

AMENDED IN SENATE JUNE 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 109

Introduced by Committee on Budget (Weber (Chair), Bloom, Bonta, Campos, Chiu, Cooper, Gordon, Jones-Sawyer, McCarty, Mullin, Nazarian, O'Donnell, Rodriguez, Thurmond, Ting, and Williams)

January 9, 2015

An act relating to the Budget Act of 2015. An act to add Section 14670.36 to the Government Code, to amend Sections 1267.75 and 1531.15 of the Health and Safety Code, to amend Sections 4418.25, 4474.1, 4519.5, 4629, 4646.5, 4648, 4681.6, 4684.81, 4685.8, 4691.6, 4691.9, and 7505, of, to add Section 4474.11 to, and to repeal and add Section 7502.5 of, the Welfare and Institutions Code, relating to developmental services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 109, as amended, Committee on Budget. ~~Budget Act of 2015.~~
Developmental Services.

(1) Existing law authorizes the Director of General Services, with the consent of the State Department of Developmental Services, to lease up to 60 acres located within the grounds of Fairview Developmental Center for a period of up to 55 years, for the purpose of developing affordable housing for the employees of, and transitional housing for patient-clients of, Fairview Developmental Center.

This bill would additionally authorize the Director of General Services, with the consent of the Director of Developmental Services, to lease up to 20 acres located within the grounds of Fairview Developmental Center for a period of up to 55 years, at a price that

will permit the development of affordable housing for people with developmental disabilities. The bill would require the proceeds of this housing project and the housing project described above to be deposited in Department of Developmental Services Trust Fund, which the bill would create. The bill would require that money in the fund be used, upon appropriation by the Legislature, to provide housing and transitional services for people with developmental disabilities, and would require that any funds not needed to support individuals with developmental disabilities be transferred to the General Fund.

(2) Under existing law, the State Department of Public Health licenses and regulates various types of health facilities, including specified facilities for people with developmental disabilities. Under existing law the State Department of Social Services licenses community care facilities, including adult residential facilities or group homes that serve persons with developmental disabilities. Existing law authorizes a licensee of certain facilities to utilize secured perimeters, as defined. Existing law requires a person's individual program planning team to meet annually and determine that placement in a facility with secured perimeters is appropriate. These facilities are required to serve no more than 15 residents and be eligible for, and serve clients eligible for, federal Medicaid funding.

This bill would remove the requirement that facilities with secured perimeters be eligible for, and serve clients eligible for, Medicaid funding. The bill would also limit the facilities to serving no more than 6 residents, except as specified. This bill would require the individual program planning team to meet every 90 days after admission of an individual to a facility with secured perimeters to determine the appropriateness of the placement. This bill would prohibit the state from authorizing more than a combined total of 150 beds statewide in facilities with secured perimeters.

(3) Existing law vests in the State Department of Developmental Services jurisdiction over state hospitals, referred to as developmental centers, for the provision of residential care to individuals with developmental disabilities. Existing law requires the department, when closing a developmental center, to comply with procedural requirements that include the submission of a detailed plan to the Legislature. Existing law specifies required information to be included in a plan, including the fiscal impact of the closure, the impact on residents and their families, and anticipated alternative placements for residents.

This bill would require the department to submit to the Legislature, on or before October 1, 2015, a plan or plans to close one or more developmental centers, as specified. The bill would provide that implementation of that plan would be contingent upon legislative approval of the plan as part of the legislative budget process during the 2016–17 Regular Session of the Legislature. The bill would require the department, following approval of a closure plan, to provide quarterly briefings to specified legislative staff on progress related to the plan, as specified.

Existing law limits the total number of developmental center residents in the secure treatment facility at Porterville Developmental Center to 230, including residents receiving services in the Porterville Developmental Center transition treatment program. Existing law prohibits the admission of a person to a developmental center except under certain circumstances, including when the person is a juvenile committed by a court to the secure treatment program at Porterville Developmental Center.

This bill would instead authorize an individual to be admitted to the secure treatment facility at Porterville Developmental Center only when specified conditions are satisfied, including, among others, that the individual is at least 18 years of age. The bill would also provide that an individual may be admitted to the transitional treatment facility at Porterville Developmental Center when specified conditions are satisfied, and would prohibit the placement of an individual in the transitional treatment program for longer than necessary to procure a less restrictive placement. The bill would require the department to report to the Legislature on or before March 1, 2016, regarding transitional program residents who are placed in the program for more than one year.

This bill would declare the intent of the Legislature that General Fund savings derived from the closure of developmental centers benefit persons with developmental disabilities living in the community. The bill would require the department to display annually in its budget estimates specified information related to the downsizing or closure of developmental centers, as specified.

(4) Under existing law, the Lanterman Developmental Disabilities Services Act, the department is responsible for providing various services and supports to persons with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Existing law authorizes the department to contract with

regional centers to provide these services and supports. Existing law requires a regional center to develop an individual program plan for a person who, following intake and assessment, is found to be eligible for regional center services. Existing law specifies requirements related to the process of developing an individual program plan. Existing law requires a regional center to complete a plan within 60 days of the completion of the assessment.

This bill would require a regional center to offer, and upon request provide, a written copy of the individual program plan to the consumer of services or other specified individuals in a threshold language, as defined, within 45 days of the request.

Existing law requires the department and regional centers to annually collaborate to compile specified data relating to purchase of service authorization, utilization, and expenditure by each regional center. Existing law requires each regional center to annually report to the department regarding the regional center's implementation of these requirements.

This bill would require the department and regional centers to include in that data the number of instances when a written copy of an individual program plan is provided at the request of the consumer or other specified individuals in a language other than a threshold language, as defined, and that written copy was provided more than 60 days after the request. The bill would require the department to consult with stakeholders to achieve specified objectives related to reducing disparities and promoting equity in connection with providing the services and supports described above, and to report progress on those objectives to the Legislature during the 2016–17 annual legislative budget subcommittee hearing process.

Existing law also requires the department to establish a statewide specialized resource service to reduce reliance on out-of-state placements, developmental centers, and mental health facilities for which federal funding is not available. Existing law requires the department to also annually provide to the fiscal and appropriate policy committees of the Legislature information on efforts to serve those consumers, as specified.

This bill would require the department and each institution for mental disease that has admitted a regional center consumer to report annually to the contractor for regional center clients' rights advocacy services, information related to those consumers served. The bill would also

expand the information the department is required to report to the policy committees and the contractor, as specified.

Existing law requires that contracts entered into with regional centers include annual performance objectives, including annual performance objectives that are specific, measurable, and designed to, among other things, develop services and supports identified as necessary to meet identified needs.

This bill would include measuring progress in reducing disparities and improving equity in purchase of service expenditures in those annual performance objectives.

(5) Existing law prohibits a regional center from purchasing new residential services from, or placing a consumer in, institutions for mental disease, regardless of the availability of federal funding. Existing law provides that the prohibition does not apply to emergencies, as determined by the regional center, and as otherwise specified. Under those circumstances, existing law requires the regional center to complete a comprehensive assessment, as specified.

This bill would require an institution for mental disease that receives placement of a regional center consumer from another entity to inform the regional center of the placement, as specified. After notice is provided to the regional center, the bill would require the regional center to complete an assessment.

(6) Existing law sets forth the department's and the regional center's authority to establish provider rates. Existing law prohibits certain provider rate increases, but authorizes increases to those rates as necessary to adjust employee wages to meet the state minimum wage law.

Existing law generally provides that employees who, on or after July 1, 2015, work in California for 30 or more days within a year are entitled to a specified number of paid sick days.

This bill would authorize adjustment in prescribed provider rates commencing July 1, 2015, if the adjustment is necessary to implement the requirement that employees be provided paid sick days.

(7) Existing law requires the department to establish a pilot program, until January 1, 2020, for the operation of up to 6 enhanced behavioral supports homes for adults and children with developmental disabilities who need intensive services and supports due to challenging behaviors that cannot be managed in a community setting without the availability of enhanced behavioral services and supports.

This bill would delete the restriction on the number of enhanced behavioral supports homes that the department may approve as part of the pilot project.

(8) Existing law requires the department, contingent upon approval of federal funding, to establish and implement a state Self-Determination Program, as defined, that would be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. The statewide program would be phased in over 3 years, serving up to 2,500 regional center consumers during the phase-in period, and thereafter, available on a voluntary basis to all eligible regional center consumers. Existing law requires the department to annually provide specified information to the appropriate policy and fiscal committees of the Legislature, including the number and characteristics of participants, by regional center.

This bill would authorize the Department of Finance to approve, as specified, an increase to the number of consumers served by the Self-Determination Program before the end of the 3-year phase-in period. The bill would specify that following the phase-in period, the regional center consumers that the program is made available to would include residents in developmental centers who are moving to the community, and would require that the annual information provided by the department to the appropriate policy and fiscal committees of the Legislature include the number of participants who entered the program upon movement from a developmental center.

(9) Existing law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing federal law, the Fair Labor Standards Act (FLSA), and regulations promulgated under the FLSA, generally require that an employee covered by the act receive overtime pay for hours worked in excess of 40 hours in a workweek at a rate not less than $1\frac{1}{2}$ times the employee's regular rate of pay, unless specifically exempted.

The bill would require the department, when federal FLSA regulations regarding payment of overtime compensation are implemented in the state, to consult with specified entities to evaluate the impact of those

regulations on consumers and providers of supported living services, in-home respite services, and personal assistants to persons with developmental disabilities. The bill would require the department to report on the progress of that evaluation and specified resulting actions or recommendations to the Legislature during the 2016–17 legislative budget subcommittee hearing process.

(10) This bill would appropriate \$61,554,000 from the General Fund to the department to fund expenditures for services provided by regional centers, as specified. The bill would provide that those funds shall be available for encumbrance and expenditure until June 30, 2016.

(11) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2015.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14670.36 is added to the Government
2 Code, immediately following Section 14670.35, to read:

3 14670.36. (a) Notwithstanding any other law, the Director of
4 General Services, with the consent of the Director of
5 Developmental Services, may, in the best interests of the state, let
6 to any person or entity real property not exceeding 20 acres located
7 within the grounds of the Fairview Developmental Center for a
8 period not to exceed 55 years, at a price that will permit the
9 development of affordable housing for people with developmental
10 disabilities.

11 (b) Notwithstanding any other law, the lease authorized by this
12 section may be assignable subject to approval by the Director of
13 General Services, with the consent of the Director of
14 Developmental Services. The lease shall do all of the following:

15 (1) Provide housing for individuals who qualify based upon
16 criteria established by the Department of Developmental Services.
17 A minimum of 20 percent of the housing units developed shall be
18 available and affordable to individuals with developmental
19 disabilities served by a regional center pursuant to the Lanterman
20 Developmental Disabilities Services Act (Chapter 1 (commencing
21 with Section 4500) of Division 4.5 of the Welfare and Institutions

1 Code). When filling vacancies, priority for housing shall be given
2 to individuals transitioning from a developmental center or at risk
3 for admission to a developmental center.

4 (2) Allow for lease revenues or other proceeds received by the
5 state under the leases for projects authorized by this section and
6 Section 14670.35, to be utilized by the Department of
7 Developmental Services to support individuals with developmental
8 disabilities, including subsidizing rents for those individuals.

9 (3) Include provisions authorizing the Department of
10 Developmental Services, or its designee, to provide management
11 oversight and administration over the housing for individuals with
12 developmental disabilities and the general operations of the project
13 sufficient to assure the purposes of the lease are being carried out
14 and to protect the financial interests of the state.

15 (c) The Department of Developmental Services may share in
16 proceeds, if any, generated from the overall operation of the project
17 developed pursuant to this section. All proceeds received from the
18 project authorized by this section and the project authorized by
19 Section 14670.35, in accordance with the terms of the lease, shall
20 be deposited in the Department of Developmental Services Trust
21 Fund, which is hereby created in the State Treasury. Moneys in
22 the Department of Developmental Services Trust Fund shall be
23 used, upon appropriation by the Legislature, for the purpose of
24 providing housing and transitional services for people with
25 developmental disabilities. Any funds not needed to support
26 individuals with developmental disabilities shall be transferred to
27 the General Fund upon the order of the Director of Finance.

28 (d) The Director of General Services, with the consent of the
29 Director of Developmental Services, may enter into a lease
30 pursuant to this section at less than market value, provided that
31 the cost of administering the lease is recovered.

32 (e) The project and lease, including off-site improvements
33 directly related to the housing project authorized by this section,
34 shall not be deemed a "public works contract" as defined by
35 Section 1101 of the Public Contract Code. However, construction
36 projects contemplated by the lease authorized by this section shall
37 be considered "public works," as defined by paragraph (1) of
38 subdivision (a) of Section 1720 of the Labor Code, for the purpose
39 of prevailing wage requirements.

1 SEC. 2. Section 1267.75 of the Health and Safety Code is
2 amended to read:

3 1267.75. (a) A licensee of an intermediate care
4 facility/developmentally disabled habilitative, as defined in
5 subdivision (e) of Section 1250, or of an intermediate care
6 facility/developmentally disabled, as defined in subdivision (g) of
7 Section 1250, for no more than ~~15~~ six residents, ~~that is eligible~~
8 ~~except for and serving clients eligible for federal Medicaid funding~~
9 ~~may, with the approval of the State Department of Public Health~~
10 ~~and contingent upon continued eligibility for federal Medicaid~~
11 ~~funding, larger facilities provided for in paragraph (1) of~~
12 ~~subdivision (k), may install and utilize delayed egress devices of~~
13 ~~the time delay type in combination with secured perimeters in~~
14 ~~accordance with the provisions of this section.~~

15 (b) For purposes of this section, the following definitions shall
16 apply:

17 (1) “Delayed egress device” means a device that precludes the
18 use of exits for a predetermined period of time. These devices shall
19 not delay any resident’s departure from the facility for longer than
20 30 seconds.

21 (2) “Secured perimeters” means fences that meet the
22 requirements prescribed by this section.

23 (c) Only individuals meeting all of the following conditions
24 may be admitted to or reside in a facility described in subdivision
25 (a) utilizing delayed egress devices of the time delay type in
26 combination with secured perimeters:

27 (1) The person shall have a developmental disability as defined
28 in Section 4512 of the Welfare and Institutions Code.

29 (2) The person shall be receiving services and case management
30 from a regional center under the Lanterman Developmental
31 Disabilities Services Act (Division 4.5 (commencing with Section
32 4500) of the Welfare and Institutions Code).

33 (3) (A) The person shall be 14 years of age or older.

34 (B) Notwithstanding subparagraph (A), a child who is at least
35 10 years of age and less than 14 years of age may be placed in a
36 licensed facility described in subdivision (a) using delayed egress
37 devices of the time delay type in combination with secured
38 perimeters only if both of the following occur:

39 (i) A comprehensive assessment is conducted and an individual
40 program plan meeting is convened to determine the services and

1 supports needed for the child to receive services in a less restrictive,
2 unlocked residential setting in California, and the regional center
3 requests assistance from the State Department of Developmental
4 Services' statewide specialized resource service to identify options
5 to serve the child in a less restrictive, unlocked residential setting
6 in California.

7 (ii) The regional center requests placement of the child in a
8 facility described in subdivision (a) using delayed egress devices
9 of the time delay type in combination with secured perimeters on
10 the basis that the placement is necessary to prevent out-of-state
11 placement or placement in a more restrictive, locked residential
12 setting *such as a developmental center, institution for mental*
13 *disease, or psychiatric facility*, and the State Department of
14 Developmental Services approves the request.

15 (4) (A) An interdisciplinary team, through the individual
16 program plan (IPP) process pursuant to Section 4646.5 of the
17 Welfare and Institutions Code, shall have determined that the
18 person lacks hazard awareness or impulse control and, for his or
19 her safety and security, requires the level of supervision afforded
20 by a facility equipped with delayed egress devices of the time delay
21 type in combination with secured perimeters and that, but for this
22 placement, the person would be at risk of admission to, or would
23 have no option but to remain in, a more restrictive placement. The
24 individual program planning team shall *convene every 90 days*
25 *after admission to determine and document the continued*
26 *appropriateness of the current placement—at least annually; and*
27 *progress in implementing the transition plan.*

28 (B) *The clients' rights advocate for the regional center shall be*
29 *notified of the proposed admission and the individual program*
30 *plan meeting and may participate in the individual program plan*
31 *meeting, unless the consumer objects on his or her own behalf.*

32 (d) The licensee shall be subject to all applicable fire and
33 building codes, regulations, and standards, and shall receive
34 approval by the county or city fire department, the local fire
35 prevention district, or the State Fire Marshal for the installed
36 devices and secured perimeters.

37 (e) The licensee shall provide staff training regarding the use
38 and operation of the delayed egress devices of the time delay type
39 and secured perimeters, protection of residents' personal rights,

1 lack of hazard awareness and impulse control behavior, and
2 emergency evacuation procedures.

