Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 3 Agenda

Senator Holly J. Mitchell, Chair
Senator William W. Monning
Senator Jeff Stone

Thursday, April 7, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 4203

Part B

Consultant: Michelle Baass

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) 651-1505. Requests should be made one week in advance whenever possible.

4100 STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

Issue 1: Overview

The State Council on Developmental Disabilities (SCDD) is a federally-funded systemic advocacy organization. California's SCDD is one of 56 such councils across the United States and its territories. According to the Administration on Intellectual and Developmental Disabilities (AIDD), which funds and oversees the councils, state councils are "self-governing organization charged with identifying the most pressing needs of people with developmental disabilities in their state or territory" (and) "work to address identified needs by conducting advocacy, systems change, and capacity building efforts that promote self-determination, integration, and inclusion. Key activities include conducting outreach, providing training and technical assistance, removing barriers, developing coalitions, encouraging citizen participation, and keeping policymakers informed about disability issues."

Under federal law, state councils are intended to be autonomous organizations that function without interference from the state, except in that federal law requires that council members be appointed by the governor. Under federal law, more than 60 percent of a council's membership must consist of individuals with developmental disabilities or their family members. Councils develop federally-required five-year plans to address one or more of seven specified goals, and update the plan annually. Councils must spend a minimum of 70 percent of their federal funding to address their plan objectives. See table below for a budget summary.

SCDD Budget Summary (dollars in thousands)

Fund Source	2014-15	2015-16	2016-17
Federal Trust Fund	$6,636	$7,112	$7,128
Reimbursements	$4,041	$4,352	$4,361
Total	**$10,677**	**$11,464**	**$11,489**
Positions	77	**78**	**78**

The SCDD uses it federal grant and reimbursements to fund three primary activities, as shown below.

Activity	2014-15	2015-16	2016-17
Planning and Administration	$2,070	$2,294	$2,299
Community Program Development	$228	$260	$260
Regional Offices and Advisory Committees	$8,379	$8,910	$8,930

Planning and Administration: The council is responsible for developing and implementing a state plan containing goals, objectives, activities, and projected outcomes designed to improve and enhance the availability and quality of services and supports to individuals with developmental disabilities and their families. The appointed council members engage in policy planning and implementation to ensure system coordination, monitoring, and evaluation.

Community Program Development: The council administers grants to community-based organizations that fund new and innovative community program development projects to implement state plan objectives and improve and enhance services and supports for individuals with developmental disabilities and their families.

Regional Offices and Regional Advisory Committees: Thirteen regional offices and advisory committees provide administrative support and assist with advocacy, training, coordination, and implementation of state plan objectives in council regions throughout the state. These offices and advisory committees provide regional information and data to the council to assess regional needs and implementation of the state plan and for inclusion in reports to the federal government and the Legislature.

Role in Transitioning Developmental Center Residents into the Community. SCDD employs individuals in the developmental centers (DC), one position at Canyon Springs Community Facility, 2.5 positions at Sonoma DC, 2.5 positions are Fairview DC, and three positions at Porterville DC. These individuals work with approximately 30 percent of the DC population (those individuals who do not have active family members, for example) and recruit volunteer advocates to assist them.

The SCDD advocates participate in all stages of community transition for the resident. This is a state-funded activity, required by statute, through a contract with the Department of Developmental Services. The volunteer advocate attends meetings where community placement is initially discussed to the final transition review meeting. Volunteer advocates tour potential homes to assure that the home is accessible and suitable for consumers. Advocates confirm that the consumer is compatible with the peers living at the home. The advocates inform the interdisciplinary team including the regional center case manager of any issues, barriers, or concerns regarding the potential placement.

Subcommittee Staff Comment and Recommendation—Information Item.

Questions.

1. Please provide a brief overview of the council and budget.

2. Please explain SCDD role's in helping developmental center residents transition to the community. How are issues identified during this transition process shared with the Department of Developmental Services?

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

Issue 1: Overview

The Department of Developmental Services (DDS) oversees the provision of services and supports to over 290,000 persons with developmental disabilities and their families, pursuant to the provisions of the Lanterman Developmental Disabilities Services Act, also known as the Lanterman Act, (Division 4.5 of the California Welfare and Institutions Code). The Lanterman Act establishes an entitlement to services and supports for Californians with developmental disabilities.

For the majority of eligible recipients, services and supports are coordinated through 21 private, non-profit corporations, known as regional centers (RCs). The remaining recipients are served in three state-operated institutions, known as developmental centers (DCs) and one state-leased and state-operated community-based facility.

Eligibility. To be eligible for services and supports through a regional center or in a state-operated facility, a person must have a disability that originates before their 18th birthday, be expected to continue indefinitely, and present a substantial disability. As defined in Section 4512 of the Welfare and Institutions Code, this includes an intellectual disability, cerebral palsy, epilepsy, and autism, as well as conditions found to be closely related to intellectual disability or that require treatment similar to that required for individuals with an intellectual disability. A person with a disability that is solely physical in nature is not eligible. Infants and toddlers (age 0 to 36 months), who are at risk of having a developmental disability or who have a developmental delay, may also qualify for services and supports (see the Early Start discussion later in this agenda). Eligibility is established through diagnosis and assessment performed by regional centers.

Special Session. On June 19, 2015, the Governor convened a special session of the Legislature to consider and act upon legislation related to the managed care organization (MCO) tax and to "increase oversight and the effective management of services provided to consumers with developmental disabilities through the regional center system," among other provisions.

As part of the special session, on February 29, 2016, the Legislature adopted, and the Governor later signed, a package of ongoing spending proposals in AB 1 2X (Thurmond), Chapter 3, Statutes of 2016, that appropriates $287 million General Fund for various increases to RCs and community services providers for 2016–17. (This new General Fund spending would leverage an estimated $186 million in additional related federal funds.) Most of the additional General Fund spending, about 60 percent, is for salary and/or benefit increases for community service providers' staff that devote most of their time to providing direct care to consumers. On March 18, 2016, DDS sent a survey to a randomly selected sample of regional center-funded community-based providers that will be the basis of information for the state to determine the exact amount of a direct wage and benefit pass-through for direct care workers. See table below for details on the funding included in AB 1 2X.

AB 1 2X also requires documentation and new reporting requirements by RCs and providers to (1) provide information to DDS to determine the allocation of many of these spending increases (including through a random sample survey of providers to be completed in April 2016) and (2) ensure program accountability regarding the use of these funds. This reported data would include, for example, the number of RC service coordinators receiving salary and/or benefit increases and information on staff turnover. Additionally, the legislation requires DDS to submit to the Legislature, by March 2019, a rate study addressing the sustainability, quality, and transparency of community–

based services for individuals with developmental disabilities.

Figure 8

Summary of Special Session Spending Augmentations in AB2X 1 (Thurmond)

(In Millions)

Enacted Spending Proposal[a]	General Fund Appropriation	Fixed Appropriation (Y or N)[b]
Community Services Staff Providing Direct Services to Consumers. Rate increases, as determined by DDS, for enhancing wages and benefits for community service provider staff who spend a minimum of 75 percent of their time providing direct services to consumers. Rate increases would only apply to services for which rates are set by DDS or through negotiations between RCs and service providers, as well as supported employment services and vouchered community services. (Employees of the Community State Staff Program are excluded.)	$169.5	Y
RC Staff Salaries and/or Benefits. Increases for RCs to provide RC staff salary and/or benefit increases as allocated by DDS. Would exclude RC unfunded retirement liabilities and RC executive staff.	29.7	Y
RC Administration. RC operations increase, as allocated by DDS, for administration, including for clients' rights advocates contracts.	1.4	Y
Provider Administration Costs. Rate increases, as allocated by DDS, for rates set by DDS or through negotiations with the RC and provider as well as supported employment services and vouchered community-based services.	9.9	Y
5 Percent Rate Increase for Supported Living and Independent Living Services. Five percent increase to rate in effect on June 30, 2016.	18.0	N
5 Percent Rate Increase for In and Out-of-Home Respite Services. Five percent increase to the rate authorized and in operation on June 30, 2016 for family-member provided respite services and in-home respite service agency rates.	10.0	N
5 Percent Rate Increase for Transportation. Five percent rate increase to rates for transportation services in effect on June 30, 2016.	9.0	N
Competitive Integrated Employment Program. Requires DDS to establish guidelines and oversee a program to increase paid internship opportunities for individuals with developmental disabilities that produce outcomes consistent with a consumers Individual Program Plan, as specified, to include incentive payments for supported employment services providers that meet certain goals.	20.0	Y
11.1 Percent Rate Increase for Supported Employment. Provides an 11.1 percent rate increase for supported employment by restoring rates to levels in effect in 2006.	8.5	N
Resources to Support Bilingual RC Staff, Training, and Education Efforts. Provides a fixed amount to implement recommendations and plans to promote equity and reduce disparities in the purchase of services that may include pay differentials supporting bilingual RC staff, cultural competency training, parent education efforts, and other activities.	11.0	Y
Rate Increases for Certain Intermediate Care Facilities (ICFs). Provides a 3.7 percent rate increase to the reimbursement rates in effect in the 2008-09 rate year for dates of service on or after August 1, 2016 for ICFs for the developmentally disabled and continuous nursing care. Implementation subject to federal approvals for related federal funding. Effective for dates of services on or after August 1, 2016.	[d]	
Exemption From Retroactive Reductions for Distinct Part Skilled Nursing Facilities. Prohibits the Department of Health Care Services from implementing or seeking retroactive reductions or reimbursement limitations for services provided by skilled nursing facilities that are distinct parts of general acute care hospitals for dates of service on or after June 1, 2011 and on or before September 20, 2013.	[d]	
Total General Fund Appropriation	**$287.0**	

[a] Spending augmentations effective July 1, 2016, unless otherwise noted.

