

AGENDA
SUBCOMMITTEE No. 1
ON HEALTH AND HUMAN SERVICES

PART 1
ASSEMBLYMEMBER PATTY BERG, CHAIR

WEDNESDAY, MAY 23, 2007
STATE CAPITOL, ROOM 4202
3:00 PM

ITEM	DEPARTMENT	ISSUE	VOTE	PAGE
	CONSENT CALENDAR			5
	Across Departments			5
1	Price Adjustments	SFL	Consent	5
4300	Department of Developmental Services			6
4440	Department of Mental Health			
3	State Hospitals – Patient Population and Staffing: <ul style="list-style-type: none"> • Judicially Committed/Penal Code Population Adjustment (Issue 200) and Outstanding issue 130 • Judicially Committed/Penal Code Population Adjustment (Issue 201) 	MR – SFL	Consent	6
4	Coleman Lawsuit –Related Salary Adjustments: <ul style="list-style-type: none"> • Coleman Salary Increases Based on the Department of Mental Health Staffing Plan (Issue 202) • Technical Adjustment for Coleman Salaries Provided to Vacaville and Salinas Valley Psychiatric Programs (Issue 204) • Outstanding (Issue 120) 	MR – SFL	Consent	8
5	Perez Salary Increases (Issue 203)	MR – SFL	Consent	11
6	Private Provider Contract for IST Beds (Issue 205)	MR – SFL	Consent	12

ITEM				
7	Various Adjustments for the State Hospital System : <ul style="list-style-type: none"> • Delayed Development of the SVP Information Technology Project at Coalinga State Hospital (Issue 206) • Non-Level-of-Care Staff for Atascadero State Hospital Multi-Purpose Building (Issue 208) • Hospital Police Officers for the Visitor Center at Patton State Hospital (Issue 209) • Prison Industry Authority Laundry and Transportation Cost Increase (Issue 210) 	MR – SFL	Consent	14
8	Level-of-Care Staff for 18 Bed IST Unit at Salinas Valley Psychiatric Program (Issue 207)	MR – SFL	Consent	16
9	Sexually Violent Predator (SVP) Evaluations and Court Testimony: <ul style="list-style-type: none"> • SVP Evaluations and Court Testimony Caseload Change (Issue 220) • SVP Database System (Issue 221) 	MR – SFL	Consent	17
10	Forensic Conditional Release Program (CONREP): <ul style="list-style-type: none"> • Increased Hospital Liaison Visits (Issue 230) • Increase Capacity by 30 Beds (Issue 231) 	MR – SFL	Consent	19
11	Conlan Court Order (Issue 403)	MR – SFL	Consent	21
12	San Mateo Pharmacy and Laboratory Services Project	BCP	Consent	23
	VOTE-ONLY ITEMS			
4180	Department of Social Services			25
1	Adult Protective Services – Clarifying Action	Correcting action taken	Vote-only	25
2	<i>Gomez v. Saenz</i> (Issue 322)	MR – SFL	Vote-only	26
4200	Department of Alcohol and Drug Programs			27
3	Trailer Bill Language on Offender Treatment Program	Jan. 10 TBL	Vote-only	27

ITEM				
4300	Department of Developmental Services			28
2	Developmental Centers: <ul style="list-style-type: none"> • Developmental Centers: Enrollment, Caseload, Population Estimate Update (Issue 100) • <i>Coleman</i> Salary Increases (Issue 101) • <i>Perez</i> Salary Increases (Issue 102) 	MR SFLs	– Vote-only	28
4	Regional Centers and Self-Directed Services (Issues 200, 106, 107, and 202)	MR – SFL	Vote-Only	30
5	Agnews Closure	Returning Issue	Vote-only	35
6	ICF-DD CNs	BBL	Vote-only	37
7	Salary Enhancements for Mental Health Professionals in DCs	SFL		40
4440	Department of Mental Health			41
8	Mental Health Managed Care Program and Issue 250	Returning Issue and MR SFL	Vote-Only	41
9	Capitol Outlay Request for Metropolitan State Hospital	Returning Issue and BCP	Vote-only	44
10	Outstanding Spring Finance Letter	SFLs	Vote-only	45
11	Implementation of Proposition 63 – Mental Health Services Act	SFLs	Vote-only	47
5175	Department of Child Support Services			50
12	Performance Incentive Funding	MR	Vote-only	50
	ITEMS TO BE HEARD			
4440	Department of Mental Health			51

ITEM				
1	EPSDT Oversight and Funding <ul style="list-style-type: none">• Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program Caseload Change (Issue 240)• Removal of Cost Settlement Adjustment Factor (Issue 241)• Index Adjustment to County Baseline (Issue 242)• 2004-05 Cost Settlement (Issue 243)• Federal Fund Cash to Accrual Adjustment (Issue 244)	Discussion Issue		51
2	CA Health Interview Survey	Discussion Issue		56

CONSENT CALENDAR

ACROSS DEPARTMENTS

CONSENT ISSUE 1: PRICE ADJUSTMENTS - SFL

BACKGROUND

The Governor submitted a spring finance letter to the Legislature on March 29, 2007, requesting a 50 percent reduction in the previously proposed price increase for state support of health and human services departments. The following departments' adjustments were approved at the May 21 hearing:

- | | |
|--|------------|
| • 4140 Office of Statewide Planning and Development: | -\$2,000 |
| • 4170 Department of Aging: | - \$14,000 |
| • 4200 Department of Alcohol and Drug Programs: | -\$47,000 |
| • 5160 Department of Rehabilitation: | -\$630,000 |
| • 5176 Department of Child Support Services: | -\$426,000 |
| • 5180 Department of Social Services: | -\$539,000 |

Those not addressed at the May 21 hearing include:

- | | |
|--|--------------|
| • Health and Human Services Agency | -\$32,000 |
| • Department of Developmental Services | -\$1,014,000 |
| • Department of Mental Health | -\$2,395,000 |
| • MRMIB | -\$8,000 |
| • CMAC | -\$4,000 |
| • DHCS | -\$734,000 |
| • EMSA | -\$21,000 |
| • DPH | -\$485,000 |

Staff Recommendation:

Approve all of the requested adjustments in the March 29 letter, deeming those not already included on May 21 agenda approved. The action includes authority to the Department of Finance to make technical corrections to conform to other actions taken by the Subcommittee that may be inadvertently be affected by this adjustment.

4440 DEPARTMENTS OF MENTAL HEALTH

CONSENT ISSUE 3: STATE HOSPITALS – PATIENT POPULATION AND STAFFING (ISSUES 130, 200, AND 201)

BACKGROUND

The May Revision reflects several substantial adjustments related to the State Hospital patient population. These patient population changes by category of patient are reflected in the Table below. The fiscal implications of these changes are discussed individually.

First, the May Revision reflects a current-year reduction of \$25.1 million in General Fund support to reflect a reduction of 487 patients (or 265 state positions at half-year). This current year adjustment is then reflected in the budget year for a reduction of \$28.2 million (General Fund) and 531.8 positions to reflect full-year impact.

The DMH states that a substantial part of this patient population decline is attributable to the Coleman salary increase that was given to the California Department of Corrections and Rehabilitation (CDCR). Many of DMH's clinical staff left the State Hospitals for employment with the CDCR for the salary increase. This exodus of clinical staff put the DMH in the position of having to reduce admission to the State Hospitals, specifically at Atascadero and Napa State Hospitals.

As discussed further in the agenda, the Administration commenced with Coleman related salary increases beginning April 1, 2007. The Administration notes that the Coleman related salary increases will bring DMH State Hospital employees to within 5 percent and 18 percent of total parity with the same classifications as the CDCR. The DMH believes that many staff that left for the salary increase at the CDCR will be returning to the State Hospitals as a result of the DMH providing a salary adjustment in the current year. Because of this, the DMH expects to increase admissions by 100 patients for the last quarter (April 1, 2007 to June 30, 2007) of the current year.

Summary of State Hospital Patient Population by Caseload Type

Caseload Type	Revised 2006-07 Caseload Adjustment	Revised 2006-07 Caseload	January 2007-08 Caseload Adjustment	May Revision 2007-08 Caseload Adjustment	May Revision 2007-08 Caseload
Incomp Stand Trial	-71	1,058	-38	158	1,178
Not Guilty Insanity	-68	1,246	-9	46	1,283
Mentally Disordered Offender	-106	1,218	53	54	1,325
SVP	-242	647	440	-220 over estimated	867
Other Penal Code	0	118	0	0	118
PC 2684s & 2974s	0	752	0	0	752
CA Youth Authority	0	30	0	0	30
Civil Commitments	0	520	22	0	542
TOTALS	-487	5,589	468	38	6,095

Second, the DMH is reflecting a savings of \$21.7 million (General Fund) to reflect an estimated 50 percent reduction in the number of Sexually Violent Predator (SVP) commitments to the State Hospitals as compared to the Governor's January budget. As discussed in the April 9th Subcommittee hearing, the DMH January methodology assumed that 8 percent of the SVP referrals from the CDCR would result in a commitment to the State Hospital. As noted by the Legislative Analyst's Office (LAO), this methodology was flawed. The DMH is now assuming a 4 percent level for commitments. As such, a 50 percent reduction is proposed.

Third, the DMH is proposing an increase of \$4.4 million (General Fund) to reflect a net increase in the judicially committed penal code patient population of 38 patients, including an increase of 158 Incompetent to Stand Trial (IST), 46 Not Guilty by Reason of Insanity (NGI), 54 Mentally Disordered Offenders (MDOs), and a decrease of 220 Sexually Violent Predators (SVP). The DMH states that the net increases are projected based on an anticipated increase in staffing from the Coleman salary increases, effective as of April 1, 2007.

As noted, a portion of the adjustments is due to the recalculation of assumptions regarding the potential affects of recent law changes regarding the SVP population. The remaining adjustments reflect the need to recruit and retain staff in order to provide patient services, as well as adjustments to reflect the priority placement of patients. No issues have been raised.

Staff Recommendation:

Approve the requested adjustments.

CONSENT ISSUE 4: COLEMAN SALARY INCREASES COLEMAN LAWSUIT –RELATED SALARY ADJUSTMENTS (ISSUES 120, 202, AND 204)**BACKGROUND**

The Administration is proposing three adjustments to the salaries paid to certain State Hospital classifications that are in Coleman-related classifications. It should be noted that the Administration authorized the DMH to begin current-year salary increases effective as of April 1, 2007, using existing funds which were available due to the high level of vacant positions (as noted in issue 1, above).

It should be noted that the Subcommittee discussed concerns regarding the high level of vacant positions and concerns with patients receiving active treatment in the April 9th hearing, prior to any action on the part of the Administration.

The three budget year adjustments as contained in the May Revision are as follows:

- Funding of “Filled” Positions. An increase of \$29.5 million (General Fund) is proposed to bring salaries for “filled” professional and Level-of-Care mental health classifications closer to parity with the CDCR salaries which were increased as the result of the *Coleman* court.

