

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 2 ON EDUCATION FINANCE

Assembly Member Julia Brownley, Chair

TUESDAY, MAY 6, 2008
STATE CAPITOL, ROOM 444
9:00 AM

ITEMS TO BE HEARD

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ITEMS TO BE HEARD

6110 DEPARTMENT OF EDUCATION

ISSUE 1: LAO RECOMMENDATION: CDE ANNUAL FEDERAL REPORTS

The issue for the Subcommittee to consider is the Legislative Analyst's Office (LAO) proposed Trailer Bill Language requiring the California Department of Education (CDE) to report on the status of federal funds.

PANELISTS

- Legislative Analyst's Office
- Department of Education
- Department of Finance (DOF)

BACKGROUND:

CDE is responsible for tracking federal fund appropriations, expenditures, and carryover by year and by program and provides information about federal funds to the Department of Finance and Legislature upon request. The Subcommittee heard concerns from the LAO at the April 15th hearing that there is currently no routine or consistent reporting of the status of federal funds. The LAO has worked with CDE and DOF and is proposing the following trailer bill language. Staff recommends the Subcommittee approve the language as follows:

(X) The California Department of Education shall submit to the Legislature and the Administration two annual reports on federal funds for K-12 education.

(1) One report shall provide a three-year tracking of federal funds. Specifically, for each federally funded program and each type of funded activity (state operations, state-level activity, local assistance, and capital outlay), the report shall include: (1) actual expenditures for the prior year, (2) a revised estimate of current-year expenditures, and (3) the budget-year appropriation. The department shall submit this report to the Governor, the Legislature, and the Legislative Analyst's Office no later than February 15 of each year.

(2) The other report shall identify available federal carryover funds. Specifically, this report shall identify carryover funds, by fiscal year and potential reversion date, for each federally funded program and each type of funded activity (state operations, state-level activity, local assistance, and capital outlay). The department shall submit this report to the Governor, the Legislature, and the Legislative Analyst's Office no later than November 1 of each year.

ISSUE 2: FEDERAL TITLE II FUNDS

The issues for the Subcommittee to consider are:

- The Governor's proposed level of funding.
- April letter adjustments to the federal grant allocation.
- Options for available carryover funds.

PANELISTS

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

BACKGROUND:

Federal Title II funds are provided to states to support the preparation, training and recruitment of highly qualified teachers and principals. The funding and its requirements were part of the No Child Left Behind Act (NCLB) law of 2001. Under this Title, the federal government allocates specific grant amounts split between the California Department of Education (CDE) and higher education segments. Within the CDE grant the federal government specifies specific amounts that are required to be used for local assistance, state level activities and state administration. Title II is the only grant that does not allow excess funds (carryover) to be moved from state level activities or state administration to local assistance activities. The only flexibility in the use of funding is between state level activities and state administration.

COMMENTS:

Governor's budget. The Governor's budget provides a total of \$322 million in federal Title II funds for 2008-09 for Local Assistance, State Operations and State Level Activities:

- **Local assistance.** The Governor's budget provides \$311 million for 2008-09 to LEAs as part of the Improving Teacher Quality Grant. The purpose of the grant is to help districts improve teacher and principal quality and to ensure that all teachers are highly qualified.

- **State Level Activities.** The Governor's budget provides \$8.7 million for 2008-09 for state level activities. The federal government requires that states spend a certain amount of funds on state-level activities designed to provide technical assistance to school districts. Of the amount provided, \$1.6 million is provided for the Administrator Training Program; \$4.4 million is provided for the California Subject Matter Projects; \$945,000 is provided for Compliance Monitoring, Interventions and Sanctions (CMIS) and \$1.8 million is for CALTIDES.
- **State Operations.** The Governor's budget provides \$2.3 million for 2008-09 for administrative activities (state operations at CDE).

April letter adjustments. The administration submitted an April letter request to increase the local assistance allocation by \$4.059 million. This amount reflects a decrease in the federal grant amount and an increase in carryover funds. The April letter requests that \$3.5 million be provided for local assistance and \$500,000 be provided to augment the California Subject Matter Projects. The Subcommittee should weigh all options for the uses of this carryover funding prior to approval of the April letter request.

