

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 2 ON EDUCATION FINANCE

Assembly Member Wilmer Amina Carter, Chair

TUESDAY, MAY 25, 2010  
STATE CAPITOL, ROOM 444  
1:30PM

### VOTE ONLY

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### ITEMS TO BE HEARD

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	<ul style="list-style-type: none"> <li>• EDGAR CABRAL – LEGISLATIVE ANALYST'S OFFICE</li> <li>• NICOLAS SCHWEIZER – DEPARTMENT OF FINANCE</li> <li>• CALIFORNIA DEPARTMENT OF EDUCATION</li> </ul>	
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## VOTE ONLY

## 6110 DEPARTMENT OF EDUCATION

## ISSUE 1: APRIL LETTER AND MAY REVISE LETTER: VARIOUS ADJUSTMENTS

The following items are amendments or additions to the Governor's January Budget as proposed by the Department of Finance in the April and May budget letters. These issues reflect technical adjustments and utilize funds consistent with existing programs and policies. The highlighted issues are staff corrections to the DOF letter.

1	<p><b>One-Time Carryover for the California High School Exit Exam Equivalence Assessment (Issue 001)</b>—It is requested that Item 6110-001-0890 be increased by \$1,050,000 federal special education funds and that Item 6110-001-0001 be amended to undertake the activities required pursuant to Chapter 666, Statutes of 2008 (AB 2040), which directed the State Department of Education (SDE) to form an independent panel to examine and provide recommendations to the State Board of Education (Board) on an equivalent assessment for students with disabilities. The bill further required the Board to make a recommendation and adopt regulations by October 2010. The 2009 Budget Act provided carryover of \$1,050,000 federal funds for this purpose and the panel has provided its recommendation to the Board. The Board intends to address the panel's recommendation in the coming months and the SDE requests to carryover the remainder of funds for workload that would occur in fiscal year 2010-11.</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 style="padding-left: 40px;">X.Of the funds appropriated in this item, \$1,050,000 federal special education funds is available on a one-time basis for the activities described in Chapter 666, Statutes of 2008.</p>
2	<p><b>Item 6110-161-0890, Local Assistance, Special Education Program (Issue 600)</b>—It is requested that this item be increased by \$6,387,000 federal Individuals with Disabilities Education Act (IDEA), Part B funds to reflect an increase in the grant award for special education. The proposed augmentation would maximize the use of federal funds.</p> <p>It is further requested that Provision 1 of this item be amended to conform to this action as follows:</p> <p>“1. If the funds for Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) (IDEA) that are actually received by the state exceed <del>\$1,211,941,000</del> <u>1,218,328,000</u>, at least 95 percent of the funds received in excess of that amount shall be allocated for local entitlements and to state agencies with approved local plans. Up to 5 percent of the amount received in excess of <del>\$1,211,941,000</del> <u>1,218,328,000</u> may be used for state administrative expenses upon approval of the Department of Finance. If the funds for Part B of the IDEA that are actually received by the state are less than <del>\$1,211,941,000</del> <u>1,218,328,000</u>, the reduction shall be taken in other state-level activities.”</p>
3	<p><b>Item 6110-183-0890, Local Assistance, Safe and Drug Free Schools Program (Issue 641)</b>. Request that this item be decreased by <del>_____</del> federal Title IV funds to reflect the elimination of the Safe and Drug Free Schools Program by the federal government and the availability of <del>_____</del> million of one-time carryover funds. These funds will be used to support programs that prevent violence in and around schools and prevent the illegal use of alcohol, tobacco, and drugs.</p>

	<p>It is further requested that provisional language be added to Item 6110-183-0890 as follows to conform to this action:</p> <p>X. The funds appropriated in this item are available on a one-time basis to support the closing of the program.</p>
4	<p><b>Item 6110-001-0890, State Operations, Safe and Drug Free Schools Program (Issue 642).</b> Request that Item 6110-001-0890 be decreased by <del>\$1,400,000</del> <u>\$1,650,000</u> federal Title IV funds and that Item 6110-001-0001 be amended to reflect the elimination of the Safe and Drug Free Schools Program by the federal government and the availability of <del>\$500,000</del> <u>\$250,000</u> in one-time carryover funds. These funds will be used to support programs that prevent violence in and around schools and prevent the illegal use of alcohol, tobacco, and drugs.</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 appropriated in this item, <del>\$500,000</del> <u>\$250,000</u> is provided in one-time carryover funds to support the closing of the Safe and Drug Free Schools Program.</p>

