

Senator Richard Pan, M.D., Chair
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Part B

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4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

OVERVIEW AND HEADQUARTERS - ISSUES 1-6

Background: The Department of Developmental Services (DDS) oversees the provision of services and supports to over 330,000 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 (W&I) 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. The remaining recipients are served in three state-operated institutions, known as developmental centers, 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, regardless of income, 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 W&I 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. Eligibility is established through diagnosis and assessment performed by regional centers.

ISSUE 1: BUDGET OVERVIEW

Budget Summary. The department's budget proposes expenditures of \$7.3 billion (\$4.4 billion General Fund) in 2018-19, a net increase of 5.3 percent (5.9 percent General Fund increase) over the updated current year budget. See table below for more information. Given that the declining cost to run developmental centers slated for closure has lowered the overall budget for state-run facilities and services, the year-over-year increases are nearly all due to increasing costs in the community services program. Growth in the number of people served in the community services program and growing costs associated with implementing state minimum wage increases are the primary drivers of these year-over-year increases. Federal funding makes up about 40 percent of the department's budget.

Regional centers are anticipated to serve 317,837 individuals in the current year and 333,024 individuals in the budget year, an increase of 13,749, or 4.5 percent. It is estimated that developmental centers will house 537 residents by the end of 2017-18 and 361 residents by the end of 2018-19, a reduction of 32.8 percent.

Department of Developmental Services Funding Summary
(Dollars in Thousands)

	2017-18	2018-19	Difference	Percent Change
Community Services	\$6,375,499	\$6,858,287	\$482,788	7.6%
Developmental Centers (DCs)	494,798	375,636	-119,162	-24.1%
Headquarters Support	63,156	67,597	4,441	7.0%
Total	\$6,933,453	\$7,301,520	\$368,067	5.3%
General Fund				
Community Services	\$3,786,315	\$4,105,886	\$319,571	8.4%
Developmental Centers	366,617	291,953	-74,664	-20.4%
Headquarter Support	36,232	39,589	3,357	9.3%
Total	\$4,189,164	\$4,437,428	\$248,264	5.9%

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

1. Headquarters.

- Employee Compensation and Retirement. The updated current year budget includes an increase of \$2.2 million (\$1.3 million General Fund) in the current year and an increase of \$0.2 million (\$0.2 million General Fund) in the budget year for employee compensation and retirement adjustments.

2. State Operated Residential and Community Facilities Program (e.g., Developmental Centers).

- Employee Compensation and Retirement. The budget includes an increase of \$17.2 million (\$11.1 million General Fund) in the current year and an increase of \$0.6 million (\$0.4 million General Fund) in the budget year for compensation and retirement adjustments approved through the collective bargaining process.
- Lump Sum Payouts. The current year budget includes an increase of \$7.1 million (\$4.7 million General Fund) to fund lump sum leave balance payouts for separating employees at Sonoma and Fairview Developmental Centers (DCs). The 2018-19 budget includes an increase of \$2.2 million (\$0.8 million General Fund) above the revised current year budget for these payouts.
- Security Costs. The 2018-19 budget includes an increase of \$0.6 million (\$0.5 million General Fund) to provide physical security measures during warm shutdown of both Sonoma and Fairview DCs.

3. Community Services.

- Caseload and Utilization¹. The updated, current year budget includes a \$39.4 million net decrease (\$38.5 million General Fund) in regional center operations (OPS) and purchase of services (POS) as follows: OPS increase of \$54,000 (\$9.5 million General Fund decrease) and a POS decrease of \$39.4 million (\$29.4 million General Fund decrease). The 2018-19 budget includes a \$361.3 million increase (\$275.4 million General Fund increase) in regional center OPS and POS as follows: OPS increase of \$31.4 million (\$34.2 million General Fund) and a POS increase of \$329.9 million (\$241.2 million General Fund).
- Local Minimum Wage. The updated, current year budget includes a \$13.4 million increase (\$6.3 million General Fund) to reflect updated expenditures resulting from the \$10.50 to \$11.00 minimum wage increase effective January 1, 2018. The 2018-19 Governor's budget includes a \$178.5 million increase (\$97.6 million General Fund) in POS to reflect full year costs of the state-mandated hourly minimum wage increase from \$10.50 to \$11.00 that was effective January 1, 2018; as well as the increase from \$11.00 to \$12.00 that is effective January 1, 2019.
- Community Placement Plan (CPP). The budget includes a \$2.8 million increase (\$3.7 million General Fund) in the budget year in DC closure-specific CPP funding to fund placement expenditures for additional DC movers.
- Transition of Behavioral Health Treatment (BHT) Services. The budget includes a \$1.5 million General Fund increase in POS due to a delay in implementing the transition of consumers without an Autism Spectrum Disorder (ASD) diagnosis who receive BHT services to the Department of Health Care Services.
- Best Buddies. The budget includes a \$1.6 million General Fund decrease due to the removal of 2017-18 one-time funding.

Questions:

For Nancy Bargmann, DDS

- *Please provide a brief overview of the proposed budget.*

Staff Recommendation: Hold open.

¹The increase in OPS is due to a slight increase in Intermediate Care Facility Developmental Disabled (ICF-DD) Administration Fees paid to regional centers. The significant GF decrease as compared to the minor OPS expenditure increase reflects an estimated increase in reimbursements from targeted case management, which offsets the General Fund. The decrease in POS reflects updated, actual expenditures from the minimum wage increase, effective January 1, 2017, coming in lower than originally estimated, resulting in a lower base on which expenditures are projected.

ISSUE 2: CENTRALIZE STATEWIDE ACTIVITIES FOR DEVELOPMENTAL SERVICES

Proposal: The budget proposes shifting \$2.1 million (\$1.6 million General Fund) for 15.5 permanent positions from the State Operated Residential and Community Services Program (formerly the Developmental Centers program) to Headquarters.

Background: Historically, Developmental Centers have operated in a decentralized manner, with oversight provided by the Developmental Centers Division within Headquarters. A number of administrative and oversight positions originally located in the DCs were reduced over time, with functions centralized or managed from Headquarters. The 2016 enacted budget included the transfer of nine positions and \$1.0 million in funds from the DC budget to the Headquarters budget for ongoing, statewide activities driven by the developmental center closures. Other similar statewide positions have remained in the support services budgets of various DCs, while the majority of staff filling these positions are located at Headquarters.

Assigning the positions and funding within Headquarters is consistent with the current functions of the positions and provides continuity of services and expertise within the department for ongoing, statewide responsibilities and programs. The reassignment of staff will also enable the department to retain existing, qualified staff who might otherwise seek employment elsewhere because of the uncertainty of their employment status while layoffs are occurring at DCs. Additionally; this proposal is consistent with staffing needs that will continue in the future beyond closures.

Questions:

For Nancy Bargmann, DDS

- *Please provide an overview of this proposal.*

Staff recommendation: Hold open.

ISSUE 3: CLINICAL STAFF FOR COMMUNITY HOMES OVERSIGHT

Proposal: The budget proposes \$2 million (\$1.4 million General Fund) for nine permanent positions to increase clinical staff and expertise within Headquarters to support development and ongoing monitoring of Adult Residential Facilities of Persons with Special Health Care Needs (ARFPSHNs), Enhanced Behavioral Supports Homes (EBSHs), and Community Crisis Homes (CCHs). Specifically, the department requests:

- Three Nurse Consultant III positions.
- Four Behavior Specialist I positions.
- One Senior Supervising Psychologist position.
- One Medical Director position.

Background. Welfare and Institutions (W&I) Code requires the department to certify and monitor regional center oversight of the services provided by ARFPSHNs, EBSHs, and CCHs. In general, departmental on-site monitoring is required by statute at least every six months. The department's responsibilities for each type of home are as follows:

- ARFPSHNs: W&I Code Section 4684.70 (e) "The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with the requirements of this article. The monitoring shall include onsite visits to all the ARFPSHNs at least every six months".
- EBSHs: W&I Code Section 4684.84 (c) "The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with the requirements of this article. The monitoring shall include onsite visits to all the enhanced behavioral supports homes at least every six months for the duration of the pilot project."
- CCHs: W&I Code Section 4698 (e) "The local regional center and each consumer's regional center shall have joint responsibility for monitoring and evaluating the provision of services in the community crisis home. Monitoring shall include at least monthly face-to-face, onsite case management visits with each consumer by his or her regional center and at least quarterly quality assurance visits by the vendoring regional center. The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with their monitoring responsibilities."

