

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 2 ON EDUCATION FINANCE

Assembly Member Wilmer Amina Carter, Chair

TUESDAY, APRIL 27, 2010
STATE CAPITOL, ROOM 444
9:00 AM

ITEMS TO BE HEARD

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ITEMS TO BE HEARD

6110 DEPARTMENT OF EDUCATION

ISSUE 1: 2010-11 GOVERNOR'S BUDGET: CDE STATE OPERATIONS

The issues for the Subcommittee to consider are the following 2010-11 Governor's proposals for the California Department of Education (CDE) state operations budget (headquarters):

- An ongoing reduction of approximately \$7.9 million General Fund (non-Proposition 98).
- An additional \$4.3 million General Fund (non-Proposition 98) reduction tied to compensation adjustments for state employees - specifically a five percent employee compensation reduction and a five percent retirement contribution increase.
- Various other adjustments for headquarters staff that are included in the Governor's January budget proposal and the Department of Finance April Finance Letter.

PANELISTS

- Carol Bingham and Roxanne Eres - Department of Education
- Jim Soland - Legislative Analyst's Office
- Ryan Storm - Department of Finance

BACKGROUND:

California's public education system is administered at the state level by the California Department of Education (CDE), under the direction of the Superintendent of Public Instruction and the State Board of Education. CDE is responsible for enforcing education laws and regulations which guide the education of more than 6.3 million students in more than 9,000 schools housed in approximately 1,000 school districts and 58 county offices of education.

Overview of CDE State Operations. CDE's administrative branch (state operations) include both state headquarters and the State Special Schools (SSS). This agenda issue will focus mainly on the state headquarters budget.

CDE state operations are funded with a mix of non-Proposition 98 General Fund and federal funds. Approximately 64% of CDE state operations are funded with federal funds. The Governor's 2010-11 budget provides 1,553 authorized positions and \$213 million funding (all funds) for CDE headquarters staff. (This does not include 1,008 positions and \$98 million for operation of the State Special Schools.) This level of funding reflects an overall reduction of \$10.6 million (all funds) for state headquarters.

Governor's January Budget Proposal California Department of Education (CDE)			
Authorized Positions and State Operations Funding			
	2008-09	2009-10	Proposed 2010-11
Authorized Positions	2,597.4	2586.9	2561.7
CDE Headquarters	1,589.0	1,578.5	1,553.3
Funding			
CDE Headquarters			
General Fund	46,960,000	39,610,000	40,627,000
GF - State Board of Education	1,371,000	1,821,000	1,874,000
Federal Fund	171,520,000	150,557,000	138,690,000
Other (Restricted)	49,571,000	32,572,000	32,780,000
Total	269,422,000	224,560,000	213,971,000

Note: The figures above do not reflect the Governor's proposed compensation reductions for CDE state headquarters staff in 2010-11. These reductions are tied to the Governor's 5-5-5 compensation plan for state agencies, as contained in budget Control Section 3.90. These reductions will reduce CDE General Fund appropriations by about \$4.3 million in 2010-11, as compared to the figures above.

Overview of CDE state headquarters reductions for 2008-09 and 2009-10. In December 2008, the Governor issued Executive Order S-16-08 which directed the Department of Personnel Administration to implement a two-day a month furlough for state agencies. In July, 2009, the Governor issued Executive Order S-13-09 requiring a third furlough day per month for state employees.

The Superintendent of Public Instruction (SPI), along with the other Constitutional officers, maintain that the Governor's executive orders do not apply to them or employees of the departments they oversee based on the grounds that it infringes on their constitutional independence. In lieu of implementing furloughs under the Governor's executive orders, CDE has taken comparable reductions for the last two years. CDE has been able to achieve savings by cutting operating expenses and de-funding positions, although CDE has retained authority for most positions.

- 2008-09.** The 2008-09 budget act included a 10 percent unallocated General Fund (non-98) reduction for CDE state operations – personnel and operating expenses and equipment -- as a part of the Governor's Budget Balancing Reductions. This reduction equated to a \$5.1 million unallocated reduction in 2008-09 for CDE headquarters staff only. The Governor later implemented -- via Budget Letter authority – additional state operations reductions of \$2.2 million – all funds -- for CDE headquarters staff. This amount included General Fund (non-98) reductions of \$671,000 for CDE state headquarters. The Budget Letter implemented cuts for CDE as the equivalent of one furlough day (one-time) for state agencies. In total, funding for CDE headquarters were reduced by \$7.3 million (all funds) in 2008-09, which includes a cut of \$5.8 million in state General Funds.

