Senator Holly J. Mitchell, Chair
Senator Jeff Stone, Pharm. D.,
Senator William W. Monning

March 12, 2015
9:30 a.m. or upon adjournment of session
John L. Burton Hearing Room 4203

Part B

Staff: Peggy Collins

PUBLIC TESTIMONY

NOTE: Issues related to the state developmental centers will be heard on Thursday, May 7, 2014.

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. Please see the Senate Daily File for dates and times of subsequent hearings. Issues will be discussed in the order as noted in the agenda unless otherwise directed by the Chair.

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-651-1505. Requests should be made one week in advance whenever possible. Thank you.

4100 State Council on Developmental Services (SCDD)

PANEL
Michael C. Clark, PhD., Interim Executive Director, State Council on Developmental Disabilities
Aaron Carruthers, Chief Deputy Director, State Council on Developmental Disabilities
Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance

SCDD Overview
The State Council on Developmental Disabilities (SCDD) is a federally-funded systemic advocacy organization. California's SCDD is one of 56 such councils across the United States and its territories. According to the Administration on Intellectual and Developmental Disabilities (AIDD), which funds and oversees the councils, state councils are "self-governing organization charged with identifying the most pressing needs of people with developmental disabilities in their state or territory" (and) "work to address identified needs by conducting advocacy, systems change, and capacity building efforts that promote self-determination, integration, and inclusion. Key activities include conducting outreach, providing training and technical assistance, removing barriers, developing coalitions, encouraging citizen participation, and keeping policymakers informed about disability issues."

Under federal law, state councils are intended to be autonomous organizations that function without interference from the state, except in that federal law requires that council members be appointed by the governor. Under federal law, more than 60 percent of a council's membership must consist of individuals with developmental disabilities or their family members. Councils develop federally-required five-year plans to address one or more of seven specified goals, and update the plan annually. Councils must spend a minimum of 70 percent of their federal funding to address their plan objectives.

ISSUE 1: BUDGET OVERVIEW – GOVERNOR'S PROPOSAL

The proposed Governor's budget is shown in the following chart:

	2013-14 (actual)	2014-15 (estimated)	2015-16 (proposed)
Federal Trust Fund	$6,841	$7,014	$7,019
Reimbursements	$3,608	$4,549	$4,551
Total	**$10,449**	**$11,563**	**$11,570**

The SCDD uses it federal grant and reimbursements to fund three primary activities, as shown below.

Activity	2013-14	2014-15	2015-16
Planning and Administration	$1,792	$2,070	$2,072
Community Program Development	$652	$430	$430
Regional Offices and Advisory Committees	$8,005	$9,063	$9,068

Planning and Administration: The council is responsible for developing and implementing a state plan containing goals, objectives, activities, and projected outcomes designed to improve and enhance the

availability and quality of services and supports to individuals with developmental disabilities and their families. The appointed council members engage in policy planning and implementation to ensure system coordination, monitoring, and evaluation.

Community Program Development: The council administers grants to community-based organizations that fund new and innovative community program development projects to implement state plan objectives and improve and enhance services and supports for individuals with developmental disabilities and their families.

Regional Offices and Regional Advisory Committees: Thirteen regional offices and advisory committees provide administrative support and assist with advocacy, training, coordination, and implementation of state plan objectives in council regions throughout the state. These offices and advisory committees provide regional information and data to the council to assess regional needs and implementation of the state plan and for inclusion in reports to the federal government and the Legislature.

Questions for the SCDD:

- *Please describe how the activities of the SCDD and its regional office meet state plan objectives.*

- *How does the SCDD adjust to the fluctuation of the state grant from year-to-year, given the high percentage of the grant that is used for personnel who are state employees and subject to state-directed wages, benefits and civil service requirements?*

- *Please describe the process by which SCDD grants are awarded and monitored. How are the outcomes of grant-funded activities used to inform system change? Why was the amount allocated for community program development reduced by 34 percent in the current year?*

Question for DDS:

- *How does DDS, who also funds program development activities, coordinate with the SCDD to ensure both state and federal funds are maximized and fund unmet or under-met needs in the community?*

ISSUE 2: UPDATE ON FEDERAL HIGH RISK DESIGNATION – OVERSIGHT ISSUE

Prior to 2014, state statute established 13 area boards on developmental disabilities and assigned the area boards with tasks related to meeting the objectives of the SCDD state plan. Additionally, under previous state law, the Governor appointed the majority of area board members, appointed some of the council staff, and included additional prescriptive language that was at odds with the federal requirements for autonomy and self-direction of the council.

Since 1994, federal reviewers have expressed concerns with state law that committed a significant portion of the state grant to specific uses; with the authority granted to the Governor to make some staff and area board membership appointments; and with mandated activities and duties. Additional concerns were raised about the council's fiscal management, long-term unfilled vacancies on the council, and activities that have may overlapped with the federally-funded state protection and advocacy organization, Disability Rights California. Federal concerns were communicated to the council and the state in 1994, 2006 and 2013. Although some statutory changes to address federal concerns were made during the ensuing years, in November of 2013 the AIDD designated the council as being at high risk and limited access to its annual state grant by shifting its funding to a monthly reimbursement methodology. Additionally, the AIDD required SCDD submit to additional project monitoring through a correction action plan and monthly program progress reports; technical or management assistance through regular, ongoing assistance from experts and quarterly calls with AIDD staff.

In order to address the structural concerns raised by the AIDD, the council sponsored Assembly Bill 1595 (Chesbro), Chapter 409, Statutes of 2014, to remove state oversight of many of its functions, including the ability of the Governor to appoint regional advisory board directors. Additionally, the legislation eliminated prescriptive language in state statute, including the requirement for a specified number of regional advisory boards.

Questions for SCDD:

- *Please describe the issues that led to the federal high-risk status that the State Council on Developmental Disabilities currently operates under.*

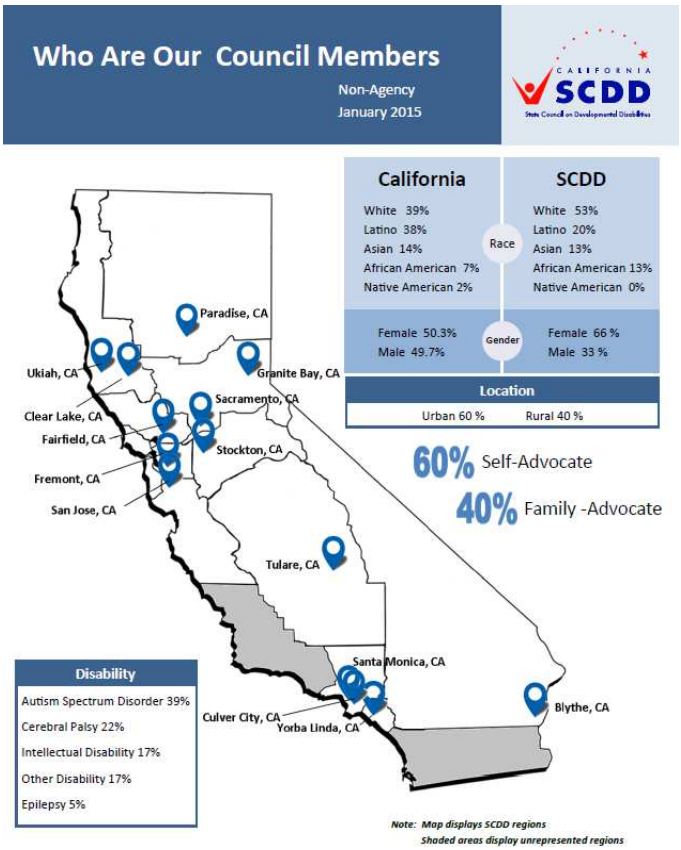
- *What structural and organizational changes have taken place following the passage of AB 1595 and how have these addressed federal concerns?*

- *What additional changes are required to fully comply with federal requirements before the high-risk status is removed and when is the soonest that may occur?*

- *What are the challenges associated with the monthly reimbursement methodology under which the council currently operates?*

ISSUE 3: COUNCIL DIVERSITY – OVERSIGHT ISSUE

Welfare and Institutions Code 4521 sets forth the criteria by which the 31 members of the SCDD are appointed. Prior to making his or her appointments, the Governor is required to "take into account the socioeconomic, ethnic and geographic considerations of the state." The current regional and ethnic make-up of the council (for non-agency members) is shown in the following graphic provided by the council.



