



LEGISLATIVE AND PUBLIC POLICY COMMITTEE (LPPC) MEETING NOTICE/AGENDA

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State Council Office

1507 21st Street, Suite 210
Sacramento, CA 95811
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January 27, 2011

10:30 a.m. – 4:00 p.m. (note: new starting time)

Pursuant to Government Code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in the meeting, should contact Michael Brett at (916) 322-8481 or michael.brett@scdd.ca.gov by 5:00 pm, January 20, 2011.

**Denotes action item.*

Page

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|-----------------------------------|------------|---|
| 1. CALL TO ORDER | J. Aguilar | |
| 2. ESTABLISHMENT OF QUORUM | J. Aguilar | |
| 3. INTRODUCTIONS AND ANNOUNCEMENT | J. Aguilar | |
| 4. *APPROVAL OF 10/5/10 MINUTES | J. Aguilar | 4 |

5. PUBLIC COMMENTS

*This item is for members of the public only to provide comments and/or present information to the Council on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Council will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.*

6. LEGISLATIVE UPDATES

A. Council Action on LPPC Recommendations	J. Aguilar	
B. Area Board Legislative Updates	M. Rosenberg	7
C. State Legislation	C. Arroyo	8
(i) New Introductions		
D. Federal Legislation		
(i) *Reauthorization of Federal DD Act	K. Alipourfard	22
(ii) Reauthorization of IDEA	M. Corral	93
E. *2011-2012 Governor's Budget	C. Risley	98
F. Area Board 9	C. Risley	172
Legislative Advocacy Booklet and DVD		
G. *Capitol Action Day	C. Arroyo	193
H. Informational Items	C. Arroyo	

7. POLICY ISSUES

- A. *Public Benefits Policy Paper
- B. *Special Education Policy Paper

C. Arroyo 194
J. Aguilar 195

8. *CALENDAR OF COMMITTEE MEETINGS

C. Arroyo 216

9. *ADJOURNMENT

J. Aguilar

DRAFT
Legislative & Public Policy Committee Minutes
Tuesday, October 5, 2010

Members Present

Jennifer Allen
Michael Bailey
Tho Vinh Banh
Marilyn Barraza
Ray Ceragioli
Lisa Cooley
Connie Lapin
Ted Martens
Rocio Smith

Members Absent

Jorge Aguilar, Chair
Randi Knott
Michael Rosenberg

Others Present

Carol Risley
Christofer Arroyo

1. CALL TO ORDER

Ray Ceragioli, Acting Chairperson called the meeting to order at 9:09 a.m. A quorum was established.

2. MESSAGE FROM THE CHAIR

Members introduced themselves and announcements were made.

3. APPROVAL OF 8/16/10 MEETING MINUTES

It was moved, seconded (Barraza/Lapin), and carried to approve the 8/16/10 Committee minutes as presented.

4. PUBLIC COMMENTS

No comments were provided.

5. SCDD/AREA BOARD UPDATES

A summary of Council actions on LPPC recommendations was presented.

Area Board legislative activities were reviewed and discussed.

Council actions regarding bills recommended by the LPPC were reviewed.

The SCDD Legislative Report dated 10/1/10 was reviewed. Senate Bill 1282 was discussed; LPPC identified non-traditional medical treatment of autism and the need for insurance companies to fund treatment for autism as issues to be raised with the Governor-Elect.

Council actions regarding bills recommended by the LPPC were reviewed.

H.R. 1255 – “To protect the interests of each resident in intermediate care facilities for the mentally retarded in class action law suits on behalf of such residents” LPPC extensively discussed the pros and cons of this bill. It was moved, seconded (Banh/Barraza), and carried to oppose H.R. 1255 and send letters to appropriate congressional representatives conveying this position (7 ayes, 2 nays).

An update regarding the budget was provided; although few details were available, reports indicated the budget would be approved by October 7th.

Proposed Federal Regulations on Social Security Administration’s Revised Medical Criteria for Evaluating Mental Disorders (RIN 0960—AF69). A draft letter commenting on the proposed regulations was reviewed by the LPPC. It was moved, seconded (Barraza/Lapin), and carried to request the Executive Committee send the letter as written in order for comment to be provided within the deadlines(8 ayes, 1 abstention).

California Bureau of State Audits’ Report 2009-118: DDS – A More Uniform & Transparent Procurement & Rate-Setting Process Would Improve the Cost-Effectiveness of Regional Centers. A joint hearing will be held on either 11/4/10 or 11/30/10 regarding the audit. Carol Risley received input from the LPPC for the Council testimony at the hearing. Issues identified included the least costly service, lack of consumer and family input, denial by delay, and the need for accountability.

Development of Legislative Visit Toolkits – Carol reported that recruitment for a legislative specialist has begun. This person will gather all of the legislative kits used by the area boards and create one for the Council’s purposes.

SCDD Website – It was agreed that work needed to be done on the website and Carol indicated that the Council is recruiting for an Associate Information Specialist who will be assign this task.

6. POLICY ISSUES

Special Education

A discussion was held regarding the nature of policies and what would fulfill the Council's needs. The LPPC agreed to table these items until Carol can review all the policies to propose a structure for the package.

Lanternman Act

The LPPC agreed that staff will further work on this policy.

Public Transportation

The LPPC reviewed the draft Public Transportation Policy. It was moved, seconded (Martens/Ceragioli), and carried to approve the Public Transportation Policy as it was amended (9 ayes).

Public Benefits Policy

Michael Bailey and Marilyn Barazza volunteered to work on a policy regarding public benefits.

7. UPDATE ON SPECIAL EDUCATION STAKEHOLDER WORKGROUP

It was reported that this group is temporarily not functioning until such time as the purpose and membership is developed and reviewed for action by the Council chairperson in accordance with the Council By-laws.

8. EMPLOYMENT FIRST COMMITTEE UPDATE

An update regarding the activities of the Employment First committee was provided by Michael Bailey and staff.

9. COMMITTEE NEXT STEPS

The next LPPC meeting will be held on January 27, 2011.

10. ADJOURNMENT

The meeting was adjourned at approximately 3:45 p.m.

AGENDA ITEM DETAIL SHEET

ISSUE: Area Board Legislative Update

BACKGROUND: The Legislative and Public Policy Committee (LPPC) will hear an update regarding the legislative activities of area boards.

ANALYSIS/DISCUSSION: Report only

COUNCIL STRATEGIC PLAN OBJECTIVE: Advance the rights and abilities of all Californians with developmental disabilities and their families to exercise self-advocacy and self-determination.

Shape public policy that positively impacts Californians with developmental disabilities and their families.

PRIOR LPPC/COUNCIL ACTIVITY: The LPPC has requested area boards provide them with legislative updates.

RECOMMENDATION(S): None

ATTACHMENT(S): None

PREPARED: Christofer Arroyo, January 11, 2011

AGENDA ITEM DETAIL SHEET

ISSUE: State Legislation

BACKGROUND: The Legislative and Public Policy Committee (LPPC) regularly reviews legislation that may impact people with developmental disabilities.

ANALYSIS/DISCUSSION: Because the legislative session had just begun no specific bills have yet been identified for action.

COUNCIL STRATEGIC PLAN OBJECTIVE: Advance the rights and abilities of all Californians with developmental disabilities and their families to exercise self-advocacy and self-determination.

Shape public policy that positively impacts Californians with developmental disabilities and their families.

PRIOR LPPC/COUNCIL ACTIVITY: LPPC has regularly reviewed and developed recommendations for action by the Council on state legislative issues.

RECOMMENDATION(S): Review the SCDD Legislative Update to identify bills the LPPC wants analyzed and brought to the Committee for potential action.

ATTACHMENT(S): SCDD Legislative Update as of January 12, 2011

PREPARED: Christofer Arroyo, January 11, 2011



Legislative & Public Policy Committee Legislative Report as of 1/12/2011 Abuse Prevention

AB 40 (Yamada) Elder abuse: reporting. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chapered
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Calendar Events:

Summary: The Elder Abuse and Dependent Adult Civil Protection Act establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. The act requires certain persons, called mandated reporters, to report known or suspected instances of elder or dependent adult abuse. The act requires a mandated reporter to report the abuse to the local ombudsperson or the local law enforcement agency if the abuse occurs in a long-term care facility. Failure to report physical abuse and financial abuse of an elder or dependent adult under the act is a misdemeanor. This bill would, instead, require the mandated reporter to report the abuse to both the local ombudsperson and the local law enforcement agency. This bill would also make various technical, nonsubstantive changes. This bill contains other related provisions and other existing laws.

Position:

Priority:

SB 13 (Correa) Pupils: teen dating violence prevention. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.

Current Location: 12/06/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chapered
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Calendar Events:

Summary: Existing law requires a school district that provides instruction to pupils in grades 7 to 12, inclusive, to provide an adopted course of study to those pupils, as specified. Existing law requires the State Board of Education to adopt content standards in certain curriculum areas. This bill would authorize a school district to provide teen dating violence prevention education consisting of age-appropriate instruction, as developed by the state board pursuant to the bill, as part of the sexual health and health education program it provides to pupils in grades 7 to 12, inclusive. The bill would authorize a school district to use school district personnel or outside consultants who are trained in the appropriate courses to provide this additional instruction. The bill would specify the required content and criteria for this additional instruction and any associated materials if a school district elects to provide it. The bill would provide that a parent or guardian of a pupil has the right to excuse his or her child from all or part of the teen dating violence prevention education and any assessments related to it, and would prescribe the procedure for a parent or guardian to exercise that right. This bill contains other related provisions.

Position:

Priority:

SB 33 (Simitian) Elder and dependent adult abuse. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.

Current Location: 12/06/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chapered
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9

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Calendar Events:

Summary: Existing law provides for the confidentiality of financial records but does not prohibit various state and local officers and agencies from requesting information from an office or branch of a financial institution and the office or branch from responding to the request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of the account or accounts. This bill would make a technical nonsubstantive change to the above provisions. The Elder Abuse and Dependent Adult Civil Protection Act establishes procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. The act requires persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. Under the act, care custodians of elder or dependent adults and local law enforcement agencies are mandated reporters. A violation of the reporting requirements by a mandated reporter is a misdemeanor. This bill contains other related provisions and other existing laws.

Position: **Priority:**

Civil Rights

AB 59 (Swanson) Family and medical leave. (1-12/07/2010 [html](#) [pdf](#))

Status: 01/03/2011-Read first time.
Current Location: 12/07/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law, the Moore-Brown-Roberti Family Rights Act, makes it an unlawful employment practice for an employer, as defined, to refuse to grant a request by an eligible employee to take up to 12 workweeks of unpaid protected leave during any 12-month period (1) to bond with a child who was born to, adopted by, or placed for foster care with, the employee, (2) to care for the employee's parent, spouse, or child who has a serious health condition, as defined, or (3) because the employee is suffering from a serious health condition rendering him or her unable to perform the functions of the job. Under the act, "child" means a biological, adopted, foster, or stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18 years of age or an adult dependent child. The act defines "parent" to mean the employee's biological, foster, or adoptive parent, stepparent, legal guardian, or other person who stood in loco parentis to the employee when the employee was a child. This bill would increase the circumstances under which an employee is entitled to protected leave pursuant to the Family Rights Act by (1) eliminating the age and dependency elements from the definition of "child," thereby permitting an employee to take protected leave to care for his or her independent adult child suffering from a serious health condition, (2) expanding the definition of "parent" to include an employee's parent-in-law, and (3) permitting an employee to also take leave to care for a seriously ill grandparent, sibling, grandchild, or domestic partner, as defined.

Position: **Priority:**

SB 21 (Liu) Long-term care: assessment and planning. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.
Current Location: 12/06/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law provides for the licensure of various health facilities, including general acute care hospitals, skilled nursing facilities, and intermediate care facilities, and congregate living health facilities by the State Department of Public Health. Certain of these facilities are included under the category of long-term health care facilities, as defined. A violation of these provisions is a crime. Existing law requires each hospital to have in effect a written discharge planning policy and process that requires appropriate arrangements for posthospital care and a process that requires that each patient be informed, orally or in writing, of the continuing care requirements following discharge from the hospital, as specified and additionally requires

10

specific information to be provided to a patient anticipated to be in need of posthospital care. This bill would require a hospital that is required to provide, as part of its discharge policy, information to patients anticipated to need posthospital care, to provide the information both orally and in writing to the patient and, if necessary, to his or her representative, at the earliest possible opportunity prior to discharge. By changing the definition of an existing crime, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: **Priority:**

SB 24 (Simitian) Personal information: privacy. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.

Current Location: 12/06/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law requires any agency, and any person or business conducting business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the system or data, as defined, following discovery or notification of the security breach, to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. This bill would require any agency, person, or business that is required to issue a security breach notification pursuant to existing law to fulfill certain additional requirements pertaining to the security breach notification, as specified. This bill contains other related provisions.

Position: **Priority:**

Criminal Justice

SB 9 (Yee) Sentencing. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.

Current Location: 12/06/2010-S PRINT

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Calendar Events:

Summary: Existing law provides that the Secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings, or both, may, for specified reasons, recommend to the court that a prisoner's sentence be recalled, and that a court may recall a prisoner's sentence. This bill would authorize a prisoner who was under 18 years of age at the time of committing an offense for which the prisoner was sentenced to life without parole to submit a petition for recall and resentencing to the sentencing court, and to the prosecuting agency, as specified. The bill would establish certain criteria, at least one of which shall be asserted in the petition, to be considered when a court decides whether to conduct a hearing on the petition for recall and resentencing and additional criteria to be considered by the court when deciding whether to grant the petition. The bill would require the court to hold a hearing if the court finds that the statements in the defendant's petition are true, as specified. The bill would apply retroactively, as specified.

Position: **Priority:**

Education/Special Education

AB 9 (Ammiano) Education: bullying. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law requires specified school personnel to report known or suspected

11

instances of child abuse, as defined, to designated law enforcement entities. This bill would state the intent of the Legislature to enact legislation to protect pupils from acts of bullying by requiring school personnel to report known or suspected instances of bullying to law enforcement entities.

Position: **Priority:**

AB 13 (Knight) Public school volunteers. (I-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law authorizes any person, except a person required to register as a sex offender pursuant to a designated provision, to be permitted by the governing board of a school district to serve as a nonteaching volunteer aide under the immediate supervision and direction of certificated personnel of the district to perform noninstructional work that serves to assist the certificated personnel of the district in their teaching and administrative responsibilities. Existing law authorizes a school district or county office of education to request that a local law enforcement agency conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether the prospective nonteaching volunteer aide has been convicted of a designated sex offense. This bill would specify that each of these provisions applies to charter schools. The bill would also prohibit persons who have been convicted of specified sex, controlled substance, or violent offenses from serving as nonteaching volunteer aides. This bill contains other existing laws.

Position: **Priority:**

AB 47 (Huffman) Schools: open enrollment. (I-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law, the Open Enrollment Act, allows the parent of a pupil enrolled in a low-achieving school to submit an application for the pupil to attend school in a school district other than the school district in which the parent of the pupil resides, but in which the parent nevertheless intends to enroll the pupil. Existing law defines a low-achieving school, for purposes of these provisions, as a school identified by the Superintendent by inclusion on a list of 1,000 schools ranked by increasing Academic Performance Index (API) score; however no local agency may have more than 10% of its schools on the list and specified types of schools may not be included. This bill would instead provide that the list created by the Superintendent to define low-achieving schools may include up to 1,000 schools, that schools on the list be ranked in decile 1 on the most current API, and that county offices of education operating a special education program, and state special schools not be included on the list.

Position: **Priority:**

SB 48 (Leno) Instruction: prohibition of discriminatory content. (I-12/13/2010 [html](#) [pdf](#))

Status: 01/03/2011-Read first time.

Current Location: 12/13/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law requires instruction in social sciences to include a study of the role and contributions of both men and women to the development of California and the United States. This bill would require instruction in social sciences to also include a study of the role and contributions of Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender

12

Americans, and other ethnic and cultural groups, to the development of California and the United States. This bill contains other related provisions and other existing laws.

Position: Priority:

SB 65 (Strickland) Pupil health: prescription pancreatic enzymes. (1-01/06/2011 [html](#) [pdf](#))

Status: 01/07/2011-From printer. May be acted upon on or after February 6.

Current Location: 01/06/2011-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law establishes the public elementary and secondary school system in this state. Under this system, school districts throughout the state provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at the public elementary and secondary schools. This bill would further provide that any pupil who has been diagnosed with cystic fibrosis and is required to take, during the regular schoolday, medication prescribed for him or her by a physician or surgeon may be assisted by the school nurse or other designated school personnel or may carry and self-administer prescription pancreatic enzymes if the school district receives the appropriate written statements, as prescribed, from the physician or surgeon and the parent, foster parent, or guardian of the pupil. This bill contains other existing laws.

Position: Priority:

Employment

AB 15 (V. Manuel Pérez) Workforce development: California Renewable Energy Workforce

Readiness Initiative: local workforce investment boards. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law, the California Workforce Investment Act, establishes the California Workforce Investment Board (CWIB), which is the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system, and prescribes the functions and duties of the board with regard to the implementation and administration of workforce training and development programs. Existing law establishes the Green Collar Jobs Council (GCJC) as a special committee in the CWIB, comprised of specified members, to assist in providing workforce development and job training relating to green collar jobs. This bill would require the CWIB, by July 1, 2012, in consultation with the Green Collar Jobs Council (GCJC), to establish the California Renewable Energy Workforce Readiness Initiative to ensure green collar career placement and advancement opportunities within California's renewable energy generation, manufacturing, construction, installation, maintenance, and operation sectors that is targeted toward specified populations. The bill would require that the initiative provide guidance to local workforce investment boards on how to establish comprehensive green collar job assessment, training, and placement programs that reflect the local and regional economies, as prescribed. The bill would require the CWIB, in developing the initiative, to assist the local workforce investment boards in collecting and analyzing specified labor market data, in order to assess accurately the workforce development and training needs of local or regional industry clusters. The CWIB would be required to submit to the Legislature, by January 1, 2014, a report on the implementation of the initiative. The bill would require that the board only implement the initiative established pursuant to provisions of the bill if the Director of Finance determines that there are sufficient funds made available to the state for expenditure for the initiative pursuant to the federal American Recovery and Reinvestment Act of 2009, the federal Workforce Investment Act of 1998, or other federal law, or from other non-General Fund sources, and would require that the initiative terminate at such time that the director determines that there are no longer sufficient funds available for the initiative.

Position: Priority:

13

AB 53 (Solorio) Insurers: procurement contracts: women, minority, and disabled veteran business enterprises. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

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Calendar Events:

Summary: Existing law requires each admitted insurer to provide information to the Insurance Commissioner on all of its community development investments and community development infrastructure investments in California. This bill would require that each admitted insurer, with gross annual revenues exceeding \$25,000,000, and their regulated subsidiaries and affiliates, submit annually to the commissioner a detailed and verifiable plan for increasing procurement from women, minority, and disabled veteran business enterprises, as specified. This bill contains other related provisions and other existing laws.

Position:

Priority:

Health Care

AB 43 (Monning) Medi-Cal: eligibility. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. This bill would require the department to establish, by January 1, 2014, eligibility for Medi-Cal benefits for any person who meets these eligibility requirements. This bill would permit the department, to the extent permitted by federal law, to phase in coverage for those individuals. This bill contains other related provisions and other existing laws.

Position:

Priority:

SB 36 (Simitian) County Health Initiative Matching Fund. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.

Current Location: 12/06/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income recipients. Existing law also creates the Healthy Families Program, administered by the Managed Risk Medical Insurance Board (MRMIB), to arrange for the provision of health care services to children less than 19 years of age who meet certain eligibility requirements. This bill would allow persons who are eligible for but unable to enroll in the Healthy Families Program as a result of enrollment policies initiated by MRMIB due to insufficient funding to receive this coverage and would also allow a county, a county agency, a local initiative, or a county organized health system that will provide an intergovernmental transfer to apply to MRMIB for funding to provide health care coverage to eligible children whose family income is at or below 400% of the federal poverty level. The bill would specify that implementation of these provisions is conditioned on MRMIB obtaining necessary federal approval thereof. This bill contains other existing laws.

Position:

Priority:

SB 51 (Alquist) Health care coverage. (1-12/15/2010 [html](#) [pdf](#))

14

Status: 01/03/2011-Read first time.
 Current Location: 12/15/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law prohibits a health care service plan from expending for administrative costs, as defined, an excessive amount of the payments the plan receives for providing health care services to its subscribers and enrollees. This bill would require health care service plans and health insurers to comply with the requirements imposed under those provisions to the extent required under federal law. This bill contains other related provisions and other existing laws.

Position: Priority:

Mental Health

AB 39 (Beall) Special education: funding. (I-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.
 Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63, establishes the Mental Health Services Fund to fund specified county mental health programs. The act provides that all moneys in the Mental Health Services Fund are continuously appropriated to the State Department of Mental Health. The act may be amended only by a 2/3 vote of both houses of the Legislature and only so long as the amendment is consistent with and furthers the intent of the act. This bill would require the department to allocate \$57,000,000 of those moneys to county mental health departments for purposes of providing special education services, thereby making an appropriation. The bill also would require the Superintendent of Public Instruction and county mental health directors to jointly convene a technical working group to develop a transitional program to transfer the responsibilities associated with providing special education services from county mental health departments to the State Department of Education. This bill contains other related provisions.

Position: Priority:

Other

AB 10 (Alejo) Minimum wage: annual adjustment. (I-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.
 Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law requires that, on and after January 1, 2008, the minimum wage for all industries be not less than \$8.00 per hour. This bill would increase the minimum wage, as of January 1, 2012, to not less than \$8.50 per hour. This bill contains other related provisions.

Position: Priority:

AB 21 (Nestande) State Budget: key liabilities. (I-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.
 Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

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Summary: Under existing law, various duties and responsibilities are imposed upon the Governor and the Department of Finance in connection with the preparation and submission of the annual State Budget to the Legislature at each regular session thereof, including, among other things, the requirement to include a complete plan of all proposed expenditures and estimated revenues for the ensuing fiscal year. This bill additionally would require the Governor, or the Department of Finance acting on his or her behalf, at the same time as the Governor's Budget is submitted to the Legislature, to submit a report to the Legislature, setting forth a list of the state's key liabilities, in the nature of debt, deferred payments, and other liabilities that will affect the state's financial health in the future. The bill would direct that the report include a discussion of budget-related, infrastructure-related, and retirement-related liabilities, as well as recommendations for the retirement of those liabilities. This bill contains other related provisions.

Position: **Priority:**

AB 27 (Gorell) State budget. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Under existing law, no bill other than the Budget Bill may be heard or acted upon by a committee or either house of the Legislature until the 31st day after the bill is introduced, unless the house dispenses with this requirement via a 3/4 vote. This bill would require that the Budget Bill be in print and posted on a publicly accessible Internet Web site for 72 hours before it could be passed and sent to the Governor. This bill contains other related provisions and other existing laws.

Position: **Priority:**

AB 28 (Huber) State agencies: repeal. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing law establishes the Joint Sunset Review Committee for the purpose of identifying and eliminating waste, duplication, and inefficiency in government agencies and conducting a comprehensive analysis of every "eligible agency," as defined, to determine if the agency is still necessary and cost effective. Existing law defines an "eligible agency" as an entity of state government, however denominated, for which a date for repeal has been established by statute on or after January 1, 2011. Existing law requires the committee to take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed, and requires that an eligible agency be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the agency. This bill would declare the intent of the Legislature to enact legislation that would establish repeal dates for various agencies for the purpose of increasing the number of agencies that meet the definition of an "eligible agency" that is eligible for review by the Joint Sunset Review Committee.

Position: **Priority:**

AB 41 (Hill) Conflicts of interest: disqualification. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be heard in committee January 6.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing provisions of the Political Reform Act of 1974 prohibit a public official at

16

any level of state or local government from making, participating in making, or attempting to use his or her official position to influence a governmental decision in which he or she knows or has reason to know that he or she has a financial interest, as defined. Existing law also requires specified elected and appointed officers at the state and local level of government to disclose specified financial interests by filing periodic statements of economic interests. Existing law further requires public officials who hold specified offices and who have a financial interest in a decision within the meaning of the Political Reform Act of 1974 to publicly identify the financial interest giving rise to the conflict of interest or potential conflict of interest, recuse themselves from discussing and voting on the matter, and leave the room until after the discussion, vote, and other disposition of the matter is concluded, except as specified. This bill would add members of the High-Speed Rail Authority to those specified offices who must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly. This bill contains other related provisions and other existing laws.

Position: Priority:

AB 89 (Hill) Retirement: public employees. (I-01/06/2011 [html](#) [pdf](#))

Status: 01/07/2011-From printer. May be heard in committee February 6.

Current Location: 01/06/2011-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chapters
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Calendar Events:

Summary: The Public Employees' Retirement Law creates the Public Employees' Retirement System, which provides a defined benefit to its members based on age at retirement, service credit, and final compensation, as defined. The State Teachers' Retirement Law and the retirement laws for county employees and city employees also provide for a defined benefit based on age at retirement, service credit, and final compensation. This bill would specify that, notwithstanding any other law, for the purposes of determining a retirement benefit paid to a person who first becomes a member of a public retirement system on or after January 1, 2012, the maximum salary, compensation, or payrate upon which retirement benefits shall be based shall not exceed an amount set forth in a specified provision of the Internal Revenue Code.

Position: Priority:

ABX1 1 (Portantino) State employment: salary freeze. (I-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer.

Current Location: 12/06/2010-A PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chapters
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Calendar Events:

Summary: Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits and except as specified. Existing law requires the salary range to be based on the principle that like salaries shall be paid for comparable duties and responsibilities. Existing law allows the state to enter into memoranda of understanding relating to employer-employee relations with employee organizations representing certain state employees. This bill would, until January 1, 2014, prohibit a person employed by the state whose base salary on or after the effective date of the bill is greater than \$150,000 per year from receiving a salary increase while employed in the same position or classification. The bill would exempt from this prohibition a person whose compensation is governed by an operative memorandum of understanding, as described above, a person who has been exempted by Executive order of the Governor, as specified, or a person whose salary is set pursuant to the California Constitution. The bill would also authorize the Controller to reject a request for disbursement of funds that violates these provisions. The bill would make related legislative findings and declarations regarding the state budget deficit. This bill contains other related provisions and other existing laws.

Position: Priority:

17

Legislative vote.

Position: Priority:

SB 27 (Simitian) Public retirement: final compensation: computation: retirees. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.

Current Location: 12/06/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. PERL defines "final compensation" for purposes of calculating a member's retirement allowance. The State Teachers' Retirement Law (STRL) and the retirement laws for county employees and city employees also provide for a defined benefit based on age at retirement, service credit, and final compensation. This bill would provide that any change in salary, compensation, or remuneration principally for the purpose of enhancing a member's benefits would not be included in the calculation of a member's final compensation for purposes of determining that member's defined benefit. The bill would generally require the board of each state and local public retirement system to establish, by regulation, accountability provisions that would include an ongoing audit process to ensure that a change in a member's salary, compensation, or remuneration is not made principally for the purpose of enhancing a member's retirement benefits. This bill would revise the definition of "creditable compensation" and would limit the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the 2 preceding years by employees in the same or a related group as that member. This bill would also provide that a person who retires on or after January 1, 2013, may not perform services for any employer covered by a state or local retirement system until that person has been separated from service for a period of at least 180 days. This bill would provide for the implementation of these required changes under the laws that govern PERS and STRL. This bill contains other related provisions and other existing laws.

Position: Priority:

SB 60 (Evans) Mental health: worker and patient safety. (1-12/22/2010 [html](#) [pdf](#))

Status: 01/03/2011-From printer. May be acted upon on or after January 22. Read first time.

Current Location: 12/22/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Under existing law the State Department of Mental Health has jurisdiction over various state hospitals. This bill would express the intent of the Legislature to enact legislation that would address the safety of workers and patients in state hospitals under the jurisdiction of the State Department of Mental Health.

Position: Priority:

SCA 3 (Wyland) Legislature: Budget Bill: passage requirements. (1-12/06/2010 [html](#) [pdf](#))

Status: 12/07/2010-From printer. May be acted upon on or after January 6.

Current Location: 12/06/2010-S PRINT

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Calendar Events:

Summary: Existing constitutional provisions require that the Budget Bill be introduced in each house immediately after the Governor submits his or her budget to the Legislature. Existing constitutional provisions also require the Legislature to pass the Budget Bill by midnight on June 15 of each year. This measure would require that the Budget Bill and any budget

20

implementation bill, as defined, be printed and distributed to the members of a house considering either bill and made available to the public at least 21 calendar days before a vote in that house on the passage of either bill. The measure would provide that its requirements could be satisfied by electronic publication and distribution of the bills.

Position:

Priority:

21

LEGISLATIVE AGENDA ITEM DETAIL SHEET

Bill NUMBER/ISSUE: Federal Developmental Disabilities Assistance and Bill of Rights Act (DD Act) Reauthorization 2011

BILL SUMMARY: None at this time

BACKGROUND:

The Public Policy Subcommittee on DD Act Reauthorization of National Association of Councils on Developmental Disabilities (NACDD) held its last meeting on December 15, 2010, via a conference call to discuss issues of concern related to the reauthorization of the Act. Efforts are made to develop recommendations and seek reauthorization, hoping that the new Congress would take up the DD Act reauthorization in 2011. In the meantime national DD network including the National Disability Rights Network, Association of University Centers for Disability, NACDD and Administration on Developmental Disabilities (ADD) will continue to develop strategies and potential recommendations.

ANALYSIS/DISCUSSION:

Issues being discussed by the DD Network include:

- Self Advocacy: The Subcommittee doubts the merits of a separate fund for Self Advocacy, considering the current budget climate and the possibility of cutting into the Council's funds.
- Evaluation/Outcome Measurement: Added emphasis on measuring and reporting on system change will help the Councils to get the credit they deserve.
- Employment First: While some members wanted to remove the requirement and make it optional, California reported on the efforts of its Employment First Committee.
- Partners In Policymaking: Partners in Policymaking needs to be updated with emphasis on employment, community integration and leadership development.

- Areas of Emphasis: Do away with “areas of emphasis and adopt an approach with emphasis on outcomes.
- State Plans: Align state plans to cut across all network entities, with planning in cycles by state, and not by entity. As such 15-20 states would be on the same cycle at any given time.
- State DD Agencies: Consider the merits of bringing state DD Agencies into the Act. This addition may be redundant in California because all State DD Agencies are represented in the Council.
- Family Support: Consider rewriting this title to strengthen family support across the life cycle that includes expanded supports and not limited to Medicaid.
- Technical Assistance: Support a revised language that requires substantially more funding of Technical Assistance (TA) dollars for the Councils and possibly doubling it.
- AAA Model: Adopt Area Agencies on Aging (AAA) model in meeting the needs of seniors; to fulfill the needs of people with developmental disabilities and their families

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal3- Shape public policy that positively impacts Californians with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: SCDD is not a member of this Subcommittee but participated as observer on the December 15, 2010 conference call.

RECOMMENDATION(S):

- Continue to participate, give input and report back to LPPC.
- Provide written input on issues of interest and concern especially concerning the merits of bringing state DD agencies into the Act.

ATTACHMENT(S): Federal DD Act
Subcommittee Recommendations

PREPARED: Karim Alipourfard, January 11, 2011

TO: Public Policy Subcommittee on DD Act Reauthorization (Millie Ryan, Chair; Sheila Carey, Jane Rhys, Eddie Plourde, Liz Thompson, Angela Lello) and additional interested NACDD members

FROM: Michael Brogioli, NACDD CEO/Executive Director
Peggy Hathaway, NACDD Public Policy Manager

RE: DD Act Reauthorization

DATE: December 13, 2010

CC: Wanda Willis, NACDD President;
Ed Long, Katie Vanlandingham, NACDD Govt. Relations Consultants

Background

It is well known that reauthorization of the DD Act is long overdue, and NACDD must develop recommendations for possible reauthorization during the upcoming 112th Congress. We hope you find this memo helpful as you work to update and strengthen NACDD's recommendations for reauthorization.

Prospects for Reauthorization

While the incoming Congress may not address some major pieces of disability-related legislation that are also due for reauthorization (such as the Workforce Investment Act), there remains a real possibility that the new Congress will take up the DD Act in 2011.

Historically, the DD Act has enjoyed bipartisan support and has been a relatively uncontroversial piece of legislation. However, this Congress will be looking for places to cut costs wherever possible. Therefore, it is imperative that Councils make a strong case that demonstrates their value.

We need to discuss and consider ways to strengthen our recommendations for reauthorization. Regarding strategy, we ought to remain flexible to adjust to potentially changing dynamics and new information as we move forward in 2011. It is plausible that seeking a straight-up reauthorization will be the best strategy. However, it may be the case that a revamped Act is in order and is politically feasible. If so, we need to be prepared.

For our initial discussions, we encourage thinking big and not just tweaking the existing DD Act. As we go forward, we will need to consult with our DD network colleagues, NDRN and AUCD, as well as with the Administration on Developmental Disabilities, on strategies and potential recommendations.

Building upon NACDD's past work on reauthorization recommendations

Over the past several years, NACDD has put together broad principles and some specific language recommendations for reauthorization, some of which are referred to below. This is a non-exhaustive list of issues to consider. We expect additional suggestions and ideas.

Self Advocacy: Among the recommendations NACDD has supported is a separate, funded title in the Act for self advocacy. NACDD has couched this support with the following language: "as long as funding for these titles is new funding and not funding drawn away from the DD Council title." The reality is that in the current economic and budget climate, there will not be new money for new titles, and any funding for a new title would essentially come from existing programs.

Our recommendation is that NACDD be aware of the tradeoffs on a possible self advocacy title, and keep options open. We may have a clearer picture after the ADD-funded self advocacy summits that take place in early 2011 about what ADD and the disability community, including self advocates, wants, need and may support regarding self advocacy and the DD Act.

Evaluation/Outcomes Measurement: NACDD currently supports "developing performance indicators for systems change activities." There is a big need for thinking about and enacting reforms via reauthorization on the issue of outcomes—in particular in defining and measuring systems change. Strengthening, measuring and reporting on systems change will help Councils get the credit they deserve for changing systems in the states.

How do we determine what kinds of systems change measurements are appropriate for Councils? How can we develop a baseline and measure growth towards reaching the goals of the DD Act? (See side-by-side for proposed definitions of "advocacy" (p. 10), "areas of emphasis" (p. 11), "capacity building" (p. 12), "education activities" p. 14-15, and "family support (p. 15).

Employment First: Consider adding an "Employment First" definition to the DD Act and making employment a required activity or goal for Councils, just as self-advocacy currently is. If we recommend adding this, how should it be defined? (Note: The term "employment related activities" is defined in the current DD Act; see p. 15 of side-by-side.)

Partners in Policymaking: Consider how to update Partners in Policymaking, with an emphasis on employment and community integration. Underscore that leadership development remains a priority for Councils.

Areas of Emphasis: Consider recommending doing away with "areas of emphasis" and adopting a more holistic approach to the DD network, with an emphasis on outcomes. If

areas of emphasis are retained, consider adding “transition.” (See definition of “areas of emphasis” on p. 11 of side-by-side. See also proposed definitions of “advocacy” (p. 10) and “capacity building” (p. 12). There is no current definition of “transition” in the DD Act or in the side-by-side.)

State Plans: Consider aligning state plans to cut across all network entities, with planning in cycles by state, and not entity, so that 15-20 states would be on the same cycle at any given time.

DD Agencies: Consider the merits of bringing state DD Agencies into the Act.

Medicaid Waivers and State DD Councils: Consider supporting a possible recommendation that might be along the following lines: Congress should require that the DD Councils review and comment on any proposed changes to the state Medicaid plan or waivers related to DD issues. Any application from the state to CMS must be accompanied by a letter of support or a list of concerns for CMS’s consideration when deciding whether to approve the change to the plan. (This would give Councils a clear role and some authority on crucial services for people with DD.)

In addition, consider supporting a possible recommendation that might be along the following lines: Congress should direct ADD and the State Councils to launch a major new initiative to identify, analyze and describe eligibility and funding inequities in the current Medicaid and state developmental disabilities system, and to work collaboratively with major federal partners and state developmental disabilities and state Medicaid agencies to eliminate these inequities.

In both cases, while we would recommend appropriations for Councils for these additional Council duties, we must be aware that increased appropriations are unlikely.

Family Support: Consider rewriting this title to strengthen family support across the life cycle; consider “out of the box” thinking on family support that is not limited to Medicaid. (See proposed definition of “family services” on p. 15 of side-by-side.)

Technical Assistance: Consider supporting revised language that requires substantially more funding of technical assistance (TA) for Councils. The current Act states that the Secretary shall reserve not less than \$300,000 and not more than one percent (1%) for technical assistance for Councils. However, our DD network peers have substantially larger TA Contracts in part because they enjoy multisource funding; also, the P&As and UCEDDs have a higher cap (2%). Arguably, Councils need the strongest technical assistance but have the fewest current dollars dedicated to technical assistance.

AAA Model: Consider the Area Agencies on Aging (AAA) model and how it meets seniors’ needs and if there are lessons for Councils as they seek to meet needs of people with developmental disabilities and their families.

Additional Possible recommendations focused on the DD Act

Consider the following possible recommendations:

ADD, in partnership with the DD Network, including DD Network national associations, should develop a manageable and useful monitoring plan that yields data that accurately reflects the range of activities of the programs and is useful for program administration and improvement. The data should enable ADD to identify underperforming grantees.

Congress should require ADD to identify, analyze and synthesize trends in the needs, goal, activities and major initiatives of State Council Plans, Protection and Advocacy State Plans, and UCEDDs statement of work and report the results of trends to Congress on an annual basis. The approach would provide Congress with information on the current and merging needs of people with DD.

Congress should require ADD to identify the barriers and challenges currently encountered by State Councils, Protection and Advocacy programs, and UCEDDs when implementing their state plan activities, and document the type, amount and effectiveness of technical assistance or support ADD had provided to enable the programs to overcome these challenges.

Congress should direct ADD to collaborate with the Centers for Medicare and Medicaid Services, the Assistant Secretary for Planning and Evaluation, the Projects of National Significance, The Interagency Committee on Disability Research, the National Institute for Disability and Rehabilitation Research, the National Center on Special Education Research, the Office of Disability Employment Policy, the Social Security Administration, and other appropriate federal agencies to determine the extent to which individuals with DD are able to access and benefit from the generic and specialized federal programs currently providing services and supports.

Timeframe and Next Steps

ADD is producing a strategic plan, as well as recommendations for the Obama Administration on DD Act reauthorization this spring. Therefore, ADD needs our views by mid March to inform its recommendations.

Since the Public Policy Committee, per NACDD bylaws, “shall be responsible for considering DD Act and other public policy priorities...” it should develop draft recommendations for reauthorization. The Subcommittee will need to report to the full Policy Committee, and the full Policy Committee in turn will need to report to the membership, which per bylaws has the authority to “(approve) recommendations for reauthorization of the federal DD Act.”

Given ADD’s timeframe, the Subcommittee will need to engage on reauthorization as soon as possible and should develop a draft set of recommendations to be considered at

of our next full Policy Committee meeting on February 8, 2011. After further input at the February 8th meeting, revised draft recommendations will be the focal point of NACDD's public policy meeting on February 13th, 4:00-6:00 pm in Washington, DC. We anticipate strong interest in, and attendance at, this session.

All Public Policy Committee and DD Act Subcommittee meetings are open to all member Councils, and meeting schedules, agendas and documents will be shared with all Councils in advance.

In addition to the open Committee and Subcommittee meetings, and the February 13th meeting, we could if necessary organize one or more membership conference calls that are focused on reauthorization to further ensure membership education about, and input on, reauthorization. A special meeting of the Assembly, via conference call, must be arranged for early to mid-March to vote on a set of recommendations.

Public Law 106-402
106th Congress

An Act

To improve service systems for individuals with developmental disabilities, and for other purposes.

Oct. 30, 2000
[S. 1809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Developmental Disabilities Assistance and Bill of Rights Act of 2000.
42 USC 15001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Subtitle A—General Provisions

- Sec. 101. Findings, purposes, and policy.
- Sec. 102. Definitions.
- Sec. 103. Records and audits.
- Sec. 104. Responsibilities of the Secretary.
- Sec. 105. Reports of the Secretary.
- Sec. 106. State control of operations.
- Sec. 107. Employment of individuals with disabilities.
- Sec. 108. Construction.
- Sec. 109. Rights of individuals with developmental disabilities.

Subtitle B—Federal Assistance to State Councils on Developmental Disabilities

- Sec. 121. Purpose.
- Sec. 122. State allotments.
- Sec. 123. Payments to the States for planning, administration, and services.
- Sec. 124. State plan.
- Sec. 125. State Councils on Developmental Disabilities and designated State agencies.
- Sec. 126. Federal and non-Federal share.
- Sec. 127. Withholding of payments for planning, administration, and services.
- Sec. 128. Appeals by States.
- Sec. 129. Authorization of appropriations.

Subtitle C—Protection and Advocacy of Individual Rights

- Sec. 141. Purpose.
- Sec. 142. Allotments and payments.
- Sec. 143. System required.
- Sec. 144. Administration.
- Sec. 145. Authorization of appropriations.

Subtitle D—National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service

- Sec. 151. Grant authority.
- Sec. 152. Grant awards.
- Sec. 153. Purpose and scope of activities.
- Sec. 154. Applications.

- Sec. 155. Definition.
 Sec. 156. Authorization of appropriations.

Subtitle E—Projects of National Significance

- Sec. 161. Purpose.
 Sec. 162. Grant authority.
 Sec. 163. Authorization of appropriations.

TITLE II—FAMILY SUPPORT

- Sec. 201. Short title.
 Sec. 202. Findings, purposes, and policy.
 Sec. 203. Definitions and special rule.
 Sec. 204. Grants to States.
 Sec. 205. Application.
 Sec. 206. Designation of the lead entity.
 Sec. 207. Authorized activities.
 Sec. 208. Reporting.
 Sec. 209. Technical assistance.
 Sec. 210. Evaluation.
 Sec. 211. Projects of national significance.
 Sec. 212. Authorization of appropriations.

TITLE III—PROGRAM FOR DIRECT SUPPORT WORKERS WHO ASSIST
 INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

- Sec. 301. Findings.
 Sec. 302. Definitions.
 Sec. 303. Reaching up scholarship program.
 Sec. 304. Staff development curriculum authorization.
 Sec. 305. Authorization of appropriations.

TITLE IV—REPEAL

- Sec. 401. Repeal.

TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Subtitle A—General Provisions

42 USC 15001.

SEC. 101. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural, and educational mainstream of United States society;

(2) in 1999, there were between 3,200,000 and 4,500,000 individuals with developmental disabilities in the United States, and recent studies indicate that individuals with developmental disabilities comprise between 1.2 and 1.65 percent of the United States population;

(3) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

(4) individuals with developmental disabilities often encounter discrimination in the provision of critical services, such as services in the areas of emphasis (as defined in section 102);

(5) individuals with developmental disabilities are at greater risk than the general population of abuse, neglect,

financial and sexual exploitation, and the violation of their legal and human rights;

(6) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services, including access to assistive technology, from generic and specialized service systems, and remain unserved or underserved;

(7) individuals with developmental disabilities often require lifelong community services, individualized supports, and other forms of assistance, that are most effective when provided in a coordinated manner;

(8) there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that ensures that individuals from racial and ethnic minority backgrounds are fully included in all activities provided under this title;

(9) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family members, friends, and community members are provided with the necessary community services, individualized supports, and other forms of assistance;

(10) current research indicates that 88 percent of individuals with developmental disabilities live with their families or in their own households;

(11) many service delivery systems and communities are not prepared to meet the impending needs of the 479,862 adults with developmental disabilities who are living at home with parents who are 60 years old or older and who serve as the primary caregivers of the adults;

(12) in almost every State, individuals with developmental disabilities are waiting for appropriate services in their communities, in the areas of emphasis;

(13) the public needs to be made more aware of the capabilities and competencies of individuals with developmental disabilities, particularly in cases in which the individuals are provided with necessary services, supports, and other assistance;

(14) as increasing numbers of individuals with developmental disabilities are living, learning, working, and participating in all aspects of community life, there is an increasing need for a well trained workforce that is able to provide the services, supports, and other forms of direct assistance required to enable the individuals to carry out those activities;

(15) there needs to be greater effort to recruit individuals from minority backgrounds into professions serving individuals with developmental disabilities and their families;

(16) the goals of the Nation properly include a goal of providing individuals with developmental disabilities with the information, skills, opportunities, and support to—

(A) make informed choices and decisions about their lives;

(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

(C) pursue meaningful and productive lives;

(D) contribute to their families, communities, and States, and the Nation;

(E) have interdependent friendships and relationships with other persons;

(F) live free of abuse, neglect, financial and sexual exploitation, and violations of their legal and human rights; and

(G) achieve full integration and inclusion in society, in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual; and

(17) as the Nation, States, and communities maintain and expand community living options for individuals with developmental disabilities, there is a need to evaluate the access to those options by individuals with developmental disabilities and the effects of those options on individuals with developmental disabilities.

(b) PURPOSE.—The purpose of this title is to assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life, through culturally competent programs authorized under this title, including specifically—

(1) State Councils on Developmental Disabilities in each State to engage in advocacy, capacity building, and systemic change activities that—

(A) are consistent with the purpose described in this subsection and the policy described in subsection (c); and

(B) contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system that includes needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families;

(2) protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

(3) University Centers for Excellence in Developmental Disabilities Education, Research, and Service—

(A) to provide interdisciplinary pre-service preparation and continuing education of students and fellows, which may include the preparation and continuing education of leadership, direct service, clinical, or other personnel to strengthen and increase the capacity of States and communities to achieve the purpose of this title;

(B) to provide community services—

(i) that provide training and technical assistance for individuals with developmental disabilities, their families, professionals, paraprofessionals, policy-makers, students, and other members of the community; and

(ii) that may provide services, supports, and assistance for the persons described in clause (i) through demonstration and model activities;

(C) to conduct research, which may include basic or applied research, evaluation, and the analysis of public policy in areas that affect or could affect, either positively

or negatively, individuals with developmental disabilities and their families; and

(D) to disseminate information related to activities undertaken to address the purpose of this title, especially dissemination of information that demonstrates that the network authorized under this subtitle is a national and international resource that includes specific substantive areas of expertise that may be accessed and applied in diverse settings and circumstances; and

(4) funding for—

(A) national initiatives to collect necessary data on issues that are directly or indirectly relevant to the lives of individuals with developmental disabilities;

(B) technical assistance to entities who engage in or intend to engage in activities consistent with the purpose described in this subsection or the policy described in subsection (c); and

(C) other nationally significant activities.