Through Community Placement Plan (CPP) funds, the department is developing a variety of community homes to serve residents transitioning from the closing developmental centers, including 91 homes by 2018-19. These new homes are in addition to 45 homes currently operating.

Given the clinical nature of the new homes and the fact that regional center-employed nurses and behavioral professionals must perform the monitoring, the department requires clinical level nursing and behavioral staff to assess their activities. Without appropriate staff, the department will be unable to comply with statutory requirements to complete semi-annual visits to these new community homes, and by extension, evaluate regional center compliance. In turn, the department will be unable to determine whether consumers' health and behavioral needs are being met in the community. The duties of the nurse consultants include, but are not limited to, reviewing plans of operation for ARFPSHNs. Duties for the behavior specialists include but are not limited to, reviewing program plans for CCHs and EBSHs. The senior supervising psychologist will provide clinical expertise and oversight for the EBSHs and CCHs; and the medical director will plan, organize, direct, and consult on medical services within the department as well as assist the director in formulation of policy.

Questions:

For Nancy Bargmann, DDS

- *Please provide an overview of this proposal.*

Staff recommendation: Hold open.

ISSUE 4: INTERNAL AUDIT UNIT

Proposal. The department requests \$295,000 (\$178,000 General Fund) and two positions to begin start-up and planning activities to establish an internal audit unit that will evaluate fiscal and programmatic internal controls, identify areas for improved efficiencies, and provide recommendations for addressing internal deficiencies.

Background. The department oversees 21 regional centers that contract with over 30,000 vendors to provide a variety of services for approximately 318,000 consumers with developmental disabilities. The Audit Services Section contains two units: the Regional Center Audit Unit that performs biennial audits of each regional centers' compliance with contractual requirements, and the Vendor Audit Unit that audits service providers/vendors with whom regional centers contract. Currently, the Audit Services Section's primary focus is the Community Services Program, which supports the development and provision of services for eligible persons with developmental disabilities who reside in the community. The Department does not have dedicated internal audit staff. Because the department does not have internal audit staff, it completes internal audit activities by redirecting regional center and vendor audit staff. On average, Audit Services Section staff spend nearly 800 hours per year on these redirected assignments.

With the pending closures of the State's three developmental centers and transition of the most medically and behaviorally challenged consumers into their communities, the Community Services Program is developing new models of care and safety net services. The department anticipates a need for ongoing monitoring for compliance with new regulations related to these new models and services. Additionally, ongoing monitoring and auditing should occur for both the Secure Treatment Program at Porterville and the Canyon Springs State-operated community facility, which will remain open.

The proposed internal audit unit will be responsible for evaluating the efficiency and effectiveness of the department's internal control processes and presenting audit findings to executive management. The internal audit unit will also conduct follow-up reviews to monitor corrective actions taken to address deficiencies identified in audit reports.

Questions:

Nancy Bargmann, DDS

- *Please provide an overview of this proposal.*
- *How does this unit differ from the Fiscal and Program Research Unit?*

Staff recommendation: Hold Open.

ISSUE 5: UPDATE ON PREVIOUS ACTIONS - FISCAL AND PROGRAM RESEARCH UNIT

Background. In 2016, the department requested and the Legislature approved a new Fiscal and Program Research Unit within the department to 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 to inform accurate, reliable, data-driven decisions. The original purpose of the unit could be categorized into three broad areas:

- Inform policy-making by analyzing data and review scientific evidence;
- Prepare reports and information to respond to internal and external requests for information;
- Develop accurate, reliable and data-driven responses, recommendations and solutions.

The unit began operations in July 2016. In March 2017, the department reported that the following principles guided the unit's workload:

- A commitment to learning more about the causes of and solutions to differences in service access across certain groups of consumers, including communities of color;
- Legislative requirements to assess certain aspects of regional centers, as well as other legislative directives;
- The director's urgent, daily needs for data analysis to make program and policy decisions and provide information to stakeholders; and
- Supporting the analytical and reporting responsibilities of other units in the department, for instance by consulting about data analysis, data quality or data presentation.

In addition, the department recognized that the unit must devote attention to building a thorough, detailed knowledge base about the department's administrative data – including understanding its limitations – and the department's programs and regional center operations. In this context, and through regular discussion of the department's evolving needs, the unit's priorities for FY 2016-17, were identified, as listed below. Ideas for new projects to be implemented in FY 2017-18 or later were also reported at that time and listed below.

Priorities for FY 2016-17

Enhance data analysis and research capacity throughout the department.

- Promulgate professional standards for analyzing and presenting information in the section and in other units.
- Examine and improve data integrity.
- Link data systems across divisions for consistency and improved accuracy and timeliness

Plan and launch a major research project on disparities to service access, with short- and long-term goals and deliverables.

- Assist in crafting the director's Roadmap to Identify and Close Gaps in Service Access.
- Provide data analysis for legislative hearings and briefings and information requests.
- Prepare the first annual assessment of regional center disparities data and plan reports for future years.
- Design a new legislatively-mandated monthly report on progress toward closure of developmental centers; establish a regular process for posting the reports to DDS' website.
- Provide research and data for the director's program and policy decision-making on topics that are not the purview of other units in the department.
- Regional Center Oversight and Accountability: Research, plan and undertake additional data analysis to support the department's oversight of regional centers.

Other Priority Projects Under Consideration

- Analyze the impacts of increased appropriations and rate increases.
- Provide research and data analysis for the director's new Advisory Group on Reducing Disparities.
- Provide analytical support for the department's participation in the Community of Practice on Cultural and Linguistic Competency led by the Georgetown University National Center for Cultural Competence, in partnership with Disability Rights California (DRC), the State Council on Developmental Disabilities (SCDD), University Centers for Excellence in Developmental Disabilities (UCEDDs) at the University of California Davis, the University of California Los Angeles and the University of Southern California/Children's Hospital Los Angeles, and two other stakeholders, if California's proposal is accepted.
- Examine cost drivers, trends and under-utilization of services to better understand some crucial consumer experiences and changing service needs – for example, for individuals at transition points (moving from school-age to adulthood and our aging population) or increases in autism diagnoses.
- Utilize National Core Indicators (NCI) survey data to measure consumer and family outcomes and satisfaction with regional center services.
- Utilize NCI survey data to track progress in increasing cultural competency and reducing barriers to services.

In the 2017 Budget Act the Legislature required the department to present on the status of research projects being conducted by the unit, research priorities for the upcoming fiscal year, and how the research is applied to inform department decision making and service provision.

Questions.

For Nancy Bargmann, DDS

- *Please provide an overview of the Fiscal and Program Research Section.*
- *What are the projects that the unit is currently working on and have already completed?*
- *What are the unit's priorities for the upcoming fiscal year?*
- *How has the department used the unit's work to inform its decision making?*

Staff recommendation: Informational item. No action necessary.

ISSUE 6: EXPANSION OF ELIGIBILITY TO RECEIVE SERVICES**Panelists**

John Doyle, Chief Deputy Director, DDS
Sonja Petek, Legislative Analyst's Office (LAO)
Jacob Lam, Department of Finance
Senator Scott Wilk
Katherine Graham
Carlene Holden, Easter Seals Southern CA

Proposal. The subcommittee has received a proposal from Senator Scott Wilk to expand eligibility under the “age of onset” definition of developmental disability. Senator Wilk states that shifting from the current cutoff from age 18 to before an individual attains 22 years of age will allow these developmentally disabled individuals to receive services from California’s regional centers.

Background. Current law defines a “developmental disability” to mean a disability that originates before an individual attains 18 years of age which continues, or can be expected to continue, indefinitely and constitutes a substantial disability for that individual, including intellectual disability, cerebral palsy, epilepsy, and autism and related conditions, but excluding other handicapping conditions that are solely physical in nature.

The federal government and 38 other states have an age of onset definition of 22 years of age. The federal government changed its age of onset definition from 18 to 22 a full 40 years ago to match modern medical science that the developmental phase of the young brain does not end at age 18 but continues to at least age 22. According to data provided by Senator Wilk, the state share of cost for this eligibility expansion is estimated to be \$3.2 million General Fund for an estimated 394 new individuals in the first year. The Senator's office has provided an extensive fiscal analysis that supports these estimates. This proposal would mostly affect individuals who have suffered from a traumatic brain injury.