[b] If a fixed appropriation, total rate increases provided cannot exceed total appropriation amount. Therefore, year-to-year amounts would not vary based on utilization. Amounts for spending that are not fixed will likely vary year-to-year based on utilization such as for transpiration services.

[c] Spending changes also impact the Department of Rehabilitation budget not included in appropriation.

[d] Spending changes impact the Department of Health Care Services budget not included in appropriation.

DDS = Department of Developmental Services and RC = Regional Center.

Source: The Legislative Analyst's Office

Consumers' Rights Advocacy. The department contracts with the State Council on Developmental Disabilities for developmental center resident advocacy, as discussed earlier in the agenda, and Disability Rights California's Office of Clients' Rights Advocacy (OCRA) to provide clients' rights advocacy for people with developmental disabilities who are regional center consumers. Clients' rights advocates help people who have developmental disabilities and their families get the services they need. Such services can include representation in administrative hearings, training about their rights, and investigation into denial of rights in facilities.

Budget Summary. The budget proposes for DDS expenditures of $6.4 billion ($3.8 billion General Fund), a net increase of $394 million (6.6 percent) over the updated current year budget. See table below for more information.

Regional centers are anticipated to serve an average caseload of 291,507 individuals in the current year, and 303,266 individuals in the budget year, an increase of 11,759 or 4.03 percent. It is estimated that developmental centers will house 1,011 residents in 2015-16 and 847 residents in the budget year, a reduction of 164 or 16 percent.

Department of Developmental Services Funding Summary

	2015-16	2016-17	Difference	Percent Change
Community Services	$5,335,142	$5,774,088	$438,946	8.2%
Developmental Centers	574,160	526,037	-48,123	-8.4%
Headquarter Support	46,018	49,609	3,591	7.8%
Total	**$5,955,320**	**$6,349,734**	**$394,414**	**6.6%**
General Fund				
Community Services	$3,129,340	$3,426,912	$297,572	9.5%
Developmental Centers	348,778	307,481	-41,297	-11.8%
Headquarter Support	29,857	32,673	2,816	9.4%
Total	**$3,507,975**	**$3,767,066**	**$259,091**	**7.4%**

Budget proposals, not discussed further in the agenda, include:

1. **Audit Findings.** The budget includes $42.5 million General Fund in 2015-16 and $3.8 million General Fund in 2016-17 in payments to the Department of Health Care Services related to audit findings of inappropriate claiming of federal funds. DDS intends to transfer excess expenditure authority for purchase of services in the current year (as lower costs are anticipated) to support the repayment of federal funds as a result of developmental center audits.

2. **Current Year Supplemental Appropriation.** The Administration indicates that it will likely seek a supplemental appropriation in the current year for $3.3 million General Fund as a result of non-level-of-care and level-of-care staffing adjustments, costs to support the acute crisis center at the Sonoma Developmental Center, and additional costs associated with the closure of the Sonoma Developmental Center.

3. **Caseload and Utilization.** The budget includes a $235 million ($149 million General Fund) increase in regional center operations and purchase-of-services (POS) in 2016-17. The major increases in POS services are within the day programs, support services, in-home respite, health care, and miscellaneous budget categories to reflect updated expenditure data and projected consumer population growth. The budget reflects a $43.4 million ($68.6 million) decrease in regional center expenditures for 2015-16, a 0.82 percent decrease, as a result of expenditure growth occurring at a slightly slower pace than previously estimated.

4. **Minimum Wage Increase.** The budget includes $124.7 million ($70.1 million General Fund), an increase of $62.4 million ($35 million General Fund), in POS to fund the requirements of AB 10 (Alejo), Chapter 351, Statutes of 2013, that increased the state minimum wage from $9.00 to $10.00 effective January 1, 2016.

5. **Transition of Behavioral Health Treatment (BHT) Services to Medi-Cal.** The budget includes a $4.5 million ($2.2 million General Fund) decrease in POS to reflect a reduction in expenditures for consumers who began receiving BHT services in September 2014 as a Medi-Cal benefit, pursuant to SB 870 (Committee on Budget and Fiscal Review), Chapter 40, Statutes of 2014. The transition of BHT services for regional centers consumers began in February 2016 and is occurring on a phased-basis.

Savings from Closing Developmental Centers. As required by SB 82 (Committee on Budget and Fiscal Review), Chapter 23, Statutes of 2015, the budget includes information related to the estimated savings from closing down developmental centers and the costs to develop community resources and oversee closure activities. SB 82 stated the Legislature's intent that savings derived from developmental center downsizing and closure benefit persons with developmental disabilities living in the community. DDS does not identify any savings related to closures, but instead $98 million ($76.1 million General Fund) in expenditures necessary to develop community resources and implement closure-related activities. In 2015-16, DDS estimates $8.8 million ($4.9 million General Fund) in savings related to position reductions at developmental centers and $137.7 million ($108.2 million General Fund) in expenditures related to community development and closure activities. According to the department, as experienced in the closure of the Lanterman Developmental Center, savings are not realized until the developmental center is actually closed as there is a need to maintain a base level of developmental center staffing and infrastructure.

Subcommittee Staff Comment and Recommendation—Information Item. It is anticipated that the May Revision will contain proposals related to the implementation of changes adopted in the special session, such as headquarters staff increases.

Questions.

1. Please provide a brief overview of the department and budget.

2. Please provide an update on the implementation of the special session legislation.

3. What is the status of the departments' contracts for consumer rights advocacy? When will these contracts expire? Has the department released the request for proposal (RFP) for the regional center consumer rights advocacy contract? If not, when is it expected that the RFP will be released and the contract awarded?

Issue 2: Closure of Developmental Centers

Oversight and Budget Issue. The budget proposes the following related to the closure of the developmental centers.

1. **Headquarters Resources for Developmental Center Closures.** DDS requests $2.1 million ($1.8 million General Fund), eight new positions, and the redirection of five vacant positions for staffing and contract resources needed to support the continued efforts for the closure of the Sonoma Developmental Center and the initial closure efforts for the Fairview Developmental Center and the Porterville Developmental Center -General Treatment Area (GTA).

   According to DDS, these additional resources will oversee the accelerated movement of consumers from the developmental centers (DCs) into the community and the closure of facilities. This workload includes, but is not limited to, developing community facilities and consumer programs, supporting layoff activities, resolving workers compensation cases, reconciling payroll and benefits, ensuring accuracy of financial records and reporting, supporting information technology (IT) activities, conducting equal employment opportunity (EEO) investigations, and collaborating and communicating closure plans and progress with stakeholders.

   This proposal specifically requests to hire or redirect vacant positions as follows:

   - Community Services Division
     - One Nurse Consultant III – Specialist
     - One Community Program Specialist II
     - Two Dental Consultant I

   - Administrative Support
     - One Senior Accounting Officer (via redirection)
     - One Associate Personnel Analyst
     - One Senior Personnel Specialist
     - Two Associate Governmental Program Analyst (via redirection)
     - One Systems Software Specialist II

   - Office of Human Rights and Advocacy Services
     - One Associate Governmental Program Analyst (via redirection)

   - Director's Office
     - One Associate Governmental Program Analyst (via redirection)

   In addition to the staffing, this proposal requests contract funding of $486,000 General Fund for services including $236,000 for dedicated licensing resources from the California Department of Social Services (CDSS) Community Care Licensing Division; and $250,000 to expand the current scope of DDS' mortality analysis, as well as provide training and technical assistance to regional centers and service providers to mitigate special incidents in the community.

2. **Development of Community Resources.** The budget includes $146.6 million ($127.2 million General Fund) to assist in the development of community resources for placement of current developmental center residents. This includes $24.5 million for Sonoma Developmental Center, $29.7 million for Fairview Developmental Center, and $24.6 million for Porterville Developmental Center. See table below for details.