(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this title shall be carried out in a manner consistent with the principles that—

(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of self-determination, independence, productivity, and integration and inclusion in all facets of community life, but often require the provision of community services, individualized supports, and other forms of assistance;

(2) individuals with developmental disabilities and their families have competencies, capabilities, and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individuals;

(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive, including regarding choosing where the individuals live from available options, and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

(4) services, supports, and other assistance should be provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

(5) specific efforts must be made to ensure that individuals with developmental disabilities from racial and ethnic minority backgrounds and their families enjoy increased and meaningful opportunities to access and use community services, individualized supports, and other forms of assistance available to other individuals with developmental disabilities and their families;

(6) recruitment efforts in disciplines related to developmental disabilities relating to pre-service training, community training, practice, administration, and policymaking must focus on bringing larger numbers of racial and ethnic minorities

into the disciplines in order to provide appropriate skills, knowledge, role models, and sufficient personnel to address the growing needs of an increasingly diverse population;

(7) with education and support, communities can be accessible to and responsive to the needs of individuals with developmental disabilities and their families and are enriched by full and active participation in community activities, and contributions, by individuals with developmental disabilities and their families;

(8) individuals with developmental disabilities have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, communities, and States, and the Nation;

(9) efforts undertaken to maintain or expand community-based living options for individuals with disabilities should be monitored in order to determine and report to appropriate individuals and entities the extent of access by individuals with developmental disabilities to those options and the extent of compliance by entities providing those options with quality assurance standards;

(10) families of children with developmental disabilities need to have access to and use of safe and appropriate child care and before-school and after-school programs, in the most integrated settings, in order to enrich the participation of the children in community life;

(11) individuals with developmental disabilities need to have access to and use of public transportation, in order to be independent and directly contribute to and participate in all facets of community life; and

(12) individuals with developmental disabilities need to have access to and use of recreational, leisure, and social opportunities in the most integrated settings, in order to enrich their participation in community life.

42 USC 15002.

SEC. 102. DEFINITIONS.

In this title:

(1) **AMERICAN INDIAN CONSORTIUM.**—The term “American Indian Consortium” means any confederation of 2 or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in 2 or more States.

(2) **AREAS OF EMPHASIS.**—The term “areas of emphasis” means the areas related to quality assurance activities, education activities and early intervention activities, child care-related activities, health-related activities, employment-related activities, housing-related activities, transportation-related activities, recreation-related activities, and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life.

(3) **ASSISTIVE TECHNOLOGY DEVICE.**—The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve

functional capabilities of individuals with developmental disabilities.

(4) **ASSISTIVE TECHNOLOGY SERVICE.**—The term “assistive technology service” means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) conducting an evaluation of the needs of an individual with a developmental disability, including a functional evaluation of the individual in the individual’s customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of an assistive technology device by an individual with a developmental disability;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing an assistive technology device;

(D) coordinating and using another therapy, intervention, or service with an assistive technology device, such as a therapy, intervention, or service associated with an education or rehabilitation plan or program;

(E) providing training or technical assistance for an individual with a developmental disability, or, where appropriate, a family member, guardian, advocate, or authorized representative of an individual with a developmental disability; and

(F) providing training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

(5) **CENTER.**—The term “Center” means a University Center for Excellence in Developmental Disabilities Education, Research, and Service established under subtitle D.

(6) **CHILD CARE-RELATED ACTIVITIES.**—The term “child care-related activities” means advocacy, capacity building, and systemic change activities that result in families of children with developmental disabilities having access to and use of child care services, including before-school, after-school, and out-of-school services, in their communities.

(7) **CULTURALLY COMPETENT.**—The term “culturally competent”, used with respect to services, supports, or other assistance, means services, supports, or other assistance that is conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of individuals who are receiving the services, supports, or other assistance, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program involved.

(8) **DEVELOPMENTAL DISABILITY.**—

(A) **IN GENERAL.**—The term “developmental disability” means a severe, chronic disability of an individual that—

(i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) is manifested before the individual attains age 22;

(iii) is likely to continue indefinitely;

(iv) results in substantial functional limitations in 3 or more of the following areas of major life activity:

(I) Self-care.

(II) Receptive and expressive language.

(III) Learning.

(IV) Mobility.

(V) Self-direction.

(VI) Capacity for independent living.

(VII) Economic self-sufficiency; and

(v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) INFANTS AND YOUNG CHILDREN.—An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

(9) EARLY INTERVENTION ACTIVITIES.—The term “early intervention activities” means advocacy, capacity building, and systemic change activities provided to individuals described in paragraph (8)(B) and their families to enhance—

(A) the development of the individuals to maximize their potential; and

(B) the capacity of families to meet the special needs of the individuals.

(10) EDUCATION ACTIVITIES.—The term “education activities” means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities being able to access appropriate supports and modifications when necessary, to maximize their educational potential, to benefit from lifelong educational activities, and to be integrated and included in all facets of student life.

(11) EMPLOYMENT-RELATED ACTIVITIES.—The term “employment-related activities” means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities acquiring, retaining, or advancing in paid employment, including supported employment or self-employment, in integrated settings in a community.

(12) FAMILY SUPPORT SERVICES.—

(A) IN GENERAL.—The term “family support services” means services, supports, and other assistance, provided to families with members who have developmental disabilities, that are designed to—

(i) strengthen the family's role as primary caregiver;

(ii) prevent inappropriate out-of-the-home placement of the members and maintain family unity; and

(iii) reunite families with members who have been placed out of the home whenever possible.

(B) **SPECIFIC SERVICES.**—Such term includes respite care, provision of rehabilitation technology and assistive technology, personal assistance services, parent training and counseling, support for families headed by aging caregivers, vehicular and home modifications, and assistance with extraordinary expenses, associated with the needs of individuals with developmental disabilities.

(13) **HEALTH-RELATED ACTIVITIES.**—The term “health-related activities” means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of coordinated health, dental, mental health, and other human and social services, including prevention activities, in their communities.

(14) **HOUSING-RELATED ACTIVITIES.**—The term “housing-related activities” means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of housing and housing supports and services in their communities, including assistance related to renting, owning, or modifying an apartment or home.

(15) **INCLUSION.**—The term “inclusion”, used with respect to individuals with developmental disabilities, means the acceptance and encouragement of the presence and participation of individuals with developmental disabilities, by individuals without disabilities, in social, educational, work, and community activities, that enables individuals with developmental disabilities to—

(A) have friendships and relationships with individuals and families of their own choice;

(B) live in homes close to community resources, with regular contact with individuals without disabilities in their communities;

(C) enjoy full access to and active participation in the same community activities and types of employment as individuals without disabilities; and

(D) take full advantage of their integration into the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities.

(16) **INDIVIDUALIZED SUPPORTS.**—The term “individualized supports” means supports that—

(A) enable an individual with a developmental disability to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life;

(B) are designed to—

(i) enable such individual to control such individual’s environment, permitting the most independent life possible;

(ii) prevent placement into a more restrictive living arrangement than is necessary; and

(iii) enable such individual to live, learn, work, and enjoy life in the community; and

(C) include—

(i) early intervention services;

(ii) respite care;

(iii) personal assistance services;

- (iv) family support services;
- (v) supported employment services;
- (vi) support services for families headed by aging caregivers of individuals with developmental disabilities; and
- (vii) provision of rehabilitation technology and assistive technology, and assistive technology services.

(17) INTEGRATION.—The term “integration”, used with respect to individuals with developmental disabilities, means exercising the equal right of individuals with developmental disabilities to access and use the same community resources as are used by and available to other individuals.

(18) NOT-FOR-PROFIT.—The term “not-for-profit”, used with respect to an agency, institution, or organization, means an agency, institution, or organization that is owned or operated by 1 or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(19) PERSONAL ASSISTANCE SERVICES.—The term “personal assistance services” means a range of services, provided by 1 or more individuals, designed to assist an individual with a disability to perform daily activities, including activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual’s control in life and ability to perform everyday activities, including activities on or off a job.

(20) PREVENTION ACTIVITIES.—The term “prevention activities” means activities that address the causes of developmental disabilities and the exacerbation of functional limitation, such as activities that—

(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

(B) increase the early identification of problems to eliminate circumstances that create or increase functional limitations; and

(C) mitigate against the effects of developmental disabilities throughout the lifespan of an individual.

(21) PRODUCTIVITY.—The term “productivity” means—

(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

(B) engagement in work that contributes to a household or community.

(22) PROTECTION AND ADVOCACY SYSTEM.—The term “protection and advocacy system” means a protection and advocacy system established in accordance with section 143.

(23) QUALITY ASSURANCE ACTIVITIES.—The term “quality assurance activities” means advocacy, capacity building, and systemic change activities that result in improved consumer- and family-centered quality assurance and that result in systems of quality assurance and consumer protection that—

(A) include monitoring of services, supports, and assistance provided to an individual with developmental disabilities that ensures that the individual—

(i) will not experience abuse, neglect, sexual or financial exploitation, or violation of legal or human rights; and

(ii) will not be subject to the inappropriate use of restraints or seclusion;

(B) include training in leadership, self-advocacy, and self-determination for individuals with developmental disabilities, their families, and their guardians to ensure that those individuals—

(i) will not experience abuse, neglect, sexual or financial exploitation, or violation of legal or human rights; and

(ii) will not be subject to the inappropriate use of restraints or seclusion; or

(C) include activities related to interagency coordination and systems integration that result in improved and enhanced services, supports, and other assistance that contribute to and protect the self-determination, independence, productivity, and integration and inclusion in all facets of community life, of individuals with developmental disabilities.

(24) RECREATION-RELATED ACTIVITIES.—The term “recreation-related activities” means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of recreational, leisure, and social activities, in their communities.

(25) REHABILITATION TECHNOLOGY.—The term “rehabilitation technology” means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, and the provision of assistive technology devices and assistive technology services.

(26) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(27) SELF-DETERMINATION ACTIVITIES.—The term “self-determination activities” means activities that result in individuals with developmental disabilities, with appropriate assistance, having—

(A) the ability and opportunity to communicate and make personal decisions;

(B) the ability and opportunity to communicate choices and exercise control over the type and intensity of services, supports, and other assistance the individuals receive;

(C) the authority to control resources to obtain needed services, supports, and other assistance;

(D) opportunities to participate in, and contribute to, their communities; and

(E) support, including financial support, to advocate for themselves and others, to develop leadership skills, through training in self-advocacy, to participate in coalitions, to educate policymakers, and to play a role in the development of public policies that affect individuals with developmental disabilities.

(28) STATE.—The term “State”, except as otherwise provided, includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(29) STATE COUNCIL ON DEVELOPMENTAL DISABILITIES.—The term “State Council on Developmental Disabilities” means a Council established under section 125.

(30) SUPPORTED EMPLOYMENT SERVICES.—The term “supported employment services” means services that enable individuals with developmental disabilities to perform competitive work in integrated work settings, in the case of individuals with developmental disabilities—

(A)(i) for whom competitive employment has not traditionally occurred; or

(ii) for whom competitive employment has been interrupted or intermittent as a result of significant disabilities; and

(B) who, because of the nature and severity of their disabilities, need intensive supported employment services or extended services in order to perform such work.

(31) TRANSPORTATION-RELATED ACTIVITIES.—The term “transportation-related activities” means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of transportation.

(32) UNSERVED AND UNDERSERVED.—The term “unserved and underserved” includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals who require assistive technology in order to participate in and contribute to community life.

42 USC 15003.

SEC. 103. RECORDS AND AUDITS.

(a) RECORDS.—Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including—

(1) records that fully disclose—

(A) the amount and disposition by such recipient of the assistance;

(B) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(C) the amount of that portion of the cost of the project or undertaking that is supplied by other sources; and

(2) such other records as will facilitate an effective audit.

(b) ACCESS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

42 USC 15004.

SEC. 104. RESPONSIBILITIES OF THE SECRETARY.

(a) PROGRAM ACCOUNTABILITY.—

(1) **IN GENERAL.**—In order to monitor entities that received funds under this Act to carry out activities under subtitles B, C, and D and determine the extent to which the entities have been responsive to the purpose of this title and have taken actions consistent with the policy described in section 101(c), the Secretary shall develop and implement an accountability process as described in this subsection, with respect to activities conducted after October 1, 2001.

(2) **AREAS OF EMPHASIS.**—The Secretary shall develop a process for identifying and reporting (pursuant to section 105) on progress achieved through advocacy, capacity building, and systemic change activities, undertaken by the entities described in paragraph (1), that resulted in individuals with developmental disabilities and their families participating in the design of and having access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life. Specifically, the Secretary shall develop a process for identifying and reporting on progress achieved, through advocacy, capacity building, and systemic change activities, by the entities in the areas of emphasis.

(3) **INDICATORS OF PROGRESS.**—

(A) **IN GENERAL.**—In identifying progress made by the entities described in paragraph (1) in the areas of emphasis, the Secretary, in consultation with the Commissioner of the Administration on Developmental Disabilities and the entities, shall develop indicators for each area of emphasis.

(B) **PROPOSED INDICATORS.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop and publish in the Federal Register for public comment proposed indicators of progress for monitoring how entities described in paragraph (1) have addressed the areas of emphasis described in paragraph (2) in a manner that is responsive to the purpose of this title and consistent with the policy described in section 101(c).

(C) **FINAL INDICATORS.**—Not later than October 1, 2001, the Secretary shall revise the proposed indicators of progress, to the extent necessary based on public comment, and publish final indicators of progress in the Federal Register.

(D) **SPECIFIC MEASURES.**—At a minimum, the indicators of progress shall be used to describe and measure—

(i) the satisfaction of individuals with developmental disabilities with the advocacy, capacity building, and systemic change activities provided under subtitles B, C, and D;

(ii) the extent to which the advocacy, capacity building, and systemic change activities provided through subtitles B, C, and D result in improvements in—

(I) the ability of individuals with developmental disabilities to make choices and exert control over the type, intensity, and timing of services, supports, and assistance that the individuals have used;

Deadline.
Federal Register,
publication.

Deadline.
Federal Register,
publication.

(II) the ability of individuals with developmental disabilities to participate in the full range of community life with persons of the individuals' choice; and

(III) the ability of individuals with developmental disabilities to access services, supports, and assistance in a manner that ensures that such an individual is free from abuse, neglect, sexual and financial exploitation, violation of legal and human rights, and the inappropriate use of restraints and seclusion; and

(iii) the extent to which the entities described in paragraph (1) collaborate with each other to achieve the purpose of this title and the policy described in section 101(c).

(4) **TIME LINE FOR COMPLIANCE WITH INDICATORS OF PROGRESS.**—The Secretary shall require entities described in paragraph (1) to meet the indicators of progress described in paragraph (3). For fiscal year 2002 and each year thereafter, the Secretary shall apply the indicators in monitoring entities described in paragraph (1), with respect to activities conducted after October 1, 2001.

Deadline.

(b) **TIME LINE FOR REGULATIONS.**—Except as otherwise expressly provided in this title, the Secretary, not later than 1 year after the date of enactment of this Act, shall promulgate such regulations as may be required for the implementation of this title.

(c) **INTERAGENCY COMMITTEE.**—

(1) **IN GENERAL.**—The Secretary shall maintain the interagency committee authorized in section 108 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6007) as in effect on the day before the date of enactment of this Act, except as otherwise provided in this subsection.

(2) **COMPOSITION.**—The interagency committee shall be composed of representatives of—

(A) the Administration on Developmental Disabilities, the Administration on Children, Youth, and Families, the Administration on Aging, and the Health Resources and Services Administration, of the Department of Health and Human Services; and

(B) such other Federal departments and agencies as the Secretary of Health and Human Services considers to be appropriate.

(3) **DUTIES.**—Such interagency committee shall meet regularly to coordinate and plan activities conducted by Federal departments and agencies for individuals with developmental disabilities.

(4) **MEETINGS.**—Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.

Federal Register,
publication.
Deadline.

42 USC 15005.

SEC. 105. REPORTS OF THE SECRETARY.

At least once every 2 years, the Secretary, using information submitted in the reports and information required under subtitles

B, C, D, and E, shall prepare and submit to the President, Congress, and the National Council on Disability, a report that describes the goals and outcomes of programs supported under subtitles B, C, D, and E. In preparing the report, the Secretary shall provide—

(1) meaningful examples of how the councils, protection and advocacy systems, centers, and entities funded under subtitles B, C, D, and E, respectively—

(A) have undertaken coordinated activities with each other;

(B) have enhanced the ability of individuals with developmental disabilities and their families to participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life;

(C) have brought about advocacy, capacity building, and systemic change activities (including policy reform), and other actions on behalf of individuals with developmental disabilities and their families, including individuals who are traditionally unserved or underserved, particularly individuals who are members of ethnic and racial minority groups and individuals from underserved geographic areas; and

(D) have brought about advocacy, capacity building, and systemic change activities that affect individuals with disabilities other than individuals with developmental disabilities;

(2) information on the extent to which programs authorized under this title have addressed—

(A) protecting individuals with developmental disabilities from abuse, neglect, sexual and financial exploitation, and violations of legal and human rights, so that those individuals are at no greater risk of harm than other persons in the general population; and

(B) reports of deaths of and serious injuries to individuals with developmental disabilities; and

(3) a summary of any incidents of noncompliance of the programs authorized under this title with the provisions of this title, and corrections made or actions taken to obtain compliance.

SEC. 106. STATE CONTROL OF OPERATIONS.

42 USC 15006.

Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any programs, services, and supports for individuals with developmental disabilities with respect to which any funds have been or may be expended under this title.

SEC. 107. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

42 USC 15007.

As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of title V of the Rehabilitation Act of 1973 (29

U.S.C. 791 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), that govern employment.

42 USC 15008.

SEC. 108. CONSTRUCTION.

Nothing in this title shall be construed to preclude an entity funded under this title from engaging in advocacy, capacity building, and systemic change activities for individuals with developmental disabilities that may also have a positive impact on individuals with other disabilities.

42 USC 15009.

SEC. 109. RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

(a) **IN GENERAL.**—Congress makes the following findings respecting the rights of individuals with developmental disabilities:

(1) Individuals with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities, consistent with section 101(c).

(2) The treatment, services, and habilitation for an individual with developmental disabilities should be designed to maximize the potential of the individual and should be provided in the setting that is least restrictive of the individual's personal liberty.

(3) The Federal Government and the States both have an obligation to ensure that public funds are provided only to institutional programs, residential programs, and other community programs, including educational programs in which individuals with developmental disabilities participate, that—

(A) provide treatment, services, and habilitation that are appropriate to the needs of such individuals; and

(B) meet minimum standards relating to—

(i) provision of care that is free of abuse, neglect, sexual and financial exploitation, and violations of legal and human rights and that subjects individuals with developmental disabilities to no greater risk of harm than others in the general population;

(ii) provision to such individuals of appropriate and sufficient medical and dental services;

(iii) prohibition of the use of physical restraint and seclusion for such an individual unless absolutely necessary to ensure the immediate physical safety of the individual or others, and prohibition of the use of such restraint and seclusion as a punishment or as a substitute for a habilitation program;

(iv) prohibition of the excessive use of chemical restraints on such individuals and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such individuals; and

(v) provision for close relatives or guardians of such individuals to visit the individuals without prior notice.

(4) All programs for individuals with developmental disabilities should meet standards—

(A) that are designed to assure the most favorable possible outcome for those served; and

(B)(i) in the case of residential programs serving individuals in need of comprehensive health-related,

habilitative, assistive technology or rehabilitative services, that are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded, promulgated in regulations of the Secretary on June 3, 1988, as appropriate, taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(ii) in the case of other residential programs for individuals with developmental disabilities, that assure that—

(I) care is appropriate to the needs of the individuals being served by such programs;

(II) the individuals admitted to facilities of such programs are individuals whose needs can be met through services provided by such facilities; and

(III) the facilities of such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(iii) in the case of nonresidential programs, that assure that the care provided by such programs is appropriate to the individuals served by the programs.

(b) CLARIFICATION.—The rights of individuals with developmental disabilities described in findings made in this section shall be considered to be in addition to any constitutional or other rights otherwise afforded to all individuals.

Subtitle B—Federal Assistance to State Councils on Developmental Disabilities

SEC. 121. PURPOSE.

42 USC 15021.

The purpose of this subtitle is to provide for allotments to support State Councils on Developmental Disabilities (referred to individually in this subtitle as a “Council”) in each State to—

(1) engage in advocacy, capacity building, and systemic change activities that are consistent with the purpose described in section 101(b) and the policy described in section 101(c); and

(2) contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that enable individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life.

SEC. 122. STATE ALLOTMENTS.

42 USC 15022.

(a) ALLOTMENTS.—

(1) IN GENERAL.—

(A) AUTHORITY.—For each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 129 among the States on the basis of—

(i) the population;

(ii) the extent of need for services for individuals with developmental disabilities; and

(iii) the financial need,

of the respective States.

(B) USE OF FUNDS.—Sums allotted to the States under this section shall be used to pay for the Federal share of the cost of carrying out projects in accordance with State plans approved under section 124 for the provision under such plans of services for individuals with developmental disabilities.

Deadline.

(2) ADJUSTMENTS.—The Secretary may make adjustments in the amounts of State allotments based on clauses (i), (ii), and (iii) of paragraph (1)(A) not more often than annually. The Secretary shall notify each State of any adjustment made under this paragraph and the percentage of the total sums appropriated under section 129 that the adjusted allotment represents not later than 6 months before the beginning of the fiscal year in which such adjustment is to take effect.

(3) MINIMUM ALLOTMENT FOR APPROPRIATIONS LESS THAN OR EQUAL TO \$70,000,000.—

(A) IN GENERAL.—Except as provided in paragraph (4), for any fiscal year the allotment under this section—

(i) to each of American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands may not be less than \$210,000; and

(ii) to any State not described in clause (i) may not be less than \$400,000.

(B) REDUCTION OF ALLOTMENT.—Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to the States pursuant to subparagraph (A) for any fiscal year exceeds the total amount appropriated under section 129 for such fiscal year, the amount to be allotted to each State for such fiscal year shall be proportionately reduced.

(4) MINIMUM ALLOTMENT FOR APPROPRIATIONS IN EXCESS OF \$70,000,000.—

(A) IN GENERAL.—In any case in which the total amount appropriated under section 129 for a fiscal year is more than \$70,000,000, the allotment under this section for such fiscal year—

(i) to each of American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands may not be less than \$220,000; and

(ii) to any State not described in clause (i) may not be less than \$450,000.

(B) REDUCTION OF ALLOTMENT.—The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).

(5) STATE SUPPORTS, SERVICES, AND OTHER ACTIVITIES.—In determining, for purposes of paragraph (1)(A)(ii), the extent of need in any State for services for individuals with developmental disabilities, the Secretary shall take into account the scope and extent of the services, supports, and assistance described, pursuant to section 124(c)(3)(A), in the State plan of the State.

(6) INCREASE IN ALLOTMENTS.—In any year in which the total amount appropriated under section 129 for a fiscal year exceeds the total amount appropriated under such section (or a corresponding provision) for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(c)(1)) (if the percentage change indicates an increase), the Secretary shall increase each of the minimum allotments described in paragraphs (3) and (4). The Secretary shall increase each minimum allotment by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph (or a corresponding provision) for prior fiscal years) as the amount that is equal to the difference between—

(A) the total amount appropriated under section 129 for the fiscal year for which the increase in the minimum allotment is being made; minus

(B) the total amount appropriated under section 129 (or a corresponding provision) for the immediately preceding fiscal year,

bears to the total amount appropriated under section 129 (or a corresponding provision) for such preceding fiscal year.

(b) UNOBLIGATED FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

(c) OBLIGATION OF FUNDS.—For the purposes of this subtitle, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this subtitle.

(d) COOPERATIVE EFFORTS BETWEEN STATES.—If a State plan approved in accordance with section 124 provides for cooperative or joint effort between or among States or agencies, public or private, in more than 1 State, portions of funds allotted to 1 or more States described in this subsection may be combined in accordance with the agreements between the States or agencies involved.

(e) REALLOTMENTS.—

(1) IN GENERAL.—If the Secretary determines that an amount of an allotment to a State for a period (of a fiscal year or longer) will not be required by the State during the period for the purpose for which the allotment was made, the Secretary may reallocate the amount.

(2) TIMING.—The Secretary may make such a reallocation from time to time, on such date as the Secretary may fix, but not earlier than 30 days after the Secretary has published notice of the intention of the Secretary to make the reallocation in the Federal Register.

(3) AMOUNTS.—The Secretary shall reallocate the amount to other States with respect to which the Secretary has not made that determination. The Secretary shall reallocate the amount in proportion to the original allotments of the other States for such fiscal year, but shall reduce such proportionate amount for any of the other States to the extent the proportionate amount exceeds the sum that the Secretary estimates the State needs and will be able to use during such period.

(4) REALLOTMENT OF REDUCTIONS.—The Secretary shall similarly reallocate the total of the reductions among the States whose proportionate amounts were not so reduced.

(5) TREATMENT.—Any amount reallocated to a State under this subsection for a fiscal year shall be deemed to be a part of the allotment of the State under subsection (a) for such fiscal year.

42 USC 15023.

SEC. 123. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

(a) STATE PLAN EXPENDITURES.—From each State's allotments for a fiscal year under section 122, the Secretary shall pay to the State the Federal share of the cost, other than the cost for construction, incurred during such year for activities carried out under the State plan approved under section 124. The Secretary shall make such payments from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend for the cost under the State plan. The Secretary shall make such adjustments as may be necessary to the payments on account of previously made underpayments or overpayments under this section.

(b) DESIGNATED STATE AGENCY EXPENDITURES.—The Secretary may make payments to a State for the portion described in section 124(c)(5)(B)(vi) in advance or by way of reimbursement, and in such installments as the Secretary may determine.

42 USC 15024.

SEC. 124. STATE PLAN.

(a) IN GENERAL.—Any State desiring to receive assistance under this subtitle shall submit to the Secretary, and obtain approval of, a 5-year strategic State plan under this section.

(b) PLANNING CYCLE.—The plan described in subsection (a) shall be updated as appropriate during the 5-year period.

(c) STATE PLAN REQUIREMENTS.—In order to be approved by the Secretary under this section, a State plan shall meet each of the following requirements:

(1) STATE COUNCIL.—The plan shall provide for the establishment and maintenance of a Council in accordance with section 125 and describe the membership of such Council.

(2) DESIGNATED STATE AGENCY.—The plan shall identify the agency or office within the State designated to support the Council in accordance with this section and section 125(d) (referred to in this subtitle as a "designated State agency").

(3) COMPREHENSIVE REVIEW AND ANALYSIS.—The plan shall describe the results of a comprehensive review and analysis of the extent to which services, supports, and other assistance are available to individuals with developmental disabilities and their families, and the extent of unmet needs for services, supports, and other assistance for those individuals and their families, in the State. The results of the comprehensive review and analysis shall include—

(A) a description of the services, supports, and other assistance being provided to individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies under which the State operates and in which individuals with developmental disabilities are or may be eligible to participate, including particularly programs relating to the areas of emphasis, including—

(i) medical assistance, maternal and child health care, services for children with special health care needs, children's mental health services, comprehensive health and mental health services, and institutional care options;

(ii) job training, job placement, worksite accommodation, and vocational rehabilitation, and other work assistance programs; and

(iii) social, child welfare, aging, independent living, and rehabilitation and assistive technology services, and such other services as the Secretary may specify;

(B) a description of the extent to which agencies operating such other federally assisted State programs, including activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012), pursue interagency initiatives to improve and enhance community services, individualized supports, and other forms of assistance for individuals with developmental disabilities;

(C) an analysis of the extent to which community services and opportunities related to the areas of emphasis directly benefit individuals with developmental disabilities, especially with regard to their ability to access and use services provided in their communities, to participate in opportunities, activities, and events offered in their communities, and to contribute to community life, identifying particularly—

(i) the degree of support for individuals with developmental disabilities that are attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

(ii) criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving services described in this clause;

(iii) the barriers that impede full participation of members of unserved and underserved groups of individuals with developmental disabilities and their families;

(iv) the availability of assistive technology, assistive technology services, or rehabilitation technology, or information about assistive technology, assistive technology services, or rehabilitation technology to individuals with developmental disabilities;

(v) the numbers of individuals with developmental disabilities on waiting lists for services described in this subparagraph;

(vi) a description of the adequacy of current resources and projected availability of future resources to fund services described in this subparagraph;

(vii) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are in facilities receive (based in part on each independent review pursuant to section 1902(a)(30)(C) of the Social

Security Act (42 U.S.C. 1396a(a)(30)(C))) of an Intermediate Care Facility (Mental Retardation) within the State, which the State shall provide to the Council not later than 30 days after the availability of the review); and

(viii) to the extent that information is available, a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are served through home and community-based waivers (authorized under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c))) receive;

(D) a description of how entities funded under subtitles C and D, through interagency agreements or other mechanisms, collaborated with the entity funded under this subtitle in the State, each other, and other entities to contribute to the achievement of the purpose of this subtitle; and

(E) the rationale for the goals related to advocacy, capacity building, and systemic change to be undertaken by the Council to contribute to the achievement of the purpose of this subtitle.

(4) PLAN GOALS.—The plan shall focus on Council efforts to bring about the purpose of this subtitle, by—

(A) specifying 5-year goals, as developed through data driven strategic planning, for advocacy, capacity building, and systemic change related to the areas of emphasis, to be undertaken by the Council, that—

(i) are derived from the unmet needs of individuals with developmental disabilities and their families identified under paragraph (3); and

(ii) include a goal, for each year of the grant, to—

(I) establish or strengthen a program for the direct funding of a State self-advocacy organization led by individuals with developmental disabilities;

(II) support opportunities for individuals with developmental disabilities who are considered leaders to provide leadership training to individuals with developmental disabilities who may become leaders; and

(III) support and expand participation of individuals with developmental disabilities in cross-disability and culturally diverse leadership coalitions; and

(B) for each year of the grant, describing—

(i) the goals to be achieved through the grant, which, beginning in fiscal year 2002, shall be consistent with applicable indicators of progress described in section 104(a)(3);

(ii) the strategies to be used in achieving each goal; and

(iii) the method to be used to determine if each goal has been achieved.

(5) ASSURANCES.—

(A) IN GENERAL.—The plan shall contain or be supported by assurances and information described in subparagraphs (B) through (N) that are satisfactory to the Secretary.

(B) USE OF FUNDS.—With respect to the funds paid to the State under section 122, the plan shall provide assurances that—

(i) not less than 70 percent of such funds will be expended for activities related to the goals described in paragraph (4);

(ii) such funds will contribute to the achievement of the purpose of this subtitle in various political subdivisions of the State;

(iii) such funds will be used to supplement, and not supplant, the non-Federal funds that would otherwise be made available for the purposes for which the funds paid under section 122 are provided;

(iv) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

(v) part of such funds will be made available by the State to public or private entities;

(vi) at the request of any State, a portion of such funds provided to such State under this subtitle for any fiscal year shall be available to pay up to $\frac{1}{2}$ (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or \$50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency; and

(vii) not more than 20 percent of such funds will be allocated to the designated State agency for service demonstrations by such agency that—

(I) contribute to the achievement of the purpose of this subtitle; and

(II) are explicitly authorized by the Council.

(C) STATE FINANCIAL PARTICIPATION.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the plan.

(D) CONFLICT OF INTEREST.—The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

(E) URBAN AND RURAL POVERTY AREAS.—The plan shall provide assurances that special financial and technical assistance will be given to organizations that provide community services, individualized supports, and other forms of assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

(F) PROGRAM ACCESSIBILITY STANDARDS.—The plan shall provide assurances that programs, projects, and activities funded under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulations and all applicable Federal and State accessibility standards, including accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), and the Fair Housing Act (42 U.S.C. 3601 et seq.).

(G) INDIVIDUALIZED SERVICES.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under the plan will be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individual.

(H) HUMAN RIGHTS.—The plan shall provide assurances that the human rights of the individuals with developmental disabilities (especially individuals without familial protection) who are receiving services under programs assisted under this subtitle will be protected consistent with section 109 (relating to rights of individuals with developmental disabilities).

(I) MINORITY PARTICIPATION.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs funded under this subtitle is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

(J) EMPLOYEE PROTECTIONS.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions taken under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and provide training and retraining of such employees where necessary, and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

(K) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the Council, while working for the Council, will be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and will not be assigned duties by the designated State agency, or any other agency, office, or entity of the State.

(L) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development, or plan implementation of the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3).

(M) STATE QUALITY ASSURANCE.—The plan shall provide assurances that the Council will participate in the planning, design or redesign, and monitoring of State quality assurance systems that affect individuals with developmental disabilities.

(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions (including the purpose) of this subtitle.

(d) PUBLIC INPUT AND REVIEW, SUBMISSION, AND APPROVAL.—

(1) PUBLIC INPUT AND REVIEW.—The plan shall be based on public input. The Council shall make the plan available for public review and comment, after providing appropriate and sufficient notice in accessible formats of the opportunity for such review and comment. The Council shall revise the plan to take into account and respond to significant comments.

(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

(3) PLAN APPROVAL.—The Secretary shall approve any State plan and, as appropriate, amendments of such plan that comply with the provisions of subsections (a), (b), and (c) and this subsection. The Secretary may take final action to disapprove a State plan after providing reasonable notice and an opportunity for a hearing to the State.

SEC. 125. STATE COUNCILS ON DEVELOPMENTAL DISABILITIES AND DESIGNATED STATE AGENCIES. 42 USC 15025.

(a) IN GENERAL.—Each State that receives assistance under this subtitle shall establish and maintain a Council to undertake advocacy, capacity building, and systemic change activities (consistent with subsections (b) and (c) of section 101) that contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of this subtitle. The Council shall have the authority to fulfill the responsibilities described in subsection (c).

(b) COUNCIL MEMBERSHIP.—

(1) COUNCIL APPOINTMENTS.—

(A) IN GENERAL.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State.

(B) RECOMMENDATIONS.—The Governor shall select members of the Council, at the discretion of the Governor, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the initiative of the Council, or on the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations.

(C) REPRESENTATION.—The membership of the Council shall be geographically representative of the State and

reflect the diversity of the State with respect to race and ethnicity.

(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor regarding membership requirements of the Council, and shall notify the Governor when vacancies on the Council remain unfilled for a significant period of time.

(3) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 60 percent of the membership of each Council shall consist of individuals who are—

- (A)(i) individuals with developmental disabilities;
- (ii) parents or guardians of children with developmental disabilities; or
- (iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

(B) not employees of a State agency that receives funds or provides services under this subtitle, and who are not managing employees (as defined in section 1126(b) of the Social Security Act (42 U.S.C. 1320a-5(b)) of any other entity that receives funds or provides services under this subtitle.

(4) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—

(A) IN GENERAL.—Each Council shall include—

(i) representatives of relevant State entities, including—

(I) State entities that administer funds provided under Federal laws related to individuals with disabilities, including the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), and titles V and XIX of the Social Security Act (42 U.S.C. 701 et seq. and 1396 et seq.);

(II) Centers in the State; and

(III) the State protection and advocacy system; and

(ii) representatives, at all times, of local and non-governmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located.

(B) AUTHORITY AND LIMITATIONS.—The representatives described in subparagraph (A) shall—

(i) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

(ii) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees, contractors, or applicants and comply with the conflict

of interest assurance requirement under section 124(c)(5)(D).

(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (3)—

(A) $\frac{1}{3}$ shall be individuals with developmental disabilities described in paragraph (3)(A)(i);

(B) $\frac{1}{3}$ shall be parents or guardians of children with developmental disabilities described in paragraph (3)(A)(ii), or immediate relatives or guardians of adults with developmental disabilities described in paragraph (3)(A)(iii); and

(C) $\frac{1}{3}$ shall be a combination of individuals described in paragraph (3)(A).

(6) INSTITUTIONALIZED INDIVIDUALS.—

(A) IN GENERAL.—Of the members of the Council described in paragraph (5), at least 1 shall be an immediate relative or guardian of an individual with a developmental disability who resides or previously resided in an institution or shall be an individual with a developmental disability who resides or previously resided in an institution.

(B) LIMITATION.—Subparagraph (A) shall not apply with respect to a State if such an individual does not reside in that State.

(c) COUNCIL RESPONSIBILITIES.—

(1) IN GENERAL.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (2) through (10).

(2) ADVOCACY, CAPACITY BUILDING, AND SYSTEMIC CHANGE ACTIVITIES.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects, and activities that carry out the purpose of this subtitle.

(3) EXAMINATION OF GOALS.—At the end of each grant year, each Council shall—

(A) determine the extent to which each goal of the Council was achieved for that year;

(B) determine to the extent that each goal was not achieved, the factors that impeded the achievement;

(C) determine needs that require amendment of the 5-year strategic State plan required under section 124;

(D) separately determine the information on the self-advocacy goal described in section 124(c)(4)(A)(ii); and

(E) determine customer satisfaction with Council supported or conducted activities.

(4) STATE PLAN DEVELOPMENT.—The Council shall develop the State plan and submit the State plan to the Secretary after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

(5) STATE PLAN IMPLEMENTATION.—

(A) IN GENERAL.—The Council shall implement the State plan by conducting and supporting advocacy, capacity building, and systemic change activities such as those described in subparagraphs (B) through (L).

(B) **OUTREACH.**—The Council may support and conduct outreach activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council and assist and enable the individuals and families to obtain services, individualized supports, and other forms of assistance, including access to special adaptation of generic community services or specialized services.

(C) **TRAINING.**—The Council may support and conduct training for persons who are individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such persons to obtain access to, or to provide, community services, individualized supports, and other forms of assistance, including special adaptation of generic community services or specialized services for individuals with developmental disabilities and their families. To the extent that the Council supports or conducts training activities under this subparagraph, such activities shall contribute to the achievement of the purpose of this subtitle.

(D) **TECHNICAL ASSISTANCE.**—The Council may support and conduct technical assistance activities to assist public and private entities to contribute to the achievement of the purpose of this subtitle.

(E) **SUPPORTING AND EDUCATING COMMUNITIES.**—The Council may support and conduct activities to assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families—

- (i) by encouraging local networks to provide informal and formal supports;
- (ii) through education; and
- (iii) by enabling neighborhoods and communities to offer such individuals and their families access to and use of services, resources, and opportunities.

(F) **INTERAGENCY COLLABORATION AND COORDINATION.**—The Council may support and conduct activities to promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

(G) **COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.**—The Council may support and conduct activities to enhance coordination of services with—

- (i) other councils, entities, or committees, authorized by Federal or State law, concerning individuals with disabilities (such as the State interagency coordinating council established under subtitle C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), the State Rehabilitation Council and the Statewide Independent Living Council established under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the State mental health planning council established under subtitle B of title XIX of the Public Health Service Act (42 U.S.C. 300x-1 et seq.), and the activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011,

3012), and entities carrying out other similar councils, entities, or committees);

(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) and other entities carrying out federally funded projects that assist parents of children with disabilities; and

(iii) other groups interested in advocacy, capacity building, and systemic change activities to benefit individuals with disabilities.

(H) BARRIER ELIMINATION, SYSTEMS DESIGN AND REDESIGN.—The Council may support and conduct activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

(I) COALITION DEVELOPMENT AND CITIZEN PARTICIPATION.—The Council may support and conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, education of policymakers, and citizen leadership skills.

(J) INFORMING POLICYMAKERS.—The Council may support and conduct activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations. The Council may provide the information directly to Federal, State, and local policymakers, including Congress, the Federal executive branch, the Governors, State legislatures, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families.

(K) DEMONSTRATION OF NEW APPROACHES TO SERVICES AND SUPPORTS.—

(i) IN GENERAL.—The Council may support and conduct, on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change. The strategy may involve the education of policymakers and the public about how to deliver effectively, to individuals with developmental disabilities and their families, services, supports, and assistance that contribute to the achievement of the purpose of this subtitle.

(ii) SOURCES OF FUNDING.—The Council may carry out this subparagraph by supporting and conducting demonstration activities through sources of funding other than funding provided under this subtitle, and by assisting entities conducting demonstration activities to develop strategies for securing funding from other sources.

(L) OTHER ACTIVITIES.—The Council may support and conduct other advocacy, capacity building, and systemic change activities to promote the development of a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of this subtitle.

(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the designated State agency and activities carried out under this subtitle by the designated State agency and make any recommendations for change to the Governor.

(7) REPORTS.—Beginning in fiscal year 2002, the Council shall annually prepare and transmit to the Secretary a report. Each report shall be in a form prescribed by the Secretary by regulation under section 104(b). Each report shall contain information about the progress made by the Council in achieving the goals of the Council (as specified in section 124(c)(4)), including—

(A) a description of the extent to which the goals were achieved;

(B) a description of the strategies that contributed to achieving the goals;

(C) to the extent to which the goals were not achieved, a description of factors that impeded the achievement;

(D) separate information on the self-advocacy goal described in section 124(c)(4)(A)(ii);

(E)(i) as appropriate, an update on the results of the comprehensive review and analysis described in section 124(c)(3); and

(ii) information on consumer satisfaction with Council supported or conducted activities;

(F)(i) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities in Intermediate Care Facilities (Mental Retardation) receive; and

(ii) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities served through home and community-based waivers (authorized under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) receive;

(G) an accounting of the manner in which funds paid to the State under this subtitle for a fiscal year were expended;

(H) a description of—

(i) resources made available to carry out activities to assist individuals with developmental disabilities that are directly attributable to Council actions; and

(ii) resources made available for such activities that are undertaken by the Council in collaboration with other entities; and

(I) a description of the method by which the Council will widely disseminate the annual report to affected constituencies and the general public and will assure that the report is available in accessible formats.

(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this subtitle to fund and implement all programs, projects, and activities carried out under this subtitle, including—

(A)(i) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council; and

(ii) as determined in Council policy—

(I) reimbursing members of the Council for reasonable and necessary expenses (including expenses for child care and personal assistance services) for attending Council meetings and performing Council duties;

(II) paying a stipend to a member of the Council, if such member is not employed or must forfeit wages from other employment, to attend Council meetings and perform other Council duties;

(III) supporting Council member and staff travel to authorized training and technical assistance activities including in-service training and leadership development activities; and

(IV) carrying out appropriate subcontracting activities;

(B) hiring and maintaining such numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical staff (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out the functions of the Council under this subtitle, except that such State shall not apply hiring freezes, reductions in force, prohibitions on travel, or other policies to the staff of the Council, to the extent that such policies would impact the staff or functions funded with Federal funds, or would prevent the Council from carrying out the functions of the Council under this subtitle; and

(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the State plan approved under section 124.

(9) STAFF HIRING AND SUPERVISION.—The Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment, hiring, and dismissal of staff shall be conducted in a manner consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be conducted in a manner consistent with State law and personnel policies.

(10) STAFF ASSIGNMENTS.—The staff of the Council, while working for the Council, shall be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and shall not be assigned duties by the designated State agency or any other agency or entity of the State.

(11) CONSTRUCTION.—Nothing in this title shall be construed to authorize a Council to direct, control, or exercise

any policymaking authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) or the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(d) DESIGNATED STATE AGENCY.—

(1) IN GENERAL.—Each State that receives assistance under this subtitle shall designate a State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994 (Public Law 103-230), any designation of a State agency under this paragraph shall be made in accordance with the requirements of this subsection.

(2) DESIGNATION.—

(A) TYPE OF AGENCY.—Except as provided in this subsection, the designated State agency shall be—

- (i) the Council if such Council may be the designated State agency under the laws of the State;
- (ii) a State agency that does not provide or pay for services for individuals with developmental disabilities; or
- (iii) a State office, including the immediate office of the Governor of the State or a State planning office.

(B) CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.—

(i) DESIGNATION BEFORE ENACTMENT.—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of part B of the Developmental Disabilities Assistance and Bill of Rights Act on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, and the Governor of the State (or the legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this subtitle.

(ii) CRITERIA FOR CONTINUED DESIGNATION.—The determination, at the discretion of the Governor (or the legislature, as the case may be), shall be made after—

(I) the Governor has considered the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency; and

(II) the Governor (or the legislature, as the case may be) has made an independent assessment that the designation of such agency will not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an independent advocate for individuals with developmental disabilities.

(C) REVIEW OF DESIGNATION.—The Council may request a review of and change in the designation of the designated State agency by the Governor (or the legislature, as the case may be). The Council shall provide documentation

concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or the legislature, as the case may be) regarding a preferred designated State agency.

(D) APPEAL OF DESIGNATION.—After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of and change in the designation of the designated State agency if the ability of the Council to serve as an independent advocate is not assured because of the actions or inactions of the designated State agency.

(3) RESPONSIBILITIES.—

(A) IN GENERAL.—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (B) through (G).

(B) SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

(C) FISCAL RESPONSIBILITIES.—The designated State agency shall—

(i) receive, account for, and disburse funds under this subtitle based on the State plan required in section 124; and

(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State under this subtitle.

(D) RECORDS, ACCESS, AND FINANCIAL REPORTS.—The designated State agency shall keep and provide access to such records as the Secretary and the Council may determine to be necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, and liquidation by the agency or the Council, and the use of the Federal and non-Federal shares described in section 126, by the agency or the Council.

(E) NON-FEDERAL SHARE.—The designated State agency, if other than the Council, shall provide the required non-Federal share described in section 126(c).

(F) ASSURANCES.—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

(G) MEMORANDUM OF UNDERSTANDING.—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

(4) USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.—

(A) CONDITION FOR FEDERAL FUNDING.—

(i) IN GENERAL.—The Secretary shall provide amounts to a State under section 124(c)(5)(B)(vi) for a fiscal year only if the State expends an amount from State sources for carrying out the responsibilities of the designated State agency under paragraph (3)

for the fiscal year that is not less than the total amount the State expended from such sources for carrying out similar responsibilities for the previous fiscal year.

(ii) EXCEPTION.—Clause (i) shall not apply in a year in which the Council is the designated State agency.

(B) SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.—

With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

42 USC 15026.

SEC. 126. FEDERAL AND NON-FEDERAL SHARE.

(a) AGGREGATE COST.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Federal share of the cost of all projects in a State supported by an allotment to the State under this subtitle may not be more than 75 percent of the aggregate necessary cost of such projects, as determined by the Secretary.

