

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 2
ON EDUCATION FINANCE****Assembly Member Julia Brownley, Chair****TUESDAY, MAY 1, 2007
STATE CAPITOL, ROOM 444
10:00 AM****ITEMS TO BE HEARD**

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TO PARENTS OF SPECIAL EDUCATION STUDENTS

ISSUE 11

APRIL DOF PROPOSAL REGARDING THE ADMINISTRATION OF THE
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ITEMS TO BE HEARD

0558 OFFICE OF THE SECRETARY FOR EDUCATION

ISSUE 1: APRIL DOF LETTER REGARDING EDUCATION TRANSPARENCY WEBSITE

The issue for the subcommittee to consider is the administration's proposed augmentation for an education transparency website housed in the Governor's office.

BACKGROUND:

In an April DOF letter, the administration proposed an increase of \$167,000 and 1.5 positions to administer a new Governor's Office Education Transparency Website. Of the proposed increase, \$47,000 would be used to support 1.0 positions for administering the new website, and \$120,000 and 0.5 positions would be for technical support and hardware for the website.

The April DOF letter includes the following description and justification for the website and the corresponding augmentation:

While school-specific data is available over the Internet at the present time, the ability to do a side-by-side comparison of schools in a single session is not. The Website will present data in a fashion that is simple and intuitive. The intended audience for this effort is not the researcher or the seasoned professional, but parents or members of the general public who may have very basic questions about local schools. Specifically, the website will allow parents and others to compare and contrast data such as enrollment, test scores, pupil discipline, and teacher credentialing and experience.

COMMENTS:

The Office of the Secretary for Education advises the Governor on K-12 and higher education issues. The Governor's proposed total budget on January 10 for the office was roughly the same as last year's, at approximately \$2 million (\$1.8 million General Fund) and 17 positions. Although the office has never been created in statute, it has operated for a number of years in an advisory role for the administration.

Duplicative of existing websites? The California Department of Education administers a webpage containing some of the same information identified by the April DOF letter. However, the administration has indicated that it intends for the website to be located on the Governor's webpage and not the California Department of Education's website. The administration has also indicated that it intends for the website to be

more user-friendly than CDE's website and to provide more comparison data between schools. It is unclear whether the new website will use the same data that CDE collects, and if so, how this would work.

0954 SCHOLARSHARE INVESTMENT BOARD**ISSUE 1: APRIL DOF LETTER ISSUES PROVIDING MORE POSITIONS**

The issue for the subcommittee to consider is an April DOF proposal to increase funding for more positions to administer the Scholarshare Savings Trust Program, and a technical revision related to a now-defunct program.

BACKGROUND:

Background on Scholarshare Investment Board. The Scholarshare Investment Board is the administrator for the Golden State Scholarshare College Savings Trust Program (Scholarshare), the Governor's Scholarship Program and the California Memorial Scholarship Program. These programs encourage California citizens to pursue higher education by making education more affordable. Scholarshare is California's 529 plan and encourages families to save for higher education costs. The Governor's Scholarship Program is no longer awarding new grants, but at one time granted scholarships to students for use at eligible higher education institutions. The California Memorial Scholarship Program provides scholarships to surviving dependents of California residents killed in the terrorist attacks on September 11, 2001.

Governor's January 10 budget. The Governor's January 10 budget proposed a total funding level of \$4.3 million for this board (\$3.2 million General Fund and \$1.1 million Scholarshare Administrative Fund) and 4 positions. The January 10 budget did not contain any augmentations for the board.

April DOF letters. In an April DOF letter to the Legislature, the Governor proposed the following increases to the Scholarshare Savings Trust Program:

1. Transfer of one position and associated funds from the Governor's Scholarship Programs to the Scholarshare Savings Trust Program. The Governor's Scholarship Programs used to provide merit scholarships to students who scored above a certain level on statewide achievement tests, but have not been funded for several years. The Scholarshare Savings Trust Program is California's 529 plan, which provides parents, grandparents and guardians a tax-advantaged way to save for a child's college education.
2. An additional \$108,000 from the Scholarshare Administrative Fund to establish one new position to further support increased workload for the Scholarshare Savings Trust Program. The proposed augmentation is not General Fund.
3. Reverse approximately \$4 million in General Fund that was expected to be transferred to the Governor's Scholarship Program, which used to provide merit scholarships to students who scored a certain level on statewide achievement tests. For the past several years this program has not been funded, meaning

that there was not funding for new scholarships. However, the state still had some outstanding obligations for scholarships that were earned during the years the program was operative. Given that there no longer appears to be a need to fund these outstanding obligations, the Governor is proposing to undo a January 10 proposal to transfer \$2 million in General Fund to the program. The Governor is also proposing to undo the \$2 million transfer proposed in last year's budget (the current year).