This proposed level of funding would bring DMH salaries for incumbent staff in the following Coleman-related positions to *5 percent less than CDCR salaries*: Staff Psychiatrist (safety); Senior Psychiatrist (specialist); Senior Psychiatrist (supervisor); Medical Director (state hospital); Senior Psychologist (HF supervisor); Senior Psychologist (CF supervisor).

In addition, it would bring other DMH salaries for incumbent staff in the following Coleman-related positions to *18 percent less than CDCR salaries*: Psychiatric Technician (safety); Senior Psychiatric Technician (safety); Unit Supervisor (safety); Psychologist (HF); Chief Psychologist; Rehabilitation Therapist (recreation and safety); Rehabilitation Therapist (music and safety); Rehabilitation Therapist (occupational and safety); Rehabilitation Therapist (art and safety); Rehabilitation Therapist (dance and safety); Clinical Social Worker (H/CF and safety); Supervising Psychiatric Social Worker I.

This funding increase will raise salaries for Psychiatrists and Senior Psychologists by between 66 percent and 74 percent, and raise salaries for other impacted mental health classifications by between 10 percent and 40 percent.

- Funding of "Vacant" Positions. An increase of about \$6 million (General Fund) is proposed to provide funding for DMH classifications as noted above for vacant positions and those related to patient population growth. This level of funding assumes a phased-in approach rather than full-year funding to account for positions as they are hired throughout the fiscal year.

The DMH has provided the following chart, below, as it pertains to their Coleman staffing plan for 2007-08. The DMH states that there are 1,860 total vacant positions (as of May Revision) and that the average cost per month to fill them is \$1,348, with a full year cost of \$30.1 million (which would be in 2008-09).

Month in 2007-08	Number of Staff Phased-In Per Month	Cost Per Month
July	50	\$808,529
August	50	\$741,151
September	50	\$673,774
October	50	\$606,396
November	50	\$539,109
December	50 (300 staff total at mid-point)	\$471,642
January 2008	75	\$606,396
February	75	\$505,330
March	75	\$404,264
April	75	\$303,198
May	75	\$202,132
June	75	\$101,066
Total (Rounded)	750 staff	\$6.0 million

The Administration is also proposing Budget Bill Language to authorize increased funding above the pending Budget Act of 2007 for salaries if more vacancies than anticipated are filled, or if funding is needed for contract costs for registry funding. The Administration's proposed Budget Bill Language is as follows (Item 4440-011-0001):

"Notwithstanding any other provision of law, the Department of Finance may augment this item to provide salary increases for classifications related to the Coleman litigation in the event that more vacant positions are filled than were originally proposed in the 2007-08 staffing plan, or for contract costs for registry funding, if necessary. This item may not be augmented sooner than 30 days after notification in writing of the necessity therefore to the chairperson of the committee of each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine."

- Technical Adjustment for Vacaville and Salinas Valley Psychiatric Programs. The DMH is also proposing a reduction of \$336,000 (General Fund) to reflect a technical correction for an employee compensation adjustment to the budget for Coleman salary increases that were provided to employees in these two facilities in the January budget. These two programs had received increases because they are within CDCR-operated facilities.

Coleman vs. Schwarzenegger and CDCR Salaries. The Special Master assigned to the *Coleman vs. Schwarzenegger* (Coleman) recommended, and the federal court has ordered, significant salary increases for a number of health care classifications within the CA Department of Corrections and Rehabilitation (CDCR) to address the severe shortage of mental health care employees within the CDCR institutions. By order of the court, CDCR salary increases were implemented as of March 31, 2007 and are retroactive to January 1, 2007.

It is crucial that Coleman-related classifications in all DMH facilities receive financial incentives that bring salaries closer to parity with CDCR salaries, in order to prevent more State Hospital staff from transferring to CDCR facilities.

Staff Recommendation:

Adopt Fiscal Adjustments with Modified Budget Bill Language, and any outstanding Spring Finance letters that have been approved by the Senate.

Approve the fiscal adjustments as proposed and adopt modified Budget Bill Language. In addition to the Administration's proposed Budget Bill Language, it is recommended to add the following language as part of the overall proposal:

“The Department of Mental Health shall provide the fiscal and policy committees of the Legislature, including the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance with a quarterly update on the progress of the hiring plan to ensure appropriate active treatment for patients, state licensure requirements, and in meeting the Consent Judgment with the federal United States Department of Justice regarding the federal Civil Rights of Institutionalized Persons Act (CRIPA).” This quarterly update shall be provided within 10 working days of the close of the quarter to ensure the exchange of timely and relevant information.

CONSENT ISSUE 5: PEREZ SALARY INCREASES (ISSUE 203)**BACKGROUND**

The May Revision requests an increase of \$1.592 million (\$1.560 million General Fund) to raise salaries for all budgeted DMH dental staff to 18 percent less than the CDCR salaries resulting from this case. This funding will increase salaries for these positions by between 36 percent and 58 percent. The DMH states that this funding is necessary to properly protect and serve the DMH clients by retaining existing staff and enhancing the recruitment of additional dental professionals.

Staff Recommendation:

Approve the May Revision request.

CONSENT ISSUE 6: PRIVATE PROVIDER CONTRACT FOR IST BEDS (ISSUE 205)**BACKGROUND**

The May Revision proposes an increase of \$4.3 million (General Fund) to pilot a treatment option through contracts with providers for treatment of services for those Incompetent to Stand Trial (IST) individuals not currently residing in State Hospitals (but may be on a waiting list), thereby reducing the State Hospital IST patient population through natural attrition and creating additional bed capacity for other forensically committed individuals.

The DMH notes that their inability to admit ISTs to the State Hospitals as needed, essentially due to the growth of the forensic population coupled with the increased vacancy rates in health care related classifications (as discussed above relating to the "Coleman" salary issues), have a significant impact on county jails.

The DMH proposal requests to establish, via contracts with providers, inpatient and outpatient restoration of competency programs (ones that can stand ready to receive referrals from Superior Courts across the state). These programs would be responsible for intensive psychiatric treatment, acute stabilization services, and court-mandated services for patients needing competency evaluations, insanity evaluations and restoration to trial competency.

The DMH request for \$4.3 million (General Fund) is an estimate that is based upon costs reviewed from existing programs (CONREP is \$25,000 per bed and only provides basic services, while a higher bed rate of \$60,000 also includes room and board, medications, and competency training and other services in a locked facility).

The DMH states that this pilot approach would begin to address issues which can prevent the timely treatment of individuals who need restoration of competency to stand trial and can help provide a tool to better manage the State Hospital population, as well as try to balance county needs.

As noted previously, the DMH uses a protocol for establishing priorities for Penal Code placements in the State Hospitals because there are not enough secure beds at the State Hospitals to accommodate all patients. Individuals who are deemed to be IST are the last priority.

At any point in time during the past year, there have been as many as 300 individuals in California jails awaiting admission to state psychiatric hospitals for restoration of competency so that they can proceed with their criminal trials. The DMH notes that the impacted State Hospital system prevents the timely and appropriate transfer of these individuals to state psychiatric facilities for forensic evaluation, treatment and restoration of competency to stand trial.

Courts have issued orders to the DMH to show cause for IST individuals who await transfer from county jails to State Hospitals. Careful population management at the State Hospitals has thus far pre-empted any of these orders from progressing to contempt orders. The DMH contends that without proactive intervention, this will likely expose the state to more court orders, contempt citations, and ultimately lawsuits.

It should be noted that Section 1370 of the Welfare and Institutions Code (IST statute) allows for placement of the IST in other than a State Hospital. Specifically, the IST individual can be delivered by the sheriff ... "for care and treatment to a public or private treatment facility approved by the Community Program Director that will promote the defendant's speedy restoration to mental competence or placed on out-patient status..." Therefore, the DMH can contract for the services of privately owned and operated secured treatment facilities or county facilities.

Legislative Analyst's Office Recommendation. The LAO recommends approving the \$4.3 million (General Fund) May Revision proposal and to adopt the following Budget Bill Language to track the pilot's expenditures and to provide oversight for the Legislature. The language is as follows:

4440-011-0001.

"x. Of the amount appropriated in this item, \$4,280,000 is available only to provide appropriate treatment to individuals found incompetent to stand trial and who have not been committed to a state hospital. These funds may be encumbered not sooner than 30 days after the Department of Finance provides a written expenditure plan for these funds to the chairpersons of the fiscal committees in each house of the Legislature, and to the Chairperson of the Joint Legislative Budget Committee, or not sooner than any lesser time period determined by the Chairperson of the Joint Legislative Budget Committee, or his or her designee."

Staff Recommendation:

Approve the May Revision request and adopt the budget bill language per the LAO recommendation.

**CONSENT ISSUE 7: VARIOUS ADJUSTMENTS FOR THE STATE HOSPITAL SYSTEM
(ISSUES 206, 208, 209, AND 210)****BACKGROUND**

The May Revision proposes several adjustments for the DMH administered State Hospital system that pertains to program operations and support. These issues are as follows:

- **Hospital Peace Officers for Visitor Center at Patton.** An increase of \$312,000 (General Fund) to support five Hospital Peace Officers to provide security for the visiting room at Patton State Hospital is requested. The DMH states that by proving these positions, the CA Department of Corrections and Rehabilitation (CDCR) will be able to redirect the existing five Correctional Officers in the visiting room to provide needed medical transport and escort services of penal code patients. Patton's patient population has experienced a substantial increase in medical appointments that require transportation to outside medical facilities. The CDCR is presently required to provide these transport services. The DMH states that because of the shortage of CDCR officers for transport, Patton patients have had 122 medical appointments cancelled, or 6.8 percent, due to not having CDCR officers available for this purpose. If State Hospital patients are not receiving timely medical treatment, it places the hospital at risk of being in violation of the U.S. Department of Justice CRIPA Agreement (as discussed in the March 12th hearing).
- **Prison Industry Authority Laundry & Transportation Cost Increase.** The May Revision proposes an increase of \$164,000 (General Fund) to reflect higher costs for transportation and laundry services provided by the Prison Industry Authority.
- **Staff for Atascadero State Hospital Multi-Purpose Building.** The May Revision proposes an increase of \$200,000 (General Fund) to support four positions, including two Custodians, a Groundskeeper, and an Associate Information Systems Analyst to support the new multi-purpose building at Atascadero State Hospital. The DMH states that this new building will serve as a critical location in the hospital to provide state-of-the-art wellness and recovery treatment services in a therapeutic milieu, centralized resources for patient's use, and office space for staff. It will be used to provide required treatment space for up to 1,259 patients per day and will be used by large numbers of treatment providers. The Associate Information Systems Analyst will be responsible for all computers and information technology equipment in the area for both patients and staff. The other positions are needed to maintain the facility. No request for staff was attached to the project previously.

- **Coalinga State Hospital Project.** An increase of \$450,000 (General Fund) is requested for a digital document management retrieval system and consultant services at Coalinga State Hospital in 2007-08 for the purchase of document software (\$150,000), hardware (servers and scanners at \$100,000) and consultant services for implementation and training. This information technology project was included in the current year budget but the project has been shifted to the budget year. The revised current year reflects a reduction of \$608,000 (General Fund) due to this shift. This project is needed to manage the SVP document processing at Coalinga State Hospital.