(2) URBAN OR RURAL POVERTY AREAS.—In the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, as determined by the Secretary, the Federal share of the cost of all such projects may not be more than 90 percent of the aggregate necessary cost of such projects, as determined by the Secretary.

(3) STATE PLAN ACTIVITIES.—In the case of projects undertaken by the Council or Council staff to implement State plan activities, the Federal share of the cost of all such projects may be not more than 100 percent of the aggregate necessary cost of such activities.

(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the cost of such projects incurred by such State under a State plan approved under section 124, the Secretary shall not consider—

(1) any portion of such cost that is financed by Federal funds provided under any provision of law other than section 122; and

(2) the amount of any non-Federal funds required to be expended as a condition of receipt of the Federal funds described in paragraph (1).

(c) NON-FEDERAL SHARE.—

(1) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project supported by an allotment under this subtitle may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS AND PUBLIC OR PRIVATE ENTITIES.—

(A) IN GENERAL.—Contributions to projects by a political subdivision of a State or by a public or private entity under an agreement with the State shall, subject to such limitations and conditions as the Secretary may by regulation prescribe under section 104(b), be considered to be contributions by such State, in the case of a project supported under this subtitle.

(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to

provide support services to the Council pursuant to section 125(d)(4), may be counted as part of such State's non-Federal share of the cost of projects supported under this subtitle.

(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required of each recipient of a grant from a Council under this subtitle may vary.

SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES. 42 USC 15027.

Whenever the Secretary, after providing reasonable notice and an opportunity for a hearing to the Council and the designated State agency, finds that—

(1) the Council or agency has failed to comply substantially with any of the provisions required by section 124 to be included in the State plan, particularly provisions required by paragraphs (4)(A) and (5)(B)(vii) of section 124(c), or with any of the provisions required by section 125(b)(3); or

(2) the Council or agency has failed to comply substantially with any regulations of the Secretary that are applicable to this subtitle,

the Secretary shall notify such Council and agency that the Secretary will not make further payments to the State under section 122 (or, in the discretion of the Secretary, that further payments to the State under section 122 for activities for which there is such failure), until the Secretary is satisfied that there will no longer be such failure. Until the Secretary is so satisfied, the Secretary shall make no further payments to the State under section 122, or shall limit further payments under section 122 to such State to activities for which there is no such failure.

SEC. 128. APPEALS BY STATES.

42 USC 15028.

(a) APPEAL.—If any State is dissatisfied with the Secretary's action under section 124(d)(3) or 127, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court not later than 60 days after such action.

(b) FILING.—The clerk of the court shall transmit promptly a copy of the petition to the Secretary, or any officer designated by the Secretary for that purpose. The Secretary shall file promptly with the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of the petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside the order of the Secretary relating to the action.

(d) FINDINGS AND REMAND.—The findings of the Secretary about the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case involved to the Secretary for further proceedings to take further evidence. On remand, the Secretary may make new or modified findings of fact and may modify the previous action of the Secretary, and shall file with the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(e) **FINALITY.**—The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(f) **EFFECT.**—The commencement of proceedings under this section shall not, unless so specifically ordered by a court, operate as a stay of the Secretary's action.

42 USC 15029.

SEC. 129. AUTHORIZATION OF APPROPRIATIONS.

(a) **FUNDING FOR STATE ALLOTMENTS.**—Except as described in subsection (b), there are authorized to be appropriated for allotments under section 122 \$76,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

(b) **RESERVATION FOR TECHNICAL ASSISTANCE.**—

(1) **LOWER APPROPRIATION YEARS.**—For any fiscal year for which the amount appropriated under subsection (a) is less than \$76,000,000, the Secretary shall reserve funds in accordance with section 163(c) to provide technical assistance to entities funded under this subtitle.

(2) **HIGHER APPROPRIATION YEARS.**—For any fiscal year for which the amount appropriated under subsection (a) is not less than \$76,000,000, the Secretary shall reserve not less than \$300,000 and not more than 1 percent of the amount appropriated under subsection (a) to provide technical assistance to entities funded under this subtitle.

Subtitle C—Protection and Advocacy of Individual Rights

42 USC 15041.

SEC. 141. PURPOSE.

The purpose of this subtitle is to provide for allotments to support a protection and advocacy system (referred to in this subtitle as a “system”) in each State to protect the legal and human rights of individuals with developmental disabilities in accordance with this subtitle.

42 USC 15042.

SEC. 142. ALLOTMENTS AND PAYMENTS.

(a) **ALLOTMENTS.**—

(1) **IN GENERAL.**—To assist States in meeting the requirements of section 143(a), the Secretary shall allot to the States the amounts appropriated under section 145 and not reserved under paragraph (6). Allotments and reallocations of such sums shall be made on the same basis as the allotments and reallocations are made under subsections (a)(1)(A) and (e) of section 122, except as provided in paragraph (2).

(2) **MINIMUM ALLOTMENTS.**—In any case in which—

(A) the total amount appropriated under section 145 for a fiscal year is not less than \$20,000,000, the allotment under paragraph (1) for such fiscal year—

(i) to each of American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands may not be less than \$107,000; and

(ii) to any State not described in clause (i) may not be less than \$200,000; or

(B) the total amount appropriated under section 145 for a fiscal year is less than \$20,000,000, the allotment under paragraph (1) for such fiscal year—

(i) to each of American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands may not be less than \$80,000; and

(ii) to any State not described in clause (i) may not be less than \$150,000.

(3) REDUCTION OF ALLOTMENT.—Notwithstanding paragraphs (1) and (2), if the aggregate of the amounts to be allotted to the States pursuant to such paragraphs for any fiscal year exceeds the total amount appropriated for such allotments under section 145 for such fiscal year, the amount to be allotted to each State for such fiscal year shall be proportionately reduced.

(4) INCREASE IN ALLOTMENTS.—In any year in which the total amount appropriated under section 145 for a fiscal year exceeds the total amount appropriated under such section (or a corresponding provision) for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(c)(1)) (if the percentage change indicates an increase), the Secretary shall increase each of the minimum allotments described in subparagraphs (A) and (B) of paragraph (2). The Secretary shall increase each minimum allotment by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph (or a corresponding provision) for prior fiscal years) as the amount that is equal to the difference between—

(A) the total amount appropriated under section 145 for the fiscal year for which the increase in the minimum allotment is being made; minus

(B) the total amount appropriated under section 145 (or a corresponding provision) for the immediately preceding fiscal year,

bears to the total amount appropriated under section 145 (or a corresponding provision) for such preceding fiscal year.

(5) MONITORING THE ADMINISTRATION OF THE SYSTEM.—In a State in which the system is housed in a State agency, the State may use not more than 5 percent of any allotment under this subsection for the costs of monitoring the administration of the system required under section 143(a).

(6) TECHNICAL ASSISTANCE AND AMERICAN INDIAN CONSORTIUM.—In any case in which the total amount appropriated under section 145 for a fiscal year is more than \$24,500,000, the Secretary shall—

(A) use not more than 2 percent of the amount appropriated to provide technical assistance to eligible systems with respect to activities carried out under this subtitle (consistent with requests by such systems for such assistance for the year); and

(B) provide a grant in accordance with section 143(b), and in an amount described in paragraph (2)(A)(i), to an American Indian consortium to provide protection and advocacy services.

(b) **PAYMENT TO SYSTEMS.**—Notwithstanding any other provision of law, the Secretary shall pay directly to any system in a State that complies with the provisions of this subtitle the amount of the allotment made for the State under this section, unless the system specifies otherwise.

(c) **UNOBLIGATED FUNDS.**—Any amount paid to a system under this subtitle for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the next fiscal year, for the purposes for which such amount was paid.

42 USC 15043.

SEC. 143. SYSTEM REQUIRED.

(a) **SYSTEM REQUIRED.**—In order for a State to receive an allotment under subtitle B or this subtitle—

(1) the State shall have in effect a system to protect and advocate the rights of individuals with developmental disabilities;

(2) such system shall—

(A) have the authority to—

(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups; and

(ii) provide information on and referral to programs and services addressing the needs of individuals with developmental disabilities;

(B) have the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

(C) on an annual basis, develop, submit to the Secretary, and take action with regard to goals (each of which is related to 1 or more areas of emphasis) and priorities, developed through data driven strategic planning, for the system's activities;

(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairment, and their representatives, and as appropriate, non-State agency representatives of the State Councils on Developmental Disabilities, and Centers, in the State, an opportunity to comment on—

(i) the goals and priorities established by the system and the rationale for the establishment of such goals; and

(ii) the activities of the system, including the coordination of services with the entities carrying out advocacy programs under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Older Americans

Act of 1965 (42 U.S.C. 3001 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), and with entities carrying out other related programs, including the parent training and information centers funded under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012);

(E) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with developmental disabilities have full access to services of the system;

(F) not be administered by the State Council on Developmental Disabilities;

(G) be independent of any agency that provides treatment, services, or habilitation to individuals with developmental disabilities;

(H) have access at reasonable times to any individual with a developmental disability in a location in which services, supports, and other assistance are provided to such an individual, in order to carry out the purpose of this subtitle;

(I) have access to all records of—

(i) any individual with a developmental disability who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access;

(ii) any individual with a developmental disability, in a situation in which—

(I) the individual, by reason of such individual's mental or physical condition, is unable to authorize the system to have such access;

(II) the individual does not have a legal guardian, conservator, or other legal representative, or the legal guardian of the individual is the State; and

(III) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect; and

(iii) any individual with a developmental disability, in a situation in which—

(I) the individual has a legal guardian, conservator, or other legal representative;

(II) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect;

(III) such representative has been contacted by such system, upon receipt of the name and address of such representative;

(IV) such system has offered assistance to such representative to resolve the situation; and

(V) such representative has failed or refused to act on behalf of the individual;

(J)(i) have access to the records of individuals described in subparagraphs (B) and (I), and other records that are relevant to conducting an investigation, under the circumstances described in those subparagraphs, not later than 3 business days after the system makes a written request for the records involved; and

(ii) have immediate access, not later than 24 hours after the system makes such a request, to the records without consent from another party, in a situation in which services, supports, and other assistance are provided to an individual with a developmental disability—

(I) if the system determines there is probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy; or

(II) in any case of death of an individual with a developmental disability;

(K) hire and maintain sufficient numbers and types of staff (qualified by training and experience) to carry out such system's functions, except that the State involved shall not apply hiring freezes, reductions in force, prohibitions on travel, or other policies to the staff of the system, to the extent that such policies would impact the staff or functions of the system funded with Federal funds or would prevent the system from carrying out the functions of the system under this subtitle;

(L) have the authority to educate policymakers; and

(M) provide assurances to the Secretary that funds allotted to the State under section 142 will be used to supplement, and not supplant, the non-Federal funds that would otherwise be made available for the purposes for which the allotted funds are provided;

(3) to the extent that information is available, the State shall provide to the system—

(A) a copy of each independent review, pursuant to section 1902(a)(30)(C) of the Social Security Act (42 U.S.C. 1396a(a)(30)(C)), of an Intermediate Care Facility (Mental Retardation) within the State, not later than 30 days after the availability of such a review; and

(B) information about the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are served through home and community-based waivers (authorized under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c))) receive; and

(4) the agency implementing the system shall not be redesignated unless—

(A) there is good cause for the redesignation;

(B) the State has given the agency notice of the intention to make such redesignation, including notice regarding the good cause for such redesignation, and given the agency an opportunity to respond to the assertion that good cause has been shown;

(C) the State has given timely notice and an opportunity for public comment in an accessible format to individuals with developmental disabilities or their representatives; and

(D) the system has an opportunity to appeal the redesignation to the Secretary, on the basis that the redesignation was not for good cause.

(b) **AMERICAN INDIAN CONSORTIUM.**—Upon application to the Secretary, an American Indian consortium established to provide protection and advocacy services under this subtitle, shall receive funding pursuant to section 142(a)(6) to provide the services. Such consortium shall be considered to be a system for purposes of this subtitle and shall coordinate the services with other systems serving the same geographic area. The tribal council that designates the consortium shall carry out the responsibilities and exercise the authorities specified for a State in this subtitle, with regard to the consortium.

(c) **RECORD.**—In this section, the term “record” includes—

(1) a report prepared or received by any staff at any location at which services, supports, or other assistance is provided to individuals with developmental disabilities;

(2) a report prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury, or death occurring at such location, that describes such incidents and the steps taken to investigate such incidents; and

(3) a discharge planning record.

SEC. 144. ADMINISTRATION.

42 USC 15044.

(a) **GOVERNING BOARD.**—In a State in which the system described in section 143 is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

(1)(A) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

(B) a majority of the members of the board shall be—

(i) individuals with disabilities, including individuals with developmental disabilities, who are eligible for services, or have received or are receiving services through the system; or

(ii) parents, family members, guardians, advocates, or authorized representatives of individuals referred to in clause (i); and

(C) the board may include a representative of the State Council on Developmental Disabilities, the Centers in the State, and the self-advocacy organization described in section 124(c)(4)(A)(ii)(I);

(2) not more than $\frac{1}{3}$ of the members of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint members of the board;

(3) the membership of the governing board shall be subject to term limits set by the system to ensure rotating membership;

(4) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs; and

(5) in a State in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council—

(A) that shall advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

(B) on which a majority of the members shall be—

(i) individuals with developmental disabilities who are eligible for services, or have received or are receiving services, through the system; or

(ii) parents, family members, guardians, advocates, or authorized representatives of individuals referred to in clause (i).

(b) LEGAL ACTION.—

(1) IN GENERAL.—Nothing in this title shall preclude a system from bringing a suit on behalf of individuals with developmental disabilities against a State, or an agency or instrumentality of a State.

(2) USE OF AMOUNTS FROM JUDGMENT.—An amount received pursuant to a suit described in paragraph (1) through a court judgment may only be used by the system to further the purpose of this subtitle and shall not be used to augment payments to legal contractors or to award personal bonuses.

(3) LIMITATION.—The system shall use assistance provided under this subtitle in a manner consistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14404).

(c) DISCLOSURE OF INFORMATION.—For purposes of any periodic audit, report, or evaluation required under this subtitle, the Secretary shall not require an entity carrying out a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(d) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic or administrative onsite review of a system conducted under this subtitle and solicit public comment on the system through such notice. The Secretary shall prepare an onsite visit report containing the results of such review, which shall be distributed to the Governor of the State and to other interested public and private parties. The comments received in response to the public comment solicitation notice shall be included in the onsite visit report.

(e) REPORTS.—Beginning in fiscal year 2002, each system established in a State pursuant to this subtitle shall annually prepare and transmit to the Secretary a report that describes the activities, accomplishments, and expenditures of the system during the preceding fiscal year, including a description of the system's goals, the extent to which the goals were achieved, barriers to their achievement, the process used to obtain public input, the nature of such input, and how such input was used.

42 USC 15045.

SEC. 145. AUTHORIZATION OF APPROPRIATIONS.

For allotments under section 142, there are authorized to be appropriated \$32,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

Subtitle D—National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service

SEC. 151. GRANT AUTHORITY.

42 USC 15061.

(a) NATIONAL NETWORK.—From appropriations authorized under section 156(a)(1), the Secretary shall make 5-year grants to entities in each State designated as University Centers for Excellence in Developmental Disabilities Education, Research, and Service to carry out activities described in section 153(a).

(b) NATIONAL TRAINING INITIATIVES.—From appropriations authorized under section 156(a)(1) and reserved under section 156(a)(2), the Secretary shall make grants to Centers to carry out activities described in section 153(b).

(c) TECHNICAL ASSISTANCE.—From appropriations authorized under section 156(a)(1) and reserved under section 156(a)(3) (or from funds reserved under section 163, as appropriate), the Secretary shall enter into 1 or more cooperative agreements or contracts for the purpose of providing technical assistance described in section 153(c).

SEC. 152. GRANT AWARDS.

42 USC 15062.

(a) EXISTING CENTERS.—

(1) IN GENERAL.—In awarding and distributing grant funds under section 151(a) for a fiscal year, the Secretary, subject to the availability of appropriations and the condition specified in subsection (d), shall award and distribute grant funds in equal amounts of \$500,000 (adjusted in accordance with subsection (b)), to each Center that existed during the preceding fiscal year and that meets the requirements of this subtitle, prior to making grants under subsection (c) or (d).

(2) REDUCTION OF AWARD.—Notwithstanding paragraph (1), if the aggregate of the funds to be awarded to the Centers pursuant to paragraph (1) for any fiscal year exceeds the total amount appropriated under section 156 for such fiscal year, the amount to be awarded to each Center for such fiscal year shall be proportionately reduced.

(b) ADJUSTMENTS.—Subject to the availability of appropriations, for any fiscal year following a year in which each Center described in subsection (a) received a grant award of not less than \$500,000 under subsection (a) (adjusted in accordance with this subsection), the Secretary shall adjust the awards to take into account the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(c)(1)) (if the percentage change indicates an increase), prior to making grants under subsection (c) or (d).

(c) NATIONAL TRAINING INITIATIVES ON CRITICAL AND EMERGING NEEDS.—Subject to the availability of appropriations, for any fiscal year in which each Center described in subsection (a) receives a grant award of not less than \$500,000, under subsection (a) (adjusted in accordance with subsection (b)), after making the grant awards, the Secretary shall make grants under section 151(b) to

Centers to pay for the Federal share of the cost of training initiatives related to the unmet needs of individuals with developmental disabilities and their families, as described in section 153(b).

(d) **ADDITIONAL GRANTS.**—For any fiscal year in which each Center described in subsection (a) receives a grant award of not less than \$500,000 under subsection (a) (adjusted in accordance with subsection (b)), after making the grant awards, the Secretary may make grants under section 151(a) for activities described in section 153(a) to additional Centers, or additional grants to Centers, for States or populations that are unserved or underserved by Centers due to such factors as—

- (1) population;
- (2) a high concentration of rural or urban areas; or
- (3) a high concentration of unserved or underserved populations.

42 USC 15063.

SEC. 153. PURPOSE AND SCOPE OF ACTIVITIES.

(a) **NATIONAL NETWORK OF UNIVERSITY CENTERS FOR EXCELLENCE IN DEVELOPMENTAL DISABILITIES EDUCATION, RESEARCH, AND SERVICE.**—

(1) **IN GENERAL.**—In order to provide leadership in, advise Federal, State, and community policymakers about, and promote opportunities for individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life, the Secretary shall award grants to eligible entities designated as Centers in each State to pay for the Federal share of the cost of the administration and operation of the Centers. The Centers shall be interdisciplinary education, research, and public service units of universities (as defined by the Secretary) or public or not-for-profit entities associated with universities that engage in core functions, described in paragraph (2), addressing, directly or indirectly, 1 or more of the areas of emphasis.

(2) **CORE FUNCTIONS.**—The core functions referred to in paragraph (1) shall include the following:

(A) Provision of interdisciplinary pre-service preparation and continuing education of students and fellows, which may include the preparation and continuing education of leadership, direct service, clinical, or other personnel to strengthen and increase the capacity of States and communities to achieve the purpose of this title.

(B) Provision of community services—

(i) that provide training or technical assistance for individuals with developmental disabilities, their families, professionals, paraprofessionals, policymakers, students, and other members of the community; and

(ii) that may provide services, supports, and assistance for the persons described in clause (i) through demonstration and model activities.

(C) Conduct of research, which may include basic or applied research, evaluation, and the analysis of public policy in areas that affect or could affect, either positively or negatively, individuals with developmental disabilities and their families.

(D) Dissemination of information related to activities undertaken to address the purpose of this title, especially dissemination of information that demonstrates that the network authorized under this subtitle is a national and international resource that includes specific substantive areas of expertise that may be accessed and applied in diverse settings and circumstances.

(b) NATIONAL TRAINING INITIATIVES ON CRITICAL AND EMERGING NEEDS.—

(1) SUPPLEMENTAL GRANTS.—After consultation with relevant, informed sources, including individuals with developmental disabilities and their families, the Secretary shall award, under section 151(b), supplemental grants to Centers to pay for the Federal share of the cost of training initiatives related to the unmet needs of individuals with developmental disabilities and their families. The Secretary shall make the grants on a competitive basis, and for periods of not more than 5 years.

(2) ESTABLISHMENT OF CONSULTATION PROCESS BY THE SECRETARY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a consultation process that, on an ongoing basis, allows the Secretary to identify and address, through supplemental grants authorized under paragraph (1), training initiatives related to the unmet needs of individuals with developmental disabilities and their families.

(c) TECHNICAL ASSISTANCE.—In order to strengthen and support the national network of Centers, the Secretary may enter into 1 or more cooperative agreements or contracts to—

(1) assist in national and international dissemination of specific information from multiple Centers and, in appropriate cases, other entities whose work affects the lives of individuals with developmental disabilities;

(2) compile, analyze, and disseminate state-of-the-art training, research, and demonstration results policies, and practices from multiple Centers and, in appropriate cases, other entities whose work affects the lives of persons with developmental disabilities;

(3) convene experts from multiple Centers to discuss and make recommendations with regard to national emerging needs of individuals with developmental disabilities;

(4)(A) develop portals that link users with every Center's website; and

(B) facilitate electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that impact individuals with disabilities and their families;

(5) serve as a research-based resource for Federal and State policymakers on information concerning and issues impacting individuals with developmental disabilities and entities that assist or serve those individuals; or

(6) undertake any other functions that the Secretary determines to be appropriate;

to promote the viability and use of the resources and expertise of the Centers nationally and internationally.

SEC. 154. APPLICATIONS.**(a) APPLICATIONS FOR CORE CENTER GRANTS.—**

(1) **IN GENERAL.**—To be eligible to receive a grant under section 151(a) for a Center, an entity shall submit to the Secretary, and obtain approval of, an application at such time, in such manner, and containing such information, as the Secretary may require.

(2) **APPLICATION CONTENTS.**—Each application described in paragraph (1) shall describe a 5-year plan, including a projected goal related to 1 or more areas of emphasis for each of the core functions described in section 153(a).

(3) **ASSURANCES.**—The application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that the entity designated as the Center will—

(A) meet regulatory standards as established by the Secretary for Centers;

(B) address the projected goals, and carry out goal-related activities, based on data driven strategic planning and in a manner consistent with the objectives of this subtitle, that—

(i) are developed in collaboration with the consumer advisory committee established pursuant to subparagraph (E);

(ii) are consistent with, and to the extent feasible complement and further, the Council goals contained in the State plan submitted under section 124 and the system goals established under section 143; and

(iii) will be reviewed and revised annually as necessary to address emerging trends and needs;

(C) use the funds made available through the grant to supplement, and not supplant, the funds that would otherwise be made available for activities described in section 153(a);

(D) protect, consistent with the policy specified in section 101(c) (relating to rights of individuals with developmental disabilities), the legal and human rights of all individuals with developmental disabilities (especially those individuals under State guardianship) who are involved in activities carried out under programs assisted under this subtitle;

(E) establish a consumer advisory committee—

(i) of which a majority of the members shall be individuals with developmental disabilities and family members of such individuals;

(ii) that is comprised of—

(I) individuals with developmental disabilities and related disabilities;

(II) family members of individuals with developmental disabilities;

(III) a representative of the State protection and advocacy system;

(IV) a representative of the State Council on Developmental Disabilities;

(V) a representative of a self-advocacy organization described in section 124(c)(4)(A)(ii)(I); and

(VI) representatives of organizations that may include parent training and information centers assisted under section 682 or 683 of the Individuals with Disabilities Education Act (20 U.S.C. 1482, 1483), entities carrying out activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012), relevant State agencies, and other community groups concerned with the welfare of individuals with developmental disabilities and their families;

(iii) that reflects the racial and ethnic diversity of the State; and

(iv) that shall—

(I) consult with the Director of the Center regarding the development of the 5-year plan, and shall participate in an annual review of, and comment on, the progress of the Center in meeting the projected goals contained in the plan, and shall make recommendations to the Director of the Center regarding any proposed revisions of the plan that might be necessary; and

(II) meet as often as necessary to carry out the role of the committee, but at a minimum twice during each grant year;

(F) to the extent possible, utilize the infrastructure and resources obtained through funds made available under the grant to leverage additional public and private funds to successfully achieve the projected goals developed in the 5-year plan;

(G)(i) have a director with appropriate academic credentials, demonstrated leadership, expertise regarding developmental disabilities, significant experience in managing grants and contracts, and the ability to leverage public and private funds; and

(ii) allocate adequate staff time to carry out activities related to each of the core functions described in section 153(a); and

(H) educate, and disseminate information related to the purpose of this title to, the legislature of the State in which the Center is located, and to Members of Congress from such State.

(b) SUPPLEMENTAL GRANT APPLICATIONS PERTAINING TO NATIONAL TRAINING INITIATIVES IN CRITICAL AND EMERGING NEEDS.—To be eligible to receive a supplemental grant under section 151(b), a Center may submit a supplemental application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, pursuant to the terms and conditions set by the Secretary consistent with section 153(b).

(c) PEER REVIEW.—

(1) IN GENERAL.—The Secretary shall require that all applications submitted under this subtitle be subject to technical and qualitative review by peer review groups established under paragraph (2). The Secretary may approve an application under this subtitle only if such application has been recommended by a peer review group that has conducted the peer review required under this paragraph. In conducting the

review, the group may conduct onsite visits or inspections of related activities as necessary.

(2) ESTABLISHMENT OF PEER REVIEW GROUPS.—

(A) IN GENERAL.—The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding—

(i) the provisions of title 5, United States Code, concerning appointments to the competitive service; and

(ii) the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, concerning classification and General Schedule pay rates; establish such peer review groups and appoint and set the rates of pay of members of such groups.

(B) COMPOSITION.—Each peer review group shall include such individuals with disabilities and parents, guardians, or advocates of or for individuals with developmental disabilities, as are necessary to carry out this subsection.

(3) WAIVERS OF APPROVAL.—The Secretary may waive the provisions of paragraph (1) with respect to review and approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of administration or operation of a Center, or the cost of carrying out a training initiative, supported by a grant made under this subtitle may not be more than 75 percent of the necessary cost of such project, as determined by the Secretary.

(2) URBAN OR RURAL POVERTY AREAS.—In the case of a project whose activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, as determined by the Secretary, the Federal share of the cost of the project may not be more than 90 percent of the necessary costs of the project, as determined by the Secretary.

(3) GRANT EXPENDITURES.—For the purpose of determining the Federal share with respect to the project, expenditures on that project by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe under section 104(b), be considered to be expenditures made by a Center under this subtitle.

(e) ANNUAL REPORT.—Each Center shall annually prepare and transmit to the Secretary a report containing—

(1) information on progress made in achieving the projected goals of the Center for the previous year, including—

(A) the extent to which the goals were achieved;

(B) a description of the strategies that contributed to achieving the goals;

(C) to the extent to which the goals were not achieved, a description of factors that impeded the achievement; and

(D) an accounting of the manner in which funds paid to the Center under this subtitle for a fiscal year were expended;

(2) information on proposed revisions to the goals; and

(3) a description of successful efforts to leverage funds, other than funds made available under this subtitle, to pursue goals consistent with this subtitle.

SEC. 155. DEFINITION.

42 USC 15065.

In this subtitle, the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

SEC. 156. AUTHORIZATION OF APPROPRIATIONS.

42 USC 15066.

(a) AUTHORIZATION AND RESERVATIONS.—

(1) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this subtitle (other than section 153(c)(4)) \$30,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

(2) **RESERVATION FOR TRAINING INITIATIVES.**—From any amount appropriated for a fiscal year under paragraph (1) and remaining after each Center described in section 152(a) has received a grant award of not less than \$500,000, as described in section 152, the Secretary shall reserve funds for the training initiatives authorized under section 153(b).

(3) RESERVATION FOR TECHNICAL ASSISTANCE.—

(A) **YEARS BEFORE APPROPRIATION TRIGGER.**—For any covered year, the Secretary shall reserve funds in accordance with section 163(c) to fund technical assistance activities under section 153(c) (other than section 153(c)(4)).

(B) **YEARS AFTER APPROPRIATION TRIGGER.**—For any fiscal year that is not a covered year, the Secretary shall reserve not less than \$300,000 and not more than 2 percent of the amount appropriated under paragraph (1) to fund technical assistance activities under section 153(c) (other than section 153(c)(4)).

(C) **COVERED YEAR.**—In this paragraph, the term “covered year” means a fiscal year prior to the first fiscal year for which the amount appropriated under paragraph (1) is not less than \$20,000,000.

(b) **LIMITATION.**—The Secretary may not use, for peer review or other activities directly related to peer review conducted under this subtitle—

(1) for fiscal year 2001, more than \$300,000 of the funds made available under subsection (a); and

(2) for any succeeding fiscal year, more than the amount of funds used for the peer review and related activities in fiscal year 2001, adjusted to take into account the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(c)(1)) (if the percentage change indicates an increase).

Subtitle E—Projects of National Significance

SEC. 161. PURPOSE.

42 USC 15081.

The purpose of this subtitle is to provide grants, contracts, or cooperative agreements for projects of national significance that—

(1) create opportunities for individuals with developmental disabilities to directly and fully contribute to, and participate in, all facets of community life; and

(2) support the development of national and State policies that reinforce and promote, with the support of families, guardians, advocates, and communities, of individuals with developmental disabilities, the self-determination, independence, productivity, and integration and inclusion in all facets of community life of such individuals through—

(A) family support activities;

(B) data collection and analysis;

(C) technical assistance to entities funded under subtitles B and D, subject to the limitations described in sections 129(b), 156(a)(3), and 163(c); and

(D) other projects of sufficient size and scope that hold promise to expand or improve opportunities for such individuals, including—

(i) projects that provide technical assistance for the development of information and referral systems;

(ii) projects that provide technical assistance to self-advocacy organizations of individuals with developmental disabilities;

(iii) projects that provide education for policy-makers;

(iv) Federal interagency initiatives;

(v) projects that enhance the participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;

(vi) projects that provide aid to transition youth with developmental disabilities from school to adult life, especially in finding employment and postsecondary education opportunities and in upgrading and changing any assistive technology devices that may be needed as a youth matures;

(vii) initiatives that address the development of community quality assurance systems and the training related to the development, implementation, and evaluation of such systems, including training of individuals with developmental disabilities and their families;

(viii) initiatives that address the needs of aging individuals with developmental disabilities and aging caregivers of adults with developmental disabilities in the community;

(ix) initiatives that create greater access to and use of generic services systems, community organizations, and associations, and initiatives that assist in community economic development;

(x) initiatives that create access to increased living options;

(xi) initiatives that address the challenging behaviors of individuals with developmental disabilities, including initiatives that promote positive alternatives to the use of restraints and seclusion; and

(xii) initiatives that address other areas of emerging need.

SEC. 162. GRANT AUTHORITY.

42 USC 15082.

(a) **IN GENERAL.**—The Secretary shall award grants, contracts, or cooperative agreements to public or private nonprofit entities for projects of national significance relating to individuals with developmental disabilities to carry out activities described in section 161(2).

(b) **FEDERAL INTERAGENCY INITIATIVES.**—

(1) **IN GENERAL.**—

(A) **AUTHORITY.**—The Secretary may—

(i) enter into agreements with Federal agencies to jointly carry out activities described in section 161(2) or to jointly carry out activities of common interest related to the objectives of such section; and

(ii) transfer to such agencies for such purposes funds appropriated under this subtitle, and receive and use funds from such agencies for such purposes.

(B) **RELATION TO PROGRAM PURPOSES.**—Funds transferred or received pursuant to this paragraph shall be used only in accordance with statutes authorizing the appropriation of such funds. Such funds shall be made available through grants, contracts, or cooperative agreements only to recipients eligible to receive such funds under such statutes.

(C) **PROCEDURES AND CRITERIA.**—If the Secretary enters into an agreement under this subsection for the administration of a jointly funded project—

(i) the agreement shall specify which agency's procedures shall be used to award grants, contracts, or cooperative agreements and to administer such awards;

(ii) the participating agencies may develop a single set of criteria for the jointly funded project, and may require applicants to submit a single application for joint review by such agencies; and

(iii) unless the heads of the participating agencies develop joint eligibility requirements, an applicant for an award for the project shall meet the eligibility requirements of each program involved.

(2) **LIMITATION.**—The Secretary may not construe the provisions of this subsection to take precedence over a limitation on joint funding contained in an applicable statute.

SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

42 USC 15083.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out the projects specified in this section \$16,000,000 for fiscal year 2001, and such sums as may be necessary for each of fiscal years 2002 through 2007.

(b) **USE OF FUNDS.**—

(1) **GRANTS, CONTRACTS, AND AGREEMENTS.**—Except as provided in paragraph (2), the amount appropriated under subsection (a) for each fiscal year shall be used to award grants, or enter into contracts, cooperative agreements, or other agreements, under section 162.

(2) **ADMINISTRATIVE COSTS.**—Not more than 1 percent of the amount appropriated under subsection (a) for each fiscal year may be used to provide for the administrative costs (other than compensation of Federal employees) of the Administration

on Developmental Disabilities for administering this subtitle and subtitles B, C, and D, including monitoring the performance of and providing technical assistance to, entities that receive funds under this title.

(c) TECHNICAL ASSISTANCE FOR COUNCILS AND CENTERS.—

(1) IN GENERAL.—For each covered year, the Secretary shall expend, to provide technical assistance for entities funded under subtitle B or D, an amount from funds appropriated under subsection (a) that is not less than the amount the Secretary expended on technical assistance for entities funded under that subtitle (or a corresponding provision) in the previous fiscal year.

(2) COVERED YEAR.—In this subsection, the term “covered year” means—

(A) in the case of an expenditure for entities funded under subtitle B, a fiscal year for which the amount appropriated under section 129(a) is less than \$76,000,000; and

(B) in the case of an expenditure for entities funded under subtitle D, a fiscal year prior to the first fiscal year for which the amount appropriated under section 156(a)(1) is not less than \$20,000,000.

(3) REFERENCES.—References in this subsection to subtitle D shall not be considered to include section 153(c)(4).

(d) TECHNICAL ASSISTANCE ON ELECTRONIC INFORMATION SHARING.—In addition to any funds reserved under subsection (c), the Secretary shall reserve \$100,000 from the amount appropriated under subsection (a) for each fiscal year to carry out section 153(c)(4).

(e) LIMITATION.—For any fiscal year for which the amount appropriated under subsection (a) is not less than \$10,000,000, not more than 50 percent of such amount shall be used for activities carried out under section 161(2)(A).

Families of
Children With
Disabilities
Support Act of
2000.
42 USC 15001
note.

TITLE II—FAMILY SUPPORT

SEC. 201. SHORT TITLE.

This title may be cited as the “Families of Children With Disabilities Support Act of 2000”.

SEC. 202. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

(2) Families of children with disabilities provide support, care, and training to their children that can save States millions of dollars. Without the efforts of family caregivers, many persons with disabilities would receive care through State-supported out-of-home placements.

(3) Most families of children with disabilities, especially families in unserved and underserved populations, do not have access to family-centered and family-directed services to support such families in their efforts to care for such children at home.

(4) Medical advances and improved health care have increased the life span of many people with disabilities, and the combination of the longer life spans and the aging of family

42 USC 15091.

caregivers places a continually increasing demand on the finite service delivery systems of the States.

(5) In 1996, 49 States provided family support initiatives in response to the needs of families of children with disabilities. Such initiatives included the provision of cash subsidies, respite care, and other forms of support. There is a need in each State, however, to strengthen, expand, and coordinate the activities of a system of family support services for families of children with disabilities that is easily accessible, avoids duplication, uses resources efficiently, and prevents gaps in services to families in all areas of the State.

(6) The goals of the Nation properly include the goal of providing to families of children with disabilities the family support services necessary—

(A) to support the family;

(B) to enable families of children with disabilities to nurture and enjoy their children at home;

(C) to enable families of children with disabilities to make informed choices and decisions regarding the nature of supports, resources, services, and other assistance made available to such families; and

(D) to support family caregivers of adults with disabilities.

(b) **PURPOSES.**—The purposes of this title are—

(1) to promote and strengthen the implementation of comprehensive State systems of family support services, for families with children with disabilities, that are family-centered and family-directed, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and support;

(2) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities;

(3) to promote and develop interagency coordination and collaboration between agencies responsible for providing the services; and

(4) to increase the availability of, funding for, access to, and provision of family support services for families of children with disabilities.

(c) **POLICY.**—It is the policy of the United States that all programs, projects, and activities funded under this title shall be family-centered and family-directed, and shall be provided in a manner consistent with the goal of providing families of children with disabilities with the support the families need to raise their children at home.

SEC. 203. DEFINITIONS AND SPECIAL RULE.

42 USC 15092.

(a) **DEFINITIONS.**—In this title:

(1) **CHILD WITH A DISABILITY.**—The term “child with a disability” means an individual who—

(A) has a significant physical or mental impairment, as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; or

(B) is an infant or a young child from birth through age 8 and has a substantial developmental delay or specific

congenital or acquired condition that presents a high probability of resulting in a disability if services are not provided to the infant or child.

(2) FAMILY.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of the application of this title in a State, the term “family” has the meaning given the term by the State.

(B) EXCLUSION OF EMPLOYEES.—The term does not include an employee who, acting in a paid employment capacity, provides services to a child with a disability in an out-of-home setting such as a hospital, nursing home, personal care home, board and care home, group home, or other facility.

(3) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—The term “family support for families of children with disabilities” means supports, resources, services, and other assistance provided to families of children with disabilities pursuant to State policy that are designed to—

(A) support families in the efforts of such families to raise their children with disabilities in the home;

(B) strengthen the role of the family as primary caregiver for such children;

(C) prevent involuntary out-of-the-home placement of such children and maintain family unity; and

(D) reunite families with children with disabilities who have been placed out of the home, whenever possible.

(4) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(5) STATE.—The term “State” means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) SYSTEMS CHANGE ACTIVITIES.—The term “systems change activities” means efforts that result in laws, regulations, policies, practices, or organizational structures—

(A) that are family-centered and family-directed;

(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

(C) that otherwise accomplish the purposes of this title.

(b) SPECIAL RULE.—References in this title to a child with a disability shall be considered to include references to an individual who is not younger than age 18 who—

(1) has a significant impairment described in subsection

(a)(1)(A); and

(2) is residing with and receiving assistance from a family member.

42 USC 15093.

SEC. 204. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this title, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support services for families of children with disabilities that accomplishes the purposes of this title.

(b) AWARD PERIOD AND GRANT LIMITATION.—No grant shall be awarded under this section for a period of more than 3 years. No State shall be eligible for more than 1 grant under this section.

(c) AMOUNT OF GRANTS.—

(1) GRANTS TO STATES.—

(A) FEDERAL MATCHING SHARE.—From amounts appropriated under section 212(a), the Secretary shall pay to each State that has an application approved under section 205, for each year of the grant period, an amount that is—

(i) equal to not more than 75 percent of the cost of the systems change activities to be carried out by the State; and

(ii) not less than \$100,000 and not more than \$500,000.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of the systems change activities may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(2) CALCULATION OF AMOUNTS.—The Secretary shall calculate a grant amount described in paragraph (1) on the basis of—

(A) the amounts available for making grants under this section; and

(B) the child population of the State concerned.

(d) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—For the second and third fiscal years for which amounts are appropriated to carry out this section, the Secretary, in providing payments under this section, shall give priority to States that received payments under this section during the preceding fiscal year.

(e) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable;

(2) distributes the grants among States that have differing levels of development of statewide systems of family support services for families of children with disabilities; and

(3) distributes the grants among States that attempt to meet the needs of unserved and underserved populations, such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited English proficiency, and individuals from underserved geographic areas (rural or urban).

SEC. 205. APPLICATION.

42 USC 15094.

To be eligible to receive a grant under this title, a State shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require, including information about the designation of a lead entity, a description of available State resources, and assurances that systems change activities will be family-centered and family-directed.

SEC. 206. DESIGNATION OF THE LEAD ENTITY.

42 USC 15095.

(a) DESIGNATION.—The Chief Executive Officer of a State that desires to receive a grant under section 204, shall designate the office or entity (referred to in this title as the “lead entity”) responsible for—

(1) submitting the application described in section 205 on behalf of the State;

(2) administering and supervising the use of the amounts made available under the grant;

(3) coordinating efforts related to and supervising the preparation of the application;

(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements;

(5) coordinating efforts related to the participation by families of children with disabilities in activities carried out under a grant made under this title; and

(6) submitting the report described in section 208 on behalf of the State.

(b) **QUALIFICATIONS.**—In designating the lead entity, the Chief Executive Officer may designate—

(1) an office of the Chief Executive Officer;

(2) a commission appointed by the Chief Executive Officer;

(3) a public agency;

(4) a council established under Federal or State law; or

(5) another appropriate office, agency, or entity.

42 USC 15096.

SEC. 207. AUTHORIZED ACTIVITIES.

(a) **IN GENERAL.**—A State that receives a grant under section 204 shall use the funds made available through the grant to carry out systems change activities that accomplish the purposes of this title.

(b) **SPECIAL RULE.**—In carrying out activities authorized under this title, a State shall ensure that such activities address the needs of families of children with disabilities from unserved or underserved populations.

42 USC 15097.

SEC. 208. REPORTING.

A State that receives a grant under this title shall prepare and submit to the Secretary, at the end of the grant period, a report containing the results of State efforts to develop and implement, or expand and enhance, a statewide system of family support services for families of children with disabilities.

42 USC 15098.

SEC. 209. TECHNICAL ASSISTANCE.

Contracts.

(a) **IN GENERAL.**—The Secretary shall enter into contracts or cooperative agreements with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support services for families of children with disabilities.

(b) **PURPOSE.**—An agency or organization that provides technical assistance and information under this section in a State that receives a grant under this title shall provide the technical assistance and information to the lead entity of the State, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such an agency or organization may also provide

technical assistance and information to a State that does not receive a grant under this title.

(c) **REPORTS TO THE SECRETARY.**—An entity providing technical assistance and information under this section shall prepare and submit to the Secretary periodic reports regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support services to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies described in section 202 in Federal law, other than this title.

SEC. 210. EVALUATION.

42 USC 15099.

(a) **IN GENERAL.**—The Secretary shall conduct a national evaluation of the program of grants to States authorized by this title.

(b) **PURPOSE.**—

(1) **IN GENERAL.**—The Secretary shall conduct the evaluation under subsection (a) to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support services for families of children with disabilities in a manner consistent with the provisions of this title. In particular, the Secretary shall assess the impact of such efforts on families of children with disabilities, and recommend amendments to this title that are necessary to assist States to accomplish fully the purposes of this title.

(2) **INFORMATION SYSTEMS.**—The Secretary shall work with the States to develop an information system designed to compile and report, from information provided by the States, qualitative and quantitative descriptions of the impact of the program of grants to States authorized by this title on—

(A) families of children with disabilities, including families from unserved and underserved populations;

(B) access to and funding for family support services for families of children with disabilities;

(C) interagency coordination and collaboration between agencies responsible for providing the services; and

(D) the involvement of families of children with disabilities at all levels of the statewide systems.

(c) **REPORT TO CONGRESS.**—Not later than 2½ years after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

Deadline.

SEC. 211. PROJECTS OF NATIONAL SIGNIFICANCE.

42 USC 15100.

(a) **STUDY BY THE SECRETARY.**—The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support services for families of children with disabilities, consistent with the policies described in section 202.

(b) **PROJECTS OF NATIONAL SIGNIFICANCE.**—The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support services for families of children with disabilities.

42 USC 15101. **SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 2001 through 2007.

(b) **RESERVATION.**—

(1) **IN GENERAL.**—The Secretary shall reserve for each fiscal year 10 percent, or \$400,000 (whichever is greater), of the amount appropriated pursuant to subsection (a) to carry out—

(A) section 209 (relating to the provision of technical assistance and information to States); and

(B) section 210 (relating to the conduct of evaluations).

(2) **SPECIAL RULE.**—For each year that the amount appropriated pursuant to subsection (a) is \$10,000,000 or greater, the Secretary may reserve 5 percent of such amount to carry out section 211.

TITLE III—PROGRAM FOR DIRECT SUPPORT WORKERS WHO ASSIST INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

42 USC 15111. **SEC. 301. FINDINGS.**

Congress finds that—

(1) direct support workers, especially young adults, have played essential roles in providing the support needed by individuals with developmental disabilities and expanding community options for those individuals;

(2) 4 factors have contributed to a decrease in the available pool of direct support workers, specifically—

(A) the small population of individuals who are age 18 through 25, an age group that has been attracted to direct support work in the past;

(B) the rapid expansion of the service sector, which attracts individuals who previously would have elected to pursue employment as direct support workers;

(C) the failure of wages in the human services sector to keep pace with wages in other service sectors; and

(D) the lack of quality training and career advancement opportunities available to direct support workers; and

(3) individuals with developmental disabilities benefit from assistance from direct support workers who are well trained, and benefit from receiving services from professionals who have spent time as direct support workers.

42 USC 15112. **SEC. 302. DEFINITIONS.**

In this title:

(1) **DEVELOPMENTAL DISABILITY.**—The term “developmental disability” has the meaning given the term in section 102.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

SEC. 303. REACHING UP SCHOLARSHIP PROGRAM.

42 USC 15113.

(a) **PROGRAM AUTHORIZATION.**—The Secretary may award grants to eligible entities, on a competitive basis, to enable the entities to carry out scholarship programs by providing vouchers for postsecondary education to direct support workers who assist individuals with developmental disabilities residing in diverse settings. The Secretary shall award the grants to pay for the Federal share of the cost of providing the vouchers.

(b) **ELIGIBLE ENTITY.**—To be eligible to receive a grant under this section, an entity shall be—

- (1) an institution of higher education;
- (2) a State agency; or
- (3) a consortium of such institutions or agencies.

(c) **APPLICATION REQUIREMENTS.**—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of—

- (1) the basis for awarding the vouchers;
- (2) the number of individuals to receive the vouchers; and
- (3) the amount of funds that will be made available by the eligible entity to pay for the non-Federal share of the cost of providing the vouchers.

(d) **SELECTION CRITERIA.**—In awarding a grant under this section for a scholarship program, the Secretary shall give priority to an entity submitting an application that—

- (1) specifies that individuals who receive vouchers through the program will be individuals—

(A) who are direct support workers who assist individuals with developmental disabilities residing in diverse settings, while pursuing postsecondary education; and

(B) each of whom verifies, prior to receiving the voucher, that the worker has completed 250 hours as a direct support worker in the past 90 days;

- (2) states that the vouchers that will be provided through the program will be in amounts of not more than \$2,000 per year;

(3) provides an assurance that the eligible entity (or another specified entity that is not a voucher recipient) will contribute the non-Federal share of the cost of providing the vouchers; and

- (4) meets such other conditions as the Secretary may specify.