3 (f) The licensee shall revise its facility plan of operation. These
4 revisions shall first be approved by the State Department of
5 Developmental Services. The plan of operation shall not be
6 approved by the State Department of Public Health unless the
7 licensee provides certification that the plan was approved by the
8 State Department of Developmental Services. The plan shall
9 include, but not be limited to, all of the following:

10 (1) A description of how the facility is to be equipped with
11 secured perimeters that are consistent with regulations adopted by
12 the State Fire Marshal pursuant to Section 13143.6.

13 (2) A description of how the facility will provide training for
14 staff.

15 (3) A description of how the facility will ensure the protection
16 of the residents' personal rights consistent with Sections 4502,
17 4503, and 4504 of the Welfare and Institutions Code, and any
18 applicable personal rights provided in Title 22 of the California
19 Code of Regulations.

20 (4) A description of how the facility will manage residents' lack
21 of hazard awareness and impulse control ~~behavior~~. *behavior, which*
22 *shall emphasize positive behavioral supports and techniques that*
23 *are alternatives to physical, chemical, or mechanical restraints,*
24 *or seclusion.*

25 (5) A description of the facility's emergency evacuation
26 procedures.

27 (6) *A description of how the facility will comply with applicable*
28 *health and safety standards.*

29 (g) Delayed egress devices of the time delay type in combination
30 with secured perimeters shall not substitute for adequate staff.

31 (h) Emergency fire and earthquake drills shall be conducted on
32 each shift in accordance with existing licensing requirements, and
33 shall include all facility staff providing resident care and
34 supervision on each shift.

35 (i) Interior and exterior space shall be available on the facility
36 premises to permit clients to move freely and safely.

37 (j) For the purposes of using secured perimeters, the licensee
38 shall not be required to obtain a waiver or exception to a regulation
39 that would otherwise prohibit the locking of a perimeter fence or
40 gate.

1 (k) Except as provided in subdivision (k) of Section 4684.81 of
 2 the Welfare and Institutions Code, the state shall not authorize or
 3 fund more than a combined total of 150 beds statewide in facilities
 4 with secured perimeters under this section and under Section
 5 1531.15. The department shall notify the appropriate fiscal and
 6 policy committees of the Legislature through the January and May
 7 budget estimates prior to authorizing an increase above a
 8 combined total of 100 beds statewide in facilities with secured
 9 perimeters under this section and under Section 1531.15.

10 (1) A minimum of 50 beds shall be available within programs
 11 designed for individuals who are designated incompetent to stand
 12 trial pursuant to Section 1370.1 of the Penal Code. These beds
 13 shall be within facilities that are exclusively used to provide care
 14 for individuals who are placed and participating in forensic
 15 competency training pursuant to Section 1370.1 of the Penal Code,
 16 except as provided in paragraph (2). No more than half of these
 17 facilities may have more than six beds and no facility may have
 18 more than 15 beds.

19 (2) When, in the joint determination of the regional center and
 20 the facility administrator, an individual would be most
 21 appropriately served in a specific program, regardless of whether
 22 the facility meets the criteria established in paragraph (1),
 23 individuals who are not similarly designated may be placed in the
 24 same facility. That placement may occur only when the individual's
 25 planning team determines that the placement and the facility plan
 26 of operation meet the individual's needs and that placement is not
 27 incompatible with the needs and safety of other facility residents.

28 ~~(k)~~

29 (l) This section shall become operative only upon the filing of
 30 emergency regulations by the State Department of Developmental
 31 Services. These regulations shall be developed with stakeholders,
 32 including the State Department of Public Health, consumer
 33 advocates, and regional centers. The regulations shall establish
 34 program standards for homes that include delayed egress devices
 35 of the time delay type in combination with secured perimeters,
 36 including requirements and timelines for the completion and
 37 updating of a comprehensive assessment of the consumer's needs,
 38 including the identification through the individual program plan
 39 process of the services and supports needed to transition the
 40 consumer to a less restrictive living arrangement, and a timeline

1 for identifying or developing those services and supports. The
2 regulations shall establish a statewide limit on the total number of
3 beds in homes with delayed egress devices of the time delay type
4 in combination with secured perimeters. The adoption of these
5 regulations shall be deemed to be an emergency and necessary for
6 the immediate preservation of the public peace, health and safety,
7 or general welfare.

8 ~~(t)~~

9 (m) This section shall not apply to developmental centers and
10 state-operated community facilities.

11 *SEC. 3. Section 1531.15 of the Health and Safety Code is*
12 *amended to read:*

13 1531.15. (a) A licensee of an adult residential facility or group
14 home for no more than ~~15~~ six residents, ~~that is eligible for and~~
15 ~~serving clients eligible for federal Medicaid funding and~~ *except*
16 *for the larger facilities provided for in paragraph (1) of subdivision*
17 *(k), that is utilizing delayed egress devices pursuant to Section*
18 *1531.1, may install and utilize secured perimeters in accordance*
19 *with the provisions of this section.*

20 (b) As used in this section, “secured perimeters” means fences
21 that meet the requirements prescribed by this section.

22 (c) Only individuals meeting all of the following conditions
23 may be admitted to or reside in a facility described in subdivision
24 (a) utilizing secured perimeters:

25 (1) The person shall have a developmental disability as defined
26 in Section 4512 of the Welfare and Institutions Code.

27 (2) The person shall be receiving services and case management
28 from a regional center under the Lanterman Developmental
29 Disabilities Services Act (Division 4.5 (commencing with Section
30 4500) of the Welfare and Institutions Code).

31 (3) (A) The person shall be 14 years of age or older, except as
32 specified in subparagraph (B).

33 (B) Notwithstanding subparagraph (A), a child who is at least
34 10 years of age and less than 14 years of age may be placed in a
35 licensed group home described in subdivision (a) using secured
36 perimeters only if both of the following occur:

37 (i) A comprehensive assessment is conducted and an individual
38 program plan meeting is convened to determine the services and
39 supports needed for the child to receive services in a less restrictive,
40 unlocked residential setting in California, and the regional center

1 requests assistance from the State Department of Developmental
2 Services' statewide specialized resource service to identify options
3 to serve the child in a less restrictive, unlocked residential setting
4 in California.

5 (ii) The regional center requests placement of the child in a
6 licensed group home described in subdivision (a) using secured
7 perimeters on the basis that the placement is necessary to prevent
8 out-of-state placement or placement in a more restrictive, locked
9 residential setting *such as a developmental center, institution for*
10 *mental disease or psychiatric facility*, and the State Department
11 of Developmental Services approves the request.

12 (4) The person is not a foster child under the jurisdiction of the
13 juvenile court pursuant to Section 300, 450, 601, or 602 of the
14 Welfare and Institutions Code.

15 (5) (A) An interdisciplinary team, through the individual
16 program plan (IPP) process pursuant to Section 4646.5 of the
17 Welfare and Institutions Code, shall have determined the person
18 lacks hazard awareness or impulse control and, for his or her safety
19 and security, requires the level of supervision afforded by a facility
20 equipped with secured perimeters, and, but for this placement, the
21 person would be at risk of admission to, or would have no option
22 but to remain in, a more restrictive placement. The individual
23 program planning team shall *convene every 90 days after admission*
24 *to determine and document* the continued appropriateness of the
25 *current placement at least annually; and progress in implementing*
26 *the transition plan.*

27 (B) *The clients' rights advocate for the regional center shall be*
28 *notified of the proposed admission and the individual program*
29 *plan meeting and may participate in the individual program plan*
30 *meeting unless the consumer objects on his or her own behalf.*

31 (d) The licensee shall be subject to all applicable fire and
32 building codes, regulations, and standards, and shall receive
33 approval by the county or city fire department, the local fire
34 prevention district, or the State Fire Marshal for the installed
35 secured perimeters.

36 (e) The licensee shall provide staff training regarding the use
37 and operation of the secured perimeters, protection of residents'
38 personal rights, lack of hazard awareness and impulse control
39 behavior, and emergency evacuation procedures.

1 (f) The licensee shall revise its facility plan of operation. These
2 revisions shall first be approved by the State Department of
3 Developmental Services. The plan of operation shall not be
4 approved by the State Department of Social Services unless the
5 licensee provides certification that the plan was approved by the
6 State Department of Developmental Services. The plan shall
7 include, but not be limited to, all of the following:

8 (1) A description of how the facility is to be equipped with
9 secured perimeters that are consistent with regulations adopted by
10 the State Fire Marshal pursuant to Section 13143.6.

11 (2) A description of how the facility will provide training for
12 staff.

13 (3) A description of how the facility will ensure the protection
14 of the residents' personal rights consistent with Sections 4502,
15 4503, and 4504 of the Welfare and Institutions Code, and any
16 applicable personal rights provided in Title 22 of the California
17 Code of Regulations.

18 (4) A description of how the facility will manage residents' lack
19 of hazard awareness and impulse control ~~behavior~~; *behavior, which*
20 *shall emphasize positive behavioral supports and techniques that*
21 *are alternatives to physical, chemical, or mechanical restraints,*
22 *or seclusion.*

23 (5) A description of the facility's emergency evacuation
24 procedures.

25 (6) *A description of how the facility will comply with applicable*
26 *health and safety standards.*

27 (g) Secured perimeters shall not substitute for adequate staff.

28 (h) Emergency fire and earthquake drills shall be conducted on
29 each shift in accordance with existing licensing requirements, and
30 shall include all facility staff providing resident care and
31 supervision on each shift.

32 (i) Interior and exterior space shall be available on the facility
33 premises to permit clients to move freely and safely.

34 (j) For the purpose of using secured perimeters, the licensee
35 shall not be required to obtain a waiver or exception to a regulation
36 that would otherwise prohibit the locking of a perimeter fence or
37 gate.

38 (k) *Except as provided in subdivision (k) of Section 4684.81 of*
39 *the Welfare and Institutions Code, the state shall not authorize or*
40 *fund more than a combined total of 150 beds statewide in facilities*

1 with secured perimeters under this section and under Section
 2 1267.75. The department shall notify the appropriate fiscal and
 3 policy committees of the Legislature through the January and May
 4 budget estimates prior to authorizing an increase above a
 5 combined total of 100 beds statewide in facilities with secured
 6 perimeters under this section and under Section 1267.75.

7 (1) A minimum of 50 beds shall be available within programs
 8 designed for individuals who are designated incompetent to stand
 9 trial pursuant to Section 1370.1 of the Penal Code. These beds
 10 shall be within facilities that are exclusively used to provide care
 11 for individuals who are placed and participating in forensic
 12 competency training pursuant to Section 1370.1 of the Penal Code,
 13 except as provided in paragraph (2). No more than half of these
 14 facilities may have more than six beds and no facility may have
 15 more than 15 beds.

16 (2) When, in the joint determination of the regional center and
 17 the facility administrator, an individual would be most
 18 appropriately served in a specific program, regardless of whether
 19 the facility meets the criteria established in paragraph (1),
 20 individuals who are not similarly designated may be placed in the
 21 same facility. That placement may occur only when the individual's
 22 planning team determines that the placement and the facility plan
 23 of operation meet the individual's needs and that placement is not
 24 incompatible with the needs and safety of other facility residents.

25 ~~(k)~~

26 (l) This section shall become operative only upon the
 27 publication in Title 17 of the California Code of Regulations of
 28 emergency regulations filed by the State Department of
 29 Developmental Services. These regulations shall be developed
 30 with stakeholders, including the State Department of Social
 31 Services, consumer advocates, and regional centers. The regulations
 32 shall establish program standards for homes that include secured
 33 perimeters, including requirements and timelines for the completion
 34 and updating of a comprehensive assessment of each consumer's
 35 needs, including the identification through the individual program
 36 plan process of the services and supports needed to transition the
 37 consumer to a less restrictive living arrangement, and a timeline
 38 for identifying or developing those services and supports. The
 39 regulations shall establish a statewide limit on the total number of
 40 beds in homes with secured perimeters. The adoption of these

1 regulations shall be deemed to be an emergency and necessary for
2 the immediate preservation of the public peace, health and safety,
3 or general welfare.

4 *SEC. 4. Section 4418.25 of the Welfare and Institutions Code*
5 *is amended to read:*

6 4418.25. (a) The department shall establish policies and
7 procedures for the development of an annual community placement
8 plan by regional centers. The community placement plan shall be
9 based upon an individual program plan process as referred to in
10 subdivision (a) of Section 4418.3 and shall be linked to the
11 development of the annual State Budget. The department's policies
12 shall address statewide priorities, plan requirements, and the
13 statutory roles of regional centers, developmental centers, and
14 regional resource development projects in the process of assessing
15 consumers for community living and in the development of
16 community resources.

17 (b) (1) To reduce reliance on developmental centers and mental
18 health facilities, including institutions for mental disease as
19 described in Part 5 (commencing with Section 5900) of Division
20 5, for which federal funding is not available, and out-of-state
21 placements, the department shall establish a statewide specialized
22 resource service that does all of the following:

23 (A) Tracks the availability of specialty residential beds and
24 services.

25 (B) Tracks the availability of specialty clinical services.

26 (C) Coordinates the need for specialty services and supports in
27 conjunction with regional centers.

28 (D) Identifies, subject to federal reimbursement, developmental
29 center services and supports that can be made available to
30 consumers residing in the community, when no other community
31 resource has been identified.

32 (2) By September 1, 2012, regional centers shall provide the
33 department with information about all specialty resources
34 developed with the use of community placement plan funds and
35 shall make these resources available to other regional centers.

36 (3) When allocating funding for community placement plans,
37 priority shall be given to the development of needed statewide
38 specialty services and supports, including regional community
39 crisis homes.

1 (4) If approved by the director, funding may be allocated to
2 facilities that meet the criteria of Sections 1267.75 and 1531.15
3 of the Health and Safety Code.

4 (5) The department shall not provide community placement
5 plan funds to develop programs that are ineligible for federal
6 funding participation unless approved by the director.

7 (c) (1) The community placement plan shall provide for
8 dedicated funding for comprehensive assessments of developmental
9 center residents, for identified costs of moving individuals from
10 developmental centers to the community, and for deflection of
11 individuals from developmental center admission. The plans shall,
12 where appropriate, include budget requests for regional center
13 operations, assessments, resource development, and ongoing
14 placement costs. These budget requests are intended to provide
15 supplemental funding to regional centers. The plan is not intended
16 to limit the department's or regional centers' responsibility to
17 otherwise conduct assessments and individualized program
18 planning, and to provide needed services and supports in the least
19 restrictive, most integrated setting in accord with the Lanterman
20 Developmental Disabilities Services Act (Division 4.5
21 (commencing with Section 4500)).

22 (2) (A) Regional centers shall complete a comprehensive
23 assessment of any consumer residing in a developmental center
24 on July 1, 2012, who meets both of the following criteria:

25 (i) The consumer is not committed pursuant to Section 1370.1
26 of the Penal Code.

27 (ii) The consumer has not had such an assessment in the prior
28 two years.

29 (B) The assessment shall include input from the regional center,
30 the consumer, and, when appropriate, the consumer's family, legal
31 guardian, conservator, or authorized representative, and shall
32 identify the types of community-based services and supports
33 available to the consumer that would enable the consumer to move
34 to a community setting. Necessary services and supports not
35 currently available in the community setting shall be considered
36 for development pursuant to community placement planning and
37 funding.

38 (C) Regional centers shall specify in the annual community
39 placement plan how they will complete the required assessment
40 and the timeframe for completing the assessment for each

1 consumer. Initial assessments pursuant to this paragraph for
2 individuals residing in a developmental center on July 1, 2012,
3 shall be completed by December 31, 2015, unless a regional center
4 demonstrates to the department that an extension of time is
5 necessary and the department grants such an extension.

6 (D) The assessment completed in the prior two years, or the
7 assessment completed pursuant to the requirements of this section,
8 including any updates pursuant to subparagraph (E), shall be
9 provided to both of the following:

10 (i) The individual program planning team and clients' rights
11 advocate for the regional center in order to assist the planning team
12 in determining the least restrictive environment for the consumer.

13 (ii) The superior court with jurisdiction over the consumer's
14 placement at the developmental center, including the consumer's
15 attorney of record and other parties known to the regional center.
16 For judicial proceedings pursuant to Article 2 (commencing with
17 Section 6500) of Chapter 2 of Part 2 of Division 6, the
18 comprehensive assessment shall be included in the regional center's
19 written report required by Section 6504.5. For all other
20 proceedings, the regional center shall provide the comprehensive
21 assessment to the court and parties to the case at least 14 days in
22 advance of any regularly scheduled judicial review. This clause
23 shall not apply to consumers committed pursuant to Section 1370.1
24 of the Penal Code.