Table 1: Community Placement Plan (CPP) 2016-17 Funding Summary

	Sonoma	Fairview	Porterville	Regular CPP	Total
Operations	$3,616,000	$1,212,000	$606,000	$15,265,000	$20,699,000
Purchase of Services					
Start-Up[1]	$10,637,000	$25,575,000	$21,950,000	$27,265,000	$85,427,000
Assessment[2]				$1,500,000	$1,500,000
Number of Consumers				878	878
Placement[3]	$10,247,000	$2,886,000	$2,063,000	$22,824,000	$38,020,000
Number of Consumers	54	24	17	145	240
Deflection[4]				$1,000,000	$1,000,000
Number of Consumers				70	70
Total	**$24,500,000**	**$29,673,000**	**$24,619,000**	**$67,854,000**	**$146,646,000**

[1]Start-Up – These expenditures are related to development of new facilities, new programs, and program expansion.
[2]Assessment – These expenditures are for individualized and comprehensive identification of consumer supports and services needed for stabilized community living.
[3]Placement – These expenditures are for the phase-in of consumers to community settings based on consumer-specific information.
[4]Deflection – These expenditures are for related services needed to deflect the admission of individuals into developmental centers.

With this additional funding, DDS anticipates building additional community capacity for 102 Sonoma DC residents, 170 Fairview DC residents, and 131 Porterville-GTA DC residents.

3. **Closure Activities.** The budget includes $18 million ($12 million General Fund) to resolve open workers' compensation claims, inventory and archive clinical and historical records, execute an independent monitoring contract as stipulated by the federal government, and relocate residents and their personal belongs.

4. **Developmental Center Staffing Adjustments.** The budget includes an $8.8 million ($4.9 million General Fund) decrease and a total reduction of 129.2 positions (63.1 level-of-care and 66.1 non-level of care) based on an estimated population decline of 188 developmental center residents transitioning into the community. This reduction reflects adjustments to staffing for specialized support and closure activities.

5. **Assessment of Sonoma DC Property.** Through an April Spring Finance Letter, the Administration requests $2.2 million General Fund to contract with the Department of General Services for an assessment of the Sonoma DC property, buildings, and clinical records. These funds would be used to complete the second and third phase of an environmental site

assessment and architectural historical evaluation of Sonoma DC. DDS proposes to use current year funds of $190,000 to complete the first phase initial site assessments. According to the Administration, these assessments will help determine: (1) the property value, (2) restrictions on land use, and (3) the potential cost of future investments on the property.

Background. DDS is required under the Lanterman Developmental Disabilities Services Act to provide services and supports for individuals with intellectual/developmental disabilities, and through those services, help each individual live the most independent and productive life possible. At one time, the department operated seven DCs in the state, providing habilitation and treatment services on a 24-hour basis to ensure the health and safety of residents. In the mid-1990s the department closed the Camarillo and Stockton DCs. More recently, in 2009, the Department closed the Agnews DC, followed by the Lanterman DC closure in 2014. Currently, DDS operates three DCs in Sonoma, Porterville, and Costa Mesa (Fairview), as well as one community based facility - Canyon Springs, in Cathedral City. The DCs are licensed under three categories: General Acute Care (GAC), Nursing Facility (NF) residential units, and Intermediate Care Facility (ICF) residential areas. The state-operated community-based facility is smaller and is licensed as an Intermediate Care Facility (ICF).

AB 1472 (Committee on Budget), Chapter 25, Statutes of 2012, imposed a moratorium on admissions to DCs except for individuals involved in the criminal justice system and consumers in an acute crisis needing short-term stabilization. The DC resident population has dropped from a high of 13,400 in 1968, with thousands on waiting lists for admission, to 1,038 as of December 23, 2015. Consistent with the recommendations of the *Plan for the Future of Developmental Centers in California* and the call for the transformation of DC services, the 2015 May Revision proposed to initiate the closure planning process for the remaining developmental centers.

In response to SB 82 (Committee on Budget and Fiscal Review), Chapter 23, Statutes of 2015, which required the department to submit a plan or plans to close one or more developmental center(s) to the Legislature by October 1, 2015, the department submitted a plan to close Sonoma by December 31, 2018. On April 1, 2016, DDS submitted to the Legislature a plan for the closure of the Fairview Developmental Center (Fairview) and the Porterville Developmental Center – General Treatment Area (Porterville GTA) by the end of December 2021.

Historically, the department has received federal Medicaid funds for operation of the DCs. However, this past year the California Department of Public Health (CDPH), acting on behalf of the Centers for Medicare and Medicaid Services (CMS), terminated the ICF/DD Provider Agreement for Sonoma due to ongoing non-compliance with the federal conditions of participation. In response, the department negotiated with CMS, and entered into a settlement agreement to extend the provider agreement for Sonoma until July 2016 with the option for reconsideration to extend the termination date to July 1, 2017. CDPH notified both Fairview and Porterville-GTA that they will be decertified effective December 1, 2015, and subsequently the termination dates were extended to April 15, 2016. DDS has appealed these actions and is currently in negotiations with CMS for settlement agreements for Fairview and Porterville-GTA. If DDS is unable to negotiate settlements with CMS for these three centers for 2016-17, $92.4 million in federal funds would be lost ($33.6 million for Porterville, $32.4 million for Fairview, and $26.4 million for Sonoma). If DDS in unable to negotiate a settlement agreement for Fairview and Porterville-GTA in the current year, an estimated monthly $2.7 million for Fairview and $2.8 million for Porterville in federal funds would be lost.

The 2015-16 budget includes funds for the initial development of community residential and non-residential resources to serve residents of Sonoma, as well as regional center and headquarters funding to support the activities related to the safe closure of Sonoma by the end of 2018. More specifically,

the 2015-16 budget provides $49.3 million ($46.9 million General Fund) for additional Community Placement Plan (CPP) funding to begin developing community resources to support the transition of Sonoma DC residents, as well as to contract with an independent risk management company to conduct data analysis, training, and technical assistance in mitigating consumer risks.

Of the base (regular) and DC closure related CPP funds, all of the funds have been allocated to the RCs except for $778,165 in SDC related funds. DDS is currently receiving requests from some of the six RCs to utilize those funds. Approximately 75 percent of the RC's projects have been awarded (based on updates through 2/29/2016). DDS has communicated with the six SDC RCs about allowing enough time to either 're-RFP' a project or propose to repurpose funds for an alternative project. All 2015-16 projects need to be awarded and have the funds encumbered by June 30, 2016.

The 2015-16 budget also includes $1.3 million General Fund and seven positions at DDS headquarters to supplement the current administration of the CPP, and to develop the necessary resources to support the closure of Sonoma by the end of calendar year 2018. Finally, the 2015-16 budget reauthorized five headquarters positions that supported the Lanterman DC closure, and redirected them as permanent positions in headquarters for the support of the statewide DC downsizing and closure activities.

Senate Oversight Hearing on DC Closures. On February 23, 2016 the Senate Human Services Committee and Senate Budget Subcommittee No. 3 held a joint oversight hearing on the proposed closures of developmental centers. At this hearing, stakeholders and DDS discussed the lessons learned from previous closures of developmental centers in California, examined the proposal for the closure of Sonoma Developmental Center, currently before the Legislature, and discussed issues associated with the proposed closures of Fairview Developmental Center and the general treatment program at Porterville Developmental Center. Additionally, panelists reviewed the process for moving persons from a developmental center to the community, how the department will maintain quality services and supports for persons residing at developmental centers throughout the closure process, how the resources at the developmental centers will be utilized following closure, how the department will ensure the quality, stability and appropriateness of services and supports provided to persons once they have moved to the community, and the role of the state in providing safety net services for all Californians with developmental disabilities in crisis or in need of a placement of last resort once the developmental center option is no longer available.

Legislative Analyst's Office (LAO). Because of a continued risk of losing additional federal funding and the inherent uncertainty and challenges in addressing this risk, the LAO withholds recommendation on the Governor's federal funding assumptions pending additional information from the Administration. The LAO recommends the Legislature request DDS to report at budget hearings on:

- The DDS' progress in meeting the terms and conditions of the Sonoma settlement agreement, including specific milestones met; findings from recent DPH surveys and court monitor reviews and their potential impact on federal funding; and next steps towards extending federal funding through June 2017.
- The status of settlement negotiations with the federal government regarding Fairview and Porterville DCs as well as findings from any recent DPH surveys and reviews and their potential impact on federal funding.

Additionally, the LAO notes that it supports the Administration's proposal in concept to provide additional CPP funding tied specifically to the closure of the three DCs, but withhold recommendation on the specific amounts pending additional and updated information.

Subcommittee Staff Comment and Recommendation—Hold Open. The Legislature is in receipt of the Administration's proposed closure plans for the three DCs, the issues discussed below should be considered as the Legislature evaluates and modifies these closure plans through the budget process.

1. Closer Monitoring of Community-Based Services Development and Transition Planning for Developmental Center Movers is Needed. In the current year, DDS projected that 202 consumers would transition out of developmental centers. As of December 31, 2015, only 62 consumers had transitioned (five from Canyon Springs, 15 from Fairview, 28 from Porterville, and 14 from Sonoma). The budget projects that 240 residents will transition from developmental centers to community based services in 2016-17.

The transition of consumers involves not only the physical development of residential capacity, but also transition planning between the consumer, the regional center, and the developmental center. DDS, regional centers, and many stakeholders appear confident that sufficient funding was included in the 2015-16 and is proposed to be included in the 2016-17 budget to develop the needed residential capacity. Additionally, DDS has indicated that lesson's learned from the closure of the Agnews and Lanterman DCs has provided insight on managing and tracking completion of these residential projects. The table below describes the types of residential projects proposed to be developed for the Sonoma residents.

