

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 2 ON EDUCATION FINANCE Assembly Member Mervyn Dymally, Chair

TUESDAY, APRIL 25, 2006
STATE CAPITOL, ROOM 444
10:00 AM

ITEMS TO BE HEARD

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ITEMS TO BE HEARD**6110 DEPARTMENT OF EDUCATION**

ISSUE 1: RECONSIDERATION: INSTRUCTIONAL MATERIALS ISSUES

The issue for the subcommittee to reconsider is the following action taken last week at the April 18 hearing:

1. Remove funding for staff and support of the State Board of Education.
2. Change budget language relating to instructional materials funding from "shall" to "may" to allow and not require districts to use their instructional materials funding on state adopted materials.
3. Move reconsideration of the motion next week.

COMMENTS:

Staff notes that the subcommittee heard the issue of instructional materials, including issues related to the specific needs of English learners, at its April 4, 2006 hearing.

ISSUE 2: CHILD CARE -- STANDARD REIMBURSEMENT RATES

The Subcommittee will discuss the reimbursement rate for Title V Child Care centers.

BACKGROUND:

CDE contracts directly with 850 different agencies through approximately 2,100 different contracts. These providers are reimbursed with the Standard Reimbursement Rate, \$31.59 per full day of enrollment (proposed 2006-07 rate). These providers must adhere to the requirements of Title 5 of the California Code of Regulations and are generally referred to as Title 5 providers.

In many parts of the State, the SRR lags behind the Regional Market Rates that the State pays for vouchered care. This gap is particularly acute in the Bay Area counties, where the cost of care is much higher than the State average.

PROPOSITION 49 IMPACT ON TITLE V RATE:

Advocates have stated one large school district in the Bay Area has considered converting all of their Title V child care center “classrooms” into afterschool program “classrooms” because the SRR was too low to cover the high costs associated with meeting Title V requirements. The district ultimately decided to continue providing the contracted Title V child care. However, with the addition of the Proposition 49 funding in the budget year combined with possible legislative changes to increase the reimbursement rates of the after school programs, it is possible that the local districts use funding from their existing Title V program to fund the local match for the after school program.

LAO RECOMMENDATION:

The LAO recommends increasing the Standard Reimbursement Rate by making the following adjustments:

- Redirect all child care growth funding to the SRR (\$14.8 million).
- Limit license-exempt funding to 90 percent of the Title 5 reimbursement rate in high-cost counties.
- Require centers to provide the state a similar sibling discount as given to private-paying customers.
- Adopt a sliding scale cost-of-living adjustment (COLA), providing a higher COLA in high-cost counties, and lower COLA in low-cost counties.

The LAO recommendation redirects growth from pre-school and vouchered child care programs. The growth funding for the Title V General Child Care program alone is \$7.6 million.

UNSPENT GENERAL CHILD CARE FUNDING:

According to CDE, over \$4 million budgeted for General Child Care programs were returned as unspent funding in FY 2004-05. The SRR could further increase if the State could find a way to convert some of the unused slots in current contracts into a higher rate for the program.

COMMENT:

Child care advocates commented that some child care centers meeting Title 5 requirements are considering discontinuing their General Child Care contracts because they cannot be reimbursed for their costs.

Last year, the Department of Education estimated that it would cost \$119.5 million to reimburse Title 5 centers in counties that have an RMR above the SRR at the higher RMR level.

ISSUE 3: CHILD CARE ELIGIBILITY

The Subcommittee will discuss child care eligibility.

BACKGROUND:

Under current law, a family must earn less than 75% of the State Median Income (SMI) to be eligible for subsidized child care. The SMI level for this determination has not been updated since 2000 (based on 1998 income data). The continued freeze of this eligibility level has significantly reduced the income range a family can earn and still be eligible for child care. Under the current eligibility threshold, a family of 3 can earn up to \$2,925/month; If the SMI were updated that same family could make up to \$3,956/month

Current State law requires that the SMI used for eligibility be updated by March 1 of each year. However, for the last five years the Budget Bill has contained a provision that suspends this SMI update.

