

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 2 ON EDUCATION FINANCE

May Revise: Part 1 (K-12 Education)

Assemblymember S. Joseph Simitian, Chair

WEDNESDAY, MAY 19, 2004

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ITEMS TO BE HEARD

6110 DEPARTMENT OF EDUCATION

ISSUE 1: LEA MEDICAL BILLING OPTION

The issue for the subcommittee to consider is information provided by DHS regarding the fiscal effect of the proposed changes to what school districts can claim under the LEA Medical billing option.

BACKGROUND:

According to the administration, the rate increase being proposed for services provided by LEAs would result in \$15.6 million in additional federal Medicaid funds in 2004-05. However, potential federal disallowances for various services would result in a reduction in federal funds ranging from \$28.6 million to \$46.1 million, based on an analysis of 2002-03 data. The 2004 May Revision includes \$120 million in federal funds for services provided by LEAs. The increased funding for the rate increase and the decreased funding for the potential disallowance is not reflected in the May Revision, as federal approval is not expected until the end of 2004-05

Attachment A contains a summary of the impending changes and their fiscal effects.

ISSUE 2: SPECIAL EDUCATION -- PROPOSITION 98 AND FEDERAL FUNDS

The issues for the subcommittee to consider are a major May Revise proposal regarding new federal special education funding, as well as various open issues related to special education

BACKGROUND:

1) May Revise proposal regarding new federal funds -- The Governor's May Revise proposes to spend approximately \$65 million in additional federal funds for two issues that were heard by the subcommittee at an earlier hearing:

- \$38.4 million to reform the funding formula for **Non Public School/Licensed Care Institutions** for special education children who are also foster children. There is pending legislation (SB 1510 (Alpert) to reform the formula to eliminate incentives for special education children in foster care to be referred to non-public schools. The proposed reform is a result of years of study. The proposed amount would not fully fund the proposed reforms to the formula, but would fund a substantial beginning. The administration proposes this augmentation pursuant to legislation to implement the new formula. The May Revise makes a corresponding change to budget bill language to delete a reference to funding that would no longer be needed under the revised formula.
- \$31 million for counties to provide **mental health services** to special education students -- This proposal would be in addition to the existing \$69 million provided last year to counties to help them cover the costs of providing mental health services to special education students, which they are required to provide pursuant to (AB 3632 (W. Brown), Statutes of 1984. Last year the Legislature provided \$69 million in federal special education funds to counties to help cover their costs. This year, Senator Burton has introduced SB 1895 regarding potential policy changes to how mental health services are provided to special education students and related funding issues. The administration proposes this augmentation pursuant to legislation.

2) Other options for federal funds -- Members of the subcommittee have expressed support for using federal funds for the following priorities:

- **Students Placed in Long-Term Health Care Facilities.** Last year the Legislature extended the LCI/NPS formula to cover the cost of providing assessment, identification, and special education instruction to students placed in long-term health care facilities to receive skilled nursing services, Chapter 584, Statutes of 2003 (AB 1649 Simitian). The intent of this legislation was to provide for a fair and equitable distribution of special education costs to ensure that any given school district is not unduly impacted or penalized for having a skilled nursing facility that serves children located within its district boundaries.
- **Family empowerment centers** --The Governor's budget provides \$2.3 million in federal special education funds to support 12 family empowerment centers across the state, serving families of special education students. The centers were created in 2001 pursuant to SB 511, Chapter 690, Statutes of 2001. The California Association of Family Empowerment Centers argues that the originating legislation contained a goal of creating 32 centers statewide, and that the new federal funding could be used to further this goal. It argues that it could create 4 more centers with \$700,000. It has also requested that the Legislature consider swapping \$50,000 of its existing federal funds for \$50,000 in state funds, to allow them to provide a broader range of services.

- **Pass on federal funds to school districts** -- As an alternative to earmarking the new federal funds for specific purposes, the Legislature could pass on the increased federal funds to school districts, who would use them to serve special education students.
- 3) Outstanding April DOF letter -- In an April DOF letter, the administration proposed \$180,000 for CDE to contract with an outside entity for the evaluation of 12 Family Empowerment Centers on Disabilities. The subcommittee has not acted on this item.

It is requested that Provision (X) be added to this item to conform to this action:

(X) Of the funds appropriated in this item, \$180,000 is available for the contract with an outside entity to evaluate 12 Family Empowerment Centers on Disabilities pursuant to Chapter 690, Statutes of 2001.

- 4) **State special schools** -- Assemblymember Goldberg has expressed concern about the ability of two state special schools to retain qualified teachers, due to salaries that are lower than those in surrounding areas. The subcommittee could use either federal funds or Proposition 98 funds to address this problem. If the subcommittee wishes to provide funding for this issue, staff recommends adding \$4 million and the following language:

Funds appropriated in this item are to ensure that the salaries of schoolteachers, specialists, and administrators of the California Schools for the Deaf and the California School for the Blind are comparable, on an ongoing basis, with similarly qualified schoolteachers, specialists, and administrators who are employed by the encompassing school districts.

COMMENTS:

LAO alternative on federal special education funds. The LAO has an alternative proposal to help counties provide mental health services to special education students. The proposal involves providing counties with \$100 million in General Fund revenue for a categorical program to provide mental health services to special education students and then providing an increase of \$100 million in federal special education funds to school districts to serve special education students. The LAO argues that the proposal would provide counties with more flexibility than they currently experience for serving these children, and would also provide school districts with more special education funds. The LAO will be available to present their proposal at today's hearing.

ISSUE 3: FEDERAL TITLE I FUNDS AND STATE ACCOUNTABILITY PROGRAMS

The issues for the subcommittee involve 1) May Revise proposals to spend federal accountability funds, 2) open April DOF issues and 3) a problem related to small schools that receive High Priority Schools Grants.

BACKGROUND:

- 1) **May Revise proposal regarding Title I funds set-aside funds** -- The Governor's May Revise proposes to spend \$68 million in Title I funds pursuant to legislation to establish a system for school improvement and state intervention in program improvement schools that fail to make adequate progress toward state improvement goals. The Legislature is already considering AB 2066 (Steinberg) to establish such a system. Of this amount, \$28.2 million is carryover that must be spent by September 30, 2005 or it will revert to the federal government. The May Revise also proposes a \$2.5 million increase to the Statewide System of School Support to ensure that federal funds do not expire by September 30, 2004. It also proposes the following corresponding language changes in the Title I item:

~~1. In administering the accountability system required by this item, the State Department of Education shall align the forms, processes, and procedures required of local educational agencies in a manner that they may be utilized for the purposes of implementing the Public School Accountability Act, as established by Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code, so that duplication of effort is minimized at the local level.~~

X. Of the funds appropriated in Schedule (3) of this item, \$67,996,000 shall be available pursuant to legislation regarding Title I district accountability. Of this amount, \$30,687,000 are carryover funds from the 2003-04 fiscal year.

- 2) **May Revise proposal regarding unspent federal accountability/ school reform funds** -- The May Revise proposes \$32.7 million in unspent federal Comprehensive School Reform Program carryover funds from the 2003-04 fiscal year. It proposes the following corresponding language as well:

~~1. Funds appropriated in Schedule (1) are provided for the purpose of funding Title I schools identified as being in need of improvement or corrective action (required priority for subgrants under Part F of Title I of the ESEA) and Of the funds appropriated in Schedule (1) of this item, \$28,800,000 is available to provide implementation grants for federally funded schools currently participating in the Immediate Intervention/Underperforming Schools Program or the High Priority Schools Grant Program."~~

X. Of the funds appropriated in Schedule (1) of this item, \$43,644,000 shall be available pursuant to legislation regarding the Comprehensive School Reform Program.

X. Of the funds appropriated in Schedule (1) of this item, \$32,928,000 are carryover funds from the 2003-04 fiscal year.

- 3) **Open April DOF letter issue regarding Title I carryover** -- In an April letter, DOF proposes to appropriate \$132.7 million in unused Title carryover funds. According to the CDE, these carryover funds are available because local education agencies did not fully spend their original allocations. The federal government allows up to 15 percent of the grant to be carried into the next fiscal year. The CDE is requesting 3 percent to be carried over. The funds primarily go out as formula apportionments. He proposes to distribute it as follows:
- \$10,730,000 to reflect \$10,700,000 of carryover (one-time) and \$30,000 from a federal grant increase to Even Start. SDE will use the funds to expand existing literacy service projects.
 - \$52,082,000 to reflect \$8,980,000 of carryover (one-time) and \$43,102,000 from a federal grant increase to Title I Basic.
 - \$69,921,000 to reflect \$31,381,000 of carryover (one-time) and \$38,540,000 from a federal grant increase to Title I School Support.

