AGENDA
SUBCOMMITTEE NO. 1
ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER PATTY BERG, CHAIR

TUESDAY, MAY 27, 2008
STATE CAPITOL, ROOM 4202
1:30 P.M. OR UPON CALL OF THE CHAIR

VOTE-ONLY CALENDAR

5180 DEPARTMENT OF SOCIAL SERVICES
6110 CALIFORNIA DEPARTMENT OF EDUCATION

ISSUE 1: BBR – ACROSS-THE-BOARD REDUCTION OF 6.4 PERCENT FOR CHILD DEVELOPMENT

BACKGROUND

This issue was considered by the Subcommittee on April 9th and was held open pending further review and the May Revision.

The Governor's proposal in child care and development includes across-the-board reductions of 6.4 percent (compared with the current year) to non-CalWORKs child care programs, including General Child Care, State Preschool, Alternative Payment Programs, as well as supportive services such as Resource and Referral services and the coordination of Centralized Eligibility Lists. This BBR results in a cut of $199 million GF for these programs. The Subcommittee considered the question of loss of slots, current waiting lists, and effects on families and employment viability when it reviewed this proposal.

Staff Recommendation: Reject the Governor's BBR for a 6.4% cut in Child Development.

ISSUE 2: GOVERNOR'S PROPOSALS FOR STATE MEDIAN INCOME, COLA, STANDARD REIMBURSEMENT RATE, AND ADMINISTRATIVE COST ALLOWANCE

These issues were considered by the Subcommittee on April 9th and were held open pending further review and the May Revision.

Growth and COLA. The Governor's proposal eliminates the COLA, which would have been at 4.94 percent, and growth, an increase of 0.69 percent, and thus reduces existing funding for the remaining programs proportionately regardless of fund source.

SMI Freeze. The proposal freezes the state median income (SMI) at the 2007-08 level. The family income eligibility ceiling is 75 percent of the SMI for a family of four for all child care and development programs. The Administration's rationale here was to preserve in-demand slots for the neediest families at the lower end of the income eligibility range. Advocates in opposition to this freeze contend that families who lose their eligibility as a result of this could be forced to return to cash aid or leave their children in unsafe situations.

Standard Reimbursement Rate. Currently, the state funds child care programs through two main mechanisms: vouchers to families and direct contracts with providers. For certain child care centers (those that comply with Title V regulatory standards) and preschools, SDE contracts directly with over 750 agencies via 1,300 different contractual agreements. These providers are reimbursed for services at a standard rate known as the Standard Reimbursement Rate (SRR). The SRR is adjusted for factors such as the age or special needs of the child. The SRR is usually increased by the COLA factor annually, and advocates have long sought increases in the rate in excess of the COLA calculation. Given that the Governor's Budget does not include funds for a COLA, these rates are not proposed to be increased for 2008-09, and as such, will stay at the current-year rate of $34.38 per child per day for full-day care and $21.22 per child for half-day preschool.

Administrative Cost Allowance. The Governor's budget proposes to reduce the amount of funding that Alternative Payment Providers may spend on administrative and support services costs by one percent (from 20 percent, as has been established in prior year Budget Acts, to 19 percent, as effectuated by current statute). Current law (Education Code Section 8223) stipulates that costs for administrative and support services may not exceed 23.5 percent of "the direct cost of care payments" to child care providers. For all intents and purposes, this calculation equates to a rate of 19 percent of the total contract amount. The alternative language limits administrative and support service costs to "no more than 20 percent of the total contract amount."

Staff Recommendation: Adopt Governor's Budget for the state median income, COLA, SRR, and Administrative Cost Allowance.

ISSUE 3: BUDGET BILL LANGUAGE TO FULLY FUND STAGE 3

This issue was considered by the Subcommittee on April 9th and was held open pending further review and the May Revision.

The Legislature annually adopts language in the Budget Bill stating its intent to "fully fund the third stage of child care for former CalWORKs recipients."

This language is annually placed in the Budget Act as a reminder of the Legislature's priority to serve former CalWORKs recipients in the face of scare resources and the Budget Bill provides a prominent and visible reminder of this commitment.

Staff Recommendation: Adopt intent language related to funding CalWORKs Stage 3 Child Care services, conforming to action taken in the Senate.

ISSUE 4: CERTIFYING ELIGIBILITY UNDER "PENALTY OF PERJURY"

The Governor's proposal includes Budget Bill language requiring applicants for subsidized child care (as they become placed on the Centralized Eligibility List) to "certify in writing under penalty of perjury that they meet the eligibility and need requirements for subsidized child care as set forth in Section 8263 and 8263.1 of the Education Code."

