AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

Assemblymember Hector De La Torre, Chair

TUESDAY, MAY 17, 2005
STATE CAPITOL, ROOM 4202

VOTE ONLY

ITEMS TO BE HEARD

VOTE ONLY ITEMS

ITEM 4120 EMERGENCY MEDICAL SERVICES AUTHORITY

ISSUE 1: HOSPITAL BIOTERRORISM PREPAREDNESS PROGRAM – APRIL FINANCE LETTER

The Finance Letter amends issue three above. Local Assistance is reduced from $5.188 million to $3.550 million. State Operations is increased from $817,000 to $2.088 million. $200,000 of the increased State Operation funding is to set up an Emergency System for the Advanced Registration of Volunteer Healthcare Personnel. The ostensible purpose of entity will be to develop Disaster Medical Personnel Guidelines to address the identification and credentialing of volunteers; liability and reciprocity issues; investigation of statewide registries and integration of the Medical Reserve Program. The additional $1.888 million of State Operations will be directed to permit EMSA to contract for specific services as required by an Interagency Agreement negotiated with the Department of Health Services. Specifically, the tasks to be completed are: to contract for the development of and incident command system; the completion of a legal analysis of liability issues for medical registry and emergency credentialing systems; and the development of a strategy to enhance trauma and burn capacity.

ITEM 4260 DEPARTMENT OF HEALTH SERVICES

ISSUE 1: UNSERVED/UNDERSERVED SERVICES – BATTERED WOMEN'S SHELTERS

The budget proposes a restoration of $1.1 million ($350,000 Nine-West Settlement Agreement Fund, $235,000 Domestic Violence Training and Education Fund and $515,000 General Fund) for the Unserved/Underserved (U/U) program to retain funding at its present level of $2.25 million. In the 2003-2004 fiscal year, the U/U program was mistakenly identified as a General Fund "outreach program" instead of a "direct service" program and was reduced 50 percent ($1.1 million).

The U/U program is the only component of the Battered Women's Shelter Program (BWSP) that assists BWSP-funded shelters to serve, in culturally sensitive ways, communities of color, teens and disabled women that traditionally do not seek shelter services but are at high risk for domestic/intimate partner relationship violence.

The current Domestic Violence (DV) program was established as the BWSP by the Battered Women Protection Act of 1994 (AB 167, Chapter 140 Statutes of 1994, as amended by AB 801, Chapter 599, Statutes of 1994). As legislatively mandated, BWSP began primarily as a shelter-based program that expanded existing services, established 17 new shelters statewide, and funded creative and innovative service approaches such as community response teams. The 1999-2000 fiscal year budget provided $2.5 million augmentation to focus services on "unserved/underseved" populations, with emphasis on cultural and ethnic populations, so that groups experiencing DV but not traditionally seeking assistance through the BWAP would also be able to receive assistance.

Goals of the Battered Women's Shelter Program

- Provide comprehensive shelter-based domestic violence services to battered women and their children.
- Prevent domestic violence in California.

Problem

- Domestic violence is the leading cause of injury to women between ages 15 and 44 in the U.S.
- In 2002, husbands, ex-husbands, or boyfriends killed 128 women in California.
- California law enforcement received 196,569 domestic violence calls in 2002 of which 119,850 involved weapons, including firearms and knives.

Program Activities

- Shelter-based services include emergency shelter, transitional housing, legal assistance, counseling, and community response teams.
- Meet the comprehensive needs of battered women and their children and ensure access to unserved/underserved populations, e.g. teens, women with disabilities, lesbians, multicultural populations.

- Funding of non-profit agencies to implement innovative, community-specific projects, which prevent domestic violence, such as programs for local community awareness, teenagers, and preschool children.
- Statewide technical assistance and training to shelter staff and other domestic violence service providers.
- A data collection and evaluation system of domestic violence service providers.
- Comprehensive programs to decrease community tolerance of domestic violence. Shelter-based services include emergency shelter, transitional housing, legal assistance, counseling, and community response teams.

Who Provides Services

- Dedicated staff and trained volunteers in 146 programs: 96 (two shelters combined into one organization) shelters providing direct services to battered women and their children, 15 shelters and community-based partner agencies funded to reach unserved/underserved populations, 32 agencies conducting community domestic violence prevention programs, 1 agency providing statewide technical assistance and training, and 1 contractor conducting evaluation and data collection.

The Department released a survey analysis on May 5, 2005. The primary conclusion derived from the analysis of the data that more outreach was necessary. Specifically, outreach should be directed to:

- Individuals who identify themselves as Lesbian, Gay, Bi-sexual and Transgender
- Women with mental illness and substance abuse problems; and
- Women with developmental disabilities.

The Senate adopted the following budget bill language to address the issue:

Adopt Budget Bill Language to direct the DHS to proceed with a Request for Application (RFA) process on an expedited basis to address non-traditional users of domestic shelter services as identified by the DHS in their recent survey, to release the RFA by no later than October 1, 2006, and if the RFA is not released by October 1, 2006 then an interagency agreement process shall be used.

If the IA can't be reached in a timely fashion then the following Budget Bill language would be utilized.
Of the amount appropriated in this Item, up to $1.1 million shall be used to address the needs of non-traditional users of domestic shelter services as identified by the DHS in their recent survey. The DHS shall take all necessary actions to expedite a Request for Proposal process to allocate these funds. The Request for Proposal shall be released by the DHS by no later than October 1, 2005. If the Request for Proposal is not released by October 1, 2005, then an interagency agreement process can be used. The intent of the Legislature is to facilitate the allocation of these funds in an expedited manner in order to address the needs of non-traditional users of domestic shelter services as quickly as possible.

ITEM 4260 DEPARTMENT OF HEALTH SERVICES - PUBLIC HEALTH

ISSUE 2: NEWBORN SCREENING PROGRAM

The Department proposes to expend $15.016 million from the Genetic Disease Testing Fund and the authority for 3 new full time permanent positions for an expansion of the Newborn Screening Program by adding Tandem Mass Spectrometry (MS/MS) and Congenital Adrenal Hyperplasia (CAH) screening.

ISSUE 3: BETTER STATE OF HEALTH

The number of overweight people in California has been increasing over time. Being overweight is a significant factor in disease, disability, premature death, and to the burden of increasing health care costs. To address the health care aspects of the problem the Governor's budget includes approximately $6 million in General Fund resources to implement a variety of proposals to promote healthy nutrition, increased physical activity, and obesity prevention. The Governor's initiative is outlined in the table below.

Figure 4

Proposed Components of Anti-Obesity Initiative

(Dollars in Thousands)

	DHS Positions	General Fund
DHS coordinating office	1	$371
Community action grants	1	3,029
Training and technical assistance	—	500
Enhanced health services for Medi-Cal children	—	1,408
Surveillance, evaluation, and research	—	500
Public relations	—	150
Miscellaneous OE&E expenses	—	76
Totals	**2**	**$6,034**

Legislative Analyst Office

First, the funding would establish a new office and the proposed budget for 2005-2006 proposes to expend approximately $371,000 for the coordinating office. The proposal would add one new staff person to the Department and create within the Department a new office to coordinate the department's existing programs that promote nutrition and physical activity. The office is to (1) serve as the single point of contact for information regarding the development of public policies and scientific information related to obesity; (2) foster partnerships among programs within the department that have functions related to combating obesity; (3) coordinate the department's public health surveillance, training, and evaluation of obesity prevention efforts; and (4) carry out various other coordinating activities. The new office would be directed by a new medical officer who would report directly to the State Public Health Officer.

The proposal includes approximately $3 million for grants to community organizations to implement projects involving schools and other local agencies and organizations to address various aspects of obesity prevention. A wide variety of grants is envisioned as being possible. A grant might be used to support a project to encourage the layout of new housing developments in designs that encouraged new residents to walk to stores and schools instead of driving to them. The Department estimates that 15 such projects would be funded through a competitive process with the funding that the administration is requesting. The Administration also is requesting $500,000 for technical assistance and training for these regional and local obesity prevention efforts.

The proposal also would provide $1.4 million to develop a demonstration project that would be targeted at improving the quality of health care provided to Medi-Cal children to prevent or address obesity problems. The project would consist of three types of activities: (1) the promotion of breastfeeding and the exclusion of other methods for feeding infants, (2) increased screening and counseling of children for obesity problems by primary care providers, and (3) improved referral and treatment services for children who are overweight or at risk of becoming overweight. The project would be implemented in up to six collaboratives made up of hospitals, clinics, and other medical service providers that serve significant numbers of Medi-Cal beneficiaries.

Also, the budget proposal includes $500,000 for public health surveillance activities, program evaluation, and research into the design and development of effective public health initiatives to stem the rise in obesity. Finally, the initiative includes approximately $150,000 for public relations materials and events intended to encourage the public to live healthier lifestyles and not be overweight.

Currently, DHS spends about $1.2 billion annually from federal and private sources for a variety of programs that are intended to promote good nutrition and increased physical activity as a means to improve public health. Approximately 75 percent of the funding is for nutritious food provided to low-income families through the Women, Infants, and Children (WIC) program. Other activities, the department's obesity prevention programs provide are nutrition education to low-income women and young children, promotion of physical activity and healthy eating behaviors through public media campaigns, help develop school nutrition policy, and provide technical assistance and training to other entities engaged in obesity prevention efforts. The Department has indicated that one of the functions of the proposed new state office is to assess how these existing programs could be better managed and focused on reducing obesity.

The Legislative Analyst Office urges the Administration to complete an assessment of the nutrition programs that are currently functioning before additional General Fund resources for new obesity prevention efforts are committed. The Legislative Analyst further notes that some overlap with existing activities appears evident. For example, the Epidemiology and Health Promotion section of the Chronic Disease Control Branch of DHS already operates a "California Obesity Prevention Initiative." This initiative, with an annual budget of $275,000 in federal funds, embarks upon many activities, which appear to be similar to those described in the Governor's new budget request.

ITEM 4260 DEPARTMENT OF HEALTH SERVICES

ISSUE 4: BIOTERRORISM

The Department of Health Services has proposed an expenditure of, $8.2 million in Federal Funds, and the continuation of 94.8 limited term positions for two years to continue the implementation of the cooperative agreements with the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) for activities relating to bioterrorism preparedness and response. The federal government has proposed funding for both the CDC and HRSA grants but the funds have not been allocated to the states for the 2005-2006 fiscal year.

On bioterrorism funding, the Legislative Analyst Office recommended that the Department expand its monitoring efforts to include a fiscal accounting of expenditures at the local level.

In response to that recommendation, the Assembly subcommittee proposed that DHS staff audit local health jurisdictions every three years, following the completion of a BSA audit. Presumably, under the subcommittee's approach, BSA would audit the local health jurisdictions in the budget year, and DHS would initiate its audits in budget year plus one.

Building upon information DHS provided to the LAO's office, the estimated cost of having DHS staff audit local health jurisdictions every three years. The LAO's analysis is included below.

Place holder Trailer bill and Budget Bill Language:

<u>BBL</u> for Strategic Plan:

The Office of Homeland Security, in collaboration with the Department of Health Services, shall report to the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the budget and policy committees of each house of the Legislature on or before January 10, 2006 a statewide strategic plan for the use of federal homeland security and bioterrorism funds by all departments and local jurisdictions. The plan shall include the state's goals and objectives for improving the state's level of preparedness for a terrorism event, which 1) is based on an assessment of the state's level of preparedness and 2) reflects a coordination of preparedness activities at the state and local level. <u>It is not the intent of the Legislature to require the Office of Homeland Security or the Department of Health Services to disclose or include sensitive or classified information in the strategic plan.</u>

TBL for Expenditure Report:

The Office of Homeland Security, in collaboration with the Department of Health Services, shall annually report to the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the budget committees of each house of the Legislature on or before <u>March</u> 10 its expenditures of federal homeland security and bioterrorism funds. This report shall include 1) descriptions of the grant expenditures and coordination activities at the state and local level that have occurred over the past year; 2) how those activities met the state's strategic goals and objectives; 3) the funding amounts awarded to local jurisdictions and specific departments; 4) the funding levels by grant and grant year that have been expended, encumbered, and unencumbered; 5) any challenges that the departments or local jurisdictions encountered that hindered the expenditure of these funds; and 7) the areas of focus for the upcoming year. <u>It is</u>

not the intent of the Legislature to require the Office of Homeland Security or the Department of Health Services to disclose or include sensitive or classified information in the strategic plan.

TBL for Auditing -

Health and Safety Code Section 101317(g)(3)

It is the intent of the Legislature that the department shall audit the cost reports every three years commencing January 2007 to determine compliance with federal requirements and consistency with local health jurisdiction budgets, contingent upon the availability of federal funds for this activity and contingent upon the continuation of federal funds for bioterrorism preparedness.

The auditing would begin after the completion of the audit conducted by the Bureau of State Audits. It is expected the auditors would be hired in 2006-2007 fiscal year and would commence auditing activities, utilizing the results of the BSA audit.

ISSUE 5: HOSPITAL BIOTERRORISM PREPAREDNESS PROGRAM – APRIL FINANCE LETTER

The Finance Letter amends issue three above. Local Assistance is reduced from $5.188 million to $3.550 million. State Operations is increased from $817,000 to $2.088 million. $200,000 of the increased State Operation funding is to set up an Emergency System for the Advanced Registration of Volunteer Healthcare Personnel. The ostensible purpose of entity will be to develop Disaster Medical Personnel Guidelines to address the identification and credentialing of volunteers; liability and reciprocity issues; investigation of statewide registries and integration of the Medical Reserve Program. The additional $1.888 million of State Operations will be directed to permit EMSA to contract for specific services as required by an Interagency Agreement negotiated with the Department of Health Services. Specifically, the tasks to be completed are: to contract for the development of and incident command system; the completion of a legal analysis of liability issues for medical registry and emergency credentialing systems; and the development of a strategy to enhance trauma and burn capacity.

ITEM 4260 DEPARTMENT OF HEALTH SERVICES

ISSUE 6: AIDS PREVENTION AND EDUCATION PROGRAM

Presently, approximately $18.4 million is appropriated for HIV prevention and education in the 2004-2005 budget. This money is allocated to local health jurisdictions on the recommendation of the California HIV Planning Group (CHPG) and approval of the Office of AIDS (OA). This is the statewide planning group that is required by federal law in order to receive the Ryan White CARE money. It would require $5,639,218 to restore the county funding levels to what it was in 2000-2001.