(e) **FEDERAL SHARE.**—The Federal share of the cost of providing the vouchers shall be not more than 80 percent.

SEC. 304. STAFF DEVELOPMENT CURRICULUM AUTHORIZATION.

42 USC 15114.

(a) **FUNDING.**—

(1) **IN GENERAL.**—The Secretary shall award funding, on a competitive basis, through a grant, cooperative agreement, or contract, to a public or private entity or a combination of such entities, for the development, evaluation, and dissemination of a staff development curriculum, and related guidelines, for computer-assisted, competency-based, multimedia, interactive instruction, relating to service as a direct support worker.

(2) **PARTICIPANTS.**—The curriculum shall be developed for individuals who—

(A) seek to become direct support workers who assist individuals with developmental disabilities or are such direct support workers; and

(B) seek to upgrade their skills and competencies related to being a direct support worker.

(b) APPLICATION REQUIREMENTS.—To be eligible to receive an award under this section, an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a comprehensive analysis of the content of direct support roles;

(2) information identifying an advisory group that—

(A) is comprised of individuals with experience and expertise with regard to the support provided by direct support workers, and effective ways to provide the support, for individuals with developmental disabilities in diverse settings; and

(B) will advise the entity throughout the development, evaluation, and dissemination of the staff development curriculum and guidelines;

(3) information describing how the entity will—

(A) develop, field test, and validate a staff development curriculum that—

(i) relates to the appropriate reading level for direct service workers who assist individuals with disabilities;

(ii) allows for multiple levels of instruction;

(iii) provides instruction appropriate for direct support workers who work in diverse settings; and

(iv) is consistent with subsections (b) and (c) of section 101 and section 109;

(B) develop, field test, and validate guidelines for the organizations that use the curriculum that provide for—

(i) providing necessary technical and instructional support to trainers and mentors for the participants;

(ii) ensuring easy access to and use of such curriculum by workers that choose to participate in using, and agencies that choose to use, the curriculum;

(iii) evaluating the proficiency of the participants with respect to the content of the curriculum;

(iv) providing necessary support to the participants to assure that the participants have access to, and proficiency in using, a computer in order to participate in the development, testing, and validation process;

(v) providing necessary technical and instructional support to trainers and mentors for the participants in conjunction with the development, testing, and validation process;

(vi) addressing the satisfaction of participants, individuals with developmental disabilities and their families, providers of services for such individuals and families, and other relevant entities with the curriculum; and

(vii) developing methods to maintain a record of the instruction completed, and the content mastered, by each participant under the curriculum; and

(C) nationally disseminate the curriculum and guidelines, including dissemination through—

- (i) parent training and information centers funded under part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.);
 - (ii) community-based organizations of and for individuals with developmental disabilities and their families;
 - (iii) entities funded under title I;
 - (iv) centers for independent living;
 - (v) State educational agencies and local educational agencies;
 - (vi) entities operating appropriate medical facilities;
 - (vii) postsecondary education entities; and
 - (viii) other appropriate entities; and
- (4) such other information as the Secretary may require.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

42 USC 15115.

(a) **SCHOLARSHIPS.**—There are authorized to be appropriated to carry out section 303 \$800,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

(b) **STAFF DEVELOPMENT CURRICULUM.**—There are authorized to be appropriated to carry out section 304 \$800,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 and 2003.

TITLE IV—REPEAL**SEC. 401. REPEAL.**

(a) **IN GENERAL.**—The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) **INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**—Sections 644(b)(4) and 685(b)(4) of the Individuals with Disabilities Education Act (20 U.S.C. 1444(b)(4), 1484a(b)(4)) are amended by striking “the Developmental Disabilities Assistance and Bill of Rights Act” and inserting “the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

20 USC 1485.

(2) **NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996.**—Section 4(17)(C) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(17)(C)) is amended by striking “as defined in” and all that follows and inserting “as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(3) **REHABILITATION ACT OF 1973.**—(A) Section 105(c)(6) of the Rehabilitation Act of 1973 (29 U.S.C. 725(c)(6)) is amended by striking “the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024)” and inserting “the State Council on Developmental Disabilities established under section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(B) Sections 202(h)(2)(D)(iii) and 401(a)(5)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 762(h)(2)(D)(iii),

781(a)(5)(A)) are amended by striking “Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.)” and inserting “Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(C) Subsections (a)(1)(B)(i), (f)(2), and (m)(1) of section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e) are amended by striking “part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)” and inserting “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(D) Section 509(f)(5)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 794e(f)(5)(B)) is amended by striking “Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.)” and inserting “Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(4) ASSISTIVE TECHNOLOGY ACT OF 1998.—(A) Section 3(a)(11)(A) of the Assistive Technology Act of 1998 (29 U.S.C. 3002(a)(11)(A)) is amended by striking “part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)” and inserting “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(B) Paragraphs (1) and (2) of section 102(a) of the Assistive Technology Act of 1998 (29 U.S.C. 3012(a)) are amended by striking “Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.)” and inserting “Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(5) HEALTH PROGRAMS EXTENSION ACT OF 1973.—Section 401(e) of the Health Programs Extension Act of 1973 (42 U.S.C. 300a-7(e)) is amended by striking “or the” and all that follows through “may deny” and inserting “or the Developmental Disabilities Assistance and Bill of Rights Act of 2000 may deny”.

(6) SOCIAL SECURITY ACT.—(A) Section 1919(c)(2)(B)(iii)(III) of the Social Security Act (42 U.S.C. 1396r(c)(2)(B)(iii)(III)) is amended by striking “part C of the Developmental Disabilities Assistance and Bill of Rights Act” and inserting “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(B) Section 1930(d)(7) of the Social Security Act (42 U.S.C. 1396u(d)(7)) is amended by striking “State Planning Council established under section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, and the Protection and Advocacy System established under section 142 of such Act” and inserting “State Council on Developmental Disabilities established under section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the protection and advocacy system established under subtitle C of that Act”.

(7) UNITED STATES HOUSING ACT OF 1937.—Section 3(b)(3)(E)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)(iii)) is amended by striking “developmental disability” and all that follows and inserting “developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.”

(8) HOUSING ACT OF 1949.—The third sentence of section 501(b)(3) of the Housing Act of 1949 (42 U.S.C. 1471(b)(3)) is amended by striking “developmental disability” and all that follows and inserting “developmental disability as defined in

section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.”.

(9) OLDER AMERICANS ACT OF 1965.—(A) Section 203(b)(17) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(17)) is amended by striking “Developmental Disabilities and Bill of Rights Act” and inserting “Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(B) Section 427(a) of the Older Americans Act of 1965 (42 U.S.C. 3035f(a)) is amended by striking “part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.)” and inserting “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(C) Section 429F(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3035n(a)(1)) is amended by striking “section 102(5) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5))” and inserting “section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(D) Section 712(h)(6)(A) of the Older Americans Act of 1965 (42 U.S.C. 3058g(h)(6)(A)) is amended by striking “part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.)” and inserting “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(10) CRIME VICTIMS WITH DISABILITIES AWARENESS ACT.—Section 3 of the Crime Victims With Disabilities Awareness Act (42 U.S.C. 3732 note) is amended by striking “term” and all that follows and inserting the following “term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.”.

(11) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—The third sentence of section 811(k)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(2)) is amended by striking “as defined” and all that follows and inserting “as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.”.

(12) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—Section 670G(3) of the State Dependent Care Development Grants Act (42 U.S.C. 9877(3)) is amended by striking “section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act” and inserting “section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(13) PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1986.—(A) Section 102(2) of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10802(2)) is amended by striking “part C of the Developmental Disabilities Assistance and Bill of Rights Act” and inserting “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(B) Section 114 of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10824) is amended by striking “section 107(c) of the Developmental Disabilities Assistance and Bill of Rights Act” and inserting “section 105 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(14) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—Section 422(2)(C) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(2)(C)) is amended by striking “as defined” and all that follows and inserting “as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, or”.

(15) ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1997.—(A) Section 4 of the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14403) is amended—

(i) by striking the section heading and inserting the following:

“SEC. 4. RESTRICTION ON USE OF FEDERAL FUNDS UNDER CERTAIN GRANT PROGRAMS.”;

and

(ii) by striking “part B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act” and inserting “subtitle B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”.

(B) Section 5(b)(1) of the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14404(b)(1)) is amended by striking subparagraph (A) and inserting the following:

“(A) PROTECTION AND ADVOCACY SYSTEMS UNDER THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000.—Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.”.

Approved October 30, 2000.

LEGISLATIVE HISTORY—S. 1809 (H.R. 4920):

CONGRESSIONAL RECORD:

Vol. 145 (1999): Nov. 8, considered and passed Senate.
Vol. 146 (2000): Oct. 11, considered and passed House.

○

LEGISLATIVE AGENDA ITEM DETAIL SHEET

Bill NUMBER/ISSUE: NONE

BILL SUMMARY: The reauthorization of the Individuals with Disabilities Education Act (IDEA) was due in 2009; however, the reauthorization has yet to occur. There is currently no information on the anticipated reauthorization.

BACKGROUND: The Individuals with Disabilities Education Act (IDEA) is a United States federal law that governs how states and public agencies provide early intervention, special education, and related services to children with disabilities. It addresses the educational needs of children with disabilities from birth to age 18 or 21 in cases that involve 13 specified categories of disability.

The main provisions of the IDEA are:

Eligibility for services

IDEA defines a child with a disability as a "child... with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities AND, because of the condition needs special education and related services.

Individualized Education Program

The act requires that public schools create an Individualized Education Program (IEP) for each student who is found to be eligible under both the federal and state eligibility/disability standards. It specifies the services to be provided and how often, describes the student's present levels of performance and how the student's disabilities affect academic performance, and specifies accommodations and modifications to be provided for the student.^[9]

An IEP must be designed to meet the unique educational needs of that child in the Least Restrictive Environment appropriate to the needs of that child. The IEP team must include at least one of the child's regular education teachers (if applicable), a special education teacher, someone who can interpret the educational implications of the child's evaluation, such as a school psychologist, any related service personnel deemed appropriate or necessary, and an administrator or CSE (Committee of Special Education) representative who has adequate knowledge of the availability of services in the district and the authority

to commit those services on behalf of the child. Parents are considered to be equal members of the IEP team along with the school staff.

Related services

The definition of related services in the IDEA includes, but is not limited to: transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, music therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and *mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

Free Appropriate Public Education

Guaranteed by the Individuals with Disabilities Education Act (IDEA), FAPE is defined as an educational program that is individualized to a specific child, designed to meet that child's unique needs, and from which the child receives educational benefit. To provide FAPE, schools must provide students with an "... education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living."

Least Restrictive Environment

The LRE is the environment most like that of typical children in which the child with a disability can succeed academically as measured by the specific goals in the student's IEP.

Discipline of a child with a disability

Arguably the most controversial area is the discipline of a child with a disability in an educational setting. Discipline must take that child's disability into account. For example, if a child is sensitive to loud noises, and if the child runs out of a room filled with loud noises, any discipline of that child for running out of the room must take into account the sensitivity and whether appropriate accommodations were in place.

For children with disabilities who have been suspended for 10 days total for each school year (including partial days) the local education agency (LEA) must hold a manifestation determination hearing within 10 school days of any decision to change the placement of a child with a disability. The LEA, the parent, and

relevant members of the individualized education program (IEP) team (as determined by the parent and LEA) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was:

- Caused by, or had a direct and substantial relationship to, the child's disability; or
- The direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child's disability, the IEP team shall:

- Conduct a functional behavioral assessment and implement a behavioral intervention plan for such child, provided that the LEA had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
- In the situation where a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- Return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavior intervention plan.

If it is determined that a student's behavior is a manifestation of his or her disability then he or she may not be suspended or expelled. However, under IDEA 2004, if a student "brings a weapon to school or a school function; or knowingly possess, uses, or sells illegal drugs or controlled substances at school or a school function"; or causes "serious bodily injury upon another person," he or she may be placed in an interim alternate educational setting (IAES) for up to 45 school days. This allows the student to continue receiving educational services while the IEP team has time to determine the appropriate placement and the appropriate course of action including reviewing the FBA and the BIP.

Child Find

Public school districts are responsible for identifying all students with disabilities within their districts, regardless of whether they are attending public schools, since private institutions may not be funded for providing accommodations under IDEA.

Procedural safeguards

The procedural safeguards include the opportunity for parents to review their child's full educational records; full parent participation in identification and IEP team meetings; parent involvement in placement decisions; Prior Written Notice; the right of parents to request independent educational evaluations at public expense; Notice of Procedural Safeguards; Resolution Process; and objective mediation funded by the state education agency and impartial Due Process Hearings. IDEA guarantees the following rights to parents:

- Right to be informed in writing of the Procedural Safeguards (There is a booklet)
- Right to review all educational records
- To be equal partners on the IEP team, along with the school staff
- To participate in all aspects of planning their child's education
- To file complaints with the state education agency
- Request mediation, or a due process hearing
- At this time, parents may present an alternative IEP and their witnesses (experts and others), to support their case.
- These hearings are Alternative Dispute Resolution (ADR) hearings and can be appealed. This is not a trial.

Early intervention

Part C of the IDEA requires that infants and toddlers with disabilities receive early intervention services from birth through age 3. These services are provided according to an Individualized Family Service Plan (IFSP). In contrast, Part B of the IDEA requires that children with disabilities, from age 3 to 21, are provided a free appropriate public education.

ANALYSIS/DISCUSSION: Although reauthorization is not eminently proposed, the committee can discuss the following criticisms of IDEA to prepare for reauthorization: 1) lack or inefficiency of enforcement, 2) lack of impartial hearing officers, 3) districts spend more on attorney fees even though the provision of educational services is cheaper, 4) schools retaliate against families who have exercised their IDEA rights, 5) minority students are over-identified as having disabilities, 6) parents do not fully understand, or receive assistance in understanding, their child's IEP, 7) lack of effective transitional planning, 6) inadequate clarity or appropriateness with regard to educational setting discipline.

COUNCIL STRATEGIC PLAN OBJECTIVE: ED 1.1

PRIOR COUNCIL ACTIVITY: Since the reauthorization of IDEA has not begun, the Council has not conducted any activities on this issue.

RECOMMENDATION(S): NONE

ATTACHMENT(S): NONE. A copy of the current IDEA is being provided to Committee members and is available online.

PREPARED: Melissa C. Corral (1/7/11)

AGENDA ITEM DETAIL SHEET

ISSUE: 2011-12 Governor's Budget

BACKGROUND: Each January the Governor issues a proposed State Budget for the coming fiscal year (July-June). On January 10, 2011, Governor Jerry Brown issued his budget proposal and indicated that he desires the budget for 2011-12 be adopted in March 2011. The normal deadline for passage of a new fiscal year budget is June 30th of each year, although California has not passed or enacted a budget on that date for several years. Governor Brown is attempting this schedule as it includes qualifying fiscal proposals (taxes) as ballot measures before the voters.

ANALYSIS/DISCUSSION: The Governor's 2011-12 Budget proposes many serious reductions that will impact people with developmental disabilities, while also recognizing the State's \$25 billion deficit and need to make reductions and structural changes.

COUNCIL STRATEGIC PLAN OBJECTIVE: Shape public policy that positively impacts Californians with developmental disabilities and their families.

PRIOR LPPC/COUNCIL ACTIVITY: None

RECOMMENDATION(S): See recommendations on specific portions of the Governor's proposal (being sent under separate cover).

ATTACHMENT(S):

SCDD 2011-12 Governor's Budget Highlights

PREPARED: Carol J. Risley, January 12, 2011

State Council on Developmental Disabilities
2011-12 Governor's Budget Highlights
January 10, 2011

Governor Jerry Brown issued his proposed 2011-12 Budget on January 10, 2011. The following are highlights of the budget that could impact people with developmental disabilities.

Summary

"... This Budget proposes a far-reaching realignment of government functions by restoring to local government authority to make decisions that are best made closer to the people, not in Sacramento. My plan also envisions reorganizing state government to make it more efficient and save scarce tax dollars by consolidating or eliminating functions. Since it will take some time to fully implement these changes, I propose to ask the voters for a five-year extension of several current taxes so that we can restructure in an orderly manner with minimal disruption.

If we make the tough decisions now and put our accounts in order, we will again make California the national leader in job creation as our nation slowly recovers from the current recession.

We begin 2011, after the longest budget stalemate in the history of California, with a budget gap of more than \$25 billion. Short-term measures and gimmicks adopted in recent years did not solve our problem and in fact made it worse. This Budget closes our short-term budget gap and also eliminates projected future deficits.

The Budget focuses on the core functions of government and maintains essential services. Nowhere is this more important than in our public schools, which have taken big cuts in recent years.

Along with responsibilities returned to local government through the proposed realignment, the Budget provides dedicated and ongoing revenues...."¹

¹ Governor Edmund G. Brown Jr., January 10, 2011

Department of Developmental Services

Program Highlights

“The Department of Developmental Services (the Department) is responsible under the Lanterman Developmental Disabilities Services Act (Lanterman Act) for ensuring that more than 246,000 persons with developmental disabilities receive the services and support they require to lead more independent and productive lives and to make choices and decisions about their lives. Proposed system-wide funding for 2011-12 is \$4.5 billion (\$2.4 billion General Fund).

California provides services and supports to individuals with developmental disabilities in two ways: the vast majority of people live in their families’ homes or other community settings and receive state-funded services that are coordinated by one of 21 non-profit corporations known as regional centers. A small number of individuals live in four state-operated developmental centers and one state-operated community facility....”

“...In 2009-10, the Department developed proposals that resulted in approximately \$334 million in General Fund savings and an additional \$200 million in 2010-11. Savings proposals impacted both the developmental center and regional center budgets, and included a variety of strategies such as restructuring, reducing or suspending various services, restricting eligibility for certain services, and maximizing other available funding sources, primarily federal funds. In addition to these proposals, payments for community services were reduced by 3 percent in 2009-10 and 4.25 percent in 2010-11.”

“The Department’s budget was expected to grow in 2011-12 by \$289.9 million compared to the enacted budget due to increased caseload; utilization and the expiration of the 4.25 percent payment reduction. In addition, the General Fund need was increasing by \$195.6 million due to the end of the federal stimulus funding. Given the continued pressure on the General Fund, the Governor’s Budget proposes to reduce from the projected budget \$750 million in General Fund system-wide through additional federal revenues, increased accountability, further expenditure reductions and cost containment measures, with the intent of maintaining the Lanterman entitlement to community-based services for individuals to avoid more costly institutionalization....”

“The Department will pursue system-wide proposals to achieve the \$750 million General Fund savings contained in the Governor’s Budget for 2011-12, including but not limited to:

- “Pursuing additional federal funds for treatment services provided to individuals residing in the secure facility at Porterville Developmental Center. It is anticipated that this will result in General Fund savings of \$10 million in 2011-12....”
- “Continuation of the temporary regional center and service provider payment reductions. The 2010-11 budget contains a 4.25 percent reduction to regional centers and service provider payments....”
- “Continued Proposition 10 funding. The regional center budget includes \$50 million in reimbursement funding in 2010-11 from the California Children and Families Commission (Proposition 10)....”
- “Increased federal funds for community services.... This proposal would focus on increasing federal funding by: (1) expanding the pending federal 1915(i) State Plan Amendment to include additional consumers and related expenditures consistent with recent federal healthcare reforms, (2) maximizing use of federal “Money Follows the Person” funding for individuals placed out of institutions and (3) pursuing other enhanced federal funding opportunities. This proposal would at a minimum save \$65 million General Fund in 2011-12.”
- “Increased accountability and transparency. This proposal would set parameters on the use of state funds for administrative expenditures of regional centers and service providers; increase auditing requirements; increase disclosure requirements; and maximize recoveries from other responsible parties.”
- “Implementation of statewide service standards.... The Department, with input from stakeholders, will develop standards for regional centers to use when purchasing services for consumers and families....”²

² Department of Developmental Services 2011-12 Budget Highlights: Program Highlights, January 10, 2011.

Community Services Program (includes regional center services)

“For 2011-12, the budget projects the total community caseload at 251,702, an increase of 7,594 consumers over the revised 2010-11 caseload. The budget proposes 2011-12 funding for services and support to persons with developmental disabilities in the community at \$3.8 billion total funds (\$2.0 billion General Fund), a decrease of \$329.3 million (\$322.2 million General Fund) over the enacted 2010-11 budget; or compared to the updated 2010-11 budget, a decrease of \$329.5 million (\$153.1 million General Fund).”

- \$149.7 million increase in Purchase of Services (POS) and Prevention Program due to increased caseload and utilization.
- \$0.5 million decrease due to the delayed implementation of the Self-Directed Services.
- \$13.0 million increase in regional center operations costs primarily due to caseload increases and additional Home and Community-Based Services (HCBS) waiver enrollments.
- Increase of \$134.1 million in General Fund and corresponding decrease in reimbursements due to the end of federal stimulus funding.
- Continuation of the 4.25 percent payment reduction in 2011-12. The reduction impacts both regional center operations and POS for a total decrease of \$165.5 million (\$91.5 million General Fund). There is an incremental decrease from 2010-11 of \$2.8 million due to the reduced total funding level in 2011-12.
- Continue reimbursement funding from the California Children and Families Commission (Proposition 10) in 2011-12, resulting in a General Fund savings of \$50 million.
- \$27.2 million decrease in 2011-12, as the 2010-11 budget included costs associated with retroactive processing of claims for 2007-08 through 2010-11 (four years) that is not required in the budget year. These costs related to increasing Federal Financial Participation (FFP) for day treatment and transportation costs for residents of Intermediate Care Facilities for individuals with developmental disabilities (ICF-DD). The 2011-12 budget retains \$9.5 million for budget year claims.
- \$1.7 million increase to establish Financial Management Services (FMS) as an option for vouchered respite, transportation, and day

- care services consistent with federal requirements to renew the HCBS waiver.
- \$70.1 million increase to reflect the impact of service reductions proposals in Medi-Cal and SSI/SSP programs that will increase regional centers POS costs in 2011-12.
 - Increased accountability and transparency and system-wide cost containment measures to generate significant General Fund savings necessary to achieve the balance of overall required reduction of \$750 million. The proposal would set parameters on the use of state funds for administrative expenditures of regional centers and service providers; increase auditing requirements; increase disclosure requirements; and maximize recoveries from other responsible parties. In addition, the proposals would establish statewide service standards that set parameters and promote consistency in the array of services available through the regional centers....”

Developmental Centers

“The Governor’s Budget proposes 2011-12 funding for services and supports to persons with developmental disabilities that live in four state-operated developmental centers and one state-operated community facility at \$618.1 million (\$324.0 million General Fund), a decrease of \$28.0 million total funds (\$9.1 million General Fund increase) over the Budget Act of 2010; or compared to the updated 2010-11 budget, an increase of \$10.6 million (\$41.2 million General Fund). The changes primarily include an increase in General Fund and corresponding decrease in reimbursements due to the end of federal stimulus funding (\$27 million); staffing adjustments for decreased resident population; salary reductions consistent with Executive Order S-01-10 to lower state staffing costs and statewide employee compensation adjustments from changes to collective bargaining agreements, including the elimination of the state furlough program accompanied by salary reductions and other leave and benefit contribution changes. Some savings associated with collective bargaining are not included in the Department’s budget, but rather reflected in a statewide budget item, giving the misleading appearance of a cost increase. Total authorized positions decline from 6,237.6 to 5,922.0, a reduction of 315.6 positions from the Budget Act.

As part of the \$750 million savings proposal, the Department will pursue additional federal funds for treatment services provided to individuals

residing in the secure facility at Porterville Developmental Center. It is anticipated this will result in General Fund savings of \$10 million in 2011-12. The Department will also consider other proposals to achieve General Fund savings.”

“... The budget reflects an average population reduction of 196 consumers (from 1,979 to 1,783). The number of consumers living in state-operated residential facilities will decrease by the end of fiscal year 2011-12 to 1,691.”

“... the Department has provided a comprehensive update on the closure activities at Lanterman Developmental Center (LDC). The Department is now proceeding with implementation activities consistent with the Closure Plan presented on April 1, 2010....”

“Federal mandates require automatic fire sprinkler systems for Acute Care hospitals and Nursing Facilities by August 2013 (Federal Rule 42, Code of Federal Regulations 483.70). The capital outlay budget includes \$2.0 million General Fund to design and install automatic fire sprinklers in 13 buildings that house Nursing Facility and General Acute Care consumers at the Fairview, Porterville and Sonoma Developmental Centers. The project also includes necessary associated work, such as asbestos removal, electrical and plumbing renovations, and minor construction as necessary to meet code requirements to accommodate the automatic fire sprinkler system installations. The proposal funds the preparation of preliminary plans and working drawings for the project.”

“...reappropriation of funding for an addressable fire alarm system, already approved by the Legislature, in consumer utilized buildings at Fairview Developmental Center. This project continues to be a critical safety improvement, licensing and code compliance need for Fairview's consumers, staff, and visitors. The capital outlay budget has already funded the preliminary plans and drawings for this project. The 2011-12 capital outlay budget includes \$8.6 million General Fund for the construction phase to complete the project.”

“... construction phase for a new piping system, already approved by the Legislature, to supply additional oxygen, medical air and suction, and a new oxygen storage tank at the Johnson/Ordahl building at Sonoma Developmental Center. The project was delayed as part of the \$334 million

General Fund savings in 2009-10, but remains a critical health and safety need for Sonoma’s medically fragile consumers and for the staff. The 2011-12 capital outlay budget includes \$2.7 million General Fund to complete the project.”³

Summary by the Numbers (dollars in thousands)

	2010-11	2011-12	Difference
Community Services	\$4,126,757	\$3,797,294	-\$329,463
Developmental Center	607,565	618,127	10,562
Headquarters Support	<u>35,796</u>	<u>38,607</u>	<u>2,811</u>
 Total	 \$4,770,118	 \$4,454,028	 -\$316,090
 Average Caseload			
Developmental Centers	1,979	1,783	- 196
Regional Centers	244,108	251,702	7,594

DEPARTMENT OF REHABILITATION

Vocational Rehabilitation

“The Vocational Rehabilitation Services Program delivers vocational rehabilitation services to persons with disabilities through vocational rehabilitation professionals in district and branch offices located throughout the state. In addition, the Department has cooperative agreements with state and local agencies (education, mental health, and welfare) to provide unique and collaborative services to consumers. The Department operates under a federal Order of Selection process, which gives priority to persons with the most significant disabilities.”

Independent Living Services

“The Department funds, administers and supports 29 non-profit independent living centers in communities located throughout California. Each independent living center provides services necessary to assist

³ Department of Developmental Services 2011-12 Budget Highlights: Program Highlights, January 10, 2011.

consumers to live independently and be productive in their communities. Core services consist of information and referral, peer counseling, benefits advocacy, independent living skills development, housing assistance, personal assistance services, and personal and systems change advocacy.

The Department also administers and supports the Traumatic Brain Injury (TBI) Program. Seven service providers throughout California provide a coordinated post-acute care service model for persons with TBI, including supported living, community reintegration, and vocational supportive services, in coordination with consumers and their families.

The Department also serves blind and deaf-blind persons through counselor-teacher services, purchase of reader services, and community-based projects to serve the elderly blind.”

Summary by the Numbers (dollars in thousands)⁴

Code	Program	Proposed 2011-12*	
		Personnel Years	Dollars
10	<u>Vocational Rehabilitation Services</u>	1,551.3	\$395,365
30	<u>Independent Living Services</u>	9.4	20,779
40.01	Administration	214.3	34,192
40.02	Distributed Administration	-	-34,192
Totals, Personnel Years and Expenditures (excluding Infrastructure)		1,775.0	\$416,144
	Infrastructure Expenditures	-	-
Totals, Personnel Years and All Expenditures		1,775.0	\$416,144

DEPARTMENT OF SOCIAL SERVICES

Supplemental Security Income/State supplementary Payment (SSI/SSP)

“The federal Supplemental Security Income (SSI) program provides a monthly cash benefit to eligible aged, blind, and disabled persons who meet the program’s income and resource requirements. In California, the SSI payment is augmented with a State Supplementary Payment (SSP)

⁴ 2011-12 Governor’s Budget, January 10, 2011.

grant. These cash grants assist recipients with basic needs and living expenses.”

“The Governor’s Budget proposes \$2.7 billion General Fund for the SSI/SSP program in 2011-12. This represents a 3.8-percent decrease from the revised 2010-11 budget. The caseload in this program is estimated to be 1.3 million recipients in 2011-12, a 0.8-percent increase over the 2010-11 projected level.” “This proposal would reduce monthly SSP grants for individuals to the federally required minimum payment standard. Under this proposal, the maximum monthly SSI/SSP cash grant for individuals would be reduced by \$15 per month (from \$845 to \$830), beginning June 1, 2011. SSP grants for couples were previously reduced to the federal minimum in November 2009.” “The proposal will generate estimated General Fund savings of \$14.7 million in 2010-11 and \$177.3 million in 2011-12. These savings are net of increased General Fund costs assumed in the DDS budget. This proposal assumes enacting state legislation by March 1 and implementation on June 1, 2011.”⁵

In-Home Supportive Services (IHSS)

“The In-Home Supportive Services (IHSS) program provides support services, such as house cleaning, transportation, personal care services, and respite care to eligible low-income aged, blind, and disabled persons. These services are provided in an effort to allow individuals to remain safely in their homes and prevent institutionalization. The Governor’s Budget proposes \$1.1 billion General Fund for the IHSS program in 2011-12. Absent the program changes described below, the average monthly caseload in this program is estimated to be 456,400 recipients in 2011-12, a 3.4-percent increase over the 2010-11 projected level.

- Across-the-board Reduction to Service Hours. This proposal would implement an 8.4-percent reduction to assessed hours for all IHSS recipients for General Fund savings of \$127.5 million in 2011-12. This proposal, combined with the 3.6-percent reduction enacted in

⁵ 2011-12 Governor’s Budget Summary: Health and Human Services; Department of Social Services, January 10, 2011.

2010-11, would bring the total across-the-board reduction in assessed hours for IHSS recipients to 12 percent.

- “Eliminate Domestic and Related Services for Certain Recipients. This proposal would eliminate domestic and related services (which include housework, shopping for food, meal preparation and cleanup, and laundry) for consumers living with their provider. Approximately 48 percent of IHSS providers live with the consumers for whom they care. In addition, this proposal would eliminate domestic and related service hours for recipients under eighteen years of age who live with a parent who is able and available to provide the domestic and related services.” “... Under this proposal, IHSS applicants/recipients living in any type of shared living arrangement would not be eligible for domestic and related services that can be met in common with other household members. IHSS applicants/recipients who have a need for domestic and/or related services that cannot be met in common due to a medically verified condition of other members of the shared living arrangement could be authorized hours for any of these services that meet the need assessment metrics. Similarly, when minor recipients are living with their parent(s), the need is being met in common; hence, the need for domestic and related service hours would no longer be allowed. Since minors would not be expected to be able to perform these services independently, the parent would be presumed available to perform these tasks unless the parent could provide medical verification of his/her inability to do so.”
- Eliminate IHSS Services for Recipients Without Physician Certification. This proposal would require the provision of IHSS services to be conditioned upon a physician’s written certification that personal care services are necessary to prevent out-of-home care. This would result in the loss of services for approximately 43,000 recipients, providing General Fund savings of \$120.5 million in 2011-12.
- Eliminate State Funding for IHSS Advisory Committees. This proposal would eliminate the mandate for counties to establish

advisory committees, for General Fund savings of \$1.6 million in 2011-12.⁶

DEPARTMENT OF MENTAL HEALTH

Community Services

The Department of Mental Health (DMH) ensures that a continuum of care exists throughout the state for children and adults who are mentally ill by providing oversight of community mental health programs and direct services through state mental hospitals. The Governor's Budget includes \$4.5 billion (\$1.3 billion General Fund) for 2011-12.

DMH allocates funds and provides oversight for a number of programs including the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program, the mental health managed care program, and mandated mental health services for special education students (AB 3632). Under this proposal, EPSDT, mental health managed care, and AB 3632 services would be funded with Proposition 63 funds in 2011-12, resulting in a General Fund savings of \$861.2 million. Commencing in 2012-13, the Proposition 63 funds would be replaced with dedicated revenue. These revenues would be used to fund the cost of community mental health programs as these programs are realigned to counties.

Long-Term Care Services

State hospitals operated by DMH provide long-term care and services to persons with mental disabilities. The General Fund supports judicially committed, Penal Code, and Sexually Violent Predator residents, while counties fund civil commitments. The Governor's Budget includes \$1.2 billion General Fund and 11,716.3 positions for 2011-12. The resident population is projected to reach a total of 6,324 in 2011-12.⁷

⁶ 2011-12 Governor's Budget Summary: Health and Human Services; Department of Social Services, January 10, 2011.

⁷ 2011-12 Governor's Budget Summary: Health and Human Services; Department of Mental Health, January 10, 2011.

Summary by the Numbers (dollars in thousands)⁸

Code	Program	Proposed 2011-12*	
		Personnel Years	Dollars
10	<u>Community Services</u>	171.2	\$3,189,537
15	Mental Health Services Oversight and Accountability Commission	-	-
20	<u>Long-Term Care Services</u>	10,736.9	1,346,304
35.01	Administration	218.5	19,233
35.02	Distributed Administration	-	-19,233
Totals, Personnel Years and Expenditures (excluding Infrastructure)		11,126.6	\$4,535,841
	Infrastructure Expenditures	-	95,374
Totals, Personnel Years and All Expenditures		11,126.6	\$4,631,215

DEPARTMENT OF AGING (CDA)

CDA contracts with the network of Area Agencies on Aging, that directly manage an array of federal and state funded services that help older adults find employment; support older and individuals with disabilities to live as independently as possible; promote healthy aging and community involvement; and assist family members in their care giving role. CDA also contracts directly with agencies that operate the Multipurpose Senior Services Program through the Medi-Cal HCBS waiver for the elderly, and certifies Adult Day Health Care centers for the Medi-Cal program. The Governor's Budget includes \$182.2 million (\$15.1 million General Fund) for the CDA, a decrease of \$17.7 million General Fund from the revised 2010-11 budget and \$18.0 million General Fund from the Budget Act of 2010.

Multipurpose Senior Centers (MSSP)

MSSP sites provide case management services for elderly clients who qualify for placement in a nursing facility but who wish to remain in the

⁸ 2011-12 Governor's Budget, January 10, 2011

community. This proposal would eliminate these services for a savings of \$19.9 million General Fund in 2011-12.⁹

DEPARTMENT OF PUBLIC HEALTH (DPH)

DPH is charged with protecting and promoting the health status of Californians through programs and policies that use population wide interventions. DPH is funded with a combination of General Fund, federal funds, and various special funds. Funding for 2010-11 is \$3.4 billion (\$204.8 million General Fund), and proposed funding for 2011-12 is currently \$3.5 billion (\$314.9 million General Fund).¹⁰

Summary by the Numbers (dollars in thousands)¹¹

Code	Program	Proposed 2011-12*	
		Personnel Years	Dollars
10	Public Health Emergency Preparedness	117.4	\$109,574
10.10	Emergency Preparedness	117.4	109,574
20	Public and Environmental Health	1,784.4	3,237,479
20.10	Chronic Disease Prevention and Health Promotion	190.5	321,279
20.20	Infectious Disease	200.5	685,765
20.30	Family Health	512.3	1,744,916
20.40	Health Information and Strategic Planning	202.3	25,289
20.50	County Health Services	29.9	21,756
20.60	Environmental Health	648.9	438,474
30	Licensing and Certification	1,163.4	187,493
30.10	Licensing and Certification	1,060.6	175,276
30.20	Laboratory Field Services	102.8	12,217
40.01	Administration	386.7	27,655
40.02	Distributed Administration	-	-27,655
Totals, Personnel Years and Expenditures (excluding Infrastructure)		3,451.9	\$3,534,546
Infrastructure Expenditures		-	-
Totals, Personnel Years and All Expenditures		3,451.9	\$3,534,546

DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

⁹ 2011-12 Governor's Budget Summary: Health and Human Services; Department of Aging, January 10, 2011.

¹⁰ 2011-12 Governor's Budget Summary: Health and Human Services; Department of Public Health, January 10, 2011.

¹¹ 2011-12 Governor's Budget

DHCS ensures that eligible persons and families receive comprehensive health services through public and private resources. By ensuring the appropriate and effective expenditure of public resources to serve those with the greatest health care needs, DHCS promotes an environment that enhances health and well-being.

Medi-Cal

Medi-Cal is a public health insurance program that provides comprehensive health care services at no or low cost for low-income individuals including families with children, seniors, persons with disabilities, foster care children, and pregnant women. The federal government dictates a mandatory set of basic services including, but not limited to, physician services, family nurse practitioner services, nursing facility services, hospital inpatient and outpatient services, laboratory and radiology services, family planning, and early and periodic screening, diagnosis, and treatment services for children. In addition to these mandatory services, the state provides optional benefits at additional state cost, such as outpatient drugs, adult day health care, and medical equipment. Medi-Cal has an annual budget of \$41.6 billion total funds (\$13.0 billion General Fund, \$24.1 billion federal funds, and \$4.5 billion other funds) and Medi-Cal provides healthcare coverage to 7.7 million beneficiaries. The state share of the program is funded primarily by the General Fund. The state and federal governments fund Medi-Cal in equal shares (50 percent each). Nationally, the federal government funds 57 percent of state Medicaid programs, and other large states such as Ohio (64 percent) and Texas (61 percent) receive a significantly greater share of federal funding while providing services to a lower percentage of state residents.

Medi-Cal costs are generally a function of the number of enrolled individuals, the level of benefits provided, and the rates paid to providers. Consequently, efforts to control program costs are typically focused in these areas. Federal health care reform prohibits reductions in eligibility standards. Adverse court rulings have prevented the state from implementing various provider payment reductions or from providing services only to beneficiaries with the greatest need. The Governor's Budget proposes significant reductions to this growing program while maintaining core services for 7.7 million beneficiaries. Each proposal

assumes enacting state legislation by March 1, and some proposals may require federal approval prior to implementation.

- Limit Utilization of Services- establishes utilization controls at a level that ensures that 90 percent of beneficiaries who utilize a particular service remain unaffected, which is consistent with federal Medicaid law. Specifically, it sets a maximum annual benefit dollar on hearing aids (\$1,510), durable medical equipment (\$1,604), incontinence supplies (\$1,659), urological supplies (\$6,435), and wound care (\$391), limits prescriptions (except life-saving drugs) to six per month, and limits the number of doctor visits to ten per year. The limits on medical supplies and equipment save an estimated \$9.8 million in 2011-12 and affect approximately 20,000 beneficiaries. The limit on prescription drugs saves an estimated \$11.1 million in 2011-12. The limit on physician visits saves an estimated \$196.5 million in 2011-12 and reduces the number of physician visits funded by Medi-Cal from approximately 3.3 million to 2.0 million annually. These changes would take effect no later than October 1, 2011 based on the time needed to obtain federal approvals and provide necessary beneficiary and provider notification.
- Require Beneficiaries to Share in the Cost of Services- currently, co-payments in Medi-Cal are voluntary. State law permits co-payments of \$1 for most doctor, clinic, and pharmacy services and \$5 for emergency room visits. Providers collect little if any, co-payments and are not required to remit the payments to the state. Through a state law change and a federal waiver, co-payments would become mandatory. This proposal includes a \$5 co-payment on physician, clinic, dental, and pharmacy services (\$3 on lower cost preferred drugs) for savings of \$294.4 million in 2011-12. There would also be a \$50 co-payment on emergency room services (saving \$111.5 million in 2011-12) and a \$100/day and \$200 maximum co-payment for hospital stays (saving \$151.2 million in 2011-12). All beneficiaries who utilize these services would be subject to the co-payments. Except for the dental co-payment (May 1, 2011), these changes would take effect October 1, 2011, based on the time needed to obtain federal approvals and provide necessary beneficiary and provider notification.

- Eliminate Adult Day Health Care and Other Benefits- California is one of few states that currently operates an Adult Day Health Care program. This proposal would eliminate over-the-counter cough and cold medications and nutritional supplements as Medi-Cal benefits (saving \$556,000 in 2010-11 and \$16.6 million in 2011-12). This proposal would also eliminate the optional Adult Day Health Care program for savings of \$1.5 million in 2010-11 and \$176.6 million in 2011-12. Approximately 27,000 beneficiaries use Adult Day Health Care services each month in about 330 centers statewide.
- Reduce Medi-Cal Provider Payments by 10-Percent- The Budget proposes to reduce provider payments by 10 percent for physicians, pharmacy, clinics, medical transportation, home health, Adult Day Health Care, certain hospitals, and nursing facilities.
- Use Proposition 10 Reserves to Fund Health Services for Young Children- the California Children and Families Program (known as the First 5 program) was created in 1998 upon voter approval of Proposition 10, the California Children and Families First Act. The Budget proposes to use \$1 billion in Proposition 10 funds to fund Medi-Cal services for children through age five. This will allow for the continued funding of core programs providing early childhood health services. Subject to voter approval, this proposal would take effect July 1, 2011.
- Extend the Existing Hospital Fee- Existing law provides for a hospital fee through December 31, 2010. The Budget proposes to extend the fee through June 31, 2011, which will save \$160 million in Medical. Fee revenue is used to leverage federal funding to provide supplemental payments to hospitals for the provision of Medi-Cal services and to offset General Fund costs to a lesser degree.¹²

¹² 2011-12 Governor's Budget Summary: Health and Human Services; Department of Health Care Services, January 10, 2011.

Summary by the Numbers (dollars in thousands)¹³

Code	Program	Proposed 2011-12*	
		Personnel Years	Dollars
20	Health Care Services	2,704.5	\$42,539,740
20.10	Medical Care Services (Medi-Cal)	2,574.9	42,062,132
20.25	Children's Medical Services	107.7	473,501
20.35	Primary and Rural Health	21.9	4,107
30.01	Administration	261.9	25,792
30.02	Distributed Administration	-	-25,792
Totals, Personnel Years and Expenditures (excluding Infrastructure)		2,966.4	\$42,539,740
	Infrastructure Expenditures	-	-
Totals, Personnel Years and All Expenditures		2,966.4	\$42,539,740

DEPARTMENT OF EDUCATION (CDE)

Special Education Programs for Exceptional Children

Under state law and the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400 et seq.), individuals with exceptional needs are entitled to a free, appropriate public education. Students requiring special education are served either by local educational agencies using state, federal, and local property tax funds or by the State Special Schools operated by the Department. The Special Schools (three centers for diagnostic services, two residential schools for the deaf and one residential school for the blind) provide highly specialized services including educational assessments and individual educational recommendations and a comprehensive residential and nonresidential educational program composed of academic, nonacademic and extracurricular activities.

The Budget includes an increase of \$7.4 million Proposition 98 General Fund for Special Education growth.

¹³ 2011-12 Governor's Budget

For the 2008-09 through 2012-13 fiscal years, local educational agencies were provided with broad flexibility to spend funds for approximately 40 K-12 categorical programs for any educational purpose. Under categorical flexibility, a district's allocation for each program is based on its share of total program funding either in 2007-08 or 2008-09, with the earlier year being used for certain participation driven programs. Community College categorical program flexibility will also be extended as part of this proposal.¹⁴

COMMUNITY COLLEGES

Special Services, Operations and Information functions include the development, implementation, and coordination of policies and procedures regarding education programs and funding other than apportionments. Such programs include student financial aid, academic counseling, foster care education, and support for disabled students and CalWORKs participants.¹⁵

REALIGNMENT

"The Governor's realignment proposal recognizes that many of the transfers to and from state and local governments over the past three decades have created confusion, duplication of services, and inefficiencies. Since Proposition 13, there has been a steady back-and-forth of revenue allocations and program responsibilities between the state and counties, blurring responsibility and driving up program costs. The Governor's transformation proposal begins to untangle this knot and reduce duplication by providing services at one level of government, to the extent possible. The long-term goal is not to reduce services, but rather to provide services more efficiently and at less cost. In addition to providing services at the most appropriate level of government, it is critical that these services be funded with a dedicated statewide source of funding. When fully implemented, this proposal will restructure how and where more than

¹⁴ 2011-12 Governor's Budget Summary: Department of Education, January 10, 2011.

¹⁵ 2011-12 Governor's Budget, January 10, 2011

\$10 billion in a wide range of services are delivered. A reform effort of this magnitude will have to be phased in over a number of years, but the work will begin immediately.

The goals of this realignment are to:

- Protect California's essential public services.
- Create a government structure that meets public needs in the most effective and efficient manner.
- Have government focus its resources on core functions.
- Assign program and fiscal responsibility to the level of government that can best provide the service.
- Have interconnected services provided at a single level of government.
- Provide dedicated revenues to fund these programs.
- Free up existing local funds not currently used for core services so they can be used as an enhancement for the realigned programs or for other core local priorities.
- Provide as much flexibility as possible to the level of government providing the service.
- Reduce duplication and minimize overhead costs.
- Focus the state's role on appropriate oversight, technical assistance, and monitoring of outcomes."

Phase One of Realignment would address:

- Fire and Emergency Response Activities
- Court Security
- Vehicle License Fee Public Safety Programs
- Local Jurisdiction for Lower-Level Offenders and Parole Violators
- Adult Parole
- Remaining Juvenile Justice Programs
- Mental Health Services
- Substance Abuse Treatment
- Foster Care and Child Welfare Services
- Adult Protective Services

Phase Two would address:

- Local Economic Development Change
- California Children's Services

- In-Home Supportive Services
- CalWORKs¹⁶

¹⁶ 2011-12 Governor's Budget Summary, January 10, 2011.



2011-12 Governor's Budget

Governor Edmund G. Brown Jr.