It is requested that Schedule (2) of this item be increased by \$1,996,000, to reflect \$1,229,000 in one-time carryover funds and \$767,000 from a federal grant increase to McKinney-Vento Homeless Children Education. The CDE will use the funds on a competitive basis to provide grants for homeless child education. The program allows students who become homeless to continue attending the same school by providing a district liaison or transportation when necessary. In addition, the letter proposes the following changes to budget bill language.

“(1) 10.30.060-Title I-ESEA . . . ~~1,695,361,000~~ 1,828,094,000
 (2) 10.30.065-McKinney-Vento Homeless Children Education . . . ~~7,330,000~~ 9,326,000”

X. Of the funds appropriated in Schedule (1), \$10,700,000 for Even Start, \$31,381,000 for Title I School Support, and \$8,980,000 for Title I Basic, are carryover funds provided on a one-time basis.

X. Of the funds appropriated in Schedule (2), \$1,229,000 in carryover funding for McKinney-Vento Homeless Children Education is provided on a one-time basis.

- 4) **Open April DOF letter issue regarding state operations** -- There is an open April DOF letter issue to provide CDE with \$93,000 in federal funds to pay for one Education Research and Evaluation Consultant position to process and monitor statewide assessment data for determining Adequate Yearly Progress and identifying Program Improvement schools.
- 5) **HP issue** -- As a condition of receiving High Priority Grants, low-performing schools must develop a plan to reform their delivery of instruction and eventually improve student performance. In the past few years, at least one high school receiving a High Priority grant decided to convert into smaller autonomous high schools as a reform strategy. However, the school received a fiscal penalty for this reform strategy because its High Priority grant was reduced so that it received funding only for the smaller number of students at the school with the original name that applied for the grant.

COMMENTS:

Expiring Title I funds. At a prior hearing, the subcommittee heard about the need for the state to spend Title I set-aside funds soon or risk that these funds expire.

ISSUE 4: FEDERAL TITLE VI FUNDS AND STATE TESTING AND DATA COLLECTION PROGRAMS (INCLUDING CSIS)

The issues for the subcommittee are various augmentations in Title VI federal testing funding, plus an outstanding April DOF issue.

BACKGROUND:

1) **April DOF and May Revise Title VI proposals for state testing systems.** The April DOF and May Revise letter propose the following augmentations in Title VI funding for the state's testing programs. These augmentations are also displayed in Attachment B, which summarizes the uses proposed for Title VI funding in 2004-05.

- \$450,000 for STAR pre-test workshops (April DOF letter)
- \$535,000 for STAR item development (April DOF letter)
- \$563,000 for the contract for the California English Learner Development Test (April DOF letter)
- \$2,493,000 for CELDT apportionments (April DOF letter)
- \$200,000 for assessment review and reporting (May Revise)

Attachment C summarizes last year's uses for Title VI funding, and attachment D specifies how DOF and CDE agreed to spend last year's Title VI \$12 million set-aside.

2) **Title VI proposals for CSIS.** In an April DOF letter the administration proposes to use Title VI funding for the first time for the California School Information System, which is a voluntary network designed to help schools transfer reports electronically to the state and transfer student records from district to district. For CSIS, the April DOF letter proposes

- \$299,000 for CSIS administration and
- \$1,947,000 for CSIS to expand to more schools.

3. **Delay in CSIS' implementation of longitudinal database system.** The state's longitudinal database will eventually track student progress over time, but is in its development stages. CSIS is charged with providing individual student identifiers for all students in the state. CSIS is behind schedule in issuing identifiers, and will not be able to issue the anticipated number of identifiers in 2003-04. The May Revise proposes language and authority for it to carryover \$721,000 in unused funds to complete all remaining identifiers during 2004-05. LAO notes that even if CSIS catches up and completes its scheduled work by the end of 2004-05, the identifiers won't be available for the spring 2005 test administration.

4) **LAO proposal to avoid expiration of Title VI funds** -- At a former hearing the subcommittee heard a proposal by the LAO to avoid the potential expiration of Title VI funds if they go unused by September 30, 2005. The proposal would switch Proposition 98 and Title VI funds that are used for different purposes related to the California English Language Development Test so that Title VI funds would be spent quicker. This change would spend Proposition 98 money on apportionments and Title VI money on the contract, rather than the other way around. The idea is to spend the federal dollars on programs where the funds go out sooner to avoid reversion of federal funds. CDE proposes the following language changes to accomplish this fix:

6110-113-0001—
 Schedule:
 (4) 20.70.030.007-English Language
 Development Assessment 11,437,000

Provisions:
 3. The funds appropriated in Schedule (4) shall be available for approved contract costs and apportionment costs for administration of an English language development test meeting the requirements of Chapter 7 (commencing with Section 60810) of Part 33 of the Education Code. A total of \$9,593,000 is provided as incentive funding of \$5 per pupil for district apportionments for the English Language Development Test. As a condition of receiving these funds, school districts must agree to provide information determined to be necessary to comply with the data collection and reporting requirements of the No Child Left Behind Act of 2001 (P.L. 107-110) regarding English language learners by the State Department of Education with approval by the State Board of Education.

6110-113-0890—
 Schedule:
 (5) 20.70.030.018-~~Incentive Funding~~—
CELDT English Language Development Assessment
7,100,00010,156,000 [Note: change proposed in April letter]

Provisions:

~~5. The funds appropriated in Schedule (5) shall be available for approved contract costs for administration of an English language development test meeting the requirements of Chapter 7 (commencing with Section 60810) of Part 33 of the Education Code. Funds appropriated in Schedule (5) are provided as incentive funding of \$5 per pupil for district apportionments for the English Language Development Test. As a condition of receiving these funds, school districts must agree to provide information determined to be necessary to comply with the data collection and reporting requirements of the No Child Left Behind Act of 2001 (P.L. 107-110) regarding English language learners by the State Department of Education with approval by the State Board of Education.~~

~~X. [Note: proposed to be added in April letter] Of the funds appropriated in Schedule (5) of this item, \$563,000 shall be available for approved contract costs for administration of an English language development test meeting the requirements of Chapter 7 (commencing with Section 60810) of Part 33 of the Education Code.~~

- 5) **Primary Language Test** --Last year's budget contained \$3 million in Title VI funding for the development of a standards-aligned primary language test to replace the SABE II, which is the primary language test that is currently used but problematic because it is not aligned to the state standards. Unfortunately, the funding was pursuant to legislation, but no legislation was approved to allow the use of the funds. Staff recommends reappropriating \$3 million in Title VI funds for the same purpose to allow the project to move forward.
- 6) **Proposal for parental document translation.** Advocates for non-English speaking parents are proposing that the subcommittee set aside \$1 million for CDE to develop a system to centralize the translation of critical state-mandated information for parents and develop an Internet-based system to disseminate and share translated materials across the state. The proposal would include \$600,000 for translation of existing materials that are given to districts to give to parents, \$100,000 for a position to manage the new system, and \$300,000 for an Internet-based translated information and clearinghouse site for districts to share information. It is expected that this proposal would save districts money because it would eliminate the need for districts to duplicate translation of the same or similar documents.
- 7) **May Revise and April DOF augmentations for the CA High School Proficiency Exam --** An April DOF letter proposes a \$127,000 Proposition 98 increase for this exam, and the May Revise proposes a \$143,000 increase on top of that. The increases are to allow an additional 3,170 students to take the test.

COMMENTS:

LAO issues: The LAO expresses concerns that the administration's proposals on federal Title VI funds spends one-time funding on ongoing testing expenses, leading to Proposition 98 obligations in the future. It also recommends that the subcommittee appropriate \$1.4 million for a K-1 English learner test of pre-reading skills because it is required by NCLB.

ISSUE 5: OPEN APRIL DOF ISSUE -- FEDERAL MIGRANT EDUCATION UNUSED FUNDS
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The issue for the subcommittee to consider is an open April DOF issue to spend unused federal migrant education funds.

BACKGROUND:

In an April 1 letter, DOF proposes the following amendment to the January 10 budget:

6110-125-0890, Language Acquisition and Migrant Education (Issues 006 and 009)

It is requested that Schedule (1) of this item be increased by \$9,601,000 to reflect one-time carryover funds that is available for grants to the 22 Migrant Education regions. The proposed adjustment includes a one-time increase of \$10,200,000 from carryover, and a decrease in the federal grant of \$599,000. The carryover funds are available due to a one-time technical State and federal budget alignment and the liquidation of prior year encumbrances. The CDE would distribute \$6.2 million according to the current state funding formula that designates 75 percent for all eligible students, and targets 25 percent to students most at-risk of failing to meet academic achievement standards. The CDE would allocate the remaining \$4.0 million as grants to the 22 Migrant Education regions to promote parental involvement and leadership, a key focus under federal Migrant Education program guidelines.

