AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 2 ON EDUCATION FINANCE

Assemblymember Susan Bonilla, Chair

TUESDAY, MAY 8, 2012

9:00 AM - STATE CAPITOL ROOM 444

VOTE ONLY CALENDAR

6110 DEPARTMENT OF EDUCATION

ISSUE 1: DOF APRIL LETTERS – VARIOUS STATE OPERATIONS AND LOCAL ASSISTANCE ADJUSTMENTS

The issues for the Subcommittee to consider are various technical amendments proposed by the Department of Finance (DOF) to the 2012-13 Budget Act.

BACKGROUND

As part of the annual budget process, DOF submits a letter to the Legislature on April 1 that includes proposed changes to the Governor's January Budget. The proposed revisions are largely technical and include adjustments to state operations and local assistance funding.

1	**Add Support Carryover for the Striving Readers Comprehensive Literacy Program (Issue 611)—**It is requested that Item 6110-001-0890 be increased by $424,000 Federal Trust Fund and that Item 6110-001-0001 be amended to reflect the availability of one-time carryover funds for the Striving Readers Comprehensive Literacy Program. The program provides support to the State Literacy Team in developing California's State Literacy Plan. In order to finalize the plan, the SDE requests $424,000 to update the ten-year old California Recommended Reading List. It is further requested that provisional language be added to Item 6110-001-0890 as follows to conform to this action: X. Of the funds appropriated in this item, $424,000 is provided in one-time federal ~~Title I~~ carryover funds for the Striving Readers Comprehensive Literacy program.
	Staff Comments: On April 24th, the Subcommittee took action to strike all provisional language. This action corrects that action by only striking the words "Title I" in the DOF proposed provisional language
2	**Item 6110-161-0890, Local Assistance, Special Education Individuals with Disabilities Education Act (IDEA) 611 Grant Awards (Issue 643)—**It is requested that Provision 1 of this item be amended to align future IDEA 611 grant awards with the amended allocation table provided by the federal government. This request would provide the SDE with flexibility so that in instances where IDEA 611 amended grant awards received are lower than the initial grant award, reductions can be made according to the intent set forth by the federal Office of Special Education Programs. ~~"1. If the funds for Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) (IDEA) that are actually received by the state exceed $1,237,042,000, at least 95 percent of the funds received in excess of that amount shall be allocated for local entitlements and to state agencies with approved local plans. Up to 5 percent of the amount received in excess of $1,237,042,000 may be used for state administrative expenses upon approval of the Department of Finance. If the funds for Part B of the IDEA that are actually received by the state are less than $1,237,042,000, the reduction shall be taken in other state-level activities, unless otherwise specified in the amended grant award~~."

	Staff Comments: Upon further review of the provisional language, it was determined the entire provision is unnecessary. The Part B grant has specific spending requirements, which are reflected in the budget act authority provided to the CDE. To the extent the actual grant amount received changes from what is budgeted, the CDE is required to submit a budget revision for approval by the DOF and the legislature. This language does not reflect current state or federal budgeting practice. This change has been agreed to by CDE, DOF, and the LAO.

STAFF COMMENTS:

Staff recommends approval of the DOF April Letter proposals listed above, including staff revisions highlighted for these issues. Staff is unaware of any concerns raised for any of these issues.

SUGGESTED QUESTIONS:

1) Does the Department of Finance have any technical revisions to these proposals?

ITEMS TO BE HEARD

6110 DEPARTMENT OF EDUCATION

ISSUE 1: LAO REPORTS ON SCHOOL DISTRICT FINANCE *(INFORMATION ONLY)*

The Legislative Analyst's Office will provide the Subcommittee with an overview of two of their recently released reports: *School District Oversight and Intervention* and *Year-Three Survey: Update on School District Finance in California*. This information item will help provide context to the report from the Fiscal Crisis Management and Assistance Team later in the agenda.

PANELISTS

- Edgar Cabral and Rachel Ehlers, Legislative Analyst's Office

BACKGROUND

Report on School District Oversight and Intervention. On April 30, 2012, the Legislative Analyst's Office released the report titled *School District Oversight and Intervention.* The report provides an overview and assessment of the state's fiscal oversight system for school districts. Below is the Executive Summary of the report:

> *The primary goal of the fiscal oversight system is to ensure that school districts can meet their fiscal obligations and continue educating students. In recent years, the system has received considerable attention as the economic downturn has presented school districts with significant fiscal challenges.*
>
> ***System Consists of Monitoring, Support, and Intervention.*** *The fiscal oversight system established by the state in 1991 makes County Offices of Education (COEs) responsible for the fiscal oversight of all school districts residing in their county and requires them to review a school district's financial condition at various points throughout the year. If a school district appears to be in fiscal distress, COEs, and in some instances the state, are granted various tools designed to help the district return to fiscal health.*
>
> ***Fiscal Distress Often Linked to Unsustainable Local Bargaining Agreements and Declining Enrollment.*** *School districts with several consecutive years of operating deficits tend to be the ones most likely to be experiencing fiscal distress. This is particularly the case when districts run deficits during good economic times, as these districts will have a smaller cushion to deal with unanticipated cost increases or funding reductions during an economic downturn. Prolonged deficit spending often is linked with unsustainable local bargaining agreements. Given employee costs are the largest component of a district's budget, bargaining agreements that increase district costs at a faster rate than school district funding are particularly problematic. School districts with declining enrollment also are more likely to have fiscal problems, since the district's funding typically will decrease at a faster rate than its costs and require reductions even during good economic times.*

Fiscal Oversight Process Begins With COE Review of Locally Adopted District Budget. *To provide a consistent framework for assessing fiscal health, COEs use a state-established set of criteria and standards. The first point of review in the school year begins when the COE reviews the school district's adopted budget. The COE determines whether the budget allows the school district to meet its financial obligations during the fiscal year. If the COE disapproves the school district's budget, the school district must make modifications and resubmit the budget for approval. Disapproved budgets are a rare occurrence (on average only three budgets are disapproved per year), in part because school districts typically understand what is required to receive budget approval.*

Continues as Districts Submit Interim Budget Reports at Subsequent Points in Fiscal Year. *The COEs also must review the financial health of school districts at two points during the school year using updated revenue and expenditure estimates. These reviews are known as "first interim" and "second interim" reports. After reviewing a district's report, the COE certifies whether the school district is at risk of failing to meet its obligations for the current year or two subsequent fiscal years. A district in good fiscal condition receives a positive certification. By comparison, a district that may be unable to meet its obligations in the current or either of the two subsequent fiscal years receives a qualified certification. A district that will be unable to meet its obligations in the current or subsequent fiscal year receives a negative certification.*