While this language represents the Administration's attempt to reduce the income verification problems inherent in the lowest income tiers, it is punitive, and in many cases duplicative of current practices, whereby applicants applying for the wait list are required to affirm in some fashion that the information they have submitted is "true to the best of their knowledge." Further, the language applies to individuals as they are placed on the Centralized Eligibility List. Once the applicant is actually chosen from the list to receive services, they undergo an extensive application process at which point they must "certify under penalty of perjury" that their information is correct.

Finally, eligibility requirements for subsidized child care services are complicated; the income and financial need thresholds change, and an individual's income is likely to change as well. To require an individual simply applying to be on a waiting list to certify "under penalty of perjury" carries a threat, and implies that if they misreport it is with intent. Thus the language could have the consequence of deterring individuals from applying for services.

Staff Recommendation: Delete the proposed language from the Budget Bill, conforming to action taken in the Senate.

ISSUE 5: FEDERAL CHILD CARE AND DEVELOPMENT FUNDS (CCDF) STATE EXPENDITURE PLAN

This topic was considered by the Subcommittee on April 9th and was held open pending further review and the May Revision.

Federal law requires the state to submit a Statewide Plan outlining how California intends to spend federal Child Care Development Funds (CCDF). SDE submits such a plan every other year. The plan's preparation and review process has traditionally been outlined in Budget Bill language, which was changed last year after a request by advocates. SDE, the Department of Finance, LAO, and child care advocates all agreed to the new language, which broadens the process to include public hearings on the entire statewide CCDF expenditure plan, requires reports to the appropriate Legislative committees, and specifies the length of the public hearing process to better allow public input on the development of the state's expenditure plan. The Governor's Budget proposes language that differs from that adopted for 2007-08. Staff recommends that the 2007-08 language be continued into 2008-09.

The Senate has acted to adopt language in the Education Trailer Bill, as follows:

> "*As required by federal law*, the State Department of Education (SDE) shall develop an expenditure plan that sets forth ~~the proposed state and local activities to improve child care and~~ the *final* priorities for child care ~~including the reasons therefore, to be undertaken in the 2009-10 fiscal year~~. The SDE shall coordinate with the DSS, the California Children and Families Commission, and other stakeholders, *including the Department of Finance,* to develop the ~~biennial~~ Child Care Development Fund (CCDF) Plan. By February 1 of the year the CCDF Plan is due to the federal government, SDE shall release a draft of the plan. It shall then commence a 30-day comment period that shall include at least one hearing and the opportunity for written comments. SDE shall provide the revised CCDF Plan to the ~~Department of Finance for review and approval.~~ *chairperson of the committee of each house of the Legislature that considers appropriations* ~~Upon approval, the SDE and shall submit~~ and shall provide a report on the plan to the ~~fiscal committees of each house of the legislature~~ *committee in each house of the Legislature that considers the annual Budget Act appropriation, prior to the May budget revision.*"

Additionally, after further discussions between advocates and the Department of Education, the Child Care Law Center has put forward the following Budget Bill Language (BBL) proposal to delineate overarching principles to guide the development of the expenditure plan.

Proposed BBL:

> 6110-196-0001 Provision (f)—When developing the 2008-2009 expenditure plan for proposed state and local activities to improve child care, the State Department of Education (SDE), shall follow these three principles: (1) Preserve funding for activities that provide direct services and supports to families; (2) Preserve funding for activities that provide direct services and supports to child care providers and teachers; (3) Comply with federal mandates including quality earmarks and set-asides.

Staff Recommendation: (1) Adopt the proposed trailer bill language on the state expenditure plan, conforming to action in the Senate, and (2) adopt the proposed additional Budget Bill language with regard to overarching principles.

ISSUE 6: APRIL FINANCE LETTER – 21ST CENTURY PROGRAM

The Governor's Budget originally slated federal support for the 21st Century Community Learning Centers Program at $125.3 million. However, since January, the Department of Finance submitted an April Letter indicating that unexpended funds from prior years ($40.4 million) will now be available to supplement the program on a one-time basis. Further, an additional $4.1 million is also being made available by the federal government to augment the program (pursuant to DOF's April Letter, Issues 374 and 375).

Combined with the January proposal, $169.7 million will be available for this program. Staff notes that since this program is funded solely with federal dollars, the funds may not be used to support or supplant any other state-funded programs.

Staff Recommendation: Adopt the April Letter changes proposed by the Department of Finance.