COMMENTS:

Background on Governor's Scholarship Program. The Governor's Scholarship Program was created several years ago, and provided merit-based scholarships to students who scored at high levels on state tests. During the fiscal crisis of 2003-04 and 2004-05, funding for the program was cut and the state has not issued new scholarships since that time.

6110 DEPARTMENT OF EDUCATION**ISSUE 1: WILLIAMS SETTLEMENT FUNDING FOR EMERGENCY REPAIRS IN LOW-DECILE SCHOOLS**

The issues for the subcommittee to consider are

- The availability of \$320 million in funding for emergency facilities repairs pursuant to the Williams lawsuit, and the fact that very little of this money has been applied for and distributed to districts since its availability.
- The Governor's proposal to add \$100 million in additional one-time funds to the program, in accordance with the requirements of a lawsuit settlement regarding adequate facilities in low-performing schools.

BACKGROUND:

Governor's budget. The Governor's proposed budget provides an increase of \$100 million in one-time Proposition 98 Reversion Account funds to the School Facilities Emergency Repair Account, pursuant to the terms of the Elizer Williams v. State of California lawsuit settlement of 2004. The settlement intended to ensure that students in low-performing schools have access to adequate teachers, instructional materials and facilities. The settlement requires that the greater of \$100 million or half of all funds from the Proposition 98 Reversion Account, which contains prior-year Proposition 98 savings from education programs, must go toward the School Facilities Emergency Repair Program, until the state has appropriated a total of \$800 million for the program. The program funds emergency repairs in low-performing schools.

Last year's budget provided a total increase of \$137 million in Proposition 98 Reversion Account funding for this purpose.

Total funding available for the program. According to staff that administers this program, as of the end of February, there was approximately \$320 million in funds available for this program, not including the additional \$100 million proposed by the administration for the 2007-08 fiscal year.

Background on program, Williams lawsuit. In addition to setting aside funding for emergency facilities repairs, the Williams settlement required that school districts complete school facilities needs assessments on their decile 1-3 schools. Districts had to complete the needs assessments by December 31 of 2005. (The 2003-04 budget provided \$25 million for this purpose.) The Facilities Emergency Repair Program was created to fund facility repairs that pose a threat to the health and safety of students or staff. Prior to changes made to the program last year, funding was provided on a reimbursement basis and districts had to make repairs for applying for reimbursement.

LAO findings as to why funding went undistributed last year. Last year, in its Analysis of the Budget, the LAO had the following findings as to why so little funding had been distributed:

- Districts fear their projects won't be approved.
- Small districts don't have the cash flow to front the costs of the repairs while they wait for reimbursement.
- Districts can't afford the time to complete the paperwork to obtain the reimbursement.
- There is confusion among districts about which types of repairs qualify for reimbursement.

Last year's changes to the program. In response to the LAO's findings that less than \$1 million of the funding had gone out, the Legislature adopted an LAO recommendation to change the program from a reimbursement program to a grant program. The new grant program is being implementing by the State Allocation Board, which administers the program.

COMMENTS:

Funding distributed to date. According to officials from the State Allocation Board, which administers this program, since this funding became available two years ago, only \$14 million of the \$320 million available has been distributed as of the end of February. However, they indicate that the new grant program is still not quite yet off the ground, and anticipate that the funding will be allocated at a quicker pace than previously, although they do not anticipate spending all of the funding in the budget year. The regulations for the new grant program are not expected to be approved before May of this year. The expenditure rate for the grant program is expected to be higher than in previous years under the reimbursement program, although the expenditure rate is not expected to be high enough to expend the entire \$420 million during the 2007-08 fiscal year, which is the amount that would be available for the program under the Governor's proposed budget.

ISSUE 2: APRIL DOF LETTER REGARDING PTA TRANSPORTATION SHIFT

The issue for the subcommittee to consider is the Governor's proposed April DOF letter to make changes to the January 10 proposal to use PTA transportation funds to pay for transportation expenses in schools.

BACKGROUND:

In an April DOF letter, the administration propose some changes to its January 10 proposal to use PTA transportation funds to pay for transportation expenses in schools. The Governor's January 10 proposal had proposed to reduce Proposition 98 expenditures for the state's home-to-school transportation program by \$627 million and replace the funding with PTA transportation funds, which are designed for public transportation purposes. The Governor's had accordingly reduced the Proposition 98 minimum funding guarantee by the same amount of this shift, due to an assumption that when programs are shifted in and out of the Proposition 98 guaranteed funding level, the minimum Proposition 98 funding guarantee must be adjusted accordingly.