25 (E) The assessments described in subparagraph (D) shall be
26 updated annually as part of the individual program planning process
27 for as long as the consumer resides in the developmental center.
28 To the extent appropriate, the regional center shall also provide
29 relevant information from the statewide specialized resource
30 service. The regional center shall notify the clients' rights advocate
31 for the regional center of the time, date, and location of each
32 individual program plan meeting that includes discussion of the
33 results of the comprehensive assessment and updates to that
34 assessment. The regional center shall provide this notice as soon
35 as practicable following the completion of the comprehensive
36 assessment or update and not less than 30 calendar days prior to
37 the meeting. The clients' rights advocate may participate in the
38 meeting unless the consumer objects on his or her own behalf.

39 (d) The department shall review, negotiate, and approve regional
40 center community placement plans for feasibility and

1 reasonableness, including recognition of each regional centers’
2 current developmental center population and their corresponding
3 placement level, as well as each regional centers’ need to develop
4 new and innovative service models. The department shall hold
5 regional centers accountable for the development and
6 implementation of their approved plans. The regional centers shall
7 report, as required by the department, on the outcomes of their
8 plans. The department shall make aggregate performance data for
9 each regional center available, upon request, as well as data on
10 admissions to, and placements from, each developmental center.

11 (e) Funds allocated by the department to a regional center for
12 a community placement plan developed under this section shall
13 be controlled through the regional center contract to ensure that
14 the funds are expended for the purposes allocated. Funds allocated
15 for community placement plans that are not used for that purpose
16 may be transferred to Item 4300-003-0001 for expenditure in the
17 state developmental centers if their population exceeds the
18 budgeted level. Any unspent funds shall revert to the General Fund.

19 (f) Commencing May 1, 2013, and then on April 1, 2014, and
20 on April 1 annually thereafter, the department shall provide to the
21 fiscal and appropriate policy committees of the ~~Legislature~~
22 *Legislature, and to the contractor for regional center clients’ rights*
23 *advocacy services under Section 4433*, information on efforts to
24 serve consumers with challenging service needs, including, but
25 not limited to, all of the following:

26 (1) For each regional center, the number of consumers admitted
27 to each developmental center, including the legal basis for the
28 admissions.

29 (2) For each regional center, the number of consumers described
30 in paragraph (2) of subdivision (a) of Section 7505 who were
31 admitted to Fairview Developmental Center by court order pursuant
32 to Article 2 (commencing with Section 6500) of Chapter 2 of Part
33 2 of Division 6, and the number and lengths of stay of consumers,
34 including those who have transitioned back to a community living
35 arrangement.

36 (3) Outcome data related to the assessment process set forth in
37 Section 4418.7, including the number of consumers who received
38 assessments pursuant to Section 4418.7 and the outcomes of the
39 assessments. Each regional center, commencing March 1, 2013,
40 and then on February 1, 2014, and on February 1 annually

1 thereafter, shall provide the department with information on
2 alternative community services and supports provided to those
3 consumers who were able to remain in the community following
4 the assessments, and the unmet service needs that resulted in any
5 consumers being admitted to Fairview Developmental Center.

6 (4) Progress in the development of needed statewide specialty
7 services and supports, including regional community crisis options,
8 as provided in paragraph (3) of subdivision (b). Each regional
9 center shall provide the department with a report containing the
10 information described in this paragraph commencing March 1,
11 2013, and then on February 1, 2014, and on February 1 annually
12 thereafter.

13 (5) Progress in reducing reliance on mental health facilities
14 ineligible for federal Medicaid funding, and out-of-state
15 ~~placements.~~ *placements, including information on the utilization*
16 *of those facilities, which shall include, by regional center, all of*
17 *the following:*

18 (A) *The total number and age range of consumers placed in*
19 *those facilities.*

20 (B) *The number of admissions.*

21 (C) *The reasons for admissions by category, including, but not*
22 *limited to, incompetent-to-stand-trial (IST) commitment, Section*
23 *6500 commitment, crisis stabilization, and lack of appropriate*
24 *community placement.*

25 (D) *The lengths of stay of consumers.*

26 (E) *The type of facility.*

27 (6) Information on the utilization of facilities serving consumers
28 with challenging service needs that utilize delayed egress devices
29 and secured perimeters, pursuant to Section 1267.75 or 1531.15
30 of the Health and Safety Code, including the number of admissions,
31 reasons for admissions, and lengths of stay of consumers, including
32 those who have transitioned to less restrictive living arrangements.

33 (7) If applicable, any recommendations regarding additional
34 rate exceptions or modifications beyond those allowed for under
35 existing law that the department identifies as necessary to meet
36 the needs of consumers with challenging service needs.

37 (g) Each regional center, commencing March 1, 2013, and then
38 on February 1, 2014, and on February 1 annually thereafter, shall
39 provide information to the department regarding the facilities
40 described in paragraph (6) of subdivision (f), including, but not

1 limited to, the number of admissions, reasons for admissions, and
 2 lengths of stay of consumers, including those who have transitioned
 3 to less restrictive living arrangements.

4 *(h) Each institution for mental disease that has admitted a*
 5 *regional center consumer in the preceding year shall report on*
 6 *February 1, 2016, and on February 1 annually thereafter, to the*
 7 *contractor for regional center clients' rights advocacy services*
 8 *under Section 4433, all of the following:*

9 *(A) The total number and age of consumers placed in that*
 10 *facility.*

11 *(B) The number of admissions.*

12 *(C) The reasons for admissions by category.*

13 *(D) The lengths of stay of consumers.*

14 *(E) The funding source.*

15 *SEC. 5. Section 4474.1 of the Welfare and Institutions Code*
 16 *is amended to read:*

17 4474.1. (a) Whenever the State Department of Developmental
 18 Services proposes the closure of a state developmental center, the
 19 department shall be required to submit a detailed plan to the
 20 Legislature not later than April 1 immediately prior to the fiscal
 21 year in which the plan is to be implemented, and as a part of the
 22 Governor's proposed budget. A plan submitted to the Legislature
 23 pursuant to this section, including any modifications made pursuant
 24 to subdivision (b), shall not be implemented without the approval
 25 of the Legislature.

26 (b) A plan submitted on or before April 1 immediately prior to
 27 the fiscal year in which the plan is to be implemented may be
 28 subsequently modified during the legislative review process.

29 (c) Prior to submission of the plan to the Legislature, the
 30 department shall solicit input from the State Council on
 31 Developmental Disabilities, the Association of Regional Center
 32 Agencies, the protection and advocacy agency specified in Section
 33 4901, the local regional center, consumers living in the
 34 developmental center, parents, family members, guardians, and
 35 conservators of persons living in the developmental centers or their
 36 representative organizations, persons with developmental
 37 disabilities living in the community, developmental center
 38 employees and employee organizations, community care providers,
 39 the affected city and county governments, and business and civic

1 organizations, as may be recommended by local state Senate and
2 Assembly representatives.

3 (d) Prior to the submission of the plan to the Legislature, the
4 department shall confer with the county in which the developmental
5 center is located, the regional centers served by the developmental
6 center, and other state departments using similar occupational
7 classifications, to develop a program for the placement of staff of
8 the developmental center planned for closure in other
9 developmental centers, as positions become vacant, or in similar
10 positions in programs operated by, or through contract with, the
11 county, regional centers, or other state ~~departments~~. *departments,*
12 *including, but not limited to, the Community State Staff Program,*
13 *use of state staff for mobile health and crisis teams in the*
14 *community, and use of state staff in new state-operated models*
15 *that may be developed as a component of the closure plan.*

16 (e) *Prior to the submission of the plan to the Legislature, the*
17 *department shall confer with the county in which the development*
18 *center is located, and shall consider recommendations for the use*
19 *of the developmental center property.*

20 (e)

21 (f) Prior to the submission of the plan to the Legislature, the
22 department shall hold at least one public hearing in the community
23 in which the developmental center is located, with public comment
24 from that hearing summarized in the plan.

25 (f)

26 (g) The plan submitted to the Legislature pursuant to this section
27 shall include all of the following:

28 (1) A description of the land and buildings ~~affected~~. *at the*
29 *developmental center.*

30 (2) A description of existing lease arrangements at the
31 developmental center.

32 (3) *A description of resident characteristics, including, but not*
33 *limited to, age, gender, ethnicity, family involvement, years of*
34 *developmental center residency, developmental disability, and*
35 *other factors that will determine service and support needs.*

36 (4) *A description of stakeholder input provided pursuant to*
37 *subdivisions (c), (d), and (e), including a description of local issues,*
38 *concerns, and recommendations regarding the proposed closure,*
39 *and alternative uses of the developmental center property.*

40 (3)

- 1 (5) The impact on residents and their families.
- 2 (6) *A description of the unique and specialized services provided*
- 3 *by the developmental center, including, but not limited to, crisis*
- 4 *facilities, health and dental clinics, and adaptive technology*
- 5 *services.*
- 6 (7) *A description of the assessment process and community*
- 7 *placement decision process that will ensure necessary services*
- 8 *and supports are in place prior to a resident transitioning into the*
- 9 *community.*
- 10 ~~(4)~~
- 11 (8) Anticipated alternative placements for residents.
- 12 (9) *A description of how the department will transition the*
- 13 *clients' rights advocacy contract provided at the developmental*
- 14 *center pursuant to Section 4433 to the community.*
- 15 (10) *A description of how the well-being of the residents will*
- 16 *be monitored during and following their transition into the*
- 17 *community.*
- 18 ~~(5)~~
- 19 (11) The impact on regional center services.
- 20 ~~(6)~~
- 21 (12) Where services will be obtained that, upon closure of the
- 22 developmental center, will no longer be provided by that facility.
- 23 ~~(7)~~
- 24 (13) ~~Potential~~ *A description of the potential job opportunities*
- 25 *for developmental center employees, activities the department will*
- 26 *undertake to support employees through the closure process, and*
- 27 *other efforts made to mitigate the effect of the closure on*
- 28 *employees.*
- 29 ~~(8)~~
- 30 (14) The fiscal impact of the closure.
- 31 ~~(9)~~
- 32 (15) The timeframe in which closure will be accomplished.
- 33 *SEC. 6. Section 4474.11 is added to the Welfare and Institutions*
- 34 *Code, immediately following Section 4474.1, to read:*
- 35 *4474.11. (a) Notwithstanding any other law, on or before*
- 36 *October 1, 2015, the Department of Developmental Services shall*
- 37 *submit to the Legislature a plan or plans to close one or more*
- 38 *developmental centers. The plan or plans shall meet the*
- 39 *requirements of subdivisions (c) to (g), inclusive of Section 4474.1,*
- 40 *and shall be posted on the department's Internet Web site. The*

1 *department may develop community resources and otherwise*
2 *engage in activities for transitioning developmental center*
3 *residents into the community, and utilize funds allocated for that*
4 *purpose as part of the annual Budget Act that is enacted at the*
5 *2015–16 Regular Session of the Legislature. Implementation of a*
6 *plan following the 2015–16 fiscal year is contingent upon*
7 *legislative approval of the plan as part of the legislative budget*
8 *process during the 2016–17 Regular Session of the Legislature.*

9 *(b) A plan submitted to the Legislature pursuant to this section*
10 *may subsequently be modified during the legislative review process.*
11 *Modifications may include changes based on stakeholder and*
12 *county-designated advisory group comments, as well as*
13 *recommendations made by the county in which the developmental*
14 *center is located.*

15 *SEC. 7. Section 4519.5 of the Welfare and Institutions Code*
16 *is amended to read:*

17 4519.5. (a) The department and the regional centers shall
18 annually collaborate to compile data in a uniform manner relating
19 to purchase of service authorization, utilization, and expenditure
20 by each regional center with respect to all of the following:

21 (1) The age of consumer, categorized by the following:

22 (A) Birth to age two, inclusive.

23 (B) Three to 21, inclusive.

24 (C) Twenty-two and older.

25 (2) Race or ethnicity of the consumer.

26 (3) Primary language spoken by the consumer, and other related
27 details, as feasible.

28 (4) Disability detail, in accordance with the categories
29 established by subdivision (a) of Section 4512, and, if applicable,
30 a category specifying that the disability is unknown.

31 (5) Residence type, subcategorized by age, race or ethnicity,
32 and primary language.

33 (6) *Number of instances when the written copy of the individual*
34 *program plan was provided at the request of the consumer and,*
35 *when appropriate, his or her parents, legal guardian or*
36 *conservator, or authorized representative, in a language other*
37 *than a threshold language, as defined by paragraph (3) of*
38 *subdivision (a) of Section 1810.410 of Title 9 of the California*
39 *Code of Regulations, if that written copy was provided more than*
40 *60 days after the request.*

1 (b) The data reported pursuant to subdivision (a) shall also
2 include the number and percentage of individuals, categorized by
3 age, race or ethnicity, and disability, and by residence type, as set
4 forth in paragraph (5) of subdivision (a), who have been determined
5 to be eligible for regional center services but are not receiving
6 purchase of service funds.

7 (c) By March 31, 2013, each regional center shall post the data
8 described in this section that is specific to the regional center on
9 its Internet Web site. Commencing on December 31, 2013, each
10 regional center shall annually post this data by December 31. Each
11 regional center shall maintain all previous years' data on its Internet
12 Web site.

13 (d) By March 31, 2013, the department shall post the information
14 described in this section on a statewide basis on its Internet Web
15 site. Commencing December 31, 2013, the department shall
16 annually post this information by December 31. The department
17 shall maintain all previous years' data on its Internet Web site.
18 The department shall also post notice of any regional center
19 stakeholder meetings on its Internet Web site.

20 (e) Within three months of compiling the data with the
21 department, and annually thereafter, each regional center shall
22 meet with stakeholders in one or more public meetings regarding
23 the data. The meeting or meetings shall be held separately from
24 any meetings held pursuant to Section 4660. The regional center
25 shall provide participants of these meetings with the data and any
26 associated information, and shall conduct a discussion of the data
27 and the associated information in a manner that is culturally and
28 linguistically appropriate for that community, including providing
29 alternative communication services, as required by Sections 11135
30 to 11139.7, inclusive, of the Government Code and implementing
31 regulations. Regional centers shall inform the department of the
32 scheduling of those public meetings 30 days prior to the meeting.
33 Notice of the meetings shall also be posted on the regional center's
34 Internet Web site 30 days prior to the meeting and shall be sent to
35 individual stakeholders and groups representing underserved
36 communities in a timely manner. Each regional center shall, in
37 holding the meetings required by this subdivision, consider the
38 language needs of the community and shall schedule the meetings
39 at times and locations designed to result in a high turnout by the
40 public and underserved communities.

1 (f) (1) Each regional center shall annually report to the
2 department regarding its implementation of the requirements of
3 this section. The report shall include, but shall not be limited to,
4 all of the following:

5 (A) Actions the regional center took to improve public
6 attendance and participation at stakeholder meetings, including,
7 but not limited to, attendance and participation by underserved
8 communities.

9 (B) Copies of minutes from the meeting and attendee comments.

10 (C) Whether the data described in this section indicates a need
11 to reduce disparities in the purchase of services among consumers
12 in the regional center's catchment area. If the data does indicate
13 that need, the regional center's recommendations and plan to
14 promote equity, and reduce disparities, in the purchase of services.

15 (2) Each regional center and the department shall annually post
16 the reports required by paragraph (1) on its Internet Web site by
17 August 31.

18 (g) (1) *The department shall consult with stakeholders,*
19 *including consumers and families that reflect the ethnic and*
20 *language diversity of regional center consumers, regional centers,*
21 *advocates, providers, the protection and advocacy agency*
22 *described in Section 4901, and those entities designated as*
23 *University Centers for Excellence in Developmental Disabilities*
24 *Education, Research, and Service pursuant to Section 15061 of*
25 *Title 42 of the United States Code, to achieve the following*
26 *objectives:*

27 (A) *Review the data compiled pursuant to subdivision (a).*

28 (B) *Identify barriers to equitable access to services and supports*
29 *among consumers and develop recommendations to help reduce*
30 *disparities in purchase of service expenditures.*

31 (C) *Encourage the development and expansion of culturally*
32 *appropriate services, service delivery, and service coordination.*

33 (D) *Identify best practices to reduce disparity and promote*
34 *equity.*

35 (2) *The department shall report the status of its efforts to satisfy*
36 *the requirements of paragraph (1) during the 2016–17 legislative*
37 *budget subcommittee hearing process.*

38 *SEC. 8. Section 4629 of the Welfare and Institutions Code is*
39 *amended to read:*

1 4629. (a) The state shall enter into five-year contracts with
2 regional centers, subject to the annual appropriation of funds by
3 the Legislature.

4 (b) The contracts shall include a provision requiring each
5 regional center to render services in accordance with applicable
6 provision of state laws and regulations.

7 (c) (1) The contracts shall include annual performance
8 objectives that shall do both of the following:

9 (A) Be specific, measurable, and designed to do all of the
10 following:

11 (i) Assist consumers to achieve life quality outcomes.

