SUBCOMMITTEE #3:
Health & Human Services

Chair, Senator Mark Leno

Senator Elaine K. Alquist
Senator Roy Ashburn

May 21, 2010

9:30 a.m. *or*
Upon Adjournment of Session
Room 4203
(John L. Burton Hearing Room)

(Diane Van Maren)

AGENDA # 1

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PLEASE NOTE:
Only those items contained in this agenda will be discussed at this hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair.

Please see the Senate File (available on-line) for dates and times of subsequent hearings.

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Thank you.

I. VOTE ONLY ISSUES (Pages 2 to 12)

A. Item 4440—Department of Mental Health

1. Patton State Hospital Capital Outlay Project

Budget Issue. The Governor's January budget for the DMH includes a request for reappropriation of $7.7 million (General Fund) for working drawings ($711,000) and construction phases ($7 million) of the "satellite" kitchens at Patton State Hospital.

In addition, the budget includes a reappropriation of $35.8 million (bond funds) for the "main" kitchen (working drawings of $2.7 million, and construction phases of $33.1 million) at Patton State Hospital.

The DMH states these reappropriations are needed due to current delays.

Subcommittee Staff Recommendation—Deny Reappropriation for GF Portion. No issues have been raised regarding the main kitchen (using bond funds).

However, due to the fiscal crisis and need to provide direct health and human services to individuals during this time of the Great Recession, it is recommended to deny the $7.7 million (General Fund) reappropriation for the satellite kitchens. This action results in General Fund savings for core program services.

2. CA Health Interview Survey (Issue 450)

Governor's May Revision Issue. The DMH proposes an increase of $800,000 (MHSA Funds) to continue the development and administration of the mental health components of the University of California, Los Angeles Center for Health Policy Research's "CA Health Interview Survey (CHIS).

The CHIS is an assessment tool that collects data on health status and access to health care services in California. The survey is conducted every two years. Data collection and dissemination are made possible through a collaborative effort between the DHCS, DPH, the Public Health Institute, the MHSA Oversight Commission and the DMH.

Subcommittee Staff Recommendation--Approve. The CHIS survey is the largest health survey conducted in the United States and is well known for providing incredibly useful data regarding demographics, trends, and other assessments.

MHSA funds were used for this purpose in 2009 as well. These MHSA funds would be appropriated from the "State" administrative portion of funds.

No issues have been raised.

3. Funds for Evaluation of MHSA (Issue 479)

Governor's May Revision Issue. The DMH is requesting an increase of $1 million (MHSA Funds) to contract with the Petris Center, located at UC Berkeley, to provide an independent evaluation of the effectiveness of MHSA programs and services. The DMH states they will coordinate with various entities, including the OAC Commission.

Background—OAC Commission. The Mental Health Services Oversight and Accountability Commission (OAC) was established in 2005 and is composed of 16 voting Members who meet criteria as contained in the MHSA Act.

The (OAC) provides the vision and leadership, in collaboration with clients, their family members and underserved communities, to ensure Californians understand mental health is essential to overall health. The OAC holds public systems accountable and provides oversight for eliminating disparities, promoting mental wellness, recovery and resiliency and ensuring positive outcomes for individuals living with serious mental illness and their families.

Among other things, the role of the OAC is to:

- Ensure that services provided pursuant to the Act are cost effective and provided in accordance with best practices which are subject to local and State oversight;
- Ensure that the perspective and participation of Members and others with severe mental illness and their family members are significant factors in all of its decisions and recommendations;
- *Provide for a comprehensive evaluation of the MHSA (two phases);*
- Recommend policies and strategies to further the vision of transformation and address barriers to systems change, as well as providing oversight to ensure funds being spent are true to the intent and purpose of the Act.

With respect to the evaluation of the MHSA, the OAC has established a two phase process as follows:

> Phase I. As of July, 2010, the OAC will have completed Phase I, a 10-month assessment to design the scope of work of the evaluation. This assessment has incorporated significant stakeholder input and review, which consists of broad stakeholder representation from mental health consumer and family advocates, County Mental Health, and community mental health agencies.
>
> Phase II. An evaluation contractor will be selected by the OAC in Fall 2010 through a competitive bidding process. Phase II is the evaluation implementation to be conducted over a two-year period by the contractor to be selected. The Petris Center and other contractors may apply to conduct this evaluation through the competitive process.

The OAC has $500,000 (MHSA Funds) for the next two-years in its baseline budget for this purpose.

This $1 million would augment the $500,000/year for two years currently budgeted for this substantial, multi-year evaluation to ensure a more robust evaluation of the impact of the voter-approved MHSA to improve mental health service delivery and provide public accountability.

Subcommittee Staff Recommendation—Shift Funds to Oversight Commission. As noted above, the OAC Commission already has responsibility to provide an evaluation of the MHSA in two phases. the OAC has already commenced with a framework and process to be built upon.

In order to concentrate the evaluation efforts, ensure a public process, and utilize a competitive bid contracting process, it is recommended to appropriate the $1 million (MHSA Funds) identified in the May Revision for the DMH into the OAC's budget (Item 4560—MHSA Oversight and Accountability Commission.

4. Technical Adjustment to Transfer of Traumatic Brain Injury Program.

Governor's May Revision Issue. In a prior Subcommittee hearing the transfer of this program to the Department of Rehabilitation as required by AB 398, Statutes of 2009, was adopted. However, due to an oversight by the DMH, a technical adjustment to the budget is necessary to remove $149,000 (reimbursements) from Item 4440-101-0311. There is no policy issue related to this action.

Subcommittee Staff Recommendation--Approve. This is purely a technical adjustment. It is recommended to adopt.

B. Item 4260—Department of Health Care Services

1. Legislative Oversight of DHCS CA-MMIS

Budget Issue and Subcommittee Staff Recommendation. The Subcommittee approved the DHCS request for 35 State positions to continue staffing for the Fiscal Intermediary Medi-Cal Management Information System (CA-MMIS) on May 13, 2010. The new CA-MMIS is to be implemented in system component phases over a five year period. In 2010 work is to begin on the Business Rules Extraction of the existing CA-MMIS and the design, development and implementation of several components will proceed with the final replacement CA-MMIS in place by 2015.

In order to facilitate the Legislature being informed on its progress, the following uncodified trailer bill language is proposed by Subcommittee staff:

> "The Department of Health Care Services (DHCS) shall provide the appropriate fiscal and policy committees of the Legislature with quarterly reports on the transition and takeover progress efforts of the Medi-Cal Fiscal Intermediary Contract. These quarterly reports shall be provided within 30-days of the close of each quarter, commencing July 1, 2010 through December 2012. These quarterly reports shall contain the following information:
>
> (1) A project status summary that identifies the progress or key milestones and objectives for the quarter on transition and takeover efforts.
>
> (2) Copies of any oversight reports developed by contractors of the DHCS for the California Medi-Cal Management Information System (CA-MMIS) project and any subsequent responses from the DHCS.
>
> Upon request from the Chair of the Joint Legislative Budget Committee, the DHCS shall provide updates on the Implementation Advanced Planning Document provided to the federal Centers for Medicare and Medicaid Services pertaining to the CA-MMIS project.

It is recommended to adopt the above uncodified trailer bill language.

2. Family Health Estimate Package for CCS, CHDP & GHPP (Issues

Governor's May Revision Issue. The May Revision for the CA Children Services (CCS) Program, the Child Health Disability Prevention Program and the Genetically Handicapped Persons Program proposes the following:

- CCS increase of $ 5 million (General Fund)
- CHDP decrease of $91,000 (General Fund)
- GHPP increase of $5.4 million (General Fund)

This May Revision reflects changes that pertain to caseload. No policy changes. Caseload projects are estimated to be (1) 44,345 children for CCS-only (a 2.6 percent increase over the current year; (2) 23,732 people for the CHDP (an insignificant difference over the current years; and (3) 1,430 people for the GHPP (a 2.9 percent increase).

Subcommittee Staff Comment and Recommendation—Approve. The Family Health estimate for the CCS, CHDP and GHPP contains no new policy issues, only caseload and technical adjustments. No issues have been raised. It is recommended to approve the May Revision.

C. Item 4265—Department of Public Health

1. Loan Repayment: Occupational Lead Prevention Account & Drinking Water Operator Certification Special Account (Issues 401 and 402)

Governor's May Revision Issue. The Governor's May Revision proposes a series of Special Fund transfers and loans to assist in General Fund relief.

For the DPH, the Department of Finance proposes the following Budget Bill Language for this purpose:

> Occupational Lead Poisoning Prevention Account
> Item 4265-401. Nothwithstanding Provision 1 of Item 4265-011-0070, Budget Act of 2008, the $1,100,000 loan authorized, shall be full repaid to the Occupational Lead Poisoning Prevention Account by July 1, 2012.
>
> Drinking Water Operator Certification Special Account
> Item 4265-402. Nothwithstanding Provision 1 of Item 4265-011-0247, Budget Act of 2008, the $1,600,000 loan authorized, shall be fully repaid to the Drinking Water Operator Certification Special Account by July 1, 2012.

Subcommittee Staff Comment and Recommendation—Approve. The effect of this language is to defer the repayment of money loan from these two special funds to the General Fund for one-year. This action will save General Fund support.

2. Amyotrophic Lateral Sclerosis/Lou Gehrig's Disease Research (Issue 502)

Governor's May Revision Issue. SB 1502 (Steinberg), Statutes of 2008, created the ALS/Lou Gehrig's Disease Research Fund to benefit the ALS Association. This enabling legislation created a tax check-off. Funds from this check-off are appropriated in the DPH as a "pass-through" to directly to the ALS Association.

The May Revision proposes to appropriate a total of $$521,000 (tax check-off) for this purpose.

Subcommittee Staff Recommendation—Approve. This proposal is consistent with the enabling legislation and it is recommended for approval.