- **2009-10.** The 2009-10 budget reduces CDE state headquarters funding by a total of \$21.5 million – all funds. This includes a \$5.5 million General Fund (non-98) reduction for headquarters staff. These general fund reductions for CDE state operations – together with \$16.0 million in reductions for in other funds – were implemented through a variety of mechanisms in 2009-10, including:
 - \$14.7 million (all funds) from Governor’s budget vetoes tied to a 10 percent base cut for state operations – personnel only, not operating expenses and equipment -- (\$2.8 million General Fund);
 - \$5.6 million in reductions (all funds) associated with continuation of the one-time furlough day for state agencies (\$1.5 million General Fund);
 - \$500,000 in General Fund savings for the California High School Exit Exam; and
 - \$705,000 in General Fund savings resulting from the Governor’s veto of funding for the Curriculum Commission.

Governor's 2010-11 proposed reductions. In 2010-11, the Governor proposes to make permanent approximately \$19.8 million (all funds) in base reductions implemented in previous years for the California Department of Education (CDE) headquarters staff, including \$7.9 million in General Funds.

In addition, the Governor is proposing additional General Fund reductions of approximately \$4.3 million in 2010-11 that are tied to two of three compensation adjustments for state employees proposed as a part of the Governor’s “5/5/5” package. Specifically a five percent employee compensation reduction and a five percent employee retirement contribution increase. A third component of the Governor’s package is tied to a “workforce cap” achieved through a five percent increase in salary savings, however, it does not apply to Constitutional officers. (The Governor’s 5/5/5 package is intended to replace the state agency furlough program set to expire at the end of 2009-10.)

Governor’s Budget – Other CDE Staffing Proposals. The Governor proposes the following smaller adjustments for headquarters staff in 2010-11 that are included in the Governor’s January budget and the Department of Finance April Finance Letter.

- **Vacant Positions.** Provides \$192,000 in federal funds savings tied to the elimination of 1.9 vacant positions.
- **Charter School.** Administratively establishes 2.9 positions for the State Board of Education for Charter School Oversight. These positions are supported by fees collected from Charter Schools.

- **Reading First Positions.** Removes 5.7 positions and \$1.4 million in federal Title I Reading Funds for state administration. The federal Reading First program is being phased out.
- **Teacher Data Base Positions.** Removes one-time federal Title II funds of \$1.6 million and 2.9 positions for development of CALTIDES.
- **Child Nutrition Positions.** Removes one-time federal nutrition funds of \$1.7 million and 6.8 positions for the Child Nutrition Payment System.
- **English Learner Pilot Program Positions.** Removes one-time federal Title III of \$100,000 and 0.9 position for the English Learner Best Practices Pilot Program
- **High Priority Schools Program Position.** Eliminates General Funds of \$411,000 and federal Title I funds of \$469,000 and 8.6 positions for support of the High Priority Schools Program. This program is being phased out.
- **Assessment System Position.** Adds \$96,000 in federal Title I funds and 0.9 limited-term position to provide research on School Accountability Growth Model per AB 1130 (Solario), Chapter 273, Statutes of 2009.

DOF April Letter Requests: The Department of Finance April Letter proposes the following Governor’s proposals for CDE state operations:

<p>1)</p>	<p>Items 6110-001-0001 and 6110-001-0890, State Operations, State Department of Education–American Recovery and Reinvestment Act-Related Monitoring and Reporting (Issue 004). It is requested that Item 6110-001-0890 be increased by \$1,982,000 one-time federal carryover funds and that Item 6110-001-0001 be amended to implement various education-related accountability, reporting, and technical support provisions of the federal American Recovery and Reinvestment Act (ARRA) of 2009. The ARRA provided billions of dollars in one-time funding to jumpstart school reform efforts, serve special populations, save and create jobs, and stimulate the economy. The ARRA and related federal regulations require that nearly all federal ARRA funds be disbursed to local educational agencies (LEAs) and that a limited amount of these funds may be used by states for monitoring, reporting, and technical support of LEA activities during the three-year availability of ARRA funds. According to the SDE, federal special education and Title I guidance suggest that a portion of these base grants may be used for ARRA state administrative activities and the SDE has identified one-time carryover funds from these base grants that could be used for these purposes.</p> <p>It is further requested that provisional language be added to Item 6110-001-0890 as follows to conform to this action:</p> <p>X. Of the funds provided in this item, \$1,982,000 in one-time federal carryover funds is available for the State Department of Education to satisfy all fiscal monitoring, reporting, technical assistance, and other oversight activities as required by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) and related federal guidance.</p>
<p>2)</p>	<p>Items 6110-001-0001, State Operations, State Department of Education Charter Schools Division Positions (Issue 722). It is requested that 3.0 positions be added to the Charter Schools Division to provide support for increased workload due to growth in statewide charter school petitions and charter school appeals. These positions would enable the SDE to complete statutorily required charter school-related activities.</p>

3)	<p>Items 6110-001-0001, State Operations, State Department of Education Remove Limited-term Position and Funding for the Chief Business Officer Training Program (Issue 145). It is requested that this item be decreased by \$76,000 General Fund and that the limited-term associate governmental program analyst position that supported the Chief Business Officer Training Program be removed. The Chief Business Officer Training Program was a three-year project that offered incentives to school districts and county offices of education to provide instruction and training to chief business officers on school finance, operations, and leadership. However, the program became inoperative July 1, 2009, pursuant to Education Code Section 44519.2. The Governor's Budget removed provisional language allocating \$1.0 million for the local assistance portion of the program and shifted the \$1.0 million to the Administrator Training Program. Although the local assistance funding was appropriately addressed, associated state operations costs were not removed.</p>
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LAO RECOMMENDATIONS

Align CDE Staff Levels With Categorical Flexibility Decisions. Despite the state's decision last year to essentially eliminate the programmatic and funding requirements associated with roughly 40 state categorical programs, the state has made no corresponding changes to CDE's staffing of those programs. According to the LAO, CDE now has hundreds of staff members assigned to administering programs that the state is not now operating. (This disconnect would be amplified if the Legislature were to adopt a more expansive flexibility package this year.) To reflect the impact of consolidating categorical programs on state operations, the LAO recommends decreasing CDE's budget by \$10 million and eliminating roughly 150 positions.

STAFF COMMENTS

Given that CDE is no longer monitoring categorical programs (data gathering, compliance, etc) and has also consolidated their fiscal apportionment functions pursuant to the categorical flexibility enacted as part of the 2008-09 and 2009-10 budget acts, staff sees merit in the LAO proposal to align CDE staffing levels with categorical flexibility.

CDE has not fully quantified categorical staff savings, but maintains that savings have been captured as a part of their state agency reductions in 2009-10. It is difficult to fully assess the impact of budget reductions at CDE headquarters without documents that detail where position and service reductions have occurred. At the very least, it is important to know how General Fund staff are assigned within the CDE and how staff monitoring of state programs have been affected by recent cuts.

Staff recommendation: Staff recommends the Subcommittee delay approval of the Governor's proposals for CDE state operations until after May Revise to coordinate with actions on state and federal programs.

Staff further recommends that the Subcommittee request that CDE provide the following prior to May Revise:

- 1) Provide the Subcommittee with a list of all General Fund headquarter positions by branch, division, unit;

- 2) Provide a list of all headquarter positions that have been de-funded as a result categorical program flexibility.

QUESTIONS:

1. CDE/DOF: What is the total year-to-year fiscal impact of the Governor's 2010-11 budget proposals? What portion of these cuts are ongoing; what portion is new?
2. DOF: How do the Governor's recent and proposed reductions for CDE state operations headquarters staff compare to reductions for other state agencies?
3. CDE/DOF: Why does the Governor's January budget show a General Fund increase of \$1.0 million for CDE headquarters staff in 2010-11?
4. CDE: Please summarize implementation of headquarter reductions in recent years? How many positions have been de-funded? What programs have been affected? What is the effect on the department's operations?
5. CDE: Has the department reduced salaries for any employees as a result of recent state agency budget reductions?
6. CDE: How many authorized positions have been reduced as a result of recent reductions?
7. CDE: Can the department provide information on the number of positions and associated General Fund savings for staff assigned to the more than 40 categorical programs that are subject to categorical flexibility through 2012-13?