12 (ii) Achieve meaningful progress above the current baselines.

13 (iii) Develop services and supports identified as necessary to
14 meet identified needs, including culturally and linguistically
15 appropriate services and supports.

16 (iv) *Measure progress in reducing disparities and improving*
17 *equity in purchase of service expenditures.*

18 (B) Be developed through a public process as described in the
19 department's guidelines that includes, but is not limited to, all of
20 the following:

21 (i) Providing information, in an understandable form, to the
22 community about regional center services and supports, including
23 budget information and baseline data on services and supports and
24 regional center operations.

25 (ii) Conducting a public meeting where participants can provide
26 input on performance objectives and using focus groups or surveys
27 to collect information from the community.

28 (iii) Circulating a draft of the performance objectives to the
29 community for input prior to presentation at a regional center board
30 meeting where additional public input will be taken and considered
31 before adoption of the objectives.

32 (2) In addition to the performance objectives developed pursuant
33 to this section, the department may specify in the performance
34 contract additional areas of service and support that require
35 development or enhancement by the regional center. In determining
36 those areas, the department shall consider public comments from
37 individuals and organizations within the regional center catchment
38 area, the distribution of services and supports within the regional
39 center catchment area, and review how the availability of services

1 and supports in the regional area catchment area compares with
2 other regional center catchment areas.

3 (d) Each contract with a regional center shall specify steps to
4 be taken to ensure contract compliance, including, but not limited
5 to, all of the following:

6 (1) Incentives that encourage regional centers to meet or exceed
7 performance standards.

8 (2) Levels of probationary status for regional centers that do
9 not meet, or are at risk of not meeting, performance standards. The
10 department shall require that corrective action be taken by any
11 regional center which is placed on probation. Corrective action
12 may include, but is not limited to, mandated consultation with
13 designated representatives of the Association of Regional Center
14 Agencies or a management team designated by the department, or
15 both. The department shall establish the specific timeline for the
16 implementation of corrective action and monitor its
17 implementation. When a regional center is placed on probation,
18 the department shall provide the state council and the clients' rights
19 advocacy contractor identified in Section 4433 with a copy of the
20 correction plan, timeline, and any other action taken by the
21 department relating to the probationary status of the regional center.

22 (e) In order to evaluate the regional center's compliance with
23 its contract performance objectives and legal obligations related
24 to those objectives, the department shall do both of the following:

25 (1) Annually assess each regional center's achievement of its
26 previous year's objectives and make the assessment, including
27 baseline data and performance objectives of the individual regional
28 centers, available to the public. The department may make a special
29 commendation of the regional centers that have best engaged the
30 community in the development of contract performance objectives
31 and have made the most meaningful progress in meeting or
32 exceeding contract performance objectives.

33 (2) Monitor the activities of the regional center to ensure
34 compliance with the provisions of its contracts, including, but not
35 limited to, reviewing all of the following:

36 (A) The regional center's public process for compliance with
37 the procedures set forth in paragraph (2) of subdivision (c).

38 (B) Each regional center's performance objectives for
39 compliance with the criteria set forth in paragraphs (1) and (2) of
40 subdivision (c).

1 (C) Any public comments on regional center performance
2 objectives sent to the department or to the regional centers, and
3 soliciting public input on the public process and final performance
4 standards.

5 (f) The renewal of each contract shall be contingent upon
6 compliance with the contract including, but not limited to, the
7 performance objectives, as determined through the department's
8 evaluation.

9 *SEC. 9. Section 4646.5 of the Welfare and Institutions Code*
10 *is amended to read:*

11 4646.5. (a) The planning process for the individual program
12 plan described in Section 4646 shall include all of the following:

13 (1) Gathering information and conducting assessments to
14 determine the life goals, capabilities and strengths, preferences,
15 barriers, and concerns or problems of the person with
16 developmental disabilities. For children with developmental
17 disabilities, this process should include a review of the strengths,
18 preferences, and needs of the child and the family unit as a whole.
19 Assessments shall be conducted by qualified individuals and
20 performed in natural environments whenever possible. Information
21 shall be taken from the consumer, his or her parents and other
22 family members, his or her friends, advocates, authorized
23 representative, if applicable, providers of services and supports,
24 and other agencies. The assessment process shall reflect awareness
25 of, and sensitivity to, the lifestyle and cultural background of the
26 consumer and the family.

27 (2) A statement of goals, based on the needs, preferences, and
28 life choices of the individual with developmental disabilities, and
29 a statement of specific, time-limited objectives for implementing
30 the person's goals and addressing his or her needs. These objectives
31 shall be stated in terms that allow measurement of progress or
32 monitoring of service delivery. These goals and objectives should
33 maximize opportunities for the consumer to develop relationships,
34 be part of community life in the areas of community participation,
35 housing, work, school, and leisure, increase control over his or her
36 life, acquire increasingly positive roles in community life, and
37 develop competencies to help accomplish these goals.

38 (3) When developing individual program plans for children,
39 regional centers shall be guided by the principles, process, and
40 services and support parameters set forth in Section 4685.

1 (4) When developing an individual program plan for a transition
2 age youth or working age adult, the planning team shall consider
3 the Employment First Policy described in Chapter 14 (commencing
4 with Section 4868).

5 (5) A schedule of the type and amount of services and supports
6 to be purchased by the regional center or obtained from generic
7 agencies or other resources in order to achieve the individual
8 program plan goals and objectives, and identification of the
9 provider or providers of service responsible for attaining each
10 objective, including, but not limited to, vendors, contracted
11 providers, generic service agencies, and natural supports. The
12 individual program plan shall specify the approximate scheduled
13 start date for services and supports and shall contain timelines for
14 actions necessary to begin services and supports, including generic
15 services. *In addition to the requirements of subdivision (h) of*
16 *Section 4646, each regional center shall offer, and upon request*
17 *provide, a written copy of the individual program plan to the*
18 *consumer, and, when appropriate, his or her parents, legal*
19 *guardian or conservator, or authorized representative within 45*
20 *days of their request in a threshold language, as defined by*
21 *paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of*
22 *the California Code of Regulations.*

23 (6) When agreed to by the consumer, the parents, legally
24 appointed guardian, or authorized representative of a minor
25 consumer, or the legally appointed conservator of an adult
26 consumer or the authorized representative, including those
27 appointed pursuant to subdivision (a) of Section 4541, subdivision
28 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
29 of the general health status of the adult or child, including medical,
30 dental, and mental health needs, shall be conducted. This review
31 shall include a discussion of current medications, any observed
32 side effects, and the date of the last review of the medication.
33 Service providers shall cooperate with the planning team to provide
34 any information necessary to complete the health status review. If
35 any concerns are noted during the review, referrals shall be made
36 to regional center clinicians or to the consumer's physician, as
37 appropriate. Documentation of health status and referrals shall be
38 made in the consumer's record by the service coordinator.

39 (7) (A) The development of a transportation access plan for a
40 consumer when all of the following conditions are met:

1 (i) The regional center is purchasing private, specialized
2 transportation services or services from a residential, day, or other
3 provider, excluding vouchered service providers, to transport the
4 consumer to and from day or work services.

5 (ii) The planning team has determined that a consumer’s
6 community integration and participation could be safe and
7 enhanced through the use of public transportation services.

8 (iii) The planning team has determined that generic
9 transportation services are available and accessible.

10 (B) To maximize independence and community integration and
11 participation, the transportation access plan shall identify the
12 services and supports necessary to assist the consumer in accessing
13 public transportation and shall comply with Section 4648.35. These
14 services and supports may include, but are not limited to, mobility
15 training services and the use of transportation aides. Regional
16 centers are encouraged to coordinate with local public
17 transportation agencies.

18 (8) A schedule of regular periodic review and reevaluation to
19 ascertain that planned services have been provided, that objectives
20 have been fulfilled within the times specified, and that consumers
21 and families are satisfied with the individual program plan and its
22 implementation.

23 (b) For all active cases, individual program plans shall be
24 reviewed and modified by the planning team, through the process
25 described in Section 4646, as necessary, in response to the person’s
26 achievement or changing needs, and no less often than once every
27 three years. If the consumer or, where appropriate, the consumer’s
28 parents, legal guardian, authorized representative, or conservator
29 requests an individual program plan review, the individual program
30 shall be reviewed within 30 days after the request is submitted.

31 (c) (1) The department, with the participation of representatives
32 of a statewide consumer organization, the Association of Regional
33 Center Agencies, an organized labor organization representing
34 service coordination staff, and the state council shall prepare
35 training material and a standard format and instructions for the
36 preparation of individual program plans, which embody an
37 approach centered on the person and family.

38 (2) Each regional center shall use the training materials and
39 format prepared by the department pursuant to paragraph (1).

1 (3) The department shall biennially review a random sample of
2 individual program plans at each regional center to ensure that
3 these plans are being developed and modified in compliance with
4 Section 4646 and this section.

5 *SEC. 10. Section 4648 of the Welfare and Institutions Code is*
6 *amended to read:*

7 4648. In order to achieve the stated objectives of a consumer's
8 individual program plan, the regional center shall conduct activities,
9 including, but not limited to, all of the following:

10 (a) Securing needed services and supports.

11 (1) It is the intent of the Legislature that services and supports
12 assist individuals with developmental disabilities in achieving the
13 greatest self-sufficiency possible and in exercising personal
14 choices. The regional center shall secure services and supports
15 that meet the needs of the consumer, as determined in the
16 consumer's individual program plan, and within the context of the
17 individual program plan, the planning team shall give highest
18 preference to those services and supports which would allow
19 minors with developmental disabilities to live with their families,
20 adult persons with developmental disabilities to live as
21 independently as possible in the community, and that allow all
22 consumers to interact with persons without disabilities in positive,
23 meaningful ways.

24 (2) In implementing individual program plans, regional centers,
25 through the planning team, shall first consider services and supports
26 in natural community, home, work, and recreational settings.
27 Services and supports shall be flexible and individually tailored
28 to the consumer and, where appropriate, his or her family.

29 (3) A regional center may, pursuant to vendorization or a
30 contract, purchase services or supports for a consumer from any
31 individual or agency that the regional center and consumer or,
32 when appropriate, his or her parents, legal guardian, or conservator,
33 or authorized representatives, determines will best accomplish all
34 or any part of that consumer's program plan.

35 (A) Vendorization or contracting is the process for identification,
36 selection, and utilization of service vendors or contractors, based
37 on the qualifications and other requirements necessary in order to
38 provide the service.

39 (B) A regional center may reimburse an individual or agency
40 for services or supports provided to a regional center consumer if

1 the individual or agency has a rate of payment for vendored or
2 contracted services established by the department, pursuant to this
3 division, and is providing services pursuant to an emergency
4 vendorization or has completed the vendorization procedures or
5 has entered into a contract with the regional center and continues
6 to comply with the vendorization or contracting requirements. The
7 director shall adopt regulations governing the vendorization process
8 to be utilized by the department, regional centers, vendors, and
9 the individual or agency requesting vendorization.

10 (C) Regulations shall include, but not be limited to: the vendor
11 application process, and the basis for accepting or denying an
12 application; the qualification and requirements for each category
13 of services that may be provided to a regional center consumer
14 through a vendor; requirements for emergency vendorization;
15 procedures for termination of vendorization; the procedure for an
16 individual or an agency to appeal any vendorization decision made
17 by the department or regional center.

18 (D) A regional center may vendorize a licensed facility for
19 exclusive services to persons with developmental disabilities at a
20 capacity equal to or less than the facility's licensed capacity. A
21 facility already licensed on January 1, 1999, shall continue to be
22 vendorized at their full licensed capacity until the facility agrees
23 to vendorization at a reduced capacity.

24 (E) Effective July 1, 2009, notwithstanding any other law or
25 regulation, a regional center shall not newly vendor a State
26 Department of Social Services licensed 24-hour residential care
27 facility with a licensed capacity of 16 or more beds, unless the
28 facility qualifies for receipt of federal funds under the Medicaid
29 Program.

30 (4) Notwithstanding subparagraph (B) of paragraph (3), a
31 regional center may contract or issue a voucher for services and
32 supports provided to a consumer or family at a cost not to exceed
33 the maximum rate of payment for that service or support
34 established by the department. If a rate has not been established
35 by the department, the regional center may, for an interim period,
36 contract for a specified service or support with, and establish a
37 rate of payment for, any provider of the service or support
38 necessary to implement a consumer's individual program plan.
39 Contracts may be negotiated for a period of up to three years, with
40 annual review and subject to the availability of funds.

1 (5) In order to ensure the maximum flexibility and availability
2 of appropriate services and supports for persons with
3 developmental disabilities, the department shall establish and
4 maintain an equitable system of payment to providers of services
5 and supports identified as necessary to the implementation of a
6 consumers' individual program plan. The system of payment shall
7 include a provision for a rate to ensure that the provider can meet
8 the special needs of consumers and provide quality services and
9 supports in the least restrictive setting as required by law.

10 (6) The regional center and the consumer, or when appropriate,
11 his or her parents, legal guardian, conservator, or authorized
12 representative, including those appointed pursuant to subdivision
13 (a) of Section 4541, subdivision (b) of Section 4701.6, or
14 subdivision (e) of Section 4705, shall, pursuant to the individual
15 program plan, consider all of the following when selecting a
16 provider of consumer services and supports:

17 (A) A provider's ability to deliver quality services or supports
18 that can accomplish all or part of the consumer's individual
19 program plan.

20 (B) A provider's success in achieving the objectives set forth
21 in the individual program plan.

22 (C) Where appropriate, the existence of licensing, accreditation,
23 or professional certification.

24 (D) The cost of providing services or supports of comparable
25 quality by different providers, if available, shall be reviewed, and
26 the least costly available provider of comparable service, including
27 the cost of transportation, who is able to accomplish all or part of
28 the consumer's individual program plan, consistent with the
29 particular needs of the consumer and family as identified in the
30 individual program plan, shall be selected. In determining the least
31 costly provider, the availability of federal financial participation
32 shall be considered. The consumer shall not be required to use the
33 least costly provider if it will result in the consumer moving from
34 an existing provider of services or supports to more restrictive or
35 less integrated services or supports.

36 (E) The consumer's choice of providers, or, when appropriate,
37 the consumer's parent's, legal guardian's, authorized
38 representative's, or conservator's choice of providers.

39 (7) No service or support provided by any agency or individual
40 shall be continued unless the consumer or, when appropriate, his

1 or her parents, legal guardian, or conservator, or authorized
2 representative, including those appointed pursuant to subdivision
3 (a) of Section 4541, subdivision (b) of Section 4701.6, or
4 subdivision (e) of Section 4705, is satisfied and the regional center
5 and the consumer or, when appropriate, the person's parents or
6 legal guardian or conservator agree that planned services and
7 supports have been provided, and reasonable progress toward
8 objectives have been made.

9 (8) Regional center funds shall not be used to supplant the
10 budget of any agency that has a legal responsibility to serve all
11 members of the general public and is receiving public funds for
12 providing those services.

13 (9) (A) A regional center may, directly or through an agency
14 acting on behalf of the center, provide placement in, purchase of,
15 or follow-along services to persons with developmental disabilities
16 in, appropriate community living arrangements, including, but not
17 limited to, support service for consumers in homes they own or
18 lease, foster family placements, health care facilities, and licensed
19 community care facilities. In considering appropriate placement
20 alternatives for children with developmental disabilities, approval
21 by the child's parent or guardian shall be obtained before placement
22 is made.

23 (B) Effective July 1, 2012, notwithstanding any other law or
24 regulation, a regional center shall not purchase residential services
25 from a State Department of Social Services licensed 24-hour
26 residential care facility with a licensed capacity of 16 or more
27 beds. This prohibition on regional center purchase of residential
28 services shall not apply to any of the following:

29 (i) A residential facility with a licensed capacity of 16 or more
30 beds that has been approved to participate in the department's
31 Home and Community Based Services Waiver or another existing
32 waiver program or certified to participate in the Medi-Cal program.

33 (ii) A residential facility service provider that has a written
34 agreement and specific plan prior to July 1, 2012, with the
35 vendoring regional center to downsize the existing facility by
36 transitioning its residential services to living arrangements of 15
37 beds or less or restructure the large facility to meet federal
38 Medicaid eligibility requirements on or before June 30, 2013.

1 (iii) A residential facility licensed as a mental health
2 rehabilitation center by the State Department of Mental Health or
3 successor agency under any of the following circumstances:

4 (I) The facility is eligible for Medicaid reimbursement.