### May Revise Letter

#### Federal Funds Adjustments

5	<p><b>Item 6110-161-0001, Local Assistance, Special Education (Issues 569 and 571).</b> Request that Schedules (1) and (2) of this item be realigned to correct the amount scheduled in the Governor's Budget. Schedule (2)—Early Education Program for Individuals with Exceptional Needs was overstated by \$247,000, the amount of which should have been included in Schedule (1)—Special Education Instruction.</p> <p>It is further requested that this item be decreased by \$9,224,000 Proposition 98 General Fund to reflect revised property tax estimates. Proposition 98 General Fund and property tax revenue make up the total state contribution to special education; therefore, the General Fund contribution would be decreased as a result of the projected increase of \$9,224,000 in property tax revenue.</p>
6	<p><b>Item 6110-201-0890, Local Assistance, Federal Child Nutrition Program (Issue 702)</b>—It is requested that this item be decreased by \$31,295,000 Federal Trust Fund due to the anticipated decline in meals served through the Child Nutrition Program. Local educational agencies, private schools, public and private centers, homes, halls, shelters, and camps are reimbursed for meals served through this federal entitlement program.</p>

#### General Fund and Other Adjustments

7	<p><b>Item 6110-102-0231, Local Assistance, Tobacco-Use Prevention Education Program (Issue 713)</b>—It is requested that this item be decreased by \$500,000 Health Education Account to reflect declining revenue estimates from the Cigarette and Tobacco Products Surtax Fund (Proposition 99). These funds are used for health education efforts aimed at the prevention and reduction of tobacco use. Activities may include tobacco-specific student instruction, reinforcement activities, special events, and cessation programs for students.</p>
8	<p><b>Item <del>6110-112-0001</del> <u>6110-211-0001</u>, Local Assistance, Charter School Categorical Block Grant Growth Adjustment (Issue 739)</b>—It is requested that this item be decreased by \$55,000 to reflect revised attendance estimates for charter schools. The Charter Categorical Block Grant provides charter schools with categorical funding in lieu of separate funding for specific categorical programs.</p>
9	<p><b>Item 6110-202-0001, Local Assistance, Non-Proposition 98 Child Nutrition Program (Issue 709)</b>—It is requested that this item be decreased by \$120,000 General Fund to align with the revised estimate of meals to be served through the Child Nutrition Program by private entities.</p>
10	<p><b>Item 6110-203-0001, Local Assistance, Proposition 98 Child Nutrition Program (Issue 711)</b>—It is requested that this item be decreased by \$2,231,000 Proposition 98</p>

	<p>General Fund to align with the revised estimate of meals served through the Child Nutrition Program at public school districts. The resulting appropriation would fully fund, at the statutory rate, all meals projected to be served in 2010-11.</p> <p>It is further requested that provisional language be amended as follows to conform to this action:</p> <p>“4. Of the funds appropriated in this item, <del>\$19,719,000</del> <u>\$17,488,000</u> is for the purpose of providing a growth adjustment due to an increase in the projected number of meals served.”</p>
11	<p><b>Item 6110-220-0001, Local Assistance, Charter School Facility Grant Program (Issue 169)</b>—It is requested that this item be increased by \$3,841,000 Proposition 98 General Fund to reflect a transfer of \$3,841,000 from the Multi Track Year-Round Education Program to the Charter School Facility Grant Program pursuant to Chapter 271, Statutes of 2008 (SB 658).</p>
12	<p><b>Item 6110-224-0001, Local Assistance, Multi Track Year Round Education Program (Issue 170)</b>—It is requested that this item be decreased by \$3,841,000 Proposition 98 General Fund to reflect a transfer of \$3,841,000 from the Multi Track Year-Round Education Program to the Charter School Facility Grant Program pursuant to Chapter 271, Statutes of 2008 (SB 658).</p>
13	<p><b>Items 6110-492 and 6110-001-3085, Reappropriation, Mental Health Services Act, Proposition 63 (Issue 566)</b>—It is requested that \$239,000 in Mental Health Services funds appropriated in Item 6110-001-3085, Budget Act of 2009 (Chapter 1, Statutes of 2009, Third Extraordinary Session), be reappropriated in 2010-11. Of these funds, \$153,000 will be provided to contract with an outside source to develop an online professional development system regarding youth suicide issues and prevention, which was delayed in the current year due to contract issues. The remaining \$86,000 will be provided to SDE to partially fund the development of a regional training system that will train staff in the early detection of mental health issues.</p> <p>It is further requested that provisional language be added as follows to conform to this action:</p> <p>6110-492—Reappropriation, Department of Education. Notwithstanding any other provision of law, the balance of the appropriation provided in Item 6110-001-3085 of the Budget Act of 2009 (Chapter 1, Statutes of 2009, Third Extraordinary Session), is reappropriated and shall be available for encumbrance or expenditure until June 30, 2011, to contract with mental health/educational professionals or education agencies to support the involvement of local education agencies in local mental health planning and implementation efforts pursuant to the Mental Health Services Act (Proposition 63, as approved by the voters at the November 2, 2004 statewide general election).</p>
<b>Current Year Adjustments</b>	
14	<p><b>Item 6110-641-0001, Local Assistance, King City Joint Union High School District (Issue 164)</b>—It is requested that this item be decreased by \$17,000 General Fund to reflect the repayment of interest from lease revenue bonds sold on behalf of King City Joint Unified High School District for a General Fund loan provided to the district pursuant to Chapter 20, Statutes of 2009 (SB 130).</p>