Questions for SCDD:

- *How does the council communicate with the Governor regarding diversity needs of the council?*
- *How does the council recruit potential members for the council or its regional advisory boards to ensure they reflect the diversity of the state and the regions that they serve?*
- *Please describe council activities that address socioeconomic, ethnic and geographic disparities in access to services and supports for persons with developmental disabilities and their families.*

ISSUE 4: STATE CONTRACTS WITH SCDD – OVERSIGHT ISSUE

The Department of Developmental Services (DDS) contracts with the SCDD to provide two activities, as described below. Both of these activities are achieved, in part, through the use of trained volunteers.

Quality Assurance Surveys: Welfare and Institutions Code Section 4571 requires DDS to implement a nationally-validated quality assessment tool that will enable DDS to monitor the performance of California's developmental disabilities services system, and to assess quality and performance among all of the regional centers. DDS chose the National Core Indicators (NCI) survey tool for this purpose. State statute requires DDS to contract with the SCDD to collect data using this assessment tool. The contract provides $7.4 million ($5.7 million GF; $1.7 million other funds) to the SCDD for the period of July 1, 2014 through June 30, 2017, for this purpose.

Clients' Rights/Volunteer Advocacy: Welfare and Institutions Code 4433 requires DDS to provide clients' rights advocacy services for all consumers in its service delivery system. To avoid the potential for, or appearance of, a conflict of interest, DDS is required to contract for these services. DDS contracts with the SCDD to provide these services for residents in the state developmental centers. The contract provides $9.3 million ($5.1 million GF) to the SCDD for the period July 1, 2012 through June 30, 2017. DDS contracts with Disability Rights California and its Office of Client Rights Advocacy to provide similar services to consumers living in the community.

Questions for SCDD:

- *Please describe briefly how the requirements of each contract are met, including any challenges you face in meeting the contract goals.*
- *Please describe the process for recruiting, training, and maintaining volunteers. What are the challenges and benefits of using volunteers?*
- *How does SCDD staff interact and share information with Disability Rights California regarding persons who are moving, or have moved, from a developmental center to the community?*

Questions for DDS:

- *How does DDS monitor the performance of the SCDD in meeting the requirements of these contracts?*
- *How is the information collected from the National Core Indicators survey utilized and shared with system stakeholders, the Legislature, and the public. How does this survey inform decision-making by DDS?*
- *Has SCDD staff and/or volunteers played a role in the process related to the closures of Agnews and Lanterman developmental centers? How has the SCDD contract been amended, or their role at the remaining centers changed, once these facilities closed?*

Staff Recommendation: Leave open the State Council on Developmental Disabilities budget pending May Revision.

4300 Department of Developmental Services (DDS)

Department Overview

The Department of Developmental Services (DDS) oversees the provision of services and supports to approximately 279,709 persons with developmental disabilities and their families, pursuant to the provisions of the Lanterman Developmental Disabilities Services Act, also known as the Lanterman Act, (Division 4.5 of the California Welfare and Institutions Code). The Lanterman Act establishes an entitlement to services and supports for Californians with developmental disabilities.

For the majority of eligible recipients, services and supports are coordinated through 21 private, non-profit corporations, known as regional centers (RCs). The remaining recipients are served in three state-operated institutions, known as developmental centers (DCs) and one state-leased and state-operated community-based facility. Regional centers are anticipated to serve an average caseload of 278,593 individuals in the current year, and 288,317 individuals in the budget year; an increase of 9,724 or 3.5 percent. As of the February 25, 2015 census, developmental centers housed 1,131 residents; the department projects 951 individuals will reside in the centers, a reduction of 180 or 15.9 percent.

Eligibility

To be eligible for services and supports through a regional center or in a state-operated facility, a person must have a disability that originates before their 18th birthday, be expected to continue indefinitely, and present a substantial disability. As defined in Section 4512 of the Welfare and Institutions Code, this includes an intellectual disability, cerebral palsy, epilepsy, and autism, as well as conditions found to be closely related to intellectual disability or that require treatment similar to that required for individuals with an intellectual disability. A person with a disability that is solely physical in nature is not eligible. Infants and toddlers (age 0 to 36 months), who are at risk of having a developmental disability or who have a developmental delay, may also qualify for services and supports (see the Early Start discussion later in this agenda). Eligibility is established through diagnosis and assessment performed by regional centers.

Governor's Budget

The following summary chart from DDS provides a summary of the proposed 2015-16 budget, the various fund sources, caseload, and authorized positions, as it compares to the proposed revised 2014-15 budget.

DEPARTMENT OF DEVELOPMENTAL SERVICES
November 2014 Estimate

(Dollars in Thousands)

	2014-15	2015-16	Difference
Community Services Program			
Regional Centers	$4,848,508	$5,141,657	$293,149
Totals, Community Services	**$4,848,508**	**$5,141,657**	**$293,149**
General Fund	2,761,388	$2,991,911	$230,523
Dev Disabilities PDF	4,071	4,103	32
Developmental Disabilities Svs Acct	150	150	0
Federal Trust Fund	67,172	51,853	-15,319
Reimbursements	2,014,987	2,092,900	77,913
Mental Health Services Fund	740	740	0
Developmental Centers Program			
Personal Services	$472,632	$405,608	-$67,024
Operating Expense & Equipment	90,262	109,605	19,343
Total, Developmental Centers	**$562,894**	**$515,213**	**-$47,681**
General Fund	$309,648	$279,839	-$29,809
Federal Trust Fund	384	285	-99
Lottery Education Fund	367	367	0
Reimbursements	252,495	234,722	-17,773
Headquarters Support			
Personal Services	$36,290	$37,334	$1,044
Operating Expense & Equipment	6,194	$5,245	-949
Total, Headquarters Support	**$42,484**	**$42,579**	**$95**
General Fund	$27,043	$27,070	$27
Federal Trust Fund	2,560	2,561	1
PDF	325	349	24
Reimbursements	12,116	12,128	12
Mental Health Services Fund	440	471	31
Totals, All Programs	**$5,453,886**	**$5,699,449**	**$245,563**
Total Funding			
General Fund	$3,098,079	$3,298,820	$200,741
Federal Trust Fund	70,116	54,699	-15,417
Lottery Education Fund	367	367	0
Dev Disabilities PDF	4,396	4,452	56
Developmental Disabilities Svs Acct	150	150	0
Reimbursements	2,279,598	2,339,750	60,152
Mental Health Services Fund	1,180	1,211	31
Caseloads			
Developmental Centers	1,116	1,010	-106
Regional Centers	278,593	288,317	9,724
Authorized Positions			
Developmental Centers	4,681.1	4,270.2	-410.9
Headquarters	381.5	381.5	0.0

ISSUE 1: BUDGET YEAR INCREASE – GOVERNOR'S PROPOSAL

DDS Headquarters

The Governor's budget provides $42.6 million ($27.1 million General Fund (GF)) for DDS headquarters. This reflects an increase of $1.4 million ($0.9 million GF) increase across the current and budget year related to retirement rate contribution, employee compensation, and other staff benefit increases.