The April letter request is as follows:

Item 6110-195-0890, Local Assistance, Title II Improving Teacher Quality Local Grants (Issues 086, 088, and 089)

It is requested that this item be ~~decreased~~ *increased* by \$4,059,000 federal Title II Improving Teacher Quality funds, which includes a decrease of \$23,000 to align the appropriation with available federal funds and an increase of \$4,082,000 to reflect the availability of one-time carryover funds. This program provides apportionments to LEAs for activities focused on preparing, training, and recruiting highly-qualified teachers.

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

- X. Of the funds appropriated in Schedule (1), \$3,582,000 is provided in one-time carryover for Improving Teacher Quality Local Grants.
- X. Of the funds appropriated in Schedule (3), \$500,000 is provided in one-time carryover for California Subject Matter Projects.

Options for Carryover. CDE has identified \$3.6 million in state administration carryover and \$1.4 million in state level activities carryover. The committee may wish to consider using available carryover funds to support the following items:

- **Personnel Management Assistance Teams (PMAT).** As the Subcommittee heard at the April 29th hearing, California's plan for helping districts meet the Highly Qualified Teacher (HQT) requirements includes providing technical assistance to districts to ensure they meet the goals of NCLB. This includes ensuring equitable distribution of experienced teachers. SB 1209 (Scott), Chapter 517, Statutes of 2006 established PMATs in six regional county offices of education. One of these, Ventura County Office of Education, was also designated to serve as the clearinghouse for information collection purposes. The 2006-07 budget act provided \$3 million for this purpose. The 2007-08 budget did not provide funding for PMATs. CDE requested funding from the Department of Finance for the 2008-09 Budget Act but their request was denied. CDE would like the legislature to consider using federal Title II carryover funds to support the PMATs.

- **LAO recommendations:**
 - Currently the state receives \$2.8 million annually for state administration for Title II but spends only \$2.3 million on an ongoing basis, leaving about \$500,000 leftover annually. The LAO recommends using these funds to pay for Teacher Misassignment Monitoring (\$308,000, in the CTC budget) and to use approximately \$200,000 to fund 2 existing positions in CDE's Professional Development unit. This would provide \$500,000 in ongoing General Fund savings.

 - CDE estimates approximately \$5.1 million in 2008-09 in available carryover funds. The LAO suggests using the funds to swap with an existing program for one-time savings. The funds could be used to replace Prop 98 funding for the Administrator Training Program (\$4.455 million, in item 6110-144-0001) or to replace General Fund dollars for the Subject Matter Projects within the UC budget (\$5 million, in item 6440-001-0001).

ISSUE 3: FEDERAL TITLE III FUNDS

The issues for the Subcommittee to consider are:

- The Governor's proposed level of funding.
- Federal accountability requirements and CDE implementation of corrective actions.
- Options for available carryover funds.

PANELISTS

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

BACKGROUND:

Governor's Budget. The Governor's budget provides \$162.4 million in federal Title III funds for supplementary programs and services to English learners and eligible immigrant students. The purpose of the Title III program is to ensure that all English learners in California attain English proficiency, develop high levels of academic achievement in English, and meet the state academic standards. All school districts, county offices of education, direct-funded charter schools, juvenile hall court schools, and Division of Juvenile Justice institutions that report the enrollment of one or more English learners are eligible to participate in the Title III program. Participating local educational agencies are required to provide language education programs that specifically target eligible immigrant students and their families through the provision of supplementary programs and services.

States must distribute at least 95% of their reward as local assistance to local districts. States are required to distribute local assistance funding to districts that submit satisfactory program plans, on a formula basis based on English learner population. However, states may also reserve up to 15% of their total grant amount to provide grants to school districts that have experienced significant increases in immigrant students. Schools receiving funding under this provision must spend it on specified activities to enhance instructional opportunities for immigrant children and youth, including family literacy.