Legislative Analyst's Office (LAO). The LAO is currently working with Senator Wilk's office to refine their fiscal estimate. However, the LAO has pointed out the following issues that may increase costs:

- The current fiscal estimate is based on the average cost of DDS services for all ages, whereas it should look at the cost to serve adults. This will increase per person General Fund costs.
- The average per person cost should also include Regional Center operations costs.
- The estimate currently does not include the many adults (age 22 and older) who may now be eligible because their disabling condition occurred between the ages of 18 through 21.

Staff Comment. Note that the department has indicated that it would need to expand or develop new services to accommodate the needs of people with traumatic brain injury.

Staff Recommendation. Hold open.

STATE OPERATED RESIDENTIAL AND COMMUNITY FACILITIES (FORMERLY THE DEVELOPMENTAL CENTERS PROGRAM) – ISSUES 7-9

Please note that the department now refers to its state run programs as the State Operated Residential and Community Facilities program, instead of Developmental Centers. The Governor’s budget proposes approximately \$375.6 million (\$291.9 million General Fund) for the program’s budget. This is a 20.4 percent reduction from 2017-18 funding levels. The budget estimates a June 30, 2018 developmental center population of 537 and a June 30, 2019 population of 361. The budget also reflects a substantial reduction in DC staff from 2017-18 to 2018-19, about 830 positions.

The department is required under the Lanterman Developmental Disabilities Services Act to provide services and supports for individuals with developmental disabilities, and through those services, help each individual live the most independent and productive life possible. At one time, the department operated seven developmental centers in the state, providing habilitation and treatment services on a 24-hour basis to ensure the health and safety of residents. Currently, the department operates three developmental centers in Sonoma, Porterville, and Costa Mesa (Fairview), as well as one community based facility - Canyon Springs, in Cathedral City. The developmental centers are licensed under three categories: general acute care (GAC), nursing facility (NF) residential units, and intermediate care facility/developmental disability (ICF/DD) residential areas. The state-operated community-based facility is smaller and is licensed as an ICF/DD. The developmental center resident population has dropped from a high of 13,400 in 1968, with thousands on waiting lists for admission, to 603 on March 7, 2018².

ISSUE 7: OVERVIEW OF DEVELOPMENTAL CENTERS CLOSURE

Background. In 2015, consistent with the recommendations of the Health and Human Services Agency report entitled “Plan for the Future of Developmental Centers in California,” and the call for the transformation of developmental center services, the May Revision proposed to initiate the closure planning process for the remaining developmental centers. In response to Senate Bill 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 Developmental Center (SDC) by December 31, 2018. On April 1, 2016, the department submitted to the Legislature a plan for the closure of the Fairview Developmental Center (FDC) and the Porterville Developmental Center (PDC) – General Treatment Area by the end of December 2021. The department will continue to operate a secure treatment program (STP) at PDC, which can serve up to 211 people.

For the developmental centers, two state-run crisis units on developmental center grounds, and the state-leased and operated community facility (Canyon Springs), the following tables show the populations remaining, movement in and out, and transition activities occurring for residents, as of December 31, 2017.

Total population for closing facilities declined by 101 from October 1, 2017 through December 31, 2017. Population for non-closure facilities decreased by six for a net decrease in total population of 107. As of December 31, 2017, both the Northern and Southern Stabilization, Training, Assistance, and Reintegration (STAR) homes were at full capacity.

² Based on weekly census data provided by DDS, which includes those residents on leave.

POPULATION			Q2 FY 17/18	
			9/30/17	12/31/17
CLOSURE	Fairview (FDC)	NF	62	59
		ICF	87	76
	Porterville (PDC) GTA	NF	35	27
		ICF	74	61
	Sonoma (SDC)	NF	108	64
		ICF	131	109
	All Facilities	NF	205	150
		ICF	292	246
	Subtotal		497	396
NON-CLOSURE	Canyon Springs (CS)	ICF	48	47
	FDC	Southern STAR	4	5
	PDC STP	ICF	198	192
	SDC	Northern STAR	5	5
	All Facilities	Subtotal	255	249
TOTAL			752	645

Acronyms: *GTA = General Treatment Area; STP = Secure Treatment Program*
NF/ICF = Skilled Nursing Facility/Intermediate Care Facility
STAR = Stabilization, Training, Assistance and Reintegration

120 individuals were placed into the community between October 1, 2017, and December 31, 2017 – 90 of those individuals were from facilities slated for closure. FDC had 13 placements, one from the Southern STAR and two admissions to the Southern STAR; PDC had 19 placements from the GTA and 23 from the STP; SDC placements totaled 60 (one from Northern STAR, and one new admission to Northern STAR). Canyon Springs had five placements and three transfers in PDC STP, and one return from provisional placement. Details are provided in the table below.

MOVEMENT Oct-Nov-Dec 2017		OUT			IN		
		Placements	Deaths	Transfers to DC/CF	New Admissions	Transfers In	Returns from Placement
CLOSURE	FDC	12	2	0		0	0
	PDC GTA	19	1	1		0	0
	SDC	59	7	0		0	0
	Subtotal	90	10	1		0	0
NON-CLOSURE	CS	5	0	0	0	3	1
	FDC Southern STAR	1	0		2		
	PDC STP	23	0	3	19	1	0
	SDC Northern STAR	1	0		1		
	Subtotal	30	0	3	22	4	1
TOTAL		120	10	4	22	4	1

TRANSITION ACTIVITY AS OF 12/31/17	Level of Care	Population 12/31/17**	Exploring Community Options	Meet & Greets	Successful Meet & Greets	Transition Planning Meetings	Transition Review Meetings/ Move Date
FDC (57)*	NF	59	3	6	9	41	0
	ICF	76	4	11	5	54	2
PDC GTA (61)*	NF	27	6	16	0	3	2
	ICF	61	0	0	0	59	2
SDC	NF	64	6	1	6	22	29
	ICF	109	4	1	7	86	11
All Facilities Closing	NF	150	15	23	15	66	31
	ICF	246	8	12	12	199	15
	Total	396	23	35	27	265	46

Despite minor setbacks in 2017-18, the department appears to be on track transitioning DC residents into their communities. The Governor's budget has revised downward its estimate for the number of placements in 2017-18, primarily due to 20 fewer residents moving from Fairview DC than previously estimated. The consumers who currently live at closure DCs, especially Fairview DC, tend to be more medically fragile or have more intensive behavioral treatment needs, on average, than residents who moved in previous years. DC and RC staff work closely with the consumers, their families, and with community-based service providers to ensure successful community placements. Sometimes this means changing the planned date of transition.

At Sonoma DC, the department plans to place 173 residents in 2017-18 (as of December 2017, it had placed more than 80 consumers) and the final 83 in the first half of 2018-19. Fairview DC and the general treatment area of Porterville DC are scheduled to close at the end of 2021, but the Governor's budget estimates the populations will be below 100 at each by the end of 2017-18 and down to 26 and 48, respectively, by the end of 2018-19. Note that the budget includes a \$2.8 million increase (\$3.7 million General Fund) in the budget year in DC closure-specific Community Placement Plan funding to finance placement expenditures for additional DC movers.

SDC Property. The last resident is scheduled to move out of SDC in December 2018. The department will continue to incur “warm shutdown” costs once the last resident leaves. Examples of shutdown activities include building and ground maintenance, disposal of assets, and site security. The 2018-19 budget includes an increase of \$0.6 million (\$0.5 million General Fund) for physical security measures. The Legislature will soon be faced with the decision of what to do with the state-owned property that houses Sonoma DC. The Governor’s budget does not reflect any assumptions about this issue. The Legislature’s options include, for example, transferring the land to another state department; selling the land to a local government, affordable housing developers, or to a private entity; or retaining the property and leasing out various parcels. (For more information on these options please refer to the LAO section of this agenda item).

Federal Funding. The state receives federal funding for DCs from Medicaid. Several years ago, the California Department of Public Health—the state department responsible for licensing and certification at DCs—found the intermediate care facilities for the developmentally disabled (ICF/DD) units at all three DCs to be out of compliance with federal certification requirements. In 2016, the ICF/DD at SDC was decertified and lost federal funding. The ICF/DD units at FDC and the general treatment area at PDC remain certified through a settlement agreement with the federal government. Per the terms of the agreement, the units must be recertified each year and certification can be revoked at any time. The units at both DCs were recently recertified for 2018 and will continue to receive federal funding through December 2018. (The Governor’s budget assumes the ICF/DD units will be recertified in 2019 and federal funding will continue for the balance of 2018-19.) DDS intends to have moved most of the ICF/DD residents into the community by the end of 2019, the time at which federal funding for these units is scheduled to end.