Table 2: Projected Number of Beds Being Developed by Facility by Regional Center For Sonoma Developmental Center Consumers As of January 31, 2016

		Projected Number of Beds Being Developed by Facility Type				
Regional Center	**Sonoma DC Consumers**	**ARFPSHN**	**SRF**	**EBSH**	**ICF**	**Total**
Far Northern	10	5	26			31
Alta California	47	25	47	8		80
North Bay	84	40	44	20		104
Golden Gate	87	24	83		6	113
East Bay	116	49	36	16		101
San Andreas	10		8	12		20
Total	**354**	**143**	**244**	**56**	**6**	**449**

ARFPSHN - Adult Residential Facility for Persons with Special Healthcare Needs
SRF - Specialized Residential Facility
EBSH - Enhanced Behavioral Supports Home
ICF - Intermediate Care Facility

For these facilities, DDS has provided a seasonal timeline for estimate completion of these projects. As noted below, DDS projects that almost all of the residential developments will be completed by the summer of 2018 (before the planned closure of Sonoma DC).

Table 3: Sonoma Developmental Center
Residential Development Seasonal Timeframe for Completion
As of February 29, 2016

Regional Center	2015				2016			
	Spring	**Summer**	**Fall**	**Winter**	**Spring**	**Summer**	**Fall**	**Winter**
ACRC	0	0	0	0	6	1	2	2
FNRC	0	0	1	0	2	4	0	1
GGRC	0	0	0	0	2	2	0	0
NBRC	0	0	0	3	2	3	0	2
RCEB	0	0	0	0	2	1	2	1
SARC	0	0	0	0	0	1	0	0
Total	**0**	**0**	**1**	**3**	**14**	**12**	**4**	**6**
	2017				**2018**			
	Spring	**Summer**	**Fall**	**Winter**	**Spring**	**Summer**	**Fall**	**Winter**
ACRC	11	0	0	3	0	0	0	0
FNRC	0	0	0	1	0	0	0	0
GGRC	18	0	0	0	5	0	0	0
NBRC	0	2	0	0	6	12	0	0
RCEB	17	0	0	3	0	0	0	0
SARC	0	3	0	1	0	0	0	1
Total	**46**	**5**	**0**	**8**	**11**	**12**	**0**	**1**

However, in terms of transition planning for Sonoma residents, it appears that only six percent of the Sonoma residents have begun any type of transition activity. As shown in the chart above, in the spring and summer of 2016, 26 residential projects will be completed. However, it is highly unlikely, given the transition planning noted below, that very many individuals would transition this spring and summer.

Additionally, as discussed in detailed at the oversight hearing in February, stakeholders highlighted the need for the state to pay for beds that are "on hold" for a person transitioning out of a developmental center if the transition process takes longer than anticipated. It is unclear how the Administration is considering this as it plans for the development of residential capacity and transitioning planning.

Table 4: Sonoma Developmental Center
Status of Transition Planning by Regional Center
As of March 1, 2016

SDC Transition Activity

As of 3-1-16	ACRC	FNRC	GGRC	NBRC	NLARC	RCEB	RCRC	SARC	SCLARC	TCRC	VMRC	NF	ICF		Grand Total
Current Pop	45	10	85	88	1	113	6	9	1	1	3	158	204	0	362
Of the current population, number who have had initial activity (e.g., Meet & Greet) only	0	1	4	3	0	2	0	0	0	0	0	9	1	0	10
Those who have had initial activity and a Transition Planning Meeting (TPM)	0	0	1	0	0	0	0	0	0	0	1	0	2	0	2
Those who have had a TPM and have an identified placement/scheduled move date	1	0	1	1	0	6	0	0	0	0	1	2	8	0	10

These numbers are as of 2/29/2016 and DO NOT INCLUDE STAR Home

2. Ensuring DC Movers Have Access to Specialized Health Services. According to the closure plans, DDS will provide key specialized health care/clinic services at the DCs, currently being received by DC residents, on an ongoing basis throughout the transition process, and until necessary services are established and operational in the community. These services include, but are not limited to, medical, dental, adaptive engineering, physical therapy, orthotics, mental health, and behavioral services. However, specific proposals on how DDS will ensure that consumers leaving DCs will have access to these specialized services have not been provided. For people with disabilities, for example, routine dental care is more difficult to provide and access to these specialized services may not be available in the community. Rate differentials, dental coordinators, and the development of specialized clinics have been cited as potential mechanisms to ensure access to these specialized services in the community.

Subcommittee staff notes that DDS has hired (as a retired annuitant) the former executive director of the Agnews Developmental Center. As part of previous closures, he played a key role in developing and implementing special managed health care provisions by working with the Department of Health Care Services, the regional centers, and the health plans. He also directly supported closure activities at the developmental center site. He is now performing similar duties for the closures of the three remaining developmental centers. While this appears to be a step in the right direction, it will be important for specific proposals to be identified and implemented timely.

3. Details on Crisis Services Capacity and "Placement of Last Resort" Are Not Yet Available. DDS proposes to continue to operate the Southern and Northern STAR (Stabilization, Training, Assistance, and Reintegration) crisis homes at Fairview DC and Sonoma DC, respectively, during the closure process. However, the closure plans do not set forth the Administration's proposal for ensuring access to crisis services post closure. The Administration has noted for months that it is open to discussions regarding the need to develop additional crisis capacity and "placements of last resort;" however, it appears they are no further along in these discussions. Similarly, with the closing of state-

run DCs, it is important to understand and specify how the state will maintain its role in providing residential services to those whom private sector vendors cannot or will not serve. The Fairview and Porterville closure plan indicate that this issue will be discussed and analyzed through the work of the Developmental Task Force beginning in April 2016.

In addition to ensuring development of crisis capacity, it will be important to ensure that reports of injuries, death, restraint usage, and incidents of seclusion, for example, be reported to the federally mandated protection and advocacy agency.

4. No Budget Proposal on Supports for Developmental Center Employees. The proposed closure plans indicate that DDS is committed to the implementation of employee supports that promote workforce stability and provide opportunities for employees to determine their future. The plans also note that the department will explore the possibility of retention bonuses, state service credit opportunities, and the ability to guarantee positions or specialized training for employees that stay through the end of a closure. However, the budget does not include any proposals related to supports for developmental center employees. The Legislature may wish to engage the department in discussions on any additional supports that may be needed to ensure a smooth transition and to encourage that these professionals who have developed an expertise continue to work with persons with developmental disabilities.

Questions.

1. Please provide an overview of these proposals.

2. Please provide an overview of the Fairview DC and Porterville GTA DC closure plans. How do these plans differ from the Sonoma DC closure plan?

3. Please provide a status update on discussions with CMS regarding settlement agreements for Fairview DC and Porterville DC and an update on discussions with CMS regarding an extension of the Sonoma DC settlement agreement.

4. How does DDS track and synch up resident transition planning and residential project completion? Why hasn't more transition planning for SDC residents occurred given that it is projected that 26 residential facilities will be completed this spring and summer? Is the department on track to transition 202 DC residents into the community in the current year?

5. Is the Administration considering the need to pay for beds that are "on hold" for a person transitioning out of a developmental center if the transition process takes longer than anticipated? Please explain.

6. Please provide an update on discussions about crisis capacity development and identifying "placements of last resort." What is the Administration's timeline for identifying a concrete proposal to address these issues?

7. Please provide an update on policies DDS plans to implement regarding ensuring access to specialized medical services. What is the Administration's timeline for identifying concrete proposals to address this issue?

8. Please provide an update on the Administration's plan to explore the possibility of retention bonuses, state service credit opportunities, and the ability to guarantee positions or specialized

training for employees that stay through the end of a closure. What is the timeline for specific proposals on this?

9. Can DDS please provide the Subcommittee with the information included in tables 2, 3, and 4 for Fairview DC and Porterville-GTA DC?

Issue 3: Porterville Developmental Center – Upgrade Fire Alarm System

Budget Issue. The budget requests $6.5 million General Fund for the construction phase of a project to purchase and install a new fire alarm system (FAS) in 10 buildings (nine consumer utilized and one administrative building) at the Porterville Developmental Center in Tulare County.

Background. The preliminary plans and working drawings phases were funded in the 2015-16 budget. According to DDS, this project continues to be a critical infrastructure improvement and code compliance need for Porterville Developmental Center's consumers, staff, and visitors. This project will integrate with the existing new 96 bed facility FAS, and will provide an updated FAS to the secure treatment facility, the administration building, and transition residences.

The estimated total costs for this project is $7,314,000 and includes:

- Preliminary plans - $309,000
- Working drawings - $493,000
- Construction - $6,512,000

Subcommittee Staff Comment and Recommendation—Hold Open.

Questions.