ISSUE 7: IMPACT PROGRAM

The Prostrate Cancer Coalition requests the Legislature appropriate $6.5 million for the IMPACT (Improving Access, Counseling and Treatment for Californians with Prostate Cancer) Program.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 1: STATEWIDE PURCHASE OF SERVICES STANDARDS

The budget proposal for 2005-2006 provides the Department of Developmental Services the authority for issuing statewide purchase of services standards for all services for which the Regional Centers purchase for clients in the System. Statewide Purchase of Services Standards have been proposed for the last three years. Each year the Legislature has rejected them. If adopted the standards are projected to save $14 million, $10.5 million General Fund, in the 2005-2006 fiscal year.

ISSUE 2: EMPLOYMENT SERVICES FUNDING

The California Rehabilitation Association states that the only programs that suffered rate reductions in the past two budgets were employment programs. The affected programs are those that enable people with disabilities to work, earn wages, pay taxes and become more independent. The Association requests the five percent Work Activity Program rate reduction and the two-one-half percent Supported Employment Program rate reduction be restored. The Department estimates the restorations for a full year would increase expenditures $4.664 million Total Funds, $3.592 million General Fund.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 1: HEALTHY FAMILIES PROGRAM ADJUSTMENT

The budget proposes a decrease in local assistance reimbursements of $1.952 million in the current year and an increase of $352,000 in the budget year to reflect adjustments to the Healthy Families Program. The current year decrease includes a net decrease of $1,775 million for caseload adjustments and $177,000 for county administrative costs. The budget year includes a net increase of $320,000 for caseload adjustments and $32,000 for county administration.

ISSUE 2: DISASTER PREPAREDNESS - LIMITED TERM POSITION

The Department of Mental Health is requesting a two-year limited term position to allow the Department to participate in state-level bioterrorism planning, preparedness and capacity building. The budget proposes to increase reimbursements to the Department from the Department of Health Services. The Department of Health Services will reimburse the Department of Mental Health $94,000 from funds provided by the federal government through the Center for Disease Control and the National Bioterrorism Hospital Preparedness Program.

ISSUE 3: MANAGED CARE PROGRAM ADJUSTMENTS

The Department of Mental Health requests a General Fund augmentation of $5.717 million to reflect adjustments in the Managed Care Program. The adjustments are: an increase of $5.764 million for an increase in the number of Medi-Cal eligibles in the program; a reduction of $134,000 to reflect a one percent adjustment for inpatient growth; a reduction of $2,000 for a decrease in the number of eligibles in the Breast and Cervical Cancer Treatment Program; and an increase of $89,000 to reflect the implementation of the federal Medicaid Managed Care regulations for Solano County.

ISSUE 4: APRIL 1 FINANCE LETTER – FEDERAL FUNDING FOR PATH

In an April 1st Finance Letter the Department is requesting a $750,000 increase in local assistance Federal Trust Fund appropriation to reflect additional funds from the Projects for Assistance in Transition from Homelessness (PATH) formula grant. The additional funds will be allocated to the counties based on the Cigarette and Tobacco Surtax formula.

ISSUE 5: SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION BLOCK GRANT – APRIL 1 FINANCE LETTER

The Department requests a $303,000 increase in its local assistance Federal Trust Fund appropriation. The increase reflects the receipt of additional funds from the SAMHSA Block Grant. The funds will be allocated to the counties based on the Cigarette and Tobacco Products Surtax.

ISSUE 6: TRANSFER OF GENERAL FUND APPROPRIATION FROM DEPARTMENT OF CORRECTIONS TO DEPARTMENT OF MENTAL HEALTH – APRIL 1 FINANCE LETTER

The Administration proposes to make a permanent transfer of $61.034 million from the General Fund Budget of the California Department of Corrections (CDC) to the state hospital appropriation for the Department of Mental Health to reflect a mutually agreed to decision by both departments. The transfer decision will shift the CDC dollars currently reimbursed to the Department for costs associated with the care and treatment of CDC inmates.

ISSUE 7: EXPANSION OF INTERMEDIATE CARE AND DAY TREATMENT PROGRAMS AT VACAVILLE INPATIENT PSYCHIATRIC PROGRAM

The budget proposes a $2.330 million increase in reimbursements in the state hospital appropriation in the budget year from the CDC. The increase in-reimbursements is to support an increase of 61 intermediate care and day treatment program beds for the Inpatient Psychiatric Program at the California Medical Facility in Vacaville. The funding will support the increase of 22.5 level-of-care positions and 1 non-level-of-care position that will be required when the number of beds increase from 83 to 144. Also, it will provide overtime funding to allow for immediate implementation of the program expansion while recruitment is ongoing for Registered Nurses and Medical Technical Assistants.

ISSUE 8: SAN MATEO PHARMACY AND LABORATORY SERVICES – FUNDING ADJUSTMENTS

The budget proposes to increase expenditures for the San Mateo Field Test Project by $1.136 million from reimbursements to the Department of Mental Health from the Department of Health Services.

ISSUE 9: METROPOPLITAN STATE HOSPITAL – REMODEL OF SATELLITE SERVING KITCHEN

The Administration proposes to shift funding for a portion of this approved project from lease revenue bond funding to the General Fund. The portion of the project being shifted will renovate all existing Satellite Kitchens and Dining Facilities to meet the requirements of licensing and the cook/chill system.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 10: COALINGA STATE HOSPITAL

The budget proposes a continued activation of the Coalinga State Hospital in the Department of Mental Health. The augmentation would be $74.169 million, $65.694 General Fund, and $8.475 million in reimbursements from the CDC. In addition, the Department would receive 893.0 non-level-of-care and level-of-care positions (708.7 PYs) and funding for operating expenses and equipment, workforce recruitment efforts and relocation costs. Also included in the provision of a 50-bed intermediate level is care unit for the CDC.

ISSUE 11: STAFFING FOR YOUTH AND SKILLED NURSING FACILITIES AT METROPOLITAN AND NAPA STATE HOSPITALS

The budget proposes to increase the budget by $3.6 million for staffing increases at the Youth and Skilled Nursing Facility Programs at Metropolitan State Hospital and the Napa State Hospital. The funding is from realignment reimbursements from counties and has no effect on the General Fund.

ISSUE 12: EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT PROGRAM - FUNDING ADJUSTMENTS

The budget proposes a decrease of $29.164 million in local assistance reimbursements from the Department of Health Services in the current year to reflect adjustments from updated paid claims information to the funding level for the Early and Periodic Screening, Diagnosis and Treatment Program. In addition, the budget proposes an increase in the budget year of $47.487 million to reflect additional program costs. This includes a State General Fund (SGF) increase of $27,232,000 and an increase of $20,255,000 in Federal Financial Participation (FFP). The increase also reflects a slowdown in the rate of growth of the program, which reflects for a total savings for the General Fund of $15.8 million, and a reduction in Federal Funds of $13.35 million.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 13: AB 3632

The budget proposes continuation of the $69 million in federal funds in the Individuals with Disabilities Education Act (IDEA) for counties, and $31 million for Special Education Local Plan Areas (SELPAS). However, it proposes suspending (not repealing) the mandate on counties, which means that counties that provide services over and above their allocation of the $69 million would not be eligible for SB 90 reimbursement.

Several years of inadequate funding by the state for providing state-mandated mental health services to special education students (pursuant to the federal law) has led to a fiscal crisis for county mental health programs, as well as chaos and confusion among schools, families and mental health providers.

The federal IDEA is intended to ensure that children with special needs receive special education instruction and related services necessary for them to benefit from a “free and appropriate public education (FAPE)”. Related services include, but are not limited to, occupational and physical therapy, speech therapy, and mental health services. School districts are responsible for identifying children with special education needs, and for providing or ensuring educational and related services. The state of California through the Department of Education receives over $1 billion annually for agreeing to comply with the requirements of the IDEA.

In California, prior to 1984, school districts were directly responsible for providing mental health related services to children with special needs. In 1984, with the enactment of AB 3632, responsibility for providing these services was transferred to county mental health departments. AB 3632 was the result of both lawsuits and advocacy to increase special education pupils’ access to mental health services.

Under Chapter 26.5 (AB3632, and AB 2726) of the Government Code and Division 9 of Title 2 of the California Code of Regulations, county mental health systems are mandated to provide a range of mental health services as identified on a student’s IEP. Under current California law, the IEP is a legally binding contract upon the county mental health department.

County mental health departments were initially allocated to state general fund dollars, approximately $2-3 million statewide to finance these mental health services for special education students. It was acknowledged even in 1984 that this allocation was insufficient to pay for AB 3632-linked services.

By 2001-02 fiscal year, categorical AB 3632 funding provided through an allocation by the state Department of Mental Health was only $12 million, while the actual cost of the program exceeded $100 million. Counties have historically been reimbursed for these additional costs through the SB 90 local mandate reimbursement process.

The Fiscal Crisis for Counties:

- In the 2002-03 fiscal year state Budget, the $12 million of categorical funding was eliminated entirely and counties were advised to seek compensation for AB 3632 services through the mandate reimbursement process. However, the budget also placed a moratorium on mandate reimbursements for local government that year and thuds denied counties reimbursement for the services provided.

- In the 2003-04 state budget, the local mandate reimbursement moratorium was extended for an additional year. In the May Revision to the budget, the Governor acknowledged the federal IDEA mandate on the state, and proposed allocating $69 million in federal IDEA funds to partially pay for the AB 3632 mental health program. The Legislature approved that funding. The total cost to counties for providing services that year was estimated to be over $120 million.

- The local mandate reimbursement moratorium was continued in the 2004-05 fiscal year state budget, as was the $69 million in federal IDEA funds.

- In 2004, one county (San Diego) sued the state, charging that it was violating the state constitution by failing to pay the county for the mandated costs of this program. Three other counties subsequently joined the suit (Orange, Contra Costa, and Sacramento). The counties asked the court to force the state to take back responsibility for the program if it continued to refuse to pay them for providing the services. The Superior Court decided in favor of the counties, and held that counties are relieved of the mandate to provide services if the funding is determined to be inadequate. The court decision recognized that school districts have the ultimate responsibility for providing related mental health services to special education students if counties fail to provide them due to lack of funding.

- The state declined to appeal the Superior Court decision, making the decision final. However, the decision only applies to the four litigant counties. All other counties are still legally required to comply with the mandate despite funding.

- San Diego County subsequently entered into an agreement with local schools to continue providing the mental health services, with the schools assuming responsibility for the cost of the program over and above the county's share of the $69 million.

- The three other counties who were party to the lawsuit are at various stages in the process of turning the responsibility over to the schools as well.

- The Administration's 2005-06 fiscal year state budget proposes "suspending" the AB 3632 mandate on counties, but continuing the $69 million in IDEA funds to reimburse them for providing the AB 3632 services. This adds to the chaos and confusion because:

    - Counties would not be eligible for SB 90 mandate reimbursement for their claims beyond the $69 million.

- Since the mandate is suspended, not repealed, the law mandating counties to provide the services (AB 3632) would remain in place.

- Counties are being forced right now to make budget decisions about what they will do – either discontinue services and assume the schools will pay for the services similar to what has happened in San Diego County, continue to provide services hoping that the Legislature rejects the Administration's proposal, or continue providing the services and cut other mental health services for their target populations. (This last option is not a realistic option for counties given, in light of the $300 million already owed by the state to counties).

- Parents and families are justifiably concerned about what will happen to their children who are entitled to mental health related special education services.

The County Mental Health Directors Association believes the state has two viable options regarding this program, in order to avoid disruption of services to special education students:

1. Fully fund counties for their costs of providing the state mandated services under AB 3632 this fiscal year, and develop a reasonable plan for repaying past due SB 90 claims;

Repeal the AB 3632 mandate on counties, recognizing that accountability for ensuring the provision of mental health related services under the IDEA rests with education – not local government. Restructure the program so that schools are legally responsible for ensuring that mental health-related services are provided to special education students pursuant to the federal IDEA. Under such a restructured system, county mental health departments would remain committed to maintaining and enhancing their effective collaborative partnerships with education, and to working with all interested stakeholders – including the Legislature, local education agencies, the state Departments of Mental Health and Education, private providers and, most importantly, special education students and their families, in developing a system that continues to meet the mental health needs of special education pupils. If the Governor's proposal to suspend the mandate is approved, ALL counties will be relieved of the mandate.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 14: EARLY MENTAL HEALTH INITIATIVE (EMHI)

The Governor's Budget proposes a $5 million Proposition 98 General Fund appropriation for the program.

In the current fiscal year, EMHI has a total appropriation of $10 million from Prop 98 General Fund. That includes $5 million in General Fund and $5 million that was re-appropriated from the Prop 98 Reversion Account. For the budget year, the EMHI appropriation is reduced to only the $5,000,000 included in the Department's local assistance item. In 2004-05 fiscal year, the Administration had proposed the elimination of the entire program in the Governor's Budget. Both houses of the Legislature restored the funding in the amount of $10 million. The Department of Finance made the determination to fund a portion of the legislative augmentation by re-appropriating funds. Since re-appropriations are traditionally one year in duration, only $5,000,000 remains for 2005-06 fiscal year.

ITEMS TO BE HEARD

ITEM 4260 DEPARTMENT OF HEALTH SERVICES PUBLIC HEALTH

ISSUE 1: STATE'S COSTS FOR PRESCRIPTION DRUGS

State agencies purchase about $4.2 billion annually in prescription and non-prescription drugs. The drugs are purchased by agencies as part of their responsibilities to deliver health care services to their program recipients. See the table below by the Legislative Analyst's Office. The Legislative Analysts reports, as determined by the Congressional Budget Office, that the growth in prescription drug costs have outpaced every other category of health care expenditures. The LAO, in its report "Lowering the State's Costs for Prescription Drugs", examines how the state purchases drugs for its program recipients. The report identifies recent actions that have helped lower some drug costs, examine state agencies' purchasing practices and makes recommendations for improving the state's cost of drugs. The report focuses on the $400 million in annual drug purchases which, are most directly affected by the state's procurement and administrative operations.

Figure 1

Annual State Drug Purchases 2003-04[a]

(All Funds)

Entity	Drug Purchase Amount (In Millions)	Recipients Served
Medi-Cal	$3,150.0[b]	Medi-Cal recipients
Public Employees' Retirement System	640.0	Public employees, dependents, and retirees
University of California	223.0	Students, clinics, and hospital patients
Corrections	128.5	Inmates
Mental Health	30.1	State hospital patients
Developmental Services	15.3	Developmental center residents
Alcohol and Drug Programs	4.5	Narcotics treatment clients
Veterans' Affairs	3.3	Veterans' home residents
California State University	2.0	Students
California Youth Authority	1.8	Wards
Total	**$4,194.0**	

a Legislative Analyst's Office estimates based on the best available data.

b Net of rebates. Amount does not include Medi-Cal managed care drug expenditures.