2011-12 Governor's Budget Highlights

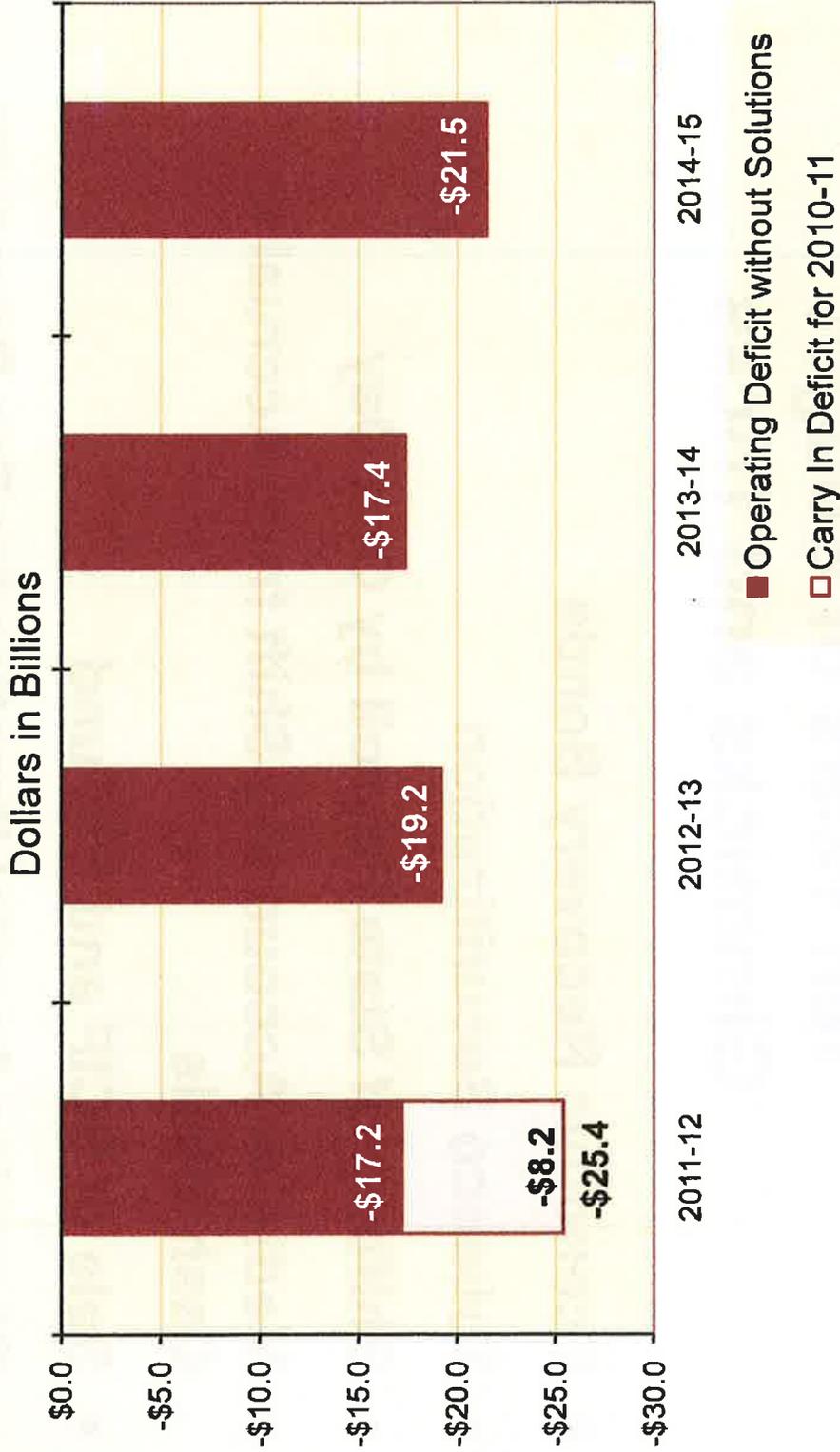
- **Cut Spending by \$12.5 Billion**
- **Reduce Employee Compensation**
- **Vast and Historical Restructuring
of Government**

Ten Years of Budget Gimmicks and Tricks

- **Economic Recovery Bonds**
- **Tobacco Securitization**
- **Shifting of State Payroll by One Day**
- **Medi-Cal Accounting Shift from Accrual to Cash Basis**
- **Sale of SCIF and EdFund**
- **Changing Accrual Practice for Tax Revenues**
- **Overly Optimistic of Federal Fund Assumptions**

The State Faces An Enormous Budget Problem

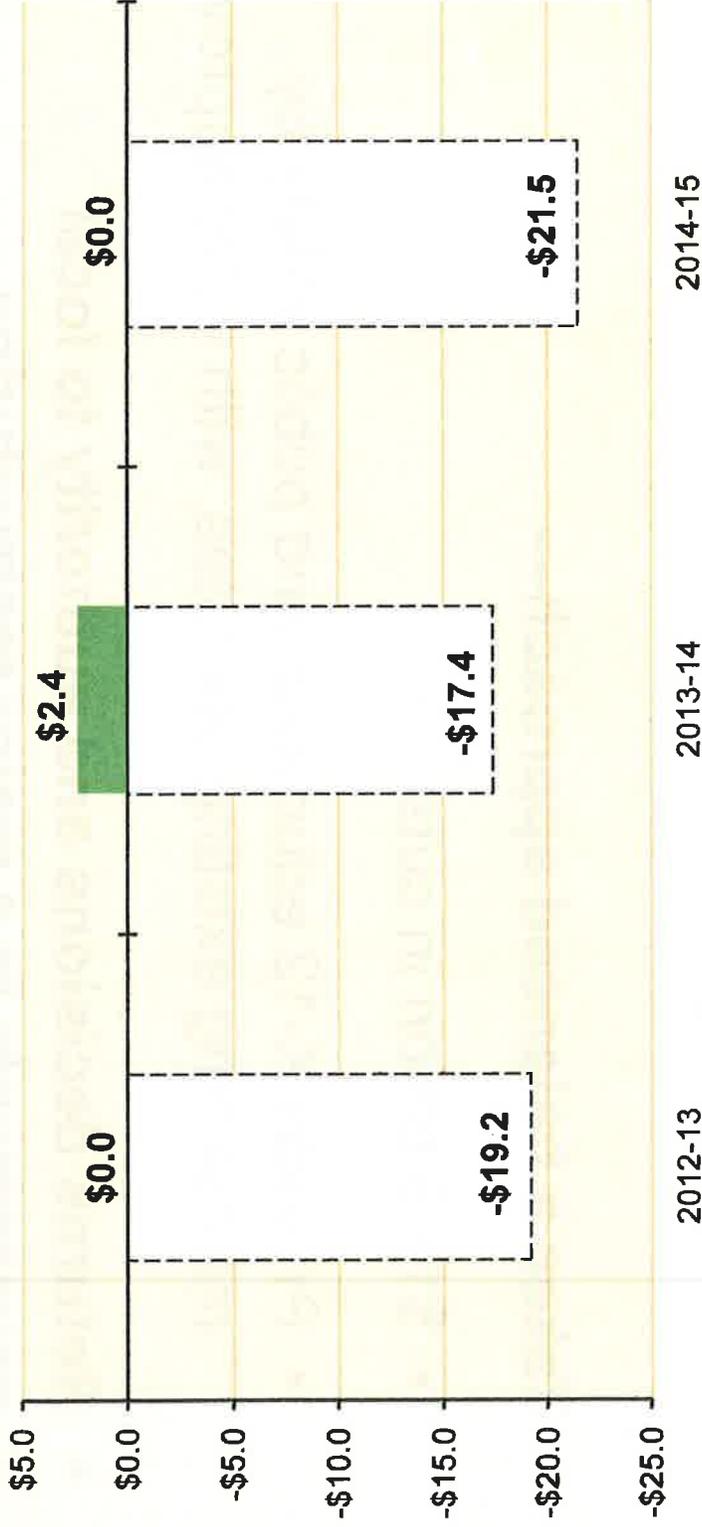
Operating Deficits without Corrective Actions



With Proposed Solutions, Budget Balances In Each Future Year

Operating Surplus/Deficits with/without Corrective Actions

Dollars in Billions



With proposals included in the Governor's Budget, the projected operating surplus is \$15 million for 2012-13, \$2.4 billion for 2013-14, and \$7 million for 2014-15.

Budget Proposes a Comprehensive Solution

- **Takes a balanced approach—**
 - \$12.5 billion in cuts.
 - Protects K-12 education and public safety by maintaining existing tax rates, with voter approval.
- **Returns decisions and authority to local governments in a major restructuring.**
- **Makes government more efficient and effective.**
- **Multiyear plan balances every year.**

Budget Takes A Balanced Approach

Proposed Budget Solutions (Dollars in Millions)

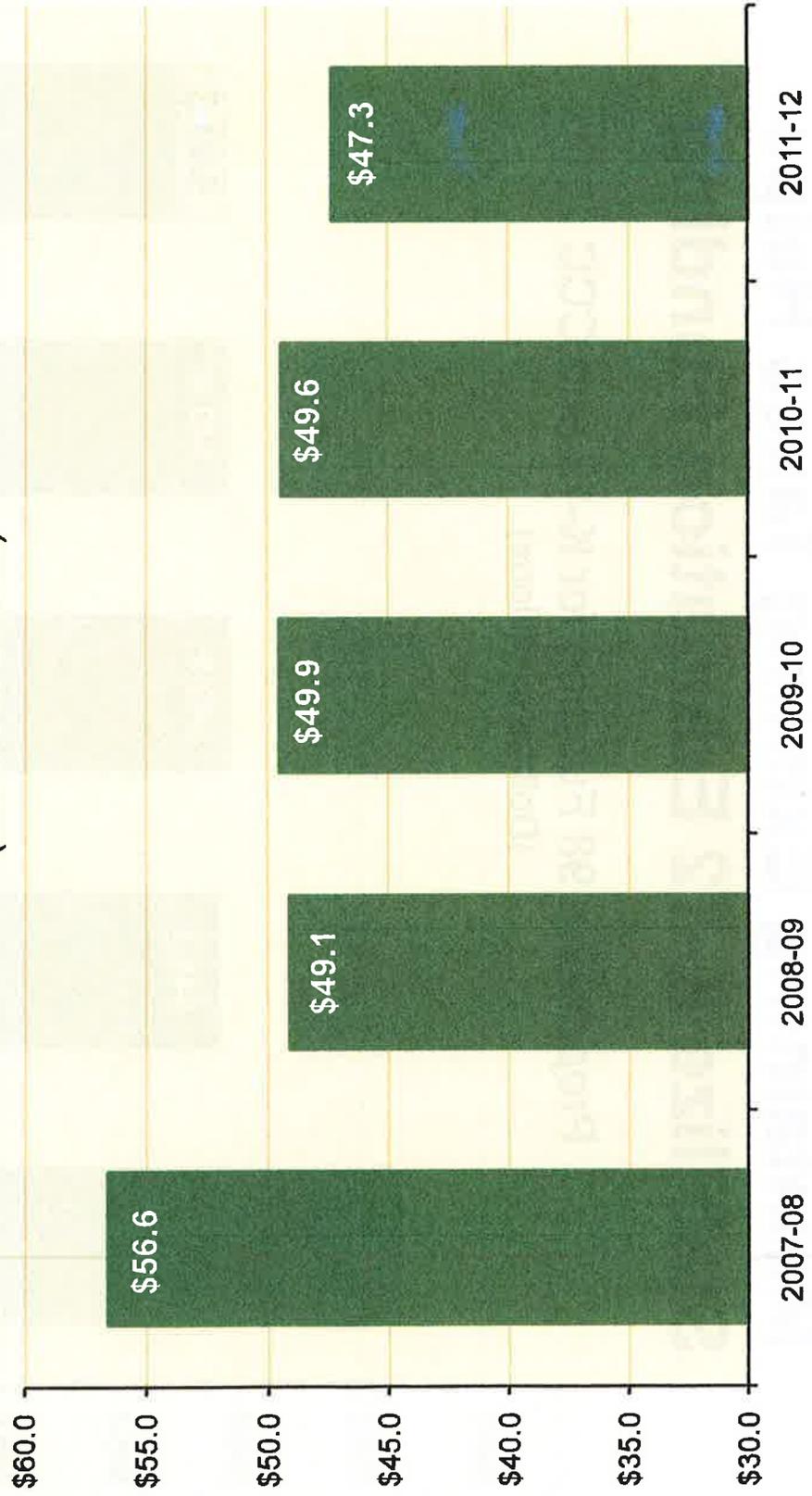
	2010-11	2011-12	Total	
Expenditure Reductions	\$422	\$12,075	\$12,497	47%
Revenues	3,163	8,864	12,027	46%
Other	506	1,379	1,885	7%
Total	\$4,091	\$22,318	\$26,409	100%

Major Cuts Are Necessary to Reduce Spending

Reductions	Savings (in millions)
Medi-Cal	1,689
CalWORKs	1,528
University of California and California State University	1,002
Developmental Services	750
In-Home Supportive Services	486
Lower take-home pay of state employees without contracts (10 percent)	308

Under Current Law, Proposition 98 Funding Would Decline in 2011-12

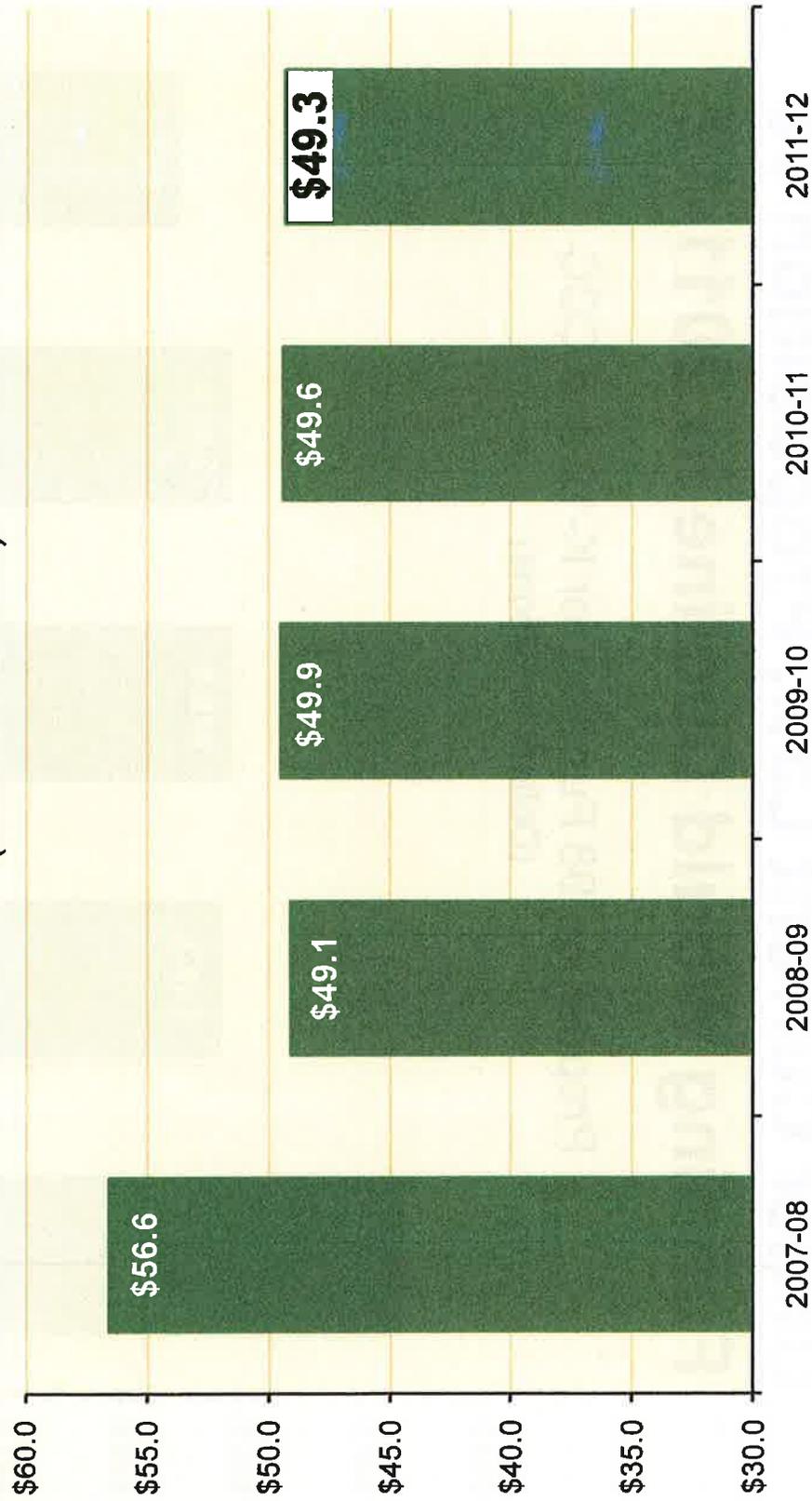
Proposition 98 Funding for K-12 and CCC
(Dollars in Billions)



127

Maintaining Existing Taxes Helps Stabilize K-12 Education Funding

Proposition 98 Funding for K-12 and CCC
(Dollars in Billions)



Stabilizing K-12 Education Requires Reductions to Other Proposition 98 Programs

- **Community Colleges**
 - \$400 million reduction, accompanied by reforms of funding
 - Fee increased from \$26 to \$36 per unit (still lowest in country)
- **Child Care**
 - \$716 million in savings by reducing levels of subsidies and other reductions

Realignment Proposal Restores Authority to Local Governments

Program

Fire

Court security

Community-based corrections

Mental health services

Foster care, child welfare, substance abuse, and adult protective services

Dedicated Revenues

1% sales tax

0.5% vehicle license fee

Ending Subsidies

- **Redevelopment (\$1.7 billion)**
 - Future year benefits would go to schools, fire, police, and other local services.
 - Existing projects would not be affected.
- **Enterprise Zones (\$924 million)**
 - Zones have not proven to be effective.
- **Local voters would be given the option to raise revenues for economic development.**



Mac Taylor
Legislative Analyst

January 12, 2011

The 2011-12 Budget:

Overview of the Governor's Budget



CONTENTS

Executive Summary	3
Overview	5
Economics, Revenue Projections, and Tax Proposals	10
State-Local Realignment	16
Redevelopment	20
Expenditure Proposals	22

EXECUTIVE SUMMARY

\$25.4 Billion Budget Problem Identified by Administration

Administration's Estimate Seems Reasonable. The administration's budget proposal identifies a \$25.4 billion budget problem that the Legislature and the Governor must address between now and the time they agree on a 2011-12 budget package. Our initial assessment is that this estimate is reasonable. The \$25.4 billion problem consists of an \$8.2 billion deficit that would remain at the end of 2010-11 absent additional budgetary action, as well as an estimated \$17.2 billion gap between current-law revenues and expenditures in 2011-12.

Reasons for the Budget Shortfall. As we discussed in our November 2010 report, *California's Fiscal Outlook*, the major reasons for this budget problem are the inability of the state to achieve previous budget solutions in several program areas, the expiration of various one-time and temporary budget solutions approved in recent years, and the failure of California to obtain significant additional federal funding for key programs. A weak economic recovery continues, meaning that elected leaders cannot rely on the economy to solve this huge budget problem.

Governor's Plan: Realignment, June Election, and Expenditure Cuts

Realignment and Voter-Approved Tax Increases Are Key Elements. Two significant and inter-related themes run through the Governor's budget proposal: (1) his plan to submit a proposed extension of the four temporary tax increases adopted in February 2009 to voters in a June 2011 special election and (2) his plan to restructure the state-local relationship in the delivery of services (by shifting funding and responsibility to local governments for those services).

Expenditure Reductions Touch Nearly Every Area of State Funding. The Governor's budget includes many significant ongoing program reductions, posing very difficult decisions for the Legislature. His proposals touch nearly every area of the state budget—often (as in Medi-Cal) with proposed reductions similar to ones suggested by the prior Governor and rejected by the Legislature. While the Governor's revenue proposals result in a \$2 billion increase in the Proposition 98 minimum funding guarantee for schools above its current-law level, his budget would result in a small programmatic funding decline for K-12 and more significant reductions for community colleges and child care programs.

Plan Would Improve Budget Situation Considerably

Administration Estimates \$1 Billion Reserve at End of 2011-12. The administration estimates that the Governor's plan would cut the 2010-11 deficit in half and leave the state with a \$1 billion reserve at the end of 2011-12. The plan relies on legislative approval of statutory changes necessary to achieve budget solutions by March 1.

Administration Says Plan Would Eliminate Deficit for at Least a Few Years. The administration projects that the Governor's proposed budget package would eliminate California's budget deficit for at least the next three years and leave the state with a surplus during that period, albeit a very small one in some years. The Governor proposes that voters approve only five-year extensions of temporary taxes, some of which would be used to fund realigned local services. At this time, it is unclear how the Governor plans to replace the proposed temporary taxes when they expire at the end of this five-year period.

LAO Comments

Governor's Proposal Is a Good Starting Point. The state faces another huge budget deficit. In light of this dire circumstance, the Governor's proposal includes reductions in nearly every area of the state budget and a package of revenue proposals that merit serious legislative consideration. We think the Governor's package is a good starting point for legislative deliberations.

Focuses on Multiyear and Ongoing Solutions. We credit the Governor's efforts to craft a budget plan that is heavily focused on multiyear and ongoing solutions. As such, his proposal shows great promise to make substantial improvements in the state's budgetary health—both in the short run and over the long term. The administration, in fact, estimates that its plan would eliminate the state's deficit—at least for the next three fiscal years. Our early assessment of the outyear effects of the Governor's budget is somewhat less favorable than the administration's. Nevertheless, its adoption would go a long way toward eliminating the state's persistent budget gap.

Governor Puts Some Bold Ideas on the Table. The Governor's proposals to “realign” state and local program responsibilities and change local economic development efforts have much merit. His realignment proposal would shift \$5.9 billion in state program costs to counties and provide a comparable amount of funds to support these new county commitments. We believe that this type of decentralization of program delivery and authority could promote innovation, efficiency, and responsiveness to local conditions. The Governor also puts forward dramatic changes in the area of local economic development by proposing the elimination of redevelopment agencies. We think this makes sense, as the state's costs associated with redevelopment have grown markedly over the years even though there is no reliable evidence that the program improves overall economic performance in the state.

Still...Some Significant Risks in the Governor's Plan. The Legislature should favor budget solutions that have a strong likelihood of actually achieving budgeted savings or revenue increases. As such, there is significant work ahead to fill in the details of some of the Governor's ambitious, complex budget proposals—especially the realignment and redevelopment proposals, which involve many legal, financial, and policy issues. Acting to pass key budget legislation by March 1, as the Governor proposes, would be helpful even if a special election were not called. Early budget actions give departments more time to implement spending reductions. If it adopts the Governor's timeline and special election approach, the Legislature would have the opportunity in the months after March 1 to review routine budget proposals for departments, adopt clean-up legislation to clarify elements of this complex budget package, and consider alternative budget-balancing solutions in case voters reject the June ballot measures. In total, around \$12 billion of the Governor's proposed budget solutions (tax extensions and changes to Proposition 10) are dependent upon voter approval in June.

Conclusion

California's elected leaders need to take big steps toward restoring the state government to fiscal solvency and rebuilding the trust of California's residents in state government. The Legislature's most important function is its control of the state budget. In drafting a 2011-12 budget plan, the Legislature will have to make difficult decisions on both its spending and tax commitments, but it also has the opportunity to reorder state and local government functions to improve the delivery of public services. In the coming weeks, we will work to provide additional guidance on the Governor's proposals and, where appropriate, offer alternatives to them.

OVERVIEW

The Governor released his proposed 2011-12 budget package on January 10, 2011, one week after his inauguration. This report is our office's initial reaction to this package. In the coming weeks, as more information becomes available from the administration, we will provide further analysis to assist the Legislature in its budget deliberations.

Administration Estimates a \$25.4 Billion Shortfall

Failed Budget Solutions and Expiring Measures Contribute to the Shortfall. Based on a review of current-law General Fund revenues and program spending, the *2011-12 Governor's Budget* estimates that, without corrective action by the Legislature and the Governor, the state would end 2011-12 with a \$25.4 billion deficit. Under the administration's estimates, the Legislature and the Governor would need to identify at least \$25.4 billion of General Fund budget solutions between now and the time that they adopt the *2011-12 Budget Act*. Specifically, the administration estimates that the General Fund will end 2010-11 with a deficit of \$8.2 billion (as opposed to the \$1.5 billion reserve balance assumed when the October 2010 budget package was adopted). For 2011-12, the Governor estimates that the gap between expenditures and revenues will be \$17.2 billion.

Our office also pegged the size of the 2011-12 budget problem at \$25.4 billion in our November 2010 report, *California's Fiscal Outlook*. As we discussed in that report, the reasons for this year's state budget shortfall include the inability of the state to achieve previous budget solutions in several program areas, the expiration of various one-time and temporary budget solutions approved in recent years, and the inability of the state to obtain significant additional federal funding for key programs.

Governor Proposes \$26.4 Billion of General Fund Solutions. In total, the Governor proposes a total of \$26.4 billion in budget solutions. If adopted and achieved in full, the Governor's budget plan would leave the state with a reserve of around \$1 billion at the end of 2011-12.

How the Budget Addresses the Shortfall

A Mix of Expenditure Reductions and Tax Increases. Figure 1 (see next page) shows our office's categorization of the \$26.4 billion in proposed budget solutions. The Governor proposes to reduce current-law General Fund state expenditures by \$12.5 billion, as summarized in Figure 1. (These expenditure-related solutions include both reductions in services and benefits and use of other funding sources in lieu of the General Fund.) The Governor proposes a total of \$14 billion in new revenues, of which \$3 billion is attributed to 2010-11. The additional revenues to be deposited in the General Fund would result in a \$2 billion increase in the Proposition 98 minimum funding guarantee for schools and community colleges. (The administration scores its revenue package at \$12 billion over two years: the \$14 billion described above, less the \$2 billion increase in the Proposition 98 guarantee. Figure 1 categorizes the Proposition 98 change separately from the revenue package.) The remaining \$1.9 billion in solutions comes from borrowing from special funds and other sources. We discuss the significant proposals in the Governor's budget in more detail later in this report.

Realignment and Voter-Approved Revenues Are Key Elements. Two significant and inter-related themes run through the Governor's budget package: (1) his plan to submit a proposed extension of the four temporary tax increases adopted in February 2009 to voters in a June 2011 special election and (2) his plan to restructure the state-local

2011-12 BUDGET

relationship in the delivery of services (by shifting funding and responsibility to local governments for those services). Two of the temporary tax

increases proposed for the June special election ballot (the 1 percentage point sales tax increase and the 0.5 percentage point increase in the vehicle

Figure 1
Budget Solutions Proposed by the Governor

(General Fund Benefit, in Billions)

	2010-11	2011-12	Totals
Expenditure-Related Solutions			
Shift redevelopment funds to Medi-Cal and trial courts	—	\$1.7	\$1.7
Reduce benefits and provider payments and charge copayments in Medi-Cal	—	1.7	1.7
Impose time limits, grant reductions, and service cuts for CalWORKs	—	1.5	1.5
Reduce UC and CSU budgets	—	1.0	1.0
Use Proposition 10 reserves and some ongoing revenues for children's programs	—	1.0	1.0
Fund transportation debt costs primarily using weight fees	\$0.3	0.8	1.0
Use Proposition 63 funds to support community mental health services	—	0.9	0.9
Reduce developmental center and regional center spending	—	0.8	0.8
Shift some adult and all juvenile offenders to local jurisdictions	—	0.6	0.6
Reduce IHSS hours of service, limit domestic services, and tighten eligibility	—	0.5	0.5
Reduce state employee salary and medical costs	—	0.4	0.4
Suspend, defer, or repeal state mandates	—	0.3	0.3
Reduce SSI/SSP grants for individuals to the federal minimum	—	0.2	0.2
Adopt unallocated funding reduction for the courts	—	0.2	0.2
Reduce Receiver's inmate medical care budget	0.1	0.2	0.2
Achieve efficiencies in state operations	—	0.2	0.2
Reduce other spending	—	0.3	0.3
Subtotals ^a	(\$0.4)	(\$12.1)	(\$12.5)
Revenue Solutions			
General Fund Revenue Solutions			
Extend the 0.25 percentage point personal income tax surcharge for five years	\$1.2	\$2.1	\$3.3
Extend reduction in dependent exemption credit for five years	0.7	1.2	2.0
Make single sales factor mandatory for multistate firms	0.5	0.9	1.4
Repeal enterprise zone tax credits	0.3	0.6	0.9
Adopt other revenue measures	0.4	0.1	0.5
Subtotals	(\$3.2)	(\$4.9)	(\$8.1)
Local Realignment Revenue Solutions			
Extend 0.5 percentage point vehicle license fee increase for five years	—	\$1.4	\$1.4
Extend 1 percentage point state sales tax increase for five years	—	4.5	4.5
Subtotals	(—)	(\$5.9)	(\$5.9)
Total Revenue Solutions	(\$3.2)	(\$10.9)	(\$14.0)
Borrowing and Transfers			
Loans, transfers, and loan extensions from special funds	\$0.5	\$0.9	\$1.4
Borrow from Disability Insurance Fund for UI interest payments	—	0.4	0.4
Other loans and transfers	—	0.1	0.1
Subtotals	(\$0.5)	(\$1.4)	(\$1.9)
Increase Proposition 98 Guarantee Due to Revenue Proposals	—	-\$2.0	-\$2.0
Totals, All Solutions	\$4.1	\$22.3	\$26.4

^a Subtotal may not add due to rounding.
IHSS = In-Home Supportive Services; UI = Unemployment Insurance.

license fee [VLF]) would be dedicated to funding the realignment of programs from the state to local entities. The Governor also proposes a significant change to the way that local redevelopment activities are funded.

Most Solutions Extend Beyond the Budget Year. Apart from the temporary borrowing of \$1.9 billion, the vast majority of the proposed budget solutions are intended to last beyond the budget year. In the case of the temporary tax increases, they would be in effect for five years.

General Fund Condition

Solutions Estimated to Leave State With \$1 Billion Reserve at End of 2011-12. Figure 2 shows the administration’s estimates of the General Fund condition under the Governor’s proposals. The estimated deficit at the end of 2010-11 would be cut in half to about \$4.1 billion. In 2011-12, revenues would decline 4.8 percent to \$89.7 billion, while expenditures would decline 8.2 percent to \$84.6 billion. The state would have an operating surplus of \$5.1 billion, offsetting the carry-in deficit and leaving a \$1 billion reserve at the end of 2011-12.

Administration Says Its Solutions Would

Eliminate the Deficit for at Least a Few Years. The administration projects that the proposed budget solutions would eliminate the state’s budget deficits for the next three years and leave the state with a surplus, albeit a very small one in some years, through this period. (Specifically, the administration estimates that the General Fund would have an operating surplus of \$15 million in 2012-13, \$2.4 billion in 2013-14, and \$7 million for 2014-15.) At this time, it is unclear how the Governor plans to replace the proposed temporary taxes—which are to be used to fund ongoing realigned local services—when they expire at the end of five years. Absent a plan to replace these taxes, there could be a substantial fiscal “cliff” for the General Fund after the five-year period.

Proposed Accelerated Budget Timeline

Administration Proposes Trailer Bills—Not Budget Act—by March 1. The administration has proposed an accelerated budget process with a target date of March 1 to have all of the enabling legislation necessary to implement the budget solutions in place. It is our understanding that the administration does not propose to have a budget

act passed by March 1, but rather only “trailer bills” (the legislation that makes the statutory changes required to implement budgetary solutions or to place items on the special election ballot). This approach would allow the Legislature and the administration to put in place the budget solutions required to address the budget deficit in March and then finalize action on the budget

Figure 2
Governor’s Budget
General Fund Condition

(Dollars in Millions)

	Actual 2009-10	Proposed 2010-11	Proposed for 2011-12	
			Amount	Percent Change
Prior-year fund balance	-\$5,147	-\$5,343	-\$3,357	
Revenues and transfers	87,041	94,194	89,696	-4.8%
Total resources available	\$81,894	\$88,851	\$86,339	
Expenditures	\$87,237	\$92,208	\$84,614	-8.2%
Ending fund balance	-\$5,343	-\$3,357	\$1,725	
Encumbrances	\$770	\$770	\$770	
Reserve ^a	-\$6,113	-\$4,127	\$955	

^a Special fund for economic uncertainties.

bill—presumably in June—prior to the Legislature’s June 15 constitutional deadline for adopting a balanced budget. In the view of the administration, this would allow for the incorporation of any updated May Revision forecasts, as well as the results of the special election.

Most or all of the trailer bills passed by March under the administration’s approach seemingly would require a two-thirds vote of each house of the Legislature. This is because Proposition 25 (approved by voters in November 2010) appears to require passage of a budget act to designate trailer bills needing only a majority vote.

June Special Election. It is our understanding that the Governor proposes to put two ballot measures before the voters in a June special election: (1) a constitutional measure to extend the temporary tax increases by another five years and to dedicate two of these revenues to realignment and (2) a measure to change Proposition 10 to allow the funds to be used in the Medi-Cal Program. (In addition, two measures have already qualified for the next statewide ballot through the initiative process: a measure to change the term limits currently in place for legislators and a measure to increase cigarette taxes to fund additional cancer research.) We understand the Governor will ask that a separate measure be placed on a future election ballot to allow new mechanisms for funding redevelopment at the local level.

LAO COMMENTS

The Governor’s Package Is a Good Starting Point

Reasonable Estimate of the Size of the Budget Problem. Our initial assessment is that the Governor’s budget provides a reasonable estimate of the size of the budget problem the Legislature and the Governor must address between now and the time they agree to a 2011-12 budget package.

Most, but not all, budget solutions also appear to be scored reasonably, assuming that they are enacted on the Governor’s accelerated budget legislation deadline. (We discuss our reactions to specific budget proposals throughout this report.)

Expenditure Reductions Touch Nearly Every Area of State Funding. The Governor’s budget includes many significant ongoing program reductions, posing very difficult decisions for the Legislature. His proposals touch nearly every area of the state budget—often (as in Medi-Cal) with proposed reductions similar to ones suggested by the prior Governor and rejected by the Legislature. While the Governor’s revenue proposals result in a \$2 billion increase in the Proposition 98 minimum funding guarantee for schools above its current-law level, his budget would result in a small programmatic funding decline for K-12 and more significant reductions for community colleges and child care programs.

Tax Package Includes Some Sound, Policy-Based Proposals. The Governor’s plan includes several tax proposals that we have previously recommended, including adoption of mandatory single sales factor apportionment for multistate and multinational firms and elimination of enterprise zone tax credits. As we describe later in this report, the proposed extension of the temporary increases in income and sales tax rates poses more difficult issues, but we think the Governor’s proposed tax extensions merit serious consideration.

Focuses on Multiyear and Ongoing Solutions. We credit the Governor’s efforts to craft a budget plan that is heavily focused on multiyear and ongoing solutions. As such, his proposal shows great promise to make substantial improvements in the state’s budgetary health—both in the short run and over the long term. The administration, in fact, estimates that its plan would eliminate the state’s deficit—at least for the next three fiscal years.

Our early assessment of the out-year effects of the Governor's budget is somewhat less favorable than the administration's. Nevertheless, its adoption would go a long way toward eliminating the state's persistent budget gap.

Governor Puts Some Bold Ideas on the Table

Restructuring the State-Local Relationship.

The Governor's budget includes a major "realignment" of state and local program responsibilities. It would shift \$5.9 billion in state program costs to counties and provide a comparable amount of funds to support these new county commitments. We believe there is much merit in the proposal as decentralizing program delivery and authority could promote program innovation, efficiency, and responsiveness to local conditions.

Overhauling Redevelopment. The budget also puts forward dramatic changes in the area of local economic development, by proposing the elimination of redevelopment agencies. We think this makes sense, as the state's costs associated with redevelopment have grown markedly over the years even though there is no reliable evidence that this program improves overall economic performance in the state.

Still...Some Significant Risks in the Governor's Plan

Realignment and Redevelopment Proposals Pose Challenges. While the proposals on realignment and redevelopment have great promise, both will require considerable work by the Legislature to sort through many legal, financial, and policy issues. Implementing these complex proposals in a way that ensures the programmatic benefits and budgetary solutions will be challenging—especially given the short time frame laid out in the budget plan.

Many Details Still Need to Be Worked Out. As some of the solutions proposed by the Governor are

complex and cut across many aspects of government, it is unsurprising that just one week into the new administration's term, there are areas where specific implementation and practical details are missing. For example, the budget does not indicate specifically how much of the proposed savings in the Department of Developmental Services (DDS) would be achieved. This lack of detail should not preclude a prompt beginning to legislative consideration of any proposal. Nevertheless, the implementation details—the administration's approach to navigating the legal and practical complexities of many proposals—will determine the level of risk and the corresponding likelihood of successful implementation. As we have stated previously, we suggest that the Legislature favor budget solutions that have a strong likelihood of actually achieving budgeted savings or revenue increases.

Some Savings Estimates Are Optimistic. As we discuss in detail later in this report, our initial review of the Governor's budget suggests that in some key program areas, the administration's estimated savings are optimistic. These areas include some proposals in corrections, state employee health plans, and In-Home Supportive Services (IHSS). In addition, the budget plan includes \$200 million of unallocated reductions to state operations for efficiency purposes. In some cases, the administration has not provided significant detail yet on how the savings from these proposals would be achieved. Historically, such lack of detail often has been associated with budget actions that fail to produce the desired level of savings. Proposed budget solutions of over \$1 billion could be affected, based on our very early review.

Much Would Depend on the Outcome of the June Special Election. Under the Governor's proposals, around \$12 billion of the proposed budget solutions (tax extensions and changes to Proposition 10) will depend on voter approval in the June special election. If the voters reject some

or all of these solutions, the Legislature would need to promptly enact additional cuts or alternative revenue solutions prior to the start of the new fiscal year in July.

Legislature Needs to Act Quickly

Accelerated Timeline. If the Legislature accepts the administration's proposed approach for a June special election, the proposed timeline—to adopt key budget-balancing statutory measures by March 1—has significant advantages. Aside from the timing requirements for the special election and the desire to provide voters a clear idea of the Legislature's path to balancing the budget, many of the Governor's proposals will require lead time to plan and implement. Given the proposed accelerated budget process, the Legislature will need to work quickly with the administration to develop details on each of the proposals and to develop well-crafted legislation on how the solutions are to be implemented. If the Legislature chooses different solutions than those presented by the Governor, a similarly accelerated timeline may still be needed to maximize the opportunity to realize the full amount of budgeted solutions. In the months following March 1, the Legislature would have the opportunity to review routine budget change

proposals for departments, adopt clean-up legislation needed to clarify elements of this complex budget package, and consider alternative budget-balancing solutions in case voters reject the June ballot measures.

The Legislature Faces Many Critical Decisions in the Coming Weeks. If the Legislature chooses the Governor's proposal as a starting point, there are still a number of critical questions to be addressed, such as the Legislature's preferred mix of spending cuts and revenue increases, the amount of authority to be devolved to the administration in the form of unallocated or unspecified reductions in some departmental budgets, and what actions (if any) to put before the voters in a June special election. Also, although the Governor's proposal contains many new ideas, there are a significant number (such as those proposed in Medi-Cal) that the Legislature has previously considered and rejected. The Legislature will need to consider if a change of approach to these proposals is appropriate at this time or whether there are alternative actions that it prefers. In the coming weeks, we will work to provide additional guidance on the Governor's proposals and, where appropriate, offer alternatives to them.

ECONOMICS, REVENUE PROJECTIONS, AND TAX PROPOSALS

The Governor's budget package includes the administration's forecast of national and state economic activity and state revenues—including its tax increase and other revenue proposals. (We refer to the forecast of state revenues without the Governor's revenue proposals as the "current-law" revenue forecast.) This section first discusses the economic and current-law revenue forecast of the administration. Next, it describes the Governor's major revenue proposals.

ECONOMIC AND REVENUE FORECAST

Economic Forecast

Current Modest Recovery Forecasted to Continue. The administration's new economic forecast assumes continuation of the currently modest economic recovery, including ongoing actions of the Federal Reserve—through its support of low interest rates and a policy known as "quantitative easing"—to support the recovery. As shown in

Figure 3, the administration's January 2011 economic forecast is more pessimistic than our office's May 2010 forecast, upon which the revenue estimates in the October 2010 state budget were based. The budget's 2011 forecast reflects the economy's generally disappointing performance in 2010 and is quite consistent with the economic forecast our office released in our November 2010 publication, *California's Fiscal Outlook*.

Economic Forecast for 2011 May Be Too Pessimistic. In December 2010, Congress enacted a major tax and unemployment benefits measure. Among other actions, this federal measure extended federal income tax cuts adopted during the prior presidential administration, as well as long-term unemployment insurance benefits. These actions appear to be reflected in the administration's new economic forecast. The administration notes, however, that its forecast does *not* consider the new payroll tax relief, one component of the recent federal legislation. This omission occurred because much of the administration's work on the forecast had to be completed prior to passage of the federal

legislation. As shown in Figure 3, the most recent U.S. economic forecast of IHS Global Insight, a national forecasting firm, projects significantly more robust growth in 2011 due in part to the federal tax measure. Currently, our office's national economic outlook aligns more with that of IHS Global Insight. Accordingly, there appears to be some upside for the national economy in 2011. Since California's economy generally rises or falls with the U.S. economy, this upside has the potential to affect state revenues positively in 2010-11 and 2011-12.

2012: Modest Recovery and Continued High Unemployment. For 2012, as Figure 3 shows, the administration's new national economic forecast tracks closely with that of IHS Global Insight. The feared "double-dip" recession now seems quite unlikely. Like our office's recent outyear forecasts, however, the administration's forecast assumes that the economic recovery will continue to be modest and the state unemployment rate will remain above 10 percent for a prolonged period. Weak housing markets and the depressed level of home building also should remain major drags on the California

Figure 3
Comparing Governor's Economic Projections With Recent Forecasts

	2011			2012		
	LAO Forecast— May 2010 ^a	Governor's Budget Forecast— January 2011	IHS Global Insight— January 2011	LAO Forecast— May 2010	Governor's Budget Forecast— January 2011	IHS Global Insight— January 2011
United States						
Percent change in:						
Real Gross Domestic Product	3.0%	2.2%	3.2%	3.1%	2.9%	2.9%
Employment	2.0	1.0	1.4	2.7	1.8	2.0
California						
Percent change in:						
Personal income	4.4	3.8	NA	4.4	4.0	NA
Employment	0.9	1.5	NA	1.5	2.5	NA
Housing permits (thousands)	70	74	NA	93	122	NA
Unemployment rate (percent)	11.9	12.1	NA	10.9	11.3	NA

^a The assumptions for state revenue adopted in October 2010 in the *2010-11 Budget Act* were derived from our office's May 2010 economic and revenue forecast.

NA = Not applicable. IHS Global Insight does not produce state-level forecast information of this type.

economy. All of these factors are likely to depress consumer confidence and, therefore, the willingness and ability of individuals and firms to spend and invest for some time. California's elected leaders cannot count on the near-term budgetary problems of state and local governments to be solved by a rebounding economy.

Current-Law Revenue Forecast

Current-law revenue forecasts project receipts of taxes and other revenues, without incorporating proposed tax changes. The administration develops a current-law revenue forecast as part of its budget development process.

2010-11. The administration now forecasts current-law General Fund revenues and transfers of \$90.7 billion in 2010-11. This is up by \$3.7 billion (4.2 percent) from 2009-10 revenues, but down by \$3.5 billion (3.7 percent) from the revenue forecast adopted with passage of the state budget in October 2010. This \$3.5 billion decrease from the 2010-11 budget act assumptions—including a \$1.7 billion decreased assumption for personal income tax (PIT) revenues—includes:

- A \$782 million decrease due to recent federal tax changes resulting in the loss of all planned estate tax revenues in 2011 and 2012.
- About \$400 million of decreased state revenue in 2010-11 due to expected changes in taxpayer behavior as a result of the recent federal tax legislation. The Governor's budget proposal assumes that taxpayers delayed realizing some capital gains, dividend, and other income from 2010 to later due to the extension of lower tax rates for these items.
- Around a \$400 million decrease resulting from Proposition 22's prohibition of the state borrowing of funds from certain transportation accounts.

- Various technical adjustments, including updated assumptions concerning accruals of revenues to particular fiscal years.

The bulk of the remainder of the decrease in 2010-11 current-law revenues probably results largely from the new economic forecast. It appears that these forecast-related differences represent a relatively small portion of the \$3.5 billion decrease.

2011-12. In the current-law revenue forecast for 2011-12, General Fund revenues and transfers drop from forecasted 2010-11 levels by \$7.2 billion (7.9 percent) to a total of \$83.5 billion. This decline reflects the scheduled expiration in current law of temporary increases in sales and use taxes (SUT), PIT, and VLF that were adopted by the Legislature in February 2009.

The administration's SUT estimate for 2011-12 is \$1.3 billion lower than our November 2010 state budget forecast, but \$1.1 billion of this difference results from the administration's treatment of the 2010 "fuel tax swap" in its forecast. The swap eliminated General Fund sales taxes on gasoline, but our November forecast assumed the swap would end in November 2011 due to the passage of Proposition 26. By contrast, the administration makes no such assumption in its current-law forecast. Furthermore, the Governor's budget package proposes that the Legislature "re-enact" the swap with a two-thirds vote. Accordingly, if one excludes the fuel tax swap, the administration's current-law forecast is very similar to our November forecast for SUT.

LAO Comments

Administration's Economic Forecast May Be Too Pessimistic for 2011. As described above, the effects of the recent federal tax legislation, among other factors, cause us to be somewhat more optimistic than the administration about the course of the national economy in 2011. The various

federal tax cuts, including the payroll tax, and the extended unemployment benefits seem likely to have a stronger near-term stimulative effect on economic activity than reflected in the Governor's budget forecast. This, in turn, should promote stronger economic activity in California in 2011. As shown in Figure 3, the administration's forecast for U.S. gross domestic product growth in 2011 is about 1 percentage point below that of some other forecasters. As a rule of thumb, a 1 percentage point increase in national economic growth translates roughly to similar growth in the state economy and revenues.

Initial Impression: Revenue Forecast Is Reasonable. For 2009-10, 2010-11, and 2011-12 combined, our initial assessment is that the administration's revenue forecast is reasonable. Our early impression is that there is somewhat more potential for an "up side" to the revenue forecast than a "down side."

In 2010-11, monthly "agency cash" revenues from the General Fund's "Big Three" taxes (PIT, SUT, and corporation tax [CT]) are about \$1 billion above the administration's monthly forecast through December 2010. Recently, PIT withholding—largely derived from wages and salaries—has been running more than 10 percent above the same months from 2009. Sales taxes also have been performing reasonably well. We are optimistic that these trends will continue for the rest of the fiscal year. Balancing this optimism, however, is the weak performance to date of CT revenues—\$355 million (8.9 percent) below the 2010-11 forecast through December—and our uncertainty that estimated PIT payments will meet monthly targets over the next six months.