1. Please provide a brief overview of this proposal.

Issue 4: Oversight of Regional Centers and Community-Based System

Oversight Issue. The Lanterman Act establishes regional centers as private, non-profit agencies, each directed by the policies and decisions of a locally established board of directions. The intent is of this is that these boards and centers are in the best position to understand the needs of the community. While it is important that the services provided by the regional centers reflect the needs of the community, the Lanterman Act establishes a statewide entitlement and it is the responsibility of DDS to ensure that this entitlement is provided in the most effective and efficient means possible.

As shown in the chart below, regional center expenditures have grown from $4.1 billion in 2012-13 to $5 billion in 2015-16, a 22 percent increase. Regional center caseload has grown from 270,601 in 2012-13 to 282,805 in 2015-16, a 12.1 percent increase. While some of this growth in expenditures can be attributable to the transition of individuals from developmental centers to the community and the aging of this population, DDS does not systematically present the reasons for this growth in any budget documentation. Nor does DDS publically provide detailed or analytical regional center caseload or expenditure information.

Regional Center Expenditures Changes from 2012-13 to 2015-16

	Amount Increased	Percent Increased
Operations	$74,363,531	14.49%
Purchase-of-Service	$836,517,668	23.34%
Total	**$910,823,414**	**22.22%**

Additionally, as shown in the chart below, there is great variance in the per capita spending by regional center. For example, the Central Valley Regional Center's per capita expenditure in 2015-16 is $13,929 and Golden Gate Regional Center's per capita expenditure is $29,977. It is likely that a significant portion of this per capita spending difference is related to the costs-of-living differences between the central valley and the Bay Area. The regional centers located in Los Angeles County have a per capita spending variance of about $7,100 (with Westside Regional Center's per capita expenditures at $21,436 and Harbor Regional Center's per capita expenditures at $14,282), where cost-of-living differentials are less significant.

Table: Regional Center Expenditures and Caseload, 2012-13 - 2015-16

	2012-13					2013-14				
	Operations	POS	Total1	Caseload	Per Capita Cost	Operations	POS	Total1	Caseload	Per Capita Cost
Alta California	$33,000,235	$255,473,701	$288,473,936	17,477	$16,506	$34,646,782	$265,221,280	$299,868,062	18,107	$16,561
Central Valley	30,105,401	158,857,892	188,963,293	15,063	12,545	31,974,835	169,368,143	201,342,978	15,588	12,917
East Bay	32,076,924	270,323,094	302,400,018	15,822	19,113	33,092,281	279,138,044	312,230,325	16,239	19,227
Eastern L.A.	19,555,068	141,135,682	160,690,750	9,205	17,457	20,484,458	151,887,797	172,372,255	9,518	18,110
Far Northern	14,046,299	98,506,415	112,552,714	6,496	17,326	14,580,770	103,303,740	117,884,510	6,577	17,924
Frank Lanterman	16,241,702	105,039,197	121,387,389	7,977	15,217	17,495,911	114,847,688	132,447,008	8,438	15,696
Golden Gate	18,730,404	178,476,348	197,206,752	7,927	24,878	19,419,268	189,568,802	208,988,070	8,219	25,427
Harbor	23,226,052	113,848,222	137,139,285	10,656	12,870	24,293,285	122,117,175	146,472,172	11,030	13,279
Inland	47,824,838	251,678,479	299,692,486	24,873	12,049	50,761,457	266,305,339	317,236,161	26,299	12,063
Kern	15,432,485	126,500,003	141,932,488	6,843	20,741	15,891,276	127,300,338	143,191,614	6,964	20,562
North Bay	16,473,169	127,888,292	144,361,461	7,518	19,202	17,270,066	136,775,668	154,045,734	7,661	20,108
North L.A.	34,211,467	254,669,177	289,003,365	18,102	15,965	36,282,816	273,679,248	310,075,257	18,873	16,430
Orange	31,317,007	237,109,785	268,584,824	17,151	15,660	31,620,058	253,752,997	285,510,751	17,263	16,539
Redwood Coast	7,920,459	69,856,048	77,776,507	2,933	26,518	8,191,224	72,583,103	80,774,327	3,010	26,835
San Andreas	27,378,133	270,742,446	298,120,579	13,471	22,131	28,425,067	283,938,411	312,363,478	13,983	22,339
San Diego	37,942,454	223,360,043	261,302,497	19,715	13,254	39,824,735	237,624,586	277,449,321	20,606	13,464
San Gab/Pomona	22,595,419	143,568,072	166,265,875	11,036	15,066	23,947,434	151,504,034	175,548,289	11,579	15,161
South Central	22,583,779	125,443,012	148,147,883	10,791	13,729	24,268,190	135,655,699	160,039,708	11,321	14,137
Tri-Counties	24,758,475	185,138,266	210,006,516	11,459	18,327	25,456,866	194,173,730	219,737,113	11,715	18,757
Valley Mountain	21,618,287	120,323,216	141,941,503	10,499	13,520	22,258,172	124,016,290	146,274,462	10,767	13,585
Westside	16,211,333	126,595,677	142,899,746	7,249	19,713	16,845,132	135,692,474	152,623,275	7,500	20,350
Gross Total	**$513,249,390**	**$3,584,533,067**	**$4,098,849,867**	**252,263**	**$16,248**	**$537,030,083**	**$3,788,454,586**	**$4,326,474,870**	**261,257**	**$16,560**

[1]Includes about $1 million for Family Resource Centers and Early Intervention Program.

	2014-15					2015-16[2]				
	Operations	POS	Total1	Caseload	Per Capita Cost	Operations	POS	Total1	Caseload	Per Capita Cost
Alta California	$36,121,089	$282,775,732	$318,896,821	18,785	$16,976	$37,513,955	$309,019,642	$346,533,597	19,499	$17,772
Central Valley	33,093,097	183,862,378	216,955,475	15,931	13,618	34,261,883	197,929,060	232,190,943	16,670	13,929
East Bay	35,012,715	296,803,112	331,815,827	16,709	19,859	36,946,782	331,133,897	368,080,679	17,607	20,905
Eastern L.A.	21,312,601	163,211,768	184,524,369	9,903	18,633	22,317,784	170,535,900	192,853,684	10,437	18,478
Far Northern	15,037,279	109,644,691	124,681,970	6,727	18,535	15,666,371	120,002,146	135,668,517	7,023	19,318
Frank Lanterman	18,313,743	126,620,284	145,039,465	8,714	16,644	18,922,589	133,514,995	152,543,022	9,033	16,887
Golden Gate	20,101,119	204,670,333	224,771,452	8,348	26,925	20,613,769	233,589,272	254,203,041	8,481	29,973
Harbor	25,234,681	135,192,606	160,490,209	11,213	14,313	26,066,551	141,241,070	167,370,543	11,719	14,282
Inland	54,180,496	304,018,953	358,372,136	27,634	12,969	55,886,277	334,529,061	390,588,025	29,222	13,366
Kern	16,862,788	131,610,042	148,472,830	7,256	20,462	16,708,737	142,726,226	159,434,963	7,485	21,301
North Bay	17,927,901	147,030,667	164,958,568	7,787	21,184	18,593,044	166,187,704	184,780,748	7,901	23,387
North L.A.	38,166,927	296,690,129	334,972,469	19,734	16,974	39,968,370	317,218,871	357,302,654	20,921	17,079
Orange	34,496,887	273,796,321	308,433,605	17,996	17,139	36,487,434	285,057,674	321,685,505	18,809	17,103
Redwood Coast	8,647,477	76,277,275	84,924,752	3,121	27,211	9,185,800	79,465,407	88,651,207	3,301	26,856
San Andreas	29,575,330	299,483,212	329,058,542	14,485	22,717	30,742,894	321,411,168	352,154,062	15,051	23,397
San Diego	42,306,351	258,074,407	300,380,758	21,475	13,987	44,231,719	280,583,893	324,815,612	22,870	14,203
San Gab/Pomona	25,341,195	165,340,880	190,780,795	11,871	16,071	26,019,548	176,204,070	202,322,338	12,170	16,625
South Central	26,375,132	152,616,062	179,109,285	12,066	14,844	26,392,679	159,954,549	186,465,319	12,198	15,287
Tri-Counties	26,941,434	207,881,080	234,931,121	12,115	19,392	27,955,802	220,974,902	249,039,311	12,639	19,704
Valley Mountain	23,296,004	133,923,754	157,219,758	11,060	14,215	24,421,467	145,945,733	170,367,200	11,716	14,541
Westside	17,894,510	150,016,738	167,998,598	7,671	21,900	18,709,466	153,825,495	172,622,311	8,053	21,436
Gross Total	**$566,238,756**	**$4,099,540,424**	**$4,666,788,805**	**270,601**	**$17,246**	**$587,612,921**	**$4,421,050,735**	**$5,009,673,281**	**282,805**	**$17,714**

[1]Includes about $1 million for Family Resource Centers and Early Intervention Program.

[2]Includes allocations as of August 21, 2015. A total of $5,273,588,000 is expected to be allocated in 2015-16 ($620,137,000 for operations and $4,468,704,000).

