

# SUBCOMMITTEE NO. 1 on Education



**Subcommittee No. 1**  
Chair, Marty Block  
Member, Roderick Wright  
Member, Mark Wyland

**Thursday, March 21, 2013**  
**9:30 a.m. or**  
**Upon Adjournment of Session**  
**Room 3191, State Capitol**

**Consultant: Kim Connor**

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## ISSUE 1. LAO Report on Special Education

**DESCRIPTION:** The LAO will present highlights from its recent report entitled **Overview of Special Education in California**. Published in January 2013, this report provides a “primer” on special education programs that support our state’s students with disabilities. The LAO will also provide highlights from one of its recent budget publications – **The 2013-14 Budget -- Proposition 98 Education Analysis** – that describes funding for special education programs in our state. Both of these publications provide useful background for the Subcommittee in considering upcoming issues in this agenda.

**LAO Report -- Overview of Special Education in California.** The Executive Summary of the LAO overview report is included below. [Highlights added for key terms and figures.]

Special education is the “catch-all” term that encompasses the specialized services that schools provide for disabled students. This report provides a comprehensive review of special education—conveying information on applicable laws, affected students, services, funding, and student outcomes.

- **Public Schools Must Provide Special Support for Disabled Students.** Federal law requires schools to provide “specially defined instruction, and related services, at no cost to parents, to meet the unique needs of a child with a disability.” The law requires schools to provide disabled students with these special supports from **age 3 until age 22**, or until they graduate from high school, whichever happens first. These services are in addition to what a nondisabled student receives.
- **About One in Ten California Students Receives Special Education Services.** About **686,000 students with disabilities (SWDs)** receive special education services in California, comprising about **10 percent of the state’s public school enrollment**. Specific learning disabilities—including dyslexia—are the most common diagnoses requiring special education services (affecting about 4 percent of all K–12 students), followed by speech and language impairments. While the overall prevalence of students with autism and chronic health problems still is relatively rare (each affecting 1 percent or less of all public school students), the number of students diagnosed with these disabilities has increased notably over the past decade.
- **Special Education Services Vary Based on Individual Student Needs.** Federal law only requires schools to provide special education services to students with diagnosed disabilities that interfere with their educational attainment. To determine a student’s need and eligibility for special education, schools must conduct a formal evaluation process. If schools determine that general education programs cannot adequately meet a disabled student’s needs, they develop **Individualized Education Programs (IEPs)** to define the additional services the school will provide. Each student’s IEP differs based on his or her particular disability and needs. Specialized academic instruction is the most common service that schools provide. This category includes any kind of specific practice that adapts the content, methodology, or delivery of instruction to help SWDs access the general curriculum. Other

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commonly provided services include speech and language assistance and various types of therapies for physical and psychological needs that may be impeding a SWD's educational attainment. Although federal law encourages schools to educate disabled students in mainstream settings, most (about three-quarters) of special education services are delivered in settings other than regular classrooms.

- **In General, the State Uses a Regional Structure to Organize Special Education.** Because economies of scale often improve both programmatic outcomes and cost-effectiveness, special education funding and some services are administered regionally by **127 Special Education Local Plan Areas (SELPA)**s rather than by the approximately 1,000 school districts in the state. Most SELPAs are collaborative consortia of nearby districts, county offices of education (COEs), and charter schools, although some large districts have formed their own independent SELPAs, and three SELPAs consist of only charter schools.
- **The Excess Costs Associated With Providing Special Education Services Are Supported by Federal, State, and Local Funds.** Schools receive billions of dollars to provide a basic educational program—including teachers, instructional materials, academic support, and enrichment activities—for all students, including SWDs. **The average annual costs of educating a SWD, however, are more than double those of a mainstream student—approximately \$22,300 compared to \$9,600.** (It is important to note that most SWDs require less severe, less costly services, whereas some students require intensive interventions that cost notably more than \$22,300 per year.) Schools receive categorical funds to cover a portion of these additional, or “excess costs,” associated with addressing students’ disabilities. Because federal and state special education funds typically are not sufficient to cover the costs of all IEP-required services, however, schools spend from their local unrestricted general funds to make up the difference. In 2010–11, special education expenditures totaled **\$8.6 billion**. State special education categorical funds covered the largest share of these costs (43 percent), combined with spending from local general purpose funds (39 percent) and federal special education funds (18 percent). Over the past several years, a combination of increasing special education costs and relatively flat state and federal special education funding has resulted in local budgets covering an increasing share of these costs.
- **Special Education Funds Allocated to SELPAs Based on Overall Student Population, Not Number of Disabled Students.** California relies primarily on a “census-based” funding methodology that allocates special education funds to SELPAs based on the total number of students attending, regardless of students’ disability status. This funding model implicitly assumes that SWDs—and associated special education costs—are relatively equally distributed among the general student population and across the state. The amount of per-pupil funding each SELPA receives varies based on historical factors. In 2011–12, the weighted statewide average per-pupil rate was **\$645 per student** (including both state and federal funds). After receiving its allocation, each SELPA develops a local plan for how to allocate funds to the school districts and charter schools in its region based on how it has chosen to organize special education services for SWDs.