In his April DOF letter, the Governor proposes to slightly change the proposal. The Governor proposes to continue the proposed use of \$627 million in PTA public transportation funds for home-to-school transportation, but does not propose to reduce the Proposition 98 minimum funding level by the same amount. In effect, the Governor is proposing that the PTA funds be used as a reimbursement to the General Fund, and that the General Fund amount that is freed up as a result of the reimbursement be dedicated to transportation expenditures within education (the home-to-school transportation program). If the Legislature were to adopt the proposed April DOF letter change, the effects would be the following:

- The state would still capture \$627 million in General Fund savings as a result of changing the funding source for the K-12 home-to-school transportation program from General Fund to PTA funds.
- The minimum Proposition 98 funding guarantee would no longer be re-benched downward by \$627 million.

The administration proposes the following budget control section to bring this proposal into effect:

SEC. 24.80. (a) Notwithstanding any other provision of law, the Director of Finance is authorized to reimburse overall General Fund expenditures for the purposes of offsetting the cost of Home-to-School Program for the 2007-08 fiscal year from the Public Transportation Account, State Transportation Fund. Upon order of the Director of Finance, up to \$627,000,000 from the Public Transportation Account, State Transportation Fund, may be used to reimburse General Fund expenditures from Item 6110-111-0001 and the deferral

amount from 2006-07 paid in 2007-08 pursuant to approval of budget trailer legislation during the 2007-08 Regular Session that provides an appropriation for this purpose. The total reimbursement shall not reduce the balance in the Public Transportation Account, State Transportation Fund, below a prudent reserve as determined by the Director of Finance.

(b) It is not the intent of the Legislature in enacting this section to provide additional expenditure authority to state programs.

(c) Funds provided from the Public Transportation Account, State Transportation Fund, for this purpose are derived from the sales tax on fuels and are dedicated to mass transportation purposes pursuant to Section 99310.5 of the Public Utilities Code. The Legislature hereby finds that transporting students to schools is a component of the state's mass transportation program.

COMMENTS:

Concerns about January 10 proposal. Education advocates had raised concerns about the Governor's January 10 proposal. Namely, their concerns were focused on the proposed downward shift of the Proposition 98 minimum funding guarantee and the potential for future downward shifts if the state were to change funding sources for other education programs. The LAO also raised concerns about the January 10 PTA/Proposition 98 home-to-school shift proposal. Namely, they raised concerns about the legality of shifting programs out of Proposition 98 funding into other funding sources, the precedent this might set for future years and the effect similar proposals might have on the Proposition 98 guarantee over time.

LAO concerns about the April DOF proposal. The LAO believes that the April DOF proposed changes are not consistent with current law that guides how and what the PTA funds can be used for. They do not believe that the funds can be used as a reimbursement to the General Fund, because this transaction eliminates the requirement that the funds be spent specifically on transportation. Even though the administration proposes that the exact amount of PTA funds used as a General Fund reimbursement be used for home-to-school transportation, the LAO still believes that the connection between the reimbursement and the transportation expense is tenuous enough to raise legal questions.

ISSUE 3: CDE STATE OPERATIONS – JANUARY 10 PROPOSALS

The issues for the subcommittee to consider are:

- The Governor's various January 10 proposed augmentations to CDE's state operations.
- CDE's state operations requests still pending before the administration.

BACKGROUND:

The Governor's January 10 budget includes the following augmentations to CDE's state operations.

1. **CALPADS** – One position and \$1.8 million in federal funds for CDE's administration of CALPADs, the longitudinal student data system that is under development (heard at a previous hearing).
2. **Education Data Exchange Network coordination and facilitation** – One position, split between this function and CALPADS support, plus \$122,000 in federal funds. The Education Data Exchange Network was initiated in 2002 by the U.S. Department of Education to provide the opportunity for states and the federal government to transfer and analyze information about education programs. Initially, California's participation in the network was voluntary, but two years ago CDE received a federal grant to help it develop CALPADS, and it must participate in the network as a condition of receiving the federal grant. The proposed administrative expenditures for this network would help CDE manage California's participation in the federal network (identifying data sources, prioritizing data submissions, training, etc.).
3. **CalTIDES (Teacher Data System)** – \$1.1 million in federal funds to support this teacher data system, which is under development (This was heard at a previous hearing).
4. **Instructional materials, mathematics adoption** -- \$280,000 General Fund augmentation for CDE's costs relative to the 2007 adoption of standards-aligned instructional materials in math. CDE states that the funding is needed for the cost of reviewing the various materials that publishers will submit for review.
5. **School Mental Health Network** -- \$633,000 in Proposition 63 funds and three positions to support CDE's efforts to coordinate implementation of the Mental Health Services Act (Proposition 63, the 2004 initiative that levied a 1% tax on taxable personal incomes over \$1 million to pay for mental health programs). The \$633,000 are not new funds, as they are partially continued from last year. The proposed funding and positions will institute a permanent partnership with the Department of Mental health to support training for school districts and

mental health services agencies to promote early recognition of children's mental illnesses.