At Signs of Distress, COEs Authorized to Provide Support. *When a school district is certified as qualified or negative, COEs may intervene in certain ways, including assigning a fiscal expert and requiring an update of the district's cash flow and expenditure estimates. In addition, COEs must review any new collective bargaining agreements and approve the issuance of certain debt. School districts with these certifications also are required to submit a "third interim" report. If the above interventions do not improve the district's fiscal condition, COEs can impose more intense interventions, including staying and rescinding actions of a school district's local governing board.*

If District Cannot Meet Obligations, State Provides Emergency Loan and Takes Administrative Control. *When a school district is unable to meet its financial obligations, the state provides it with an emergency General Fund loan. The school district then works with the state's Infrastructure and Economic Development Bank to issue bonds to repay the initial state loan. The district is responsible for paying the debt service and issuance costs of the loan as well as the salaries of various employees hired to provide administrative assistance to the district. From a governance perspective, the state Superintendent of Public Instruction (SPI) assumes all of the duties and powers of the local board and appoints a state administrator to act on his or her behalf. The primary goal of the state administrator is to restore the fiscal solvency of the school district as soon as possible. When the SPI and state administrator determine that the district meets certain performance standards and is likely to comply with its recovery plan, the local governing board regains control of the district and the state administrator departs. Until the loan is repaid in full, a state trustee with stay and rescind powers is assigned to oversee the district.*

System of Oversight and Intervention Generally Has Been Effective. *Over the last two decades, the state's fiscal oversight system has reduced the number of school districts requiring state assistance and has provided oversight and support while still primarily maintaining local authority. During the more than 20 years the new system has been in effect, eight districts have received emergency state loans. By comparison, 26 districts required such loans in the 12 years prior to the new system. Furthermore, to this point, no school district has required an emergency loan as a result of the recent recession and associated budget* *reductions. Additionally, while the number of districts with qualified and negative budget certifications has increased in recent years, the state has not seen a corresponding increase in the number of emergency loans required. This suggests the system's structure of support and intervention is serving a critical early warning function—allowing districts to get the help they need while fiscal problems tend to be smaller and more manageable.*

Recommend Preserving System Moving Forward. *Despite the system's effectiveness, state actions over the last three budget cycles temporarily have reduced the ability of COEs to identify districts on the road toward fiscal distress. Most notably, the state adopted legislation that prevented COEs from disapproving 2011-12 budgets if districts appeared unable to meet their financial obligations for the following two fiscal years. We recommend the state avoid additional actions that would diminish its ability to assess school district fiscal health, provide support for fiscally unhealthy school districts, and prevent the need for emergency loans. Although proper fiscal oversight is important at any time, it is particularly important in years during and following an economic recession, when districts are more likely to experience fiscal distress.*

Year-Three Survey: Update on School District Finance in California. On May 2, 2012, the LAO released their third installment of their *Update on School District Finance in California*. In this report, the LAO: 1) gives an overview of a recent school district survey; 2) discusses major findings on how districts are responding to recent budget reductions, flexibility policies, and funding deferrals, as well as how districts are approaching their 2012-13 budgets; and, 3) provides the Legislature with recommendations to help districts manage budget uncertainty in the coming year and improve the K-12 funding system on a lasting basis. Below is the Executive Summary of the report:

For the third consecutive year, we distributed a survey to all California public school districts to gather information that could help the Legislature in crafting the state's education budget for the coming year. The survey, distributed in January 2012, asked a range of questions about districts' responses to recent budget reductions, flexibility policies, and funding deferrals, as well as their budgeting approaches for 2012–13.

Districts Have Implemented Notable Reductions in Recent Years. *Despite an influx of short–term federal aid and state interventions to minimize cuts to K–12 education, school district expenditures dropped by almost 5 percent between 2007–08 and 2010–11. Districts reduced spending by between 1 percent and 3 percent each year, spreading federal funds and reserves across years to moderate the 6 percent drop in revenues that occurred in 2009–10. Moreover, data suggest districts actually have cut programs even more deeply in order to accommodate increasing costs associated with local teacher contract provisions and health benefits contributions. Given certificated staff represent the largest operational expense in school budgets, this area is unsurprisingly where most reductions have been focused. Districts achieved some of these savings by reducing their workforce (across all employee groups) and making corresponding increases to class sizes. Additionally, districts instituted staff furloughs and made corresponding decreases to both student instructional days and staff work days.*

Categorical Flexibility Continues to Be Important for Districts. *To provide school districts more local discretion for making programmatic reductions, in February 2009 the Legislature temporarily removed programmatic and spending requirements for about 40 categorical programs and an associated $4.7 billion. As in our prior surveys, districts continue to indicate this flexibility has facilitated their local budget processes, and most districts continue to redirect the majority of funding away from most flexed categorical programs to other local purposes. An increasing number of districts, however, report that the current categorical flexibility* *provisions are not sufficient to ameliorate continuing year–upon–year funding reductions and cost increases. Our survey respondents indicate that new flexibility for the categorical programs that remain restricted would help them manage budgetary uncertainties in 2012–13 as well as accommodate potentially deeper reductions. In addition to seeking more near–term flexibility, the vast majority of districts indicate they would like the state to eliminate many categorical programs on a lasting basis.*

Districts Planning for Challenging Budget Situation in 2012–13. *In addition to constrained resources, districts face the additional challenge of budgeting for the upcoming school year without knowing whether voters will approve a revenue–generating ballot measure in November. While the Governor's state budget proposal includes these potential revenues (and corresponding midyear trigger reductions were the voters to reject his tax measure), the vast majority of districts plan to take a more cautious approach. Specifically, because districts have a difficult time making large reductions midway through the school year, almost 90 percent of our survey respondents plan to wait for the results of the November election before spending the potential tax revenue. Districts request that the Legislature maximize local flexibility and provide them greater latitude to manage reductions at the local level. Specifically, were additional state funding reductions to be necessary, districts hope the state focuses them on restricted programs and activities while avoiding additional cuts to their unrestricted funding (such as revenue limits). Restoring state funding deferrals also is a high priority for districts, as a rising number have had to borrow or make cuts to accommodate these delayed state payments, and our survey suggests even more would do so were the state to implement additional deferrals in 2012–13.*

Recommend Legislature Take Immediate Actions to Help Districts Manage Budget Uncertainty. *We recommend the Legislature increase the tools available for districts to balance the dual objectives of preparing their budgets during uncertain times and minimizing detrimental effects on districts' educational programs. Because districts will only take advantage of these tools if they are sure they can count on them when they adopt their budgets this summer, we recommend these changes be part of the initial budget package and take effect July 1, 2012. Specifically, we recommend the Legislature: (1) remove strings from more categorical programs; (2) adopt a modified version of the Governor's mandate reform proposal; (3) reduce instructional day requirements; (4) change the statutory deadlines for both final and contingency layoff notifications; and, (5) eliminate statutory restrictions related to contracting out and substitute teachers.*