FEE:

The budget bill includes language that proposes a working group to discuss both the eligibility level and the family fees for child care. Finance and Subcommittee staff have been discussing the possibility of having a meeting this year to resolve the issue.

COMMENT:

The Subcommittee has received reports of many parents taking pay cuts, turning down promotions, or cutting hours so they don't go over the income limit. Some child care administrators also report former CalWORKs Stage 3 families returning to CalWORKs cash aid because they cannot afford private pay child care.

ISSUE 4: CHILD CARE -- ALTERNATIVE PAYMENT PROGRAM ADMINISTRATION

The Alternative Payment Program administrators have requested language to increase their administrative funding flexibility.

BACKGROUND:

The Governor's budget includes trailer bill language to increase the amount that Alternative Payment Program administrators can charge for administration. The language is intended to restore the AP's administration level to 20 percent of the total expenditures, up from the current rate of 19 percent. The language reflects a recognition that AP administrative burdens have increased while caseloads have flattened, which requires AP's to spend more funds on administration.

DEPARTMENT OF FINANCE – BUDGET BILL LANGUAGE:

The Department of Finance has proposed the following Budget Bill Language to address this issue:

Notwithstanding any other provision of law, administrative and support services allowances for the programs funded through Schedules (1.5) (d), (1.5) (e), and (1.5) (f) of this item shall be limited to no more than 25 percent of the total contract amount. Alternative payment agencies shall provide verification of administrative and support services expenditures to the department.

There was some concern that the proposed language would actually increase the administration rate to 25 percent of total expenditures.

CAPPA PROPOSED TRAILER BILL LANGUAGE:

The California Alternative Payment Program Association (CAPPA) has suggested the following Trailer Bill Language to implement the increase in the administration rate to 20 percent:

8223. The assigned reimbursement rate for alternative payment programs shall include ~~the cost of child care funds to be paid directly to paid to child care providers, plus the administrative and support services costs of the alternative payment program~~ funds to be used for family and provider support services, and administration of the alternative payment program. The total cost for administration and support services shall not exceed an amount equal to ~~23.4567~~ 25 percent of the direct cost-of-care payments to child care providers.

CAPPA LANGUAGE FOR SMALL COUNTIES:

Small alternative payment contractors have commented that they have difficulty projecting their total administrative budget given the volatile nature of the child caseloads. CAPPA has requested that language be adopted that allows CDE and alternative payment programs to increase the administration rates, on a one-time basis, in the event that administrative costs exceed the 20 percent level:

8222.1. Out of funds appropriated in accordance with Section 8278 for alternative payment programs, the State Department of Education shall reallocate funds necessary to reimburse alternative payment programs for actual and allowable costs incurred for additional services. Applicants may apply for up to and including ~~an amount not to exceed five thousand dollars (\$5,000), or two 7 percent of the contract amount, whichever is greater.~~ Applicants who received funds for two consecutive years under this section may not apply for funding for the following year. Applicant must be provided funding within 30 days of request.

COMMENT:

Both Finance and CDE thought that the proposed language might need technical changes to address the problems identified by the administrators.

ISSUE 5: CHILD CARE -- IN AND OUT OF MARKET RATE

The Subcommittee will discuss the process for ensuring that public vouchers are not paid in excess of the rate charged to the private market.

BACKGROUND:

Current law states that vouchered child care slots shall be paid a rate that is based upon the rate paid by private paying families for that provider. In addition, requires that at most 75 percent of a provider's slots can be filled with subsidized children receiving a voucher for their child care. Although these provisions have been in law for several years, there are no consistent statewide guidelines regarding how to enforce these requirements.

For the last three years, Trailer Bill Language has suspended CDE regulations that created a mechanism to verify the rates providers receive from private pay families and also set the rates for providers that had only vouchered child care families. Providers would need to have at least one private pay families send in a form to verify the private pay rate. If the child care provider did not serve private paying families, the regulations would arbitrarily pick five providers in the area to ascertain their rates for private pay families.

The Subcommittee received numerous complaints about these proposed regulations.