Options for spending set-aside for state-level activities. Title III allows the state to spend up to 5% of its total state grant on state-level activities and state operations. Allowable state-level activities, include professional development activities, planning and evaluation, technical assistance, and providing recognition (including financial rewards) to grantees that have exceeded their annual measurable objectives.

State operations. The law allows the state to spend 2/3 of the 5% state-level and state operations maximum for state operations related to administering the grants, including planning, administration, reporting, and evaluation of the effectiveness of grant recipients' programs. In addition, the federal law requires the state to provide technical assistance to school districts that fail to meet English learner benchmarks, and requires state intervention in failing districts.

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|------------------|
| COMMENTS: |
|------------------|

Accountability system for English learners. Title III requires states to establish accountability benchmarks specifically for English learners, and requires state intervention in schools that fail to meet those benchmarks. The annual measurable achievement objectives (AMAOs) that states are required to develop must measure English learner's attainment of English proficiency as well as academic content standards, and must include:

- Annual increases in the percentage of children making progress learning English;
- Annual increases in the number of students attaining English proficiency as determined by an English language development assessment tool; and,
- the statewide adequate yearly progress definition used for all students to measure progress toward meeting math and reading proficiency levels.

Intervention timeline. School districts receiving funding are required to make progress toward the AMAOs. School districts that fail to meet these objectives for two consecutive years must develop an improvement plan specific to English learners. States are required to provide technical assistance to these schools in developing their improvement plans, including professional development strategies. For districts that fail to meet these objectives for four consecutive years, states are required to do one of the following:

- Require the district to modify its curriculum and program of instruction;
- Determine whether the district should continue to receive funds from the program; or,
- Require the districts to replace personnel relevant to the districts' failure to meet the annual measurable objectives.

The following table shows the number of districts failing to meet AMAOs:

| Number of Years failed to meet AMAOs | Number of LEAs | Number of ELs |
|--------------------------------------|----------------|---------------|
| One year | 106 LEAs | 220,000 ELs |
| Two consecutive years | 12 LEAs | 6,393 ELs |
| Three consecutive years | 64 LEAs | 483,699 ELs |
| Four consecutive years | 95 LEAs | 243,089 ELs |

CDE intervention plan and coordination with Title I. Last year, CDE collaborated with the California Comprehensive Assistance Center at WestEd, and other partners to provide technical assistance to LEAs in Year 2 and Year 4 of not meeting one or more AMAOs. NCLB requires LEAs in Year 2 to develop and implement an addendum to their Title III LEA Improvement Plans. LEAs in Year 4 are required to develop and implement an additional "Action Plan" outlining how they will modify their curriculum, program and method of instruction for English learners. CDE also selected 11 county offices of education as regional leads to assist LEAs in Year 4 with developing and implementing these plans. These "action plans" were required to be submitted to CDE in February. If the plans were not submitted on time, Title III funds were withheld. The year 4 action plans are evaluated by one of the COE leads using an online evaluation and from the evaluation a report will be submitted to the State Board of Education.

CDE used \$1.8 million in Title III state activities funds from 2007-08 to begin this intervention. The Legislature did not explicitly designate a particular amount of funding for these activities and was not involved in the design or approval of this specific intervention approach. Unless the Legislature designates a different use for these funds and/or directs CDE to pursue a different intervention plan, CDE indicates they plan to use an additional \$1.8 million of Title III state activities funds to continue the interventions.

Currently, Title III and Title I have an overlap of 55 LEAs facing corrective action. According to CDE, there is "a great deal of communication between Title I and Title III personnel to assure LEAs of the shared expectations for their work, including those LEAs participation in the District Assistance and Intervention Teams (DAIT) pilot." As the Legislature makes decisions regarding the corrective action process for Title I schools, the Legislature should consider developing a comprehensive corrective action plan that coordinates with Title III requirements so that districts are not required to meet two separate sets of corrective actions.

Local assistance carryover available. CDE identified \$4.8 million in local assistance carryover from prior years. The administration's April Finance letter requests this adjustment be made to the federal grant amount. Staff recommends approval of this adjustment.