Drug prices are heavily controlled by Federal Law. The federal government uses its authority to pass laws that regulate drug prices to require drug manufacturers to offer their lowest prices to federal agencies. Under federal law, if drug manufacturers offer their federal prices to nonfederal agencies, then the prices they offer to the federal government generally would have to be lowered further. The federal government pays between 35 percent and 60 percent of the drug's Average Wholesale Price.

State agencies use different methods to purchase drugs. The different laws and procurement practices, state agencies in California purchase drugs in the different ways summarized in the Legislative Analyst Office table below.

Figure 3

Purchasing Entity	Drug Purchase Method	Cost Control Mechanisms
Medi-Cal	➢ Directly reimburses pharmacies for cost of drugs dispensed. ➢ Indirectly pays for drugs used by Medi-Cal patients enrolled in managed care plans.	➢ Medicaid drug prices under federal law. ➢ State supplemental rebates. ➢ Preferred drug list.
Public Employees' Retirement System	➢ Included in health care plan coverage.	➢ Health care benefit plans negotiations. ➢ Pharmacy benefit manager.
University of California	➢ Orders placed through Novation contracts. ➢ Orders distributed by Cardinal Health.	➢ 304B pricing for some hospitals and clinics. ➢ Group Purchasing Organization (GPO) discounts.
Department of Veterans' Affairs	➢ Orders placed and distributed through federal contracts.	➢ Federal drug prices for veterans.
Department of General Services	➢ Orders placed through Massachusetts Alliance and state contracts. ➢ Orders distributed by McKesson Corporation.	➢ Negotiated and competitive drug contracts. ➢ GPO discounts. ➢ Common drug formulary.

Some state entities are able to access federal drug pricing programs. Those state entities that do not qualify for federal discounts, the lowest achievable drug prices would range between 60 percent and 100 percent of Average Wholesale Prices. Medi-Cal pays for the cost of outpatient prescription drugs in one of two ways: direct reimbursement, paying pharmacies directly for the cost of drugs; and indirect reimbursement where prescription drugs in the managed care environment are paid by the state in the capitation rate.

Medi-Cal controls direct reimbursement in two ways:

- Preferred Drug List – The Department of Health Services has created a preferred drug list of drugs that do not require prior approval by the Department. For a drug to be on the list, the Department's staff reviews the drug's efficacy, safety, misuse potential, essential need and cost.

- State Supplemental Rebates – The Department has authority under state law to directly negotiate for supplemental rebates from manufacturers. The Department has contracts with over 100 manufactures. When the Department and the manufacturer agree to a supplemental rebate, the drug is placed on the Preferred Drug List (assuming the drug meets the other criteria described above).

In addition the Public Employee Retirement System purchases drugs on behalf its membership through its contracts with managed care health plans, the annually negotiate rates with Health Maintenance Organizations and sets Preferred Provider Organization premiums. Also the University of California purchases drugs for its medical centers and student health clinics. The University hospitals are eligible for federal drug program discounts. The Department of Veterans Affairs is able to purchase drugs through the federal Veterans Affairs drug contracts. Participation in the Veterans Affairs drug program is restricted to veterans.

The Department of General Services (DGS) purchases drugs for the remaining agencies: California Department of Corrections; Department of Mental Health; Department of Developmental Services; California Youth Authority; and the California State University's student health centers. DGS contracts with a vendor, McKesson Corporation, to process departmental drug orders. McKesson is responsible for filling and then distributing those drug orders to the departments. McKesson acquires the drugs through competitively priced state contracts for generic drugs, negotiated state contracts for brand-name drugs and a drug purchasing organization consisting of both public and private agencies. The table from the Legislative Analyst Office below shows the annual order volume and drug costs for each of the methods.

Figure 4

Annual Drug Procurements Administered by Department of General Services

November 2003 Through October 2004

Purchase Method	Drug Orders	Costs (In Millions)
Noncontract	1,129,750	$83.7
Contracts:		
Negotiated contracts	127,956	$58.3
Massachusetts Alliance	1,285,427	28.5
Competitive contracts	478,782	6.7
Totals	**3,021,915**	**$177.2**

The LAO's review of the purchasing practices found three major groups of state purchasers. The largest group is Medi-Cal, accounting for $3.2 billion of the state's drug purchasers. Medi-Cal prices are primarily affected by the federal Medicaid program and the state's supplemental rebates. The PERS comprises the second group and it accounts for $640 million of the state's drug purchases. The PERS drug prices are primarily affected by the state's overall negotiations for the health benefit plans. The third group, accounting for about 10 percent of the state's drug purchasers consists of the University of California and the Department of General Services. The third group's purchases are by the state's procurement and administrative operations. The LAO found several areas in which the state's activities were deficient.

The LAO's review found that the Departments of Developmental Services, Mental Health and Drug and Alcohol Program are purchasing drugs for Medi-Cal patients in their programs at relatively high prices and are not taking advantage of the better prices, including rebates available under federal Medicaid statute.

To date the state does not leverage Medi-Cal's purchasing power, California's efforts to leverage the buying power of Medi-Cal have been confined to Medicare Patients and workers compensation.

The LAO found that the Department of General Services has not shown leadership. There is no statewide work plan for purchasing drugs. The DGS purchase almost one-half of the drugs without contracts. The Department does not participate in drug reviews. State agencies are not doing all they could to share information and collaborate on a regular basis in their efforts to purchase drugs, Also, state regulations and law require state hospitals and Developmental Centers to duplicate drug formularies.

The LAO recommends several actions the Legislature could take to lower the state's drug costs.

The recommendations to Budget Subcommittee 1 are:

Direct DHS to Modify Formulary Regulations

Adopt trailer bill language to include the following provisions in Health and Safety Code sections 1275 and 1275.1:

1275. (h) Notwithstanding any other law, the Department of Health Services shall modify its regulations for pharmaceutical service requirements to permit any state department which operates state facilities subject to these provisions to establish a single statewide pharmacy and therapeutics committee, and a single statewide formulary, in lieu of the existing regulatory requirements that each facility with 100 beds or more establish a separate pharmacy and therapeutics committee, and a separate formulary, for each of the facilities they operate. It is the intent of the Legislature that consolidation of these activities be permitted in order to allow the more cost-effective use and procurement of pharmaceuticals for the benefit of patients and residents of state facilities.

1275.1. (h) Notwithstanding any other law, the Department of Health Services shall modify its regulations for pharmaceutical service requirements to permit any state department which operates state facilities subject to these provisions to establish a single statewide pharmacy and therapeutics committee, and a single statewide formulary, in lieu of the existing regulatory requirements that each facility with 100 beds or more establish a separate pharmacy and therapeutics committee, and a separate formulary, for each of the *facilities they operate. It is the intent of the Legislature that consolidation of these activities be permitted in order to allow the more cost-effective use and procurement of pharmaceuticals for the benefit of patients and residents of state facilities.*

Direct DDS, DMH, and DADP to Consider Modifying Reimbursement Systems

Adopt BBL for Budget Item 4200-103-0001:

By January 10, 2006, the Department of Alcohol and Drug Programs shall report to the Chairperson of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature regarding the feasibility and advisability of modifying its system for reimbursement of methadone treatment services to account separately for the medication costs of methadone so that the state can obtain Medicaid prices and collect the rebates to which it is entitled from drug manufacturers. Nothing in this provision is intended to preclude the department from acting sooner than this date to implement this action or to take alternative actions that, in its discretion, would reduce the cost to the Drug Medi-Cal Program for methadone medication.

Adopt BBL for Budget Items 4300-003-0001 and 4440-011-0001:

By January 10, 2006, the Departments of Developmental Services and Mental Health shall jointly report to the Chairperson of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature regarding the feasibility and advisability of modifying its reimbursement systems to account separately for drugs provided for eligible developmental center residents and state hospital patients so that the state can obtain Medicaid prices and collect the rebates to which it is entitled from drug manufacturers. Nothing in this provision is intended to preclude the two departments from acting sooner than this date to implement this action or to take alternative actions that, in their discretion, would reduce the cost to the state for providing drugs for residents and patients of these state facilities.

ITEM 4260 DEPARTMENT OF HEALTH SERVICES – PUBLIC HEALTH

ISSUE 2: PROPOSITION 99 FUNDING FOR EMERGENCY ROOM PHYSICIANS

For the last several years the Legislature has been appropriating $24.8 million annually to reimburse emergency and on-call physicians for the costs of providing health care to uninsured patients requiring care in the emergency room.

The following is the proposed trailer bill language.

Item 4260-111-0001 – For local assistance, Department of Health Services

3. (a) Of the funds appropriated in this item, twenty-four million eight hundred three thousand dollars ($24,803,000) shall be allocated in accordance with subdivision (b) for the 2005−06 fiscal year from the following accounts:
(1) Twenty million two hundred twenty-seven thousand dollars ($20,227,000) from the Hospital Services Account.
(2) Four million five hundred seventy-six thousand dollars ($4,576,000) from the Physician Services Account.

(b) The funds specified in subdivision (a) shall be allocated proportionately as follows:
(1) Twenty-two million three hundred twenty-four thousand dollars ($22,324,000) shall be administered and allocated for distribution through the California Healthcare for Indigents Program (CHIP), Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.
(2) Two million four hundred seventy-nine thousand dollars ($2,479,000) shall be administered and allocated through the rural health services program, Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(c) Funds allocated by this section from the Physician Services Account and the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund shall be used only for the reimbursement of physicians for losses incurred in providing uncompensated emergency services in general acute care hospitals providing basic, comprehensive, or standby emergency services, as defined in Section 16953 of the Welfare and Institutions Code. Funds shall be transferred to the Physician Services Account in the county Emergency Medical Services Fund established pursuant to Sections 16951 and 16952 of the Welfare and Institutions Code, and shall be paid only to physicians who directly provide emergency medical services to patients, based on claims submitted or a subsequent reconciliation of claims. Payments shall be made as provided in Sections 16951 through 16959 of the Welfare and Institutions Code, and payments shall be made on an equitable basis, without preference to any particular physician or group of physicians.

~~(d) Funds allocated by this section from the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund shall be used only for reimbursement of uncompensated emergency services, as defined in Section 16953 of the Welfare and Institutions Code, provided in general acute care hospitals providing basic, comprehensive, or standby emergency services. Reimbursement for emergency services shall be consistent with Section 16952 of the Welfare and Institutions Code.~~ [This subdivision is not necessary, as allocations from the Hospital Services Account are already covered in (c) above.]

ITEM 4260 DEPARTMENT OF HEALTH SERVICE – PUBLIC HEALTH MAY REVISION

ISSUE 3: FAMILY HEALTH ESTIMATE

The May Revision proposes that Item 4260-111-0001 be reduced by $16,172,000 and Item 4260-111-0890 be increased by $5,438,000. It is also requested that Item 4260-111-0080 be reduced by $198,000 and Reimbursements be reduced by $55,000, and Item 4260-111-0001 be amended to reflect these changes. These changes reflect revised expenditure estimates in the CCS, CHDP, and GHPP programs based on May Revision caseload estimates.

ISSUE 4: GHPP ACCRUAL TO CASH-BASIS BUDGETING

The May Revision proposes that Item 4260-111-0001 be reduced by $15,561,000 to reflect the shifting of GHPP from an accrual to a cash-basis of budgeting. This change would conform accounting for the GHPP with accounting for the CCS, CHDP, and Medi-Cal programs.

ISSUE 5: CHDP: SCREENING FOR COMPLICATIONS OF OBESITY

The May Revision proposes that Item 4260-111-0001 be reduced by $46,000 to reflect expenditures from the Governor's Obesity Initiative in the CHDP program to add Fasting Blood Sugar and Cholesterol Screening as part of the CHDP Health Assessment. Effectively, existing funds in the 2005-06 Governor's budget would be used to fund the cost of these additional screens in CHDP and CHDP Gateway.

ITEM 4260 DEPARTMENT OF HEALTH SERVICE – PUBLIC HEALTH MAY REVISION

ISSUE 6: ADAP FUND SHIFT

It is requested that Item 4260-111-0890 be increased by $79,000 and Item 4260-111-0001 be decreased by $79,000 and amended to reflect this change. This change will shift expenditures from the General Fund to federal funds to reflect an increased award for ADAP programs under the Ryan White Care Act.

ISSUE 7: GENETIC DISEASE BRANCH EARLY REPAYMENT OF GENERAL FUND LOAN

The May Revision proposes that Item 4260-402 be added to authorize the early repayment of outstanding General Fund loans to the Genetic Disease Testing Fund. The Budget Acts of 2002 and 2003 authorized a total of $10.3 million in General Fund loans to the Genetic Disease Testing Fund, to be paid back by June 30, 2008 and June 30, 2009, respectively. As of July 1, 2005, outstanding General Fund loans to the Genetic Disease Testing Fund will total $7.2 million, not including interest. Due to favorable revenue collections and increased collection rates, the Genetic Disease Testing Fund will have sufficient resources to repay its loans on an accelerated schedule. Suggested provisional language (below) would require the Genetic Disease Testing Fund to fully repay its General Fund loan obligations by June 30, 2006.

4260-402—Notwithstanding Provision 1 of Item 4260-011-0001, Budget Acts of 2002 and 2003, the $10,300,000 loan authorized to the Genetic Disease Testing Fund shall be fully repaid to the General Fund by June 30, 2006. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer.

ITEM 4260 DEPARTMENT OF HEALTH SERVICE – PUBLIC HEALTH MAY REVISION

ISSUE 8: CASELOAD INCREASES IN THE NEWBORN SCREENING AND PRENATAL SCREENING PROGRAMS

The May Revision proposes that Item 4260-001-0203 be increased by $1,485,000 and Item 4260-001-0001 be amended to reflect this change. This increase reflects revised caseload expenditures in the Newborn Screening and Prenatal Screening programs as a result of increased birth projections for 2005-06.

ISSUE 9: WEST NILE VIRUS

The May Revision proposes that Item 4260-001-0001 be increased by $2.0 million and Item 4260-111-0001 be increased by $10.0 million to provide local assistance to enhance and expand mosquito control across the state. This augmentation would enhance and expand mosquito control efforts, especially in high-risk counties, including the purchase of mosquito control products and application equipment. Suggested provisional language (below) would allow the department to expedite the distribution of funds to local mosquito control programs.