Staffing at DCs. The department is reducing the number of staff at DCs as it places residents into the community. This happens in several ways. First, the Legislature authorized a “community state staff program (CSSP),” which allows DDS to contract with a community-based service provider to hire a DC employee for work in the community. The employee remains a state employee and the service provider covers the full cost of state employee compensation and benefits. The benefit of CSSP is that experienced employees continue to work with DDS consumers, sometimes the individual consumers they served at the DCs. This helps smooth the transition to the community for the former DC residents. The incentive for the employee is retaining state employee status and benefits. CSSP contracts currently last for one year (new contracts will last for two years beginning July 2018), but can be renewed. Currently, 49 former DC employees are employed under CSSP contracts. DDS is authorized to contract for another 220 positions through this program. Second, some DC employees transfer to another state department. Third, some DC employees retire. Fourth, others elect to resign from state service and pursue employment opportunities elsewhere, which could include working directly for a community service provider. For employees who retire or resign from state service, the Governor’s budget requests \$4.7 million General Fund in 2017-18 and \$5.5 million General Fund in 2018-19 to compensate them for unused leave balances.

Crisis Services and Safety Net. DDS is developing community-based safety net and crisis services to replace and expand upon crisis services currently available at SDC and FDC. The development of these resources is discussed in detail under issue nine of this agenda.

LAO. Earlier this year the LAO released a report entitled, “Sequestering Savings from the Closure of Developmental Centers.” This report discussed potential savings in terms of net operational savings and increased revenues from the sale or repurposing of DC properties, and other practical implications and trade-offs of this approach. The main findings of that report are highlighted below:

- Net operational savings could reach \$100 million annually. The LAO estimates that once DC closure activity is complete the state will be saving about \$100 million annually (in today's dollars) due to General Fund avoided costs at DCs combined with new, ongoing annual costs in the community.
- Potential sources of savings that could result from DC closure properties include the selling of DC properties or repurposing (specifically leasing) of properties. Selling properties would reduce the state's liability at these locations and generate an influx of revenue, but the valuation and sale potential of each DC depend on its unique characteristics. The Legislature could instead allow the department to lease portions of the properties to private entities to generate an ongoing source of revenue.
- While earmarking savings from DC closures could provide a potential source of dedicated funding for the department, doing so constrains the ability of future Legislatures to make budgetary decisions. Another consideration is how the Legislature would effectively target savings. Should the Legislature decide to target savings for the DDS system, it would likely want to deposit savings into a special fund and decide how the found could be used.

Questions:For Nancy Bargmann, DDS

- *Provide an update on progress toward closure and whether the department is on track for the announced closure dates.*
- *Please provide an update on the disposition of the SDC property, which is set to close at the end of the year.*

For Sonja Petek, LAO

- *Briefly discuss the findings from the LAO report: "Sequestering Savings from the Closure of Developmental Centers."*

Staff recommendation: Informational item. No action necessary.

ISSUE 8: ACUTE CRISIS SERVICES TRAILER BILL LANGUAGE (TBL)

Proposal. The budget provides TBL to make a technical adjustment to comply with Assembly Bill (AB) 107, Chapter 18, Statutes of 2017, which was the 2017 Developmental Services omnibus trailer bill.

Background. W&I Code 4418.7 authorizes the department to operate one acute crisis unit at each of two DCs (Sonoma and Fairview). The services at each DC are provided on a residential unit that is licensed for intermediate care, and is required to be distinct from other residential units at the developmental center. Capacity is limited to no more than five individuals at one time on each residence.

With the closure of Sonoma and Fairview DCs, continuous state-operated acute crisis services are necessary to meet statewide needs and reduce the dependency on IMDs. DDS plans to continue operating the existing acute crisis services residencies at the DCs through closure, until the services are transitioned into alternative settings. The TBL is a technical change that would allow the continued operation of these services after DC closure. Language is provided on the following pages.

Staff recommendation: Approve as requested. PROPOSED CONSENT.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4418.7 of the Welfare and Institutions Code is amended to read:

4418.7. (a) (1) If the regional center determines, or is informed by the consumer's parents, legal guardian, conservator, or authorized representative that the community placement of a consumer is at risk of failing, and that admittance to ~~a developmental center or State Department of Developmental Services-operated facility~~ an acute crisis home operated by the department is a likelihood, or the regional center is notified by a court of a potential admission to ~~a developmental center consistent with Section 7505,~~ an acute crisis home operated by the department, the regional center shall immediately notify the appropriate regional resource development project, the consumer, the consumer's parents, legal guardian, or conservator, and the regional center clients' rights advocate. For purposes of this section, "acute crisis home operated by the department" includes the acute crisis centers at Fairview Developmental Center and Sonoma Developmental Center.

(2) For purposes of this section, notification to the clients' rights advocate for the consumer's regional center shall include a copy of the most recent comprehensive assessment or updated assessment, and the time, date, and location of an individual program plan meeting held pursuant to subdivision (b). The regional center shall provide this notice as soon as practicable, but not less than seven calendar days prior to the meeting.

(b) In these cases, the regional resource development project shall immediately arrange for an assessment of the situation, including, visiting the consumer, if appropriate, determining barriers to successful integration, and recommending the most appropriate means necessary to assist the consumer to remain in the community. The regional center shall request assistance from the statewide specialized resource service pursuant to Section 4418.25, as necessary, in order to determine the most appropriate means necessary to assist the consumer to remain in the community and shall provide the information obtained from the statewide specialized resource service to the regional resource developmental project. If, based on the assessment, the regional resource development project determines that additional or different services and supports are necessary, the department shall ensure that the regional center provides those services and supports on an emergency basis. An individual program plan meeting, including the regional resource development project's representative, shall be convened as soon as possible to review the emergency services and supports and determine the consumer's ongoing needs for services and supports. The regional resource development project shall follow up with the regional center as to the success of the recommended interventions until the consumer's living arrangement is stable.

(c) (1) If the regional resource development project determines, based on the assessment conducted pursuant to subdivision (b), that the consumer referred to the regional resource development project by the court cannot be safely served in ~~the developmental center or State Department of Developmental Services-operated facility,~~ an acute crisis home operated by the department, the department shall notify the court in writing.

(2) (A) If the regional resource development project, in consultation with the regional center, the consumer, and the consumer's parents, legal guardian, or

conservator, when appropriate, determines that admittance to ~~a developmental center or State Department of Developmental Services-operated facility~~ an acute crisis home operated by the department is necessary due to an acute crisis, as defined in paragraph (1) of subdivision (d), the regional center shall immediately pursue the obtainment of a court order for short-term admission and crisis stabilization.

(B) (i) The regional resource development project, in consultation with the regional center, the consumer, and, when appropriate, the consumer's parents, legal guardian, conservator, or authorized representative, shall not make a determination that admittance to ~~a developmental center or State Department of Developmental Services-operated facility~~ an acute crisis home operated by the department is necessary due to an acute crisis, as defined in paragraph (1) of subdivision (d), unless the determination includes a regional center report detailing all considered community-based services and supports, including a community crisis home certified pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5, and an explanation of why those options could not meet the consumer's needs at the time of ~~such a~~ the determination.

(ii) For purposes of complying with clause (i), the regional center shall not be required to consider out-of-state placements or mental health facilities, including institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, that are ineligible for federal Medicaid funding.

(d) (1) For purposes of this section, an "acute crisis" means a situation in which the consumer meets the criteria of Section 6500 and, as a result of the consumer's behavior, all of the following are met:

(A) There is imminent risk for substantial harm to self or others.

(B) The service and support needs of the consumer cannot be met in the community, including with supplemental services, as set forth in subparagraph (F) of paragraph (9) of subdivision (a) of Section 4648, and emergency and crisis intervention services, as set forth in paragraph (10) of subdivision (a) of Section 4648.

(C) Due to serious and potentially life-threatening conditions, the consumer requires ~~a more restrictive~~ specialized environment for crisis stabilization.

(2) For purposes of paragraph (1), out-of-state placements or mental health facilities and other facilities, including institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for which federal Medicaid funding is not available, shall not be deemed to be supplemental services or emergency and crisis intervention services.

(e) When an admission occurs due to an acute crisis, all of the following shall apply:

(1) As soon as possible following admission to ~~a developmental center or State Department of Developmental Services-operated facility~~ an acute crisis home operated by the department, a comprehensive assessment shall be completed by the regional center in coordination with the ~~developmental center or State Department of Developmental Services-operated facility~~ regional resource development project and the acute crisis service staff. The comprehensive assessment shall include the identification of the services and supports needed for crisis stabilization and the timeline for identifying or developing the services and supports needed to transition the consumer back to ~~the community, a noncrisis community setting~~. The regional center shall immediately submit a copy of the comprehensive assessment to the committing court.