Staff Recommendation:

Approve these adjustments for the State Hospitals. No issues have been raised.

CONSENT ISSUE 8: LEVEL-OF-CARE STAFF FOR 18 BED IST UNIT AT SALINAS VALLEY PSYCHIATRIC PROGRAM (ISSUE 207)**BACKGROUND**

The May Revision requests an increase of \$696,000 (General Fund) for the DMH to support four Level-of-Care staff to operate an 18-bed unit at Salinas Valley Psychiatric Program (Salinas) for Incompetent to Stand Trial (ISTs) patients who are too dangerous to reside within the State Hospital setting.

The DMH is required by statute to provide services for inmates that have been adjudicated pursuant to Penal Code 1370—Incompetent to Stand Trial (IST). The DMH notes that there has been an increase in the number of individuals who meet the PC 1370 criteria and are too dangerous to reside within the State Hospitals. Therefore, Salinas has started to admit these individuals and requires additional staff to meet the trial competency training requirements listed under PC 1370.

Specifically, the DMH states there are 32 ISTs on the waiting list for Salinas with the list growing at 3 per month. To accommodate this growing need, Salinas will be dedicating 18 beds out of the existing 100 beds designated for Coleman to use exclusively for the IST population. In order to comply with Coleman, this 18-bed unit must be staffed by those trained to fulfill stringent competency requirements. Therefore, due to these competency requirements, shifting staff from other existing units will not suffice.

At this time, Salinas has no Level-of-Care staff dedicated to performing the competency restoration process for the 18-bed IST unit. Therefore, the May Revision is proposing the following four positions, all of whom are specially trained: a Staff Psychiatrist; a Psychologist; a Clinical Social Worker; and a Recreation Therapist.

DMH's Involvement with Salinas Valley and Coleman. The DMH has an interagency agreement to provide mental health services for the CA Department of Corrections and Rehabilitation (CDCR) inmates per the Coleman federal court case naming CDCR as defendants. The DMH provides these mental health beds primarily at Atascadero State Hospital, Coalinga State Hospital, the Vacaville Psychiatric Program and the Salinas Valley Psychiatric Program within the prison.

Staff Recommendation:

Approve the May Revision request.

CONSENT ISSUE 9: SEXUALLY VIOLENT PREDATOR (SVP) EVALUATIONS AND COURT TESTIMONY (ISSUES 220 & 221)

BACKGROUND

The May Revision proposes an overall net reduction of \$2.9 million (General Fund) from the January budget. This adjustment pertains to two issues. In addition, a reduction of \$527,000 (General Fund) is proposed for the current year related to unfilled positions that will no longer be necessary.

First, this net reduction reflects a revision in the estimate methodology to determine the number of Sexually Violent Predator (SVP) evaluations to be performed by private contractors and the costs for evaluator court testimony. These various changes are noted in the Table below.

Summary of Evaluation Components and Funding per the Administration

Evaluation Component	Governor's January Proposal 2007-08 (GF)	Governor's May Revision 2007-08 (GF)	Difference
Initial Evaluations (\$3,835 per service)	\$17.8 million (total of 4,644 services)	\$19.9 million (total of 5,197 services)	\$2.1 million
Initial Court Testimony (\$3,660 per service)	\$5.4 million (total of 1,486 services)	\$732,000 (total of 200 services)	-\$4.7 million
Evaluation Updates (\$2,846 per service)	\$2.3 million (total of 743 services)	\$410,000 (total of 144 services)	-\$1.9 million
Recommitment Evaluations (\$4,422 per service)	\$533,000 (total of 159 services)	\$1.6 million (total of 356 services)	\$1.041 million
Recommitment Court Testimony (\$3,828 per service)	\$1.133 million (total of 296 services)	\$1.087 million (total of 284 services)	-\$47,000
Recommitment Updates (\$2,844 per service)	\$1.6 million (total of 578 services)	\$853,000 (total of 300 services)	-\$790,000
Evaluator Training (ongoing) (\$1,721 per service)	\$69,000 (total of 40 services)	\$138,000 (total of 80 services)	\$69,000
Evaluator Training (one-time) (\$7,200 per service)	---	\$144,000 (total of 20 services)	\$144,000
Airfare Costs	\$1.1 million	\$995,000	-\$163,000
Consulting Services	\$290,000	\$1.5 million	\$1.2 million
Information Technology (one-time costs)	---	\$111,000	\$111,000
Totals (rounded)	\$30.4 million	\$27.4 million	-\$2.9 million

As noted in the table above, the DMH anticipates that initial evaluations will increase as more referrals are made by the CA Department of Corrections and Rehabilitation (CDCR). However, expenditures for initial court testimony and evaluation updates are proposed for reduction based on recent data on the monthly average of actual services performed.

The DMH projects an increase in recommitment evaluations because the courts have allowed SVPs who are currently under a two-year term to have a recommitment trial to determine if SVP criteria is met and if so, sentenced the SVP to an indeterminate term.

The DMH is also proposing an increase in consulting services of \$1.2 million as compared to January. The DMH states that it is more efficient to engage contract clinicians at the front end of the SVP process and have them screen all cases referred by the CDCR. They contend that although this change in the process has increased costs for initial screenings the overall percentage of SVP cases referred on for full evaluation (i.e., two initial evaluations as required by law) has dropped from 42 percent to 31 percent. Contracted evaluators conducting the initial screenings are reimbursed at a rate of \$200 per hour and it takes an average of one hour to screen each case (i.e., 7,620 cases at \$200 for \$1.5 million total costs).

Second, the revised amount includes a one-time only funding request of \$111,000 to support information technology resources which the DMH states is needed for the SVP evaluation process. Specifically, the DMH is proposing the consolidation of certain data sources through this project which is intended to better manage case files and associated notes, memos and legal documents.

The May Revision reflects a more realistic analysis of the anticipated expenditures for the budget year and it addresses the Legislative Analyst's Office's prior concerns with the January budget which over estimated expenditures.

Staff Recommendation:

Approve the requested adjustments. As a part of this action, it is the intent of the subcommittee to conform to the Senate in the approval of any outstanding Spring Finance Letters in this area.

**CONSENT ISSUE 10: FORENSIC CONDITIONAL RELEASE PROGRAM (CONREP)
(ISSUES 230 & 231)****BACKGROUND**

The May Revision is requesting a total increase of \$929,000 (General Fund) for the Forensic Conditional Release Program (CONREP) for total expenditures of \$24.4 million (General Fund) in 2007-08. This total funding level supports a caseload of about 740 patients and the May Revision assumes at least 30 additional patients will be added to CONREP in 2007-08. Expenditures are for outpatient treatment services, ancillary services, supervision, State Hospital liaison visits, transitional residential facility contracts, and non-caseload services. The CONREP Program is budgeted under the DMH's state support item because it is a contract.

There are two components to the proposed \$929,000 (General Fund) increase. First, an increase of \$179,000 is for the hospital liaison visits. According to the DMH, the two primary population groups visited by CONREP providers are Not Guilty by Reason of Insanity (NGI) patients and Mentally Disordered Offenders (MDOs). Based on the most recent State Hospital patient population for these two classifications, it is estimated that about 2,682 patients will require two visits annually (i.e., 5,364 total visits for 2007-08, or 784 more than in 2006-07). On average, it costs \$228 per visit. Therefore, an increase of \$179,000 to fund 784 additional visits is needed. CONREP providers work with patients that State Hospital treatment teams identify as making good progress towards (or have achieved) their individual goals as stated in their individual "wellness and recovery" plan, and are outpatient-ready.

Second, an increase of \$750,000 (General Fund) is requested to fund an increased enrollment of 30 patients. This funding level assumes an average per patient cost of \$25,000 annually. The DMH states that increasing CONREP's capacity would increase discharges from State Hospitals and would help alleviate overcrowding throughout the State Hospital system.

This program provides for (1) outpatient services to patients into the Conditional Release Program (CONREP) via either a court order or as a condition of parole, and (2) hospital liaison visits to patients continuing their inpatient treatment at State Hospitals who may eventually enter CONREP. The patient population includes: (1) Not Guilty by Reason of Insanity, (2) Mentally Disordered Offenders, (3) Mentally Disordered Sex Offenders, and (4) Sexually Violent Predators.

The DMH contracts with counties and private organizations to provide these mandated services in the state, although patients remain DMH's responsibility per statute when they are court-ordered into CONREP community treatment and supervision. The program as developed by the DMH includes sex offender treatment, dynamic risk assessments, and certain screening and diagnostic tools. Supervision and monitoring tools include Global Positioning System (GPS), polygraphs, substance abuse screening, and collaboration with law enforcement.

Staff Recommendation:

Approve the requested May Revision adjustments.

CONSENT ISSUE 11: CONLAN COURT ORDER (ISSUE 403)**BACKGROUND**

The Governor's May Revision proposes reappropriation language for the unencumbered balance of the \$3.318 million (\$1.6 million General Fund) as appropriated in the Budget Act of 2006 to comply with the requirements of the *Conlan* Court Order (*Conlan v. Shewry*). The reappropriation language would enable the DMH to spend these funds through June 30, 2008.

The DMH states that the reappropriation is needed because the court did not approve the Department of Health Care Services (DHCS) revised Plan until November 16, 2006 and letters to Medi-Cal beneficiaries were sent out from December to February 2007 but claims have not yet been submitted as was expected.

The \$3.318 million originally appropriated in the Budget Act of 2006 equates to one-half of the total estimate of retroactive and co-pay claims. In addition, the DMH is contracting with Electronic Data Systems (EDS) to process and pay the DMH *Conlan* claims. The DMH states that about \$761,000 (General Fund) will be spent in the current year for planning and setting up procedures, including labor costs, for this process.

The DMH must process claims from Medi-Cal beneficiaries who had unreimbursed expenditures for medical expenses (1) during the three-month period prior to applying for Medi-Cal benefits if determined eligible during that period, (2) during the period that an application for Medi-Cal was pending, and (3) during the period between a denial of their application for eligibility and reversal of that decision. In addition, it also applies to Medi-Cal beneficiaries with other health coverage that erroneously paid excess co-payments to a provider.

Several departments are affected by this Department of Health Care Services lawsuit. This lawsuit has a long history resulting in the issuance of several court decisions.

To effectively implement the court ordered requirements of *Conlan*, the DMH must process claims from Medi-Cal beneficiaries who paid out-of-pocket expenses for Medi-Cal covered services received during specific periods of a beneficiary's Medi-Cal eligibility. These periods include: (1) the retroactive eligibility period (up to 3 months prior to the month of application to the Medi-Cal Program); (2) the evaluation period (from the time of application to the Medi-Cal Program until eligibility is established); and (3) the post-approval period (the time after eligibility is established).

The court has approved the DHCS revised implementation plan, which was effective as of November 16, 2006. As a result of this plan, about 12 million letters were sent to households in December 2006. Letters were sent to all Medi-Cal beneficiaries who had applied and were eligible at some point on or after June 27, 1997.