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- **Mixed Academic Outcomes for Disabled Students.** Some performance indicators suggest SWDs generally are performing well, whereas other indicators are less encouraging. For example, performance on standardized tests (including those specifically designed for SWDs) has improved over the past several years, but a majority of SWDs still fail to meet state and federal achievement expectations. As SWDs near the end of their time receiving special education services, data show that about 60 percent of SWDs graduate on time with a high school diploma and about two-thirds of SWDs are engaged productively after high school (with about half enrolled in an institute of higher education and 15 percent competitively employed within one year after high school).

**LAO Report: The 2013-14 Budget -- Proposition 98 Education Analysis.** Excerpts from the LAO report are provided below. These excerpts provide an overview of the state's current approach to funding special education.

- **Federal Law Requires School Districts to Provide Special Services to SWDs.** Federal law requires public schools to make special efforts to educate students who have disabilities. Specifically, the federal Individuals with Disabilities Education Act (IDEA) requires that LEAs provide “specially defined instruction, and related services, at no cost to parents, to meet the unique needs of a child with a disability.” Once schools have determined that a SWD requires additional educational support, they develop an Individual Education Program (IEP) for the student that documents which special education services the school will provide.
- **Special Education Services Supported by Categorical Funds.** Billions of dollars are allocated to LEAs for the basic educational components—including teachers, instructional materials, and academic support—provided to all students, including SWDs. The average costs of educating a SWD, however, are more than double those of a mainstream student—approximately \$22,300 compared to \$9,600. To the degree SWDs require additional services beyond what mainstream students receive, LEAs receive special education categorical funds that cover much of the “excess costs.” (These categorical funds are comprised of state, LPT, and federal monies.) Because special education categorical funds typically are not sufficient to cover the costs of all IEP-required services, LEAs spend from their local general purpose funds to make up the difference. In 2010–11, categorical funding covered 61 percent of special education excess costs. The remainder of our discussion focuses on these categorical funds.

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- **Funds Allocated to Special Education Local Plan Areas (SELPAs), Not Directly to Local Education Agencies (LEAs).** Because economies of scale often improve both programmatic outcomes and cost-effectiveness, the state distributes special education categorical funds to 127 SELPAs (rather than to the approximately 1,000 LEAs in the state). Most SELPAs are collaborative consortia of nearby districts, COEs, and charter schools, although some large districts have formed their own SELPAs, and three SELPAs consist of only charter schools. (Additionally, one unique SELPA consists solely of court schools in Los Angeles County.) Single-district SELPAs typically receive funding directly from the state and offer or contract for special education services on their own. In contrast, consortia SELPAs work internally to decide how best to divvy up special education funding for all the SWDs in their region. In most cases, consortia SELPA members opt to reserve some funding at the SELPA level to operate some shared, regionalized services, then distribute the remainder to LEA members to serve most of their own SWDs locally.
- **Most Funds Allocated to SELPAs Based on Overall Student Population, Not Number of SWDs.** Prior to 1998, California distributed special education funds using a “cost-based” model—essentially funding individual SELPAs based on the costs they incurred serving SWDs. Beginning in 1998–99, California switched to a “census-based” approach for distributing most special education funds. This methodology allocates special education funds to SELPAs based on total ADA, regardless of SWD counts or the SELPA’s special education expenditures. The census-based funding approach implicitly assumes that SWDs—and associated special education costs—are spread fairly evenly throughout the overall student population.
- **Funds Allocated Using AB 602 Formula.** California’s census-based formula for distributing special education categorical funds to SELPAs commonly is referred to as the “AB 602” formula after the authorizing legislation. The AB 602 formula incorporates (1) state categorical monies, (2) a relatively small amount of LPT revenues that flow through the state’s categorical program, and (3) federal IDEA funds. In 2012–13, the state allocated about \$2.9 billion in state and LPT funds and \$1 billion in IDEA monies through the AB 602 formula.