There were three basic problems with these regulations:

- The regulations required private pay families to provide personal information, even though they were not part of the State program.
- AP's were concerned that collecting and verifying all of the private pay rates would result in a substantial increase in workload.
- Advocates were concerned that some providers would stop taking vouchered children because of the additional administrative burden on them and their other families.

Last year, the Subcommittee adopted Trailer Bill Language to make statutory changes that would set the market rate based upon the rate that providers report to their local Resource and Referral agency. The Trailer Bill Language was intended to use the competitive pressures of the private market to enforce the current policy without burdening private pay families or creating the paperwork associated with the CDE regulations.

COMMENT:

The Legislature, CDE, and Finance agree on the State's policy direction for setting vouchered child care reimbursement rates, however there is disagreement on the mechanism that is used to set the rates. Staff is working with Finance and CDE to see if a compromise can be reached so that this issue can be resolved.

ISSUE 6: SPECIAL EDUCATION

The issue for the subcommittee to consider is the Governor's proposed funding level for special education from state and federal funds.

BACKGROUND:

Governor's budget. The Governor's budget proposes a total funding level of \$4.4 billion in state (Proposition 98) and federal funds for special education. This is a total increase of \$188 million, or 4.5%. The budget provides enough funding for growth of 0.2% and a COLA rate of 5.2%. Consistent with legislation passed last year, the budget provides COLA on the state-funded portion of the special education program. He also proposes to continue \$52.6 million in discretionary funds that were provided above growth and COLA in last year's budget (see below).

LAO's table below summarizes the proposed increases in the Governor's budget for special education. The proposed federal funding level does not reflect the reduction in overall federal special education funding recently adopted by the federal government. It is unclear how this will affect federal special education funding for California, but the administration indicates that it will reflect any changes in later proposed adjustment to the budget, such as May Revise.

Special Education Funding				
<i>(Dollars in Millions)</i>				
	Revised 2005-06	Proposed 2006-07	Change	
			Amount	Percent
General Fund	\$2,890.0	\$3046.3	\$156.3	5.4%
Local property taxes	351.8	369.2	17.4	4.9
Federal funds (1)	970.4	984.2	13.8	1.4
Totals	\$4,212.3	\$4,399.7	\$187.5	4.5%

Detail my not total due to rounding.
 (1) The Governor's January 10 budget does not reflect the overall decrease in federal special education funds in the latest federal budget.

No major changes, continues last year's pieces. The proposed budget does not contain any major changes for special education. The budget also continues several funding pieces that were in last year's budget:

- **Discretionary funding above growth and COLA with priority for CAHSEE.** The Governor proposes to continue \$52.6 million in one-time discretionary funding to SELPA's that was provided last year as an increase above growth and COLA, and was accompanied by control language that the highest priority for the use of the funds is to provide intensive instruction and services to special education students who have failed one or both parts of the California High School Exit Exam but must pass in order to receive a diploma in 2006. The Governor budget continues the \$52.6 million with the same language as last year, allowing but not requiring SELPA's to use the one-time funding to provide CAHSEE assistance to special education students. The budget also continues language specifying that the \$52.6 million also be used to pay for any shortfalls in the special education budget. The administration believes that there will not be any shortfalls in the special education budget, thereby making all of this funding available as a one-time increase in discretionary funds for SELPA's.
- **Mental health mandate (AB 3632).** The Governor's budget continues \$69 million in federal special education funds for counties to comply with a mandate requiring them to provide mental health services to special education students for whom mental health services are included in their individualized education plans. The budget similarly continues \$31 million in Proposition 98 funds to SELPA's to provide pre-referral services to special education students who may need more intensive mental health services. Both of these amounts were provided in the 2004-05 and 2005-06 budgets as well.
- **Licensed children's institutions funding.** The Governor's budget contains funding for the new licensed children's institutions funding formula at roughly the same level as last year, at \$185.7 million. The new formula was contained in legislation that was approved two years ago.