The \$4.0 million for grants includes \$2.0 million previously proposed by the Administration in a letter to the Joint Legislative Budget Committee dated February 23, 2004, for use in 2003-04 for the same purpose. However, CDE subsequently reported that local agencies could not reasonably spend the requested funds effectively by the end of the current fiscal year. Accordingly, we are hereby rescinding our previously proposed use of the \$2.0 million in 2003-04. The Administration's revised proposal would give local agencies the ability to determine which local agencies would provide parental involvement services, and allow more time to plan and spend the entire \$4.0 million most effectively in 2004-05.

It is requested that Schedule (3) of this item be increased by \$22,916,000 to reflect federal grant increases (\$22,638,000) and one-time carryover (\$278,000) for educating limited English proficient and immigrant students. CDE will allocate these funds on a formula basis.

It is requested that Schedules (1) and (3) of this item be amended as follows to conform to these actions:

“(1) 10.30.010-Title I, Migrant Education . . . ~~426,077,000~~ 135,678,000”

“(3) 20.10.004-Title III, Language Acquisition . . . ~~432,793,000~~ 155,709,000”

It is further requested that the following provisional language be added to Item 6110-125-0890:

X. Of the funds appropriated in Schedule (1), \$10,200,000 in carryover funding for Migrant Education is provided on a one-time basis and shall be used for grants to the 22 Migrant Education regions. CDE shall allocate \$6,200,000 under the current state funding formula to promote academic achievement, and \$4,000,000 equitably to all 22 regions to promote parent involvement and leadership activities. Local education agencies shall decide which local entities can most effectively perform parental involvement services.

X. Of the funds appropriated in Schedule (3), \$278,000 in carryover funding for Title III, Language Acquisition is provided on a one-time basis.

COMMENTS:

The \$10 million in carryover referenced above is approximately 8% of the amount proposed in the budget for this item.

ISSUE 6: OPEN APRIL DOF ISSUE REGARDING DONATED FOOD

The issue for the subcommittee to consider is an April DOF issue regarding the donated food revolving fund.

BACKGROUND:

In an April DOF letter, the administration proposes an increase of \$400,000 in expenditure authority for CDE to purchase additional equipment to handle the higher volumes and to replace aging equipment. Voluntary fees paid by local agencies (per unit of food) reimburse CDE for the costs of receiving, storing, handling, and distributing food items donated by the federal government to the local agencies. Higher volumes of food distribution and the collection of previously delinquent fees are available to support the proposed expenditures without increasing fees.

COMMENTS:

No one has raised issues with this item.

ISSUE 7: OPEN ISSUES -- CATEGORICAL REFORM

The issue for the subcommittee to consider is the Governor's categorical reform proposal and the need to align the budget with the subcommittee's position on the proposal.

BACKGROUND:

The Governor's May Revise makes no changes to the January 10 categorical reform proposal. There is a control section, control section 12.70, that contains language to align the budget bill with the proposal.

COMMENTS:

Staff notes that if the subcommittee rejects the Governor's proposed categorical reform proposal it will have to a) delete control section 12.70 and b) reinstate the charter school categorical block grant.

ISSUE 8: OPEN ISSUES -- CATEGORICAL FLEXIBILITY AND CONTROL SECTION 12.40
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The issue for the subcommittee to consider is the mega-item control section to allow funding transfers between categorical programs and a related April DOF letter technical issue.

BACKGROUND:

1) Mega-item flexibility -- The Governor proposes to continue the former mega-item flexibility provided last year to a long list of categorical programs, except that he excludes 10 programs that are included in his categorical reform proposal, and leaves the flexibility for the remaining nine programs. The Governor proposes this flexibility in control section 12.40. The proposed flexibility is the same as that provided in last year's budget, and allows school districts to transfer funding up to certain percentages between programs, in order to supplement programs that it feels are underfunded by the state. Specifically, the proposed control section, like last year, allows school districts to transfer funding from one program to another, as long as

- The amount transferred from any one program does not exceed 10% of that program's original funding level and
- The amount transferred to any one program does not exceed 15% of the receiving program's original funding level.

Districts can only transfer funding between programs listed in the proposed control section. These programs are listed below. The funding proposed for these programs is unchanged from last year's budget, with the exception of the Early Intervention for School Success program.

Foster Youth Programs	\$ 8.8 million
Gifted and Talented Education (GATE)	\$ 46.5 million
Opportunity Programs	\$ 2.6 million
Economic Impact Aid	\$547.7 million
American Indian Education	\$ 4.3 million
Early Intervention for School Success	\$ 0
Agricultural Vocational Education	\$ 4.3 million
Education Technology – CTAP	\$ 14.8 million
Child Nutrition Programs	\$ 78.2 million

2) April DOF letter issue -- In an April DOF letter, the administration proposes a technical change to control section 12.40. Currently, the section requires local educational agencies to submit data to CDE by October 8, 2005, on how funds are being shifted between programs at the local level, as allowed. The CDE proposes changing the reporting date to October 15, 2005, which conforms to the date that the enabling year-end fiscal data is due from local education agencies.

It is requested that subdivision (c) of Control Section 12.40 be amended as follows to conform to this action:

“(c) As a condition of receiving the funds provided for the programs identified in subdivision (b), local education agencies shall report to the State Department of Education by ~~October 8, 2005~~ October 15, 2005, on any amounts shifted between these programs pursuant to the flexibility provided in subdivision (a). The Department of Education shall collect and provide this information to the Joint Legislative Budget Committee, chairs and vice chairs of the fiscal committees for education of the Legislature and the Department of Finance, by February 1, 2006.”

ISSUE 9: CHARTER SCHOOLS -- MAY REVISE ADJUSTMENTS

The issue for the subcommittee to consider is a May Revise technical adjustment for charter schools.

BACKGROUND:

The Governor's May Revise proposes the following technical adjustment related to charter schools -- 6110-128-0001, 6110-601-0001, Local Assistance, Economic Impact Aid, School District Apportionments (Continuous Appropriation, Education Code Section 42238), Funding Adjustments for Charter Schools (Issues 074, 076):

It is requested that schedule (3) of Item 6110-128-0001 be reduced by \$2,848,000 to reflect lower estimates of eligible charter school ADA for Economic Impact Aid. Also, it is noted that non-Budget Act Item 6110-601-0001 is adjusted downward by \$6,250,000 to reflect a revised estimate of the cost of shifting the Charter School Categorical Block Grant into revenue limits, due primarily to lower estimates of charter school ADA.

COMMENTS:

CDE and LAO may have additional charter school issues to bring up in today's hearing.

ISSUE 10: OPEN ISSUES -- CONTROL SECTION 24.60 REGARDING LOTTERY FUNDS

The issue for the subcommittee to consider is an April DOF letter to change control section 24.60 regarding the collection of information on how lottery funds are spent.

BACKGROUND:

The administration proposed changes to the control section to collect data on how entities spend lottery funds. It proposed the changes based on the fact that beginning in 2003-04, all school districts, county offices of education and joint powers agencies are reporting in the SACS format and CDE is therefore able to report statewide lottery expenditures, except for charter schools, without sampling expenditures from a few local educational agencies. DOF has agreed to alter its original language over staff concerns that the original language created a state mandate. DOF has modified its language as follows:

~~SEC. 24.60. (a) From the funds appropriated in Items 4300-003-0814, 4440-011-0814, 5460-001-0831, 6110-006-0814, 6110-101-0814, 6440-001-0814, 6600-001-0814, and 6870-101-0814 of this act, the State Department of Developmental Services, the State Department of Mental Health, the Department of the Youth Authority, the State Special Schools, the Regents of the University of California, the Board of Directors of Hastings College of the Law, the Board of Trustees of the California State University, and community college districts through the Chancellor of the California Community Colleges~~
Each entity receiving lottery funds shall annually report to the Governor and the Legislature no later than January 15, 2006 on or before May 15, the amount of lottery funds that each entity received and the purposes for which those funds were expended in the 2004-05 prior fiscal year, including administrative costs, and proposed expenditures and purposes for expenditure for the 2005-06 next fiscal year. If applicable, the amount of lottery funds received on the basis of adult education average daily attendance (ADA) and the amount of lottery funds expended for adult education also shall be reported.
~~(b) The State Department of Education shall determine the patterns of use of lottery funds in all local educational agencies having more than 200,000 ADA and representative local educational agencies randomly selected by size, range, type, and geographical dispersion. On or before May 15, 2005, the State Department of Education shall report this information to the Legislature and the Governor for the 2003-04 fiscal year.~~

Proposed change to address mandate concerns in the original language

Each entity receiving lottery funds shall annually report to the Governor and the Legislature on or before May 15, the amount of lottery funds that each entity received and the purposes for which those funds were expended in the prior fiscal year, including administrative costs. The State Department of Education shall report on behalf of K-12 entities. If applicable, the amount of lottery funds received on the basis of adult education average daily attendance (ADA) and the amount of lottery funds expended for adult education also shall be reported.