ISSUE 7: MAY REVISION REAPPROPRIATIONS FOR CALWORKS STAGE 2 AND STAGE 3 CHILD CARE

The May Revision seeks to reappropriate the unexpended balances from multiple sources identified in their letter to fully fund CalWORKs Stage 2 and Stage 3 child care ($296.6 million) pursuant to the following:

1. The sum of $131,926,000 is hereby reappropriated to the State Department of Education for transfer by the Controller to Section A of the State School Fund for allocation by the Superintendent of Public Instruction for the purpose of funding CalWORKs Stage 2 child care. The amount reappropriated pursuant to this section is for use in the 2008-09 fiscal year beginning July 1, 2008, and ending on June 30, 2009.

2. The sum of $164,686,000 is hereby reappropriated to the State Department of Education for transfer by the Controller to Section A of the State School Fund for allocation by the Superintendent of Public Instruction for the purpose of funding CalWORKs Stage 3 child care. The amount reappropriated pursuant to this section is for use in the 2008-09 fiscal year beginning July 1, 2008, and ending on June 30, 2009.

This is the annual, customary action of taking unexpended funds from various sources throughout the Department of Education and pooling these funds for use in major areas for the following budget year.

Staff Recommendation: Approve the reappropriations for CalWORKs Stages 2 and 3 as outlined in the May Revision letter.

ISSUE 8: MAY REVISION – ADDITIONAL FUNDING FOR CALWORKS STAGES 2 AND 3

The May Revision makes the following requests regarding funding for CalWORKs Stages 2 and 3:

- **6110-196-0001 and 6110-196-0890, Local Assistance, Eliminate CalWORKs Stage 2 Child Care TANF Reserve (Issue 376)**

  It is requested that Schedule 1.5(e) of this item be increased by $25,455,000 to fully fund Stage 2 costs, without a traditional federal Temporary Assistance for Needy Families (TANF) holdback from the full estimate in the Department of Social Services CalWORKs budget. This action completes the policy change implemented last year to fund Stage 2 from Proposition 98. This also frees up TANF to meet county CalWORKs needs for services, helps meet the TANF maintenance of effort shortfall, and reduces pressure on the General Fund. This request includes a deletion of Provision 6(c) of Item 6110-196-0001 and that Provision 2 be amended to conform to this action.

- **6110-196-0001, 6110-488, and 6110-602-0001, Local Assistance, Add Funding for CalWORKs Stage 2 and Stage 3 Child Care Caseload Costs (Issues 382 and 386)**

  The May Revision proposes an increase of $19,973,000 to reflect revised estimates of caseload costs for CalWORKs Stage 2 and Stage 3 child care, which reflects the Administration's proposal to adjust the reimbursement rate limits to the 75th percentile of private pay rates for voucher-based programs in a particular market region. Specifically, it is requested that Schedule 1.5(e) of Item 6110-196-0001 be increased by $7,511,000 for CalWORKs Stage 2 caseload costs. In addition, the May Revision proposes to reappropriate $12,462,000 from prior- and current-year unexpended balances for Stage 3 caseload costs, subsumed as part of the larger reappropriation request addressed earlier in this agenda.

- **6110-196-0001, Local Assistance, Backfill One-Time Funds for CalWORKs Stage 2 Child Care (Issues 385)**

  It is requested that Schedule 1.5(e) of this item be increased by $8,915,000 to backfill the loss of one-time funds due to actions taken in the special session (Chapter 2, Statutes of 2008) and revised estimates of one-time child care carryover funds.

6110-494 and Items 6110-196-0001-03-08, 6110-196-0001-04-08, 6110-196-0001-05-08, 6110-196-0001-06-08, 6110-696-0001-06-08, and 6110-196-0001-07-08, Local Assistance, Delete Reappropriation to Reflect Adjustments to One-Time Child Care Funds (Issue 379)

It is requested that $214,617,000 in Proposition 98 General Fund expenditure authority for CalWORKs Stage 2 and Stage 3 child care in Item 6110-494 be eliminated to reflect actions taken in the Special Session, and to reflect revised estimates of prior- and current-year child care carryover funds. The remaining balance of $36,157,000 will be reappropriated in Items 6110-488 and 6110-602-0001 (see SDE Finance Letter).

It is further requested that Provision 1 of Item 6110-494 be amended to conform to this action.

- **6110-196-0001-06-08, Local Assistance, Adjust to Correctly Reflect Available Child Care Carryover Funds (Issue 379)**

  It is requested that one-time Proposition 98 General Fund expenditure authority of $37,504,000 for CalWORKs Stage 2 and Stage 3 child care be decreased by $14,541,000, due to revised estimates of available child care carryover funds per Education Code Section 8278.

  It is further requested that Provisions 1(b) and 1(c) be amended to conform to this action.