6. **American Indian Education Program** -- \$50,000 General Fund for the implementation of SB 1710 (Ackerman) of 2006, which made changes to the program to address findings from a JLAC audit that found problems in the way the program was administered.
7. **Certificated Staff Mentoring Program** -- \$101,000 General Fund and one position to administer this new program, which was initiated in last year's budget and provides support and mentoring to new teachers in low-performing schools.
8. **English Learner Best Practices Pilot Project** -- \$100,000 General Fund and one position to administer this new program, which was initiated in last year's budget (This was heard at a previous hearing).
9. **Carl Perkins Vocational Education Accountability and State Administration** -- \$139,000 General Fund, \$139,000 federal funds and two positions to implement new accountability requirements that were created by the reauthorized federal law. Now CDE must ensure that all districts that receive this federal money institute performance measures and goals, and CDE will be required to annually evaluate districts' performance against stated goals.
10. **California School for the Blind** – One position and \$88,000 General Fund for an adaptive physical education teacher at this school (Approved at an earlier hearing).
11. **California School for the Deaf** – \$420,000 General Fund for utility costs at this school (Approved at an earlier hearing).

COMMENTS:

CDE's state operations budget. CDE's state operations are funded with a mix of non-Proposition 98 General Fund and federal funds. Two years ago, the federal government eliminated funding for a major federal program (Title V) that CDE had relied upon heavily to fund its operations. Last year, CDE backfilled this cut using one-time federal carryover. This year, DOF has approved some of CDE's proposals to backfill this federal cut, but not all of them.

CDE requests still pending before the administration. The above augmentations represent augmentations that DOF approved for the January 10 budget. There are a number of requests that CDE submitted to DOF that were not funded. Of note:

- **NCLB corrective actions for districts** – In the fall, CDE submitted a proposal to DOF requesting \$489,000 in General Fund and four positions to implement corrective actions in school districts that are in their third year of program

improvement. (The issue of corrective actions was heard at a previous hearing.) The corrective actions are required under the No Child Left Behind Act. CDE anticipates that as many as 100 districts may be affected, and the affected districts will need direction and technical assistance in implementing the corrective actions, which may be decided as soon as the fall of 2007. Without the additional staff, CDE states that it will be unable to offer adequate technical assistance to these districts.

- **Testing** – CDE submitted a request for one position to provide support for a) additional administrations of the California High School Exit Exam, and b) the data collection and special studies for students with disabilities. CDE also submitted a request for two positions to support the state testing system, including a bilingual Spanish-speaking person to assist with the math portion of the new standards-aligned test in Spanish.
- **Bus Driver Instruction Training Program** -- CDE submitted a proposal for \$519,000 from the Driver Training Penalty Assessment Fund (non-General Fund) for facility leasing costs, training bus replacement and increased student lodging costs. Under current law, CDE is required to provide driver safety training for school bus transportation, school pupil activity buses, farm labor vehicles and public transit. CDE has been using a building owned by the California Highway Patrol, which is old and will soon be demolished. CDE needs to lease space until CHP replaces the building.
- **Healthy Start** – CDE submitted a request for \$525,000 General Fund and three positions to provide technical support to the Healthy Start program which provides limited-term grants (5 years) to schools to develop sustainable site-based programs that promote long-term improvements in the health and educational experiences of young people and their families. Last year's budget contained \$10 million in one-time funds for new grants. These grants will continue until 2012-13, and CDE states the need for positions to administer the grants and provide technical assistance.

ISSUE 4: CDE STATE OPERATIONS –APRIL DOF PROPOSAL REGARDING CDE'S ADMINISTRATION OF THE FEDERAL MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM

The issue for the subcommittee to consider is an April DOF proposal to increase funding for CDE's administration of this federal program, including an increase in funding for evaluations.

BACKGROUND:

In an April DOF letter, the administration proposed the following changes to the January 10 budget, related to CDE state operations to administer the Math and Science Partnership Program:

- **Positions.** An increase of \$387,000 in federal Math and Science Partnership Program funds plus 1.5 positions to support increased workload related to this program. According to DOF's summary, "This program provides competitive grant awards to partnerships of low-performing schools and institutes of higher education to provide staff development and curriculum support for mathematics and science teachers."
- **Evaluation funds.** An increase of \$200,000 in federal Math and Science Partnership funds to expand the existing contract for external evaluations of the program.

In accordance with the proposal, the administration proposes the following language to implement it.

X. Of the funds appropriated in this item, \$167,000 and 1.5 positions are provided to support increased workload for the Mathematics and Science Partnership Program. Additionally, \$200,000 is provided to expand the external evaluator contract.