PANEL

Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance

Questions for DDS:

- *Please provide an overview of the DDS headquarters budget.*

Staff recommendation: Leave open pending May Revision

ISSUE 2: CURRENT YEAR DEFICIENCY AND BUDGET YEAR INCREASE – GOVERNOR'S PROPOSAL

Regional Center Operations

The Governor's budget provides a current year increase of $6.2 million (-$2.1 million GF) above the 2014-15 enacted budget for regional center operations, reflecting increases in caseload and utilization in the current year. For the 2015-16 budget year, the Governor's budget provides an increase of $30.3 million ($22.5 million GF) for regional center operations over the 2014-15 enacted budget, reflecting projected increases in caseload and utilization in the budget year. Additionally, the Governor's budget proposes a $1.9 million increase ($1.6 million GF) in regional center operations to adjust the budgeted salaries for account clerks and secretary I positions to reflect the increase in the state minimum wage from $9.00 to $10.00 an hour, effective January 1, 2016. These estimates will be updated at the May Revision. The Administration will request current year deficiencies be funded through a supplemental appropriation bill.

PANEL

Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance

Questions for DDS: Please present the current and budget year proposals.

Staff recommendation: Leave open pending May Revision.

ISSUE 3: CORE-STAFFING FORMULA - OVERSIGHT ISSUE

A core staffing formula is the primary driver of regional center operations funding. With some exceptions, this formula has not been updated since 1991. As a result, regional centers are provided funding for required positions that are far below what they are actual paying. For example, the core staffing formula provides $60,938 for a regional center executive director position when, in fact, regional centers are paying between a low of $130,992 and a high of $284,352 (excluding benefits, retirement, bonuses, and other allowances). Other examples of core staffing formula allocations for key positions are shown in the following chart:

Position	Core Staffing Formula Allocation
Physician	$79,271
Behavioral Psychologist	$54,972
Client Program Coordinator	$34,032
High-Risk Infant Case Manager	$40,805
Chief Counselor	$46,983
Human Resources Manager	$50,844

Additionally, the complement of staff funded through the core staffing formula does not fully reflect the demands on the regional centers today. For example, the Association of Regional Center Agencies (ARCA) points out that the formula does not provide sufficient middle management positions and support staff for organizations that have grown from an average 2,000 person caseload to about 7,000 person caseload today. Disability Rights California (DRC) argue that regional centers may lack resources to provide the expertise necessary to assist persons with developmental disabilities and their families access to generic services. For example, DRC has requested that regional centers be mandated to employ a dental coordinator to assist consumers to access dental services through Denti-Cal and other community-based dental services.

In addition to the outdated core staffing formula, regional centers have absorbed multiple "unallocated reductions" to their operations budgets and ARCA argues they have absorbed additional case management and administrative workload for which they have not been adequately funded.

The following chart was provided by the Administration at a Developmental Disabilities Task Force meeting and shows the number of regional centers out of compliance with caseload ratio requirements.

Year	Waiver Consumers (1:62)	Under 3 (1:62)	DC Movers Over 12 Months (1:62)	DC Movers Last 12 Months (1:45)	Over 3, Non-Waiver, Non-Mover (1:66)	**Total RC's out of Compliance in One or More areas**
2004	6	4	-	2	8	**12**
2005	13	9	3	3	10	**16**
2006	5	2	1	2	9	**11**
2007	5	4	-	-	9	**9**
2008	7	8	1	-	9	**11**
2009-2010	Regional centers reporting requirements were statutorily suspended in 2009 and 2010.					
2011	15	4	6	1	N/A*	**16**
2012	17	9	6	1	N/A*	**17**
2013	13	3	4	-	N/A*	**13**
2014	14	7	7	-	21	**21**

*The 1:66 ratio was statutorily lifted from February 1, 2009 to June 30, 2013.

HCBS Waiver Risk

California's first Home and Community-Based Services (HCBS) waiver for Individuals with Developmental Disabilities (waiver) was approved in November 1982. Direct services and regional center case management and other quality assurance activities are eligible for federal funding participation for consumers enrolled under the waiver. In the budget year, DDS projects the state will receive $175 million in federal funding related to regional center case management and quality assurance activities related to waiver services.

In 1997, the federal Health Care Financing Administration (now known as the Centers for Medicare and Medicaid Services (CMS)), conducted a review of California's waiver services and administration and identified significant health and safety deficiencies, as well as significant issues pertaining to program monitoring, quality assurance, and residential care. Due to these concerns, the DDS and Department of Health Services (as the state's Medicaid agency; now the Department of Health Care Services) had to implement extensive program compliance measures relating to consumer health and safety, and had to certify that regional centers were in compliance, on a case-by-case basis. Although waiver participation restrictions were relaxed slowly over the ensuing years, it was not until January 2004 that the enrollment freeze was fully lifted. According to DDS, the cumulative impact of the waiver enrollment freeze was $933 million.

In a report entitled "Funding the work of California's Regional Centers", published in September of 2013, and as illustrated in the chart above, ARCA argues that a large number of regional centers are again not meeting caseload ratio criteria for waiver participation, and have not done so for multiple years, putting California at risk of losing substantial federal funding.

The 2014-15 state budget adopted by the Legislature included budget bill language to require DDS to work with stakeholders to develop a proposal relative to reforming the regional center core staffing formula. However, the Governor vetoed this language and instead directed the Health and Human Services Agency to convene a work group to review this issue, along with other issues discussed later in this agenda. This issue has been incorporated into the agency's Developmental Services Task Force, which began its work in December of 2014.

PANEL

Eileen Richey, Executive Director, Association of Regional Center Agencies
Santi Rogers, Director, Department of Developmental Services
Joe Meadours, Self-Advocate, People First of California
Catherine Blakemore, Disability Rights California

Questions for ARCA:

- *Please provide a brief summary of your 2013 report "Funding the Work of California's Regional Centers."*

Questions for DDS:

- *How significant is the concern that regional centers' inability to meet caseload ratio requirements could result in the loss of federal funding?*

Questions for Joe Meadours:

- *Please describe your experience getting needed help from your regional center case manager, or other regional center staff, in recent years?*

Questions for DRC:

- *As the organization that provides client rights' advocacy services to persons served by the regional center system, what indicators have you seen that demonstrate the regional center operations may be underfunded?*

ISSUE 4: CURRENT YEAR DEFICIENCY AND BUDGET YEAR INCREASES – GOVERNOR'S PROPOSAL

Regional Center Purchase-Of-Services (POS)

The Governor's budget projects a current year increase of $104.6 million ($58.1 million GF) in POS, reflecting increases in caseload and utilization. According to DDS, the major increase in POS expenditures reflect an increased utilization of specialized adult residential facilities and increased utilization and costs for supported living services. The current year POS budget also includes an increase of $44.3 million (GF) to reflect restoration of funding necessary as a result of unrealized savings from SB 946 (Steinberg), Chapter 650, Statutes of 2011, which requires health care insurers to provide coverage for behavioral health treatment (BHT) for pervasive developmental disorder or autism. The current year is also proposed to be adjusted by a $3.7 million ($1.9 million GF) increase to implement federal labor regulations regarding overtime payments to some workers in some community-based programs. However, implementation of these federal regulations has stalled, pending the outcome of an appeal of a federal court ruling that negated the overtime requirements.