- **6110-196-0890, Local Assistance, Adjust Federal Child Care Funds (Issue 384)**

  It is requested that this item be decreased by $63,907,000 to reflect the following: (1) a reduction of $56,344,000 in one-time federal funds from prior years; (2) a reduction of $7,278,000 in ongoing federal funds; and (3) a redirection of $285,000 from local assistance to state operations for the proposed rewrite of PARI$.

  It is further requested that Provisions 3 and 5 of this item be deleted to conform to this action.

- **6110-488 and 6110-602-0001, Local Assistance, Add Funding for CalWORKs Child Care (Issues 755, 383, and 386)**

  The May Revision proposes to reappropriate $296,612,000 from various unexpended child care and K-12 program balances to fully fund CalWORKs Stage 2 and Stage 3 needs, as addressed in this agenda. This amount includes $12,462,000 for additional Stage 3 caseload costs noted above in Issue 386.

Staff Recommendation: Accept the May Revision requests for CalWORKs Child Care Stages 2 and 3 as included in the Finance letter and with direction to the Department of Finance to reconcile these with rejection of the RMR rebenching, if the Subcommittee chooses to take this action, as is outlined under "Issues to be Heard, Issue 3" of this agenda.

ISSUE 9: MAY REVISION – PROVIDER ACCOUNTING AND REPORTING INFORMATION SYSTEM (PARI$)

It is requested that Item 6110-001-0890 be increased by $285,000 in one-time federal funds and Item 6110-001-0001 be amended to develop a Request for Proposals to seek a solution for replacement of the Provider Accounting and Reporting Information System (PARI$) application, and to contract for project management and oversight. The current system, which was designed to manage the State Department of Education's (SDE) child care agency contracts and payment processing functions, is outdated and does not have the capability to share data with other systems. The PARI$ rewrite is expected to be completed in fiscal year 2010-11. Because a portion of the existing PARI$ functionality will be replaced by the Financial Information System for California (FI$CAL) in 2013-14, functions that are duplicative of FI$CAL will be decommissioned when that system is fully implemented.

It is further requested that provisional language be added to Item 6110-001-0890 to conform to this action as follows:

X. Of the funds appropriated in this item, $285,000 is available from the Child Care and Development Block Grant Fund on a one-time basis to develop a Request for Proposals to seek a solution for replacement of the Provider Accounting and Reporting Information System (PARI$), and to contract for project management and oversight. The State Department of Education (SDE) shall require the vendor to propose a cost-effective solution in which interim functions that are duplicative of the Financial Information System for California (FI$CAL) will be decommissioned when FI$CAL is fully implemented. The SDE shall also require the vendor to address any modifications to the child care contracting process that may be implemented through legislation enacted during the current legislative session or through regulations deemed necessary to more fully utilize available appropriations in the solution to rewrite PARI$.

No issues have been raised with this May Revision proposal.

Staff Recommendation: Approve the requests for the PARIS project as outlined in the May Revision proposal.

ITEMS TO BE HEARD

5180 DEPARTMENT OF SOCIAL SERVICES
6110 CALIFORNIA DEPARTMENT OF EDUCATION

ISSUE 1: PROPOSALS TO IMPROVE CONTRACTING PROCESSES

This issue was considered and discussed at the April 9 Subcommittee hearing and direction was given to the CDE to report back on adjustments to the contracting process that may avoid or mitigate shortfall effects and reliance on unspent dollars for budget year.

Background. For each of the past five fiscal years, at least $200 million of the state's child care appropriation has gone unspent, and has instead been rolled over into the next fiscal year and used to fund the ongoing needs of the program. In short, we consistently fund approximately ten to 12 percent of the child care budget with one-time dollars. Funds could go unspent for the following reasons:

Un-obligated Funds. SDE is unable to contract for the full amount of the Budget Act appropriation, either due to a cumbersome Request for Applications (RFA) process, a lack of interest or lack of need on behalf of providers, or staffing issues at SDE.

Unearned Contracts. Providers are unable to fully-expend the amounts included in their contractual agreements with the state, either because they did not serve the *exact* number of children specified, or they had delays or difficulties in filling empty slots as children exited the program. Given that providers are *not* provided additional payment if they serve more children than their contract allows, they almost always err on the side of caution and under spend their contracts.

Proposal. The CDE returned with options on contracting that will ease administrative challenges and allow for the more efficient disbursement and transfer of available contract funds. In consideration of these proposals, those that are possible to be implemented in the short-term with the greatest promise of more effectively promoting the full use of dollars while maintaining program integrity are recommended for action.

Staff recommends that the Subcommittee adopt ***placeholder trailer bill language*** to do the following:

- Address voluntary movement of funds between agreeing contractors during the fiscal year as well as distribution of funds that had been allocated in contracts, but returned to the department through contract relinquishment or reduction. This would allow for temporary mid-year adjustments to allow the CDE to be responsive to short-term changes in service needs.