Add provisional language to Item 4260-001-0001:

X. (a) In response to the public health implications of the West Nile virus, and in order to expedite the implementation of mosquito control efforts funded by no more than $2.0 million appropriated in this item, the department shall be exempt from competitive bidding, and shall be exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code for purposes of making and receiving and/or entering into contracts and interagency agreements.

Add provisional language to Item 4260-111-0001:

X. (a) Of the amount appropriated in this item, the department shall at the discretion of the Director allocate $10.0 million to local mosquito and vector control agencies or other government entities, or contract with other entities to supplement resources for existing local mosquito control programs or to provide mosquito control efforts to currently unserved areas across the state in response to the threat of West Nile virus transmission.

(b) In response to the public health implications of the West Nile virus, and in order to expedite the implementation of mosquito control efforts funded by no more than $10.0 million dollars appropriated in this item, the department may make and receive grants, and enter into contracts and interagency agreements, shall be exempt from competitive bidding, and shall be exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

ISSUE 10: CALIFORNIA NUTRITION NETWORK

The May Revision proposes that Items 4260-111-0001 be amended by increasing reimbursements by $372,000 to align the Department of Health Services (DHS) funding for the Nutrition Network Program with resources included in the Department of Social Services budget.

ISSUE 11: LEASE REVENUE DEBT SERVICE

The May Revision proposes that the DHS' budget be increased by $1,809,000, as follows:

Item 4260-003-0001 be increased by $1,250,000;
Item 4260-003-0044 be increased by $60,000;
Item 4260-003-0080 be increased by $37,000;
Item 4260-003-0098 be increased by $14,000;
Item 4260-003-0203 be increased by $440,000; and
Item 4260-003-0890 be increased by $8,000.

Funds for lease revenue debt service were set aside in Control Section 4.30 in the Governor's Budget. This technical adjustment allocates those funds to the DHS.

The May Revision further requests that the DHS' budget be decreased by $2,666,000, as follows:

Item 4260-003-0001 be decreased by $1,842,000;
Item 4260-003-0044 be decreased by $88,000;
Item 4260-003-0080 be decreased by $54,000;
Item 4260-003-0098 be decreased by $21,000;
Item 4260-003-0179 be decreased by $1,000;
Item 4260-003-0203 be decreased by $648,000; and
Item 4260-003-0890 be decreased by $12,000.

This adjustment reflects a reduction in base rental payments, fees, and insurance costs due to an updated debt service payment schedule for the Richmond Laboratory lease revenue project.

ISSUE 12: NUCLEAR PLANNING ASSESSMENT SPECIAL ACCOUNT

The May Revision proposes that Item 4260-001-0029 be increased by $16,000 and Item 4260-001-0001 be amended to reflect this change. This augmentation reflects a CPI adjustment to this account pursuant to Government Code 8610.5

ISSUE 13: CCS CARVE-OUT FOR THE TRANSFER OF ACCESS FOR INFANTS AND MOTHERS IN THE HEALTHY FAMILIES PROGRAM

This proposed trailer bill language would provide explicit retroactive (up to 12 months) authority for authorization of CCS services for infants born to mothers enrolled in AIM who after 06/30/04 elect to enroll their infants in HF (i.e., AIM linked infants). This legislation is necessary for the implementation of the AIM/HF Transfer enacted by the 2003 Budget Act trailer bill. This authority will be limited to services provided to treat the CCS eligible medical conditions of AIM linked infants by CCS approved providers. This language also would provide that, for cases approved on a retroactive basis, DHS may reimburse providers for the CCS treatment costs of AIM linked infants for services rendered prior to the time the infant becomes known to CCS. This will ensure that the families of these infants are not required to pay for these services.

1. This language is appropriate for inclusion in the trailer bill because it provides necessary authority to pay for services provided for by preexisting legislation. It addresses a fiscal issue that needs to be resolved as soon as possible.

2. The funding for this authority is already included in the proposed budget for 2005-06 fiscal year.

3. The original enabling language for the AIM/HF Transfer was enacted by the 2003 Budget Act trailer bill.

BACKGROUND

Healthy Families and the CCS Carve-Out

- Healthy Families, California's Title XXI State Children's Health Insurance Program (SCHIP), provides comprehensive health coverage for low-income children.

- HF health plan subscribers are from families who are over income for eligibility in the Medi-Cal program but who have incomes of less than 250 percent of the federal poverty level (FPL).

- CCS services are carved out of the capitation and benefits of the HF health plans.

- CCS provides medical case management, authorization of services, and fee-for-service reimbursement of providers for treatment for the CCS medically eligible medical conditions of HF subscribers. .

State/County Cost Sharing for HF services

- CCS services for HF subscribers from families with adjusted gross incomes (AGI) of less than $40,000 per year are funded by 65 percent Title XXI federal financial participation (FFP) with a State match consisting of a combined 17.5 percent county funds and 17.5 percent State General Fund (GF).

- CCS services for HF subscribers from families with AGIs of over $40,000 per year are funded by 65 percent federal Title XXI FFP and 35 percent State GF.

Prior Authorization of CCS Services

- Section 42180 of Title 22 of the California Code of Regulations (CCR) requires that CCS services be authorized prior to the time service is provided.

- Exceptions to this requirement are (1) where services were provided during a time that the CCS offices are closed, in which case the services can be authorized retroactively (22 CCR 42180(b)), and (2) where a request for prior authorization of CCS services for Medi-Cal beneficiary with a CCS-eligible condition has not been submitted to CCS on a timely basis by the provider but the services are medically necessary (Welfare and Institutions Code, Section 14133.05). Under existing law this second exception to the CCS prior authorization requirement does not apply to services for CCS clients who are HF subscribers.

Access for Infants and Mothers/HF Transfer

- The Proposition 99 (Tobacco Tax) funded AIM program covers mothers and their infants under the age of two with family incomes at or below 300 percent of the FPL.
- AB 1762 (Chapter 301, Statutes of 2003), the 2003 Budget Act trailer bill, provided that after June 30, 2004, infants born to mothers enrolled in AIM are automatically enrolled in HF (en lieu of enrollment of the infants in AIM as had been previous practice).
- AB 1762 provides that AIM linked infants can be enrolled into HF at anytime through the end of the eleventh month following the month of birth. This means that an AIM-linked infant could be potentially eligible for twelve months of HF coverage retroactive to the infant's date of birth as long as all of the HF family premiums are paid retroactively.

Funding of CCS Services for AIM/HF Transfer Infants

- The AIM/HF Transfer created a new somewhat higher income class of HF subscribers because the AIM linked infants' family incomes can be up to 300 percent of the FPL. In budgeting for CCS services under the transfer, DHS made the assumption that the AIM linked infants that would be medically eligible for CCS would be from families with incomes of over 200 percent of FPL and thus there would be no county financial participation in the non-federal costs for these services (the funding is budgeted 65 percent Title XXI, 35 percent General Fund).

- It is acknowledged that due to changes in family circumstances it is possible that when they finally become known to CCS, some small portion of the AIM linked infants may be identified as being from families with AGIs of less than $40,000. If this occurs, under existing statute and this proposed language, the county in which the infant resides will have a 17.5 percent share of cost for CCS services for these infants. Given the new, higher income class of HF subscribers to which the AIM linked infants belong, DHS has no historical basis to project how often this might occur. The expectation is that it would be an infrequent occurrence.

Trailer Bill Language

- While CCS has budgeted funds to provide CCS services for these AIM linked infants pursuant to the HF CCS carve out, implementation of the retroactive provision of the Transfer by CCS was not provided for in the original AB 1762 language.
- The language will specifically provide CCS with authority to:
  - Authorize CCS services retroactively for the AIM linked infants
  - Reimburse providers for CCS services provided to AIM linked infants prior to the time the infants become known to CCS.

It is unknown how many infants may be in this situation. However, funding to cover the costs of any CCS services for these infants is already included under Policy Change No. 5 of the CCS section of the November 2004 DHS Family Health Estimate.

Trailer Bill Language

Section 123928 is added to the Health and Safety Code:

(a) *Except as otherwise provided in this section and Welfare and Institutions Code section 14133.05,California Children's Services Program services provided pursuant to this Article require prior authorization by the Department or its designee. Such prior authorization is contingent on determination by the Department or its designee that:*

(1) *The child receiving such services is confirmed to be medically eligible for the California Children's Services Program.*

(2) *The provider of such services is approved in accordance with the standards of the California Children's Services Program.*

(3) *The services authorized are medically necessary to treat the child's CCS eligible medical condition.*

(b) *Effective July 1, 2004, the Department or its designee may approve a request for a treatment authorization that is otherwise in conformance with Subdivision (a) for services for a child participating in the Healthy Families Program pursuant to the provisions of Section 12693.70(a)(6)(A)(ii) of the Insurance Code, received by the* *department or its designee after the requested treatment has been provided to the child.*

(c) *Effective July 1, 2004, if a provider of services who meets the requirements of subdivision (a)(2) incurs costs for services described in subdivision (a) (3) to treat a child described in subdivision (b) who is subsequently determined to be medically eligible for the California Children's Services Program as determined by the Department or its designee, the department may reimburse the provider for such costs. Reimbursement under this section shall conform to the provisions of section 14105.18 of the Welfare and Institutions Code.*

ITEM 4260 DEPARTMENT OF HEALTH SERVICES PUBLIC HEALTH MAY REVISION

ISSUE 14: CAPITAL OUTLAY

It is requested that Item 4260-301-0890 be added in the amount of $1.266 million for the design and construction of an Emergency Operations Center (EOC) within the Emergency Preparedness Office (EPO). The EPO will be relocated within the East End Complex because the existing space is inadequate for a properly functioning EOC. The federal Centers for Disease Control recently reported numerous deficiencies with the existing EOC including an insufficient number of computer terminals, no redundant power supply or communication ability and an inability to ensure 24-hour-a-day coverage. The proposed location will meet the requirements for an EOC, while remaining close to the offices of Department of Health Services executive management and program specialists who would be called in the event of a public health emergency. Funding will be provided through existing bioterrorism grants that have been authorized for this purpose.

Adopt the following budget bill language.

4260-301-0890 – For capital outlay, Department of Health Services,
payable from the Federal Trust Fund $1,266,000
Schedule:
(1) 94.90.005 – Emergency Operations Center – Preliminary
plans, working drawings and construction………..$1,2666,000

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES – MAY REVISION

ISSUE 1: QUALITY MANAGEMENT SYSTEM (ISSUE 101)

It is requested that Item 4300-001-0001 be increased by $1.0 million to provide additional resources for implementing new quality assurance requirements of the federal Centers for Medicare and Medicaid Services. Specifically, funds are requested for a consultant to conduct a comprehensive, system-wide study for implementing integrated, yet distinct, quality management programs in the developmental centers and regional centers. As appropriate, this work will include development of a Feasibility Study Report for new information technology systems in the developmental centers. There is a related request in the Developmental Centers budget.

ISSUE 2: DEVELOPMENTAL CENTERS ESTIMATE (ISSUE 098)

It is requested that Item 4300-003-0001 be decreased by $3,486,000 and Reimbursements be decreased by $2,421,000. It is further requested that Item 4300-004-0001 be decreased by $132,000 and Reimbursements be decreased by $84,000. The net change in these items reflects a reduction of $6,123,000 ($3,618,000 General Fund) and 93.0 positions (60.0 Level-of-Care and 33.0 non-Level-of-Care positions) due to a decline in the developmental centers population lowering staffing need.

ISSUE 3: EMPLOYEE COMPENSATION (ISSUE 099)

It is requested that Item 4300-003-0001 be increased by $1,171,000 and Reimbursements be increased by $891,000. This is a baseline adjustment to fund employee compensation costs pursuant to Budget Letter 04-34 that were inadvertently excluded from the Governor's Budget.

ISSUE 4: QUALITY MANAGEMENT SYSTEM (ISSUE 101)

It is requested that Item 4300-003-0001 be increased by $369,000 and Reimbursements be increased by $295,000. These resources are for 5.0 two-year, limited-term Standards Compliance Coordinator positions to assist with the development of a quality management program for the developmental centers. There is a related request in the Headquarters budget.

ISSUE 5: WORKERS' COMPENSATION (ISSUE 104)

It is requested that Item 4300-003-0001 be increased by $2,782,000 and Reimbursements be increased by $2,118,000. This reflects one-time funding for settlement of select Workers' Compensation claims in order to reduce ongoing liabilities.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES – MAY REVISION

ISSUE 6: AGNEWS CLOSURE PLAN (ISSUE 106)

It is requested that Item 4300-003-0001 be increased by $2,453,000 and Reimbursements be increased by $1,054,000. These technical adjustments would correct an error in the Governor's Budget and fiscal detail of the Agnews Closure Plan that double counted the General Fund reduction and reimbursements increase associated with the policy of using Agnews staff to provide services in the community. This request also reflects an updated start date for Agnews employees in the community of October 1, 2005, from July 1, 2005.

ISSUE 7: AGNEWS STAFFING RESTORATION (ISSUE 107)

It is requested that Item 4300-003-0001 be increased by $1,696,000 and Reimbursements be increased by $1,535,000. This would restore to Agnews Developmental Center 43.0 Non-Level-of-Care (N-LOC) positions and the associated funding that was reduced in the Governor's Budget as part of the standard budgeting methodology for staffing associated with population change. These resources are needed to ensure the appropriate level of N-LOC staffing at Agnews during the transition to closure.

ISSUE 8: REGIONAL CENTERS ESTIMATE (ISSUE 200)

It is requested that Item 4300-101-0001 be reduced by $89,223,000 and Reimbursements be increased by $35,033,000. It is further requested that Item 4300-101-0890 be increased by $654,000. These changes are comprised of the following adjustments:

- Regional centers operations will increase by a net $189,000 due to updated caseload data.
- Regional centers purchase of services will decrease by a net $53,725,000 based on updated base, caseload, utilization, and expenditure data.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES – MAY REVISION

ISSUE 9: INCREASING FEDERAL FINANCIAL PARTICIPATION (ISSUE 203)

It is requested that Item 4300-101-0001 be increased by $144,000 and Reimbursements be increased by $144,000. Existing General Fund resources are used to draw down increased federal financial participation (FFP) in two areas. First, there is an increase of $30,000 FFP for adding environmental adaptation services to the Home and Community-Based Services Waiver (HCBSW), subject to a pending Waiver application amendment. Second, there is an increase of $114,000 FFP Targeted Case Management, subject to an amendment to the California State Plan for Medicaid Services.