And Initiate Broad–Scale Restructuring of K–12 Funding System. *We also recommend the state immediately begin laying the groundwork for a new K–12 funding system. Our survey findings reaffirm how recent categorical flexibility provisions have fundamentally shifted the way districts use funds at the local level and how disconnected existing program allocations have become from their original activities and populations. Whether the state adopts a version of the Governor's weighted student funding formula or instead opts to allocate funds based on a few thematic block grants, we recommend the Legislature initiate the new funding system now, phasing in changes over several years to give districts time to plan and adjust. To ensure the state can appropriately monitor student achievement and intervene when locally designed efforts are not resulting in desired outcomes, we also recommend the Legislature refine its approach to school accountability in tandem with changes to the school funding system. A more robust accountability system would include improvements such as vertically scaled assessments, value–added performance measures based on student–level data, a single set of performance targets, and more effective types of interventions. As a new approach to K–12 funding is being phased in, the state could maintain some spending requirements—particularly for disadvantaged students—and then remove those requirements once an improved accountability system has been fully implemented.*

ISSUE 2: ANNUAL UPDATE FROM THE FISCAL CRISIS MANAGEMENT ASSISTANCE TEAM (FCMAT): PRESENTATION ON DISTRICT FINANCIAL HEALTH *(INFORMATION ONLY)*

Current law requires the Fiscal Crisis and Management Assistance Team (FCMAT) to provide an annual overview of the overall fiscal health of school districts to the budget Subcommittees. This presentation has been particularly helpful in recent years, providing this Subcommittee with crucial information on the local effects of state reductions in education spending.

PANELISTS

- Joel Montero, Chief Executive Officer, FCMAT

BACKGROUND:

In 1991, AB 1200 (Eastin), Chapter 1213 created an early warning system to help avert financial crisis in local education agencies (LEAs), such as bankruptcy and/or the need for an emergency loan from the state. The formal review and oversight process, often referred to as the "AB 1200 process" requires the county superintendent to approve the budget and monitor the financial status of each school district and JPA in its jurisdiction. County Offices of Education (COEs) perform a similar function for charter schools. The California Department of Education (CDE), in turn, reviews the finances of county offices.

In 2004, fiscal accountability provisions were strengthened with the passage of AB 2756. The law made immediate changes in the process, county offices use to review district budgets and interim reports. It also called for the state to update the standards and criteria used for the fiscal oversight of LEAs, effective in 2006-07.

Fiscal Crisis and Management Assistance Team (FCMAT). When AB 1200 was developed, the state also recognized the need for a statewide resource focusing on fiscal and management guidance to assist monitoring agencies in the performance of their tasks and to assist LEAs that request help in school business management and related areas. Therefore, AB 1200 called for the creation of a FCMAT. The bill specified that one county office of education would be selected to administer the team. Through a competitive process, the office of the Kern County Superintendent of Schools was selected to administer FCMAT in June 1992.

The mission of FCMAT is to help LEAs fulfill their financial and management responsibilities by providing expedient fiscal advice, management assistance, training and other related school business services. This can occur under several different circumstances. For example, if a county office reviews and disapproves a school district's annual budget, that county office may call upon FCMAT to examine the district's financial records, develop an approvable budget, and/or provide other operational recommendations that will ensure fiscal stability. In addition, FCMAT can respond directly at the request of a school district or county office that may seek advice to improve management practices, business policies and procedures or organizational structure. The state, in its monitoring role, also could ask for FCMAT's assistance.

Governor's Budget Proposal for FCMAT. The Governor's 2012-13 budget proposes to provide the same support for FCMAT as provided in the current year. Specifically, the budget proposes to provide $9.16 million Proposition 98 (General Fund) for FCMAT functions and oversight activities related to K-12 schools. The budget also includes $570,000 Proposition 98 (General Fund) for FCMAT to provide support to community colleges. In 2010-11, the Legislature included additional funding of $6.75 million in one-time Proposition 98 funds (provided over three years) to support FCMAT as they provide districts with local budget support during this difficult fiscal climate.

Interim Reports and Certification. Current law requires districts to file two interim reports during a fiscal year on the status of the district's financial health.

For the first interim report, districts self-certify their budgets to their COE by December 15 (for the period ending October 31). COEs are then required to report the certification for all districts in their county to the Superintendent of Public Instruction (SPI) and the State Controller within 75 days after the close of the reporting period (generally by March 1).

For the second interim report, districts self-certify their budgets to their COE by March 17 (for the period ending January 31). COEs are then required to submit their certification of these results to the SPI and the State Controller within 75 days after the close of the reporting period (generally by June 1).

The interim reports must include a certification of whether or not the LEA is able to meet its financial obligations. The certifications are classified as positive, qualified, or negative.

- A **positive certification** is assigned when the district will meet its financial obligations for the current and two subsequent fiscal years.
- A **qualified certification** is assigned when the district may not meet its financial obligations for the current or two subsequent fiscal years.
- A **negative certification** is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year.

First Interim Status Reports. The most recent available report is the 2011-12 First Interim report published by CDE in February of 2012. Seven school districts received a negative certification at this reporting period.

First Interim Report			
Number	**County**	**Local Educational Agency**	**Total Budget ($) in millions**
1	Imperial	Calexico Unified	81.3
2	Los Angeles	Inglewood Unified	103.6
3	Monterey	South Monterey County Joint Union High	18.5
4	San Luis Obispo	Paso Robles Joint Unified	55.0
5	Solano	Travis Unified	41.0
6	Solano	Vallejo City Unified	135.2
7	Sonoma	Cotati-Rohnert Park Unified	45.9

The first interim report also assigned 119 school districts and one county office of education with a qualified certification

A comparison of first interim certifications over the years shows that the number of qualified and negative status districts moved up sharply in 2008-09 as a result of the downturn in the economy and cuts to education spending. The number of qualified districts continues to rise due to the uncertainty around the state budget and the economy.

Fiscal Year	Negative Certification First Interim	Qualified Certification First Interim
1991-92	1	19
1992-93	2	18
1993-94	3	24
1994-95	2	57
1995-96	1	12
1996-97	0	11
1997-98	0	12
1998-99	1	13
1999-00	2	13
2000-01	2	24
2001-02	8	32
2002-03	5	39
2003-04	7	50
2004-05	10	54
2005-06	5	32
2006-07	3	19
2007-08	7	29
2008-09	16	74
2009-10	12	114
2010-11	13	97
2011-12	7	120

Second interim preliminary numbers. Although the 2012-13 second interim report will not be published by CDE until June, FCMAT will provide preliminary second interim information to the Subcommittee during their presentation.

Emergency loans. In most cases the oversight, advice, and assistance provided by county offices of education and FCMAT under the AB 1200 process is sufficient to pull LEAs out of immediate financial trouble. The option of last resort for LEAs that have insufficient funds is to request an emergency loan from the state.