The April letter also requests that provisional language be added to require CDE to allocate all carryover funds in this item on a per pupil basis by October 1, 2008. The purpose is to allocate funding in a timely manner so that LEAs can use the funds effectively and promptly to improve student performance for these vulnerable populations. Staff does not recommend adoption of this language as it is not necessary.

Staff recommends the Subcommittee approve language from the April Letter as follows:

Item 6110-125-0890 (Issue 411) It is requested that this item be increased by \$12,435,000 federal Title III Language Acquisition funds, which includes an increase of \$7,629,000 to align the appropriation with available federal funds, and an increase of \$4,806,000 to reflect the availability of one-time carryover funds. LEAs will use these funds for services to help students attain English proficiency and meet grade level standards.

It is also requested that provisional language be added to require the department to allocate all carryover funds in this item on a per pupil basis by October 1, 2008. The purpose is to allocate funding in a timely manner so that LEAs can use the funds effectively and promptly to improve student performance for these vulnerable populations.

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

X. Of the funds appropriated in Schedule (3), \$4,806,000 is provided in one-time carryover funds to support the existing program.

~~X. The State Department of Education shall allocate all carryover funds in this item on a per pupil basis by October 1, 2008 to all eligible service providers. Local educational agencies shall use these funds to supplement, but not supplant, one-time instruction or support services authorized by law.~~

More excess funds available. CDE has identified \$4.3 million (\$2.7 million in carryover and \$1.6 million ongoing) in funds dedicated to state administration. CDE has also identified a shortfall of \$884,000 in funds for state level activities. This leaves a total of \$3.4 million in undesignated federal funds that the state can use for either state level activities or state administration. The Subcommittee may wish to consider the following options for these funds:

- **Evaluation of Best Practices Pilot Program.** AB 2117 (Coto), Chapter 561, Statutes of 2006 appropriated \$20 million for a multi-year research project to identify best practices for improving the academic achievement and English language development of English learners. The bill also appropriated \$1 million for an evaluation of the best practices pilot project. Last year the Governor vetoed half of the funds leaving \$500,000 for an evaluation. Legislative staff met with CDE staff who expressed concerns with the funding stating that they would have to limit the scope of the study. Unlike other studies where a standard form could be submitted to all pilot participants, this project includes varied program models and requires separate and distinct survey questions. The study also spans three years. Given that the state has invested \$20 million for this project, it is important that a comprehensive study of the pilot be fully funded.
- **Promoting the use of interpreters by school districts.** Last year the Governor vetoed \$50,000 in federal Title III one-time carryover funds for CDE to

evaluate districts' use of interpreters when they communicate with non-English-speaking parents. He also vetoed language requiring CDE to a) report back on the different ways that districts communicate orally with non-English-speaking parents, and b) identify the best ways for districts to communicate with non-English-speaking parents of K-12 public school students. The Subcommittee may wish to provide funds for this purpose again.

- **Funding for the monitoring of English learners and special education students in alternative schools.** Last year the Governor vetoed a total of \$2.7 million in federal Title III and federal special education funding¹ to pay for seven additional limited-term positions to monitor the compliance of alternative schools, court schools and Division of Juvenile Justice schools with federal and state law requirements regarding special education and English learner students. The Subcommittee may wish to provide funds for this purpose again.

¹ \$1.05 million (3 limited-term positions) in federal special education funds and \$1.6 million (4 limited-term positions) in federal Title III carryover funds. This funding was provided on a one-time basis to be available over three years.

ISSUE 4: FEDERAL TITLE I READING FIRST PROGRAM

The issues for the Subcommittee to consider are:

- The Governor's proposed level of funding.
- Reductions to the federal grant allocation and the options for addressing this reduction.