**Staff Recommendation:** Approve items on Vote Only list as amended.

## ITEMS TO BE HEARD

### 6110 DEPARTMENT OF EDUCATION

#### ISSUE 1: JUVENILE COURT SCHOOL FUNDING

The Governor's budget proposes to reduce Proposition 98 funding for the Division of Juvenile Justice (DJJ) from \$33.4 million in 2009-10 to \$29.8 million in 2010-11, a reduction of \$3.5 million due to an estimated drop in wards for 2010-11. This action will be taken in Subcommittee 4 as part of the DJJ budget actions.

The issue for this Subcommittee to consider is how Proposition 98 savings from DJJ population declines should be utilized under Proposition 98. The Administration proposes to use these savings to offset reductions to Proposition 98. The Subcommittee has been asked to evaluate options for moving Proposition 98 savings from the Division of Juvenile Justice (DJJ) to county court schools.

#### PANELISTS

- Jim Soland - Legislative Analyst's Office
- Elisa Wynne and Andrea Scharffer - Department of Finance
- Division of Juvenile Justice
- Heather Carlson - Department of Education

#### BACKGROUND:

**Division of Juvenile Justice (DJJ).** DJJ is the state agency responsible for the housing, supervision, and rehabilitation of individuals who have been committed to their custody. As of May Revise, about 1,517 wards (generally ages 13 to 25 years; average age 19 years) currently reside in DJJ institutions. Currently DJJ is comprised of five youth correctional facilities and two camps. Per the Governor's proposals, the number of wards is estimated to drop to 1,399 in 2010-11.

**DJJ Education Funding.** The Governor proposes \$29.8 million in Proposition 98 funding for education services for an estimated 1,399 youth committed to DJJ 2010-11. This represents a reduction of \$3.5 million from the Governor's revised 2009-10 budget.

DJJ Proposition 98 Funding	04-05	05-06	06-07	07-08	08-09	09-10	10-11 (Proposed)
Budget Appropriations	\$34.7m	\$33.4m	\$48.6m	\$46.0m	\$35.6m	\$33.4m	\$28.7m
Average Daily Population	3,537	3,044	2,697	2,260	1,743	1,517	1,399
Per Pupil	\$9,796	\$10,981	\$18,007	\$20,343	\$20,399	\$21,988	\$20,541

Funding							
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The DJJ population has declined significantly for nearly fifteen years for a number of reasons, including: decline in juvenile arrest rates; statutory changes that increase the likelihood that youthful offenders will end up in adult institutions; increased capacity at the county level to retain juvenile offenders; and the enactment of financial incentives for counties to keep lower-level offenders.

More recent declines in the DJJ population are also due to (1) changes in state law that limits DJJ commitments to violent, serious or sex offenders [Chapter 175; Statutes of 2007 (SB 81/Committee on Budget and Fiscal Review)]; and, (2) a decrease in the juvenile population.

Education funding for DJJ is built upon a historical base amount adjusted annually for workload and other program purposes. While population has fallen steadily, per pupil Proposition 98 funding levels rose significantly in 2006-07, and have continued to increase at a more modest level since then. This higher level of funding maintains improvements in treatment and services need to comply with remedial plans approved by the courts in the *Farrell* lawsuit settlement. The remedial plans covered six areas, including education.

Per state statute, DJJ is prohibited from receiving state categorical funds administered by the Department of Education. However, DJJ does receive federal funds for the following programs: Workforce Investment Act; Carl Perkins –Vocational Education; No Child Left Behind (NCLB) - Title I- Part D (Delinquent); NCLB Title III – English Learners; Special Education. In addition, DJF also receives other reimbursements from the E-Rate Fund and K-12 Technology Vouchers (Microsoft Settlement).