For 2011-12, our initial impression is that the current-law revenue forecast appears reasonable. While the administration's overall economic forecast is cautious, the budget package also assumes the resumption of significant growth in net capital

gains by taxpayers—an increase of 29 percent in 2011 and 24 percent in 2012. The huge amount of accumulated capital losses by investors resulting from the implosion of financial, housing, and other asset markets in recent years makes it particularly difficult to rely on such positive capital gains assumptions for purposes of budgetary planning. Moreover, an enormous stock of corporate net operating losses—carried forward from prior years, but unable to be used by firms through tax year 2011 due to provisions included in recent budgets—makes us somewhat cautious about the 2011-12 baseline CT forecast as well.

GOVERNOR'S REVENUE PROPOSALS

The key feature of the Governor's revenue proposals is his request that the Legislature place before voters in June 2011 measures that would extend for five years the four temporary tax increases approved in February 2009:

- A 0.25 percentage point increase in each of the state's basic marginal rates for the PIT, which would be extended to apply to tax years 2011, 2012, 2013, 2014, and 2015.
- An extension (as above, for tax years 2011 through 2015) of the temporary reduction of the PIT dependent exemption credit to the same level as the personal exemption credit. (For the 2010 tax year, the personal exemption credit was \$99. Prior to the temporary tax increases, the dependent exemption credit was \$309.)
- An extension of the 1 percent SUT rate increase for fiscal years 2011-12 through 2015-16. This would maintain the state General Fund's share of the total tax rate at 6 percent.
- An extension of the 0.5 percent VLF increase for fiscal years 2011-12 through

2015-16, maintaining the rate at 1.15 percent.

Increased Revenues for General Fund and Proposed Local Realignment Funds

\$9.6 Billion More Revenues and Transfers for General Fund Over Two Years. As shown in Figure 4, the Governor's budget package would increase General Fund revenues and transfers by \$9.6 billion over 2010-11 and 2011-12 combined. Of this \$9.6 billion, about \$5.2 billion (\$1.9 billion in 2010-11 and \$3.3 billion in 2011-12) consists of revenue from the proposed extension of the two temporary PIT increases described above. The Governor also proposes that the Legislature enact two measures that would primarily increase CT revenues, but also would increase payments by certain PIT filers. These two measures would: (1) replace the optional single sales factor method for apportioning a multistate or multinational firm's taxable income to California with an apportionment method that

would require companies to use the single sales factor method and (2) eliminate tax credits for certain investments made in enterprise zones. Combined, these two proposals would increase General Fund revenues by \$811 million in 2010-11 and \$1.5 billion in 2011-12. The administration's General Fund estimates also assume \$1.4 billion of new loans, transfers, or loan extensions from state special funds over the two fiscal years, a \$362 million loan to the General Fund from the Unemployment Compensation Disability Fund to pay the state's unemployment insurance loan interest obligations to the federal government, and several other smaller revenue measures.

\$5.9 Billion for Proposed Local Realignment Funds in 2011-12. Under the Governor's proposal, voter approval to extend the temporary tax increases also would provide \$5.9 billion of SUT and VLF funds for the proposed local government realignment funds—outside of the General Fund—in 2011-12. Over the five-year extension,

Figure 4

Governor's Proposals Increase General Fund Revenues and Transfers by \$9.6 Billion Over Two Years

(In Billions)

	2010-11			2011-12		
	Administration's Current-Law Forecast	Governor's Proposals	Total Forecasted Revenues	Administration's Current-Law Forecast	Governor's Proposals ^a	Total Forecasted Revenues
Personal Income Tax	\$45.5	\$2.3	\$47.8	\$46.2	\$3.6	\$49.7
Sales and Use Tax	26.7	—	26.7	24.1	—	24.1
Corporation Tax	10.8	0.7	11.5	9.7	1.2	11.0
Subtotals, "Big Three"	(\$83.0)	(\$3.0)	(\$86.0)	(\$79.9)	(\$4.8)	(\$84.8)
Insurance Tax	\$1.8	—	\$1.8	\$2.0	—	\$2.0
Vehicle license fee ^b	1.5	—	1.5	0.2	—	0.2
Sales of fixed assets	1.2	—	1.2	—	—	—
Other revenues	2.3	—	2.3	2.2	\$0.1	2.3
Net transfers and loans	1.0	\$0.5	1.4	-0.8	1.2	0.5
Total Revenues and Transfers	\$90.7	\$3.5	\$94.2	\$83.5	\$6.1	\$89.7

^a Does not include proposed \$4.5 billion of increased sales and use tax and \$1.4 billion of vehicle license fee revenue, which would be deposited to local realignment funds—not the General Fund.

^b Revenues for 2011-12 consist of late receipts of prior years' fees payable to the General Fund.

these amounts would be expected to grow. The administration's forecast assumes that the SUT and VLF amounts grow to \$7.3 billion in 2014-15.

Estimates on Budget Proposals Incorporate New Accrual Method. Generally, the state operates under an "accrual" accounting system that requires recognition of revenues and expenditures to the fiscal year in which they are realized. The administration's budget package estimates 2010-11 and 2011-12 revenues from its PIT and CT proposals with a new budgetary accrual technique that accrues a portion of final payments to the prior fiscal year. Such final payments previously have been accrued to the same fiscal year in which they are received. The new accrual method increases estimated General Fund revenues in 2010-11 and 2011-12 (combined) by \$860 million. By changing year-over-year revenue growth, this method may affect calculation of the Proposition 98 minimum funding guarantee. There may be legitimate accounting reasons to adopt the new approach, but additional justification from the administration is needed.

LAO Comments

Basing Budget Plan on June 2010 Election Obviously Carries Some Risk. With a two-thirds vote of each house, the Legislature would have the option of approving extensions of the temporary tax increases without resorting to a vote of the people. The Governor, however, proposes submitting the temporary tax increase measures to voters. These proposed temporary tax increases provide over \$11 billion of the Governor's proposed \$26 billion in budget solutions. The proximity of the proposed early June 2010 special election date with the Legislature's June 15 deadline for enacting a balanced budget highlights the risks inherent in this approach. Should voters reject the measure, the Legislature would have to ensure that alternate budget-balancing measures were promptly put into place.

Large Elements of Governor's Tax Proposals Are Sound, Policy-Based Proposals. In prior publications and legislative testimony, we have voiced support for enactment of several of the Governor's key revenue proposals:

- Adoption of a mandatory single sales factor apportionment method for the income of multistate and multinational firms.
- Elimination of enterprise zone tax credits.
- Reduction of the PIT dependent exemption credit to the same level as the personal exemption credit.
- Adoption of a VLF rate of around 1 percent—similar to the base tax rate for other property.

We recommend that the Legislature either approve these proposals and enact them into law or, as the Governor suggests for the temporary tax measures, submit a request to voters to approve the increases.

Temporary PIT and SUT Rate Increases Merit Consideration. The proposed extension of the temporary increases in the PIT and SUT rates poses more difficult issues. The current rates are some of the highest in the nation, and the continuation of the rates would affect the work and investment decisions of many individuals and firms. On the other hand, as temporary increases, they would have less negative impacts on economic planning and decision making than permanent ones. More importantly, adoption of the proposed temporary tax extensions would "buy time" for the Legislature to develop additional ongoing solutions in future years while delaying additional cuts on top of the billions of dollars in permanent spending reductions already proposed by the Governor. Accordingly, we think that the Governor's proposed tax extensions (or something similar) merit serious consideration.

STATE-LOCAL REALIGNMENT

Major Proposals

Major Realignment of State-Local Programs.

A centerpiece of the Governor's budget proposal is a major realignment of program duties, similar to the plan enacted by the state in 1991. In short, the Governor's plan raises \$5.9 billion in taxes, and shifts \$5.9 billion to counties to implement increased program obligations. To enable counties to manage their increased fiscal responsibilities, the administration proposes giving them increased authority over the realigned programs.

Although much of the Governor's proposal makes sense, certain key elements—including the extent of county program authority and the methodology for allocating funds—still are under development. As such, the Legislature will have much work to do in reviewing the proposal, shaping it to meet its policy objectives, and potentially placing a funding measure before the state's voters in June.

Proposed Revenues. Under the plan, the state's voters would decide whether to extend by five years two tax increases due to expire on June 30, 2011: a one cent sales tax and the 0.5 percent VLF General Fund rate. If the voters approve these tax extensions, the revenues would be dedicated to implementing the realignment plan. After the taxes expire in 2016, the state would be responsible for providing local governments with replacement revenues, but these revenues are not specified in the plan. If voters do not approve the proposed tax extensions, the realignment plan would not be implemented. The administration indicates, however, that it would continue with its plans to shift to counties the responsibility for certain lower-level adult and juvenile offenders. The administration indicates that it did not include the \$5.9 billion realignment revenues in its calculation of Proposition 98's minimum funding guarantee

because the new realignment revenues would be allocated to counties, not the state.

Multiyear Approach. Parts of the administration's proposed realignment are phased in over time. For example, the community supervision responsibilities sent to counties would expand over time as more state inmates were released from prison. The administration estimates that counties would be responsible for about 18,500 parolees in the budget year, growing to 66,900 upon full implementation in 2014-15. In addition, the Department of Forestry and Fire Protection (CalFire) would continue to provide fire protection and medical emergency response until local governments assumed these responsibilities. During the first years of this realignment plan, therefore, some of the realignment revenues would be allocated to the state to pay for its costs to continue operating the realigned programs.

The administration also indicates that it plans to propose in the future a second realignment ("Phase 2") mainly involving health care and social services.

Key Issues

Concept of Re-Sorting Program

Responsibilities Makes Sense. Several times over the last 20 years, the Legislature has achieved notable policy improvements by reviewing state-local program responsibilities and taking action to realign program and funding responsibility to the level of government likely to achieve the best outcomes. In 1991, for example, the Legislature shifted state mental health responsibilities to counties, giving counties a more reliable funding stream and the authority to develop innovative and less costly approaches to providing services. While implementation of realignment proposals has been complex, the net result of these changes is that California

state and local governments have better ability to implement their programs successfully.

Could the state improve other program outcomes by further realigning state-local responsibilities? If so, which programs should the state control and which should local government control? While there is no single “right” answer to these questions, we find that programs tend to be more effectively controlled by local government if (1) the program is closely related to other local government programs, (2) program innovation and experimentation are desired, and (3) responsiveness to local needs and priorities is important. In addition, assigning full control over program governance and financing to a single level of government has the benefit of reducing fragmentation of government programs and focusing accountability for program outcomes. The Legislature will need to carefully assess these issues in crafting realignment proposals, as once implemented, they can be very difficult to modify. (The nearby box lists LAO reports that provide a more extensive discussion of program realignment.)

Most of the Programs in the Administration’s Plan Make Sense. Figure 5 (see next page) summarizes our initial review of the programs proposed for inclusion in the administration’s realignment plan. Most of the programs we list in the first group (“Programs Suited for Realignment”) are ones that this office previously has proposed for realignment to local government. In our view, decentralized program delivery and authority could promote program innovation, efficiency, and responsiveness to local conditions, and these potential program benefits outweigh whatever benefits are realized from the programs being uniformly administered at the state level.

Very few programs in this first group, however, could be realigned without addressing some significant legal or policy issues. Most notably, in the case of the administration’s plan to realign Child Welfare Services, the Legislature would need to address how a decentralized system could work with a federal government that sets regulations, oversees program performance, and assesses state penalties when performance is inadequate.

LAO REALIGNMENT REPORTS

Over the years, our office has published numerous reports (see list) on the subject of state and local program realignments. With one exception, all of the reports were published in “Part V” of the *Perspectives and Issues* in February

Report	Years
<i>Parole Realignment and the 2008-09 Budget</i>	2008
<i>Realignment and the 2003-04 Budget</i>	2003
<i>Realignment Revisited: An Evaluation of the 1991 Experiment In State-County Relations</i>	2001
<i>The Governor's 1995-96 State-County Realignment Proposal</i>	1995
<i>Making Government Make Sense: Applying the Concept In 1993-94</i>	1993
<i>Making Government Make Sense: A More Rational Structure For State and Local Government</i>	1993

of the year shown. *Making Government Make Sense: Applying the Concept in 1993-94* was published separately in May 1993. These reports are available on our website: www.lao.ca.gov.

In addition, one program in this first group—AB 3632 Services—merits realignment, but not in the manner proposed by the administration. Instead, schools should have programmatic and financial responsibility for this program providing mental health services to special education pupils. While schools may wish to contract with county mental health departments to provide these programs, the primary fiscal and program responsibility should reside with schools.

Realigning Some Programs Merits Careful

Review. The second group of programs in Figure 5—the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT), Mental Health Managed Care, Substance Abuse Treatment, and Existing Community Mental Health Services—merit careful legislative consideration for several reasons. First, the administration proposes to use Proposition 63 funds to pay the first year costs of the three of these programs (EPSDT, Mental Health Managed Care, and AB 3632), a use of this measure’s funds that may not be permissible.

Second, realigning EPSDT, Mental Health Managed Care, and Substance Abuse Treatment raises questions regarding program flexibility and the implementation of federal health care reform. Realigning these programs appears

appropriate because it would consolidate related pots of money for behavioral (substance abuse and mental health) services. These changes could allow counties to spend these funds more flexibly and better coordinate mental health services with other county-run programs, such as a realigned drug and alcohol treatment system and rehabilitation programs for criminal offenders. At the same time, however, we note that federal health care reform expands the number of persons eligible to receive Medi-Cal mental health services beginning in 2014. Consolidating behavioral health programs with counties could limit the state’s options for better coordinating mental health services with other

Figure 5

Which Programs Are Suited for Realignment? LAO Initial Review of Governor’s 2011-12 Realignment Plan

(In Millions)

	2011-12	2014-15
Programs Suited for Realignment		
Fire and Emergency Response Activities	\$250	\$250
Local Public Safety Programs	506	506
Local Jurisdiction for Lower-Level Offenders and Parole Violators ^a	1,802	908
Adult Parole to the Counties ^a	741	410
Juvenile Justice Programs	258	242
Adult Protective Services	55	55
AB 3632 Services ^b	—	104
Foster Care and Child Welfare Services	1,605	1,605
Program Meriting Consideration		
Substance Abuse Treatment	184	184
Early and Periodic Screening, Diagnosis and Treatment Program ^b	—	579
Mental Health Managed Care ^b	—	184
Existing Community Mental Health Services	—	1,077
Program Not Suited for Realignment		
Court Security	530	530
Unallocated Revenue Growth		
	—	621
Totals (Administration Estimates)	\$5,931	\$7,255
1% Sales Tax	\$4,549	\$5,567
0.5% Vehicle License Fee	1,382	1,688
Total Revenues (Administration Estimates)	\$5,931	\$7,255

^a Costs decline by 2014-15 as state reimbursements end. Funding in 2014-15 assumes this program is fully county operated and at lower costs.

^b First-year costs for this program are paid from Proposition 63 resources.

Medi-Cal services across the state. Thus, although this office previously has recommended realigning most behavioral health programs to counties, we recommend the Legislature consider these factors before including these programs in the realignment plan.

Finally, the last program in this category includes all mental health services funded under the 1991 realignment plan. The administration proposes to include these programs within its 2011 realignment plan—and allow use of the mental health funds from the 1991 realignment plan for other purposes. Because very few details regarding this change are available, we cannot assess the merits of this component of the plan.

Court Security Shift Is Problematic. While the state is now responsible for the operations of the trial courts, current law requires that security for the trial courts generally be provided by county sheriffs at a cost to the state. Under the administration's realignment plan, state funding to pay for security for trial courts would be shifted to counties and state General Fund support in the judicial budget for court security would be reduced by a commensurate amount. In our view, this approach does not make sense. While control of funding for court security would be shifted to counties, the state judicial system would continue to be responsible for the overall operation of the courts. Absent financial control, the courts would have difficulty ensuring that the sheriffs provided sufficient security measures. We believe a better and more cost-effective approach would be to (1) clarify that the state is responsible for trial court security and (2) adopt a separate state law change authorizing the state to use competitive bidding by various private or public entities, including sheriffs, for the provision of these security services.

Need to Address Local Concerns. Given the requirements of the California Constitution and voter-approved measures, enacting realignment

would require achieving a broad consensus among many parties. Achieving this broad consensus within the timeframe to prepare a measure for the June ballot will be difficult. Counties are likely to have many questions about the source of revenues to replace the sales tax and VLF in five years, the extent of program authority that will be transferred to counties, the initial program funding levels, the potential for future state increases in county program requirements, and whether the rate of realignment revenue growth will match the rate of program growth.

Fiscal Estimates Require Further Review.

Although most of the administration's estimates regarding the fiscal impact of the proposed realignment programs appear reasonable, some of the estimates require further examination. For example, our preliminary review indicates that the administration may be double counting certain savings associated with shifting adult and juvenile offenders to counties. That is, the administration scores the same savings twice—in the realignment plan and as part of the department's budget. Our preliminary review also indicates that the realignment plan understates the cost of the AB 3632 program by up to about \$200 million.

Alternatives

Could the Legislature Change the Mix of Programs? There is no perfect list of programs to realign. The Legislature could modify the Governor's proposed list of programs to meet its policy objectives. In considering alternative programs for inclusion in realignment, we recommend the Legislature:

- Focus on programs where innovation, responsiveness to community interests, and efficiency are paramount.
- Avoid programs where statewide uniformity is important, where statewide benefits

are the overriding concern, or where the primary purpose of the program is income redistribution.

Our initial review suggests that there are other programs to consider for realignment. For example, the Legislature could consider realigning pharmaceutical costs for Medi-Cal patients receiving specialty mental health services to the counties, thereby ensuring that all costs for providing services to patients are consolidated. It could also consider going back to the voters to allow the permanent realignment of all Proposition 63 funding to counties, along with increased flexibility in the use of these funds. Finally, the Legislature could consider realigning funding and responsibility to the counties to provide treatment to persons determined by the courts to be incompetent to stand trial for criminal offenses. We will continue to explore these and other options.

Could the Legislature Change the Scale of Realignment? Realignment, implemented correctly, can improve the management and delivery of programs. For this reason, we believe the Legislature's decision to realign a program should focus on program policy objectives—not simply on raising a specific amount of revenues. To that end, we recommend that the Legislature begin its work by identifying programs that would benefit from realignment. Should the Legislature determine that it wishes to raise *more* revenues than it wishes to realign programs, we recommend the Legislature

avoid adding programs to the realignment package that are inconsistent with the concept of realignment—or programs over which the Legislature is unwilling to grant counties greater control.

Conversely, should the Legislature determine that it wishes to raise *fewer* revenues than it wishes to realign programs, we recommend the Legislature avoid deleting programs from the realignment package. Instead the Legislature could finance the realignment plan, in part, by redirecting existing state or local revenues.

Is it Possible to Implement Realignment Without Raising Taxes? While realignment often is associated with tax increases, it need not be implemented that way. Although it would be difficult in light of the state's fiscal difficulties, the Legislature could enact realignment by earmarking a portion of *existing* state revenues as the dedicated revenues for realignment.

Addressing Legal Complexities in State Ballot Measure. The administration's plan will require considerable work by the Legislature to sort through many legal, financial, and policy issues. Certain voter-approved measures also will constrain the Legislature's authority to shift program responsibilities to counties and redirect the use of mental health funds. For example, Proposition 63 may not permit the proposed shifts in mental health funds. In addition to requesting voter approval for any proposed tax increase, the Legislature also may wish to request voter approval of these elements of the realignment plan.

REDEVELOPMENT

Major Proposals

Shift Responsibility for Local Economic Development. The administration proposes a substantive shift in responsibility for local economic development programs. The budget phases out state authorization for two economic development programs: redevelopment (discussed below) and

enterprise zones (discussed previously). To give communities greater capacity to promote economic development, the administration indicates that it will support a constitutional amendment to allow local voters to approve tax increases and general obligation bonds for these purposes by a 55 percent majority.

Phase Out Redevelopment. For more than 50 years, state law has authorized cities and counties to create redevelopment agencies. The administration proposes to revise these laws to (1) dissolve the state's 425 redevelopment agencies and (2) transfer their revenues (primarily, over \$5 billion of annual property tax revenues) to local successor agencies. The successor agencies would use these funds to retire redevelopment debts and contractual obligations and make other payments described below. The successor agencies also would shift any unspent redevelopment housing funds to local housing authorities to use for low- and moderate-income housing.

Use of Funds in First Year. In 2011-12, the successor agencies would use the redevelopment revenues to:

- Pay redevelopment debts and obligations, estimated by the administration to cost \$2.2 billion.
- Offset \$1.7 billion of state Medi-Cal (\$840 million) and trial court (\$860 million) costs.
- Allocate \$1.1 billion to schools and other local agencies pursuant to current laws that require redevelopment agencies to "pass through" some of their funds to affected local agencies.
- Distribute \$210 million to cities, counties, and special districts in proportion to these agencies' current shares of the property tax.

Use of Funds in Future Years. Beginning in 2012-13, any property tax revenues remaining after the successor agencies pay redevelopment debt would be distributed to other local governments in the county. Distributions of these revenues generally would follow provisions in existing law, except that:

- The additional K-14 district property taxes would augment their existing state funding (not offset state education spending) and would be distributed to districts throughout the county based on enrollment.
- The property taxes that otherwise would be distributed to enterprise special districts would be allocated instead to counties. (These districts primarily are fee-financed water and waste disposal districts.)

Key Issues

Proposal Has Merit . . . Shifting responsibility for local economic development to local governments makes sense. Local communities are in the best position to determine the types of programs and assistance needed to promote development in their communities. Ending state-assisted local economic development programs like redevelopment also makes sense. Redevelopment projects divert property taxes from K-14 districts, increasing state education costs by billions of dollars annually. The state's costs associated with redevelopment has grown markedly over the last couple decades, yet we find no reliable evidence that this program improves overall economic development in California. Finally, recent passage of Proposition 22 limits the Legislature's authority to modify the scope of redevelopment to reduce its costs on the state or local agencies.

. . . But Faces Considerable Implementation Issues. The administration's plan will require considerable work by the Legislature to sort through many legal, financial, and policy issues. Several voter-approved constitutional measures, for example, constrain the state's authority to redirect redevelopment funds, use property tax revenues to pay for state programs, or impose increased costs

on local agencies. In addition, the administration's plan does not address many related issues, such as clarifying the future financial responsibility for low- and moderate-income housing (currently, a redevelopment program).

Redevelopment Debt Costs May Be Understated. Although the administration's approach to estimating the annual cost of redevelopment debt is reasonable, their assumptions regarding debt terms, interest rates, and other factors err on the side of *understating* debt costs. Our initial review indicates that the annual cost to pay these debts could be \$1 billion or more higher than the administration assumes. If our initial review is correct, this would reduce the funds available for other purposes. For example, the Legislature may not be able to use \$1.7 billion of these revenues for state programs and make \$1.1 billion in pass-through payments to local governments.

Rationale for Increased School Funding Not Clear. The rationale for providing school districts with property tax revenues *in addition to* their existing property taxes is not clear. The administration's proposal does not devolve more responsibilities to school districts. The distribution of these additional school property tax revenues would be uneven throughout the state, with schools in 15 counties (where there is little or no redevelopment) not getting additional property taxes and schools in counties (where there is extensive redevelopment activity) receiving significant sums. The

distribution of these new property tax revenues further complicates an already complicated school finance system.

Need to Pause New Redevelopment Activities. Developing the statutory measures to implement this important, but complex, proposal will take considerable work by the Legislature. During this time—potentially several weeks or months—it is possible that redevelopment agencies could take actions that increase their bonded indebtedness and contractual obligations. If so, these new financial obligations could constrain the state's ability to redirect redevelopment revenues and to realize the state savings and local benefits anticipated in the administration's proposal. Accordingly, we recommend that the Legislature pass urgency legislation as soon as possible prohibiting redevelopment agencies—during this period of legislative review—from taking actions that increase their debt. Specifically, the urgency legislation would prohibit redevelopment agencies from (1) taking on any new debt that would be included on their Statement of Indebtedness—the statement that identifies redevelopment agency debt and makes the agency eligible for property tax revenues, or (2) creating, amending, or extending any redevelopment project areas. This approach would preserve the Legislature's options as it reviews the administration's proposal, but would not have a lasting effect on redevelopment agencies if the Legislature elects not to adopt it.

EXPENDITURE PROPOSALS

PROPOSITION 98

Major Proposals

Proposition 98 funds K-12 education, child care, the California Community Colleges (CCC), and various other state agencies (including the state special schools and juvenile justice). The Governor's budget

reduces total Proposition 98 spending by less than 1 percent from the current year to the budget year. As shown in Figure 6, K-12 funding would change negligibly from 2010-11 to 2011-12. By comparison, CCC funding would be reduced \$361 million or 6.3 percent. The Governor's Proposition 98 plan includes no cost-of-living-adjustments but funds enrollment growth for

K-12 education (0.22 percent) and CCC (1.9 percent). Below, we discuss Proposition 98 K-14 and child care issues in more detail. In the higher education section, we discuss various other community college issues (such as student fees) in more detail.

Assumes Tax Package Adopted, Funds Minimum Guarantee. The Governor’s proposal funds Proposition 98 at the minimum guarantee in 2011-12. The proposed spending level assumes adoption of the Governor’s tax plan to raise \$4.8 billion in additional state General Fund revenues, primarily from the extension of higher personal income tax rates. These additional revenues increase the Proposition 98 minimum guarantee by \$2 billion in 2011-12. Absent these additional revenues, the minimum guarantee would have fallen year over year whereas, with the additional revenues, the guarantee stays virtually flat. (The Governor’s proposals to maintain higher rates for the sales tax and the vehicle license fee would not increase the Proposition 98 minimum guarantee since those revenues would flow directly to local governments for realignment.)

K-12 Programmatic Funding Declines Slightly Year Over Year. Under the Governor’s plan, K-12

programmatic funding per student decreases by about \$100 or 1.4 percent from 2010-11 to 2011-12. Most of the decline in K-12 per student funding is attributable to the loss of federal stimulus funding (though many districts reserved a significant portion of their federal education jobs funding for 2011-12, thereby mitigating the cliff effect). As shown in Figure 7 (see next page), K-12 per student programmatic funding in 2011-12 would be 6.4 percent lower than the 2007-08 level.

Figure 8 (see page 25) lists the budget’s major Proposition 98 spending proposals for 2011-12, the most significant of which are discussed in more detail below.

Proposes Large New Deferrals. The most substantial component of the Governor’s Proposition 98 plan consists of \$2.2 billion in new inter-year deferrals from 2011-12 to 2012-13—\$2.1 billion from K-12 revenue limit payments and \$129 million from CCC apportionment payments. Although the administration has not yet determined from which months K-12 revenue limit payments would be deferred, it has indicated that deferrals likely would not be repaid until September or October of 2012. For community colleges, the

**Figure 6
Proposition 98 Funding**

(Dollars in Millions)

	2009-10 Final	2010-11 Revised	2011-12 Proposed	Change From 2010-11	
				Amount	Percent
K-12 Education					
General Fund	\$31,732	\$32,239	\$32,401	\$162	0.5%
Local property tax revenue	12,328	11,557	11,406	-152	-1.3
Subtotals	(\$44,060)	(\$43,796)	(\$43,807)	(\$11)	(—)
California Community Colleges					
General Fund	\$3,721	\$3,885	\$3,542	-\$343	-8.8%
Local property tax revenue	2,000	1,892	1,873	-19	-1.0
Subtotals	(\$5,721)	(\$5,777)	(\$5,415)	(\$361)	(-\$6.3%)
Other Agencies					
	\$93	\$85	\$78	-\$7	-8.7%
Totals, Proposition 98	\$49,874	\$49,658	\$49,300	-\$358	-0.7%
General Fund	\$35,546	\$36,209	\$36,021	-\$188	-0.5%
Local property tax revenue	14,327	13,449	13,279	-170	-1.3

deferral would be made from apportionment payments otherwise made in January through May of 2012 and also would likely not be repaid until September or October of 2012. (In addition to the *inter-year* deferrals, the Governor proposes to continue *intra-year* deferrals to help with the state's cash flow problems. The Governor's intra-year deferral plan would delay \$2.5 billion in K-12 payments and \$200 million in CCC apportionments beginning in July 2011, reflecting the same magnitude as the 2010-11 intra-year deferrals.)

Significantly Reduces Child Care Funding.

The Governor proposes to achieve \$750 million in Proposition 98 child care savings by making four major policy changes: (1) reducing child care subsidies by about 35 percent; (2) reducing income eligibility for subsidized child care from 75 percent to 60 percent of state median income (SMI), (3) eliminating subsidized child care for 11- and 12-year olds, and (4) reducing California Work Opportunity and Responsibility to Kids (CalWORKs) Stage 2 caseload based on CalWORKs

reform proposals (discussed later in the report). With regard to the 35 percent rate reduction, the administration proposes providing local agencies discretion over how to translate lower subsidies into reduced payments to child care providers, with the expectation that child care slots and days of service remain the same. The savings resulting from these proposals would be offset by a \$256 million increase to the CalWORKs Stage 3 program—reflecting a proposed restoration of an earlier budget act veto. After accounting for various other federal and state adjustments, the Governor's 2011-12 proposal would reduce total funding for Proposition 98-supported child care programs by about \$652 million (29 percent) and child care slots by about 9,900 (3 percent) compared to 2010-11.

Proposes Various Other Changes.

The Governor proposes a \$400 million reduction to community college apportionments. In addition, the Governor reduces Proposition 98 funding for the Division of Juvenile Facilities by \$8.7 million to reflect a three-year phase-out linked with his

Figure 7
K-12 Programmatic Funding^a

(Dollars in Millions Unless Otherwise Specified)

	2007-08 Final	2008-09 Final	2009-10 Final	2010-11 Revised	2011-12 Proposed
Programmatic Funding					
K-12 ongoing funding ^b	\$48,883	\$43,215	\$40,717	\$42,945	\$43,131
New payment deferrals	—	2,904	1,679	1,719	2,063
Settle-up payments	—	1,101	—	267	—
Public Transportation Account	99	619	—	—	—
Freed-up restricted reserves ^c	—	1,100	1,100	—	—
ARRA funding ^c	—	1,192	3,575	1,192	—
Federal education jobs funding ^c	—	—	—	421	781
Totals	\$48,982	\$50,130	\$47,070	\$46,544	\$45,975
Per-Pupil Programmatic Funding					
K-12 attendance	5,947,758	5,957,111	5,933,761	5,951,826	5,964,800
K-12 per-pupil funding (in dollars)	\$8,235	\$8,415	\$7,933	\$7,820	\$7,708
Percent Change From 2007-08	—	2.2%	-3.7%	-5.0%	-6.4%

^a Excludes federal funds not associated with stimulus package, lottery, and various other local funding sources.

^b Includes ongoing Proposition 98 funding, Proposition 98 accounting adjustments, and funding for the Quality Education Investment Act.

^c Reflects LAO estimates of funds spent in each year.

155

realignment proposal and provides no funding authority for the state’s student and teacher data systems pending a comprehensive review of the two projects. In contrast to the proposed reductions, the Governor proposes two notable K-12 augmentations. First, the Governor provides \$90 million to cover the ongoing cost of about 35 K-14 mandates. Though this is the same level of support as provided in the current year, the state used one-time funds in 2010-11. Second, the Governor provides \$43 million in ongoing funding (and \$11 million in one-time funding) for the Emergency Repair Program. This program provides grants to low-performing schools to pay for school facility repairs that are needed for public health or safety reasons. (In response to a lawsuit, the state adopted statute specifying that it would provide a total of \$800 million for the program. To date, the state has provided \$338 million.)

Extends Flexibility Provisions Two Years. The Governor’s plan also includes a two-year extension

of existing K-14 fiscal relief options. For both school districts and community colleges, the Governor proposes to extend “categorical flexibility” from 2012-13 through 2014-15. (With this flexibility, school districts can use the funding associated with about 40 categorical programs for any educational purpose and community colleges can use the funding associated with about a dozen programs for any categorical-program purpose.) For school districts, the plan also would extend the existing K-3 Class Size Reduction (CSR) rules from 2011-12 through 2013-14. (These rules apply more modest funding reductions to K-3 classes that exceed 20 students.) Additionally, for school districts, the Governor proposes extending for two years the existing statutory provisions that reduce routine maintenance requirements, suspend deferred maintenance requirements, postpone instructional materials purchases, and lower unrestricted budget reserve requirements.

Eliminates the Office of the Secretary of

Education (OSE). To help streamline the state’s K-12 governance structure, the Governor’s budget eliminates OSE. Eliminating OSE would result in non-Proposition 98 General Fund net savings of roughly \$400,000 in the current year and \$1.6 million in the budget year.

Key Issues

Magnitude of Cuts in Each Area Could Be Reexamined. In building his plan, the Governor reflected his priorities—largely to insulate

Figure 8
Major Proposition 98 Spending Changes

2011-12 (In Millions)

Proposed Changes	Amount
Backfill prior-year one-time K-14 actions	\$2,167
Fund K-12 revenue limit cost increases	470
Make various other K-14 adjustments	96
Fund ongoing K-14 mandates	90
Fund Emergency Repair Program	43
Defer K-12 revenue limit payments	-2,064
Eliminate Special Disabilities Adjustment	-74
Make technical reduction to Economic Impact Aid	-54
Phase out Department of Juvenile Facilities funding	-9
Restore CalWORKs Stage 3 child care veto	256
Reduce child care subsidies by 35 percent	-577
Reduce child care income eligibility ceiling to 60 percent of SMI	-79
Eliminate child care eligibility for 11- and 12-year olds	-59
Reflect Stage 2 child care savings from CalWORKs reforms	-34
Reduce CCC apportionments	-400
Defer CCC apportionment payments	-129
Total Changes	-\$358

SMI = state median income.

156

school districts from further cuts while notably reducing the state's child care programs and requiring a significant cut to the community colleges. In building its Proposition 98 package, the Legislature has many factors to consider, such as the different populations, needs, programmatic quality, and public benefits of K-12 education, community colleges, and child care. After weighing the associated trade-offs, the Legislature may want to consider distributing Proposition 98 reductions differently among the three areas.

Further Reliance on Deferral Raises

Important Questions. The state's reliance on deferrals over the past several years has placed a large cash flow burden on school districts and community colleges. At existing levels, 16 percent of 2010-11 Proposition 98 program will be paid in 2011-12. Under the Governor's proposal, 20 percent of 2011-12 Proposition 98 program would be paid in 2012-13. Nonetheless, adopting deferrals would help mitigate the reductions that districts and community colleges otherwise would need to make in 2011-12. We are concerned, however, that additional deferrals would continue the deterioration of school district and community college fiscal health and could result in the need for state emergency loans to avoid insolvency. These deferrals would be especially problematic if, as indicated by the administration, they are not paid until the fall of 2012 (all existing deferrals are paid by August). The intra-year deferrals further exacerbate the situation—in essence deferring already-deferred payments until even later in the next fiscal year. Combined, the inter-year and intra-year deferrals could result in school districts and community colleges facing significant cash flow difficulties in the summer and fall of 2012.

Approach to Child Care Reductions Has Some Merit, Some Serious Flaws. We believe two of the Governor's child care proposals merit consideration whereas we have serious concerns with one of the

proposals. Specifically, we think the Governor's proposal to lower the income eligibility ceiling to 60 percent of SMI is reasonable in that it targets services for the neediest families. Similarly, the proposal to lower the age limit merits consideration. While we know of no other state that limits subsidized child care to children 10 or younger (most states set maximum age at 12 or 13), California funds an extensive before and after school program in which slots could be prioritized for displaced 11- and 12-year olds. We have serious implementation concerns, however, with the proposed 35 percent across-the-board rate reduction. This proposal would result in a substantial reduction to provider rates that are already below federal guidelines, and it raises questions as to what quality of care such low payments would be able to purchase. Furthermore, ceding authority to local organizations (which are in most cases not public agencies) to implement the reduction by adjusting provider rates and family copayments in different ways likely would lead to further inconsistencies in the availability and quality of care.

Some Savings Potentially Unachievable. We believe that up to \$128 million of the Governor's anticipated Proposition 98 savings cannot be realized. Specifically, the Governor assumes a \$54 million technical reduction to the Economic Impact Aid (EIA) program given the program has not spent all budgeted funds in recent years. However, the state already has made substantial downward adjustments to EIA base funding amounts in recent years, and newly released data indicate very little of the 2010-11 appropriation will go unused. Combined with the projected growth in K-12 enrollment, this information suggests the Governor's estimates are overly optimistic. Additionally, the Governor assumes \$74 million in savings due to the sunset of one component of the state's special education program known as the Special Disabilities Adjustment. We believe making

this reduction could violate federal maintenance-of-effort (MOE) requirements, in which case the state would need to continue providing the same amount of funding for some other special education purpose.

Alternatives for Legislative Consideration

Other Child Care Options Could Be Better Than Across-the-Board Reduction. After contemplating the desired mix of Proposition 98 reductions, the Legislature could consider a different combination of policy changes to realize child care savings. In making these changes, we recommend using the guiding principle of prioritizing services for the most needy families and children. The Governor's proposals to reduce income and age eligibility ceilings meet this criterion. To generate additional savings, the Legislature could further reduce eligibility below the proposed 60 percent of SMI and age ten. Other options the Legislature could consider in lieu of reducing subsidies by 35 percent include: more moderate, statewide reductions to provider rate ceilings for licensed and/or license exempt providers; increasing parental fees; and reducing the amount agencies receive for program administration and parental support.

Could Go Further in Providing More Flexibility, Improving School Finance System. While extending the flexibility provisions by two years provides additional fiscal relief to districts, the Governor's plan misses some opportunities to further expand flexibility. For example, as recommended last year, we continue to recommend the state extend flexibility to three of the state's largest stand-alone K-12 categorical programs—K-3 CSR, Home-to-School Transportation, and After School Safety and Education. We also continue to recommend consolidating career technical education programs and removing certain restrictions related to contracting out for noninstructional services as well as priority and pay for substitute teaching

positions. Additionally, we continue to recommend linking categorical "flex" funding to average daily attendance, thereby assuring that the associated funding remains connected to students. We also think the Governor and Legislature could make more significant strides toward improving the K-12 school finance system by not merely extending the sunset for the existing flexibility provisions but by thinking about how to strategically redesign the state's K-12 school finance system such that it better serves districts and the public in both the short and long term.

HIGHER EDUCATION

Major Proposals

Sizable General Fund Reductions for All Segments. The Governor's budget includes unallocated \$500 million General Fund reductions for the University of California (UC) and the California State University (CSU). The Governor intends that these reductions be achieved primarily by reducing instructional cost. The budget also includes a \$400 million reduction in general purpose "apportionment" funding for the community colleges, and proposes unspecified changes in funding formulas.

Tuition Increases for All Segments. The UC and CSU have already approved tuition increases of 8 percent and 10 percent, respectively, for the 2011-12 academic year. Total tuition revenue for the universities is estimated to increase by about \$400 million, supporting core programs and campus-based financial aid. The Governor proposes to increase community college fees from \$26 per unit to \$36 per unit, generating about \$110 million in additional revenue that would in effect fund enrollment growth of almost 23,000 full-time equivalent (FTE) students.

Full Funding for Financial Aid Programs. Unlike his predecessor, the Governor proposes no reductions in existing financial aid programs. The budget proposal includes augmentations to fully cover

fee increases in the Cal Grant programs, and assumes full fee waivers at the community colleges covering more than one-half of all credit FTE students.

Major Financial Aid Fund Shift. The Governor's proposal would shift \$947 million in Cal Grant costs from the General Fund to federal Temporary Assistance for Needy Families (TANF) funds. This fund swap would have no net effect on total funding for Cal Grants. As discussed later in the report, the TANF funds would be provided through an interagency agreement with the Department of Social Services, whose TANF funding would be freed up by the Governor's proposed cuts in CalWORKs.

Key Issues

University Cuts Needed, but Volatility an Issue. Volatility in public funding is one of the persistent challenges universities confront in managing their operations. The universities received a double-digit General Fund *augmentation* in the current year, followed by the Governor's even larger proposed *reduction* for 2011-12. Efforts should be made to smooth out these peaks and valleys, while still achieving needed General Fund savings.

Unclear How Segments Would Accommodate General Fund Cuts. Although the administration intends that the segments' General Fund reductions be achieved primarily through cost reductions and increased efficiency, the proposed budget package includes no language that would ensure such an outcome. In the past, the segments have responded to unallocated cuts in a variety of ways, including midyear tuition increases, enrollment reductions, and furloughs, as well as some efforts at increased efficiency.

Alternatives for Legislative Consideration

Shift Part of Universities' Cuts to Current Year. Rather than impose a \$500 million cut for each university in the budget year, the Legislature may wish to achieve part of that

savings by reducing the universities' current-year augmentations. Such an approach would smooth out the volatility of augmentations and cuts that would otherwise result. Evidence suggests that the universities were already preparing for smaller current-year augmentations prior to enactment of the budget in October. This alternative would bring the universities' current-year funding more into line with those contingency plans, and would preserve more funding for the segments to provide education services in the budget year. This would allow additional time for the state to seek alternative savings for the future, or for the segments to align their out-year costs with projected funding levels.

Ensure Reductions Meet Legislature's Expectations. The Legislature could amend the budget package to specify how the segments accommodate General Fund reductions. For example, it could specify the number of FTE students it expects the universities to enroll and the maximum tuition levels the universities should charge. To ensure compliance, General Fund appropriations could be tied to the meeting of these expectations. Similarly, the Legislature could specify whether it will permit CCC to reduce overall funded enrollment, and how it expects campuses to prioritize course enrollment. For example, the Legislature could limit the total number of taxpayer-subsidized credit units that students may earn at a community college.

Develop Longer-Term Fee Strategy for Community Colleges. The Governor's proposal to increase community college fees makes sense, because California's fees are by far the lowest in the country, and existing financial aid programs shield low- and moderate-income students from paying fees. Moreover, federal tax credit programs ensure that most fee-paying students will be reimbursed for the fees they pay, up to about \$60 per unit. For this reason, the Legislature could increase fees

beyond the \$36 per unit proposed by the Governor as a way of leveraging more federal funds to support CCC programs.

CASH ASSISTANCE

Major Proposals

SSI/SSP Grant Reduction. Effective June 1, 2010, the budget for the Supplemental Security Income/State Supplementary Program (SSI/SSP) proposes to reduce the maximum grant for individuals to the minimum required by federal law (from \$845 per month to \$830 per month). The revised grant would be approximately 92 percent of the 2010 federal poverty guideline. This proposal would result in General Fund savings of \$15 million in 2010-11 and \$177 million in 2011-12.

CalWORKs Grant Reduction. The Governor proposes to reduce CalWORKs grants by 13 percent effective June 1, 2011, resulting in General Fund savings of \$14 million in 2010-11 and \$405 million in 2011-12. For a family of three, this proposal would reduce maximum monthly grants from \$694 to \$604 in high-cost counties and from \$661 to \$575 in low-cost counties.

Repeal of July 2011 Changes. In 2009 the Legislature enacted a series of changes to sanction policies, time limits, and eligibility rules for CalWORKs. The Governor’s budget proposes to delete these changes, resulting in a cost of about \$135 million.

Establishment of a 48-Month Time Limit. In lieu of the 2009 CalWORKs changes, the budget proposes, effective July 1, 2011, to establish a 48-month time limit, applied retroactively, on the receipt of CalWORKs cash assistance for all recipients. This would apply to both adults and children, with narrow exceptions. Previous months of cash aid would count toward the 48-month limit, including months in which a recipient had been exempted from participation requirements or was temporarily disabled. However, children in families

in which the adult was meeting federal participation requirements would be allowed to receive aid beyond 48 months. This proposal would result in savings of \$833 million.

Continuation of Block Grant Reductions While Repealing Participation Exemptions. For 2009-10 and 2010-11, the Legislature reduced the county block grants for welfare-to-work services and child care by approximately \$375 million each year. To help counties prioritize resources given this reduction in funding for CalWORKs services, budget legislation exempted families with a child under age two, or with two or more children under the age of six, from work participation requirements. Prior budget legislation also provided that, for any month for which a recipient has been excused from work participation requirements due to lack of support services, the case does not count toward the state’s time limit for their receipt of cash aid. The Governor’s budget proposes to continue a reduction of \$377 million in county block grants while repealing the exemptions.

Figure 9 lists the proposed solutions for SSI/SSP and CalWORKs, totaling \$1.7 billion.

Figure 9
Cash Assistance Programs
Major Solutions

(General Fund Benefit, in Millions)

Program/Solution	2010-11	2011-12
SSI/SSP		
Reduce grants to the federal minimum	\$15	\$177
CalWORKs		
Establish 48 month-time limit	—	833
Reduce grants by 13 percent	14	405
Reduce county block grants	—	377
Repeal July 2011 sanctions and time limits	—	-135
Reduce age eligibility for child care	—	34
Subtotals (CalWORKs)	(\$14)	(\$1,514)
Totals	\$29	\$1,691

160

Key Issues

Minimal Budget Risk and No Loss of Federal Funds. The Governor's proposals warrant serious consideration by the Legislature, given that they provide \$1.7 billion in budgetary savings that the state is likely to achieve with no loss of federal funds. This is because the CalWORKs federal block grant is fixed at \$3.7 billion, and the federal portion of the SSI/SSP grant is not affected by the level of state supplementation. Due to the CalWORKs MOE requirement, about \$530 million of the General Fund savings is achieved within the CalWORKs budget and about \$950 million is achieved by transferring freed-up TANF funds (from the proposed programmatic reductions) to the Student Aid Commission to offset General Fund costs there.

Balancing the Need for CalWORKs Savings With Program Goals. The Legislature can control costs in CalWORKs through changes in eligibility rules, grant levels, and the availability of welfare-to-work services to assist recipients in becoming self-sufficient. The Governor's proposals impact all three areas. In considering these proposals, the Legislature faces a difficult balancing act. On the one hand, the Legislature must achieve savings because of the state's budget deficit. On the other hand, the policy goal of the Legislature in creating the CalWORKs program has been to (1) maintain a safety net for low-income families with children who cannot support themselves financially (especially during a deep recession); (2) encourage CalWORKs recipients to transition to self-sufficiency through work, education, and training; and (3) preserve a county delivery system committed to these goals. As it evaluates the Governor's budget reduction proposals, the Legislature should consider the trade-offs involved among these factors.