PANELISTS

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

BACKGROUND:

Background on program. Federal Title I Reading First funds were first provided to states upon the passage of the No Child Left Behind Act in 2001. Six-year grants are provided to states to improve the reading instruction of their schools and the reading achievement of their students. The chart below shows how the funds are appropriated per federal law.

| Reading First Funding Rules | | | |
|------------------------------------|---|--|--|
| Fund Type | Federal Rules— Expenditure Authority | Federal Rules— Allowable Activities | Allocation Process |
| State Administration | Up to 2% | Administering, assessing, and evaluating program. | N/A |
| State Level Activities | Up to 5% | Assist LEAs in implementing programs, allow students to have alternative providers of diagnostic and instructional services | N/A |
| Professional Development | Up to 13% | Professional development for all special education and K-3 teachers, strengthening and enhancing teacher training programs with respect to reading instruction, and providing recommendations on improving state licensing and certification standards related to reading | N/A |
| Local Assistance | At least 80% | Classroom-based instructional reading assessments, selecting and implementing a scientifically based reading program for K-3 students, purchasing related instructional materials and education technology, and professional development for all K-3 teachers and K-12 special education teachers. | LEAs awarded through competitive grant process. Eligible LEAs must have 1,000 second and third graders or more than 50 percent of second and third graders scoring "below basic" or "far below basic" on California Standards Test |

The federal law cites K-3 teachers and special education teachers in grades K-12 as the intended targets of the training.

- **Three-year grants.** According to the way California has chosen to distribute the funds, eligible school districts may receive three-year grants up to \$6,500 per teacher in kindergarten through grade 3. (Districts may receive more funding per teacher if they submit a plan that adequately justifies the need for more money; the plan must be jointly approved by CDE and DOF.) If districts make significant progress toward statewide goals, they may continue to receive more than three years of grant funding.
- **Eligibility.** Districts are eligible to apply for funding if they have large numbers of economically disadvantaged students and reading scores below state performance benchmarks.
- **Uses of funds.** State law specifies that the funding can be used for purchasing reading materials, participating in state-approved professional development in reading and language arts, hiring reading coaches and reading assessments. In order to receive funding, districts must purchase standards-aligned textbooks for English/ Language Arts. Participating schools must send teachers to a State Board of Education (SBE) approved provider for training. Many teachers attend training administered by the Sacramento County Office of Education for all three years.
- **Status of participation.** California initiated its version of the program in 2002-03. As of last year, the SBE had provided 110 school districts with Reading First grants, affecting approximately 18,000 classrooms. The 2007-08 budget year was the sixth year of implementation of the program. CDE has provided different rounds (cohorts) of funding. Cohort 1 districts that were the first to receive grants in 2002-03 received their sixth year of grant funding in 2007-08. The following chart shows program participation as well as those schools that were eligible to participate but did not receive funding.

| Participation in Reading First program: All Cohorts and Years funded | | | | | | |
|--|--------------------|------------------------------------|-------------------|------------------------------------|--------------------|------------------------------------|
| | 2004-05 Schools | 2004-05 Classrooms/ Teachers | 2006-07 School | 2006-07 Classrooms/ Teachers | 2007-08 Schools | 2007-08 Classrooms/ Teachers |
| Round 1 | 329 | 9,342 | 347 | 8,112 | 354 | 7,828 |
| Round 2 | 360 | 7,566 | 374 | 7,689 | 367 | 7,270 |
| Round 3 | 135 | 2,953 | 151 | 3,116 | 131 | 2,548 |
| Round 4 | | | 23 | 369 | 21 | 384 |
| <i>Subtotals - existing grantees</i> | 824 | 19,861 | 895 | 19,286 | 873 | 18,030 |
| Unfunded but eligible in currently funded districts | 274 | 6,600 | 249 | 4,863 | 249 | 4,863 |
| Unfunded but eligible in currently unfunded districts | 496 | 9,673 | 475 | 9,289 | 475 | 9,289 |
| <i>Subtotals - unfunded eligible grantees</i> | 770 | 16,373 | 724 | 14,152 | 724 | 14,152 |
| Total eligible grantees | 1,594 | 36,234 | 1,955 | 33,438 | 1,597 | 32,182 |

Program Evaluation. The program has faced criticism throughout the years suggesting that the program places too much emphasis on explicit phonics instruction and does not focus on reading comprehension. The program has also faced allegations of mismanagement and financial conflicts of interest.