ISSUE 2: GOVERNOR'S 2009-10 VETO – CURRICULUM COMMISSION

This issue summarizes the 2009-10 Budget Act veto of \$705,000 General Fund (non-Proposition 98) for the Curriculum Commission and California Department of Education (CDE) staff supporting the commission.

The Subcommittee should consider whether the Curriculum Commission should be reinstated and if so, the timeline and costs associated with resuming activity of the commission.

PANELISTS

- Carol Bingham - Department of Education
- Ryan Storm - Department of Finance
- Edgar Cabral - Legislative Analyst's Office

BACKGROUND:

The February 2009 budget revisions contained in SBx3 4, Chapter 12, Statutes of 2009 suspended the requirement that local education agencies (LEAs) purchase new instructional materials within 24 months of adoption for two years (2008-09 and 2009-10). The July budget revisions in ABx4 2, Chapter 2, Statutes of 2009 extended this suspension for a full five years (2008-09 through 2012-13) and prohibited the State Board of Education (SBE) from adopting new materials or following procedures for adoptions. The Legislature provided this fiscal flexibility to districts in an effort to ease the local impact of state budget reductions.

When the Legislature passed ABx4 2 no conforming actions to reduce funding were approved. However, when the Governor signed the 2009-10 Budget Act, the Governor vetoed \$705,000 (General Fund Non- Proposition 98) for the Curriculum Development and Supplemental Materials Commission (Curriculum Commission) and CDE staff.

Governor's veto language (Chapter 1, Statutes of 2009-10 Fourth Ex Session):

Item 6110-001-0001—For support of the Department of Education. I reduce this item from \$38,210,000 to \$37,505,000 by reducing:

(2) 20-Instructional Support from \$158,747,000 to \$158,042,000, and by deleting Provision 7.

I am reducing this item by \$705,000 to capture the maximum amount of savings from the instructional materials flexibility provided in the Education trailer bill to school districts, which suspends the adoption of instructional materials by the State Board of Education (Board) and the subsequent purchasing requirements for school districts until 2013-14. As a result, it is unnecessary for the Curriculum Development and Supplemental Materials Commission to continue to advise the Board on content frameworks and instructional materials adoptions for the next five years or until an agreed-upon process is reestablished. This reduction removes funding for unnecessary Commission per diem and travel as well as funding for Department staff.

According to DOF, the veto of \$705,000 reflects a conservative estimate of total expenses (travel and per diem) for Commissioners and CDE staff support for the Commission in 2009-10. The Governor's veto signals ongoing, annual savings for the Commission until 2013-14 or until an agreed upon process is reestablished.

The Curriculum Commission, established in state law, is an 18 member advisory board to the State Board of Education (SBE). Commissioners tend to be recognized authorities in a specific subject matter, professors, curriculum experts, K-12 teachers, or community members. The commission advises SBE on the K-12 curriculum frameworks and K-8 instructional materials.

Curriculum Commission work halted as a result of Governor's veto. Curriculum frameworks provide a blueprint for curriculum and instruction by describing the scope and sequence of the knowledge and skills all students need to master in a specific subject area, and the evaluation criteria found within the framework provides guidance to publishers in the development of instructional materials. The framework and criteria are used to evaluate kindergarten and grades 1-8, inclusive, (K-8) instructional materials that are submitted for state adoption and the curriculum frameworks also provide guidance to teachers in the delivery of the curriculum.

Prior to enactment of the 2009-10 Budget Act, the Curriculum Commission had begun the process of updating the History/Social Sciences (H/SS) framework for the 2011 H/SS primary adoption. On July 17, 2009, the Curriculum Commission approved the draft update of the H/SS framework for field review, but due to the budget action, the field review was suspended. CDE also suspended work related to the revision of frameworks for science, health, and mathematics. Science, like History/Social Science, was particularly close to development. CDE will provide a timeline chart as well as estimated costs associated with both of these frameworks.

Several concerns have been raised over the suspension of the framework revision and adoption process. Some have argued that the framework development and adoption should continue even without an immediate instructional materials adoption, as the framework, itself, provides updated content and pedagogical approaches for teachers to enable students to gain updated and relevant knowledge and skills.