Immediately following the assessment, and not later than 30 days following admission, the regional center and the ~~developmental center or State Department of Developmental Services-operated facility~~ acute crisis home operated by the department shall jointly convene an individual program plan meeting to determine the services and supports needed for crisis stabilization and to develop a plan to transition the consumer into community living pursuant to Section 4418.3. The clients' rights advocate for the regional center shall be notified of the admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(2) If transition is not expected within 90 days of admission, an individual program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of crisis stabilization. If crisis services continue to be necessary, the regional center shall submit to the department an updated transition plan and a request for an extension of stay at the ~~developmental center or State Department of Developmental Services-operated facility~~ acute crisis home operated by the department of up to 90 days.

(3) (A) A consumer shall reside in the ~~developmental center or State Department of Developmental Services-operated facility~~ an acute crisis home operated by the department no longer than six months before being placed into a community living arrangement pursuant to Section 4418.3, unless, prior to the end of the six months, all of the following have occurred:

(i) The regional center has conducted an additional comprehensive assessment based on information provided by the regional center, and the department determines that the consumer continues to be in an acute crisis.

(ii) The individual program planning team has developed a plan that identifies the specific services and supports necessary to transition the consumer into the community, and the plan includes a timeline to obtain or develop those services and supports.

(iii) The committing court has reviewed and, if appropriate, extended the commitment.

(B) The clients' rights advocate for the regional center shall be notified of the proposed extension pursuant to clause (iii) of subparagraph (A) and the individual program plan meeting to consider the extension, and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(C) (i) ~~In no event shall a~~ A consumer's placement at the developmental center or State Department of Developmental Services-operated facility an acute crisis home operated by the department shall not exceed one year unless both of the following occur:

(I) The regional center demonstrates significant progress toward implementing the plan specified in clause (ii) of subparagraph (A) identifying the specific services and supports necessary to transition the consumer into the community.

(II) Extraordinary circumstances exist beyond the regional center's control that have prevented the regional center from obtaining those services and supports within the timeline based on the plan.

(ii) If both of the circumstances described in subclauses (I) and (II) exist, the regional center may request, and the committing court may grant, an additional extension of the commitment, not to exceed 30 days.

(D) Consumers placed in the community after admission to ~~a developmental center~~ an acute crisis home operated by the department pursuant to this section shall be considered to have moved from ~~a developmental center~~ the acute crisis home for purposes of Section 4640.6.

(f) The department shall collect data on the outcomes of efforts to assist at-risk consumers to remain in the community. The department shall make aggregate data on the implementation of the requirements of this section available, upon request.

~~(g) (1) Notwithstanding any other law or regulation, commencing July 1, 2012, and until December 31, 2014, Fairview Developmental Center shall be the only developmental center authorized to admit a consumer pursuant to a court order for an acute crisis, as described in this section.~~

~~(2)~~

~~(g) Commencing January 1, 2015, admissions to a developmental center~~ an acute crisis home operated by the department pursuant to a court order for an acute crisis, as described in this section, shall be limited to the acute crisis center at the Fairview Developmental Center ~~and Center~~, the acute crisis center at the Sonoma Developmental Center, ~~Center~~, or another acute crisis home operated by the department.

(h) The acute crisis center at the Fairview Developmental Center and the acute crisis center at the Sonoma Developmental Center shall each consist of one unit that is distinct from other residential units at the developmental center and shall each serve no more than five consumers. Crisis center residents may participate in day, work, and recreation programs, and other developmental center facility activities, outside of the acute crisis unit, when the individual program plan identifies it is appropriate and consistent with the individual's treatment plan. The acute crisis centers shall assist the consumer with transitioning back to his or her prior residence, or an alternative community-based residential setting, within the timeframe described in this section.

ISSUE 9: SAFETY NET FACILITIES AND ACUTE CRISIS SERVICES**Panelists**

Nancy Bargmann, Director, DDS

Dr. Brad Backstrom, Senior Supervising Psychologist, DDS

Dr. LeeAnn Christian, Safety Net Special Consultant, DDS

Sonja Petek, LAO

Jacob Lam, Department of Finance

Catherine Blakemore, Executive Director, Disability Rights California

Carlos Flores, Executive Director, San Diego Regional Center

Connie Lapin, Board Member, Disability Voices United

Proposal. The Governor's 2018-19 Budget includes \$13.2 million General Fund to operate four acute crisis homes and two mobile crisis teams in 2018-19, an increase of \$5.5 million over the current year budget. Additionally, the budget includes approximately \$7 million General Fund in the RC POS budget to pay for services provided in six new vender-operated safety net homes.

Background. An individual may be admitted to an acute crisis unit if he or she meets the WIC Section 4418.7(d) (1) definition of acute crisis. Individuals are court-ordered to the DC acute crisis service for involuntary treatment, to be provided mental health treatment for stabilization, and to receive all necessary services and supports to prepare them for transition to a less restrictive environment within 13 months. Beginning in 2012 and expanded in 2015, DDS has operated acute crisis services at Sonoma and Fairview DCs with a capacity of five residents each, referred to respectively as Northern and Southern STAR residences. Since the inception of the acute crisis services, the residences have generally operated at full capacity, with individuals waiting for admission once a vacancy occurs. Individuals who cannot be admitted to the DC crisis service are typically admitted to an Institution for Mental Disease (IMD) instead.

The department released its Plan for Crisis and Other Safety Net Services in the California Developmental Services System, otherwise known as the "safety net plan," on May 13, 2017. As part of the May Revision the Administration proposed, and the Legislature approved, a total of \$21.2 million (\$7.5 million in new, one-time General Fund and \$13.7 million from existing funds). The department is currently developing those community-based safety net and crisis services to replace and expand upon crisis services currently available at SDC and FDC. Services will be developed through person centered planning, with a focus on cultural competence, positive behavior supports and trauma-informed care.

Assembly Bill 107 (Committee on Budget), Chapter 18, Statutes of 2017, granted the department authority to expand the use of CPP funds to the entire community services program. Previously, CPP funding was designed specifically to address the community services needs of people moving out of DCs. It has funded the development of new homes and programs and paid transition costs to place these formerly institutionalized consumers in the community. Now the department has the authority to use this funding to address unfunded needs of other community-based consumers in the DDS system.

Safety Net Services Update (As of February 21, 2018)		
Services	Location	Status
STAR Crisis Assessment Response Team (CAST): State-operated acute crisis services out of STAR homes for those 12 or older served by regional centers and at risk of having to move from their family home or out-of-home placement, and being admitted to a more restrictive setting.	Operating out of the Northern and Southern STAR	Began accepting referrals January 2018.
Northern STAR: Two five-bed state-operated homes in 2017-18.	Northern California (North Bay area)	Property search initiated. An architecture consultant has signed on to help with home design. Projected service date of Fall 2018.
Southern STAR: Renovation of two five-bed homes, which will be state-operated.	Mark Lane (near Fairview DC property)	Plans for renovation underway. Architecture consultant will be signed on to help with home design. Next step is to secure permits.
IMD step-down homes (to support individuals transitioning into the community from IMDs): Four four-bed vendor-operated homes.	Far Northern Regional Center (1 home); Alta California Regional Center (1 home); San Gabriel Pomona Regional Center (2 homes)	First homes projected to begin providing services in Fall/Winter 2018.
IMD wrap-around services: Services to include pre-transition risk assessment as needed, assistance with in-depth person centered plan, and consultation before, during, and after transition to residential providers for intensive forensic and psychiatric support.	Statewide	Projected service date of Summer 2018.
Porterville STP step-down homes(to support individuals transition from the STP into the community): Two vendor-operated homes in 2017-18. One four-bed vendor-operated home in 2018-19.	Central Valley	The request for proposal for the service provider has been posted with a submission date of February 23, 2018. Projected service date of Fall/Winter 2018.
Porterville STP wrap-around services: State contractor to provide pre-transition risk assessment, assistance with in-depth person centered plan, and consultation before, during, and after transition to residential providers for intensive forensic and psychiatric support.	Statewide	The department conducted a work group in August 2017 and developed service parameters based on work group. Request for proposal will be posted this month. Projected service date of May or June 2018.

Stakeholder Proposals.