- GAO report found federal irregularities.** A February 2007 report by the federal Government Accountability Office (GAO) found that some federal government officials violated provisions of NCLB when they implemented Reading First by "pressur[ing] state and local applicants to choose specific reading programs and assessments". Such actions are expressly prohibited by NCLB, due to the importance of "preserv[ing] state and local control over key aspects of the public school system" and the importance of ensuring that federal officials don't influence local purchasing decisions that could benefit particular private publishing companies. The federal government responded to the audit with a plan to put procedures in place to protect against such violations in the future. However, these findings are important in that they may affect any changes to the program if and when the program is reauthorized by Congress.
- Institute of Education Sciences report.** A recent report from the Institute of Education Sciences, released May 2008, found that students in schools that use Reading First scored no better on reading comprehension tests than peers in schools that do not participate. Further, the report found that average impacts on reading comprehension and classroom instruction did not change systematically over time as sites gained experience with Reading First. Specifically, there were no statistically significant impacts on either time spent on the five components of reading instruction or on reading comprehension scores at any grade level among study sites that received their Reading First grants earlier in the federal funding process.

COMMENTS:

Update on the Special Education Pilot Program. A 2007 report on the Reading First program indicated that only 2,720 K-12 special education teachers have participated in some Reading First professional development since the inception of the program in 2002-03. In response to this report, the 2007-08 Budget Act appropriated \$35 million in one-time federal Reading First funds for a three year pilot program directed to providing professional development in reading for special education teachers. In selecting proposals, budget act provisions require CDE to give first priority to K-12 special education teachers in eligible Reading First districts not currently participating in the Reading First program, and second priority to K-12 special education teachers within already participating Reading First districts that have yet to receive professional development in reading.

In March, legislative staff were notified that the grant applications had not yet been released. CDE has since released the applications and will provide an update to the Subcommittee on the status of the pilot program.

Decrease in federal grant award. The Governor's budget provides \$135.5 million in federal Title I Reading First funds for 2008-09. When the Governor's budget was built, the final federal grant amounts were not known. The federal government has since reduced grant funding by \$87.6 million or 64%. The new grant amount for 2008-09 is \$48.9 million. Below is the administration's April letter request to implement this grant decrease. The Subcommittee will need to approve this language to align the budget to the federal grant amount.

Item 6110-126-0890, Local Assistance, Reading First Program (Issues 082 and 083)

It is requested that this item be decreased by \$78,141,000 federal Title I Reading First funds, which includes a decrease of \$87.6 million to align the appropriation with available federal funds and an increase of \$9,459,000 to reflect the availability of one-time carryover funds. The Reading First Program provides grants for schools to improve reading in Kindergarten or any of Grades 1 to 3, inclusive, with scientifically-based reading programs.

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

X. Of the funds appropriated in this item, \$9,459,000 is provided in one-time carryover funds to support the Reading First Program.

CDE recommendation. Given that the program has been reduced by 64%, CDE is recommending the Subcommittee approve the following plan for future implementation of the program:

- Fiscal Year 2008-09: Fund Cohort One at 48 percent and fully fund Cohorts Two, Three, and Four.
 - Cohort One will be funded with 2008-09 grant money not used by Cohort Three.
 - Cohorts Two and Four will be fully funded from the 2007-08 federal grant allocation.
 - Cohort Three can be fully funded using the 2008-09 federal grant allocation.
 - There will be no carryover of 2008-09 funds.
- Fiscal Year 2009-10: Fully fund Cohorts Three and Four and reduce Cohort Two by approximately 50 percent.
 - Cohorts Three and Four could be fully funded if the grant for 2009-10 is the same as 2008-09 (Both cohorts would be funded with current year money).
 - For 2009-10, if funding is similar to 2008-09, there would be a new carryover of approximately \$26.5 million.