**DJJ Proposition 98 Savings.** The Governor's budget proposes the following Proposition 98 adjustments for DJJ in 2009-10 and 2010-11.

**Division of Juvenile Justice Proposition 98 Change Table**

*(In Thousands)*

<b>2009-10 Budget Act</b>	<b>\$49,696</b>
<b>Governor's Current-Year Adjustments</b>	
Juvenile Justice - EC/PERS/PPO/3.90	-4,400
Juvenile Justice - Population	-2,184
Juvenile Justice - Workload BCP	-6,366
Juvenile Justice - Business Model	-2,284
<b>May Revise Current-Year Adjustments</b>	<b>\$34,462</b>
Juvenile Justice - Population Adjustment	-1,105
<b>Revised 2009-10 Budget</b>	<b>\$33,357</b>
<b>Governor's Budget-Year Adjustments</b>	
Juvenile Justice - EC/PERS/Price/ECP/one-times	4,345
Juvenile Justice - Population	-2,624
Juvenile Justice - Business Model	-2,886
Juvenile Justice - Juvenile Offender Population Reform	-6,720
<b>May Revise Budget-Year Adjustments</b>	<b>\$25,472</b>
Juvenile Justice - Population Adjustment	-1,929
DJJ Juvenile Population Reform	6,300
<b>2010-11 Proposed Budget</b>	<b>\$29,843</b>

These changes are associated with several workload and policy changes proposed by the Governor. Only one category of savings is associated with changes in the DJJ population. The Governor proposes reductions of \$3.3 million in 2009-10 and \$4.5 million in 2010-11 associated with a decrease in the wards committed to DJJ. All other savings proposals relate to implementing budget corrections, program efficiencies and a new proposal to limit sentencing ages that would increase juvenile commitments to adult institutions as is demonstrated in the chart on the following page. The Governor's budget proposes to use these savings to mitigate further reductions to Proposition 98.

**County Court Schools.** County boards of education are responsible for the administration and operation of juvenile court schools, which include juvenile halls, ranches, camps and other programs. County court schools are funded through Proposition 98 formulas that allocate dollars automatically based upon the number of students they serve. The largest share of formula funding is from court school revenue limits. Base revenue limit funds, as adjusted for annual COLAs, are allocated based upon student average daily attendance (ADA).

**Base revenue limit reductions consistent with other revenue limit program reductions.** In 2009-10, court school revenue limits are budgeted at \$8,527 per pupil. With an estimated 13,524 pupils in ADA, county court schools will receive approximately \$115.3 million in revenue limit funding in 2009-10. The Governor's 2010-11 budget proposes to further reduce per pupil revenue limits to \$8,163 to reflect additional base reductions and to adjust for a negative COLA of 0.39 percent for K-12 revenue limit programs. This reduced rate provides approximately \$110.4 million in total revenue limit funding, which equates to a reduction of \$4.9 million in 2010-11. This reduction is a part of the Governor's \$1.5 billion revenue limit reduction for K-12 school districts and county offices of education in 2010-11.

Consistent with other revenue limit programs, county court schools sustained reductions to their base revenue limit funding in 2008-09 and 2009-10. County court schools lost an estimated \$3.9 million in 2008-09 and \$6.0 million in 2009-10 statewide (excluding reductions due to student ADA losses). Also consistent with other revenue limit program reductions, deficit factors have been created to track these losses and eventually return these formulas to their statutory levels, when the state budget allows.

County Court Schools	04-05	05-06	06-07	07-08	08-09	09-10 Estimated	10-11 Estimated
<b>Revenue Limit Appropriations (Deficited)</b>	\$134.5m	\$138.0m	\$146.7m	\$149.1m	\$139.5m	\$115.3 m	\$110.4
<b>Per Pupil Revenue Limit Rates (Deficited)</b>		\$8,514	\$9,100	\$9,512	\$9,262	\$8,527	\$8,163
<b>Average Daily Attendance</b>	16,257	16,207	16,117	15,678	15,064	13,524	13,524



**Court school attendance declining.** Statewide, court school ADA has been decreasing for more than ten years, dropping more significantly in 2009-10. While Chapter 175 (2007) prohibits counties from committing non-violent and non-serious offenders to DJJ, county court school ADA has not increased. Although per pupil revenue limit rates have declined in recent years due base reductions and no COLA in 2008-09 and 2009-10 as noted above, most of the recent court school losses are associated with a decline in student ADA levels.

**County Court School Funding – Categorical Programs.** In addition to revenue limits, counties offices of education also earn funding from state categorical program formulas that provide funding based upon ADA and other student counts.