Background on program. The Mathematics and Science Partnership (MSP) program was created by the federal government as part of the No Child Left Behind Act of 2001. It is intended to increase the academic achievement of students in mathematics and science by enhancing the content knowledge and teaching skills of classroom teachers. Partnerships between high-need school districts and the science, technology, engineering, and mathematics (STEM) faculty in institutions of higher education are at the core of these improvement efforts. For the 2007-08 fiscal year, California is expected to have \$27 million in funds for this program. According to CDE, the program funds 64 projects (partnerships) in California.

COMMENTS:

Could evaluation money help improve coordination and statewide goal-setting regarding the recruitment of more math and science teachers? At an earlier hearing, the subcommittee heard the issue of the statewide shortage of math and science teachers, and whether there is a need for statewide goals and coordination between the various programs intended to increase the supply of math and science teachers. For example, last year's budget contained funding for a county office of education to improve the availability of these teachers, and at the same time the budget funded a program run out of UC and CSU for the same purpose. To what extent do CDE's evaluation results help inform UC and CSU's efforts, and vice versa?

ISSUE 5: CDE STATE OPERATIONS – APRIL DOF PROPOSAL REGARDING LOSS OF FEDERAL TITLE V MONEY.

The issues for the subcommittee to consider are:

- An April DOF proposal to use Title II funds to fund positions that were formerly supported with federal Title V funds that have been eliminated.
- An outstanding proposal by CDE to use Title II funds to help ensure compliance with federal NCLB requirements related to high quality teachers in low-decile schools.

BACKGROUND:

In an April DOF letter, the administration proposes to use \$690,000 in federal Title II funds to support four existing positions that were formerly funded with federal Title V funds, which have been eliminated. The administration also requests the following budget control language in accordance with the proposal:

X. Of the funds appropriated in this item, \$690,000 of federal Elementary and Secondary Education Act Title II, Part A funds and 4.0 existing positions, previously funded with Title V funds, will support continued efforts to provide professional development activities for administrators, principals, and teachers. These positions will actively focus efforts on assisting local educational agencies to meet the requirements for Highly Qualified Teachers, pursuant to the Federal No Child Left Behind Act of 2001 (P.L. 107-110).

COMMENTS:

CDE proposal for more technical assistance to help schools comply with the highly qualified teacher requirements of NCLB. The administration proposes to fund part of CDE's initial request of \$1.6 million in Title II funds to a) help support its state operation activities related to teachers and b) to start a technical assistance program to help school districts comply with the highly qualified teacher requirements of NCLB. The LAO has raised questions about whether the April DOF proposal is intended to fund only the first portion of the request or a combination of both.

ISSUE 6: CDE STATE OPERATIONS – APRIL DOF PROPOSALS REGARDING THE ADMINISTRATION OF EDUCATION TECHNOLOGY PROPOSALS

The issues for the subcommittee to consider are two April DOF proposals for CDE's administration of education technology programs.

BACKGROUND:

In its April DOF letter, the administration proposes two changes regarding CDE's administration of education technology programs:

- **Continue positions to administer programs.** The administration proposes to provide \$220,000 in federal education technology funds to continue 2.0 limited-term positions for an additional two years. The April DOF letter states, that "[t]he positions would continue to address baseline workload under the federal Enhancing Education Through Technology program requirements. The positions and funding were removed from the 2007-08 base budget during the fall, as it was unknown if the federal government would be continuing the program. The federal government did ultimately continue the program, albeit at a slightly reduced level, yet base workload requirements will remain essentially unchanged."
- **Reduction in funding for contracted technical support and evaluation.** The administration proposes a change in budget control language that would reduce the amount of federal funds set aside for contracted technical support and evaluation services from \$686,000 to \$150,000 (a reduction of \$536,000). The proposed change is to provision 8 of the federal CDE state operations item, as follows:

"8. Of the funds appropriated in this item, \$1,427,000 shall be used for administration of the Enhancing Education Through Technology Grant Program. Of this amount:
(a) ~~\$686,000~~ \$150,000 is available only for contracted technical support and evaluation services."

COMMENTS:

Background on programs. The April DOF letter proposals above propose to maintain administration support for the following two programs:

- The federal Enhancing Education Through Technology program is a program whose primary goal is to improve student achievement through the use of technology in elementary and secondary schools. Additional goals include helping students become technologically literate by the end of eighth grade and, through the integration of technology with both teacher training and curriculum development, establishing research-based instructional methods that can be

widely implemented. For the 2007-08 fiscal year, California is expected to receive \$32 million in federal funds for this program.

- The federal E-rate program provides eligible K-12 public schools and libraries 20-90 percent discounts on approved telecommunications, Internet access and internal connection costs. E-rate discounts are based on the number of students eligible for the National School Lunch Program. Schools and libraries in low-income urban communities and rural areas qualify for higher discounts. The e-rate application process can be difficult, but the program provides important resources to support local education technology programs.