- Address program expansion dollars to remove the requirement for request for application for these dollars and allow the department to distribute these funds to existing contractors and subcontractors in good standing and LEAs based on criteria, with an RFA as last resort for fund distribution.

- Consideration of an October 1 beginning date for new contracts as a way to build contracts with the maximum amount of complete data available from the prior fiscal year.

PANELISTS

The panel is requested to describe the proposal and/or react to the recommendation.

- California Department of Education
- Department of Social Services
- Department of Finance
- Legislative Analyst's Office

Staff Recommendation: Adopt placeholder trailer bill language to address contracting issues and ease administrative barriers, as described in the agenda.

ISSUE 2: SUFFICIENCY OF STAGE 2 FUNDING

There are concerns that the level of funding for CalWORKs Stage 2 is lower than it should be for budget year, considering the elimination of a reserve amount and the challenges with the increased cost of care and reserve depletion experienced in the current year.

The May Revision provides $516.6 million for Stage 2 and initial estimates from CDE indicate that their independent estimate of the need in budget year could be as high as $543 million. The revised current year estimate is $533 million and if this number is used as a conservative assessment of what is most likely to be needed in budget year, then a difference of $16.4 million can be provided by the Subcommittee so as to avoid a shortfall and provider problem in budget year.

Overall slightly increasing caseload trends and increases in the average cost-per-case call for some increased level for the budget year. The proposed RMR changes were built into the May Revision estimate, so staff's recommendation to reject the move to the 75th percentile and delay the RMR increase to March 1 will most likely have a marginal effect on the overall budget year need. The $516.6 Million Finance number was affirmed from the April actual claims data submitted to CDE on May 20, however April was an anomalous month, with the upheaval caused by the lack of funds and the likelihood that some families were being held back in Stage 1 given the constriction of Stage 2 capacity. Historically, the difference between the CDE and DSS/DOF estimates have actualized into demand being at the upper CDE figure, with the past reserves playing an important role in being able to pay providers as they operate through the length of the budget year.

PANELISTS

The panel is requested to describe the proposal and/or react to the recommendation.

- California Department of Education
- Department of Social Services
- Department of Finance
- Legislative Analyst's Office

Staff Recommendation: Approve an additional $16.4 million for CalWORKs Stage 2 Child Care to bring the appropriation to the current year final estimate level.

ISSUE 3: MAY REVISION – CHANGES TO REGIONAL MARKET RATE

Approximately 70 percent of the children in state-subsidized child care are served through a voucher system, which are provided to families through the Alternative Payment Program (APs). Families may use vouchers for care in: licensed centers, licensed family child care homes, and license-exempt care (kith and kin).

Licensed providers (the first two mentioned above) are reimbursed for services up to a maximum of 85 percent of the rate charged by private market providers for the same service in the same region. The state determines what the private market pays through an annual Regional Market Rate (RMR) survey of public and private child care providers. New regional maximum rates are posted in October and providers may adjust their rates for voucher clients after that time. License-exempt providers are reimbursed up to 90 percent of the amount paid to licensed providers in the same region.

Requested Changes. The May Revision requests that trailer bill language be added to:

(1) Rebench reimbursement rate limits from the 85th to the 75th percentile of private pay rates for voucher-based programs based on the new 2007 Regional Market Rate (RMR) survey.
(2) To implement the rebenched RMR beginning January 1, 2009.
(3) To conduct the survey every two years instead of annually.

The Administration contends that these actions are fully consistent with federal requirements and would still provide an average rate limit increase effective January 2009. *The proposed trailer bill language affects the next issue as well and is included with that agenda item.*

Advocate Response. Advocates have responded with heavy criticism to the proposal to lower the ceiling from the 85th to the 75th percentile. They argue that if the RMR ceiling is lowered, the access that families have to a range of providers will be severely restricted. One significant impact could be on the supply of licensed centers and family child care homes in low income communities where providers often rely on serving large numbers of subsidized families in order to maintain their facilities. If the RMR ceilings for child care centers and family child care homes are lowered, this could result in a loss of licensed family child care homes and centers in these communities, as well as a reduction in the availability of license-exempt care, which is critical to participants in the CalWORKs program.

The savings associated with capping the rates at the 75th percentile, effective January 2009, is $9.52 million in budget year. The same savings can be achieved by delaying the RMR implementation by two months, to March 1, 2009, without changing the percentile cap. This is the approach that staff recommends in lieu of reducing the RMR ceiling. The issue of the movement from an annual market rate study to a biennial process has not raised concerns.