A loan (technically referred to in the Education Code as an emergency appropriation) from the State requires that one of the district's local representatives to the State Legislature sponsor a bill through the legislative process. Accepting a state loan is not without consequence. The SPI assumes all legal rights, duties, and powers of the district governing board and an administrator is appointed to the district. Several conditions must be met before control is returned to the district.

State loans are typically set up for repayment over 20 years and state control remains over the school district until the loan is fully repaid. The State loan is sized to accommodate the anticipated shortfall in cash that the district will need during the life of the loan in order to meet its obligations. In addition, all of the costs of ensuring a fiscal recovery are the responsibility of the district and are added to the amount of the state loan. Therefore, a state loan will be much larger than what the district would otherwise need to borrow locally if it had been able to solve its own fiscal crisis. A district that receives a state loan needs to make more expenditure cuts and/or take longer to pay the loan back.

Emergency Loans to School Districts Since 1991

(Dollars in Millions)

School District	Year of Legislation	Current State Involvement	Total Loan Amount	Interest Rate on Loan[a]	Pay–Off Date of Loan
King City Joint Union High[b]	2009	Administrator	$13.0	5.44%	October 2028
Vallejo City Unified	2004	Trustee	60.0	1.50	January 2024
Oakland Unified	2003	Trustee	100.0	1.78	January 2023
West Fresno Elementary	2003	None	1.3	1.93	December 2010
Emery Unified	2001	None	1.3	4.19	June 2011
Compton Unified	1993	None	20.0	4.39	June 2001
Coachella Valley Unified	1992	None	7.3	5.34	December 2001
West Contra Costa Unified	1991	None	29.0	1.53	January 2018

[a] For districts with multiple loans and multiple interest rates, reflects interest rate on largest loan.

[b] Has since changed its name to South Monterey County Joint Union High.

Source: LAO

<u>No School Districts Have Required an Emergency Loan Since Start of Recent Recession.</u> According to the LAO, despite the fiscal challenges and uncertainty faced by school districts following the recent economic downturn, no school district to this point has required an emergency loan as a result of recent budget reductions. King City Joint Union High School District, the last school district to receive an emergency loan, required a loan based on fiscal problems that were in place prior to major budget reductions in 2009.

Pending Legislation related to Emergency Loans:

- AB 1898 (Alejo), pending in the Assembly Appropriations Committee, proposes to change the financing mechanism for emergency loans made to school districts from the California Infrastructure and Economic Development Bank (I-Bank) to the Pooled Money Investment Account (PMIA). According to the Assembly Appropriations Committee analysis, "This bill would allow school districts to receive an emergency loan up to $25 million at the current PMIA rate of 1%. If this loan were made today, the 1% interest rate would be locked in for the life of the loan (generally 20 years). Under these terms and if the PMIA interest rate rose to 3%, the state would lose out on a rate of return of approximately $300,000 annually."

- AB 1858 (Alejo), pending in the Assembly Appropriations Committee, reduces the interest rate for the emergency loan obtained by the South Monterey County Joint Union High School District (SMCJUHSD) in 2099 from 5.44% to 1%. According to the Assembly Appropriations Committee analysis, "Annual GF/98 costs of $445,000 ($7 million GF/98 total over the life of the loan) to the state to reduce SMCJUHSD's emergency loan interest rate from 5.44% to 1%. This cost will be an expenditure of the Proposition 98 guarantee."

- SB 1240 (Cannella), pending in the Senate Appropriations Committee, also proposes to reduce the interest rate for SMCJUHSD from 5.44% to 1%, but this change will only be operative if the district passes a local parcel tax by January 1, 2015.

- SB 177 (Wright), pending in Assembly Education Committee, appropriates $12.9 million Proposition 98 (General Fund) as an emergency apportionment (loan) for the Inglewood Unified School District and requires the district to enter into a lease financing agreement with the I-Bank for the purpose of financing the emergency apportionment.

Recent budget actions reduced fiscal oversight. According to the LAO, the fiscal oversight system is especially crucial during challenging fiscal times, when school districts often must deal with uncertain revenues, large state deferrals, and possible trigger reductions. Over the past several years, however, the state has taken one–time actions that have reduced the ability of COEs to disapprove district budgets or certify districts as qualified or negative. Beginning in 2009, the state reduced the minimum reserve requirements for school districts to one–third of their existing levels in 2009–10, 2010–11, and 2011–12, making it more difficult for COEs to raise concerns with districts that were carrying low reserve levels. Perhaps of even greater concern, in the *2011–12 Budget Act*, the state adopted legislation that prevented COEs from disapproving 2011–12 school district budgets if the district appeared unable to meet its financial obligations for the following two fiscal years.

The *2011–12 Budget Act* also required school districts to assume the same level of per–pupil funding in 2011–12 as they received in 2010–11, essentially requiring COEs to ignore proposed trigger reductions when reviewing school district budgets. These changes to the existing oversight system reduced the ability of COEs to use existing tools to monitor and assist at–risk districts. Given the oversight process is crucial to identifying districts that may need additional support and assistance, these types of actions both reduce the amount of information available to the state and reduce the tools available for COEs to assist school districts.

SUGGESTED QUESTIONS:

1) What has been the practical effect of the provisions in AB 114 (Budget Committee), Chapter 43, Statutes of 2011, which reduced the ability of county offices of education to disapprove district budgets or certify districts as qualified or negative?

2) What is the primary focus of FCMAT as they work with districts in the current fiscal climate? What are the measures or factors used by FCMAT to assess fiscal solvency?

3) How have districts planned their budgets given the uncertainty around the state budget and the November ballot initiatives?

4) Are there any districts that are of particular concern? Any that may need emergency funding from the state and if so, what is the potential impact on the state General Fund?

5) What trends are you seeing in enrollment? How is declining enrollment affecting district budgeting?

ISSUE 3: GOVERNOR'S 2012-13 PROPOSAL: K-14 MANDATE BLOCK GRANT

The issue for the Subcommittee to consider is the Governor's proposal to eliminate some mandate requirements and create a block grant to fund remaining mandated activities.

PANELISTS

- Department of Finance
- Legislative Analyst's Office
- California Department of Education

BACKGROUND

The concept of state reimbursement to local agencies and school districts for state mandated activities originated with the Property Tax Relief Act of 1972 (Senate Bill 90, Chapter 1406, Statutes of 1972), known as SB 90. The primary purpose of the Act was to limit the ability of local agencies and school districts to levy taxes. To offset these limitations, the Legislature declared its intent to reimburse local agencies and school districts for the costs of new programs or increased levels of service mandated by state government. The Legislature authorized the State Board of Control to hear and decide upon claims requesting reimbursement for costs mandated by the state. This duty is now assumed by the Commission on State Mandates (CSM), a quasi-judicial body created in 1984.

