 Department of Social Services (DSS)

Vote-Only Issue 20: May Revision Caseload Adjustments

Description: The May Revision proposes adjustments in funding to reflect caseload updates for CalWORKs, Foster Care, Adoptions Assistance, IHSS, SSI/SSP, Food Stamps Administration, and Child Welfare Services.

Background: The May Revision proposes a net increase of $7,512,000 (increases of $4,046,000 General Fund, $69,648,000 Reimbursements, and $9,000 Emergency Food Assistance Fund, partially offset by decreases of $65,478,000 Federal Trust Fund and $713,000 Child Support Collections Recovery Fund), due to the impact of caseload changes since the Governor's Budget. The May Revision reflects the following average monthly caseload in 2007-08, compared to 2006-07 caseload:

- **CalWORKs:** 459,000 cases (0.6 percent decrease)
- **Non-Assistance Food Stamps:** 577,000 cases (5.5 percent increase)
- **SSI/SSP:** 1,250,000 cases (1.8 percent increase)
- **In-Home Supportive Services (IHSS):** 389,000 cases (5.1 percent increase)
- **Foster Care:** 74,000 cases (0.2 percent increase)

- **KinGAP:** 14,000 cases (2.5 percent decrease)
- **Adoptions Assistance Program (AAP):** 77,000 cases (6.0 percent increase)
- **Child Welfare Services:** 160,000 cases (0 percent change)

Program	Item	Change Since Governor's Budget
CalWORKs / Kin-GAP 5180-101-0890	5180-101-0001 $11,862,000 5180-601-0995 $51,000	 -$51,100,000
Foster Care 5180-101-0001 5180-101-0890 5180-101-8004 5180-141-0001 5180-141-0890		$21,210,000 -$9,870,000 -$713,000 -$316,000 -$116,000
Adoption Assistance Program 5180-101-0001 5180-101-0890		-$8,897,000 -$11,588,000
Supplemental Security Income/State Supplementary Payment (SSI/SSP)	5180-111-0001 -$45,570,000	
In-Home Supportive Services (IHSS) 5180-611-0995	5180-111-0001 $37,310,000	 $69,217,000
Child Welfare Services (CWS) 5180-151-0890 5180-651-0995	5180-151-0001 $8,261,000	 -$39,674,000 -$550,000
Other Assistance Payments 5180-101-0122 5180-101-0890	5180-101-0001 -$2,516,000	 $9,000 $1,647,000
County Administration and Automation Projects	5180-141-0001 5180-141-0890 5180-641-0995	-$764,000 -$6,854,000 $735,000
Title IV-E Waiver	5180-153-0001 5180-153-0890	-$15,984,000 $49,795,000
Remaining DSS Programs 5180-151-0890 5180-651-0995	5180-151-0001 -$550,000	 $2,282,000 $195,000

Staff Recommendation: Approve the May Revision adjustments in funding due to caseload updates (adjusted as appropriate for actions taken elsewhere in the agenda), and adopt $5.4 million General Fund savings in the Cash Assistance Program for Immigrants and $3.4 million General Fund savings in Child Welfare Services due to revised caseload estimates identified by the Legislative Analyst's Office.

Vote-Only Issue 21: Regional Market Rate Adjustment for California Work Opportunity and Responsibility to Kids (CalWORKs) Child Care

Description: The May Revision requests an increase of $36,542,000 Federal Trust Fund for CalWORKs Stage 1 child care to reflect increased child care provider costs resulting from the revised regional market rate ceilings implemented in 2006-07. Recent data provided by counties indicates an overall increase in the cost per case primarily due to increased provider rates.

Staff Recommendation: Approve the requested adjustment.

Vote-Only Issue 22 Freeze Response Impact on CalWORKs and the California Food Assistance Program

Description: The May Revision requests an increase of $6,482,000 ($1,080,000 General Fund and $5,402,000 Federal Trust Fund) to reflect an increase in CalWORKs and California Food Assistance Program (CFAP) benefits related to last winter's freezing conditions. The establishment of regional emergency intake centers allowed families affected by the freeze to timely apply for cash and food assistance. This resulted in additional families entering the CalWORKs, federal Food Stamp, and CFAP programs. The May Revision also requests a corresponding increase of $158,000 ($108,000 General Fund and $50,000 Federal Trust Fund) to reflect increased county administration costs resulting from caseload growth in the federal Food Stamp and CFAP programs due to the statewide response to last winter's freezing conditions.

Staff Recommendation: Approve the requested adjustments.

Vote-Only Issue 23 Food Bank Funding for Freeze

Description: The May Revision requests an increase of $4,445,000 General Fund to fund local food banks and Foodlink, a private organization that stores and delivers food during emergencies, to provide relief to Californians from the effects of last winter's severe weather conditions. This funding will enable these entities to pay the storage and distribution costs for the more than 1,500 truck loads of anticipated federal

commodities. The May Revision also reque sts that Budget Bill language be added to Item 5180-101-0001 to allow this funding to reimburse food banks and Foodlink for costs incur red in 2006-07 responding to th e freeze, along with any costs incurred in 2007-08.

Staff Recommendation: Adopt the requested adjustment and budget bill language. Adopt placeholder t railer bill language that w ould permit any of these funds that are unused for their stated purpose to be used for other emergenc y food needs in the State.

Vote-Only Issue 24: Erosion of In -Home Supportive Services Qualit y Assurance Savings

Description: The May Revis ion requests an in crease of $149, 222,000 ($48,497,000 General Fund and $100,725,000 Re imbursements) to reflect a lower lev el of Quality Assurance savings due to a revised methodology based on actual implementation data.

Staff Recommendation: Approve the request ed adjustment. Adopt Supplemental Report Language to require the Dep artment of Social Services (DSS) to report t o the Legislature quarterly on IHSS utilization data by count y, task, and client level. The data w ill also report the number of exceptio ns b y cou nty, task, and client level. Adopt budget bill language to require the DSS to report at budget hearings on the impact of the IHSS QA regulations.

Vote-Only Issue 25: Update Cost of SSI/SSP Cost-of-Living (COLA) Adjustment

Description: The May Revis ion requests a decr ease of $32,013,000 General Fund to update the cost to provide the January 2008 state SSI/SSP co st-of-living adjustment (COLA), as proposed in the Governor's Budge t. Primarily, this decrease is due to updated escalation factor projections on which the COLA is based.

Background: At the April 19, 2007 hearing, the Subcommittee approved $171.6 million to fund an SSP COLA of 3.7 percent and ap proved the pass through of $34.4 million for the federal SSI COLA of 1.2 percent. The Subcommitt ee has already taken the action that is proposed in the May Revis ion to reduce the SSP COLA to 3.7 percent to reflect the final calculation of the COLA index. Howe ver, the amount needed to fully fund the SSI/SSP COLAs will need to be revised to reflect the May Revision caseload numbers.

Staff Recommendation: Amend the requested adjustment to conform the Subcommittee's previous action to appr ove the 3.7 percent SSP COL A and the 1.2 percent SSI COLA.

Vote-Only Issue 26: Semi-annual Reporting Automation Costs

Description: The May Revision requests an increase of $17,151,000 ($3,664,000 General Fund and $13,487,000 Federal Trust Fund) to reflect one-time automation costs necessary to implement a semi-annual reporting (SAR) system for the CalWORKs, federal Food Stamp, and CFAP programs in 2008-09. To minimize disruption to recipients, automation efforts necessary to transition from the current quarterly reporting system to a SAR system would need to begin at least one year prior to the effective date of implementation, which is scheduled to be January 1, 2009.

Staff Recommendation: Approve the requested adjustment and the following budget bill provisional language in Item 5180-141-0001:

Of the funds appropriated in this item, $17,151,000 is for automation changes in the four Statewide Automated Welfare System (SAWS) consortia for the purpose implementing a semi-annual reporting system. These funds may not be expended unless all of the following conditions are met: (1) the Legislature enacts a program of semi-annual reporting for the CalWORKs, Food Stamps, and California Food Assistance programs; (2) related automation project documents, as required by the state administrative manual, are approved by the Department of Finance; and (3) the Department of Finance notifies the Legislature of its approval.

Vote-Only Issue 27: CWS/Case Management System Federal Cost Allocation Plan

Description: The May Revision requests an increase of $799,000 (increases of $1,552,000 Federal Trust Fund and $3,386,000 Reimbursements, partially offset by a decrease of $4,139,000 General Fund) to reflect a change to the Cost Allocation Plan (CAP) budgeting methodology as required by the federal Department of Health and Human Services' Division of Cost Allocation. This required CAP change also results in an increase of $12,345,000 federal Temporary Assistance for Needy Families (TANF) funding and a corresponding decrease in federal Title IV-E funding.

Staff Recommendation: Approve the requested adjustment.

Vote-Only Issue 28: Title IV-E Waiver Adjustment

Description: The May Revision requests a decrease of $19,114,000 ($3,994,000 General Fund and $15,120,000 Federal Trust Fund) due to the budgeting methodology reflecting updated data for the Title IV-E Waiver. The Title IV-E Waiver uses a "capped allocation" strategy to block grant federal Title IV-E foster care funds for the participating counties of Los Angeles and Alameda. This strategy permits the flexible use of these funds on early intervention and prevention services in order to reduce the reliance on

out-of-home care, promote reunification, and address required state and federal outcomes for child safety, permanence, and well-being.

Staff Recommendation: Approve the requested adjustment. Adopt budget bill language to require the Department of Social Services (DSS) to collaborate with stakeholders on the Title IV-E waiver evaluation timeline, components, and execution effective upon enactment of the Budget Act.

Vote-Only Issue 29: CalWORKs Reserve for Contingencies

Description: The May Revision requests that language in Item 5180-403 be modified to decrease the total TANF reserve from $150,103,000 to $140,336,000. The TANF reserve is available for unanticipated needs in any program for which TANF Block Grant funds are appropriated, including CalWORKs benefits, employment services, county administration, and child care costs. The decrease in the TANF reserve reflects a net increase in 2006-07 and 2007-08 in TANF expenditures. These expenditures, which are partially offset by a decreased CalWORKs caseload projection, primarily consist of increased CalWORKs child care costs due to revised regional market provider rates implemented in 2006-07; the revised CAP budgeting methodology for CWS/CMS as required by the federal government; and proposed semi-annual reporting automation costs.

Staff Recommendation: Approve the requested adjustment.

Vote-Only Issue 30: Reappropriation Authority for CalWORKs Performance Incentives

Description: The May Revision requests that Item 5180-492 be added to authorize the reappropriation of unspent CalWORKs performance incentive funds previously allocated to counties in 2002-03. The reappropriation is necessary to ensure that the funds provided to counties pursuant to Welfare and Institutions Code Section 10544.2 continue to be available for expenditure.

Staff Recommendation: Approve the requested adjustment and budget bill language.

Vote-Only Issue 30: *Conlan v. Shewry*

Description: The May Revision requests an increase of $110,000 ($55,000 General Fund and $55,000 Reimbursements) for the establishment of 1.0 two-year limited term position to comply with the *Conlan v. Shewry* court decision. This position is expected to provide continuity in such tasks as policy development, claims processing procedures, county oversight, and technical assistance for In-Home Supportive

Services recipients. The May Revision also requests that Budget Bill language in Item 5180-111-0001 authorizing the transfer of funds to state operations to address the *Conlan v. Shewry* lawsuit be amended to allow the Department of Social Services (DSS) to administratively establish positions to manage resulting workload.

Staff Recommendation: Approve the requested fiscal adjustment. Amend the budget bill language to also requires the Department of Finance to report to the Legislature on the amount to be transferred and the number of positions established.

Vote-Only Issue 32: Direct Deposit Implementation

Description: At the April 19, 2007 hearing, the Subcommittee received an update from the Department of Social Services (DSS) on the implementation of direct deposit to all In-Home Supportive Services (IHSS) caregivers. Although IHSS is a county-administered program, the State Controller makes the payment for IHSS providers by issuing individual checks to each provider. Currently, only a small number of IHSS clients who receive "advance pay" receive their funds through a direct deposit payment.

The 2006-07 Budget Act requires DSS to expand its direct deposit system to all IHSS caregivers. Although progress is being made, this expansion has taken significantly longer than originally projected.

Staff Recommendation: Adopt Supplemental Reporting Language requiring the DSS submit a schedule by August reflecting monthly progress tasks and then a monthly status letter against that schedule with a representative from the Legislative Analyst's Office and the Department of Finance, if desired, attending a quarterly status meeting.

Vote-Only Issue 33: Electronic Benefit Transfer Reprocurement

Description: The May Revision requests an increase of $1,462,000 ($559,000 General Fund and $903,000 Federal Trust Fund) for Electronic Benefit Transfer reprocurement planning and implementation activities. The Subcommittee also approved the Governor's Budget request for $863,000 ($278,000 General Fund) for reprocurement activities at the May 3, 2007. Although staff does not have particular concerns with this request, the Administration needs to work towards complying with the appropriate January and April deadlines for submission of these types of requests, which are inappropriate changes to be making at the May Revision. Future late submissions of these changes may not be able to be approved due to the lack of time for review.

Staff Recommendation: Approve the requested adjustment.

Vote-Only Issue 34: County Equipment Replacement and User Support

Description: The Governor's Budget and the May Revision does not include funding for hardware replacements for the CWS/CMS, CalWIN, C-IV, and LEADER statewide automation systems and currently only includes placeholder funding for help desk staff to support CalWIN. The total estimated costs to fund the hardware replacement and help desk staff is $27.8 million ($11.3 million General Fund). The Subcommittee originally discussed this issue at the April 19, 2007 hearing.

Background: Beginning in 2006-07, the Administration established a new policy eliminating local equipment replacement funding from the statewide system budgets and funded county CalWIN help staff well below recommended levels. The Legislature took action to restore funding of $16.8 million ($7.4 million General Fund) for CWS/CMS and CalWIN equipment replacement and for CalWIN help desk staff; however, the Governor vetoed this funding from the final budget. The Administration's proposed 2007-08 budget again excludes funding for equipment replacement and includes only placeholder funding levels for the CalWIN help desk staff.

The Legislative Analyst's Office (LAO) notes that the Administration's policy makes sense for systems that are web- based, where the operation of the system is not reliant on local equipment. However, in the "client -server" environment, where the system is dependent upon local equipment that is obtained specifically to operate the system, the costs of replacement equipment should be funded as part of maintenance and operation for the system. The CWS/CMS, CalWIN, and existing LEADER systems are client-server based. Staff also notes that funding for equipment replacement has never been provided to counties as part of their administrative funding. To expect them to absorb replacement costs now within their existing administrative budgets is, in effect, another budget cut.

Staff Recommendation: Provide $27.8 million ($11.3 million General Fund) for hardware replacements for the CWS/CMS, CalWIN, C-IV, and LEADER statewide automation systems and for help desk staff to support CalWIN.

Vote-Only Issue 35: Adult Protective Services

Description: At the April 19, 2007 hearing, the Subcommittee discussed the Adult Protective Services (APS) Program, demand for APS services, and the underfunding of the program. The proposed budget includes $123.6 million ($61.3 million General Fund) for 2007-08, an increase of five percent reflecting higher federal fund levels. The state funding level for APS has remained unchanged since 2002-03, while demand for services increases.

Staff Recommendation: Provide a $10 million General Fund augmentation to the Adult Protective Services Program.

Vote-Only Issue 36: Private Adoption Agency Reimbursement Program (PAARP)

Description: The Private Adoption Agency Reimbursement Program (PAARP) provides reimbursement payments to private adoption agencies for expenditures associated with the adoption of special needs children. The proposed budget includes $10.4 million ($5.6 million General Fund) for PAARP for 2007-08, the same funding level as has been provided for the past seven fiscal years.

Background: At the March 15, 2007 hearing, the Subcommittee approved additional resources for DSS for the support of adoption activities. There was no augmentation proposed either in the Governor's Budget or the May Revision for local adoption services.

According to DSS data, non-profit private adoption agencies finalized 31 percent of all foster care adoptions in the past year. These agencies want to finalize more adoptions but they are limited in their growth due to the limited funding. Costs have increased due to several factors, including increased costs to recruit adoptive parents, concurrent planning efforts used for foster care children, and increases in basic operating costs. According to the DSS information, there have been no new applications by adoption agencies to participate in the PAARP Program in the past three years and five agencies have dropped out in the past year.

Research consistently shows the benefits to foster care children and the State when foster care children are adopted. Adoption of a child from foster care saves the State about $3,900 per year for each year the child would have otherwise been in foster care. Foster care children who are adopted are less likely to become teen parents, abuse alcohol and drugs, be suspended or expelled from school, be incarcerated, and be unemployed.

Staff Recommendation: Provide a $2.0 million General Fund augmentation to the Private Adoption Agency Reimbursement Program to increase the PAARP reimbursement rate.

Vote-Only Issue 37: Licensing Reform Automation

Description: The budget requests $1.7 million ($1.5 million General Fund) and ten positions for the Department of Social Services (DSS) to begin a project to upgrade its information technology systems supporting the licensing program. Although already identified as a need in DSS' IT Strategic Plan, this proposal also responds to findings of deficiencies in enforcement and inadequate program oversight and accountability in an audit of DSS' efforts to rebuild the child care program completed in May 2006 by the Bureau of State Audits (BSA). This IT project is expected to take two years to complete.

Background: The Subcommittee originally heard this request in the April 19, 2007 hearing but held the item open pending the provision of a report from DSS due on April 1, 2007, on the cost to track key information related to enforcement activities with noncompliant facilities. The Subcommittee also requested information be provided to legislative staff and the LAO on the estimated time and cost to complete each of the components of the IT Strategic Plan. The DSS still has not submitted the April 1 report to the Legislature, but did respond to Subcommittee staff with high level cost information related to the IT Strategic Plan.

Staff Recommendation: Approve the budget request. Reduce Item 5181-001-0001 by $1.675 million and add the following provision:

"In addition to the amount appropriated in this item, the Department may spend up to $1,675,000 to implement its Licensing Reform Automation proposal, subject to the following condition. The Community Care Licensing public website pages which display individualized licensing information about providers, shall display, in addition to existing information, any adverse administrative actions pending against a provider's license. These funds may not be expended until the Department of Social Services notifies the Legislature of how they intend to display this new information.

The department shall update a provider's license status on this public display to "Licensed with Compliance Concerns" when there is any adverse action in process against the provider. The department shall update a provider's license status on this public display to "Probation" when the provider has been placed on probation as the result of an administrative action.

This condition shall be met by the time of the completion of the proposed automation project."

Vote-Only Issue 38: Temporary Assistance Program (TAP)

Description: The budget proposes trailer bill language that would delay implementation of the Temporary Assistance Program (TAP) indefinitely at the discretion of the Director of the Department of Social Services (DSS).

Background: The 2006-07 budget trailer bill established TAP as a non-MOE state-funded program that would provide CalWORKs-level grants and supportive services to CalWORKs clients who are exempt under state law from work participation requirements. The trailer bill established April 1, 2007 as the implementation date for TAP, but allowed DSS to request an extension of the implementation date with a letter to the Joint Legislative Budget Committee (JLBC). On January 19, 2007, DSS notified the JLBC that TAP implementation will be indefinitely delayed due to federal child support distribution rules and their effect on CalWORKs benefits.

Staff Recommendation: Revise the proposed trailer bill language to delay the implementation date from the current October 1, 2007 to April 1, 2009.

Vote-Only Issue 39: State Support for CalWORKs

Description: The budget includes two requests for resources for the Department of Social Services (DSS) to support TANF reauthorization and AB 1808 activities. The Subcommittee originally discussed these requests at the March 29, 2007 hearing.

1. **Support for TANF Reauthorization.** The budget requests $2.2 million in federal fund authority and 20 positions for DSS to support data collection for federal work participation in each county, including verification of data and reporting procedures, and to perform oversight and field monitoring of county procedures and case documentation for verification of recipient participation hours at the county level. These positions are intended to improve monitoring and measurement of the performance of counties to meet new federal data quality assurance mandates.

2. **Support for AB 1808 Activities.** The budget requests $832,000 in federal fund authority and seven limited-term positions for DSS to hold regular performance outcome measurement meetings with the counties to highlight best practices and identify obstacles to performance, and conduct county peer/state reviews to assist counties in improving work participation rates and implementation of the CalWORKs program. The DSS request also includes $250,000 to fund a contract with a consultant to design, develop, and implement a statewide performance indicator system for the CalWORKs program in the counties.

Staff Recommendation: Reject the requested positions and funding.

Vote-Only Issue 40: Enhanced Kin-GAP Clean-up Issues

Description: The Enhanced Kin-GAP program was established in the 2006 budget trailer bill as a voluntary alternative to the existing Kin-GAP program. The goals of the Enhanced Kin-GAP are the same as those of the "regular" Kin-GAP Program, but the eligibility is expanded to include certain probation youth who have been living with a relative for at least twelve months. As with "regular" Kin-GAP, the Enhanced Kin-GAP rates are also equal to 100 percent of the basic foster care rate for children placed in a licensed or approved home, but are increased by a clothing allowance and, if eligible, by a specialized care increment. These rate adjustments provide relative caregivers parity with the amounts that foster families receive.

There are two issues requiring legislative clean-up.

1. County Sharing Ratio for the Clothing Allowance: The trailer bill lacked sufficient clarity on the 100 percent General Fund share of the state clothing allowance add-on to Kin-GAP.

2. Statutory Exclusion from Clothing Allowance: Three counties, Tehama, Plumas, and Colusa, are excluded by statute from providing the state clothing allowance. Adding these counties would cost less than $15,000 General Fund per year.

Staff Recommendation: Provide $750,000 General Fund to fund the state clothing allowance at 100 percent and to permit the three counties to receive the clothing allowance. Adopt placeholder trailer bill language to effect these changes.

Discussion Agenda

5180 Department of Social Services (DSS)

DSS Issue 1: California Work Opportunity and Responsibility to Kids (CalWORKs) Program

Background: At its March 29, 2007 hearing, the Subcommittee thoroughly discussed and heard extensive testimony on the Administration's CalWORKs budget proposals for 2007-08. The May Revision continues to include these proposals.

Work Participation Rate (WPR) Update: As discussed in the March 29 hearing, the calculation of the work participation rate is a complex mix of work participation performance, maintenance-of-effort (MOE) expenditures, and caseload estimates. The May Revision reduces the estimated increase in work participation resulting from the Administration's proposals to impose full-family sanctions and restrict safety net grants to 11.25 percent once fully implemented, compared to 13 percent in the Governor's Budget. Regardless, the Administration's proposals would still not bring California's work participation rate for federal fiscal year (FFY) 2007 into compliance, and the Legislative Analyst's Office (LAO) continues to project that enactment of the Administration's proposals are not necessary for California to meet the required work participation rate for 2008. However, the amount of the work participation rate surplus has dropped to one percent from two percent based on the latest estimate of the base participation rate.

The LAO's latest analysis also notes that the State's non-compliance with the required work participation rate in FFY 2007 could result in non-compliance in FFY 2009, even though California will be compliant in FFY 2008. This is because the non-compliance in FFY 2007 increases the State's MOE requirement by $180 million in FFY 2008. Although California will not have a problem meeting this increased MOE requirement, it will reduce the MOE caseload reduction credit applied to FFY 2009 by 4.8 percentage points. All other things being equal, California would then be 3.8 percentage points below the required federal work participation rate. It is premature, however, to assume that the reforms and strategies enacted in the 2006-07 Budget Act will not yield higher work participation rates. The significant efforts underway in the counties must be given an opportunity to work.

Issue 1A: Full-Family Sanctions, Safety Net Grants, and Child-Only Grants

Description: The May Revision continues to propose imposing full-family sanctions, restricting safety net grants, and eliminating grants for children of CalWORKs-ineligible parents.

- **Impose Full-Family Sanctions:** The Administration proposes to impose a "full-family" sanction whereby a family's entire grant is eliminated for those families

with an adult who does not comply with CalWORKs requirements for more than 90 days. This proposal would result in a General Fund cost of $2.0 million (down from $11.4 million in January) due to the costs associated with child care for sanctioned cases who begin working (or participate in an allowable non-work activity) as a result of the change. The Administration also proposes to count the time the adult is sanctioned toward the 60-month lifetime CalWORKs limit, which may be reasonable if the State knew why recipients are in sanction status. The imposition of full-family sanctions is estimated to increase California's work participation rate by six percent.

- **Restrict Safety Net Grants:** The Administration proposes to eliminate safety net grants for those children whose parents do not work sufficient hours to meet federal work participation requirements after the adult recipient has exhausted his or her 60 cumulative months of cash assistance (i.e., "times-out"). This proposal assumes that only 31 percent (up from 26 percent in January) of the safety net caseload will meet the work participation requirements and remain eligible for safety net grants. The proposal would be implemented in November 2007 and would result in General Fund savings of $159.5 million (down from $175.8 million in January). This proposal is estimated to increase the work participation rate by 5.25 percent.

- **Eliminate Grants for Children of CalWORKs Ineligible Parents:** The Administration proposes to eliminate, after 60 months, grants to children whose parents are not eligible for CalWORKs to be consistent with the proposal to restrict safety-net grants. These parents are ineligible because they are unqualified non-citizens or drug felons. The children include U.S. citizen children of undocumented non-citizens. This proposal would be implemented in November 2007 and result in General Fund savings of $143.4 million (down from $160 million in January). There would be no impact to the state's work participation rate because these adults are already excluded from the work participation calculations.

Although the Administration continues to contend that these proposals will increase the work participation of CalWORKs recipients, the Administration has offered no new information or evidence to support this contention. As discussed in the March 29 hearing, there is no consensus in the research community on whether stronger sanctions correlate with better employment outcomes for families. A 2006 comprehensive review of sanctions studies nationwide by the West Coast Poverty Center, found that there is some evidence suggesting that sanctions can promote compliance with TANF work requirements. However, that research shows that it is the *level of enforcement* of the sanction policy and *not the rate* of the sanction that appeared to promote compliance. They found that there is no direct evidence about whether sanctions are effective at promoting participation in work activities and that there is no consensus on whether there is sufficient evidence to make a determination about the relative merits of partial and full-family sanctions. The experience of Texas with the full-family sanction policy it adopted in 2003 is also telling. Although the non-compliance rate dropped significantly, an analysis by the Center for Public Policy

Priorities in Texas indicates that it has been achieved by forcing families off the program, not by engaging them in work activities.

There is no existing research demonstrating even a correlation between the elimination of safety net benefits leading to increased work participation. Based on a survey of CalWORKs leavers conducted by the Welfare Policy Research Program, almost half (47 percent) are already employed and 24 percent are meeting federal work requirements. It is not known how far from meeting federal work requirements the other 23 percent are. Learning more about why these people are not working enough to meet the federal work participation requirements and crafting policies to assist them in doing so, might be a more reasonable approach to increasing work participation without harming children.

Economic hardship has been linked to a number of adverse educational, health, and other outcomes for children. Low income children are disproportionately exposed to circumstances that pose risks to healthy social and emotional development. Research is increasingly finding that when children grow up in poverty, they are more likely as adults to have lower earnings, and are more likely to engage in crime and have poor health later in life. These outcomes directly impact criminal justice and health care systems costs and lead to a loss of goods and services to the U.S. economy. Those other costs are not acknowledged in the Administration's proposed budget.

An important consideration is learning more about why CalWORKs recipients are not working. As discussed in the March 29 hearing, much more characteristics information is known about the sanctions caseload than about the safety net caseload. Yet even with the sanctions caseload, counties do not necessarily have specific enough information to determine whether a non-compliant or sanctioned CalWORKs recipient has a legitimate barrier to participation or is being willfully non-compliant. The lack of information currently gathered about the safety net population and of understanding the barriers faced by these recipients makes it impossible to formulate policies to increase their work participation while ensuring that their children are not harmed.

Finally, as discussed on March 29, there were significant changes made in the 2006-07 Budget Act as part of California's reauthorization of TANF to increase the work participation of CalWORKs recipients and to encourage a refocused effort by counties on welfare to work. In addition, the Department of Social Services established and continues to convene stakeholder workgroups that are developing funding options, exploring best practices, and sanctions and noncompliance, and improving data collection and work verification.

Questions:

1. Department, please explain the changes in assumptions and the revised estimates for these proposals.
2. LAO, describe the impact of the revised proposals on the work participation rate and the potential impact of rejecting the Administration's proposals.

Staff Recommendation: Reject the Administration's proposals to impose full-family sanctions, restrict safety-net grants, and eliminate grants for children of CalWORKs ineligible parents.

In light of the significant efforts being undertaken at the state and county levels to improve the work participation of CalWORKs recipients as required by the 2006-07 Budget Act, it is premature to make additional dramatic changes in the CalWORKs Program. In addition, any policy changes to improve California's work participation rate should do so by actually putting people to work and not just removing them from the CalWORKs Program (and, therefore, the calculation). Research, and the experience of other states, do not support the Administration's contention that these proposals will increase the work participation of CalWORKs recipients. All the findings from research on child poverty suggest that, although the Administration's CalWORKs budget proposals will result in short-term General Fund savings, the short- and long-term costs resulting from children growing up in poverty could far outweigh those savings.

Issue 1B: County Plans

Description: The 2006-07 Budget Act included $90 million for county welfare departments to increase the work participation rate. This funding can be used flexibly by counties for such efforts as new or improved engagement strategies, employment and training collaborative programs, and efforts to prevent and cure sanctions. The 2006 budget also requires each county to perform a comprehensive review of its existing CalWORKs county plan and submit a plan addendum detailing how the county will meet the goals of the CalWORKs program, while taking into consideration federal work participation requirements. The plans shall include immediate and long-range actions that the county will take to improve work participation rates among CalWORKs applicants and participants and a description of expected outcomes and how the county will measure those outcomes.

In the March 29 hearing, the Subcommittee discussed the strategies that counties are employing in their plans and heard testimony from the welfare directors from Sacramento and Santa Clara Counties about the activities underway in their counties. These strategies include up-front engagement, welfare-to-work training or working options, linkages to other government programs, sanction prevention and re-engaging noncompliant or sanctioned clients, and measuring progress toward improving work participation rates.

Questions:

1. Department, please provide an update on the review of the county plans.
2. Department, what, if anything, are you doing with the information in the county plans?

Staff Recommendation: Adopt placeholder trailer bill language: 1) requiring the Department of Social Services to review the county plans for promising practices in the areas of upfront engagement and re-engagement of sanctioned families;

gather information on imple mentation a nd results of these prop osals; and disseminate that information; and 2) requi re DSS, in conjunction w ith the Count y Welfare Director's Association, to review the county plans and work with counties to determine w hat activities and stra tegies coun ties are using to encourage participation among time-limited fa milies, gather information about the characteristics of the time-limited populat ion, and report that informa tion. The information in both cases sho uld be submi tted to the Legislature and counties. The Legislature w ould like to w ork with the Administration to develop an appropriate time frame for submission of those reports.

Issue 1C: Semi-annual Reporting Trailer Bill Language

Description: In the March 29 hearing, the Subcommittee discussed t he Administration's proposed trailer bill lang uage to move from the current quarterly reporting system to semi-annual reporting. Including moving to semi-annual reporting, the trailer bill language requires that recipi ents report at any time during a semi-annual reporting period of a cumulative increase or decreas e in monthly income of $100 or more.

CalWORKs and Food Stamp adv ocates and the Count y Welfar e Directors Association have expressed significant concerns regarding the impact of the $100 income reporting threshold. Department estimates indicate t hat the $100 threshold would res ult in more than a tho usand new reports ea ch month, mostly from families who wou ld not have to report under today's rules. These familie s would lose benefits more quickly because they have to report much more frequently than they do under the current quarterly reporting rules, lowering the incentive for C alWORKs recipients to work and resulting in increased administrative duties f or county staf f. Under the current quarterly reporting system, th e only CalWORKs income reporting threshold is the point at which a family would no longer be e ligible for CalWORKs benefits ($1,67 1 for a family of three in a high cost county). Advocates and count ies suggest that the State seek to minimize reporting requirements, thus mini mizing negative impact s to recipients an d ensuring t he lowest possible increase to county workload. Under a semiannual reporting system, the CalWORKs income reporti ng threshold that is c ost-neutral to the State relative to the existing reporting threshold is $1,100.

Questions:

1. Department, please describe the rationale for the $100 income reporting threshold.
2. CWDA, describe the problems with t he $100 incom e reporting threshold and the rationale for an $1,100 threshold.

Staff Recommendation: Reject the Administration' trailer bill language and adopt replacement placeholder trailer bill language that w ill: 1) require counties to redetermine eligibilit y for recipients of CalWORKs and food stamp benefits on a semiannual basis; 2) establish an in come reporting thre shold w here families must report w ithin the six month period if their income increases b y $1,100 o r increases above th e CalWORKS or F ood St amp eligibility thresholds; and 3)

prohibit the recoupment of projected CalWORKS administrative savings as long as county human services departments do not have sufficient funding to cover the cost of doing business and require settle-up of actual CalWORKs administrative savings with any projected CalWORKs administrative savings.

DSS Issue 2: Child Welfare Services (CWS) Budget Methodology

Description: On May 11, 2007, the Department of Social Services (DSS) released its Child Welfare Services (CWS) Budget Methodology proposal. This report was due to the Legislature on February 1, 2007, with the intent of the Legislature that the budget methodology be implemented in the Budget Act of 2007. This issue was originally discussed by the Subcommittee on March 15, 2007.

Background:

Child Welfare Services Workload Study (SB 2030) Findings: There has been an ongoing effort in the Child Welfare Services (CWS) program to determine how many cases a social worker can carry and still effectively do his or her job. In 1998, the Department of Social Services commissioned the SB 2030 study of counties' caseloads. At the time, the study concluded that for most categories the caseloads per-worker were twice the recommended levels. According to the study, it was difficult for social workers to provide services or maintain meaningful contact with children and their families because of the number of cases they were expected to carry. The report also found that the 1984 standards used by the state were based on outdated workload factors, and did not reflect any additional responsibilities that had been placed on social workers by the state and federal governments. These findings and the minimal and optimal social worker standards proposed by the report have been included in budget discussions regarding staffing standards since the report's release.

Child Welfare Services (CWS) Budget Methodology: As part of the budget process last year, discussions occurred about whether to place the SB 2030 standards in statute with a timeline for achieving them. Instead, the final Budget Act of 2006 required the Department of Social Services to lead a workgroup, including the California Welfare Director's Association, legislative staff, and members of organizations representing social workers, to develop a methodology for budgeting the child welfare services program to meet statutory program requirements and outcomes taking into account the SB 2030 standards.

The proposed budget methodology was due to the Legislature by February 1, 2007, and it was the intent of the Legislature that the budget methodology be implemented in the Budget Act of 2007. The Subcommittee expressed concern in the March 15 hearing that delay in the release of the budget methodology proposal would be problematic because the Legislature would not have time to thoroughly analyze and discuss the proposed methodology at the May Revision. However, that concern proved to be unfounded as the report offered no budget methodology proposal.

Instead, the report offered four recommendations:

1. Work with the California Welfare Director's Association (CWDA) to establish a stable and predictable funding methodology.
2. Work with the CWDA to develop an allocation methodology that addresses funding inequalities caused by the "hold harmless" policy.
3. Share all CWS Program costs on a consistent basis with current sharing ratio.
4. The DSS should begin to study the linkages between populations, poverty, and related demographics and the CWS caseloads.

Essentially, the Administration has recommended that they do what last year's language required them to do. Additionally, the report includes numerous contradictory and unfounded conclusions.

The report concludes that minimum SB 2030 standards are already funded, implying that the standards have merit as a benchmark of funding adequacy. However, the current staffing levels are overstated in the report and the report's calculation of current statewide funding levels includes funding for items that are not core child welfare services activities. The report also points to the counties' investment of $409 million of local funding beyond the required levels from 2001-02 and 2005-06 as evidence that the minimum standards are funded, rather than recognizing that counties may be backfilling for inadequate state funding levels for a state responsibility. The report is highly critical of the policy to hold counties harmless for reductions in foster care because it has created inequities across counties. However, the "hold harmless" policy is a core component of the Title IV-E waiver demonstration project, which the Administration touts in the report. The report also fails to consider that funding inadequacies may be more of a cause of the inequities than the hold harmless policy.

As part of the work of developing the budget methodology report, the DSS consulted with the Center for Public Policy Research at the University of California, Davis, to conduct an independent review of research including other states' caseload standards. The research showed that California's caseloads are higher than most other states, and it found that the SB 2030 study to be the most extensive and highly regarded effort to date to measure appropriate workload in child welfare. Given the Administration's implicit acceptance of the standards as a benchmark of funding adequacy and rejection of the opportunity to propose an alternative methodology, it seems appropriate to move forward in 2007-08 to implement the SB 2030 standards.

Questions:

1. Department, please describe the findings and recommendations of your report.
2. CWDA, please respond to the report.

Staff Recommendation: Adopt placeholder trailer bill language that would enact over five years the optimal standards reflected in the SB 2030 study as updated to reflect changes in practice to be implemented July 1, 2008.

DSS Issue 3: County Costs for Operating Social Services Programs

Description: The May Revision includes a proposal to enact a budgeting methodology for funding county human services administrative costs tied to the salary and benefit increases provided to state employees and subjected to an annual Budget Act appropriation beginning in 2008-09.

Background: During the April 19, 2007 hearing, the Subcommittee discussed the cost of doing business for counties administering social services programs. During the 1990s, most budgets for county administration of health and social services programs were set through the Proposed County Administrative Budget (PCAB) process. Under PCAB, counties submitted proposed budgets and staffing levels for their programs based on estimated costs, caseload, and workload. These requests included adjustments for inflation. State departments such as the Department of Social Services (DSS) or the Department of Health Services (DHS) then reviewed these proposed budgets to determine if the requests were "reasonable" and "consistent" with current state law and made any necessary adjustments. Under PCAB, administrative budgets reflected increased costs due to workload and inflation.

Since 2001-02, there have been no adjustments to county administrative allocations to account for inflation in any DSS programs. In contrast to the social services programs operated by DSS, county administrative allocations for Medi-Cal have been adjusted annually for inflation through 2006-07.

Assembly Bill (AB) 1808 (Chapter 75, Statutes of 2006), the 2006-07 budget trailer bill, requires DSS to estimate the costs for county administration using county-specific cost factors in the programs' budget methodology and requires county certification of "reasonable" costs for specified county social services programs. AB 1808 requests DSS to develop, in consultation with CWDA, a survey process to collect reasonable county specific costs data. Commencing with the 2007-08 May Revision, DSS is required to identify in its budget documents the estimates developed and the difference between these estimates and proposed funding levels.

Governor's May Revision Proposal: The May Revision did include the estimated difference between the funding identified on the counties' surveys and the funding levels proposed in the May Revision, which is $835.8 million ($459.7 million General Fund). In addition, the Administration proposed a budgeting methodology for funding county human services administrative costs. Beginning in 2008-09, an annual adjustment to county administration funding would be provided equivalent to the salary and benefit increases provided to state employees, subject to an appropriation in the annual Budget Act. The proposal would also pass on a share of federal penalties in various social services programs as an incentive for counties to improve services and performance.

While it is positive that the Administration has a proposal to address the unfunded county costs of operating social services programs, there are problems with these specific proposals. The proposed index is unpredictable and making it subject to a budget act appropriation makes it an unstable funding base, contrary to the

Administration's claims. State employee wage increases are not related to individual counties' costs of administering social services programs, and therefore, are an inappropriate index. Furthermore, there may be legal issues in linking county cost increases to state employee wage increases.

Questions:

1. Department, please describe the May Revision proposal.

Staff Recommendation: Reject the proposed trailer bill language. Adopt placeholder trailer bill language to restore the process of budgeting human services programs based on reasonable current costs to deliver services. Increases should be based on a process for estimating reasonable, actual costs; will ensure that county accountability is commensurate with resources provided; and will be sufficient to meet program requirements and objectives.

DSS Issue 4: Transitional Housing Program (THP)-Plus

Description: The May Revision proposes $15.5 million General Fund in 2007-08 for the Transitional Housing Program (THP)-Plus, the same amount proposed in January. This level of funding is $19.7 million General Fund less than the amount needed to fully fund counties with existing approved plans, as agreed to in last year's budget negotiations.

Background: As discussed in the March 15, 2007 Subcommittee hearing, THP-Plus provides housing assistance to emancipating foster youth aged 18 to 24. THP-Plus was augmented in the 2006 Budget Act by $4.2 million General Fund and the county share of cost for the program was removed. This amount was considered a placeholder amount and only sufficient to fund 5 of 17 counties with DSS-approved THP-Plus plans at that time. There are now 44 counties with approved plans in the current and budget years.

The Administration is pursuing legislation to provide an augmentation to the program in the current year of $10.5 million General Fund to meet this additional demand by the counties for resources. That bill is AB 845 (Bass, Maze, and Sharon Runner, coauthors Ducheny and Perata), which will be voted on the Assembly floor this week. During the March 15 hearing, the DSS indicated that the 2007-08 estimate of total costs would be recalculated at the May Revision. Not only has that recalculation not been done, but the 2007-08 amount would essentially be a cut to the program from the current year once the appropriation in AB 845 is available.

Each year, approximately 5,000 youth emancipate from the foster care system in California; many leave without the resources, skills, or abilities to find safe housing and support. These youth are at a critical juncture and may become homeless, out of school, unemployed, and receive CalWORKs or, with housing and other support, become healthy and productive citizens. Based on the county plans approved by DSS,

many of the estimated 1,215 transitioning foster youth in 44 counties that would have been served in THP-Plus will not have access to needed housing support under the Administration's May Revision proposal.

Questions:

1. Department, why was the agreement to fund DSS-approved THP-Plus programs not upheld in the May Revision?

Staff Recommendation: Approve a $19.7 million General Fund augmentation to THP-Plus to fund the 44 counties with approved THP-Plus plans.

DSS Issue 5: *Gomez v. Saenz*

Description: The May Revision proposes $6.8 million ($4.3 million) to reflect the settlement of the *Gomez v. Saenz* court case, which requires counties to enact a grievance process to provide due process to any persons wishing to challenge their listing on the Child Abuse Central Index (CACI).

Background: The recently settled *Gomez v. Saenz* court case establishes a grievance process that includes timelines and requirements for notification to individuals listed on the CACI, hearing procedures, opportunity to inspect files, and a requirement that the social worker conducting the investigation be present at the grievance hearing so that the person grieving the listing on the CACI can cross-examine the social worker. This proposed grievance process will result in new workload and is a significant practice change for local child welfare agencies.

The California Welfare Directors Association (CWDA) is concerned, based on their examination of counties that already conduct internal reviews when CACI complaints are filed, that the Administration's estimate understates the staff time for hearings by as much as 42 percent. The CWDA estimates the amount of the resulting funding shortfall could be $3.6 million ($1.8 million General Fund).