In light of these concerns and the ability to achieve additional savings from delay of the RMR implementation from January 1 to March 1, staff recommends (1) maintaining the rate limits at the 85th percentile, (2) a March 1 implementation for the new schedule, and (3) acceptance of the biennial survey as proposed by the Administration. Acceptance of this May Revision proposal with the adjustments recommended by staff would result in the following amendments to Provision 2(b) of this item, with changes from the administration's version shown in bold (language to be reinserted is included again in bold):

Budget Bill Language - 6110-196-0001

"2. (b) Notwithstanding any other provision of law, the funds appropriated in this item for the cost of licensed child care services provided through alternative payment or voucher programs including those provided under Article 3 (commencing with Section 8220) and Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code shall be used only to reimburse child care costs up to the ~~85th~~ **~~75th~~ 85th** percentile of the rates charged by providers offering the same type of child care for the same age child in that region effective **~~January~~ March** 1, 2009, based on the 2007 Regional Market Rate Survey data. The Department of Education shall cause to be developed rate limits at the **~~75th~~ 85th** percentile, based on the 2007 survey data, and submit for approval in accordance with law to the Department of Finance no later than October 1, 2008, to enable the rate limits to be reviewed and then implemented by **~~January~~ March** 1, 2009. The Department of Education may redirect funding from funds normally reserved for new surveys to achieve this goal, as necessary."

PANELISTS

The panel is requested to describe the proposal and/or react to the recommendation.

- California Department of Education
- Department of Social Services
- Department of Finance
- Legislative Analyst's Office

Staff Recommendation: Reject the Administration's proposal to reduce the RMR ceiling and maintain its current level at the 85th percentile, delay the implementation date from January 1, 2009 to March 1, 2009, and accept the change to a biennial change, as reflected in the modified BBL in this item and in modified trailer bill in the following item.

ISSUE 4: MAY REVISION – CHANGES TO FAMILY FEE SCHEDULE

Requested Change and Advocate Response. The May Revision is requesting that a provision of the Budget Bill be amended as follows to direct the SDE to revise the family fee schedule based on the income eligibility limits provided by the Department of Finance for the 2007-08 fiscal year, and to adjust the family fee schedule for families that are newly eligible to receive or will continue to receive services under the new income eligibility limits. The Administration states that this action is consistent with the agreement reached between the Administration and the Legislature in 2006-07, that families currently paying fees should continue to do so.

Advocates disagree with the Administration's approach and state their preference to maintain the structure of the current family fee schedule. They state that at the time that the current family income eligibility levels (75% of SMI) were established in 2007, it was agreed – on a one-time basis – that the same fee level would be retained, even though this meant that families would begin paying fees when their income reached 40% of SMI, rather than the previous level of 44% of SMI. It was recognized that maintaining the fee level would have a negative impact on many low income families, and it was agreed that the family fee level would never be permitted to fall below 40% of SMI. The May Revision proposes that the income level at which family fees begin to be imposed should be reduced each time the family income eligibility levels are updated, so that families will be required to pay fees at lower and lower income levels. This is not required by statute or regulation, and advocates contend that it is certainly not what was intended when the imposition of family fees was lowered to 40% of SMI.

The Child Care Law Center urges the Legislature to pass TBL to establish the income level at which family fees begin to be imposed for child care above the income level at which families can receive CalWORKs cash assistance; that is, no family that is so poor that it would be eligible for some amount of CalWORKs cash aid should have to contribute to the cost of subsidized child care. The Administration contends that this is unlikely now, however there are disagreements about how forms of income, including a work study grant, are calculated and included, and the remaining possibility that a family receiving some aid may be charged a fee unreasonably without an explicit statutory preclusion.

Staff recommends that the family fee schedule remain at it is currently constituted and that a provision be added to ensure that families receiving cash aid should not be required to contribute to the cost of subsidized child care as is included in the following BBL and placeholder TBL, with changes from the Administration's amendments shown in bold:

Budget Bill Language – 6110-196-0001

"9. (a) Notwithstanding any other provision of law, the income eligibility limits pursuant to subdivision (a) of Section 8263.1 of the Education Code ~~used in~~ that were applicable to the 2007-08 fiscal year, shall remain in effect for the 2008-09 fiscal year.