3. Genetic Disease Testing Program—Modification to Project (Issue 556)

Governor's May Revision Issue. The DPH proposes an increase of $868,000 (Genetic Disease Testing Fund) to fund a System Software Specialist III position (18-month limited-term)and to reflect changes in scope to the Business System Upgrade Project (Project) which the DPH contends will result in decreased expenditures in 2011-12 through 2014-15.

Of the proposed amount, a net of $608,000 (Genetic Disease Testing Fund) is reflected in the contract line item. This is composed of the following:

- Increase of $792,000 Oracle Contract
- Increase of $13,862 One-Time Project Costs (contract)
- Decrease of $198,000 Continuing IT Project Costs (contract)
- Net increase of $103,519 Data Center Services (DHCS hosting)

The DPH states this approach reflects going from a replacement system to a more straightforward system upgrade which would decrease the project costs from $3.5 million (Genetic Disease Testing Fund) to $2.8 million (Genetic Disease Testing Fund). This is due to a shorter project time-line as well as module variations.

Background—Business System Upgrade Project. The Genetic Disease Screening Program is fee support and was discussed in the April 15 hearing generally. The program is seeking to upgrade its accounting and revenue collection, order and inventory management functions that will integrate into its "Screening Information System".

Subcommittee Staff Recommendation—Approve. The DPH states this approach will result in savings over the course of the project as noted. No issues have been raised.

4. Federal Ryan White Grant Funds—Local Assistance (Issue 560)

Governor's May Revision Issue. DPH requests a *net* increase of $668,000 (federal funds) in budget authority due to adjustments in the Health Resources and Service Administration (HRSA) Part B HIV Care Grant as noted below. These funds were awarded to DPH based on a formula by HRSA.

- Current 2010-11 Budget Authority *$123,035,000*
- Increase in Base Grant $ 692,000
- Increase in Emerging Communities Grant $ 9,000
- Decrease in Minority AIDS Initiative Grant -$ 33,000
- Adjusted Authority *$123,703,000*
- **May Revision Request for Authority $ 668,000**

DPH states the net increase of $668,000 will be used to support certain Local Health Jurisdictions and a small number of community-based organizations to provide HIV care program services for medical care, such as physician visits and laboratory tests. The Office of AIDS allocates HIV Care Program funds to Local Health Jurisdictions via a formula allocation process.

In addition, the DPH states they received recent clarification from HRSA that the award also includes Minority AIDS Initiative (MAI) funds. Previously MAI funds were awarded as a separate grant with a different budget period, not as part of the Ryan White award.

Kern County is the only county in California that meets HRSA's statutory requirements for Emerging Communities. These funds are awarded to DPH but are allocated separately to Kern. The goal of the Emerging Communities funding is to: (1) enable emerging communities that do not qualify for Ryan White Act Part A funding, but have 500 to 999 cumulative AIDS cases, to receive a separate formula funding ward to provide HIV care.

DPH allocates MAI funds to 19 Local Health Jurisdictions with the highest number of non-white living with HIV/AIDS cases. The goals of this are to (1) evaluate and address disproportionate impact of HIV/AIDS on African Americans and other minorities; and (2) provide outreach and education services to increase minority participation in ADAP.

Background. California has been receiving these funds for 20-years. They state that these funds are used to fill in gaps in care not covered b other sources. Specifically, these funds will enable people living with HIV/AIDS to utilize services such as: (1) outpatient and ambulatory health services; (2) case management services; (3) early intervention services; (4) health insurance premium and cost sharing assistance; (5) home and community-based heath services; (6) home health care; (7) hospice services; (8) housing services; (9) local pharmaceutical assistance; (10) mental health services; (11) treatment adherence counseling; and many other life saving services.

Subcommittee Staff Recommendation—Approve. No issues have been raised regarding this request. It is recommended to approve.

5. Adjust Licensing & Certification Program for LTC Ombudsman (Issue 553)

Governor's May Revision Issue. The Administration is requesting two adjustments to the Licensing and Certification Program, including **(1)** a decrease of $973,000 (Federal Health Facilities Citation Penalties Account for 2010-11 (one-time); and **(2)** a reduction of $680,000 in the General Fund transfer to the Licensing and Certification Fund so that these funds can be appropriated to the CA Department of Aging (CDA) to support the Long-Term Care Ombudsman Program in 2010-11. This General Fund transfer to the L&C fund is a portion of the reimbursement paid by State facilities to the DPH for licensing and certification activities.

These two actions result in a net reduction of $1.653 million for 2010-11 which would be redirected to support the Ombudsman Program for 2010-11. The L&C Program has stated unequivocally that this short-term fix will not adversely impact health and safety.

The DPH Licensing and Certification Program (L&C Program) is seeking this adjustment as a *short-term fix* for the shortfall in the Long-Term Care Ombudsman Program which resulted from insufficient funds in the Federal Health Facilities Citation Penalties Account (0942-605). This special account serves as a funding source for L&C's Temporary Manager Program and for the CDA's Long-Term Care Ombudsman Program.

The DPH notes that funds coming into this special account are inconsistent and unpredictable and not sufficient to support ongoing activities of these programs in 2010-11.

This is a one-time fix to continue the CDA's Long-Term Care Ombudsman Program. The Office of the State Long-Tem Care Ombudsman in the CDA develops policy and provides oversight to 35 local Long Term Care Ombudsman Programs statewide. As advocates for residents of LTC facilities, local Ombudsman representatives promote resident's rights and provide assurances that these rights are protected. About 1,000 State-certified Ombudsman volunteers and paid staff in the local programs identify, investigate and seek to resolve complaints and concerns on behalf of about 296,000 residents in nearly 1,400 nursing facilities.

Background—Federal Health Facilities Citation Penalties Account. This special account derives its revenues from Civil Penalties paid by Long-Term Care heath facilities to the federal CMS. The L&C Program, as the designated State agency for the federal CMS, conducts federal certification surveys through a federal grant.

The federal CMS has its own prescribed process for review and issuance of deficiencies and assessment of penalties. Once settled, if the outcome is that the federal CMS receives a payment from a health care provider, they remit a portion back to the DPH via an electronic transfer. As such, the L&C Program is not a participant in the federal process, or is not apprised of the status of deficiencies and penalties. As such, the L&C Program contends it is difficult to project the level of revenues and the frequency with which these revenues will be remitted to the State.

Subcommittee Staff Recommendation—Approve. The L&C Program has presented a very viable short-term fix to facilitate funding for the Ombudsman Program. It is recommended to approve the proposal.

D. Item 4300—Department of Developmental Services

1. Technical Reduction for "Gap" Funding Since Assumption Not Relevant

Background and Subcommittee Staff Recommendation. The DDS estimate for the Purchase of Services component of the Regional Centers' estimate for 2010-11 contains a $1.4 million (General Fund) assumption regarding "gap" funding due to the time period of when an Intermediate Care Facility for DD (ICF-DD) is in a transition period and may not be certified to be a Medi-Cal provider due to a change in ownership (does not pertain to not meeting federal standards here). DDS reflects $1.4 million in General Fund support to backfill for the perceived loss of federal matching Medicaid (Medi-Cal) funds during this transition period.

However, after discussions with the DDS and the Department of Public Health (DPH), it is apparent that this assumption is *no longer necessary*. Certain administrative processes have now been clarified and there is no longer a period (or gap) of time whereby federal matching funds are not applicable, as long as all federal CMS requirements are otherwise being met.

It is recommended to delete the $1.4 million (General Fund) for the "gap" funding from Item 4300-101-0001 since this assumption is no longer applicable. There is no affect on any health or safety issue here. It is just deleting an old, no longer applicable assumption.

2. Reappropriation of Capitol Outlay for Porterville Kitchen (Bond Funds)

Governor's May Revision Issue. The DDS suspended project activities on this bond funded project at the direction of the DOF, due to the State's deteriorating cash position in the Pooled Money Investment Account (in December 2008). At the time of this freeze, the DDS had already transferred the working drawings funds necessary for the lease revenue financed portion of the Porterville new main kitchen to the Architectural Revolving Fund and working drawings were underway. However, the working drawings were not sufficiently completed to enable the State Public Works Board to include this project in the Spring 2010 sales.

DDS is requesting reappropriation language for the Porterville new main kitchen project from the Budget Acts of 2006 and 2008.

No General Fund moneys are involved in this project, only bond funds.

Subcommittee Staff Recommendation—Approve. It is recommended to please reappropriate the construction balance of the lease revenue bond funds to enable the DDS to complete this project once the bonds are sold.

II. ITEMS FOR DISCUSSION

Item 4265—Public Health (Selected Issues)

1. AIDS Drug Assistance Program (ADAP)

Governor's May Revision Issue. Over 38,000 people with HIV/AIDS will receive drug assistance through the ADAP for 2010-11. The May Revision proposes a *reduction* of $28.6 million (decrease of $32.7 million General Fund) as compared to January as shown in Table #1 below. The Office of AIDS states this reduction does not reflect any additional programmatic changes beyond the jail coverage change proposed in the Governor's January budget.

Table #1: Comparison of Governor's January Budget and May Revision for ADAP

Fund Source	January 2010	May Revision	Difference
General Fund	$158.3 million	$125.6 million	-$32.7 million
AIDS Drug Rebate	$210.9 million	$210.3 million	-$0.6 million
Federal Funds—Ryan White	$92.9 million	$97.6 million	+4.7 million
TOTALS	**$462.1 million**	**$433.6 million**	**-$28.6 million**

Table #2 below provides a more detailed comparison of the ADAP expenditure components. As noted below, the key differences pertain to prescription drug costs and the Pharmacy Benefit Manager (PBM) Operation expenditures.