Staff Recommendation:

Approve the reappropriation in order to ensure that funds are available for any claims as required by the court order.

CONSENT ISSUE 12: SAN MATEO PHARMACY AND LABORATORY SERVICES PROJECT**BACKGROUND**

The Senate adopted two pieces of language to require the DMH to (1) comprehensively report back to the Legislature regarding the policy implications of the project, and (2) provide the Legislature, by no later than September 1, 2006, with their action plan to implement fiscal reforms regarding the San Mateo Pharmacy and Laboratory Services Project. Fiscal issues regarding the San Mateo Project were left "open" pending receipt of the Governor's May Revision.

The Administration is proposing two fiscal adjustments for the San Mateo Pharmacy and Laboratory Project (San Mateo Project). In addition, the Office of State Audits and Evaluations (OSAE), within the Department of Finance, is in the process of conducting a review of the San Mateo Project, including the forecasting methodologies used to project costs as well as the claims processing system for state reimbursement. Each of these issues is discussed below.

First, a deficiency appropriation of \$8.7 million (General Fund) is requested for prior year obligations (from 2004-05 and 2005-06). This request is tied to the accounting error that occurred between the DMH and the Department of Health Services (DHS) which was discussed in the Subcommittee's March 12th hearing as it pertained to the Early Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Unfortunately, the error also affected the San Mateo Project.

Specifically when the Medi-Cal Program, administered by the DHS, shifted to a cash-based accounting system, the DMH did not make adjustments in its programs to appropriately account and budget for this change. As such, the DMH is requesting the \$8.7 million General Fund increase to fund prior year obligations as noted.

Second, the DMH is seeking a technical baseline adjustment to reflect a reduction of \$139,000 (General Fund) from the current year (2006-07) and a related adjustment of \$231,000 (\$139,000 General Fund) for the budget year (2007-08). No concerns have been raised regarding this adjustment.

The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Medicaid (Medi-Cal) Waiver agreement and state statute since 1995. This "field test" was enacted into state law to allow the DMH to test managed care concepts in support of an eventual move to a capitated or other full risk model for the delivery of Medi-Cal specialty mental health services.

Effective July 1, 2005, the San Mateo Project was modified but it continues to cover pharmacy and related laboratory services, in *addition* to the required Mental Health Managed Care services that other County Mental Health Plans provide. San Mateo is the only county that has this added responsibility.

The San Mateo Project is funded at \$8.8 million (\$4.4 million General Fund and \$4.4 million federal funds) for 2007-08.

Staff Recommendation:

Approve the January budget request as proposed and conform with Senate action on this item, including the adoption of language to require the DMH to (1) comprehensively report back to the Legislature regarding the policy implications of the project, and (2) provide the Legislature, by no later than September 1, 2006, with their action plan to implement fiscal reforms regarding the San Mateo Pharmacy and Laboratory Services Project.

VOTE-ONLY ITEMS**4180 DEPARTMENT OF SOCIAL SERVICES**

VOTE-ONLY ISSUE 1: ADULT PROTECTIVE SERVICES – CLARIFYING ACTION**BACKGROUND**

The Subcommittee took action on May 21, 2007 to augment the Adult Protective Services program and adopt placeholder trailer bill language to remove the budget act contingency language from statute and to require the department to develop a budgeting methodology for the program.

Staff Recommendation:

Rescind action to adopt placeholder trailer bill language and instead adopt the following trailer bill language, which removes the Budget Act contingency language from statute and would conform to the Senate action. This action would maintain the \$12 million augmentation.

15765. This chapter shall become operative on May 1, 1999. ~~Commencing with the 1999-2000 fiscal year, Sections 15760 to 15764, inclusive, shall be implemented only to the extent funds are provided in the annual Budget Act.~~

VOTE-ONLY ISSUE 2: GOMEZ V. SAENZ (ISSUE 322) - SFL**BACKGROUND**

The May Revision proposes \$6.8 million (\$4.3 million) to reflect the settlement of the Gomez v. Saenz court case, which requires counties to enact a grievance process to provide due process to any persons wishing to challenge their listing on the Child Abuse Central Index (CACI).

The recently settled Gomez v. Saenz court case establishes a grievance process that includes timelines and requirements for notification to individuals listed on the CACI, hearing procedures, opportunity to inspect files, and a requirement that the social worker conducting the investigation be present at the grievance hearing so that the person grieving the listing on the CACI can cross-examine the social worker. This proposed grievance process will result in new workload and is a significant practice change for local child welfare agencies.

The California Welfare Directors Association (CWDA) is concerned, based on their examination of counties that already conduct internal reviews when CACI complaints are filed, that the Administration's estimate understates the staff time for hearings by as much as 42 percent. The CWDA estimates the amount of the resulting funding shortfall could be \$3.6 million (\$1.8 million General Fund).

Staff Recommendation:

Adopt the May Revision funding level as budgeted. Adopt placeholder trailer bill language to require DSS, in consultation with the County Welfare Director's Association, to track actual county costs to implement the Gomez v. Saenz court settlement agreement in the 2007-08 fiscal year. To the extent that actual costs differ from the amount estimated in the budget, the actual costs shall be used to update the premise commencing with the 2008-09 budget.

4200 DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

VOTE-ONLY ISSUE 3: TRAILER BILL LANGUAGE ON OFFENDER TREATMENT PROGRAM

BACKGROUND

The Governor's trailer bill proposal includes language on the Offender Treatment Program, which revises allocation and administrative costs, allows for models other than drug courts, authorizes implementation by all-county letter, and deletes the sunset.

Staff Recommendation:

Conform with Senate action in the adoption of the Governor's TBL.

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

VOTE ONLY ISSUE 2: DEVELOPMENTAL CENTERS (ISSUES 100, 101, AND 102)

BACKGROUND

The May Revision proposes total expenditures of \$720.3 million (\$391.5 million General Fund) to serve 2,610 residents who reside in the DC system.

This reflects a caseload increase of 21 residents and an increase of \$2.1 million (a decrease of \$89,000 General Fund and an increase of \$2.2 million in Reimbursements from federal Medicaid funds) as compared to the January budget.

The key adjustments are as follows:

- Staffing Adjustment. A decrease of \$1.1 million (\$804,000 General Fund) is reflected based on the staffing requirements and operations of each Developmental Center (DC), including planned unit closures. The funding level reflects an increase of 27 Level-of-Care staffing and a decrease of 65.5 Non-Level-of-Care staffing. The net result is a reduction of 38.5 staff, even though there is an anticipated increase of 21 DC residents as compared with the January budget. This projected increase in the DC population is due to a slower than projected transfer of DC consumers into the community.
- Salary Enhancement for "Coleman". An increase of \$286,000 (\$167,000 General Fund) is proposed to fund salary increases for vacant mental health classifications including phased hiring of Psychiatrists, Psychologists, Social Workers, Psychiatric Technicians, Occupational and Rehabilitation Therapists, Medical Directors, Unit Supervisors, Senior Psychiatric Technicians, and Senior Psychologists. The DDS states that these increases are necessary to allow hiring and retention of these employees. It should be noted that the salary increases will continue to be phased-in as positions are filled in 2008-09
The funding level assumes positions will be filled as follows: (1) 11.5 positions per month from July 2007 to December 2007; and (2) 16.5 positions per month from January 2008 to June 2008.

These increases will bring salaries up to 18 percent less than the salaries in the CA Department of Corrections and Rehabilitation (CDCR) that were increased as a result of the "Coleman" order, with the exception of Psychiatrists and Senior Psychologists which will be brought to 5 percent less than CDCR salaries.

Subcommittee staff notes that this request is consistent with the Department of Mental Health's request, which is discussed in detail below.

- *Salary Enhancements for Dental Professionals (Perez)*. An increase of \$1.3 million (\$747,000 General Fund) is proposed to increase salaries for authorized dental classifications. These increases would effect 11.5 Dentists and 12 Dental Assistants at the five Developmental Centers (23.5 total positions)
The purpose of this increase is also to bring salaries for incumbents in these classifications to 18 percent less than the salaries for corresponding classifications in the CDCR.
- *Sonoma Developmental Center Asbury Creek Water Diversion*. An increase of \$2 million (General Fund) on a one-time only basis is proposed for the construction phase of the Asbury Creek water diversion replacement project to replace the water diversion structure that was destroyed in the winter storms in December 2005.

There are two water diversion structures at Sonoma DC due to the creeks. These two creeks are the main water sources for the two reservoirs on the Sonoma DC property. The reservoirs supply water year round to meet the daily needs of the Sonoma residents and employees. The Mill Creek diversion repairs were completed in November 2006 with redirected support funds from special repairs. Other critically needed special repair projects were deferred due to this emergency project.

The DDS states that the Asbury Creek diversion replacement project is stalled in the working drawing phase due to the lack of funds. The May Revision funding is requested to complete the construction phase of this project before the rainy season to ensure an adequate water supply for the DC.

The May Revision for the Developmental Centers reflects reasonable adjustments that are necessary in order to hire and retain employees, as well as to ensure DC resident health and safety. No issues have been raised.

Staff Recommendation:

Approve the requested adjustments.

**VOTE-ONLY ISSUE 4: REGIONAL CENTERS AND SELF-DIRECTED SERVICES
(ISSUES 200, 106, 107, AND 202)****BACKGROUND**

In the Subcommittee's April 9th hearing, a comprehensive discussion was had regarding the budget for the Regional Centers.

Many issues were discussed, including **(1)** the full-year effect of rate increases that were provided in the Budget Act of 2006 (i.e., a 3 percent across-the-board increase, as well as considerable increases for certain employment programs); **(2)** the Administration's proposal to continue specified "cost containment" measures for 2007-08; and **(3)** the full-year effect of the increases for the minimum wage.

Governor's May Revision Total Expenditures for the Regional Centers. The May Revision proposes total expenditures of \$3.6 billion (\$2.2 billion General Fund), a *net* increase of \$35.6 million (\$35.9 million General Fund) over the January budget, for community-based services provided through the Regional Centers (RCs) to serve a total of 219,230 consumers living in the community.

This funding level includes \$497.1 million for RC operations and \$2.7 billion for the "Purchase of Services". The consumer caseload reflects an estimated reduction of 1,370 consumers as compared to the January estimate.

Most of the May Revision increase is attributable to (1) an increase in the base utilization of services by consumers and updated expenditure data (\$30.1 million increase); and **(2)** updated expenditure data to place individuals living at Agnews Developmental Center into the community and to deflect individuals who have been referred to the Developmental Center system for admission (\$6.5 million).

The May Revision also reflects a reduction of \$3.9 million (total funds) for Regional Center Operations due to the reduction in anticipated caseload as compared to the January budget.