**ISSUE 11: OPEN ISSUES -- MISCELLANEOUS NON-PROPOSITION 98
ADJUSTMENTS: REVERTED PDI FUNDING AND NUTRITION SETTLEMENT**

The following two May Revise issues were heard at the May 17 hearing and held open.

BACKGROUND:

- 1) **Savings from unused 2001-02 Professional Development Institute funding.** (Issue 179) The Governor's May Revise proposed to revert \$35 million in unused funding from the Professional Development Institute, which were housed in UC and provided standards-aligned professional development but are no longer funded. This funding was appropriated in the 2001 Budget Act to pay for teacher stipends to attend the institutes. The proposed savings is available for other non-Proposition 98 uses in other areas of the budget.
- 2) **Provide expenditure authority for consumer lawsuit settlement funding regarding nutrition.** (Issue 707) The Governor's May Revise proposes to increase reimbursement authority for the child nutrition program by \$2 million, to allow for the expenditure of a grant award from the Vitamin Case Consumer Settlement Fund. The funding is expected to be provided to school districts to improve school nutrition services. DOF and CDE indicate that the criteria for the distribution of the funds will be determined by the settlement and the Attorney General's office. The Governor's May Revise also proposes the following accompanying provisional language:

XX. Of the funds appropriated in this item, \$2 million shall be available for grants to local education agencies to improve school nutrition service. Funding for these grants shall be contingent on an award from the Vitamin Cases Consumer Settlement Fund for this purpose. Funding for these grants shall not exceed the amount of the award.

ISSUE 12: OPEN ISSUES -- CDE STATE OPERATIONS, MAY REVISE PROPOSALS

The following two issues were heard at the May 17 hearing and held open.

BACKGROUND:

- 1) **Reduction of one visiting educator to the Visual and Performing Arts program.** The May Revise proposes a \$84,000 reduction to CDE to eliminate funding for one visiting educator in the Visual and Performing Arts program -- in his January budget, the Governor proposed to eliminate funding for this program. CDE indicates that the proposed state operations reduction would still leave one position to administer the program, if the subcommittee chooses to restore funding for the program.
- 2) **Suspend state report for reporting physical fitness test results.** The May Revise proposes to decrease CDE's state operations budget by \$50,000 to suspend the state reporting requirement on physical fitness testing. The May Revise letter states that testing results would still be available locally. It also proposed corresponding budget bill language as follows:

XX. Notwithstanding Section 60800 of the Education Code, or any other provision of law, the state reporting requirement on physical fitness testing is suspended.

COMMENTS:

Senator Torlakson's office proposes the following compromise language for #2 above:

The report required by Education Code section 60800 is not required to be printed and mailed, but shall be compiled and reported electronically.

ISSUE 13: OPEN ISSUE -- MAY REVISE PROPOSAL TO REDUCE TECHNICAL ASSISTANCE FOR AVID

The subcommittee heard this issue at its May 17 hearing and held the issue open.

BACKGROUND:

The Governor's May Revise proposes to reduce teacher training funding for the Advancement Via Individual Determination (AVID) program by \$1.3 million, out of a total of \$3 million for teacher training. This proposal would leave \$6 million for program development grants and \$1.7 million for teacher training and technical assistance. DOF states that it believes that the proposed cut would not adversely affect the program because the same districts receive the grants every year and do not need to train their teachers annually.

AVID is a program that aims to improve the college readiness and attendance rates of disadvantaged students, through counseling and academic support.

COMMENTS:

CDE opposed. CDE states that it is opposed to this cut. In addition, AVID advocates oppose this proposed reduction, arguing that teacher training is central to the success of AVID, and that teacher turnover is high in participating schools.

ISSUE 14: OPEN ISSUE -- MAY REVISE PROPOSAL FOR INTERNET2 PROGRAM LANGUAGE

The subcommittee heard this issue at its May 17 hearing and held it open.

BACKGROUND:

The Governor's May Revise proposes to add the following budget bill language to a new item proposed this year that provides \$21 million to county offices of education for Internet 2 access. The language: 1) provides the funding to a lead county office to provide high speed Internet access to local education agencies, 2) specifies what the funding is for and 3) establishes a governance structure that includes members appointed by the California County Superintendents Educational Services Association and the Association of California School Administrators.

X. The funds appropriated in this item shall be allocated by the Controller directly to a lead county office of education selected on a competitive basis by the California Department of Education pursuant to Provision 4, to cover the costs of providing high speed Internet connectivity and network infrastructure for local educational agencies (LEAs). Any remaining funds may be used to connect additional school facilities to the network.

X. (a) The California Department of Education shall convene a 24-member governing board consisting of one representative chosen by the California County Superintendents Educational Services Association from each of the 11 county service regions designated by the association, 11 superintendents of school districts chosen by the Association of California School Administrators from each of the 11 county service regions, one non-voting representative from the Office of the Secretary for Education, and one non-voting member from the State Department of Education as chosen by the Superintendent of Public Instruction. This governing board shall oversee the allocation of funding provided in this item, and shall allocate funds provided pursuant to this item in the following order:

(1) First priority shall be given to maintaining statewide high speed Internet connectivity and network infrastructure for use by K-12 LEAs in each of the 58 counties in California.

(2) Second priority shall be given to ensuring that all California public schools and school district offices are connected at a speed of T-1 or greater into the nearest local access point for statewide high speed Internet connectivity. To be eligible for funding pursuant to this subdivision, the public school district must: (i) have signed a Letter of Agency in the fall of the proceeding fiscal year, and (ii) be part of the statewide E-Rate consortium by meeting all federal criteria.

(3) Third priority shall be given to innovative projects that will support and benefit network users on a statewide basis.

X. Applicant LEAs can apply for connectivity funding to their central office and/or to any of their eligible school sites. Each site applied for will count as one entity. Fund recipients will be chosen by the governing board through a random selection process that draws from amongst all eligible entities. Prior to the award of funds, applicants must certify that they have in place sufficient network equipment, end user devices, and support to make use of a T-1 or faster connection to the high speed Internet.

X. On or before September 1, 2004, the California Department of Education shall issue a request for proposals and select a county superintendent of schools to serve as the lead fiscal agent for funds provided in this item. The lead fiscal agent shall have the authority to enter into contracts on behalf of all counties in California in accordance with direction received from the governing board specified in Provision 2. The lead fiscal agent shall provide technical assistance on the use of federal E-Rate and California Teleconnect Fund Administrative Committee Fund funding to assist LEAs with high speed Internet connectivity.

X. The governing board, with assistance from the lead fiscal agent, shall provide the Superintendent of Public Instruction and the Department of Finance with fiscal and administrative information relating to high speed Internet connectivity and the network infrastructure upon request. In addition, the governing board shall provide all county superintendents of schools, the Superintendent of Public Instruction, the Department of Finance, the Legislative Analyst's Office, and the fiscal committees of the Legislature that consider the education budget with a report by April 1 of each year that describes the use of funds provided pursuant to this section and the benefits derived by county offices of education, districts, and schools.

COMMENTS:

LAO recommendation. The LAO recommends deletion of the \$21 million, pending the receipt of information that demonstrates the project's benefit to district instruction. There also appears to be no long-term expenditure plan for this project.

ISSUE 15: OPEN ISSUES -- EFFECT OF LOCAL GOVERNMENT PROPOSAL ON PROPOSITION 98

The subcommittee heard this issue at its May 18 hearing and held the item open.

BACKGROUND:

Change in the "make-up" of Proposition 98 funds. The Governor's May Revise includes a major local government proposal that includes a restructuring of the way property taxes are distributed through the state budget, such that local governments are allowed to "keep" a larger share of local property tax revenues. The effect of this proposal on the Proposition 98 guarantee appears to be a change in the composition of funds that make up Proposition 98. Namely, there is an increase in the proportion of the guarantee that is made up of General Fund and a decrease in the amount that is made up of property tax revenues. The Governor's May Revise includes a reduction of \$3.5 billion in property tax revenues going to Proposition 98 for K-12 school districts and county offices of education. This reduction is backfilled by an increase in General Fund revenues for the same purpose.

Effect on basic aid districts? Basic aid districts are districts' whose revenue limit apportionments are funded entirely with local property taxes. Given that the Governor's local government proposal shifts the distribution of local property tax revenues, it is unclear what the effect of this proposal will be on basic aid districts.