The amount of AB 602 funding each SELPA receives from each source varies based on four key factors: (1) historical AB 602 per-pupil rates, (2) total ADA, (3) federal allocation formulas, and (4) historical LPT revenue allocations.
- **Somewhat Different Approach Used to Fund Charter-Only SELPAs.** The state funds the three charter-only SELPAs somewhat differently from the process described above, in that the state and federal funding formulas operate completely separate. In contrast to traditional SELPAs, how much charter SELPAs receive in federal funding pursuant to the IDEA formulas is not used as an offset in calculating how much they receive in state aid, and the blended state and federal per-pupil funding approach is never used.

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Each year, the state calculates how much state General Fund to provide to charter SELPAs based on the uniform STR of \$465 per ADA. This same STR is used as the basis for (1) adding funding if the SELPA grows in ADA, (2) providing a COLA, and (3) decreasing funding if the SELPA declines in ADA. Any federal funds the charter SELPAs receive pursuant to the IDEA formulas are in addition to this state AB 602 allocation. (Because LPT revenues are allocated based on historical county patterns and charter SELPAs are relatively new entities, they do not receive LPT revenues for special education.)

### **SUGGESTED QUESTIONS:**

1. **LAO: Expenditures & Costs.** Your overview report finds the average cost of educating a student with disabilities is more than double those of a mainstream student -- approximately \$22,300 compared to \$9,600.
  - a. What are the excess costs of special education? How have excess costs been affected by recent revenue limit and categorical reductions?
  - b. What are the “misconceptions” with excess costs you identify in your report?
  - c. While special education is not included in the Governor’s proposed Local Control Funding Formula, how will additional base and supplemental funding proposed by the Governor affect students with disabilities? How will it affect excess costs?
  
2. **LAO: Student Outcomes.** Your overview report presents state level outcome data for students with disabilities in public schools compared to other students.
  - a. How many students with disabilities are reaching proficiency or above on statewide assessments?
  - b. How many students with disabilities are passing the CAHSEE by end of 12<sup>th</sup> grade?
  - c. How many students are graduating from high school with a diploma?
  - d. How many students are transitioning to college or career activities?
  - e. What does the research suggest about improving outcomes for students with disabilities?
  
3. **LAO: State & Federal Accountability.** The LAO overview report finds that 52 percent of schools statewide met their Academic Performance Index (API) growth targets for students with disabilities compared to 67 percent for students overall in 2011-12. However, your report indicates that “these statistics exclude about half of the state’s LEAs (for AYP) and almost 90 percent of schools (for AYP and API), as their populations for students with disabilities are deemed too small to report as discrete groups for accountability calculations.” What do large “subgroup sizes” mean for students with disabilities within our state and federal accountability systems?

## ISSUE 2. Special Education – Separation of State and Federal Funding

**DESCRIPTION:** The Governor proposes to separate state and federal funding within the special education funding formula in 2013-14 in order to address some funding inequities and to make funding simpler and more transparent.

**BACKGROUND:** The current special education formula was created by AB 602 (Chapter 854, Statutes of 1997). The AB 602 formula incorporates (1) state categorical funds, (2) a relatively small amount of local property tax (LPT) revenues that flow through the state’s categorical program, and (3) federal funds authorized under the Individuals with Disabilities Education Act (IDEA).

In 2012–13, the state allocated about **\$2.9 billion** in state and LPT funds and **\$1 billion** in IDEA monies through the AB 602 formula.

Funding is allocated to 127 Special Education Local Planning Areas (SELPA). The amount of AB 602 funding each SELPA receives from each source varies based on four key factors: (1) historical AB 602 per–pupil rates, (2) total ADA, (3) federal allocation formulas, and (4) historical LPT revenue allocations. In 2011–12, the weighted statewide average per–pupil rate was **\$645 per student** (including both state and federal funds).