Additionally, the current system does not provide a mechanism to easily and systematically evaluate the outcomes achieved with these expenditures. While DDS maintains performance contracts with each regional center, the goals and metrics included in these contracts, such as "more adults live in home settings" and "passes DDS audit," do not evaluate the quality of services provided or the outcomes of these services (such as improved quality of life, prevention of secondary conditions, and slowing decline of activities of daily living).

DDS has maintained a consumer satisfaction survey (the National Core Indicators survey), but it is not clear how the results of these surveys were used to hold regional centers accountable for performance, as the last posted survey for children is for 2012-13 and 2011-12 for adults.

Unanticipated Rate Adjustments & Health and Safety Exemptions. State law provides for a mechanism for regional centers to obtain written authorization from the department granting certain rate increases to protect consumer's health and safety. Information required as part of this request includes capacity, proposed rate and supporting justification, an explanation of the health and safety basis of the request and ramifications of a denial, and a signed statement from the regional center executive director that he/she concurs with the information and request being submitted. Although the department does not track the amount of time spent on this process, generally, it takes about 60 days from the date received to the date notifying the vendor of the decision. The following table summarizes the unanticipated rate adjustments, as a result of the unanticipated rate adjustment process.

Summary of Unanticipated Rate Adjustment Requests

	Submitted	Approved	Expenditures for Approved Requests	Denied
FY 2012-13 Totals	6	0	$0	6
FY 2013-14 Totals	16	7	$28,213	9
FY 2014-15 Totals	803	265	$75,406,156	538
Grand Total	**825**	**272**	**$75,434,369**	**553**

Of the 803 requests received in 2014-15, 439 were submitted as a result of the increase in the state minimum wage, effective July 1, 2014, resulting in 257 approved requests.

LAO. The LAO recommends the Legislature require DDS to develop a multiyear strategic plan for RC system financing reform. The LAO thinks that such a plan would formally acknowledge financing challenges that currently exist, provide direction and expected solutions by which to address these challenges, and provide a benchmark for the Legislature to evaluate future budget and policy proposals over time. Further, the LAO thinks such a plan could provide more accountability and transparency to the Legislature and the public in the development of a new financing structure for the RC system. The LAO recognizes that meaningful financing reform will take many years to accomplish and by having a reform plan, the Legislature will be in a better position by which to evaluate progress in meeting reform goals, make necessary adjustments, and ultimately ensure that what moves forward meets the requirements of the consumers served by the RC system.

Subcommittee Staff Comment and Recommendation—Hold Open. The Legislature should consider the following as mechanisms to improve oversight of regional center performance and outcomes of the community-based system:

- **Implement a Quality and Performance Dashboard.** The Legislature may want to consider establishing a quality dashboard for regional centers. The Department of Health Care Services (DHCS) maintains a "Medi-Cal Managed Care Performance Dashboard" that it publishes quarterly. This dashboard contains comprehensive data on a variety of measures including enrollment, health care utilization, appeals and grievances, network adequacy and quality of care by health plan. Information contained in the dashboard assists DHCS and its stakeholders in observing and understanding both individual and statewide managed care plan performance.

- **Report Consumer Complaints.** DDS maintains processes for consumer rights complaints and language access complaints, for example, but does not publically report the number and nature of these complaints. The Legislature may want to consider requiring DDS to publically report on this information by regional center on an annual basis.

- **Require More Detail in Publically-Available Budget Documents.** The current budget documents do not include any details on the caseload or the level of funding per regional center. This type of information should be easily available to the Legislature and public. The Legislature may consider directing the department to include certain basic information regarding regional center expenditures and caseloads and information regarding health and safety waiver exemption requests in its budget documentation.

The goal of these mechanisms would be to advance understanding among policy makers and stakeholders of the performance of regional centers and the community-based developmental services system and to establish a method for ongoing monitoring of system. This would also allow for the ability to identify program trends, risk areas, and successes.

Questions.

1. Please briefly explain how DDS maintains oversight of regional centers and the community-based developmental services system.

2. Is there currently a formalized process for the public, stakeholders, or experts to comment on regional center performance or outcomes from the community-based developmental services system?

3. What data is publically available to allow for general oversight of regional center performance?

4. Concerns continue to be raised indicating that the Health and Safety Waiver exemption process is cumbersome, how is DDS working to streamline this process? Does DDS plan to review this process in light of the rate study included as part of the special session?

Issue 5: Fiscal and Program Research Unit

Budget Issue. DDS requests $923,000 ($630,000 General Fund) for seven new permanent positions and the redirection of one vacant position to establish a Fiscal and Program Research Unit. This unit will provide fiscal and programmatic analyses to assist the department's response to external requests for data and information related to the regional center and developmental center programs, as well as inform accurate, reliable, data-driven decisions.

The purpose of the Fiscal and Program Research Unit will be to compile, research, and analyze data, and prepare reports and information to respond to requests for information. The unit will also develop analytic products to inform policy and assist the department in achieving its mission. The Fiscal and Program Research Unit will provide fiscal and programmatic insight and analysis for the development of accurate, reliable, and data-driven responses, recommendations, and solutions.

To staff the new unit, DDS requests seven new permanent positions and funding to support one vacant redirected position, as follows:

- 1.0 Research Manager II
- 1.0 Research Program Specialist II
- 1.0 Research Program Specialist I
- 1.0 Research Analyst
- 1.0 Associate Information Systems Analyst (Specialist)
- 1.0 Staff Information Systems Analyst (Specialist)
- 1.0 Data Processing Manager II
- 1.0 Office Technician (Redirected Vacant Position)

Background. DDS does not currently have staff dedicated to research and analysis. Other departments that are similarly-sized as DDS have research units and are able to respond to informational requests in a timely manner. In addition, those departments are able to proactively analyze programmatic information, service trends, and other data, as well as conduct in-depth analyses to assist in programmatic decision-making. As DDS' overall expenditures and consumer base continues to grow, the lack of data and analysis of available information is a growing concern. The establishment of an enterprise research and analysis unit will give the department more transparency and improve decision making with solid data.

Some of DDS' most critical issues require reliable and timely data including regional center purchase-of-service expenditure growth, geographically and by regional center; provider services availability and trends in the community service delivery system; disparities data; maximizing the use of third party funds and federal funds; rates; as well as the impact of an increased number of consumers with autism aging out of the school system. Other research issues identified include meeting the needs of individuals with challenging service needs/resource development, compliance with Title 17 regarding special incident reporting requirements, and fair hearing data.

LAO. The LAO recommends approval of this proposal. It finds the request for additional staff and related resources to support in–house analytical and data capacity is warranted. The LAO also recommends that the Legislature identify goals and possible deliverables for this new unit. In thinking about what priorities and possible deliverables might be, the LAO recommends the following key questions and issues for the Legislature's consideration:

- What data gaps exist that could help improve DDS oversight and program operations and how might this new unit address these gaps? How will recent changes to reporting requirements for RCs and providers as part of special session legislation help address these gaps?
- What data and analysis should this new unit provide publically and how often?
- How will this new unit work with other key sister agencies, such as DHCS, California Department of Education (CDE), and DPH, in efficiently leveraging data, research, and analytical capacity?
- How will this new research unit help support reform efforts for RC operations and provider rates?

Subcommittee Staff Comment and Recommendation—Hold Open. DDS's proposal to create a fiscal and program research unit is worthwhile. Many other health and human services departments have similar units and provide valuable research to guide policy decisions. According the proposal, the primary function of the unit would be to compile, research, and analyze data; prepare reports; and develop analytic products to inform policy and assist DDS in achieving its mission. The Legislature may want to specify metrics and analyses that it wants regularly reported. For examples:

- **Analysis of Disparities in Regional Center Services.** DDS and regional centers are required to annually collaborate to compile data in a uniform manner relating to POS authorization, utilization, and expenditure by regional center and by specified demographics including age, race, ethnicity, primary language spoken by consumer, disability, and other data. Additionally, as required by SB 82, annual performance objectives are included in DDS's contract with each regional center to measure progress in reducing disparities and improving equity in POS expenditures.

  A review of 2014-15 data, indicates that in most regional centers, the per capita expenditures for "white" consumers aged 22 years and older is higher than expenditures for Asian, African-American, or Latino. There has not been an analysis of the causes of these differences or even an investigation into the differences. The Legislature may want to direct this new research unit to analyze this data and develop methodologies to link these data to future policy changes.

- **Transparency in Regional Center Per Capital Expenditure Variances.** As discussed earlier in the agenda, there are significant variances in the per capita expenditures by regional center expenditures. The Legislature may want to direct this new research unit to evaluate these differences and to publically provide analysis as to the reason for these variances.

- **Analysis Linking Caseload Demographics to Trends in Regional Center Expenditures.** DDS collects various types of data on demographics, diagnosis, and service utilization; however, linking and analyzing this information for purposes of understanding budgetary trends and changes does not routinely occur. The Legislature may want to require certain analytics related to explaining budgetary changes.

Questions.