Proposition 1A, approved by the state's voters in 2004, required the Legislature to appropriate funds in the annual budget to pay a mandate's outstanding claims, "suspend" the mandate (render it inoperative for one year), or "repeal" the mandate (permanently eliminate it or make it optional). The provisions in Proposition 1A, however, did not apply to K-14 education.

Over the years, as the cost and number of education mandates grew, the state began to defer the full cost of education mandates. Prior to the 2010-11 Budget Act, the state had deferred the cost of roughly 50 education mandates but still required local education agencies (LEAs) to perform the mandated activity by providing a nominal amount of money ($1,000) for each activity. An exception was in 2006 when the state faced some good times and was able to provide more than $900 million in one-time funds for state mandates. This funding retired almost all district and college claims (plus interest) through 2004-05.

The practice of deferring mandate costs was challenged in court in 2009 and is no longer allowed. Therefore, once a mandate is approved by the CSM, the Legislature now has three options for handling education mandates:

- Fund. The Legislature may appropriate funding for each mandate based upon the State Controller's Office Statewide Cost Estimate Report.

- Suspend. The Legislature may choose to "suspend" a mandate by eliminating funding in the budget and adding provisional language stating the mandate is suspended. When a mandate is suspended, local responsibilities for providing the mandate and state obligations for funding the mandate are also suspended.

- Repeal. The Legislature may also choose to repeal a mandate by eliminating funding in the budget and repealing the underlying statute.

The 2010-11 Budget Act funded, suspended, modified, and eliminated several mandates as an alternative to the Governor's proposal to suspend all K-14 mandates across the board. These actions left about 40 mandates to be funded. The 2011-12 Budget Act continued the actions taken in 2010. Specifically, the 2011-12 budget provided $90 million to cover the costs of K-14 annual mandate claims. According to the LAO October spending plan, however, the annual cost is estimated to be $180 million at the end of 2011-12. Furthermore, due to years in which the state provided no mandate funding or less than needed to cover total mandate costs, the state has a $3.3 billion backlog in K-12 claims (not including the high school graduation mandate).

Problems with claiming process. Even though the state has made progress in funding education mandates, the system continues to be complex, particularly when it comes to the claiming process. Costs are often higher than the legislature anticipated when the original law was passed. Costs can vary greatly due to different district claims, the number of years covered by the claims, the range of activities deemed reimbursable and subsequent statutory decisions and legal rulings. Furthermore, the mandate determination process can take as long as five years leading to huge lag time in determining accurate state costs. Claiming also varies widely among districts. Some larger districts have staffing units dedicated to processing mandate claims or hire accounting firms to file claims whereas many smaller districts have one administrator to file claims while juggling many other responsibilities. According to the LAO, less than half of all districts and county offices of education claim for mandated costs.

Mandates and charter schools. Charter schools are prohibited from claiming reimbursement for mandated costs due to a ruling from the Commission on State Mandates (CSM) in 2006. According to the CSM decision, a charter school is voluntarily participating in the charter program. Further, a charter school is not a school district under Government Code section 17519 and therefore is not eligible to claim reimbursement under section 17560. Thus, charter school costs are not eligible for reimbursement either directly or through a third party (i.e., a school district or superintendent of schools). Charter schools continue to suggest that they should be allowed to submit claims for activities they are required to perform. The Governor's proposal would provide charter schools with mandate funding under the proposed block grant.

High School Graduation Requirement and Behavioral Intervention Plans. The Governor's mandate proposal includes elimination of two of the most costly K-12 mandates: High School Science Graduation Requirements and Behavioral Intervention Plans. Each of these mandates carries significant prior year and ongoing costs to the state.

- High School Science Graduation Requirement Mandate. As part of major education reform legislation in the early 1980s, the Legislature increased the state's high school graduation requirements. Among other changes, the law required that all students complete two high school science classes prior to receiving a diploma (the previous requirement was one science class). This change raised the total number of state-required courses from 12 to 13.

Mandate claims were submitted to CSM for the costs associated with providing an additional science class. In 1987, CSM determined that providing an additional science class imposes a higher level of service on districts and, therefore, constituted a reimbursable mandate.

In 2004, a court ruling indicated that school districts had full discretion to increase their total graduation requirements and total instructional costs. Based on this 2004 ruling, CSM decided the state could not increase the number of courses it requires for graduation above 12 courses without providing reimbursement.

According to the latest data from the State Controller's Office, annual costs for the science graduation requirement total about $250 million a year. Prior year claims are estimated at $2.5 billion for this mandate.

A number of mandate reforms were enacted in the 2010-11 budget package. These reforms included modifications to the Science Graduation Requirement mandate intended to retain the underlying statute, while eliminating mandate cost requirements. In July 2011, the Department of Finance (DOF) requested that the Commission amend the parameters and guidelines associated with this mandate to take into account the use of offsetting revenue limits funding per AB 1610, the trailer bill from that year. The Commission has not acted on DOF's request in light of a pending lawsuit filed by the California School Boards Association challenging the legality of using the revenue limit funding for this purpose.

- Behavior Intervention Plan Services Mandate. Federal law entitles children with disabilities to a "free and appropriate education" (FAPE) tailored to their unique needs. In order to achieve these goals, districts are responsible for providing special education and related services pursuant to an Individualized Education Program (IEP), which is developed by an IEP team -- including parents -- with special education expertise and knowledge of a child's particular needs.

  AB 2586 (Hughes), Chapter 959, Statutes of 1990, sought to regulate the use of behavioral interventions and encourage the use of positive behavioral strategies with special education students, as a part of the IEP process. In so doing, Chapter 959 required the State Board of Education (SBE) to adopt regulations that (1) specified the types of behavioral interventions districts could and could not use; (2) required IEPs to include, if appropriate, a description of positive interventions; and, (3) established guidelines for emergency interventions.

  The SBE adopted regulations that require districts to conduct a "functional assessment analysis" and develop a Behavioral Intervention Plan (BIP) for students with disabilities exhibiting serious behavior issues. SBE regulations also require districts to train staff to implement BIPs.

In 1994, three school districts filed a claim arguing that BIP-related requirements constituted a reimbursable mandate. In reviewing the claim, the Commission on State Mandates staff found that state statute, "on its face, does not impose any reimbursable state mandated activities," however, regulations adopted pursuant to state law were found to constitute a state mandate.

At the time BIP-related regulations were implemented, federal law was silent on the use of behavioral interventions. In 1997, however, federal law was amended to include behavioral interventions in the IEP process. Per the LAO, under state law, if a student with a disability exhibits behavior that impedes his or her education, school districts are required to perform three primary activities: (1) assess the student's behavior using a "functional analysis assessment," (2) implement a plan for addressing the behavior (the BIP), and, (3) ensure teachers are properly trained to perform BIPs. Per the LAO, after state laws and regulations were adopted, the federal government essentially chose to require the same primary activities.