According to the LAO, county offices of education have access to at least half of the state's 60 plus state education categorical programs available to school districts. Many of these categorical programs are subject to the categorical flexibility program, which allows school districts and county offices to use funds for any education purpose for a five year period that extends through 2012-13.

Definitive lists of categorical programs available to county offices are not available from the California Department of Education (CDE) but CDE has identified one major program categorical program – Economic Impact Aid -- that county offices do not receive. This program provides additional services for economically disadvantaged students and English learners.

In general, county offices decide how to distribute categorical funds among programs. For example, the Los Angeles County Office of Education (LACOE) court schools receive the following state categorical programs: Special Education, Instructional Materials Fund; CAHSEE Intervention Grants; Professional Development Block Grants; School and Library Improvement Grants; Arts and Music Block Grants; Math and Reading Training; Community Based English Tutoring; and, Administrator Training Program; Tobacco Use Prevention Education.

County offices of education also receive State Lottery funds – including Lottery Instructional Materials funds.

In addition, county offices receive funds for several federal programs, most notably NCLB Title I, Special Education, and Nutrition (School Meals). The American Recovery and Reinvestment Act (ARRA) provided significant, one-time funding increases for federal Title I and Special Education programs in 2009-10. These ARRA funds are available for expenditure until September 30, 2011.

**LAO Estimates of Categorical Funding for court schools.** Categorical funds are not generally allocated to court schools directly. Furthermore, county offices do not track the allocation of categorical revenues and expenditure for programs. As a result, it is difficult to know exactly how much categorical funding court schools receive on an annual basis. For this reason, the LAO has developed estimates of categorical funding available to court schools in 2008-09 on a per pupil basis displayed in the chart below.

<b>Estimate of 2008-09 Categorical Funds Per Student Enrolled in a Court School Program</b>	
<b>Funding Source</b>	<b>Amount Per Pupil<sup>a</sup></b>
Categorical Funds <sup>b</sup>	\$3,800
Special Education <sup>c</sup>	\$2,000
Regional Occupation Centers and Programs (ROCP) <sup>d</sup>	\$280
<b>Total</b>	<b>\$6,080</b>

a. Calculated per unit of CBEDS enrollment.  
b. Excludes California School Information Services (CSIS), charter schools, Gifted and Talented Education (GATE), Advanced Placement, Quality Education Investment Act (QEIA), Economic Impact Aid (EIA), Williams Settlement, Early Mental Health Initiative, School Garden, Environmental Education, Fiscal Solvency, Teacher Recruitment, Education Technology, ROCP, and special education program funds.  
c. Assumes one in three students in court schools has a learning disability.  
d. Assumes one in ten students in court schools is supported with ROCP funds.

According to the LAO, a total of roughly \$91.6 million in Proposition 98 categorical funding was available to court schools in 2008-09. The LAO estimates that a total of \$231.1 million in Proposition 98 funding – revenue limits and categorical funding – was available for county court schools in 2008-09, which provided about \$15,300 per student enrolled.

In addition, the LAO estimates that county court school youth receive approximately \$853 per pupil for the Youthful Offender Block Grant Fund program. This program provides funding to counties to enhance the capacity of county probation, mental health, drug and alcohol, and other county departments to provide appropriate preventive, rehabilitative and supervision services to youthful offenders. Example program areas include school based educational, tutoring or literacy programs; counseling or specialized mental health services; mentoring; substance abuse prevention and intervention; organized recreational programs.

**DJJ and Court School Funding Comparisons.** The difference between the \$15,300 per student in Proposition 98 funds for courts schools and the \$20,399 per student for DJJ schools based on 2008-09 funding, appear to reflect the programmatic needs of the more serious and violent offenders served by DJJ as well as requirements under the *Ferral* lawsuit related to teacher salaries and class sizes. Per the *Ferral* lawsuit settlement, DJJ teacher salaries are based on the same hourly rate as local county court schools but DJJ is also required under the lawsuit to maintain very low class size ratios – 12:1 for general education; 10:1 for special day classes and special delivery programs and 5:1 for restricted programs and specialists to deliver quality education services. Court schools can maintain classes above that average, typically around 15 to 17 youths to one teacher.

**Los Angeles County Office of Education (LACOE) Facing Budget Difficulties.** In December 2008, the Auditor- Controller Department of Los Angeles County hired School Services of California, Inc. (SSC) to perform a review of LACOE juvenile court programs funding. The review was directed by the LA County Board of Supervisors. The SSC report, published on May 29, 2009, reported that LACOE court school programs were underfunded, with a project deficit of \$20 million for 2008-09. LACOE attributed the deficit to the following factors:

- collective bargaining agreements that limited class sizes.
- large number of court school classrooms;
- physical facility limitations;
- higher percentage of special education students; and
- U. S. Department of Justice requirements.