Federal changes and last year's funding changes. Last year, the Legislature adopted legislation that changed the formula for calculating the special education COLA. The COLA rate is now based on the state-funded portion of special education only. Last year's change in state law was in response to a change in federal law that disallowed a California practice of using federal funds to pay for state-guaranteed growth and inflation adjustments on the state or federal portion of the program. Last year's legislation allows but does not require the state to use any increases in federal or state funds to pay for the COLA on the federal portion of the state's special education program. As noted above, the federal government reduced federal funds for special education funding, so there is no federal funding increase to pass on to school districts in the form of a COLA for the federal funding piece. Last year's budget contained enough of a federal fund increase to cover the equivalent of a COLA on the federally

funded portion of the special education budget, and provided enough state funds to fully fund the COLA on the state-funded portion, as well as the \$52.6 million increase in state funds above growth and COLA.

COMMENTS:

LAO recommendations. The LAO recommends redirecting \$38.6 million of the \$52.6 million in state funds that the Governor proposes to continue for discretionary purposes, to pay for growth and COLA on the federally-funded portion of the program. It does not believe that SELPA's could use the \$52.6 million to cover any growth or COLA costs in the overall program because the budget specifies the funding as one-time. In its Analysis of the Budget, the LAO also calculated that a portion of the \$52.6 million would have to be used to cover technical adjustments to the base funding level. Last year, the LAO recommended that the Legislature separate state and federal special education funding for budgeting purposes, and use federal funds to pay for the growth and COLA costs on the federally-funded portion of special education. The Legislature adopted the LAO's recommendation, which resulted in savings of \$52.6 million in Proposition 98 funds; the Legislature chose to pass on these savings as discretionary funds for special education.

Special education students and the CAHSEE. Last week the subcommittee heard the budget issues relating to the California High School Exit Exam (CAHSEE.) According to a September 30, 2005 report commissioned by CDE, only 35% percent of special education students in the class of 2006 had passed both portions of the CAHSEE at the end of their junior year. In contrast, 78% of all the state's enrolled students had passed both portions by the end of their junior year. The Governor proposes \$40 million to double last year's funding to help students in their senior year who have not yet passed the CAHSEE. However, this funding does not cover special education students. The Governor's budget proposes to continue last year's practice of covering special education students who have not passed the CAHSEE by specifying that first priority on the use of the \$52.6 million in special education discretionary funds are for special education students who have not yet passed the CAHSEE. However, as noted last week, the language regarding the \$52.6 million is permissive, and allows but does not require SELPA's to use it for helping students pass the CAHSEE. In addition, there are no program requirements for the \$52.6 million, in contrast with the \$40 million for non-special education students at risk of not passing the CAHSEE, which contains specific program and reporting requirements.

Other funding for mental health mandate (AB 3632). The Assembly Budget Subcommittee No. 1 on Health and Human Services considers the funding provided to counties for complying with the long-standing state mandate that they provide mental health services to special education students for whom mental health services are included in their individualized education plans. The Governor proposes \$50 million in non-Proposition 98 General Fund to counties to cover the budget-year costs of the mandate. *This is in contrast to last year's budget* that contained \$60 million to cover the 2005-06 costs of the mandate, as well as \$60 million to partially pay down what the state owes counties for prior-year claims for this mandate. The administration proposes language specifying its intent that the \$50 million to counties be a set-aside amount for a new categorical program to replace the existing mandate, and that this amount combined with the amount provided to education cover the 2006-07 costs of providing mental health services to these students. Last year during the May Revise, the administration proposed to suspend the county mandate, effectively shifting the responsibility for providing the services to school districts. The Legislature rejected the administration's proposal last year, and maintained the mandate.

ISSUE 7: STATE SPECIAL SCHOOLS

The issues for the subcommittee to consider are various state operations and facilities augmentations for the state's special schools for visually- and hearing-impaired students.