According to recent estimates, annual claims costs for the BIP mandate total about $65 million a year. Prior year claims are estimated at <u>$1.0 billion</u> for this mandate.

BIP statutes were also updated in 2010-11 budget package to clarify federal special education mandates covering positive behavior services for students with disabilities. The intent of these changes was to retain the underlying BIP statute, but eliminate mandated cost requirements.

GOVERNOR'S PROPOSAL

According to the Governor, the significant shortcomings of existing K-14 education mandates and the process for administering them compel reform of education mandates. The Governor's January 2012-13 budget proposes to eliminate more than half of K–14 mandates, as shown in the figure below.

Governor's Mandate Proposal

Mandates Eliminated	
Active	**Suspended**
Absentee Ballots[a]	Grand Jury Proceedings[a]
Agency Fee Arrangements[a]	Health Benefits for Survivors of Peace Officers and Firefighters[a]
Mandate Reimbursement Process[a]	Law Enforcement Sexual Harassment Training[a]
Threats Against Peace Officers[a]	Integrated Waste Management[b]
Health Fees/Services[b]	Law Enforcement Jurisdiction Agreements[b]
Reporting Improper Governmental Activities[b]	Sexual Assault Response Procedures[b]
Caregiver Affidavits	Student Records[b]
Financial and Compliance Audits	County Treasury Withdrawals
Habitual Truants	Physical Education Reports
Law Enforcement Agency Notifications	Pupil Residency Verification
Missing Children Reports	Removal of Chemicals
Notification of Truancy	School Bus Safety I and II
Notification to Teachers: Pupil Discipline Records	Scoliosis Screening
Notification to Teachers: Pupil Suspension or Expulsion I and II	**Pending Cost Estimate/Under Litigation**
Physical Performance Tests	Behavioral Intervention Plans
Pupil Suspensions, Expulsions, Expulsion Appeals	Graduation Requirements
Mandates in Block Grant	
California State Teachers Retirement System Services Credit[a]	Differential Pay and Reemployment
Collective Bargaining[a]	Immunization Records I and II
Open Meetings/Brown Act[a]	Intradistrict Attendance
Prevailing Wage[a]	Juvenile Court Notices II
Sex Offenders: Disclosure Requirements[b]	Pupil Health Screenings
AIDS Instruction and AIDS Prevention Instruction	Pupil Promotion and Retention
Annual Parent Notification	Pupil Safety Notices
California High School Exit Exam	School Accountability Report Cards II and III
Charter Schools I, II, and III	School District Fiscal Accountability Reporting
Comprehensive School Safety Plans	School District Reorganization
County Office of Education Fiscal Accountability Reporting	The Stull Act
Criminal Background Checks I and II	

[a] Applies to both school districts and community colleges.
[b] Applies only to community colleges. Unless otherwise indicated, remaining mandates apply only to school districts.

The mandates proposed for elimination include a number that already have been suspended in recent years, such as physical education reporting and pupil residency verification. According to the Administration, all mandates that did not address public health, safety, or accountability issues are being proposed for elimination.

For the remaining mandated programs, the Governor proposes to establish an optional mandate block grant as a mechanism for LEAs, charter schools and community colleges to receive state reimbursement. Specifically, the Governor proposes to provide $200 million on a per pupil basis ($178 million for school districts, $22 million for community colleges) to fund the block grant. As a condition of receiving block grant funding, recipients would be required to continue the activities in the block grant. The Administration indicates it will establish some auditing and/or compliance monitoring process to ensure grant recipients undertake the required activities. Participation in the block grant is not required however. Districts and community colleges can forgo block grant funding and instead submit mandate claims directly to the Commission on State Mandates, which is the current process for reimbursement.

LAO RECOMMENDATIONS

While the Legislative Analyst's Office believes the Governor's proposal addresses many of the problems with mandates, there are also some issues of concern.

The LAO agrees that many mandates proposed for elimination by the Administration do not serve a compelling statewide purpose, such as ensuring accountability or protecting public health and safety. The LAO believes the level of funding proposed by the Administration would encourage most, if not all, to choose to be funded through the block grant. Further, they believe a block grant approach would incentivize LEAs to perform activities more efficiently and give the state more information on compliance than under the current mandate reimbursement process.

The LAO notes that while the programs chosen for elimination and retention reflect the priorities of the Administration, the Legislature may have different priorities. The LAO further expresses concerns over the ability for districts to continue to file claims. They point out that costs could increase if some LEAs receive more funding by filing claims than they otherwise would through the block grant. Further, the block grant provides about three times as much funding on a per pupil basis to county offices of education as compared to districts and charter schools with no apparent reason. The Administration's proposal also does not address certain out-year issues, for example, it is unclear how (1) block grant funding might change in the future, and (2) whether new mandates would be included in the block grant.

STAFF COMMENTS

Staff recommends this issue be held open pending the May Revision.

SUGGESTED QUESTIONS:

1) Does the Administration anticipate any changes to this proposal in the May Revision?

2) The Governor's Budget provides $200 million for K-12 schools and community colleges who chose to participate in the block grant. The Administration's proposal also allows these entities to continue claiming under the existing process. What are the anticipated costs for this two-tiered system? Has the Administration built those costs into the budget?

3) How does the Administration propose to address future mandates? Would new mandates be added to the block grant?

4) Does the Governor continue to propose paying off prior year mandate claims by the end of 2015-16 per his "wall of debt" proposal?

5) Does the Administration still plan to eliminate the mandate claiming reimbursement mandate? How much do K-12 schools and community colleges spend annually on mandate claiming?

6) Why does the Administration propose to eliminate the high school science graduation requirement? Does the Administration believe the modifications made to this mandate in 2010-11 were insufficient to protect the state from additional claims? What is the status of the CSBA lawsuit related to the high school graduation requirement?

7) Why does the Governor eliminate the Behavior Intervention Plan (BIP) mandate? The BIP mandate was also modified in 2010-11 to retain the mandate but remove any required costs. Does the Administration believe another approach is required to protect the State from additional claims?

ISSUE 4: APRIL LETTER: OPEN ISSUES: MIGRANT EDUCATION PROGRAM

The issue for the Subcommittee to consider is the Department of Finance April Letter request to increase funding authority for the State Board of Education by $800,000 in the 2012-13 Budget Act to reflect the appropriation of one-time federal funds to contract for an independent audit of the federally-funded Migrant Education Program.

PANELISTS

- Legislative Analyst's Office
- California Department of Education
- Department of Finance

BACKGROUND

The federally-funded Migrant Education Program (MEP) provides migratory students with additional supplemental instruction, English language development, and instructional materials. The purpose of the federal Migrant Education Program is to assist states to:

1) Support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

2) Ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;

3) Ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

4) Ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;

5) Design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of migrant children to do well in school, and to prepare them to make a successful transition to post-secondary education or employment; and,

6) Ensure migratory children benefit from State and local systemic reforms.