Questions:

1. Department, please describe the *Gomez v. Saenz* court case settlement.
2. Department, what are the assumptions behind your estimate of the additional costs?

Staff Recommendation: Adopt the May Revision funding level as budgeted. Adopt placeholder trailer bill language to require DSS, in consultation with the County Welfare Director's Association, to track actual county costs to implement the *Gomez v. Saenz* court settlement agreement in the 2007-08 fiscal year. To the extent that actual costs differ from the amount estimated in the budget, the actual costs shall be used to update the premise commencing with the 2008-09 budget.

DSS Issue 6: Foster Care Overpayments

Description: The May Revision proposes $3.4 million General Fund in 2006-07 and $906,000 General Fund in 2007-08 to reflect costs to conform to federal regulations that require immediate repayment of the federal share of foster care overpayments as soon as payments have been verified. The May Revision estimates that the county share to conform to these regulations will be $5.1 million in 2006-07 and $1.4 million in 2007-08.

Background: The current practice is to repay the federal share of foster care overpayments upon recoupment from foster care providers. The federal government has clarified that it requires repayment of all state and county overpayments currently verified, whether or not the overpayment has been recollected. The proposal by the Administration to comply with the new federal requirement is to share the cost of the repayment with the counties according to the foster care sharing ratio, which is 40 percent state General Fund and 60 percent county funds. The Administration also proposes to retroactively apply that sharing ratio to foster care overpayments dating back to October 2003. Because the 40:60 sharing ratio is already in statute, the Administration asserts it does not need legislation to apply the ratio to repayments or to require repayments according to the ratio retroactively.

The County Welfare Directors Association (CWDA) has expressed concerns with the Administration's proposal. There is no current obligation to collect overpayments retroactively and most prior overpayments are uncollectible. The Administration's authority to administratively require retroactive repayments from the counties is dubious. The process by which CWS/CMS systems changes that would minimize foster care provider overpayments are approved is lengthy and counties do not have access to existing CWS/CMS data that would help minimize overpayments. Furthermore, although they agree conceptually with sharing the cost of the repayments with the State, they object to being required to repay overpayments from which they are prohibited from collecting due to a lawsuit or existing statute.

Questions:

1. Department, please explain the Administration's proposal.
2. Department, what is your authority for imposing a county share of retroactive repayments?

Staff Recommendation: Reject the May Revision proposal. Adopt placeholder trailer bill language that: 1) rejects any retroactive cost-sharing of foster care overpayments; 2) requires DSS to work with the CWDA to develop a fair approach to state/county cost sharing of overpayments on a prospective basis, including repayment for legally uncollectible overpayments; 3) requires DSS to clarify policy and adopt regulations where lacking for the collection of overpayments; 4) requires DSS to gather and disseminate information and support county best practices for the prevention and recovery of overpayments; and 5) requires DSS and the Office of System Integration to work with CWDA to complete expedited approval of county requests to modify or implement automation systems

designed to minimize overpayments and to provide counties with needed data from the CWS/CMS system to minimize overpayments.

Although a sharing between the state and county of repayments of foster care overpayments is reasonable, the authority to do should be explicitly provided in statute and only on a prospective basis. While the Administration argues that counties are responsible for making the overpayments and should share in the repayment in all situations, it is unfair to not provide counties with the assistance and tools that they need to prevent the overpayments from occurring in the first place.

DSS Issue 7: Care Rates for Children Served by Dual Agencies

Description: The May Revision includes a new proposal to clarify the rate structure for children who are regional center consumers and in receipt of either Aid to Families with Dependent Children-Foster Care (AFCD-FC) or Adoption Assistance Payments (AAP) benefits (call "dual agency" children). The proposal is estimated to avoid costs of $25 million ($7 million General Fund) in 2007-08 and an additional $130 million ($42 million General Fund) in 2008-09.

Background: Under current law, the care and supervision rate provided to children who are eligible for regional center services and who are receiving AFDC-FC or AAP rates is linked to the ARM rate provided by regional centers to vendorized group home facilities servicing children with developmental disabilities. During the past few years there has been increased confusion regarding the process for determining an appropriate rate for the cost of care and supervision received by dual agency children, leading to a series of lawsuits throughout the state. Increasing numbers of foster parent and adoptive parents have requested administrative hearings to resolve rate disputes and have postponed finalization of adoptions pending resolution. Due to decisions from Administrative Law Judges increasing the rates originally set by the regional center for dual agency children to the maximum allowable, $5,139. As a result, there is pressure to initially set the rates at the maximum allowable, regardless of the individual needs of the child.

The May Revision proposal would fix the amount that dual agency children could receive for board and care under AFDC-FC and AAP to $2,006 per month for dual agency children three years of age or older and $898 per month for dual agency children under three years of age. Existing foster and adoptive families currently at rates above $2,006 per month would be permitted to maintain their higher rate and existing families currently below $2,006 per month would be raised to that rate. Dual agency children would continue to be eligible for all regional center services to which they are statutorily entitled.

The proposal would provide clarity in the rate setting process and the roles of county welfare departments and regional centers, provide state wide consistency in the setting of rates for dual agency children, facilitate the finalization of adoptions, and assist in resolving pending litigation. Furthermore, it protects the State from potentially

significant repayment of Title IV-E funds to the federal government. Title IV-E funds are prohibited from being used for purposes other than board and care and current rate setting process in California is based on treatment and other needs of the child beyond board and care. The regional center system is the required and appropriate entity to all other necessary services and supports. The federal government has recently increased the scrutiny of the general use of Title IV-E funds by California.

Although the Administration's proposal was developed in conjunction with the California Welfare Directors Association (CWDA) and the Association of Regional Center Agencies (ARCA), the Alliance for Children's Rights, Public Counsel, and Protection and Advocacy, Inc., are opposed. They argue that the proposal excluding an examination of each child's needs in the setting of the rate violates federal and state law, the proposed $2,006 rate would cut in half the funding received by children with the most severe disabilities and would be a disincentive for families to adopt these hard-to-place children, and the proposal has had no public discussion and was not developed in conjunction with advocacy organizations.

The advocacy organizations are rightly concerned about the timing of this policy. Regardless of perspectives on the appropriateness of the proposed policy, it is a significant change to current policy and should have been discussed through the policy and budget processes. It is unclear why this proposal and the associated caseload estimates were not included in the January budget given that it is virtually identical to one that the Administration tried to enact at the end of the last legislative session, but ultimately withdrew in large part because of the lack of time to completely vet the proposal with stakeholders. The timing of the proposal puts the Legislature in a difficult position: either adopt the proposal with virtually no review and public discussion or face large fiscal consequences.

It is true that these dual agency children are among the most challenging to place in foster care and adoptive families and that the higher rate would be a benefit to those families. It is also important to remember that the rate at issue is for board and care only. Dual agency children are still entitled to an individual evaluation of their needs by a regional center and are entitled to receive all the services identified as part of the individual evaluation. The State needs to ensure that the regional center system is fully accessible to dual agency children and that they receive needed services in a sufficient and timely manner.

Questions:

1. Department, please describe the May Revision proposal.
2. Department, what is your response to questions regarding the legality of the proposal? What did your legal analysis conclude?
3. Department, why did the Administration wait until the May Revision to introduce this proposal?

Staff Recommendation: Approve as budgeted and amend trailer bill language to: 1) strengthen the grandfather provisions; 2) require DSS to collect information on the number of adoptions of dual agency children prior to and after

implementation of the proposal; 3) require DDS to collect information over a corresponding period of time on how services provided by regional centers changed for these dual agency children and whether there was an increase in the number of appeals related to dual agency children; and 4) require DSS and DDS to submit a joint report with this information back to the Legislature. The Legislature would like to work with the Administration to develop an appropriate time frame for submission of those reports.

DSS Issue 8: Foster Care Payment Methodology

Description: Over the past five years, subject to rising costs and outdated methodologies, foster caregivers of all types (foster family homes, foster family agencies, and group homes) have found that they cannot afford to continue. The current Rate Classification Level (RCL) system for group homes, as an example, includes only $7.83 per hour for the wages of entry-level child care workers, less than the $8.00 minimum wage that will go into effect on January 1, 2008. Group homes find it impossible to recruit and retain qualified and dedicated staff at those payment levels

The fiscal and staffing problems faced by group homes and other foster caregivers that force them to leave the field are of particular concern as it relates to juvenile offenders. A large number of counties do not have adequate local options to address the needs of their juvenile offenders. This is not only a deficiency in infrastructure, but there is also a lack of resources and current capacity to provide certain specialized services to juvenile offenders. As a result, counties are forced to rely upon the state juvenile justice facilities for residential placements.

Staff finds that more needs to be done to strengthen the continuum of options available for juvenile offenders. Group homes play a critical role in that continuum. A proposal by the California Alliance of Child and Family Services to update foster care payment methodologies would address the needs of foster care providers, including group homes. This proposal would:

- Provide a 5 percent increase to county foster family home base rates and specialized care increments.
- Provide a 5 percent increase to each component of the FFA rate, including the basic rate, child increment, social work services, and recruitment, training and administration.
- Increase the amount built into the group home RCL system for entry level child care workers by 5 percent from $7.83 per hour to $8.22 per hour and increasing the percentage included for payroll taxes and employer paid benefits from 20 percent and 24 percent.

The updated payment methodology is estimated to cost $22 million General Fund.

Questions:

1. Department, please briefly describe the Rate Classification Level system.
2. California Alliance, please describe the current challenges faced by foster caregivers and the impact they are having on California's foster care system.
3. California Alliance, describe your pay ment methodology proposal. What are the expected effects if this proposal is adopted?

Staff Recommendation: Provi de $22 million General Fund and adopt pl aceholder trailer bill language updating the foster care methodology f or all ty pes of foster care providers (foster family homes, foster family agencies, and group homes) to address cost increases asso ciated w ith car egiver recruitment and retention, minimum w age changes, pay roll tax increases, higher benefit costs, and specialized care requirements.

0530 Health and Human Services Agency – Office of System Integration (OSI)

OSI Issue 1: Various May Revision Automation Requests

Description: The May Revision proposes significant changes to four automation systems.

Issue 1A: Child Welfare Services/Case Management Systems (CWS/CMS) Technical Change

Description: It is requested that $117,000 be redirected within Item 0530-001-9732 to continue 5.0 limited-term positions for three months. The authorization for these positions currently expires on March 31, 2008. This technical adjustment is necessary in order to evaluate the ongoing need for these limited-term positions during the 2008-09 budget process. All costs associated with the positions will be redirected from within existing resources.

Although this request does appear to be technical, staff did not have sufficient time to analyze the request. It should be noted that the Administration knew about this situation in time to request the adjustment in both the Governor's Budget in January and spring finance letter process in April. There is no apparent reason for the Administration to have waited until the May Revision to submit this request.

Questions:

1. OSI, please describe this request.
2. OSI, why did you wait until the May Revision to submit this request?

Staff Recommendation: Approve the redirection of $1,000 for this request to put the item into conference committee to give staff an opportunity to analyze the request.

Issue 1B: Case Management, Information, and Payrolling Systems II (CMIPS II)

Description: The May Revision requests that item 0530-001-9732 be reduced by $1,622,000 to transfer this funding and associated position authority to the Department of Social Services (DSS), as DSS will need these positions for implementation of the system. In addition, the May Revision requests that language be added to Item 0530-001-9732, to allow the Department of Finance to augment the amount available for expenditure in this item to pay for new contract costs and other costs associated with CMIPS II implementation, subject to legislative notification. These costs are currently unknown, as contract negotiations will not be completed until at least July 2007. The proposed language would allow negotiations to continue, while not further

delaying planning and implement ation activities. Although this language was inclu ded in the 2006 Budget Act, it was not proposed in the 2007-08 Governor's Budget because not enough information was av ailable at the time to confirm the authority would be needed again in 2007-08. Furt her, the May Revis ion requests that 6.0 limited-term positions be extended for one additional y ear for th e purpose of continuing system planning activities and cost negotiations. All costs associ ated with the pos itions will be redirected from within existing resources.

The May Revision also requests an incr ease of $412,000 ($206, 000 General Fund and $206,000 Reimbursements) and 4.0 one-year limited term positions for the Department of Social Services to continue planni ng and procurement activities for the Cas e Management Information and Pa yrolling Sy stem II (CMIPS II) project. It is requested that resources be transferred from local assistance to fund this effort.

The Subcommittee originally dis cussed th e CMIPS II system in the April 19, 2007 hearing and held the item open pendi ng updated information resu lting from the contract negotiations. Instead of having complete in formation upon whic h to build the 2007-08 budget, however, the contract negotiations ar e taking longer than was indic ated in the April 19 discussion. While the delay in this case may be beyond the Administration's control, the Legis lature is left in the positi on, due to the timing, of having to provide authority to the Administration to make proj ect decisions mid-year without more direct input of the Legislature.

Questions:

1. OSI, please describe the proposed May Revision adjustments.
2. LAO, have you had an opportunity to do a co mplete review of the request and what is the outcome of that review?

Staff Recommendation: Approve the reduction of $1,000 from Item 0530-001-9732 and the transfer of $1,000 to 5180-111-0001 fo r these requests to put the item into conference committee to give staff an opportunity to analyze the requests.

Issue 1C: CalWORKs Information Network/Welfare Client Data System

Description: The May Rev ision requests a decreas e of $40,472,000 ($15,252,000 General F und, $16,760, 000 Federal Trust Fund, and $8, 460,000 Reimburse ments) to reflect a change from implementation to maintenance and operations for the CalWORKs Information Network/Welfare Client Data System.

This is a s ignificant c hange in t he mainte nance and operations of this s ystem. The Administration did not provide any indication to the LAO or legisl ative staff at the Governor's Budget or during the spring financ e letter process that this reduction would be coming. While it is good that the changes result in General Fund savings rather than costs, it is disturbing that such large swings in project costs could go unanticipated.

Questions:

1. OSI, please describe the reason for the decline in maintenance and operations costs.
2. OSI, when were you aware of the lower costs?

Staff Recommendation: Approve a decrease of $1,000 to put the item into conference committee to give staff an opportunity to analyze the request.

Issue ID: Interim Statewide Automated Welfare System Migration

Description: The May Revision requests an increase of $36,574,000 ($16,039,000 General Fund, $11,638,000 Federal Trust Fund, and $8,897,000 Reimbursements) to complete Interim Statewide Automated Welfare System Migration planning and to begin implementation activities.

As with many of the previous requests, the timing of this proposal has made it impossible for legislative staff and the LAO to meaningfully review the proposal. This is particularly important in this case because of the magnitude of the cost increases. Neither the LAO nor legislative staff was given an indication that these costs would be coming so late in the year.

Questions:

1. OSI, please describe the May Revision request and the reasons for the increased costs.
2. OSI, was the magnitude of the cost increase anticipated?
3. LAO, have you had an opportunity to do a complete review of the request and what is the outcome of that review?

Staff Recommendation: Approve an increase of $1,000 to put the item into conference committee to give staff an opportunity to analyze the request.

=Senate Budget & Fiscal Review Committee
Eileen Cubanski 651-4103

Hearing Outcomes
Subcommittee No. 3
9 a.m., Thursday, May 21, 2007

Vote-Only Agenda

Multiple Departments

- Vote-Only Issue 1: Reduction in the Price Increase – Multiple Departments
  Action: Approved the requested adjustments. **Vote:** 3-0

0530 Health and Human Services Agency – Office of System Integration

- Vote-Only Issue 1: Statewide Automated Welfare System (SAWS)
  Action: Approved the budget request for LEADER, including LEADER replacement, ISAWS maintenance and operation, C-IV, WDTIP, and project management. **Vote:** 3-0

- Vote-Only Issue 2: Electronic Benefit Transfer (EBT)
  Action: Approved the requested adjustments. **Vote:** 3-0

4170 California Department of Aging

- Vote-Only Issue 3: Alzheimer's Demonstration Project Grant Budget Bill Language
  Action: Amended the requested budget bill language to require notification of the Joint Legislative Budget Committee within 10 days of approval by Department of Finance to the Department of Aging to expend the funds. **Vote:** 3-0

- Vote-Only Issue 4: Senior Legal Hotline
  Action: Provided $250,000 General Fund to the Senior Legal Hotline. Added a schedule to Item 4710-101-0001 as follows:
  (4.5) 97.20.004 Local Projects…....$250,000
  (a) Legal Services of Northern California: Senior Legal Hotline
  Vote: 2-1 (Cogdill)

4200 Department of Alcohol and Drug Programs

- Vote-Only Issue 5: Funding for Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA)
  Action: Added $60 million General Fund to Proposition 36 to restore funding to the current year level. Maintained the total $60 million that the Administration has proposed for the Offender Treatment Program. **Vote:** 2-1 (Cogdill)

- Vote-Only Issue 6: California Methamphetamine Initiative (CMI)
  Action: Approved as budgeted. **Vote:** 3-0

- Vote-Only Issue 7: Prison Inmate Aftercare Treatment
  Action: Approved as budgeted. **Vote:** 2-1 (Cogdill)

- Vote-Only Issue 8: Drug Medi-Cal
  Action: Approved the requested adjustments. **Vote:** 3-0

4700 Department of Community Services and Development

- Vote-Only Issue 9: Naturalization Services Program
  Action: Provided an additional $2.0 million General Fund for the Naturalization Services Program. **Vote**: 2-1 (Cogdill)

5160 Department of Rehabilitation

- Vote-Only Issue 10: Office Building (OB) 10 Relocation Support
  Action: Approved the requested adjustment. **Vote**: 3-0

- Vote-Only Issue 11: Department of Rehabilitation Requirements in the Statutory Subvention Process
  Action: Adopted placeholder trailer bill language that reflects the revised information submitted by the Department of Rehabilitation at the May Revision. **Vote**: 3-0

- Vote-Only Issue 12: May Revision Caseload Adjustments
  Action: Approved the Department of Rehabilitation estimate as budgeted. Adopt placeholder trailer bill language that requires the Department of Rehabilitation to track the exact number of SEP and WAP consumers for 2007-08, how much it costs to serve them, and from what other programs funds were redirected to serve them if the costs exceed the budgeted amount. The DOR shall submit this information to the Legislature on January 10, 2008 and May 15, 2008. The Department of Rehabilitation shall also submit to the Legislature a proposed methodology for projecting caseload and funding growth in the SEP and WAP for 2008-09 and beyond by April 1, 2008. **Vote**: 3-0

5175 Department of Child Support Services

- Vote-Only Issue 13: Performance Incentive Funding
  Action: Approved as budgeted. **Vote**: 3-0

- Vote-Only Issue 14: Continue Suspension of Health Insurance Incentives and Improved Performance Incentives Programs
  Action: Approved the proposed trailer bill language. **Vote**: 3-0

- Vote-Only Issue 15: Various Spring Finance Letter Requests
  Action: Approved the requested adjustments in A. through E. on the agenda with a permanent redirection of funds from Items 5175-002-0001 and 5175-002-0890 to Items 5175-001-0001 and I5175-001-0890. **Vote**: 3-0

- Vote-Only Issue 16: California Child Support Automation System (CCSAS) Federal Certification
  Action: Approved the reappropriation of unspent funds from the 2004-05 and 2005-06 appropriations, but delete the reappropriation language for 2006-07. **Vote**: 3-0

- Vote-Only Issue 17: Federal Dispute Resolution Grant
  Action: Approved the requested adjustment. **Vote**: 3-0

- Vote-Only Issue 18: CCSAS State Distribution Unit (SDU)
  Action: Approved the requested adjustments. **Vote**: 3-0

- Vote-Only Issue 19: CCSAS Child Support Enforcement System (CSE)
  Action: Approved the requested adjustments. **Vote**: 3-0

5180 Department of Social Services

- Vote-Only Issue 20: May Revision Caseload Adjustments
  Action: Approved the May Revision adjustments in funding due to caseload updates (adjusted as appropriate for actions taken elsewhere in the agenda), and adopt $5.4 million General Fund savings in the Cash Assistance Program for Immigrants and $3.4 million General Fund savings in Child Welfare Services due to revised caseload estimates identified by the Legislative Analyst's Office. **Vote**: 3-0

- Vote-Only Issue 21: Regional Market Rate Adjustment for California Work Opportunity and Responsibility to Kids (CalWORKs) Child Care
  Action: Approved the requested adjustment. **Vote**: 3-0

- Vote-Only Issue 22: Freeze Response Impact on CalWORKs and the California Food Assistance Program
  Action: Approved the requested adjustments. **Vote**: 3-0

- Vote-Only Issue 23: Food Bank Funding Freeze
  Actions: 1) Adopted the requested adjustment and budget bill language. **Vote**: 3-0 and 2) Adopted placeholder trailer bill language that would permit any of these funds that are unused for their stated purpose to be used for other emergency food needs in the State. **Vote**: 2-1 (Cogdill)

- Vote-Only Issue 24: Erosion of In-Home Supportive Services Quality Assurance Savings
  Action: Approved the requested adjustment. Adopted Supplemental Report Language to require the Department of Social Services (DSS) to report to the Legislature quarterly on IHSS utilization data by county, task, and client level. The data will also report the number of exceptions by county, task, and client level. Adopt budget bill language to require the DSS to report at budget hearings on the impact of the IHSS QA regulations. **Vote**: 3-0

- Vote-Only Issue 25: Update cost of SSI/SSP Cost-of-Living (COLA) Adjustment
  Action: Amended the requested adjustment to conform the Subcommittee's previous action to approve the 3.7 percent SSP COLA and adopted the LAO recommendation to fund the revised SSI COLA of 1.97 percent. **Vote**: 2-1 (Cogdill)

- Vote-Only Issue 26: Semi-Annual Reporting Automation Costs
  Action: Approved the requested adjustment and the following budget bill provisional language in Item 5180-141-0001: Of the funds appropriated in this item, $17,151,000 is for automation changes in the four Statewide Automated Welfare System (SAWS) consortia for the purpose implementing a semi-annual reporting system. These funds may not be expended unless all of the following conditions are met: (1) the Legislature enacts a program of semi-annual reporting for the CalWORKs, Food Stamps, and California Food Assistance programs; (2) related automation project documents, as required by the state administrative manual, are approved by the Department of Finance; and (3) the Department of Finance notifies the Legislature of its approval. **Vote**: 3-0

- Vote-Only Issue 27: CWS/Case Management System Federal Cost Allocation Plan
  Action: Approved the requested adjustment. **Vote**: 3-0

- Vote-Only Issue 28: Title IV-E Waiver Adjustment
  Action: Approved the requested adjustment. Adopted budget bill language to require the Department of Social Services (DSS) to collaborate with stakeholders on the Title IV-E waiver evaluation timeline, components, and execution effective upon enactment of the Budget Act.. **Vote**: 3-0

- Vote-Only Issue 29: CalWORKs Reserve for Contingencies
  Action: Approved the requested adjustment. **Vote**: 3-0

- Vote-Only Issue 30: Reappropriation Authority for CalWORKs Reserve Performance Incentives
  Action: Approved the requested adjustment and budget bill language. **Vote**: 3-0

- Vote-Only Issue 31: *Conlan v. Shewry*
  Action: Approved the requested adjustment. Amended the budget bill language to also requires the Department of Finance to report to the Legislature on the amount to be transferred and the number of positions established. **Vote**: 3-0

- Vote-Only Issue 32: Direct Deposit Informaton
  Action: Adopted Supplemental Reporting Language requiring the DSS submit a schedule by August reflecting monthly progress tasks and then a monthly status letter against that schedule with a representative from the Legislative Analyst's Office and the Department of Finance, if desired, attending a quarterly status meeting. **Vote**: 2-1 (Cogdill)

- Vote-Only Issue 33: Electronic Benefit Transfer Reprocurement
  Action: Approved the requested adjustment. **Vote**: 3-0

- Vote-Only Issue 34: County Equipment Replacement and User Support
  Action: Provided $27.8 million ($11.3 million General Fund) for hardware replacements for the CWS/CMS, CalWIN, C-IV, and LEADER statewide automation systems and for help desk staff to support CalWIN. **Vote**: 2-1 (Cogdill)

- Vote-Only Issue 35: Adult Protective Services
  Action: Provideed a $10 million General Fund augmentation to the Adult Protective Services Program. **Vote**: 2-1 (Cogdill)

- Vote-Only Issue 36: Private Adoption Agency Reimbursement Program (PAARP)
  Action: Provided a $2.0 million General Fund augmentation to the Private Adoption Agency Reimbursement Program to increase the PAARP reimbursement rate. **Vote**: 3-0

- Vote-Only Issue 37: Licensing Reform Automation
  Action: Approved the budget request. Reduced Item 5181-001-0001 by $1.675 million and added the following provision: In addition to the amount appropriated in this item, the Department may spend up to $1,675,000 to implement its Licensing Reform Automation proposal, subject to the following condition. The Community Care Licensing public website pages which display individualized licensing information about providers, shall display, in addition to existing information, any adverse administrative actions pending against a provider's license. These funds may not be expended until the Department of Social Services notifies the Legislature of how they intend to display this new information. **Vote**: 2-1 (Cogdill)

- Vote-Only Issue 38: Temporary Assistance Program (TAP)
  Action: Revised the proposed trailer bill language to delay the implementation date from the current October 1, 2007 to April 1, 2009. **Vote**: 3-0

- Vote-Only Issue 39: State Support for CalWORKs
  Action: Rejected the requested positions and funding. **Vote**: 2-1 (Cogdill)

- Vote-Only Issue 40: Enhanced Kin-GAP Clean-up Issues
- **Action:** Provided $750,000 General Fund to fund the state clothing allowance at 100 percent and to permit the three counties to receive the clothing allowance. Adopt placeholder trailer bill language to effect a 100 percent state share for the county sharing ratio for the clothing allowance and eliminate the county exclusion from clothing allowance for three counties (Tehama, Plumas, and Colusa). **Vote**: 2-1 (Cogdill)

Discussion Agenda

5180 Department of Social Services

- DSS Issue 1: California Work Opportunity and Responsibility to Kids (CalWORKs) Program

  Issue 1A: Full-Family Sanctions, Safety Net Grants, and Child-Only Grants

  Action: Rejected the Administration's proposals to impose full-family sanctions, restrict safety-net grants, and eliminate grants for children of CalWORKs ineligible parents. **Vote:** 2-1 (Cogdill)

  Issue 1B: County Plans

  Action: Adopted placeholder trailer bill language: 1) requiring the Department of Social Services to review the county plans for promising practices in the areas of upfront engagement and re-engagement of sanctioned families; gather information on implementation and results of these proposals; and disseminate that information; and 2) require DSS, in conjunction with the County Welfare Director's Association, to review the county plans and work with counties to determine what activities and strategies counties are using to encourage participation among time-limited families, gather information about the characteristics of the time-limited population, and report that information. The information in both cases should be submitted to the Legislature and counties. The Legislature would like to work with the Administration to develop an appropriate time frame for submission of those reports. **Vote:** 2-1 (Cogdill)

  Issue 1C: Semi-annual Reporting Trailer Bill Language

  Action: Rejected the Administration' trailer bill language and adopt replacement placeholder trailer bill language that will: 1) require counties to redetermine eligibility for recipients of CalWORKs and food stamp benefits on a semiannual basis; 2) establish an income reporting threshold where families must report within the six month period if their income increases by $1,100 or increases above the CalWORKS or Food Stamp eligibility thresholds; and 3) prohibit the recoupment of projected Cal-WORKS administrative savings as long as county human services departments do not have sufficient funding to cover the cost of doing business and require settle-up of actual CalWORKs administrative savings with any projected CalWORKs administrative savings. **Vote:** 2-1 (Cogdill)

- DSS Issue 2: Child Welfare Services (CWS) Budget Methodology

  Action: Adopted placeholder trailer bill language that would enact over five years the optimal standards reflected in the SB 2030 study as updated to reflect changes in practice to be implemented July 1, 2008. **Vote:** 2-1 (Cogdill)

- DSS Issue 3: County Costs for Operating Social Services Program

  Action: Rejected the proposed trailer bill language. Adopt placeholder trailer bill language to restore the process of budgeting human services programs based on reasonable current costs to deliver services. Increases should be based on a process for estimating reasonable, actual costs; will ensure that county accountability is commensurate with resources provided; and will be sufficient to meet program requirements and objectives. **Vote:** 2-1 (Cogdill)

- DSS Issue 4: Transitional Housing Program (THP)-Plus
  Action: Approved a $19.7 million General Fund augmentation to THP-Plus to fund the 44 counties with approved THP-Plus plans. **Vote:** 2-1 (Cogdill)

- DSS Issue 5: *Gomez v. Saenz*
  Action: Adopted the May Revision funding level as budgeted. **Vote:** 3-0 and 2) Adopted placeholder trailer bill language to require DSS, in consultation with the County Welfare Director's Association, to track actual county costs to implement the *Gomez v. Saenz* court settlement agreement in the 2007-08 fiscal year. To the extent that actual costs differ from the amount estimated in the budget, the actual costs shall be used to update the premise commencing with the 2008-09 budget. **Vote:** 2-1 (Cogdill)

- DSS Issue 6: Foster Care Overpayments
  Action: Rejected the May Revision proposal. Adopted placeholder trailer bill language that: 1) rejects any retroactive cost-sharing of foster care overpayments; 2) requires DSS to work with the CWDA to develop a fair approach to state/county cost sharing of overpayments on a prospective basis, including repayment for legally uncollectible overpayments; 3) requires DSS to clarify policy and adopt regulations where lacking for the collection of overpayments; 4) requires DSS to gather and disseminate information and support county best practices for the prevention and recovery of overpayments; and 5) requires DSS and the Office of System Integration to work with CWDA to complete expedited approval of county requests to modify or implement automation systems designed to minimize overpayments and to provide counties with needed data from the CWS/CMS system to minimize overpayments.. **Vote:** 2-1 (Cogdill)

- DSS Issue 7: Care Rates for Children Served by Dual Agencies
  Action: Approved as budgeted and amend trailer bill language to: 1) strengthen the grandfather provisions; 2) required DSS to collect information on the number of adoptions of dual agency children prior to and after implementation of the proposal; 3) required DDS to collect information over a corresponding period of time on how services provided by regional centers changed for these dual agency children and whether there was an increase in the number of appeals related to dual agency children; and 4) require DSS and DDS to submit a joint report with this information back to the Legislature. The Legislature would like to work with the Administration to develop an appropriate time frame for submission of those reports.. **Vote:** 2-1 (Cogdill)

- DSS Issue 8: Foster Care Payment Methodology
  Action: Provided $22 million General Fund and adopt placeholder trailer bill language updating the foster care methodology for all types of foster care providers (foster family homes, foster family agencies, and group homes) to address cost increases associated with caregiver recruitment and retention, minimum wage

changes, payroll tax increases, higher benefit costs, and specialized care requirements. **Vote:** 2-1 (Cogdill)

0530 Health and Human Services Agency – Office of System Integration

- OSI Issue 1: Various May Revision Automated Requests

  Issue 1A: Child Welfare Services/Case Management Systems (CWS/CMS) Technical Change

  Action: Approved the redirection of $1,000 for this request to put the item into conference committee to give staff an opportunity to analyze the request. **Vote:** 3-0

  Issue 1B: Case Management, Information, and Payrolling Systems II (CMIPS II)

  Action: Approved the reduction of $1,000 from Item 0530-001-9732 and the transfer of $1,000 to 5180-111-0001 for these requests to put the item into conference committee to give staff an opportunity to analyze the requests. **Vote:** 3-0

  Issue 1C: CalWORKs Information Network/Welfare Client Data System

  Action: Approved a decrease of $1,000 to put the item into conference committee to give staff an opportunity to analyze the request. **Vote:** 3-0

  Issue ID: Interim Statewide Automated Welfare System Migration

  Action: Approved an increase of $1,000 to put the item into conference committee to give staff an opportunity to analyze the request. **Vote:** 3-0

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Agenda – Part B

Monday, May 21, 2007
9:00 am
Room 3191
(Consultant: Bryan Ehlers)

Vote-Only Agenda

Discussion Agenda

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.

8950 Department of Veterans Affairs

The California Department of Veterans Affairs (CDVA) has three primary objectives: (1) to 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) to afford California veterans the opportunity to become homeowners through loans available to them under the Cal-Vet farm and home loan program; and (3) to 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. With $50 million in general obligation bonds available through Proposition 16 (2000), $162 million in lease-revenue bonds (most recently amended by AB 1077 [Chapter 824, Statutes of 2004]), and federal funds, new homes will be constructed in West Los Angeles, Lancaster, Saticoy, Fresno, and Redding.

The Governor's budget funds 1,608.6 positions (including 8.0 new positions) and budget expenditures of $349 million for the department, including the veterans' homes.

For the three veterans' homes, the Governor proposes a four percent funding increase, as shown below.

Home	Funding 2006-07*	Proposed Funding 2007-08*
Yountville $82,333		$85,172
Barstow 15,535		18,303
Chula Vista	26,348	26,020
TOTALS	$124,216	$129,495

(*dollars in thousands)

VOTE-ONLY AGENDA:

Vote-Only Issue 1: April Finance Letter – Increase Resources to Address Deferred Infrastructure Repairs and Maintenance

The CDVA requests 8.0 one-year limited-term positions and $1.9 million one-time General Fund to address deferred repair and maintenance required to maintain health and safety at the veterans' homes. Of the total request, $1 million is proposed for maintenance and repairs at the Veterans' Home of California – Yountville (VHC-Y), $100,000 for improvement to wheelchair ramps at the Veteran's Home of California - Chula Vista, and the remaining $800,000 is for Operating Expenses & Equipment

associated with the requested staff. Following completion of a VHC-Y study funded by the Budget Act of 2006 and due out in late 2007, the CDVA anticipates developing an ongoing program to address infrastructure repairs and deferred maintenance.

Staff Comments: This issue was heard previously, and the Chair requested the CDVA to provide additional information on the proposed repairs. In response, the department provided the repair list in Appendix A.

Staff no longer notes concern with this proposal.

Vote-Only Issue 2: Provisional Language for Previously Approved Professional Medical Services

At a previous hearing, the Subcommittee approved 5.0 permanent positions (Certified Nursing Assistants) and $325,000 ongoing General Fund to support implementation of "restraint free" care at the Veterans' Home of California – Yountville. The Subcommittee may wish to adopt the following provisional language to require the CDVA to report on progress in providing a "restraint free" environment for residents.

> 8955-001-0001
> Provisions:
> XX. *CDVA shall provide a report to the Legislature by January 1, 2007 on the Homes-wide restraint reduction policy. This report shall: 1) describe the policy; 2) detail the reasons for adopting this patient care policy; 3) demonstrate the impact that the practice has had on the three Veterans Homes; 4) show how the practice is measured, evaluated, reviewed, and reported; 5) identify the number and duration of restraint and/or seclusion episodes at each veterans' home; 6) detail how the three Veterans Homes compare to private facilities across the state and nation in the use of restraints and/or seclusion; and 7) provide a training plan describing the skills in which staff are instructed, the total number of staff trained in "restraint free" practices, and a timeline for training new staff.*

Vote-Only Issue 3: May Revise Letter – Increase in Federal Trust Fund Authority

The CDVA requests a $4,000 increase in Federal Trust Fund authority associated with the annual Cost-of-Living Adjustment and a $4,000 decrease to General Fund authority in Budget Year 2007-08 for the Veterans' Homes at Yountville and Barstow. This request reflects CDVA implementation of improved budgeting practices and the use of federal per diem projections to revise home expenditure estimates.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE Vote-Only Issues 1 through 3.

VOTE on Vote-Only Issues 1 through 3:

DISCUSSION AGENDA:

CDVA Issue 1: April Finance Letter – Consolidation of Veterans Homes Appropriations

The CDVA requests consolidation of the appropriations for the three existing Veterans Homes with the Veterans Home Division staff appropriations into a single departmental organization code (currently there are four). This proposal represents a net zero transfer, and is intended to greatly simplify the CDVA budget process while maintaining the transparency of expenditures at each home.

Staff Comments: This issue was heard previously and discussion focused on the CDVA's need to streamline its budgeting and accounting operations in order to reduce errors and to prepare for the addition of more veterans' homes in the immediate future. Currently, the CDVA headquarters (HQ), the Veterans Home of California -Yountville (VHC-Y), the Veterans Home of California – Barstow (VHC-B) and the Veterans Home of California – Chula Vista (VHC – CV), are each budgeted within separate items of appropriation. This arrangement creates significant additional workload for the accounting department—for example, three separate checks must be cut to the same vendor when goods or services are purchased for all three homes. Similarly, maintaining separate budget "silos" limits flexibility to address emerging issues—for example, HQ cannot reallocate resources from one home to another in the event of an emergency at one of the homes.

Given a recent history of poor budgeting and mismanagement at the CDVA, previous discussion focused on staff concerns that HQ may not be adequately prepared to assume the additional budgetary authority this plan would thrust upon it. For example, under the proposed consolidation, the department executive would assume ultimate decision-making power and responsibility over fund transfers between the homes. To address this concern, staff requested the CDVA to provide a transition plan for the consolidation. Given the compressed timeframe of the remainder of the budget process, however, the CDVA was only able to provide a transition plan at the level of an "executive summary."

As concerns over this proposal have not been wholly addressed, the department has worked with the LAO to fashion provisional language (see Appendix B) to provide enhanced legislative oversight of the transition, with the intent that, should the Subcommittee choose to approve this proposal, the Legislature would be kept closely appraised of developments during and after implementation of the consolidation. For example, the Legislature would receive 30-day notice of any fund transfers between homes that exceed $100,000 and all transfers that occur after a cumulative transfer-threshold of $500,000 is exceeded.

Staff Recommendation: APPROVE the request with the proposed provisional language in Appendix B.

VOTE:

CDVA Issue 2: April Finance Letter – Salary Increase for Mental Health Personnel

The CDVA requests $1.2 million ongoing General Fund to increase salaries for certain mental health professionals serving at California Veterans' Homes to make them more competitive with Department of Corrections and Rehabilitation (CDCR) salary rates for the same classifications. CDCR medical personnel received a significant pay increase as a result of recent court decisions (*Plata*, *Coleman*, and *Perez*) and this request is intended to help the CDVA recruit and retain similar personnel serving California veterans, including psychiatrists, psychologists, social workers, therapists, and Chiefs of Medicine.

Staff Comments: This issue was heard previously and held open pending additional information on CDVA discussions with the Department of Personnel Administration (DPA).

According to the CDVA, the DPA has approved the proposed increases for all of the non-CDCR departments (including the Department of Mental Health and the Department of Developmental Services) who have made similar spring requests for mental health professional classifications. However, staff notes that the increases are still subject to union negotiations and Memorandum of Understanding approval.

As previously noted, this request funds all filled, but not all authorized, positions in these classifications. However, the May Revise Letter below (Issue #3) includes a request to fund the remaining unfilled positions.

Notwithstanding the Senate Budget Committee's position that all salary increases should go through the collective bargaining process and be considered only after DPA and union approval, recent developments surrounding the CDCR create a special case. Due to the significant salary increases for medical personnel mandated, or anticipated to be mandated, by the courts hearing the *Plata*, *Coleman*, and *Perez* cases, several state departments with responsibility for 24-7 patient care face serious staffing problems. Specifically, significant pay increases for certain classifications at CDCR have, or will, make it extremely difficult for other departments to compete in recruiting and retaining staff for the same or similar classifications. Based on this threat to the health and safety of the veterans' home residents, the Subcommittee may wish to relax its expectations regarding collective bargaining.

Staff Recommendation: APPROVE the request.

CDVA Issue 3: May Revise Letter – Salary Increase for Mental Health Personnel

This proposal conforms to the April Finance Letter (AFL) above (Issue #2) and requests funds to increase salaries for mental health professional classifications serving at the California Veterans' Homes. While the aforementioned AFL funded only filled positions, this request would fund the remaining unfilled positions at a net reduction of $11,000 (General Fund) in Budget Year (BY) because the AFL contained misclassifications.

Staff Comments: According to the CDVA, the pay increases for Chief Medical Officer and Chief of Medicine originally contained in the AFL will now be funded through the DPA. Because the BY-cost of these positions ($333,899) was originally included in the AFL, their removal more than offsets the BY-portion of increased costs ($322,392) to fund the salary increase in the other unfilled positions. Staff notes that the CDVA proposes to fund $239,478 in salary increases in 2008-09 because it does not believe the positions can be filled in BY.

Staff Recommendation: Consistent with the recommendation for Issue #2, APPROVE the request.

CDVA Issue 4: May Revise Letter – Dental Personnel: *Perez* Salary Increase

The CDVA requests $575,000 (General Fund) to fund salary increases for dental professional classifications impacted by the *Perez* case (see Issue #2 for additional background on *Perez*).

Staff Comments: As discussed in Issue #2, these classifications are affected by recent developments with the CDCR. Staff additionally notes that this proposal is consistent with requests by the Department of Mental Health and Department of Developmental Services for pay increases for *Perez* classifications, and, according to the CDVA, is supported by the DPA.

Staff Recommendation: APPROVE the request.

CDVA Issue 5: May Revise Letter – Technical Adjustment and Salary Increase for 2006-07 Annex I (Alzheimer's/Dementia) BCP

The Veterans' Home of California – Yountville (VHC-Y) requests $3.3 million ($2.3 million General Fund, $417,000 Federal Trust Fund, and $568,000 General Fund Reimbursements). Of the requested amount, $2.4 million would fund a salary increase for 75.7 *Plata*, *Coleman*, and *Perez* positions approved in 2006-07 for the Annex I Alzheimer's and Dementia facility at Yountville, while $891,000 would fund Operating Expenses and Equipment (OE&E) costs that were not budgeted in the original BCP. Among others, the position classifications include: Certified Nurse Assistant; Licensed Vocational Nurse; and Supervising Registered Nurse.

Staff Comments: The requested pay increase for *Plata*, *Coleman*, and *Perez* classifications is consistent with other CDVA requests (see Issues #2, #3, and #4), and would improve the VHC-Y's chances of recruiting and retaining staff to care for Alzheimer's and Dementia patients (see earlier staff comments in Issue #2).

The request for $891,000 in additional OE&E primarily reflects prior ineptitude in CDVA budgeting, an issue previously addressed by this Subcommittee. Simply put, the CDVA

did not take into account a wide variety of costs (for example, computers and training) when it originally requested the Annex I positions. Under new budget staff, the department has since developed a "cost calculator" to allocate costs associated with new positions; however, the timing of this request has not permitted ample opportunity for legislative staff to review the assumptions built into the cost calculator. Therefore, staff is unable to either validate or invalidate the department's request for additional OE&E resources. Without prejudice to the request or the accuracy of the cost calculator, staff will recommend the Subcommittee deny the bulk of the OE&E augmentation, anticipating that the CDVA can resubmit its request in the fall, by which time staff will have had the opportunity to more thoroughly review the assumptions built into the cost calculator. Staff notes that the LAO recommendation is substantially in line with this rationale, and supports funding a minor portion of the OE&E request that includes special costs like food and clinical services for new patients. Staff has no objection to providing $180,000 for these special costs.