The May Revision also reflects the following policy changes:

- Dual Agency Foster Care Rates and Adoption Assistance. As discussed in the Subcommittee's hearing on Monday, May 21st, the Department of Social Services has revised its rate-setting methodology for the care and supervision of foster and adoptive children receiving services from both County Social Services Departments and Regional Centers. The new methodology would place a rate cap of \$2,006 per month, prospectively, which would ensure that a comprehensive and equitable rate-setting methodology is used throughout the state. This will result in a cost shift to the Regional Centers for services and supports when the rate cap is implemented. The phased-in impact to the DDS of this cost shift for 2007-08 is \$100,000 (\$74,000 General Fund). The action to be taken today is to conform to the May 21st Subcommittee hearing.
- Self Directed Services Adjustments. The May Revision proposes a series of adjustments which are primarily due to a later implementation date (March 1, 2008 versus January 1, 2008). It is assumed that 400 individuals will enroll in 2007-08 and that an average of \$500 per consumer will be provided for person-centered planning and development of the consumer's individual budget.

The Self Directed Services Program enables consumers to have more control of their services and to manage a finite amount of funds allocated in an individual budget in order to pay for services specified in the consumer's Individual Program Plan (IPP). Intensive person-centered planning is required to develop an IPP and individual budget reflective of a consumer's need. Subcommittee staff believes that these adjustments are reasonable.

Governor's May Revision—Purchase of Services for the Regional Centers. The May Revision for the "purchase of services" reflects total expenditures of \$3.1 billion (total funds) as noted in the summary chart below. This reflects an increase of \$39.5 million (total funds) over the January budget for 2007-08.

As compared to the revised current-year amount, the May Revision for 2007-08 represents an increase of about \$287.3 million (total funds) or an increase of 10.3 percent in one year.

Summary of RC Purchase of Services Funding for 2007-08 (Total Funds)

Service Category	January 2007-08	May Revision 2007-08	Difference (Total Funds)
Community Care Facilities (CCFs)	\$769.7 million	\$782.5 million	\$12.8 million
Medical Facilities	\$17.8 million	\$22.8 million	\$5 million
Day Programs	\$754.2 million	\$763.4 million	\$9.2 million
Habilitation Services	\$150 million	\$150.6 million	\$600,000
Transportation	\$214.6 million	\$212.4 million	-\$2.1 million
Support Services	\$550.8 million	\$551.3 million	\$600,000
In-Home Respite	\$180.5 million	\$188 million	\$7.5 million
Out-of-Home Respite	\$48.3 million	\$54.6 million	\$6.3 million
Health Care	\$91.4 million	\$84.5 million	-\$6.9million
Miscellaneous	\$311.8 million	\$318 million	\$6.2 million
Early Start Program	\$20.1 million	\$20.1 million	--
ICF-DD Bundled Rate Adjustment	-\$44.0 million	-\$44.0 million	--
Dual Agency for Foster Care	N/A	\$107,000	\$107,000
Self Directed Services Adjustment	-128,000	\$137,000	\$265,000
Total POS Estimate (rounded)	\$3.045 billion	\$3.084 billion	\$39.5 million

The May Revision continues the Governor's cost containment measures as proposed in his January budget and as discussed in the Subcommittee's April 9th hearing. These cost containment actions have been previously adopted by the Legislature in lieu of more sweeping and restrictive actions previously proposed by Governor Davis and Governor Schwarzenegger.

- A. Delay in Assessment (RC operations) (-\$4,500,000 General Fund): Budget Act of 2002, trailer bill language was adopted to extend the amount of time allowed for the Regional Center's to conduct assessment of new consumers from 60 days to 120 days following the initial intake. The Governor proposes to continue this extension through 2007-08 through trailer bill language. This is the same language as used in previous years.
- B. Calculation of Case Management Ratios (RC Operations) (-\$32.8 million or -\$16.2 million General Fund): Through the Budget Act of 2003, trailer bill language was adopted to reduce the average RC case manager to consumer ratio from one to 66 (one Case Manager to 66 consumers). Previously, the ratio was one to 62. The Governor proposes to continue this extension through 2007-08 through trailer bill language. This is the same language as used in previous years.
- C. Non-Community Placement Start-Up Suspension (-\$6 million General Fund): Under this proposal, a Regional Center may not expend any purchase of services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. The Administration's proposed trailer bill language would continue this freeze through 2007-08. The Legislature did provide \$3 million (General Fund) for this purpose in 2006-07.

- *D. Freeze on Rate Adjustments for Day Programs, In-Home Respite Agency and Work Activity Programs (-\$3.9 million or -\$2.9 million General Fund):* The rate freeze means that providers who have a temporary payment rate in effect on or after July 1, 2007 cannot obtain a higher permanent rate, unless the RC demonstrates that an exception is necessary to protect the consumers' health or safety. It should be noted that these programs did receive rate increases in the Budget Act of 2006. As such, their rates for 2007-08 would be frozen at these levels, unless otherwise adjusted as noted.
- *E. Freeze Service Level Changes for Residential Services (-\$47.4 million or -\$28.4 million General Fund):* This proposed trailer bill language would provide that RCs can only approve a change in service level to protect a consumer's health or safety and the DDS has granted written authorization for this to occur. This action maintains rates at the July 1, 2007 level.
- *F. Elimination of Pass Through to Community-Care Facilities (-\$3.2 million, or \$1.9 million General Fund):* The SSI/SSP cost-of-living-adjustment that is paid to Community Care Facilities by the federal government is being used to off-set General Fund expenditures for these services for savings of \$3.2 million (\$1.9 million General Fund).
- *G. Contract Services Rate Freeze (-\$160.6 million or -\$190.7 million General Fund):* Some RCs contract through direct negotiations with providers for certain services in lieu of the DDS setting an established rate. Continuation of the rate freeze would mean that RCs cannot provide a rate greater than that paid as of July 1, 2007, or the RC demonstrates that the approval is necessary to protect the consumer's health or safety. The Administration's proposed trailer bill language is the same as last year's, with a date extension to include 2007-08.
- *H. Habilitation Services Rate Freeze (-\$2.2 million, or -\$2.8 million General Fund):* The Habilitation Services Program consists of the (1) Work Activity Program (WAP), and (2) Supported Employment Program (SEP). The WAP services are primarily provided in a sheltered setting and are reimbursed on a per-consumer-day basis. SEP enables individuals to work in the community, in integrated settings with support services provided by community rehabilitation programs. The Administration's proposed trailer bill language would continue the rate freeze into 2007-08.

I. Non-Community Placement Start-Up Suspension (-\$6 million): Under this proposal, a Regional Center may not expend any Purchase of Services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. The Administration's proposed trailer bill language would continue this freeze through 2007-08.

With respect to the startup of new programs, the Administration notes that funding would be provided to protect consumer's health and safety or to provide for other extraordinary circumstances as approved by the DDS.

Limits on this funding were first put into place in 2002. It should be noted that in the Budget Act of 2006, the Legislature did appropriate \$3 million (General Fund) for these purposes.

The May Revision reflects minor adjustments primarily based on updated data. The continuation of the various cost containment adjustments is necessary at this time. Further, programs received a three percent across-the-board increase in 2007-08, along with additional adjustments for employment programs.

Staff Recommendation:

Approve the Administration's May Revision for the Regional Centers as proposed and accept the requests in the Spring Finance Letters.

It should be noted that all actions previously taken by this Subcommittee remain, including all fiscal and language adjustments taken regarding the closure of Agnews Developmental Center.

VOTE-ONLY ISSUE 5: AGNEWS CLOSURE**BACKGROUND**

The Subcommittee discussed the Agnews Developmental Center closure in its April 11th and May 9th hearings. Actions taken by the Subcommittee in these hearings remain as enacted. These actions include the following:

- Adopted trailer bill language to ensure the continuity of consumer's health care and accountability within the Administration, as well as at the community level between the Regional Centers and the health plans.
- Adopted trailer bill language for the DDS to continue operation of the Agnews Outpatient Clinic until DDS no longer has possession of the property.
- Directed the DDS to purchase two mobile clinics, using existing Wellness Funds, to be specifically outfitted to provide a range of health and medical services as determined by the DDS in working with constituency groups. Adopted language to enable the DDS to purchase the mobile clinics using a competitive process but is to be exempted from public contract code due to the need to ensure the protection of public health and welfare.
- Adopted placeholder trailer bill language to codify the Medi-Cal Program's verbal commitment regarding Medi-Cal reimbursement to the local health plans for Medi-Cal services provided for people transitioned from Agnews DC to the community.
- Adopted revised reporting language for the DDS to provide additional information regarding the Agnews DC closure to the Legislature.

The Governor's May Revision reflects minor adjustments related to the Administration's closure of the Agnews Developmental Center by June 30, 2008. These adjustments are reflected in both the Regional Center item *and* Developmental Center item of the Budget Bill due to the transitioning of consumers from Agnews to other living arrangements.

Overall, the May Revision proposes a *net increase* to the developmental services system of \$24.5 million (\$17.7 million General Fund) due to the anticipated transition of consumers from the Agnews Developmental Center into the community, as compared to the revised 2006-07 budget. This net figure includes increases for the Regional Center budget of \$35.2 million (\$23.4 million) over the revised 2006-07 budget, and a decrease of \$10.7 million (\$5.7 million General Fund) for the Developmental Centers over the revised 2006-07 budget.

The proposed adjustments are consistent with the Administration's updated plan provided to the Legislature on May 14, 2007, as required by statute.

As of March 31, 2007, 244 residents remained at Agnews. To date, 115 residents have transitioned into the community since the closure planning process began in July 2004. It is estimated that a total of 70 consumers will transition from Agnews into the community in the current year. The DDS states that all residents are expected to move from Agnews by the time of its planned closure in June 2008.

As of March 31, 2007, there were 1,003 employees at Agnews. The attrition rate for the current fiscal year is consistent with last fiscal year's and is at about 15 percent. The DDS states that licensed personnel such as registered nurses and psychiatric technicians comprise a significant majority of the separations. There has also been an increase in the proportion of administrative and support staff who are separating.

The DDS further states that Agnews is maintaining sufficient staff to protect the health and safety of remaining residents and to ensure the ongoing certification of the facility.

Key changes and updates as contained in the May Revision are as follows:

- Placements into the Community. It is assumed that 188 residents are transitioned into the community in 2007-08 for total expenditures of \$52.6 million (total funds) which reflects a net reduction of \$3.1 million (total funds) due to a series of technical adjustments.
- Agnews Developmental Center State Staff in the Community. State statute provides for Agnews DC state staff to be deployed in the community for up to two years post-closure (up to 200 staff). The May Revision continues the January budget assumption that \$9.2 million (total funds) for 47 positions are in the base estimate, but an increase of \$242,000 (\$129,000 General Fund) is provided for six positions to be added effective as of January 1, 2008. These positions are consistent with the overall closure plan for Agnews.
- Bay Area Housing Project. A total of 62 Bay Area Housing Project homes are planned for development as discussed in the April 9th hearing. All of these homes will be purchased by June 30, 2007.

Staff Recommendation:

Approve the Administration's May Revision for the Agnews Developmental Center.