Additionally, state statute requires the State Superintendent of Public Instruction to identify and recruit parents of identified migratory students for local parent advisory councils to participate in local-level MEP planning, operation, and evaluation.

Migrant Students. California has the largest MEP enrollment in the nation with 176,001 migratory children reported for the most recent (2009-2010) category 1 child count. This is a 15 percent decrease from the 2008-2009 child count (36,713 fewer students). According to the California Department of Education (CDE), the reasons for the decrease in MEP enrollment include the overall economic downturn with high unemployment and high cost of living in the State; reduced agricultural activity due to drought and land development; and enhanced border control. The CDE stated that 56 percent of MEP students make intrastate qualifying moves; 28 percent move between California and Mexico; and 16 percent move to or from other states.

Migrant Education Funding. The 2010-11 budget appropriates $135 million for the federal Migrant Education Program grant. According to CDE, the state sets aside $1.3 million (one percent) of the total grant for State Administration; $115.1 million (85 percent) for Local Assistance to the Migrant Education Program regions; (14 percent) for State-Level Activities.

The $18.6 million for State-Level Activities includes various statewide service contracts, including:

- $7.1 million for Mini-Corp (services for undergraduate students);
- $6.0 million for MEES (migrant education student tracking system); and,
- $5.5 million for other statewide programs (ranging from school readiness to out-of-school youth).

Program and Service Delivery. California's Migrant Education Program is organized, as a regional service system comprised of 23 regions that include 14 county offices of education and 9 direct funded districts (LEAs). These 23 regions serve migratory children enrolled in approximately one-half of the state's public schools in 568 of the 1,059 LEAs in the State. The CDE uses four service delivery models under this system:

1) <u>Centralized Region Model</u>. This Region is responsible for all funds and provides all services to several districts;

2) <u>Direct Funded Districts Model.</u> This Region is a single district (LEA);

3) <u>District Reimbursement Model</u>. This Region funds districts (LEAs), which provide services through district service agreements (DSAs); district is responsible for funds and for providing services; and,

4) <u>Mixed Model.</u> This Region provides services to some districts (as in Centralized Region Model) and reimburses other districts using DSAs. (Under this model, a region may also fund a consortium of small districts that elect one district to serve as their fiscal agent and provide services through the consortium). The Mixed Model is the most common model for the 14 regions headed by county offices of education.

The CDE subgrants MEP funds to its regions through the regional application review process. Regions distribute DSAs to districts with migrant populations and approve DSAs (using a checklist provided by CDE) in time for the region to submit its regional application and DSAs (including budgets) to CDE by May 31 each year. CDE uses this process to provide administrative oversight and monitoring, coordination, and technical assistance to its 23 regions. Regional directors coordinate and collaborate with one another (and with CDE) through the Regional Directors Council.

Recent Federal Audits. In 2005 the U.S. Department of Education, Office of Migrant Education (OME) conducted a Federal Program Review (audit) of California's Migrant Education Program. This review resulted in a number of corrective actions. CDE is still responding to these corrective actions. Among the OME the findings was inadequate response by CDE to three substantive concerns about its operation of the Migrant Education Program. As a result, special conditions were placed on the state's 2011-12 federal grant.

In July 2011, the U.S. Department of Education conducted a Targeted Desk Review (audit), whereby OME visited CDE to conduct a focused review of "program operations" for the Migrant Education Program. The Targeted Desk Review was initiated, in part, because CDE had not completed responses to the 2005 Program Review. CDE recently received the findings of the OME Targeted Desk Review in 2011, which also reflect corrective actions 2005 Program Review. According to CDE, the OME review identified: deficiencies in analysis, review, and reporting by the State Parent Advisory Council (SPAC); identification and recruitment of migrant students and families; and fiscal oversight of the 23 regions. According to CDE, some of the federal findings "were egregious and required additional investigation."

In response to the OME findings, CDE prepared a corrective action plan, which was transmitted to the federal government in January 2012. According to CDE, the OME findings require CDE to address all of the following as a part of the corrective action plan:

1) State Parent Advisory Council (SPAC). The OME findings require the CDE to perform additional duties which include: developing contracts and coordinating with outside vendors, setting up and implementing webinars, live streaming of all SPAC meeting in English and Spanish, negotiate and implement interpreters and hotel contracts for parents, and provide support to take meeting minutes, monitor elections, and verify parent eligibility status for SPAC.

2) Professional Development**.** The OME findings require the CDE to provide professional development activities to enable regional staff to provide targeted instruction that helps migrant students meet state content and performance standards. The OME determined that guidance and training is needed to assist migrant education regional personnel in the use of assessment data to effectively plan programs and supplement classroom instruction.

3) Fiscal Audit Activities. The OME findings require more detailed fiscal oversight of all fiscal and programmatic contracted activities, including the review of itemized expenditure categories for each of the migrant regions as necessary. In some instances, the OME found regions with excessive administrative costs that not only exceeded California administrative cost standards, but reduce the funds available for direct services to migrant students.

DOF: APRIL LETTER REQUEST

The following is a request from the Department of Finance submitted to the Legislature as part of their April Letter proposal. The DOF testified at the Senate hearing on May 3, 2012 that this proposal is being re-evaluated for the May Revision.

Items 6110-009-0001 and 6110-009-0890, State Operations (Support), State Board of Education (Board) (Issue 081). It is requested that Item 6110-009-0890 be added in the amount of $800,000 and that Item 6110-009-0001 be revised to provide $800,000 onetime federal Title I, Part C carryover funds for the Board to contract for an independent audit or review of the federally funded Migrant Education Program (MEP). Given the recent federal report on the MEP, the Board and the Department of Education has expressed a desire for additional examination of the MEP to ensure program compliance and to identify areas of improvement.

It is further requested that Item 6110-009-0890 be added as follows to conform to this action:
6110-009-0890—For support of the Department of Education, for payment to Item
6110-009-0001, payable from the Federal Trust Fund…………………………$800,000
Provisions:
1. The funds appropriated in this item are for the State Board of Education to contract for an independent audit or review of the federally-funded Migrant Education Program.

Preliminary Scope of Work for Audit. The CDE has provided a preliminary scope of work plan for independent audit proposed by the DOF April Letter. In summary, the CDE currently requests that the State Controller's Office conduct limited scope audits in accordance with Government Auditing Standards. Of the Title I, Part C, Migrant Education programs identified by nine local education agencies (LEAs). More specifically, the preliminary scope of the LEA audits will encompass fiscal years 2007-08 through 2010-11. The areas of review include:

1) Internal Controls. Assess the regions' internal controls over the Migrant program (including expenditures, funding, and parent advisory council stipends) and specify recommendations for improvement.