After receiving its allocation, each SELPA develops a local plan for how to allocate funds to the school districts and charter schools in its region based on how it has chosen to organize special education services for SWDs.

**Current Problems with the AB 602 Formula:** The LAO recent publication – Proposition 98 Analysis – identifies two major problems with the AB 602 funding formula:

**1. Modification to State Allocation Formula Has Led to Complications.** The state’s AB 602 formula originally was designed to be relatively straightforward—blending federal, LPT, and state funds interchangeably to fund a total SELPA amount. The funding calculation grew more complicated in 2005–06, however, when the state responded to changes in federal law by modifying how the formula operates in some situations. Specifically, federal law now prohibits a state from using federal funds to pay for COLAs or growth adjustments that are required by state law.

Consequently, the state now goes through a complex annual calculation for SELPAs that grow or decline in ADA from one year to the next. Specifically, the state provides a funding rate of \$465 per ADA—referred to as the “Statewide Target Rate” (STR)—to fund new SELPA ADA and to compute COLAs. The state, however, uses a SELPA’s unique blended rate (state plus federal funds, averaging roughly \$660 per ADA) to fund existing ADA and apply reductions when a SELPA declines in ADA. This discrepancy has led to a gradual “ratcheting down” of funding rates in some SELPAs. Additionally, the state made other modifications (also due to changes in federal law) that resulted in complicated calculations to ensure year–to–year increases in federal funds are treated separately from all other AB 602 adjustments.

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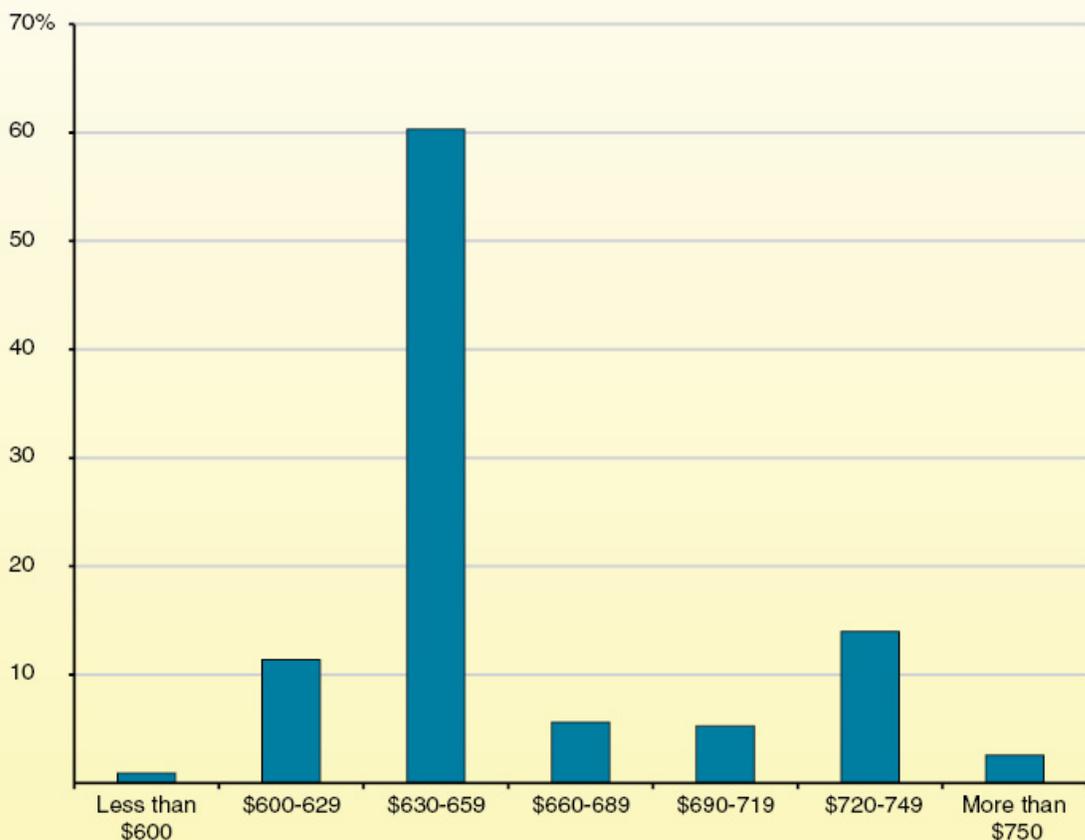
2. **AB 602 Funding Rates Vary Across SELPAs.** When the state first transitioned to the AB 602 formula in 1998–99, each SELPA’s per-pupil rate was derived based on how much it had received under the old cost-based special education funding model. Because SELPAs had structured services in varying ways—including some that hired more special education staff and opted for more costly student placements—there was some discrepancy amongst these rates.