LACOE also raised the idea of a new residential service model based upon student enrollment rather than student attendance.

In response to the SSC report findings, the Los Angeles Auditor-Controller's Department made a number of recommendations to address these and other issues in order to address the deficit, while complying with the DOJ requirements. Other issues included evaluating the appropriateness of:

- salaries and benefits of court school instructors;
- use of substitute teachers; and,
- number of court school administrators – estimated at twice the level for comparison court schools.

The Auditor- Controller also recommended that LACOE pursue legislative changes to the new funding model.

**Related Legislation.** SB 698 (Negrette-McCleod) of 2009 would exempt funding for juvenile court school apportionments from the deficit factors established for the 2008-09 and 2009-10 fiscal years and would replace average daily attendance (ADA) with average daily enrollment (ADE) as the basis for funding. At the time, the bill was estimated to cost \$32 million to restore revenue limit cuts for the two years and an additional \$15 million annually to change the revenue limit funding base from ADA to ADE. The bill was held in Senate Appropriations.

**LACOE Special Education Model.** LACOE has six of its own SELPAs, including a separate SELPA just for its court schools. LACOE is the only county in the state that has a court school SELPA. Under this arrangement, special education funds are earned and expended by the LACOE courts school SELPA. In all other counties in the state, funding is earned at the county level and then allocated to court schools by one or more SELPAs. Reportedly, the LACOE SELPA was created to increase the amount of funding earned by the court school and guarantees that funds are spent for court schools. This arrangement may have benefits for court schools in other counties in the state.

**DOF April Letter Request.** The Budget Act of 2008 appropriated funds for 2008-09 through 2010-11 to provide technical assistance and professional support for educators working with English learner incarcerated youth. The project has been delayed due to delays in the selection of a contractor. The anticipated project completion date is now June 30, 2012 and the DOF April letter adjustment requests the funds be reappropriated for expenditure by this date. The text of the letter is below:

**Item 6110-491, Reappropriation, English Learner Program for County Court and Division of Juvenile Justice Schools (Issue 721).** It is requested that the availability of **\$1.6 million** in federal Title III carryover funding be extended to 2011-12 to complete the English Language Learner program for county court and Division of Juvenile Justice schools. The Budget Act of 2008 appropriated these funds for 2008-09 through 2010-11 to provide technical assistance and professional support for educators working with English learner incarcerated youth. This extension is requested due to a delay in selection of a contractor. The anticipated project completion date is now June 30, 2012.

It is further requested that Item 6110-491 be added to conform to this action.

6110-491. Reappropriation, Department of Education. The balance of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation and shall be available for encumbrance or expenditure until June 30, 2012:

0890-Federal Trust Fund:

1) Provision 33 of Item 6110-001-0890, Budget Act of 2008 (Chapters 268 and 269, Statutes of 2008)

**Staff recommendation:** Staff recommends the Subcommittee approve the DOF April Letter request to extend expenditure authority for \$1.7 million in one-time federal Title III funds one additional year in order to complete the technical assistance to DJJ and courts schools.

#### **STAFF COMMENTS**

**Proposal to change funding from a school attendance basis to a population basis needs careful policy consideration.** All revenue limit programs for school districts and county offices utilize average daily attendance as the measure of the school population, in large part to maintain funding incentives for student attendance. While confinement in court schools should lead to high attendance rates, access to a full instructional day (240 minutes) remains an issue for some court school students, as evidenced by lawsuits filed with county court schools in California. While this model would presumably increase funding for juvenile court schools, it does nothing to ensure that the youth who would earn additional funding would have access to appropriate educational programs or services to address their unique needs. Further, the model does nothing to increase accountability systems for ensuring youth attend school.

**Staff recommendation:** If the Legislature is interested in increasing funding for court schools at this time, staff recommends adjustments within existing funding formulas in order to retain ties to workload and program need. To this end, the Subcommittee could consider holding court schools harmless from further revenue limit reductions in 2010-11 when the Subcommittee takes final Proposition 98 actions for May Revise. This will allow county court schools to retain approximately \$4.9 million in revenue limit funds in 2010-11.