ISSUE 10: STAFFING FOR SELF-DIRECTED SERVICES (ISSUE 207)

It is requested that Item 4300-101-0001 be decreased by $45,000 and Reimbursements be increased by $471,000. The Governor's Budget proposed to implement the Self-Directed Services Program in the regional centers beginning in January 2006, and included resources for regional centers to implement the program as well as estimated program savings in the purchase of services budget. At that time, costs for regional center positions were calculated to reflect FFP for staffing under the Home and Community-Based Services Waiver due to insufficient information concerning FFP under an Independence Plus Waiver. In addition, the positions were reflected at incorrect salary levels. This request is to update the salaries to the appropriate levels and reflect the correct share of FFP for the positions.

Implementation of Self-Directed Services has been linked to the roll out of the California Developmental Disabilities Information System (CADDIS) in the regional centers. The revised date for CADDIS implementation in all 21 centers is June 2006. An independent review of CADDIS will be conducted to assess various aspects of project requirements, schedule and status (see Issue 302). The Administration will determine the specific implementation date of Self-Directed Services pending the outcome of the CADDIS review. The Self-Directed Services Program will be implemented as soon as feasible after January 1, 2006.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES – MAY REVISION

ISSUE 11: COMPLIANCE WITH THE HOME AND COMMUNITY-BASED SERVICES WAIVER (ISSUE 209)

It is requested that Item 4300-101-0001 be decreased by $1,755,000 and Reimbursements be increased by $11,424,000. The Governor's Budget proposed to augment regional centers operations by $10,559,000 General Fund to improve case management ratios for compliance with the HCBSW. That request is being updated due to the recognition that the proposed regional center positions would be eligible for increased FFP from HCBSW Administration, Medicaid Administration, and Targeted Case Management. Due to the increased FFP, General Fund need is reduced by $1.8 million, and the total proposed augmentation increases by $9.7 million to $20.2 million.

ISSUE 12: MEDI-CAL DENTAL CAP (ISSUE 212)

It is requested that Item 4300-101-0001 be increased by $1,057,000 to reflect the impact of the Medi-Cal Redesign dental cap proposal. The Medi-Cal proposal would place a $1,000 per person annual limit on dental services provided to Medi-Cal eligible consumers age 21 and older, effective August 1, 2005. Due to the Lanterman Act entitlement, regional centers would fund the costs of dental services above $1,000 for those consumers.

ISSUE 13: COST CONTAINMENT MEASURES (ISSUE 213)

It is requested that Item 4300-101-0001 be decreased by $29,000 and Reimbursements be increased by $115,000. The Governor's Budget included the fiscal impact of implementing cost containment strategies for the purchase of services, including funding for regional centers operations and savings in the purchase of services budget. This technical adjustment updates the estimated net savings from those cost containment strategies due to a projected decline in the regional center caseload.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES - MAY REVISION

ISSUE 14: REAPPPROPRIATIONS FOR AGNEWS RELATED COMMUNITY-BASED HOUSING (ISSUES 249 & 250)

It is requested that Item 4300-490 be amended to reappropriate $11,115,000 provided in the Budget Act of 2004 for development of community-based housing for residents of Agnews Developmental Center (Attachment I). These funds will not be expended in the current year. Funding is needed in the budget year for housing development upon the Department of Developmental Disabilities' (DDS) approval of Bay Area regional center housing proposals related to AB 2100 (Steinberg, Chapter 831, Statutes of 2004).

Reappropriation for Agnews-Related Community-Based Housing—Issue 249

Item 4300-490 – Reappropriation, Department of Developmental Services.

Notwithstanding any other provision of law, as of June 30, 2005, the balances specified below of the appropriations provided in the following citations are reappropriated for the purposes specified and shall be available for encumbrances or expenditure until June 30, 2006, unless otherwise stated.
0001 - General Fund
(1) Item 4300-101-0001 ~~(1) 10.10.010 and (2) 10.10.020,~~ Budget Act of 2004 (Ch 208, Stats. 2004) ~~for the Life Quality Assessment Interagency Agreement.~~
<u>(1) $488,000 appropriated in Regional Centers: Operations 10.10.010 for cost containment proposals including cost statement automation and information technology consulting for Day Programs, In-Home Respite, and Work Activity Programs as well as for research and education for Supported Living Services, the Standardized Rate Project, and Geographic Rate Consideration.</u>
<u>(2) Balance of Program 10.10.010 Regional Centers: Operations and 10.10.020 Regional Centers: Purchase of Services for the Life Quality Assessment Interagency Agreement.</u>
<u>(2) $11,115,000 in Item 4300-105-0001, Budget Act of 2004 (Ch. 208, Statutes of 2004).</u>

<u>0496- Developmental Disabilities Services Account</u>
<u>(1) Balance of Item 4300-101-0496, Budget Act of 2004 (Ch. 208, Stats. 2004)</u>

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES – MAY REVISION

ISSUE 15: CALIFORNIA DEVELOPMENTAL DISABILITIES INFORMATION SYSTEM (ISSUE 302)

It is requested that Item 4300-101-0001 be increased by $2.0 million to make funding available for proposed functional changes to the California Developmental Disabilities Information System (CADDIS). Budget Bill language is also requested for this item to make expenditure of these funds contingent upon approval of the Director of Finance of a revised Special Project Report (SPR) including these functional changes. Final review of a proposed SPR submitted by the DDS is pending completion of an independent assessment of CADDIS under the oversight of the California Health and Human Services Agency and the Department of Finance. Issue 301 below is a related issue

Proposed Budget Bill Language for Item 4300-101-0001

California Developmental Disabilities Information System—Issue 302
Federal Attendance Reporting—Issue 301

Insert under Provisions:
X. (a) Of the funds appropriated in this item, $3,730,000 shall be available for information technology costs of the California Developmental Disabilities Information System (CADDIS). Of this amount, $2,000,000 is set-aside for the sole purpose of funding functional changes to CADDIS.

(b) Expenditure of the $2,000,000 for CADDIS functional changes is contingent upon approval by the Director of Finance of a revised Special Project Report approving these functional changes. The intent of this set-aside is to ensure that sufficient funding is available for this purpose in the event that the Director of Finance determines such changes are necessary for successful completion of the project and approves the Special Project Report. The Director of Finance's determination will be informed by the findings of an independent project review of CADDIS conducted by an independent contractor under the oversight of the California Health and Human Services Agency and the Department of Finance.

(c) The independent project review will be an assessment to determine if the current CADDIS design maps to and reflects the project objectives as represented in the original project Feasibility Study Report and Request for Proposal. The assessment will consider whether CADDIS will meet Department of Developmental Services and regional center business practice requirements and objectives, including objectives related to federal programs. The assessment will examine project management, schedule, and status.

(d) Funding in this item for regional center operations also includes a set-aside of $467,000 General Fund and $92,000 in reimbursements for regional centers to input federally required consumer attendance data into CADDIS upon its implementation. These funds shall not be expended until such time as CADDIS implementation occurs.

(e) Based on the findings of the independent project review, the Director of Finance may transfer management of the CADDIS project from the Department of Developmental Services to the California Health and Human Services Agency in order to promote successful completion of the project.

(f) Nothing in this provision is intended to nullify the approval and legislative notification provisions of Section 11.00 or Section 11.10 of this Act.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES – MAY REVISION

ISSUE 16: FEDERAL ATTENDANCE REPORTING (ISSUE 301)

It is requested that Item 4300-101-0001 be increased by $467,000 and Reimbursements be increased by $92,000. The requested resources are for regional center staff to manually input consumer attendance data into the CADDIS in accordance with federal billing and reporting requirements. Budget Bill language is also requested for this item to prohibit expenditure of these funds until such time as CADDIS implementation occurs.

ISSUE 17: TRAILER BILL LANGUAGE FOR CONTINUING RATE FREEZE

The May Revision proposes that Trailer Bill language be added to continue the current rate freeze for Community-based Day Programs, Respite, and Habilitation Services during the 2005-06 fiscal year. The fiscal impact of continuing this rate freeze was reflected in the Governor's Budget; however, the Trailer Bill language was inadvertently excluded at that time.

Trailer Bill Language for Continuing Rate Freeze

Section 4691.6 of the Welfare and Institutions Code is amended to read:

4691.6. (a) Notwithstanding any other provision of law or regulation, during the ~~2004-05~~ 2005-06 fiscal year, the department may not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, ~~2004~~ 2005, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, ~~2004~~ 2005, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the the consumers' health and safety.

(b) Notwithstanding any other provision of law or regulation, during the ~~2004-05~~ 2005-06 fiscal year, neither the department nor any regional center may approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, ~~2004~~ 2005, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(c) Notwithstanding any other provision of law or regulation, during the ~~2004-05~~ 2005-06 fiscal year, the department may not approve an anticipated rate adjusted for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, ~~2004-05~~ 2005-06, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(d) Notwithstanding any other provision of law or regulation, during the ~~2004-05~~ 2005-06 fiscal year, the department may not approve any rate adjustment for a habilitation services program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, ~~2004~~ 2005, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior authorization written.

ISSUE 18: TRAILER BILL LANGUAGE FOR SELF-DIRECTED SERVICES

The Governor's Budget proposed Trailer Bill Language to implement the Self-Directed Services program. Since then, the Administration has continued to refine its proposal based on input from legislative staff and stakeholders. Attached is revised Trailer Bill Language for the proposal.

Revised Language for Self-Directed Services

Trailer Bill Language for Self-Directed Services

SEC. 14. Section 4685.7 is added to the Welfare and Institutions Code, to read:

4685.7 (a) The s~~S~~elf-determination projects described in Section 4685.5 shall be available in ~~everyservices within the 21 regional~~ center catchment area~~s~~, ~~and~~ consistent with federal approval of a self-directed waiver, and the requirements ~~shall expand as~~ set forth in this section. In order to provide opportunities to participate in a self-directed services program, the ~~State D~~department ~~of Developmental Services~~ shall adopt regulations to implement the procedures in this section.
For purposes of this section, the following definitions shall apply:

(1) "Financial management services" means a service or function that assists the participant ~~family or individual~~ to manage and direct the distribution of funds contained in the individual budget. This may include activities that facilitate ~~the facilitation of~~ the employment of service workers by the participant ~~family or individual~~, including, but not limited to, federal, state, and local tax withholding or payments, unemployment insurance premiums, setting of wages and benefits, ~~compensation fees~~, wage settlements, fiscal accounting, and expenditure reports. Specific qualifications shall be established by the department and required of a financial management services provider.

(2) "Supports brokerage" means a service or function that assists participants ~~participating families and individuals~~ to make informed decisions about their individual budget, and assists in locating, accessing, and coordinating services consistent with and reflecting a participant's ~~their~~ needs and preferences ~~reflect individual circumstances~~. The service is available to assist in identifying immediate and long-term needs, developing options to meet those needs, participating in the person-centered planning process and development of the individual program plan, and obtaining identified supports and services.

(3) "Supports broker" means a person, selected and directed by the participant, who fulfills the supports brokerage service or function and assists the participant's participation in ~~facilitates communication between the individual enrollee and~~ the self-directed services program~~, identifying and assisting as needed to assure individuals and their families understand the responsibilities involved with directing one's own services. The supports broker fulfills the supports brokerage service or function.~~ Specific qualifications shall be established by the department and required of a supports broker provider.

(4) "Waiver" means a waiver of federal law pursuant to Section 1396n of Title 42 of the United States Code.

(5) "Independence Plus Self-Directed (IPSD) Waiver Program" or "Self-Directed Waiver Program" means a federal waiver to the state's Medicaid plan to ~~that provides for a delivery of services program that~~ allow~~s~~ people with developmental disabilities who need or require long-term supports and services, and their families, greater opportunity to control his or her own health by utilization of self-directed services.

(6) “S~~elf-determination services,” SDS” or “s~~elf-directed services” or “SDS” means a voluntary delivery system consisting of a defined and comprehensive mix of ~~integrated and inclusive~~ services and supports selected and directed by a participant in order to ~~that enhance the ability of an individual or his or her family, as appropriate, to control the decisions and resources required to~~ meet all or some of the objectives in his or her individual program plan. ~~Any references to “self-determination services” shall have the same meaning as self-directed services.~~ SDS services and supports are designed to assist the participant to achieve personally defined outcomes in ~~the most~~ inclusive community settings. Self-directed services shall include, but are not limited to, home health aide services, supported employment and prevocational services; respite services; supports brokerage functions and services, financial management services and functions; environmental accessibility adaptations; skilled nursing; transportation; specialized medical equipment and supplies; personal emergency response system; integrative therapies; vehicle adaptations; communication support; crises intervention; nutritional consultation; behavior intervention services; specialized therapeutic services; family assistance and support, housing access supports, community living supports, including but not limited to socialization, personal skill development, community participation, recreation, leisure, home and personal care; advocacy services; individual training and education; participant- designed goods and services; training and education transition services. The department shall include all of the services and supports listed in this subsection in the IPSD Waiver Program application. Notwithstanding this subsection, only services and supports included in an approved IPSD Waiver shall be provided in the SDS Program.

(7) “Individual budget” means the amount of funding ~~monetary value of services~~ available to the participant ~~family or individual~~ for the purchase of services and supports necessary to implement an ~~support the~~ ~~individual’s~~ individual program plan. The individual budget is constructed using a fair, equitable, and transparent methodology.

(8) “Risk pool” means an ~~aggregate~~ account ~~comprised of a portion of each self-directed services participant’s yearly individual budget~~ that is available ~~allocated~~ for use in addressing unanticipated needs of participants in the self-directed services program.

~~(9) “Employer of record” refers to the individual, or legally authorized representative, functioning in the capacity of controlling what tasks self-directed service providers will perform and how the tasks will be performed. The term “employer of record” is a generic terms that refers to the legal employer of a worker. and in a self-directed program includes service workers hired directly by individuals.~~

~~(10) “Congregate setting” means an environment in a defined geographical area, the makeup of which is defined by the presence of people with disabilities roughly disproportionate to that of the population at large.~~

(9) “Participant” means an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, who have been deemed eligible for, and have voluntarily agreed to participate in, the Self-Directed Services Program.

(c) The Self-Directed Services Program is hereby established and shall be available in every regional center catchment area, to provide participants ~~individuals with developmental disabilities greater control to purchase needed services and supports~~ within an individual budget, greater control of needed services and supports. ~~The methodology for determining individual budgets shall be detailed in departmental regulations and shall limit the individual budgets to 90 percent of historic annual purchase of service costs for consumers with similar characteristics at the regional center that established the consumer’s individual program plan. It is the intent of the Legislature that 5 percent of the annual appropriation for the SDS Program will go to a risk pool for consumer’s unanticipated needs, and 5 percent will be reflected as savings to the state in the SDS Program.~~

(d) Participation in the SDS Program is fully voluntary. Participants must choose to participate in, and may choose to leave, the SDS Program at any time. A regional center may *not require participation in the SDS Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this Division.*

(e) Prior to enrollment in the SDS Program, and based on the methodologies described below, an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall be provided in writing two individual budget amounts. If the individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, elects to become a participant in the SDS Program, he or she shall choose which of the two budget amounts provided will be used to implement their individual program plan.