Table #2: Detailed Comparison of ADAP Adjustments as proposed in January

ADAP Local Assistance Components	January Budget 2010-11	May Revision 2010-11	Difference
Basic Prescription Costs	$456,950,000	$448,534,000	-$8,416,000
Average Wholesale Price Rollback	--	-$16,194,000	-$16,194,000
True Out-Of-Pocket Costs	--	-$3,192,000	-$3,192,000
Eliminate Services to Jails	-$10,889,000	-$9,852,000	$1,037,000
Shift Medi-Cal Newly Qualified Legal to ADAP	--	$272,000	$272,000
Shift Medi-Cal PRUCOL people to ADAP	--	$1,632,000	$1,632,000
Subtotal of Prescription Costs	**$446,061,000**	**$421,200,000**	**-$24,861,000**
Basic Pharmacy Benefit Manager	$14,782,000	$14,349,000	-$433,000
Administrative Reduction from 2009 (PBM)	-$500,000	-$500,000	0
Change in Non-Approved Transaction Fee Savings	--	-$3,349,000	-$3,349,000
Eliminate Services to Jails	-$348,000	-$315,000	$33,000
Processing for Shift of Medi-Cal: Legals & PRUCOL	--	$33,000	$33,000
Subtotal PBM Operations	**$13,934,000**	**$10,218,000**	**-$3,716,000**
Total Drug Expenditures	**$459,995,000**	**$431,418,000**	**-$28,578,000**
Local Health Officers: Administration of Enrollment & Eligibility	$1,000,000	$1,000,000	0
Medicare Part D Premiums	$1,000,000	$1,000,000	0
Tropism Assay (for clinical indication)	$133,000	$133,000	0
Total Support and Administration	**$2,133,000**	**$2,133,000**	0
TOTAL ADAP Program Expenditures	**$462,128,000**	**$433,550,000**	**-$28,578,000**

Specifically, the Office of AIDS states the proposed net reduction is attributable to the following:

- Updated drug expenditure data which results in a reduction in the linear regression expenditure estimate (as modeled by the Office of AIDS).
- Reduction in projected drug expenditures resulting from the federal settlement with First Data Bank regarding the value of the Average Wholesale Price (AWP).
- Change in the Medicare Part D True Out-Of-Pocket (TrOOP) through federal health care reform legislation which enables ADAP client's to count expenditures to move from the "donut hole" to catastrophic coverage.
- Continuation of the Administration's change in coverage for incarcerated individuals;
- Increase in the Ryan White Part B Grant award of $4.7 million (federal funds) for ADAP.
- Increase in ADAP due to the Governor's proposal to eliminate Newly Qualified Legal Immigrants and Persons Residing Under the Color of Law (PRUCOL) from the full-scope Medi-Cal benefits.
- Change in the reimbursement structure of the next Pharmacy Benefit Manger contract.

Each of these key changes is discussed below.

- **A. Updated Data for Basic Prescription Costs and Liner Methodology.** The Office of AIDS utilized updated actual data through February 2010 for both expenditures and revenues (rebates) in their Linear Regression Model. This updated data provided seven more data points (data from August 2009 through February 2010) than available for the January budget development. This is the same methodology and model as used for the January budget. According to the Office of AIDS, the change in this trend reflects a *reduction of $8.8 million*, or a reduction of 1.88 percent.

- **B. Average Wholesale Price Rollback from Federal Settlement.** ADAP, as does the Medi-Cal Program, uses a drug reimbursement rate based on the Average Wholesale Price of drugs. Through a federal settlement related to First Data Bank and the published prices of AWP for certain drugs, a *one-time* adjustment factor is to be made which lowers the value of AWP for certain brand drugs. ADAP implemented this change as of March 10, 2010.

  The Office of AIDS states that a *savings of $4.6 million* (General Fund) is to be achieved in the current-year, *and* an estimated *savings of $16.2 million* (General Fund) is projected for 2010-11 from this adjustment.

  The Office of AIDS acknowledges this calculation is based on existing data but that it is an estimate with *several moving variables* since ADAP clients (ADAP-Only, ADAP-Medicare Part D, ADAP-with insurance) vary and the AWP rollback calculation is affected by this variation.

- **C. Medicare Part D and "True-Out-Of-Pocket (TrOOP).** California's ADAP interacts with the federal Medicare Part D drug benefit, implemented in 2006. The income level and assets of federal Medicare Part D enrollees determines the level of prescription assistance they receive under the federal program. The ADAP is the payer of last resort and serves as a *wrap-around* for enrolled clients because it is cost-beneficial to the State.

  A Medicare Part D enrollee's TrOOP spending— a person's prescription payment obligation during the Medicare Part D coverage gap, or "donut hole"—determines how one advances through the various Part D coverage levels. This rule typically leads to ADAP clients (who are also in Medicare Part D) to remain "stuck" in the Part D coverage gap, and thus shifting more to ADAP coverage for this period.

  The new federal Patient Protection and Affordable Care Act allows for ADAP expenditures to count towards a person's "TrOOP effective as of January 1, 2011. As such federal Medicare Part D coverage will provide more support, and ADAP will experience savings from this action.

  This issue was discussed in the Subcommittee hearing of April 15, 2010, and it was believed a savings would result in ADAP due to this federal law change.

  The Office of AIDS calculated this adjustment to result in a *savings of $3.2 million* (General Fund) in 2010-11 (effective January 1, 2011) due to a cost-shift to the federal Medicare Program which results from the federal law change.

- **D. Reduction of $10.2 million to Discontinue ADAP in Jails.** As discussed in Special Session and in Subcommittee on April 15, 2010, the Administration proposes *a reduction of $10.2 million* ($8.3 million General Fund and $1.9 million in lost ADAP Rebate Fund) by eliminating funding for county jails effective as of July 1, 2010. The reduction amount was updated at the May Revision and reflects about $1 million (total funds) less in savings than January due to updated calculations.

  The Administration states that the *$8.3 million (General Fund) saved from this action are invested* within the ADAP to assist in meeting State expenditures in 2010-11.
  They note that Local Health Jurisdictions are responsible for inmate care in jails as referenced in existing State Statue (Section 29602 of Government Code and Section 4011, et seq and 4015(a) of Penal Code).

  The Office of AIDS administratively began funding county jails for inmates needing AIDS anti-retroviral drugs in 1994 due to the increasing fiscal impact on Local Health Jurisdictions in meeting their mandate to provide medical services to their incarcerated populations. Presently, thirty-six counties receive funding from the State to serve incarcerated individuals in 44 jails, or about 2,093 people.

  The Office of AIDS states the *existing* process for reimbursing these 36 counties is as follows:

  1. Jail pharmacy submits claim of $100 (drug cost) to Pharmacy Benefit Manager.

2. Pharmacy Benefit Manager submits invoice of $110.05 for payment to State ADAP. This invoice consists of $100 drug cost + $6.00 transaction fee and $4.05 pharmacy dispensing fee.
3. State ADAP pays Pharmacy Benefit Manager $110.05.
4. Pharmacy Benefit Manager reimburses Jail pharmacy at $104.05 (drug cost and pharmacy dispensing fee).
5. State ADAP invoices drug manufacturer $100, and the drug manufacturer pays State a drug rebate of $32 (average rebate for ADAP jail clients) to ADAP.

The Office of AIDS notes that five counties—San Francisco, Santa Clara, San Diego, Contra Costa and Los Angeles— support their own jail programs. Santa Clara County is able to access 340b federal pricing through their county hospital (Valley Medical Center). As such, other counties may be able to establish relationships through their Local Health Jurisdictions to access this low-cost pricing via hospitals or applicable clinics.

- **E. Update on Ryan White HIV/AIDS Federal Funding.** In April, the federal HRSA informed the DPH of California's award of federal Ryan White HIV/AIDS grant funds. The ADAP received an *increase of $4.7 million* from this grant which is then used as an off-set to General Fund expenditures for 2010-11.

- **F. Proposed Shift of Newly Qualified Legal Immigrants and PRUCOLS to ADAP.** The ADAP May Revision reflects the Governor's Medi-Cal Program proposal to eliminate Newly Qualified Legal Immigrants and PRUCOL Individuals. Two adjustments are shown for ADAP, including (1) $1.9 million for drug expenditures and (2) $33,000 for PBM processing fees, for a total increase of $1.937 million.

  The Subcommittee has already rejected the Governor's May Revision proposal in Medi-Cal to remove these individuals from full-scope coverage. *Therefore, the ADAP increase of $1.937 million is not necessary.*

  Further, because the Office of AIDS calculates ADAP Drug Rebate revenues off of expenditures, including the augmentation of $1.937 million, the ADAP Drug Rebate revenue needs to be *reduced by $191,000* to appropriately reflect this adjustment.

- **G. Change in Non-Approved Transaction Fee.** As discussed in Subcommittee on April 15, 2010, the Office of AIDS is proceeding with a new Request for Proposal for the ADAP Pharmacy Benefit Manager (APBM). The new contract is to be effective July 1, 2010 and includes *two changes* that the Office of AIDS states will save ADAP funds.

  First, it will have a lower reimbursement for "non-approved" transaction fees (will now be $3.00 per transaction versus the present $6 per transaction). Due to prescribing aspects, sometimes a pharmacist needs to revise a prescription before it is "approved". The PBM must conduct administrative work on all claims, including those not approved ("non-approved"). Second, there will be a limit of five times for which a non-approved transaction and be submitted. These actions are to *save $3.3 million*.

- **H. ADAP Rebate Fund—Reserves Limited and Rebates Still Being Negotiated.** Drug rebates constitute a *significant* part of the annual ADAP budget. This special fund captures all drug rebates associated with ADAP, including *both* mandatory (required by federal Medicaid law) and *voluntary* supplemental rebates (additional rebates negotiated with 14 drug manufacturers through ADAP Taskforce).