| CDE Reading First Recommendation | | | | | |
|----------------------------------|---------------|----------------------|-----------|--------------|-----------|
| | 2007-08 | 2008-09 | Reduction | 2009-10 | Reduction |
| Cohort 1 | \$56,069,302 | \$26,867,345 | 48% | \$0 | 100% |
| Cohort 2 | \$48,179,271 | (Funded from FY2007) | 0% | \$24,089,636 | 50% |
| Cohort 3 | \$18,259,725 | \$18,259,725 | 0% | \$18,259,725 | 0% |
| Cohort 4 | \$2,489,500 | (Funded from FY2007) | 0% | \$2,489,500 | 0% |
| Total | \$124,997,798 | \$45,127,070 | | \$44,838,861 | |
| Carryover | | \$0 | | \$288,209 | |

Alternative Option. As has been noted, funding for this program has decreased significantly and there is no assurance that the federal government will continue funding the program. An alternative option would be to allocate available funds such that each cohort can participate in the program for six years. The Legislature could also reduce funding for the state and regional technical assistance centers at the same rate as reduction in local assistance funding (\$3 million reduction in 2008-09).

Under this alternative option, Cohort One would not receive additional funding in 2008-09. This would have been the seventh year of funding for cohort one and there is general understanding that the program is a six year program. Cohort One is the largest funded cohort and includes 349 schools in 11 districts (including LAUSD and Oakland USD), 7,809 teachers, and 156,180 students. The LAO will provide a handout explaining this alternative.

ISSUE 5: SPECIAL EDUCATION

The issues for the Subcommittee to consider are:

- The Governor's proposed level of funding.
- April letter adjustments to the federal grant allocation.
- Options for available carryover funds.

PANELISTS

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

BACKGROUND:

Background on program. The state's special education program provides supplemental funds to school districts to help pay for the additional costs of serving special education students. It is supported with both state (Proposition 98) funds and federal special education funds, which eventually get distributed to school districts based on their total average daily attendance. In 2006-07, 680,000 students age 22 and under were enrolled in special education programs in California, accounting for about 11 percent of all K-12 students.

Governor's budget. The Governor's budget provides a total of \$4.5 billion (general fund and federal funds combined) for special education in 2008-09. On the Proposition 98 General Fund side, the proposed funding level is \$2.9 billion. This reflects an across-the-board reduction of \$231 million or approximately 7% less than was provided last year.

Under the federal Individuals with Disabilities Act (IDEA), states must not reduce state funding for special education below the amount of state funding provided in the previous fiscal year. This is known as a MOE requirement. If the state does not meet this requirement, federal special education funding for the following fiscal year is to be reduced dollar-for-dollar. The federal grant provides \$1.166 billion in Special Education funds to California for this budget year. The Governor's budget however provides \$888 million (a reduction of \$278 million) and assumes that the state will not meet the federal MOE requirement given the proposed reduction in state general fund dollars.

Federal rules for Special Education Funds. The chart below outlines the available federal funding and authorized uses per federal law.

| Special Education Federal Funds Summary (2008-09) | | | |
|---|---|--|--|
| Fund Type | Federal Rules— Expenditure Authority | Federal Rules— Allowable Activities | Federal Rules— Funding Authority (in millions) |
| State Operations | approximately 5 percent | <ul style="list-style-type: none"> Monitoring, enforcement, and complaint investigation. Establish and implement the required mediation process. High cost pool for high needs students | \$20 |
| State Level Activities | approximately 10 percent | For support and direct services, including technical assistance, personnel preparation, and professional development and training. | 86 |
| Local Assistance | Must distribute any funds the state does not reserve for state-level activities to LEAs | Activities related to the provision a free and appropriate education to meet the unique needs of a child with a disability age 3-22. | 1,059 |
| Total | | | \$1,166 |

COMMENTS:

April Letter – technical adjustment. The administration proposes to make a technical adjustment to the federal Special Education fund to align the appropriation with the federal grant amount. Staff recommends the committee approve this technical adjustment.

Item 6110-161-0890, Local Assistance, Special Education (Issues 486)
Federal Special Education Funds (Issue 486)—It is requested that this item be increased by \$14,960,000 Federal Trust Fund to align the appropriation with available federal funds for special education. This adjustment includes an increase of \$15,796,000 for K-12 grants and a decrease of \$836,000 for Preschool grants.