(f) The methodologies and formulae for determining the two individual budget amounts shall be detailed in departmental regulations, as follows:

(1) One individual budget amount shall equal 90 percent of the most recent consecutive 24 months of purchase-of-service expenditures for the individual.

(2) One individual budget amount shall equal 90 percent of the aggregate annual purchase of service costs for the previous two fiscal years for consumers with similar characteristics, based on factors including age, type of residence, type of disability and ability, functional skills, and whether the individual is in transition. This budget methodology shall be constructed using data available on the State Department of Developmental Services information system.

(g) Once a participant has selected an individual budget amount, pursuant to (f), that individual budget amount shall be available to the participant for the purchase of self-directed services until a new individual budget amount has been determined.

(h) A regional center's calculation of a participant's individual budget amount in subsection (f)(2) shall be appealed to the executive director of the regional center within 30 days of receipt. The executive director shall issue a written decision within 10 working days. The individual may appeal to the Director of the Department of Developmental Services, or his or her designee, any decision made by the regional center executive director pursuant to this subdivision within 15 days of receipt of the written decision. The decision of the department shall be final.

(i) The department shall establish a risk pool to meet the unanticipated needs of participants in the SDS Program.

(1) In the first year of the SDS Program, the risk pool shall be funded at the equivalent of 5 percent of the historic annual purchase of service costs for SDS Program participants. In ensuing fiscal years, the risk pool shall be funded at the equivalent of 5% of the annual purchase of service costs for the prior two fiscal years for SDS Program participants.

(2) The risk pool shall be allocated by the department to regional centers through a process specified by the department.

(3) The risk pool may be used only in the event of substantial change in a participant's service and support needs that were not known at the time the individual budget was set such as an urgent need to relocate a residence, and catastrophic injury or illness.

(4) The risk pool may be accessed by a participant more than once in a lifetime.

(j) In the first year of the SDS Program, the department shall provide for establishment of savings to the general fund equivalent to 5% of the historic annual purchase of service costs for SDS Program participants. In ensuing fiscal years, the department shall provide for establishment of savings to the general fund equivalent to 5% of the annual purchase of service costs for the prior two fiscal years for SDS Program participants.

(k) The regional center may advance funds to a financial management services entity pursuant to SDS Program regulations to facilitate development of a participant's individual budget and transition into the SDS Program.

(l) Participation in the SDS Program shall be available to any regional center consumer who meets the following eligibility requirements:

~~Self-directed services programs shall include, but not be limited to, all the following requisites:~~

(1) ~~In order to participate in a self-directed services program, an individual~~ A participant shall be three years of age or older.

(2) ~~An individual receiving services in a licensed residential services facility or other congregate setting shall make satisfactory arrangements for voluntary discharge from such living arrangements upon enrollment a self-directed services program.~~ A participant shall not live in a licensed residential facility, as defined in California Code of Regulations, Title 17, Section 54302(44) and 543402(45), or receive day program services, as defined in California Code of Regulations, Title 17, Section 54302(16). An individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, who is not eligible to participate in the SDS Program pursuant to this subsection, may request that the regional center provide person-center planning services in order to make arrangements for transition to the SDS Program. In such case, the regional center shall initiate person-centered planning services within 60 days of a request.

(3) ~~The individual~~ A participant shall have a developmental disability as defined in Section 4512.

(4) ~~The individual shall reside in a regional center geographic area where a self-directed services program is available.~~ Upon a determination by the individual program plan planning team that the SDS Program is an appropriate service delivery for meeting the individual's needs, a participant

~~(5)~~ ~~The individuals~~ shall accept all of the following terms and conditions:

(A) The person shall undergo an in-depth orientation to the SDS Program prior to enrollment.

(B) The person shall agree to utilize the services and supports available within the SDS Program only when generic services cannot be accessed ~~are not available, and~~ except for Medi-Cal state plan benefits when applicable.

(C) An individual who is not Medi-Cal eligible may participate in the SDS Program without IPSD Waiver Program enrollment and receive self-directed services if all other IPSD Waiver Program eligibility requirements are met ~~and a recent history of service needs is evidenced by regional center service utilization~~.

(D) A participant ~~n individual who is utilizing any services and supports~~ shall consent to use only services necessary to implement his or her individual program plan as described in the IPSD Waiver Program and as defined in paragraph 6 of subsection (b), as an available service in the ~~self-directed services p~~ SDS Program and shall agree to comply with any and all other terms and conditions for participation in the ~~self-directed services p~~ SDS Program.

(E) The person shall accept and manage self-directed services within the individual budget amount that has been calculated ~~established~~ by the regional center ~~planning team~~, and described in the ~~individual~~ participant's individual program plan.

(F) The individual budget amount shall be calculated no more than once in a 12-month period.

(G) The person shall employ the services of a financial management services entity for the purposes of payroll, disbursement of funds, and related duties pursuant to the participant's ~~individual's~~ approval. A financial management services provider may either be hired or designated by the participant. A designated financial management services provider shall perform services on a non-paid basis. A participant and his or her parent shall ~~An individual may~~ provide financial management services only as a designated provider and only~~on his or her own behalf~~ if the capacity to fulfill the roles and responsibilities as described in the financial management services provider qualifications can be demonstrated to the regional center.

(H) The participant ~~individual~~ shall utilize the services of a supports broker for the purpose of providing services and functions as described in paragraphs (2) and (3) of subdivision (b). A supports broker may be either hired or designated by the participant. A

designated supports broker shall perform support brokerage services on a non-paid basis. ~~An individual~~ A participant or his or her parent ~~may~~ shall provide supports brokerage services only as a designated supports broker and only ~~on his or her own behalf, or his or her designated representative may provide the services on behalf of the individual,~~ if the capacity to fulfill the role and responsibilities as described in the supports broker provider qualifications can be demonstrated to the financial management services provider.

~~(6)~~ (5) The participant shall ~~individual, except when the individual is a minor, will~~ implement his or her individual program plan ~~self-directed services~~. An adult participant may designate an authorized representative to effect the implementation. ~~In the case of a minor, a legally responsible family guardian, or conservator will implement the self-directed services. In the event that an adult individual in a self-directed program is unable to fully implement his or her identified services, there shall be an authorized representative who may be a family member, friend, legal guardian, other legally appointed representative to effect the implementation.~~ The representative shall meet all of the following requirements:

(A) He or she shall demonstrate knowledge and understanding of the participant's ~~individual's~~ needs and preferences.

(B) He or she shall be willing and able to comply with SDS P~~p~~rogram requirements.

(C) He or she shall be at least 18 years of age.

(D) He or she shall be approved by the participant ~~individual~~ to act in the capacity of a representative.

~~(e)~~ (m) If at any time during participation in a ~~self-directed p~~ SDS Program a regional center determines that an individual is no longer eligible to continue based on the criteria described in subdivision (k) ~~(d)~~, the regional center shall inform the participant ~~individual~~ of his or her ineligibility and shall provide for the individual's transition from the SDS Program to other services and supports. This shall include the development of a new individual program plan that reflects the services and supports necessary to meet the individual's needs. Upon determination of ineligibility pursuant to this subdivision, the participant shall be sent written notice of the fair hearing rights, as required by Section 4701. The regional center shall ensure there is no gap in services and supports during the transition period.

~~(f)~~ (n) An individual determined ineligible as described in subdivision (l) ~~(e),~~ or who voluntarily exits the SDS Program shall be permitted to return to the SDS Program upon meeting all applicable eligibility criteria and after a minimum of 12 months has elapsed.

(o) Participants shall have all the rights established in Chapter 7 (commencing with Section 4700) except as allowed under subsection (g) and subsection (l)(4)(E).

~~(g) SDS Program participants may appeal an error in the calculation of his or her individual budget to the executive director of the regional center within 30-days of the completion of the individual program plan. The individual may appeal to the Director of the Developmental Services, or his or her designee, any decision made by the regional center executive director pursuant to this subdivision within 15 days of receipt of the written decision of the executive director.~~

~~(h)~~ (p) Only the financial management services provider is required to apply for vendorization in accordance with Section 54300 et seq. of Subchapter 2 (commencing with Section 54300) of Chapter 3 of Title 17 of the California Code of Regulation, for the SDS Program. ~~self-directed services programs.~~ All other service providers shall have applicable state licenses, certifications, or other state required documentation, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations. The financial management services entity shall ensure and document that all service providers meet specified requirements ~~are qualified~~ for any service that may be delivered to any ~~individual in a self-directed services~~ participant in the SDS Program.

~~(i)~~ (q) ~~Individuals~~ Participants in the SDS Program ~~enrolled in a self-directed services program~~ may request, at no charge to the participant, criminal history background checks for persons seeking employment as a service provider ~~or~~ and providing direct care services to the participant ~~individual~~.

(1) Criminal history records checks pursuant to this subdivision shall be performed and administered as described in subdivision (b) and subdivisions (d) through (h), inclusive of Section 4689.2, and Sections 4689.4 through 4689.6, inclusive, and as same apply to vendorization of providers and hiring of employees to provide services for family home agencies and family homes.

(2) The ~~State D~~ department ~~of Developmental Services~~ may enter into a written agreement with the Department of Justice to implement this subdivision.

~~(j)~~ (r) ~~Persons~~ Participants enrolled in ~~a self-directed services p~~the SDS Program pursuant to this section and utilizing an individual budget for services and supports are exempt from Section 4783 and from the Family Cost Participation Program.

~~(k)~~ (s) The ~~State D~~ department ~~of Developmental Services~~ may develop, revise, and maintain regulations implementing the requirements of this section. The adoption of any emergency regulations to implement this section that are filed with the Office of Administrative Law on or before January 1, 2007, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

~~(l)~~ (t) Notwithstanding any provision of law, a person receiving services and supports in a congregate setting pursuant to Section 4685.5 may elect to either participate in the IPSD Waiver Program or continue to receive self-directed services within ~~their~~ his or her current scope and existing procedures and parameters.

~~(m) Persons participating in the IPSD Waiver Program or a self-directed services program shall also be included in the self-directed services program. The risk pool shall be allocated by the State Department of Developmental Services to the regional centers through an application a process specified by the State Department of Developmental Services. Funds in the risk pool may be accessed more than once in a lifetime by a participant and shall be used only for unanticipated and substantial change in the individual's service and support needs that were not known at the time the individual budget was set; or relocation of individual residence; or catastrophic injury or illness.~~

(w) Commencing January 10, 2008, the department shall annually report to the policy and fiscal committees of the Legislature on the following:

(1) Number and characteristics of participants, by regional center.

(2) Types and ranking of services and supports purchased under the SDS program, by regional center.

(3) Utilization of the risk pool, including range and average individual budget augmentations and type of services and supports, by regional center.

(4) Amount of risk pool fund deficits or surpluses, by regional center.

(5) Comparisons of consumer satisfaction under the SDS program and the traditional service delivery system, by regional center.

(6) The proportion of participants who report that their choices and decisions are respected and supported.

(7) The proportion of participants who report they are able to recruit and hire qualified service provider employees.

(8) Recommendations for program improvement.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 1: METROPOLITAN KITCHEN PROJECT

Metropolitan Kitchen Project:

The Metropolitan State Hospital Kitchen Project will replace the existing 50-year-old main kitchen with a clean, safe, and modern facility for kitchen staff, thereby correcting the numerous health code violations associated with the existing kitchen. The new kitchen will provide an efficient kitchen flow and food distribution process that will allow the hospital to better maintain food quality and temperature. The kitchen project also includes the renovation and remodeling of the six satellite serving kitchens and dining areas throughout the hospital

The 2003-04 Budget appropriated $18.9 million in lease revenue bond authority to construct a new kitchen and remodel the six satellite serving kitchens at Metropolitan State Hospital. Due to lease revenue bond sale requirements, the DOF determined to reduce the scope of the bond project to only the new main kitchen building, and make the renovation of the satellite kitchens a General Fund project. A reversion of $3.9 million occurred during the following year separating each component into General Fund and bond funded components. A separate BCP for $259,000 for working drawings was requested for the satellite component in the 2004-05 budget year. The 2005 Governor's Budget proposes $5.0 million for the construction phase of the satellite kitchens component.

Status:

Both components of the project have experienced increased costs due to unanticipated utility relocations, electrical rerouting, and additional foundation requirements, increased costs of materials, and the inclusion of necessary equipment and food management software to the main kitchen component. These increases cannot be accommodated within the SPWB's augmentation authority.

Current requests for Budget Year 2005-06

<u>Main Kitchen:</u>

- Working Drawing Phase: Lease Revenue Bond Funded: Cost increase from $766,000 to $886,000. Request for a reversion of $766,000 and request for a new appropriation of $886,000.

- Construction: Lease Revenue Bond Funded: Cost increase from $13,255,000 to $17,144,000. Request for a reversion of $13,255,000 and request for a new appropriation of $17,144,000 for increased construction costs.

<u>Satellite Kitchens:</u>

- **Working Drawings: General Fund:** Reappropriation of $259,000 from the Budget Act of 2004 into Fiscal Year 2005-06 because the DGS estimate for this project was higher than anticipated, thereby preventing DMH from encumbering this working drawing authority in the current year. Reappropriation of $259,000 is to provide available funds for working drawings for satellite kitchens.

- **Construction: General Fund:** Increase in the cost of construction from $5,045,000 to $5,282,000. Request a $237,000 augmentation to the $5,045,000 identified in the 2005-06 budget due to increased construction costs.

The Department is proposing supplemental reporting language. The language is adopted for capital out lay projects when changes have occurred.

***General Fund*: (Item 4440-301-0001**
Metropolitan State Hospital-Construct New Kitchen and Remodel Satellite Serving Kitchens: Satellite Serving Kitchen Component

- The amount of $5,541,000 (CCCI 4339) is provided for working drawings ($259,000), and construction ($5,282,000) of six existing satellite kitchens and dining facilities. The satellite kitchen improvements include new kitchen equipment, seamless epoxy floors, ceramic tile walls, and acoustical ceiling tiles. The construction amount includes $4,320,000 for the construction contract, $302,000 for contingency, and $660,000 for project administration. Working drawings will begin in July 2005 and the project bid in March 2006. Construction should be completed in January 2008.