Disability Rights California (DRC), California's statutorily identified consumer protection and advocacy agency, proposes the following related to safety net facilities and acute crisis services:

- A 30-day time limit by when the department must make a determination about whether or not it will deny admission to a DC. Current law restricts DC admissions to individuals who are in acute crisis and individuals who have been found incompetent to stand trial. In May 2017, the department promulgated regulations to govern the process by which it exercises its authority to deny an individual's admission to a developmental center on the basis that the individual cannot be safely served. DRC is concerned with the five to six months the department has given itself to make its "safe-to-serve" determination. During this time, individuals are in jail despite a finding of incompetency or remain in acute crisis without proper services.
- Strengthen protections for individuals placed in IMDs. DRC has a longstanding concern about the number of individuals who remain in IMDs for many years and the inadequacy of transition planning upon admission. DRC proposes the following enhancements to the statute governing IMD admissions: 1) align admission and transition with developmental center acute crisis standards; and 2) change the standards for extension beyond 90 days to 30-day increments (currently the increments are 90 days).
- Grant clients' rights advocates statutory rights to access records for individuals in facilities for which client rights advocates receive statutory notice upon admission. Current law authorizes regional center clients' rights advocates to receive notification when individuals are placed in certain restrictive settings, and to participate in planning for individuals in those settings unless the individual objects on his or her own behalf. Current law also authorizes clients' rights advocates to access the confidential information of consumers who reside in some, but not all, of these settings. DRC proposes amending WIC Section 4514 to allow clients' rights advocates to access confidential records and information for individuals who are placed in settings for which there are also statutory provisions requiring notification of admission to the clients' rights advocate and ability of the clients' rights advocates to meaningfully participate in post-admission planning meetings.
- Adequacy of safety net. DRC has concerns about community capacity and adequacy of services, particularly crisis services, as well as concerns with the delay in implementing the services outlined in the plan. DRC encourages additional safety net funding, an additional \$5.6 million, that was not included in the Governor's budget year proposal. DRC also believes the following issues should be addressed: 1) transition homes should not be opened until DDS has issued emergency regulations; 2) client's rights advocates must be included in the process at all junctures; 3) transition homes must be short term in nature; 4) the denial of rights processes outlined in Title 17 of the California Code of Regulations must be followed; 5) the contractor must have experience with the legal requirements around the right to refuse medications; and 6) alternatives to restraints must be the priority.

- Enhanced behavioral support home guidelines. These guidelines were proposed as a way to address DRC's concerns about the use of restraints, without a reasonable time limit, in these homes. Guidelines were required by December 1; they were postponed until December 31, and have been delayed until later in the spring. DRC remains concerned that homes are coming on line without the guidelines being released.

Disability Voices United has provided the following recommendations related to safety net and crisis services from the self-advocate and family perspective:

- Provide additional funding to develop more options for all adults and children facing crises, including restoring the \$5.6 million in funds from the Fiscal Year 2017-2018 budget.
- Create clear deadlines for opening of crisis homes and for statewide availability in all regional centers of the Crisis Assessment Response Teams (CAST) and ensure that there are enough providers to respond to crises within 48 hours of request.
- Streamline the system for accessing health and safety waivers and require a response from DDS within 30 days if the individual is in crisis. (Note: there will be a further discussion of the health and safety waiver process under issue eleven of this agenda).
- Ensure that all housing and services developed are available to all consumers, not just those moving out of Developmental Centers, and require information be provided to families about the availability of crisis services, including how to access crisis response teams, process for entering crisis homes, how a waitlist will be handled, and support to allow individuals to stay in their homes.

LAO. The LAO suggests the Legislature may wish to request additional information from the department to help it more fully understand whether the planned safety net and crisis services are adequate. For example, the Legislature could seek information on:

- How often DDS' mobile crisis units are engaged, the average length of time they are needed, and whether they are able to respond to all calls.
- How often the safety net homes reach capacity and remain at capacity.
- Whether each RC provides crisis intervention services and how these services are coordinated with DDS-operated services.
- The number of consumers who end up getting placed in a more restrictive setting, such as an Institution for Mental Disease (IMD), how long they remain in the more restrictive setting, and how many lose their community-based residential placement as a result of their placement in a more restrictive setting. (Recently collected department data indicate that more than 75 percent of the 59 consumers recently placed at IMDs have been there longer than the legal limit of 180 days.)

Questions:For Nancy Bargmann, DDS

- *What is the department doing to ensure that individuals do not stay in IMDs beyond the roughly six month legal limit?*
- *Has the department had any issues finding qualified staff to work in safety net facilities or in the acute crisis services teams?*
- *What is the status of the development of the enhanced behavioral support home guidelines?*
- *Are the mobile crisis teams able to respond to all calls they receive?*

For Sonja Petek, LAO

- *Briefly present your recommendations to the Legislature regarding safety net facilities and acute crisis services.*

For Catherine Blakemore, DRC

- *Briefly present your concerns and proposals regarding safety net facilities and acute crisis services.*

For Carlos Flores, San Diego Regional Center

- *Do regional centers provide crisis intervention services? Do regional centers coordinate with the department operated crisis units?*

For Connie Lapin, Disability Voices United

- *Do you feel the amount of safety net facilities and crisis services being developed in the community is adequate to serve the needs of the community?*
- *What models or services would you like to see in the community that would adequately address the needs of consumers and their families?*

Staff recommendations: Hold open.

COMMUNITY SERVICES PROGRAM - ISSUES 10-13

The community services program is estimated to grow 7.6 percent in 2018-19 to \$6.9 billion (all funds). The General Fund comprises \$4.1 billion of the total budget, up 8.4 percent from 2017-18, while federal reimbursements, will provide an estimated \$2.7 billion. The Governor's budget reflects a \$25 million (\$21 million General Fund) downward adjustment in POS expenditures in 2017-18, in large part due to lower actual expenditures than previously estimated related to state minimum wage increases implemented in 2017. In 2018-19, the Governor's budget proposes an increase of \$451 million (\$285 million General Fund) in POS expenditures over revised 2017-18 estimates. Of this amount, \$179 million (\$98 million General Fund) is due to state minimum wage increases that took effect on January 1, 2018 and the subsequent increase that will take effect on January 1, 2019. In 2018-19, the DDS regional center budget will lose about \$11 million in federal funding from the "Money Follows the Person" grant. This federal grant was a limited-term source of funding for services provided for consumers transitioning from institutional settings. The General Fund will backfill this loss.

The Lanterman Act establishes 21 regional centers as private, non-profit agencies, each directed by the policies and decisions of a locally-established board of directions. However, the department provides necessary oversight through its contractual relationship with each regional center and it is the responsibility of the department to ensure that services and supports are provided in the most effective and efficient means possible and that the tenets of the Lanterman Act and other relevant state and federal requirements are met.

ISSUE 10: PURCHASE OF SERVICE (POS) DISPARITIES FUNDING**Panelists**

Nancy Bargmann, Director, DDS

Brian Winfield, Deputy Director – Community Services Division, DDS

Vicky Lovell, Manager – Fiscal and Program Research Unit, DDS

Jacob Lam, Department of Finance

Sonja Petek, LAO

Evelyn Abouhassan, Disability Rights California

Fernando Gomez, Board Member, Disability Voices United

Background. The department and regional centers are statutorily-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. This information is also to include data on individuals eligible for, but not receiving, regional center services. Regional centers are required to hold public hearings on this data and the department is required to provide oversight, through their contract agreements with the regional centers, by requiring specified activities and establishing annual performance objectives.

Numerous legislative hearings and press accounts have discussed a significant level of disparities in service delivery among racial and ethnic groups and between regional centers. Multiple bills have been signed into law to address these disparities through multiple strategies including, governing board training; data collection and sharing; improved departmental oversight of regional centers; and requirements that regional centers communicate and provide written materials in multiple languages.

Assembly Bill 1 X2, Chapter 3, Statutes of 2016, Second Extraordinary Session, provided \$11 million General Fund to assist regional centers in the implementation of strategies to reduce POS disparities. On July 26, 2016, the department sent guidelines to regional centers regarding the submission of proposals to obtain funding to address identified areas of disparity. Subsequently, in August 2016, the department held four stakeholder meetings throughout the state to discuss and gather information on disparity issues. Additionally, each regional center was required to consult with stakeholders regarding activities that may be effective in addressing disparities in the receipt of regional center services and the regional center's proposed requests for the above-mentioned funding.