In the 2015-16 budget year, the Governor proposes additional increases over the enacted 2014-15 budget, related to the same factors:

- Caseload and Utilization: $278.5 million ($214.0 million GF) increase
- Unrealized SB 946 Savings: $44.3 million (GF) increase
- Federal Labor Regulations: $24.4 million ($13.1 million GF) increase

These estimates will be updated at the May Revision. The Administration will request current year deficiencies be funded through a supplemental appropriation bill.

LAO Recommendation

The Legislative Analyst's Office (LAO) finds that the current year community caseload estimate, and the projection for community caseload growth in the budget, appear reasonable, pending an update at May Revision. However, they have identified issues with the department's estimate of costs associated with greater utilization of services. Specifically, they find that for specialized adult residential facilities and supported living services, the department's 2015-16 estimated costs proposed for general fund expenditures that do not draw down federal Medicaid matching funds, far outpace recent trends in cost growth.

For community care facilities, the non-matched General Fund expenditures are estimated to increase from $96 million in 2014-15 to $152 million in 2015-16, an increase of $56 million, or 58.6 percent. For support services, the non-matched general fund expenditures are expected to increase from $81 million in 2014-15 to $160 million in 2015-16, and increase of $79 million, or 97.2 percent.

PANEL

Rashi Kesarwani, Legislative Analyst's Office
Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance

Questions for LAO:

- *Please briefly provide your analysis of the current and budget year POS estimate.*

Questions for DDS:

- *Why are non-matched general fund expenditures significantly increasing for community care facilities and support services and far outpacing the cost growth of expenditures that draw down federal matching funds?*

Staff recommendation: Leave open pending May Revision.

ISSUE 5: SICK LEAVE – GOVERNOR'S PROPOSAL

Assembly Bill 1522 (Gonzalez), Chapter 317, Statutes of 2014, enacts the Healthy Workplaces, Healthy Families Act of 2014. This new law requires that, by July 1, 2015, an employee who works in California for 30 days or more in a calendar year, is entitled to paid sick days that will accrue at a rate of no less than one hour for every 30 hours worked, and may be used beginning on the 90th calendar day of employment, with certain limitations.

Governor's Budget

The Governor's budget proposes a $25.3 million increase ($16.2 million GF) in purchase-of-services to reflect the costs associated with the implementation of AB 1522 for community-based programs that do not currently provide sick leave benefits to employees. The Administration has proposed trailer bill language to implement this provision.

LAO Recommendation

The LAO recommends the Legislature approve the Governor's proposed augmentation, and adopt supplemental report language to require DDS to provide the actual general fund costs for these proposals.

PANEL

Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance
Rashi Kesarwani, Legislative Analyst's Office

Questions for DDS:

- *Please describe your methodology in developing your estimate. How did you collaborate with providers in developing your estimate?*

Questions for LAO:

- *Please briefly present your analysis of the Governor's proposal and your recommendation.*

Staff recommendation: Leave open pending May Revision.

ISSUE 6: MINIMUM WAGE INCREASE – GOVERNOR'S PROPOSAL

Assembly Bill 10 (Alejo), Chapter 351, Statutes of 2013, increased the state minimum wage from $8.00 to $9.00 per hour, effective July 1, 2104; and increases it again to $10.00 per hour on January 1, 2016. The 2014 budget act included funding to allow minimum wage adjustments to rates paid to work activity programs, community-based day programs, in-home respite service agencies that can demonstrate to DDS that they employ minimum wage workers, and providers who have a rate negotiated with a regional center if they demonstrate to the regional center that they employ minimum wage workers.

The Legislature also adopted the following supplement report language:

Expenditures for Minimum Wage Increase. No later than May 14, 2015, the department shall provide to the fiscal and policy committees of the Legislature and to the Legislative Analyst's Office the actual General Fund cost of the rate increases provided to vendors as a result of the state-mandated hourly minimum wage increase to $9. The department shall report these actual costs by vendor type, including Community Care Facilities, Day Program Services, Habilitation Services, Transportation, Support Services, In-Home Respite, and Out-of-Home Respite.

Governor's Budget

The Governor's budget proposes a $64.2 million increase ($36.6 million GF) to $10.00, effective January 1, 2016. The following adjustments are associated with this increase:

- $1.9 million increase ($1.6 million GF) in regional center operations to adjust the budgeted salary for Account Clerks and Secretary I positions, which currently are budgeted at salary levels that are below $10.00 per hour.

- $62.3 million increase ($35.0 million GF) in purchase-of-services to reflect the minimum wage increase impact on community-based day programs, work activity programs, respite services, and others, who rely on minimum wage employees.

LAO Recommendation

The LAO recommends the Legislature approve the Governor's proposed augmentation, and adopt supplemental report language to require DDS to provide the actual general fund costs for these proposals.

Provider Concerns

Last year, provider organizations argued that the Governor's proposal failed to reflect the real impact of the minimum wage increase on their programs. Specifically, providers argue that some direct and indirect costs, such as retirement and long-term disability insurance, were not included in the minimum wage rate adjustments. Additionally, providers cite California Labor Code Section 515 as requiring certain supervisorial staff to be paid twice the minimum wage, under defined circumstances. Providers also argued that a minimum wage increase necessitates increases for staff above the minimum wage to maintain the differentials earned through seniority and promotion within their agency. The Governor's budget year proposal does not address these issues.

PANEL

Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance
Rashi Kesarwani, Legislative Analyst's Office
Will Sanford, Executive Director, Futures Explored

Questions for DDS:

- *Please present your proposal.*
- *Has the number or type of program impacted by this increase changed since last year?*
- *How have you vetted the legitimacy of providers argument about secondary costs associated with the minimum wage increase?*

Questions for LAO:

- *Please briefly present your analysis of the Governor's proposal and your recommendation.*

Question for Will Sanford:

- *Please share your perspective and experience on this issue.*

Staff recommendation: Leave open pending May Revision.

ISSUE 7: STATEWIDE SELF-DETERMINATION PROGRAM – GOVERNOR'S PROPOSAL

SB 468 (Emmerson), Chapter 468, Statutes of 2013, establish a statewide self-determination program (SDP), under which consumers are provided with individual budgets and the ability to purchase the services and supports they choose that are consistent with their individual program plan (IPP) and with the assistance of a financial manager. The SDP program must be consistent with new federal HCBS regulations discussed later in this agenda.

The department has worked collaboratively with system stakeholders to design and submit a federal waiver application to the Centers for Medicare and Medicaid Services (CMS) in late December; however, the application was returned for additional information. It is unknown at this time when federal approval will occur. However, DDS anticipates that more information may be available at the May revision.

The Administration has proposed new provisional budget bill language to allow the transfer of up to $2,800,000 from local assistance to state operations, once federal approval occurs. This represents the estimated General Fund savings in purchase-of-services associated with the SDS program that would be used to offset the administrative costs incurred by the department, including the costs of required criminal background checks.

PANEL
Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance
Marty Omoto, Director/Founder, CDCAN California Disability-Senior Community Action Network

Questions for DDS:

- *Briefly described the SDS program.*
- *Please explain why the federal application was returned and the status for resubmission.*
- *How are General Fund saving achieved through this program?*
- *How are regional centers and community stakeholders, including persons with developmental disabilities and their families, being prepared now to ensure timely implementation once federal approval is secured? How many regional centers have established an advisory committee?*

Questions for DOF:

- *Relative to your proposed provisional language, would you object to 30-day notice being provided to the Joint Legislative Budget Committee prior to your approval of the transfer? Given that the amount of savings, and associated administrative costs, will be tied to the date of approval and the ability of regional centers to implement in a timely manner, the Legislature may want an opportunity to examine the methodology for determining the appropriate amount to transfer.*

Staff recommendation: Leave open pending May Revision.