Staff Recommendation: APPROVE in-part. APPROVE $2.4 million for salary increases and $180,000 for new-patient special costs, but DENY $711,000 for unjustified OE&E.

VOTE:

CDVA Issue 6: May Revise Letter – Technical Adjustment and Salary Increase for 2006-07 Ward 1A and 1B BCP

The Veterans' Home of California – Yountville (VHC-Y) requests $1.2 million ($1.1 million General Fund, $73,000 Federal Trust Fund, and $16,000 General Fund Reimbursements). Of the requested amount, $568,000 would fund a salary increase for 33.6 Non-*Plata*, *Coleman*, and *Perez* positions approved in 2006-07 for the Ward 1A and 1B skilled nursing facility at Yountville, while $643,000 would fund Operating Expenses and Equipment (OE&E) costs that were not budgeted in the original BCP. The position classifications include: Certified Nurse Assistant; Licensed Vocational Nurse; Registered Nurse; and Supervising Registered Nurse.

Staff Comments: The requested pay increase for non-*Plata*, *Coleman*, and *Perez* classifications would improve the VHC-Y's chances of recruiting and retaining staff in the Ward 1A and 1B skilled nursing facility. Consistent with the rationale described above in Issue #2, the Subcommittee may wish to relax its expectations regarding collective bargaining and approve salary increases for positions associated with the health and safety of residents receiving 24-7 care from a state facility.

The request for $643,000 in additional OE&E stems from the same factors outlined in the staff comments for Issue #5 (above) and should be addressed similarly.

Staff Recommendation: APPROVE in-part. APPROVE $568,000 for salary increases and $362,000 for new-patient special costs, but DENY $281,000 for unjustified OE&E.

VOTE:

CDVA Issue 7: April Finance Letter – Salary Increase for Medical Services Personnel

The CDVA requests $86,000 ongoing General Fund to increase salaries for particular medical professional classifications serving at California Veterans' Homes to make them more competitive with Department of Corrections and Rehabilitation (CDCR) salary rates for the same classifications. As noted above (Issue #2), CDCR mental health personnel received a significant pay increase as a result of recent court decisions and this request is intended to help the CDVA recruit and retain personnel serving California veterans, including physical and occupational therapists, speech pathologists, and respiratory care staff.

Staff Comments: This issue was heard previously and the CDVA was requested to provide the Subcommittee with additional information on the status of discussions with the DPA and the collective bargaining process. In subsequent correspondence, the CDVA indicated that it had not yet obtained final DPA approval, but expected a decision as early as May 25.

As noted above in Issue #2 (and Issue #6—dealing with other non-*Plata*, *Coleman*, and *Perez* classifications) the Senate Budget Committee generally places significant importance on letting the collective bargaining process work. However, the Subcommittee may wish to relax its expectations regarding collective bargaining and approve salary increases for positions associated with the health and safety of residents receiving 24-7 care from a state facility.

Staff Recommendation: APPROVE the request.

VOTE:

APPENDIX A – Veterans Home of California, Yountville-Repair and Maintenance Project List & Cost Estimates

New Roofs or Roof Repair-most urgent list:
Annex IV Roof
$125,000
Section J Roof
$100,000
Creative Arts Center
$125,000
Memorial Chapel Roof
$75,000
Hostess House
$100,000
Section J garage
$15,000
Section L garage
$15,000

Sidewalk Repairs
Numerous Locations (lifts, heaves, broken section and Annex II patio)
$80,000

Patios
Hospital PX - replace heaved and damaged cement
$25,000
Section K - pour new patio-Section K has no patio
$15,000
Annex II - replace broken, heaved and unsafe patio
$25,000

Automatic Doorways
Holderman Hospital from handicap parking into building east end
$9,000
Holderman Hospital entrance from outside to laboratory
$9,000

Handicap Bathroom
Main Dining Room (only has 1 for all 400 or so men eating)
$50,000

Electric Upgrade-health and safety
Section E
$30,000
Section B (Annex III) enables us to add washer/dryer
$45,000

Sidewalks (new)

To Baseball Field from President's Circle
From Alameda to Chapel by Administration
North end of Holderman for ADA Handicap Compliance Parking
Total
$80,000

Roads
Road to currently used gravesites in cemetery
$80,000

Wheelchair Lift
From Wards 1C1D to outside Patio to bypass ramp
$50,000

Total:
$1,053,000

Veterans Home of California, Chula Vista-Single Project: Sidewalk Accessibility Ramps

Description: A total of twenty-two (22) Curb accessibility ramps do not comply with CA Title 24 1127B.5.3 having excessive slope greater than 8.3 % causing an abrupt change from the street to the ramp, which is unsafe. Remove 22 existing ramps and replace with new ramps IAW CA Title 24 and Americans with Disabilities Act Access Guide.

1. Remove existing Curb Ramp.
2. Correct slope from street to face of curb. (Not to exceed 5% slope)
3. Re-install curb ramps (not to exceed 8.3% slope)
4. Install Detectable warnings (truncated domes) IAW CA Title 24 1117B.5.8, 1127B.5.8, 1133B.8.3, 1133B.8.5

Chula Vista Cost estimate: 22 @ $4545.00 = $ 99,990
Yountville Cost estimate: $1,053,000

TOTAL COST ESTIMATE $1,152,000

APPENDIX B – Provisional Language for Department of Veterans Affairs Consolidated Budget Request

(a) It is the intent of the Legislature to provide for flexibility for the administrative approval of intra-program transfers within the Care of the Sick and Disabled Veterans Program (Program 30) in those instances where transfers are necessary for the efficient implementation of the program.

(b) The Secretary, or his or her designee, may authorize the augmentation of the amount available for expenditure in any Veterans Home set forth in Program 30, by making a transfer from any of the other designated elements within Program 30.

(c) Any single transfer in excess of $100,000 may be authorized not sooner than 30 days after notification in writing of the necessity thereof is provided to the director of Finance, or not sooner than whatever lesser time the Director or his or her designee, may in each instance determine. Additionally, any single transfer in excess of $200,000 shall require notification of the Chairperson of the Joint Legislative Budget Committee and shall take place not sooner than 30 days after such notification, or whatever lesser time the chairperson or his or her designee may in each instance determine. Each notification shall include a description of the reason or reasons necessitating the transfer and the effect on the program element from which the funds are transferred.

(d) Transfers of the amounts available for expenditure for an element designated in Program 30 of this schedule by transfer from any of the other designated element within Program 30 shall not exceed, during any fiscal year, 10 percent of the amount so scheduled on that line item for those appropriations made by this act.

(e) At any time transfers from one line item or from all line items collectively exceed $500,000 in total, the department shall notify the Chairperson of the Joint Legislative Budget Committee prior to any further transfers. Transfers of any funds in excess of the $500,000 limit shall take place not sooner than 30 days after such notification, or whatever lesser time the chairperson or his or her designee may in each instance determine. Each notification shall include a description of the reason or reasons necessitating the transfer and the effect on the program element from which the funds are transferred.

(f) On January 10th of the year following the conclusion of the 2007-08 fiscal year and each fiscal year thereafter, the secretary shall furnish the chairpersons of the committees in each house of the Legislature that consider appropriations and the State Budget, and the Chairperson of the Joint Legislative Budget Committee, with a report on all authorizations given pursuant to this provisional language during that fiscal year.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 3 Agenda

Chair, Senator Elaine Alquist
Senator Dave Cogdill
Senator Alex Padilla

Agenda – Part "C"

Monday, May 21, 2007
9:00 a.m.
Room 3191

Consultant, Brian Annis

Labor Agency Departments

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.

Department Budgets Proposed for Consent / Vote-only

7120 California Workforce Investment Board

Vote Only Issue 1: Federal Funds Reduction (May Revision Finance Letter)

Description: The Administration requests a reduction to the California Workforce Investment Board (CWIB) budget of $126,000 to reflect lower-than-anticipated federal funding in the Workforce Investment Act (WIA) program. With this adjustment, the CWIB budget would be $4.4 million. The total WIA funding reduction from the federal government is $35.0 million with the balance of the reduction affecting the Employment Development Department (EDD) budget (see also Issue 5 in the EDD section of this agenda).

Staff Recommendation: Approve this May Revision Finance Letter to appropriately budget available federal funds.

Department Budgets Proposed for Discussion and Vote

7100 Employment Development Department

Vote Only Issue 1: Program Benefit Adjustments (May Revision Finance Letter)

Description: At the April 12, 2007, hearing, the Subcommittee heard from Employment Development Department (EDD) Director Patrick Henning on the budgeted levels for benefit payments related to the Unemployment Insurance Program, the Disability Insurance Program, and the School Employees Fund. Every May, EDD provides a revised budget request to adjust funding for the new estimates of claims and payments. The following changes are requested this year:

- **Unemployment Insurance Program and Benefit Adjustments**—It is requested that the budget be increased by $4.3 million and 50.6 personnel years to reflect a projected increase in state operations for the Unemployment Insurance (UI) Program. Additionally, it is requested that the budget be increased by $183.0 million to reflect a projected increase in UI benefit payments.

- **Disability Insurance Program and Benefit Adjustments**—It is requested that the budget be decreased by $9.4 million and 97.7 personnel years to reflect a projected decrease in state operations for the Disability Insurance (DI) Program. It is also requested that the budget be decreased by $60.3 million to reflect a projected decrease in Disability Insurance benefit payments.

- **School Employees Fund Adjustments**—It is requested that the budget be decreased by $4,077,000 to reflect a projected reduction in benefit payments from the School Employees Fund.

Staff Comment: None of these changes affects the General Fund – all costs in these areas are funded by employer and employee taxes. If estimates of benefit payments turn out to be too low, budget bill language allows for upward revision of the appropriations with approval of the Director of Finance and notification to the Legislature. If estimates of benefit payments turn out to be too high, the January 2008 Governor's Budget will include proposed reductions to 2007-08 expenditures.

Staff Recommendation: Approve the May Finance Letter to update the budget for revised estimates of benefit claims and payments.

Vote Only Issue 2: Employment Training Panel Funding (Governor's Budget)

Description: The Administration proposes funding for the Employment Training Panel (ETP) at $59.2 million (from the Employment Training Fund) – about $1.0 million more than the 2006-07 appropriation. The remainder of revenue received in the Employment Training Fund (about $35.0 million) is proposed for expenditure in the CalWORKs program. The Employment Training Fund dollars expended in CalWORKs create a General Fund savings because absent those dollars, CalWORKs would need an equivalent General Fund augmentation.

Background / Detail: The Employment Training Panel was created in 1982 to improve the skills of California's workforce and retain businesses in the state. The ETP is funded through the Employment Training Tax, a special tax which is levied on employers who participate in the Unemployment Insurance Program. Historically, revenue has annually averaged $70 million to $100 million. The ETP program primarily funds "employer-focused" job training – more than 90 percent of ETP supports training of incumbent workers. The Employment Training Fund money transferred to CalWORKs supports job training services for CalWORKs clients. The following table shows how Employment Training Fund money has been distributed between ETP and CalWORKs in recent years ($ in millions).

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08*
ETP Appropriation	$75.8	$76.0	$76.0	$18.2	$44.0	$37.8	$58.2	$59.2
Percent to ETP	65%	51%	65%	22%	48%	44%	75%	63%
CalWORKs Appropriation	$30.0	$61.7	$30.0	$56.4	$40.0	$37.9	$20.0	$35.0
Percent to CalWORKs	26%	41%	26%	68%	43%	44%	25%	37%

* Proposed

Staff Comment: Last year, the Legislature increased the ETP appropriation by $12.9 million, and backfilled CalWORKs with a General Fund augmentation of the same amount. As the chart above indicates, that action in combination with an augmentation already built into the Governor's Budget produced a year-over-year funding increase of $20.4 million, or 54 percent. At the last hearing, representatives of labor and business advocated for additional EPT funding. The Legislature may want to consider an augmentation in future years, but given last year's increase and continued pressure on the General Fund, staff recommends funding be approved as budgeted. Since this issue was previously discussed at the April 12 hearing, staff recommends this be a "vote-only" issue.

Staff Recommendation: Approve the Employment Training Panel as budgeted.

Vote Only Issue 3: Tax Sharing Ratio (BCP #2 and April Finance Letter #2)

Description: The Administration requests a funding shift for tax collection workload. The shift would result in a net-zero change in expenditures, but would increase General Fund expenditures by $13.5 million and reduce the Unemployment Compensation Disability Fund and Employment Training Fund expenditures by $11.1 million and $2.4 million respectively. EDD collects taxes in the following areas: Unemployment Insurance, Disability Insurance, Employment Training, and employer-withholdings for Personal Income Tax. This proposal would shift the funding for the tax-collections positions to reflect the pro rata workload for each tax. The April Finance letter is a technical correction related to this proposal.

Background / Detail: Given the $13.5 million General Fund cost of this proposal, staff has asked EDD what would happen if this shift is delayed a year or more. There was initially some discussion of federal sanctions, but staff now understands from EDD that the federal government does not object to the current funding allocation. The benefit of this proposal is an improvement to state accounting.

Staff Recommendation: Reject this proposal. If the Subcommittee approves the staff recommendation, it may want to use the General Fund savings of $13.5 million to assist in fully or partially restoring funding to the Job Services Program (see the issue on the following page). The Tax Sharing Ratio change is a good proposal, but may be a lower-priority than restoring the Job Services Program cuts. The Administration should resubmit this proposal in a future budget.

Issues for Discussion and Vote:

Issue 4: Job Services Program Cut (BCP #5)

Description: The Administration requests a $27.1 million cut to the Job Services Program. This cut would remove all State funding (EDD Contingent Fund) from the Job Services Program and eliminate 271 positions. The program would continue at a reduced level of activity using $138.3 million in federal funds and $14.8 million in reimbursements. This proposal represents a cut of about 25 percent to the services that EDD provides at job service centers.

Background / Detail: Since 1983, the EDD Contingent Fund has been utilized to supplement federal funds in supporting the Job Services Program. The Department indicates that the job service centers annually provided services to more than one million job seekers and 53,000 employers. At the last hearing, EDD testified that if this proposal was approved, as many as 175,000 job seekers might not get serviced at the job service centers and would alternatively have to use EDD services on the internet. Many job services centers are cooperative ventures with local entities, including local Workforce Investment Boards and county CalWORKs offices. In last year's budget, the Administration proposed, and the Legislature approved, an augmentation in EDD Contingent Funds of $6.9 million to maintain 93.0 positions that would have otherwise been eliminated due to federal cuts.

LAO Recommendation: In the *Analysis of the 2007-08 Budget Bill*, the LAO withholds recommendation pending receipt of supporting information from the Administration. On April 5, 2007, EDD provided the LAO and Committee Staff a detailed Job Services Reduction Plan that indicates positions eliminated by region and office. Attachment I to this agenda is the EDD summary table for position cuts at each office (excluding the 54 central administrative positions that would also be cut).

Staff Comment: Aside from concerns raised about the affect of this proposal on job seekers, concerns have also been raised that this proposal would result in higher State costs in other budget areas due to fewer job services to CalWORKs recipients and parolees. The Subcommittee may want to consider adding the following budget bill language to prioritize CalWORKs and parolees services with the goal of reducing costs in the CalWORKs and corrections areas:

Add Provision 4 to Budget Bill, Item 7100-001-0185

4. *It is the intent of the Legislature that the provision of employment and training services to CalWORKs clients and parolees be considered a priority by the Employment Development Department, the State Department of Social Services, local workforce investment areas, and other One-Stop Career Center partners. The EDD shall report to the Joint Legislative Budget Committee by April 1, 2008, on the employment services provided to CalWORKs recipients and parolees at the One-Stop Career Centers from July 1, 2007 through January 31, 2008.*

Since this issue was discussed extensively, including public testimony, at the April 12 hearing, the Subcommittee may want to limit new testimony on this issue.

Questions:
1. LAO, EDD, please comment on the budget bill language suggested by staff.

Staff Recommendation: Reject the proposed cut to the Job Services Program (restore $27.1 million and 271 positions) and adopt the above budget bill language.

Issue 5: Workforce Investment Act - Federal Funding Reduction (May Revise)

Description: As the EDD Director indicated at the April 12 hearing, the federal government recently reduced the Workforce Investment Act (WIA) allocation to California by $35.0 million, reducing WIA funding for the state from $413 million to $378 million. As a result of this funding reduction, EDD submitted a May Finance Letter to reduce local assistance funding to local Workforce Investment Boards by $23.7 million and to reduce the state operations component by $11.2 million and 6.6 personnel years. A subcomponent of the $11.2 reduction is a reduction of $5.3 million to the "15 Percent Discretionary Funds" (Discretionary) – for remaining Discretionary funding of $56.7 million. The Discretionary funds support a wide range of workforce development services such as nurse education, parolee services, and youth programs. Attachment II to this agenda provides detail on the proposed use of Discretionary Funds in the Governor's Budget and the May Revision, and shows how the Administration proposes to reduce and/or shift funding in response to the federal funding cut.

Background / Detail: Under federal law, 85 percent of WIA funds are allocated to local Workforce Investment Boards for employment and training services. The remaining 15 percent (about $56.7 million) is available for State discretionary purposes. In the May Revision, EDD has included a new $2.8 million program titled "At Risk/Youthful Offenders Gang Prevention." This is the only initiative in the proposal that the Legislature has not previously approved.

LAO Comments: The Legislative Analyst spoke with EDD about the proposed "At Risk/Youthful Offenders Gang Prevention" program and indicates that similar ongoing WIA-funded programs aimed at youth and ex-offenders appear to have garnered positive results that include employment, decreased recidivism, and collaborations with probation agencies.

Questions:

2. LAO, please briefly summarize the changes proposed in the May Revision.

3. EDD, please outline the new proposed program called "At Risk/Youthful Offenders Gang Prevention" program.

4. EDD, please comment on the new program.

Staff Comment: The WIA Discretionary Program supports many valuable programs in a broad range of areas. It is unfortunate that the federal government is reducing funding for these programs. The new proposed "At Risk/Youthful Offenders Gang Prevention" program appears to have merit, and the proposed allocation of the federal government's cuts seem reasonable.

Staff Recommendation: Approve the May Revision request.

7350 Department of Industrial Relations

Vote Only Issue 1: Special Fund Loan (May Finance Letter)

Description: The Administration requests authority for a loan, not to exceed $13.0 million, from the Workers' Compensation Administration Revolving Fund to the Targeted Inspection & Consultation Fund. Proposed budget bill language would require that the loan be repaid within one year.

Background / Detail: The Targeted Inspection and Consultation Fund (TICF) primarily supports the California Occupational Health and Safety Administration (Cal/OSHA) in its statutory requirement to target employers in high hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses. Revenue comes from a special assessment on those high-risk employers. Program revenues in 2006-07 have fallen from the anticipated level of about $14 million to about $9.0 million. If similar revenue losses continue into 2007-08, the fund balance would be fully exhausted sometime in 2007-08.

Staff Comment: The Department realizes that this is a short-term fix to a likely long-term problem and indicates that they will develop a plan to be included in the 2008-09 Governor's Budget to address the long-term funding issue. Information provided by the Department indicates that the Workers' Compensation Administration Revolving Fund has sufficient balances to support a loan of the requested size.

LAO Recommendation: Because there is not sufficient time to develop a comprehensive solution to this problem, the Legislative Analyst recommends approving the loan and related budget bill language as an interim measure. However, the LAO recommends amending the proposed budget bill language to add the following:

The department shall, by January 10, 2008, provide the Legislature with (1) a long-term plan to address the growing imbalance between the TCIF's revenues and expenditures and (2) a detailed loan repayment schedule.

Staff Recommendation: Approve the May Finance Letter, but amend the proposed budget bill language to include the LAO language.

Vote Only Issue 2: CalOSHA Supplemental Language Report (Staff Issue)

Description: Last year, the Legislature augmented the proposed budget by $1.5 million (General Fund) and 16 positions to increase enforcement in the area of worker safety. Supplemental Report Language was also adopted requiring a report to the Legislature by January 10, 2007, that described staffing vacancy rates, a statistical comparison with other states, and other data. The Governor vetoed the augmentation and related staffing, but the report requirements remained in place.

Background / Detail: The report was submitted April 4, 2007. Staff did not have sufficient time to fully review the report prior to the April 12 Subcommittee hearing, when this issue was last discussed. Staff has since reviewed the report and, upon request, the Department has submitted additional detail comparing California's staffing to other states. The report includes some positive developments such as bringing vacancies down from 14 percent to 10 percent and reducing the case resolution time down from an average of 19 months to 17 months. However, the report also indicates that more work is ahead - to reduce case times from 17 months to 9 months and to further reduce vacancies. The additional data indicates that California's fatalities per 100,000 workers are 2.7 versus the national average of 4.1. However, California's injury and illness rate was 4.7 versus the national average of 4.6.

Staff Comment: Since this year's report indicates further improvements are needed, Staff recommends that the Subcommittee adopt a Supplemental Report Requirement for Cal/OSHA similar to the report adopted last year:

> ***Cal/OSHA Enforcement.*** *On or before January 10, 2008, the Department of Industrial Relations shall submit a report on the following items to the Chair of the Joint Legislative Budget Committee and the appropriate fiscal and policy committees of the Legislature:*
>
> *(a) The department's progress in filling vacant Cal/OSHA inspector positions and reasons for any remaining position vacancies;*
> *(b) An update on how the level of authorized occupational safety and health inspectors per worker in California compares with comparable levels in other states;*
> *(c) The latest figures comparing occupational injury, illness, and fatality rates in California with those of other states and the national average;*
> *(d) Progress in addressing the backlog of cases for the Occupational Safety and Health Appeals Board, including proposals, if any, for legislative consideration to improve the board's efficiency and effectiveness; and*
> *(e) A description of any occupational safety and health initiatives included in the 2008-09 Governor's Budget.*

Staff Recommendation: Adopt the above "placeholder" Supplemental Report Language for CalOSHA.

Vote Only Issue 3: Elevator, Ride, and Tramway Unit Budget Realignment (BCP #8 and Trailer Bill)

Description: The Administration requests a budget realignment and new fees that will result in a net General Fund savings of $88,000 and new fees on public-sector owners of elevators, amusement rides, and tramways totaling approximately $2.6 million. This issue was discussed at the April 12, 2007, hearing, but left open for further review of legal issues.

Detail/Background: The Elevator, Ride, and Tramway Unit is charged with inspecting public and private elevators, permanent amusement rides, portable amusement rides, and tramways. Current law prohibits the Department from charging public entities, so the cost of providing that service is currently born by a private fee payers and the General Fund. The Department indicates it is not permissible over the long-term to have private operators subsidize public operators, and the condition of the General Fund does not allow for an augmentation of $2.2 million to fund the cost of service for public entities. The Administration proposes the following:

- Discontinue the current General Fund support for the Unit of $448,000.
- Adopt budget trailer bill language to shift the deposit of fees collected (about $360,000 annually) for inspection of private portable amusement rides and tramways from the General Fund to the Elevator Safety Account. (These first two bullets would result in net savings of $88,000 for the General Fund).
- Adopt budget trailer bill language to allow the Unit to bill public sector entities for the cost of performing inspections of elevators, permanent amusement rides, and tramways. Total annual fees would be approximately $2.6 million.
- Eliminate the Permanent Amusement Ride and Safety Fund and transfer the fund balance and deposit future revenues into the Elevator Safety Account.

Staff Comment: Questions were raised at the prior hearing concerning the legal ability of the State to charge the local governments for this inspection activity. Discussions with the Department since the last hearing suggest that the charges proposed to inspect local government facilities do not violate any provisions of the California Constitution.

Staff Recommendation: Approve the Administration's budget request including implementing trailer bill language.

Discussion / Vote Issues:

Issue 4: Statutorily-Required Reports (Staff Issue)

Description: The Department has several overdue reports, and its overall record for submitting reports by statutory due dates is deficient. The table below shows the current status (as of May 18, 2007) of recently submitted and overdue reports. At the April 12 hearing, DIR Acting Director John Rea apologized for the Department's poor reporting record and indicated that he hoped to submit nine of the twelve overdue reports by today's hearing. Six of the twelve overdue reports have been submitted since the last hearing, with five of the reports being provided to staff at 12 noon on May 18. The reports submitted since the last hearing are highlighted in gray.

Report	Division	Statutory Due Date	Status
Report on the Uninsured Employers Benefits Trust Fund for FY 04/05 and 05/06	Workers' Compensation	November 1, annually	Submitted 12/19/06 (late)
Report on the Subsequent Injuries Benefits Trust Fund for FY 04/05 and 05/06	Workers' Compensation	November 1, annually	Submitted 12/19/06 (late)
Job Classifications of Employees Paid from the Uninsured Employers Fund	Workers' Compensation	November 1, annually	Submitted 3/16/07 (late)
Workers' Compensation Appeals Board Hearings Report--First Quarter, 2006	Workers' Compensation	Quarterly	Overdue
Workers' Compensation Appeals Board Hearings Report--Second Quarter, 2006	Workers' Compensation	Quarterly	Submitted 2/5/07 (late)
Workers' Compensation Appeals Board Hearings Report--Third Quarter, 2006	Workers' Compensation	Quarterly	Submitted 5/18/07 (late)
Workers' Compensation Appeals Board Hearings Report--Fourth Quarter, 2006	Workers' Compensation	Quarterly	Submitted 5/18/07 (late)
Division of Apprenticeship Standards and California Apprenticeship Council Report for 2005	Apprenticeship Standards	Annually	Submitted 2/20/07 (late)
2006 Supplemental Language Report - Cal/OSHA	Occupational Safety and Health	January 10, 2007	Submitted 4/3/07 (late)
Hazard Evaluation System and Service Report	Occupational Safety and Health	December 31, annually	Submitted 4/24/07 (late)
2005 Bureau of Field Enforcement Report	Labor Standards Enforcement	March 1, Annually	Overdue
Annual Conveyance Safety Program Report	Occupational Safety & Health	Annually	Submitted 5/18/07 (late)
Annual Pressure Vessel Safety Program Report	Occupational Safety & Health	Annually	Submitted 5/18/07 (late)

Report	Division	Statutory Due Date	Status
Crane Certification and Revenue Report	Occupational Safety & Health	Unspecified	Submitted 5/18/07 (late)
DOSH Division Report	Occupational Safety & Health	March 1, annually	Overdue
Division Report of Workers Compensation	Workers' Compensation	March 1, annually	Overdue
Workers Compensation Construction Carve-Out Report	Workers' Compensation	June 30, annually	Overdue
Workers Compensation Carve Out Report	Workers' Compensation	June 30, annually	Overdue

Detail/Background: The Department indicates it will implement appropriate monitoring to rectify the problem. Since some annual and quarterly reports do not have specific due dates in statute, Staff asked the Department if it would be reasonable to expect quarterly reports within 90 days of the quarter's end, and annual reports within 6 months of the year's end – DIR indicates that these are reasonable timeframes.

Questions:

1. DIR, please update the Subcommittee on the new processes the department has implemented to ensure reports are submitted by statutory due dates, and indicate when the remaining six overdue reports will be submitted.

Staff Comment: DIR has made some progress in reducing the number of overdue reports, but additional improvements are still needed. Due to the May 18 submittal of five of the reports, and because this is the week of the May Revision, staff did not have time to read the reports and could not brief Subcommittee members on the contents. The Legislature creates reporting requirements so it has the tools it needs to provide effective oversight, and late reports diminish the ability of the Legislature to be effective in this role.

Staff Recommendation: Direct staff to work with DIR in the summer and fall to monitor and review statutorily-required reports. Direct staff to brief the Subcommittee on this issue again prior to beginning the 2008-09 budget process and include this issue in next year's hearing agendas if warranted.

Issue 5: Division of Apprenticeship Standards - Audit Report / BCP #11

Description: A September 2006 Bureau of State Audits (BSA) report on the Department's Division of Apprenticeship Standards found multiple deficiencies. Budget Change Proposal #11 (which adds three new positions) corrects some, but not all of the deficiencies. This issue was discussed at the April 12 hearing and left open for further review.

Audit Findings:

1. *The division suspended program audits in 2004 and did not follow up on corrective action related to audits it had started.*
2. *The division has not resolved apprentice complaints in a timely manner, taking over four years in some cases to investigate the facts of complaints.*
3. *The division has not adequately monitored the apprentice recruitment and selection process. In particular, it has not conducted Cal Plan reviews since 1998.*
4. *Division consultants did not consistently provide oversight through attendance at committee meetings.*
5. *The division's staffing levels have not increased in step with legal obligations, and it has failed to document priorities for meeting these obligations for existing staff.*
6. *The division did not report annually to the Legislature for calendar years 2003 through 2005, and the annual reports contain grossly inaccurate information about program completion.*
7. *The department is slow to distribute apprenticeship training contribution funds. Only $1.1 million of the roughly $15.1 million that had been deposited into the training fund by June 30, 2005, has been distributed as grants.*
8. *The division does not properly maintain its data on the status of apprentices.*

Staff Comment: The Agency indicated, in a response letter, that they would work to implement all of the audit recommendations. However, not all issues are addressed in the Governor's Budget, and the Department indicates there would likely be further changes in the 2008-09 budget. Staff has continued to work with the Department to determine what additional budget changes would be appropriate to more fully respond to the program's deficiencies. The Department indicates it would need another two positions (in addition to the three positions requested in the BCP) to fully meet all statutory audit requirements. The Department indicated it intends to increase apprenticeship grant funding from $1.2 million to $3.0 million in 2008-09, but it was too late in the budget process to submit this request to the Department of Finance for 2007-08.

Staff Recommendation: Approve BCP #11, but add an additional 2 positions and $225,000 so the Department can fully meet statutory audit requirements. Accelerate the Department's plan to increase apprenticeship grants by one year, by increasing the 2007-08 grant budget by $1.8 million. (None of these costs are General Fund, and they appear sustainable at the current fee levels) Adopt placeholder Supplemental Reporting Language to require a report by March 1, 2008, on their vacancy level and audit activity. The report should also include an update on apprenticeship grants to date in 2007-08, including a list of recipients by category of training.

Attachment I – EDD Job Service Position Reduction Plan

	CURRENT STAFFING LEVEL							POSITION REDUCTIONS						
Statewide Total	857	98	23	19	11	60	1068	131	18	5	2	1	60	217
	EPR	EPMI	EPMII	EPMIII	EDA	PI	TOTAL	EPR	EPMI	EPMII	EPMIII	EDA	PI	TOTAL
Northern Administration	6	2	0	0	3	0	11	0		0	0	1	0	1
Region 1														
0330 Oakland	32	3	1	0		1	37	5	1	0	0	0	1	7
0690 Campbell	36	3	0	1		1	41	5	1	0	0	0	1	7
0960 Pleasant Hill	14	2	1	0		0	17	2	0	0	0	0	0	2
							95							16
Region 2														
0550 Mendo-Lake	7	1	0	0		0	8	1	0	0	0	0	0	1
1290 North Bay Job Service	32	2	0	1		1	36	5	1	0	0	0	1	7
5040 San Francisco	33	3	0	1		1	38	5	1	0	0	0	1	7
1340 Eureka	6	0	1	0		0	7	1	0	0	0	0	0	1
							89							16
Region 3														
0590 Sacramento Midtown	36	3	0	1		2	42	5	0	0	0	0	2	7
0820 North Valley	17	1	1	0		3	22	3	0	0	0	0	3	6
1310 North Eastern Co.	8	2	0	0		0	10	1	1	0	0	0	0	2
1600 Roseville	27	2	1	0		1	31	4	0	0	0	0	1	5
							105							20
Region 4														
0450 Salinas	10	0	1	0		1	12	1	0	0	0	0	1	2
0620 Modesto	19	3	0	1		4	27	3	1	0	0	0	4	8
1750 Stockton	16	2	0	1		2	21	3	0	0	0	0	2	5
0470 Capitola	6	1	0	0		1	8	1	0	0	0	0	1	2
							68							17
Northern Total	305	30	6	6	3	18	368	45	6	0	0	1	18	70
LA/Ventura Administration	3	2	0	1	4	0	10	1	0	0	0	0	0	1
Region 5														
0100 San Fernando	22	3	0	0		1	26	3	1				1	5
0110 Canoga Park	15	2	1	0		1	19	2	1				1	4
1020 Lancaster	18	1	1	0		1	21	3	0				1	4
1360 Oxnard	13	1	1	0		1	16	2	0				1	3
							82							16
Region 6														
0140 LA/South Bay	19	3	1	0		2	25	3	1				2	6
1030 LA So. Central/Compton	14	2	1	0		1	18	2	0				1	3
1680 Crenshaw SC	36	4	0	1		3	44	6	1				3	10
							87							19
Region 7														
0010 El Monte	38	4	1	1		1	45	6	1	1			1	9
0030 Glendale	24	3	0	1		2	30	3	1				2	6
							75							15
Region 8														
1220 East Los Angeles/Hub Cit	24	3	0	1		1	29	3	1				1	5
1250 Norwalk	17	2	1	0		2	22	2	0				2	4
1550 Long Beach	13	2	1	0		0	16	2	1				0	3
							67							12
LA Ventura Total	256	32	8	5	4	16	321	38	8	1	0	0	16	63
Southern Administration	11	3	1	1	4	0	20	2	0	0	0	0	0	2
Region 9														
0390 Rancho Cucamonga	35	3	1	1		2	42	6		1			2	9
1610 Riverside West	36	4	1	1		3	45	6		1			3	10
							87							19
Region 10														
0420 Santa Ana	29	3	1	1		1	35	4		1			1	6
0740 Anaheim	20	3	1	0		2	26	3	1				2	6
							61							12
Region 11														
0480 El Centro	33	4	1	1		5	44	6	1	1			5	13
0810 Oceanside	17	2	1	0		3	23	3					3	6
1460 San Diego South	34	4	1	0		2	41	5	1				2	8
							108							27
Region 12														
0720 Santa Maria	19	2	0	1		0	22	3			1		0	4
1240 Visalia	11	1	0	1		1	14	1			1		1	3
1260 Fresno Service Center	25	4	1	0		2	32	4	1				2	7
1350 Bakersfield	26	3	0	1		5	35	5					5	10
							103							24
Southern Total	296	36	9	8	4	26	379	48	4	4	2	0	26	84

EPR: Employment Program Representative; EPM: Employment Program Manager; EDA: Employment Program Administrator; PI: Permanent Intermittent

Attachment II – WIA Expenditure Chart (Data from EDD).

Projected WIA Revenue	Governor's Budget SFY 2007-08	May 2007 Revise SFY 2007-08	Change
State Allocation for WIA (Title I)	$413.3	$378.0	-$35.3
Less: Formula Allocations to Local Areas	($351.3)	($321.3)	-$30.0
Governor's Discretionary WIA 15% Funds	$62.0	$56.7	-$5.3
Total Estimated Available WIA 15 Percent Funds	**$62.0**	**$56.7**	**-$5.3**
61.35 WIA Administration and Program Services			
Employment Development Department	($1.4)	($1.3)	-$0.1
California Unemployment Insurance Appeals Board	($0.1)	($0.1)	$0.0
California Workforce Investment Board (CalWIB) Adm	($0.3)	($0.3)	$0.0
Audit, Compliance and Fraud Prevention	($3.8)	($3.7)	-$0.1
Labor Market Information Program	($1.5)	($1.4)	-$0.1
Local Program Oversight and Technical Assistance	($8.2)	($7.9)	-$0.3
Financial Management and Information Technology	($2.6)	($2.5)	-$0.1
Policy Development and Partner/Program Coordinatio	($3.2)	($3.1)	-$0.1
Local Occupational Information Group	($2.6)	($2.5)	-$0.1
Capacity Building Activities	($3.9)	($3.8)	-$0.1
Total WIA Administration and Program Service	**($27.6)**	**($26.6)**	**-$1.0**
61.40 Growth Industries - High Wage/High Skill Job Training			
Community Colleges WIA Coordination/Program Integ	($0.6)	($0.6)	$0.0
Regional Collaboratives	($1.3)	($0.6)	-$0.7
Incentive Grants	($0.2)	($0.2)	$0.0
High Wage/High Skill Job Training	($2.7)	($1.3)	-$1.4
Total Growth Industries	**($4.8)**	**(2.7)**	**-$2.1**
61.50 Industries with a Statewide Need - Expansion of Workforce			
Health Care - Nurse Education Initiative	($6.2)	($6.2)	$0.0
Regional Collaboratives	($1.3)	($0.3)	-$1.0
Critical Shortage Industries: Nurses/Healthcare/Cons	($4.9)	($3.1)	-$1.8
Total Industries with a Statewide Need	**($12.4)**	**(9.6)**	**-$2.8**
61.60 Removing Barriers for Special Needs Populations			
Offenders			
CDCR Female Offenders' Treatment and Employme	($1.1)	($1.1)	$0.0
CDCR Parolee Services	($3.8)	($3.8)	$0.0
EDD Parolee Services	($1.4)	($1.4)	$0.0
Regional Collaboratives	($1.4)		-$1.4
Incentive Grants	($0.5)	($0.5)	$0.0
Services to Long-Term Unemployed	($1.7)	($1.7)	$0.0
Veterans			$0.0
Governor's Award for Veterans' Grants	($3.0)	($3.0)	$0.0
Veterans/Disabled Veterans' Employment Services	($0.7)	($0.7)	$0.0
Youth and Young Adults			$0.0
Department of Education WIA Coordination/Progran	($0.3)	($0.4)	$0.1
Youth Grants	($2.0)	($2.0)	$0.0
► At Risk/Youthful Offender Gang Prevention		($2.8)	$2.8
Low Wage Earners (Mid-Career Minimum Wage Er	($1.3)	($0.4)	-$0.9
► Special Needs Populations, or Youth	($1.3)		
Total Removing Barriers for Special Needs Pop	**($17.2)**	**($17.8)**	**$0.6**
Summary			
WIA 15 Percent Governor's Discretionary Funds	$62.0	$56.7	$5.3
61.35 WIA Administration and Program Services	($27.6)	($26.6)	-$1.0
61.40 Growth Industries	($4.8)	($2.7)	-$2.1
61.50 Industries with a Statewide Need	($12.4)	($9.6)	-$2.8
61.60 Removing Barriers for Special Needs Populatio	($17.2)	($17.8)	$0.6
Estimated Balance	**0.0**	**0.0**	

"►" Represents new / deleted program

Senate Budget & Fiscal Review Committee
Bryan Ehlers 651-4103

Hearing Outcomes: Agenda Part B

Subcommittee No. 3
9:00 am, Monday, May 21, 2007

Vote-Only Agenda

8950 Department of Veterans Affairs (CDVA)

- Vote-Only Issue 1: Finance Letter – Increase Resources to Address Deferred Infrastructure Repairs and Maintenance
  Action: Approved the request.
  Vote: 3-0

- Vote-Only Issue 2: Provisional Language for Previously Approved Professional Medical Services
  Action: Approve provisional language.
  Vote: 3-0

- Vote-Only Issue 3: May Revise Letter – Increase in Federal Trust Fund Authority
  Action: Approve the request.
  Vote: 3-0

Discussion Agenda

8950 Department of Veterans Affairs (CDVA)

- CDVA Issue 1: Finance Letter – Consolidation of Veterans Homes Appropriations
  Action: Approved provisional language.
  Vote: 3-0
  Note: At the last minute the Administration indicated the department would be unable to implement the consolidation plan in 07-08, as proposed. As such, the Subcommittee did not take formal action on the April Finance Letter.

- CDVA Issue 2: Finance Letter – Salary Increase for Mental Health Personnel
  Action: Approved the request.
  Vote: 3-0

- CDVA Issue 3: May Revise Letter – Salary Increase for Mental Health Personnel
  Action: Approved the request.
  Vote: 3-0

- CDVA Issue 4: May Revise Letter – Dental Personnel: *Perez* Salary Increase

Action: Approved the request.
Vote: 3-0

- CDVA Issue 5: May Revise Letter – Technical Adjustment and Salary Increase for 2006-07 Annex I (Alzheimer's/Dementia) BCP
  Action: Approved in-part. Approved $2.4 million for salary increases and $180,000 for new-patient special costs. Denied $711,000 for unjustified OE&E.
  Vote: 3-0

- CDVA Issue 6: May Revise Letter – Technical Adjustment and Salary Increase for 2006-07 Ward 1A and 1B BCP
  Action: Approved in-part. Approved $568,000 for salary increases and $362,000 for new-patient special costs. Denied $281,000 for unjustified OE&E.
  Vote: 3-0

- CDVA Issue 7: Finance Letter – Salary Increase for Medical Services Personnel
  Action: Approved the request.
  Vote: 3-0

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

May 22, 2007

(May Revision Hearing)

10:00 AM

Room 4203

(Diane Van Maren)

Item	Department	Listing
4265	Department of Public Health	
4280	Managed Risk Medical Insurance Board	
4260	Department of Health Care Services	
4300	Department	of Developmental Services
4400	Department	of Mental Health
0530	CA Health & Human Services Agency	

PLEASE NOTE: Only those items containe d in this agenda will be discussed at this hearing. In addition: **(1)** All previous actions taken by the Subcommittee remain, unless the Subcommittee otherwise modifies the pro posal at this May Revis ion 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 under the staff recommendation section.

I. ISSUES RECOMMENDED FOR "VOTE ONLY" *(Through to Page 20)*

A. Item 4280--Managed Risk Medical Insurance Board *(Vote Only)*

1. County Health Initiative Matching Fund (CHIM) Program (Issue 108)

Governor's May Revision. The May Revision reflects a decrease of $357,000 ($232,000 federal S-CHIP Funds and $125,000 in county funds) as a result of caseload and expenditure adjustments received from the county pilot projects (i.e., San Francisco, San Mateo, and Santa Clara), as well as an updated estimate for Santa Cruz which is slated to commence soon.

Background—County Health Initiative Matching Fund (CHIM) Program: AB 495, Statutes of 2001, allows county governments and public entities to provide local matching funds to draw down federal S-CHIP funds for their Healthy Kids Programs (i.e., children 250 to 300 per cent of poverty who are citizens). The State Plan Amendment approved by the federal CMS provided for three pilot counties (i.e., San Francisco, San Mateo, and Santa Clara) with a phase-in of additional counties.

Subcommittee Staff Recommendation—Approve. This proposal reflects standard adjustments and no policy changes are being proposed. No issues have been raised.

B. Items 4260 & 4265 Health Issues (Both Departments) *(Vote Only)*

1. Adult Day Health Care –Technical Trailer Bill Language on Moratorium

Issue. The Subcommittee is in receipt of a constituent letter requesting a technical amendment to existing state statute regarding the ongoing moratorium for Adult Day Health Care (ADHCs). As noted in the background section below, the moratorium has been in effect since 2005, with some minor adjustments agreed to by the Administration.