Prospect of adopting Common Core Standards could have impact on resumption of curriculum commission activities. SB 1 X5 (Steinberg), Chapter 2, Statutes of 2009-10, enacted for purposes of satisfying part of the criteria for the Race to the Top (RTTT) program, establishes the Academic Content Standards Commission to develop academic content standards in language arts and mathematics. At least 85% of these standards are required to be the common core academic standards developed through a national consortium. Once the Academic Content Standards commission approves recommended standards, they are required to be presented to the State Board of Education (SBE) by July 15, 2010. The SBE is then required to adopt or reject the recommended standards by August 2, 2010.

The RTTT guidance did not require a specific timeline for the implementation of the common core standards into the frameworks and instructional materials. This plan is

left to the SPI and SBE to develop. If the common core academic standards are adopted, instructional materials that are aligned to these standards will have to be adopted for math and English Language Arts (ELA).

The implementation and timing of these requirements is now in question given that California did not receive the first round of RTTT funding and it is not clear if the state will pursue a second round of funding. It is also not clear if California will adopt common core standards regardless of RTTT funding.

Related legislation. AB 2069 (Carter) establishes a timeline for the adoption of instructional materials beginning in the 2013-14 school year, after the budget provisions on the suspension of instructional materials are repealed. The bill requires the SBE to adopt a revised curriculum and evaluation criteria for instructional materials in H/SS no later than July 1, 2011, any other law notwithstanding. In order to adopt the H/SS framework prior to the sunset of the adoptions suspension, the bill includes language to notwithstanding the budget provisions prohibiting the SBE from adopting instructional materials and frameworks, but only for purposes of adopting the H/SS framework.

STAFF COMMENTS:

Given the uncertainty around how the state will proceed with adoption of common core standards, which will ultimately influence the work of the Curriculum Commission, staff recommends against fully resuming Curriculum Commission activities until the state determines its approach to adopting these common core standards. Staff also notes that the Legislature may want to take this suspension of activity as an opportunity to re-evaluate the role of the Curriculum Commission. The LAO published a report in 2007 *Reforming California's Instructional Material Adoption Process* that recommended streamlining the adoption process and eliminating the role of the Curriculum Commission.

While full resumption of Curriculum Commission activity may not be warranted at this time, there appears to be some merit in allowing the commission to finish work on the H/SS and Science frameworks. According to CDE, costs are minimal for resumption of H/SS. CDE will share estimated costs for finishing the Science framework.

Staff recommendation: Hold this issue open until May Revision.

QUESTIONS:

1. CDE – What are the anticipated costs associated with finishing the Curriculum Commission's work on the History/Social Science and Science frameworks? Would additional resources be needed or can this cost be absorbed through existing CDE state operation resources?
2. CDE/DOF – Do you have any updates on the status of California's adoption of the common core standards? Have you identified state costs associated with these activities or do you anticipate federal funding will cover associated costs?

ISSUE 3: ELIMINATION OF 4TH GRADE WRITING ASSESSMENT

The issue for the Subcommittee to consider is the elimination of the 4th grade writing assessment and whether this assessment should be reinstated in the 2010-11 fiscal year at an ongoing cost of \$2 million (Proposition 98).

PANELISTS

- Lexi Shankster - Legislative Analyst's Office
- Carol Bingham - Department of Education
- Ryan Storm - Department of Finance

BACKGROUND:

As a part of the 2008-09 Budget Act, most categorical programs were subject to an across-the-board reduction of 15.4 percent. Only four programs were not subject to the reductions: Child nutrition, Economic Impact Aid, K-3 Class Size Reduction and Special education. Pursuant to this across-the-board reduction, the state student assessment program achieved savings in 2008-09 through approximately \$14 million in state assessment apportionment deferrals.

In 2009, the Governor proposed to increase the across-the-board reductions to 19.8%, applicable to the same set of programs. For the student assessment program, this reduction totaled \$17.1 million. The California Department of Education (CDE) was charged with developing a plan to achieve these savings and in the spring of 2009 proposed a comprehensive list of savings. The list included a number of proposals that would directly eliminate ongoing student tests that are a part of the Standardized Testing and Reporting (STAR) program, such as the 4th and 7th grade writing tests, 2nd grade tests, and high school English Language Arts tests. The CDE also identified a number of other proposals that did not involve reductions in student assessments.