(b) Notwithstanding any other provision of law, the State Department of Education (SDE) shall update the 2006-07 family fee schedule by family size for use in the 2008-09 fiscal year, based on the state median income **based on the SMI at the level at which it's determined for the 2008-09 fiscal year** ~~**of $66,166**~~ for a family of four, in accordance with law. The department shall ensure fees are **not** charged ~~**for**~~ **to** families ~~**that are newly eligible at higher income eligibility levels and that the start point for payment of fees begins at the same dollar income levels as specified in the 2006-07 family fee schedule**~~ **with incomes lower than 40% of state median income**. ~~**The SDE shall implement the revised fee schedule as soon as is practicable, contingent upon approval by the Department of Finance in accordance with law."**~~

Placeholder Trailer Bill Language
Section X: Education Code Section 8222 is amended to read:

8222. (a) Payments made by alternative payment programs shall not exceed the applicable market rate ceiling. Alternative payment programs may expend more than the standard reimbursement rate for a particular child. However, the aggregate payments for services purchased by the agency during the contract year shall not exceed the assigned reimbursable amount as established by the contract for the year. No agency may make payments in excess of the rate charged to full-cost families. This section does not preclude alternative payment programs from using the average daily enrollment adjustment factor for children with exceptional needs as provided in Section 8265.5.

(b) Alternative payment programs shall reimburse licensed child care providers in accordance with a biennial ~~annual~~ market rate survey pursuant to Section 8447, at a rate not to exceed the ceilings established pursuant to Section 8357~~statute~~.

(c) An alternative payment program shall reimburse a licensed provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the provider for prospective nonsubsidized families. A licensed child care provider shall submit to the alternative payment program a copy of the provider's rate sheet listing the rates charged, and the provider's discount or scholarship policies, if any, along with a statement signed by the provider confirming that the rates charged for a subsidized child are equal to or less than the rates charged for a nonsubsidized child.

(d) An alternative payment program shall maintain a copy of the rate sheet and the confirmation statement.

(e) A licensed child care provider shall submit to the local resource and referral agency a copy of the provider's rate sheet listing rates charged, and the provider's discount or scholarship policies, if any, and shall self-certify that the information is correct.

(f) Each licensed child care provider may alter rate levels for subsidized children once per year and shall provide the alternative payment program and resource and referral agency with the updated information pursuant to subdivisions (c) and (e), to reflect any changes.

(g) A licensed child care provider shall post in a prominent location adjacent to the provider's license at the child care facility the provider's rates and discounts or scholarship policies, if any.

(h) An alternative payment program shall verify provider rates no less often than once a year by randomly selecting 10 percent of licensed child care providers serving subsidized families. The purpose of this verification process is to confirm that rates reported to the alternative payment programs reasonably correspond to those reported to the resource and referral agency and the rates actually charged to nonsubsidized families for equivalent levels of services. It is the intent of the Legislature that the privacy of nonsubsidized families shall be protected in implementing this subdivision.

(i) The department shall develop regulations for addressing discrepancies in the provider rate levels identified through the rate verification process in subdivision (h).

Section X. Education Code Section 8357 is amended to read:

8357. (a) The cost of child care services provided under this article shall be governed by regional market rates. Recipients of child care services provided pursuant to this article shall be allowed to choose the child care services of licensed child care providers or child care providers who are, by law, not required to be licensed, and the cost of that child care shall be reimbursed by counties or agencies that contract with the State Department of Education if the cost is within the regional market rate. For purposes of this section, "regional market rate" means care costing no more than 1.5 market standard deviations above the mean cost of care for that region. Beginning **~~January~~ March** 1, 2009, child care costs shall not be reimbursed in excess of the **~~75th~~ 85th** percentile for that region. For the 2008-09 and 2009-10 fiscal years, the **~~75th~~ 85th** percentile limits shall be based on the data collected in the 2007 regional market rate survey for that region.

(b) Reimbursement to child care providers shall not exceed the fee charged to private clients for the same service.

(c) Reimbursement shall not be made for child care services when care is provided by parents, legal guardians, or members of the assistance unit.

(d) A child care provider located on an Indian reservation or rancheria and exempted from state licensing requirements shall meet applicable tribal standards.

(e) For purposes of this section, "reimbursement" means a direct payment to the provider of child care services, including license exempt-providers. If care is provided in the home of the recipient, payment may be made to the parent as the employer, and the parent shall be informed of his or her concomitant legal and financial reporting requirements. To allow time for the development of the administrative systems necessary to issue direct payments to providers, for a period not to exceed six months from the effective date of this article, a county or an alternative payment agency contracting with the State Department of Education may reimburse the cost of child care services through a direct payment to a recipient of aid rather than to the child care provider.

(f) Counties and alternative payment programs shall not be bound by the rate limits described in subdivision (a) when there are, in the region, no more than two child care providers of the type needed by the recipient of child care services provided under this article.