ISSUE 8: STABILITY OF COMMUNITY-BASED SERVICES AND SUPPORTS SYSTEM - OVERSIGHT ISSUE

Rates paid to community-based providers for services and supports provided to persons with a developmental disability are established through multiple methodologies, as shown below.

Rate Paid to Regional Center Vendors
Department of Developmental Services set statewide rates established pursuant to cost statement, statute, or regulation.
Department of Health Care Services Schedule of Maximum Allowance.
Negotiated Rates: a rate negotiated up to the applicable median rate for the regional center catchment area, or the current statewide median rate, whichever is lower.
Department of Social Services rates.
Standard Rate Schedule, established by the regional center based upon the cost-effectiveness of providing specific transportation services.
Regional Center set mileage reimbursement set at a per mile rate not to exceed the travel rate paid by the regional center to its own employees.
Usual and Customary Rates is a rate regularly charged by a vendor for a service that is used by both regional center consumers and where at least 30 percent of the recipients of the given service are not regional center consumers.

Most community-based service providers have not received a rate increase since 2006. Residential care providers (ARM), day programs, and traditional work programs received a three percent rate reduction in February of 2009, which expired in July of 2012. These providers received an additional rate reduction of 1.25 percent in July 2010, which expired in July 2013. Since 2008, providers whose rate is set through negotiations with individual regional centers have had their rate limited to the median rate for the year 2007. These providers were also subject to the three percent and 1.25 percent rate reductions, and subsequent expiration, discussed above. Supported work providers, who rate is set in statute, received a 24 percent increase in 2006, but their rate was subsequently reduced by 10 percent in 2008.

Other changes have further skewed the relationship between costs and reimbursement rates, and the relative rationalization of rates paid across programs throughout the state. These include:

- Exceptions to rate freezes and reductions, justified through a “health and welfare” waiver.
- Prohibition on the use of POS for program “start-up” costs.
- Implementation of uniform holiday schedules.
- Implementation of additional administrative functions, including required audits, for providers.

State set standardized rates do not recognize cost differentials between regions of the state, including costs-of-living and local wage requirements. Providers contend that recent and proposed rate adjustments related to increases in the state minimum wage have not fully reflected all the associated costs.

Recent Court Ruling Ends Some State Actions to Reduce Costs

In 2011, The ARC of California and UCP of San Diego filed a lawsuit in federal court claiming the state had violated federal Medicaid law by enacting budget reductions strategies without first seeking federal approval. These included a rate reduction for providers, requiring providers to adhere to a uniform holiday schedule and reimbursing providers based on a half-day billing schedule. In the most recent court ruling in this case, a federal court ruled in favor of the plaintiffs. Since the rate reduction has already been reversed by subsequent legislative action, the ruling only impacts the uniform holiday schedule and half-day billing policies. The department has indicated that it will not pursue further appeal of this ruling and is preparing to notify regional centers that the uniform holiday schedule and half-day billing policies are no longer in effect.

"On the Brink of Collapse, The Consequences of Underfunding California's Developmental Disabilities System" – a report prepared by the Association of Regional Center Agencies.

Earlier this month, the Association of Regional Center Agencies (ARCA) released a report entitled "On the Brink of Collapse, The Consequences of Underfunding California's Developmental Disabilities System." The report illustrates how California's spending on services and supports compares to investments in other states; how rates paid to providers compares to other states; how cost disparities across regions are not addressed in state-set provider rates and other factors which have resulted in rates that do not support a stable, quality network of services and supports in California; and how the increasing caseloads of regional center case managers have exasperated the challenges of finding and maintaining appropriate services and supports for persons with developmental disabilities in California communities. Additionally, the report shares, for the first time, data relative to program closures and changes in program design that limit choices for individuals. Finally, the report discusses the changes in the system's landscape that are difficult to meet under the current rate structures, including new federal requirements; state mandating improvements for California workers, such as minimum wage increases, mandated sick leave, and overtime requirements; and increasing diversity among those served.

Senate Human Services Committee Oversight Hearing

At an oversight hearing of the Senate Human Services Committee, held in October of 2014 in Los Angeles, providers from various sectors serving persons with developmental disabilities discussed the impact that suppressed rates of reimbursement have had on the availability and quality of services and supports provided in California communities. Steve Miller, the former executive director of Tierra del Sol, which provides work and day program services to persons with developmental services, conducted an informal poll of 25 providers that produced the following results:

- Respondents reported staff turnover rates between 25-50 percent, and multiple vacancies in ratio required position or key supervisorial or quality assurance positions.
- Agencies reported declining skill competencies in direct support and management staff.
- Agencies have become more restrictive in whom they accept into their programs.
- Agencies report that they are less likely to respond to local regional center requests to expand services.

- Four agencies reported they have, or will, close programs; other report they have downsized programs.

Residential providers report a growing number of regional centers will not place residents in facilities that have more than four beds, a policy consistent with state and federal direction, but continue to rely on funding that assumes revenues from six beds. Intermediate care facilities (ICF) providers have argued that an increasing number of these facilities have closed or converted to another model due to insufficient reimbursement.

Changing State and Federal Direction

Recent federal and state actions have articulated a growing preference for the delivery of services and supports that best promote integration and self-direction for persons with developmental disabilities. The implementation of these new initiatives will require a significant shift in how services and supports are provided in California. These actions include:

- Under new federal home and community-based waiver and state plan regulations, that will fully go into effect in 2019, waiver-funded services must meet certain criteria, including:

    - The setting is integrated and supports full access to the greater community;

    - The setting is selected by the individual from among options that include non-disability-specific settings and an option for a private unit in a residential setting;

    - Ensure rights of privacy, dignity and respect, and freedom from coercion and restraint;

    - Optimizes, but does not regulate, individual initiative, autonomy, and independence in making life choices; and,

    - Facilitates individual choice regarding services and supports, and who provides them.

  In California, DDS administers one waiver program and two state plan programs, serving approximately 130,000 persons.

- The U.S. Department of Justice has entered into a settlement agreement with the state of Rhode Island to redirect consumers receiving services in segregated sheltered workshops and facility-based day programs into integrated settings. In California, three state departments, DDS, the Department of Rehabilitation and the Department of Education, have entered into an agreement to develop a blueprint over a six month period to guide California toward a similar outcome.

- AB 1041 (Chesbro), Chapter 677, Statutes of 2013, establishes an "Employment First" policy in the state, requiring the prioritizing of integrated, competitive employment opportunities for working age adults with developmental disabilities.

- SB 468 (Emmerson), Chapter 468, Statutes of 2013, establishes a statewide self-determination program, under which consumers are provided with individual budgets and the ability to purchase the services and supports they choose that are consistent with their IPP and with the assistance of a financial manager.

The Administration's Response

The 2014 budget approved by the Legislature included budget bill language to require DDS to work with stakeholders to develop a proposal relative to rate-setting methodologies for community-based services and supports. However, the Governor vetoed this language and instead directed the Health and Human Services Agency to convene a work group to review this issue, along with the regional center core-staffing formula discussed above. The agency convened its first Developmental Services Work Group meeting in December 2014. The work group will next meet on March 26th to discuss regional center operations and on April 20th to discuss community rates.