BACKGROUND:

Governor's budget. The Governor's budget contains the following augmentations for the state's special schools:

- \$117,000 in General Fund for a student data resource specialist position at the California School for the Deaf in Riverside. CDE requested this funding to help transition the school to a new data system to collect student data.
- \$47,000 in General Fund and half of a position for a visual and performing arts teacher at the California School for the Deaf in Riverside. CDE requested this funding to help supplement the school's current ability to support two-thirds of one teaching position to teach high school visual and performing arts. Current law requires all high school students to pass 10 credits in visual and performing arts to earn a diploma.
- \$117,000 in General Fund and one position for a teacher specialist position at the California School for the Deaf in Riverside. CDE requested this funding to help the school implement instruction linked to the state's academic and performance standards.
- \$285,000 and 3 positions for new early childhood education teachers at the California Schools for the Deaf in Riverside. CDE requested this funding to help accommodate an unexpected increase in enrollment in the school's early childhood education program, which has doubled in size over the past five years from 28 to 51 students.
- \$79,000 in General Fund and 0.8 positions to support the additional costs of maintenance and janitorial services for a new Pupil Personnel Services facility at the California School for the Deaf in Riverside. The facility is scheduled to be completed and ready for occupation in July of this year.

COMMENTS:

CDE will be available at today's hearing to answer any questions about the proposals.

ISSUE 8: SPECIAL EDUCATION DUE PROCESS CONTRACT

The issues for the subcommittee to consider are:

- A deficiency request by CDE to cover a shortfall in funding for the current year.
- Oversight issues related to the quality and timeliness of the data that CDE's contractor (Office of Administrative Hearings) is providing on their outcomes.

BACKGROUND:

Governor's budget. The Governor's budget proposes \$4.5 million in non-Proposition 98 General Fund to cover unexpected costs in 2005-06 to administer the statewide special education due process program. CDE now estimates this shortfall at \$3.5 million and argues that the shortfall is due to a change in the provider that it uses to administer the program. As of last July, CDE stopped contracting with McGeorge School of Law to provide the services, as it had done since 1989, and entered into a three-year interagency agreement with the Office of Administrative Hearings (OAH) within the Department of General Services, to provide the services. CDE cites the following reasons for the shortfall: a greater than anticipated number of cases, an increase in OAH's hourly rate for administrative law judges, and other unanticipated costs. For the budget year, the Governor proposes \$10.14 million to cover the costs of the interagency agreement in 2006-07, the same level of funding for the current year.

Background on the program. Federal special education law requires that states receiving federal special education funding have a due process to resolve disputes between parents and school officials over the learning plans and services offered to special education students. Federal law prohibits CDE from acting as the administrative hearing agency for such disputes. For many years, CDE contracted with the McGeorge School of Law to serve as the administrative hearings agency for these disputes. In 2002 and 2004, California Attorneys, Administrative Law Judges, and Hearing Officers in State Employment (CASE) asked the State Personnel Board to review CDE's contract with McGeorge to see if it complied with a state law specifying that state civil service employees perform certain services. In 2004-05, CDE issued a request for proposals to solicit competitive bids for a new contractor to provide the services. It received bids from McGeorge and OAH. According to CDE, McGeorge's bid was \$43.7 million for three years and OAH's bid was \$30.4 million for three years. Because the OAH bid was lower, CDE decided to enter into an interagency agreement with OAH, citing this as the appropriate contracting vehicle between two state agencies. As of June 1, 2005, CDE and OAH entered into a three-year interagency agreement for the provision of due process hearings starting July 1, 2005, and mediations starting July 1, 2006. It also entered into a six-month transition contract with McGeorge for the provision of mediation services. According to CDE, as of January 1 of this year, OAH assumed responsibility for providing mediations in addition to due process hearings.

Problems with outcomes data. The 2005 education omnibus trailer bill, SB 63, established various requirements for the agency providing the due process services, including a requirement that the agency provide quarterly reports on the outcomes of its process. The legislation required quarterly reports to provide continuity in the program, (since McGeorge had provided quarterly data reports on its outcomes), and in order to have a way to evaluate whether all parties are receiving fair treatment, as required by federal law. Despite this statutory requirement, OAH did not submit a report for the first quarter of the 2006-07 year. It cites workload problems as the reason it did not submit the data. It has submitted a report for the second quarter of 2006-07, but advocates argue that the data is not detailed enough or easy to understand. For example, the data does not differentiate between new cases (after the change in providers) and old cases that were "in the pipeline" at the time of the change in providers. In particular, advocates cite the following data elements contained in previous reports as being helpful in evaluating fairness, and are asking that OAH be required to provide information like this in its quarterly reports:

- average length of hearings,
- the number of hearing requests that were rejected as insufficient,
- the number of hearing requests from parents and the number of hearing requests from districts,
- identification of non-English languages of parties requesting hearings,
- the number of requests for due process hearings resolved through mediations or resolved prior to the commencement of the hearing.
- the number of final decisions issued, and of these, the number decided in the favor of the pupil and the number decided in favor of the district
- the number of cases in which the districts was represented by an attorney, the number of cases in which the pupils and parents were represented by an attorney.