Additionally, take action to increase by \$503,000 (\$126,000 General Fund) to support four new positions (three Chief Health Care Community Specialists and one Assistant Health Care Community Specialist) at the three Bay Area Regional Centers. This action is intended to align all actions by this Subcommittee with the actions taken in the Senate, including the adoption of trailer bill language to codify the Medi-Cal program's commitment on reimbursement for services. This Subcommittee wishes to avoid conference on all Agnews issues and authorizes adjustments by Finance to be made to conform to the Senate to achieve this.

(All other Subcommittee actions taken on April 11th and May 9th remain.)

VOTE-ONLY ISSUE 6: ICF-DD CNS

BACKGROUND

In the Subcommittee's prior hearings, the Governor's January proposal to reconfigure the rate paid to Intermediate Care Facilities for persons with Developmental Disabilities (ICF-DD), including Habilitative (H) and Nursing (N) by cost shifting about \$44 million in General Fund support to federal fund support was discussed.

Through discussions with constituency groups during the Subcommittee hearing, the following key concerns were noted:

- The Administration needed to ensure that the Individual Program Plan (IPP) process, as guaranteed under the state's Lanterman Act, would remain intact and not be jeopardized in any manner by the bundling of this rate. (i.e., Consumers need to receive their appropriate services as contained within the IPP.)
- The Administration needs to involve the stakeholders, including provider groups and consumer groups, as well as consumers and their families as appropriate, in the design of the process, including the contents of the State Plan Amendment.
- The Administration needed to provide all involved parties with a work plan as to how this proposal was going to proceed.

In response to the third issue, the Administration has provided the following timeline as requested for implementation:

- | | |
|------------------|---|
| • April 25, 2007 | Stakeholder meeting conducted. |
| • April 30, 2007 | Begin work on State Plan Amendment. |
| • May 31, 2007 | Publish federally required notice of intent to revise ICF-DD rates to capture federal financial participation for Day Programs and Transportation Services. |
| • June, 2007 | Share draft State Plan Amendment with Stakeholders. |
| • July 1, 2007 | Submit State Plan Amendment to federal CMS. |

The May Revision makes a technical correction to the savings level proposed for the ICF-DD bundling by assuming a total *savings* of \$44 million of which \$36.6 million is General Fund and \$8.4 million is Public Transportation Account. Otherwise, no other changes are proposed.

Additional Background on the Administration's Proposal to Bundle the ICF-DD Rate. Specifically, in order to capture additional federal funds, the state would have to redefine the ICF-DD facilities as an "all inclusive service" under the California's Medicaid (Medi-Cal) State Plan. Under the Administration's January proposal, ICF-DD facilities would be responsible for providing Day Programs, transportation, and other assistance (in cases where generic services are unavailable). In turn, these services would be reflected in the rates paid to the ICF-DD facilities. Presently, these above described services are *not* part of the ICF-DD rate and are separately paid for by Regional Centers.

Federal regulations allow for a broad definition of the services that can be provided in ICFs with reimbursement under Medi-Cal. Therefore, by using this "all inclusive service" definition, the state can obtain more in federal funding and can subsequently, reduce state General Fund support by the same amount.

The Administration must submit a "State Plan Amendment" (SPA) to the federal government for approval prior to receipt of any additional federal funds for this purpose. The DHS, as the entity that manages the state's Medicaid Program (Medi-Cal), must submit the SPA. According to the DHS, they intend to submit the SPA to the federal government by no later than September 30, 2007 which should allow for California to claim additional federal funds for services rendered on or after July 1, 2007. (The federal government allows state to retroactively claim up to 3 months, or one quarter.)

Role of the DHS and Description of Intermediate Care Facilities (ICF)-DD Services. The Department of Health Services (DHS) licenses three types of Intermediate Care Facilities that are available for individuals with developmental disabilities, depending on the nature of their health care needs. These facilities qualify for Medicaid (Medi-Cal) reimbursement for all people in the facilities who are eligible for Medi-Cal. The three facilities affected by the Administration's budget proposal are briefly described below:

- ***ICF-DD.*** Generally, these facilities provide developmental, training, Habilitative, and supportive health services to individuals who have a primary need for developmental services and a recurring but intermittent need for skilled nursing services. These facilities have certified capacities of 16 people or larger.

- ICF-DD-H (Habilitative). Generally, these facilities provide personal care, developmental, training, habilitative and supportive health services for children and adults with developmental disabilities who have a primary need for developmental services and an ongoing, predictable, but intermittent need for skilled nursing services. These facilities have certified capacities from 4 to 15 people.
- ICF-DD-N (Nursing). Generally, these facilities provide nursing supervision, personal care, developmental, training, habilitative and supportive health services to medically fragile children and adults with developmental disabilities who have a need for skilled nursing services that are not available through other 4 to 15 bed health facilities. These facilities have certified capacities from 4 up to 15 people.

Staff Recommendation:

Conform to the Senate in the adoption of the following Budget Bill Language, to be placed within Item 4260-001-0001 (Department of Health Care Services) *and* Item 4300-101-0001 (Department of Developmental Services).

The proposed recommended language is as follows:

“It is the intent of the Legislature for the Department of Health Care Services (DHCS) and Department of Developmental Services (DDS) to collaboratively work with stakeholders, including providers and diverse constituency groups as deemed appropriate, regarding the bundling of rates for the reimbursement of Intermediate Care Facilities (ICF) for the Developmentally Disabled (DD), including Habilitative and Nursing facilities. It is the intent of the Legislature that any changes made by the state shall be seamless to the providers of services affected by the changes, as well as to the consumers and their families that are provided services through the Regional Center system. The integrity of the Individual Program Plan process, as contained in the state’s Lanterman Act, shall be maintained throughout this process and shall not be affected by any changes made to implement the bundled rates.”

VOTE-ONLY ISSUE 7: SALARY ENHANCEMENTS FOR MENTAL HEALTH PROFESSIONALS IN THE DCs**BACKGROUND**

The Subcommittee is in receipt of a Finance Letter requesting an increase of \$6.9 million (\$4 million General Fund) to increase the salaries for certain mental health classifications in facilities operated by the DDS, including the five DCs, Sierra Vista Community Facility and Canyon Springs Community Facility. The Finance Letter provides funding for the budget year. These increases are necessary to retain and hire key professional staff to provide mental health care, treatment and supervision.

The Administration states that these salary increases will be effective as of April 1, 2006. Any current year expenditures will be funded within existing resources which are available due to vacancies (i.e., no additional appropriation for the current year is necessary).

The DDS states that the proposed salary increases will bring salaries and wages for incumbents in these classifications to: **(1)** five percent less than CA Department of Corrections and Rehabilitation (CDCR) for Psychiatrists and Senior Psychologists, and **(2)** 18 percent less than salaries paid to CDCR for all other mental health-related classifications including: Unit Supervisors, Psychiatric Technicians, Rehabilitation Therapists, and Clinical Social Workers.

In January 2007, the CDCR increased salaries for mental health classifications as a result of the *Coleman v. Governor Schwarzenegger* federal court order. In less than three months, the DDS lost a total of 98 employees in Coleman-related classifications. The Coleman-related classifications include Psychiatrists, Medical Directors, Unit Supervisors, Psychologists, Social Workers, Rehabilitation Therapists and Psychiatric Technicians. These are key classifications that are required for treatment and direct provision of mental health services, or the supervision of direct services to consumers for licensing and certification and for the overall health and safety of consumers.

Staff Recommendation:

Approve the Spring Finance Letter request.

4440 DEPARTMENT OF MENTAL HEALTH

VOTE-ONLY ISSUE 8: MENTAL HEALTH MANAGED CARE PROGRAM AND ISSUE 250

BACKGROUND

Assembly Bill 1762, Statutes of 2003, reduced by 5 percent health care plans participating in the Medi-Cal Managed Care Program as administered by the Department of Health Care Services (DHCS), *and* also Mental Health Managed Care as administered by the DMH. The 5 percent rate reduction was applicable from July 1, 2003 through January 1, 2007.

Funding was restored for the health care plans within the DHCS Medi-Cal Program effective as of January 1, 2007, but the DMH has chosen not to provide the rate restoration (for the current year or the budget year).

Governor's May Revision. The DMH proposes a reduction of \$1.852 million (\$926,000 General Fund) in local assistance for the Mental Health Managed Care Program. The DMH states that this adjustment is due to reduced caseload within the Medi-Cal Program as determined by the Department of Health Care Services.

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

In addition, the Administration did *not* restore the 5 percent rate reduction which sunset as of January 1, 2007. This issue was placed on the Subcommittee's checklist in the March 12th hearing.

Background—How Mental Health Managed Care is Funded: Under this model, County Mental Health Plans (County MHPs) generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. County MHPs access County Realignment Funds (Mental Health Subaccount) for this purpose.

An annual state General Fund allocation is also provided to the County MHP's. The state General Fund allocation is usually updated each fiscal year to reflect adjustments as contained in Chapter 633, Statutes of 1994 (AB 757, Polanco). These adjustments have included changes in the number of eligibles served, factors pertaining to changes to the consumer price index (CPI) for medical services, and other relevant cost items. The state's allocation is contingent upon appropriation through the annual Budget Act.

Based on the most recent estimate of expenditure data for Mental Health Managed Care, County MHPs provided a 47 percent match while the state provided a 53 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

Background—Overview of Mental Health Managed Care: Under Medi-Cal Mental Health Managed Care psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists and some nursing services, are the responsibility of a single entity, the Mental Health Plan (MHP) in each county.

Full consolidation was completed in June 1998. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government. Medi-Cal recipients must obtain their mental health services through the County MHP.

The Waiver promotes plan improvement in three significant areas—access, quality and cost-effectiveness/neutrality. The DMH is responsible for monitoring and oversight activities of the County MHPs to ensure quality of care and to comply with federal and state requirements.

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

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

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

Staff Recommendation:

Approve the May Revision request with a 5 Percent Rate Restoration for Mental Health Managed Care services. As such, it is recommended to:

1. Approve the technical caseload adjustments as proposed by the Administration;
2. Increase by \$12 million (General Fund) for the 5 percent rate restoration; and
3. Adopt corresponding trailer bill language for the rate restoration, conforming with the Senate.

VOTE-ONLY ISSUE 9: CAPITOL OUTLAY REQUEST FOR METROPOLITAN STATE HOSPITAL**BACKGROUND**

The Subcommittee heard this issue at its April 9, 2007 hearing. The department has proposed \$2.869 million General Fund (\$1.058 million for study and preliminary plans and \$1.811 million for working drawings) to complete the planning stages for the eventual installation of a 16-foot fence at Metropolitan State Hospital. The fence will encircle the CTW building, the G&T building, and adjoining new park play area with the overall goal of increasing the secured number of beds at the hospital.

In addition, the project will eventually include the renovation of the existing visitor's center to increase the square footage and enhance security and required infrastructure components of this project. This project is expected to increase DMH's secure forensic bed capacity by up to 505 additional beds.