***Lease Revenue Funds*: (Item 4440-301-0660)**
Metropolitan State Hospital-Construct New Kitchen and Remodel Satellite Serving Kitchens: New Kitchen Component

- The amount of $18,030,000 (CCCI 4339) is provided for, working drawings ($886,000), and construction ($17,144,000) of a 26,100 square foot (sf) central kitchen facility. The new main kitchen includes overhead fire sprinkler system, exterior plaster walls, standing seam metal roofing, new kitchen equipment, cook/chill system, high capacity food storage racks, large freezers, 48" high receiving dock with four overhead coiling doors, and a new 300 kva emergency generator. The construction amount includes $13,859,000 for the construction contract, $693,000 for contingency, and $2,592,000 for project administration. Working drawings will begin in July 2005 and the project bid in March 2006. Construction should be completed in January 2008.

The ostensible purposes of the remodeling is licensing requirements of the Department of Health Services and the cook and chill type system the Department chose to install. The satellite kitchens remodeling will include new kitchen equipment, epoxy floors, ceramic tile walls and acoustical ceiling tile. Asbestos and other environmental concerns may need to be addressed.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 2: METROPOLITAN STATE HOSPITAL – SCHOOL BUILDING

Metropolitan State Hospital School

This project will provide a new 26,801 square foot school with administrative offices adjacent to the living units of the Youth Treatment Program. Metropolitan State Hospital is the only state hospital providing services to children and adolescents. The new building will be designed to provide facilities to meet state educational standards and will comply with all applicable building codes. This building will be sited where the existing R&T Building is located. The R&T building is also scheduled for demolition as part of the entire project. The existing parking lot will also be reworked and the existing emergency generator will be relocated.

Status:

The construction cost for this project has increased, therefore, it is necessary to request a reversion of the original construction appropriation of $6,657,000 and request a new appropriation in the amount of $8,754,000. The increase in construction cost is a direct result of the following circumstances:

- A major redesign of the roof framing/stepped ceiling configuration above all 16 classrooms was required by the DSA/SFM. This change affected all the major design disciplines.

- The project required full integration to the facility's newly completed hospital-wide energy management system, access control, and hospital personal alarm systems had not occurred. This change primarily affected mechanical and electrical designs systems resulting in increased costs.

Budget Act of 2003 CHAPTER 157	Budget Act of 2004 CHAPTER 208	Requests for Action within the Budget Act of 2005
Appropriation of $6,657,000 for construction	Reappropriation of $6,657,000 for construction	Reversion of $6,657,000 for construction
		Request for new appropriation of $8,754,000 for construction

The Department of Finance has proposed the following supplemental report language:

Lease Revenue Funds: (Item 4440-301-0660)
Metropolitan State Hospital—Construct School Building

- *The amount of $8,754,000 is provided for construction of a 27,000 square feet school with administrative offices adjacent to the living units of the Youth Treatment Program. The amount for construction includes $375,000 for contingencies, $871,000 for project management, and $7,508,000 for construction contracts. Approval to go to bid is scheduled for July 2005. Construction will begin in January 2006 with the project expected to be completed in May 2007.*

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 3: ADMISSIONS SUITE RENOVATION – PATTON STATE HOSPITAL

EB Building at Patton State Hospital

This EB Building project combines three separate projects into one new appropriation request for working drawings and construction. The project was combined to reduce the time and cost of construction in addition to inclusion of the seismic component in order to satisfy the requirements of lease revenue bond sales. The entire project consists of Phases 2 and 3 of the EB Building Fire/Life/Safety/Environmental/Improvement (FLSEI) project, the renovation of the admissions suite, and the seismic retrofit of the entire building.

- Phase 2 and 3 of the FLSEI component of the project includes correcting FLSEI deficiencies, replacing the roofing system, elevator, mechanical, and electrical systems.
- The admissions suite component includes incorporating 529 square feet of adjacent hospital space, removing non-load bearing walls, removal of cement plaster partitions and ceilings, ceramic tile and related wall framing. New windows and doors will be replaced, in addition to replacement of interior finishes. The renovation of the admission suite is scheduled to occur during phase 3 of the FLSEI component.
- This seismic retrofit component of the project is required to ensure that the building meets existing seismic code and that it can be used as a collateral for lease revenue bonds. The seismic retrofit component requires the replacement of all interior walls and ceilings, ADA enhancements, as well as the installation of sprinklers throughout the building. The seismic retrofit component of the project reduces the seismic risk of the building.

Status:

DMH is requesting a reversion of $20,441,000 for working drawings and construction due to insufficient funds to complete the project. A new appropriation of $30,146,000 is now requested for current costs of working drawings and for construction. The majority of the increased costs are based on the necessary seismic work required within component 3 that was not included as part of the initial estimate. The scope of the project now includes enhanced ADA renovation required by the seismic component, the replacement of ceilings, and the installation of fire sprinklers throughout the building. The additional seismic work on the project has also increased the duration of the construction component from 27 to 35 months resulting in additional costs for the project. Nevertheless, combining the retrofit with the FLSEI improvements reduces the amount of time patients are disturbed and provides savings to the State as this building would eventually require a seismic retrofit to meet code. As a stand-alone project, the seismic retrofit of the EB building would take up to 30 months.

***Lease Revenue Funds*: (Item 4440-301-0660)**
Metropolitan State Hospital—Construct School Building

The amount of $8,754,000 is provided for construction of a 27,000 sf school with administrative offices adjacent to the living units of the Youth Treatment Program. The amount for construction includes $375,000 for contingencies, $871,000 for project management, and $7,508,000 for construction contracts. Approval to go to bid is scheduled for July 2005. Construction will begin in January 2006 with the project expected to be completed in May 2007.

ISSUE 4: BUDGET BILL LANGUAGE

The Capital Outlay Letter has five pieces of Budget Bill Language.

Add provisional language to Item 4440-301-0660 as follows:

1. *The State Public Works Board may issue lease revenue bonds, notes, or bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) of Part 10b of Division 3 of Title 2 of the Government Code to finance all phases of the project authorized by this item.*

2. *The State Public Works Board and the Department of Mental Health may obtain interim financing for the project costs authorized in this item from any appropriate source, including, but not limited to, Section 15849.1 of the Government Code and the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code.*

3. *The State Public Works Board may authorize the augmentation of the cost of each phase of the projects scheduled in this item pursuant to the Board's authority under Section 13332.11 of the Government Code. In addition, the State Public Works Board may authorize any additional amount necessary to establish a reasonable construction reserve and to pay the cost of financing, including the payment of interest during construction of the project, the costs of financing a debt service fund, and the cost of issuance of permanent financing for the project. This additional amount may include interest payable on any interim financing obtained.*

4. *This Department is authorized and directed to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale of bonds or otherwise effectuate the financing of the scheduled projects.*

5. *The State Public Works Board shall not be deemed to be the lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 [commencing with Section 21000] of the Public Resources Code) for any activities under the State Building Construction Act of 1955 (Part 10b [commencing with Section 15800] of Division 3 of Title 2 of the Government Code)]. This section does not exempt this department from the requirements of the California Environmental Quality Act. This section is intended to be declarative of existing law.*

ITEM 4440 DEPARTMENT OF MENTAL HEALTH – MAY REVISION

ISSUE 5: STATE HOSPITAL POPULATION – ISSUE 200

It is requested that Item 4440-011-0001 be increased by $10,058,000 and 128.6 permanent positions (122.2 personnel years) to reflect staffing for an additional 188 Judicially Committed/Penal Code patients in the state hospitals.

ISSUE 6: IMPACT OF COLEMAN COURT RECRUITMENT AND RETENTION ORDER – ISSUE 204

It is requested that Item 4440-011-0001 be increased by $733,000 to reflect increased recruitment and retention (R&R) pay differentials at Coalinga State Hospital ($706,000) and Salinas Valley Psychiatric Program ($27,000). This funding is consistent with the plan submitted by the Department of Corrections in response to a recent court order in the Coleman case.

ISSUE 7: LEASE REVENUE BOND PAYMENT ADJUSTMENT – ISSUE 206

It is requested that Item 4440-003-0001 be increased by $27,034,000 and be amended by increasing reimbursements by $88,000. Funds were set aside in the Governor's Budget for making lease revenue bond debt service adjustments via Control Section 4.30. This is a technical adjustment to the Governor's Budget to schedule these funds in the Department of Mental Health (DMH) budget. This reflects payment for construction of Coalinga State Hospital and capital improvement projects at other hospitals.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH – MAY REVISION

ISSUE 8: RESCISSION OF SEXUALLY VIOLENT PREDATOR PRE-COMMITMENT REFORM – ISSUE 207

It is requested that Item 4440-011-0001 be increased by $9,200,000 to reflect the rescission of the Administration's proposal to transfer 100 pre-commitment sexually violent predators (SVPs) from the state hospitals to local custody. The result is an increase of 100 SVPs for Coalinga State Hospital and 104.4 positions (99.2 personnel years) compared to the Governor's Budget

ISSUE 9: ENERGY EFFICIENCY BOND PROGRAM REPAYMENT – ISSUE 209

It is requested that Item 4440-011-0001 be decreased by $475,000 to reflect utility savings generated from energy efficiency projects at Metropolitan State Hospital and repayment to the General Fund for funding these projects. AB 156 (Chapter 7, Statutes of 2004) provided $3.7 million General Fund to repay loans from the Pooled Money Investment Account that provided interim funding for these projects. Repayment to the General Fund, plus five percent interest, will occur over a ten-year period through the utility savings generated by the projects.

ISSUE 10: SVP EVALUATION AND COURT TESTIMONY – ISSUE 260

It is requested that Item 4440-001-0001 be decreased by $102,000 to reflect a revised estimate of evaluation and court testimony costs for the SVP Program.

ISSUE 11: CONDITIONAL RELEASE PROGRAM CASELOAD – ISSUE 270

It is requested that Item 4440-016-0001 be decreased by $436,000 to reflect an updated estimate of caseload for the Conditional Release Program (CONREP). Specifically, this reflects a reduction of 5 patients in the SVP caseload and 10 patients in the general caseload compared to the Governor's Budget.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH – MAY REVISION

ISSUE 12: TRAILER BILL LANGUAGE FOR SVP TREATMENT RESTRUCTURING

The Governor's Budget proposed to restructure treatment of Sexually Violent Predators in state hospitals for General Fund savings of $6,020,000. At that time, statutory language to implement the proposal was still under development by the Administration. It is requested that trailer bill language be added that would authorize the DMH to implement the SVP program using an outpatient/day treatment model.

Restructure Treatment for Sexually Violent Predators—Issue 601

Section 6606 of the Welfare and Institutions Code is amended to read:

6606. (a) A person who is committed under this article shall be provided with programming by the State Department of Mental Health which shall afford the person with treatment for his or her diagnosed mental disorder.

(b) Amenability to treatment is not required for a finding that any person is a person described in Section 6600, nor is it required for treatment of that person. Treatment does not mean that the treatment be successful or potentially successful, nor does it mean that the person must recognize his or her problem and willingly participate in the treatment program.

(c) The programming provided by the State Department of Mental Health in facilities shall be consistent with current institutional standards for the treatment of sex offenders, and shall be based on a structured treatment protocol developed by the State Department of Mental Health. The protocol shall describe the number and types of treatment components that are provided in the program, and shall specify how assessment data will be used to determine the course of treatment for each individual offender. The protocol shall also specify measures that will be used to assess treatment progress and changes with respect to the individual's risk of reoffense.

(d) Notwithstanding any other provision of law, except as to requirements relating to fire and life safety of persons with mental illness, and consistent with information and standards described in subdivision (c), the Department is authorized to provide the programming using an outpatient/day treatment model, wherein treatment is provided by licensed professional clinicians in living units not licensed as health facility beds within a secure facility setting, on less than a 24-hour a day basis. The Department shall take into consideration the unique characteristics, individual needs, and choices of persons committed under this article, including whether or not a person needs antipsychotic medication, whether or not a person has physical medical conditions, and whether or not a person chooses to participate in a specified course of offender treatment. The Department shall ensure that policies and procedures are in place that address changes in patient needs, as well as patient choices, and respond to treatment needs in a timely fashion. The Department, in implementing this subdivision, shall be allowed by the Department of Health Services to place health facility beds at Coalinga State Hospital in suspense for a period up to six years. Coalinga State Hospital may remove all or any portion of its voluntarily suspended beds into active license status by request to the Department of Health Services. The facility's request shall be granted unless the suspended beds fail to comply with current operational requirements for licensure.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH – MAY REVISION

ISSUE 13: MENTAL HEALTH MANAGED CARE CASELOAD – ISSUE 210

It is requested that Item 4440-103-0001 be decreased by $1,041,000 and that Item 4440-101-0001 be amended by decreasing reimbursements from the Department of Health Services (DHS) by $1,038,000 to reflect the following adjustments:

- A decrease of $2,094,000 ($1,047,000 General Fund and $1,047,000 federal funds) for a change in the number of Medi-Cal eligibles.
- An increase of $18,000 ($9,000 General Fund and $9,000 federal funds) to reflect the one percent adjustment for inpatient growth.
- A reduction of $3,000 General Fund for a decrease in the number of eligibles in the Breast and Cervical Cancer Treatment Program.

ISSUE 14: MENTAL HEALTH MANAGED CARE CONTINUING SERVICES REQUIRMENTS – ISSUE 211

It is requested that Item 4440-103-0001 be increased by $67,000 and that Item 4440-101-0001 be amended by increasing reimbursements from the DHS by $67,000. The requested resources would fund a portion of county costs to implement the federal Medicaid managed care "continuing services" requirement. This is a condition of the Medi-Cal Specialty Mental Health Services Consolidation Waiver that was approved by the Centers for Medicare and Medicaid Services (CMS) for the Managed Care Program on April 26, 2005.

ISSUE 15: MENTAL HEALTH MANAGED CAREW NOTIFICATION REQUIREMENTS – ISSUE 212

It is requested that Item 4440-001-0001 be increased by $9,665,000 and amended by increasing reimbursements from the DHS by $9,665,000. These resources are needed to comply with the federal Medicaid managed care "notification materials" requirements to provide informing materials to all Medi-Cal beneficiaries and informing materials and provider listings to all current clients. This is also a condition of the Medi-Cal Specialty Mental Health Services Consolidation Waiver that was approved by the CMS for the Managed Care Program on April 26, 2005. Finance notes that this request is the result of considerable negotiations between the DMH and the CMS to provide partial relief from the original requirement, which would cost over $350.0 million to implement.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH – MAY REVISION

ISSUE 16: HEALTHY FAMILIES PROGRAM CASELOAD – ISSUE 230

It is requested that Item 4440-101-0001 be amended by decreasing reimbursements from the DHS by $2,469,000. This change reflects updated claiming information and county administrative costs.