Additionally, DDS held its first meeting of their Home and Community-Based Services Advisory Group on February 17, 2015. Working through a small stakeholder steering committee, DDS recently received commitments from 21 identified individuals (consumers, family members, advocates, providers, regional centers, and affected state entities) to serve on a new advisory group to analyze issues, identify steps and processes, and develop policy recommendations involved with implementing federal home and community-based settings requirements, discussed above.

The Lanterman Coalition Recommendation

The Lanterman Coalition, made up of numerous statewide provider and advocacy organizations, has requested the 2015-16 budget be augmented to reflect (1) a 10 percent increase in provider rates and regional center funding, (2) a five percent increase in the 2016-17 budget year, and (3) a longer-term action to repair the rate system.

PANEL

Rashi Kersarwani, Legislative Analyst's Office
Eileen Richey, Executive Director, Association of Regional Center Agencies
Catherine Blakemore, Disability Rights California
Kristopher Kent, Assistant Secretary, Health and Human Services Agency
Santi Rogers, Director, Department of Developmental Services
Ernie Huerta, Self-Advocate
Sue North, Director of Government Affairs, California Disability Services Association
Tony Anderson, Chair, Lanterman Coalition

Questions for LAO:

- *Please provide an overview of the budget actions taken by DDS in previous years to achieve necessary savings that have impacted community-based service providers.*

Questions for ARCA:

- *Please provide a summary of your report as it relates to what you have learned relative to program closures and program modifications that have reduced options for persons with developmental disabilities.*

Questions for DRC:

- *Please discuss the requirements of the new federal regulations and the structural ways that service provision may need to change.*

- *Please discuss your agreement with the Administration relative to employment programs and how it may change the structure of service delivery for employment programs.*

- *What policy changes made to reduce expenditures have had the most significant negative impact on consumers and providers?*

Questions for Agency:

- *Please briefly describe the various collaborative work group and task force efforts to examine the need for long-term change in the regional center and community-based service system.*

Questions for DDS:

- *What indicators does DDS examine when determining if a statewide rate adjustment for a particular service is necessary?*

- *How is DDS monitoring the community service system to ensure it does not collapse while the work on system restructuring being conducted by various Administration-led task forces is done?*

- *Given the significant structural changes that will need to occur to be in compliance with the new federal regulations by 2019, do you think some steps can be taken now (or soon) to stabilize and grow program models that clearly meet federal requirements, and assist those programs that do may need to remodel their program design?*

Question for Sue North:

- *Please provide your perspective on this issue.*

Question for Tony Anderson:

- *Please present the request from the Lanterman Coalition.*

ISSUE 9: DISPARITIES IN SERVICE DELIVERY – OVERSIGHT ISSUE

DDS and regional centers are required to annually collaborate to compile data in a uniform manner relating to POS authorization, utilization and expenditure by regional center and by specified demographics including: age, race, ethnicity, primary language spoken by consumer, disability, and other data. This information is also to include data on individuals eligible for, but not receiving, regional center services. Regional centers are required to hold public hearings on this data and DDS is required to provide oversight, through their contract agreements with the regional centers, by requiring specified activities and establishing annual performance objectives.

In April of 2012, and following a 2011 Los Angeles Times series that reported significant disparities in access to regional center services based on race and ethnicity, income level and socio-economic community, the Senate Autism and Related Disorders Select Committee held an informational hearing to examine what disparities exist in the provision of services to persons with autism spectrum disorders. Following the hearing, Senate Majority Leader Darrell Steinberg established a 20-member taskforce to make recommendations relative to these issues.

According to the 2011 Los Angeles Times series, in 2010, "For autistic children 3 to 6, a critical period for treating the disorder, the state Department of Developmental Services last year spent an average of $11,723 per child on whites, compared with $11,063 on Asians, $7,634 on Latinos and $6,593 on blacks." The series also reported, "Last year, the system served 16,367 autistic children between the critical ages of 3 and 6, spending an average of $9,751 per case statewide. But spending ranged from an average of $1,991 per child at the regional center in South Los Angeles to $18,356 at the one in Orange County."

Numerous bills were introduced in response to these recommendations, including:

SB 367 (Block), Chapter 682, Statutes of 2013: requires regional centers to include issues related to cultural and linguistic competency in governing board training; improved posting of data on regional center websites; and improved DDS oversight.

SB 555 (Corea), Chapter 685, Statutes of 2013: requires regional centers to communicate and provide written materials in a consumer or a family's native language, as specified.

SB 1232 (V. Manuel Pérez), Chapter 679, Statutes of 2013: requires the existing DDS quality-assurance instrument to assess the provision of services in a linguistically and culturally competent manner, and include an outcome-based measure on issues of equality and diversity.

SB 1093 (Liu), Chapter 402, Statutes of 2014: requires the above discussed data be collected and reported by residence type and requires data posted for all previous years remain on DDS and regional center websites.

The DDS website provides links to each regional center's website, where local demographic, expenditure and utilization data is displayed. However, DDS does not provide similar data from a statewide perspective. Raw data collected through the Client Development and Evaluation Report **(**CDER) is provided on the DDS website however DDS provides no significant analysis of this data as it relates to disparities.

PANEL

Santi Rogers, Director, Department of Developmental Services
Sandra Smith, Council Member, State Council on Developmental Disabilities
Gloria Wong, Executive Director, Eastern Los Angeles Regional Center
Marty Omoto, Director/Founder, CDCAN California Disability-Senior Community Action Network
Catherine Blakemore, Disability Rights California

Questions for DDS:

- *Please describe how DDS uses data to evaluate trends in diversity and access to regional center services.*
- *How does DDS measure the delivery and outcomes of culturally-appropriate services by regional centers?*
- *Please describe how regional center performance contracts address diversity and access issues.*
- *Please describe the types of activities that DDS may require of a regional center to improve access for specific demographic groups.*
- *Please describe how DDS assists regional center in identifying and utilizing best practices in addressing diversity and access issues.*

Questions for SCDD:

- *Please describe your perspective on this issue.*

Questions for ARCA:

- *Please describe how ARCA is working to identify and address issues related to diversity and access.*

Questions for DRC:

- *Please describe the disparities in access to services that your organization has identified, based on the data that RCs provide. What recommendations would you make to improve our understanding of these disparities and how to best address the associated gaps in service access.*

ISSUE 10: EARLY START PROGRAM – OVERSIGHT ISSUE

Background and Previous Budget Actions

The Early Start Program was established in 1993, in response to federal legislation that intended to ensure that early intervention services to infants and toddlers with disabilities and their families are provided in a coordinated, family-centered system of services that are available statewide. Provided services are based on a child's assessed developmental needs and the family's concerns and priorities, as determined by each child's individualized family service plan (IFSP) team.

In 2009, the Legislature adopted significant changes to the Early Start Program in order to reduce expenditures by $41.5 million (GF). These changes included:

- Removing "at-risk" infants and toddlers under 24-months from eligibility.
- Requiring toddlers aged 24-months or older to have more significant delays across a larger number of domains in order to be eligible for services.
- Discontinuation of the provision of services that are not required by the federal government, with the exception of durable medical equipment. The services no longer provided are child care, diapers, dentistry, interpreters, translators, genetic counseling, music therapy, and respite services not related to the developmental delay of the infant or toddler.