  Generally, for every dollar of ADAP drug expenditure, the program obtains 46 cents in rebates. This 46 percent level is based on an average of rebate collections (both "mandatory" and "supplemental" rebates).

  First, the ADAP May Revision is *only* reflecting a reserve of **$7.4 million** (ADAP Rebate Fund). Subcommittee staff does *not believe* this is a "prudent" reserve for the following reasons:

  - ADAP Fund Condition Statement at May Revision reflects revenues of $192.7 million. Typically a lower end "prudent" reserve is at least 5 percent of the revenues generated which would be at **least $9.6 million**.
  - Interest rates are low now and all State Special Funds, such as ADAP, are not capturing as much "earned interest income" as they once did and they could drop further during the course of the budget year.
  - According to the Office of AIDS, there is a historic seasonal trend to drug expenditures, and therefore rebate revenues, in that the first half of the fiscal year is lower as compared to the second half (i.e., July to December expenditures and revenues from rebates is lower); However the existing revenue estimate method does not take this fluctuation into account (Page 16 of ADAP Estimate). This normally would not be significant, but given the very low reserve margin of $7.4 million, Subcommittee staff believes it could become a concern later in the fiscal year.

  Second, new supplemental rebate negotiations with each of the eight antiretroviral drug manufacturers took place on May 5-7, 2010. *Only three of the eight manufacturers* finalized supplemental rebates with the ADAP Crisis Task Force (i.e., :"supplemental" rebates negotiated nationally). The Task Force hopes to complete the remaining supplemental rebate agreements by July 1, 2010, but the Office of AIDS of course cannot be certain that this will indeed occur.

  Third, the federal Patient Protection and Affordable Care Act, signed by President Obama in March, makes changes to the federal *mandatory* Medicaid rebate calculation which *may* impact ADAP. Specifically, the federal Medicaid rebate calculation was increased for *both* brand name drugs (from 15.1 percent to 23 percent of "average manufacturer price"), and generic drugs (from 11 percent to 13 percent), effective as of January 1, 2010 (retroactive). The Office of AIDS notes they are *seeking additional information* regarding the increased rebates under Medicaid to discern how ADAP may be affected.

The Office of AIDS states they *do not anticipate* any reduction in rebates from this federal action, but it is not yet resolved.

Fourth, the minimal May Revision reserve of $7.4 million assumes that all of the ADAP assumptions will indeed, hit the mark. Though the Office of AIDS has prepared an earnest, data-driven Estimate for ADAP, there are several moving parts, including the Average Wholesale Price (AWP) rollback (discussion "B", above) which is to save $4.6 million in the current-year and $16.2 million in 2010-11 (total of $20.8 million across the two years).

The Estimate notes (page 4) that this savings assumption relies on several "hypothetical" savings calculations in order to develop the estimate. This is completely understandable for a "new" assumption. However, it is a considerable savings and if it does not hit its mark, then a draw on the reserve may be needed.

Background—ADAP Uses a Pharmacy Benefit Manager. The AIDS Drug Assistance Program was established in 1987 to help ensure that HIV-positive uninsured and under-insured individuals have access to drug therapies.

The state provides reimbursement for drug therapies listed on the ADAP formulary (over 180 drugs). The formulary includes antiretrovirals (about 30), opportunistic infection drugs, hypolipidemics, anti-depressants, vaccines, analgesics, and antibiotics. Since the AIDS virus can quickly mutate in response to a single drug, medical protocol calls for inclusion of at least three different anti-viral drugs for patients.

Background—ADAP is Cost-Beneficial to the State. Without ADAP assistance to obtain HIV/AIDS drugs, individuals would be forced to: (1) postpone treatment until disabled and Medi-Cal eligible, or (2) spend down their assets to qualify, increasing expenditures under Medi-Cal. According to the Administration, 50 percent of Medi-Cal costs are borne by the state, whereas only 30 percent of ADAP costs are borne by the state.

Studies consistently show that early intervention and treatment adherence with HIV/AIDS-related drugs prolongs life, minimizes related consequences of more serious illnesses, reduces more costly treatments, and increases an HIV-infected person's health and productivity.

Subcommittee Staff Comment and Recommendation-- Modify. The ADAP is a core State health care program which has been cost-beneficial to the State.

First, it is recommended to reject the Administration's ADAP assumption regarding Newly Qualified Legal Immigrants and PRUCOLS. The Subcommittee's prior action of May 13th continues to provide full-scope Medi-Cal benefits to these individuals. Therefore a reduction of $1.937 million (GF) from expenditures and a reduction of $119,000 in ADAP Drug Rebate revenues should be reflected (i.e., net reduction of $1.8 million due to revenue loss aspect).

Second, the Governor's May Revision provides a very modest reserve of only $7.4 million. The potential risk of the pending supplemental rebates (Taskforce still working), and the AWP

rollback issue, could sway ADAP into a precarious situation during the course of the budget year if these assumptions do not fully occur.

Therefore, it is *also recommended* to provide an increase of $10 million (General Fund) to increase the reserve to a total of $19.2 million (i.e., net adjustment of $1.8 million, plus existing $7.4 million reserve and $10 million augmentation). This would provide a 10 percent reserve. This seems more "prudent", particularly given the level of risk in two *key* assumptions.

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions:

1. Office of AIDS, Please provide a clear walk-through of each of the key items as noted please (using the Agenda items as a reference please).
2. Office of AIDS, budgets are estimates based on the best available assumptions at the point in time. Of the many assumptions in this ADAP estimate, which ones may have the most potential risk in not meeting their estimated amount?
3. Office of AIDS, the DHCS Medi-Cal Program is proposing a "hard" cap on providing Medi-Cal Program enrollees with only six prescriptions per month, except for "life-threatening" medications. From a professional, technical assistance perspective, what may this mean for the ADAP, including those medications which are needed for people to maintain their drug therapy regime?

2. Restoration of Governor's Veto's from Budget Act of 2009

Budget Issue. Through the Joint Budget Conference Committee, the Legislature directed limited resources, including AIDS Drug Rebate Funds, federal funds, and General Fund support, to develop a prudent plan for program expenditures within the Office of AIDS. Difficult decisions were made in an effort to maintain core HIV/AIDS services, such as education and prevention efforts, HIV testing, therapeutic monitoring of T-Cells for drug efficacy, HIV counseling, and early intervention projects.

With his blue pen, the Governor vetoed a total of $52.1 million (General Fund) from these critical programs. With this veto, the following occurred:

- Deleted $22.4 million (General Fund) from HIV/AIDS education and prevention programs, leaving no State support for these programs;
- Deleted $8.2 million (General Fund) from the HIV Counseling and Testing Program, leaving no State support for this program;
- Deleted $7.3 million (General Fund) from AIDS Therapeutic Monitoring Program;
- Deleted $7.4 million (General Fund) from the AIDS Early Intervention Projects, leaving no State support for these projects;
- Deleted $5.8 million (General Fund) from the AIDS Home and Community-Based Care Projects, leaving no State support for these projects;
- Deleted $992,000 (General Fund) from HIV/AIDS Housing, leaving no State support for this program.

California has *historically* been a national model for its HIV/AIDS prevention, education, surveillance and epidemiologic studies, counseling and treatment programs.

It is because of *joint* federal, State, and community-based efforts that this model has been effective. The Governor's veto effectively eliminated the State's commitment to these vital efforts to mitigate the spread of HIV/AIDS, to support early intervention efforts, and to facilitate cost-beneficial community-based services. The public health of a State is reliant on core, fundamental policies and practices that are reflected in these HIV/AIDS programs and services. State support of these programs is cost-beneficial and sustains healthy communities.

The Office of AIDS annual chart, updated for May Revision, clearly reflects the dollars lost in comparing across the fiscal years for local assistance programs (See Hand Out).

Subcommittee Staff Recommendation. It is recommended to appropriate $52.1 million (General Fund) to backfill the HIV/AIDS Programs which were vetoed by the Governor in the Budget Act of 2009 (July).

3. Federal CMS Grant Funds for Licensing & Certification Program (L&C)

Governor's May Revision Issue. The L&C Program requests an increase of $17.6 million (federal funds) to permanently establish 124.8 positions to enable the L&C Program to complete as much of the federal certification activities (related to Medicare and Medi-Cal) as possible given the level of federal grant funds made available (federal fiscal years from October 2009 through September 2010).

With respect to the current-year, a total of $9.4 million (federal funds) and authority to administratively establish 93.6 positions was reviewed by the Joint Legislative Budget Committee, chaired by Senator Ducheny, and no issues were raised.

The federal CMS grant requires completing *specific prioritized* workload for multiple facility types. This workload is prioritized into Tiers 1 through 4, with Tier 1 being the highest priority. L&C Program notes that historically, the federal CMS has only provided enough resources for them to accomplish most of Tier 1 activities and a portion of Tier 2.

The L&C Program proposes to expend the $17.6 million (federal grant funds) in the following key areas:

- L&C Program Staff. A total of 124.8 staff as noted below. Extensive workload information has been provided to the Subcommittee regarding all of these positions.
    - Medical Consultant I 1.0
    - Health Facility Evaluators—Nurses 76.0
    - Health Facility Evaluator I's 5.75
    - Health Facility Evaluator Supervisors 17.0
    - Pharmacy Consultant II, Specialist 1.0
    - Nutrition Consultant II 1.0
    - Program Technicians (key Evaluator support) 17.0
    - Staff Counsel 1.0
    - Various Professional Staff Support 5.0
- Contract with Los Angeles County—Increase by $2.5 million. The State has always contracted with Los Angeles County for this purpose and provides funding to them based upon specified standards and costs.
- State Contract for "Recruitment" $48,000. This contract will facilitate the hiring of L&C Program staff, particularly the clinical staff. (It should also be noted that the L&C Program also uses many other personnel recruitment tools for hiring.)
- Minor Equipment $706,000. This is for lap-top computers and related items used in the field by the Survey Teams to enter data and conduct survey work.