REQUEST FOR ADDITIONAL STUDY

The subcommittee had been asked to consider redirecting a portion of the proposed appropriation to a study of a fence that would encircle the entire perimeter of the hospital. DMH has advised that the projected cost of this kind of study would be approximately \$40,000 and would include evaluation of the existing six foot fence, gate entrances, security elements, access roads, kiosks, and infrastructure such as electrical and sidewalks.

In addition, the DMH advises that the estimated cost for building a perimeter fence would be approximately \$4.023 million. DMH notes that this figure does not include other related costs such as installing an access road, security enhancements, kiosks, and infrastructure improvements such as lighting, electrical sensors, and sidewalks.

Staff Recommendation:

Conform with Senate action and reject the administration's BCP and instead adopt the following budget bill language to proceed with a study regarding the shepard's hook fence:

The Department of Mental Health shall work with the City of Norwalk, and other interested parties as appropriate, to develop a capital outlay budget package which will address the scope of the shepard's hook fence project at Metropolitan State Hospital. This shall be completed within the existing funds as determined by the Department of Finance. The Department of Mental Health shall keep local representatives informed of their progress in working with the community in this effort.

VOTE-ONLY ISSUE 10: OUTSTANDING SPRING FINANCE LETTERS**BACKGROUND**

- **Problems at Atascadero State Hospital with New Bed Addition.** The Subcommittee is in receipt of a Finance Letter requesting an increase of \$6.6 million (Public Construction Bond Funds) to remediate the recent 250-bed addition at Atascadero State Hospital in order to eliminate sources of water intrusion, remove mold in the building, and pursue litigation to recoup project costs. This project will repair all windows and other identified points of water entry, thereby eliminating a potential health risk to staff and patients.

According to the DMH, this building has had a noticeable water leakage problem since it was first occupied six years ago. Since attempts by the contractor to repair, the building have been unsuccessful.

- **Proposed Reappropriation of Funds for Patton State Hospital Capital Outlay.** The Subcommittee is in receipt of a Finance Letter seeking a reappropriation of \$28.982 million (Public Construction Bond Funds) for the construction phase of renovating the admission suite and “Ed Bernath” (EB) Building at Patton State Hospital. In addition, the DMH is requesting an extension of the liquidation period for working drawing funds and the reappropriation of construction funds due to the lack of “swing space” being available on the campus which is needed to relocate patients while the project takes place.

This renovation project combines three projects within the EB Building for construction. The project will upgrade several areas to meet fire, life safety codes, as well as construct an interior environment within the admissions suite that provides for the identified functions of an admission unit. The DMH indicates that the renovations should be completed and patients transferred by the summer of 2011.

It should be noted that the DMH would be required to use General Fund support to pay back about \$1.7 million (General Fund) expended to date for the design of this project if the construction funds are reverted. This is due to complexities regarding the sale of the bond and commitments made by the State Public Works Board.

- **Coleman v. Schwarzenegger Salary Adjustments.** The Administration's spring letter in this area requests a General Fund increase of \$28,840,000 and a Reimbursements increase of \$715,000. Aligned with the current year adjustment, the administration states that this augmentation is necessary to bring salaries for filled DMH professional and level-of-care mental health classifications closer to parity with CDCR salaries, which were increased as a result of the *Coleman* court decision. Furthermore, the Administration contends that the action is necessary to ensure staff retention at the state hospitals.

Staff Recommendation:

Approve the Spring Finance Letter requests. As part of this action, the Capital Outlay requests from the department included in the January 10 proposal (including those for capital outlay for state hospitals) are deemed approved. This action conforms with the Senate.

VOTE-ONLY ISSUE 11: IMPLEMENTATION OF PROPOSITION 63 - MENTAL HEALTH SERVICES ACT**BACKGROUND**

The Subcommittee is in receipt of a Finance Letter requesting an augmentation of \$17.8 million (Mental Health Services Fund) in 2007-08 for state support, primarily for the DMH, related to continued implementation of the Mental Health Services Act—Proposition 63 of 2004. The details of this request are provided below.

It should be noted that Mental Health Services Act local assistance funding, primarily provided to County Mental Health Plans, is *continuously appropriated* and is therefore, *not* subject to an annual budget appropriation. Whereas all state administrative activities *are* indeed subject to an annual budget appropriation.

Approval of the proposed \$17.8 million (Mental Health Services Fund) augmentation for the DMH would bring the department's total state support expenditures for the Act's implementation to \$34.4 million (Mental Health Services Fund), with a total of 174 positions.

Legislative Analyst's Office Recommendation—BBL and Limited-Term Positions.

The LAO has two concerns with the DMH regarding their implementation of Proposition 63 (The Mental Health Services Act).

First, the process for reviewing the County Mental Health Plans three-year plans and contract amendments as designed by the DMH has been implemented in such a way as to generate significant workload for *both* the state and counties. It is unclear if all of the detailed reporting by counties, and review by the DMH is necessary to comply with the Mental Health Services Act. **Second**, the reporting requirements placed upon the counties and review protocols used by the DMH could potentially impede the timely flow of the funds to counties.

Therefore, the LAO recommends for the Subcommittee to adopt Budget Bill Language to direct the Office of State Audits and Evaluations (OSAE) within the Department of Finance to conduct an audit to evaluate specific aspects of the DMH's administration of the Proposition 63 Funds. It should be noted that the OSAE is also doing considerable work at the DMH presently regarding their EPSDT Program, San Mateo Pharmacy & Laboratory Project, Mental Health Managed Care and overall fiscal operations. As such, OSAE will have a command of the DMH operations to complete this work.

The LAO's proposed Budget Bill Language is as follows:

"It is the intent of the Legislature that the Office of State Audits and Evaluations (OSAE) review specific aspects of the administration of the Mental Health Services Act (MHSA) by the Department of Mental Health. The OSAE shall examine the following: **(1)** the extent to which DMH's review process of county mental health program and expenditure plans is consistent with the MHSA; **(2)** how the DMH protocols for the review of county mental health program and expenditure plans could be adjusted to improve departmental efficiency, and **(3)** appropriate measures that could be taken by the DMH to ensure that counties receive MHSA funds in a timely manner. The OSAE shall report its findings June 1, 2008 to the Chair of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature."

It addition, the LAO recommends to make the 14.5 positions, requested by the DMH in the Finance Letter associated with reviews of county plans, two-year limited-term. This would include the eleven positions requested for the Systems of Care County Support Branch, and the 3.5 positions for the Administrative Support Contracts Office. The LAO believes that the OSAE audit will provide additional information on whether these positions merit approval on a permanent basis.

Senate Action on this item included: **First**, adoption of *both* of the LAO recommendations for the Budget Bill Language and the limited-term positions. Subcommittee staff concurs that OSAE can provide constructive assistance with these issues.

Second, increased by \$895,000 (Mental Health Services Act Funds), above the Finance Letter, for the Mental Health Services Oversight and Accountability Commission (OAC) by **(1)** providing an additional six Staff Mental Health Specialist positions; and **(2)** increasing the contracts appropriation.

The additional 6 positions and contract funds are necessary to meet the following core requirements of the OAC:

- Provide oversight over the Act and ensure accountability to the intent and purpose of the Act through: **(1)** review and comment on *all* county plans for following the components of the Act; *and* **(2)** review and approve *all* county program expenditures using Mental Health Services Funds.
- Oversee the implementation of the Act's (1) Part 3—Community Services and Supports; (2) Part 3.1—Education and Training; (3) Part 3.2—Innovative Programs; and (4) Part 3.6—Prevention and Early Intervention.
- Identify critical issues related to the performance of County Mental Health programs and refer the issues to the Department of Mental Health.

Specifically, these positions will conduct the following key activities:

- Serve as lead in Prevention/Early Intervention and Innovation review teams. This includes reading all County Plans and reviewing them based on requirements and expenditure needs, and making recommendations to the Commissioners on the OAC.
- Craft, along with the Department of Mental Health, the requirements for “on-site” county review teams. This includes assisting in the development of the team protocol as well as participating in the teams and assessing Mental Health Services Act funded programs.
- Conduct analysis of early performance outcomes of Community Services and Supports component of the Act.
- Actively engage in the stakeholder process for the Prevention/Early Intervention and Innovation component.
- Actively engage in reviewing and providing comment on Workforce Development, and Capital and Information Technology components of the Act.

The contract funds (about \$320,000) would be used to: (1) contract with the Department of Justice to have independent legal counsel (i.e., from the DMH); (2) contract with the University of California at Davis for developing a statewide surveillance system as required by the Act; and (3) contract with the Center for Collaborative Policy at CA State University at Sacramento to assist in providing technical assistance toward development of policy collaboration with other organizations having statutorily mandated oversight responsibilities of Mental Health Services Act Funding.

If this recommended increase is approved in addition to the Finance Letter, the total budget for 2007-08 for the Mental Health Services Act Oversight and Accountability Commission (OAC) would be about \$3.2 million (Mental Health Services Act Funds), including contract funds and funds for 20 staff positions.

Staff Recommendation:

Adopt both of the LAO recommendations to adopt Budget Bill Language and make 14.5 of the DMH's requested positions two-year limited-term and augment the Oversight and Accountability Commission's budget by an additional \$895,000 (Mental Health Services Act Funds) **above** the Finance Letter, for the purposes noted in the write-up above. This action is intended to fully conform with action taken in the Senate on MSHA implementation.

5175 DEPARTMENT OF CHILD SUPPORT SERVICES

VOTE-ONLY ISSUE 12: PERFORMANCE INCENTIVE FUNDING

BACKGROUND

The proposed budget includes \$68 million (\$23 million General Fund) for Local Child Support Agencies (LCSAs) to backfill for lost Federal Financial Participation (FFP). Beginning October 2007, the federal Deficit Reduction Act (DRA) of 2005 eliminated states' ability to utilize federal performance incentives funds as eligible matching dollars for FFP. In order to retain the current funding level for LCSA administration, \$68 million (\$23 million General Fund) is needed for 2007-08. This represents nine months of backfill funding. For 2008-09, the Department of Child Support Services (DCSS) will request \$90 million (\$31 million General Fund) to replace the lost federal match of performance incentives. The Subcommittee originally discussed this request on March 7, 2007 and left the item open pending the May Revision.

Staff Recommendation:

Approve as budgeted and adopt the following placeholder trailer bill language:

The department shall report to the Legislature actual performance data within 45 days of the end of each quarter on child support collections and all comparative data for managing program performance provided to local child support agencies, which shall compare national, state and local performance data, as available, shall prominently post the data on its website, and shall require all local child support agency websites to prominently post a link to the data on the department's website. The department shall report to the Legislature during the 2008-09 budget hearings on the state and local progress on federal performance measures and collections.

ITEMS TO BE HEARD

4440 DEPARTMENT OF MENTAL HEALTH

DISCUSSION ISSUE 1: EPSDT OVERSIGHT AND FUNDING

BACKGROUND

Prior Subcommittee Hearings. The Subcommittee has discussed the Department of Mental Health's (DMH) mismanagement of the EPSDT Program in its April 9th hearing. To recap, the myriad of issues with the DMH regarding this program included the following:

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

Through a new leadership team, the DMH has begun to more assertively address several of its issues regarding this program. These efforts included providing the Senate with an initial EPSDT Program work plan.