Special education advocates note that the dispute resolution process has become more and more legal in nature and consequently more intimidating for parents, who often cannot afford legal representation. In addition, many parents face language barriers (e.g., not speaking English) that may make the process even more intimidating.

COMMENTS:

AB 2565. Staff notes that CDE is sponsoring AB 2565 (Evans) to appropriate the \$3.5 million for the current-year deficiency, in the event the Legislature decides that this is the appropriate vehicle to address deficiencies.

ISSUE 9: CHARTER SCHOOL CATEGORICAL BLOCK GRANT

The issue for the subcommittee to consider is the Governor's proposed augmentation for the charter school categorical block grant, pursuant to legislation passed last year that changed the formula.

BACKGROUND:

Governor's budget. The Governor proposes an increase of \$36 million in funding for the charter school categorical block grant, for a total funding level of \$103.8 million. The charter school categorical block grant is intended to provide charter schools with an amount of categorical funding similar to what non-charter schools receive. The proposed increase is intended to fund an increase in the funding rate, as required by Chapter 359, Statutes of 2005 (AB 740 (Huff)), which included reforms to the formula for calculating the categorical block grant.

Background on program. The original charter school categorical block grant was created several years ago, to address an inequity in funding between charter schools and non-charter schools, due to the fact that charter schools' exemption from the state Education Code prevented them from applying for or receiving funds from various categorical programs (such as instructional materials). To address this problem, several years ago the Legislature adopted trailer bill language creating a block grant intended to provide charter schools with an amount of categorical funding comparable to what non-charter schools receive. The old formula for calculating the block grant provided an amount of funding per charter school ADA. It provided for an annual calculation that considered the budgeted levels of various categorical programs, and attempted to match the level of the amount per charter school ADA to the budgeted levels of those overall programs.

There were continuous discrepancies between advocates, the LAO and DOF, over the results of the old formula, mostly due to disputes about which programs should be included in the calculation. Two years ago, the Legislature suspended the original formula, after years of disputes over the results of the formula. Last year's legislation attempted to create some transparency in the formula, by changing and clarifying categorical programs from which charter schools are prohibited from receiving funding. Last year's legislation also clarified the formula by creating a specific per-ADA rate in statute, instead of linking the per-ADA rate to an annual calculation based on the budgeted levels of specific programs. The table below summarizes the block grant amount per charter school ADA under the old formula, and the target amounts that are specified under the new law.

**Charter school categorical block grant: amounts provided per charter school
ADA under the old formula and the new bill**

Calculation under the old formula (1)	Target rates specified in Chapter 359/2005.	
	2006-07	2007-08
2005-06		
\$267	\$400	\$500

(1) Technically, the formula was suspended in 2005-06. The amount listed is the amount calculated in 2004-05, adjusted for COLA.

The legislation establishes targets for increasing the rate to \$400 per charter school ADA in 2006-07, and to \$500 per charter school ADA in 2007-08. For 2005-06, the charter school categorical block grant amount was approximately \$267 per charter school ADA.

COMMENTS:

The LAO will be available at today's hearing to answer any questions about the new formula.

ISSUE 10: CHARTER FACILITIES GRANT PROGRAM

The issue for the subcommittee to consider is the Governor's proposal to continue funding for the charter school facilities grant program.

BACKGROUND:

The Governor's budget. The Governor's budget proposes to continue the \$9 million in one-time Proposition 98 Reversion Account funding provided in last year's budget for this program, which provides funding to charter schools in low-income areas, to pay for leasing costs when these charter schools are unable to secure non-leased buildings. The budget proposes to fund this amount with one-time Proposition 98 Reversion Account funding, like last year.