The L&C Program has been working on efficiencies and meeting regularly with the federal CMS regarding federal grant compliance and federal survey activities, including compliance with existing workload mandates. Federal CMS has recognized a marked improvement over the last few years in L&C Program workload accomplishments. *As a result of this work, the federal CMS has significantly increased California's federal grant for this purpose*.

Even with the increased federal funds, L&C Program acknowledges they will not be able to complete 100 percent of the Tiered federal workload requirements for the budget year because the federal grant does not provide *full funding* for California. But full expenditure of this federal grant increase, coupled with continued improved performance by California will be critical to further discussions and negotiations with the federal CMS to cover even more of the L&C Program workload as appropriate.

Finally, it should also be noted the L&C Program has revised its training schedule to ensure that the requisite training of new Health Facility Evaluator Nurses can be completed promptly and effectively.

Background—Federal CMS Tiers. The federal CMS requires specific activities to be conducted by the L&C Program as noted below.

- Tier 1. This includes extensive activities related to periodic Skilled Nursing Facility surveys, Home Health Agency surveys, and surveys for Intermediate Care Facilities for Developmentally Disabled.

- Tier 2. This includes "targeted" surveys for selected facility types and validation surveys for facilities that are certified by a federally-recognized accrediting organization.

- Tier 3. This includes increased periodic inspection of Non-Long Term Care facilities.

- Tier 4. This includes initial certification activities of all facility types.

The federal CMS's rationale for this tiered priority ranking is that States should not be certifying new provides unless there is the ability to provide some basic level of assurance to the public that the facilities that are already certified are undergoing quality review.

The L&C Program must meet federal CMS state agency performance requirements and can be penalized (reduced award in federal grants) for failing to meet the standards.

Overall Background—Purpose of Licensing & Certification. The DPH L&C Program conducts licensing and certification inspections (surveys) in facilities to ensure their compliance with minimum federal certification and state licensing requirements in order to protect patient health and safety. Encouraging provider-initiated compliance, quality of care improvement and promoting research regarding the quality and effectiveness of health care services is also a key component of the L&C Program mission.

The L&C Program is responsible for investigating complaints from consumers, consumer representatives, the Ombudsmen, and anonymous sources. L&C is a statutorily mandated enforcement agency.

Certification is a federal prerequisite for health facilities and individual providers wanting to participate in and receive reimbursement from both Medicare and Medicaid (Medi-Cal). The DPH is the designated entity under contract with the federal CMS to verify that health facilities meet certification standards. Federal grant funds are allocated to California to conduct work associated with Medicare. In addition, L&C fees are collected from the various facilities and are placed into the L&C Fund. General Fund support is also provided for some facilities to support L&C functions of State facilities (such as Developmental Centers).

There are over 7,000 public and private health care facilities throughout the state, including hospitals, nursing homes, clinics and home health agencies.

Subcommittee Staff Recommendation--Approve. *First*, the L&C Program should be acknowledged and congratulated for achieving program efficiencies and making improvements to be recognized by the federal CMS for such a considerable federal grant increase. This is well-earned.

The L&C Program has provided appropriate information for the workload and the functions proposed clearly meet the purposes of the federal CMS federal fund grant.

Questions. The Subcommittee has requested the Center for Health Care Quality-- Licensing and Certification is within this DPH Center-- to respond to the following questions:

1. DPH, Please provide a *brief* summary of the *key* aspects of the proposal.

4. Quality & Accountability Payment System for "Freestanding" Nursing Facilities

Governor's May Revision Issue. The Governor's May Revision proposes to **(1)** revise and implement a new rate-setting methodology for Freestanding Nursing Facilities (NFs) reimbursed under the Department of Health Care Services (DHCS) administered Medi-Cal Program (so called AB 1629 method); *and* **(2)** to fund positions within the Department of Public Health (DPH) to improve the overall quality of care rendered to patients residing in these NFs.

Today's discussion will *focus on the DPH component* of this proposal please.

The DPH requests an increase of $2.2 million (Reimbursements from the DHCS) to support 38.5 permanent positions with the L&C Program, and to provide an increase of $168,000 to Los Angeles County for their contract (for L&C purposes as has been historically done.

The $2.2 million in 2010-11 will be funded by the DHCS using their *existing* General Fund and matching federal funds (Medi-Cal federal funds). *In future years*, funding will be obtained through NF Quality Assurance Fees and matching federal funds. (This aspect, including proposed trailer bill language, will be discussed in detail in the Wednesday, May 26th hearing as noted in the Senate File.)

The 38.5 DPH positions are as follows:

- Health Facility Evaluator—Nurses 15.0
- Staff Counsel 0.5
- Research Specialist 1.0
- Staff Services Manger I and Associate Analysts 20.0
- Associate Programmer Analyst 1.0
- Management Services Technician 1.0

The DPH will *incrementally phase-in* the requested staff to **(1)** conduct State licensing surveys (i.e., compliance with State law) of 50 percent of the NF's; and **(2)** conduct onsite staffing audits of NFs to determine compliance with 3.2 nursing hours per patient day (nurse hours ratio) requirement). DPH states that 19 of these staff will *require a State car* since they will work independently, spending 90 percent of their time in the field conducting staffing audits.

As noted by the staffing compliment, above, the DPH will be doing staffing audits, and data mining research, in addition to the important survey work and related follow-up, to comprehensively discern whether the nurse hours ratios are being met by each facility.

By the end of 2010-11, the DPH anticipates *one-third* of the NFs will have received a 3.2 nurse hours ratio staffing audit. For 2011-12, DPH states *all* NFs will receive this staff audit review of nurse hours ratio *and* 50 percent will also receive a State licensing survey. This is the result of the staff phase-in approach which is tied to having a *General Fund neutral proposal in 2010-11*, and then using NF Quality Assurance Fees (QAF matched with federal funds for this purpose beginning in 2011-12).

DPH will also publish a report detailing these audit findings.

Background—Summary of Administration's Freestanding Skilled Nursing Facility Quality and Accountability Proposal. The existing AB 1629 Medi-Cal NF reimbursement system functions independent of any facility citations or notices of violation issued by the DPH's L&C Program, federal CMS quality assurance measures, or the results of family, resident, or staff satisfaction surveys.

Extensive stakeholder conversations have occurred regarding the rate structure and quality assurance measures for several years (both extensively last year, as well as intermittently in other years).

The Administration recognizes that changes need to occur to improve the efficient use of Medi-Cal expenditures in this area and to provide improved quality of care for patients. They note that about *two-thirds of all NF days statewide* are paid for by the Medi-Cal Program.

They propose to revise and implement changes to the existing Medi-Cal rate reimbursement system for NF facilities to improve quality of patient care and accountability with State law and licensing standards. This is a *multi-year effort* proposal by the Administration.

Their key *overarching aspects* of this proposal are as follows:

- Extend the NF Quality Assurance Fee (QAF) under AB 1629, including changes as referenced below.
- Provide for increased oversight of NF staffing requirements and enforcement of penalties of non-compliance (as referenced in above DPH budget proposal).
- Provide NF facilities that meet performance targets with financial incentives of supplemental quality and accountability payments.

According to the Administration (DHCS and DPH), the Governor's May Revision is intended to reward or penalize NFs for the overall quality of care provided to their residents. The following outlines the DHCS' key components to be conducted in 2010-11 (*all focused on the reimbursement piece and its operation*).

- Modify the 2010-11 Medi-Cal Quality Assurance Fee (QAF) on each NF, including Multi-Level Facilities;
- Assess a penalty for non-payment of the QAF, beginning in 2010-11 *up to* 50 percent of the unpaid fee.
- Continue to collect all QAF including any penalties and interest until the amount is paid in full, regardless of the QAF sunset date of July 31, 2012.
- Where applicable, make recommendations to DPH that license renewal be delayed until the DHCS has recovered the full amount of the QAF due.
- Phase-in other NF Medi-Cal reimbursement rate changes over several years, including **(1)** a proposed 3.93 percent rate increase (General Fund-neutral) if federal ARRA extended (to June 30, 2012) or 3.14 percent if it is not extended; and **(2)** cap NF

reimbursement for professional liability insurance at the 75th percentile and place these savings into a special fund (as referenced below).

- Establish a NF Quality Assurance and Accountability Special Fund which will be used in 2011-12 as a *supplemental* payment pool for rewarding NFs that meet identified quality measurements.
- Disallow reimbursement for legal costs related to causes that have not been found in favor of the facilities.
- Working with stakeholders, establish and publish quality and accountability measures and benchmarks
- Fund DHCS positions (seven) and consultant contractor to advise the DHCS in the planning and implementation of the rate change methodology.

Other DHCS aspects would proceed in 2011-12 and 2012-13.

(The Administration's proposed trailer bill language, as well as the DHCS requested positions and funding for May Revision, will be discussed on Wednesday, May 26th, as noted in the Senate File.)

Background—"Quality Assurance Fees". California presently uses a "Quality Assurance Fee" for the "AB 1629" nursing home rate methodology. These fees are collected from NF Facilities on a quarterly basis and are used by the State to obtain additional federal funds to provide rate adjustments intended to improve quality. Generally, within specified requirements, federal Medicaid law allows states to collect fees from providers for expenditure in the Medicaid Program (Medi-Cal Program in California). Several states use these "Quality Assurance Fees" to support their programs.

The QAF has enabled NF facilities to obtain rate adjustments and for the State to save General Fund (since the QAF revenues are used, along with federal funds, for these adjustments).

Subcommittee Staff Recommendation—Approve DPH Staff. Phasing-in the DPH staff to conduct the 3.2 nurse hours ratio audit seems reasonable and is *very* overdue. Full monitoring of the nurse hours ratios, along with public accountability and L&C targeted survey work, needs to proceed in an accelerated manner.