Due to policy concerns about eliminating specific student tests, the Legislature added provisional language to the student assessment item in the 2009-10 Budget Act (Item 6110-113-0001) stating that in *“implementing the reductions for the 2008–09 and 2009–10 fiscal years, the State Department of Education shall not eliminate any state assessments funded by this item.”* With these protections in place, the Legislature inserted additional provisional language that authorized the Department of Finance to approve an expenditure plan reflecting other student assessment program reductions proposed by the CDE. In general, these other proposals affected student assessments more indirectly. This language also specified that after an expenditure plan is approved by the Department of Finance, the CDE shall provide a copy of the approved plan to the Legislative Analyst’s Office and the appropriate fiscal and policy committees of the Legislature.

CDE expenditure plan approved by DOF but without regard to Legislative intent or Legislative notice. The CDE submitted a state assessment program expenditure plan to the Department of Finance on August 21, 2009, reflecting options for achieving \$17.1 million in budget reductions in 2009-10.

The DOF approved the plan with some changes on August 28, 2009. Most notably, the DOF rejected elimination of the 7th grade writing assessment proposed by CDE, but approved elimination of the 4th grade writing assessment, which equates to a savings of \$2.0 million in 2009-10.

The State Board of Education, upon recommendation from the CDE, took action at their September meeting to amend the STAR contract to reflect changes in the expenditure plan for the STAR Program, as approved by the Department of Finance, and directed CDE and SBE staff to work with the contractor to implement changes in the STAR contract for the 2010 and 2011 administrations.

CDE did not provide a copy of the DOF approved expenditure plan to the Legislature until it was requested in late October 2009, even though the plan was approved by DOF on August 28, 2009.

Joint letter sent to DOF expressing concerns of the Legislature. On November 30, 2009 the chairs of the Senate and Assembly Budget Committees submitted a letter to DOF expressing concerns regarding the elimination of the 4th grade writing assessment. The summary of concerns are as follows:

- 1. Elimination of student assessment expressly prohibited by 2009-10 Budget Act.** The Department of Finance approved (and the CDE proposed) changes that eliminate the 4th grade writing assessment, in spite of budget act provisions that clearly prohibit this action. This was the only ongoing assessment eliminated as a part of the expenditure plan. Both the Department of Finance and the CDE see the writing assessment as an assessment "component", not a state assessment. That was not the intent of the language. The intent of the language was to keep elimination of ongoing student tests off the list and to focus on other savings and efficiencies in the state assessment program. More specifically, the intent was to avoid using the expenditure plan as a backdoor for changing state assessment policy, changes that should occur only through specific legislative budget or policy actions.
- 2. Failure to provide a copy of the approved expenditure plan.** The CDE did not provide a copy of the DOF approved expenditure plan to the Legislature until it was requested in late October 2009, even though the plan was approved by DOF on August 28, 2009.
- 3. Concerns regarding policy impact.** The letter expressed serious concerns about the policy impact of eliminating the 4th grade writing test on student instruction and performance. Writing is an essential life skill and the 4th grade writing assessment is critical for helping teachers and parents identify problems

in the elementary grades, well before entrance into the secondary grades where supplemental services are limited. The 4th and 7th grade writing assessments were added to the STAR test in 2001, as a result of legislation enacted in 2000. While the CDE indicated that there were concerns in the field about the usefulness of the test at the teacher and school level, legislative staff heard from other school representatives about the importance of these assessments in improving writing instruction and skills for students.

The letter went on to request that DOF take immediate steps to restore the 4th grade writing test in 2009-10 and adopt other savings proposals identified by CDE as a part of the expenditure plan that do not reduce student assessments.

Governor's 2010-11 proposed budget does not reinstate the 4th grade writing exam. Although the joint letter request DOF to take immediate actions to reinstate the exam, the Administration has not reinstated the 4th grade writing exam and provides no funding in the proposed budget for this purpose.

CDE estimates additional costs of \$650,000 to reinstate exam. CDE has identified costs additional costs of \$650,000 (\$2,683,000 total) to restore both grade four STAR writing portions of the ELA assessments. This cost includes revision of all paper and electronic processes as well as costs for a delayed rangefinding session held with a representative group of California teachers and assessment review panel members active in grade four writing.