Background on program. The Charter School Facilities Grant Program reimburses selected charter schools for the costs of renting and leasing classroom buildings. It was created in 2001 by SB 740 (O'Connell) as part of a package of reforms to increase accountability and lower funding for non-classroom-based charter schools. Those reforms also created this program to reimburse charters serving economically disadvantaged children for their facilities' costs. To participate, a charter must either:

- 1) Located within the attendance area of an elementary school serving 70+ percent students who qualify for free or reduced-priced lunches, and the school site gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter school site is located, and/or
- 2) Have 70+ percent of its students eligible for free or reduced-priced lunches.

The original legislation contained intent language that the program be funded at the level of \$10 million a year each for the 2001-02, 2002-03, and 2003-04 years.

COMMENTS:

History of funding. Last year, the Governor's January 10 budget did not include funding for this program, but the Governor later added \$9 million in the May Revise, which the Legislature approved. As noted above, the authorizing legislation contained intent language to fund the program at \$10 million for three years, beginning in 2001-02. While the state provided \$10 million for the 2001-02 fiscal year, this amount was later eliminated due to mid-year cuts and program reversions. It later provided \$10 million for program in 2002-03, \$7.7 million in 2003-04, and \$7.7 million in 2004-05.

ISSUE 11: COMMUNITY DAY SCHOOLS

The issue for the subcommittee to consider is an estimated shortfall in funding for this program in 2006-07, as well as shortfalls in 2004-05 and 2005-06.

BACKGROUND:

Governor's budget. The Governor's budget provides \$49.4 million for the community day school program. This amount constitutes a \$2.4 million increase over the amount provided in 2005-06.

Background on program. The community day school program provides alternative placement options for students that have been expelled or who are high-risk. The program was established pursuant to Chapter 974, Statutes of 1995 (AB 922 (Friedman)) in conjunction with the passage of other legislation mandating that school districts expel students for certain offenses (e.g., carrying a handgun to school, etc.) The program was created to provide a new option for students mandatorily expelled under the latter legislation. State law specifies that students may be assigned to a community day school only if they are one or more of the following:

- Expelled students.
- Students under probation.
- Students referred to the school by a school attendance review board.

Districts or county offices of education running these program must give first priority to students that are "mandatorily expelled" because they committed an offense requiring expulsion under state law. Second priority is for students expelled under other offenses, and third priority is for all other students that can be served by the program.

In contrast to programs pre-dating the community day schools, which had shorter days and were generally run by county offices of education, community day schools may be run by school districts and are required to provide 6 hours of instruction a day, none of which can be independent study. Programs receive supplemental funds intended to address the additional costs of serving this population. State law specifies that districts running community day schools receive an additional \$4,000 per ADA beginning in the 1999-2000 fiscal year and adjusted every year for inflation. County offices of education running community day schools receive an additional \$3,000 per ADA, adjusted for inflation since 1999-2000. Programs can also receive an additional \$4 per student per hour (up to two hours a day) of programs provided beyond the 6 hours a day.

According to CDE, at the beginning of the current year there were approximately 380 community day schools serving 30,000 students. They project that the number of schools will grow to 415 in the budget year.

Anticipated shortfall. Advocates argue that the base funding level for the program is artificially low, and results in schools being shortchanged in their funding levels. Any shortfall in the program might be traced to 2002-03, when the program was reduced by \$10 million as part of mid-year cuts. In the first year of the program (1996-97), the administration proposed \$52.6 million for the program. Funding levels were reduced somewhat in subsequent years to better match actual need, and to adjust to the ramp-up of the program. By 2002-03, funding was proposed at \$42.2 million. The Legislature later reduced funding for the program by \$10 million as part of mid-year cuts, based on estimates that the program was over-funded by this amount. That is, the mid-year cut was intended to capture savings in advance, rather than wait for several years for the unused funding to revert. However, the initial estimates of the amount of unneeded funding were based on faulty reporting by districts that underestimated the funding need for the program. Thus, the \$10 million mid-year cut in 2002-03 inadvertently led to a 20% shortfall in the program. Advocates argue that this shortfall has never really been properly rectified, and the base funding level for the program remains artificially low. Specifically, the shortfall for 2004-05 was between \$2 million and \$3.4 million, and the shortfall for 2005-06 is estimated at \$6.1 million. Advocates argue that the 2006-07 funding level should be adjusted upward by \$10.9 million to ensure that it properly reflects estimated enrollment in the program.