April Letter – State Improvement Grant. The federal government is phasing out the State Improvement Grant (SIG) and replacing this grant with a new State Personnel Development Grant. According to CDE, this new grant encompasses the goals of the SIG grants and expands on the recipient's ability to apply these funds more broadly. The below request would align the appropriation with the federal grant amount. Staff recommends the committee approve this adjustment.

Item 6110-161-0890, Local Assistance, Special Education

State Improvement Grant (Issue 490)—It is requested that this item be decreased by \$2,079,000 Federal Trust Fund to reflect the federal government's elimination of base funding for improvement grants. These discretionary funds were previously used in California for professional development. Although the federal government eliminated the improvement grants, it instead provided \$2,196,000 in new funds that LEAs will use for science-based professional development, which was included in the Governor's Budget.

April Letter – MOE adjustments. The administration proposes that the state seek a waiver of the MOE requirement and proposes to restore the \$278 million if a waiver is granted. This adjustment is only necessary if the Legislature decides to approve the proposed reductions to special education. Staff recommends the Subcommittee hold this issue open.

Base Federal Funds for Special Education (Issue 491)—It is requested that this item be increased by \$278.0 million Federal Trust Fund to restore federal funds for Special Education grants on the assumption that the federal government approves a waiver on maintenance-of-effort requirements. Federal law requires California to spend the same amount as the prior year for Special Education, but also authorizes waivers due to exceptional or uncontrollable circumstances. The Governor's Budget included a reduction of \$278.0 million, which did not presume approval of a waiver.

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

X. Of the funds appropriated in this item, \$278,000,000 shall be expended only after approval of a pending federal waiver.

Federal Carryover. CDE has identified a total of \$11.4 million in undesignated federal Special Education funding. \$9.5 million (\$5.6 million one-time carryover) is from money dedicated to state administration (CDE positions). \$1.9 million in one-time federal funds is from state level activities. Money for state administration and state level activities can be interchanged or they can be shifted to local assistance.

If the state does not dedicate a purpose for these carryover dollars they run the risk of being reverted back to the federal government. The following are some options for the Subcommittee to consider as they decide how to allocate these available funds.

- **Assessment for pupils with disabilities.** Provide approximately \$3 million to CDE to develop and implement a standardized evidence-based assessment for eligible pupils with disabilities. This would allow pupils with disabilities to demonstrate competence equivalent to the high school exit exam (CAHSEE). Costs would include: convening a panel to make recommendations to the State Board of Education, promulgating regulations, developing the assessment, and training for school staff on implementation of the assessment.
- **Autism clearinghouse.** Provide \$800,000 to CDE for the purpose of establishing a clearinghouse of evidence-based practices to address the needs of pupils with autism, pursuant to the recommendations of the Superintendent's Autism Advisory Committee. AB (2513), Chapter 783, Statutes of 2006, required the Superintendent of Public Instruction (SPI) to convene a statewide autism advisory committee to make recommendations identifying the means by which public and nonpublic schools could better serve pupils with autism and their parents. The advisory committee developed the recommendations and in November, 2007, the SPI issued the report, "A Call for Action: Improved Services for Children with Autism Spectrum Disorders [ASD]." One of the recommendations in the report calls for the development of a statewide, education-focused interagency clearinghouse to provide information on ASD related, evidence-based educational interventions and strategies and other resources to a range of audiences.
- **Backfill part of the reduction to State Special Schools.** The Governor's budget proposes a \$9.2 million General Fund (\$5.1 million Proposition 98) reduction for the State Special Schools. The LAO recommends that a portion of the federal fund carryover be used to offset this proposed reduction. This would keep the school's budget whole while freeing up general fund dollars that could be used for other purposes. The LAO does not believe that there would be supplanting issues since the state is proposing a cut to the schools. The use of special education dollars for these schools makes sense given that the mission of the schools and the student population that they serve are aligned with the permitted uses of special education funds.