5 (II) The facility has a department-approved plan in place by
6 June 30, 2013, to transition to a program structure eligible for
7 federal Medicaid funding, and this transition will be completed by
8 June 30, 2014. The department may grant an extension for the date
9 by which the transition will be completed if the facility
10 demonstrates that it has made significant progress toward transition,
11 and states with specificity the timeframe by which the transition
12 will be completed and the specified steps that will be taken to
13 accomplish the transition. A regional center may pay for the costs
14 of care and treatment of a consumer residing in the facility on June
15 30, 2012, until June 30, 2013, inclusive, and, if the facility has a
16 department-approved plan in place by June 30, 2013, may continue
17 to pay the costs under this subparagraph until June 30, 2014, or
18 until the end of any period during which the department has granted
19 an extension.

20 (III) There is an emergency circumstance in which the regional
21 center determines that it cannot locate alternate federally eligible
22 services to meet the consumer's needs. Under such an emergency
23 circumstance, an assessment shall be completed by the regional
24 center as soon as possible and within 30 days of admission. An
25 individual program plan meeting shall be convened immediately
26 following the assessment to determine the services and supports
27 needed for stabilization and to develop a plan to transition the
28 consumer from the facility into the community. If transition is not
29 expected within 90 days of admission, an individual program plan
30 meeting shall be held to discuss the status of transition and to
31 determine if the consumer is still in need of placement in the
32 facility. Commencing October 1, 2012, this determination shall
33 be made after also considering resource options identified by the
34 statewide specialized resource service. If it is determined that
35 emergency services continue to be necessary, the regional center
36 shall submit an updated transition plan that can cover a period of
37 up to 90 days. In no event shall placements under these emergency
38 circumstances exceed 180 days.

39 (C) (i) Effective July 1, 2012, notwithstanding any other law
40 or regulation, a regional center shall not purchase new residential

1 services from, or place a consumer in, institutions for mental
2 disease, as described in Part 5 (commencing with Section 5900)
3 of Division 5, for which federal Medicaid funding is not available.
4 Effective July 1, 2013, this prohibition applies regardless of the
5 availability of federal funding.

6 (ii) The prohibition described in clause (i) shall not apply to
7 emergencies, as determined by the regional center, when a regional
8 center cannot locate alternate services to meet the consumer's
9 needs. As soon as possible within 30 days of admission due to an
10 emergency, an assessment shall be completed by the regional
11 center. An individual program plan meeting shall be convened
12 immediately following the assessment, to determine the services
13 and supports needed for stabilization and to develop a plan to
14 transition the consumer from the facility to the community. If
15 transition is not expected within 90 days of admission, an
16 emergency program plan meeting shall be held to discuss the status
17 of the transition and to determine if the consumer is still in need
18 of placement in the facility. If emergency services continue to be
19 necessary, the regional center shall submit an updated transition
20 plan to the department for an extension of up to 90 days. Placement
21 shall not exceed 180 days.

22 (iii) To the extent feasible, prior to any admission, the regional
23 center shall consider resource options identified by the statewide
24 specialized resource service established pursuant to subdivision
25 (b) of Section 4418.25.

26 (iv) The clients' rights advocate shall be notified of each
27 admission and individual program planning meeting pursuant to
28 this subparagraph and may participate in all individual program
29 planning meetings unless the consumer objects on his or her own
30 behalf. For purposes of this clause, notification to the clients' rights
31 advocate shall include a copy of the most recent comprehensive
32 assessment or updated assessment and the time, date, and location
33 of the meeting, and shall be provided as soon as practicable, but
34 not less than seven calendar days prior to the meeting.

35 (v) *If a consumer is placed in an institution for mental disease*
36 *by another entity, the institution for mental disease shall inform*
37 *the regional center of the placement within five days of the date*
38 *the consumer is admitted. If an individual's records indicate that*
39 *he or she is a regional center consumer, the institution for mental*
40 *disease shall make every effort to contact the local regional center*

1 *or department to determine which regional center to provide notice.*
2 *As soon as possible within 30 days of admission to an institution*
3 *for mental disease due to an emergency pursuant to clause (ii), or*
4 *within 30 days of notification of admission to an institution for*
5 *mental disease by an entity other than a regional center, an*
6 *assessment shall be completed by the regional center.*

7 ~~(v)~~

8 (vi) Regional centers shall complete a comprehensive assessment
9 of any consumer residing in an institution for mental disease as of
10 July 1, 2012, for which federal Medicaid funding is not available,
11 and for any consumer residing in an institution for mental disease
12 as of July 1, 2013, without regard to federal funding. The
13 comprehensive assessment shall be completed prior to the
14 consumer's next scheduled individual program plan meeting and
15 shall include identification of the services and supports needed
16 and the timeline for identifying or developing those services needed
17 to transition the consumer back to the community. Effective
18 October 1, 2012, the regional center shall also consider resource
19 options identified by the statewide specialized resource service.
20 For each individual program plan meeting convened pursuant to
21 this subparagraph, the clients' rights advocate for the regional
22 center shall be notified of the meeting and may participate in the
23 meeting unless the consumer objects on his or her own behalf. For
24 purposes of this clause, notification to the clients' rights advocate
25 shall include the time, date, and location of the meeting, and shall
26 be provided as soon as practicable, but not less than seven calendar
27 days prior to the meeting.

28 (D) A person with developmental disabilities placed by the
29 regional center in a community living arrangement shall have the
30 rights specified in this division. These rights shall be brought to
31 the person's attention by any means necessary to reasonably
32 communicate these rights to each resident, provided that, at a
33 minimum, the Director of Developmental Services prepare,
34 provide, and require to be clearly posted in all residential facilities
35 and day programs a poster using simplified language and pictures
36 that is designed to be more understandable by persons with
37 intellectual disabilities and that the rights information shall also
38 be available through the regional center to each residential facility
39 and day program in alternative formats, including, but not limited

1 to, other languages, braille, and audiotapes, when necessary to
2 meet the communication needs of consumers.

3 (E) Consumers are eligible to receive supplemental services
4 including, but not limited to, additional staffing, pursuant to the
5 process described in subdivision (d) of Section 4646. Necessary
6 additional staffing that is not specifically included in the rates paid
7 to the service provider may be purchased by the regional center if
8 the additional staff are in excess of the amount required by
9 regulation and the individual's planning team determines the
10 additional services are consistent with the provisions of the
11 individual program plan. Additional staff should be periodically
12 reviewed by the planning team for consistency with the individual
13 program plan objectives in order to determine if continued use of
14 the additional staff is necessary and appropriate and if the service
15 is producing outcomes consistent with the individual program plan.
16 Regional centers shall monitor programs to ensure that the
17 additional staff is being provided and utilized appropriately.

18 (10) Emergency and crisis intervention services including, but
19 not limited to, mental health services and behavior modification
20 services, may be provided, as needed, to maintain persons with
21 developmental disabilities in the living arrangement of their own
22 choice. Crisis services shall first be provided without disrupting a
23 person's living arrangement. If crisis intervention services are
24 unsuccessful, emergency housing shall be available in the person's
25 home community. If dislocation cannot be avoided, every effort
26 shall be made to return the person to his or her living arrangement
27 of choice, with all necessary supports, as soon as possible.

28 (11) Among other service and support options, planning teams
29 shall consider the use of paid roommates or neighbors, personal
30 assistance, technical and financial assistance, and all other service
31 and support options which would result in greater self-sufficiency
32 for the consumer and cost-effectiveness to the state.

33 (12) When facilitation as specified in an individual program
34 plan requires the services of an individual, the facilitator shall be
35 of the consumer's choosing.

36 (13) The community support may be provided to assist
37 individuals with developmental disabilities to fully participate in
38 community and civic life, including, but not limited to, programs,
39 services, work opportunities, business, and activities available to

1 persons without disabilities. This facilitation shall include, but not
2 be limited to, any of the following:

3 (A) Outreach and education to programs and services within
4 the community.

5 (B) Direct support to individuals that would enable them to
6 more fully participate in their community.

7 (C) Developing unpaid natural supports when possible.

8 (14) When feasible and recommended by the individual program
9 planning team, for purposes of facilitating better and cost-effective
10 services for consumers or family members, technology, including
11 telecommunication technology, may be used in conjunction with
12 other services and supports. Technology in lieu of a consumer's
13 in-person appearances at judicial proceedings or administrative
14 due process hearings may be used only if the consumer or, when
15 appropriate, the consumer's parent, legal guardian, conservator,
16 or authorized representative, gives informed consent. Technology
17 may be used in lieu of, or in conjunction with, in-person training
18 for providers, as appropriate.

19 (15) Other services and supports may be provided as set forth
20 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

21 (16) Notwithstanding any other law or regulation, effective July
22 1, 2009, regional centers shall not purchase experimental
23 treatments, therapeutic services, or devices that have not been
24 clinically determined or scientifically proven to be effective or
25 safe or for which risks and complications are unknown.
26 Experimental treatments or therapeutic services include
27 experimental medical or nutritional therapy when the use of the
28 product for that purpose is not a general physician practice. For
29 regional center consumers receiving these services as part of their
30 individual program plan (IPP) or individualized family service
31 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
32 1, 2009.

33 (b) (1) Advocacy for, and protection of, the civil, legal, and
34 service rights of persons with developmental disabilities as
35 established in this division.

36 (2) Whenever the advocacy efforts of a regional center to secure
37 or protect the civil, legal, or service rights of any of its consumers
38 prove ineffective, the regional center or the person with
39 developmental disabilities or his or her parents, legal guardian, or

1 other representative may request advocacy assistance from the
2 state council.

3 (c) The regional center may assist consumers and families
4 directly, or through a provider, in identifying and building circles
5 of support within the community.

6 (d) In order to increase the quality of community services and
7 protect consumers, the regional center shall, when appropriate,
8 take either of the following actions:

9 (1) Identify services and supports that are ineffective or of poor
10 quality and provide or secure consultation, training, or technical
11 assistance services for any agency or individual provider to assist
12 that agency or individual provider in upgrading the quality of
13 services or supports.

14 (2) Identify providers of services or supports that may not be
15 in compliance with local, state, and federal statutes and regulations
16 and notify the appropriate licensing or regulatory authority to
17 investigate the possible noncompliance.

18 (e) When necessary to expand the availability of needed services
19 of good quality, a regional center may take actions that include,
20 but are not limited to, the following:

21 (1) Soliciting an individual or agency by requests for proposals
22 or other means, to provide needed services or supports not presently
23 available.

24 (2) Requesting funds from the Program Development Fund,
25 pursuant to Section 4677, or community placement plan funds
26 designated from that fund, to reimburse the startup costs needed
27 to initiate a new program of services and supports.

28 (3) Using creative and innovative service delivery models,
29 including, but not limited to, natural supports.

30 (f) Except in emergency situations, a regional center shall not
31 provide direct treatment and therapeutic services, but shall utilize
32 appropriate public and private community agencies and service
33 providers to obtain those services for its consumers.

34 (g) When there are identified gaps in the system of services and
35 supports or when there are identified consumers for whom no
36 provider will provide services and supports contained in his or her
37 individual program plan, the department may provide the services
38 and supports directly.

39 (h) At least annually, regional centers shall provide the
40 consumer, his or her parents, legal guardian, conservator, or

1 authorized representative a statement of services and supports the
2 regional center purchased for the purpose of ensuring that they are
3 delivered. The statement shall include the type, unit, month, and
4 cost of services and supports purchased.

5 *SEC. 11. Section 4681.6 of the Welfare and Institutions Code*
6 *is amended to read:*

7 4681.6. (a) Notwithstanding any other law or regulation,
8 commencing July 1, 2008:

9 (1) A regional center shall not pay an existing residential service
10 provider, for services where rates are determined through a
11 negotiation between the regional center and the provider, a rate
12 higher than the rate in effect on June 30, 2008, unless the increase
13 is required by a contract between the regional center and the vendor
14 that is in effect on June 30, 2008, or the regional center
15 demonstrates that the approval is necessary to protect the
16 consumer's health or safety and the department has granted prior
17 written authorization.

18 (2) A regional center shall not negotiate a rate with a new
19 residential service provider, for services where rates are determined
20 through a negotiation between the regional center and the provider,
21 that is higher than the regional center's median rate for the same
22 service code and unit of service, or the statewide median rate for
23 the same service code and unit of service, whichever is lower. The
24 unit of service designation shall conform with an existing regional
25 center designation or, if none exists, a designation used to calculate
26 the statewide median rate for the same service. The regional center
27 shall annually certify to the department its median rate for each
28 negotiated rate service code, by designated unit of service. This
29 certification shall be subject to verification through the
30 department's biennial fiscal audit of the regional center.

31 (b) Notwithstanding subdivision (a), commencing July 1, 2014,
32 regional centers may negotiate a rate adjustment with residential
33 service providers regarding rates that are otherwise restricted
34 pursuant to subdivision (a), if the adjustment is necessary in order
35 to pay employees no less than the minimum wage as established
36 by Section 1182.12 of the Labor Code, as amended by Chapter
37 351 of the Statutes of 2013, and only for the purpose of adjusting
38 payroll costs associated with the minimum wage increase. The
39 rate adjustment shall be specific to the unit of service designation
40 that is affected by the increased minimum wage, shall be specific

1 to payroll costs associated with any increase necessary to adjust
 2 employee pay only to the extent necessary to bring pay into
 3 compliance with the increased state minimum wage, and shall not
 4 be used as a general wage enhancement for employees paid above
 5 the minimum wage. Regional centers shall maintain documentation
 6 on the process to determine, and the rationale for granting, any
 7 rate adjustment associated with the minimum wage increase.

8 *(c) Notwithstanding subdivision (a), commencing July 1, 2015,*
 9 *regional centers may negotiate a rate adjustment with residential*
 10 *service providers regarding rates that are otherwise restricted*
 11 *pursuant to subdivision (a), if the adjustment is necessary to*
 12 *implement Article 1.5 (commencing with Section 245) of Chapter*
 13 *1 of Part 1 of Division 2 of the Labor Code, as added by Chapter*
 14 *317 of the Statutes of 2014. The rate adjustment may be applied*
 15 *only if a minimum of 24 hours or three days of paid sick leave per*
 16 *year was not a benefit provided to employees as of June 30, 2015,*
 17 *and shall be specific to payroll costs associated with any increase*
 18 *necessary to compensate an employee up to a maximum of 24*
 19 *hours or three days of paid sick leave in each year of employment.*

20 ~~(e)~~

21 *(d) For purposes of this section, “residential service provider”*
 22 *includes Adult Residential Facilities for Persons with Special*
 23 *Health Care Needs, as described in Section 4684.50.*

24 ~~(e)~~

25 *(e) This section shall not apply to those services for which rates*
 26 *are determined by the State Department of Health Care Services,*
 27 *or the State Department of Developmental Services, or are usual*
 28 *and customary.*

29 *SEC. 12. Section 4684.81 of the Welfare and Institutions Code*
 30 *is amended to read:*

31 4684.81. (a) The department shall implement a pilot project
 32 using community placement plan funds, as appropriated in the
 33 State Department of Developmental Services’ annual budget, to
 34 test the effectiveness of providing enhanced behavioral supports
 35 in homelike community settings. The enhanced behavioral supports
 36 homes shall be for purposes of providing intensive behavioral
 37 services and supports to adults and children with developmental
 38 disabilities who need intensive services and supports due to
 39 challenging behaviors that cannot be managed in a community
 40 setting without the availability of enhanced behavioral services

1 and supports, and who are at risk of institutionalization or
2 out-of-state placement, or are transitioning to the community from
3 a developmental center, other state-operated residential facility,
4 institution for mental disease, or out-of-state placement.

5 (b) An enhanced behavioral supports home may only be
6 established in an adult residential facility or a group home approved
7 through a regional center community placement plan pursuant to
8 Section 4418.25.

9 (c) ~~No more than six enhanced~~ *Enhanced* behavioral supports
10 homes may be approved by the State Department of Developmental
11 Services each fiscal year in which the pilot program is in effect
12 and to the extent funding is available for this purpose, each for no
13 more than four individuals with developmental disabilities. The
14 homes shall be located throughout the state, as determined by the
15 State Department of Developmental Services, based on regional
16 center requests.

17 (d) Each enhanced behavioral supports home shall be licensed
18 as an adult residential facility or a group home pursuant to the
19 California Community Care Facilities Act (Chapter 3 (commencing
20 with Section 1500) of Division 2 of the Health and Safety Code)
21 and certified by the State Department of Developmental Services,
22 shall exceed the minimum requirements for a Residential Facility
23 Service Level 4-i pursuant to Sections 56004 and 56013 of Title
24 17 of the California Code of Regulations, and shall meet all
25 applicable statutory and regulatory requirements applicable to a
26 facility licensed as an adult residential facility or a group home
27 for facility licensing, seclusion, and restraint, including Division
28 1.5 (commencing with Section 1180) of the Health and Safety
29 Code, and the use of behavior modification interventions, subject
30 to any additional requirements applicable to enhanced behavioral
31 supports homes established by statute or by regulation promulgated
32 pursuant to this article and Article 9.5 (commencing with Section
33 1567.61) of Chapter 3 of Division 2 of the Health and Safety Code.