ISSUE 17: EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT PROGRAM CASELOAD – ISSUE 240

It is requested that Item 4440-101-0001 be amended by decreasing reimbursements by $117,913,000 ($55,671,000 General Fund and $62,242,000 federal funds in the DHS budget) to reflect a lower projection of claimed costs for the Early and Periodic Screening Diagnosis and Treatment program (EPSDT).

ISSUE 18: FINAL SETTLEMENT OF FISCAL YEAR 2002-2003 EPSDT COUNTY COST REPORTS – ISSUE 241

It is requested that Item 4440-101-0001 be amended by increasing reimbursements by $139,357,000 ($67,672,000 General Fund and $71,685,000 federal funds in the DHS budget) to pay counties for final settlement of fiscal year 2002-03 EPSDT cost reports.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH – MAY REVISION

ISSUE 19: SERVICES TO HANDICAPPED STUDENTS AND SERIOUSLY EMOTIONALLY DISTURBED PUPILS MANDATES (AB 3632) – ISSUES 500 & 501

It is requested that Item 4440-105-0001 be added with funding of $90,000,000 for the State Controller (SCO) to reimburse counties for a portion of costs claimed during fiscal years 2002-03, 2003-04, and 2004-05 for the Services to Handicapped Students (Chapter 1747, Statutes of 1984) and Seriously Emotionally Disturbed Pupils (Chapter 654, Statutes of 1996) state-mandated local programs. Specifically, $72.0 million is to reimburse auditable claims for the Services to Handicapped Students program, and $18.0 million is for reimbursement of auditable claims for the Seriously Emotionally Disturbed Pupils program.

It is further requested that Item 0840-001-0001 be increased by $468,000 to fund 5.0 two-year limited-term Associate Management Auditor positions at the SCO to conduct audits of county claims for these two state mandates. In addition, the SCO will redirect 3.0 positions within existing resources for this purpose. The audits are expected to occur over two to three years. Trailer bill language is also proposed to require the SCO to audit county claims and recover any invalid costs identified by the audits.

The Department of Education May Revision letter includes a trailer bill language request to repeal these two state mandates, which were proposed for suspension in the Governor's Budget. There is no proposal to remove the mandates from the schedule of programs listed in Item 4440-295-0001 or to remove the suspension language from that item until such time the repeal is adopted.

Services to Handicapped Students and Seriously Emotionally Disturbed Pupils Mandates (AB 3632)—Issue 500

4440-105-0001—For local assistance, Department of Mental Health, Services to Handicapped Students and Seriously Emotionally Disturbed Pupils Mandates (AB 3632)

<u>Provisions:</u>

1. The funds appropriated in this item are for the State Controller to reimburse local government agencies for costs claimed for fiscal years 2002-03, 2003-04, and 2004-05 for the Services to Handicapped Students (Chapter 1747, Statutes of 1984) and Seriously Emotionally Disturbed Pupils (Chapter 654, Statutes of 1996) state-mandated local programs. Of the funds appropriated, $72,000,000 shall be used to reimburse claims for the Services to Handicapped Students program, and $18,000,000 shall be used to reimburse claims for the Seriously Emotionally Disturbed Pupils program. Reimbursement shall only be made for claims that are still subject to audit by the State Controller.

Services to Handicapped Students and Seriously Emotionally Disturbed Pupils Mandates (AB 3632)—Issue 501

The following is proposed uncodified trailer bill language:

SEC X. Subject to the availability of funds provided in the budget act for this purpose, beginning in the fiscal year 2005-06, the Controller shall audit and may conduct field reviews of reimbursable state mandate claims filed by local government entities for the following state-mandated local programs:

(1) Services to Handicapped Students Program contained in Chapter 26.5 of the Government Code commencing with Section 7570; and

(2) Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services Program contained in Government Code Section 7576.

The audits and reviews shall be conducted consistent with the provisions of Government Code Section 17558.5. Consistent with Section 17558.5, the Controller shall adjust a claim for reimbursement on the basis of the audit and review findings. The Controller shall not provide reimbursement for any costs claimed that are found to be invalid by the audits and reviews. To the extent that the audits and reviews reveal invalid costs in claims that were already reimbursed, the Controller shall recover payment for those invalid costs.

ISSUE 20: IMPLEMENTATION OF PROPOSITION 63, MENTAL HEALTH SERVICES ACT – ISSUE 600

The April Finance Letter requested establishment of 55.0 permanent and 54.0 three-year limited term positions for the DMH to implement Proposition 63. It is requested that provisional language be added to Item 4440-001-3085 to authorize the establishment of three-year limited term positions notwithstanding Government Code Section 19080.3 that authorizes the establishment of limited-term positions on a two-year basis (Attachment IV).

Implementation of Proposition 63, Mental Health Services Act—Issue 600 & Proposition 63 Contribution to Governor's Initiative to End Chronic Homelessness—Issue 502.

X. Notwithstanding Government Code Section 19080.3, 54 positions are established for a three-year limited term expiring June 30, 2008 for the purpose of implementing the Mental Health Services Act.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH – MAY REVISION

ISSUE 21: PROPOSITION 63 CONTRIBUTION TO GOVERNOR'S CHRONIC HOMELESSNESS INITIATIVE – ISSUE 502

It is requested that Item 4440-001-0001 be increased by $2.3 million and amended by increasing Item 4440-001-3085 by $2.3 million. This funding, when combined with $100,000 in Proposition 63 funds previously requested in the April Finance letter for this purpose, will provide $2.4 million on a one-time basis for the Governor's Chronic Homelessness Initiative. These funds would be available for expenditure for two years and would be used for rent subsidies ($2.0 million) and to establish collaboratives ($400,000) at the local level to assist counties in developing projects to promote stable housing for homeless persons. It is also requested that provisional language be added to Item 4440-001-3085 consistent with this request.

> *X. Of the funds appropriated in this item, $2,400,000 is one-time funding for rent subsidies and collaborative efforts to promote stable housing for homeless persons. These funds will be used for the Governor's Initiative to End Chronic Homelessness. These funds are available for expenditure in 2005-06 and 2006-07.*

ISSUE 22: TRAILER BILL LANGUAGE FOR EMERGENCY MANAGED CARE REGULATIONS

It is requested that trailer bill language be added that would extend the emergency regulations for the Mental Health Managed Care program from January 1, 2006, to the time that permanent regulations are adopted, or June 30, 2006, whichever occurs sooner. This extension is needed to provide sufficient time for the proposed permanent regulations to be reviewed within the Administration and be adopted by the Office of Administrative Law.

Emergency Managed Care Regulations—Issue 602
SEC. (XXX). Section 5775 of the Welfare and Institutions Code is amended to read:

5775. (a) Notwithstanding any other provision of state law, the State Department of Mental Health shall implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, including individual counties, counties acting jointly, any qualified individual or organization, or a nongovernmental entity. A contract may be exclusive and may be awarded on a geographic basis.

(b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of mental health services. The agreement may encompass all or any portion of the mental health services provided pursuant to this part. This agreement shall not relieve the individual counties of financial responsibility for providing these services. Any agreement between counties shall delineate each county's responsibilities and fiscal liability.

(c) The department shall offer to contract with each county for the delivery of mental health services to that county's Medi-Cal beneficiary population prior to offering to contract with any other entity, upon terms at least as favorable as any offered to a noncounty contract provider. If a county elects not to contract with the department, does not renew its contract, or does not meet the minimum standards set by the department, the department may elect to

contract with any other governmental or nongovernmental entity for the delivery of mental health services in that county and may administer the delivery of mental health services until a contract for a mental health plan is implemented. The county may not subsequently contract to provide mental health services under this part unless the department elects to contract with the county.

(d) If a county does not contract with the department to provide mental health services, the county shall transfer the responsibility for community Medi-Cal reimbursable mental health services and the anticipated county matching funds needed for community Medi-Cal mental health services in that county to the department. The amount of the anticipated county matching funds shall be determined by the department in consultation with the county, and shall be adjusted annually. The amount transferred shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors. The anticipated county matching funds shall be used by the department to contract with another entity for mental health services, and shall not be expended for any other purpose but the provision of those services and related administrative costs. The county shall continue to deliver non-Medi-Cal reimbursable mental health services in accordance with this division, and subject to subdivision (i) of Section 5777.

(e) Whenever the department determines that a mental health plan has failed to comply with this part or any regulations adopted pursuant to this part that implement this part, the department may impose sanctions, including, but not limited to, fines, penalties, the withholding of payments, special requirements, probationary or corrective actions, or any other actions deemed necessary to prompt and ensure contract and performance compliance. If fines are imposed by the department, they may be withheld from the state matching funds provided to a mental health plan for Medi-Cal mental health services.

(f) Notwithstanding any other provision of law, emergency regulations adopted pursuant to Section 14680 to implement the second phase of mental health managed care as provided in this part shall remain in effect until ~~January 1, 2006~~ <u>permanent regulations are adopted or June 30, 2006, whichever occurs sooner</u>.

(g) The department shall convene at least two public hearings to clarify new federal regulations recently enacted by the federal Centers for Medicare and Medicaid Services that affect the state's second phase of mental health managed care and shall report to the Legislature on the results of these hearings through the 2005-06 budget deliberations.

(h) The department may adopt emergency regulations necessary to implement Part 438 (commencing with Section 438.1) of Subpart A of Subchapter C of Chapter IV of Title 42 of the Code of Federal Regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of emergency regulations to implement this part, that are filed with the Office of Administrative Law within one year of the date on which the act that amended this subdivision in 2003 took effect, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, and shall remain in effect for no more than 180 days.

ITEM 4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 23: OFFICE OF PATIENTS RIGHTS

Protection and Advocacy requests a $120,000 restoration to its budget for advocacy efforts for clients in the State Hospital System.

The Department of Mental Health budget contains a 15% funding reduction in the Office of Patients' Rights contract which, began January 1, 2005. The effect of the reduction is that OPR can no longer provide the full complement of patients' rights advocacy services. In addition, given the increasing complexity of patients' rights issues and the increasing sophistication of the largely forensic population committed to state hospitals, Protection and Advocacy believe that the number of state hospital patients' rights advocates needs to increase.

The OPR budget reduction of 15 percent translates to a $120,000 per year budget restoration. This would restore OPR to its prior state hospital staffing and would not increase the number of advocates. Thus, OPR would be able to hire one additional Patients' Rights Specialist at its central office and allow it to increase the technical assistance and training provided to county advocates. .

Effect of Funding Restoration

Specific services which could be restored at the state hospitals with the addition of a staff person at the central office include:
Maintaining full time patients' rights advocates each at state hospitals. The advocate at Metropolitan State Hospital is currently part-time. The Office of Patients' Rights is currently scheduled to reduce the full time staff positions to .80FTE during this contract period
Restoring the on-site Advocacy coverage from 1 day per 5 of absence to 1 day per 3 days of absence, thereby ensuring continuity of services.

Increasing the availability of advocates for in person meetings with both residents and staff
Conducting in person staff and patient trainings
Identifying trends and patterns within the patients' rights complaints to keep DMH administration advised of potential violations.

Participation of the Office of Patients' Rights staff participation in state. hospital workgroups designed to ensure that patients' rights issues are considered as part of hospital policies
Availability of independent investigations by the Patients' Rights Advocate for more significant rights violations

The failure to adequately fund patients' rights advocacy services may have adverse affects on the state. There are several ways in which the patients' rights advocacy services provided by OPR are cost effective and prevent either loss of other federal funds or imposition of fines.

A significant fiscal threat to the State, are the reports issued by the Department of Justice, under the Civil Rights for Institutionalized Persons Act. Department of Justice (DOJ) made significant findings against Metropolitan State Hospital and has required sweeping corrective action. Protection and Advocacy believes that DOJ is poised to begin an investigation at Napa State

Hospital. DOJ has the authority to require corrective action which will cost the state hundreds of thousands if not millions of dollars. If the corrective action is not carried out, DOJ has the authority to close the institution. Adding additional advocacy services at Metro now will ensure that in addition to responding to specific patient complaints, the advocates have the time to proactively help the hospital develop policies and procedures which address the deficiencies identified in the DOJ report.

Under State and federal law, DMH and the state hospitals are required to have a complaint process which allows patients to file complaints that their rights have been violated including the conditions of their care. State law requires that the Patients' Rights Advocate take action within 2 days to investigate each complaint. The lack of full-time/adequate number of advocates at each hospital make it difficult to comply with these requirements and pose a risk that residents could challenge DMH's failure to provide advocacy services which are compliant with state and federal law. Welfare & Intuitions Code § 5510) (CFR-Title 42, section 438)

The Department of Health Services has the authority to impose financial fines for patients' rights violations. The Office of Patients' Rights advocacy program is preventive in its approach. When it has adequate resources, OPR advises the DMH on policy and practices before they become costly financial DHS citations. The Office of Patients' Rights currently assists in the licensing reviews and advises on plans of corrections required under DHS, to the extent feasible. If additional advocates were added to the state hospitals, OPR would be able to provide this assistance on a more proactive basis thereby likely reducing patients' rights violations and the concomitant fines

The complaint and appeal process (administrative remedies) offers several opportunities for the Office of Patients' Rights to advise the DMH on areas of violations concerning, patients' rights, treatment rights, and human rights. Issues are often resolved by the Office of Patients' Rights with the DMH preventing the action of litigation by the residents of the state hospitals. However, as the number of complaints increases and the number of advocates decreases (e.g. Protection and Advocacy only has a part-time advocate at Metropolitan State Hospital now and will have part-time advocates at all state hospitals in FY June of 2007) Protection and Advocacy's ability to provide this advice becomes more limited. While advocates continue to respond to individual complaints, they are much less able to identify trends or advise DMH regarding systemic issues thereby increasing the likelihood of litigation.

ITEM 5160 DEPARTMENT OF REHABILITATION

ISSUE 1: SUPPORT

It is requested that Item 5160-001-0001 be increased by $908,000 ($193,000 General Fund and $715,000 federal funds) to provide expenditure authority to fund an increase in tuition costs for the Department's clients and consumers attending the University of California or the California State University Systems. Due to recent tuition increases in both university systems, the cost of education has increased for consumers attending education programs intended for reintroduction into employment. This request reflects an eight percent increase in those expenses, consistent with tuition increases budgeted in both university systems in the 2005-2006 Governor's Budget.