2) Allowable Costs. Verify that program funding was utilized on expenditures that are reasonable, necessary, and properly supported in accordance with applicable state and federal program requirements. This includes but is not limited to the following areas:

   a) Travel – Determine the amount, purpose, and reasonableness of travel costs (transportation, hotel, per diem, and stipends) charged to the program, including travel by regional and parent advisory council members attending in-state and out-of-state meetings and conferences.

   b) Equipment – Verify that equipment is appropriately purchased and utilized solely for program purposes.

   c) Vehicles – Determine if vehicle costs charged to the program are used only for program purposes. Document purpose and determine reasonableness of vehicle usage.

3) Administrative Costs. Quantify the regions' administrative costs charged to the program and identify the proportional relationship to program funding received; assess the reasonableness of regional office and district staff compensation charged to the program

4) Allocation of Funding. Assess the reasonableness of the regions' methodology for allocating program funding to the sub-recipients.

5) Supplanting. Determine if the regions utilize Migrant program funds to provide services that the regions previously provided with non-Migrant funds. Determine if the regions utilized Migrant program funds to provide services that were already required to be made available under other federal, state, or local laws.

6) Parent Advisory Council Activities: Document and assess compliance of the regions' policies and procedures for electing parent advisory council members; Verify that at least two-thirds of the members of the parent advisory council are parents of migrant children; Verify that parent advisory council stipends are paid in accordance with program requirements.

Additional CDE budget request. The CDE has requested authority to expend an additional $400,000 in federal Migrant Education carryover funds – beyond the $800,000 proposed in the DOF April Letter – to contract for an Intervention Working Group Team. The DOF is currently reviewing this request for purposes of May Revise.

The proposed Intervention Working Group Team would assist CDE in addressing the findings from the U.S. Department of Education; Office of Migrant Education (OME) Monitoring Report dated June 2011. CDE has provided a list of the OME findings it must address and related activities for the Intervention Working Group Team, as follows:

1) State Parent Advisory Council (SPAC). The contractor would perform the following activities:

   a) Research other state's State Parent Advisory Councils (SPAC) bylaws, regulations, laws, roles, and responsibilities.

   b) Provide recommendations to the Superintendent of Public Instruction (SPI) on possible alternatives to California's SPAC.

   c) Review all current contracts for SPAC activities and develop criteria for reviewing and selecting contracts to support SPAC requirements (e.g., interpreters, webinars, live streaming, etc.).

   d) Review and advise on subcommittee activities as needed and as determined by CDE.

2) Professional Development. The contractor would perform the following activities:

   a) Review and research alignment between California's Comprehensive Needs Assessment, State Service Delivery Plan, and the State Service Delivery Application.

   b) Review current technical assistance provided by CDE to assist migrant education regional personnel in the use of assessment data to effectively plan programs and supplement classroom instruction.

   c) Review current technical assistance provided by contractors to assist CDE and migrant regions in processes for data management as related to applications and state and federal monitoring requirements.

   d) Design and Implement a comprehensive professional development plan and system to meet the needs of the CDE MEP Staff along with Regions and Districts.

3) Fiscal Audit Activities. The contractor would perform the following activities:

   a) Review and evaluate current data collection requirements and quarterly reporting from sub-grantees regarding itemized expenditures.

   b) Review and evaluate sub-grantee administrative costs and direct service costs and CDE’s systems to track this data.

   c) Provide recommendations to the SPI on possible internal system improvements to better assist CDE in tracking this data and providing consistent and standardized technical assistance to sub-grantees regarding the definition of direct and administrative costs and supplemental instruction.

4) Leadership Requirement. The contractor would perform the following activities:

   a) Review and evaluate all current Migrant State Contracts.

   b) Research other state migrant program service delivery systems and provide recommendations to SPI on a possible alternative to California's hybrid system.

   c) Oversee the 8-10 migrant audits being conducted and provide recommendations to the SPI on internal and external infrastructure system improvements to the CDE migrant office, the Migrant Regions and affected LEAs (sub-grantees).

   d) Oversee the work outlined in items 1, 2, and 3 above.

LAO RECOMMENDATIONS

LAO will provide the Subcommittee with a brief description of the Migrant Education program and review recommendations for a comprehensive set of reforms designed to improve the federal Migrant Education Program from a report published in 2006.

The LAO report made recommendations to address the program's: (1) funding and service model; (2) data system; and, (3) carryover funding process. The 2006 LAO report identified four major concerns with the current MEP funding model, which are outlined below:

- Disconnect between funding and accountability.
- Lack of coordination between MEP services and other services.
- Funding formula does not reflect statutory program priorities.
- Funding formula does not encourage broad participation.

In response, the LAO made the following specific recommendations to the Legislature:

- Revise the MEP funding model to send the majority of funds directly to school districts rather than regional centers. Maintain some funds at county offices of education for certain regional activities and some funds at CDE for certain statewide activities.
- Direct CDE to: (1) revise the per-pupil funding formula so that it emphasizes federal and state program priorities; and, (2) report back on revisions once it has completed its statewide needs assessment.
- Expand the state's migrant education data system to include more data elements and use carryover funds for this system.
- Use carryover funds to help transition to a district-based system.
- Adopt budget bill language that would allow up to 5 percent of annual migrant education funding to carryover at the local level, with any additional carryover designated for specific legislative priorities.

STAFF COMMENTS

Staff recommends this issue be held open pending the May Revision.

SUGGESTED QUESTIONS:

1) According to CDE, some of the federal findings were "egregious and required additional investigation." Can CDE summarize the most serious findings?

2) Has the Department complied with the federal audit? What is the status of any corrective actions or special conditions that resulted from the audit?

3) Are CDE's proposals for an independent state audit and state intervention team required by the federal audit findings and corrective actions?

4) Per the Department, the federal audit found some Migrant Education regional programs "with excessive administrative costs that not only exceeded California administrative cost standards but reduce the funds available for direct services to migrant students."

    a) How are these problems being addressed by the Department?

    b) How high were administrative rates and what were the associated dollar amounts?

    c) How much funding is being diverted from direct services as a result of high administrative rates?

5) Can CDE provide additional details for the proposed independent state audit included in the DOF letter? For example, is the State Board of Education still planning to administer the audit? What is the timeframe of the audit? Who will conduct the audit?

6) Can CDE provide additional details for the proposed Intervention Working Group Team currently being reviewed by the Department of Finance?

    a) How will contracted staff work with CDE?

    b) How will staff work with regional staff?

    c) What is the timeframe for the Intervention Team?

    d) Are there any existing resources that can be used for this purpose?

7) What is the status of the annual report for the Migrant Education program?

8) Does the Department see opportunities for addressing some of the current problems with the Migrant Education Program through program reforms, such as those recommended by the LAO's 2006 report?