One of the exceptions to the moratorium that had been agreed to with the Administration pertains to a site located in Eureka that will be ready for occupancy in 2008. In order for this facility to proceed, as had been the intent, a technical data reference needs to be added to existing statute to enable the Department of Health Care Services to proceed with its licensing field survey in 2008. **The proposed amendment is shown below:**

Section 14043.46 (b) is amended to as follows (underline):

> (6) An applicant that is requesting expansion or relocation, or both that has been Medi-Cal certified as an adult day health care center for at least four years, is expanding or relocating within the same county, and that meets one of the following population-based criteria, as reported in the California Long Term Care County Data Book, 2002:
>
> (A) The county is ranked number one or two for having the highest ratio of persons over 65 years of age receiving Medi-Cal benefits.
> (B) The county is ranked number one or two for having the highest ratio of persons over 85 years of age residing in the county.
> (C) The county is ranked number one or two for having the greatest ratio of persons over 65 years of age living in poverty.

Background—What Are Adult Day Health Care Services. Adult Day Health Care (ADHC) is a community-based day program providing health, therapeutic and social services designed to serve those at risk of being placed in a nursing home. The ADHC Program is funded in the Medi-Cal Program. The DHS performs licensing of the program and the Department of Aging administers the program and certifies each center for Medi-Cal reimbursement. The baseline budget for the ADHC Program is $375.8 million ($187.9 million General Fund). The average monthly cost per ADHC user is $931.11. The projected average monthly user of these services is 33,633.

The current reimbursement rate for ADHCs is 90 percent of the nursing facility level A rate. This is a bundled, all-inclusive rate for all ADHC services which was set by a court settlement in 1993. The budget assumes a 4.35 percent rate increase for these services as well which corresponds to existing law.

The bundled reimbursement rate pays for a day of ADHC services (defined as a minimum of four hours, not including transportation) regardless of the specified services actually provided on any given day. The bundled rate assumes that the required ADHC services will be provided to individuals as deemed medically necessary.

Background—Moratorium Continues on New ADHC. Through the Budget Act of 2004 and accompanying trailer bill legislation, a 12-month moratorium on the certification of new ADHCs became effective. This was done to diminish the growth of the centers due to concerns regarding rapid growth and the potential for Medi-Cal fraud, as well as concerns expressed by the federal CMS regarding the operation of California's program (which SB 1775, Statutes of 2006 address). With minor adjustments, this moratorium was extended for 2005 and 2006, and the budget assumes this continuation through 2007-08. Existing statute makes annual renewal of the moratorium the purview of the Director of Health Services (Director Sandra Shewry).

Subcommittee Staff Recommendation—Adopt Trailer Bill Amendment. It is recommended to adopt a technical amendment to Section 14043. 46(b) of the Welfare and Institutions Code, as shown above, to ensure that appropriate data is being used for determining the continuation of the Adult Day Health Care moratorium.

Though this is not an Administration sponsored change, the Department of Health Care Services is supportive of the clarification in statute.

2. Genetic Disease Testing Program (Issue 624)

Prior Subcommittee Hearing. In the March 12th hearing, the Subcommittee discussed this program and approved the January budget. The Administration has received updated information that has resulted in a May Revision change.

Governor's May Revision Issue. The May Revision proposes total expenditures of $118.3 million (Genetic Disease Testing Fund) in local assistance for the Genetic Disease Testing Program. This reflects a minor overall reduction of $526,000 (Genetic Disease Testing Fund) for the Newborn and Prenatal Screening Programs resulting from a decrease in system development and equipment expenditures, and increases in reagent costs and the number of infants requiring Newborn Diagnostic Services.

Background—What is the Genetic Disease Testing Program? The Genetic Disease Testing Program consists of two programs—the Newborn Screening Program and the Prenatal Screening Program. Both screening programs provide public education, and laboratory and diagnostic clinical services through contracts with private vendors meeting state standards. Authorized follow-up services are also provided as part of the fee payment. The programs are self-supporting on fees collected from screening participants through the hospital of birth, third party payers or private parties using a special fund— Genetic Disease Testing Fund.

The Newborn Screening Program provides screening of *all* newborns in California for genetic and congenital disorders that are preventable or remediable by early intervention. The fee paid for this screening is $103 dollars. Where applicable, this fee is paid by the family's insurance, the Medi-Cal Program, or out-of-pocket.

The Prenatal Screening Program provides screening of pregnant women who consent to screening for serious birth defects. The fee paid for this screening is $162 dollars. Where applicable, this fee is paid by the family's insurance, the Medi-Cal Program, or out-of-pocket.

Subcommittee Staff Recommendation--Approve. No issues have been raised regarding the May Revision. It is recommended to approve it as proposed.

3. Child Health Disability Prevention (CHDP) Program (Issue 622)

Governor's May Revision. The May Revision proposes total expenditures of $2.8 million ($2.7 million General Fund) for this program which reflects a *decrease* of $209,000 (General Fund) as compared to January. This minor reduction is due to standard caseload and utilization of services adjustments. No policy changes are proposed.

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).

Children in families with incomes at or below 200 percent of poverty can pre-enroll in fee-for-service Medi-Cal under the presumptive eligibility for children provisions of the Medi-Cal and Healthy Families programs. This pre-enrollment takes place electronically at CHDP provider offices at the time the children receive health assessments. This process, known as the CHDP Gateway, shifts most CHDP costs to the Medi-Cal Program and to Healthy Families. As such, CHDP Program funding needs to continue only to cover services for children who are eligible for limited-scope Medi-Cal benefits (such as immunizations).

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. 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.

Subcommittee Staff Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended to approve as proposed.

4. Genetically Handicapped Persons Program (GHPP) (Issue 623)

Governor's May Revision Issue. The May Revision proposes total expenditures of $49.5 million for an increase of $160,000 (increase of $12.7 million General Fund, reduction of $3 million in Rebates and a reduction of $9.5 million in federal funds) as compared to the January budget.

Of the proposed increase to the General Fund, $9.5 million is due to a fund shift that is changing. Previously, the Administration was using federal funds, which are available through the state's Medicaid Waiver for Hospital Financing (the safety net care pool funding), to backfill for General Fund support. In the May Revision, the Administration will no longer be applying this fund shift to this program, but instead, will be applying it to the Medi-Cal Program. As such, there is no overall General Fund increase attributable to this fund shift.

The May Revision does reflect a reduction of $3 million in special Rebate Fund moneys which were to be available under the program and now will not be captured in 2007-08. As such, General Fund support was needed to backfill for this loss in special funds.

No policy changes are proposed for the program.

Overall Background : The Genetically Handicapped Persons Program (GHPP) provides comprehensive health care coverage for persons with specified genetic diseases including Cystic Fibrosis, Hemophilia, Sickle Cell Disease, Huntington's Disease, Joseph's Disease, metabolic diseases and others. GHPP also provides access to social support services that may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions.

Persons eligible for GHPP must reside in California, have a qualifying genetic disease, and be otherwise financially ineligible for the CCS Program. GHPP clients with adjusted gross income above 200 percent of poverty pay enrollment fees and treatment costs based on a sliding fee scale for family size and income.

Subcommittee Staff Recommendation--Adopt: It is recommended to **adopt the May Revision** as proposed.

5. California Children's Services (CCS) Program (Issue 621)

Governor's May Revision Issue: The May Revision proposes total expenditures of $234.7 million ($96.4 million General Fund) which reflects an overall decrease of $3 million (increase of $37.9 million General Fund, decrease of $40.9 million federal funds). These decreases are due to a series of adjustments and do not reflect any policy changes.

Of the proposed increase to the General Fund, $37.3 million is due to a fund shift that is changing. Previously, the Administration was using federal funds, which are available through the state's Medicaid Waiver for Hospital Financing (the safety net care pool funding), to backfill for General Fund support. In the May Revision, the Administration will no longer be applying this fund shift to this program, but instead, will be applying it to the Medi-Cal Program. As such, there is no overall General Fund increase attributable to this fund shift.

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 offsets this match against state funds as well as county funds.

Subcommittee Staff Recommendation: It is recommended to **adopt** the May Revision as proposed. No issues have been raised.

6. Program for All-Inclusive Care for the Elderly (PACE)

Issue. Constituency groups have raised concerns with the current status of the Program of All-Inclusive Care for the Elderly (PACE) in California. Specifically, nonprofit organizations who have invested resources to develop a PACE Program are delayed and have no assurance that their applications will be processed and approved by the Department of Health Care Services in a timely manner.

According to the National PACE Association, over 65 organizations in California have inquired about developing a PACE. At a minimum, all of the existing PACE providers, as noted below, want to expand their existing programs. According to recent information from the DHS, there are at least ten organizations that have indicated recent interest in PACE and the Los Angeles Jewish Homes for the Aging is expected to submit an application within a few months.

The DHS notes that they have crafted a comprehensive PACE implementation work plan to provide for more efficient reviews of PACE applications and to increase the number of PACE programs operating in the state. However, they have not come forth with any additional resources in order to implement these efforts.

Through the Budget Act of 2001, the Legislature provided $200,000 ($100,000 General Fund) for additional DHS staff to process PACE applications but this was vetoed by the Governor. Through the Budget Act of 2002, the Legislature again provided $200,000 ($100,000 General Fund) for additional DHS staff but the DHS was unable to fill the positions in a timely manner and the funds were swept as part of a reduction to state administration. Through the Budget Act of 2005, the Legislature again provided $200,000 ($100, 000 General Fund) for the two positions; however, these two positions expire as of June 30, 2007.

Background—What is PACE. PACE providers integrate all Medicaid (Medi-Cal) and Medicare funding and services so that older individuals in need of long-term care can continue living in the community. PACE coordinates the care of each participant enrolled in the program based on individual needs.

PACE provides comprehensive medical and long-term care services, with the program's interdisciplinary team (physicians, nurse practitioners, nurses, social workers, therapists, van drivers and others) fully coordinating these services. PACE programs receive monthly capitated payments from Medicare, Medi-Cal and private individuals depending on the individual's eligibility for public programs.

To be eligible for PACE, an individual must: (1) be 55 years of age or older; (2) be certified by the state to need nursing home care; (3) reside in the service area of the PACE organization; and (4) be able to live in a community setting without jeopardizing his/her health or safety.

California presently has four approved PACE providers that have 13 PACE centers in different low-income communities, serving 1,700 seniors. The PACE programs include: (1) On Lok in San Francisco; (2) Center for Elders Independence in Oakland; (3) Sutter

SeniorCare in Sacramento; and (4) AltaMed Health Services Corporation in Los Angeles.

PACE receives a capitated Medi-Cal rate, as well as Medicare rate. The Medi-Cal capitated rate provides the state with a 10 percent savings relative to its expenditures for a Medi-Cal nursing home population. PACE programs have full financial risk for services including nursing home placement if participants need this service.

Subcommittee Staff Recommendation—Provide Resources. It is recommended to increase by $200,000 ($100,000 General Fund) to support two Associate Governmental Program Analyst positions to facilitate application review processes for the PACE Program and to proceed with the DHS' work plan regarding the PACE Program. This action would conform to the Assembly Subcommittee #1 action.

7. Technical Adjustment for Department of Public Health (Issue 620)

Governor's May Revision. The May Revision contains a technical adjustment regarding the establishment of the Department of Public Health (DPH). It proposes to increase federal fund authority by $8.258 million within the DPH to recognize receipt of federal grant funds received under the Refugee Resettlement Program. These funds were inadvertently not captured by the Administration while it was crafting the DPH budget.

The DPH will receive these federal grant funds and will in turn provide the Department of Health Care Services (DHCS) these funds via an interagency agreement to pay for health care services for new refugee arrivals in the state.

This arrangement is necessary because the DPH has administrative authority over the entire Refugee Health Assessment Program, and the federal government will only allow one grant award for refugee health services in the state. As such, the DHCS will invoice the DPH for Medi-Cal expenditures as appropriate. The DHCS estimates that Medi-Cal expenditures for refugee arrivals will be about $5.6 million in 2007-08. The remaining federal grant funds are then used by the DPH for other related purposes.

Subcommittee Staff Recommendation—Approve. It is recommended to approve this proposal. It is a technical budget correction to recognize the receipt of the federal grant funds by the DPH. These grant funds have been ongoing.

8. Reappropriation of Three Public Health Programs (Issue 364)

Governor's May Revision. The May Revision proposes reappropriation language for three public health programs —**(1)** the Infant Botulism Treatment & Prevention Fund; **(2)** the Proposition 50 Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002; and **(3)** the Vital Records Image Redaction and Statewide Access Project. Both of these funds are special funds. The General Fund is not affected by the proposal.

The proposed reappropriation language would enable the Department of Public Health to expend Infant Botulism Treatment and Prevention Funds from 2006 through June 30, 2008.

For the Proposition 50 Bond Funds for water projects, it would provide reappropriation authority through until June 30, 2008 for certain funds, and through June 30, 2009 for other funds as noted in the language below.

For the Vital Records Image Redaction and Statewide Access Project (VRIRSA), it would provide reappropriation authority through 2008.

The proposed reappropriation language is as follows:

> **Infant Botulism Treatment and Prevention Fund**
> (1) Item 4260-001-0272, Budget Act of 2006 (Chapters 47 and 48, Statutes of 2006). Funds appropriated in this item for the Infant Botulism Treatment and Prevention Program are available for expenditure during **2007-08 fiscal year**, subject to the provisions of that appropriation.
>
> **Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Proposition 50 Bond Funds)**
> (1) Item 4260-111-6031, Budget Act of 2005 (Chapters 38 and 39, Statutes of 2005). Funds appropriated in this item for the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 are available for expenditure during **2007-08 fiscal year**, subject to the other provisions of that appropriation.
>
> (2) Item 4260-115-6031, Budget Act of 2005 (Chapters 38 and 39, Statutes of 2005). Funds appropriated in this item for the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 are available for expenditure during **2007-08 fiscal year**, subject to the other provisions of that appropriation.
>
> (3) Item 4260-111-6031, Budget Act of 2006 (Chapters 47 and 48, Statutes of 2006). Funds appropriated in this item for the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 are available for expenditure during **2007-08 and 2008-09 fiscal years**, subject to the other provisions of that appropriation.
>
> (4) Item 4260-115-6031, Budget Act of 2006 (Chapters 47 and 48, Statutes of 2006). Funds appropriated in this item for the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 are available for expenditure during **2007-08 fiscal year and 2008-09 fiscal years**, subject to the other provisions of that appropriation

Vital Records Image Redaction and Statewide Access Project
(1) Item 4260-001-0099, Budget Act of 2006 (Chapters 47 and 48, Statutes of 2006). funds appropriated in this item for the VRIRSA and the related computerization of vital records are available for expenditure during the 2007-08 fiscal year, subject to the provisions of that appropriation.
(2) Item 4260-111-0099, Budget Act of 2006 (Chapters 47 and 48, Statutes of 2006). Funds appropriated in this item for the VRIRSA are available for expenditure during the 2007-08 fiscal year, subject to the provisions of that appropriation.

Background—Infant Botulism. The DHS has an "orphan drug" license from the federal FDA for the Botulism Immune Globulin Intravenous (Baby BIG) which is the only antidote available for infant botulism in the world for infants. The licensure was provided by the federal FDA in 2003 but prior to that, the DHS provided the drug for many years. Baby BIG is made by harvesting and bottling special antibodies from the blood plasma of volunteer donors. Without treatment, affected infants spend weeks to months in the hospital, much of that time in intensive care. About 100 cases occur in the United States per year.

In the Budget Act of 2006, $1.1 million in one-time expenditure authority was provided so that the manufacture of this drug could be transferred from the Massachusetts Biologic Laboratory to a replacement manufacturer. Delays in this transfer have occurred for various reasons. Reappropriation language is requested for the unspent funds to make the next lot of Baby BIG as required.

Relocation activities are continuing and a new manufacturer has now provided the DPH with a letter of intent committing to do the work and contract language has been negotiated and developed.

Background—Proposition 50 Bond Funds for Water Systems. As discussed previously in the Subcommittee, the DPH is to receive a total of $485 million from Proposition 50 of 2002, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act. These funds are comprised of the following: (1) $50 million from Chapter 3 of the Act which is for protecting water systems from terrorist attack or deliberate acts of destruction; and (2) $435 million for grants and loans for public water system infrastructure improvements and related actions to achieve safe drinking water standards.

Proposition 50 appropriation authority is provided annually through the Budget Act. This requires the funds to be encumbered during the year of appropriation and for the work to be performed in the same year, with an additional two years to liquidate.

The DPH notes that water construction projects can take as long as five to seven years to complete and all work is paid for on a reimbursement basis (no up front grants). Due to the many differences in water systems progressing to funding agreement, construction scheduling and progress, it is not possible to predict with accuracy the timing of when the work will be performed and invoices submitted. Therefore, reappropriation authority is needed to compensate for the timing issue between when the work is performed and when the DPH is invoiced for payment. The DPH states that this will allow appropriation authority to keep up with cash flow needs.

Subcommittee Staff Recommendation—Approve. The reappropriation language would provide for an extended period of expenditure for certain special funds as noted. Due to the nature of the two programs, it seems reasonable to approve the proposed reappropriation. No issues have been raised.

9. Administration's Proposal to Move the Fresno Medi-Cal Field Office

Issue. As part of an ongoing effort to streamline and consolidate its Medi-Cal field offices, Department of Health Care Services (DHCS) plans to close its office in Fresno in 2007-08 and relocate some staff and operations to its Sacramento field office. Currently, the Fresno field office has 41 staff. The department estimates that 10 would relocate to Sacramento and 15 would be retained in the Fresno area and continue to handle "on-site" hospital treatment authorization requests (TARs) and medical case management locally, but without a physical office structure. The department assumes that the remaining 16 positions would either decline to relocate or be vacant at the time of the move.

Medi-Cal currently operates six field offices—San Diego, Los Angeles, San Bernardino, San Francisco, and Sacramento, in addition to Fresno. These offices process TARs, which are pre-authorizations that providers must obtain for certain services in order to receive payment from Medi-Cal and they house medical case management staff. County social services offices handle Medi-Cal eligibility and enrollment.

The Fresno office is in a state building that will be undergoing renovation soon to address a number of ongoing problems (part of the stated reason for relocation). For this reason, temporary relocation of the Fresno office (within the Fresno area) would be required in any case.

Projected Costs and Savings. The department estimates a net *cost* of $96,000 to relocate to Sacramento in 2007-08 (versus temporary relocation within Fresno) and then net savings of $761,000 over a five-year period. General Fund cost and savings would be half of these amounts.

Actual State Savings Unlikely. The department's projected ongoing savings are small, and relocation would leave remaining staff in Fresno to work out of their homes. However, even these projected savings appear ephemeral from a statewide point of view. Discussions with the Department of General Services (DGS) indicate that there are unlikely to be any state savings by relocating the Fresno Medi-Cal field office.

DGS has not identified a tenant to occupy the space to be vacated by Medi-Cal. In the near term, DGS plans to use the space as "swing space" for the remaining state agency tenants during the renovation of the facility, but after that, it is likely that the space will remain vacant. DGS will have to make up for the loss of the revenue by increasing the rental rates for all state office buildings. In contrast, there are a multitude of potential state agency tenants for the Sacramento relocation site (the East End Project).

Subcommittee Staff Recommendation—Reject Fresno Move and Adopt Budget Bill Language. It is recommended to adopt the following Budget Bill Language to maintain the Fresno Field Office. This action would conform to the Assembly. The proposed language is as follows (Item 4260-001-0001):

> "No funds appropriated or scheduled in this item may be used to relocate the Fresno Medi-Cal Field Office outside of the Fresno area or to close the office. The department may temporarily relocate the field office within the Fresno area if necessary to accommodate the renovation of the Fresno facility."

10. Medicare Part D Emergency Drug Coverage Program

Governor's May Revision. Assembly Bill 132 (Nunez), Statutes of 2006, provided emergency drug coverage for individuals eligible for both the Medi-Cal and Medicare programs (dual eligibles) through to January 31, 2007. The purpose of this program was to serve as a safety-net transition for dual eligibles to the federal Medicare Part D Drug Program while problems with the federal program were being remediated.

The May Revision identifies an additional $7.4 million in unexpended General Funds which were appropriated for this legislation. These unexpended funds are in addition to the $80 million in unexpended General Funds that the Governor's January budget already captured. It should be noted that these unexpended General Fund resources were determined by the Administration to be unnecessary since the enabling legislation expired and all reimbursements have been paid for the current-year.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the May Revision. No issues have been raised. The statutory authorization has ended.

11. Medi-Cal Program--Two State Staff for County Performance Measures

Prior Subcommittee Hearing and Issue. In the April 16th hearing, the Subcommittee discussed the Administration's trailer bill language to increase from 90 percent to 95 percent the Medi-Cal Program's county performance standards.

In addition, the Subcommittee rejected the Administration's request to increase by $195,000 ($97,000 General Fund) to support two Associate Medi-Cal Eligibility Analysts to *maintain* oversight of this county performance measure system. Presently, these two positions are set to expire as of June 30, 2007.

Subcommittee Staff Recommendation—Approve the Two Positions. It is now recommended to increase by $195,000 ($97,000 General Fund) to support the two positions. The Administration has provided additional information regarding these positions since the April 16th hearing. Specifically, the positions are needed to continue the existing reviews of the counties. According the DHCS, these positions, along with two other existing positions, are needed to: (1) review 50 counties; (2) evaluate 21 counties for their applications processing; and (3) interact with counties regarding corrective action plans. It should also be noted that the two positions are presently filled.

The trailer bill language regarding this issue is discussed separately under the Department of Health Care Services, below.

C. Item 4440 Department of Mental Health *(Vote Only)*

1. Governor Proposes Elimination of the Integrated Services for Homeless Mentally Ill Program (Assembly Bill 2034 (Steinberg), Statutes of 2000)

Prior Subcommittee Hearing. In the March 12th hearing, the Subcommittee discussed the Governor's January proposal to eliminate the Integrated Services for Homeless Mentally Ill Program administered by the Department of Mental Health for a reduction of $54.9 million (General Fund).

During the Subcommittee deliberations, it was noted how cost-effective this program is to the state and local communities where it operates, and how the Governor's proposal likely violates the purposes of Proposition 63—the Mental Health Services Act—as passed by the voters in 2004, because it reduces the state's baseline funding for mental health services which the Proposition requires the state to maintain.

The Administration noted that AB 2034 projects are efficacious and serve as the principle model for the design of Proposition 63—the Mental Health Services Act—of 2005. They stated that their reduction is proposed solely for the purpose of reducing General Fund, and intimated that Proposition 63 funds could possibly be used by local communities for this purpose.

The Subcommittee placed $54.9 million (General Fund) on to the Subcommittee's "checklist" to potentially fund at the May Revision.

Background—Integrated Services for Homeless Mentally Ill Program (See Hand Out). This is a competitive grant program that provides state General Fund support to counties. The enabling legislation was adopted on a bipartisan basis. Presently, 34 counties receive grants that total $54.9 million. The program has been independently evaluated on several occasions and has had measurable outcomes as noted below:

- 56 percent reduction in the number of days hospitalized;
- 72 percent reduction in the number of days incarcerated;
- 67 percent reduction in the number of days spent homeless;
- 65 percent increase in the number of days employed full-time; and
- 280 percent increase in the number of individuals receiving wages.

The average cost per individual served is $12,000 annually.

Background—Proposition 63 (Mental Health Services Act). The Mental Health Services Act addresses a broad spectrum of prevention, early intervention and service needs and the necessary infrastructure, technology and training elements that will effectively support the local mental health system.

The Act imposes a one percent in come tax on personal income in excess of $1 million. The

total resources available in the Mental Health Services Account are $3 billion for 2006-07 and $4.3 billion for 2007-08. Of this amount, the Governor's budget proposes total expenditures of $517.9 million for 2006-07 and $1.5 billion for 2007-08, most of which is for local assistance.

Among other things, the Act requires these funds to be used to supplement and not supplant existing resources. The clear intent of the Act is to expand mental health funding.

Subcommittee Staff Recommendation—Appropriate $54.9 million. It is recommended to augment by $54.9 million (General Fund) to restore funding to the Integrated Services for Homeless Mentally Ill Program and thereby, reject the Governor's proposal to eliminate this important and cost-beneficial program.

2. Implementation of the *Conlan* Court Order (Medi-Cal Recipients) (issue 403)

Governor's May Revision. The Governor's May Revision proposes reappropriation language for the unencumbered balance of the $3.318 million ($1.6 million General Fund) as appropriated in the Budget Act of 2006 to comply with the requirements of the *Conlan* Court Order (*Conlan v. Shewry*). The reappropriation language would enable the DMH to spend these funds through June 30, 2008.

The DMH states that the reappropriation is needed because the court did not approve the Department of Health Care Services (DHCS) revised Plan until November 16, 2006 and letters to Medi-Cal beneficiaries were sent out from December to February 2007 but claims have not yet been submitted as was expected.

The $3.318 million originally appropriated in the Budget Act of 2006 equates to one-half of the total estimate of retroactive and co-pay claims. In addition, the DMH is contracting with Electronic Data Systems (EDS) to process and pay the DMH *Conlan* claims. The DMH states that about $761,000 (General Fund) will be spent in the current year for planning and setting up procedures, including labor costs, for this process.

The DMH must process claims from Medi-Cal beneficiaries who had unreimbursed expenditures for medical expenses **(1)** during the three-month period prior to applying for Medi-Cal benefits if determined eligible during that period, **(2)** during the period that an application for Medi-Cal was pending, and **(3)** during the period between a denial of their application for eligibility and reversal of that decision. In addition, it also applies to Medi-Cal beneficiaries with other health coverage that erroneously paid excess co-payments to a provider.

Background—*Conlan vs. Shewry*. Several departments are affected by this Department of Health Care Services lawsuit. This lawsuit has a long history resulting in the issuance of several court decisions.

To effectively implement the court ordered requirements of Conlan, the DMH must process claims from Medi-Cal beneficiaries who paid out-of-pocket expenses for Medi-Cal covered services received during specific periods of a beneficiary's Medi-Cal eligibility. **These periods include: (1)** the retroactive eligibility period (up to 3 months prior to the month of application to the Medi-Cal Program); **(2)** the evaluation period (from the time of application to the Medi-Cal Program until eligibility is established); and **(3)** the post-approval period (the time after eligibility is established).

The court has approved the DHCS revised implementation plan which was effective as of November 16, 2006. As a result of this plan, about 12 million letters were sent to households in December 2006. Letters were sent to all Medi-Cal beneficiaries who had applied and were eligible at some point on or after June 27, 1997.

Subcommittee Staff Recommendation--Approve. It is recommended to approve the reappropriation in order to ensure that funds are available for any claims as required by the court order.

3. San Mateo Pharmacy and Laboratory Services Project

Prior Subcommittee Hearing. In the April 30th hearing, the Subcommittee adopted two pieces of language to require the DMH to **(1)** comprehensively report back to the Legislature regarding the policy implications of the project, and **(2)** provide the Legislature, by no later than September 1, 2006, with their action plan to implement fiscal reforms regarding the San Mateo Pharmacy and Laboratory Services Project.

Fiscal issues regarding the San Mateo Project were left "open" pending receipt of the Governor's May Revision.

Issue. The Administration **is proposing two fiscal adjustments for the San Mateo Pharmacy and Laboratory Project (San Mateo Project).** In addition, the Office of State Audits and Evaluations (OSAE), within the Department of Finance, is in the process of conducting a review of the San Mateo Project, including the forecasting methodologies used to project costs as well as the claims processing system for state reimbursement. Each of these issues is discussed below.

First, a deficiency appropriation of $8.7 million (General Fund) is requested for prior year obligations (from 2004-05 and 2005-06). This request is tied to the accounting error that occurred between the DMH and the Department of Health Services (DHS) which was discussed in the Subcommittee's March 12th hearing as it pertained to the Early Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Unfortunately, the error also affected the San Mateo Project.

Specifically when the Medi-Cal Program, administered by the DHS, shifted to a cash-based accounting system, the DMH did not make adjustments in its programs to appropriately account and budget for this change. As such, the DMH is requesting the $8.7 million General Fund increase to fund prior year obligations as noted.

Second, the DMH is seeking a technical baseline adjustment to reflect a reduction of $139,000 (General Fund) from the current year (2006-07) and a related adjustment of $231,000 ($139,000 General Fund) for the budget year (2007-08). No concerns have been raised regarding this adjustment.

Background—What is the San Mateo Project? The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Medicaid (Medi-Cal) Waiver agreement and state statute since 1995. This "field test" was enacted into state law to allow the DMH to test managed care concepts in support of an eventual move to a capitated or other full risk model for the delivery of Medi-Cal specialty mental health services.

Effective July 1, 2005, the San Mateo Project was modified but it continues to cover pharmacy and related laboratory services, in *addition* to the required Mental Health Managed Care services that other County Mental Health Plans provide. San Mateo is the only county that has this added responsibility.

The San Mateo Project is funded at $8.8 million ($4.4 million General Fund and $4.4 million

federal funds) for 2007-08.

Subcommittee Staff Recommendation--Approve. It is recommended to approve the January budget request as proposed.

4. Various Adjustments for the State Hospital System (Issues 206, 208, 209 & 210)

Governor's May Revision. The May Revision proposes several adjustments for the DMH administered State Hospital system that pertain to program operations and support. **These issues are as follows:**

- *Hospital Peace Officers for Visitor Center at Patton.* An increase of $312,000 (General Fund) to support five Hospital Peace Officers to provide security for the visiting room at Patton State Hospital is requested. The DMH states that by proving these positions, the CA Department of Corrections and Rehabilitation (CDCR) will be able to redirect the existing five Correctional Officers in the visiting room to provide needed medical transport and escort services of penal code patients. Patton's patient population has experienced a substantial increase in medical appointments that require transportation to outside medical facilities. The CDCR is presently required to provide these transport services. The DMH states that because of the shortage of CDCR officers for transport, Patton patients have had 122 medical appointments cancelled, or 6.8 percent, due to not having CDCR officers available for this purpose. If State Hospital patients are not receiving timely medical treatment, it places the hospital at risk of being in violation of the U.S. Department of Justice CRIPA Agreement (as discussed in the March 12th hearing).

- *Prison Industry Authority Laundry & Transportation Cost Increase.* The May Revision proposes an increase of $164,000 (General Fund) to reflect higher costs for transportation and laundry services provided by the Prison Industry Authority.

- *Staff for Atascadero State Hospital Multi-Purpose Building.* The May Revision proposes an increase of $200,000 (General Fund) to support four positions, including two Custodians, a Groundskeeper, and an Associate Information Systems Analyst to support the new multi-purpose building at Atascadero State Hospital. The DMH states that this new building will serve as a critical location in the hospital to provide state-of-the-art wellness and recovery treatment services in a therapeutic milieu, centralized resources for patient's use, and office space for staff. It will be used to provide required treatment space for up to 1,259 patients per day and will be used by large numbers of treatment providers. The Associate Information Systems Analyst will be responsible for all computers and information technology equipment in the area for both patients and staff. The other positions are needed to maintain the facility. No request for staff was attached to the project previously.

- *Coalinga State Hospital Project.* An increase of $450,000 (General Fund) is requested for a digital document management retrieval system and consultant services at Coalinga State Hospital in 2007-08 for the purchase of document software ($150,000), hardware

(servers and scanners at $100,000) and consul tant services f or implem entation and training. T his information technology projec t was included in the current year budget but the project has been shifted to the budget y ear. The revised current year reflects a reduction of $608,000 (General Fund) due to this sh ift. This project is needed to manage the SVP document processing at Coalinga State Hospital.

Subcommittee Staff Recommendation—Approve. It is recommended to approve these adjustments for the State Hospitals. No issues have been raised.

II. ISSUES FOR DISCUSSION

A. Item 4265 Department of Public Health *(Discussion Items)*

1. AIDS Drug Assistance Program & HIV/AIDS Program Adjustments (Issue 358)

Prior Subcommittee Hearing. In its April 16th hearing, the Subcommittee approved the Office of AIDS funding proposal for the AIDS Drug Assistance Program. However, based on revised data, the Administration is proposing a May Revision change to the program.

Governor's May Revision. The May Revision is proposing a series of adjustments to several programs which provide assistance to people living with HIV infection and AIDS.

First, adjustments are proposed for the AIDS Drug Assistance Program (ADAP). These funding adjustments are shown in the table below and result in a *net* reduction of $10.5 million (total funds) for total expenditures of $288.9 million for 2007-08 ($90.6 million General Fund). The Office of AIDS states that the net reduction to the ADAP is due to a number of efficiencies which have been implemented.

AIDS Drug Assistance Program (ADAP)--Governor's May Revision

Fund Source	January 2007-08	May Revision 2007-06	Difference *(rounded)*
General Fund	$107.650 million	$90.565 million	-$17.1million
Federal Funds	$100.905 million	$90.375 million	-$10.5 million
Drug Rebate	$90.833 million	$107.918 million	+$17.1 million
TOTAL	**$299.388 million**	**$288.858 million**	**-$10.5 million** (Rounded Net Reduction)

As shown in the table above, in addition to the reduction, the May Revision also proposes a *shift* in funding sources to obtain General Fund savings of $17.1 million. AIDS Drug Rebate Fund support will be used in lieu of General Fund. The available rebate authority in the AIDS Drug Rebate fund is the result of a very efficient rebate collection process, and the Office of AIDS involvement in national efforts to collect rebates from anti-retroviral manufacturers. This fund shift still leaves about $13 million in reserve in the AIDS Drug Rebate Funds. This provides for a prudent special fund reserve. **No issues have been raised regarding the reduction or the fund shift. The ADAP is to be fully funded.**

Second, the Office of AIDS is proposing to utilize the savings from ADAP-- the $17.1 million in General Fund support and $10. 5 million in federal funds-- in several ways. It should be noted that in order for California to maintain its federal "maintenance of effort" (MOE) requirements, no more than $7. 3 million of the General Fund savings can be recognized as savings and utilized for *non-AIDS* related programs. Otherwise the state's federal Ryan White CARE Act funds of $122 million are jeopardized.

- **$17.1 million in General Fund savings would be allocated as follows on a *one-time* only basis**:

o *$4.0 million for the Therapeutic Monitoring Program (TMP)*. The TMP is presently funded at $4 million (General Fund) and this one-time only addition would increase it to $8 million for 2007-08. Under this program viral load and resistance testing is done to measure the degree to which an individual's HIV has become resistant or less sensitive to anti-retroviral drugs. About 15,000 clients accessing TMP services are enrolled in ADAP. The TMP is important in order to ensure that ADAP drugs are used in the most efficient manner.

o *$1.5 million for the AIDS Regional Information and Evaluation System (ARIES).* ARIES is a web-based case management system which is used to support client access to care and treatment and will replace several outdated data collection systems. The Office of AIDS states that AREIS provides a cost-effective process for federal reporting, an increased ability to oversee service utilization, helps to coordinate care for shared clients, and ensures the provision of appropriate services. These funds would be used to support statewide implementation and training for ARIES.

o *$500,000 for Capacity Building.* These funds would be used to develop curricula for an "AIDS Institute" within the Office of AIDS that would provide statewide training and technical assistance in identifying alternative assistance through third-party payers, HIV transmission reduction, HIV disclosure assistance, linking newly tested HIV-positive persons into care and treatment programs, and related functions.

o *$1.8 million for Six "Eligible Metropolitan Areas.* There are six areas within California that will be losing federal Title I Ryan White CARE Act funds due to changed federal formulas. These areas are home to almost 30 percent of California's HIV population and are integral to the overall service system within California. These funds would be used to help mitigate the loss of federal funds in 2007-08. The six areas include: Orange; San Bernardino/Riverside; Sacramento; Santa Clara; Sonoma; and Contra Costa/Alameda.

o *$2.0 million for the HIV/Names Reporting.* These funds would be used to provide funding for the first year of the three year assistance to be provided to local health jurisdictions to implement HIV Names reporting as required by state statute. The Subcommittee had approved this funding in its April 16th hearing. These funds are to be used as an offset from the January budget and count towards the federal MOE requirements.

o *$7.3 million Recognized as General Fund Savings.* No more than this amount can be claimed as overall General Fund savings or the state could potentially violate its federal MOE requirements and place $122 million in federal Ryan White CARE Act funds in jeopardy.

- **$10.5 million federal funds (Ryan White CARE Act Part B Funds) savings would be redirected on an *ongoing, permanent basis* as follows:**

o *$2.3 million Care Services Program.* This program provides funding to local agencies for medical and support services for persons living with HIV/AIDS. In 2006-07, the Office of AIDS allocated $11.8 million (federal funds) to this program. Funds are made available to all counties for the provision of primary medical care and a variety of supportive services that facilitate access to ADAP and primary medical care. Services include ambulatory

medical care, case management, oral health care, transportation, substance abuse treatment and other services. The $2.3 million would be an ongoing augmentation.

- *$3.5 million for Case Management Program.* These funds would be used to augment 44 sites throughout the state. This program provides comprehensive cost effective, home and community-based services for persons living with HID/AIDS. The program maintains clients safely in their homes which avoids institutional care. It focuses on adults and children under the age of 13 years. In 2006-07, a total of $8.3 million ($6.4 million General Fund and $1.9 million federal funds) was allocated.
- *$4.3 million for the Early Intervention Program.* The goals of this program are to prolong the health and productivity of HIV-infected persons and to interrupt the transmission of HIV. In 2006-07, a total of $7.1 million ($6.5 million General Fund and $600,000 federal funds) was allocated for the program.
- *$430,000 for Capacity Building.* This is the same issue but an on-going amount of $430,000 in federal funds would be provided for the Office of AIDS to operate the AIDS Institute (as discussed under the $500,000 item, above).

Constituency Concerns. Constituency groups have raised no issues regarding the funding level proposed for the ADAP or the various redirections of funding to other HIV/AIDS programs which are augmentations. However, some constituency groups would like to spend a portion of the $7.3 million identified in the Administration's proposal as overall General Fund savings. Specifically, some groups are seeking an increase of $2.5 million for HIV testing using mobile clinics in hard to reach communities.

Legislative Analyst's Office (LAO) Recommendation. The LAO raises no issues regarding the funding levels proposed by the Administration in their May Revision, except they believe that $2.8 million of the $7.3 million in one- time General Fund savings should be identified as ongoing savings.

Subcommittee Staff Recommendation. **First**, the Office of AIDS should be commended on their continued efficient and client responsive operations of the ADAP. This program continues to be a national model. **Second,** it is recommended to not make any fiscal changes to the Administration's proposal. The programs identified for increases have merit and the Office of AIDS tried to cover a wide spectrum of important service areas. **Third** it is recommended to modify the Administration's proposed Budget Bill Language regarding the six "Eligible Metropolitan" areas as follows (Item 4265-111-001):

> "2. Of the funds appropriated in this item, the Office of AIDS ~~may~~ **shall** redirect up to $1.8 million from the AIDS Drug Assistance Program to support the transition of HIV/AIDS care and treatment service delivery systems in up to six federally designated Eligible Metropolitan Areas (EMAs) if federal funding for an EMA declines. The funding made available through this redirection to any EMA shall not exceed the EMA's funding shortfall relative to its 2006 grant award."

Questions. The Subcommittee has requested the Department of Public Health, Office of AIDS, to respond to the following questions.

1. Office of AIDS, Please provide a *brief* description of the May Revision proposal.

2. Follow-Up to Licensing and Certification Fees Discussion

Prior Subcommittee Hearings and Action Taken. The Subcommittee has discussed the Governor's proposed significant increases to Licensing and Certification Fees for health care facilities in two prior hearings (April16th and May 7th). Through these hearings the following actions were taken:

- Approved additional staff for the Licensing and Certification (L&C) Division to expand regulatory and oversight functions as contained in chaptered legislation;
- Directed that $7 million (L&C Funds) from unsent current-year funds be used on a *one-time only basis* to offset L&C Fee increases in the budget year. Specifically, this one-time only adjustment is to be applied in the same manner as was the General Fund subsidy provided by the Legislature through the Budget Act of 2006.
- Adopted a technical adjustment to reduce by $400,000 (L & C Fees) on a *one-time only basis* the budget year appropriation to reflect natural salary savings that will occur as part of the phased-in hiring process. This action will reduce L&C Fees in the budget year.
- Directed the Administration to re-calculate the L&C Fees by individual clinic facility types, versus the "bundled" approach they had used, to more appropriately reflect the L&C Fee amounts and services provided to various clinics.
- Adopted *placeholder trailer bill language* to capture certain revenues obtained by the L&C Division to fund expenditures of the program but are not recognized (i.e., off-set) in the L&C Fee amounts. These revenues include: **(1)** new, initial surveys; **(2)** changes of ownerships—"CHOWs"; and **(3)** late payment fees made by facilities that did not pay their L&C Fees on time.
- Adopted Budget Bill Language to have the Office of State Audits and Evaluations (OSAE) to review, document, and where appropriate evaluate, the various aspects of the methodologies used by the L&C Division in the development and calculation of fees for the payment of services provided by the L&C Division.

Issues. The Governor's May Revision does *not* propose any changes to the original January fee schedule. However, it should be noted that the L&C Division has provided considerable technical assistance to Subcommittee staff and constituency groups in an effort to provide transparency on how the fees were developed and to assist in crafting potential options for making changes to the proposed fees.

The Subcommittee requested constituency groups to provide written comment for consideration at the May Revision on additional options for changes, besides those actions already taken by the Subcommittee on May 7th. ***Key* aspects of these constituency requests are referenced below:**

- *District Hospitals with Less than 100 Beds.* The Budget Act of 2006 provided General Fund support to fully fund the licensing and certification expenditures for these small, usually rural, hospitals (27 hospitals). The Subcommittee is in receipt of a letter requesting the same support as provided last year. **Subcommittee staff notes that it would cost $364,333 (General Fund) to fund this action** (at $306.42 per bed fee level).

- *Adult Day Health Care Facilities (ADHC).* The Subcommittee is in receipt of a letter requesting statutory changes to have ADHC facilities, which presently have an L&C Fee structure based on a "per facility" basis (i.e., a flat fee). The Association would like to change this structure to have their L&C Fees calculated based on "licensed capacity" since ADHC facilities range from a low of 30 to a high of 300 for licensed capacity. As such, the Association is requesting statutory language as follows:

  > "The Department shall be granted the authority to re-classify Adult Day Health Care facilities from a per facility fee category to a per unit fee category based on licensed capacity."

  In discussions with the L&C Division, they contend that though this proposed approach *may* have merit, further analysis and discussion needs to be had to discern what the full implications are of this potential change from a fiscal perspective, as well as to identify a reliable data source regarding licensed capacity. In addition, the L&C Division notes that other categories of health care facilities may prefer this licensure capacity approach, versus the per facility approach, for determining L&C Fees. As such, the L&C Division would prefer not to take action through the budget process solely for ADHC facilities but to discuss these issues after the Office of State Audits and Evaluations (OSAE) has completed its analysis, and through the policy committee process which provides for a longer discussion period.