1. Please provide an overview of this proposal.

2. Has the department considered specific metrics that it plans to annually review and report out on? What are they?

Issue 6: Federal Fair Labor Standards Act Implementation

Oversight and Budget Issue. The budget includes $86.5 million ($46.7 million General Fund), an increase of $54.2 million ($29.2 million General Fund), in purchase of services to reflect full year implementation of the federal Fair Labor Standards Act (FLSA) to include home care workers in overtime compensation.

Background. Effective October 1, 2015, new regulations by the federal Department of Labor revised the implementation of FLSA to include home care workers, also known as personal care assistants, in overtime compensation.

SB 856 (Committee on Budget and Fiscal Review), Chapter 30, Statutes of 2014 authorized a 5.82 percent rate increase for in-home respite agency services, personal assistance, and supportive living services, which was scheduled to begin on January 1, 2015, to implement FLSA. However, given court actions, this rate increase did not go into effect until December 1, 2015. There are no hour caps on overtime for DD providers, as compared to the overtime caps on In-Home Supportive Service (IHSS) hours, for example.

SB 82 (Committee on Budget and Fiscal Review), Chapter 23, Statutes of 2015 requires DDS to report at budget hearings on the impact of the federal Fair Labor Standards Act on individuals with developmental disabilities.

Subcommittee Staff Comment and Recommendation—Hold Open. Concerns have been raised that implementation of FLSA could negatively impact some DD consumers. Although a DD rate increase was provided specifically for FLSA purposes, some providers are eliminating overtime expenditures and instead hiring additional workers. For consumers with significant needs, continuity of support and consistency of a worker are critical for wellbeing and good outcomes.

Although the Lanterman Act requires regional centers to use generic services (e.g. IHSS, Medi-Cal, public school, California Children's Service) when available, with implementation of FLSA, generic services (e.g., IHSS) may not be appropriate for a consumer's need for staff continuity and staff expertise. Consideration could be given to guiding regional centers during the individual program plan process to evaluate if generic services are appropriate and if not appropriate the consumer would not be required to utilize those services.

Questions.

1. Please provide an overview of this proposal.

2. As required by SB 82, please provide an update on the impact of FLSA on individuals with developmental disabilities.

Issue 7: Home and Community-Based Services (HCBS) Federal Requirements

Budget Issue. DDS requests the following to comply with new federal Home and Community-Based Services regulations:

1. Headquarters - $483,000 ($330,000 General Fund) and four positions to support the immediate workload associated with the state's transition plan and direct regional center and service provider efforts to comply with the Centers for Medicare and Medicaid Services' (CMS) new regulations for Medicaid-eligible home and community-based settings. The new, comprehensive regulations create additional workload for planning, training, assessing, and reporting activities to demonstrate compliance by March 2019 in order for the state to maintain the current level of $1.7 billion annually in federal financial participation reimbursements for purchase of services (POS) expenditures.

2. Regional Center Operations - $1.6 million ($0.9 million General Fund) to fund 21 program evaluator positions within the regional centers to ensure HCBS program settings are integrated into the community.

3. Purchase of Services (POS) - $15 million ($11 million General Fund) to fund modifications to some service providers' programs that will be necessary for compliance with HCBS regulations.

4. Budget Bill Language – Provisional budget bill language requiring regional centers to report annually to the department the number of providers receiving these funds.

5. Trailer Bill Language – Placeholder trailer bill language expressing the Legislature's intent to enact Legislation to implement changes necessary to comply with the HCBS regulations.

Background. Recent federal and state actions have articulated a growing preference for the delivery of services and supports that best promote integration and self-direction for persons with developmental disabilities. The implementation of these new initiatives will require a significant shift in how services and supports are provided in California. For example, under new federal home and community-based waiver and state plan regulations (that go into effect in March 2019) waiver-funded services must meet certain criteria, including:

- The setting is integrated and supports full access to the greater community;
- The setting is selected by the individual from among options that include non-disability-specific settings and an option for a private unit in a residential setting;
- Ensure rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Optimizes, but does not regulate, individual initiative, autonomy, and independence in making life choices; and,
- Facilitates individual choice regarding services and supports, and who provides them.

CMS Has Not Yet Approved State's Transition Plan. On November 16, 2015, the Centers for Medicare and Medicaid Services (CMS) sent a letter to the Department of Health Care Services

(DHCS), the lead state agency on this issue, indicating that further information regarding, among other things, the settings impacted by the new HCBS rule, the timelines for many of the milestones outlined within the statewide transition plan (STP), and the state's plan for relocating beneficiaries, if needed. Additionally, CMS noted that:

> *The state has omitted from the STP several key details about the site-specific assessment process including: when provider self-surveys will be completed, how the state will ensure responses from providers, how beneficiary surveys will be matched to provider assessments, how beneficiary and provider surveys will be used to identify settings that require on-site assessment, an estimate of the number of on-site assessments, how the state will ensure coordination across on-site assessments, and how the on-site assessment tool would be used to categorize compliant and non-compliant settings.*

LAO. Overall, the LAO finds that the Governor's proposal for positions and community resources to begin compliance efforts in response to the new federal HCBS rules is a critical next step towards ensuring federal funding for services in the future. However, because the level of resource requirements for RC service providers to achieve compliance is highly uncertain and likely subject to change as described in their analysis, the LAO withholds recommendation on the aspect of the Governor's proposal that provides transition support funding to the provider community pending additional information from the administration.

Subcommittee Staff Comment and Recommendation—Hold Open. Concerns have been raised by providers that the state has not provided sufficient direction on how these new federal rules may impact the various types of providers. While the state is still awaiting direction from CMS, it is essential that state departments, communicate as soon as possible what needs to change and the processes that will be developed to measure and ensure compliance with the new HCBS rule. Clear guidance on what is needed to come into compliance and the state's commitment of resources to support programs to move towards compliance is essential to successful implementation of this new rule.

Additionally, concerns have been raised that the state has not taken a proactive approach in discussions and negotiations with CMS.

This item will also be heard under the Department of Health Care Services (DHCS), as DHCS is ultimately responsible for ensuring California's compliance with these federal regulations.

Questions.

1. Please provide an overview of these proposals.

2. What is the timeline for the submittal of a revised statewide transition plan to CMS?

3. Is DDS prioritizing settings that it will assess? If so, using what criteria? If not, why not?

Issue 8: Self Determination Program

Oversight Issue. Concerns have been raised about the continued delays in implementation of the Self Determination Program (SDP). DDS originally submitted the SDP waiver application in December 2014 and has been working through CMS questions and concerns since then.

The budget includes budget bill language to allow the transfer of up to $2.8 million from local assistance to state operations once federal approval occurs. This represents the estimated General Fund savings in purchase-of-services associated with the SDP program that would be used to offset the administrative costs incurred by the department.

Background. SB 468 (Emmerson), Chapter 468, Statues of 2013 establishes a statewide self-determination program, under which consumers are provided with individual budgets and the ability to purchase services and supports that are consistent with their individual program plan (IPP) and with the assistance of a financial manager. The SDP program must be consistent with the new federal HCBS regulations discussed earlier in this agenda. Under the provisions of SB 468, participation will be limited to 2,500 individuals for the first three years of implementation.

The department has worked with a stakeholder workgroup to design and submit a federal waiver application to the Centers for Medicare and Medicaid Services (CMS). However, on December 11, 2015, the state received a letter from CMS requesting additional information before the waiver could be approved. It is unknown at this time when federal approval will occur.

DDS indicates that is it changing its approach with regard to which services would be included as part of SDP. Originally, DDS did not limit the scope of services and settings that would be included in SDP, with the goal of offering all services and supports that are currently available. However, DDS now indicates that it is working with stakeholders on defining services and settings that are likely already compliant with federal HCBS setting rules (as discussed in the previous agenda item) in the hopes of implementing SDP in a timelier manner.

Subcommittee Staff Comment and Recommendation—Hold Open.

Questions.

1. Please provide an update on the status of the resubmittal of the SDP application. What key milestones must be completed prior to resubmittal? What is the timeline for these milestones?

2. Please explain how and why DDS is narrowing the scope of services that would be included in SDP. What has been the feedback from stakeholders and CMS on this new approach?

Issue 9: Four-bed Alternative Residential Model Homes

Budget Issue. The budget includes:

1. $46 million ($26 million General Fund) to help transition and establish smaller alternative residential model (ARM) four-bed homes for regional center consumers living outside their family. Originally, this model was based on six-bed homes.

2. Provisional budget bill language requiring regional centers to report annually to the department the number of facilities receiving these rates.

3. Trailer bill language to establish a rate schedule for residential community care facilities vendored to provide services to a maximum of four persons with developmental disabilities. This trailer bill language also prohibits regional centers from authorizing any residential service-level changes, if the change would increase state costs.

DDS indicates that there are 4,233 ARM community care facilities (CCFs), serving 21,118 consumers. Of these, 1,618 operate four beds or less and would be eligible for this funding.

Background. The ARM rate structure for CCFs was established in 1988-89. The resulting schedule established 14 rate levels based on the amount of support required by the residents. At the time this rate structure was developed, the rates were based on the assumption that there were six residents in each home. Therefore, all overhead and staffing costs were split six ways to determine the per-resident rate. Over the last several years, a large number of smaller (three to four bed) facilities have been developed based on regional center and consumer preferences. This small facility is also in line with the federal preference toward more individualized settings.