Section X. Education Code Section 8447 is amended to read:

8447. (a) The Legislature hereby finds and declares that greater efficiencies may be achieved in the execution of state subsidized child care and development program contracts with public and private agencies by the timely approval of contract provisions by the Department of Finance, the Department of General Services, and the State Department of Education and by authorizing the State Department of Education to establish a multiyear application, contract expenditure, and service review as may be necessary to provide timely service while preserving audit and oversight functions to protect the public welfare.

(b) (1) The Department of Finance and the Department of General Services shall approve or disapprove annual contract funding terms and conditions, including both family fee schedules and regional market rate schedules that are required to be adhered to by contract, and contract face sheets submitted by the State Department of Education not more than 30 working days from the date of submission, unless unresolved conflicts remain between the Department of Finance, the State Department of Education, and the Department of General Services. The State Department of Education shall resolve conflicts within an additional 30 working day time period. Contracts and funding terms and conditions shall be issued to child care contractors no later than June 1. Applications for new child care funding shall be issued not more than 45 working days after the effective date of authorized new allocations of child care moneys.

~~**(2) Notwithstanding paragraph (1), for the 2006-07 fiscal year, the State Department of Education shall implement the regional market rate schedules based upon the county aggregates, as determined by the Regional Market survey conducted in 2005.**~~

(2) Notwithstanding paragraph (1), for the 2008-09 fiscal year, the State Department of Education shall implement the regional market rate schedules based upon the county aggregates, as determined by the Regional Market survey conducted in 2005. ~~The regional market rate schedules shall be implemented no later than 90 days after the enactment of the 2006 Budget Act.~~

~~(2)~~ ~~**(3)**~~ **(3)** Notwithstanding paragraph (1), for the 2006-07 fiscal year, the State Department of Education shall update the family fee schedules by family size, based on the 2005 state median income survey data for a family of four. The family fee schedule used during the 2005-06 fiscal year shall remain in effect. However, the department shall adjust the family fee schedule for families that are newly eligible to receive or will continue to receive services under the new income eligibility limits. The family fees shall not exceed 10 percent of the family's monthly income.

~~(3)~~ ~~**(4)**~~ **(4)** It is the intent of the Legislature to fully fund the third stage of child care for **former** CalWORKs recipients.

(c) With respect to subdivision (b), it is the intent of the Legislature that the Department of Finance annually review contract funding terms and conditions for the primary purpose of ensuring consistency between child care contracts and the child care budget. This review, shall include evaluating any proposed changes to contract language or other fiscal documents to which the contractor is required to adhere, including those changes to terms or conditions that authorize higher reimbursement rates, that modify related adjustment factors, that modify administrative or other service allowances, or that diminish fee revenues otherwise available for services, to determine if the change is necessary or has the potential effect of reducing the number of full-time equivalent children that may be served.

(d) Alternative payment child care systems, as set forth in Article 3 (commencing with Section 8220), shall be subject to the rates established in the Regional Market Rate Survey of California Child Care Providers for provider payments. The State Department of Education shall contract to conduct and complete ~~the annual~~ a Regional Market Rate Survey no more often than once every two year period, consistent with federal regulations, with a goal of completion by March 1.

(e) By March 1 of each year, the Department of Finance shall provide to the State Department of Education the State Median Income amount for a four-person household in California based on the best available data. The State Department of Education shall adjust its fee schedule for child care providers to reflect this updated state median income. **~~Effective with the 2008-09 fee schedule and on, the Department of Education may not provide a fee schedule that reduces nor eliminates family fees for any specific income level for a particular family size.~~**

(f) Notwithstanding the June 1 date specified in subdivision (b), changes to the regional market rate schedules and fee schedules may be made at any other time to reflect the availability of accurate data necessary for their completion, provided these documents receive the approval of the Department of Finance. The Department of Finance shall review the changes within 30 working days of submission and the State Department of Education shall resolve conflicts within an additional 30 working day period. Contractors shall be given adequate notice prior to the effective date of the approved schedules. It is the intent of the Legislature that contracts for services not be delayed by the timing of the availability of accurate data needed to update these schedules.

(g) Notwithstanding any other provision of law, no family eligible for an amount of CalWORKs cash aid may be charged a family fee or other contribution to the cost of subsidized child care.

PANELISTS

The panel is requested to describe the proposal and/or react to the recommendation.

- California Department of Education
- Department of Social Services
- Department of Finance
- Legislative Analyst's Office

Staff Recommendation: Reject the Administration's proposal to adjust the family fee schedule for families that are newly eligible to receive or will continue to receive services under the new income eligibility limits, but accept a modification of the BBL and placeholder TBL as included in the agenda with changes from the administration's version shown in bold. Rejection of the Administration's proposal in the family fee schedule results in approximately $2 million of costs which the Subcommittee acknowledges and asks Finance to make adjustments for.