STAFF COMMENTS

The state's 4th grade and 7th grade writing components are examples of important assessments that measure critical thinking skills while helping to inform teaching and learning. In April, the U.S. Department of Education announced they would be setting aside \$350 million for states to come together to develop a "new generation of tests" that measure critical thinking and a broader range of content. Consistent with the goals of the federal government, California should be moving towards development and refinement of these types of assessments, not eliminating them.

Staff recommendation: Staff recommends the Subcommittee hold this issue open until the May Revision but direct CDE to work with DOF to provide the Legislature with options for restoring funding to the 4th grade writing component in the 2010-11 fiscal year.

QUESTIONS

- 1) CDE has identified an additional cost of \$650,000 for reinstating the exam. Can CDE explain the need for these additional resources?
- 2) DOF: Is the administration supportive of reinstating this exam? Do you have suggestions for funding? Are federal funds available for this purpose?

ISSUE 4: GOVERNOR'S 2010-11 BUDGET PROPOSAL: EMERGENCY REPAIR PROGRAM

The issue for the Subcommittee to consider is the Governor proposal to appropriate \$51.0 million in one-time, Proposition 98 savings from various programs for the Emergency Repair Program (ERP) in 2010-11. These new funds will provide funding for the next \$51 million in approved projects on the ERP unfunded list.

PANELISTS

- Edgar Cabral - Legislative Analyst's Office
- Office of Public School Construction
- Department of Finance

BACKGROUND:

SB 6, Chapter 899, Statutes of 2004, which implements provisions of the *Williams* settlement agreement, requires that, commencing with the 2005-06 Budget Act, the state transfer at least \$100 million, or 50 percent of the unappropriated balance of the Proposition 98 Reversion Account – whichever is greater – to the ERP. This level of funding must continue in the budget every year until the state has provided a total of \$800 million for the program.

The ERP is administered by the State Allocation Board (SAB). Funds must be used for emergency repairs in low-performing schools, specifically schools in the lowest three deciles of the Academic Performance Index (API). Chapter 899 defines emergency repairs as repairs needed to mitigate conditions that pose a threat to the health and safety of pupils or staff.

AB 607 (Goldberg), Chapter 704, Statutes of 2006 authorized a grant-based ERP program, rather than a reimbursement-based program. Districts can now apply for funding for specific projects before undertaking the actual repair work. The new grant-based program became operational at the beginning of 2007-08. According to the SAB, the grant-based program has made it much easier for schools to access funding for emergency repairs, since school districts are no longer required to pre-pay for these projects. These changes have substantially increased the number of project requests received and approved by the ERP.

API Eligibility List. Education Code Section 1240 sets forth the process for renewing the list of API decile 1-3 schools every three years for purposes of the ERP program. The original list of decile 1-3 schools that were eligible for ERP was established effective 2004-05 through 2006-07 and was based upon the 2003 Base API.

The current list of decile 1-3 schools was established effective 2007-08 based on the 2006 Base API. This list will remain in place until the new list -- based upon the 2009 Base API -- becomes effective in 2010-11.

Projects Approved. As of March 24, 2010, the SAB has approved and funded a total of \$338 million in ERP projects. According to the SAB, there are an additional \$73 million in approved-unfunded projects and \$664 million in unapproved projects pending.

Types of Projects. ERP staff has provided information about the \$73 million in approved projects on the unfunded list. The \$73 million covers 2,716 projects for 47 school districts and 396 schools. While ERP tracks 31 different types of projects, most funding (\$64.2 million) is proposed for six project types: Heating Ventilation and Air Conditioning (\$25.3 million); Roofing (\$15.4 million); Structural Damage (\$9.2 million); Paving (\$6.6 million); Electrical (\$4.3 million); and Fire Detection (\$3.6 million).

Funding History. Annual appropriations and expenditures for ERP are summarized below. As mentioned earlier, this program is supported by appropriations of one-time funds from the Proposition 98 Reversion Account. In summary, the state currently has a total of \$338 million for ERP since 2005-06.

Current law authorizes a total \$800 million over the lifetime of the program, so there is \$462 million in remaining authority for ERP.