COMMENTS:

The subcommittee requested information on the effect of the local government proposal on basic aid districts.

ISSUE 16: OPEN ISSUES -- MISCELLANEOUS MAY REVISE PROPOSITION 98 ADJUSTMENTS

The subcommittee heard these issues at its May 18 hearing and held them open.

BACKGROUND:

The Governor's May Revise proposes the following miscellaneous Proposition 98 adjustments:

1) Adjustment for community day schools, (Issue 334) The Governor's May Revise proposes a cost-neutral switch of funding between the line item for this program and the apportionments that go to these programs, by augmenting item 6110-190-0001 by \$12,079,000, and decreasing the apportionments by the same amount. The administration proposes the change to allow the allocation of funding for mandatorily and non-mandatorily expelled community day school students to reflect current utilization. The administration also proposes trailer bill language to allow for this transfer for 2003-04 only.

2) Adjustment for Beginning Teacher Support and Assessment Program (Issue 191)

The Governor's May Revise proposes to decrease this item by \$6,886,000 to reflect an adjustment in the estimated number of eligible new teachers expected to participate from 24,000 to 22,000. This is consistent with current-year participation estimates. (The Governor's May Revise also reverts unused funding from the current year for this program due to lower-than-expected number of participants.)

3) Adjustment for National Board Certification (Issue 200) The Governor's May Revise proposes to increase this item by \$235,000 to provide \$5,000 grants to new National Board Certified teachers who commit to work in a low-performing school. These teachers would be eligible for an additional three years of grants in future years provided that they continue to teach in a low-performing school. The Governor's Budget provided funding for 1,460 participants. This action will provide sufficient funding for the 1,507 teachers that the department anticipates to be eligible for awards.

4) Basic aid categorical reduction. (Issue 064) The May Revise proposes to reduce basic aid district categorical programs by \$2.7 million, so that the total cut to basic aid categoricals reflects the proposed deficit reduction funding for non-basic aid school districts, and the remaining cut reflects the same proportion of deficit the state owed to school districts as a result of last year's denial of revenue limit COLA's and revenue limit cut. The administration proposes trailer bill language to implement the change.

COMMENTS:

At yesterday's hearing, the administration requested that we hold #1 open pending resolution of some technical issues.

ISSUE 17: OPEN ISSUES - PROPOSITION 98 REVERSION ACCOUNT

The subcommittee heard the following issue at its May 18 hearing and held it open.

BACKGROUND:

The Governor's May Revise contains the following proposals regarding the Proposition 98 reversion account:

- 1) **New reversions.** Reverts unused funds from prior years for a variety of programs to the Proposition 98 reversion account for use on other Proposition 98 expenditures. The biggest amounts are
 - \$50 million in expected unused K-3 class size reduction funds, due to a decline in participation in the current year
 - \$10 million in expected unused 2003-04 funds from the BTSA program
 - \$13.2 million in unused funds from the Child Care Facilities Revolving Fund
 - \$2 million in expected unused funds from the Safety Plans for New Schools program in the current year.

Staff notes that the LAO believes that the administration reverts more than is really available.

- 2) **New appropriations.** Makes the following new appropriations from the Proposition 98 reversion account: a) \$95.1 million for school and classroom libraries and b) \$7.7 million to restore funds for the charter school facilities grant program, which was proposed to be eliminated in the January 10 budget.

Outstanding letter regarding certificated awards. There is an outstanding Proposition 98 reversion account issue from an April DOF letter that the subcommittee has not acted on. It regards a \$32 million appropriation from the Proposition 98 reversion account to pay for a lawsuit settlement regarding the Certificated Staff Performance Awards. The subcommittee has not acted on this proposal yet.

COMMENTS:

LAO recommendations on level of reversions. The LAO recommends reverted less money than the administration on a number of items (the biggest one being \$10 million from the Targeted Instructional Improvement Grants, leaving \$20 million less in the reversion account.

ISSUE 18: OPEN ISSUES -- CATEGORICAL DEFICIENCIES

The subcommittee heard this issue at its October 18 hearing, and held it open.

BACKGROUND:

Advocates and the LAO estimate that the following categorical programs may face deficiencies in the current year:

- 1) Charter Schools
- 2) Supplemental instruction, which provides funding to school districts to provide after and summer school programs for students who have been retained or are at risk of retention, among others. Funding is based on the number of students served and may vary from year to year based on districts' decisions to run summer school programs and variations in the number of students wanting and eligible to take summer school.
- 3) Community day schools, in which school districts may receive per average daily attendance (ADA) funding for serving high-risk students who, have been expelled from regular district-run schools. The funding is based on average daily attendance, and the rate is higher than traditional revenue limits. Enrollment in these programs has increased in recent years.

For supplemental instruction, CDE indicates that it will not know the extent of the deficiency for supplemental instruction until after June.

COMMENTS:

The Governor's May Revise does not propose to fund any possible deficiencies in the above programs. However, of the above programs, all but the community day schools are included in a control section 12.60, which allows CDE to move money between categorical programs in the event there are shortfalls in some programs and extra funding in others. K-3 class size reduction is included in that control section, but the May Revise reverts all unused funding in the current year, so that it would not be available to be used to fund other deficiencies per control section 12.60.

ISSUE 19: AFTERSCHOOL PROGRAMS

The May Revision changes the budgeting of afterschool programs.

BACKGROUND:

The May Revision adjusts the amount of savings from the proposes to provide subsidized child care to 11-12 year old children only when "afterschool programs are not available". The Governor's January Budget assumes \$75 million in savings is achieved from all 11-12 year olds being able to transfer to afterschool program in the budget year. The May Revision assumes \$36.2 million in total savings from this change.

The Governor's budget did not contain additional funds for afterschool programs, but DOF has issued an April DOF letter that identified new federal funds that would fund the additional afterschool slots needed for the families currently receiving child care. California will receive approximately \$60.8 million in 21st-century federal funds in the budget year. Currently, afterschool programs in California receive \$46.5 million in federal funds that are directly contracted to providers and are expiring in the budget year. Thus, the net increase in federal funds is \$14.3 million additional 21st-century federal funds above the current year level. However, the budget does not guarantee that programs getting receiving federal funds that expire this year will continue to get funding in the budget year. The language in the April DOF letter that provides the \$60.8 million is contained below.

Block grants vs. earned funding. For the new \$60.8 million, the Governor proposes to continue the set-asides that were approved two years ago when the state first began receiving the 21st century grants: technical assistance grants, access grants, family literacy grants and high school grants. The Legislature provided the set-asides to ensure that there were two types of funding going to school districts: 1) "earned grants" based on the number of students attending and hours of service provided in the after school programs and 2) block grants designed to provide districts with more flexibility in meeting the needs of certain types of students and providing a variety of services to help families support their children's success. High school 21st Century grants are funded entirely through the second type of funding mechanism. Elementary and middle school grants have both types of funding, although the majority of funding is through earned grants. At the time of the creation of this dual funding model, the administration was supportive of the first type of funding, which is similar to the way the state-funded after school program is funded. This funding mechanism requires programs to keep strict attendance records, penalizes programs (such as middle and high school programs) where students may not attend every day, and does not provide funding for literacy programs and support programs that were part of the original 21st Century direct grant program to districts. Certain members of the Legislature was supportive of the second type of funding, which is based on the way the federal 21st Century direct grants to school districts were originally provided, based on an application and overall plan by the district and without the requirement that the district earn its funds based on the number of children served and hours of service provided.

Proposition 49. The voter-approved Proposition 49 of 2002 will eventually increase State funding for afterschool programs by \$428 million a year. However the LAO does not think this funding requirement will be triggered until FY 07-08. DOF projects that the trigger will be pulled in FY 06-07.

APRIL SPRING FISCAL LETTERS:

On April 1, 2004, the Department of Finance issued a letter requesting that the budget bill be amended to reflect the following changes:

- Provide budget bill language and spending authority for \$60.8 million in ongoing 21st Century federal child care funding for afterschool programs. The proposed budget bill language directs the funding to pay for the care of 11 and 12-year-olds currently receiving subsidized child care. The language also empowers CDE to waive enrollment caps to create capacity for these youth.
- Eliminate the budgeted spending authority for afterschool programs, as they are now continuously appropriated by the passage of Proposition 49.
- Provide \$283,000 in federal funds and 4.0 positions to CDE to provide support for the 21st Century Community Learning Centers Grant Program, to accommodate the increase in federal local assistance funding.