  Subcommittee staff would concur with the L&C Division on this issue in that additional work needs to be done to better understand the implications of this change. **Due to the timing of the budget process, it is suggested to not take action on this issue without prejudice.**

- *Nursing Homes.* The Subcommittee is in receipt of a letter noting several key issues. **First,** the Association questions the productivity level assigned for the L&C surveyors (1,364 hours is assumed versus a standard 1,800 hours per year which is normally assumed for other state staff positions). Subcommittee staff notes that this is an issue which was discussed last year through the budget process. The L&C Division which was woefully understaffed needed to bring in a substantial number of new L&C surveyors which require considerable training for surveyor work and transition time to working in the field going to the various facilities. It is assumed that this productivity level will be reviewed by the OSAE when they conduct their review and that the L&C Division may reconsider this assumption based on having more experienced staff next year. **Subcommittee staff recommends no budget action on this issue since Budget Bill Language has already been adopted regarding the OSAE review.**

  Second, the Association notes that the L&C Fees are not presently prorated when a facility changes ownership. As a result, fees are paid by both the new and old owners of a single facility during the years in which the ownership change transaction occurs. Therefore, the Association would like to have the L&C Division pro-rate the fee. However, the L&C Division states that this is not workable since they normally would have to conduct two L&C surveys due to the change in ownership. **Subcommittee staff recommends no budget action on this issue.**

Third, the Association is seeking a methodology for Intermediate Care for Developmentally Disabled (ICF-DD) and related facilities (ICF-DD/N and ICF-DD-H), which would enable them to capture the L&C Fees that they pay within their Medi-Cal reimbursement rate. Subcommittee staff believes this is valid issue but it needs to be vetted with the Medi-Cal Program. Any changes to Medi-Cal rates must be approved by the federal CMS. The existing Medi-Cal rate reimbursement provides the DHS with certain flexibilities for changes and Subcommittee staff believes this requested change can be worked out administratively with no budget year implications, with minor out-year budget costs. **No Subcommittee action is recommended for this purpose.**

Lastly, the Association offers several suggestions to improve the L&C Division's annual licensing report (as required by statute) by providing additional data. Generally, these data suggestions include the following: (1) provide information on the standard average hours or descriptions of the types of federal certification and state licensing workload activities; (2) provide L&C surveyor workload hours utilized as a standard to calculate the budgeted positions; and (3) describe the overhead utilized within the L&C Division that is non-surveyor related. **Subcommittee staff believes that these are good suggestions and that the L&C Division should see how they can provide this information in next year's report. No Subcommittee action is needed for this purpose.**

- *Primary Care Clinics.* The Subcommittee is in receipt of a letter requesting two items. **First,** the clinics would like to change their L&C survey schedule from once every three years to once every five or even potentially eight years. The L&C Division believes there may be merit to making a change to the schedule, which would require a statutory change, but only after the L&C Division "catches-up" on their review of the primary care clinics. Subcommittee staff believes any decision regarding the frequency of a health care facilities survey schedule should be had via the policy committee process. **No budget action is recommended for this purpose.**

  Second, primary care clinics that have JCAHO (an independent accreditation entity) certification do not need to have L&C Division perform periodic re-surveys. However, presently the L&C Division does *not* have an accessible and reliable way to know when primary care clinics have JCAHO certification. As such, the L&C Division includes all primary care clinics in their L&C Fee projections. Therefore, the Association is requesting a change to this process. **Subcommittee staff recommends adopting placeholder trailer bill language, with final language to be worked out with the Administration, to address this concern. The placeholder trailer bill language is as follows:**

  > "Primary care clinics may submit verification of JCAHO certification to the Licensing and Certification Division within the Department of Public Health for entry into the Electronic Licensing Management System for purposes of data collection and extraction for licensing and certification fee calculations."

- *Home Health Agencies.* The Subcommittee is in receip t of a letter requesting several items. Among other things, the Association is seeking to change the structure of their rate to distinguish the difference between a "p arent" and a "branch" as an appropriate fee category. Under their proposal, a "parent" would pay a larger fee and the "branch" would pay $1,500, and "new applicants" would pay an additional $1,500 in addition to their "parent" fee. In essence, the Home Health Agencies want to establish fees that they believe are proportionate to the workload a ssociated oversight o f these facilities. It is a tiered approach to fees.

  The L&C Division states they are willing to work with the A ssociation regarding a long er-term approach to the tiered fees. However at this time more wo rk needs to be done regarding what exact tiered really reflects the L&C workload and what the fee amounts for this would be applicable. Policy legislation would be more applicable at this point in time.

Background—Summary of Governor's Propos ed Licensing and Certification Fee Increases. The table below dis plays the Governor's fee increases for 2007-08 as compared to the Budget Act of 2006. As pr eviously discussed in the April 16th hearing and the May 7th hearing, the Administ ration's pro posal to elim inate $7.2 million in G eneral Fund suppo rt is contrary to the agreement crafte d with the Legislature through the Budget Act of 2006, and added to the fee increases as noted below.

Administration's Proposed Fee Schedule for 2007-08 Compared to Budget Act of 2006 Fees

Facility Type	Fee Category	2006-07 Fee (Budget Act 2006)	Administration's 2007-08 Fee	Difference (+/-)
Referral Agencies	per facility	$5,537.71	$6,798.11	$1,260.40
Adult Day Health Centers	per facility	4,650.02	4,390.30	-259.72
Home Health Agencies	per facility	2,700.00	5,568.93	2,868.93
Community-Based Clinics	per facility	600.00	3,524.27	2,924.27
Psychology Clinic	per facility	600.00	3,524.27	2,924.27
Rehabilitation Clinic (for profit)	per facility	2,974.43	3,524.27	549.84
Rehabilitation Clinic (non-profit)	per facility	500.00	3,524.27	3,024.27
Surgical Clinic	per facility	1,500.00	3,524.27	2,024.27
Chronic Dialysis Clinic	per facility	1,500.00	3,524.27	2,024.27
Pediatric Day Health/Respite	per bed	142.43	139.04	-3.39
Alternative Birthing Centers	per facility	2,437.86	1,713.00	-724.86
Hospice	per facility	1,000.00	2,517.39	1,517.39
Acute Care Hospitals	per bed	134.10	309.68	175.58
Acute Psychiatric Hospitals	per bed	134.10	309.68	175.58
Special Hospitals	per bed	134.10	309.68	175.58
Chemical Dependency Recovery	per bed	123.52	200.62	77.1
Congregate Living Facility	per bed	202.96	254.25	51.29
Skilled Nursing	per bed	202.96	254.25	51.29
Intermediate Care Facility (ICF)	per bed	202.96	254.25	51.29
ICF-Developmentally Disabled	per bed	592.29	701.99	109.70
ICF—DD Habilitative, DD Nursing		1,000 per facility	701.99 per bed	3,211.94 per facility
Correctional Treatment Centers	per bed	590.39	807.85	217.46

Subcommittee Staff Recommendation. In *addition* to the actions taken in the May 7th hearing, the following actions are recommended: **(1)** increase by $364,333 (General Fund) to pay the L&C Fees for District Hospitals with less than 100 beds; **(2)** increase by $2.6 million (General Fund) to reduce the L&C Fees of certain health care facilities using the same methodology as done in the Budget Act of 2006; **(3)** adopt statutory language regarding other L&C revenues which had been previously adopted as "placeholder" language in the May 7th hearing; **(4)** adopt statutory language regarding the use of the General Fund support; and **(5)** adopt placeholder trailer bill language regarding the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) certification as referenced above.

The trailer bill language for recommendation 3, above, is as follows:

> Amend Section 1266 (d)(1) of Health and Safety Code by *adding* the following paragraph:
>
> (E) Amounts actually received for new licensure applications (including change of ownership applications) and late payment penalties (pursuant to Section 1266.5) during each fiscal year shall be calculated and ninety-five percent (95%) shall be applied to the appropriate fee categories in determining Licensing and Certification Program fees for the second fiscal year following receipt of those funds. The remaining five percent (5%) shall be retained in the fund as a reserve until appropriated.

The trailer bill language regarding recommendation 4, above, is as follows:

> Amend Section 1266 (a) of Health and Safety Code as follows:
>
> ~~(a) Unless otherwise specified in statute, or unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation, the Licensing and Certification Division shall, no later than the beginning of the 2009-10 fiscal year, be supported entirely by federal funds and special funds.~~
>
> (a) The Licensing and Certification Division shall be supported entirely by federal funds and special funds by no *earlier* than the beginning of the 2009-10 fiscal year unless otherwise specified in statute, or unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation. For the 2007-08 fiscal year, General Fund support shall be provided to offset licensing and certification fees in an amount of not *less* than $3 million.

The General Fund support is provided to selected health care facilities which have historically not required as much oversight by the L&C Division, and are smaller not-for-profit providers who serve a large volume of Medi-Cal patients.

The proposed L&C Fees based on the Subcommittee's actions would be as shown in the table below. It should be noted that the final L&C Fees to be paid would be those to be published by the Department of Public Health within 14 days of enactment of the annual Budget Act (as contained in Section 1266 of the Health and Safety Code).

Subcommittee Revised L&C Fee Structure Based on Actions (of May 7th & Today)

Facility Type	Fee Category	Administration's 2007-08 Fee	Senate Subcommittee #3	Difference (+/-)
Referral Agencies	per facility	$6,798.11	$6,798.11	--
Adult Day Health Centers	per facility	4,390.30	$4,390.30	--
Home Health Agencies	per facility	5,568.93	$3,876.23	-$1,692.70
Community-Based Clinics	per facility	3,524.27	$876.08	-$2,648.19
Psychology Clinic	per facility	3,524.27	$2,303.86	-$1,220.41
Rehabilitation Clinic (for profit)	per facility	3,524.27	$402.85	-$3,121.42
Rehabilitation Clinic (non-profit)	per facility	3,524.27	$402.85	-$3,121.42
Surgical Clinic	per facility	3,524.27	$2,848.92	-$675.35
Chronic Dialysis Clinic	per facility	3,524.27	$3,246.45	-$277.82
Pediatric Day Health/Respite	per bed	139.04	$138.51	-$0.53
Alternative Birthing Centers	per facility	1,713.00	$1,713.00	--
Hospice	per facility	2,517.39	$727.96	-$1,789.44
Acute Care Hospitals	per bed	309.68	$306.42	-$3.27
Acute Psychiatric Hospitals	per bed	309.68	$306.42	-$3.27
Special Hospitals	per bed	309.68	$306.42	-$3.27
Chemical Dependency Recovery	per bed	200.62	$200.62	--
Congregate Living Facility	per bed	254.25	$253.57	-$0.68
Skilled Nursing	per bed	254.25	$253.57	-$0.68
Intermediate Care Facility (ICF)	per bed	254.25	$253.57	-$0.68
ICF-Developmentally Disabled	per bed	701.99	$473.26	-$228.73
ICF—DD Habilitative, DD Nursing		701.99 per bed	$473.26	-$288.73
Correctional Treatment Centers	per bed	807.85	$807.85	--

Questions. The Subcommittee has requested **both** the public and the L&C Div ision to provide *brief* comment regarding each of these issues and the recommendations.

3. Implementation of Proposition 84 Bond Act of 2006 on Safe Drinking Water

Prior Subcommittee Hearing. In the April 30th Subcommittee hearing, the Department of Public Health's (DPH) portion of the Proposition 84 Bond was discussed. Two issues were raised in the discussions. **First**, questions were raised by the Subcommittee regarding how the DPH is reaching disadvantaged and severely disadvantaged communities regarding safe drinking water projects. **Second**, clarification regarding the use of a contractor for making determinations regarding what constitutes a disadvantaged and severely disadvantaged community was requested. **No issues were raised regarding the need for DPH resources to implement Proposition 84 or regarding the appropriation of funds as contained in the Finance Letter.**

First, the DPH has provided the Subcommittee with the following response regarding the development of criteria to implement provisions contained in Proposition 84 regarding disadvantaged and severely disadvantaged communities. Key actions have been, or will be, as follows:

- DPH intends to contract with non-profit organizations such as Self Help Enterprises to assist disadvantaged and severely disadvantaged water systems. These organizations have the trust of the community, are multilingual and have technical abilities to assist the community in applying and receiving Proposition 84 drinking water grants.
- In the development of the Proposition 84 grant criteria, regular meetings were held with stakeholders such as the Environmental Justice Coalition for Water and Clean Water Action to obtain their input and comments. The stakeholders participated in the criteria development process from its inception to the development of the final criteria.
- Public meetings were also conducted to receive comments on the criteria in Chino, Visalia and Sacramento. Attendees at the meetings included small water systems, consultants and environmental organizations.
- A "universal" pre-application will be available by June 2007 which will allow public water systems to apply once for funding for all DPH programs (Proposition 84, Proposition 50 and the Drinking Water State Revolving Fund). This will make it easier for disadvantaged and severely disadvantaged communities to apply.
- Disadvantaged and severely disadvantaged projects for the first year of Proposition 84 grant funding will be selected from the Drinking Water State Revolving Fund. This will ensure that grant funds are made available to those most in need in 2007-08. Any disadvantaged and severely disadvantaged water system projects on the Drinking Water State Revolving Fund health-based project priority list that are not selected in the first round, will not have to complete a pre-application. The DPH will place these projects on the Proposition 84 project priority list with its appropriate ranking.
- The DPH has prepared maps of the San Joaquin Valley and identified 80 to 90 small community water systems with less than 200 service connections that the DPH believes are disadvantaged and severely disadvantaged communities. Other areas of the state are being mapped to identify these water systems.

- DPH criteria give priority to consolidation of disadvantaged and severely disadvantaged water systems. Encouraging consolidation and regional facilities among these water systems results in lower water rates and assists the community in obtaining funding to operate and maintain the treatment facilities.

Second, the DPH has provided the following response regarding their proposal to send $50,000 to enter into a financial services contract to determine median household income for disadvantaged and severely disadvantaged communities. The DPH notes that they had been contracting for these types of services for the other public water programs since 1998 (via the Department of Water Resources).

The DPH needs this information to determine the disadvantaged status of community water systems. The financial services provider can make the finer determinations of household income of smaller units within census tracks. **Without this capability by the financial services provider, a small water system may be found not to be disadvantaged when it really is.** To make the financial status determination, databases must be available that supplies the user with updated household characteristics such as income, household size, census tract and age of householder, new households in area, and consumer financial information from consumer marketing databases.

The DPH's objective of using financial contract services is to ensure that data on disadvantaged and severely disadvantaged communities with water systems is consistent, reliable, and defensible and provided in a reasonable amount of time to avoid delaying grant funding to applicant small water systems.

Background on the Finance Letter Request. The Department of Public Health (DPH) is requesting two budget adjustments to begin implementation of Proposition 84—the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Projection Bond Act of 2006.

First, the DPH is requesting an appropriation of $2 million (Proposition 84 Bond Funds) to fund:

- 16.5 staff (primarily engineers, scientists and support staff) at the DPH;
- Contract for $200,000 for technical assistance outreach to disadvantaged and severely disadvantaged communities;
- Contract for $50,000 to analyze and annually update household income data in selected areas which is used to determine "disadvantaged" and "severely disadvantaged" communities as referenced in the proposition;
- Implement an interagency agreement for $50,000 with the Department of General Services (DGS) to conduct certain CA Environmental Quality Act (CEQA) activities. The DPH states that there are several projects each year that will require specialized CEQA knowledge outside the capabilities of their in-house staff. These include instances where there is a need for biological habitat suitability studies, archeological reports, cultural resources surveys and biological field surveys. (This is also done under Proposition 50.)

Second, the DPH is requesting local assistance expenditure authority of $47.3 million (Proposition 84 Bond Funds) for the budget year. In addition, the Administration is proposing Budget Bill Language to enable the $47.3 million to be available for expenditure through 2010. This longer expenditure period provides for flexibility in working with the small community water systems and recognizes the time frames that some of the projects may require due to the engineering work and construction work often involved in the projects.

The $47.3 million consists of the following components:

- $9.1 million (Proposition 84 Bond Funds) for Emergency Grants. This would appropriate the entire amount available for this purpose.
- $27.2 million (Proposition 84 Bond Funds) for small community water drinking systems. The DPH assumes that this amount will be expended annually, over the course of six-years, for total expenditures of $163 million.
- $9.1 million (Proposition 84 Bond Funds) for prevention and mitigation of ground water contamination. The DPH assumes that this amount will be expended annually, over the course of six-years, for total expenditures of $54.3 million.

Background—Proposition 84, Safe Drinking Water & Water Quality Projects. This act contains several provisions that pertain to the Department of Public Health (DPH). It should be noted that 3.5 percent (annually) of the bond funds are to be used to service the bond costs, and up to 5 percent (annually) can be used for DPH state support expenditures. The remaining amounts are to be used for local assistance. A summary of the provisions for which the local assistance funds can be used is as follows:

- $10 million for Emergency Grants. Section 75021 of the proposition provides funds for grants and direct expenditures to fund emergency and urgent actions to ensure that safe drinking water supplies are available. Eligible project criteria includes, but is not limited to: (1) providing alternate water supplies including bottled water where necessary; (2) improvements to existing water systems necessary to prevent contamination or provide other sources of safe drinking water; (3) establishing connections to an adjacent water system; and (4) design, purchase, installation and initial operation costs for water treatment equipment and systems. Grants and expenditures *shall not exceed $250,000* per project.

- $180 million for Small Community Drinking Water. Under Section 75022 of the proposition, grants for small community drinking water system infrastructure improvements and related actions to meet safe drinking water standards will be available. Statutory authority requires that priority be given to projects that address chemical and nitrate contaminants, other health hazards, and by whether the community is disadvantaged or severely disadvantaged.

  Eligible recipients include public agencies, schools, and incorporated mutual water companies that serve disadvantaged communities. Grants may be made for the purpose of financing feasibility studies and to meet the eligibility requirements for a construction grant.

Construction grants are limited to $5 million per project and not more that 25 percent of the grant can be awarded in advance of actual expenditures. Up to $5 million of funds from this section can be made available for technical assistance to eligibility communities.

- $50 million for Safe Drinking Water State Revolving Fund Program. As discussed under Agenda issue #1— Proposition 50 implementation, the Safe Drinking Water State Revolving Fund Program enables California to provide a 20 percent state match to draw down federal capitalization funds. Once the Proposition 50 bond funds are exhausted for this purpose, the Proposition 84 bond funds will be used. This conforms to Section 75023 of the proposition.

- $60 million Regarding Ground Water. Section 75025 provides for grants and loans to prevent or reduce contamination of groundwater that serves as a source of drinking water. Statutory language requires the DPH to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Language in the proposition also provides that the Legislature may enact additional legislation on this provision as necessary.

Subcommittee Staff Recommendation—Approve Finance Letter. Subcommittee staff believes the DPH has appropriately responded to the questions poised by the Subcommittee in its April 30th hearing. It is therefore recommended to approve the Finance Letter as requested.

Questions. The Subcommittee has requested the Department of Public Health to respond to any questions from Subcommittee Members if needed.

B. Item 4280 Managed Risk Medical Insurance Board *(Discussion Items)*

1. Healthy Families Program—Baseline and Caseload Estimate (Issue 106)

Governor's May Revision. A total of $1.114 billion ($400.4 million General Fund, $703.9 million Federal Title XXI Funds, $2.2 million Proposition 99 Funds, and $7.6 million in reimbursements) is proposed for the Healthy Families Program (HFP).

The May Revision reflects an overall *increase* of $23.8 million ($8.2 million General Fund) as compared to the January budget.

The proposed adjustments mainly reflect (1) an average increase of 3.1 percent in the rates paid to participating health plans, dental plans and vision plans (for children aged 1 to 19 years); **(2)** an average increase of 3.2 percent in the rates paid to plans serving infants (aged 0 to 1 year); **(3)** an increase in caseload of 3,918 children, as noted below; and **(4)** updated data for the Certified Application Assistance Incentive payments.

The rate increase for plans serving children aged 1 to 19 years means that on average participating plans will receive $98.88 per member per month. For those plans serving infants, they will receive on average $237.14 per member per month. The Managed Risk Medical Insurance Board (MRMIB) negotiates rates with the plans.

The May Revision assumes a total enrollment of 919,516 children as of June 30, 2008, an increase of 3,918 children as compared to the January budget. The May Revision caseload reflects an increase of about 7.7 percent over the revised current-year.

Total HFP enrollment of **919,516 children** is summarized by population segment below:

- Children in families up to 200 percent of poverty — 612,827 children
- Children in families between 201 to 250 percent of poverty — 197,135 children
- Children in families who are legal immigrants — 15,806 children
- Access for Infants and Mothers (AIM)-Linked Infants — 15,937 children
- New children due to changes in Certified Application Assistance — 8,458 children
- New children due to various modifications in the enrollment process — 58,749 children
- New children due to implementation of SB 437, Statutes of 2006 — 10,604 children

Overall Background—Description of the Healthy Families Program. The Healthy Families Program (HFP) provides health, dental and vision coverage through managed care arrangements to children (up to age 19) in families with incomes up to 250 percent of the federal poverty level, who are *not* eligible for Medi-Cal but meet citizenship or immigration requirements. The benefit package is modeled after that offered to state employees.

Eligibility is conducted on an annual basis.

In addition, infants born to mothers enrolled in the Access for Infants and Mothers (AIM) Program (200 percent of poverty to 300 percent of poverty) are immediately enrolled into the Healthy Families Program and can remain under the HFP until at least the age of two. If these AIM to HFP two-year olds are in families that exceed the 250 percent federal income level, then they are no longer eligible to remain in the HFP.

Summary of Eligibility for the Healthy Families Program (HFP) ***(See Chart in Hand Out)***

Type of Enrollee in the HFP	Income Level Based on Federal Poverty	Comments
Infants up to the age of two years who are born to women enrolled in Access for Infants & Mothers (AIM).	200 % to 300 %	If income from 200% 2o 250%, covered through age 18. If income is above 250 %, they are covered up to age 2.
Children ages one through 5 years	133 % to 250 %	Healthy Families Program covers above 133 percent because children below this are eligible for Medi-Cal.
Children ages 6 through 18 years	100 % to 250 %	Healthy Families Program covers children in families above 100 %. Families with two children may be "split" between programs due to age.
Some children enrolled in County "Healthy Kids" programs. These include (1) children without residency documentation; and (2) children from 250 percent to 300 percent of poverty.	Not eligible for Healthy Families Program, including 250 percent to 300 percent	State provides federal S-CHIP funds to county projects as approved by the *MRMIB*. Counties provide the match for the federal funds.

Subcommittee Staff Recommendation—Approve. The May Revision estimate for the Healthy Families Program reflects reasonable caseload and fiscal adjustments. No issues have been raised regarding the baseline program.

Individual issues regarding policy changes that are reflected in the May Revision are discussed below in the Agenda.

Questions. The Subcommittee has requested the Managed Risk Medical Insurance Board (MRMIB) to respond to the following questions.

1. **MRMIB**, Please provide a brief overview of the key components of the May Revision, regarding this baseline estimate.

2. Change in the Healthy Families to Medi-Cal Bridge—Fiscal & Trailer (Issue 109)

Governor's May Revision. The Administration is proposing trailer bill language and a *net* decrease of $3.8 million (decrease of $1.3 million General Fund) in the Healthy Families Program, with corresponding adjustments in the Medi-Cal Program (reflected in the Medi-Cal estimate adjustment as noted below).

Specifically, the Administration needs to implement a "presumptive eligibility" process to replace the existing Healthy Families Program to Medi-Cal Program "bridge" for children. This "bridge" is needed in order to ensure that children maintain access to health care while they are being processed for eligibility into the Medi-Cal Program. The "presumptive eligibility" process will provide up to 60-days of Medi-Cal eligibility coverage. This provides for a reasonable time frame for the child to be enrolled into the Medi-Cal Program.

California's existing Waiver to operate a Healthy Families Program to Medi-Cal Program "bridge" expired as of January 1, 2007. Though the Administration tried to negotiate with the federal CMS to extend this Waiver, the federal CMS imposed conditions on the state that were not acceptable. Specifically, the federal CMS was going to require a retroactive payment for California to make regarding the difference in federal funding levels (i.e., the 65 percent federal S-CHIP match versus the 50 percent federal Medicaid match).

Therefore due to the federal CMS limits, the Administration is proposing state statutory change to use a different mechanism to "bridge" between programs. A "presumptive eligibility" process will now be used for those children who were enrolled in the Healthy Families Program but whose family income level has decrease so that the child is now likely eligible for Medi-Cal Program services.

Conceptually, once a child no longer receives Healthy Families coverage (i.e., discontinued), presumption eligibility through the Medi-Cal Program will be provided by submitting a Medi-Cal application for the child through the "Single Point of Entry" (i.e., where joint program applications are processing by the HFP Administrative vendor). Medi-Cal accelerated enrollment will then be established for the child (meaning the child can receive timely health care services through the Medi-Cal Fee-for-Service system).

It should be noted that the Medi-Cal Program already has federal CMS authority to operate presumptive eligibility mechanisms, as well as to do accelerated enrollment. This is all contained in the State's Medicaid Plan.

There are several reasons why a child is discontinued from enrollment in the Healthy Families Program. Among other things, is that the family's income has dropped making their child eligible for the Medi-Cal Program and not Healthy Families. (Federal law prohibits the expenditure of federal S-CHIP funds for Medicaid eligible children.)

Due to the proposed change, the state will no longer be receiving the federal S-Chip 65 percent match for the "bridge" but instead, will be receiving the federal Medicaid 50 percent match for the "presumptive eligibility". Therefore, the Medi-Cal Program reflects increased

General Fund support.

Subcommittee Staff Recommendation—Approve Funding and Trailer Bill. It is unfortunate that the federal CMS is unwilling to continue California's Healthy Families to Medi-Cal bridge program. However, the state can use the presumptive eligibility process in order to ensure that children continue to have access to health care coverage for 60 days to enable their eligibility for the Medi-Cal Program to be determined.

Questions. The Subcommittee is requesting the MRMIB and DHCS to respond to the following questions:

1. **MRMIB and DHCS**, Please provide a brief summary of the May Revision proposal and how it will operate.

3. Access for Infants and Mothers (AIM) Program (Issues 107 & 111)

Governor's May Revision. A total of $133.2 million ($8.3 million General Fund, $51.6 million Perinatal Insurance Fund and $73.3 million federal funds) is proposed for the Access for Infants and Mothers (AIM) in 2007-08.

This funding level reflects an overall *net* decrease of $5.5 million in total funds but an increase of $8.3 million in General Fund support as compared to the January budget. The *net* decrease of 4 percent in total funds is largely due to federal fund changes resulting from corrections to the way subscriber contributions are budgeted.

Based on the revised revenue projection for Proposition 99 Funds (Cigarette and Tobacco Product Surtax Funds, established in 1988), there is insufficient state funding for AIM. Proposition 99 Funds are deposited into the Perinatal Insurance Fund for expenditure for AIM and are used to draw down the federal match. **Therefore, the Administration is proposing to use $8.3 million in General Fund support in lieu of Proposition 99 Funds.**

Background—Access for Infants and Mothers (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. Subscribers pay premiums equal to 2 percent of the family's annual income plus $100 for the infant's second year of coverage.

As of July 1, 2004, infants born to AIM women are automatically enrolled in the Healthy Families Program (HFP) at birth. Infants born during 2004-05 to AIM mothers who enrolled in AIM prior to July 1, 2005 will remain in AIM through two years of age. Therefore, infant enrollment is declining and shifting to the HFP. This is because infants will age out of the AIM Program at two years old while no new infants will be enrolled after July 1, 2004, unless the AIM mother was enrolled prior to that date. Therefore, the AIM Program is transitioning to focusing only on pregnant women and 60-day post partum health care coverage.

Background—Major Risk Medical Insurance Program. The Major Risk Medical Insurance Program began serving subscribers in 1991. It provides comprehensive health insurance benefits to individuals who are unable to purchase private coverage because they were denied individual coverage or were offered it at rates they could not afford. Subscribers are charged a monthly premium ranging from 125 percent to 137.5 percent of their plan's standard average individual rate adjusted for the Major Risk Medical Insurance Program benefit standards. The premiums are subsidized through Proposition 99 Funds (Cigarette and Tobacco Surtax Fund). Because the appropriation from Proposition 99 Funds is limited to $40 million annually.

There are about 7,800 individuals presently enrolled in the Major Risk Medical Insurance Program.

Legislative Analyst's Office Comment. The LAO questions whether Proposition 99 Funds used for the Major Risk Medical Insurance Program could be redirected to fund the AIM Program and thereby, not utilize any General Fund support for AIM, or at least some level less than the May Revision proposal of $8.3 million (General Fund).

The LAO states that enrollment for the Major Risk Medical Insurance Program has been below the enrollment cap for the past few months. The LAO has not been able to compare current-year projected expenditures with actual expenditures because the MRMIB has been unable to provide updated fund condition information for the Major Risk Medical Insurance Program because payment requests from participating plans have not yet been received.

The LAO believes that any unspent Major Risk Medical Insurance Program balance could be used on a *one-time only* basis to fund the Major Risk Medical Insurance Program in lieu of its proposed allocation of Proposition 99 Funds.

This action in turn, would free up Proposition 99 revenues to be placed into the Perinatal Insurance Fund to be used for the AIM Program. Consequently, less General Fund support would be needed for the AIM.

Administration's Response to LAO Comments. The Managed Risk Medical Insurance Board (Board) states that they need two pieces of information that are critical to inform the decision making process as to whether unspent funds are available to be used as the LAO is contemplating.

These two pieces of information are: **(1)** claims payment information from all participating plans; and **(2)** an analysis of the Major Risk Medical Insurance Program's benefit plan design being conducted which will not be available until June.

The Board notes that the largest participating health plan in the Major Risk Medical Insurance Program is Blue Cross of California and they have not yet submitted their 2006 claims. The Board is aggressively pursing claim information but will probably not have it for a while.

Subcommittee Staff Recommendation—Approve May Revision. Though the LAO raises a good point, it is unknown at this point in time if funds are available within the MRMIP to redirect. As such, it is recommended to adopt the May Revision.

Questions. The Subcommittee has requested the MRMIB to respond to the following questions.

1. **MRMIB**, Please provide a *brief* summary of the May Revision request.
2. **MRMIB**, Please comment on the concerns raised by the LAO.

C. Item 4260 Department of Health Care Services *(Discussion Items)*

1. California Children's Services (CCS) Program: Significant Concerns with Access to Necessary Durable Medical Equipment (DME) & Medical Supplies

Issue. Constituency groups, including Children's Hospitals, medical supply companies, durable medical equipment providers, children specialty care groups and others, have expressed considerable concerns with limited access to medically necessary equipment and supplies under the California Children's Services (CCS) Program. This has been an ongoing issue for at least the past year, if not longer, and has **reached a crisis point** in many areas through out the state.

Though the Department of Health Care Services (DHCS) has had conversations with various groups regarding these concerns, including Subcommittee staff, nothing tangible and proactive has been done by the DHCS to remedy what is occurring out in the field.

Without appropriate durable medical equipment (DME) and supplies, children are delayed from being discharged from hospitals to their families. **These situations create havoc for the families, result in higher medical expenditures for everyone involved, including the state, and clearly do not represent the intended best medical practice standards for which the CA Children's Services Program is to be known.**

The Children's Regional Integrated Service System (CRISS), a coalition of nine counties and numerous children's specialty medical care groups, including hospitals, that provide CCS services in the greater Bay Area/Northern CA, conducted a recent survey (April 2007) of its members regarding access to these important medical items. **Key results of this survey are as follows:**

- Several hospitals, including some Children's Hospitals, needed to keep infants and children in the hospital from one day to as long as three months because of the inability to obtain equipment through the CCS Program.
- Several counties reported children being discharged on time but without equipment such as customized wheelchairs that took up to a month to obtain post-discharge due to delays in the CCS Program.
- CRISS reports that durable medical equipment (DME) and medical supply vendors are citing obstacles in both the authorization and payment processes as reasons to limit or eliminate their participation in the CCS Program and Medi-Cal. **For example, several larger companies that provide DME and medical supplies—such as Apria Healthcare and Shield—are either *not* taking CCS or Medi-Cal or are restricting the number of new clients for whom they will provide equipment or supplies.**
- Twelve babies have been kept in the hospital because of unavailability of apnea monitors.
- Four discharges were delayed in a two-week period due to the inability to secure pulse oximeters.
- Approximately one baby per month is being retained in the hospital because of problems

getting equipment necessary for discharge.

- One hospital reported delays with five pediatric patients waiting for ventilators, medical supplies, apnea monitors, home nursing and other services.
- Several hospitals reported paying for equipment and giving families' supplies in order to discharge children.
- Both hospitals and counties reported numerous complaints from parents and guardians who could not understand being denied access to services that are supposed to be covered by the CCS Program. Both also noted the following concerns as a result of delayed discharges:
  - ✓ Increased costs for extended hospitalizations;
  - ✓ Ethical concerns about disparity of care when privately insured patients have access to services and supplies; and
  - ✓ Multiple case management hours per patient spent on the phone attempting to coordinate care, obtain equipment, and follow-up on the lack of responses and changes in availability.

Various constituency groups have been trying to problem solve regarding these issues, and have offered tangible administrative suggestions and recommendations to the DHCS. Yet definitive action on the part of the DHCS has been lacking in the view of Subcommittee staff.

Background—California Children's Services (CCS) Program: 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 offsets this match against state funds as well as county funds.

Subcommittee Staff Recommendation. The CCS Program provides intensive, medical necessary services to infants, children and adolescents with significant specific medical conditions, including birth defects, chronic illness, genetic diseases and injuries due to accidents or violence. CCS has specific standards of care and requires CCS-panel specialist to provide the care. If durable medical equipment and medical supplies cannot be accessed in a timely, medically professional manner, then the core program of services is at risk and

children and their families who rely on this program are *not* receiving the quality medical care that are suppose to be an integral part of the CCS Program.

In an effort to focus the DHCS' attention on this issue, the following Budget Bill Language is recommended (Item 4260-111-0001):

> "The Department of Health Care Services (DHCS) shall work with various constituency groups as appropriate to resolve issues with the timely discharge of patients enrolled in the California Children's Services (CCS) Program due to the lack of access to home care providers of durable medical equipment, medical supplies and home health services. The DHCS shall give consideration to utilizing the individual patient discharge plan initiated by a CCS paneled physician as an authorization for services for up to 90 days and to the timely approval for authorization of services to permit discharge of the CCS patient from the hospital setting within 48 hours."

Questions. The Subcommittee has requested the DHCS to respond to the following questions:

1. **DHCS**, What has been done to address these concerns specifically?
2. **DHCS**, How does the DHCS intend to proceed in the short-term and longer-term to address these issues?

2. Adjustments to AB 2911 (Nunez)--CA Drug Discount Prescription Drug Program

Prior Subcommittee Hearing. In the March 26th hearing, **the Subcommittee approved the budget proposal to implement the CA Drug Discount Prescription Drug Program as enacted by Assembly Bill 2911 (Nunez), Statutes of 2006.** Under the Administration's proposed implementation of this key legislation, the DHCS would conduct drug rebate negotiations, perform drug rebate collection and dispute resolution, and develop program policy, while a contractor would operate and manage the enrollment and claims processing functions.

Specifically, the January budget proposed the following adjustments:

- Increase of $8.8 million (General Fund) to support 16 positions within the Department of Health Care Services (DHCS) to conduct various implementation functions and to support a $6.8 million contract to design and implement the enrollment and claims processing functions. This General Fund increase is offset by a special fund appropriation as noted below
- Establishes a new item within the DHCS budget—Item 4260-006-001—which authorizes the State Controller to transfer up to $8.8 million (General Fund) to the DHCS to support the CA Drug Discount Prescription Drug Program (i.e., it transfers General Fund into the new special fund referenced below). Budget Bill Language provides authority to the Department of Finance (DOF) to increase the amount of this transfer after providing a 30-day notification to the Legislature.
- Establishes a new item within the DHCS budget—Item 4260-001-8040 (CA Drug Discount Prescription Drug Program Fund)—which is a special fund to be used to track and appropriate all payments received under the program, including manufacturer drug rebates. This item assumes an appropriation of $8.8 million which will be used to offset the General Fund expenditures for state support. The Administration is proposing trailer bill language to have this special fund be continuously appropriated and not subject to an annual appropriation through the Budget Act.

The budget also included $6.8 million for a contractor to design, develop and implement the client enrollment and claims reimbursement functions of the operations. The selected vendor will function as the Fiscal Intermediary for the program. This function will include, the entry of provider information into the claims processing system, the creation and maintenance of a computerized enrollment system for eligible Californians to enroll in the program and maintenance of a claims processing.

Governor's May Revision. The May Revision proposes to **(1)** technically reallocate contract support funds to local assistance to better reflect their budgeting methodology, and **(2)** reduce funding by $2.5 million for 2007-08 to reflect reduced expenditures for the Vendor contract. The DHCS states that they have selected a Vendor to serve as the Fiscal Intermediary for the program and the awarded costs are lower than originally anticipated.

Subcommittee Staff Recommendation—Approve with Technical Correction. It is recommended to approve the proposal but to make a technical correction by establishing a new item number—4260-119-8048 instead of using 4260-101-8040. This will keep the program separate and apart from the Medi-Cal local assistance item.

Questions. The Subcommittee has requested the DHCS to respond to the following questions:

1. **DHCS**, Please provide a brief summary of the May Revision change.

3. Medi-Cal Baseline Estimate Package & Technical Adjustments to Prior Actions

Governor's May Revision: The entire Medi-Cal Estimate is recalculated at the May Revision. As such, the Medi-Cal Estimate package needs to technically be adopted as a baseline **and *then*** individual issues are adjusted as needed (as discussed in the issues noted in the Agenda below).

The May Revision proposes Medi-Cal Program expenditures of $37.7 billion ($13.768 billion General Fund), excluding special funds provided to hospitals. This reflects a *net* increase of $330.3 million (**increase of $39.4 million General Fund**) as compared to the January budget. Estimated expenditures are shown below by category.

Summary Totals of Governor's May Revision for Medi-Cal Program

Component of the Medi-Cal Program	May Revision 2007-08
Medical Care Services	$34.743 billion ($13.765 billion General Fund)
County Administration	$2.685 billion ($800 million General Fund)
Fiscal Intermediary	$303.2 million ($102.7 million General Fund)
TOTAL	$37.732 billion ($14.668 billion General Fund)

The average monthly caseload is projected to be 6,603,000 Medi-Cal enrollees which represents a **decrease** of 98,000 people, or 1.5 percent from the January budget.

Among many various adjustments contained in the May Revision are the following:

- *Coverage for Former Agnews Developmental Center Residents.* An increase of $3.8 million ($1.9 million General Fund) is provided to recognize that some of the people moving from Agnews will enroll in Medi-Cal Managed Care plans (Santa Clara Family Health Plan, Alameda Alliance for Health and Health Plan of San Mateo). This adjustment is an estimate and will be updated in January 2008.
- *Dental Retroactive Rate Changes.* Decreases by $603 million ($301.5 million General Fund) to recognize a period from August 2004 through 2006 in which the Medi-Cal Program paid Delta Dental at a higher rate than what has subsequently been identified by independent actuaries regarding utilization and dental capitation rates implemented in 2005. The DHS states that these savings have been agreed to by Delta Dental.
- *Payments for Institutions for Mental Disease (Issue 214).* An increase of $24.1 million (General Fund) is provided in the current-year to fund a settlement with the federal

government regarding the claiming of non-federally eligible ancillary service costs. Federal funds are not available for ancillary services (such as physician services, pharmacy and laboratory) provided to Medi-Cal enrollee's ages 22 through 64 residing in Institutions for Mental Disease.

- *County Administration Adjustments.* An increase of $25.2 million ($12.6 million General Fund) for County Social Services Departments to implement the federal Deficit Reduction Act (DRA) that requires evidence of citizenship and identity as a condition of Medicaid eligibility for individuals who are applying for or currently receiving Medi-Cal benefits and who declare that they are citizens of the United States. Assembly Bill 1807, Statutes of 2006, specifies the requirements that counties have in this process, including assisting an individual in obtaining, presenting and supporting the acquisition of documentation required.

- *Medicare Payments (Issue 213).* A decrease of $20.5 million (General Fund) is proposed due to a reduction in the estimated growth of the average monthly eligibles. Under the Medicare Part D Program, states are required to contribute part of their savings for no longer providing a drug benefit to dual Medicare/Medi-Cal eligibles (i.e., the "clawback"). Declining growth in caseload affects this calculation relative to the January budget.

- *Hospital Financing Waiver.* A series of adjustments are contained in the May Revision to appropriately fund eligible safety net hospitals as contained in Senate Bill 1100 (Perata & Ducheny), Statutes of 2005.

- *Presumptive Eligibility for Healthy Families Enrollees.* An increase of $2.8 million ($1.4 million General Fund) is provided to replace the Healthy Families to Medi-Cal Bridge with a Medi-Cal presumptive eligibility process due to the expiration of Waiver that was done under the Healthy Families Program. (This issue is discussed under the Healthy Families Program).

- *Anti-Fraud Expansion for 2007-08.* Assumes savings of $42.5 million ($21.2 million General Fund) which are annualized savings recognized from additional staff that were added in the Budget Acts of 2000 and 2003 for audit compliance functions, laboratory reviews and various other activities.

- *Minor Consent Program.* In the May Revision the Administration exempts the Minor Consent Program from the requirements of the federal Deficit Reduction Act of 2005 (DRA) for expenditures of $18.9 million (General Fund), after accounting for a necessary technical adjustment. The $18.9 million (General Fund) increase is accounting for the fact that the DHCS will no longer claim federal funds for this program which provides services to pregnant minors. The Administration proposes to operate this program as a "state-only" program because application of the DRA requirements would serve as a barrier for minors to obtain medically needed services. (This does *not* include any surgical services for abortions.)

Prior Subcommittee Actions. The Subcommittee discussed the Medi- Cal Program in several hearings, and took three actions for adjustment to local assistance. These three adjustments were to correct technical items, including a reduction in County Administration costs for implementation of Senate Bill 437 regarding self-certification pilot projects, a fund

shift regarding some computer processing expenditures, and savings attributable to trailer bill language that had not been scored by the Administration as savings. **All of these savings adjustments have now been captured within the Governor's May Revision.**

Subcommittee Staff Recommendation—Approve with Technical Adjustment. The Administration has recognized an adjustment that needs to occur to their May Revision and has requested the Subcommittee to reduce by $1.150 million (General Fund) the amount provided to fund the minor consent program. This is purely a technical adjustment.