Fiscal Year	Appropriations	Expenditures
2004-05	5,000,000	0
2005-06	196,024,000	3,500,000
2006-07	136,979,000	36,600,000
2007-08	200,000,000 -250,000,000	171,400,000
2008-09	101,000,000 -51,000,000	100,800,000
2009-10	0	25,703,000
Subtotal	338,003,000	338,003,000
2010-11 (Proposed)	51,000,000	51,000,000
Total	389,003,000	389,003,000

In recent years annual required appropriations for ERP were adjusted to respond to the state's budget shortfall and better align appropriations with expenditures. The 2008-09 budget was adjusted on the natural when anticipated one-time funds did not materialize in the Proposition 98 Reversion Account. The 2009-10 budget did not appropriate any funding for the program in 2009-10, however, due to prior year fund balances for the program, a total of \$25.7 million has been allocated by ERP in 2009-10. As of September 2009, all ERP funds have been allocated and there is no funding available for any of the \$73 million in remaining approved projects.

GOVERNOR'S PROPOSAL

The Governor's 2010-11 proposed budget would provide \$51.0 million in one-time, Proposition 98 savings from various programs for the Emergency Repair Program

(ERP) in 2010-11. In 2008-09, \$100 million in one-time Proposition 98 funds were reappropriated for the ERP. \$51 million of these funds did not materialize. The Governor's proposal is intended to provide funding to make up for this shortfall. These new funds will provide funding for the next \$51 million of the \$73 million in projects on the current ERP unfunded list. Projects would be funded based upon the date the project applications were received by the Office of Public School Construction.

The Governor's proposal would provide \$51 million for approximately 125 school projects. Projects range in size from \$6.5 million to a low of \$485. Approximately 55 percent of projects are grant-based; the remaining 45 percent are reimbursement based. In spite of this diversity, \$40 million of the total approved by the Governor goes to 19 school projects that exceed \$500,000 each.

District	County	School	Amount
Oakland Unified	Alameda	Oakland Senior	6,465,744
Escondido Union Elementary	San Diego	Grant Middle	1,979,191
Moreno Valley Unified	Riverside	Moreno Valley High	1,046,443
Moreno Valley	Riverside	Moreno Valley High	5,958,017
Santa Ana Unified	Orange	Valley High	529,853
Santa Ana Unified	Orange	Saddleback High	3,282,007
Santa Ana Unified	Orange	Saddleback High	965,958
Santa Ana Unified	Orange	Santa Ana High	4,665,825
Santa Ana Unified	Orange	Santa Ana High	1,196,171
Santa Ana Unified	Orange	Wilson Elementary	1,798,250
Santa Ana Unified	Orange	Jackson Elementary	575,559
Santa Ana Unified	Orange	Freemont Elementary	3,126,553
Sacramento City Unified	Sacramento	Kemble Elementary	732,432
East Side Union High	Santa Clara	Hill High	784,061
Sacramento City Unified	Sacramento	Luther Burbank High	537,231
Sacramento City Unified	Sacramento	Sacramento High Charter	517,293
Santa Ana Unified	Orange	Hoover Elementary	1,086,422
Santa Ana Unified	Orange	Saddleback High	4,392,483
Rowland Unified	Los Angeles	Villacorta Elementary	740,644
Total			40,380,137

LAO RECOMMENDATION

According to the LAO, given the state's difficult situation, the Legislature has two reasonable approaches that it could take. The Legislature could meet the provisions of the Williams settlement for 2010-11 by providing at least \$100 million to the Emergency Repair Program. Alternatively, given the state has provided maximum flexibility to school districts and relaxed several requirements related to facility maintenance, the Legislature may want to consider using one-time Proposition 98 funds to backfill reductions in revenue limits or the flex item so that districts have more discretion in making spending decisions.

STAFF COMMENTS

Staff recommends the Subcommittee hold this issue open until the May Revision when the committee will have updated revenue and expenditure data for 2010-11. At May Revision, the Subcommittee will need to consider how to best invest one-time Proposition 98 funds for K-12 education.

Staff recommendation: Hold open until May Revision.

QUESTIONS

- 1) Can the State Allocation Board summarize the types of emergency repair projects on the approved-unfunded list that would be covered by the Governor's proposal?
- 2) Can the State Allocation Board provide an update of the \$664 million in unapproved-unfunded applications that are currently pending and how that amount compares to approximately \$462 in remaining authority for the program?
- 3) How many emergency repair projects are funded because districts did not conduct routine maintenance?
- 4) The grant based option was added to the ERP program in July 2007. How have the nature of projects changed since then?