Grant Reduction: Pros and Cons. The grant reduction proposal has some merit in that it achieves significant budgetary savings while retaining some level of income maintenance for

low-income families. Moreover, an increase in CalFresh benefits (formerly known as Food Stamps) partially offsets (about 22 percent) the grant reduction. For a family of three in a high-cost county, the combined grant and CalFresh benefits would drop from \$1,155 to about \$1,090 per month, or about 71 percent of the federal poverty level (FPL). However, we also note that the state has never reduced grants by more than 6 percent before. The proposed grant package would be the lowest level in decades relative to the FPL.

Block Grant Reduction Problematic Without County Flexibility. As noted earlier, the previously enacted two-year reduction in county welfare-to-work block grant funds was accompanied by additional exemptions from work participation requirements, which allowed counties to manage the reduction in funding. The Legislature should consider adopting similar work participation exemptions, or some other mechanism to allow counties more flexibility, if it adopts the proposed reduction in funding for these CalWORKs services.

The Impacts of the Proposed 48-Month Time Limit. The proposed 48-month time limit presents very difficult issues for the Legislature. Historically, the CalWORKs program has provided a safety net for children even when the parents have exhausted their allowable five years of assistance. Moreover, in the past, the Legislature explicitly provided that months when a family did not receive welfare-to-work services would not count toward their time limit. Under this proposal, about 115,000 families and 234,000 children would lose all benefits. They would be eligible for General Assistance, potentially resulting in a cost shift to counties in the hundreds of millions annually.

Research by the Public Policy Institute of California (PPIC) (focusing on a period when the economy was healthier) suggests that time limits with complete family benefit terminations do not significantly increase overall poverty rates among

children of single mothers. The PPIC study also suggested, however, that while enforcement of tighter time limits for aid would motivate some families to obtain work and move out of poverty, some families would likely end up poorer due to such a change. This study did not address retroactive application of time limits as the Governor proposes.

Alternatives for Legislative Consideration

Modifying the Earned Income Disregard.

Under current law, California “disregards” (does not count) the first \$225 of income and 50 percent of each dollar earned beyond \$225 when calculating a family’s monthly grant. This policy provides a work incentive for families. Savings in the range of \$200 million annually could be achieved by simplifying the disregard to a flat 50 percent of all income earned.

Prospective and or Phased Implementation. If the Legislature wants to pursue a family benefit termination time limit, it could elect to adopt it prospectively, allowing current recipients some time to work their way off cash aid before hitting the time limit. Similarly, because the state has never reduced grants by more than 6 percent, the Legislature could phase in the 13 percent over two years. While these approaches would reduce the benefit to the General Fund from the Governor’s proposal, they would still achieve a measure of savings that would grow over time.

Further Reductions to Welfare-to-Work Services. Another potential budget solution would be to increase the Governor’s proposed reduction to county block grants in accordance with increased county flexibility or exemptions.

IN-HOME SUPPORTIVE SERVICES

Major Proposals

Additional Reduction in Hours for Services. The Governor’s budget proposes to reduce authorized hours for all IHSS recipients by 8.4 percent

to achieve state savings of \$128 million in 2011-12. This across-the-board reduction would be in addition to a 3.6 percent reduction enacted as part of the 2010-11 budget. The budget assumes that an appeals process would allow 21,000 recipients to receive a full restoration of hours and 62,000 recipients to receive a partial restoration of hours.

Elimination of Domestic Services for Recipients in Shared Living Environments. Under current law, domestic services are reduced somewhat based on the number of persons in the household. The Governor’s budget proposes to eliminate, with certain exceptions, domestic and related care services for recipients who live with others to save \$237 million in 2011-12. Domestic and related care services include housework, meal preparation, meal clean-up, laundry, shopping, and errands.

Eliminate All Services for Recipients Without a Physician’s Certificate. Lastly, the Governor proposes to eliminate from IHSS recipients who do not have certification by a physician that they need these services to prevent their placement in an institution, such as a nursing home. The budget assumes that 43,000 recipients (10 percent) will lose IHSS eligibility and that the state would save \$121 million in the budget year.

Figure 10 (see next page) lists the proposed solutions for IHSS totaling almost \$0.5 billion.

Key Issues

Legal Risks Exist. Any time services are reduced or eliminated, there is some risk of litigation asserting that the change puts recipients at risk of institutional placement, which could violate the U.S. Americans with Disabilities Act. The Governor has proposed several measures, such as the appeals process to restore domestic hours, to limit legal risks associated with these proposals. On the other hand, recent litigation in Washington State suggests that there is some legal risk for the proposals to eliminate domestic and related care services for

Figure 10**In-Home Supportive Services
Major Solutions for 2011-12***(General Fund Benefit, in Millions)*

Solution	Amount
Additional reduction in hours for services	\$128
Eliminate domestic services in shared living environments	237
Eliminate all services for recipients without a physician's certificate	121
Total	\$486

recipients who live with other persons.

Savings Estimates May Be Overstated. Some savings estimates, such as the one related to the adoption of physician certification requirements, appear to be overstated.

High-Hour Recipients Lose Most. When making reductions to the IHSS program, we have generally recommended an approach in the past of targeting reduction to those least likely to enter a skilled nursing facility. However, the proposed across-the-board reduction in service hours results in the greatest loss of hours for recipients who are assessed to need the most hours. We have proposed that the Legislature begin to move toward a system that would better target services to those most at risk of institutionalization.

Alternatives for Legislative Consideration

Reduce State Participation in Provider Wages Pursuant to a Study. The state, together with counties, provides funding to support the wages paid to IHSS workers. The federal courts enjoined California from implementing a 2009-10 reduction in state participation in wages from \$12.10 to \$10.10. The court ruled that the state should have conducted a study of the impacts of a wage reduction on the supply of available providers. In the meantime, this case has been appealed to the U.S. Supreme Court, and the Legislature adopted a statute that postpones the wage reduction.

Despite these prior actions, the Legislature may

wish to reconsider reducing state participation in IHSS provider wages as part of the 2011-12 budget plan. A reduction from \$12.10 to \$10.10, for example, could save about \$100 million annually. To address some of the concerns of the federal court, the wage reduction could

be reenacted in a way that allows a reduction down to \$10.10 contingent on the results of a state study now under way to determine the potential impact on the supply of available providers.

PROPOSITION 10 EARLY CHILDHOOD DEVELOPMENT PROGRAMS

Major Proposal

Ballot Measure. Proposition 10, enacted by the California voters in the November 1998 election, imposed a 50-cent increase in excise taxes on cigarettes and other tobacco products to fund early childhood development programs. The Governor's budget proposes to place a measure before voters in a June 2011 special election to allow the use of Proposition 10 funds for Medi-Cal coverage for children in a way that would reduce state General Fund costs. Specifically, the proposed ballot measure would (1) sweep \$1 billion on a one-time basis from state and local commissions' fund reserves to pay for Medi-Cal services for children up to age five and (2) redirect on an ongoing basis 50 percent of state and local commissions' future revenues to fund various state children's programs. This proposal would result in General Fund savings of \$1 billion in 2011-12 and approximately \$215 million in 2012-13. This amount would decline gradually in the out-years in accordance with an ongoing trend of declining tobacco product consumption.

Key Issues

Amount Available for Sweep Uncertain. The administration has cited 2009 data as the basis for its conclusion that \$1 billion in Proposition 10 state and local commission fund reserves are available to be swept. Under this proposal, the actual amount available for the one-time sweep would depend on the commissions' fund balances as of June 30, 2011.

Governance of Proposition 10 Funds.

Although the state and local commissions provide some important services to young children, they are in accordance with their priorities, which may differ significantly from the Legislature's priorities, especially in times of fiscal distress. Moreover, the commissions have separate staff and governing boards. Eliminating the commissions would remove this layer of bureaucracy.

Alternatives for Legislative Consideration

Governor's Proposal Could Be Modified. The Legislature could go further than the Governor's proposal by seeking elimination of the state and local commissions and use those funds to pay for General Fund-supported children's programs. Alternatively, the Legislature could use these revenues as part of any realignment of health and social services programs. These options would also require voter approval.

MEDI-CAL

Major Proposals

Governor Proposes Alternative Funding Sources and Reductions. The Governor's spending plan shifts \$1 billion in funding from Proposition 10 and \$840 million in local redevelopment agency funds to offset state Medi-Cal costs. (We discuss these proposals in more detail in earlier sections of this report.) The Governor also proposes a two-quarter extension of the existing

hospital fee for additional General Fund relief of \$160 million in the current year. In addition, the budget plan proposes to achieve almost \$1.7 billion in General Fund savings in the Medi-Cal Program. This would be achieved through a combination of copayments, caps on benefit utilization, elimination of benefits, and payment reductions to certain providers, as shown in Figure 11 (see next page).

Governor Pursues Provider Rate Reductions.

The spending plan assumes that the courts will rule in favor of the state regarding prior rate reductions and let it go forward with a 10 percent rate reduction to certain types of Medi-Cal providers, for savings of \$537 million to the General Fund. The administration anticipates that the U.S. Supreme Court will decide to hear the state's appeals of lower-court rulings that enjoined these prior budget reductions by mid-January 2011 and will rule by July 1, 2011. In addition to the favorable court outcome, the spending plan also assumes that net savings of \$172 million General Fund can be achieved by reducing certain long-term care payments by 10 percent.

Governor Proposes Copayments, Hard Caps, and Benefit Eliminations. The governor proposes to achieve almost \$1 billion in General Fund savings in Medi-Cal through the imposition of copayments, caps on the utilization of certain benefits, and the elimination of certain benefits, such as Adult Day Health Care (ADHC).

Key Issues

Merit in the Governor's Approach. Given the state's difficult fiscal condition and the significant growth that would otherwise occur in the General Fund budget of the Medi-Cal Program, we believe the Legislature should carefully consider the Governor's proposals for budget reductions in Medi-Cal as well as other alternatives to achieve savings. We note that the administration's options

to control costs in Medi-Cal through reductions in eligibility are limited by requirements imposed by the federal Affordable Care Act (also known as health care reform). While some savings could be achieved by scaling back eligibility for state-only benefits, other major eligibility reductions that could save hundreds of millions of dollars are not permissible because of the federal legislation.

Some Medi-Cal Budgetary Savings Risky or Overstated. In recent years, the Legislature has adopted a number of different measures to contain costs in the Medi-Cal Program that have been blocked as a result of legal challenges. Given prior court injunctions in recent years, for example,

there is a significant risk that the courts will rule against the state in regard to the previously enacted provider payment reductions. If so, the state would lose significant savings assumed in the 2011-12 budget plan. The newly proposed payment reduction for long-term care facilities also could be subject to legal challenge. Furthermore, federal approval may be required in order to implement several of the Governor’s proposals, including rate reductions. Recent actions by federal Medicaid authorities suggest that the reductions proposed in the Governor’s budget could receive close scrutiny.

We caution that some of the Governor’s savings estimates may be somewhat overstated because

Figure 11
Medi-Cal Program
Selected Budget Solutions

(General Fund Benefit, in Millions)

	2010-11	2011-12
Impose Caps		
Physician and clinic visits at ten per year (adults)	—	\$196.5
Drugs at six prescriptions (adults)	—	11.0
Durable medical equipment at 90 th percentile (adults)	—	7.4
Medical supplies at 90 th percentile (adults)	—	2.0
Hearing aids at 90 th percentile (adults)	—	0.5
Subtotals	(—)	(\$217.4)
Impose Copayments		
\$5 copayment for visits to physicians and certain clinics	—	\$152.8
\$100 copayment per hospital inpatient day	—	151.2
\$3 and \$5 pharmacy copayments	—	140.3
\$50 copayment for nonemergency emergency room (ER) visits	—	73.2
\$50 copayment for emergency ER visits	—	38.4
\$5 copayment for dental office visits (adults)	\$0.2	1.3
Subtotals	(\$0.2)	(\$557.2)
Reduce Benefits		
Eliminate Adult Day Health Care services	\$1.5	\$176.6
Limit nutritional supplements	0.5	14.4
Eliminate selected over-the-counter drugs	0.1	2.2
Subtotals	(\$2.1)	(\$193.2)
Implement Provider Payment Reductions		
Assume courts will allow certain provider payment reductions	\$9.5	\$537.0
Impose a 10 percent payment reduction on long-term care facilities	—	172.3
Subtotals	(\$9.5)	(\$709.3)
Totals	\$11.8	\$1,677.1

they do not capture the net effect of the proposal. For example, savings from the elimination of the ADHC benefit would be offset by additional costs in Medi-Cal and other state programs, such as the DDS.

Alternatives for Legislative Consideration

Copayments and Caps on Services Could Be Modified. In the event that the Legislature does not wish to adopt in full some of the specific budget reductions contemplated in the Governor's budget plans, options are available to the Legislature that would still achieve some measure of state savings. For example, the Legislature could implement copayments for certain Medi-Cal services in smaller dollar amounts than the copayments proposed by the governor. Similarly, the Legislature could adopt the proposed caps on the utilization of certain benefits, but with allowance for exceptions, thereby allowing Medi-Cal beneficiaries to access critical care.

DEPARTMENT OF DEVELOPMENTAL SERVICES

Major Proposals

Major Reductions in Regional Center (RC) Programs. The governor's budget plan proposes to achieve \$750 million in General Fund savings in DDS. About \$125 million of the savings will come from alternative funding sources, such as the continuation of \$50 million in funding from Proposition 10 and three separate proposals to draw down a combined total of \$75 million in federal funds. Another \$92 million in savings would come from the continuation of a 4.25 percent reduction to RC operations and provider payments. The remaining \$533 million in savings would be achieved by a proposal described as increasing the accountability and transparency for the use of state funds for the administrative expenditures of RCs

and service providers and through the implementation of statewide service standards. The statewide standards would set guidelines to promote consistency in the array of services provided by RCs and would be developed with input from stakeholders.

Key Issues

More Information Needed to Assess Whether Savings Are Achievable. The administration's proposals to achieve savings in the DDS program have merit in concept, given the significant historical increases in spending and caseload for community programs. However, we believe the Legislature requires additional detail to evaluate the proposal for \$533 million in savings in RC operations and programs.

HEALTHY FAMILIES PROGRAM

Major Proposals

Plan Would Implement Premium Increases, Benefit Eliminations, and Copayments. The Governor's budget plan would achieve \$39 million in General Fund savings in the Healthy Families Program (HFP) through benefit eliminations, premium increases, and the implementation of copayments for certain services. Specifically, the plan proposes to eliminate the vision benefit and increase premiums by between 75 percent and 88 percent based upon family income levels. The plan also would increase copayments for emergency room visits from \$15 to \$50 and inpatient hospital stays from \$0 to \$100 per day with a maximum of \$200 per stay.

Managed Care Tax Would Be Extended. The tax assessed on managed care plans provides revenues that are used to fund rate increases in Medi-Cal and provide health coverage in HFP. This tax expires on June 30, 2011. The budget plan proposes to make the tax permanent and use the revenues to fund Medi-Cal and HFP for savings of \$97 million.

Key Issues

Federal Approval of Tax Measure Uncertain.

We caution that the managed care tax is subject to federal approval and, based upon our review, there is some risk that it may not be approved.

Alternatives for Legislative Consideration

Some of the Governor's Proposals for HFP Could Also Be Modified. Similar to the options presented under Medi-Cal, the Legislature could adopt more moderate reductions than the ones proposed by the Governor, albeit at a reduced savings level. For example, the Legislature could adopt lesser premium increases or copayments than proposed by the administration.

JUDICIAL AND CRIMINAL JUSTICE

Major Proposals

Public Safety Realignment. As we discussed earlier in this report, the administration proposes to realign several public safety programs to counties. These programs include adult parole, jurisdiction of lower-level adult offenders and all juvenile offenders, court security, and various local public safety grant programs (such as the Citizens' Option for Public Safety program and local detention facility subventions or booking fees).

Redevelopment Fund Shift to Trial Courts. The Governor's budget proposes to offset \$860 million in trial court costs in 2011-12 with redevelopment funding. (Please see the "Redevelopment" section of this report for a more detailed discussion of the Governor's proposal.)

Revised Corrections Savings. The enacted 2010-11 budget includes an \$820 million unallocated reduction to the Receiver's inmate medical services program. The Governor's budget includes additional funding based on the assumption that only about \$177 million in these savings will be achieved in 2010-11 and \$257 million in 2011-12.

Similarly, the proposed budget assumes that the full \$200 million from an unallocated inmate population-related reduction will not be achieved in either 2010-11 or 2011-12.

Increased Funding for CDCR Salary and Other Costs. The budget provides an additional \$395 million in General Fund support for the California Department of Corrections and Rehabilitation (CDCR) for expenses that the department indicates have exceeded its budgeted authority in previous years. These expenses include correctional officer salaries and wages, overtime for correctional officers, and costs associated with transporting and guarding inmates at health care facilities outside prison walls.

CDCR Workforce Cap Adjustment. As a result of an unallocated 5 percent reduction to the personnel budgets of most state departments (referred to as the workforce cap), the 2010-11 budget assumed a total of about \$292 million in personnel savings for CDCR. The Governor's budget assumes that the department will only be able to achieve \$20 million of these savings in the current year. However, the proposed budget assumes that the full \$292 million in savings will be achieved in 2011-12.

Unallocated Reduction to Trial Courts. The proposed budget includes an unallocated reduction of \$200 million to the General Fund support budget of trial courts.

Key Issues

Significant Risk in Fully Achieving Assumed CDCR Savings. At this time, the administration has not presented specific plans as to how the savings related to inmate medical care services and the workforce cap proposal will be achieved. Given the absence of such plans, we believe that assuming the level of savings contained in the Governor's budget poses significant risks. For example, in order to achieve the magnitude of savings proposed in the inmate medical care budget, the Receiver

would need to identify and begin to implement major operational changes now. Moreover, CDCR's ability to achieve the workforce cap savings appears to be limited since the department's personnel costs are largely tied to the operations of the state prisons—which must be staffed on a 24-hour basis.

Funding for CDCR Salary and Other Costs Raises Some Concerns. Although CDCR has exceeded its budget authority in recent years, the administration's approach to address the problem may not be fully justified. For example, the department requests an augmentation of \$36 million to its base level of funding for correctional officer overtime of \$104 million, in order to account for higher costs that have resulted from increases in correctional officer salaries over the past decade. However, CDCR reports that it spent a total of about \$416 million on overtime for correctional officers in 2009-10—over \$300 million above the level for which the department is budgeted. This suggests that much of the requested funding is related to excessive overtime costs. The department has not presented a plan to reduce these high costs on an ongoing basis.

Consider Specific Cost-Savings Options for the Courts. Although the state's court system—and in particular the trial courts—have had reductions in General Fund support in recent years, much of these reductions have been offset by fund shifts and revenue from court-related fee increases. As a result, these reductions have not resulted in substantial decreases in the total level of funding for the courts. Thus, the Governor's proposal to achieve \$200 million in court savings merits legislative consideration. While the administration has not identified how these savings would be achieved, we believe that the Legislature should work with the courts to determine what specific actions are needed to achieve these, and potentially even greater, savings, in a way that minimizes impacts on access to the courts. For example, the

Legislature could direct the trial courts to implement electronic court reporting and to utilize competitive bidding to reduce costs for court security.

TRANSPORTATION

Major Proposals

Transportation Funds Would Provide General Fund Relief. The *2010-11 Budget Act* assumed that the state would achieve roughly \$1.6 billion in General Fund relief under a fuel tax swap that permitted significant changes in the use of transportation funds. However, the enactment of Propositions 22 and 26 on the November 2010 ballot could prevent the state from fully achieving this budget solution. Proposition 22 restricts the use of certain transportation funds and Proposition 26 could be interpreted to repeal the fuel tax swap legislation as of November 2011.

The Governor's budget proposes to address these problems in several ways. First, it would reenact the prior fuel tax swap. The Governor's package would allow \$262 million in vehicle weight fees to be used to pay transportation debt in the current year, and permit roughly \$800 million in State Highway Account (SHA) monies (primarily from weight fees) to pay transportation debt in 2011-12. Also, some transportation funds would be loaned to the General Fund. Altogether, these actions would achieve \$1.6 billion in General Fund relief in the current year and \$944 million in 2011-12 under this proposal.

Key Issues

Maximize General Fund Benefit. Our analysis indicates that these proposals, similar to ones proposed by the former Governor in the December 2010 special session but not yet adopted, are reasonable and could achieve the level of savings proposed. However, as we noted in December, the proposal does not maximize the use of weight fee revenues for potential benefit to the General Fund.

We believe the amount of General Fund benefit in the current year could be increased by at least \$50 million and potentially by a similar amount in the budget year, while still maintaining an adequate reserve in the SHA.

Alternatives for Legislative Consideration

Develop Comprehensive Fix for the Future.

The Governor's proposal would help to ensure that transportation funds could be used for General Fund relief in the future. We believe this is appropriate. In addition, we think this is a good time for the Legislature to consider a more comprehensive approach that would provide additional General Fund relief and address other problems in the current transportation funding system. For example, we believe the Legislature should examine the current fragmentation of funding into various special funds that each allows only limited uses. We are exploring what steps the Legislature and the voters could take to allow for more flexible and effective use of these funds.

STATE OPERATIONS

Major Proposals

Savings From Collective Bargaining and Administrative Actions. Currently, 6 of the state's 21 employee bargaining units (about 25 percent of its workforce) are working under expired contracts. The budget assumes that new memoranda of understanding (MOUs) and/or administrative actions related to these employees will generate \$308 million in General Fund savings in 2011-12. This amount is equivalent to a 10 percent salary reduction for these employees. The current three-day a month furlough, in contrast, is equivalent to a 14 percent salary cut.

Health Plan Savings. The state's contribution to employee health coverage is based on the average cost of the four health plans with the most enrolled state employees. Beginning in the 2012 calendar

year, the administration proposes adding a new health plan that provides somewhat less comprehensive coverage at a somewhat reduced cost to employees electing the plan. The budget assumes that this plan will attract enough employees so that the state would realize \$72 million in General Fund savings in the budget year.

Unallocated Cut. The budget includes a \$200 million General Fund unallocated cut to state operations to be achieved through various efficiencies.

Key Issues

Erosions of Current-Year Savings. While the 2010-11 Budget Act assumed \$1.5 billion of General Fund savings in employee compensation costs, the budget indicates that the state will not realize more than a third of this amount. The shortfalls include: \$281 million from state departments not reducing employment costs fully pursuant to the ongoing state workforce cap, \$166 million from lower-than-anticipated savings associated with the ratified MOUs and administrative actions, and \$100 million from unrealized operating expenses and equipment savings. The budget assumes, however, that the state will realize virtually all of the workforce cap savings in 2011-12.

Assumed Budget-Year Savings Unrealistic. The proposed savings associated with health plans and the unallocated cuts are not realistic. The new health plan is not likely to attract enough employees to substantially reduce state costs, and the state's experience with across-the-board cuts suggests that they are not likely to generate the anticipated savings.

Alternatives for Legislative Consideration

Greater Savings From Employees With Expired Contracts. Given that the state is not likely to achieve all of the savings associated with the health plan and unallocated cut proposals, the

Legislature and administration could consider increasing the level of proposed savings associated with employees with expired contracts. For example, approving MOUs or authorizing administrative actions that continue the current level of savings associated with these employees (14 percent of salary costs) could reduce General Fund costs by over \$100 million in 2011-12.

Extend Personal Leave Program. The Legislature could authorize administrative actions that extend the one day a month “personal leave program,” beginning November 2011, for employees represented by Service Employees International Union Local 1000 and for employees not represented by a union. (Extending this program to the six other bargaining units with active MOUs, in contrast, is not permitted under the terms of their MOUs.)

OTHER PROPOSALS

Debt Service

Proposal: Delaying Spring General Obligation Bond Sale. The state typically sells general obligation bonds in the spring and fall, but the administration plans to eliminate the spring sale in the current year. This one-time pause in the issuance of new bonds, combined with the Governor’s proposal to use weight fees and other revenues to cover a portion of transportation debt-service costs, would slow the growth of General Fund debt-service obligations. General Fund debt service would increase in the budget year by approximately \$60 million or 1 percent under the proposal. This is a modest increase compared with earlier projections. (The previous administration’s assumptions included issuing \$7 billion in bonds this spring, which would have increased debt costs by about \$475 million in 2011-12.)

Most Departments Have Sufficient Funds to Operate Bond Programs Through the Fall. According to the administration, most departments have sufficient funds to continue existing

projects and bond programs through the bond sale in the fall. New projects or local assistance grants, however, could be delayed depending upon departments’ remaining balances. The Governor’s proposal did not include details on projects or programs that could be affected by the delay. We recommend the Legislature request details on the potential effects of the pause in bond sales in order to ensure that available funds are directed toward its highest priorities.

Savings Represent Temporary Solution. Given the state’s fiscal condition, it is reasonable to consider the delay of the spring bond sale. The avoided debt-service costs would reduce pressure on the General Fund in 2011-12. Such relief, however, is temporary. The state still has roughly \$50 billion in authorized but unsold bonds, most of which would be sold and spent over the next few years under current practices. The delayed spring sale simply defers the debt-service costs associated with these bonds to future years.

Alternative: Permanently Eliminate or Reduce Some Bond Programs. The planned sale of the remaining authorized bonds would add more than \$3 billion annually to the state’s debt-service obligations. The Legislature and voters approved many of these programs when the state was on more sound fiscal footing. In light of the state’s current fiscal condition, the Legislature may wish to evaluate whether these programs remain state priorities. For example, some bond programs support functions that are not traditionally state responsibilities and the Legislature may wish to focus the state’s resources on its core infrastructure responsibilities.

CalFire

Eliminate the Fourth Firefighter on CalFire Engines. In addition to the proposal to shift some wildland firefighting responsibility to the local level, as described in the “State-Local Realignment” section of this report, the administration proposes

2011-12 BUDGET

\$30.7 million in 2011-12 General Fund savings in CalFire from eliminating the fourth firefighter on CalFire fire engines, returning to the pre-2003 level of per-engine staffing. We have previously

recommended this approach on the basis that the department has not demonstrated that this level of increased staffing is cost-effective.

LAO Publications _____

The Legislative Analyst's Office (LAO) is a nonpartisan office which provides fiscal and policy information and advice to the Legislature.

To request publications call (916) 445-4656. This report and others, as well as an E-mail subscription service, are available on the LAO's website at www.lao.ca.gov. The LAO is located at 925 L Street, Suite 1000, Sacramento, CA 95814.

AGENDA ITEM DETAIL SHEET

ISSUE: Area Board Legislative Advocacy Booklet and DVD

BACKGROUND: Area Board 9 developed a legislative advocacy booklet to assist people in participating in the legislative process.

ANALYSIS/DISCUSSION: Area Board 9 recognized that to be effective advocates, people with developmental disabilities and their families need plain language information about the legislative process and strategies for influencing public policy.

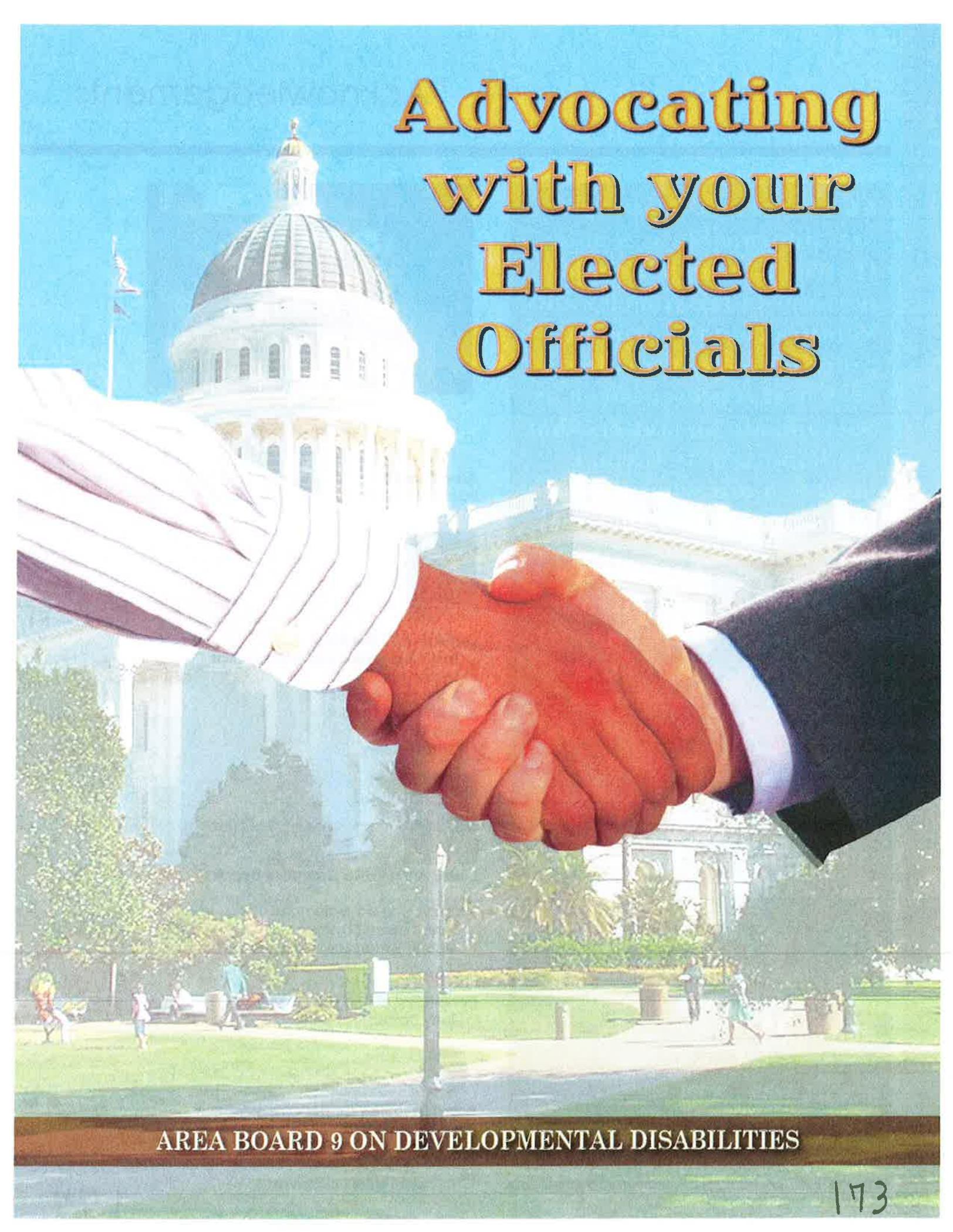
COUNCIL STRATEGIC PLAN OBJECTIVE: Shape public policy that positively impacts Californians with developmental disabilities and their families.

PRIOR LPPC/COUNCIL ACTIVITY: None

RECOMMENDATION(S): None

ATTACHMENT(S): Advocating with your Elected Officials

PREPARED: Christofer Arroyo, January 11, 2011



Advocating with your Elected Officials

AREA BOARD 9 ON DEVELOPMENTAL DISABILITIES

Acknowledgements

“I represent the people of California State Senate District 23 which includes portions of Los Angeles and Ventura counties, and in order for me to provide the very best representation in Sacramento on matters that are important to them, I need to know what they are thinking and how they feel.



I encourage all California citizens to let their local legislators know what's on their minds, either

through letters, phone calls, emails or by visiting a district office.

Direct contact with your local legislator will help make California a better place. ”

Senator Fran Pavley
Senate District 23



Area Board 9
Board of Directors



Legislative Committee
Tom Considine, Legislative Analyst
Denise Filz, Chair
Ron Vasconcellos
Ruth Vasconcellos
Ted Martens
Connie Risley



Lesley Anne Ezelle, Executive Director

Thank you to our legislators
Senator Fran Pavley
Assemblyman Sam Blakeslee

People First of San Luis Obispo
Jody Barker, President



Board Resource Center
www.brcenter.org

Introduction

Communicating directly with elected officials about issues important to you can make a difference.

Legislators, who are elected to represent you, will never know how you feel about important matters or proposed laws, if they do not hear from you. They need to learn from you about key issues affecting your life and your community.

Contacting your elected representatives is an effective way to be heard and involved in our political process.

Meeting personally, calling and writing emails or letters are valuable ways to assure your ideas are heard. Legislators keep track of what is important to their constituents — the people they represent,

regarding matters that come before the legislature. As a constituent, you may also be a source of information for your legislator.

Making visits and regular contact develops relationships with your legislators and their staff, which can be beneficial to both you and them.



This booklet will guide you when sending personal letters or emails, telephoning or meeting with your elected officials.

It also provides website links for information about legislators and proposed legislation.

Tips from Jody Barker



Jody Barker

I feel that actual face-to-face representation, people telling their personal stories, makes the strongest impression on legislators. They see a "somebody," a human being who is impacted by their decisions.

Though letters are also good, I think showing up is most important. We need to lobby not just in Sacramento, but in our own backyards.

Jody Barker

“The legislative process overall is most effective when you make your views known to your elected officials. I encourage you to contact your representatives and let them know how you feel about the issues affecting you.”

Assemblyman Sam Blakeslee
33rd Assembly District



When People First of San Luis Obispo testified in Sacramento to support the Warren Mattingly Signature Stamp law, our presence had great impact. Hearing directly from us showed our state legislators the need for a law that let people with disabilities vote with privacy and dignity.

Table of Contents

Your Legislators Page 6

Preparing Your Issues..... Page 7–8

Making a Visit Page 9–11

Tips for a Successful Visit..... Page 12

Making a Telephone Call..... Page 13

Sending a Letter or Email Page 14–15

After Your Contact Page 16

Glossary Page 17

Resources..... Page 18

Worksheets Page 19–20



Make a visit



Make a phone call



Send a letter

Know who they are

Find out who represents you in the state legislature. You have a member of the California State Senate and a member of the California State Assembly.

To find their names and contact information go to www.legislature.ca.gov or www.leginfo.ca.gov (see resource page in back of booklet)

“Through my legislative involvement, I have learned that taking time to prepare for a visit with a legislator has always helped to make it a positive and enjoyable meeting. As a parent, I have also found that sharing my thoughts and concerns regarding my own child helps when introducing issues that many families may also be facing.”

Denise Filz
Legislative Chair,
Area Board 9 on
Developmental Disabilities

Learn about your legislator

Your legislators learn about the needs of the community by hearing from you, their constituents, through meetings, calls, letters and emails. *Constituents live in the district the legislator represents.*

Before contacting your legislators it is helpful to learn about their legislative interests and positions on proposed laws.

Most legislators have web pages and many have an email list you can join. Other websites (see back of booklet) also help you find out more about legislators' positions on issues and how they voted on proposed laws.

Proposed Laws

This bill would provide, in addition, that a person with a disability, as defined, who, by reason of the disability, is unable to write may use a signature stamp, or authorize another person to use the stamp, to serve as his or her signature for any purpose specified in the Elections Code. The bill would require that a signature affixed with a signature stamp pursuant to these provisions be treated in the same manner as a signature made in writing and would authorize a signature stamp to be used as a mark, as specified. It would impose certain conditions on the use of signature stamps, including a condition that the signature stamp be used in the presence of the Secretary of State, local elections officials, or their designees to obtain a ballot.

A proposed law or bill is assigned a number with the author's name (example: *AB100, Jones – Assembly Bill 100 by Assemblymember Maria Jones*). With this information and using the website www.leginfo.ca.gov (see back of booklet) you can get to know about the bill, where it is in the legislative process, and how your legislator voted on it.

You can also call your legislators' offices to find out how they voted.

Do your Research

Before contacting your legislators, plan what you want to share and how you will present it. With proposed legislation (a bill) that you support or oppose, find out as much about it as you can.

Tips:

1. If you are concerned about funding cuts to a program, learn about the program and proposed cuts before you make your contact.
2. If you plan to talk about particular legislation, identify it by the bill number and author.
3. Make sure you know what the legislation proposes and how it will affect you and people you know.



It is important to share your ideas and concerns, but make sure you support them with facts. Describe how you and the community you represent will be impacted.

In support of your position, you can also suggest an alternative proposal for your legislator to consider.

Example:

"I'm against the proposal to cut \$10 million from the employment assistance program. The cut would eliminate 150 jobs for newly employed people in your Senate District, based on statistics from the Employment Development Department.

I know that we need to reduce spending in this year's budget, but I believe millions can be saved by cutting back on travel, new furniture and other administrative costs."

Setting your Appointment



Assemblyman Sam Blakeslee with members of People First of San Luis Obispo

“As an elected representative, it is important that I hear from the people of my district. When you contact me and share your opinion or ideas with me, I am able to more effectively represent you.”

Assemblyman Sam Blakeslee
33rd Assembly District

You can phone or email your legislator's office to request a meeting. Often, you are asked to provide a short summary of your issue and purpose of your visit.

Mention how many people will be with you when requesting the visit.

Be clear, specific and ask for no more than 15–20 minutes.

If you don't receive a return call or email right away, don't be discouraged. Wait a week or so and try again.

Be patient, polite and persistent.

Getting ready



If you are with a group, bring no more than four members. Select a spokesperson. It helps when one person begins the conversation and is a contact

for your group, as legislators (or their staff) may want more information later.

After doing research about your issues, make sure all group members understand what will be shared. As a courtesy:

- Plan your presentation to be no more than 15–20 minutes.
- Rehearse your presentation, keeping it brief and focused.
- Allow time for legislators (and/or their staff members) to respond and for them to ask questions.
- Be flexible when planning your time for the visit, meetings maybe longer or shorter.

Don't forget to dress appropriately and speak respectfully. Your issues are very important and should be represented professionally.

Your Visit

Identify someone to take notes during the meeting, including questions or suggestions from your legislator (and/or staff members) that require your follow-up.

Be on time and stay on your topic. If you are the person receiving services or a family member, give examples of how you are affected personally. Bring materials that summarize your issues, and any that describe your organization. Plan to leave copies along with your business card.



Don't be discouraged if you meet with a member of your legislator's staff. They often help determine what topics are brought to a busy legislator's attention. In some cases, staff members may be better informed about your issue than the senator or assemblymember.



Be professional and polite. Thank the legislator (and/or staff members) for the visit. A thank-you email or letter is also a good idea.

- 1** Assign tasks to group members to be fully prepared. (Calling, emailing, letters, research, note taking.)
- 2** Be professional and courteous.
- 3** Offer to provide information and show you want to work together to find solutions.
- 4** If from a group, invite your legislator (or staff member) to attend a meeting.
- 5** Leave copies of summary materials and your contact information.
- 6** Follow up on anything you promised to do or provide.
- 7** Keep track of how your legislator votes or other matters related to your visit.
- 8** Send a thank you note.

Your call



A phone call is another valuable way to communicate with your legislator, especially if there isn't time to schedule a visit or send a letter or email.

During your call, identify yourself, state your position and allow the legislator or staff member time to respond. You will probably speak with a staff member.

- With proposed legislation, identify it by the bill number and author.
- Always be prepared and clear.
- Like visits, keep your conversation brief and focused.
- Be respectful and leave your contact information. They may want to call you back or send an email.

Generally, the legislator's staff member will make a note of your position. In some cases they may want more information, like reasons why you oppose or support a bill or issue. They may ask you to send an email reflecting your concerns. If you don't have access to a computer, let them know.

Your letter or email

Letters or emails are also useful ways to communicate with legislators.

Like a visit, keep letters and emails brief but describe how you will be affected. If you are concerned about proposed legislation, identify it by bill number and author. Be polite and identify yourself with your contact information. Avoid using form letters and emails because they are not considered as meaningful as personal contact.

Sometimes, when a legislative committee hearing or vote is about to take place – a personal email may be the fastest way to make contact.

Good (basic information)

“Dear Assemblymember Garcia:

I want to share my opposition to AB100, by Assemblymember Jones. This bill would result in a loss of services that are critical to my son living independently in the community. Please vote note on AB100.

Thank you for your consideration.”

Name

Contact Information

Better (basic information and personal details)

“Dear Assemblymember Garcia,



As parents of an individual with developmental disabilities, my husband and I want to share our concern about AB100, by Assemblymember Jones.

AB100 will be heard at the Assembly Appropriations Committee on May 10. If passed, it would reduce funding for a program that is very important to our son living as independently as possible in the community.

We urge you to vote no on AB100, and suggest budget savings can be made in other ways: cutting administrative costs, not reducing direct services to people.

Thank you for your consideration. Please don't hesitate to contact me, if you have any questions.”

Name

Contact Information

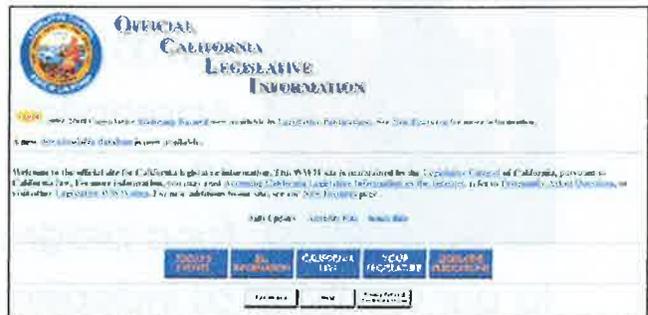
Keep it up

To be more effective, your senator or assemblymember need to hear from you on a regular basis, particularly when there are critical issues before legislature.

Don't be discouraged if your legislator votes against something you supported. Be ready to repeat the preparation process for the next time you visit. You can also call or write emails and letters. Politics and creating legislation is unpredictable. You never know when your issues might be the same as those of your legislator. But if you don't contact them to express your views, they will never know.

Remember, creating an on-going relationship is helpful.

As you visit and/or send letters or e-mails you get to know the interests of your legislator and they get to know yours.



You can track the progress of a bill at www.leginfo.ca.gov (see back of booklet). It is helpful to know how your legislator votes, especially if you plan more contact in the future.

If your legislator votes in favor of something you support, send a brief email or letter of thanks. It is important that your legislators know that you follow their voting record.

Legislators

Members of the California Assembly or Senate. Each legislator represents a part of California called a district and each district is numbered.

Legislature

Senate and the Assembly, with 80 members in the Assembly and 40 members in the Senate. They are elected officials who pass laws and determine the state budget. Every Californian lives in a specific Senate and Assembly District, and is represented by one Assemblymember and one Senator.

Bill

A proposed law or change to an existing law.

Constituents

People represented by a legislator. For example: if you live in the district represented by Assemblymember Jones, you are one of her constituents.

Form letter or email

Pre-written letter that you only need to sign. Not as useful as a personal letter.

Link	Description
www.scdd.ca.gov	California State Council on Developmental Disabilities
www.cdcan.us	California Disability Community Action Network
www.disabilityrightsca.org	Disability Rights California
http://www.areaboard9.net/	Area Board 9
www.legislature.ca.gov	California State legislature
www.leginfo.ca.gov	California legislative information
www.assembly.ca.gov	California Assembly
www.senate.gov	California Senate

Tear Off Work Sheet

(1) Your Elected Officials

Name _____

Contact Info _____

Staff member _____

Contact info _____

(2) Your Issues

What do you support/oppose?

Bill number and author

(3) Why do you support/oppose (be brief and focused)

Impact (personal story, work experience, or official position)

1. _____

2. _____

3. _____

Recommendations/suggestions

Answers to questions you might be asked

Checklists

Making a Visit

1. Do your homework, know your issue(s) and elected official(s)
2. Schedule the visit
3. Practice your presentation, be focused and brief
4. Bring materials to share
5. Be professional and polite
6. Answer questions and offer assistance
7. Send thank you

Making a Phone Call

1. Know your issue(s)
2. Practice your message: be direct and focused
3. Identify yourself, affiliation and experience
4. Be professional and polite

Sending a Letter or Email

1. Write your message – be focused and to the point
2. Identify yourself, affiliation and experience
3. Be professional and polite
4. Send thank you

Track Progress

Let your legislator know you follow bills and their performance.
Send an email or letter of thanks if they vote in favor of your issue.

AGENDA ITEM DETAIL SHEET

ISSUE: Disability Capitol Action Day

BACKGROUND: Each year a day in May is designated Disability Capitol Action Day. This year Disability Capitol Action Day will be on Wednesday, May 25th.

ANALYSIS/DISCUSSION: The purpose of the day is to organize and support consumers, families, providers and advocates in making contact with their legislators and conveying public policy messages about the developmental services system.

COUNCIL STRATEGIC PLAN OBJECTIVE: Shape public policy that positively impacts Californians with developmental disabilities and their families.

PRIOR LPPC/COUNCIL ACTIVITY: Last year, the Council participated by visiting legislators and staffing a booth.

RECOMMENDATION(S): It is recommended that if the Council chooses to participate in Disability Capitol Action Day, the LPPC provides direction to any Council participants regarding the issues that should be discussed with legislators.

ATTACHMENT(S): None

PREPARED: Christofer Arroyo, January 11, 2011

AGENDA ITEM DETAIL SHEET

ISSUE: Policy Issues

BACKGROUND: The Council has directed the Legislative and Public Policy Committee (LPPC) to write policies that guide Council action.

ANALYSIS/DISCUSSION: At the October 2010 LPPC meeting, the Committee reviewed a draft public benefits policy paper and made recommendations for changes to the authors. The authors have resubmitted the revised paper for LPPC action.

Also in October 2010, LPPC reviewed suggested changes to the policy on special education and recommended it be returned to the Committee for potential action.

COUNCIL STRATEGIC PLAN OBJECTIVE: Advance the rights and abilities of all Californians with developmental disabilities and their families to exercise self-advocacy and self-determination.

Shape public policy that positively impacts Californians with developmental disabilities and their families.

PRIOR LPPC/COUNCIL ACTIVITY: The Council has approved a policy addressing special education. The LPPC discussed the need to revise the policy on special education so it conforms to other Council policies.

RECOMMENDATION(S): LPPC approve the revised policy on public benefits and special education and submit them to the Council for approval.

ATTACHMENT(S):

- 1) Draft policy on public benefits
- 2) Council approved policy on special education
- 3) Marilyn Barraza's proposed edits of the policy on special education
- 4) Jorge Aguilar's response to the proposed edits to the policy on special education

PREPARED: Christofer Arroyo, January 11, 2011

Draft
**POLICY ON PUBLIC BENEFITS FOR PEOPLE WITH
DEVELOPMENTAL DISABILITIES**

Background:

Public Benefits are necessary for people with developmental disabilities to ensure that they do not become ill-housed, ill-clad, or ill-fed, and that they have access to needed medical services. The benefit programs that are required to keep people with developmental disabilities healthy, independent, and integrated into society are provided by various levels of government and private non-profit organizations working together.