Therefore, it is recommended to (1) make the technical correction and (2) approve the remaining dollars for the Governor's May Revision for Medi-Cal local assistance needs.

The purpose of this action is to technically adopt the May Revision as a baseline and then individual issues will be adjusted as directed by the Subcommittee (as discussed in the issues noted in the Agenda below).

Questions. The Subcommittee has requested the DHCS to respond to the question below.

1. **DHCS**, Please provide a *brief* overview of the key components of the May Revision for the Medi-Cal Program.

4. Medi-Cal Program's Draft Response Re: Performance Measures and People with Disabilities and Chronic Conditions

Prior Subcommittee Hearing. In the May 7th hearing, the Subcommittee received a *draft* copy of the Department of Health Care Services (DHCS) response to the CA Healthcare Foundation's recommendations for performance standards for Medi-Cal Managed Care organizations serving people with disabilities and chronic conditions *at* the hearing.

The Legislature and various interested parties had been waiting for this report for at least a year.

Public testimony was provided by several constituency groups who articulated how the Medi-Cal Program overall—including the Fee-For-Service system and Managed Care system—needed to improve its overall programmatic structure when it comes to ensuring access, quality of care and performance measures for people who are aged, blind or disabled.

Issue. The draft DHCS report provides comment on the various recommendations made in the 92-page CA Healthcare Foundation Report but it does *not* offer any specific short-term or longer-term next steps and does *not* provide an **"action" plan** as to how the Administration can proceed.

The DHCS noted that timing of implementation of the various recommendations is related to the extent that resources are available. The May Revision did *not* include any additional resources for the DHCS in this area.

The DCHS states that several of the recommendations in which they agree recommend clarifications and changes to existing Medi-Cal Managed Care health plan contract language regarding consumer participation in health-plan decision making, providing support and advocacy for health plan members with disabilities and chronic health conditions, providing health plan member service guides in alternative formats, and several provisions related to care coordination and quality improvement. The DHCS *should be* proceeding on many of these aspects. However, at what pace will changes be made, and what will be the transparency of these actions?

The DHCS states that many of the other recommendations will require additional work and consultation with stakeholders before the DHCS can proceed. Again, it is unknown what this process will be at this time because the Administration has not provided or offered any public guidance on the topic.

Background—CA Healthcare Foundation Report (November, 2005). Under the support and direction of the California Healthcare Foundation, a comprehensive report prepared by several researchers was **released in November 2005** entitled: "Performance Standards for Medi-Cal Managed Care Organizations Serving People with Disabilities and Chronic Conditions".

This **92 page report** was the outcome from various workgroup discussions convened during 2005 when discussions were at the forefront regarding improving Medi-Cal services to people

who happen to be in the aged, blind or disabl ed categories of the Medi-Cal Program (i.e., Fee-For-Service or Medi-Cal Managed Car e). **Core objectives included the follow ing recommendations for the Administration to pursue:**

- Develop performance standards and measures to foster improvements in quality of care for people with disabilities and chronic illness;
- Develop recommendations for how the DHS and other depar tments can support improvements in quality of care for this population;
- Develop recommendations for monitoring contract compliance; and
- Develop a tool to assess managed care plan readiness to serve people with disabilities.

The report recognized the need for consider able analys is and continued workgroup discussions around k ey topics, incl uding: Accessibility; Provi der Networks; Enrollment and Member Services; Benefit Management; Care Management; Coordination of Carved-Out and "Linked" Services; Quality Improvem ent; and Performance Measurement. ***Examples* of recommendations from the report included the following:**

- Conduct initial screen to identify immediate access and medical needs;
- Provide materials in alternative formats upon request;
- Provide assistance with navigating managed care;
- Expand cultural competency and diversity training requirements;
- Expand definition of "access";
- Determination of medical necessity should take into account maintenance of function;
- Broaden requirements to provide out-of-network services;
- Conduct quality improvement activities to address needs of people with disabilities and multiple chronic conditions;

Background—Information Regarding People w ith Disabilities Enrolled in Medi-Cal. In California there are **over 1 million people with disabilit ies enrolled in the Medi-Cal Program.** People who qualify for Medi-Cal based on disability (SSI determination) are very heterogeneous; there is no one category that can be labeled as "the disabled".

People wit h dis abilities have a wide variety of phy sical impai rments, mental healt h, and developmental condit ions, and other chronic conditions. In addition, as noted by the California Healthcare Foundation, these individuals:

- Are increasing in number s and account for a growin g percentage of Medi- Cal expenditures;
- Have limited access to primary and preventive care services;
- Use a complex array of specialty, ancillary, and supportive services;
- Are much more likely to have multiple chronic or complex conditions;
- Require *personalized* durable medical equipment;

- Often need additional supports to access services (e.g., transportation, interpreters, and longer appointments); and
- Experience a dizzying array of physical, communication, and program barriers.

About 20 percent (over 280,000 people) of the Medi-Cal enrollees with disabilities are enrolled in the Medi-Cal Managed Care Program. The vast majority of those enrolled in managed care reside in one of the five, not-for-profit County Organized Healthcare Systems (covering eight counties). County Organized Healthcare Systems (COHS) require the "mandatory" enrollment of all Medi-Cal individuals. However, some people with disabilities who reside in counties with the Two-Plan Model (twelve urban counties) or Geographic Managed Care Model (Sacramento and San Diego) have voluntarily enrolled in Managed Care.

Subcommittee Staff Recommendation. It is evident that the DHCS needs encouragement in order to proceed with the actual development and implementation of performance standards appropriate for serving people with special needs, including individuals who are elderly, have significant chronic conditions or are disabled.

In technical assistance discussions with various entities regarding this topic, several ideas were discussed.

First, it is recommended for the DHCS to craft an action plan for proceeding with short-term and longer-term steps. **Therefore, the following Budget Bill Language is proposed**:

Item 4260-001-0001.

"The Department of Health Care Services (DHCS) shall develop an action plan which specifies both short-term and longer term goals for implementing performance and quality assurance measures within the Medi-Cal Program using the department's May 2007 draft report, which responds to the California Healthcare Foundation's recommendations, as a guide. The DHCS will consult with diverse constituency groups, as deemed appropriate, as well as with other state departments which provide services to individuals with special health care needs, in the development of this action plan. It is the intent of the Legislature for this action plan to be used as a tool to improve the Medi-Cal Program and for it to be a working document that is updated and shared intermittently, at least semi-annually, with interested parties as applicable.

Second, it was noted that "care coordination" is a major them throughout the CA Healthcare Foundation Report. This has also been an issue that has been raised regarding the Agnews Developmental Center closure discussions as well. The DHCS has informed Subcommittee staff that many of the "care coordination" recommendations (see the "cross-cutting issues", "care management", "quality improvement", "performance measures" and "coordination of carve out services" sections of the report) could be addressed if the DHCS obtained additional resources. Therefore it is recommended to provide the DHCS with three positions for this purpose. **These positions include the following: (1)** a Nurse Consultant III; **(2)** a Health Education Consultant; and **(3)** a Research Program Specialist.

In order to fund these three positions, it is recommended to **redirect** $325,000 in federal Title V Maternal and Child Health to be used for this purpose (with some travel expenses).

Specifically, the Administration is proposing to increase by $2 million, or by 42 percent in one year, the amount of federal Title V Maternal and Child Health (MCH) funds to be allocated to selected counties. For the 2005-06, and 2006-07, selected counties received a total of $7.4 million ($4.7 million federal MCH funds). However for 2007-08, the Administration proposes an increase of $2 million (federal MCH grant funds) for a total expenditure of $9.4 million for the counties.

Given the need to "jump start" the DHCS regarding the report recommendations, and the fact that a portion of federal MCH funds are to be used to provide assistance to the disabled population, redirecting a portion of these funds for this purpose seems reasonable. Further, the Administration's significant increase to the counties has not been justified.

Third, the DHCS would benefit from hiring a consultant (s) to assist them with three areas of focus as outlined below (and as referenced in the report under the "cross cutting issues" section):

- Develop a statewide education plan, training curriculum (or identify appropriate existing curricula) and materials to ensure that health plan, provider and state staff can provide services that are culturally competent and sensitive to the needs of individuals with disabilities and chronic conditions.
- Improve the initial health assessment. This would assist in preventing the disruption of ongoing care currently provided in the Medi-Cal Fee-for-Service Program when persons with disabilities move to Medi-Cal Managed Care.
- Enhance the facility site review tool, specifically targeting access for individuals with disabilities

Based on the needs identified above, it is recommended **to provide $450,000 in *redirected* federal Title V MCH funds for a two-year period** to facilitate completion of the above items. The following Budget Bill Language is proposed for this purpose:

Item 4260-001-0001

"Of the amount appropriated in this item, up to $450,000 (transferred from Item 4260-111-0890) may be used for purposes of establishing interagency agreements or contracts, or combinations thereof, to proceed with implementation of the recommendations contained within the Department of Health Care Services (DHCS) May 7, 2007 draft report regarding performance and quality standards for the Medi-Cal Program. It is the intent of the Legislature for recommendations regarding the crafting of a statewide education plan, improving the initial health assessment and enhancing the facility site review tool to receive a priority focus. The DHCS may seek the assistance of foundations and other sources of funds to facility stakeholder involvement in these activities and other matters which pertain to the May 7, 2007 draft report.

These recommendations would redirect a total of $775,000 (federal Title V MCH Funds) for 2007-08 and 2008-09, with ongoing expenditures of $325,000 (federal Title V MCH Funds). It should be noted that the remaining amount of the Administration's federal Title V MCH Funds, or $1.225 million, would be provided to the counties.

Questions. The Subcommittee has requested the DHCS to respond to the following questions:

1. **DHCS**, When will additional work be completed in this area? (The Medi-Cal Program was provided resources in the Budget Act of 2005 and 2006 for specific follow-up work in this area.)
2. **DHCS**, From a "technical assistance" perspective, please comment on how additional resources would facilitate progress.

5. Rate Increases for Medi-Cal Managed Care Plans

Prior Subcommittee Hearing. In the Subcommittee's April 16th hearing, the "Mercer Report" recommendations on how to restructure Medi-Cal Managed Care rates was discussed at length. Public comment regarding concerns with the low reimbursement, lack of transparency in the rate making process and related concerns were received.

Governor's May Revision. The May Revision proposes **three key changes** to the capitated rates paid to Medi-Cal Managed Care Plans and its process.

First, an overall increase of $214.3 million ($107.1 million General Fund) is proposed for the capitated rates. The DHCS states that this proposed increase is based on the plan-specific, experienced-based rate methodology developed as the result of the Mercer Report.

It should be noted that 50 percent of the total proposed increase, or $106.3 million ($53.1 million General Fund), is budgeted to **"hold harmless"** health plans for one-year from any negative results of the revised rate methodology. The DHCS states that consistent with past practices when changing rates or rate methodologies, the Administration is maintaining capitation payments for certain health plans at the 2006-07 levels for one year (i.e., through a one-year contract period). It should be noted that this dollar amount is an estimate.

The actual rates to be paid to each Medi-Cal Managed Care participating health care plan will *not* be determined until after the budget is enacted. The DHCS intends to meet with each plan to discuss and negotiate the actual rates based on available data and analysis. However, the DHCS did provide the following information as an *informational guide* to how the pool of increased funds may generally divide between plan models; this is shown below. (Plan models have different contract time frames which affect the expenditures on the natural due to timing across fiscal years).

Informational Display of May Revision Medi-Cal Managed Care Rate Increase

Type of Plan	2007-08 Increase (Includes Hold Harmless)	Estimated Annual Cost (*No* Hold Harmless)
County Organized Health System (Rate Year: July 1 to June 30)	$63.6 million	$63.6 million
Two-Plan Model (October 1 to September 30)	$131.8 million	$175.7 million
Geographic Managed Care—Sacto. (January 1 to December 31)	$6.3 million	$12.6 million
Geographic Managed Care—San Diego. (January 1 to December 31)	$12.6 million	$12.6 million
TOTAL RATE INCREASE	**$214.3 million**	**$264.5 million**

Second, it should be noted that the DHCS is implementing ***some*** of the recommendations of the Mercer Report in 2007-08 but ***not*** **all of the recommendations.** The Administration states that due to factors such as timing and the required data processing and analysis of some aspects of the Mercer recommendations, 2007-08 is a transitional year. Further they note that the DHCS will implement the remaining recommendations targeted for adoption in "future" years.

Specifically, the DHCS states that the following **key** components of the Mercer Report recommendations for Medi-Cal Managed Care rates are to be implemented in 2007-08 and that the proposed rate increase includes these factors:

- Utilization of a county and plan specific, rate development process based on:
  - Health plan specific encounter and claims data;
  - Supplemental utilization and cost data submitted by the health plans;
  - Fee-for-Service data for the underlying county of operation or adjoining counties if deemed necessary;
  - Department of Managed Health Care financial statement data for Medi-Cal Operations; and
  - In absence of actual plan data—substitute plan model, similar plan, and/or county specific Fee-For-Service data.
- Inclusion of administrative costs as a percentage of the total capitation. The methodology will apply a different percentage for administration against different aid code groupings (e.g., family versus aged, blind and disabled).
- Development of rates that include a combined assumption of two percent for underwriting, profit risk and contingency. The intent of this adjustment is to maintain a health plan's financial solvency in lieu of a "tangible net equity" (TNE) adjustment.
- Use of a detailed review of health plan financial statements to validate and reconcile costs for use in developing rates and as part of the overall financial monitoring of the plan.
- No "budget adjustment factor" is applied.

The key components of the Mercer Report that are not included for 2007-08 are as follows:

- No maternity supplemental payment (a "kick payment") to cover the cost of all deliveries. The kick payment is intended to normalize health plan risk and covers perinatal services through the first 2 months after the child's birth. The DHCS hopes to proceed with this in 2008-09.
- No Pay-for-Performance Incentive Program. The DHCS hopes to proceed with this in 2008-09.
- No mechanisms to measure the relative risk of each health plan to identify adverse population selection is included in the rate methodology.

Third, the Administration is proposing trailer bill language to transfer the authority to establish Medi-Cal Managed Care rates to the Department of Health Care Services (DHCS) from the CA Medical Assistance Commission (CMAC) for the County Organized Health Systems (COHS) participating in the Medi-Cal Managed Care Program. Presently CMAC provides the rate information to the COHS.

Background—Overview of Medi-Cal Managed Care. The DHCS is the largest purchaser of managed health care services in California with over 3.2 million enrollees, or about 50 percent of 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 County Organized Health Systems (COHS). Twenty health plans have contracts with Medi-Cal within the 22 counties. Some of the plans—like commercial plans—contract with Medi-Cal under more than one model (i.e., commercial plan in Two Plan Model and participate in the Geographic Managed Care model for example).

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 280,000 individuals with disabilities are enrolled in a Medi-Cal Managed Care plan.

Each of these models is briefly described below.

- *Two-Plan Model.* The Two Plan Model was designed in the 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, 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.

- *Geographic Managed Care Model.* 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 11 percent of all Medi-Cal managed care enrollees in California.

- *County Organized Healthy Systems (COHS).* 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 costs aged, blind and disabled individuals, COHS receive higher capitation rates on average than health plans under the other Medi-Cal managed care system models. About 550,000 Medi-Cal recipients receive care from these plans. This accounts for about 16 percent of Medi-Cal Managed Care enrollees.

Constituency Concerns. The Subcommittee is in receipt of letters that support the rate increase but also are seeking further clarity from the Administration as to how the rates were calculated and as to the process and timing of the final rate determinations by health plan for the specific Medi-Cal populations (e.g., family, child, and aged, blind and disabled).

Legislative Analyst's Office. The LAO expresses concern regarding the "hold harmless" provision of the Administration's proposed rate increase.

Subcommittee Staff Recommendation. It is recommended to **(1)** approve the increase of $214.3 million ($107.1 million General Fund); **(2)** adopt placeholder trailer bill legislation to codify the Administration's proposed rate methodology changes; and **(3)** transfer the authority to establish Medi-Cal Managed Care rates to the DHCS for the Geographic Managed Care Model (Sacramento and San Diego), in addition to the COHS.

The purpose of the placeholder trailer bill language is to ensure that state statute contains a framework of the rate structure to be used for Medi-Cal Managed Care.

In addition, it makes absolutely no sense to have the CMAC involved in any aspect of establishing rates for Medi-Cal Managed Care. It is the DHCS that has and best understands the data. It is the DHCS that will be working with all of the other Medi-Cal Managed Care models. There has been confusion caused in the past by the overlapping roles and responsibilities related to the CMAC and DHCS in developing rates for COHS as well as Geographic Managed Care (GMC) plans. One state department needs to be in charge and be accountable; this should be the DHCS for it all.

Questions. The Subcommittee has requested the DHCS to respond to the following questions:

1. **DHCS**, Please provide a full description of the proposed rate increase, the key components of the new rate methodology, and why the hold harmless provision is important for 2007-08.
2. **DHCS**, Please briefly describe the Administration's trailer bill language.

6. Personalized Provider Directories for Medi-Cal Managed Care—Trailer Bill

Prior Subcommittee Hearing. In the April 30th hearing, the Subcommittee discussed the Administration's January proposal for trailer bill language to save $2 million ($1 million General Fund) by changing how the Medi-Cal Managed Care Program structures the provider directories provided to each person enrolling into a Medi-Cal Managed Care Program. The savings assumed by the DHCS are from a reduction in paper, printing, provider directory packet assembly and postage costs.

The Administration's proposal was very broadly crafted and needed much more discussion with the involved constituency groups.

The Subcommittee held this issue "open" to enable the DHCS to work with health care plans, and consumer advocacy organizations to craft a revised proposal to have the Medi-Cal Program "pilot" the personalized provider directory in two counties, with one of them being Los Angeles.

Governor's May Revision. The May Revision savings level for the Administration's proposal has now been reduced to be a savings of only $1,150 dollars. In addition, the Administration has been working with constituency groups to craft a two-county pilot project for this purpose.

Subcommittee Staff Recommendation—Adopt Placeholder Trailer Bill Language. It is recognized that Medi-Cal enrollment materials, including materials regarding the choice of Managed Care plans, need to be streamlined and simplified.

In an effort to continue the discussions to see if a compromise can be obtained, it is recommended to adopt placeholder trailer bill language that would have the following components:

- Provide for a two county pilot for two years. (Most likely to be Los Angeles and Sacramento).
- Make sure that the directories are truly "personalized" for consumer ease as well as to ensure that health care plans can distinguish themselves from each other.
- Each plan would have its own, *consolidated*, provider booklet.
- Prior to implementation, the DHCS would have to further consult with stakeholders regarding the parameters of each pilot and how to evaluation the outcomes from it.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. **DHCS,** Please provide a brief update as to where the discussions are regarding conducting a two county pilot project. Would more time be useful to see if a compromise can be achieved?

7. Trailer Bill Language For Quality Improvement Fee for Medi-Cal Managed Care

Governor's May Revision. The Administration is proposing trailer bill language that would **(1)** extend the sunset date for the Quality Improvement Fee on Medi-Cal Managed Care plans from January 1, 2009 to October 1, 2009 to correspond to the timeline established in the federal Deficit Reduction Act of 2005 (DRA); and **(2)** adjust the amount of the Quality Assurance Fee from its current 6 percent to 5.5 percent as required by the federal DRA.

The fiscal affect of this change is that $10.1 million (total funds) will be reduced from the baseline Medi-Cal Managed Care funding level.

The DHCS increased payments to Medi-Cal Managed Care plans by drawing down federal matching funds to reimburse plans for a 6 percent Quality Improvement. Managed Care plan rates were adjusted to include this in their rates on their anniversary dates beginning July 1, 2005. Effective January 1, 2008, the Quality Improvement Fee will drop from 6 percent to 5.5 percent.

Subcommittee Staff Recommendation. It is recommended to adopt the trailer bill language as proposed by the Administration. It would conform state law to federal DRA changes. No issues have been raised.

Questions. The Subcommittee has requested the DHCS to respond to the following question.

1. **DHCS**, Please provide a *brief* summary of the need for this trailer bill language.

8. Administration's Trailer Bill Language-- AB 1629 Nursing Home Rates

Prior Subcommittee Hearing. In the April 16th hearing, the Subcommittee discussed the Administration's proposal to reduce Medi-Cal reimbursement for nursing homes and left the issue "open", pending receipt of the May Revision.

Governor's May Revision. The May Revision continues the Administration's proposal to modify Assembly Bill 1629 (Frommer), Statutes of 2004, which implemented a facility specific rate setting system for facilities providing long-term care services (nursing homes).

Specifically, the Governor's May Revision does the following:

- **First, it reduces by $32.6 million** ($16.3 million General Fund) the amount paid by adjusting the maximum annual rate increase or "growth cap" to 4.5 percent, instead of the presently required 5.5 percent as contained in statute. The proposed 4.5 percent growth cap would be effective as of August 1, 2007. The Administration contends this change is necessary due to recent federal law changes regarding "Quality Assurance Fees", as well as an overall need to reduce General Fund expenditures.

- ***Second,*** it would provide that beginning with the 2008-09 rate year, the maximum annual increase in the weighted average Medi-Cal rate for nursing homes would be adjusted based on a "medical" consumer price index (language needs to be fixed), and not by other factors as presently contained in statute. **This aspect of the proposal would reduce and flatten-out future rate increases for nursing homes.**

- ***Third***, the Administration would extend the sunset date for this nursing home rate methodology by one year, from July 31, 2008 to July 31, 2009.

Background---Summary of Key Aspects of Assembly Bill 1629 (Frommer), Statutes of 2004. This legislation created a *"facility-specific"* Medi-Cal reimbursement methodology for nursing homes, and authorized a provider *"Quality Assurance Fee"* to assist in providing a Medi-Cal rate increase.

The purpose of these changes were to devise a rate-setting methodology that: (1) encouraged access to appropriate long-term care services; (2) enhanced quality of care; (3) provided appropriate wages and benefits for nursing home workers; (4) encouraged provider compliance with state and federal requirements; and (5) provided administrative efficiency.

The key components of the nursing home rate methodology contained in this enabling legislation are as follows:

- Established a **baseline reimbursement rate** (weighted average rate) *and* state maintenance of effort level (methodology in effect as of July, 2004 plus certain specified adjustments). (The facility-specific rate and "Quality Assurance Fee" rate increases are built upon this baseline.)

- Established a **"facility-specific" Medi-Cal reimbursement methodology** for nursing homes. Payment is based upon each facility's projected costs for five major cost categories: (1) labor costs; (2) indirect care non-labor costs; (3) administrative costs; (4) capitol costs—"fair rental value system"; and (5) direct pass-through costs (proportional share of actual costs, adjusted by audit

findings).

- Imposed a **"Quality Assurance Fee"** on all nursing homes (about 1,200 facilities), not to exceed 6 percent, which is deposited in the state treasury and is used to fund the specified rate increases, as well is u sed to offse t some Gen eral Fund expenditures (amounts vary each ye ar for the rate increase and General Fund savings levels).

- Limits growth in the overall Medi-Cal reimbur sement rate for nursing h omes through the use of spending ca ps. These spending "caps" were agreed to because facilit y-specific re imbursement systems can be inflationary. The spending "caps" contained in the enabling legislation are:

  - ✓ 2005-06 8 percent (of the weighted average rate for 2004-05);
  - ✓ 2006-07 5 percent
  - ✓ 2007-08 5.5 percent **(note: Administration wants to reduce to 4.5 percent)**

Background—"Quality Assurance Fees" and the F ederal Ch anges. California pr esently uses a "Quality Assurance Fee" for the "AB 1629" nursing home rate methodology, as well as within the Medi-Cal Managed Care Program. These fees are co llected from providers on a quarterly basis and are used by the state to obtai n additional federal funds to provide rate increases for these two areas. In addition, net General Fund revenues (savings) are obtained from these actions. **Effective Jan uary 2008, the federal government is low ering the 6 percent threshold for fees to 5.5 percent.**

Constituency Concerns w ith Governor's Proposal . The Subcommittee is in rec eipt of letters from industry organizations, labor organi zations and others expres sing cons iderable concern with the Administration's propos al. The k ey concer n is the reduction to the reimbursement rate (by lower ing the spending cap to reduce the percentage of rate increase).

Organizations state that this reduction under mines the basis for the "Quality Assurance Fee". They cont end that the industr y and labor have been assuming a ce rtain level of rate adjustment for the upcoming year based upon the existing statute. As suc h, the proposed reduction would be problematic.

Subcommittee Staff Recommendation—Reject Rate Reduction. It is recommended to **(1)** increase by $36.6 million ($16.3 million General F und) to rest ore the nursin g home rat es to the full 5.5 percent; **(2)** extend the sunset for the rate methodology for one-year; **(3)** reject the Administration's trailer bill langua ge to change out year rate reimbursement calculatio ns t o use the "medical" consumer pric e index; and instead, adopt plac eholder trailer bill language which would prov ide for a 4.5 percent in crease using the Quality Ass urance F ee *or* the medical cost-of-living increas e, which ev er is higher; and **(4)** ext end the required evaluation report on the program for one-year in order to obtain more comprehensive data.

9. Proposed Trailer Bill—Enteral Nutrition Products & Medical Supplies

Prior Subcommittee Hearing. In the March 26th hearing, the Subcommittee discussed the Administration's proposal to adopt trailer bill language to more assertively pursue contracts for non-drug products offered under the Medi-Cal Program, including various medical supplies, incontinence supplies and enteral nutrition products.

The Administration's language proposed a framework to the contracting process including criteria for product selection. At the time of the Subcommittee hearing, it was not *clear* how this framework would be applied to the various products covered by the language. The January budget assumed a reduction of $8.4 million ($4.2 million General Fund) solely attributable to this proposed trailer bill language.

The Subcommittee held the issue "open" and urged the DHCS and constituency groups to discuss a potential compromise.

Governor's May Revision. The May Revision continues the January proposal as already outlined above, including the savings.

The DHCS states that they have expanded its management of the existing contracts for these non-drug products to include contracting for specific manufacturer products. They contend that the proposed trailer bill language change mirrors the model set by the department's drug-contracting program.

However, unlike drug contracting, state statute currently does not provide specific language that clarifies the process for these three categories (medical supplies, incontinence supplies and enteral nutrition products), nor does it recognize supplier costs for the dispensing and distribution of the medical supplies and enteral nutrition products.

Though the DHCS has not yet been able to reach a compromise with interested parties, they do want to continue discussions to see if a compromise can be reached. They have met with several different organizations and individual company representatives to engage in reaching a resolution with all involved parties, but require more time to work through the different issues.

Background—Medi-Cal Contracting (non-drug). The DHCS maintains the medical supply, enteral nutrition, and incontinence supply benefits that account for about $240 million in total expenditures annually. Existing statute enables the DHCS to contract for these different products. These non-drug product contracts can either be a rebate contract or a guaranteed acquisition cost (i.e., guarantees a provider will not pay more than the contract amount to obtain the product) or a combination of both.

Subcommittee Staff Recommendation—Adopt Place Holder Trailer Bill Language. The proposed language as originally crafted by the Administration in January was *very* broad and did not clearly provide appropriate patient protections that are often needed due to the number and diversity of special needs populations that the Medi-Cal Program serves.

The medical supply area is a large category that covers hundreds of different and diverse products. As such, it is imperative to ensure that statute does not inadvertently limit access

to special needs products.

In addition, consideration needs to be given regarding the dispensing and distribution of the medical supplies and enteral nutrition products so suppliers and providers are willing and able to participate in the contracting process. Further, an appeals process is also warranted.

The DHCS is making strides in negotiating trailer bill language with constituency groups. As such, it is recommended to adopt placeholder trailer bill language which would have the DHCS establish criteria on contracting with manufacturers, including the evaluation of products as medically necessary products, the specific rules for contracting, commitment to perform a dispensing study to account for product distribution costs, and to provide for an appeals process.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. **DHCS**, Please provide a *brief* update on working through the proposed language.

10. Proposed Reduction to Rates Paid to Pharmacists for Dispensing Drugs

Prior Subcommittee Hearing. In the March 26th hearing, the Subcommittee discussed the Administration's January proposal to reduce by $88 million ($44 million General Fund) in the Medi-Cal Program as it pertains to Pharmacists reimbursement.

The Department of Health Care Services' (DHCS) proposal consisted of **(1)** changing the existing payment structure for pharmacy reimbursement from the "Average Wholesale Price" (AWP) to an **"Average Manufacturer Price" (AMP); (2)** implementing a revised **"Federal Upper Payment Limit" (FUL);** and **(3)** recognizing an upcoming settlement agreement between the federal government and First Data Bank (the source of Medi-Cal's current pricing structure)**.** The proposed change requires trailer bill legislation to enact.

The Subcommittee held the issue **"open"** pending receipt of the May Revision.

Governor's May Revision. The May Revision continues the January proposal but now assumes a reduction of $77.4 million ($38.7 million General Fund) by moving the implementation date to September 2007 (one month later). This reduction level assumes that $100 million ($50 million General Fund) would be saved annually.

Unfortunately due to data limitations, the Administration is not able to provide fiscal information on how the reduction of $77.4 million is split between the three component parts of the proposal.

***However*, two of the Administration's proposed changes—the federal government's settlement with First Data Bank and the implementation of the revised Federal Upper Payment Limit (FUL)—will occur on the natural once the federal government has finalized the settlement and has completed regulations.**

The DHCS notes that First Data Bank and the federal government have agreed on a settlement that is expected to reduce the existing "Average Wholesale Price" for many single-source (brand name drugs) by about 5 percent. California's Medi-Cal Program, like many states, uses First Data Bank as its source for determining Medi-Cal's current pharmacy pricing structure of Average Wholesale Price minus 17 percent (AWP minus 17 percent).

At this time, it is not fully clear as to when the federal CMS will complete its regulations on the FUL but the DHCS anticipates that the revised FUL will be lower than the current FUL.

The **third aspect** of the Administration's proposal is where the DHCS is proposing a broader change to the Pharmacy reimbursement structure which would move all drugs from the existing AWP minus 17 percent to an Average Manufacturer's Price based mark-up in an effort to reduce drug reimbursement costs. **Once the federal Average Manufacturer's Price information is available, the DHCS will be able to make the Pharmacy reimbursement structure change.**

No adjustment to the Pharmacy dispensing fee is proposed by the Administration at this time. However, the department is presently using a contractor to conduct a study of Pharmacy dispensing fees. Unfortunately, this study will not be completed until June or later. This makes it difficult for the Legislature to respond to any needs for a dispensing fee within the budget timeline constraints.

Pharmacy Reimbursement in the Medi-Cal Program. The pharmacy reimbursement consists of two components—a drug ingredient cost and a dispensing fee. Generally, the drug ingredient cost constitutes about 85 percent of the payment per prescription to a pharmacy. The proposed reduction would reduce the amount paid for drug ingredient costs.

The existing pharmacy dispensing fee is $7.25 per prescription except for long-term care pharmacies which receive $8.00 per prescription.

Background—Federal Deficit Reduction Act of 2005 and Medicaid Pharmacy Changes. Among other things, the federal Deficit Reduction Act (DRA) made changes to the Medicaid (Medi-Cal) prescription drug program as it pertains to Pharmacy reimbursement. **The first change pertains to the "Average Manufacturer Price" (AMP).**

Prior to the DRA changes, the AMP was *solely* used by the federal government to calculate and determine the federal drug rebate. The AMP was calculated for each drug of a manufacturer and reported on a quarterly basis to the federal CMS. This *confidential* information was used to calculate federal drug rebates.

Under the DRA, drug manufacturers will have to abide by specific rules on the calculation of the AMP and will be required to report this information on a monthly basis, as well as on a quarterly basis. The federal CMS will use this information to calculate the federal drug rebates (as before) *and* to create new "federal upper limit" (FUL) prices. **The AMP will now be public and will be provided to all state Medicaid programs.**

The federal CMS has informed state Medicaid programs to use the monthly AMP information, when it becomes available, as well as retail price survey information to assess their pharmacy reimbursement rates, including the dispensing fees.

The second change pertains to the "federal upper limit" (FUL). The federal CMS establishes a FUL for generic drugs based on certain criteria. Prior to the DRA changes, a FUL price was calculated using price information obtained from pricing companies (such as First Data Bank) and was generally calculated based on three or more generically equivalent drugs on the market. The DRA changes how the FUL is calculated by requiring there to be only two generically equivalent drugs available on the market and by using the AMP in the calculation. **The affect of this change is that the FUL will decrease the reimbursement rate for generic drugs.**

Constituency Concerns. The Subcommittee is in receipt of constituency concerns from retail pharmacy representatives that the proposed changes would create a hardship on providers if the AMP reduction to the drug ingredient is enacted with no recognition of a need to increase the dispensing fee. They do not believe that the AMP is an accurate measure of

drug costs and are very concerned that pharmacies will be hit with substantial cuts and will drop out of the Medi-Cal Program.

As such, the Pharmacy industry is seeking an increase to the existing dispensing fee to assist in off-setting some of the other pending federal actions.

Subcommittee Staff Recommendation. In lieu of the Administration's full proposal, it is recommended to **(1)** recognize savings of only $57.4 million ($28.7 million General Fund), or $20 million (total) less than proposed by the Administration; **(2)** adopt place holder language that authorizes the Administration to proceed with implementation of the Average Manufacturer's Price once it is available from the federal government; and **(3)** adopt placeholder language that within 30-days of the implementation of the Average Manufacturer's Price, the DHCS shall recalculate the Pharmacy dispensing fee and implement the recalculation.

The recommended reduction in the amount of savings is a ballpark estimate of the level of savings that may be offset due to increasing the dispensing fee accordingly, as provided for in the place holder trailer bill language. Since the Administration's calculation is also an estimate of the three components, a reduction of $20 million seemed reasonable.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. **DHCS,** Please provide a brief summary of the three components to the proposal and a brief update as to where things are with the federal government.
2. **DHCS**, Please explain how the Average Manufacturer Price is different than the Average Wholesale Price minus 17 percent. Why does the federal government want to use the Average Manufacturer Price?

11. Need to Improve State's Responsiveness & Partnership with Counties

Prior Subcommittee Hearing. In the April 16th hearing, the Subcommittee discussed the Administration's trailer bill language proposal to increase the performance standards from a 90 percent compliance rate to a 95 percent compliance rate. The Administration's proposal does not assume any savings attributable to this language in the budget year.

The Subcommittee held **"open"** this trailer bill issue to see if any compromise could be achieved. *However*, the Subcommittee did concur with the County Welfare Director's Association (CWDA) that moving to a 95 percent level for county performance measures is unworkable at this time due to the need for the state to improve its own operations, as well as the need to implement the federal DRA requirements which will be quite difficult and should be focused on.

The CWDA presented information regarding the difficulties Medi-Cal eligibility workers have in their work due to the 1,000 page plus Medi-Cal eligibility manual, hundreds of "All County Letters" that contain instructions and other materials that must be search and analyzed to discern what the Medi-Cal rules are for making certain determinations for potential Medi-Cal enrollees.

Issue & Subcommittee Staff Recommendation. At the request of the Subcommittee, both counties and advocacy organizations have provided *numerous* concrete examples regarding Medi-Cal eligibility processing questions, interpretation issues regarding all county letters from the state, and the lack of regulations on many, many aspects of the Medi-Cal Program. Many of the, as yet unanswered, questions that have been posed to the DHCS are from several months to even *years* old.

In fact, there have been over 593 "all county letters" over the past 10 years which contain instructions to counties regarding Medi-Cal Program operations, there is the 1,000 plus page Medi-Cal Manual which is *not* current that county eligibility workers must use, and the last time that the DHCS completed any regulations on the Medi-Cal Program was in 1999. Three sources of information must be search and clarified in many instances for counties, as well as advocates, to understand the Medi-Cal Program. Plus there is state statue and federal law interpretation.

Clearly, the Medi-Cal Program needs to be a better business partner. The state needs to undertake a review of the Medi-Cal Program manual, regulations and all-county letters. Counties, as well as advocacy groups, should have clear instructions about how the program operates and the requirements they need to fulfill.

It is very ironic that the Administration wants to raise the performance standards on the counties when they themselves need more clarity and structure and as to how the program is to operate for it to be truly efficient and effective.

As such, it is recommended to trailer bill language regarding the states efforts to proceed with this should be part of any compromise language.

It is recommended to **add** the following trailer bill language to Section 14154.2 of the Welfare and Institutions Code as follows:

"(a) In order to help counties improve their Medi-Cal eligibility operations and to minimize confusion for counties and consumers regarding Medi-Cal eligibility rules and procedures, **the department shall do all of the following:**

(1) Provide counties with technical assistance and training, including but not limited to:

(A) Assisting counties that demonstrate a need for improvement on the performance standards contained in Section 14154.

(B) Assisting counties identified as needing improvement as a result of quality control reviews conducted by the department.

(C) Collecting, and making available to counties, training materials developed by counties, advocates and the state.

(D) Developing and implementing a simple method for receiving and responding to questions from counties, consumer advocates and other stakeholders regarding Medi-Cal eligibility.

(2) Develop and disseminate checklists for use by consumers and county staff to assist in the completion and processing of applications and annual redeterminations. Checklists for consumers shall be written at an appropriate reading level using consumer- friendly language and shall summarize what specific steps or information is required to complete the application or annual redetermination in no more than one page each.

(3) Identify and disseminate best practices with respect to:

(A) Promising business models for effective tracking and processing of applications and annual eligibility determinations.

(B) Effective ways of measuring county and staff performance and improvement on the performance standards contained in Section 14154.

(C) Implementing effective performance management strategies in an automated environment.

(D) Promising practices, tools, and materials to encourage and assist consumers in completing the application and redetermination processes, including practices that improve their success in enrolling and retaining Medi-Cal.

(4) To organize the complex Medi-Cal rules and procedures into a single comprehensive system, no later than July 1, 2010, the department shall complete the issuance of updated regulations related to Medi-Cal eligibility to reflect policies and procedures in all-county letters, the Medi-Cal Eligibility Procedures Manual and all other relevant instructions that have been issued to counties. These updates shall be adopted via the non-emergency regulatory process 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, and shall be prioritized according to the following order:

(A) Changes affecting children and families.

(B) Changes affecting the aged, blind and disabled.

(C) Changes affecting the eligibility of groups not listed in (A) or (B).

(D) All other changes.

(b) The department shall consult with the County Welfare Directors Association and with consumer advocates in implementing this section.

(c) The department shall report annually to the Legislature at the time of budget hearings on its implementation of this section.

Questions. The Subcommittee has requested the DHCS to respond to the following questions:

1. **DHCS**, How many employees does the Medi-Cal Program have in the Eligibility and Medi-Cal Policy Divisions? Can some of these resources, as well as other resources within the Medi-Cal Program, be used to improve the core structure of the program in this area?
2. **DHCS**, Please comment on the proposed trailer bill language.

12. Constituency Request for Trailer Bill Language for Conlan vs. Shewry

Issue. Constituency groups are concerned with the lack of clarity and consistency regarding existing state statute and the directions, or lack thereof, that the DHCS has provided regarding the state's "Conlan Plan" as a result of the Conlan vs. Shewry Court order.

Under the Conlan Plan, Medi-Cal has implemented a "beneficiary reimbursement" process by which Medi-Cal beneficiaries can obtain reimbursement of their Medi-Cal covered out-of-pocket expenses according to the terms of the Court order.

However, constituency groups have raised concerns with the implementation because existing state statute does not reflect the full contents of the Court order, and the they contend that the DHCS needs to ensure that the Conlan "beneficiary reimbursement" process is clear on a going forward basis. It is critically important for all involved parties to know what the rules of the Court order are and how they are to be fully implemented.

Background—*Conlan vs. Shewry*. Several departments are affected by this Department of Health Care Services lawsuit. This lawsuit has a long history resulting in the issuance of several court decisions.

To effectively implement the court ordered requirements of Conlan, the DMH must process claims from Medi-Cal beneficiaries who paid out-of-pocket expenses for Medi-Cal covered services received during specific periods of a beneficiary's Medi-Cal eligibility. **These periods include: (1)** the retroactive eligibility period (up to 3 months prior to the month of application to the Medi-Cal Program); **(2)** the evaluation period (from the time of application to the Medi-Cal Program until eligibility is established); and **(3)** the post-approval period (the time after eligibility is established).

The court has approved the DHCS revised implementation plan (i.e., Conlan Plan) which was effective as of November 16, 2006. As a result of this plan, about 12 million letters were sent to households in December 2006. Letters were sent to all Medi-Cal beneficiaries who had applied and were eligible at some point on or after June 27, 1997.

Subcommittee Staff Recommendation. It is recommended to adopt the following trailer bill language to address concerns with providing appropriate and timely information to the public regarding the implementation of Conlan.

It is recommended to *add* the following trailer bill language to Welfare and Institutions Code:

"(a) The Department of Health Care Services shall issue an All County Welfare Directors Letter and a Medi-Cal Provider Bulletin regarding the *Conlan v. Shewry* Beneficiary Reimbursement process no later than October 1, 2007 which will include at a minimum all of the following information:

(1) Persons eligible for Medi-Cal on or after June 27, 1997 are eligible for reimbursement of health care services paid out-of-pocket for Medi-Cal covered services during any of the following periods of time:

(A) the three months before an application for Medi-Cal was filed (retroactivity period);

(B) the time between when a Medi-Cal application was filed and was approved (evaluation period); and
(C) after being approved for Medi-Cal (post-approval period).

(2) Payments made to a Medi-Cal provider are eligible for reimbursement, including improper or excessive co-payments, improper share of cost amounts, or the cost of covered medical, mental health, IHSS, Drug & Alcohol or dental services.

(3) Payments made to non-Medi-Cal providers are eligible for reimbursement if the services were received either:

(A) On or before February 2, 2006 and the Medi-Cal eligible person had applied but not received a Medi-Cal card; or
(B) During the 90 day retroactivity period prior to the person filing of a Medi-cal application.

(4) Medi-Cal beneficiaries are entitled to reimbursement of the full amount paid, not limited to the Medi-Cal rate, if reimbursement is made by the provider or by the Department when it has the ability to initiate a recoupment action against a provider. If necessary, the Department will assist beneficiaries in attempting to obtain cooperation from the provider so that the full out-of-pocket amount is reimbursed.

(5) Providers who reimburse a Medi-Cal beneficiary may submit claims for payment to the Department for those services provided notwithstanding the billing timeliness limitations for claims submissions, [pursuant to Title 42 *Code of Federal Regulations*, Section 447.45(d)(1) and *California Code of Regulations* (CCR), Title 22, Division 3, Sections 51000.8(a) and 51008.5] even if more than twelve months has elapsed since the service was provided.

(b) The Department shall seek input from consumer advocates in developing the All County Welfare Directors Letter and the Provider Bulletin.

(c) The Department shall prominently post on its website information on the *Conlan v. Shewry* Reimbursement Process, including, at a minimum, the Conlan Implementation Plan that was approved by the Superior court."