**ISSUE 7: CDE STATE OPERATIONS – APRIL DOF PROPOSAL REGARDING
MIGRANT EDUCATION OVERSIGHT**

The issue for the subcommittee to consider is an April DOF proposal regarding CDE oversight of the federal migrant education program.

BACKGROUND:

April DOF proposal. In the April DOF letter amending the January 10 budget, the administration proposes that \$800,000 in federal migrant education carryover be used to "develop various SDE operational plans to provide appropriate educational services to migrant students and to ensure the SDE's compliance with federal Migrant Education Program requirements." It accordingly proposes the following language to accompany the appropriation:

X. Of the funds appropriated, \$800,000 is provided in one-time carryover funds to develop evaluation, improvement, and service delivery plans to meet federal Migrant Education program requirements. The completed plans shall be incorporated into the Single Plan for Pupil Achievement pursuant to Education Code Section 64001.

Federal government review of California's implementation. Over a period of 18 months, the federal Office of Migrant Education reviewed California's program. In December, 2006 it released a report identifying various findings of non-compliance and corrective actions, including:

- The need for a comprehensive service delivery plan that meets federal requirements.
- The need for more statewide evaluation of the effectiveness of programs and the use of those evaluation results to improve services.
- The need for more comprehensive monitoring visits.

The proposal from the administration would allow CDE to address some of the federal government's concerns by contracting with outside entities for the completion of the plan and for the program evaluation. (CDE also requested the use of \$3.6 million in carryover funds for various local assistance programs, such as extended day programs, parent involvement and parent education and professional development. DOF did not approve that request.)

LAO findings from last year. Last year, the LAO produced a report on California's administration of this federal program. It cited concerns with the current regional system for distributing funds, which was created 20 years ago and requires regional offices (usually county offices of education) to provide supplemental services to migrant students. In particular, it cited a disconnect between who is funded and who is accountable, since resources and responsibility for migrant services lies with county offices of education, whereas accountability for outcomes lies with school districts. They also cited a lack of coordination between the regional center and students' school districts; in some school districts, staff were largely unaware of the services being

provided to their migrant students by the regional center. To address these concerns, the LAO recommended redirecting most of the federal funds directly to districts, while still maintaining the regional centers for technical assistance. The LAO also cited concerns with the statewide database used to for the program. The state currently contracts with two companies to maintain a database of demogration information on migrant students. As of last year, the system did not contain any information related to academic performance or health-related information. The LAO accordingly recommended using federal carryover to support improvements in the statewide database system.

COMMENTS:

Background on federal program. The federal Migrant Education Program was created in 1966. Its goal is to ensure that all migrant students reach challenging academic standards and graduate with a high school diploma (or complete a GED) that prepares them for responsible citizenship, further learning and productive employment. Funds are intended to ensure that migratory children who move around a lot are not penalized in any manner by state or local disparities in standards or curriculum. In California, funds are distributed through a regional system of migrant education centers. The LAO has been critical of this regional system, citing concerns that it leads to "limited program accountability, poor coordination with other student services, and little statewide collaboration." For the 2007-08 fiscal year, California is expected to receive approximately \$125 million in federal migrant education funds.

ISSUE 8: CDE STATE OPERATIONS – APRIL DOF PROPOSAL REGARDING CHILD NUTRITION AND HEALTH

The issues for the subcommittee to consider are three April DOF proposals to provide CDE with more funding to implement various child nutrition and child health initiatives.

BACKGROUND:

April DOF letter proposals. In an April DOF letter to the Legislature, the Governor proposes the following augmentations to CDE regarding child nutrition and child health activities and programs:

- **Free and Reduced-Price Meal Direct Certification Grant**—DOF requests an increase of \$172,000 to CDE's federally funded stated operations to reflect the availability of one-time carryover funds for a federal grant. The grant supports efforts to directly certify eligible pupils from public benefit programs for free and reduced-price school meal programs.

It is further requested that provisional language be added as follows to conform to this action:

X. Of the amount appropriated in this item, \$172,000 is available from one-time carryover funds to support efforts that directly certify eligible pupils from public benefit programs for free and reduced-price school meal programs.

- **School Wellness Grant**—DOF requests an increase of \$50,000 to CDE's federally-funded state operations to reflect the availability of a one-time carryover funds from the School Wellness Grant, which supports training and technical assistance for local educational agencies implementing local wellness policies. CDE indicates that it received a federal grant covering the period of May, 2006 through September, 2007 and needs this authority to spend the portion of the grant that will remain unspent by June 30 of this year.

It is further requested that provisional language be added as follows to conform to this action:

X. Of the amount appropriated in this item, \$50,000 is available from one-time federal funds for providing training and technical assistance to local educational agencies implementing local wellness policies.