MAY REVISION:

The May Revision requests that the Superintendent of Public Instruction be granted authority to waive grant caps for after school programs that are already earning the maximum grant amount, but that can create additional slots for 11 and 12 year olds redirected from subsidized child care programs. This request conforms to a similar April 1 Finance Letter request for the federal 21st Century Community Learning Centers program, and would decrease the amount of unearned funds in the State-funded program while complementing proposed child care reforms.

The Administration is proposing the following Budget Bill Language:

16. Notwithstanding any other provision of law, the Superintendent of Public Instruction may, upon request of a program that is earning the full grant amount, waive the funding caps for grants for elementary, middle, and junior high schools from any uncommitted funds that are available to enable those programs to create additional slots for 11- and 12-year old students redirected from state and federally funded subsidized child care programs as a result of child care reforms enacted in the 2004 Legislative Session, and the younger siblings of such students if appropriate.

ALTERNATIVE PROPOSAL FOR 21ST CENTURY FUNDING ALLOCATION:

Based upon feedback from the public, the Subcommittee could consider adopting the three April Finance letters and the one May Revision fiscal letters with the following change to the set-asides identified in the April Fiscal Letter:

Set-Aside	April Fiscal Letter	Alternative Proposal
Technical Assistance Grants	2,118	4,236
Access Grants	5,195	10,390
Family of Literacy	1,510	3,020
High School Grants	3,685	7,370
Elementary, Middle, and Junior High School Grants	49,292	36,784
Total	\$ 61,800	\$ 61,800

MAY REVISION PROPOSAL APPROPRIATES CARRYOVER FUNDS:

The May Revision requests the reappropriation of \$25,430,000 in one-time carryover funds that are available for expenditure in 2004-05. This augmentation, combined with cash management on a "first-in, first-out" basis by the SDE, will ensure that federal funds are not returned to the federal government during 2004-05.

The May Revision proposes the following budget bill language for the reappropriation:

5. Of the amount appropriated in this item, \$25,430,000 is available on a one-time basis, of which \$488,000 is one-time federal reallocated funds and the remaining \$24,942,000 is carryover of program savings. These funds shall be expended in priority order, as follows: (1) increase grant caps for those programs that are at or above their maximum amount to provide additional slots for 11- and 12-year olds and their younger siblings, (2) expand existing grants to allow programs to offer summer, vacation, and intercession programs thus increasing the number of program days of operation, (3) increase grant caps for programs above their maximum amount, and (4) standards-aligned instructional and reading materials. The department shall provide a report to the Legislature and the Department of Finance by October 1, 2005, identifying how these funds were allocated.

ALTERNATIVE PROPOSAL FOR REAPPROPRIATION:

The Subcommittee has received feedback about the reappropriation proposal from the community. In specific, there was a desire to ensure that the funding was reappropriated in a way to ensure it could be fully expended, so no funding would be returned to the Federal government.

Based upon feedback received from the public, the Subcommittee could consider the follow alternative proposal for reappropriated:

Adopt the proposed Budget Bill Language with the following changes:

1. Disburse the funds to Cohort 1 programs only proportionate to the original Cohort 1 grant for that program.
2. Add a fifth option for "Direct Access Grants" consistent with previous activities of this nature.
3. Expand the 4th option to include "enrichment" materials.
4. Define allowable costs as anything in the 5 options listed in the language.
5. Eliminate the priority order requirement

ISSUE 20: 11 AND 12 YEAR-OLD CHILD CARE SAVINGS:

The May Revision proposes Trailer Bill Language that would eliminate child care eligibility for children aged 11 and 12 unless afterschool programs were not available. The proposal also assumes savings from the proposal.

ALTERNATIVE 11 AND 12-YEAR OLD CHILD CARE SAVINGS:

Public feedback has raised concerns that the level of savings projected in the May Revision may be too high. In addition, there have been concerns that the proposed trailer bill language does not clearly define when child care is "available", which could lead to inconsistent implementation.

Based upon feedback received from the public, the Subcommittee could modify the May Revision proposal in the following ways.

- 1) Modify existing Trailer Bill Language to define "not available" as when a parent certifies that afterschool programs are not available.
- 2) Reduce the overall savings to child care from this proposal to the modified level:

Program	May Revision 11 and 12 shift to Before and After School Programs (millions)	Modified Savings Level (millions)
Stage 1	\$8.9	\$8.9
Stage 2	\$11.6	\$11.6
Stage 3	\$2.1	\$1.1
GCC	\$2.1	\$1.1
Latchkey	\$3.0	\$1.0
AP	\$8.5	\$4.0
Total	\$36.2	\$27.7

**5180 DEPARTMENT OF SOCIAL SERVICES
6110 CALIFORNIA DEPARTMENT OF EDUCATION****ISSUE 21: CHILD CARE FISCAL INTEGRITY**

The May Revision contains a proposal to improve the fiscal integrity of child care programs.

FRAUD RATE FOR CHILD CARE:

According to the Department of Social Services, the total estimated overall fraud rate for CalWORKs Stage 1 Child Care is less than 2.7% of all expenditures.

DSS estimates a combined \$14.3 million fraud and overpayments out of a total budget of \$508.7 million for CalWORKs Stage 1 Child Care.

BACKGROUND:

The Governor's Budget included \$2.0 million in one-time federal funds as a placeholder for a comprehensive proposal to address child care fraud and fiscal integrity promised for the May Revision. The Administration has now developed a comprehensive proposal that integrates revisions to the initial child care overpayment related trailer bill provisions sponsored by the Department of Social Services (DSS) with the newly developed anti-fraud and fiscal integrity related provisions to meet the commitment in the Governor's Budget.

In order to implement this proposal, the May Revision requests that Item 6110-001-0890 \$1,630,000 to utilize additional one-time Child Care and Development Block Grant funds for this purpose. Of this amount, \$530,000 is to support 5.5 positions within the Department of Education (SDE). The remaining \$3.1 million is for a reimbursement from SDE to the DSS, which will support county fraud investigators located throughout the State.

BUDGET BILL:

The following budget bill language has been submitted:

7. (a) Of the funds appropriated in this item, \$12,530,000 is from the Child Care and Development Block Grant Fund and is available for support of Child Care Services.
- (b) Of the amount appropriated in this item, \$3,100,000 is one-time federal funds for reimbursement to the Department of Social Services for county fraud investigators dedicated to child care fraud investigations, contingent upon enactment of child care anti-fraud and fiscal integrity legislation for the 2004-05 fiscal year.
- (c) Of the amount appropriated in this item, \$530,000 is one-time federal funds to provide for 5.5 positions within the Department of Education to address compliance monitoring and overpayments, which may contribute to early detection of fraud. The department shall provide information to the Legislature and Department of Finance each year that quantifies provider-by-provider level data, including instances and amounts of overpayments and fraud, as documented by the department's compliance monitoring efforts for the prior fiscal year.

(d) As a condition of receiving the resources specified in (c), it is expected that every alternative payment provider will be audited each year using sufficient sampling of provider records of the following: (i) family fee determinations, (ii) income eligibility, (iii) rate limits, (iv) basis for hours of care, to determine compliance rates, any instances of misallocation of resources, and the amount of funds expected to be recovered from instances of both potential fraud and overpayment when no intent to defraud is suspected. This information will be contained in a separate report for each provider, with a single statewide summary report annually submitted to the Administration and Legislature at a date to be mutually established between the department and the Administration, but no later than April 15, 2005.

AB 2099 (STEINBERG):

The Assembly Budget Oversight working group has introduced a bill that would address some of the issues addressed in the May Revision proposal. The bill includes the following provisions:

- 1) Requires the Department of Education (CDE) to establish regulations for the collections of overpayments for child development contractors. Requires that contractors with the CDE submit a plan to the CDE detailing how they will collect overpayments in child development contractors.
- 2) Requires the CDE to convene a workgroup to develop statewide standards for the prevention and collection of overpayments in child development contractors. The group would have to convene within 30 days of the chaptering of the bill.
- 3) Creates a Compliance Unit at CDE. The Compliance Unit will supervise statewide efforts to prevent and recover overpayments, coordinate the activities of the working group, develop regulations and policies to implement the enforcement and collections provisions, and establish standards for appropriate repayment arrangement and sanctions.
- 4) Requires CDE child development contractors to report on overpayment collection benchmarks to the compliance unit.
- 5) Increases the scope of CDE audits of certain child development contractors.
- 6) Requires CDE to report annually at budget hearings the status of compliance of its contractors in overpayment collections.
- 7) Requires the CDE to provide due process for parents.
- 8) Requires CDE to provide a dispute resolution process for provider overpayments.
- 9) Allows alternative payment program administrators making an overpayment collection to retain 12.5 percent of the total overpayment.

The proposed budget bill language above seems to have very similar requirements to the provision of AB 2099.