COMMENTS:

Effect of shortfall on programs. When the amount provided in the budget for this program is not enough to fund enrollment, CDE must pro-rate the shortfall. This ensures that all programs receive funding, but at a reduced level. In addition to the community day school program, there are several other categorical programs in which CDE must pro-rate any shortfalls if funding provided turns out to be less than needed to fully fund participation.

ISSUE 12: NEW BLOCK GRANTS FOR ARTS AND MUSIC

The issue for the subcommittee to consider is a new block grant proposed by the Governor to support arts and music in grades K-8.

BACKGROUND:

Governor's budget. The Governor proposes \$100 million in ongoing Proposition 98 funding for a new block grant to support standards-aligned art and music instruction. Funding would go to school districts, charter schools, and county offices of education serving grades K-8. Funding would be distributed at a rate of \$20 per pupil, with a minimum of \$3,000 per schoolsite for sites with ten or fewer students, and a minimum of \$5,000 per schoolsite for sites with more than ten students. Under the Governor's proposal, participating schools can spend the funding on any of the following:

- hiring additional staff,
- purchasing new materials, books, supplies or equipment,
- implementing or increasing staff development, as necessary to support standards-aligned arts and music instruction.

COMMENTS:

LAO recommendation. LAO recommends rejecting this proposal, along with six other new programs proposed by the Governor. The LAO cites other problems as meriting more attention from the budget, and recommends redirecting funds from the Governor's seven new programs to a fiscal solvency block grant to help districts address their financial problems. The LAO also notes that the new proposals lack detail or address problems that are not well-defined. In particular, the LAO notes that the new art and music block grant is based on the belief that the number of music and art courses in elementary and middle schools has been drastically reduced in recent years. To quote the LAO's Analysis of the Budget, "The data for middle schools, however, show that the number of art and music courses has stayed virtually constant since 2001-02."

ISSUE 13: CONTROL SECTION 24.30

The issues for the subcommittee to consider are:

- the proposed continuation of a control section that transfers income from the State Relocatable Classroom program to the General Fund, and
- a proposed addition to the control section that would also transfer funds from the Migrant Housing Program to the General Fund.

BACKGROUND:

Governor's budget. The Governor's budget proposes to continue a control section that allows DOF to transfer rental income from the State Relocatable Classroom Program to the General Fund. For the 2006-07 fiscal year, the Governor's budget assumes that \$14.3 million will be transferred out of the State Relocatable Classroom Program, leaving \$10.7 million to cover the costs of the program. The Governor's budget also adds a provision to the control section to transfer unencumbered funds from the Migrant Housing Program to the General Fund. According to the administration, the Migrant Housing Program has been inactive for several years, because the needs of districts serving migrant students have been addressed by other state school facility programs. The budget assumes transfer of approximately \$3.4 million from the Migrant Housing Program to the General Fund for the 2006-07 fiscal year.

SAB's authority over the funds. Both the State Relocatable Classroom program (which leases portables to school districts) and the Migrant Housing Program are governed by the State Allocation Board (SAB). As such, the SAB is responsible for maintaining both programs. In particular, it has administrative costs related to administering the State Relocatable Classroom program, and needs the rental income from the program to pay for these costs. The provisions in the existing control section that transfer rental income to the General Fund impair SAB's ability to appropriately maintain the program, if too much is transferred out of the program. In addition, the control section conflicts with the authority that SAB has over the funds for both programs.

COMMENTS:

Last year, the administration proposed a change to the provisions of the control section relating to transfers from the State Relocatable Classroom program. Those changes specified that DOF could determine the amount of revenues to be transferred out of the program to the General Fund. The 2006 final budget contained DOF's changes.