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. **DHCS**, Please explain the key components of the Conlan Plan, and how the department is meeting the expectations of the Court and the Court approved Conlan Plan.
2. **DHCS,** Are all of the materials provided to counties, provider groups and constituency groups up-to-date regarding the Conlan Plan?
3. **DHCS,** Why doesn't the state want to change existing state statute at this point to conform to the Conlan Court order?
4. **DHCS**, Please explain the next steps in working with the federal CMS.

13. Trailer Bill:- Protection of DHCS Director's Right to Recover Medi-Cal Expenses

Prior Subcommittee Hearing. In the April 30th hearing, the Subcommittee discussed this issue and held it "open" to see if the language could be modified so that a compromise with constituency groups could be obtained and the Medi-Cal Program could collect on medical expenses.

Issue. In January, the Administration proposed trailer bill language as the result of a recent United States Supreme Court decision in *Arkansas Department of Health and Human Services v. Ahlborn* (2006) (Ahlborn) that held recovery of a personal injury lien for Medicaid services was limited to the portion of the settlement that represented payment for medical expenses.

The DHCS states that as a result of *Ahlborn*, there is no requirement that the portion of the settlement allocation dedicated to medical expenses be *sufficient* to repay the states' actual costs of providing the health care (through Medi-Cal). Therefore, settlements may be manipulated by others to claim that a minimal amount was allocated to medical expenses, or that medical expenses be waived altogether. As such the ability of the DHCS to participate in or to decide the reduction of the Medi-Cal lien could be circumvented, or recovery defeated altogether.

The DHCS contends that unless modified, settlement manipulation would benefit attorneys because more funds would be allocated to their client, versus repayment to the Medi-Cal Program for services rendered. Insurance carriers would also benefit because the pain and suffering portion of a personal injury settlement is routinely based on the scope and amount of medical treatment the injured party received.

Background. Both federal and state laws require the state to seek reimbursement of Medi-Cal funds expended on behalf of Medi-Cal enrollees when a third party is liable. This is because Medicaid (Medi-Cal) is a payer of last resort.

The DHCS Medi-Cal Program has a Personal Injury Recovery Program to mitigate Medi-Cal costs. The Director of the DHCS is required to seek recovery from third parties for Medi-Cal funds expended for injury-related services and to ensure that Medi-Cal is the payer of last resort. The Personal Injury Recovery Program identifies the third parties and recovers Medi-Cal expenditures by asserting claims for the state in personal injury tort actions. Half of all recovered funds are returned to the General Fund, and the other portion is returned to the federal government (since they provide the match).

Existing state law provides a framework for applying the personal injury recovery process. Section 14124.72 (d) requires a 25 percent reduction of the state's claim plus a pro-rated share of litigation costs, which represents the state's reasonable share of attorney fees when a Medi-Cal recipient obtains legal representation for his or her personal injury case. Section 14124.78 requires the state to reduce its claim to half of the net settlement amount, which permits the Medi-Cal recipient to receive the other half of the settlement. This statute provides a monetary incentive for Medi-Cal recipients to pursue a settlement for his or her personal injury case. The net amount is the remainder of the settlement *after* deducting the

full amount of the attorney's fees and litigation costs.

Subcommittee Staff Recommendation—Approve Modified Version. The DHCS contends that the Medi-Cal Program could potentially loose $22 million (General Fund) annually from not recouping on personal injury actions that pertain to a Medi-Cal enrollee and a third-party judgment.

In discussions with constituency groups, the DHCS provided revised language in an effort to obtain a compromise. The primary area of contention appears to be the amount of payment for future loss.

Though the language has not been fully fleshed out, it is recommended to adopt the modified DHCS version of the language to keep discussions going to the Joint Budget Conference Committee.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. **DHCS,** Please provide a summary of how the Medi-Cal lien process works now when a third-party judgment is involved, and how the *Ahlborn* case changed this process.
2. **DHCS**, Please then explain how the modified trailer bill language then enables the state to obtain recovery of funds.

D. Item 4300 Department of Developmental Services *(Discussion Items)*

Community-Based Services Provided through Regional Centers

1. Proposed Changes to Intermediate Care Facilities (ICF)—DD Bundled Rate

Prior Subcommittee Hearing In the Subcommittee's April 9th hearing, the Governor's January proposal to reconfigure the rate paid to Intermediate Care Facilities for persons with Developmental Disabilities (ICF-DD), including Habilitative (H) and Nursing (N) by cost shifting about $44 million in General Fund support to federal fund support was discussed.

Through discussions with constituency groups during the Subcommittee hearing, the following key concerns were noted:

- The Administration needed to ensure that the Individual Program Plan (IPP) process, as guaranteed under the state's Lanterman Act, would remain intact and not be jeopardized in any manner by the bundling of this rate. (i.e., Consumers need to receive their appropriate services as contained within the IPP.)
- The Administration needs to involve the stakeholders, including provider groups and consumer groups, as well as consumers and their families as appropriate, in the design of the process, including the contents of the State Plan Amendment.
- The Administration needed to provide all involved parties with a work plan as to how this proposal was going to proceed.

In response to the third issue, the Administration has provided the following time line as requested for implementation:

• April 25, 2007	Stakeholder meeting conducted.
• April 30, 2007	Begin work on State Plan Amendment.
• May 31, 2007	Publish federally required notice of intent to revise ICF-DD rates to capture federal financial participation for Day Programs and Transportation Services.
• June, 2007	Share draft State Plan Amendment with Stakeholders.
• July 1, 2007	Submit State Plan Amendment to federal CMS.

Governor's May Revision. The May Revision makes a technical correction to the savings level proposed for the ICF-DD bundling by assuming a total *savings* of $44 million of which $36.6 million is General Fund and $8.4 million is Public Transportation Account. Otherwise, no other changes are proposed.

Additional Background on the Administration's Proposal to Bundle the ICF-DD Rate. Specifically, in order to capture additional federal funds, the state would have to redefine the ICF-DD facilities as an "all inclusive service" under the California's Medicaid (Medi-Cal) State Plan. Under the Administration's January proposal, ICF-DD facilities would be responsible for providing Day Programs, transportation, and other assistance (in cases where generic

services are unavailable). In turn, these services would be reflected in the rates paid to the ICF-DD facilities. Presently, these above described services are *not* part of the ICF-DD rate and are separately paid for by Regional Centers.

Federal regulations allow for a broad definition of the services that can be provided in ICFs with reimbursement under Medi-Cal. Therefore, by using this "all inclusive service" definition, the state can obtain more in federal funding and can subsequently, reduce state General Fund support by the same amount.

The Administration must submit a "State Plan Amendment" (SPA) to the federal government for approval prior to receipt of any additional federal funds for this purpose. The DHS, as the entity that manages the state's Medicaid Program (Medi-Cal), must submit the SPA. According to the DHS, they intend to submit the SPA to the federal government by no later than September 30, 2007 which should allow for California to claim additional federal funds for services rendered on or after July 1, 2007. (The federal government allows state to retroactively claim up to 3 months, or one quarter.)

Background—Role of the DHS and Description of Intermediate Care Facilities (ICF)-DD Services. The Department of Health Services (DHS) licenses three types of Intermediate Care Facilities that are available for individuals with developmental disabilities, depending on the nature of their health care needs. These facilities qualify for Medicaid (Medi-Cal) reimbursement for all people in the facilities who are eligible for Medi-Cal. The three facilities affected by the Administration's budget proposal are briefly described below:

- *ICF-DD*. Generally, these facilities provide developmental, training, Habilitative, and supportive health services to individuals who have a primary need for developmental services and a recurring but intermittent need for skilled nursing services. These facilities have certified capacities of 16 people or larger.
- *ICF-DD-H (Habilitative).* Generally, these facilities provide personal care, developmental, training, habilitative and supportive health services for children and adults with developmental disabilities who have a primary need for developmental services and an ongoing, predictable, but intermittent need for skilled nursing services. These facilities have certified capacities from 4 to 15 people.
- *ICF-DD-N (Nursing).* Generally, these facilities provide nursing supervision, personal care, developmental, training, habilitative and supportive health services to medically fragile children and adults with developmental disabilities who have a need for skilled nursing services that are not available through other 4 to15 bed health facilities. These facilities have certified capacities from 4 up to 15 people.

Subcommittee Staff Recommendation—Budget Bill Language & May Revision. In response to issues raised by constituency groups, Subcommittee staff has crafted Budget Bill Language as shown below to be placed within Item 4260-001-0001 (Department of Health Care Services) *and* Item 4300-101-0001 (Department of Developmental Services) to address these concerns. **The proposed recommended language is as follows:**

> "It is the intent of the Legislature for the Department of Health Care Services (DHCS) and Department of Developmental Services (DDS) to collaboratively work with stakeholders, including providers and diverse constituency groups as deemed appropriate, regarding the bundling of rates for the reimbursement of Intermediate

Care Facilities (ICF) for the Developmenta lly Disabled (DD), includ ing Habilitative and Nursing facilities. It is the intent of t he Legislature that any changes made by the state shall be seamless to t he providers of servic es affected by the changes, as well as to the consumers and their families that are provided services through the Regional Center system. The integrity of the Individual Program Plan process, as contained in the state's Lanterman Act, shall be mainta ined throughout this process and shall not be affected by any changes made to implement the bundled rates."

It is also recommen ded to approve the Ad ministration's tec hnical funding adjustment, but to *use General Fund support* of $128.8 million in lieu of the Public Transportation Account funding.

Questions. The Subcommittee has requested the DDS and DHCS to respond to the following question.

1. **DDS and DHCS**, Please provide a *brief* update on this project and a *brief* explanation of the technical May Revision adjustment.

2. Administration's May Revision Estimate for the Regional Centers (Issues 200, 106, 107 and 202)

Prior Subcommittee Hearing. In the Subcommittee's April 9th hearing, a comprehensive discussion was had regarding the budget for the Regional Centers.

Many issues were discussed, including **(1)** the full-year effect of rate increases that were provided in the Budget Act of 2006 (i.e., a 3 percent across-the-board increase, as well as considerable increases for certain employment programs); **(2)** the Administration's proposal to continue specified "cost containment" measures for 2007-08; and **(3)** the full-year effect of the increases for the minimum wage.

Governor's May Revision Total Expenditures for the Regional Centers. The May Revision proposes total expenditures of $3.6 billion ($2.2 billion General Fund), a *net* increase of $35.6 million ($35.9 million General Fund) over the January budget, for community-based services provided through the Regional Centers (RCs) to serve a total of 219,230 consumers living in the community.

This funding level includes $497.1 million for RC operations and $2.7 billion for the "Purchase of Services". The consumer caseload reflects an estimated reduction of 1,370 consumers as compared to the January estimate.

Most of the May Revision increase is attributable to (1) an increase in the base utilization of services by consumers and updated expenditure data ($30.1 million increase); and **(2)** updated expenditure data to place individuals living at Agnews Developmental Center into the community and to deflect individuals who have been referred to the Developmental Center system for admission ($6.5 million).

The May Revision also reflects a reduction of $3.9 million (total funds) for Regional Center Operations due to the reduction in anticipated caseload as compared to the January budget.

The May Revision also reflects the following policy changes:

- *Dual Agency Foster Care Rates and Adoption Assistance*. As discussed in the Subcommittee's hearing on Monday, May 21st, the Department of Social Services has revised its rate-setting methodology for the care and supervision of foster and adoptive children receiving services from both County Social Services Departments and Regional Centers. The new methodology would place a rate cap of $2,006 per month, prospectively, which would ensure that a comprehensive and equitable rate-setting methodology is used throughout the state. This will result in a cost shift to the Regional Centers for services and supports when the rate cap is implemented. The phased-in impact to the DDS of this cost shift for 2007-08 is $100,000 ($74,000 General Fund). The action to be taken today is to conform to the May 21st Subcommittee hearing.

- *Self Directed Services Adjustments.* The May Revision proposes a series of adjustments which are primarily due to a later implementation date (March 1, 2008 versus January 1, 2008). It is assumed that 400 individuals will enroll in 2007-08 and that an average of $500 per consumer will be provided for person-centered planning and development of the

consumer's individual budget.

The Self Directed Services Program enables consumers to have more control of their services and to manage a finite amount of funds allocated in an individual budget in order to pay for services specified in the consumer's Individual Program Plan (IPP). Intensive person-centered planning is required to develop an IPP and individual budget reflective of a consumer's need. Subcommittee staff believes that these adjustments are reasonable.

Governor's May Revision—Purchase of Services for the Regional Centers. The May Revision for the "purchase of services" reflects total expenditures of $3.1 billion (total funds) as noted in the summary chart below. This reflects an increase of $39.5 million (total funds) over the January budget for 2007-08.

As compared to the revised current-year amount, the May Revision for 2007-08 represents an increase of about $287.3 million (total funds) or an increase of 10.3 percent in one year.

Summary of RC Purchase of Services Funding for 2007-08 (Total Funds)

Service Category	January 2007-08	May Revision 2007-08	Difference (Total Funds)
Community Care Facilities (CCFs)	$769.7 million	$782.5 million	$12.8 million
Medical Facilities	$17.8 million	$22.8 million	$5 million
Day Programs	$754.2 million	$763.4 million	$9.2 million
Habilitation Services	$150 million	$150.6 million	$600,000
Transportation	$214.6 million	$212.4 million	-$2.1 million
Support Services	$550.8 million	$551.3 million	$600,000
In-Home Respite	$180.5 million	$188 million	$7.5 million
Out-of-Home Respite	$48.3 million	$54.6 million	$6.3 million
Health Care	$91.4 million	$84.5 million	-$6.9million
Miscellaneous	$311.8 million	$318 million	$6.2 million
Early Start Program	$20.1 million	$20.1 million	--
ICF-DD Bundled Rate Adjustment	-$44.0 million	-$44.0 million	--
Dual Agency for Foster Care	N/A	$107,000	$107,000
Self Directed Services Adjustment	-128,000	$137,000	$265,000
Total POS Estimate (rounded)	**$3.045 billion**	**$3.084 billion**	**$39.5 million**

The May Revision continues the Governor's cost containment measures as proposed in his January budget and as discussed in the Subcommittee's April 9th hearing. **These cost containment actions have been previously adopted by the Legislature in lieu of more sweeping and restrictive actions previously proposed by Governor Davis and Governor Schwarzenegger.**

- *A. Delay in Assessment (RC operations) (-$4,500,000 General Fund):* Budget Act of 2002, trailer bill language was adopted to extend the amount of time allowed for the Regional Center's to conduct assessment of new consumers from 60 days to 120 days following the initial intake. The Governor proposes to continue this extension through 2007-08 through trailer bill language. This is the same language as used in previous years.

- *B. Calculation of Case Management Ratios (RC Operations) (-$32.8 million or -$16.2 million General Fund):* Through the Budget Act of 2003, trailer bill language was adopted to reduce the average RC case manager to consumer ratio from one to 66 (one Case Manager to 66 consumers). Previously, the ratio was one to 62. The Governor proposes to continue this extension through 2007-08 through trailer bill language. This is the same language as used in previous years.

- *C. Non-Community Placement Start-Up Suspension (-$6 million General Fund):* Under this proposal, a Regional Center may not expend any purchase of services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. The Administration's proposed trailer bill language would continue this freeze through 2007-08. The Legislature did provide $3 million (General Fund) for this purpose in 2006-07.

- *D. Freeze on Rate Adjustments for Day Programs, In-Home Respite Agency and Work Activity Programs (-$3.9 million or -$2.9 million General Fund):* The rate freeze means that providers who have a temporary payment rate in effect on or after July 1, 2007 cannot obtain a higher permanent rate, unless the RC demonstrates that an exception is necessary to protect the consumers' health or safety. It should be noted that these programs did receive rate increases in the Budget Act of 2006. As such, their rates for 2007-08 would be frozen at these levels, unless otherwise adjusted as noted.

- *E. Freeze Service Level Changes for Residential Services (-$47.4 million or -$28.4 million General Fund).* This proposed trailer bill language would provide that RCs can only approve a change in service level to protect a consumer's health or safety and the DDS has granted written authorization for this to occur. This action maintains rates at the July 1, 2007 level.

- *F. Elimination of Pass Through to Community-Care Facilities (-$3.2 million, or $1.9 million General Fund):* The SSI/SSP cost-of-living-adjustment that is paid to Community Care Facilities by the federal government is being used to off-set General Fund expenditures for these services for savings of $3.2 million ($1.9 million General Fund).

- *G. Contract Services Rate Freeze (-$160.6 million or -$190.7 million General Fund):* Some RCs contract through direct negotiations with providers for certain services in lieu of the DDS setting an established rate. Continuation of the rate freeze would mean that RCs cannot provide a rate greater than that paid as of July 1, 2007, or the RC demonstrates that the approval is necessary to protect the consumer's health or safety. The Administration's proposed trailer bill language is the same as last year's, with a date extension to include 2007-08.

- *H. Habilitation Services Rate Freeze (-$2.2 million, or -$2.8 million General Fund):* The Habilitation Services Program consists of the (1) Work Activity Program (WAP), and (2) Supported Employment Program (SEP). The WAP services are primarily provided in a sheltered setting and are reimbursed on a per-consumer-day basis. SEP enables individuals to work in the community, in integrated settings with support services provided by community rehabilitation programs. The Administration's proposed trailer bill language would continue the rate freeze into 2007-08.

  I. Non-Community Placement Start-Up Suspension (-$6 million): Under this proposal, a Regional Center may not expend any Purchase of Services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. The Administration's proposed trailer bill language would continue this freeze through 2007-08.

With respect to the startup of new programs, the Administration notes that funding would be provided to protect consumer's health and safety or to provide for other extraordinary circumstances as approved by the DDS.

Limits on this funding were first put into place in 2002. It should be noted that in the Budget Act of 2006, the Legislature did appropriate $3 million (General Fund) for these purposes.

Background—Regional Centers and the Purchase of Services. Among other things, Regional Centers (RCs) also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities. **Generally, RCs pay for services only if an individual does not have private insurance or they cannot refer an individual to so-called "generic" services that are provided at the local level by the state, counties, cities, school districts, and other agencies.** For example, Medi-Cal services and In-Home Supportive Services (IHSS) are "generic" services because the RC does not directly purchase these services.

Services and supports provided for individuals with developmental disabilities are 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).

In addition, 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. This is intended to be reflected in the IPP process.

Subcommittee Staff Recommendation—Approve Funding and Trailer Bill Language for Cost Containment. It is recommended to approve the Administration's May Revision for the Regional Centers as proposed. The May Revision reflects minor adjustments primarily based on updated data. The continuation of the various cost containment adjustments is necessary at this time. Further, as noted in the April 9th hearing, programs did receive a three percent across-the-board increase in 2007-08, along with additional adjustments for employment programs.

It should be noted that all actions previously taken in the April 9th and May 7th hearings remain, including all fiscal and language adjustments taken regarding the closure of Agnews Developmental Center.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS**, Please provide a *brief* summary of the key components of the May Revision, which have changed from January, for the Purchase of Services funding for the Regional Centers.

2. Update on the Agnews Developmental Center Closure—Community & DC

Prior Subcommittee Hearing. The Subcommittee discussed the Agnews Developmental Center closure in its April 9th and May 7th hearings. Actions taken by the Subcommittee in these hearings remain as enacted. These actions include the following:

- Increased by $503,000 ($126,000 General Fund) to support 4 new positions (three Chief Health Care Community Specialists and one Assistant Health Care Community Specialist) at the three Bay Area Regional Centers.
- Adopted trailer bill language to ensure the continuity of consumer's health care and accountability within the Administration, as well as at the community level between the Regional Centers and the health plans.
- Adopted trailer bill language for the DDS to continue operation of the Agnews Outpatient Clinic until DDS no longer has possession of the property.
- Directed the DDS to purchase two mobile clinics, using existing Wellness Funds, to be specifically outfitted to provide a range of health and medical services as determined by the DDS in working with constituency groups. Adopted language to enable the DDS to purchase the mobile clinics using a competitive process but is to be exempted from public contract code due to the need to ensure the protection of public health and welfare.
- Adopted placeholder trailer bill language to codify the Medi-Cal Program's verbal commitment regarding Medi-Cal reimbursement to the local health plans for Medi-Cal services provided for people transitioned from Agnews DC to the community.
- Adopted revised reporting language for the DDS to provide additional information regarding the Agnews DC closure to the Legislature.

Governor's May Revision. The **Governor's May Revision reflects minor adjustments related to the Administration's closure of the Agnews Developmental Center by June 30, 2008.** These adjustments are reflected in both the Regional Center item *and* Developmental Center item of the Budget Bill due to the transitioning of consumers from Agnews to other living arrangements.

Overall, the May Revision proposes a *net increase* to the developmental services system of $24.5 million ($17.7 million General Fund) due to the anticipated transition of consumers from the Agnews Developmental Center into the community, as compared to the revised 2006-07 budget. This net figure includes increases for the Regional Center budget of $35.2 million ($23.4 million) over the revised 2006-07 budget, and a decrease of $10.7 million ($5.7 million General Fund) for the Developmental Centers over the revised 2006-07 budget.

The proposed adjustments are consistent with the Administration's updated plan provided to the Legislature on May 14, 2007, as required by statute.

As of March 31, 20007, 244 residents remained at Agnews. To date, 115 residents have transitioned into the community since the closure planning process began in July 2004. It is estimated that a total of 70 consumers will transition from Agnews into the community in the current year. The DDS states that all residents are expected to move from Agnews by the time of its planned closure in June 2008.

As of March 31, 2007, there were 1,003 employees at Agnews. The attrition rate for the current fiscal year is consistent with last fiscal year's and is at about 15 percent. The DDS states that licensed personnel such as registered nurses and psychiatric technicians comprise a significant majority of the separations. There has also been an increase in the proportion of administrative and support staff who are separating.

The DDS further states that Agnews is maintaining sufficient staff to protect the health and safety of remaining residents and to ensure the ongoing certification of the facility.

Key changes and updates as contained in the May Revision are as follows:

- *Placements into the Community.* It is assumed that 188 residents are transitioned into the community in 2007-08 for total expenditures of $52.6 million (total funds) which reflects a net reduction of $3.1 million (total funds) due to a series of technical adjustments.
- *Agnews Developmental Center State Staff in the Community.* State statute provides for Agnews DC state staff to be deployed in the community for up to two years post-closure (up to 200 staff). The May Revision continues the January budget assumption that $9.2 million (total funds) for 47 positions are in the base estimate, but an increase of $242,000 ($129,000 General Fund) is provided for six positions to be added effective as of January 1, 2008. These positions are consistent with the overall closure plan for Agnews.
- *Bay Area Housing Project.* A total of 62 Bay Area Housing Project homes are planned for development as discussed in the April 9th hearing. All of these homes will be purchased by June 30, 2007.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Administration's May Revision for the Agnews Developmental Center.

All other Subcommittee actions taken on April 9th and May 7th remain, as noted on the preceding page.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS**, Please provide an update regarding the key components of the May Revision as they pertain to the Agnews Developmental Center closure.

Developmental Centers

1. Developmental Centers (Issues 100, 101, and 102)

Governor's May Revision The budget proposes total expenditures of $720.3 million ($391.5 million General Fund) to serve 2,610 residents who reside in the DC system.

This reflects a caseload increase of 21 residents and an increase of $2.1 million (a decrease of $89,000 General Fund and an increase of $2.2 million in Reimbursements from federal Medicaid funds) as compared to the January budget.

The *key* adjustments are as follows:

- *Staffing Adjustment.* A decrease of $1.1 million ($804,000 General Fund) is reflected based on the staffing requirements and operations of each Developmental Center (DC), including planned unit closures. The funding level reflects an increase of 27 Level-of-Care staffing and a decrease of 65.5 Non-Level-of-Care staffing. The net result is a reduction of 38.5 staff, even though there is an anticipated increase of 21 DC residents as compared with the January budget. This projected increase in the DC population is due to a slower than projected transfer of DC consumers into the community.

- Salary Enhancement for "Coleman". An increase of $286,000 ($167,000 General Fund) is proposed to fund salary increases for vacant mental health classifications including phased hiring of Psychiatrists, Psychologists, Social Workers, Psychiatric Technicians, Occupational and Rehabilitation Therapists, Medical Directors, Unit Supervisors, Senior Psychiatric Technicians, and Senior Psychologists. The DDS states that these increases are necessary to allow hiring and retention of these employees. It should be noted that the salary increases will continue to be phased-in as positions are filled in 2008-09

  The funding level assumes positions will be filled as follows: (1) 11.5 positions per month from July 2007 to December 2007; and (2) 16.5 positions per month from January 2008 to June 2008.

  These increases will bring salaries up to 18 percent less than the salaries in the CA Department of Corrections and Rehabilitation (CDCR) that were increased as a result of the "Coleman" order, with the exception of Psychiatrists and Senior Psychologists which will be brought to 5 percent less than CDCR salaries.

  Subcommittee staff notes that this request is consistent with the Department of Mental Health's request which is discussed in detail below.

- *Salary Enhancements for Dental Professionals (Perez).* An increase of $1.3 million ($747,000 General Fund) is proposed to increase salaries for authorized dental classifications. These increases would effect 11.5 Dentists and 12 Dental Assistants at the five Developmental Centers (23.5 total positions)

  The purpose of this increase is also to bring salaries for incumbents in these classifications to 18 percent less than the salaries for corresponding classifications in the CDCR.

- *Sonoma Developmental Center Asbury Creek Water Diversion*. An increase of $2 million (General Fund) on a one-time only basis is proposed for the construction phase of the Asbury Creek water diversion replacement project to replace the water diversion structure that was destroyed in the winter storms in December 2005.

  There are two water diversion structures at Sonoma DC due to the creeks. These two creeks are the main water sources for the two reservoirs on the Sonoma DC property. The reservoirs supply water year round to meet the daily needs of the Sonoma residents and employees. The Mill Creek diversion repairs were completed in November 2006 with redirected support funds from special repairs. Other critically needed special repair projects were deferred due to this emergency project.

  The DDS states that the Asbury Creek diversion replacement project is stalled in the working drawing phase due to the lack of funds. The May Revision funding is requested to complete the construction phase of this project before the rainy season to ensure an adequate water supply for the DC.

Subcommittee Staff Recommendation—Approve. The May Revision for the Developmental Centers reflects reasonable adjustments that are necessary in order to hire and retain employees, as well as to ensure DC resident health and safety. No issues have been raised.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS**, Please provide a *brief* overview of the key components of the proposed May Revision for the Developmental Centers.

E. Item 4440 Department of Mental Health *(Discussion Items)*

Community-Based Mental Health & State Support Issues

1. Significant Issues Regarding the Early, Periodic Screening and Treatment (EPSDT) Program Requires Legislative Oversight and Funding (Issues 240, 241, 242, 243 & 244)

Prior Subcommittee Hearings. The Subcommittee has discussed the Department of Mental Health's (DMH) mismanagement of the EPSDT Program in its March 12th hearing and April 30th hearing. In the March 12th hearing, the Subcommittee directed the DMH to provide the Subcommittee with a work plan to begin to remedy the myriad of issues regarding this important program.

To recap, the myriad of issues with the DMH regarding this program included the following:

- A deficiency request of at least $302.7 million (General Fund) for past years owed to the County Mental Health Plans (County MHPs);
- An accounting error which represents a significant portion of what is owed to the County MHPs;
- Double billing of the federal government (i.e., Medicaid/Medi-Cal funds) by the state (DMH and Department of Health Care Services);
- A pending federal audit report which *could* have additional General Fund implications;
- A claims processing method (i.e., billing system) which is manually operated;
- Use of an inaccurate methodology for estimating program expenditures for budgeting purposes;
- Use of a "cost settlement" process for closing out costs for past fiscal years;
- A lack of timeliness and accountability on the part of the Administration in informing the Legislature and bringing forth these issues; and
- Need for the Office of State Audits and Evaluations (OSAE), located within the Department of Finance, to conduct analyses and make recommendations in several areas.

Through a new leadership team, the DMH has begun to more assertively address several of its issues regarding this program. These efforts included providing the Subcommittee with an initial EPSDT Program work plan. This work plan was discussed in the April 30th hearing.

In the April 30th hearing, the Subcommittee took the following actions: (1) Left *"open"* prior year, current year and budget year funding issues pending receipt of the Governor's May Revision**; (2)** adopted trailer bill language to require the DMH to provide the Legislature with specified work products on a flow-basis as contained in the DMH work plan presented at the hearing; and **(3)** adopted Budget Bill Language for the DMH to work collaboratively with the Legislature to develop an appropriate administrative structure for the EPSDT Program for implementation in 2008-2009, including the passage of legislation to establish the administrative structure. All of these language actions remain enacted.

Governor's May Revision—More General Fund Requested. The Governor's May Revision continues to propose several fiscal adjustments for prior years and the current year, and also proposes an increase above the January budget for 2007-08. **The following table provides a perspective on these proposed funding adjustments.**

Table 1: May Revision: Early Periodic Screening, Diagnosis and Treatment (EPSDT)

Fiscal Issue/Component	Governor's January General Fund Increase	May Revision Total General Fund	General Fund Increase Above January
2003-04 Cost Settlement	$13.7 million	$13.7 million	--
2004-05 Unpaid Claims	$25.7 million	$25.7 million	--
2004-05 Cost Settlement	--	$17.2 million	$17.2 million
2005-06 Unpaid Claims	$203.6 million	$203.6 million	--
• **Total Prior Years**	**$243 million**	**$260.2 million**	--
• **2006-07 Deficiency**	**$59.7 million**	**$59.7 million**	**--**
• **2007-08 Baseline Increase**	**$92.7 million**	**$107.6 million (includes Jan & May)**	$14.9 million
TOTAL EPSDT Amount	**$395.4 million**	**$427.5 million**	**$32.1 million**

Each of the pieces shown in the above table are described below.

Prior Year $260.2 million. As noted above, the prior year deficiency of $260.2 million (General Fund) includes $243 million identified in January and another $17.2 million due to the May Revision and the cost settlement of 2004-05 (as noted in the table). Most of these prior year dollars were discussed in the March 12th hearing and their component pieces are listed below:

- $177 million for an accounting error that occurred for 2005-06 between the DMH and the Department of Health Services (i.e., an accrual accounting to cash accounting problem).
- $52.3 million due to the DMH using an out-dated fiscal methodology for projecting program expenditures which occurred for several past years. (This is presently being worked on to correct for future budgets and the Office of State Audits and Evaluations (OSAE) has been providing assistance to the DMH in this area.)
- $13.7 million for 2003-04 "cost settlement" process.
- $17.2 million for 2004-05 "cost settlement" process.

Current Year $59.7 million. The 2006-07 deficiency amount of $59.7 million (General Fund) remains the same in the May Revision. As discussed in the March 12th hearing, this increase is the amount the DMH believes it needs to balance this fiscal year once all of the claims are received and processed. The DMH states that the current year claims are being paid.

Budget Year $107.6 million. A total increase of $107.6 million (General Fund), or an increase of $14.9 million (General Fund) above the January budget, is requested for 2007-08. The DMH is proposing to eliminate their "cost settlement" process as recommended by OSAE. By eliminating the cost settlement process, the DMH intends to provide a more realistic forecast of program expenditures going into the budget year, versus a deficient funding approach which had been occurring.

The following table is a summary of state and federal expenditures for the EPSDT Program. County Mental Health Plans also provide a baseline amount, along with a 10 percent sharing level above the baseline. For 2007-08, county funds will contribute a total of $86.9 million towards the program. The county fund amount consists of $67.9 million for their baseline and $19 million for the added 10 percent above the baseline.

Table 2 Summary of EPSDT Program (Federal & State Funding) as Proposed by DMH

Fiscal Year	Federal Funds	General Fund Total	Total Funds
2005-06	$410.4 million	$400.5 million	$810.9 million
2006-07	$630.8 million	$649.2 million	$1.280 billion
2007-08	$485.5 million	$471.2 million	$956.7 million

Background--How the EPSDT Program Operates. 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. Examples of mental health services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

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, County MHPs are responsible for the delivery of EPSDT mental health services to children

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 Kim 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.

County MHPs must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002.

Subcommittee Staff Recommendation—Modify the Request. The EPSDT Program is a valuable program which provides critical mental health treatment services to children. Unfortunately, through a series of missteps, the DMH has created a fiscal situation which needs to be remedied but cannot be completely addressed in one fiscal year.

Further, though a new leadership team is progressing well to address the many issues, there are still questions which are pending. These questions pertain to **(1)** potential federal audit exceptions; **(2)** pending full repayment of federal double billing; **(3)** verification of 2005-06 claims; **(4)** pending cost settlements for 2005-06 and 2006-07 which will likely not be known for at least one more year, and possibly two; **(5)** potentially other changes to the projection methodology, and **(6)** the overall management of the program.

Answers to these questions are not fully imminent and will still require considerable work on the part of the DMH and constituency groups.

It is therefore recommended to do the following:

- Technically adjust reimbursements received from the Department of Health Care Services to correspond to the following General Fund appropriations (federal Medicaid matching funds are provided by the DHCS) to be taken.
- Approve a total increase of $59.7 million (General Fund) to fund the 2006-07 deficiency;
- Approve a total increase of $107.6 million (General Fund) to fund 2007-08;
- Establish a reimbursement through the mandate process by creating a new item as shown below, and provide for a three-year reimbursement process of the $260.2 million (General Fund) in prior year claims. The proposed mechanism for this is as follows:

  "Item 4440-295-0001. For local assistance, Department of Mental Health, for reimbursement of the costs for the Early Periodic Screening, Diagnosis and Treatment Program for prior years which total $260.2 million and will be reimbursed over a three year period, commencing with the Budget Act of 2007, for disbursement by the State Controller as validated by the Department of Mental Health……$86.7 million"

This will provide a total of $254 million (General Fund), or 59 percent, of the total $427.5 million (General Fund) amount.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. **DMH,** Please provide a *brief* description of the EPSDT May Revision.
2. **DMH**, Please provide an update on the status of discussion with the federal government regarding the DMH's double billing and the federal audit and follow up.

2. Mental Health Managed Care Program—Two Issues

Prior Subcommittee Hearing. In the March 12th hearing, the Subcommittee approved technical adjustments as proposed for the program *and* placed $12 million (General Fund) on the Subcommittee's checklist to restore a 5 percent rate reduction to the program which had occurred as of July 1, 2003.

Specifically, Assembly Bill 1762, Statutes of 2003, reduced by 5 percent health care plans participating in the Medi-Cal Managed Care Program as administered by the Department of Health Care Services (DHCS), *and* also Mental Health Managed Care as administered by the DMH. The 5 percent rate reduction was applicable from July 1, 2003 through January 1, 2007.

Funding was restored for the health care plans within the DHCS Medi-Cal Program effective as of January 1, 2007, but the DMH has chosen not to provide the rate restoration (for the current year or the budget year). No rationale has been provided by the Administration as to why funding was not provided by the Governor in January to reflect the statutory sunset.

Governor's May Revision. The DMH proposes a reduction of $1.852 million ($926,000 General Fund) in local assistance for the Mental Health Managed Care Program. The DMH states that this adjustment is due to reduced caseload within the Medi-Cal Program as determined by the Department of Health Care Services.

It should be noted that the medical care price index adjustment (medical CPI), as contained in the enabling legislation for this program, was *not* funded by the Administration. An increase of about $9.5 million (General Fund) would be needed to provide for this adjustment. The last time a medical CPI was provided was in the Budget Act of 2000, or 7 years ago.

In addition, the Administration did *not* restore the 5 percent rate reduction which sunset as of January 1, 2007. This issue was placed on the Subcommittee's checklist in the March 12th hearing.

Background—How Mental Health Managed Care is Funded: Under this model, County Mental Health Plans (County 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. County MHPs access County Realignment Funds (Mental Health Subaccount) for this purpose.

An annual state General Fund allocation is also provided to the County MHP's. 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 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. The state's allocation is contingent upon appropriation through the annual Budget Act.

Based on the most recent estimate of expenditure data for Mental Health Managed Care, County MHPs provided a 47 percent match while the state provided a 53 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—Overview of Mental Health Managed Care: Under Medi-Cal Mental Health Managed Care psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists and some nursing services, are the responsibility of a single entity, the Mental Health Plan (MHP) in each county.

Full consolidation was completed in June 1998. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government. Medi-Cal recipients *must* obtain their mental health services through the County 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 County MHPs to ensure quality of care and to comply with federal and state requirements.

Constituent Concerns on Need for 5 Percent Rate Restoration. The Subcommittee is in receipt of a letter from the CA Mental Health Directors Association (CMHDA) and the CA State Association of Counties (CSAC) who are seeking funding for the 5 percent rate restoration. They contend that without this restoration, coupled with the continued lack of a medical CPI, their ability to provide services to their target population of seriously mentally ill indigent individuals will continue to erode, with more County Realignment revenues going to provide the match for Medi-Cal services.

In addition to the prior year's rate reduction, they note that the medical CPI has not been funded by the state since the Budget Act of 2000. Since this time, medical inflation increases have occurred and the costs for providing Psychiatric services and prescription drugs continue to grow.

Further, CMHDA and CSAC note that although the Mental Health Services Act (i.e., Proposition 63) provided new revenues for mental health services, revenues from this act cannot be used to supplant existing programs.

Subcommittee Staff Recommendation—Approve May Revision with 5 Percent Rate Restoration. Mental Health Managed Care services are a core component to the public mental health system and it is important for the state to be a viable partner in the provision of resources provided towards this effort. The enabling statute for the 5 percent rate reduction had a sunset date that is applicable to all managed care plans. Consistency in the application of the rate restoration is only fair and equitable. Where is the parity for mental health services?

As such, it is recommended to: **(1)** approve the technical caseload adjustments as proposed by the Administration; **(2)** increase by $12 million (General Fund) for the 5 percent rate restoration; and **(3)** adopt corresponding trailer bill language for the rate restoration.

Questions. The Subcommittee has requested the DMH to respond to the following question.

1. **DMH,** Please provide a brief summary of the key May Revision adjustments, and why the DMH did *not* restore the 5 percent rate?

3. Forensic Conditional Release Program (CONREP) (Issues 230 & 231)

Governor's May Revision. The May Revision is requesting **a total increase of $929,000 (General Fund)** for the Forensic Conditional Release Program (CONREP) for total expenditures of $24.4 million (General Fund) in 2007-08. This total funding level supports a caseload of about 740 patients and the May Revision assumes at least 30 additional patients will be added to CONREP in 2007-08. Expenditures are for outpatient treatment services, ancillary services, supervision, State Hospital liaison visits, transitional residential facility contracts, and non-caseload services. The CONREP Program is budgeted under the DMH's state support item because it is a contract.

There are two components to the proposed $929,000 (General Fund) increase. First, an increase of $179,000 is for the hospital liaison visits. According to the DMH, the two primary population groups visited by CONREP providers are Not Guilty by Reason of Insanity (NGI) patients and Mentally Disordered Offenders (MDOs). Based on the most recent State Hospital patient population for these two classifications, it is estimated that about 2,682 patients will require two visits annually (i.e., 5,364 total visits for 2007-08, or 784 more than in 2006-07). On average, it costs $228 per visit. Therefore, an increase of $179,000 to fund 784 additional visits is needed. CONREP providers work with patients that State Hospital treatment teams identify as making good progress towards (or have achieved) their individual goals as stated in their individual "wellness and recovery" plan, and are outpatient-ready.

Second, an increase of $750,000 (General Fund) is requested to fund an increased enrollment of 30 patients. This funding level assumes an average per patient cost of $25,000 annually. The DMH states that increasing CONREP's capacity would increase discharges from State Hospitals and would help alleviate overcrowding throughout the State Hospital system.

Background—CONREP. This program provides for **(1)** outpatient services to patients into the Conditional Release Program (CONREP) via either a court order or as a condition of parole, and **(2)** hospital liaison visits to patients continuing their inpatient treatment at State Hospitals who may eventually enter CONREP. **The patient population includes:** (1) Not Guilty by Reason of Insanity, (2) Mentally Disordered Offenders, (3) Mentally Disordered Sex Offenders, and (4) Sexually Violent Predators.

The DMH contracts with counties and private organizations to provide these mandated services in the state, although patients remain DMH's responsibility per statute when they are court-ordered into CONREP community treatment and supervision. The program as developed by the DMH includes sex offender treatment, dynamic risk assessments, and certain screening and diagnostic tools. Supervision and monitoring tools include Global Positioning System (GPS), polygraphs, substance abuse screening, and collaboration with law enforcement.

Subcommittee Staff Recommendation—Approve. No issues have been raised regarding the Administration's proposal. It is recommended for approval.

Questions. The Subcommittee has requested the DMH to respond to the following question.

1. **DMH,** Please provide a *brief* description of CONREP and the May Revision request.

4. Sexually Violent Predator (SVP) Evaluations and Court Testimony (Issues 220 & 221)

Prior Subcommittee Hearing. The March 12th Subcommittee hearing discussed the Administration's January proposal and the LAO's recommendation to reduce it. No action was taken since it was known that more information would be forthcoming at the May Revision because more data would be available regarding the effect of recent legislation and the passage of Proposition 83.

Governor's May Revision. The May Revision proposes an overall *net reduction* of $2.9 million (General Fund) from the January budget. This adjustment pertains to two issues. In addition, a reduction of $527,000 (General Fund) is proposed for the current year related to unfilled positions that will no longer be necessary.

First, this net reduction reflects a revision in the estimate methodology to determine the number of Sexually Violent Predator (SVP) evaluations to be performed by private contractors and the costs for evaluator court testimony. These various changes are noted in the Table below.

Table: Summary of Evaluation Components and Funding per the Administration

Evaluation Component	Governor's January Proposal 2007-08 (GF)	Governor's May Revision 2007-08 (GF)	Difference
Initial Evaluations ($3,835 per service)	$17.8 million (total of 4,644 services)	$19.9 million (total of 5,197 services)	$2.1 million
Initial Court Testimony ($3,660 per service)	$5.4 million (total of 1,486 services)	$732,000 (total of 200 services)	-$4.7 million
Evaluation Updates ($2,846 per service)	$2.3 million (total of 743 services)	$410,000 (total of 144 services)	-$1.9 million
Recommitment Evaluations ($4,422 per service)	$533,000 (total of 159 services)	$1.6 million (total of 356 services)	$1.041 million
Recommitment Court Testimony ($3,828 per service)	$1.133 million (total of 296 services)	$1.087 million (total of 284 services)	-$47,000
Recommitment Updates ($2,844 per service)	$1.6 million (total of 578 services)	$853,000 (total of 300 services)	-$790,000
Evaluator Training (ongoing) ($1,721 per service)	$69,000 (total of 40 services)	$138,000 (total of 80 services)	$69,000
Evaluator Training (one-time) ($7,200 per service)	--- $144,000	(total of 20 services)	$144,000
Airfare Costs	$1.1 million	$995,000	-$163,000
Consulting Services	$290,000	$1.5 million	$1.2 million
Information Technology (one-time costs)	--- $111,000		$111,000
Totals (rounded)	**$30.4 million**	**$27.4 million**	**-$2.9 million**

As noted in the table above, the DMH anticipates that initial evaluations will increase as more referrals are made by the CA Department of Corrections and Rehabilitation (CDCR). However, expenditures for in itial court testimony and eval uation updates are proposed for reduction based on recent data on the monthly average of actual services performed.