34 (e) A regional center shall not place a consumer in an enhanced
35 behavioral supports home unless the program is certified by the
36 State Department of Developmental Services and the facility is
37 licensed by the State Department of Social Services.

38 (f) The State Department of Developmental Services shall be
39 responsible for granting the certificate of program approval for an
40 enhanced behavioral supports home.

1 (g) The State Department of Developmental Services may,
2 pursuant to Section 4684.85, decertify any enhanced behavioral
3 supports home that does not comply with program requirements.
4 Upon decertification of an enhanced behavioral supports home,
5 the State Department of Developmental Services shall report the
6 decertification to the State Department of Social Services. The
7 State Department of Social Services shall revoke the license of the
8 enhanced behavioral supports home that has been decertified
9 pursuant to Section 1550 of the Health and Safety Code.

10 (h) If the State Department of Developmental Services
11 determines that urgent action is necessary to protect a consumer
12 residing in an enhanced behavioral supports home from physical
13 or mental abuse, abandonment, or any other substantial threat to
14 the consumer's health and safety, the State Department of
15 Developmental Services may request that the regional center or
16 centers remove the consumer from the enhanced behavioral
17 supports home or direct the regional center or centers to obtain
18 alternative or additional services for the consumers within 24 hours
19 of that determination. When possible, an individual program plan
20 (IPP) meeting shall be convened to determine the appropriate
21 action pursuant to this section. In any case, an IPP meeting shall
22 be convened within 30 days following an action pursuant to this
23 section.

24 (i) Enhanced behavioral supports homes shall have a facility
25 program plan approved by the State Department of Developmental
26 Services.

27 (1) The facility program plan approved by the State Department
28 of Developmental Services shall be submitted to the State
29 Department of Social Services for inclusion in the facility plan of
30 operation.

31 (2) The vendoring regional center and each consumer's regional
32 center shall have joint responsibility for monitoring and evaluating
33 the services provided in the enhanced behavioral supports home.
34 Monitoring shall include at least quarterly, or more frequently if
35 specified in the consumer's individual program plan, face-to-face,
36 onsite case management visits with each consumer by his or her
37 regional center and at least quarterly quality assurance visits by
38 the vendoring regional center. The State Department of
39 Developmental Services shall monitor and ensure the regional
40 centers' compliance with their monitoring responsibilities.

1 (j) The State Department of Developmental Services shall
2 establish by regulation a rate methodology for enhanced behavioral
3 supports homes that includes a fixed facility component for
4 residential services and an individualized services and supports
5 component based on each consumer's needs as determined through
6 the individual program plan process, which may include assistance
7 with transitioning to a less restrictive community residential setting.

8 (k) (1) The established facility rate for a full month of service,
9 as defined in regulations adopted pursuant to this article, shall be
10 paid based on the licensed capacity of the facility once the facility
11 reaches maximum capacity, despite the temporary absence of one
12 or more consumers from the facility or subsequent temporary
13 vacancies created by consumers moving from the facility. Prior to
14 the facility reaching licensed capacity, the facility rate shall be
15 prorated based on the number of consumers residing in the facility.

16 When a consumer is temporarily absent from the facility,
17 including when a consumer is in need for inpatient care in a health
18 facility, as defined in subdivision (a), (b), or (c) of Section 1250
19 of the Health and Safety Code, the regional center may, based on
20 consumer need, continue to fund individual services, in addition
21 to paying the facility rate. Individual consumer services funded
22 by the regional center during a consumer's absence from the facility
23 shall be approved by the regional center director and shall only be
24 approved in 14-day increments. The regional center shall maintain
25 documentation of the need for these services and the regional center
26 director's approval.

27 (2) An enhanced behavioral supports home using delayed egress
28 devices, in compliance with Section 1531.1 of the Health and
29 Safety Code, may utilize secured perimeters, in compliance with
30 Section 1531.15 of the Health and Safety Code and applicable
31 regulations. No more than two enhanced behavioral supports homes
32 using delayed egress devices in combination with secured
33 perimeters may be certified by the State Department of
34 Developmental Services during the first year of the pilot program,
35 one in northern California and one in southern California, and no
36 more than one additional home using delayed egress devices in
37 combination with a secured perimeter may be certified by the State
38 Department of Developmental Services in each subsequent year
39 of the pilot program. No more than six enhanced behavioral
40 supports homes that use delayed egress devices in combination

1 with a secured perimeter shall be certified during the pilot program.
2 Enhanced behavioral supports homes shall not be counted for
3 purposes of the statewide limit established in regulations on the
4 total number of beds permitted in homes with delayed egress
5 devices in combination with secured perimeters pursuant to
6 subdivision (k) of Section 1531.15 of the Health and Safety Code.
7 The department shall make reasonable efforts to include enhanced
8 behavioral supports homes within the statewide limit.

9 *SEC. 13. Section 4685.8 of the Welfare and Institutions Code*
10 *is amended to read:*

11 4685.8. (a) The department shall implement a statewide
12 Self-Determination Program. The Self-Determination Program
13 shall be available in every regional center catchment area to provide
14 participants and their families, within an individual budget,
15 increased flexibility and choice, and greater control over decisions,
16 resources, and needed and desired services and supports to
17 implement their IPP. The statewide Self-Determination Program
18 shall be phased in over three years, and during this phase-in period,
19 shall serve up to 2,500 regional center consumers, inclusive of the
20 remaining participants in the self-determination pilot projects
21 authorized pursuant to Section 13 of Chapter 1043 of the Statutes
22 of 1998, as amended, and Article 4 (commencing with Section
23 4669.2) of Chapter 5. Following the phase-in period, the program
24 shall be available on a voluntary basis to all regional center
25 ~~consumers~~ consumers, including residents in developmental centers
26 who are moving to the community, who are eligible for the
27 Self-Determination Program. The program shall be available to
28 individuals who reflect the disability, ethnic, and geographic
29 diversity of the state. *The Department of Finance may approve,*
30 *upon a request from the department and no sooner than 30 days*
31 *following notification to the Joint Legislative Budget Committee,*
32 *an increase to the number of consumers served by the*
33 *Self-Determination Program before the end of the three-year*
34 *phase-in period.*

35 (b) ~~The department~~ department, in establishing the statewide
36 program program, shall do both of the following:

37 (1) For the first three years of the Self-Determination Program,
38 determine, as part of the contracting process described in Sections
39 4620 and 4629, the number of participants each regional center
40 shall serve in its Self-Determination Program. To ensure that the

1 program is available on an equitable basis to participants in all
2 regional center catchment areas, the number of Self-Determination
3 Program participants in each regional center shall be based on the
4 relative percentage of total consumers served by the regional
5 centers minus any remaining participants in the self-determination
6 pilot projects authorized pursuant to Section 13 of Chapter 1043
7 of the Statutes of 1998, as amended, and Article 4 (commencing
8 with Section 4669.2) of Chapter 5 or another equitable basis.

9 (2) Ensure all of the following:

10 (A) Oversight of expenditure of self-determined funds and the
11 achievement of participant outcomes over time.

12 (B) Increased participant control over which services and
13 supports best meet his or her needs and the IPP objectives. A
14 participant's unique support system may include the purchase of
15 existing service offerings from service providers or local
16 businesses, hiring his or her own support workers, or negotiating
17 unique service arrangements with local community resources.

18 (C) Comprehensive person-centered planning, including an
19 individual budget and services that are outcome based.

20 (D) Consumer and family training to ensure understanding of
21 the principles of self-determination, the planning process, and the
22 management of budgets, services, and staff.

23 (E) Choice of independent facilitators who can assist with the
24 person-centered planning process and choice of financial
25 management services providers vendored by regional centers who
26 can assist with payments and provide employee-related services.

27 (F) Innovation that will more effectively allow participants to
28 achieve their goals.

29 (c) For purposes of this section, the following definitions apply:

30 (1) "Financial management services" means services or
31 functions that assist the participant to manage and direct the
32 distribution of funds contained in the individual budget, and ensure
33 that the participant has the financial resources to implement his or
34 her IPP throughout the year. These may include bill paying services
35 and activities that facilitate the employment of service and support
36 workers by the participant, including, but not limited to, fiscal
37 accounting, tax withholding, compliance with relevant state and
38 federal employment laws, assisting the participant in verifying
39 provider qualifications, including criminal background checks,
40 and expenditure reports. The financial management services

1 provider shall meet the requirements of Sections 58884, 58886,
2 and 58887 of Title 17 of the California Code of Regulations and
3 other specific qualifications established by the department. The
4 costs of financial management services shall be paid by the
5 participant out of his or her individual budget, except for the cost
6 of obtaining the criminal background check specified in subdivision
7 (w).

8 (2) “Independent facilitator” means a person, selected and
9 directed by the participant, who is not otherwise providing services
10 to the participant pursuant to his or her IPP and is not employed
11 by a person providing services to the participant. The independent
12 facilitator may assist the participant in making informed decisions
13 about the individual budget, and in locating, accessing, and
14 coordinating services and supports consistent with the participant’s
15 IPP. He or she is available to assist in identifying immediate and
16 long-term needs, developing options to meet those needs, leading,
17 participating, or advocating on behalf of the participant in the
18 person-centered planning process and development of the IPP, and
19 obtaining identified services and supports. The cost of the
20 independent facilitator, if any, shall be paid by the participant out
21 of his or her individual budget. An independent facilitator shall
22 receive training in the principles of self-determination, the
23 person-centered planning process, and the other responsibilities
24 described in this paragraph at his or her own cost.

25 (3) “Individual budget” means the amount of regional center
26 purchase of service funding available to the participant for the
27 purchase of services and supports necessary to implement the IPP.
28 The individual budget shall be determined using a fair, equitable,
29 and transparent methodology.

30 (4) “IPP” means individual program plan, as described in Section
31 4646.

32 (5) “Participant” means an individual, and when appropriate,
33 his or her parents, legal guardian or conservator, or authorized
34 representative, who has been deemed eligible for, and has
35 voluntarily agreed to participate in, the Self-Determination
36 Program.

37 (6) “Self-determination” means a voluntary delivery system
38 consisting of a defined and comprehensive mix of services and
39 supports, selected and directed by a participant through
40 person-centered planning, in order to meet the objectives in his or

1 her IPP. Self-determination services and supports are designed to
2 assist the participant to achieve personally defined outcomes in
3 community settings that promote inclusion. The Self-Determination
4 Program shall only fund services and supports provided pursuant
5 to this division that the federal Centers for Medicare and Medicaid
6 Services determines are eligible for federal financial participation.

7 (d) Participation in the Self-Determination Program is fully
8 voluntary. A participant may choose to participate in, and may
9 choose to leave, the Self-Determination Program at any time. A
10 regional center shall not require or prohibit participation in the
11 Self-Determination Program as a condition of eligibility for, or
12 the delivery of, services and supports otherwise available under
13 this division. Participation in the Self-Determination Program shall
14 be available to any regional center consumer who meets the
15 following eligibility requirements:

16 (1) The participant has a developmental disability, as defined
17 in Section 4512, and is receiving services pursuant to this division.

18 (2) The consumer does not live in a licensed long-term health
19 care facility, as defined in paragraph (44) of subdivision (a) of
20 Section 54302 of Title 17 of the California Code of Regulations.
21 An individual, and when appropriate his or her parent, legal
22 guardian or conservator, or authorized representative, who is not
23 eligible to participate in the Self-Determination Program pursuant
24 to this paragraph may request that the regional center provide
25 person-centered planning services in order to make arrangements
26 for transition to the Self-Determination Program, provided that he
27 or she is reasonably expected to transition to the community within
28 90 days. In that case, the regional center shall initiate
29 person-centered planning services within 60 days of that request.

30 (3) The participant agrees to all of the following terms and
31 conditions:

32 (A) The participant shall receive an orientation to the
33 Self-Determination Program prior to enrollment, which includes
34 the principles of self-determination, the role of the independent
35 facilitator and the financial management services provider,
36 person-centered planning, and development of a budget.

37 (B) The participant shall utilize the services and supports
38 available within the Self-Determination Program only when generic
39 services and supports are not available.

1 (C) The participant shall only purchase services and supports
2 necessary to implement his or her IPP and shall comply with any
3 and all other terms and conditions for participation in the
4 Self-Determination Program described in this section.

5 (D) The participant shall manage Self-Determination Program
6 services and supports within his or her individual budget.

7 (E) The participant shall utilize the services of a financial
8 management services provider of his or her own choosing and who
9 is vendored by a regional center.

10 (F) The participant may utilize the services of an independent
11 facilitator of his or her own choosing for the purpose of providing
12 services and functions as described in paragraph (2) of subdivision
13 (c). If the participant elects not to use an independent facilitator,
14 he or she may use his or her regional center service coordinator to
15 provide the services and functions described in paragraph (2) of
16 subdivision (c).

17 (e) A participant who is not Medi-Cal eligible may participate
18 in the Self-Determination Program and receive self-determination
19 services and supports if all other program eligibility requirements
20 are met and the services and supports are otherwise eligible for
21 federal financial participation.

22 (f) An individual receiving services and supports under a
23 self-determination pilot project authorized pursuant to Section 13
24 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant
25 to Article 4 (commencing with Section 4669.2) of Chapter 5, may
26 elect to continue to receive self-determination services and supports
27 pursuant to this section or the regional center shall provide for the
28 participant’s transition from the self-determination pilot program
29 to other services and supports. This transition shall include the
30 development of a new IPP that reflects the services and supports
31 necessary to meet the individual’s needs. The regional center shall
32 ensure that there is no gap in services and supports during the
33 transition period.

34 (g) The additional federal financial participation funds generated
35 by the former participants of the self-determination pilot projects
36 authorized pursuant to Section 13 of Chapter 1043 of the Statutes
37 of 1998, as amended, or pursuant to Article 4 (commencing with
38 Section 4669.2) of Chapter 5, shall be used as follows:

39 (1) First, to offset the cost to the department for the criminal
40 background check conducted pursuant to subdivision~~(w)~~; (w) and

1 other administrative costs incurred by the department in
2 implementing the Self-Determination Program.

3 (2) With the remaining funds, to offset the costs to the regional
4 centers in implementing the Self-Determination Program,
5 including, but not limited to, operations costs for caseload ratio
6 enhancement, training for regional center staff, costs associated
7 with the participant's initial person-centered planning meeting,
8 the development of the participant's initial individual budget, and
9 the costs associated with training consumers and family members.

10 (h) If at any time during participation in the Self-Determination
11 Program a regional center determines that a participant is no longer
12 eligible to continue in, or a participant voluntarily chooses to exit,
13 the Self-Determination Program, the regional center shall provide
14 for the participant's transition from the Self-Determination Program
15 to other services and supports. This transition shall include the
16 development of a new IPP that reflects the services and supports
17 necessary to meet the individual's needs. The regional center shall
18 ensure that there is no gap in services and supports during the
19 transition period.

20 (i) An individual determined to be ineligible for or who
21 voluntarily exits the Self-Determination Program shall be permitted
22 to return to the Self-Determination Program upon meeting all
23 applicable eligibility criteria and upon approval of the participant's
24 planning team, as described in subdivision (j) of Section 4512. An
25 individual who has voluntarily exited the Self-Determination
26 Program shall not return to the program for at least 12 months.
27 During the first three years of the program, the individual's right
28 to return to the program is conditioned on his or her regional center
29 not having reached the participant cap imposed by paragraph (1)
30 of subdivision (b).

31 (j) An individual who participates in the Self-Determination
32 Program may elect to continue to receive self-determination
33 services and supports if he or she transfers to another regional
34 center catchment area, provided that he or she remains eligible for
35 the Self-Determination Program pursuant to subdivision (d). The
36 balance of the participant's individual budget shall be reallocated
37 to the regional center to which he or she transfers.

38 (k) The IPP team shall utilize the person-centered planning
39 process to develop the IPP for a participant. The IPP shall detail
40 the goals and objectives of the participant that are to be met through

1 the purchase of participant-selected services and supports. The
2 IPP team shall determine the individual budget to ensure the budget
3 assists the participant to achieve the outcomes set forth in his or
4 her IPP and ensures his or her health and safety. The completed
5 individual budget shall be attached to the IPP.

6 (l) The participant shall implement his or her IPP, including
7 choosing and purchasing the services and supports allowable under
8 this section necessary to implement the plan. A participant is
9 exempt from the cost control restrictions regarding the purchases
10 of services and supports pursuant to Sections 4648.5 and 4686.5.
11 A regional center shall not prohibit the purchase of any service or
12 support that is otherwise allowable under this section.

13 (m) A participant shall have all the rights established in Sections
14 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section
15 4700).