- **State Operations, Child Nutrition Standards (Issue 787)** -- CDE requests an increase of \$200,000 to reflect additional reimbursements for efforts to establish an approved listing of beverages that can be served on school campuses and that comply with Chapter 237, Statutes of 2005. The reimbursements will come from fees that beverage vendors pay for the cost of CDE's review. The 2005 legislation set nutrition standards for beverages sold outside of the school meal

programs. CDE states that districts are challenged to meet the new requirements, so CDE plans to post its approved list of beverages that meet the new standards on its website.

It is further requested that Provision 21 be amended as follows:

"21. Of the reimbursement funds appropriated in this item, ~~\$200,000~~ \$400,000 shall be available to the SDE to contract for assistance in developing an approved listing of food and beverage items that ~~complies~~ comply with the nutrition standards of Chapter 235 of the Statutes of 2005 and Chapter 237 of the Statutes of 2005. In order to fund the development and maintenance of the approved product listing, the SDE shall collect a fee, as it deems appropriate, from vendors seeking to have their product reviewed for potential placement on the approved product listing. Reimbursements collected in 2007-08 may be used to offset costs incurred in 2006-07."

COMMENTS:

Last year's budget contained some funding for all of the above activities, albeit in different amounts.

ISSUE 9: CDE STATE OPERATIONS – APRIL DOF PROPOSAL TO CORRECT TECHNICAL ERROR PERTAINING TO CDE’S ADMINISTRATION OF SPECIAL EDUCATION PROGRAMS

The issue for the subcommittee to consider is an April DOF proposal to correct a technical error in the January 10 budget relative to CDE’s administration of special education programs.

BACKGROUND:

In their April DOF letter, the administration proposes the following technical correction:

Issue 952: Technical Adjustment for Federal Special Education Funds—It is requested that \$127,000 in federal funds, originally budgeted in Provision 46 of Item 6110-001-0890, Budget Act of 2006, for education monitoring and technical assistance in correctional facilities, be restored. The federal funds were inadvertently eliminated as a one-time cost. Although the monitoring in correctional facilities workload has sunset (Education Code Section 56867 (h)), CDE advises that the federal funds should remain as a part of the base for administration. (In other words, the federal grant for administration continues to provide California with the funds).

COMMENTS:

Staff notes that CDE requested this technical correction.

ISSUE 10: CDE STATE OPERATIONS – CONTRACT WITH THE OFFICE OF ADMINISTRATIVE HEARINGS TO PROVIDE DUE PROCESS SERVICES TO PARENTS OF SPECIAL EDUCATION STUDENTS

The issues for the subcommittee to consider are:

- A deficiency request by CDE to pay for uncovered costs of its contract with the Office of Administrative Hearings to provide due process services to parents of special education students.
- An update by CDE on the administration of the agreement, and the status of information that OAH is required to provide regarding the services it provides and the outcomes.

BACKGROUND:

Governor's budget. The Governor's budget proposes a total funding level of \$10.7 million for CDE's interagency agreement with the Office of Administrative Hearings to provide dispute resolution services for parents of special education students. Of this amount, \$9.2 million is federal funds and \$1.5 million is General Fund. This is the same level of funding provided in last year's budget for the interagency agreement.

Background on the program. Federal special education law requires that states receiving federal special education funding have a process for resolving disputes between parents and school officials over the learning plans and services offered to special education students. If a dispute arises as to a pupil's individualized education program, the state must offer the parents due process, which provides for mediations and hearings before an independent impartial hearing officer to resolve the dispute. 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 for compliance with *Government Code* Section 19130(b). At issue was whether civil service employees should perform the contracted work pursuant to Article VII of the California Constitution. In the end, CDE's contracts with McGeorge were authorized but with the caveat that further approvals would not be forthcoming.

On December 13, 2004, CDE issued a Request for Proposals establishing a competitive process for awarding the contract to provide these services during the 2005-06 through 2007-08 fiscal years. Both OAH and McGeorge submitted responsive, qualified proposals in response to this request. According to CDE, OAH's bid was 30 percent lower than the bid submitted by McGeorge. Since the appropriate contracting vehicle between two state agencies is an interagency agreement, which does not require the

same competitive procurement process, the competitive Request for Proposals was cancelled.

As of June 1, 2005, CDE and OAH entered into a three-year interagency agreement for the provision of due process hearings starting June 1, 2005, and mediations starting January 1, 2006. CDE also entered into a six-month transition contract with McGeorge for the provision of mediation services. According to CDE, as of January 1 of last year, OAH assumed responsibility for providing mediations in addition to due process hearings.