The DMH projects an increase in recommitment evaluations because the courts have allowed SVPs who are currently under a tw o-year term to have a recommitment trial to determine if SVP criteria is met and if so, sentenced the SVP to an indeterminate term.

The DMH is also proposing an in crease in consulting services of $1.2 million as compared t o January. The DMH states that it is more efficient to engage contract clinic ians at the front end of the SVP proc ess and h ave them screen a ll cases referred by the CDCR. The y contend that although this chang e in the pr ocess has increased costs for initial screenings the overall percentage of SVP cases referred on for full eval uation (i.e., two initial evaluations as required by law) has dropp ed from 42 percent to 31 percent. Contracted evaluators conducting the initial screenings are reimbursed at a rate of $200 per hour and it takes an average of one hour to screen each case (i.e., 7,620 cases at $200 for $1.5 millio n total costs).

Second, the revised amount includes a one-time only funding request of $111,000 to support information technolog y resources which th e DMH states is nee ded for the SVP ev aluation process. Specifically, the DMH is proposing the consolidation of certain data sources through this project whic h is intended to better manage case files and as sociated notes, memos and legal documents.

Background—CA Department of Corrections & Rehabilitation (CDCR) Referral to the DMH. Specified sex offenders who are completing their prison sentences are referred by the CDCR and the Board of Parole Hearings to the DMH fo r screening and evaluat ion t o determine whether they meet the criteria as SVP.

When the DMH receives a referral from the CDCR, the DMH does the following:

- *Screening*. The DM H screens referred cases to det ermine whether they meet lega l criteria pertaining to SVPs to warrant clinic al evaluation. Base d on record reviews , about 42 percent are referred for evaluation. Those not referr ed for an evaluation remain with the CDCR until their parole date.

- *Evaluations.* Two evaluators (Psychiatrists and/ or Psychologists), who are under contract with the DMH, are a ssigned to evaluate each sex off ender while they are still held in stat e prison. Based on a review of the sex offender records, and an intervie w with the inmate, the evaluator s submit reports to the DMH on whether or not the inmate meets the criteria for an SVP. If tw o evalu ators have a difference of opin ion, two additional evaluators are assigned to evaluate the inmate.

Offenders, w ho are found to meet the criter ia for an SVP, as specif ied in law, are referred to District Attorney s (DAs). T he DAs, then determine whether to pursue their

commitment by the courts to treatment in a State Hospital as an SVP.

If a petition for a commitment is filed, the clinical evaluators are called as witnesses at court hearings. Cases that have a petition filed, but that do *not* go to trial in a timely fashion may require updates of the original evaluations at the DA's request.

The amount of time it takes to complete the commitment process may vary from several weeks to more than a year depending on the availability of a court venue and the DA's scheduling of cases. While these court proceedings are pending, offenders who have not completed their prison sentences continue to be held in prison. *However*, if an offender's prison sentence has been completed, he or she may be held either in county custody or in a State Hospital.

Background—SB 1128 (Alquist), Statutes of 2006. This legislation made changes in law to generally increase criminal penalties for sex offences and strengthen state oversight of sex offenders. For example, it requires that SVPs be committed by the court to a State Hospital for an undetermined period of time rather than the renewable two-year commitment provided under previous law.

This law also mandates that every person required to register as a sex offender be subject to assessment using the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) a tool for predicting the risk of sex offender recidivism.

Background—Proposition 83 of November 2006—"Jessica's Law". Approved in November 2006, this proposition increases penalties for violent and habitual sex offenders and expands the definition of an SVP. The measure generally makes more sex offenders eligible for an SVP commitment by **(1)** reducing from two to one the number of prior victims of sexually violent offenses that qualify an offender for an SVP commitment, and **(2)** making additional prior offenses "countable" for purposes of an SVP commitment.

Subcommittee Staff Recommendation--Approve. The May Revision reflects a more realistic analysis of the anticipated expenditures for the budget year and it addresses the Legislative Analyst's Office's prior concerns with the January budget which over estimated expenditures. It is therefore recommended to adopt the May Revision. No issues have been raised.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. **DMH**, Please provide a *brief* explanation of the *key* May Revision changes using the table provided in the agenda.

Mental Health State Hospital Issues

Overall Background and Funding Sources. The department directly administers the operation of five State Hospitals—Atascadero, Metropolitan, Napa, Patton, and Coalinga. In addition, the DMH administers acute psychiatric programs at the California Medical Facility in Vacaville, and the Salinas Valley State Prison.

Patients admitted to the State Hospitals are generally either (1) civilly committed, or (2) judicially committed. As structured through the State-Local Realignment statutes of 1991/92, County Mental Health Plans (County MHPs) contract with the state to purchase State Hospital beds. County MHPs reimburse the state for these beds using County Realignment Funds (Mental Health Subaccount).

Judicially committed patients are treated solely using state General Fund support. The majority of the General Fund support for these judicially committed patients is appropriated through the Department of Mental Health (DMH).

Background—Overall Classifications of Penal Code Patients. 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.

The DMH uses a protocol for establishing priorities for penal code placements. This priority is used because there are not enough secure beds at the State Hospitals to accommodate all patients. This is a complex issue and clearly crosses over to the correctional system administered by the CA Department of Corrections and Rehabilitation (CDCR). The DMH protocol is as follows:

1. Sexually Violent Predators have the utmost priority due to the considerable public safety threat they pose.
2. Mentally Disordered Offenders have the next priority. These patients are former CDCR inmates who have completed their sentence but have been determined to be too violent to parole directly into the community without mental health treatment.
3. *Coleman v. Schwarzenegger* patients must be accepted by the DMH for treatment as required by the federal court. *Generally* under this arrangement, the DMH must have State Hospital beds available for these CDCR patients as required by the Special Master, J. Michael Keating Jr. If a DMH bed is not available, the inmate remains with the CDCR and receives treatment by the CDCR.
4. Not Guilty by Reason of Insanity is the next priority.
5. Incompetent to Stand Trial is the last priority. It should be noted that there are about 250 to 300 individuals who are incompetent to stand trial who are presently residing in County jails due to the shortage of beds within the State Hospital system.

Summary of Projected Patient Population—May Revision. The proposed May Revision patient caseload for each State Hospital is shown on the chart below. Each State Hospital is unique, contingent upon its original design, proximity to population centers, types of patients being treated at the facility and types of treatment programs that are available at the facility. **As noted below, there are *substantial* changes in the current year as well as budget year at both Atascadero and Coalinga. This will be discussed below.**

Table: DMH Summary of Population by Hospital *(DMH May Revision Estimate)*

Hospital Summary	Revised 2006-07 Caseload Adjustment	Revised 2006-07 Caseload	January 2007-08 Caseload Adjustment	May Revision 2007-08 Caseload Adjustment	May Revision 2007-08 Caseload
Atascadero	-153	1,208	7	121	1,336
Coalinga	-289	633	440	-176	897
Metropolitan	-20	647	21	68	736
Napa	0	1,195	0	0	1,195
Patton	-25	1,500	0	25	1,525
Vacaville	0	270	0	0	270
Salinas	0	136	0	0	136
TOTALS	**-487**	**5,589**	**468**	**38**	**6,095**

Overall Budget for the State Hospital System—May Revision. The May Revision proposes total expenditures of **$1.117 billion** ($1.039 billion General Fund) for 2007-08 to operate the five State Hospitals which will serve a revised total population of 6,095 patients, including patients located at Vacaville and Salinas Valley (CDCR contracts with DMH to administer the psychiatric units at these two facilities).

The May Revision reflects a current-year reduction of $25.511 million in General Fund support to reflect a reduction of 487 patients (or 531.8 state positions at half-year). This current year adjustment is then reflected in the budget year. This is discussed under issue 1, below.

The individual May Revision issues for the State Hospitals are discussed below.

1. May Revision Reflects Substantial Patient Population Changes Due to Staffing (Issues 200, 130, & 201)

Governor's May Revision. The May Revision reflects several substantial adjustments related to the State Hospital patient population. These patient population changes by category of patient are reflected in the Table below. The fiscal implications of these changes are discussed individually.

First, the May Revision reflects a *current-year* reduction of $25.1 million in General Fund support to reflect a reduction of 487 patients (or 265 state positions at half-year). **This current year adjustment is then reflected in the budget year for a reduction of $28.2 million (General Fund) and 531.8 positions to reflect full-year impact.**

The DMH states that a substantial part of this patient population decline is attributable to the *Coleman* salary increase that was given to the California Department of Corrections and Rehabilitation (CDCR). Many of DMH's clinical staff left the State Hospitals for employment with the CDCR for the salary increase. This exodus of clinical staff put the DMH in the position of having to reduce admission to the State Hospitals, specifically at Atascadero and Napa State Hospitals.

As discussed in Issue 2 below, the Administration commenced with *Coleman* related salary increases beginning April 1, 2007. The Administration notes that the *Coleman* related salary increases will bring DMH State Hospital employees to within 5 percent and 18 percent of total parity with the same classifications as the CDCR. The DMH believes that many staff that left for the salary increase at the CDCR will be returning to the State Hospitals as a result of the DMH providing a salary adjustment in the current year. Because of this, the DMH expects to increase admissions by 100 patients for the last quarter (April 1, 2007 to June 30, 2007) of the current year.

Table: Summary of State Hospital Patient Population by Caseload Type

Caseload Type	Revised 2006-07 Caseload Adjustment	Revised 2006-07 Caseload	January 2007-08 Caseload Adjustment	May Revision 2007-08 Caseload Adjustment	May Revision 2007-08 Caseload
Incomp Stand Trial	-71	1,058	-38	158	1,178
Not Guilty Insanity	-68	1,246	-9	46	1,283
Mentally Disordered Offender	-106	1,218	53	54	1,325
SVP	-242	647	440	-220 over estimated	867
Other Penal Code	0	118	0	0	118
PC 2684s & 2974s	0	752	0	0	752
CA Youth Authority	0	30	0	0	30
Civil Commitments	0	520	22	0	542
TOTALS	**-487**	**5,589**	**468**	**38**	**6,095**

Second, the DMH is reflecting a savings of $21.7 million (General Fund) to reflect an estimated 50 percent reduction in the number of Sexually Violent Predator (SVP) commitments to the State Hospitals as compared to the Governor's January budget. As discussed in the March 12th Subcommittee hearing, the DMH January methodology assumed that 8 percent of the SVP referrals from the CDCR would result in a commitment to the State Hospital. As noted by the Legislative Analyst's Office (LAO), this methodology was flawed. The DMH is now assuming a 4 percent level for commitments. As such, a 50 percent reduction is proposed.

Third, the DMH is proposing an increase of $4.4 million (General Fund) to reflect a *net* increase in the judicially committed penal code patient population of 38 patients, including an increase of 158 Incompetent to Stand Trial (IST), 46 Not Guilty by Reason of Insanity (NGI), 54 Mentally Disordered Offenders (MDOs), and a decrease of 220 Sexually Violent Predators (SVP). The DMH states that the net increases are projected based on an anticipated increase in staffing from the Coleman salary increases, effective as of April 1, 2007.

Subcommittee Staff Recommendation--Approve. It is recommended to adopt the May Revision population adjustments for the State Hospitals. As noted, a portion of the adjustments is due to the recalculation of assumptions regarding the potential affects of recent law changes regarding the SVP population. The remaining adjustments reflect the need to recruit and retain staff in order to provide patient services, as well as adjustments to reflect the priority placement of patients. No issues have been raised.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. **DMH,** Please provide a *brief* summary of the key May Revision changes.

2. Coleman Lawsuit –Related Salary Adjustments (Issues 120, 202 & 204)

Governor's May Revision. The Administration is proposing **three adjustments** to the salaries paid to certain State Hospital classifications that are in *Coleman-related* classifications. It should be noted that the Administration authorized the DMH to begin current-year salary increases effective as of April 1, 2007, using existing funds which were available due to the high level of vacant positions (as noted in issue 1, above).

It should be noted that the Subcommittee discussed concerns regarding the high level of vacant positions and concerns with patients receiving active treatment in the March 12th hearing, *prior* to any action on the part of the Administration.

The three budget year adjustments as contained in the May Revision are as follows:

- *Funding of "Filled" Positions.* An increase of $29.5 million (General Fund) is proposed to bring salaries for "filled" professional and Level-of-Care mental health classifications closer to parity with the CDCR salaries which were increased as the result of the *Coleman* court.

  This proposed level of funding would bring DMH salaries for incumbent staff in the following Coleman-related positions to *5 percent less than CDCR salaries*: Staff Psychiatrist (safety); Senior Psychiatrist (specialist); Senior Psychiatrist (supervisor); Medical Director (state hospital); Senior Psychologist (HF supervisor); Senior Psychologist (CF supervisor).

  In addition, it would bring other DMH salaries for incumbent staff in the following Coleman-related positions to *18 percent less* than CDCR salaries: Psychiatric Technician (safety); Senior Psychiatric Technician (safety); Unit Supervisor (safety); Psychologist (HF); Chief Psychologist; Rehabilitation Therapist (recreation and safety); Rehabilitation Therapist (music and safety); Rehabilitation Therapist (occupational and safety); Rehabilitation Therapist (art and safety); Rehabilitation Therapist (dance and safety); Clinical Social Worker (H/CF and safety); Supervising Psychiatric Social Worker I.

  This funding increase will raise salaries for Psychiatrists and Senior Psychologists by between 66 percent and 74 percent, and raise salaries for other impacted mental health classifications by between 10 percent and 40 percent.

- *Funding of "Vacant" Positions.* An increase of about $6 million (General Fund) is proposed to provide funding for DMH classifications as noted above for vacant positions and those related to patient population growth. This level of funding assumes a phased-in approach rather than full-year funding to account for positions as they are hired throughout the fiscal year.

  The DMH has provided the following chart, below, as it pertains to their Coleman staffing plan for 2007-08. The DMH states that there are 1,860 total vacant positions (as of May Revision) and that the average cost per month to fill them is $1,348, with a full year cost of $30.1 million (which would be in 2008-09).

Table: DMH Hiring Perspective for the Budget Year

Month in 2007-08	Number of Staff Phased-In Per Month	Cost Per Month
July 50		$808,529
August	50	$741,151
September 50		$673,774
October 50		$606,396
November 50		$539,109
December 50	(300 staff total at mid-point)	$471,642
January 2008	75	$606,396
February 75		$505,330
March 75		$404,264
April 75		$303,198
May	75	$202,132
June 75		$101,066
Total (Rounded)	**750 staff**	**$6.0 million**

The Administration is also proposing Budget Bill Language to authorize increased funding above the pending Budget Act of 2007 for salaries if more vacancies than anticipated are filled, or if funding is needed for contract costs for registry funding. **The *Administration's* proposed Budget Bill Language is as follows (Item 4440-011-0001):**

> "Notwithstanding any other provision of law, the Department of Finance may augment this item to provide salary increases for classifications related to the Coleman litigation in the event that more vacant positions are filled than were originally proposed in the 2007-08 staffing plan, or for contract costs for registry funding, if necessary. This item may not be augmented sooner than 30 days after notification in writing of the necessity therefore to the chairperson of the committee of each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine."

- *Technical Adjustment for Vacaville and Salinas Valley Psychiatric Programs.* The DMH is also proposing a reduction of $336,000 (General Fund) to reflect a technical correction for an employee compensation adjustment to the budget for Coleman salary increases that were provided to employees in these two facilities in the January budget. These two programs had received increases because they are within CDCR-operated facilities.

Background—Coleman vs. Schwarzenegger and CDCR Salaries. The Special Master assigned to the *Coleman vs. Schwarzenegger* (Coleman) recommended, and the federal court has ordered, significant salary increases for a number of health care classifications within the CA Department of Corrections and Rehabilitation (CDCR) to address the severe shortage of mental health care employees within the CDCR institutions. By order of the court, CDCR salary increases were implemented as of March 31, 2007 and are retroactive to January 1, 2007.

It is crucial that Coleman-related classifications in all DMH facilities receive financial incentives that bring salaries closer to parity with CDCR salaries, in order to prevent more State Hospital staff from transferring to CDCR facilities.

Subcommittee Staff Recommendation—Adopt Fiscal Adjustments with Modified Budget Bill Language. It is recommended to approve the three fiscal adjustments as proposed, but to adopt modified Budget Bill Language. **In *addition* to the Administration's proposed Budget Bill Language, it is recommended to *add* the following language as part of the overall proposal:**

> "The Department of Mental Health shall provide the fiscal and policy committees of the Legislature, including the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance with a quarterly update on the progress of the hiring plan to ensure appropriate active treatment for patients, state licensure requirements, and in meeting the Consent Judgment with the federal United States Department of Justice regarding the federal Civil Rights of Institutionalized Persons Act (CRIPA)." This quarterly update shall be provided within 10 working days of the close of the quarter to ensure the exchange of timely and relevant information.

Questions. The Subcommittee has requested the DMH to respond to the following question.

1. **DMH,** Please provide a brief summary of the May Revision request, including the Budget Bill Language and how it would work.

3. Salary Adjustment for the Perez (Issue 203)

Governor's May Revision. The DMH is requesting an increase of $1.592 million ($1.560 million General Fund) to raise salaries for all budgeted DMH dental staff to 18 percent less than the CDCR salaries resulting from this case. This funding will increase salaries for these positions by between 36 percent and 58 percent. The DMH states that this funding is necessary to properly protect and serve the DMH clients by retaining existing staff and enhancing the recruitment of additional dental professionals.

Subcommittee Staff Recommendation—Approve May Revision. It is recommended to approve the May Revision.

Questions. The Subcommittee has requested the DMH to respond to the following question.

1. **DMH**, Please provide a *brief* explanation of the May Revision.

4. Salinas Valley Psychiatric Program—18 Bed Unit for IST's (Issue 207)

Governor's May Revision. The May Revision requests an increase of $696,000 (General Fund) for the DMH to support four Level-of-Care staff to operate an 18- bed unit at Salinas Valley Psychiatric Program (Salinas) for Incompetent to Stand Trial (ISTs) patients who are too dangerous to reside within the State Hospital setting.

The DMH is required by statute to provide services for inmates that have been adjudicated pursuant to Penal Code 1370—Incompetent to Stand Trial (IST). The DMH notes that there has been an increase in the number of individuals who meet the PC 1370 criteria and are too dangerous to reside within the State Hospitals. Therefore, Salinas has started to admit these individuals and requires additional staff to meet the trial competency training requirements listed under PC 1370.

Specifically, the DMH states there are 32 ISTs on the waiting list for Salinas with the list growing at 3 per month. To accommodate this growing need, Salinas will be dedicating 18 beds out of the existing 100 beds designated for *Coleman* to use exclusively for the IST population. In order to comply with *Coleman*, this 18-bed unit must be staffed by those trained to fulfill stringent competency requirements. Therefore, due to these competency requirements, shifting staff from other existing units will not suffice.

At this time, Salinas has no Level-of-Care staff dedicated to performing the competency restoration process for the 18-bed IST unit. Therefore, the May Revision is proposing the following four positions, all of whom are specially trained: a Staff Psychiatrist; a Psychologist; a Clinical Social Worker; and a Recreation Therapist.

Background—the DMH's Involvement with Salinas Valley and *Coleman.* The DMH has an interagency agreement to provide mental health services for the CA Department of Corrections and Rehabilitation (CDCR) inmates per the *Coleman* federal court case naming CDCR as defendants. The DMH provides these mental health beds primarily at Atascadero State Hospital, Coalinga State Hospital, the Vacaville Psychiatric Program and the Salinas Valley Psychiatric Program within the prison.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the May Revision.

Questions. The Subcommittee has requested the DMH to respond to the following question.

1. **DMH**, Please provide a *brief* summary of the proposal.

5. Pilot Treatment Project for IST Patients (Issue 205)

Governor's May Revision. The May Revision proposes an increase of $4.3 million (General Fund) to pilot a treatment option through contracts with providers for treatment of services for those Incompetent to Stand Trial (IST) individuals ***not*** currently residing in State Hospitals (but may be on a waiting list), thereby reducing the State Hospital IST patient population through natural attrition and creating additional bed capacity for other forensically committed individuals.

The DMH notes that their inability to admit ISTs to the State Hospitals as needed, essentially due to the growth of the forensic population coupled with the increased vacancy rates in health care related classifications (as discussed above relating to the "Coleman" salary issues), have a significant impact on county jails.

The DMH proposal requests to establish, via contracts with providers, inpatient and outpatient restoration of competency programs (ones that can stand ready to receive referrals from Superior Courts across the state). These programs would be responsible for intensive psychiatric treatment, acute stabilization services, and court-mandated services for patients needing competency evaluations, insanity evaluations and restoration to trial competency.

The DMH request for $4.3 million (General Fund) is an estimate that is based upon costs reviewed from existing programs (CONREP is $25,000 per bed and only provides basic services, while a higher bed rate of $60,000 also includes room and board, medications, and competency training and other services in a locked facility).

The DMH states that this pilot approach would begin to address issues which can prevent the timely treatment of individuals who need restoration of competency to stand trial and can help provide a tool to better manage the State Hospital population, as well as try to balance county needs.

Background—IST Population and Demands on State Hospital Beds. As noted previously, the DMH uses a protocol for establishing priorities for Penal Code placements in the State Hospitals because there are not enough secure beds at the State Hospitals to accommodate all patients. Individuals who are deemed to be IST are the last priority.

At any point in time during the past year, there have been as many as 300 individuals in California jails awaiting admission to state psychiatric hospitals for restoration of competency so that they can proceed with their criminal trials. The DMH notes that the impacted State Hospital system prevents the timely and appropriate transfer of these individuals to state psychiatric facilities for forensic evaluation, treatment and restoration of competency to stand trial.

Courts have issued orders to the DMH to show cause for IST individuals who await transfer from county jails to State Hospitals. Careful population management at the State Hospitals has thus far pre-empted any of these orders from progressing to contempt orders. The DMH contends that without proactive intervention, this will likely expose the state to more court orders, contempt citations, and ultimately lawsuits.

It should be noted that Section 1370 of the Welfare and Institutions Code (IST statute) allows for placement of the IST in other than a State Hospital. Specifically, the IST individual can be delivered by the sheriff … "for care and treatment to a public or private treatment facility approved by the Community Program Director that will promote the defendant's speedy restoration to mental competence or placed on out-patient status…" Therefore, the DMH can contract for the services of privately owned and operated secured treatment facilities or county facilities.

Legislative Analyst's Office Recommendation. The LAO recommends approving the $4.3 million (General Fund) May Revision proposal and to adopt the following Budget Bill Language to track the pilot's expenditures and to provide oversight for the Legislature. The language is as follows:

> 4440-011-0001.
>
> "x. Of the amount appropriated in this item, $4,280,000 is available only to provide appropriate treatment to individuals found incompetent to stand trial and who have not been committed to a state hospital. These funds may be encumbered not sooner than 30 days after the Department of Finance provides a written expenditure plan for these funds to the chairpersons of the fiscal committees in each house of the Legislature, and to the Chairperson of the Joint Legislative Budget Committee, or not sooner than any lesser time period determined by the Chairperson of the Joint Legislative Budget Committee, or his or her designee."

Subcommittee Staff Recommendation—Approve LAO Recommendation. It is recommended to approve the LAO recommendation. The pilot has merit and the DMH should be commended for beginning to address this difficult issue.

Questions. The Subcommittee has requested the DMH to respond to the following question.

1. **DMH**, Please provide a *brief* summary of the proposal and why it is recommended.

E. Item 0530 CA Health & Human Services Agency (CHHS)

1. Continued Concerns Regarding Management of Low-Level Radioactive Waste

Issue. Significant concerns regarding the Department of Health Services' (and soon the Department of Public Health) implementation of radiation control law has been the subject of legislative oversight hearings, investigations and litigation in both the state and federal courts.

Recent specific examples of these concerns include the following.

- Senator Romero and Senator Kuehl have submitted a request to the Joint Legislative Audit Committee (April, 2007) for a comprehensive audit and investigation to be conducted of the role of the Radiological Health Branch of the Department of Health Services (DHS) and the Southwestern Low-Level Radioactive Waste Commission in approving the export and disposal of thousands of tons of California Low-Level Radioactive Waste (LLRW) in Tennessee municipal landfills. It appears that the DHS and Southwestern LLRW Commission may be engaged in an unauthorized de facto deregulation of the handling and disposal of LLRW.
- Senate Bill 1970 (Romero), 2002, as passed by the Legislature, would have banned radioactive materials being placed in a landfill. Governor Davis vetoed the bill but issued Executive Order D-62-02, placing a temporary moratorium on landfilling radioactive waste, and directing the Department of Health Services to "adopt regulations establishing does standards for the decommissioning of radioactive materials by its licensees." The Department still has not adopted regulations for this purpose.
- In the 2002 case of the *Committee to Bridge the Gap, et al, vs. Bonta, et al.* (Case No. 01CS01445), the Sacramento Superior Court overturned the DHS' adoption of lax radiological standards for decommissioned sites—standards which had been used by the DHS to justify sending decommissioning wastes to municipal landfills.
- In 2004, Senator Romero, Chair of the Select Committee on Urban Landfills, released a report on radiation levels at California landfills and underground water supplies that shows at 22 of the 50 California sites tested, elevated radioactivity was detected in leachate and or groundwater.
- Senate Bill 2065 (Kuehl), Statutes of 2002, requires the Department to maintain a tracking system for LLRW. However, it still has not been implemented. The Department *estimates* that it will be done in July 2007; however, it is unclear as to what information will be available at this time. Implementation of the legislation is needed for tracking shipments of waste, accountability throughout the system, source reduction, and projecting future waste streams.
- A March 28, 2007 letter sent from certain employees within the DPH to the Capital Weekly Group, with copies shared with Member's offices (see Hand Out), also raises questions as to the management of the program within the DPH.
- The DPH states that existing licenses for radioactive materials would have to be amended to allow for the long-term storage of LLRW. They note that these amendments would

need to be done on a "case-by-case" basis, as each licensee contacts the DPH with respect to an increase in their possession limit. However, the DPH then states that many licensees have possession limits that are already higher than the material they actually possess, so an immediate amendment to accommodate long-term storage would not be necessary. So how is long-term storage of LLRW really being monitored?

Background—Relationship Between the DPH and the Department of Toxics & Substance Control. The Department of Toxics &Substance Control (DTSC) protects public health and the environment by: **(1)** regulating hazardous waste management activities; **(2)** overseeing and performing cleanup activities at sites contaminated with hazardous substances; **(3)** encouraging pollution prevention and the development of environmentally protective technologies, and **(4)** providing regulatory assistance and public education.

The DTSC does *not* have jurisdiction over the control of ionizing radiation. When the DTSC regulatory activities involve a site and radiation issues are raised they contact the DPH's Radiologic Health Branch for assistance. The Radiologic Health Branch is to support the work of the DTSC by including the review of site histories, survey data, and other relevant information, and the collection of samples, analyses of samples and other survey or sampling activities as needed.

In addition, the DPH's Division of Drinking Water and Environmental Management provides two dedicated Health Physicists directly to the DTSC to review radiation issues involved in the clean-up of formerly used Department of Defense sites.

The Administration states that the DPH (Radiologic Health Branch and Division of Drinking Water), in coordination with the DTSC, will recommend remedial action as necessary.

Senate Bill 2065 (Kuehl), Statutes of 2002: Low-Level Radioactive Waste (LLRW) Tracking System. This legislation was the product of a blue panel Advisory Group on Low-Level Radioactive Waste in 1999. This Advisory Group recommended that California institute an annual survey of waste generators and receive notification of all LLRW shipments.

Among other things, SB 2065 directs the DPH to conduct an annual inventory of California's 2000 plus licensed 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, it 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.

Currently, no state agency has comprehensive real time information that would enable them to track shipments or storage of LLRW. Radioactive materials and waste are also very vulnerable to theft and sabotage during transport. Implementation of the legislation is needed for tracking shipments of waste, accountability throughout the system, source reduction, and projecting future waste streams.

Subcommittee Staff Recommendation. As part of the overall restructuring of the Department of Health Services into a separate Department of Public Health, Governor Schwarzenegger stated that he was going to convene a work group of Cabinet Secretaries to develop the next steps on consolidation and re-organization of other public health related and/or health purchasing functions within state government.

It is clear that strong consideration should be given to moving Low-Level Radioactive Waste responsibilities regarding the regulation of the use, handling, transport and disposal of ionizing radiation from the Department of Public Health to the Department of Toxic Substance Control within the California Environmental Protection Agency.

Therefore, it is recommended to adopt the following trailer bill language.

> **"**The California Health and Human Services Agency and the California Environmental Protection Agency shall confer to develop a specific transition plan for the transfer of the responsibilities regarding the regulation of the use, handling, transport and disposal of ionizing radiation from the Department of Public Health to the Department of Toxic Substance Control or other applicable entity within the purview of the California Environmental Protection Agency. This transition plan shall be provided to the policy and fiscal committees of the Legislature by no later than November 1, 2007. It is the Legislature's intent to transfer and strengthen the regulation of radioactive materials in order to ensure greater public health and environmental protection.**"**

Questions. The Subcommittee has requested the CA Health and Human Services Agency (CHHS Agency) to respond to the following questions.

1. **CHHS Agency**, Please comment on the proposed trailer bill language.

LAST PAGE OF AGENDA

Diane Van Maren 651-4103
Senate Budget & Fiscal Review Committee
5/22/2007

(Please use the day's Agenda along with this document)

I. ISSUES RECOMMENDED FOR "VOTE ONLY" *(Through to Page 20)*

- **Action:** Approve all items from pages 2 through 20 as noted in the Staff Recommendation section of each item.
- **Vote:** 3-0 on items on items, B 1, B 2, B 4, B 5, B 7, B 8, B 9, B 10, B 11, C 2, C 3, and C 4.
- **Vote:** 2-1 (Cogdill) on items, A 1, B 3, B 6, and C 1.

II. ISSUES FOR DISCUSSION (Page 21)

A. Item 4265 Department of Public Health *(Discussion Items)*

1. AIDS Drug Assistance & HIV/AIDS Program Adjustments (Page 21)

- **Action.** Modified the Budget Bill Language (changing may to shall) as noted on Page 23 and approved funding.
- **Vote:** 3-0

2. Follow-Up to Licensing and Certification Fees Discussion (Page 21)

- **Action: (1)** increased by $364,333 (General Fund) to pay the L&C Fees for District Hospitals with less than 100 beds; **(2)** increased by $2.6 million (General Fund) to reduce the L&C Fees of certain health care facilities using the same methodology as done in the Budget Act of 2006; **(3)** adopted statutory language regarding other L&C revenues which had been previously adopted as "placeholder" language in the May 7th hearing; **(4)** adopted statutory language regarding the use of the General Fund support; and **(5)** adopted placeholder trailer bill language regarding the Joint Commission on Accreditation of Healthcare Organizations certification as referenced above.
- **Vote:** 3-0 on items 1,3, and 5.
- **Vote:** 2-1 (Cogdill) on items 2 and 4.

3. Implementation of Proposition 84 Bond Act on Safe Drinking Water (Page 21)

- **Action. (1)** Adopted Budget Bill Language (hand out) and **(2)** Approved the Finance Letter.
- **Vote:** 2-1 (Cogdill) on the Budget Bill Language (for Proposition 84 Bonds).
- **Vote:** 3-0 on the Finance Letter.

B. Item 4280 Managed Risk Medical Insurance Board *(Discussion Items)*

1. Healthy Families Program—Baseline and Caseload Estimate (Page 34)

- **Action.** Approved the Healthy Families May Revision.
- **Vote:** 2-1 (Cogdill)

2. Change in the Healthy Families to Medi-Cal Bridge—Fiscal & Trailer (Page 36)

- **Motion.** Approved the "presumptive eligibility" proposal, including the trailer bill language.
- **Vote:** 2-1 (Cogdill)

3. Access for Infants and Mothers (AIM) Program (Page 38)

- **Motion.** Approved the AIM Program as proposed.
- **Vote:** 2-1 (Cogdill)

C. Item 4260 Department of Health Care Services (Page 40)

1. California Children's Services (CCS) Program: Significant Concerns with Access to Necessary Durable Medical Equipment (DME) & Medical Supplies

- **Action. Adopted the Budget Bill Language as shown on page 42**.
- **Vote:** 2-0 (Cogdill not voting)

2. Adjustments to AB 2911--CA Drug Discount Prescription Drug (Page 43)

- **Action. Approved with the technical correction regarding the item number**.
- **Vote:** 2-1 (Cogdill)

3. Medi-Cal Baseline Estimate Package & Technical Adjustments (Page 44)

- **Action. Approved *with* the technical correction**.
- **Vote:** 2-1 (Cogdill)

4. Medi-Cal Program's Draft Response Re: Performance Measures & People with Disabilities and Chronic Conditions (Page 47)

- **Action. (1)** Adopted Budget Bill Language to require the Department of Health Care Services to develop an action plan, as shown on Page 49 of the Agenda; (2) Provided $325,000 (in federal funds) to support the three positions; (3) Provided $450,000 (in federal funds) for interagency agreements or contracts as contained in the Budget Bill Language on Page 50; and (4) Adopted trailer bill language regarding use of the federal Maternal and Child Health Title V funds for this purpose.
- **Vote:** 2-1 (Cogdill)

5. Rate Increases for Medi-Cal Managed Care Plans (Page 52)

- **Action. (1)** Approved the increase of $214.3 million (total funds); **(2)** Adopted trailer bill language to codify the Administration's proposed rate methodology changes; **(3)** transferred the authority to establish all Medi-Cal Managed Care rates to the Department of Health Care Services (including COHS and GMCs—GMC rates would be competitive and kept confidential).
- **Vote:** 3-0 Items 1 and 3
- **Vote:** 2-1 (Cogdill) Item 2

6. Personalized Provider Directories for Medi-Cal --Trailer Bill (Page 56)

- **Action.** Adopted placeholder trailer bill language that would have the components as listed in the Agenda on page 56.
- **Vote.** 3-0

7. Trailer Bill For Quality Improvement Fee for Medi-Cal Managed Care (Page 57)

- **Action.** Approved the May Revision proposal, including the trailer.
- **Vote.** 3-0

8. Administration's Trailer Bill-- AB 1629 Nursing Home Rates (Page 58)

- **Action.** Approved to **(1)** restore the nursing home rates to the full **5.5** percent; **(2)** extend the sunset for the rate methodology for one-year (to 2009); **(3)** reject the Administration's trailer bill language to change the out year reimbursement to use the medical CPI, and *instead*, adopt placeholder trailer bill language which would provide for a **5.5** percent increase or the medical cost-of-living increase which ever is higher; and **(4)** extend the required evaluation report on the program for one-year.
- **Vote.** 3-0

9. Proposed Trailer Bill—Enteral Nutrition Products & Medical Supplies (Page 60)

- **Action.** Adopted place holder trailer bill language as contained in the Agenda.
- **Vote.** 2-0 (Cogdill not voting)

10. Reduction to Rates Paid to Pharmacists for Dispensing Drugs (Page 62)

- **Action. (1)** Recognized savings of *only* $57.4 million ($28.7 million General Fund), or $20 million (total) less than proposed by the Administration in order to increase dispensing fees; **(2)** adopted place holder language that authorizes the Administration to proceed with implementation of the Average Manufacturer's Price once it is available from the federal government; and **(3)** adopted placeholder language that within 30-days of the implementation of the Average Manufacturer's Price, the DHCS shall recalculate the Pharmacy dispensing fee and implement the recalculation.
- **Vote.** 3-0

11. Improve State's Responsiveness & Partnership with Counties (Page 65)

- **Action. A**dopted trailer bill language as contained in the Agenda on page 66.
- **Vote.** 2-1 (Cogdill)

12. Constituency Request for Trailer Bill Language: Conlan vs. Shewry (Page 68)

- **Action. A**dopted trailer bill language as contained in the Agenda on page 68.
- **Vote.** 2-1 (Cogdill)

13. Trailer Bill:- Protection of Director's Right to Recover Medi-Cal (Page 71)

- **Action. A**dopted placeholder trailer bill language as a work in progress.
- **Vote.** 3-0

D. Item 4300 Department of Developmental Services *(Discussion Items)*

1. Proposed Changes to Intermediate Care Facilities—DD Bundled Rate (Page 72)

- **Action. (1)** Proceed with the ICF-DD bundled rate; **(2)** Replace the Public Transportation Funding with General Fund support for an increase of $128.8 million; and **(3)** Adopt Budget Bill Language to ensure that all changes made will be seamless to providers, consumers and their families (BBL in Agenda).
- **Vote.** 3-0 for items 1 and 3
- **Vote:** 2-1 (Cogdill) for item 2.

2. Administration's May Revision Estimate for the Regional Centers (Page 75)

- **Action. A**pproved the May Revision, including trailer bill language for the cost containment measures.
- **Vote:** 2-1 (Cogdill).

3. Update on the Agnews Developmental Center Closure (Page 79)

- **Action. A**pproved the May Revision.
- **Vote:** 2-1 (Cogdill).

Developmental Centers

1. Developmental Centers (Page 81)

- **Action** Approved the May Revision.
- **Vote:** 2-1 (Cogdill).

E. Item 4440 Department of Mental Health *(Discussion Items)*

Community-Based Mental Health & State Support Issues (Page 83)

1. Significant Issues Regarding the Early, Periodic Screening and Treatment (EPSDT) Program Requires Legislative Oversight and Funding

- **Action** **(1)** Provided $59.7 million (General Fund) for 2006-07; **(2)** Provided $107.6 million (General Fund) for 2007-08; **(3)** Established a reimbursement through **a separate budget item** and provided $260.2 million (General Fund) over a three year period with payments of $86.7 million.

- **Vote:** 2-0 (Cogdill not voting).

2. Mental Health Managed Care Program—Two Issues (Page 87)

- **Action. (1) Approved the technical May Revision adjustments; (2)** increase by $12 million (General Fund) to restore the 5 percent; and **(3)** adopted trailer bill language for the 5 percent.
- **Vote:** 3-0 for item 1
- **Vote:** 2-1(Cogdill) for item 2 and 3

3. Forensic Conditional Release Program (CONREP) (Page 89)

- **Action. A**pproved the May Revision.
- **Vote:** 3-0 for item 1

4. Sexually Violent Predator (SVP) Evaluations and Court Testimony (Page 89)

- **Action. A**pproved the May Revision.
- **Vote:** 3-0 for item 1

Mental Health State Hospital Issues (Page 93)

1. May Revision Reflects Substantial Patient Population Changes (Page 95)

- **Action.** Approved the May Revision.
- **Vote:** 3-0 for item 1

2. Coleman Lawsuit –Related Salary Adjustments (Page 97)

- **Action.** Approved the fiscal adjustments with modified Budget Bill Language to require the DMH to provide a quarterly update on staffing as contained in the Agenda.
- **Vote:** 2-1(Cogdill)

3. Salary Adjustment for the Perez (Page 99)

- **Action.** Approved the May Revision.
- **Vote:** 2-1(Cogdill)

4. Salinas Valley Psychiatric Program—18 Bed Unit for IST's (Page 100)

- **Action.** Approved the May Revision.
- **Vote:** 3-0

5. Pilot Treatment Project for IST Patients ((Page 101)

- **Department of Mental Health (Cindy Radavsky) --Questions on Page 102.**
- **Motion** Approved the LAO recommendation which includes the $4.3 million for the pilot and the Budget Bill Language for the expenditure plan.
- **Vote:** 3-0

E. Item 0530 CA Health & Human Services Agency (Page 103)

1. Concerns Regarding Management of Low-Level Radioactive Waste (Page 103)

- **Action:** Adopted the trailer bill language as contained in the Agenda on Page 105.
- **Vote:** 2-1(Cogdill)

2. CHHS Agency Finance Letter For "Price" Reduction

- **Action:** Adopted the Finance Letter to reduce CHHS Agency for "price".
- **Vote:** 3-0

SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist
Senator Alex Padilla
Senator Dave Cogdill

Tuesday, May 22, 2007
10:00 a.m.
Room 4203
(Eileen Cubanski, Consultant)

4200 Department of Alcohol and Drug Programs (ADP)

Vote-Only Issue 1: Funding for Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA)

Description: The Subcommittee took action on May 21, 2007 to add $60 million General Fund to Proposition 36 to restore funding to the current year level and maintain the total $60 million that the Administration has proposed for the Offender Treatment Program (OTP). The Subcommittee would like to revise its action on the OTP to send the item to conference committee to continue the discussion about the appropriate level of substance abuse funding in the two programs.

Staff Recommendation: Rescind the May 21, 2007 action. Add $60 million General Fund to Proposition 36 to restore funding to the current year level. Reduce the amount the Administration has proposed for the Offender Treatment Program by $20 million. This will bring the total for substance abuse treatment under SACPA and the OTP to $160 million in 2007-08, $15 million more than in 2006-07.

5180 Department of Social Services (DSS)

Vote-Only Issue 2: Adult Protective Services Trailer Bill Language

Description: The Subcommittee took action on May 21, 2007 to add $10 million to the Adult Protective Services. The following companion language was inadvertently left off of the recommended action.

Staff Recommendation: Adopt the following trailer bill language, which removes the Budget Act contingency language from the statute:

15765. This chapter shall become operative on May 1, 1999. ~~Commencing with the 1999-2000 fiscal year, Sections 15760 to 15764, inclusive, shall be implemented only to the extent funds are provided in the annual Budget Act.~~

Senate Budget & Fiscal Review Committee
Eileen Cubanski 651-4103

Hearing Outcomes

Subcommittee No. 3
10 a.m., Tuesday, May 22, 2007

Vote-Only Agenda

4200 Department of Alcohol and Drug Programs

- Vote-Only Issue 1: Funding for Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA)
  Action: Rescinded the May 21, 2007 action. Add $60 million General Fund to Proposition 36 to restore funding to the current year level. Reduce the amount the Administration has proposed for the Offender Treatment Program by $20 million. **Vote:** 2-1 (Cogdill)

5180 Department of Social Services

- Vote-Only Issue 2: Adult Protective Services Trailer Bill Language
  Action: Adopted the following trailer bill language, which removes the Budget Act contingency language from the statute: "15765. This chapter shall become operative on May 1, 1999. ~~Commencing with the 1999-2000 fiscal year, Sections 15760 to 15764, inclusive, shall be implemented only to the extent funds are provided in the annual Budget Act.~~" **Vote**: 2-1 (Cogdill)