As part of the changes to the Early Start Program, a prevention program was established for infants and toddlers who are "at risk" but no longer qualify for the Early Start Program. The prevention program provides safety net services (intake, assessment, case management, and referral to generic agencies) for eligible children from birth through 35 months. In 2011, DDS proposed, and the Legislature adopted, additional changes to the prevention program. Specifically, the required functions of the program were limited to information, resource, outreach and referral and the program was transferred from the regional centers to the Family Resource Centers, through a contract with DDS in the amount of $2.003 million (GF). This same amount is included in the Governor's budget for the 2015-16 fiscal year.

Last year, the Legislature provided an $8 million General Fund augmentation, and adopted trailer bill language, to restore eligibility for the Early Start Program to the level in place prior to the 2009 state budget, effective January 1, 2015. This was included in the final budget signed into law.

Governor's Budget

The Governor's budget projects the Early Start caseload, estimated as of January 31, 2015, to be 34,944 in the adjusted current year; and, estimates as of January 31, 2016, to be 36,313 in the budget year. This represents a growth of 1,369 or 3.92 percent in the budget year over the adjusted current year. The department estimates the caseload associated with the restoration of Early Start Program eligibility, that became effective on January 1, 2015, will increase to 3,554 in the budget year, or 42.16 percent, the first full year of implementation.

Federal Office of Special Education Programs Determination of Non-Compliance for California's Early Start Program

Each year, states are required to submit an annual performance report (APR) regarding their Early Start Program to the federal Office of Special Education Programs (OSEP). This report includes data on how the state performed in a number of compliance and outcome-based indicators. OSEP uses this data to make an annual determination of compliance for each state. When OSEP determines a state "Needs Intervention" for three or more years, one of five actions must be taken:

- Preparation of a corrective action plan if the correction can occur within one year.
- Require a compliance agreement if OSEP does not believe correction can occur within one year.
- Seek to recover funds.
- Withhold all or a portion of future payments.
- Refer for enforcement action, if appropriate.

For the past four fiscal years, California has received a "Needs Intervention" determination from OSEP. According to DDS, in the first three years of this status, the non-compliance issues revolved around insufficient data provided in the APR, and that this issue has been resolved. However, in the most recent OPR "Needs Intervention" determination issued in June of 2014 for the APR submitted for FY 2012-13, OSEP cited low performance in five out of 12 indicators, including:

- Timely provision of service.
- Timely resolution of complaints.
- Three indicators measuring compliance with requirements for children transition out of Early Start.

DDS has been required to submit correction action plans for the past two years. According to DDS, the APR submitted on February 2, 2015, shows improvement in some areas, with slight decreases in other areas. According to DDS, OSEP has indicated that beginning with the recently submitted APR, determinations will not only be based on performance related to compliance, but also will factor in outcome-based measures.

PANEL

Santi Rogers, Director, Department of Developmental Services
Rick Rollins, Legislative Advisor, Association of Regional Center Agencies
Kelly Young, Executive Director, WarmLine Family Resource Center
Marty Omoto, Director/Founder, CDCAN California Disability-Senior Community Action Network

Questions for DDS:

- *Please discuss what you know to date about the impact of the budget action last year, to restore eligibility, on regional center caseloads and services utilization.*

- *Please discuss the issues that led to the federal "needs intervention" status for this program, the current requirements on the state because of this status, when OSEP will issue its next determination, and what the ramifications may be for California if its status does not improve.*

Question for ARCA:

- *Please present the regional center perspective on this issue.*

Question for Kelly Young:

- *What role do family resource centers play in helping families access needed services and supports?*

ISSUE 11: PARENTAL FEES – OVERSIGHT ISSUE

Some parents are assessed a fee for services provided by the state, under the three programs described below.

Parental Fee Program

Established in the Lanterman Act in 1969 and subsequently amended in the late 1970's, parents with children under the age of 18 with developmental disabilities who live in out-of-home care are assessed a fee, based on their ability to pay. Parents with incomes at or below the federal poverty level (FPL) are not liable to pay the parental fee. Fees are scaled to gross annual family income, the number of persons dependent on the income, and the age of the child in placement.

Although there is no exemption policy, fees can be adjusted for major unusual expenses or if more than one child is in out-of-home placement.

Fees range from $0 to $1,877.

Fees collected up to the amount that would be assessed using the fee schedule in effect on June 30, 2009, are deposited into the Program Development Fund to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan. Fees collected using the schedule effective July 1, 2009, that are above the amount that would have been assessed using the fee schedule in effect on June 30, 2009, are deposited into the Program Development Fund and are available for expenditure by the department to offset general fund costs.

In 2013-14, there were 641 accounts assessed, 313 families who were assessed a fee, and 129 families who paid fees. DDS estimates for 2013-14, the annual administrative costs for this program were $572,000 ($247,000 GF; $325,000 program development fund (PDF).

The Family Cost Participation Program (FCPP)

Established in 2005, parents of children who receive three specific regional center services: day care, respite, and/or camping, are required to pay a share-of-cost for those services, if they meet the following criteria:

- The child has a developmental disability or is eligible for services under the California Early Intervention Services Act.
- The child is zero through 17 years of age.
- The child lives in the parents' home.
- The child is not eligible for Medi-Cal.

Legislation was passed in February 2008, to include consumers, age birth through 2, receiving respite, day care, and/or camping under the California Early Intervention Services Act (Early Start Program.

The family assessment is based on a sliding scale, using income and family size, and ranges from 10 percent to 100 percent of the cost of service. Families with a gross annual income below 400 percent of the federal poverty level are excluded from participation in this program. The regional centers pay

the provider up to their authorized cost, regardless of whether the family has paid their share-of-cost for the services. The provider must collect the family's share-of-cost directly.

Families may appeal the determination of their share-of-cost to the executive director of the regional center, based on financial hardship.

In 2013-14, it is estimated that 7,174 families were eligible and 3,128 families were assessed a share-of-cost. DDS estimates for 2013-14, the annual administrative costs for this program in DDS were minimal. The core staffing formula provides 24.22 positions to the regional centers, statewide, at a budgeted cost of $883,255, to administer this program.

Annual Family Program Fee (AFPF)

Established in 2011, parents whose adjusted gross family income is at or above 400 percent of the FPL, and who are receiving qualifying services through a regional center for their children ages 0-18, are assessed an Annual Family Program Fee (AFPF).

There is one AFPF assessed yearly, per family, regardless of the number of children in the household receiving services. Families who only receive assessment and case management services are not assessed a fee. Families receiving services through the Medi-Cal program are not assessed a fee. Families of children receiving only respite, day care, or camping services from the regional center and who are assessed a cost for participation under the Family Cost Participation Program (FCPP) are not assessed a fee.

Regional centers may grant an exemption to the assessment of an AFPF if the parents demonstrate that an exemption is necessary to maintain the child in the family home, or, the existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet care and supervision needs of the child. Additionally, an exemption may be granted in the instance of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family.

The annual fee is $150 or 200. Fees collected are deposited in the Program Development Fund.

In 2013-14, it is estimated that 13,881 children met this criteria and 13,644 families were assessed a fee, and 5,242 families paid a fee. DDS estimates for 2013-14, the annual administrative costs for this program was $212,000 GF.

The chart below estimates the revenue generated by these programs.

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Parental Fee	$1,302,431	$1,417,599	$1,420,059	$1,336,277	$1,221,746
Family Cost Participation	$6,169,872	$6,181,846	$4,088,440	$4,539,177	$4,842,235
Annual Family Program Fee	N/A	N/A	$486,850	$872,821	$966,140

State Auditor Report

In January of 2015, the California State Auditor released a report that found the process for assessing the fees under the Parental Fee Program is "woefully inefficient and inconsistent." Specifically, the auditor found:

- Assessments do not occur in a timely manner, resulting in delayed billing and lost revenue. The auditor estimates lost revenue related to these delays could range from $740,000 to $1.1 million annually.