**Need to Improve Court School Access to Existing Categorical Funding Streams.**

Court schools generally earn state categorical funds for various student counts through the county office of education, which in turn allocates funds to court schools and other programs. County offices of education are not eligible to receive as many categorical funds as school districts. Among the largest categorical programs, county offices are not eligible to receive Economic Impact Aid (EIA) program. According to CDE, county court schools could earn nearly \$3 million statewide from EIA, which would provide important additional resources for economically disadvantaged students and English learners. As a result, court schools would be included in the Categorical Program Monitoring (CPM) process – to strengthen CDE oversight and technical assistance for court schools.

**Other Existing County Funding Approaches Should Be Explored for Court Schools.** The Legislature may wish to explore other funding options to augment funding for county court schools in the future:

- **School District Fees.** Most county offices bill back school districts for the costs of their instructional programs for their resident students. However, only one county – San Diego - charges for the excess costs of their court programs and services. Specifically, San Diego County has an agreement with its school districts and SELPAs to pay the excess costs of special education for their resident students.
- **Need to Better Align Court School and Alternative School Funding.** The Legislature could also reexamine the funding levels for court schools and alternative school programs to make sure that formulas are aligned to programmatic need and reflect an effective local continuum of programs. In particular, court school rates, community school, and community day school rates should be harmonized. The LAO published a report in 2007 entitled *Improving Alternative Education in California* – which highlights difference in the funding rates for alternative programs and recommends an alternative funding formula. The alternative funding formula would require six hours of instruction daily – more than currently required for alternative schools. The new funding formula would also reinforce school district responsibility for creating effective option and create a better safety net for students.

**Staff recommendation:** Staff recommends that the Subcommittee adopt Supplemental Report Language requiring the LAO to identify options as a part of the 2011-12 budget to: (1) improve access to existing state and federal categorical funding – including Economic Impact Aid -- for county court schools; and, (2) align court school funding with funding rates for other alternative programs.

**LACOE county court schools could benefit from FCMAT review.** The California Department of Education, authorized under the AB 1200 process disapproved LACOE's budget plan submitted last July 2009 based on concerns that LACOE could not meet its financial obligations in 2010-11 and 2011-12. CDE identified four areas of program deficits, the largest being court schools. In the end, CDE was able to approve LACOE's current year budget due to influx of federal ARRA funding, however, concerns remain with the potential for LACOE needing an emergency loan from the state absent

additional funding. The Fiscal Crisis Management Assistance Team (FCMAT) is an important resource that could help identify issues within LACOE in line or in addition to those found by the School Services of California audit.

**Staff recommendation:** Staff recommends the require FCMAT to conduct a fiscal assessment of the LACOE court schools.

### **RECOMMENDED QUESTIONS**

- 1) DJJ/CDE/DOF: Though concerns have been raised about a shift of juvenile offenders from DJJ to county court schools, county court school ADA statewide has been falling steadily for more than ten years. Court school ADA is estimated to fall another 12 percent from 2008-09 to 2009-10. Is this trend likely to continue?
- 2) CDE: Can CDE explain why some categorical programs - such as Economic Impact Aid – are not available to county offices of education and court schools?
- 3) CDE: Do county court schools receive community college funding for students who have completed their secondary education? Are county court schools eligible to receive Adult Education funding?
- 4) CDE: Does CDE routinely monitor county court schools? Does CDE include court schools in its Categorical Program Monitoring (CPM) Reviews? In particular, how is CDE assuring that court schools are providing a minimum of 240 minutes of daily instruction to students?
- 5) CDE: What have you learned from the limited-term technical assistance projects for English Learner programs and Special Education programs at court schools?
- 6) CDE: What is your position regarding the recommendations of the LA County audit of LACOE conducted by School Services of California (SSC)? Does CDE agree with the report's basic recommendation is to increase funding via a residential funding model?

**ISSUE 2: OPEN ISSUES – GOVERNOR’S MANDATE SUSPENSION PROPOSAL**

The issue for the Subcommittee to consider is the Governor's January proposal to suspend most ongoing, state mandate payments and mandate requirements for K-14 education agencies in 2010-11 but fully fund three K-12 mandates at a cost of \$13.4 million General Fund (Proposition 98).

**PANELISTS**

- Jim Soland - Legislative Analyst's Office
- Department of Education
- Thomas Todd - Department of Finance

**BACKGROUND:**

**State has deferred payment in recent years.** Since 2001-02, the state has deferred the cost of most education mandates but still required local education agencies (LEAs) to perform the mandated activity by providing a nominal amount of money (\$1,000) for each activity. In good times, the state has been able to provide funding for prior year mandate costs. For example the *2006-07 Budget Act* included more than \$900 million in one-time funds for state mandates which retired almost all district and college claims (plus interest) through 2004-05. However, the state has not provided ongoing funding for mandates in recent years. For 2010-11, the estimated outstanding mandate obligations for K-12 education are approximately \$3.6 billion<sup>1</sup>.