In March 2017, the Senate Human Services Committee requested the department identify ways to track progress in reducing disparities in service access in the regional center system. The committee also asked the department to set short- and long-term improvement targets for those measures. After analyzing various datasets and consultation with stakeholders the department developed a set of measures that may serve as bellwethers for system change. The measures and improvement targets to track progress in reducing disparities are listed below:

- High-level comparison of purchase of service (POS) expenditures by age, ethnicity and language
- Timely eligibility determination
- Access to early start services
- Early start utilization rate
- POS equity, focused on youth
- Equity in adaptive skills training, focused on youth
- Respite and person assistance equity, focused on youth
- Equity for language diversity
- Equity in support living services, focused on adults
- Equity in supported work programs, focusing on adults 22-45 years old

The department approved proposals from all 21 regional centers for activities to promote equity and reduce purchase of services disparities. Of the \$11 million, the department approved proposals ranging from \$1,500 to \$750,000. In reviewing proposals, the department took into account statewide needs and available resources, as well as information gathered during the department's statewide stakeholder meetings. In addition, proposals were analyzed for compliance with applicable statute and regulations, and the department's guidelines. Activities funded include: electronic interpreter systems, translation of written materials, cultural training, group trainings in native languages, reduced caseloads, cultural competency staff training, cultural brokers and parent mentors, and outreach activities. Funds were allocated for these projects in March 2017.

In September 2017 the department issued guidelines to solicit community-based organizations (CBOs) and regional centers to utilize AB 1 X2 funds to address disparities in regional center purchase of services. As of February 5, 2018, the department approved 66 projects totaling close to \$11 million. The department originally received 140 proposals, totaling \$25.7 million. 35 of the approved projects were from CBOs and the other 31 were regional center projects. A list of approved projects, their summaries, and the amount of allocated funding can be found at: www.dds.ca.gov/RC/disparities.cfm. The table below provides a snapshot of the regional distribution of funding in 2016-17 and 2017-18.

Region	2016-17, Approved Projects	2017-18, New Projects	2017-18, Renewed Projects	2016-17 and 2017-18 Total
Northern CA	\$850,857	\$773,722	\$30,800	\$1.7 million
Central CA	\$1.3 million	\$159,915	\$429,086	\$1.9 million
Bay Area	\$2 million	\$2.6 million	\$110,000	\$4.7 million
Los Angeles	\$4.9 million	\$3.4 million	\$1.7 million	\$10 million
Southern CA	\$1.3 million	\$993,573	\$410,989	\$2.6 million
Statewide	\$485,850	\$380,000	\$0	\$865,580
FY Total	\$10.9 million	\$8.3 million	\$2.7 million	\$21.9 million

*Note: Funding amounts have been rounded so numbers may not add up exact to total.

Stakeholder Proposals.

Disability Rights CA believes the funding awarded should demonstrate measurable outcomes and not outputs. For example, many regional centers used navigators or lower service coordinator caseloads for consumers and their families who had no or very small POS expenditures. While an increase in expenditures to these consumers and families will not likely change the overall disparity, it should be able to result in those families being at or closer to, a POS expenditure number that does not reflect a service disparity. Also, DRC requests a public forum to present these outcomes, whether organized by the regional centers or the department. DRC believes a public forum will enable successful endeavors to be replicated and unsuccessful plans to be avoided in the future.

Disability Voices United has proposed the following suggestions to the Legislature on the funded projects to address disparities:

- Require more data reporting and more public access to data to improve transparency.
- Require more rigorous, evidence-based, data driven processes for funding grants while also ensuring inclusion of grassroots groups with connections deep into the community.
- Consider disparities in the context of the future of the service system.
- Direct the department to increase oversight over regional centers and how they address disparities among consumers.
- Restore funding for social recreation programs that will help address disparities.

Questions:For Nancy Bargmann, DDS

- *Please give an overview of the project types that were approved for funding in 2017-18.*
- *How is the department ensuring that stakeholders are involved in the process to help address disparities?*
- *How is the department tracking the progress of these proposals?*
- *How will the department know if they have the right measurements to identify change?*
- *When might we begin to see a change in the overall disparities data?*

For Fernando Gomez, Disability Voices United

- *Briefly present your concerns regarding the funding of grants to address disparities in the developmental services system.*

For Evelyn Abouhassan, Disability Rights California

- *Briefly present your concerns regarding the AB 1 X2 disparities funding.*

Staff Recommendation. Informational item. No action necessary.

ISSUE 11: HEALTH AND SAFETY WAIVERS AND RATE ADJUSTMENTS**Panelists****Nancy Bargmann, Director, DDS****Brian Winfield, Deputy Director – Community Services Division, DDS****Jacob Lam, Department of Finance****Sonja Petek, LAO****Catherine Blakemore, Executive Director, Disability Rights California****George Stevens, Executive Director, North Los Angeles County Regional Center****Barry Jardini, Government Affairs Director, California Disability Services Association**

Background. State law authorizes the department to approve exemptions to rate freezes when necessary to protect the health and safety of a specific consumer.³ A provider seeking this waiver must first apply to the regional center, who then may submit the request to the department, along with pertinent information including 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.

As of December 12, 2017, the department has received a total of 323 such requests, impacting 8,446 consumers, between fiscal years 2012-13 and 2017-18. Of these, 178 were related to local minimum wage ordinances. According to the department, the average time it took to process these requests, once forwarded to the department from the regional center, was 76 days in 2013-14, 143 days in 2014-15, 106 days in 2015-16, 103 days in 2016-17, and 78 days in 2017-18. The department notes that some requests are expedited based on the nature of the health and safety risk to the consumer.

Of the waiver requests received between fiscal years 2012-13 and 2017-18 the following numbers were related to local minimum wage ordinances:

- 2012-13: Zero requests received.
- 2013-14: Nine requests received. All were approved.
- 2014-15: Eleven requests received. Nine were approved and two were rescinded.
- 2015-16: Thirty-two requests received. All were approved.
- 2016-17 (as of December 12, 2017): Ninety-eight requests received. Five were approved, forty-nine were denied, eight were rescinded and thirty-six were pending.
- 2017-18 (as of December 12, 2017): Twenty-eight requests received. One was rescinded and twenty-seven were pending.

Consumers, advocates, and providers have expressed concerns that with the rising number of waiver requests related to local minimum wage, other requests directly relating to health and safety concerns

³ Welfare and Institutions Code sections 4648.4(b), 4681.6, 4684.55, 4689.8, 4691.9 and 4691.9.

are getting stuck in the pipeline. The department contends that there is a process for expediting high priority waiver requests relating to health and safety.

According to the department, the most common reasons for approvals of health and safety waiver requests include:

- To maintain consistency in staff/providers whose familiarity and expertise help maintain a consumer's health and safety.
- To increase services and supports to allow the consumer to maintain safe, independent living, or to remain living in the family home.
- To increase services and supports due to changes in the consumer's medical condition and/or behavioral challenges and mitigate identified health and safety risks.
- Lack of available alternative resources to serve the consumer due to his or her significant behavioral and/or mental health challenges.

Note that the 2017 Budget Act required the department to convene a stakeholder workgroup to consider simplified processes for providers seeking rate adjustments through a health and safety waiver or an unanticipated rate adjustment request.

Rate Study. In 2017, the department received \$3 million General Fund to contract for a service provider rate study and to provide recommendations for a new rate setting methodology. The study and accompanying recommendations are due to the Legislature by March 1, 2019. The study is required to provide an assessment of current methods for setting rates, including whether they provide an adequate supply of vendors; a comparison of the fiscal effects of alternative rate-setting methodologies; how vendor rates relate to consumer outcomes; and an evaluation of the current number and types of service codes and recommendations for restructuring service codes. Additionally, the rate study request for proposal (RFP) requires the chosen contractor to provide a rate maintenance process with a multi-year impact. The health policy consultant firm Burns & Associates, Inc. is the chosen contractor to perform the rate study. A host of stakeholders have offered various proposals requesting additional funding or rate relief for service providers until the rate study is completed.

Stakeholder Proposals.

Disability Rights CA recommends expediting the process the department utilizes to approve rate increases when an individual's health and safety is at risk. DRC proposes:

- A 30 day time limit by when the department must act on the health and safety waiver request
- Giving regional center executive directors the authority to negotiate rates to prevent placements in restrictive settings
- Allowing consumers and their representatives the statutory authority to request a meeting to discuss the request
- Legislative reporting

California Disability Services Association (CDSA) is requesting a four percent increase in rates for community-based services, as well as the elimination of the median rate cap for negotiated rate services. CDSA states, “Inadequate and frozen median rates are causing program closures, internal waiting lists for services, staff turnover, and lack of choice for Californians with developmental disabilities. The current rates result in consumers going without necessary services, as there is an inadequate pool of providers to deliver the needed services... This harms individuals with developmental disabilities, and the requested relief would stave off the continued diminution of our Lanterman system that should be a shining example for all.”