COMMENTS:

The May Revision proposes to spend \$3.7 million to achieve \$1.5 million in savings in the budget year for overpayments and fraud collections. However, the savings are projected to increase in future years as the program ramps up.

The Subcommittee may wish to explore the extent to which the Administration's proposal differs from the proposal considered by the Budget Oversight Committee.

The Budget Bill Language proposes to use one-time funding to fund positions at the Department of Education. It may be more appropriate to use the ongoing federal funding as a funding source, given the nature of the expenditure.

The Subcommittee has received feedback that the proposed audit language may be too onerous for smaller contractors, which have no economies of scale.

5180 DEPARTMENT OF SOCIAL SERVICES
6110 CALIFORNIA DEPARTMENT OF EDUCATION

ISSUE 22: CHILD CARE REFORM

The Subcommittee will consider a proposal to reform child care.

BACKGROUND:

The Governor's Budget proposed a major reform to child care programs. The Subcommittee reviewed these changes during its April 14, 2004 hearing. The LAO has created the following chart to illustrate the various components of the reform proposal.

Administration's Child Care Proposals Compared to Current Law/Current Practice		
	Current Law/Current Practice	Administration's Proposal (and Budget-Year Impact)
Eligibility		
Income Eligibility	Family income up to 75 percent of the SMI (for a family of four).	Implement a three-tiered eligibility structure. Maximum income eligibility in "high" cost county would remain the same. Income eligibility in "medium" and "low" cost counties would decrease. Annual adjustments based on CNI. (\$9.3 million savings; 1,900 children lose eligibility.)
Age Eligibility	Children up to age 13 are eligible for both CalWORKs and non-CalWORKs child care.	Eliminate eligibility for 11 and 12 year olds if after-school programs are available (for which they would receive priority placement). (\$75.5 million savings; 18,000 children lose eligibility and move to after-school programs.)
Stage 3 Child Care	Former CalWORKs participants are eligible for Stage 3 as long as they meet income and age eligibility. Current practice prevents families from applying for non-CalWORKs child care while receiving aid.	Limit Stage 3 child care to one year (in addition to two years in Stage 2). Families currently in Stage 3 would receive one additional year. CalWORKs families could sign up for non-CalWORKs care as soon as they have income. (No impact in the budget year.)
Eligibility for Nonworking Parents	No time limit as long as families remain eligible.	Limit eligibility to two years. (No savings scored; caseload impact unknown.)
Reimbursement Rates	Providers are reimbursed at up to 85 th percentile of the RMR.	Creates a six-level reimbursement rate structure that reimburses providers between 40 th and 85 th percentile of the RMR ^a , depending on licensure, training, and whether they serve private pay clients. (\$57.7 million savings; 95,592 children impacted.)
Family Fees	Families with income over 50 percent of SMI pay fees up to 8 percent of their gross income.	Families with income over 40 percent of SMI ^b pay fees up to 10 percent of gross income. (\$22.3 million savings; fees increased for 77,250 children.)
Totals		

Savings (All Funds)	\$164.8 million
Children Losing Eligibility	20,000 (including those children switching to after-school care)
Children Subject to Increased Fee	77,250

PROPOSED CHANGE IN THE MAY REVISION:

CalWORKs Stage 3 Child Care—The Governor's Budget proposed to limit Stage 3 services to one year, beginning July 1, 2004. Since January, concerns have been raised regarding transition problems for families who are presently off aid but have not been afforded the opportunity to place their name on a waiting list for other subsidized child care programs. In addition, funding for the Alternative Payment (AP) program has not been adjusted to absorb those families that would no longer be eligible for Stage 3 child care services. The May Revision therefore reflects an amended proposal, conditioned upon the enactment of legislation in the 2004 session that permanently reforms Stage 3 and implements the reasonable reimbursement limit, family fee, and eligibility reforms proposed in January to address the Administration's concerns with future cost pressures. This amended proposal has four essential parts:

- Consistent with the original Governor's Budget proposal, all families in CalWORKs will be able to place their names on waiting lists for general child care programs once they have earned income.
- Also, consistent with the Governor's Budget, families in Stages 1 and 2 that *are* still receiving cash aid as of June 30, 2004, will continue to be eligible to receive services in Stage 3 for up to one more year once they enter that Stage.
- However, families in Stage 3 on June 30, 2004, will be shifted to the non-time limited AP program, with no loss of funding or service. As those slots are vacated, the funding will remain available for families on waiting lists.
- Families in Stages 1 and 2 that *are not* receiving cash aid as of June 30, 2004, will be eligible to receive services in Stage 3 for up to two years, instead of one year, once they enter that Stage.

Limitations on Training—Families pursuing an education currently have indefinite eligibility for child care, if child age and family income criteria are met. The Governor's Budget would have limited this education eligibility to two years, but it is recognized that many education programs, such as nursing, take longer to complete. The May Revision therefore expands this proposal to include an additional eligibility criteria for child care, consistent with criteria proposed for the CalWORKs program: If the first 20 hours of child care eligibility are for work activities, then education activities can be used as the need basis for child care services beyond those 20 hours, without a two-year limit.

Tiered Reimbursement Based on Accreditation—The Administration is proposing to allow not only accreditation, but also results from the use of accepted environmental rating scales to measure high quality, to qualify child care providers for the highest rates within the proposed tiered reimbursement structure. Several counties already implement ratings through local child care advisory entities utilizing Proposition 10 funds and other sources. This addresses the problem of limited accrediting agency capacity.

After School Programs to Address 11 and 12 year olds—In an April 1 Finance Letter, the Administration proposed provisional language authorizing the Superintendent of Public Instruction to waive grant caps for 21st Century Community Learning Center after school programs to create additional slots for 11 and 12 year-old children redirected from State and federally funded subsidized child care programs as a result of proposed reforms. The May Revision reduces the expected budget year savings from this proposal down from \$75 million to \$36.2 million. This change was proposed in a previous issue.

REVISED CHILD CARE REFORM SAVINGS:

The May Revision reduces the overall savings from the proposed child care reform from \$164.8 to \$119.5. Most of the decrease is due to a reduction in estimated savings from 11 and 12-year-old youth shifting to after school programs.

	11 and 12 shift to Before and After School Programs	Tiered Income Eligibility Limits	RMR - Reforms	Family Fees	Stage 3 One Year Time Limit	Attritio n	Total Savings
Stage 1	\$8.9	\$1.1	\$18.2	\$0.0	n/a	\$0.6	\$28.8
Stage 2	\$11.6	\$1.5	\$14.7	\$7.5	n/a	\$0.6	\$35.8
Stage 3	\$2.1	\$0.2	\$2.5	\$1.6	\$0		\$6.4
GCC	\$2.1	\$4.8	\$0.0	\$12.9	n/a		\$19.8
Latchkey	\$3.0	\$0.2	-	\$0.1	-		\$3.3
AP	\$8.5	\$1.1	\$9.5	\$6.4	n/a		\$25.5
Total	\$36.2	\$8.9	\$44.8	\$28.5	\$0	\$1.2	\$119.5

COMMENTS:

Sub 1 took actions on some of the reform proposals and has requested that Subcommittee # 2 conform to these actions. The actions were:

- Reject Time Limit on CalWORKs Stage 3 Child Care and including CalWORKs families on child care program on a wait list
- Reject limiting Child Care for Parents in Employment and Training Activities
- Reject proposed Trailer Bill Language requiring additional audit requirements for LEA's providing child care

**5180 DEPARTMENT OF SOCIAL SERVICES
6110 CALIFORNIA DEPARTMENT OF EDUCATION****ISSUE 23: CHILD CARE FOOD PROGRAMS**

The Subcommittee will discuss the loss of the Child Care Food Programs across the State.

BACKGROUND:

The Child Care Food Program offers nutrition education and reimbursement to licensed family child care providers for the nutritious meals they serve.

Last December, the largest administrator of child care programs in the State decided not to renew their Child Care Food Program contract, citing overwhelming regulatory burdens. The agency cited the following examples of regulatory hurdles required by the program:

- The agency was given different interpretations of the regulations throughout the year. At times, these regulations were conflicting in nature.
- The program required the agency's employees to complete time-sheets that required that each employee measure the time spent on the program in fifteen-minute intervals.
- Each providers was expected to fill out paperwork immediately after each meal was prepared, which conflicted with their ability to pay attention to the children in their care.

The Department of Education reports that these regulations are a result of a federal Department of Agriculture crackdown on fraud in child care food programs.

The Department of Education requested 15 PY's using \$1.9 million of federal funds in the budget year to provide technical assistance and increased monitoring of child nutrition programs at the Department of Education, including the child care food program. The State spends roughly \$1.4 billion per year on nutrition services. The budget contains \$800,000 in funding for these activities, but does not authorize any positions.