With the present fiscal environment and the need to re-craft the rate methodology and QAF, the 2010-11 approach of redirecting DHCS funds (General Fund and matching federal funds) will ensure that funds are immediately available for the DPH to proceed.

Questions. The Subcommittee has requested the Center for Health Care Quality-- Licensing and Certification is within this DPH Center-- to respond to the following questions:

1. DPH, Please provide a brief summary of the request regarding the key components.
2. DPH, Specifically how will the 3.2 nursing hour ratio be audited/determined?
3. DPH, Has an exemption from the Administration regarding the purchase of State cars been obtained? (As required by Executive Order S-14-09 (July 2009))

5. The Safe, Clean, and Reliable Drinking Water Supply Act of 2010

Governor's May Revision Issue. The DPH is requesting expenditure authority for 2010-11 *and* 2011-12 to implement this bond measure (SB X7 2, Cogdill, Statutes of 2009) which will be on the November 2, 2010 ballot. Voters would need to authorize the issuance and sale of bonds to fund water improvements in the State. If it is approved, the measure specifies that it is to take effect immediately. State agencies are expected to move swiftly to distribute funds to eligible projects.

The 2010 Water Bond is an $11.1 billion proposition intended to fund the overhaul of the State's water supply system. Among the water bonds' components are funding programs allocated to the DPH to administer, including $80 million for drought relief (Chapter 5—Section 79720 of Water Code), and $1 billion for Groundwater Protection and Water Quality (Chapter 10—Section 79770 of Water Code).

The DPH is responsible for overseeing the appropriation of grants and loans for infrastructure improvements to public water systems and related actions to meet safe drinking water standards under both State and federal law.

The DPH May Revision expenditure authority request includes the following:

- $103 million in local assistance funds for 2010-11
- $501,000 for State support in 2010-11 (seven staff)
- $208.3 million in local assistance funds for 2011-12
- $5.3 million for State support in 2011-12 (45 staff)

Specifically, the DPH is proposing to use $80 million in pending bond funds for the meeting the State's 20 percent match requirement to leverage federal funds under the Safe Drinking Water Program (as described below and discussed in detail in the Subcommittee hearing of April 15th). These funds will provide about $126 million in federal capitalization grants. Chapter 5 of the Water Bond measure provides for this purpose.

Chapter 10 of the measure provides $1 billion in funding to DPH to provide grants and loans for projects that prevent or remediate contamination of groundwater that serves as a source of drinking water. DPH expects that it could use *up to* $93 million of the pending bond measure for 16 water projects in 2010-11 using *existing* Proposition 84 criteria. (This criteria was discussed in detail in the Subcommittee hearing of April 15th).

DPH also desires to work with stakeholders, particularly disadvantaged communities, to address modifying the strict criteria and deadlines in the Proposition 84 program. These discussions are to occur during the course of 2010-11. Upon passage of the pending bond measure, the DPH intends to solicit pre-applications, create priority lists, evaluate applications, conduct technical evaluations of projects, issue funding agreements and process reimbursement claims.

In addition, the DPH wants to re-examine its existing emergency grant program (water needs based upon unforeseen occurrences) operated under Proposition 84 with the intent to provide more assistance to disadvantaged communities here as well. The pending water bond would provide for the allocation of funds in this area as well. DPH expects to allocate at least $10 million annually for this purpose.

Background—Safe Drinking Water Program. Enacted in 1997, under this program California receives federal funds to finance low-interest loads and grants for public water system infrastructure improvements. In order to draw down these federal capitalization grants, the State must provide a 20 percent match. Further, the State must submit an annual "Intended Use Plan" which describes California's plan for utilizing the program funding.

The program is comprised of five set-aside funds, as well as a loan fund. The set asides are as follows:

- Drinking water source protection (15 percent);
- Technical assistance to small water systems (up to 2 percent);
- Water system reliability/capacity development (2 percent);
- State water system program management activities (up to 10 percent);
- Administrative costs (up to 4 percent).

California will be receiving *increased federal grant funds* due to a change in the federal allocation, and from *increased Congressional funding* (H.R. 2996).
With respect to the 20 percent State match, General Fund support was used for a period of time, then a portion of Proposition 13 bonds (until fully expended), then a portion of Proposition 50 bonds, and now a portion of Proposition 84 bonds.

Background—Public Drinking Water. The DPH has statutory authority to administer California's public Drinking Water Program and has since 1915. The program provides for ongoing surveillance and inspection of public water systems, issues operational permits to the systems, ensures water quality monitoring is conducted and takes enforcement actions when violations occur**.** They oversee the activities of about 8,000 public water systems (including both small and large water systems) that serve more than 34 million Californians.

The DPH is also designated by the federal Environmental Protection Agency (EPA) as the primacy agency responsible for the administration of the federal Safe Drinking Water Act for California.

California's total need for water system infrastructure improvements is in excess of $39 billion, as reported through a needs assessment conducted in 2007. The majority of public water systems care not able to finance necessary improvements on their own and require State and federal assistance.

Prior Subcommittee Hearing. In the Subcommittee hearing of April 15th, the DPH administered Drinking Water Program was discussed extensively, including all funding sources and the various criteria components.

Subcommittee Staff Recommendation—Approve 1-year (2010-11) Only. As noted above and as discussed in the Subcommittee hearing of April 15th, California has extensive water infrastructure needs for our public drinking water system. The DPH has operated a well managed, well established program for many years. Given the timing of the Water Bond measure, and the existing project lists, it is recommended to provide an appropriation for 2010-11 only.

This one-year appropriation will enable the DPH to implement immediately upon approval by the voters in the November election, *and* will enable the Legislature to further discuss and review criteria and projects for the 2011-12 fiscal year.

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

1. DPH, Please provide a *brief* summary of the request.

Item 4300--Department of Developmental Services

A. Background

Summary of Governor's May Revision for DDS. The Governor's May Revision proposes total expenditures of $4.8 billion ($2.7 billion General Fund) for the DDS as shown in the Table below.

Table: Governor's May Revision for DDS

Developmental Services Governor's May Revision	Current Year May Revision	2010-11 May Revision	Difference
Community Services	$4,016,331,000	$4,154,933,000	$138,602,000
Developmental Centers	$601,931,000	$625,711,000	$23,780,000
Headquarters Support	$33,862,000	$37,652,000	$3,790,000
TOTAL, All Programs**	**$4,652,124,000**	**$4,818,296,000**	**$166,172,000**
General Fund	**$2,458,720,000**	**$2,748,877,000**	**$290,157,000**
Reimbursements	$2,049,790,000	$1,957,371,000	-$132,419,000
Federal Funds	$89,563,000	$56,951,000	-$32,612,000
Lottery	$410,000	$391,000	-$19,000
Program Development Fund	$2,370,000	$3,572,000	$1,202,000
CA Children and Families First	$50,000,000	$50,000,000	$0
Mental Health Services Act Funds	$1,121,000	$984,000	-$137,000
Developmental Disabilities Services	$150,000	$150,000	$0

The May Revision reflects an overall increase of $166.2 million (increase of $290.2 million General Fund) as compared to the revised current-year.

A key reason for the General Fund increase is the Governor rescinded his January budget proposal to seek voter approval to redirect $200 million in Proposition 10 Funds (CA Children and Families First) to backfill for General Fund support in DDS Community Services, specifically for the Purchase of Services at the Regional Centers.

It should also be noted that the Table above does *not* reflect General Fund savings that would result from an extension of the federal ARRA for another six months (from December 2010 to June 30, 2011).

Since this extension is pending before Congress, the Administration has established Control Section 8.65 to serve as a technical adjustment mechanism (i.e., federal funds received, corresponding General Fund support reduced) for *all* affected departments, including the DDS. The May Revision assumes an overall General Fund offset for these federal funds.

The Control Section reflects a total of $39 million for 2009-10 and $212.8 million for 2010-11 for the DDS as shown below::

- $165.4 million (federal funds) for federal ARRA six month extension.
- $32.9 million (federal funds) for Part C grant for the Early Start Program.
- $39 million (federal funds) for 2009-10 and $14.5 million (federal funds) for 2010-11 for a State Plan Amendment for Intermediate Care Facilities—DD (ICF-DD), which is discussed in more detail below.

Key adjustments for Community Services (funding to Regional Centers) and the Developmental Centers will be discussed below. The Headquarters appropriation is adjusted to reflect the end of furloughs, as is the direction of the Governor, beginning in 2010-11.

Budget Act Language—Allows for Transfer Between Items. Finally, it should be noted that the annual Budget Act contains Budget Act Language which provides for the transfer of funds as necessary between the Developmental Centers Program and the Community Services appropriation (See provision 3 on page 345 of Senate Bill 874, as introduced). The purpose of this language is to enable the DDS to transfer funds, as appropriate, for individuals transitioning from a Developmental Center to the community.

B. Discussion Issues: Community Services

Background: Summary of Governor's May Revision. The May Revision for 2010-11 proposes expenditures of $4.155 billion ($2.4 billion General Fund) for the Regional Centers. Of the total amount, $3.639 billion is for the Purchase of Services and $516.1 million is for Regional Center Operations.

The May Revision reflects a *decrease* of $23.5 million (increase of $172.6 million General Fund) as compared to the January budget for 2010-11. Specific May Revision proposals are discussed individually, after the *key baseline adjustment* summary.

Key baseline adjustments include the following listed below. Due to prior Senate Subcommittee #3 actions taken in other departments, such as the DHCS and DSS, the Senate Subcommittee #3 actions on these key baseline adjustments listed below will "conform". or be consistent with, those prior Senate Subcommittee (or full Senate Committee) actions.