16 (n) (1) Except as provided in paragraph (4), the IPP team shall
17 determine the initial and any revised individual budget for the
18 participant using the following methodology:

19 (A) (i) Except as specified in clause (ii), for a participant who
20 is a current consumer of the regional center, his or her individual
21 budget shall be the total amount of the most recently available 12
22 months of purchase of service expenditures for the participant.

23 (ii) An adjustment may be made to the amount specified in
24 clause (i) if both of the following occur:

25 (I) The IPP team determines that an adjustment to this amount
26 is necessary due to a change in the participant's circumstances,
27 needs, or resources that would result in an increase or decrease in
28 purchase of service expenditures, or the IPP team identifies prior
29 needs or resources that were unaddressed in the IPP, which would
30 have resulted in an increase or decrease in purchase of service
31 expenditures.

32 (II) The regional center certifies on the individual budget
33 document that regional center expenditures for the individual
34 budget, including any adjustment, would have occurred regardless
35 of the individual's participation in the Self-Determination Program.

36 (iii) For purposes of clauses (i) and (ii), the amount of the
37 individual budget shall not be increased to cover the cost of the
38 independent facilitator or the financial management services.

39 (B) For a participant who is either newly eligible for regional
40 center services or who does not have 12 months of purchase service

1 expenditures, his or her individual budget shall be calculated as
2 follows:

3 (i) The IPP team shall identify the services and supports needed
4 by the participant and available resources, as required by Section
5 4646.

6 (ii) The regional center shall calculate the cost of providing the
7 services and supports to be purchased by the regional center by
8 using the average cost paid by the regional center for each service
9 or support unless the regional center determines that the consumer
10 has a unique need that requires a higher or lower cost. The regional
11 center shall certify on the individual budget document that this
12 amount would have been expended using regional center purchase
13 of service funds regardless of the individual's participation in the
14 Self-Determination Program.

15 (iii) For purposes of clauses (i) and (ii), the amount of the
16 individual budget shall not be increased to cover the cost of the
17 independent facilitator or the financial management services.

18 (2) The amount of the individual budget shall be available to
19 the participant each year for the purchase of program services and
20 supports. An individual budget shall be calculated no more than
21 once in a 12-month period, unless revised to reflect a change in
22 circumstances, needs, or resources of the participant using the
23 process specified in clause (ii) of subparagraph (A) of paragraph
24 (1).

25 (3) The individual budget shall be assigned to uniform budget
26 categories developed by the department in consultation with
27 stakeholders and distributed according to the timing of the
28 anticipated expenditures in the IPP and in a manner that ensures
29 that the participant has the financial resources to implement his or
30 her IPP throughout the year.

31 (4) The department, in consultation with stakeholders, may
32 develop alternative methodologies for individual budgets that are
33 computed in a fair, transparent, and equitable manner and are based
34 on consumer characteristics and needs, and that include a method
35 for adjusting individual budgets to address a participant's change
36 in circumstances or needs.

37 (o) Annually, participants may transfer up to 10 percent of the
38 funds originally distributed to any budget category set forth in
39 paragraph (3) of subdivision (n) to another budget category or
40 categories. Transfers in excess of 10 percent of the original amount

1 allocated to any budget category may be made upon the approval
2 of the regional center or the participant's IPP team.

3 (p) Consistent with the implementation date of the IPP, the IPP
4 team shall annually ascertain from the participant whether there
5 are any circumstances or needs that require a change to the annual
6 individual budget. Based on that review, the IPP team shall
7 calculate a new individual budget consistent with the methodology
8 identified in subdivision (n).

9 (q) (1) On or before December 31, 2014, the department shall
10 apply for federal Medicaid funding for the Self-Determination
11 Program by doing one or more of the following:

12 (A) Applying for a state plan amendment.

13 (B) Applying for an amendment to a current home- and
14 community-based waiver for individuals with developmental
15 disabilities.

16 (C) Applying for a new waiver.

17 (D) Seeking to maximize federal financial participation through
18 other means.

19 (2) To the extent feasible, the state plan amendment, waiver, or
20 other federal request described in paragraph (1) shall incorporate
21 the eligibility requirements, benefits, and operational requirements
22 set forth in this section. Except for the provisions of subdivisions
23 (k), (m), (p), and this subdivision, the department may modify
24 eligibility requirements, benefits, and operational requirements as
25 needed to secure approval of federal funding.

26 (3) Contingent upon approval of federal funding, the
27 Self-Determination Program shall be established.

28 (r) (1) The department, as it determines necessary, may adopt
29 regulations to implement the procedures set forth in this section.
30 Any regulations shall be adopted in accordance with the
31 requirements of Chapter 3.5 (commencing with Section 11340) of
32 Part 1 of Division 3 of Title 2 of the Government Code.

33 (2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing
34 with Section 11340) of Part 1 of Division 3 of Title 2 of the
35 Government Code, and only to the extent that all necessary federal
36 approvals are obtained, the department, without taking any further
37 regulatory action, shall implement, interpret, or make specific this
38 section by means of program directives or similar instructions until
39 the time regulations are adopted. It is the intent of the Legislature
40 that the department be allowed this temporary authority as

1 necessary to implement program changes only until completion
2 of the regulatory process.

3 (s) The department, in consultation with stakeholders, shall
4 develop informational materials about the Self-Determination
5 Program. The department shall ensure that regional centers are
6 trained in the principles of self-determination, the mechanics of
7 the Self-Determination Program, and the rights of consumers and
8 families as candidates for, and participants in, the
9 Self-Determination Program.

10 (t) Each regional center shall be responsible for implementing
11 the Self-Determination Program as a term of its contract under
12 Section 4629. As part of implementing the program, the regional
13 center shall do both of the following:

14 (1) Contract with local consumer or family-run organizations
15 to conduct outreach through local meetings or forums to consumers
16 and their families to provide information about the
17 Self-Determination Program and to help ensure that the program
18 is available to a diverse group of participants, with special outreach
19 to underserved communities.

20 (2) Collaborate with the local consumer or family-run
21 organizations identified in paragraph (1) to jointly conduct training
22 about the Self-Determination Program.

23 (u) The financial management services provider shall provide
24 the participant and the regional center service coordinator with a
25 monthly individual budget statement that describes the amount of
26 funds allocated by budget category, the amount spent in the
27 previous 30-day period, and the amount of funding that remains
28 available under the participant's individual budget.

29 (v) Only the financial management services provider is required
30 to apply for vendorization in accordance with Subchapter 2
31 (commencing with Section 54300) of Chapter 3 of Division 2 of
32 Title 17 of the California Code of ~~Regulations~~, *Regulations* for
33 the Self-Determination Program. All other service and support
34 providers shall not be on the federal debarment list and shall have
35 applicable state licenses, certifications, or other state required
36 documentation, including documentation of any other qualifications
37 required by the department, but are exempt from the vendorization
38 requirements set forth in Title 17 of the California Code of
39 Regulations when serving participants in the Self-Determination
40 Program.

1 (w) To protect the health and safety of participants in the
2 Self-Determination Program, the department shall require a
3 criminal background check in accordance with all of the following:

4 (1) The department shall issue a program directive that identifies
5 nonvended providers of services and supports who shall obtain
6 a criminal background check pursuant to this subdivision. At a
7 minimum, these staff shall include both of the following:

8 (A) Individuals who provide direct personal care services to a
9 participant.

10 (B) Other nonvended providers of services and supports for
11 whom a criminal background check is requested by a participant
12 or the participant's financial management service.

13 (2) Subject to the procedures and requirements of this
14 subdivision, the department shall administer criminal background
15 checks consistent with the department's authority and the process
16 described in Sections 4689.2 to 4689.6, inclusive.

17 (3) The department shall electronically submit to the Department
18 of Justice fingerprint images and related information required by
19 the Department of Justice of nonvended providers of services
20 and supports, as specified in paragraph (1), for purposes of
21 obtaining information as to the existence and content of a record
22 of state or federal convictions and state or federal arrests and also
23 information as to the existence and content of a record of state or
24 federal arrests for which the Department of Justice establishes that
25 the person is free on bail or on his or her recognizance pending
26 trial or appeal.

27 (4) When received, the Department of Justice shall forward to
28 the Federal Bureau of Investigation requests for federal summary
29 criminal history information received pursuant to this section. The
30 Department of Justice shall review the information returned from
31 the Federal Bureau of Investigation and compile and disseminate
32 a response to the department.

33 (5) The Department of Justice shall provide a state or federal
34 response to the department pursuant to paragraph (1) of subdivision
35 (p) of Section 11105 of the Penal Code.

36 (6) The department shall request from the Department of Justice
37 subsequent notification service, as provided pursuant to Section
38 11105.2 of the Penal Code, for persons described in paragraph (1).

1 (7) The Department of Justice shall charge a fee sufficient to
2 cover the cost of processing the request described in this
3 subdivision.

4 (8) The fingerprints of any provider of services and supports
5 who is required to obtain a criminal background check shall be
6 submitted to the Department of Justice prior to employment. The
7 costs of the fingerprints and the financial management service's
8 administrative cost authorized by the department shall be paid by
9 the services and supports provider or his or her employing agency.
10 Any administrative costs incurred by the department pursuant to
11 this subdivision shall be offset by the funds specified in subdivision
12 (g).

13 (9) If the criminal record information report shows a criminal
14 history, the department shall take the steps specified in Section
15 4689.2. The department may prohibit a provider of services and
16 supports from becoming employed, or continuing to be employed,
17 based on the criminal background check, as authorized in Section
18 4689.6. The provider of services and supports who has been denied
19 employment shall have the rights set forth in Section 4689.6.

20 (10) The department may utilize a current department-issued
21 criminal record clearance to enable a provider to serve more than
22 one participant, as long as the criminal record clearance has been
23 processed through the department and no subsequent arrest
24 notifications have been received relative to the cleared applicant.

25 (11) Consistent with subdivision (h) of Section 4689.2, the
26 participant or financial management service that denies or
27 terminates employment based on written notification from the
28 department shall not incur civil liability or unemployment insurance
29 liability.

30 (x) To ensure the effective implementation of the
31 Self-Determination Program and facilitate the sharing of best
32 practices and training materials commencing with the
33 implementation of the Self-Determination Program, local and
34 statewide advisory committees shall be established as follows:

35 (1) Each regional center shall establish a local volunteer advisory
36 committee to provide oversight of the Self-Determination Program.
37 The regional center and the State Council on Developmental
38 Disabilities shall each appoint one-half of the membership of the
39 committee. The committee shall consist of the regional center
40 clients' rights advocate, consumers, family members, and other

1 advocates, and community leaders. A majority of the committee
2 shall be consumers and their family members. The committee shall
3 reflect the multicultural diversity and geographic profile of the
4 catchment area. The committee shall review the development and
5 ongoing progress of the Self-Determination Program, including
6 whether the program advances the principles of self-determination
7 and is operating consistent with the requirements of this section,
8 and may make ongoing recommendations for improvement to the
9 regional center and the department.

10 (2) The State Council on Developmental Disabilities shall form
11 a volunteer committee, to be known as the Statewide
12 Self-Determination Advisory Committee, comprised of the chairs
13 of the 21 local advisory committees or their designees. The council
14 shall convene the Statewide Self-Determination Advisory
15 Committee twice annually, or more frequently in the sole discretion
16 of the council. The Statewide Self-Determination Advisory
17 Committee shall meet by teleconference or other means established
18 by the ~~council~~, *council* to identify self-determination best practices,
19 effective consumer and family training materials, implementation
20 concerns, systemic issues, ways to enhance the program, and
21 recommendations regarding the most effective method for
22 participants to learn of individuals who are available to provide
23 services and supports. The council shall synthesize information
24 received from the Statewide Self-Determination Advisory
25 Committee, local advisory committees, and other sources, ~~shall~~
26 share the information with consumers, families, regional centers,
27 and the department, and ~~shall~~ make recommendations, as
28 appropriate, to increase the program's effectiveness in furthering
29 the principles of self-determination.

30 (y) Commencing January 10, 2017, the department shall
31 annually provide the following information to the appropriate
32 policy and fiscal committees of the Legislature:

33 (1) Number and characteristics of participants, by regional
34 center, *including the number of participants who entered the*
35 *program upon movement from a developmental center.*

36 (2) Types and amount of services and supports purchased under
37 the Self-Determination Program, by regional center.

38 (3) Range and average of individual budgets, by regional center,
39 including adjustments to the budget to address the adjustments

1 permitted in clause (ii) of subparagraph (A) of paragraph (1) of
2 subdivision (n).

3 (4) The number and outcome of appeals concerning individual
4 budgets, by regional center.

5 (5) The number and outcome of fair hearing appeals, by regional
6 center.

7 (6) The number of participants who voluntarily withdraw from
8 the Self-Determination Program and a summary of the reasons
9 why, by regional center.

10 (7) The number of participants who are subsequently determined
11 to no longer be eligible for the Self-Determination Program and a
12 summary of the reasons why, by regional center.

13 (z) (1) The State Council on Developmental Disabilities, in
14 collaboration with the protection and advocacy agency identified
15 in Section 4900 and the federally funded University Centers for
16 Excellence in Developmental Disabilities Education, Research,
17 and Service, may work with regional centers to survey participants
18 regarding participant satisfaction under the Self-Determination
19 Program and, when data is available, the traditional service delivery
20 system, including the proportion of participants who report that
21 their choices and decisions are respected and supported and who
22 report that they are able to recruit and hire qualified service
23 providers, and to identify barriers to participation and
24 recommendations for improvement.

25 (2) The council, in collaboration with the protection and
26 advocacy agency identified in Section 4900 and the federally
27 funded University Centers for Excellence in Developmental
28 Disabilities Education, Research, and Service, shall issue a report
29 to the Legislature, in compliance with Section 9795 of the
30 Government Code, no later than three years following the approval
31 of the federal funding on the status of the Self-Determination
32 Program authorized by this section, and provide recommendations
33 to enhance the effectiveness of the program. This review shall
34 include the program's effectiveness in furthering the principles of
35 self-determination, including all of the following:

36 (A) Freedom, which includes the ability of adults with
37 developmental disabilities to exercise the same rights as all citizens
38 to establish, with freely chosen supporters, family and friends,
39 where they want to live, with whom they want to live, how their
40 time will be occupied, and who supports them; and for families to

1 have the freedom to receive unbiased assistance of their own
 2 choosing when developing a plan and to select all personnel and
 3 supports to further the life goals of a minor child.

4 (B) Authority, which includes the ability of a person with a
 5 disability, or family, to control a certain sum of dollars in order to
 6 purchase services and supports of their choosing.

7 (C) Support, which includes the ability to arrange resources and
 8 personnel, both formal and informal, that will assist a person with
 9 a disability to live a life in his or her community that is rich in
 10 community participation and contributions.

11 (D) Responsibility, which includes the ability of participants to
 12 take responsibility for decisions in their own lives and to be
 13 accountable for the use of public dollars, and to accept a valued
 14 role in their community through, for example, competitive
 15 employment, organizational affiliations, spiritual development,
 16 and general caring of others in their community.

17 (E) Confirmation, which includes confirmation of the critical
 18 role of participants and their families in making decisions in their
 19 own lives and designing and operating the system that they rely
 20 on.

21 *SEC. 14. Section 4691.6 of the Welfare and Institutions Code*
 22 *is amended to read:*

23 4691.6. (a) Notwithstanding any other law or regulation,
 24 commencing July 1, 2006, the community-based day program,
 25 work activity program, and in-home respite service agency rate
 26 schedules authorized by the department and in operation June 30,
 27 2006, shall be increased by 3 percent, subject to funds specifically
 28 appropriated for this increase in the Budget Act of 2006. The
 29 increase shall be applied as a percentage, and the percentage shall
 30 be the same for all providers. Any subsequent increase shall be
 31 governed by subdivisions (b), (c), (d), (e), (f), (g), (h), (i), and ~~(h)~~;
 32 (j), and Section 4691.9.

33 (b) Notwithstanding any other law or regulation, the department
 34 shall not establish any permanent payment rate for a
 35 community-based day program or in-home respite service agency
 36 provider that has a temporary payment rate in effect on June 30,
 37 2008, if the permanent payment rate would be greater than the
 38 temporary payment rate in effect on or after June 30, 2008, unless
 39 the regional center demonstrates to the department that the

1 permanent payment rate is necessary to protect the consumers’
2 health or safety.

3 (c) Notwithstanding any other law or regulation, neither the
4 department nor any regional center shall approve any program
5 design modification or revendorization for a community-based
6 day program or in-home respite service agency provider that would
7 result in an increase in the rate to be paid to the vendor from the
8 rate that is in effect on or after June 30, 2008, unless the regional
9 center demonstrates that the program design modification or
10 revendorization is necessary to protect the consumers’ health or
11 safety and the department has granted prior written authorization.