Principles:

1. The State Council supports improving income and medical benefits programs to allow disabled people to work more hours in the community;
2. The Council supports expansion and improving the flexibility of Section 8 housing vouchers;
3. The Council supports efforts to improve Universal Lifeline Telephone Service including its expansion to wireless phone providers;
4. The Council supports the California Alternate Rate for Energy Program (CARE Program) for natural gas and electric power service.
5. The Council supports controls and regulations governing utilities termination of service to customers with disabilities;
6. The Council supports allowing people with developmental disabilities to maintain special bank accounts that would be used for such special purposes as buying a home or condo, or setting up a micro-enterprise, among others;
7. The Council supports private insurance coverage to cover care and treatment of all developmental disabilities.



State Council on Developmental Disabilities

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POLICY 2010-01: ON SPECIAL EDUCATION

Adopted 2010-03-16 : Last Amended - NA -

BACKGROUND:

The right of every individual to receive a meaningful education is a basic civil right that is well established in the records of our country and by international agreements. It is in the interest of the general welfare that the citizens of our country be educated so as to be better equipped to be productive members of their community and better contribute to society. The equal protection clause of the Fourteenth Amendment to the U.S. Constitution requires states to provide equal protection under the law to citizens of the United States. Even with states steeped in the mandate under the Fourteenth Amendment, it was not until 1954, when the U.S. Supreme Court decided *Brown versus Board of Education of Topeka*, in which the Court held that education "is a right which must be made available to all on equal terms". In recognition that equal education for all was a civil rights issue the Court wrote:

"Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such opportunity, where the state has undertaken to provide it, is a right that must be made available to all on equal terms."¹

In the international forum, the United Nations General Assembly enshrined the right of every individual to receive an education in the *1948 Universal Declaration of Human Rights* and in a renewing pledge made by the world community at the *1990 World Conference on Education for All* to ensure the right to a meaningful education for all regardless of individual differences.

In 1964 Congress passed the *Civil Rights Act of 1964*. This historic legislation not only encouraged the desegregation of public schools, but it also barred discrimination on the basis of race, religion, gender, or ethnicity. Providing a broad framework to advocate

¹ *Brown v. Board of Education*, 347 U.S. 483 (1954)

for equal rights to access public resources, the Act also laid the foundation for special education.

Following on the heels of the *Civil Rights Act of 1964*, in 1965 Congress enacted the *Elementary and Secondary Education Act* (ESEA) to address the inequality of educational opportunity for many underprivileged children. This landmark legislation provided a foundation to help ensure disadvantaged students had access to quality education. In 1966 Congress acted quickly in amending ESEA to encourage improvement in the education of children with disabilities. The National Council on Disability (NCD), an independent federal agency, noted:

“Congress first addressed the education of students with disabilities in 1966 when it amended the *Elementary and Secondary Education Act of 1965* to establish a grant program to assist states in “initiation, expansion, and improvement of programs and projects...for the education of handicapped children.” In 1970, that program was replaced by the *Education of the Handicapped Act* (P.L. 91-230) that, like its predecessor, established a grant program aimed at stimulating States to develop educational programs and resources for individuals with disabilities. Neither program included any specific mandates on the use of the funds provided by the grants; nor could either program be shown to have significantly improved the education of children with disabilities.”²

Again, with the drive to be free of discrimination, the *Rehabilitation Act of 1973* was the first of its kind, whereby Section 504 of this Act prohibited discrimination on the basis of disability. Additionally, the provisions were enforceable in court.

Despite the decisions of the United States Supreme Court and the equal rights momentum demonstrated in historic legislative acts, equal educational rights for students with disabilities did not exist. Public schools in the United States were still essentially closed to children with disabilities. Schools were **not required** to educate or even enroll children with developmental or other disabilities. Across the country court cases showed resistance by the established educational system to allow children with disabilities access to the same educational opportunities as their able-bodied peers. Equal educational rights for students with disabilities were not fully established until 1974, with the passage of PL 94-142, the *Education of All Handicapped Children Act* (EAHCA). In 1990 EAHCA was renamed the Individuals with Disabilities Education Act (IDEA).

Today, with the weight of history and many pillars to support it, the federal special education law now known as the *Individuals with Disabilities Education and Improvement Act*, or IDEIA, promises millions of American children with disabilities access to a free and appropriate public education. Special education is now not a placement, but a service and children with disabilities, from birth to 21, are to be guaranteed access to specially designed instruction and related services through the development and implementation of an Individualized Education Program (IEP). It is intended that no child can legally be denied a free, appropriate, public education based upon his or her disability.

² *Back to School on Civil Rights*, published by the National Council on Disability (2000)

However, despite real progress made since 1974, significant work remains to be done to ensure that the promise of an “appropriate” education to all students with disabilities is kept. Too many children with disabilities continue to be denied the basic civil right of a meaningful education, frequently receiving services of trivial benefit, facing low expectations, and exclusion from regular classrooms. Congress too has noted these continuing problems and the intent to address in Section 1400 “Findings and Purpose” of the IDEA statute:

“However, the implementation of this title has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.” “Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by... having high expectations for such children... meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and be prepared to lead productive and independent lives to the maximum extent possible... strengthening the role and responsibility of parents ... coordinating this title with ... Elementary and Secondary Education Act of 1965”³

It is abundantly clear that the intent from Congress and from the historical recognition of the basic civil right to an education for all children receiving special education services are first and foremost general education children. A disability should not segregate an individual any more than should height, athletic ability, race or religious belief. Despite this basic fact, many (including educators and policy-makers) think of general education and special education as two separate systems and place them in competition with each other for attention and allocation of resources. According to the report by the President’s Commission on Special Education, the bureaucratic imperatives of the system are focused on compliance with established procedures rather than academic achievement and this focus fails too many children. ⁴ In reliance on compliance schools and the courts have often cited the first special education case decided by the U.S. Supreme Court in 1982 based on the 1975 EAHCA known as “Rowley”⁵ Many Local Education Agencies (LEA’s) and judicial opinions still rely on the most minimal standards based on “access to” and “some benefit” from that access that are quoted in the Rowley opinion even though that was based on a time when even allowing children with disabilities to attend a public school was at issue. Some LEA’s and the hearing courts have not recognized the intent of moving beyond the most basic “access” and “some benefit” standards to those of providing meaningful education opportunities for future productive and independent adult living as outlined in the language of the current IDEIA.

Schools must do more to ensure that students with disabilities receive a meaningful education based on their individual potential with the same high expectations as for all children. Students with disabilities must be allowed real access to and inclusion in the general curriculum with needed accommodations, modifications and/or supports as well as access to assistive technology. Schools must concentrate on opening the doors to meaningful inclusion in the community of school for students with disabilities, including

³ 20 U.S.C. 1400(c)(4-5)

⁴ “A New Era: Revitalizing Special Education for Children and Their Families”, (2002)

⁵ Board of Education of Hendrick Hudson Central School District v. Rowley, 1982

ensuring access to extracurricular activities. Efforts to assist students' transition from school to work or post-secondary studies and meaningful access to and inclusion in the daily life of our communities must be enhanced; too many youth with disabilities are still leaving school unprepared for life as adults.

Special education should be focused on providing those supports and services which allow the closing of the achievement gap between children with disabilities and their typically developing peers. IDEA includes not only the express intent for inclusion and high expectations in the education of children with disabilities but also strengthens the role of parents by full participation as a primary part of the Individualized Education Program (IEP) planning team that decides the appropriate special education supports and services alongside school district staff. To enforce full participation, IDEA includes not only procedural safeguards but also "Due Process" procedures in case of disagreement between team members. In case of disagreement, a Local Education Agency is able to state what it is willing to offer as a Free Appropriate Public Education (FAPE) and the parent may agree or not, then either party desiring a change in the IEP would initiate a due process. According to data from the NCD there are significant issues in the implementation and outcome of special education services that would be expected to result in a large percentage of enforcement cases brought forward to litigation:

"- a deep chasm of opinion on a number of issues particularly relevant to the quality of educational outcomes for students with disabilities. From the students, we hear the reality of their lives in special education. In most cases, the comments we received from them are a scathing indictment of the implementation of IDEA." ⁶

In the State of California approximately 700,000 children receive special education services and supports and the "Due Process" is administered by a quasi-judicial state agency known as the Office of Administrative Hearings (OAH, an agency under the executive branch of civil service). During fiscal year 2005-06, approximately 4,012 cases (approximately 0.6%) were filed with the OAH by families who did not agree with the level of supports, services or placement their children received from local school districts (38% of the filings were regarding assessment, while 51% regarded placement). Despite the fact that California has a comprehensive due process procedure in place (to appeal decisions of the schools) it appears that families have tended not to utilize the system—as reported by families, in part because the system is so difficult to understand and the process appears to favor the agency over the family. Agencies are more familiar with the system and better able to mount a judicial process than families of children with disabilities. Many families with children that have disabilities struggle financially and are stretched to maintain the stability of the home environment. The Local Educational Agency has employees and legal resources paid by public funds to mount a "Due Process" litigation whereas the family must rely on the limited time and resources of the parents. Additionally, because of the complexity and odds of the process, families are unable to find free and/or low cost representation in most cases. It is commonly understood by both families and agency representatives that "it is not an even playing field". Advocates report that the inequity of the system has intimidated many family members of the IEP and in some cases emboldened

⁶ "Individuals With Disabilities Education Act Reauthorization: Where Do We Really Stand", (2002)

agency members of the IEP. Family members and advocacy groups have grown increasingly concerned with the apparent inequities of the resolution process and the actual versus required impartiality of the system.

PRINCIPLES:

The State Council on Developmental Disabilities understands the importance of preparing all students for independent living and engaged and productive participation in the richness of our society. The State Council on Developmental Disabilities promotes implementation of high quality special education programs as an integral part of the general education community with transparent and impartial monitoring by the following actions:

1. As driven by the weight of history and legislative action, special education is a fundamental civil right, an integral part of the general education program, and a legal mandate. With values such as integration and inclusion replacing inequality and segregation, public education is a means to achieve social participation, productivity, and greater self-reliance leading to independent living to the maximum extent possible. Therefore, the State Council on Developmental Disabilities supports the strengthening or expansion of existing programs and/or creation of new programs to advocate for the right of all students with disabilities to receive a meaningful and free, appropriate, public education. Further, to improve upon outcomes leading to independent living to the maximum extent possible, the State Council on Developmental Disabilities supports early and continuous opportunities and actions to improve the transition from high school to adulthood.
2. With the scarcity of resources, some attitudes are expressed that reflect a belief that special education funding and resourcing usurps, or encroaches upon, resources that should go to general education programs (termed encroachment). Because such ideology discriminates against students with disabilities, the State Council on Developmental Disabilities promotes the civil rights of students with disabilities to be free of educational discrimination. The State Council on Developmental Disabilities will promote and partner with other to promote public outreach and education activities that reflect the values that students receiving special education services are part of the general education population and an integral part of their community.
3. Many families have reported extreme difficulty and experienced gaps in services during the transition from early intervention services (Part C services) to special education (Part B services) at age 3. Additionally, much research has been done that demonstrates the importance of children with disabilities receiving services during this critical period of neurodevelopment. A previous safeguard during this transition allowed children to continue receiving the services families had agreed to while attempting to resolve any disagreements in due process. However, that safeguard, termed "Stay Put", was lost for this transition period. Therefore, the State Council on Developmental Disabilities supports the return of this provision, as well as other provisions, that level the playing field between students with disabilities and schools.
4. As evidenced by the large percentage of appeals cases surrounding assessment and placement, many families have reported that IEP's are built on low expectations and that school staff undervalue or ignore their input regarding their children's ability

"The Council advocates, promotes & implements policies and practices that achieve self-determination, independence, productivity & inclusion in all aspects of community life for Californians with developmental disabilities and their families."

and potential. The State Council on Developmental Disabilities supports the use of assessments and systems that allow for effective identification of students who may be eligible to receive special education, effective assessments of individual needs, which include objective standardized assessments that are supplemented by parental input and other observational data. The Council supports the development of IEP goals that are accurately and appropriately based upon students' abilities and their developmental potential. The Council also supports schools maintaining high expectations that conform, to the maximum extent possible, as close to the California Department of Education's content standards and age appropriate developmental criteria.

5. In order to accurately assess the short- and long-term progress of students, the State Council on Developmental Disabilities supports annual and long term tracking of the progress of students with IEPs relative to standardized norms and to the general student population of their school community. Such tracking will assist schools and students in mutually monitoring their accountability to each other.
6. In following federal and California legal mandates, the State Council on Developmental Disabilities supports the identification and usage of peer reviewed, researched based methodologies to develop instructional strategies, services, and supports for IEPs as measured by implementation outcomes.
7. The operational effect of the law is the interplay of legislation, regulations developed by state and federal agencies, and case law created in courts. Because some issues may require clarification and/or update and because of this interplay, the State Council on Developmental Disabilities promotes education in support of legislative activities that clarify the intent and limitations behind out-of-date case law, legislation, and/or regulations.
8. To better measure the needs, frustrations, and satisfaction of families of children with developmental disabilities, the State Council on Developmental Disabilities supports the use of surveys regarding satisfaction with IDEA implementation by state and local educational agencies including but not limited to: the assessment of children, the identification of the appropriate services and supports to address needs, the definition of goals, objectives and the measurement of progress, the resolution, due process and appeals procedures, and other issues as appropriate.
9. Because of lack of clarity and concerns with how public funding is used by schools, the State Council on Developmental Disabilities supports the development of standards which promote the transparency of reporting on the use of public resources for purposes which include but are not limited to the funding special education receives as a percentage of total gross funding, funding devoted to each service and support by category, and cumulative annual and segregate case legal fees paid by each school district to attorneys.
10. In order to be effective in achieving the above actions and further advocacy on behalf of children with disabilities and their families, the State Council on Developmental Disabilities supports working with other advocacy groups, local, state and federal partnerships to coordinate actions, resources and identify areas of improvement related to special education.

BARRAZA SUGGESTED EDITS

POLICY 2010-01: ON SPECIAL EDUCATION

Adopted 2010-03-16 : Last Amended - NA –

BACKGROUND:

The right of every individual to receive a meaningful education is a basic civil right that is well established in the records of our country ~~and by international agreements~~. It is in the interest of the general welfare that all the citizens of our country be educated so as to

be better equipped to be productive members of their community and better contribute to society. ~~The equal protection clause of the Fourteenth Amendment to the U.S. Constitution requires states to provide equal protection under the law to citizens of the United States. Even with states steeped in the mandate under the Fourteenth Amendment, it was not until 1954, when~~ In 1954 the U.S. Supreme Court ~~decided~~ ruled in *Brown versus*

Board of Education of Topeka, ~~in which the Court held~~ that education "is a right which must be made available to all on equal terms". In recognition that equal education for all was a civil rights issue the Court wrote:

"Today, education is perhaps the most important function of state and local governments... ~~Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him adjust normally to his environment.~~ In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such opportunity, where the state has undertaken to provide it, is a right that must be made available to all on equal terms."¹

~~In the international forum, the United Nations General Assembly enshrined the right of every individual to receive an education in the 1948 Universal Declaration of Human Rights and in a renewing pledge made by the world community at the 1990 World Conference on Education for All to ensure the right to a meaningful education for all regardless of individual differences.~~

In 1964 Congress passed the *Civil Rights Act of 1964*. This historic legislation not only encouraged the desegregation of public schools, but it also barred discrimination on the basis of race, religion, gender, or ethnicity. Providing a broad framework to advocate

¹ *Brown v. Board of Education*, 347 U.S. 483 (1954)

for equal rights to access public resources, the Act also laid the foundation for special education.

Following on the heels of the *Civil Rights Act of 1964*, in 1965 Congress enacted the *Elementary and Secondary Education Act* (ESEA) to address the inequality of educational opportunity for many underprivileged children. This landmark legislation provided a foundation to help ensure disadvantaged students had access to quality education. In 1966 Congress acted quickly in amending ESEA to encourage improvement in the education of children with disabilities. The *National Council on Disability* (NCD), an independent federal agency, noted:

~~“Congress first addressed the education of students with disabilities in 1966 when it amended the *Elementary and Secondary Education Act of 1965* to establish a grant program to assist states in “initiation, expansion, and improvement of programs and projects...for the education of handicapped children.” In 1970, that program was replaced by the *Education of the Handicapped Act* (P.L. 91-230) that, like its predecessor, established a grant program aimed at stimulating States to develop educational programs and resources for individuals with disabilities. Neither program included any specific mandates on the use of the funds provided by the grants; nor could either program be shown to have significantly improved the education of children with disabilities.”²~~

Again, with the drive to be free of discrimination, the *Rehabilitation Act of 1973* was the first of its kind, whereby Section 504 of ~~this~~ the Act prohibited discrimination on the basis of disability. ~~Additionally, the provisions were enforceable in court.~~

~~Despite the decisions of the United States Supreme Court and the equal rights momentum demonstrated in historic legislative acts, equal educational rights for students with disabilities did not exist. Public schools in the United States were still essentially closed to children with disabilities. Schools were *not required* to educate or even enroll children with developmental or other disabilities. Across the country court cases showed resistance by the established educational system to allow children with disabilities access to the same educational opportunities as their able-bodied peers. Equal educational rights for students with disabilities were not fully established until 1974, with the passage of PL 94-142, the *Education of All Handicapped Children Act* (EAHCA). In 1990 EAHCA was renamed the Individuals with Disabilities Education Act (IDEA).~~

Today, ~~with the weight of history and many pillars to support it, the federal special education~~ law now known as the *Individuals with Disabilities Education and Improvement Act*, or IDEIA, promises millions of American children with disabilities access to a free and appropriate public education. Special education is now not a placement, but a service and children with disabilities, from birth ~~to~~ through 21, are to be guaranteed access to specially designed instruction and related services through the development and implementation of an Individualized Education Program (IEP). It is

intended that no child can legally be denied a free, appropriate, public education based upon his or her disability.

2-Back-to-School-on-Civil-Rights,-published-by-the-National-Council-on-Disability-(2000)

However, despite real progress made since 1974, significant work remains to be done to ensure that the promise of an "appropriate" education to all students with disabilities is kept. Too many children with disabilities continue to be denied the basic civil right of a meaningful education, frequently receiving services of trivial benefit, facing low expectations, and exclusion from regular classrooms. Congress too has noted these continuing problems and the intent to address in Section 1400 "Findings and Purpose" of the IDEA statute:

— "However, the implementation of this title has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities." "Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by... having high expectations for such children... meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and be prepared to lead productive and independent lives to the maximum extent possible... strengthening the role and responsibility of parents ... coordinating this title with ... Elementary and Secondary Education Act of 1965"³

It is abundantly clear that the intent from Congress and from the historical recognition of the basic civil right to an education for all children receiving special education services are first and foremost general education children. A disability should not segregate an individual any more than should height, athletic ability, race or religious belief. Despite this basic fact, many (including educators and policy-makers) think of general education and special education as two separate systems and place them in competition with each other for attention and allocation of resources. According to the report by the President's Commission on Special Education, the bureaucratic imperatives of the system are focused on compliance with established procedures rather than academic achievement and this focus fails too many children. ⁴ In reliance on compliance schools and the courts have often cited the first special education case decided by the U.S. Supreme Court in 1982 based on the 1975 EAHCA known as "Rowley"⁵ Many Local Education Agencies (LEA's) and judicial opinions still rely on the most minimal standards based on "access to" and "some benefit" from that access that are quoted in the Rowley opinion even though that was based on a time when even allowing children with disabilities to attend a public school was at issue. Some LEA's and the hearing courts have not recognized the intent of moving beyond the most basic "access" and "some benefit" standards to those of providing meaningful education opportunities for future productive and independent adult living as outlined in the language of the current IDEA.

IDEA is clear in the intent that all children should start their learning in the Least Restrictive Environment (LRE) of general education with the necessary supports and accommodations to make them successful and benefit from their education. The State Council on Developmental Disabilities considers that Schools must do more to ensure that students with disabilities receive a meaningful education based on their individual potential with the same high expectations as for all children. Students with disabilities must be allowed real access to and inclusion in the general curriculum with needed accommodations, modifications and/or supports as well

as access to assistive technology. Schools must concentrate on opening the doors to meaningful inclusion in the community of school for students with disabilities, including 3-20 U.S.C. 1400(c)(4-5)
4 "A New Era: Revitalizing Special Education for Children and Their Families", (2002)
5 Board of Education of Hendrick-Hudson Central School District v. Rowley, 1982

ensuring access to extracurricular activities. Efforts to assist students' transition from school to work or post-secondary studies and meaningful access to and inclusion in the daily life of our communities must be enhanced; too many youth with disabilities are still leaving school unprepared for life as adults.

Special education should be focused on providing those supports and services which allow the closing of the achievement gap between children with disabilities and their typically developing peers. IDEA includes not only the express intent for inclusion and high expectations in the education of children with disabilities but also strengthens the role of parents by full participation as a primary part of the Individualized Education Program (IEP) planning team that decides the appropriate special education supports and services alongside school district staff. To enforce full participation, IDEA includes not only procedural safeguards but also "Due Process" procedures in case of disagreement between team members. In case of disagreement, a Local Education Agency is able to state what it is willing to offer as a Free Appropriate Public Education (FAPE) and the parent may agree or not, then either party desiring a change in the IEP would initiate a due process. According to data from the NCD there are significant issues in the implementation and outcome of special education services that would be expected to result in a large percentage of enforcement cases brought forward to litigation:

— " a deep chasm of opinion on a number of issues particularly relevant to the quality of educational outcomes for students with disabilities. From the students, we hear the reality of their lives in special education. In most cases, the comments we received from them are a scathing indictment of the implementation of IDEA." 6

In the State of California approximately 700,000 children receive special education services and supports . IDEA includes not only procedural safeguards but also "Due Process" procedures in case of disagreement between team members. In case of disagreement, a Local Education Agency is able to state what it is willing to offer as a Free Appropriate Public Education (FAPE) and the parent may agree or not, then either party desiring a change in the IEP would initiate a due process.

and the "Due Process" is administered by a quasi-judicial state agency known as the Office of Administrative Hearings (OAH, an agency under the executive branch of civil service). During fiscal year 2005-06, approximately 4,012 cases (approximately 0.6%) were filed with the OAH by families who did not agree with the level of supports, services or placement their children received from local school districts (38% of the filings were regarding assessment, while 51% regarded placement). Despite the fact that California has a comprehensive due process procedure in place, however (to appeal decisions of the schools) it appears that families have

~~tended not to utilize the system—as reported by families, in part because the system is so~~ difficult to understand and the process appears to favor the agency LEA over the family.

~~Agencies LEAs~~ are more familiar with the system and better able to mount a judicial process than families of children with disabilities. Advocates report that the inequity of the system

has intimidated many family members of the IEP and in some cases emboldened ~~6 “Individuals With Disabilities Education Act Reauthorization: Where Do We Really Stand”, (2002)~~

agency members of the IEP. Family members and advocacy groups have grown increasingly concerned with the apparent inequities of the resolution process and the apparent lack of actual versus required impartiality of the system.:

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- ~~1. As driven by the weight of history and legislative action, special education is a fundamental civil right, an integral part of the general education program, and a legal mandate. With values such as integration and inclusion replacing inequality and segregation, public education is a means to achieve social participation, productivity, and greater self-reliance leading to independent living to the maximum extent possible. Therefore, t~~The State Council on Developmental Disabilities supports the strengthening or expansion of existing programs and/or creation of new programs to advocate for the right of all students with disabilities to receive a meaningful and free, appropriate, public education in their LRE. Further, to improve upon outcomes leading to independent living to the maximum extent possible, the State Council on Developmental Disabilities supports early and continuous opportunities and actions to improve the transition from high school to adulthood.
- ~~2. With the scarcity of resources, some attitudes are expressed that reflect a belief that special education funding and resourcing usurps, or encroaches upon, resources that should go to general education programs (termed encroachment). Because such ideology discriminates against students with disabilities, t~~The State Council on Developmental Disabilities promotes the civil rights of students with disabilities to be free of educational discrimination. The State Council on Developmental Disabilities will endeavor to promote and partner with others s to promote public outreach and education activities that

reflect the values that students receiving special education services are part of the general education population and an integral part of their community.

3. ~~Many families have reported extreme difficulty and experienced gaps in services during the transition from early intervention services (Part C services) to special education (Part B services) at age 3. Additionally, much research has been done that demonstrates the importance of children with disabilities receiving services during this critical period of neurodevelopment. A previous safeguard during this transition allowed children to continue receiving the services families had agreed to while attempting to resolve any disagreements in due process. However, that safeguard, termed "Stay Put", was lost for this transition period. The State Council supports the research that has established the importance of early intervention services for children under the age of 3. Therefore, the State Council on Developmental Disabilities supports the return of the "Stay Put" provision in early intervention services (part C of IDEA) to Special Education services (Part B of IDEA) so that there is no gap between the necessary services. this provision, as well as other provisions, that level the playing field between students with disabilities and schools.~~
4. ~~4As evidenced by the large percentage of appeals cases surrounding assessment and placement, many families have reported that IEP's are built on low expectations and that school staff undervalue or ignore their input regarding their children's ability and potential. The State Council on Developmental Disabilities supports the use of assessments and systems that allow for effective identification of students who may be eligible to receive special education. effective assessments of individual needs, which include objective standardized assessments that are supplemented by parental input and other observational data. The Council supports the development of IEP goals that are accurately and appropriately based upon students' abilities and their developmental potential. The Council also supports schools maintaining high expectations that conform, to the maximum extent possible, as close to the California Department of Education's content standards and age appropriate developmental criteria.~~
5. ~~In order to accurately assess the short and long term progress of students, the State Council on Developmental Disabilities supports annual and long term tracking of the progress of students with IEPs relative to standardized norms and to the general student population of their school community. Such tracking will assist schools and students in mutually monitoring their accountability to each other.~~
- 6.5. ~~In following federal and California legal mandates, the State Council on Developmental Disabilities supports the identification and usage of peer reviewed, researched based methodologies to develop instructional strategies, services, and supports for IEPs as measured by implementation outcomes.~~

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~~7.6. The operational effect of the law is the interplay of legislation, regulations developed by state and federal agencies, and case law created in courts. Because some issues may require clarification and/or update and because of this interplay, t~~The State Council on Developmental Disabilities promotes education in support of legislative activities that clarify the intent and limitations behind out-of-date case law, legislation, and/or regulations.

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~~8.7. To better measure the needs, frustrations, and satisfaction of families of children with developmental disabilities, t~~The State Council on Developmental Disabilities supports the use of surveys regarding satisfaction with IDEA implementation by state and local educational agencies including but not limited to: the assessment of children, the identification of the appropriate services and supports to address needs, the definition of goals, objectives and the measurement of progress, the resolution, due process and appeals procedures, and other issues as appropriate. (do you mean Parental survey or do you really want surveys from state and LEA/s if Parental than say Parental surveys regarding...)

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~~8. Because of lack of clarity and concerns with how public funding is used by schools, the State Council on Developmental Disabilities supports the development of standards which promote the transparency of reporting on the use of public resources for purposes which include but are not limited to the funding special education receives as a percentage of total gross funding, funding devoted to each service and support by category, and cumulative annual and segregate case legal fees paid by each school district to attorneys.~~

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Do you really want to know just how little Sp Ed is funded or do you want to know how the districts are spending monies given to them for Sp Ed. I don't think you will like the percentages and it will do nothing to support the cause of stopping the "encroachment" language? I suggest the following statement:

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The State Council on Developmental Disabilities supports the efforts of the State and LEAs, along with families, to encourage funding of IDEA to the permissive amount originally suggested by congress as up to 40% of the cost. The Council also supports transparency in the usage of Special Education funds received by LEAs.

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~~10.9. In order to be effective in achieving the above actions and further advocacy on behalf of children with disabilities and their families, t~~The State Council on Developmental Disabilities supports working with other advocacy groups through, local, state, and federal partnerships to coordinate actions, advocate for resources and identify areas of improvement related to special education.

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POLICY 2010-01: ON SPECIAL EDUCATION

Adopted 2010-03-16 : Last Amended - NA -

BACKGROUND:

The right of every individual to receive a meaningful education is a basic civil right that is well established in the records of our country ~~and by international agreements~~. It is in the interest of the general welfare that all the citizens of our country be educated so as to be better equipped to be productive members of their community and better contribute to society. The ~~equal protection clause of the~~ Fourteenth Amendment to the U.S. Constitution requires states ~~to provide~~ equal protection under the law to all citizens of the United States. ~~Even with states steeped in the mandate under the Fourteenth Amendment, it was not until 1954, when~~ In 1954 the U.S. Supreme Court ~~decided-ruled in~~ Brown versus Board of Education of Topeka, ~~in which the Court held~~ that education "is a right which must be made available to all on equal terms". In recognition that equal education for all was a civil rights issue the Court wrote:

"Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such opportunity, where the state has undertaken to provide it, is a right that must be made available to all on equal terms."¹

~~In the international forum, the United Nations General Assembly enshrined the right of every individual to receive an education in the 1948 Universal Declaration of Human Rights and in a renewing pledge made by the world community at the 1990 World Conference on Education for All to ensure the right to a meaningful education for all regardless of individual differences.~~

In 1964 Congress passed the *Civil Rights Act of 1964*. This historic legislation not only encouraged the desegregation of public schools, but it also barred discrimination on the basis of race, religion, gender, or ethnicity. Providing a broad framework to advocate for equal rights to access public resources, the Act also laid the foundation for special education.

~~Following on the heels of the Civil Rights Act of 1964, in~~ In 1965 Congress enacted the *Elementary and Secondary Education Act* (ESEA) to address the inequality of educational opportunity for many underprivileged children. This landmark legislation provided a foundation to help ensure disadvantaged students had access to quality education. In 1966 Congress acted quickly in amending ESEA to encourage

¹ *Brown v. Board of Education*, 347 U.S. 483 (1954)

improvement in the education of children with disabilities². ~~The National Council on Disability (NCD), an independent federal agency, noted:~~

~~“Congress first addressed the education of students with disabilities in 1966 when it amended the *Elementary and Secondary Education Act of 1965* to establish a grant program to assist states in “initiation, expansion, and improvement of programs and projects...for the education of handicapped children.” In 1970, that program was replaced by the *Education of the Handicapped Act* (P.L. 91-230) that, like its predecessor, established a grant program aimed at stimulating States to develop educational programs and resources for individuals with disabilities. Neither program included any specific mandates on the use of the funds provided by the grants; nor could either program be shown to have significantly improved the education of children with disabilities.”³~~

~~Again, with the drive to be free of discrimination, the~~ The Rehabilitation Act of 1973 was the first of its kind, whereby Section 504 of ~~this the~~ Act prohibited discrimination on the basis of disability. ~~Additionally, the provisions were enforceable in court.~~

~~Despite the decisions of the United States Supreme Court and the equal rights momentum demonstrated in historic legislative acts, equal educational rights for students with disabilities did not exist. Public schools in the United States were still essentially closed to children with disabilities. Schools were **not required** to educate or even enroll children with developmental or other disabilities. Across the country court cases showed resistance by the established educational system to allow children with disabilities access to the same educational opportunities as their able-bodied peers. Equal educational rights for students with disabilities were not fully established until 1974, with the passage of PL 94-142, the *Education of All Handicapped Children Act (EAHCA)*⁴. In 1990 EAHCA was renamed the Individuals with Disabilities Education Act (IDEA).~~

~~Today, with the weight of history and many pillars to support it,~~ In 2004 the federal special education law ~~now known as was renamed~~ the *Individuals with Disabilities Education and Improvement Act*, or IDEIA, promises millions of American children with disabilities access to a free and appropriate public education. Special education is now not a placement, but a service and children with disabilities, from birth ~~to through age~~ 21, are to be guaranteed access to specially designed instruction and related services through the development and implementation of an Individualized Education Program (IEP). It is intended that no child can legally be denied a free, appropriate, public education based upon his or her disability.

However, ~~despite real progress made since 1974,~~ significant work remains to be done to ensure that the promise of an “appropriate” education to all students with disabilities is kept. Too many children with disabilities continue to be denied the basic civil right of

² For additional information see “Back to School on Civil Rights”, published by the National Council on Disability (2000)

³ ~~“Back to School on Civil Rights, published by the National Council on Disability (2000)~~

⁴ ~~Prior to this Act schools were **not required** to educate or even enroll children with developmental or other disabilities and there was widespread resistance by the established educational system to allow children with disabilities access to the same educational opportunities as their able-bodied peers~~

a meaningful education, frequently receiving services of trivial benefit, facing low expectations, and exclusion from regular classrooms. Congress too has noted these continuing problems and the intent to address in Section 1400 "Findings and Purpose" of the IDEA statute:

"However, the implementation of this title has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities." "Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by... having high expectations for such children... meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and be prepared to lead productive and independent lives to the maximum extent possible... strengthening the role and responsibility of parents ... coordinating this title with ... Elementary and Secondary Education Act of 1965"⁵

~~It is abundantly clear that the intent from Congress and from the historical recognition of the basic civil right to an education for all children receiving special education services are first and foremost general education children. A Education is a basic civil right for all children and a disability should not be the cause to deny that right or to segregate an individual any more than should height, athletic ability, race or religious belief. Despite this basic fact, many (including educators and policy makers) think of general education and special education as two separate segregated systems and even place them in competition with each other for attention and allocation of resources. Children receiving Special Education services are a contributing part of the general education body and not a separate or competing body. According to the report by the President's Commission on Special Education, the bureaucratic imperatives of the system are focused on compliance with established procedures. Furthermore, many administrators see the focus of Special Education as compliance with procedures rather than academic achievement and this focus fails too many children.⁶ In reliance on compliance schools and the courts have often cited the first special education case decided by the U.S. Supreme Court in 1982 based on the 1975 EAHCA known as "Rowley"⁷ Many Local Education Agencies (LEA's) and judicial opinions still rely on the most minimal standards based on "access to" and "some benefit" from that access that are quoted in the Rowley opinion even though that was based on a time when even allowing children with disabilities to attend a public school was at issue. Some LEA's and the hearing courts have not recognized the intent of moving beyond the most basic "access" and "some benefit" standards to those of providing meaningful education opportunities for future productive and independent adult living as outlined in the language of the current IDEIA.~~

IDEA is clear in the intent that all children should start their learning with their peers in the Least Restrictive Environment (LRE) of general education with the necessary supports and accommodations to make them successful and benefit from their education. The State Council on Developmental Disabilities considers that Sschools must do more to ensure that students with disabilities receive a meaningful education

⁵ 20 U.S.C. 1400(c)(4-5)

⁶ "A New Era: Revitalizing Special Education for Children and Their Families", (2002). Presidents Commission on Special Education

⁷ Board of Education of Hendrick Hudson Central School District v. Rowley, 1982 case decided on 1975 EAHCA language

based on their individual potential with the same high expectations as for all children. Students with disabilities must be allowed real access to and inclusion in the general curriculum with needed accommodations, modifications and/or supports as well as access to assistive technology. Schools must concentrate on opening the doors to meaningful inclusion ~~in the community of school~~ for students with disabilities, including ensuring access to extracurricular activities. Efforts to assist students' transition from school to work or post-secondary studies and meaningful access to and inclusion in the daily life of our communities must be enhanced; too many youth with disabilities are still leaving school unprepared for life as adults.

Special education should be focused on ~~providing those supports and services which allow the~~ closing of the achievement gap between children with disabilities and their typically developing peers. IDEA includes not only the express intent for inclusion and high expectations in the education of children with disabilities but also strengthens the role of parents by full participation as a primary part of the Individualized Education Program (IEP) planning team ~~that decides the appropriate special education supports and services alongside school district staff. To enforce full participation, IDEA includes not only procedural safeguards but also "Due Process" procedures in case of disagreement between team members. In case of disagreement, a Local Education Agency is able to state what it is willing to offer as a Free Appropriate Public Education (FAPE) and the parent may agree or not, then either party desiring a change in the IEP would initiate a due process~~ IDEA includes not only procedural safeguards but also "Due Process" procedures in case of disagreement between team members. In case of disagreement, an LEA may state what it considers to be and is willing to offer as a Free Appropriate Public Education (FAPE) and the parents may agree or not, if disagreement persists either party may initiate a due process hearing. According to data from the NCD there are significant issues in the implementation and outcome of special education services that would be expected to result in a large percentage of enforcement cases brought forward to litigation:

"- a deep chasm of opinion on a number of issues particularly relevant to the quality of educational outcomes for students with disabilities. From the students, we hear the reality of their lives in special education. In most cases, the comments we received from them are a scathing indictment of the implementation of IDEA." ⁸

In the State of California approximately 700,000 children receive special education services and supports and the "Due Process" is administered by a quasi-judicial state agency known as the Office of Administrative Hearings (OAH, an agency under the executive branch of civil service). ~~During fiscal year 2005-06, approximately 4,012 cases (approximately 0.6%) were filed with the OAH by families who did not agree with the level of supports, services or placement their children received from local school districts (38% of the filings were regarding assessment, while 51% regarded placement). Despite the fact that California has a comprehensive due process procedure in place, however (to appeal decisions of the schools) it appears that families have tended not to utilize the system -as reported by families, in part because the system is so difficult to understand and the process appears to favor the LEA agency over the family. Agencies-LEAs are more familiar with the system and better able to mount a judicial process than families of children with disabilities. Many families with~~

⁸ "Individuals With Disabilities Education Act Reauthorization: Where Do We Really Stand", (2002)

212

children that have disabilities struggle financially and are stretched to maintain the stability of the home environment. The Local Educational Agency has employees and legal resources paid by public funds to mount a "Due Process" litigation whereas the family must rely on the limited time and resources of the parents. ~~Additionally, because of the complexity and odds of the process, families are unable to find free and/or low cost representation in most cases.~~ It is commonly understood by both families and agency representatives that "it is not an even playing field". Advocates report that the inequity of the system has intimidated many family members of the IEP and in some cases emboldened agency members of the IEP. Family members and advocacy groups have grown increasingly concerned with the apparent inequities of the resolution process and ~~the actual versus required~~ apparent lack of impartiality of the system.

PRINCIPLES:

The State Council on Developmental Disabilities understands the importance of preparing all students for independent living and engaged and productive participation in the richness of our society. The State Council on Developmental Disabilities promotes implementation of high quality special education programs as an integral part of the general education community with transparent and impartial monitoring by the following actions:

1. ~~As driven by the weight of history and legislative action, special e~~Education is a fundamental civil right, ~~an integral part of the general education program, and a legal mandate. With values such as integration and inclusion replacing inequality and segregation, public education is~~ and a means to achieve social participation, productivity, and greater self-reliance leading to independent living to the maximum extent possible. ~~Therefore, t~~The State Council on Developmental Disabilities supports the strengthening or expansion of existing programs and/or creation of new programs to advocate for the right of all students with disabilities to receive a meaningful and free, appropriate, public education in their Least Restrictive Environment. Further, to improve upon outcomes leading to independent living to the maximum extent possible, the State Council on Developmental Disabilities supports early and continuous opportunities and actions to improve the transition from high school to adulthood.
2. ~~With the scarcity of resources, some~~Often discriminatory attitudes are expressed that cast Special Education as separate from and in competition with ~~reflect a belief that special education funding and resourcing usurps, or encroaches upon, resources that should go to~~ general education programs (this separation and competition is termed encroachment). Because such ideology discriminates against students with disabilities, the State Council on Developmental Disabilities promotes the civil rights of students with disabilities to be free of educational discrimination. The State Council on Developmental Disabilities will promote and partner with others to promote public outreach and education activities that reflect the values that students receiving special education services are not an encroachment on but an integral part of the general education population and ~~an integral part of~~ their community.
3. ~~Many families have reported extreme difficulty and experienced gaps in services during the transition from early intervention services (Part C services) to special education (Part B services) at age 3. Additionally, much research has been done that demonstrates the importance of children with disabilities receiving services~~

~~during this critical period of neurodevelopment. A previous safeguard during this transition allowed children to continue receiving the services families had agreed to while attempting to resolve any disagreements in due process. However, that safeguard, termed "Stay Put", was lost for this transition period. The State Council supports the research that has established the importance of early intervention services for children under the age of 3. Therefore, the State Council on Developmental Disabilities supports the return of this provision, as well as other provisions, that level the playing field between students with disabilities and schoolthe "Stay Put" provision in early intervention services (Part C of IDEA) to Special Education services (Part B of IDEA) so that there is no gap between the necessary services.~~

4. As evidenced by the large percentage of appeals cases surrounding assessment and placement, many families have reported that IEP's are built on low expectations and that school staff undervalue or ignore their input regarding their children's ability and potential. The State Council on Developmental Disabilities supports the use of assessments and systems that allow for effective identification of students who may be eligible to receive special education, effective assessments of individual needs, which include objective standardized assessments that are supplemented by parental input and other observational data. The Council supports the development of IEP goals that are accurately and appropriately based upon students' abilities and their developmental potential. The Council also supports schools maintaining high expectations that conform, to the maximum extent possible, as close to the California Department of Education's content standards and age appropriate developmental criteria.
5. In order to accurately assess the short- and long-term progress of students, the State Council on Developmental Disabilities supports annual and long term tracking of the progress of students with IEPs relative to standardized norms and to the general student population of their school community. Such tracking will assist schools and students in mutually monitoring their accountability to each other.
6. In following federal and California legal mandates, the State Council on Developmental Disabilities supports the identification and usage of peer reviewed, researched based methodologies to develop instructional strategies, services, and supports for IEPs as measured by implementation outcomes.
7. ~~The operational effect of the law is the interplay of legislation, regulations developed by state and federal agencies, and case law created in courts. Because some issues may require clarification and/or update and because of this interplay, the~~ State Council on Developmental Disabilities promotes education in support of legislative activities that clarify the intent and limitations behind out-of-date case law, legislation, and/or regulations.
8. ~~To better measure the needs, frustrations, and satisfaction of families of children with developmental disabilities, t~~The State Council on Developmental Disabilities supports the use of family/parental surveys regarding satisfaction with IDEA implementation by state and local educational agencies including but not limited to: the assessment of children, the identification of the appropriate services and supports to address needs, the definition of goals, objectives and the measurement of progress, the resolution, due process and appeals procedures, and other issues as appropriate.

9. Because of lack of clarity and concerns with how public funding is used by schools, the State Council on Developmental Disabilities supports the development of standards which promote the transparency of reporting on the use of public resources for purposes which include but are not limited to the funding special education receives as a percentage of total gross funding, funding devoted to each service and support by category, and cumulative annual and segregate case legal fees paid by each school district to attorneys.
10. ~~In order to be effective in achieving the above actions and further advocacy on behalf of children with disabilities and their families, the~~ The State Council on Developmental Disabilities supports working with other advocacy groups through, local, state and federal partnerships to coordinate actions, advocate for resources and identify areas of improvement related to special education.

2011 STATE COUNCIL AND COMMITTEE MEETINGS SCHEDULE

MONTH	COUNCIL MEETING	EXECUTIVE COMMITTEE	LEGISLATIVE AND PUBLIC POLICY COMMITTEE	PROGRAM DEVELOPMENT COMMITTEE	STATE STRATEGIC PLANNING SUBCOMMITTEE	EMPLOYMENT FIRST COMMITTEE
JANUARY	19		27			7
FEBRUARY		8				
MARCH	15 & 16					4
APRIL		12				
MAY	24 & 25					6
JUNE		14			14	
JULY	26 & 27					
AUGUST		9				
SEPTEMBER	20 & 21					9
OCTOBER		11				
NOVEMBER	15 & 16					4
DECEMBER		13				

Updated: 12/13/10

2011 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE & THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 11-17-10

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
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30	31					

FEBRUARY						
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27	28					

MARCH						
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APRIL						
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MAY						
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- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** Legislature reconvenes (J.R. 51(a)(1)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12 (a)).
- Jan. 17** Martin Luther King, Jr. Day.
- Jan. 21** Last day to submit **bill requests** to the Office of Legislative Counsel.

- Feb. 18** Last day for bills to be **introduced** (J.R. 61(a)(1)), (J.R. 54(a)).
- Feb. 21** President's birthday

- Mar. 28** Cesar Chavez Day.

- Apr. 14** **Spring Recess** begins at end of this day's session (J.R. 51(a)(2)).
- Apr. 25** Legislature reconvenes from **Spring Recess** (J.R. 51(a)(2)).

- May 6** Last day for **policy committees** to hear and report to Fiscal Committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).
- May 13** Last day for **policy committees** to hear and report to the Floor **non-fiscal bills** introduced in their house (J.R. 61(a)(3)).
- May 20** Last day for **policy committees** to meet prior to June 6 (J.R. 61(a)(4)).
- May 27** Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61 (a)(5)). Last day for **fiscal committees** to meet prior to June 6 (J.R. 61 (a)(6)).
- May 30** Memorial Day.
- May 31 – June 3 Floor Session Only.** No committee may meet for any purpose (J.R. 61(a)(7)).

217

2011 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE & THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 11-17-10

JUNE						
S	M	T	W	TH	F	S
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5	6	7	8	9	10	11
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June 3 Last day for bills to be passed out of the house of origin (J.R. 61(a)(8)).

June 6 Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget must be passed by midnight (Art. IV, Sec. 12 (c)(3)).

JULY						
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31						

July 4 Independence Day observed.

July 8 Last day for policy committees to meet and report bills (J.R. 61(a)(10)).

July 15 Summer Recess begins at the end of this day's session, provided Budget Bill has been enacted (J.R. 51(a)(3)).

AUGUST						
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28	29	30	31			

Aug. 15 Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).

Aug. 26 Last day for fiscal committees to meet and report bills to the Floor (J.R. 61(a)(11)).

Aug. 29 – Sept. 9 Floor Session only. No committees, other than conference committees and Rules Committee, may meet for any purpose (J.R. 61(a)(12)).

SEPTEMBER						
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25	26	27	28	29	30	

Sept. 2 Last day to amend bills on the Floor (J.R. 61(a)(13)).

Sept. 5 Labor Day.

Sept. 9 Last day for each house to pass bills (J.R. 61(a)(14)).
Interim Study Recess begins at end of this day's session (J.R. 51(a)(4)).

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2011

Oct. 9 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 9 and in the Governor's possession after Sept. 9 (Art. IV, Sec. 10(b)(1)).

2012

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 4 Legislature reconvenes (J.R. 51 (a)(4)).

218