- Deletion of Proposition 10 Funds. Increase of $200 million (General Fund) to reflect the Governor rescinding his January budget proposal to seek voter approval to redirect $200 million in Proposition 10 Funds (CA Children and Families First) to backfill for General Fund support. This conforms to the Senate action in Special Session to *not* adopt the Proposition 10 redirection in the first place.

- Caseload Reduction. DDS estimates a total caseload of 243,704 consumers in the community which reflects a reduction of 6,271 from the January projection. A reduction of $29 million (total funds) is reflected in Purchase of Services, and a reduction of $13 million to Regional Center Operations due to this revised lower caseload level. No issues have been raised.

- Continuation of 3 Percent Reduction to Regional Centers. The May Revision reflects technical adjustments to the 3 percent based on expenditures and caseload. For the Purchase of Services a reduction of $99.6 million ($49.7 million General Fund) is reflected and for Regional Center Operations a reduction of $15.7 million ($10.8 million General Fund) is reflected. This conforms to the Legislature's action in Special Session implemented through trailer bill legislation (AB 8X 4, Statutes of 2010).

- Continues all Adjustments from 2009. The May Revision continues all proposals enacted last year, and generally discussed in the Subcommittee hearing of April 29, 2010, which affect the Purchase of Services and Operations used to achieve the $334 million (General Fund) reduction. These actions are reflected in the trends.

- Adult Dental Services. Continuation of $12 million to purchase necessary dental services for Adults receiving services through the Regional Centers who do not have insurance for this coverage, This became necessary due to the elimination of Adult Dental Services as a Medi-Cal benefit in 2009. Individuals with developmental disabilities are entitled to these services.

- Dental Treatment Review. An increase of $800,000 is reflected to support an interagency agreement with the DHCS to enable Regional Centers to utilize the infrastructure and expertise of the Denti-Cal Program (Medi-Cal) to review treatment plans and approve claims for dental services. This avoids higher expenditures by enabling Regional Centers to pay for services at these lower rates.

- Adult Day Health Care. The DDS budget includes an increase of $28 million (total funds) to reflect the Governor's proposal to eliminate Adult Day Health Care Services in the Medi-Cal Program administered by the DHCS.

  Subcommittee #3 *rejected* the Governor's proposal to eliminate this valuable service on April 29, 2010; therefore, this $28 million (total funds) backfill is *not needed* for the purpose of the Senate Subcommittee's actions. *This is a conforming action*.

- Proposed Fund Shift Due to Governor's Proposed CalWORKS Changes in DSS. The Governor proposes to eliminate the CalWORKS Program administered by the DSS. This issue will be discussed by the Subcommittee in the Department of Social Services Program next week, as noted in the Senate File. DDS utilizes a portion of the federal Title XX block grant funds to support low-income consumers as provided. Since the Lanterman Act is an entitle program, funds are shifted between General Fund support and federal Title XX contingent upon the expenditure of funds within CalWORKS. Therefore, the DDS budget will be adjusted to conform to the Senate Committee's action taken in the DSS budget next week as noted in the Senate File.

- State Supplemental Payment (SSP). The DDS budget includes an increase of $2.7 million (General Fund) to reflect the Governor's proposal to reduce the maximum monthly SSP grant to aged and disabled individuals to the maintenance of effort floor in the SSI/SSP Program administered by the DSS.

  This adjustment is *not* needed *if* the Governor's proposed reduction is not enacted in the DSS budget. This issue will be discussed in the Senate Committee under the DSS next week. The action taken by then will result in a conforming action in the DDS budget (i.e., a reduction if the DDS reduction does not occur, and an increase of General Fund support if the action is taken).

- Reduction Proposals in Other Departments Not Yet Calculated. In addition to the above references, the Governor's May Revision includes service reduction proposals in Medi-Cal and the In-Home Supportive Services (IHSS) Program.

  The DDS budget does *not* reflect adjustments for these and has not calculated them as yet. In the event actions are taken in other departments, corresponding adjustments will be needed to continue services to consumers served by the Regional Centers.

- Self Directed Services Implementation. Implementation of the Self Directed Services Waiver will occur in April 2011 which results in a decrease of $3.9 million (total funds) for 2010-11 due to this delay. Regional Center implementation will be phased-in over an eight-month period. It is anticipated that 75 consumers will participate. No issues have been raised.

- Quality Assurance Contract. A technical budget error needs to be corrected from the Governor's January budget for this contract whose outcomes and analysis is required by State statute. Specifically the DDS notes that an increase of $1.8 million (General Fund) needs to be reflected. No issues have been raised.

(Specific issues for discussion begin below.)

1. Intermediate Care Facilities for Developmentally Disabled (ICF-DD) --Billing

Governor's May Revision Issue. The Budget Act of 2007 required DDS and DHCS to obtain federal CMS approval to *reconfigure* ("bundle") the rate paid to ICF-DD facilities to include Day Program and Transportation Services expenditures received by residents of these facilities for the purpose of receiving federal fund support (federal Medicaid (Medi-Cal) funds).

California submitted a "State Plan Amendment" (SPA) for this to occur and has been assuming *baseline* receipt of $44 million (federal funds) for each fiscal year, in lieu of General Fund support, since 2007.

Federal CMS approval of the SPA and resolution of a billing mechanism for past-years has *just occurred.* A *net* savings of $53.5 million (General Fund) is reflected in the May Revision and is composed of the following components as shown in the Table below.

Table: ICF-DD State Plan Amendment

General Fund Information	2007-08	2008-09	2009-2010	2010-11	Total
Include additional services, such as "look-alike" Day Programs.	$3,000,000	$3,000,000			$6,000,000
Apply federal ARRA 11.59% to base expenditures.		$8,171,000	$10,895,000	$5,452,000	$24,518,000
Higher expenditures than previously estimated (included federal ARRA where applicable).	$4,338,000	$4,995,000	$4,624,000	$5,759,000	$19,716,000
Include Targeted Case Management Services in bundled rate.				$6,000,000	$6,000,000
SUBTOTAL of GF SAVINGS	**$7,338,000**	**$16,166,000**	**$15,519,000**	**$17,211,000**	**$56,234,000**
Regional Center Cost	-$781,000	-$635,000	-$585,000	-$692,000	-$2,693,000
TOTAL NET GF SAVINGS	**$6,557,000**	**$15,531,000**	**$14,934,000**	**$16,519,000**	**$53,541,000**

The billing mechanism to be used for this process was discussed in Subcommittee on April 29, 2010. Placeholder trailer bill language was adopted at this time pending further discussion with the federal CMS, DHCS, the ICF-DD facilities and Regional Centers. This discussion was important in order to **(1)** maintain the integrity of the Individual Program Planning (IPP) process; **(2)** capture all federal funds available; and **(3)** clarify the roles and responsibilities of the billing processes, including those needed for prior years.

Targeted Case Management (TCM) services, case management services provided for specific client groups which the federal CMS recognizes for reimbursement, were recently added to the package for receipt of additional federal funds. This will require a separate State Plan Amendment but should present no issues.

Payment for administrative costs need to be provided to the Regional Centers, as well as the ICF-DD providers due to **(1)** certain federal CMS requirements; **(2)** the need to process prior-years' billing information; and **(3)** the need to include Day Program, TCM and Transportation Services expenditures in billing procedures. The administrative costs for the Regional Centers are shown in the Table above (i.e., $6.2 million total of which $2.7 million is General Fund).

DDS states the ICF-DD administrative costs are $30.6 million ($6.2 million for administrative costs and $24.4 million associated with Quality Assurance Fees). These expenditures are billed under the Medi-Cal Program and administered by the DHCS.

In addition, the federal CMS allowed California to claim the federal ARRA enhanced rate of 66.59 percent (11.59 percent higher) which increased General Fund savings considerably.

Trailer bill language has been updated to account for these various changes.

Subcommittee Staff Comment and Recommendation. This issue was previously discussed in the April 29, 2010 Subcommittee hearing. Agreement has now been reached to reflect **(1)** increased services to be billed; **(2)** use of the enhanced federal ARRA match; **(3)** Regional Center administrative costs; **(4)** ICF-DD facility administrative costs; and **(5)** modified trailer bill language to meet federal CMS requirements, DHCS requirements and involved constituency group needs.

It is recommended to approve the May Revision proposal and adopt the *revised* trailer bill language as placeholder.

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

1. DDS, Please provide a *brief* summary of the key components of this proposal.

2. Governor's Proposal to Reduce by Additional $48.2 million ($25.3 million GF)

Governor's May Revision Issue. The Governor's May Revision technically updates his January proposal to reduce by an additional $48 million ($25.3 million) the local assistance appropriation used to fund Purchase of Services expenditures managed by Regional Centers, and Regional Center Operations. The allocation of this proposed reduction was only recently decided by the Administration (in late April).

The proposal would increase the existing 3 percent reduction for Purchase of Services and Regional Center Operations by *an additional 1.25 percent* for a total of 4.25 percent each. The proposed total of 4.25 percent reduction would be affective from July 1, 2010 to June 30, 2011, inclusive, as contained in proposed trailer bill language.

Of the proposed reduction **(1)** $41.5 million ($20.7 million General Fund) would be from the Purchase of Services; and **(2)** $6.6 million ($4.6 million General Fund) would be from Regional Center Operations.

DDS states the *existing exemptions* for Supported Employment, the SSP supplement for independent living, and services with "usual and customary" rates as established in regulation *would apply* to the additional 1.25 percent. In addition, other services may be exempt from this reduction if a Regional Center demonstrates that a non-reduced payment is necessary to protect the health and safety of a consumer and the DDS has granted approval.

The Subcommittee discussed this proposal in its April 29, 2010 hearing. At that time DDS was analyzing options for providing administrative relief to providers to assist in mitigating the proposed additional 1.25 percent reduction to Purchase of Services expenditures.