The Senate took the following actions in its hearings: (1) Left “open” prior year, current year and budget year funding issues pending receipt of the Governor’s May Revision; (2) adopted trailer bill language to require the DMH to provide the Legislature with specified work products on a flow-basis as contained in the DMH work plan presented at the hearing; and (3) adopted Budget Bill Language for the DMH to work collaboratively with the Legislature to develop an appropriate administrative structure for the EPSDT Program for implementation in 2008-2009, including the passage of legislation to establish the administrative structure.

Governor’s May Revision—More General Fund Requested. The Governor’s May Revision continues to propose several fiscal adjustments for prior years and the current year, and also proposes an increase above the January budget for 2007-08. **The following table provides a perspective on these proposed funding adjustments.**

May Revision: Early Periodic Screening, Diagnosis and Treatment (EPSDT)

Fiscal Issue/Component	Governor’s January General Fund Increase	May Revision Total General Fund	General Fund Increase Above January
2003-04 Cost Settlement	\$13.7 million	\$13.7 million	--
2004-05 Unpaid Claims	\$25.7 million	\$25.7 million	--
2004-05 Cost Settlement	--	\$17.2 million	\$17.2 million
2005-06 Unpaid Claims	\$203.6 million	\$203.6 million	--
• Total Prior Years	\$243 million	\$260.2 million	--
• 2006-07 Deficiency	\$59.7 million	\$59.7 million	--
• 2007-08 Baseline Increase	\$92.7 million	\$107.6 million (includes Jan & May)	\$14.9 million
TOTAL EPSDT Amount	\$395.4 million	\$427.5 million	\$32.1 million

Each of the pieces shown in the above table are described below.

Prior Year \$260.2 million. As noted above, the prior year deficiency of \$260.2 million (General Fund) includes \$243 million identified in January and another \$17.2 million due to the May Revision and the cost settlement of 2004-05 (as noted in the table). Most of these prior year dollars were discussed in the March 12th hearing and their component pieces are listed below:

- \$177 million for an accounting error that occurred for 2005-06 between the DMH and the Department of Health Services (i.e., an accrual accounting to cash accounting problem).
- \$52.3 million due to the DMH using an out-dated fiscal methodology for projecting program expenditures which occurred for several past years. (This is presently being worked on to correct for future budgets and the Office of State Audits and Evaluations (OSAE) has been providing assistance to the DMH in this area.)
- \$13.7 million for 2003-04 “cost settlement” process.
- \$17.2 million for 2004-05 “cost settlement” process.

Current Year \$59.7 million. The 2006-07 deficiency amount of \$59.7 million (General Fund) remains the same in the May Revision. As discussed in the March 12th hearing, this increase is the amount the DMH believes it needs to balance this fiscal year once all of the claims are received and processed. The DMH states that the current year claims are being paid.

Budget Year \$107.6 million. A total increase of \$107.6 million (General Fund), or an increase of \$14.9 million (General Fund) above the January budget, is requested for 2007-08. The DMH is proposing to eliminate their “cost settlement” process as recommended by OSAE. By eliminating the cost settlement process, the DMH intends to provide a more realistic forecast of program expenditures going into the budget year, versus a deficient funding approach which had been occurring.

The following table is a summary of state and federal expenditures for the EPSDT Program. County Mental Health Plans also provide a baseline amount, along with a 10 percent sharing level above the baseline. For 2007-08, county funds will contribute a total of \$86.9 million towards the program. The county fund amount consists of \$67.9 million for their baseline and \$19 million for the added 10 percent above the baseline.

Summary of EPSDT Program (Federal & State Funding) as Proposed by DMH

Fiscal Year	Federal Funds	General Fund Total	Total Funds
2005-06	\$410.4 million	\$400.5 million	\$810.9 million
2006-07	\$630.8 million	\$649.2 million	\$1.280 billion
2007-08	\$485.5 million	\$471.2 million	\$956.7 million

How the EPSDT Program Operates. Most children receive Medi-Cal services through the EPSDT Program. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) recipients under age 21 any health or mental health service that is medically necessary to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, including services not otherwise included in a state's Medicaid (Medi-Cal) Plan. Examples of mental health services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

Though the DHS is the "single state agency" responsible for the Medi-Cal Program, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH). Further, County MHPs are responsible for the delivery of EPSDT mental health services to children

In 1990, a national study found that California ranked 50th among the states in identifying and treating severely mentally ill children. **Subsequently due to litigation (T.L. v Kim Belshe' 1994), the DHS was required to expand certain EPSDT services, including outpatient mental health services.** The 1994 court's conclusion was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.

County MHPs must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002.

The EPSDT Program is a valuable program which provides critical mental health treatment services to children. Unfortunately, through a series of missteps, the DMH has created a fiscal situation which needs to be remedied but cannot be completely addressed in one fiscal year.

Further, though a new leadership team is progressing well to address the many issues, there are still questions, which are pending. These questions pertain to **(1)** potential federal audit exceptions; **(2)** pending full repayment of federal double billing; **(3)** verification of 2005-06 claims; **(4)** pending cost settlements for 2005-06 and 2006-07 which will likely not be known for at least one more year, and possibly two; **(5)** potentially other changes to the projection methodology, and **(6)** the overall management of the program.

Answers to these questions are not fully imminent and will still require considerable work on the part of the DMH and constituency groups.

Staff Recommendation:

The Senate has taken considerable leadership on the EPSDT issue and the staff recommendation is to fully conform with the Senate's thoughtful and prudent actions in this area.

1. It is therefore staff's recommendation to do the following:

- a. **Technically adjust reimbursements received from the Department of Health Care Services to correspond to the following General Fund appropriations (federal Medicaid matching funds are provided by the DHCS) to be taken.**
- b. **Approve a total increase of \$59.7 million (General Fund) to fund the 2006-07 deficiency;**
- c. **Approve a total increase of \$107.6 million (General Fund) to fund 2007-08;**
- d. **Establish a reimbursement through the mandate process by creating a new item as shown below, and provide for a three-year reimbursement process of the \$260.2 million (General Fund) in prior year claims. The proposed mechanism for this is as follows:**

“Item 4440-295-0001. For local assistance, Department of Mental Health, for reimbursement of the costs for the Early Periodic Screening, Diagnosis and Treatment Program for prior years which total \$260.2 million and will be reimbursed over a three year period, commencing with the Budget Act of 2007, for disbursement by the State Controller as validated by the Department of Mental Health.....\$86.7 million”

This will provide a total of \$254 million (General Fund), or 59 percent, of the total \$427.5 million (General Fund) amount.

- 2. In addition, this Subcommittee wishes to conform with the language that has been adopted by the Senate in their previous hearings on the EPSDT issue. This includes trailer bill language to require the DMH to provide the Legislature with specified work products on a flow-basis as contained in the DMH work plan and Budget Bill Language for the DMH to work collaboratively with the Legislature to develop an appropriate administrative structure for the EPSDT Program for implementation in 2008-2009, including the passage of legislation to establish the administrative structure.**

DISCUSSION ISSUE 2: CALIFORNIA HEALTH INTERVIEW SURVEY**BACKGROUND**

There is constituency interest in expanding the California Health Interview Survey (CHIS) for 2007 to support three additional survey components that would facilitate the implementation of the Proposition 63—the Mental Health Services Act (Act). These three additional survey components are not presently being funded under the existing contract with the Administration.

The three additional survey components at issue include the following:

- Collect information on the mental health status of adolescents in California. This information has not yet been comprehensively obtained and would facilitate implementation of the Act.
- Collect information regarding “co-morbidity” in the adult and adolescent CHIS interview, including the use of alcohol and tobacco (adults and adolescents) and illegal drug use (adolescents). The measurement of these co-morbidity factors is essential to track and implement the Act’s emphasis on prevention and early intervention.
- Increase the sample size for CHIS in order to obtain sufficiently robust data on mental health status, perceived need for mental health services, and utilization of mental health services, as well as the co-morbidities as referenced above. The CHIS sample size is the linchpin that permits disaggregating California’s diverse population along numerous, critical dimensions such as race/ethnicity, nativity, age, location (county) and poverty status. Additional funding will ensure an adequate sample to meet the needs of mental health service planners and providers at the state and local levels.

The University of California at Los Angeles Center for Health Policy Research (UCLA Center), where the CHIS researchers reside, presently has a \$732,190 (Mental Health Services Act Funds) existing contract with the Department of Mental Health.

Funding for CA Health Interview Survey (CHIS). Funding for CHIS has been provided by a variety of federal, state, and local government agencies, as well as private foundations and other organizations.

CA Health Interview Survey (CHIS). The CA Health Interview Survey (CHIS) is the most comprehensive source of health information on Californians. The survey provides information for the entire state and most counties on a variety of health topics for California’s diverse population, focusing on access to health care, health insurance coverage, health behaviors, chronic health problems, mental health treatment, cancer screening and other health issues.

CHIS is the largest state health survey in the United States. It is conducted every two years. The first survey was conducted in 2001. CHIS 2005 completed interviews with 45,659 households, including 43,020 adults, 4,029 adolescents, and 11,358 children. The survey was administered in English, Spanish, Chinese (Mandarin and Cantonese), Korean, and Vietnamese. The 2005 survey also includes comprehensive information on diet and physical activity, as well as a module on the family history of cancer.

Results and data files from CHIS are available in a variety of ways, including the following:

Reports, policy briefs, and fact sheets in print and online.

- “Ask CHIS”, an easy-to-use online data query system, enables users to conduct their own simple analyses and obtain survey results on health topics, populations groups, and geographic areas. This is a free service.
- Public-use data files and accompanying documentation can be downloaded from the CHIS website at no cost.
- Technical assistance through regional workshops and consultation is available to agencies, community organizations and researchers using CHIS data.
- UCLA Center for Health Policy Research Data Access Center enables researchers to work with confidential files in a secure environment. Programming and statistical consulting services are also available.

CHIS researchers reside within the University of California at Los Angeles (UCLA) Center for Health Policy Research (UCLA Center). CHIS is the largest research program at the UCLA Center. The UCLA Center, established in 1994, is one of the nation’s leading health policy research centers. Research at the UCLA Center focuses on eight key areas: (1) health insurance coverage; (2) access to and quality of health care; (3) disparities in health care access and health status based on race, ethnicity, immigration, income and area of residence; (4) women and health; (5) the elderly and their health; (7) American Indians/Alaska Natives and their health; and (8) economics of health care.

Staff Recommendation:

Increase the Department of Mental Health’s contract appropriation to include an increase of \$1 million (\$700,000 Mental Health Services Act Funds and \$300,000 reimbursements which are federal funds to be obtained from either the DHS through the Medi-Cal Program or through the Managed Risk Medical Insurance Board’s Healthy Families Program). This action conforms with the Senate.

It is estimated that this funding level would meet most of the three objectives, as noted above. The proposed funding also assumes a 30 percent federal match, which staff believes should be attainable since some of the mental health issues cross-over into federally supported programs.