LAO. The LAO suggests the Legislature consider clarifying its intentions when it authorized vendors to seek rate adjustments, specifically in relation to local minimum wage. For example, when the state minimum wage increases from \$11 per hour to \$12 per hour, does the Legislature want to allow a vendor in San Francisco paying the local minimum wage of \$14 per hour to seek a rate adjustment to account for the \$1 increase in the state minimum wage to partially offset its costs, as it allows a vendor in Modesto (paying the state minimum wage) to do? If so, the LAO recommends statutory clean up to clarify that vendors in areas with a local minimum wage that is higher than the state minimum wage can seek an adjustment related specifically to the increase in the *state* minimum wage. In addition, the LAO recommends the Legislature direct the department to report at budget hearings about the estimated General Fund cost of this statutory clean up.

Questions:

For Nancy Bargmann, DDS

- *What is the status of the workgroup to consider processes for providers seeking rate adjustments?*
- *Please explain the process the department uses to expedite health and safety waiver requests of high priority.*
- *Does the department look at and take into consideration the amount of time it takes to process requests related to health and safety concerns versus requests related to local minimum wage?*

Staff Recommendations. Informational item. No action necessary.

ISSUE 12: UNIFORM HOLIDAY SCHEDULE**Panelists****John Doyle, Chief Deputy Director, DDS****Jacob Lam, Department of Finance****Sonja Petek, LAO****Evelyn Abouhassan, Disability Rights California****Jordan Lindsey, Executive Director, The ARC/United Cerebral Palsy California Collaboration****Rick Rollens, Legislative Advisor, Association of Regional Center Agencies**

Proposal. The budget includes a \$5.6 million reduction (\$2.9 million General Fund) to re-implement the 14-day uniform holiday schedule. The budget assumes incremental savings of \$10.2 million (\$3.2 million General Fund) on top of the previously estimated savings.

Background. Traditionally, regional centers have required service providers in their catchment areas to observe a certain number of holidays per year. Services providers cannot bill for services on those days. Some providers do not offer services on those days, while others offer services but go uncompensated. In 2009, the state faced a budget shortfall that required the department to reduce its budget by \$334 million. Among the proposals offered to reduce spending was the implementation of a 14-day uniform holiday schedule. This schedule consisted of an increase of four days, as most programs recognized ten holidays a year. The policy standardized and increased the number of observed holidays to 14, and prevented payment to providers of work activity programs, activity centers, adult day centers, behavior management programs, social recreation programs, infant developmental programs, program support group day services, client/parent support behavior intervention training, community integration training programs, community activities support services, and creative arts programs, as well as transportation to these programs. This proposal was estimated to save \$22 million in POS expenditures (\$16.3 million General Fund).

Legal action was brought against the state by service providers to block implementation of the schedule in September 2011. In 2015, a federal court ruled in favor of service providers, preventing the department from enforcing the policy. However, another court ruling in 2016 ruled in favor of the state. The plaintiffs appealed that ruling, and in 2017 the courts rejected the appeal. Since the initial ruling in 2015, the state has not enforced the policy. The Governor's budget proposes to reinstate the uniform schedule.

Regional centers have been setting their own holiday schedules for vendors, similar to what was done before the proposal of a 14-day uniform holiday schedule in 2009. These schedules consist of an average of ten days per year, and service providers have been billing for these four extra days. While the department's budget was not adjusted to reverse the assumed 2009 savings, the funding required for the four additional days was occurring through POS billing. The 2017-18 budget reflects costs for services provided on the four additional days. The 14-day uniform schedule has remained in statute and the Governor's budget proposes enforcing the policy beginning in the 2018-19 fiscal year.

Stakeholder Reactions and Proposals.

Both the ARCA and the ARC/UCP California Collaboration request rejection of the Governor's proposal.

DRC wants to ensure that as the developmental disabilities system develops new ways of increasing competitive integrated employment, the implementation of the holiday schedule does not inappropriately limit employment options. DRC requests language that provides statutory clarity and ensures that consumers who receive employment supports through paid internship programs or whom are engaged in competitive integrated employment with support are not at risk because of the imposition of the statewide holiday schedule.

Legislative Analyst's Office (LAO). The LAO has presented several options for legislative consideration concerning the uniform holiday schedule, listed below.

- Approve enforcement of schedule. The Legislature could approve the proposal. The budget estimates General Fund savings of approximately \$3 million. However, since the policy has not been enforced since 2015, the associated savings would likely be much higher.
- Reject the proposal. The Legislature could reject the proposal and repeal state policy. This would reinstate the traditional (and current) practice of allowing RCs to set their own holiday schedules and would not—in effect—cost the state any more in POS than what is in the 2017-18 budget. However, compared to what the Governor's budget proposes for 2018-19, it would increase costs.
- Approve a compromise solution. The Legislature could approve a compromise solution, requiring a uniform holiday schedule, but one that includes ten days rather than 14. This would reinstate the benefit of a coordinated schedule among service providers across RCs (this is mostly a benefit when RCs are in close geographic proximity and consumers receive services from service providers in more than one RC catchment area). It would allow consumers to continue receiving services on the four days eliminated from the holiday schedule.

Although rejecting the Governor's proposal or approving the offered compromise solution would increase costs compared to what the Governor's budget proposes for 2018-19, it would likely not increase costs compared to 2017-18, since RCs currently typically observe and pay their vendors according to a ten-day holiday schedule.

Questions:

For John Doyle, DDS

- *Please present this proposal.*
- *Are the costs savings associated with this change due to there being less service days or is it due to the elimination of overtime?*

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- *Would implementation of the uniform holiday schedule affect consumers who receive employment supports through paid internship programs or whom are engaged in competitive integrated employment with support?*

For Sonja Petek, LAO

- *Briefly present your recommendations to the Legislature on its options in response to the Governor's proposal.*

Staff Recommendation. Hold open.

ISSUE 13: HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER COMPLIANCE**Panelists****Nancy Bargmann, Director, DDS****Jim Knight, Assistant Deputy Director – Office of Federal Programs and Fiscal Support, DDS****Jacob Lam, Department of Finance****Sonja Petek, LAO****Jami Davis, Ph.D., Executive Director, Marin Ventures**

Background. California will receive approximately \$1.9 billion in 2017-18, and \$2 billion in 2018-19 in federal funding for approximately 130,000 persons with developmental disabilities through the federal HCBS programs and 1915(i) State Plan option. These programs provide Medicaid (“Medi-Cal” in California) funding for eligible individuals to receive services and supports in home and community-based settings, rather than in an institution. In order to continue receiving these funds, states must comply with new waiver conditions, called the “final rule”, by March 17, 2022. This deadline was extended from the original deadline of March 2019. The final rule requires a person-centered planning process, greater choice in life decisions and daily living, and requires services and supports be provided in settings that maximize independence and community integration. Each state must write a plan for how its HCBS programs meet these new rules. California received initial approval for its statewide transition plan in February 2018. The Center for Medicare & Medicaid Services (CMS) has indicated that there are several technical issues the state must resolve before it can receive final approval of its plan. The state must also issue the updated plan out for a minimum of a 30 day public comment period.

The 2017 Budget Act provided \$15 million for service providers to fund modifications to their programs to comply with the HCBS waiver. Service providers were required to submit applications to receive funds to regional centers. The department has noted that all providers will be required to complete a self-assessment survey that will help determine whether or not a setting complies with the HCBS rule or if modifications are needed. Now that the state’s transition plan has initial approval providers can begin those surveys.

Questions:For Nancy Bargmann, DDS

- *Please provide an update on the \$15 million in funding provided in the 2017 budget to help service providers come into compliance with the HCBS rule.*
- *What has the department learned from the use of the \$15 million about the state’s overall readiness to transition and comply with the HCBS rule?*
- *When does the department expect provider self-assessments to be completed?*
- *What is the next step in the process to ensure compliance after the completion of provider self-assessment surveys?*

For Jami Davis, Marin Ventures

- *What are some issues your organization and other providers face as they try to come into compliance with HCBS rules?*

Staff Recommendations. Informational item. No action necessary.