LAO. The LAO recommends the Legislature approve the Governor's new ARM rate proposal in concept, pending additional information on the expected impact and implementation details of this proposal. The LAO finds that this proposal is a reasonable way to meaningfully target spending given the proposal's general alignment with state and federal policy and probability that this change would address an area where there are capacity concerns. The LAO notes that depending on additional information about the current operational environment of these facilities and consumers they are serving, as well as details on how this proposal would be implemented, the Legislature may wish to make modifications to the Governor's proposal to target these providers differently from what is presented by the Governor.

Subcommittee Staff Comment and Recommendation—Hold Open. The current ARM rates, which were based on six residents per facility, do not provide adequate funding for smaller facilities. However, it is unclear how the Administration has budgeted for the number of facilities with five or more beds who might transition to four beds or less given the enhanced rate. Consequently, it is not clear if this projected amount is the total amount available for the establishment of this rate or if it the minimum amount needed to pay this enhanced rate.

Questions.

1. Please provide an overview of this proposal.

2. Does this request for funding represent the total amount available regardless of the number of facilities (i.e., is this a cap)?

Issue 10: Consumer Program Coordinators Funding

Budget Issue. The budget includes $17 million ($12 million General Fund) to fund additional regional center (RC) consumer program coordinator positions to reduce caseload ratios and improve case management functions. Regional center case management services are eligible for federal funding participation for consumers enrolled under the Home and Community-Based (HCBS) waiver. It is estimated that this proposed funding would support the addition of about 200 coordinator positions, about one-third of what is estimated to meet federal caseload ratio requirements.

The budget also includes provisional budget bill language requiring regional centers to report annually to the department the number of staff hired with these additional funds and the effectiveness of these funds in reducing average caseload ratios.

Background. The Association of Regional Center Agencies, in a 2013 report, found that a number of regional centers are not meeting caseload ratio requirements under the HCBS waiver, putting California at risk for a loss in federal funding.

LAO. The LAO recommends approval of the Governor's proposal for increased funding to support improvements in service coordinator–to–consumer ratios and case management functions. The LAO notes that because the Governor's proposal would not support staffing changes sufficient to bring RCs into full compliance with all required caseload ratios, federal funds could still be at risk related to HCBS waiver consumers. While special session actions taken by the Legislature could help mitigate some of this risk, that risk remains to some degree to the extent that RCs are not meeting caseload requirements for HCBS consumers. The LAO recommends the Legislature direct the Administration to report at budget hearings on the benefits, trade–offs, and implementation issues of targeting caseload ratio requirements where federal funds are at risk.

Subcommittee Staff Comment and Recommendation—Hold Open. According to the Administration, at this point it is not requesting the total number of projected coordinators to meet federal caseload ratio requirements because it wants to consider the impact of this proposal and actions taken during the special session (e.g., wage increases for direct care staff) to get a better understanding for the need for these positions.

Given the potential loss of federal funding for not meeting federal ratio requirements, it is unclear why DDS is not requiring regional centers to use this increased funding to address ratio requirements under the HCBS waiver. The Legislature may wish to consider modifying the budget bill language to require regional centers not only report the number of staff hired with the additional funds and the effectiveness of these funds in reducing average caseload ratios, but also information justifying why a regional center, if it chooses, uses this funding for non-HCBS coordinators.

Questions.

1. Please provide an overview of this proposal.

2. Why is DDS providing flexibility on how regional centers can use this funding? Why not direct the funding to address HCBS-related ratio requirements?

Issue 11: Increased Vendor Audit Coverage

Budget Issue. DDS requests $952,000 ($650,000 General Fund) to permanently establish and retain the funding for seven full-time positions previously established as limited-term for the Vendor Audit Section. According to DDS, retaining these positions will enable the department to continue audit coverage and oversight of the more than $4.6 billion in vendor payments that are disbursed each fiscal year within the developmental services system.

According to the department's Vendor Audit Section Work Plan, the section has the capacity to conduct 31.5 audits annually with existing resources, including the seven limited-term positions. Per the audit work plan, the section will focus its efforts on vendors with expenditures in excess of $1 million, which comprises 71 percent of total purchase-of-services (POS) expenditures. There are 852 vendors that meet this threshold and DDS proposes to audit 31.5 of these vendors annually (3.6 percent of vendors with expenditures in excess of $1 million).

Background. The department's Vendor Audit Section is responsible for conducting billing, staffing, contract, expenditure, and whistleblower audits of the more than 30,000 vendors (non-duplicated number of vendors using tax identification numbers) utilized by regional centers (RCs) to provide services and supports to individuals with developmental disabilities. The audits include Medi-Cal providers, and expenditures reimbursed by the federal Home and Community-Based Services (HCBS) Waiver.

In response to budget limitations in the early 1990s, DDS eliminated its audit function. Since that time, DDS has incrementally restored its audit function and increased audit capacity. Most recently in fiscal year 2014-15, the department received seven limited-term positions and funding to address a large backlog of vendor-related whistleblower complaints and increased cases of fraud, waste, and abuse. Currently, there are a total of 35 positions in the audit branch; 14.0 authorized positions to conduct the mandated biennial audits of the twenty-one regional centers; 18.0 positions to conduct vendor audits, and three positions that provide overall management and support services for both RC and vendor audits.

With the addition of the seven limited-term positions in 2014-15, the section initiated 20 vendor audits, plus 17 audits stemming from whistleblower complaints; a 48 percent increase from the prior year. As the section reduces the backlog of whistleblower complaints, it will direct resources to regular vendor audits.

Subcommittee Staff Comment and Recommendation—Hold Open. According to DDS, in the last five years, $25 million in incorrect billings has been identified through vendor audits. Subcommittee staff has requested the LAO to look into what a reasonable level of audit coverage may be for vendors and to assist in the evaluation of whether or not more resources should be directed for this purpose.

Questions.

1. Please provide an overview of this proposal.

2. Of the $25 million in incorrect billings identified through vendor audits in the last five years, how much has been collected or recovered from the vendors?

3. What is the policy reason for not auditing more vendors?

Issue 12: Repeal Prevention Resources and Referral Services Program Statute

Budget Issue. The Governor proposes trailer bill language to repeal obsolete authority for the Prevention Resources and Referral Services (PRRS) program as eligibility for the Early Start program was restored in effective January 1, 2015.

Background. The Prevention Resources and Referral Services (PRRS) program, operated by Family Resource Centers (FRCs), was established in 2011 to provide resource and referral services for children who were not eligible for the Early Start program due to eligibility changes enacted in 2009. With the reversal of these eligibility changes effective January 1, 2015, the children formerly served in PRRS are again eligible for the Early Start program. As a result, the Governor's Budget reflects that the funds ($2 million General Fund) previously allocated to PRRS, are now allocated to the FRCs to provide support for the Early Start program.

Subcommittee Staff Comment and Recommendation—Hold Open.

Questions.

1. Please provide an overview of this proposal.

Issue 13: Standards Authorizing Medical Services by Regional Centers

Oversight Issue. The Lanterman Act currently requires regional centers to use generic services when available. Medical and dental services covered by generic resources, such as Medi-Cal, health plan(s) or private insurance, cannot be purchased by regional centers for consumers enrolled in these insurance plans without proof of denial from the insurance provider and the regional center determines that an appeal by the consumer or family of the denial does not have merit. Regional centers may pay for medical or dental services pending a final administrative decision on the appeal if the family provides verification that an appeal is being pursued.

This policy was implemented in the 2009-10 budget in order to achieve General Fund savings and address the state's budget crisis. At the time, it was estimated that $18.4 million ($17 million General Fund) would be saved through this policy as consumers would use generic services. Estimates and methodology to evaluate if these cost savings were realized are not available.

Subcommittee Staff Comment and Recommendation—Hold Open. Concerns have been raised that this policy presents a cumbersome process for families and delays provision of needed medical care. According to the state's federally-mandated protection and advocacy agency (Disability Rights California), one of the most frequent requests of their Office of Clients' Rights Advocacy is assistance on how to access Medi-Cal services and that these requests usually involve a regional center denying service until a Medi-Cal hearing is requested and resolved. During the last year, this office assisted 281 regional center consumers/families with Medi-Cal issues. Of these, 128 had issues regarding access to Medi-Cal services. In addition to these cases, it is unclear how many consumers/families who are denied service by Medi-Cal and regional center and forego the provision of the service.

Simplification of this process, by no longer requiring the pursuit of an appeal, could assist regional center consumers and individuals transitioning from developmental centers receive timely medical services. If Medi-Cal denies a service and the regional center pays for the service, as long as this service is covered under the 1915(i) state plan program or 1915(c) waiver program, the service eligible for federal financial participation. (Services covered by Medi-Cal and not under the state plan program or waiver program include physician services and inpatient services.)

Questions.

1. Please provide an overview of this issue.

2. Does DDS have an updated estimate for the General Fund savings associated with this policy?