In December 2008, a superior court found the state’s practice of deferring education mandates unconstitutional and ordered the state to fully fund mandated programs “in the future.” The state is seeking to overturn this decision and a final decision by the 4th District Court of Appeal in San Diego is not expected until mid-2010. Further, constitutional separation of powers means the court cannot *force* the Legislature to make appropriations for past mandate costs.

**Governor's budget suspends rather than defers most mandates.** As the Committee heard on May 4, beginning in 2010-11, the Governor proposes to provide zero funding for 51 ongoing K-14 education mandates. Under the Governor's proposal, the state's obligation to pay for mandated activities and local obligations to provided these activities would also be suspended. The Administration estimates annual savings of \$200 million (Proposition 98)<sup>2</sup>.

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<sup>1</sup> This includes the cost of the High School Graduation mandate which the Governor's Budget does not recognize.

<sup>2</sup> The Administration does not include the High School Graduation mandate in their proposal since they do not consider this requirement to be a reimbursable state mandate. The estimated costs associated with this mandate are \$200 million annually with \$2.3 billion in prior year claims.

The Governor proposes to provide a total of \$13.4 million annually for three mandates: \$7.7 million for inter-district and intra-district transfers and \$6.8 million for costs related to the California Higher School Exit Exam (CAHSEE). According to the Department of Finance, the rationale for funding the CAHSEE mandate is that it satisfies an annual student testing requirement under No Child Left Behind (NCLB) and continued funding would ensure compliance with federal accountability requirements. Funding for Inter-District and Intra-District Transfer policies also satisfy federal requirements, specifically with regard to school choice for students who attend schools in Program Improvement. These transfer policies are also consistent with an Administration priority to ensure school choice options for all students and parents.

**LAO proposal should be vetted in policy committees.** The LAO has done considerable work providing options for funding, reforming or eliminating mandates however when the Subcommittee heard this issue on May 4, the Subcommittee expressed the desire for these issues to be fully vetted through the policy committee process. Individual mandate reform warrants a thoughtful review process that takes into consideration the merits of each mandate on a case-by-case basis and that allows for input from the public and various stakeholders.

**Staff recommendation:** Reject the Governor's proposal to suspend mandates and continue current deferral approach. Defer to policy process with regard to individual mandate reform.



**ISSUE 3: OPEN ISSUE - GOVERNOR'S PROPOSAL: FUNDING FOR BEHAVIORAL INTERVENTION PLAN MANDATE**

The issue for the Subcommittee to consider is the Governor's proposal to provide \$65 million in ongoing General Fund (Proposition 98) for the behavioral assessments and intervention plans (BIP) mandate and trailer bill language proposing to implement this portion of the Administration's settlement on this mandate.

**PANELISTS**

- Thomas Todd - Department of Finance
- Jim Soland - Legislative Analyst's Office
- Carol Bingham - Department of Education

**BACKGROUND**

The Governor's Budget proposes to provide \$65 million in ongoing General Fund (Proposition 98) starting in 2010-11 to be added as a permanent increase to the AB 602 special education funding base. This funding satisfies part of the Administration's settlement on the Behavioral Intervention Plans ("BIP") Mandated Cost Claim and lawsuit.

The Administration did not propose to fund the additional obligations of the settlement which were to provide:

- \$510 million payable to school districts as general fund reimbursement, in \$85 million installments over 6 years, from 2011-12 through 2016-17, based on average daily attendance (ADA) for 2007-08.
- \$10 million payable as general fund reimbursement in 2009-10 as follows:
  - \$1.5 million to county offices based on December 2007 county special education pupil counts.
  - \$6.0 million to SELPAs based on December 2007 special education pupil counts.
  - \$2.5 million to claimants and others for administrative costs incurred in pursuing the claim (legal costs).

**STAFF COMMENTS**

As was noted in the Subcommittee hearing on May 4, the Legislature is not a party to the Administration's settlement proposal, although legislative action is necessary to implement the terms of the settlement. The issue will return to court in December 2010 if the Legislature does not act before then.

The Subcommittee directed LAO to review prior-year BIP mandate claims costs and develop options for funding prior-year claims as well as create a work group that includes special education experts to make recommendations for revising associated state laws and regulations.

**Staff recommendation:**

1. Reject the Governor's proposal to provide \$65 million in ongoing Proposition 98 funding for purpose of the BIP settlement.
2. Direct staff to continue to work with the LAO and special education experts to look at the costs and benefits associated with aligning state policy with federal law.