- Regional centers do not provide required documentation about placements and parental notification letters, resulting in DDS inefficiencies.

- Assessments are applied inconsistently and initial fee assessments lack sufficient documentation to justify the assessment level, or the assessment was calculated incorrectly.

- Required annual redeterminations were not conducted in 61 percent of accounts reviewed.

- Because DDS considers different factors when conducting the initial assessment and when considering an appeal, the vast majority of appeals are granted. For example, initial assessments use a family's gross income; an appeal uses a net income.

- Appeal documentation contains numerous staff errors, no clear reasoning for adjustments, and inconsistencies that resulted in miscalculations.

- The process for collecting from families is ineffective; 733 accounts reviewed carried an unpaid balance totaling just under $7.5 million, which is five times higher than the revenue collected annually.

The auditor has made recommendations intended to improve accountability. DDS has accepted some of these, is reviewing statutory and regulatory authority relative to other recommendations, and has modified implementation of others. Notably, DDS does not agree to pursue a fiscal penalty for regional centers who do not provide DDS with the required monthly placement reports and copies of information letters sent to parents.

Association of Regional Center Agencies (ARCA) Recommendation

ARCA recommends that the Annual Family Fee Program be eliminated. They argue that the program is a barrier to services and that they have seen families declining or postponing services that their children need in response to the fee.

PANEL

Rashi Kesarwani, Legislative Analyst's Office
Eileen Richey, Executive Director, Association of Regional Center Agencies
Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance

Questions for LAO:

- *Please briefly describe the State Auditor findings regarding the Parental Fee Program.*

Questions for ARCA:

- *Please describe your experience with, and your recommendation for, the Annual Family Fee Program.*

- *Please discuss the impact on the regional center staff and operations budget to administer these three fee programs.*

Questions for DDS:

- *Please describe the actions you have taken, or will take, to comply with recommendations of the state auditor regarding the Parental Fee Program.*

- *What is the rationale for why regional centers have not provided the required placement and notifications of the parents' documents required in the Parental Fee Program and why is a fiscal penalty not appropriate?*

- *Has ARCA shared their concerns about how the Annual Family Fee Program may be resulting in the delay of needed services and what is your response to this concern?*

- *Might the same concerns apply to the Family Cost Participation Program?*

ISSUE 12: INSURANCE CO-PAYS AND DEDUCTIBLES – OVERSIGHT ISSUE

The 2013-14 state budget included trailer bill language to allow regional centers to make health insurance co-pays and co-insurance payments, on behalf of consumers and their families, for the services identified as necessary in an individual program plan (IPP), under defined circumstances. Specifically, these payments may be made when all of the following is met:

- It is necessary to ensure that the consumer receives the service or support.
- When health insurance covers the service in whole or part.
- When the consumer or family has income that does not exceed 400 percent of the federal poverty level (FPL).
- When there is no third party who is liable to pay the cost.

Under extraordinary circumstances, when needed to successfully maintain the child at home or adult consumer in the least-restrictive setting, regional centers may make these payments for individuals and families who exceed the income threshold. At the time of adoption of this policy, DDS estimated that roughly 50 percent of consumers or families have incomes below 400 percent of FPL.

The adopted trailer bill prohibited pay by regional centers of insurance deductibles (the amount the insured must spend on covered services before insurance benefits can be utilized). However, the Legislature removed this prohibition last year, through the adoption of trailer bill (SB 856 (Budget and Fiscal Review Committee), Chapter 30, Statutes of 2014).

The current year budget includes $9.9 million to cover the POS costs associated with this issue. Actual expenditures to date, are illustrated in the chart below, for all consumers and for consumers only utilizing behavioral health treatment (BHT), based on information provided by the department. The 2014-15 figures reflect services through January, 2015, but may not reflect the total amount that will be claimed for the budget year.

Year	Co-Pay/Co-insurance (all consumers)		Co-Pay/Co-Insurance (BHT only)		Deductibles (all consumers)		Deductibles (BHT only)	
	Claims	Consumers	Claims	Consumers	Claims	Consumers	Claims	Consumers
2013-14	$3,211,569	2,726	$2,776,610	1,899	N/A	N/A	N/A	N/A
2014-15	$838,238	1,453	$625,424	8	$4,424	5	$1,817	2

PANEL

Santi Rogers, Director, Department of Developmental Services
Lawana Welch, Department of Finance
Rick Rollins, Legislative Advisor, Association of Regional Center Agencies
Kristin Jacobson, Executive Director, Autism Deserves Equal Coverage Foundation

Questions for DDS:

- *Please discuss your analysis of the expenditure trend illustrated in the chart above, and how you think that trend may move in future years.*

- *What services, in addition to BHT, are most covered through this program?*

- *What POS savings can reasonable be associated with this program, based on cost avoidance for services that would otherwise be funded in full or part by the General Fund?*

Questions for ARCA:

- *Please describe your perspective and experience on this issue.*

Question for Kristin Jacobson:

- *Please describe your perspective and experience on this issue.*

ISSUE 13: BEHAVIORAL HEALTH TREATMENT – GOVERNOR'S PROPOSAL

SB 946 (Steinberg), Chapter 650, Statutes of 2011, requires insurers and health plans to provide coverage of behavioral health treatment (BHT) for persons with autism spectrum disorders, effective July 1, 2012. The budget assumed General Fund savings of $80 million, in both the 2012-13 and 2014-13 fiscal years. However, the department now assumes an annual savings of only $35.7 million General Fund, beginning in 2014-15. The Department of Finance has provided notice to the Joint Legislative Budget Committee of its intent to pursue funding for the current year deficiency in a supplemental deficiency bill. The amount will be updated at the May Revision.

SB 870 (Committee on Budget and Fiscal Review), Chapter 40, Statutes of 2014, directed BHT be provided under the Medi-Cal program for individuals under 21 years of age, to the extent it is required by federal law. Once implemented, the retroactive date of this new Medi-Cal service is July 1, 2014. The Governor's proposed 2015-16 budget assumes a $2 million decrease ($1 million GF) over the current year budget to reflect a reduction in POS expenditures for an estimated 292 new consumers who would receive BHT services through the DHCS as a Medi-Cal benefit.

On September 30, 2014, DHCS submitted a state plan amendment to CMS seeking approval for BHT to be added as a Medi-Cal benefit for individuals under the age of 21. It is estimated that 7,700 individuals currently receiving BHT services through a regional center may be eligible to receive these services under the proposed Medi-Cal benefit.

Consistent with DHCS' interim policy guidance, issued on September 15, 2014, all individuals receiving BHT services on September 14, 2014, through a regional center will continue to receive those services through the regional center until such time that DHCS and DDS develop a transition plan.

PANEL

Santi Rogers, Director, Department of Developmental ServiceLawana Welch, Department of Finance
Rick Rollins, Legislative Advisor, Association of Regional Center Agencies
Kristin Jacobson, Executive Director, Autism Deserves Equal Coverage Foundation

Questions for DDS:

- *Please describe your estimate methodology and whether you can reasonably project expenditure trends that are associated with these policy changes.*

- *Please provide a status update of the Medi-Cal transition plan, including strategies to ensure consumers and families do not "fall between the cracks" or see the quality and quantity of services reduced in the transition to private insurers or Medi-Cal.*

Questions for ARCA:

- *Please describe your perspective and experience on this issue.*

Question for Kristin Jacobson:

- *Please describe your perspective and experience on this issue.*

Staff recommendation: Leave open pending May Revision.