APRIL FISCAL LETTER:

On April 1, 2004, the Department of Finance issued an April Fiscal Letter requesting the that budget bill be amended allows funding received from a private company as part of a legal settlement with the State to be used for child nutrition programs at the schools and child care sites. According to the Department of Education, the State will not receive these funds, so no action is required on this item.

COMMENTS:

Assembly Budget Subcommittee #1 heard this issue as part of its deliberations on April 14, 2004. Subcommittee #1 has referred this issue to this Subcommittee for action, with a recommendation that Subcommittee #2 provide CDE with the requested funding an positions for oversight of child nutrition programs.

ISSUE 24: OPEN ISSUES --MANDATES

The issue for the subcommittee to consider is a LAO proposal to reconsider the testing mandate.

BACKGROUND:

As noticed in a former subcommittee hearing, the Commission on State Mandates recently approved parts of the state's testing system as reimbursable mandates. The LAO believes that this is inappropriate for a variety of reasons, as recommends that the subcommittee adopt trailer bill language requesting the Commission on State Mandates to reconsider its decision.

ISSUE 25: OPEN ISSUES -- PROPOSITION 98 OVERVIEW -- OVERALL INCREASES AND CHANGES

The table below describes the various Proposition 98 cuts and augmentations proposed in the Governor's budget (including adjustments made in the April DOF letters and the May Revise), relative to last year's funding level.

Selected changes proposed in 2004-05 relative to 2003-04 funding level

Program	2003-04 funding level	2004-05 proposed			Total funding level, as of May Revise
		January 10 budget (change relative to 2003-04 level)	April DOF letter (change relative to 2003-04 level)	May Revise (change relative to 2003-04 level)	
Revenue Limits					
COLA's	N/a	\$555	\$555	\$724	N/a
Growth	N/a	\$280	\$280	\$162	N/a
K-12 equalization	\$0	\$110	\$82	\$110	\$110
Deficit factor reduction	\$0	\$0	\$270	\$270	\$270
Categorical program growth and COLA	N/a	\$167	\$220	\$388	N/a
Instructional materials	\$175	\$188	\$0	\$100	\$275
Deferred maintenance	\$77	\$173	\$0	\$107	\$184
Library materials	\$4*	\$0	\$0	\$95*	\$99*
Internet 2 Access	\$0	\$21	\$21	\$21	\$21
Net reduction of deferral pay-offs	\$0	-\$1,036	-\$1,036	-\$1,029	-\$1,029
Beginning Teacher Support and Assessment	\$86	\$1	\$1	-\$7	\$80
II/USP - phase outs	\$130	-\$77	-\$77	-\$77	\$53
High Priority Schools Grants - phase outs	\$218	-\$25	-\$25	-\$25	\$193
Healthy Start	\$2	-\$2	-\$2	-\$2	\$0
Early Mental Health Initiative	\$10	-\$5	-\$5	-\$5	\$5
Early Intervention for School Success	\$2	-\$2	-\$2	-\$2	\$0
School-to-Career Program	\$1.7	-\$1.7	-\$1.7	-\$1.7	\$0
Arts Works	\$6	-\$6	-\$6	-\$6	\$0
Academic Improvement and Achievement	\$5	-\$5	-\$5	-\$5	\$0
Pre-intern program	\$10.4	-\$10.4	-\$10.4	-\$10.4	\$0
Charter School Facilities Grant Program	\$7.7	-\$7.7	-\$7.7	\$0	\$7.7*
Childcare -- effect of proposed reform	\$1,281	-\$14**	-\$14**	-\$62***	\$1,219

*Reversion account funds

** Net effect of caseload changes, federal funds shifts, and \$123 million in childcare reform savings.

*** Includes child care reform "savings" due to the policy changes proposed by the administration.

Additional current-year proposal to pay off deferrals. See issue below

ISSUE 26: OPEN ISSUES -- PROPOSITION 98 DEFERRALS

The issues for the subcommittee to consider are a May Revise proposal to spend \$270 million in current year one time funding to pay off deferrals and a technical issue.

BACKGROUND:

The Proposition 98 deferrals refer to actions taken in prior years to delay appropriations for categorical programs by a few months so that an appropriation counts toward the following year to help the state meet its minimum Proposition 98 guarantee in that year. There are two May Revise issues related to deferrals:

1) May Revise proposal to pay off deferrals In addition to the above proposals, the Governor's May Revise estimates an increase in the 2003-04 minimum Proposition 98 guarantee and proposes to spend \$270 million of this increase to reduce the amount of funding the state defers to the following year. The May Revise does not identify which deferred programs it would pay off, but states that it would identify such programs in the accompanying trailer bill. (DOF indicates that it may be inclined to propose paying off a portion of the P-2 apportionment deferral, which has been problematic to defer.) By paying off deferrals, the state would be making two payments for a program in one year to re-align the funding so that it would be provided in the year of its intended use. This proposal leaves the total amount of settle up "owed" to districts from 2002-03 and 2003-04 the same, at approximately \$1 billion, as proposed in January 10 budget. There is corresponding trailer bill language to effect this change.

2) Trailer bill language to address technical problem. The May Revise proposes trailer bill language to address a technical problem in which one of the programs deferred, the P-2 apportionment may vary from the budget estimate and change the amount that is being deferred from year to year. The proposed trailer bill language would revise the deferral mechanism to make the amount deferred certain rather than an estimate .

COMMENTS:

Staff notes that the Legislature can spend this \$270 million on any one-time purpose. Should the state use the current year funds to pay off another "debt" that is more pressing, such as unpaid state mandate claims?

ISSUE 27: OPEN ISSUES -- OUTSTANDING TRAILER BILL ISSUES

Staff notes the following outstanding trailer bill issues, which may need to be adopted depending on the Proposition 98 package.

- 1) Suspension of Proposition 98 split, which is adopted every year and is a part of the omnibus trailer bill.
- 2) Deficit factor -- to implement the proposed deficit reduction proposal.
- 3) Growth and COLA in lieu language

COMMENTS:

DOF will be available to explain the above trailer bill pieces.

ISSUE 28: WEST CONTRA COST UNIFIED -- OUTSTANDING EMERGENCY LOAN

The issue for the subcommittee to consider is a request to refinance West Contra Costa Unified's emergency loan.

BACKGROUND:

The following language is proposed to refinance West Contra Cost Unified's emergency loan --

Section 41474 of the Education Codes is amended to read:

Notwithstanding Section 41471 and 41472, the school district may submit a request to the Director of Finance to have interest rate on the remaining outstanding balance of its emergency apportionments changed to reflect the investment rate of the Pooled Money Investment Account as reported by the State Controller's Office for the immediately preceding fiscal year. The Director of Finance **may upon receipt of the request from the school district shall** change the interest rate ~~as request by the school district~~ pursuant to this section. A change in the interest rate does not change other terms of the repayment schedule.

ISSUE 29: OTHER GENERAL FUND ISSUES

The issues for the subcommittee to consider are various General Fund issues.

BACKGROUND:

1) Model curriculum regarding human rights and genocide -- The issue for the subcommittee to consider is a proposal to have SDE distribute model curriculum regarding the issue of human rights and genocide. The model curriculum on human rights and genocide covers by grade level various curriculum strands in the areas of Human Rights and Genocide including the Armenian, Ukrainian, Jewish, Polish, Argentine, Cambodian, South African genocide and/or human rights violations. Also included in the model curriculum are broader strands covering human rights. The last budget appropriation for this model curriculum was in the 1999-2000 State Budget for a reprint of the document (not distribution).

To ensure copies are distributed to all schools in California staff proposes the following language:

“\$250,000 is appropriated on a one-time basis for the Model Curriculum for Human Rights and Genocide approved by the State Board of Education and for other appropriate genocide related curriculum and instructional materials as identified by the State Department of Education, to be printed and distributed to all K-12 schools, districts and county offices of education. If applicable, the Department of Education shall ensure that the model curriculum reflects an update of any currently confirmed research regarding the topics covered in the model curriculum.”

2) **Budget bill language to address transportation funding problem in East Whittier School District.** According to legislative staff, the existing home to school transportation formula does not recognize programs initiated after 1981-82, and districts such as East Whittier School District that initiated their programs after that date do not receive funding. After that cut-off date, due to changing demographics, parents in the district petitioned to re-start a program that had been terminated. The following language would bring the district in line with the state average of funding received from this program. They are asking for 49.67% of their costs to be paid by the state (state average).

On or before July 1, 2005, the home-to-school transportation allowance received by the East Whittier City School District in the 2005-2006 fiscal year and each fiscal year thereafter shall be computed as if the home-to-school transportation allowance received by the school district in the 2004-2005 school year was \$174,790.