DDS is *now proposing trailer bill language* to *add* Section 4791 to Welfare and Institutions code which gives Regional Centers authority to *temporarily* (from July 1, 2010-11 through June 30, 2012) modify personnel requirements, functions, or qualifications or staff training requirements for providers, except for licensed or certified residential providers, whose payments are reduced. In the early 1990's, similar temporary exemptions as noted above were enacted to provide relief from certain administrative requirements for providers.

The Regional Center may only approve these modifications if it **(1)** does not present a health or safety issue; **(2)** results in a consumer receiving services in a more restrictive environment; **(3)** negatively impacts the availability of federal funds; and **(4)** would violate any State licensing or labor laws or other provisions of Title 17. The language requires all temporary modifications to be done in writing as specified.

The language also directs the DDS to suspend for one-year certain quarterly and semiannual reports provided by residential providers, and self-assessments provided by Day Programs and In-Home Respite Agencies.

Background: Special Session Actions (Eighth Extra-Ordinary) of 2010. On January 8, 2010, the Governor released his January budget, declared a fiscal emergency and called a Special Session consistent with Proposition 58 of 2004.

Among other things, the Governor proposed to extend for one-year (July 1, 2010 to June 30, 2011) a three percent reduction for certain Purchase of Services payments for a reduction of $99.5 million ($49.7 million General Fund). In addition, the Governor proposed to extend for one-year (July 1, 2010 to June 30, 2011) a three percent reduction to Regional Center Operations by continuing suspension of several administrative and case management requirements. This results in a reduction of $16.2 million ($11.2 million General Fund). The Legislature adopted the Governor's 3 percent reduction, with one administrative reporting change, for a total reduction of $115.7 million ($60.9 million General Fund) for 2010-11.

Subcommittee Staff Recommendation— Hold Open. If one is to reduce by an additional $48 million ($25.3 million General Fund) as proposed by the Governor, an across-the-board reduction as proposed by the DDS spreads the impact of a reduction through-out the community service system and potentially creates less harm on the consumer.

It is recommended to hold this issue "open" to obtain additional insights regarding the proposed trailer bill language and pending May Revision discussions.

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

1. DDS, Please provide a brief summary of the additional 1.25 percent reduction for POS and Operations, and describe the proposed trailer bill language.

3. Proposed Amendment to Existing Statute Regarding Exemptions

Budget Issue. As discussed in the Subcommittee hearing of April 29, 2010, various actions were taken to achieve a $334 million (General Fund) reduction within the DDS system last year. An issue discussed during the hearing, as well as in the DDS budget stakeholder meeting of April 19th, pertained to the process and consistency for notifying and informing consumers of possible exemptions from certain service reductions.

As a result of these conversations, agreement has been reached between the DDS, Regional Centers, Disability Rights of California and other stakeholders, on modifying existing State statute to articulate that consumers need to be informed of the exemption process. The proposed trailer bill language is as follows:

> Section 4701.1 of the Welfare and Institutions Code is *added* to read:
>
> The written notice required by Section 4701 shall inform the recipient and authorized representative of:
>
> **(1)** Whether or not the individual is eligible for an exemption or exception to the action the service agency proposes to take as specified in Sections 4648, subdivision (a)(6)(D); 4648.35, subdivision (d); 4648.5, subdivision (c); 4659, subdivision (d); 4686.5, subdivision (a)(3)(A); 4689, subdivision (i); 4689.05, subdivisions (a) and (d) and Government Code Sections 95004, subdivision (b) and 95020, subdivision (e)(3); and
>
> **(2)** the specific law supporting any exemption or exception specified above.

Subcommittee Staff Recommendation. It is recommended to adopt the amendment to existing statute to reflect the compromise.

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

1. DDS, Has consensus been reached on this language?

C. Discussion Issues: Lanterman Developmental Center

Governor's May Revision Issue. The May Revision identifies several components pertaining to the Lanterman Developmental Center transition. These are as follows:

- Transitioning. Adjustments within the Developmental Center resident population, as discussed in item D, below in this Agenda, which assumes more people will be transitioning from Lanterman to the community over the course of 2010-11.

  Specifically the DDS assumes 100 people will transition, whereas it was assumed in January that 37 people would transition. It should be noted that this is an estimate, and that people will only transition as appropriate with necessary services and supports (as discussed in the April 29th hearing).

  DDS assumes that 25 percent of the people transitioned to the community will occur in the first half of the 2010-11 fiscal year.

- Regional Center Community Placement Plan. As discussed in the April 29th hearing on the DDS Lanterman Plan, there is a Community Placement Plan (CPP) process which is funded annually and is contained in existing State statute. The purpose of CPP is to provide community-based services for individuals to receive community services and supports to live in the least restrictive environment as directed by the Lanterman Act.

  Working with the Regional Centers and Lanterman Developmental Center staff and many others, the DDS has identified $50.7 million (total funds) of the existing CPP funds, or 65 percent of these total funds, to dedicate to the operational, assessment, start-up, and placement needs for individuals transition from Lanterman Developmental Center to the community. It should be noted that this is an estimate and may evolve as the process progresses.

  Key components of this include the following:

  - $12.8 million is for Regional Center Operations
  - $37.9 million is for the Purchase of Services

- Regional Center Staffing. An additional increase of $3.5 million (federal funds) is in Regional Centers Operations to fund certain RC staff needed for the development of living arrangement resources, dental services and health services. A similar arrangement was done for the Agnews Developmental Center transition.

Budget Act Language—Allows for Transfer Between Items. Finally, it should be noted that the annual Budget Act contains Budget Act Language which provides for the transfer of funds as necessary between the Developmental Centers Program and the Community Services appropriation (See provision 3 on page 345 of Senate Bill 874, as introduced). The purpose of this language is to enable the DDS to transfer funds, as appropriate, for individuals transitioning from a Developmental Center to the community.

Prior Subcommittee Action— April 29, 2010. As a Special Order of Business, the Subcommittee discussed the Administration's Lanterman Plan and received public testimony. Actions taken included the following (language was distributed at the hearing):

1. Adopted Budget Bill Language to require the DDS to provide a comprehensive status update of the Lanterman Plan by January 10 and May 14 of each fiscal year.
2. Adopted modified trailer bill language to direct the DDS to provide outpatient clinic services at Lanterman Developmental Center (as done at Agnews Developmental Center).
3. Adopted modified trailer bill language to have the Secretary of Health and Human Services Agency to verify protocols as noted for the health and safety of individuals transitioning from Lanterman.
4. Adopted modified trailer bill language to provide for cost-based reimbursement for Health Plans serving consumers transitioned from Lanterman to ensure health care coverage (as done for consumers transitioned from Agnews).
5. Adopted placeholder trailer bill language provided by the DDS for Lanterman staff to be contracted out, if they choose, to work in the community (as done at Agnews).
6. Adopted placeholder trailer bill language provided by the DDS to expand Adult Residential Facilities for Persons with Special Health Care Needs so this residential model can be provided state-wide.

Subcommittee Staff Recommendation—Approve Resources. It is recommended to adopt the funding identified by the DDS within their May Revision to provide for the planning assessment, resource development, start-up of services, Regional Center staff, and related needs.

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

1. DDS, Please provide a brief summary of the proposed changes as noted above for the Lanterman transition.

D. Discussion Issues: Developmental Centers

Background on State-Operated Developmental Centers. State Developmental Centers (DCs) are licensed and federally certified as Medicaid providers via the Department of Health Services. They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training. Education programs at the DCs are also the responsibility of the DDS.

The DDS operates four Developmental Centers (DCs) — Fairview, Lanterman, Porterville and Sonoma. Porterville is unique in that it provides forensic services in a secure setting. In addition, the department leases Canyon Springs, a 63-bed facility located in Cathedral City. This facility provides services to individuals with severe behavioral challenges.

1. Baseline Developmental Center Estimate

Governor's May Revision Issue. The May Revision proposes a total of $625.7 million ($310 million General Fund) which reflects a decrease of $15.2 million (increase of $300,000 General Fund) for the Developmental Centers to provide services to 1,979 residents which reflects a reduction in resident population of 29 consumers, as compared to January (based on an average population calculation). The proposed net decrease is primarily due to administrative reductions of $20.5 million from the Governor's Executive Order (S-01-10) pertaining to a 5 percent Workforce Cap reduction, and related items.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Developmental Center baseline estimate since the Subcommittee had not yet taken action on the DC budget specifically.

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

1. DDS, Please provide a *brief summary* of the DC budget.

2. Sonoma Developmental Center Fire Alarm Upgrade.

Governor's May Revision Issue. The DDS requests an increase of $5.2 million (General Fund) for the construction phase of a Fire Alarm Upgrade Project at Sonoma Developmental Center, contingent upon an approved working drawing. The following Budget Bill Language is proposed with this request:

> 5. Nothwithstanding any other provision of law, the department shall not expend any of the $5,195,000 provided in augmentation of this item for the construction phase of the Sonoma Developmental Center fire alarm upgrade project until such expenditures are approved by the Director of Finance and until 30-days after notification in writing to the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations.

According to the DDS, this project includes installation in 16 remaining buildings, as all other required buildings have been upgraded.

In 2004 the State Fire Marshall cited Sonoma for not having the required annual testing of the fire alarm systems. At the time there was no monetary penalty assessed by the State Fire Marshall. However, Sonoma was required to submit a Plan of Corrective Action to the Department of Public Health for this identified licensing and certification deficiency to be corrected by no later than 2012-13. The State Fire Marshall approved this timeline.

In 2006, Sonoma was again cited for the fire alarm system and a firm date for the full installation was directed to be no later than June, 2013.

Subcommittee Staff Recommendation—Approve. Due to the health and safety concerns associated with this minor repair project, as well as the citations and Plans of Corrective Action, it is recommended to approve the DDS request.

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

1. DDS, Please provide a *brief summary* of the request.