12 (d) Notwithstanding any other law or regulation, the department
13 shall not approve an anticipated rate adjustment for a
14 community-based day program or in-home respite service agency
15 provider that would result in an increase in the rate to be paid to
16 the vendor from the rate that is in effect on or after June 30, 2008,
17 unless the regional center demonstrates that the anticipated rate
18 adjustment is necessary to protect the consumers’ health or safety.

19 (e) Notwithstanding any other law or regulation, except as set
20 forth in ~~subdivision (f)~~, *subdivisions (f) and (i)*, the department
21 shall not approve any rate adjustment for a work activity program
22 that would result in an increase in the rate to be paid to the vendor
23 from the rate that is in effect on or after June 30, 2008, unless the
24 regional center demonstrates that the rate adjustment is necessary
25 to protect the consumers’ health and safety and the department has
26 granted prior written authorization.

27 (f) Notwithstanding any other law or regulation, commencing
28 July 1, 2014, the department may approve rate adjustments for a
29 work activity program that demonstrates to the department that
30 the rate adjustment is necessary in order to pay employees who,
31 prior to July 1, 2014, were being compensated at a wage that is
32 less than the minimum wage established on and after July 1, 2014,
33 by Section 1182.12 of the Labor Code, as amended by Chapter
34 351 of the Statutes of 2013. The rate adjustment pursuant to this
35 subdivision shall be specific to payroll costs associated with any
36 increase necessary to adjust employee pay only to the extent
37 necessary to bring pay into compliance with the increased state
38 minimum wage, and shall not constitute a general wage
39 enhancement for employees paid above the increased minimum
40 wage.

1 (g) Notwithstanding any other law or regulation, commencing
 2 July 1, 2014, community-based day program and in-home respite
 3 services agency providers with temporary payment rates set by
 4 the department may seek unanticipated rate adjustments from the
 5 department due to the impacts of the increased minimum wage as
 6 established by Section 1182.12 of the Labor Code, as amended by
 7 Chapter 351 of the Statutes of 2013. The rate adjustment shall be
 8 specific to payroll costs associated with any increase necessary to
 9 adjust employee pay only to the extent necessary to bring pay into
 10 compliance with the increased state minimum wage, and shall not
 11 constitute a general wage enhancement for employees paid above
 12 the increased minimum wage.

13 (h) Notwithstanding any other law or regulation, commencing
 14 January 1, 2015, the in-home respite service agency rate schedule
 15 authorized by the department and in operation December 31, 2014,
 16 shall be increased by 5.82 percent, subject to funds specifically
 17 appropriated for this increase for costs due to changes in federal
 18 regulations implementing the federal Fair Labor Standards Act of
 19 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied
 20 as a percentage, and the percentage shall be the same for all
 21 applicable providers.

22 (i) *Notwithstanding any other law or regulation, commencing*
 23 *July 1, 2015, the department may approve rate adjustments for a*
 24 *work activity program that demonstrates to the department that*
 25 *the rate adjustment is necessary to implement Article 1.5*
 26 *(commencing with Section 245) of Chapter 1 of Part 1 of Division*
 27 *2 of the Labor Code, as added by Chapter 317 of the Statutes of*
 28 *2014. The rate adjustment may be applied only if a minimum of*
 29 *24 hours or three days of paid sick leave per year was not a benefit*
 30 *provided to employees as of June 30, 2015, and shall be specific*
 31 *to payroll costs associated with any increase necessary to*
 32 *compensate an employee up to a maximum of 24 hours or three*
 33 *days of paid sick leave in each year of employment.*

34 (j) *Notwithstanding any other law or regulation, commencing*
 35 *July 1, 2015, community-based day program and in-home respite*
 36 *services agency providers with temporary payment rates set by*
 37 *the department may seek unanticipated rate adjustments from the*
 38 *department if the adjustment is necessary to implement Article 1.5*
 39 *(commencing with Section 245) of Chapter 1 of Part 1 of Division*
 40 *2 of the Labor Code, as added by Chapter 317 of the Statutes of*

1 2014. The rate adjustment may be applied only if a minimum of
2 24 hours or three days of paid sick leave per year was not a benefit
3 provided to employees as of June 30, 2015, and shall be specific
4 to payroll costs associated with any increase necessary to
5 compensate an employee up to a maximum of 24 hours or three
6 days of paid sick leave in each year of employment.

7 SEC. 15. Section 4691.9 of the Welfare and Institutions Code
8 is amended to read:

9 4691.9. (a) Notwithstanding any other law or regulation,
10 commencing July 1, 2008:

11 (1) A regional center shall not pay an existing service provider,
12 for services where rates are determined through a negotiation
13 between the regional center and the provider, a rate higher than
14 the rate in effect on June 30, 2008, unless the increase is required
15 by a contract between the regional center and the vendor that is in
16 effect on June 30, 2008, or the regional center demonstrates that
17 the approval is necessary to protect the consumer's health or safety
18 and the department has granted prior written authorization.

19 (2) A regional center shall not negotiate a rate with a new service
20 provider, for services where rates are determined through a
21 negotiation between the regional center and the provider, that is
22 higher than the regional center's median rate for the same service
23 code and unit of service, or the statewide median rate for the same
24 service code and unit of service, whichever is lower. The unit of
25 service designation shall conform with an existing regional center
26 designation or, if none exists, a designation used to calculate the
27 statewide median rate for the same service. The regional center
28 shall annually certify to the State Department of Developmental
29 Services its median rate for each negotiated rate service code, by
30 designated unit of service. This certification shall be subject to
31 verification through the department's biennial fiscal audit of the
32 regional center.

33 (b) Notwithstanding subdivision (a), commencing July 1, 2014,
34 regional centers may negotiate a rate adjustment with providers
35 regarding rates if the adjustment is necessary in order to pay
36 employees no less than the minimum wage as established by
37 Section 1182.12 of the Labor Code, as amended by Chapter 351
38 of the Statutes of 2013, and only for the purpose of adjusting
39 payroll costs associated with the minimum wage increase. The
40 rate adjustment shall be specific to the unit of service designation

1 that is affected by the increased minimum wage, shall be specific
2 to payroll costs associated with any increase necessary to adjust
3 employee pay only to the extent necessary to bring pay into
4 compliance with the increased state minimum wage, and shall not
5 be used as a general wage enhancement for employees paid above
6 the increased minimum wage. Regional centers shall maintain
7 documentation on the process to determine, and the rationale for
8 granting, any rate adjustment associated with the minimum wage
9 increase.

10 (c) Notwithstanding any other law or regulation, commencing
11 January 1, 2015, rates for personal assistance and supported living
12 services in effect on December 31, 2014, shall be increased by
13 5.82 percent, subject to funds specifically appropriated for this
14 increase for costs due to changes in federal regulations
15 implementing the federal Fair Labor Standards Act of 1938 (29
16 U.S.C. Sec. 201 et seq.). The increase shall be applied as a
17 percentage, and the percentage shall be the same for all applicable
18 providers. As used in this subdivision, both of the following
19 definitions shall apply:

20 (1) “Personal assistance” is limited only to those services
21 provided by vendors classified by the regional center as personal
22 assistance providers, pursuant to the miscellaneous services
23 provisions contained in Title 17 of the California Code of
24 Regulations.

25 (2) “Supported living services” are limited only to those services
26 defined as supported living services in Title 17 of the California
27 Code of Regulations.

28 (d) *Notwithstanding subdivision (a), commencing July 1, 2015,*
29 *regional centers may negotiate a rate adjustment with existing*
30 *service providers for services for which rates are determined*
31 *through negotiation between the regional center and the provider,*
32 *if the adjustment is necessary to implement Article 1.5*
33 *(commencing with Section 245) of Chapter 1 of Part 1 of Division*
34 *2 of the Labor Code, as added by Chapter 317 of the Statutes of*
35 *2014. The rate adjustment may be applied only if a minimum of*
36 *24 hours or three days of paid sick leave per year was not a benefit*
37 *provided to employees as of June 30, 2015, and shall be specific*
38 *to payroll costs associated with any increase necessary to*
39 *compensate an employee up to a maximum of 24 hours or three*
40 *days of paid sick leave in each year of employment.*

1 ~~(d)~~

2 (e) This section shall not apply to those services for which rates
3 are determined by the State Department of Health Care Services,
4 or the State Department of Developmental Services, or are usual
5 and customary.

6 *SEC. 16. Section 7502.5 of the Welfare and Institutions Code*
7 *is repealed.*

8 ~~7502.5. (a) The total number of developmental center residents~~
9 ~~in the secure treatment facility at Porterville Developmental Center,~~
10 ~~including those residents receiving services in the Porterville~~
11 ~~Developmental Center transition treatment program, shall not~~
12 ~~exceed 230.~~

13 ~~(b) As of the effective date of this subdivision, the State~~
14 ~~Department of Developmental Services shall not admit any persons~~
15 ~~into the secure treatment facility at Porterville Developmental~~
16 ~~Center unless the population of the secure treatment facility is less~~
17 ~~than 230 persons, including 60 residents receiving services in the~~
18 ~~transition treatment program.~~

19 *SEC. 17. Section 7502.5 is added to the Welfare and Institutions*
20 *Code, to read:*

21 7502.5. (a) An individual may be admitted to the secure
22 treatment facility at Porterville Developmental Center, as provided
23 in paragraphs (1) and (3) of subdivision (a) of Section 7505, only
24 when all of the following conditions are satisfied:

25 (1) The unit to which the individual will be admitted is approved
26 for occupancy and licensed.

27 (2) The population of the secure treatment facility is no more
28 than 211 persons.

29 (3) The individual is at least 18 years of age.

30 (b) An individual may be admitted to the transitional treatment
31 program at Porterville Developmental Center when all of the
32 following conditions are satisfied:

33 (1) The individual was admitted to the Porterville Developmental
34 Center pursuant to paragraphs (1) and (3) of subdivision (a) of
35 Section 7505.

36 (2) The individual remains eligible for commitment pursuant
37 to paragraph (3) of subdivision (a) of Section 7505.

38 (3) The unit to which the individual will be admitted is approved
39 for occupancy and licensed.

1 (4) *The population of the transitional treatment program is no*
 2 *more than 60 persons.*

3 (c) *As soon as possible, but no later than 30 days following*
 4 *admission to the transitional treatment program, the regional*
 5 *center, in coordination with the developmental center, shall do*
 6 *both of the following:*

7 (1) *Complete a comprehensive assessment that shall include*
 8 *the identification of services and supports needed to transition the*
 9 *individual to the community.*

10 (2) *Jointly convene an individual program plan meeting to*
 11 *discuss the comprehensive assessment and develop a plan to*
 12 *transition the individual to the community pursuant to Section*
 13 *4418.3. The clients' rights advocate for the regional center shall*
 14 *be notified of the individual program plan meeting and may*
 15 *participate in the meeting unless the consumer objects on his or*
 16 *her own behalf.*

17 (d) *An individual described in this section shall not be placed*
 18 *in the transitional treatment program for longer than necessary*
 19 *to procure a less restrictive placement. Each year, pursuant to*
 20 *Section 4418.25, an individual in the transitional treatment*
 21 *program at Porterville Developmental Center shall receive an*
 22 *updated comprehensive assessment that shall include all of the*
 23 *following:*

24 (1) *The reason or reasons for placement in the program for*
 25 *longer than one year.*

26 (2) *A description of the issue or issues preventing community*
 27 *placement.*

28 (3) *The estimated timeframe for placement in the community*
 29 *and the plan for that placement.*

30 (e) *On or before March 1, 2016, the department shall provide*
 31 *the following information to the appropriate policy and fiscal*
 32 *committees of the Legislature:*

33 (1) *For each regional center, the number of transitional program*
 34 *residents who are placed in the program for more than one year.*

35 (2) *A description of reasons for placement in the program*
 36 *beyond one year.*

37 (3) *The steps undertaken to resolve the issue or issues*
 38 *prohibiting community placement.*

39 (4) *The additional steps necessary before community placement*
 40 *can be made.*

1 *SEC. 18. Section 7505 of the Welfare and Institutions Code is*
2 *amended to read:*

3 7505. (a) Notwithstanding any other law, the State Department
4 of Developmental Services shall not admit anyone to a
5 developmental center unless the person has been determined
6 eligible for services under Division 4.5 (commencing with Section
7 4500) and the person ~~is:~~ *is any of the following:*

8 (1) ~~Committed~~ *An adult committed* by a court to Porterville
9 Developmental Center, secure treatment program, pursuant to
10 Section 1370.1 of the Penal Code.

11 (2) Committed by a court to the acute crisis center at Fairview
12 Developmental Center, or the acute crisis center at Sonoma
13 Developmental Center, pursuant to Article 2 (commencing with
14 Section 6500) of Chapter 2 of Part 2 of Division 6 due to an acute
15 crisis, pursuant to Section 4418.7.

16 (3) ~~Committed~~ *An adult committed* by a court to Porterville
17 Developmental Center, secure treatment program, pursuant to
18 Article 2 (commencing with Section 6500) of Chapter 2 of Part 2
19 of Division 6 as a result of involvement with the criminal justice
20 system, and the court has determined the person is mentally
21 incompetent to stand trial.

22 (4) A person described in Section 4508.

23 ~~(5) A juvenile committed to Porterville Developmental Center,~~
24 ~~secure treatment program, pursuant to Section 709.~~

25 (b) Under no circumstances shall the State Department of
26 Developmental Services admit a person to a developmental center
27 after July 1, 2012, as a result of a criminal conviction or when the
28 person is competent to stand trial for the criminal offense and the
29 admission is ordered in lieu of trial.

30 ~~(e) This section shall become operative on January 1, 2015.~~

31 *SEC. 19. Following the approval of a closure plan submitted*
32 *pursuant to Section 4474.11 of the Welfare and Institutions Code,*
33 *and continuing until one year after the last developmental center*
34 *consumer has transitioned into the community, the State*
35 *Department of Developmental Services shall provide quarterly*
36 *briefings on progress related to the plan's milestones and timelines*
37 *to legislative staff, including staff to fiscal and policy committees,*
38 *and staff for legislators who represent the area in which the*
39 *developmental center is located.*

1 *SEC. 20. (a) It is the intent of the Legislature that General*
2 *Fund savings derived from the closure of state developmental*
3 *centers benefit persons with developmental disabilities living in*
4 *the community.*

5 *(b) The State Department of Developmental Services shall*
6 *display annually in its January and May budget estimate*
7 *documents, for any year in which it is applicable, all of the*
8 *following:*

9 *(1) All General Fund savings or gains reasonably associated*
10 *with the downsizing or closure of a developmental center.*

11 *(2) All community development funds reasonably associated*
12 *with the downsizing or closure of a developmental center, including*
13 *the costs associated with the development and provision of services*
14 *and supports for persons moving from a developmental center or*
15 *at risk of institutionalization.*

16 *SEC. 21. (a) Upon the implementation, pursuant to Section*
17 *12300.4 of the Welfare and Institutions Code, of federal regulations*
18 *regarding payment of overtime compensation adopted pursuant*
19 *to the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec.*
20 *201 et seq.), the State Department of Developmental Services shall*
21 *consult with the Association of Regional Center Agencies,*
22 *legislative staff, consumers, providers, and advocacy organizations*
23 *to evaluate the impact of those regulations on consumers and*
24 *providers of supported living services, in-home respite services,*
25 *and personal assistants to persons with developmental disabilities.*

26 *(b) The State Department of Developmental Services shall report*
27 *on the progress of the following to the Legislature during the*
28 *2016–17 legislative budget subcommittee hearing process:*

29 *(1) Results of the initial evaluation performed pursuant to*
30 *subdivision (a).*

31 *(2) Steps taken to minimize a negative impact on consumers*
32 *and providers.*

33 *(3) Recommendations to address future negative impacts on*
34 *consumers and providers.*

35 *SEC. 22. The amount of sixty-one million five hundred fifty-four*
36 *thousand dollars (\$61,554,000) is hereby appropriated from the*
37 *General Fund to the State Department of Developmental Services*
38 *to fund expenditures pursuant to Schedule (1)*
39 *10.10.010-Operations and Schedule (2) 10.10.020-Purchase of*
40 *Services as provided for in Item 4300-101-0001 of Section 2.00*

1 *of the Budget Act of 2011 (Chapter 33 of the Statutes of 2011) and*
2 *the Budget Act of 2012 (Chapters 21 and 29 of the Statutes of*
3 *2012). These funds shall be available for encumbrance and*
4 *expenditure until June 30, 2016.*

5 *SEC. 23. This act is a bill providing for appropriations related*
6 *to the Budget Bill within the meaning of subdivision (e) of Section*
7 *12 of Article IV of the California Constitution, has been identified*
8 *as related to the budget in the Budget Bill, and shall take effect*
9 *immediately.*

10 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
11 ~~changes relating to the Budget Act of 2015.~~