CDE deficiency request. In February, CDE sent a request for retroactive funding to DOF, notifying DOF that the full cost of the agreement is \$11,091,000, and CDE needs an additional \$378,000 in General Fund to fully fund the contract in the current year. (This amount assumes that \$513,000 for employee compensation increases will be forthcoming as part of legislation to be sponsored by the DOF; if the \$513,000 is not approved, the shortfall will be higher.) For the budget year, CDE estimates that the cost of the agreement will go up by \$1.3 million. The CDE submitted a BCP requesting the necessary funding in fall 2006, which was not included in the January 10 budget. Given that the administration did not increase funding for the agreement in the January 10 budget, CDE is estimating a \$1.7 million shortfall for the agreement in 2007-08. CDE states that, with the exception of the amounts related to employee compensation increases, the amounts they are requesting in the current and budget years are substantially consistent with the amounts in the original bid by OAH.

Information on outcomes. Last year, the subcommittee heard testimony from advocates citing concerns about the quality of the services provided by OAH and the lack of outcome data regarding the services. Accordingly, in last year's budget, the subcommittee adopted budget control language requiring OAH to provide information on the following topics:

- (a) The total number of cases won by each side.
- (b) The number of issues decided in favor of each side in split decisions.
- (c) How often schools and parents were represented by attorneys.
- (d) How many prehearing motions were filed by each side.
- (e) Which side won most of the prehearing motions.
- (f) How many parent requests for due process were dismissed for insufficiency.
- (g) How often pupils of color accessed the system.
- (h) How often non-English-speaking people used the system.
- (i) How long the hearings took.
- (j) How much of each hearing, on average, was consumed by the parent's presentation of his or her case.
- (k) How much of each hearing, on average, was consumed by the district's presentation of its case.
- (l) How many of the hearing requests were from parents.
- (m) How many of the hearing requests were from school districts.
- (n) How many witnesses school districts called on average.

- (o) How many witnesses parents called on average.
- (p) From which districts parent requests for due process came.
- (q) What issues, within special education, generated due process hearing requests during the quarter.
- (r) What disabilities generated due process hearing requests during the quarter.
- (s) What age groups (preschool, primary, junior high, high school) generated hearing requests during the quarter.
- (t) How many hearing decisions were appealed to court during the quarter.
- (u) How many cases were totally resolved in mediation by agreement.
- (v) How many cases were totally resolved in the mandatory resolution session.

The data must reflect year-to-date data and final year-end data.

OAH did not provide outcome data for the first quarter of the interagency agreement with CDE, citing workload issues. CDE reports that OAH is providing all but 3 of the data elements, and intends to provide all 22 data elements in its next report to CDE.

COMMENTS:

2007-08 is the third year of a three-year interagency agreement. The 2007-08 fiscal year is the last year of CDE's three-year agreement with OAH. Advocates of parents of special education students have cited numerous concerns with the services that OAH provides. Of note, they contend that OAH's use of administrative law judges as mediators runs contrary to standards mediation principles and that this practice jeopardizes confidentiality and impartiality. In addition, they contend that OAH requires parents to meet a new burden of demonstrating when services were not provided -- a burden that advocates argue is impossible for parents to meet. These same advocates are sponsoring a bill (AB 1659 (Lieber)) requiring OAH to address these concerns, and authorizing CDE to enter into two separate agreements with different state agencies -- one for mediation services and one for due process hearing services.

ISSUE 11: APRIL DOF PROPOSAL REGARDING THE ADMINISTRATION OF THE MENTAL HEALTH SERVICES ACT

The issue for the subcommittee to consider is an April DOF proposal to re-appropriate funds provided in last year's budget relative to the administration and implementation of the Mental Health Services Act (Proposition 63).

BACKGROUND:

In an April DOF letter, the Governor proposes to reappropriate \$289,000 in Mental Health Services Act funds (Proposition 63 funds, tax of 1% for individuals with taxable incomes over \$1 million). These funds were appropriated in last year's budget but will be unspent by the end of this fiscal year. The DOF letter states that the funds were provided in last year's budget for CDE to contract for training school business officials on the provisions of the Mental Health Services Act. The funds will not be spent until March 2008 due to contract bid issues (non-qualified bids and appeals.) DOF accordingly requests that the following language be added to effect this change:

6110-491—Reappropriation, Department of Education. Notwithstanding any other provision of law, the balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, in those appropriations, and shall be available for encumbrance or expenditure until June 30, 2008:

(1) Schedule (1) of Item 6110-491, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006). Of the funds appropriated in this item, \$289,000 is made available for the 2007-08 fiscal year, for the purpose of fulfilling contracting services with local education agencies pursuant to the Mental Health Services Act (Proposition 63).

COMMENTS:

The CDE request for this re-appropriation states that last year's funding was to promote local partnerships between county offices of education and counties in the development of the implementation plans. Is the proposed re-appropriation for the same purpose.