While the state made some investments in equalizing AB 602 rates over the ensuing years, large discrepancies remain. Individual SELPA per-ADA rates range from about \$570 to about \$1,090, with a statewide weighted average rate of about \$660. As shown in the LAOP figure below, the majority of pupils—about 60 percent—attend LEAs that receive between \$630 and \$659 per ADA.

Figure 14

### Special Education Per-Pupil Funding Rates Vary

*Percent of Statewide Average Daily Attendance, 2011-12*



Source: Legislative Analyst’s Office.

## **ISSUE 2. Special Education – Separation of State and Federal Funding**

**GOVERNOR’S BUDGET PROPOSAL:** According to the Administration, the special education funding formula has become unnecessarily complicated over time with certain formula components creating funding inequities among special education local planning areas.

To address these issues, the Governor proposes to eliminate the integration of federal funds in the state’s AB 602 formula calculation and treat state and federal funding streams separately for funding purposes beginning in 2013-14. In so doing, the Governor proposes to:

- ✓ Delink state and federal funding by removing about **\$1.0 billion** in federal IDEA funds from the AB 602 formula and allocating these funds to SELPAs based upon federal formulas.
- ✓ Revise the state AB 602 funding formula to SELPAs to reflect remaining state and local property tax funds. The Governor would reduce the existing per- pupil AB 602 funding rates for SELPAs to reflect the removal of federal funds.

Per the Administration, the changes proposed by the Governor will not affect funding set aside for realignment of mental health services for special education students implemented last year. More specifically the Governor continues **\$357 million** in Proposition 98 General Fund and **\$69 million** in federal funds for this purpose in 2013-14.

In addition, the Governor’s proposal would not change funding allocations for charter school SELPAs. Instead, with the removal of federal funds from the AB 602 formula, charter and non-charter SELPAs would be treated similarly.

### **LAO COMMENTS:**

- **Proposed Change Would Make State’s Allocation Formula Simpler and More Rational.** The Governor’s proposal to fully remove federal funds from the state’s special education allocation formula would simplify a system that has grown exceedingly complicated since 2005. Modifying the state’s allocation formula in this way would create a consistent, rational funding policy for growing and declining ADA, as well as avoid complications in years when federal funds increase. Moreover, simplifying the current formulas would help policy makers and the public better understand special education funding policies. Developing such an understanding could, in turn, facilitate future efforts to assess and address needed improvements to those policies.

## ISSUE 2. Special Education – Separation of State and Federal Funding

- **Governor’s Proposal Maintains Unjustified Differences Across SELPAs’ AB 602 Funding Rates.** Through his Local Control Funding Formula (LCFF), the Governor proposes to gradually equalize general purpose and other categorical funding rates across school districts. In contrast, the Governor has no proposal to address existing differences in special education funding rates. While the proposal to remove federal funds from the AB 602 calculation would clarify each SELPA’s state funding rate, it would not make significant progress towards eliminating the disparities among those rates. No policy rationale exists for these disparities, and leaving them in place means that SELPAs with historically lower per-pupil rates receive less state funding to meet the same responsibilities as those with historically higher rates.

**LAO RECOMMENDATIONS:** The LAO recommends the Legislature build upon the Governor’s proposals, but also make a couple of additional improvements, as detailed below:

1. **Adopt Governor’s Proposal to Fully Delink State and Federal Allocation Formulas.** Because it would make the state’s special education funding approach simpler, more rational, and more understandable, the LAO recommends that the Legislature adopt the Governor’s proposal to remove federal funds from the state AB 602 formula.
2. **Provide Additional Funds to Equalize AB 602 Funding Rates in Tandem With LCFF Rates.** The LAO recommends the state adopt a plan for equalizing special education funding rates that is aligned with whatever approach it adopts for equalizing general education rates. For example, in 2013–14, the Governor proposes to provide about 10 percent of the funding needed for districts to reach their new per-pupil target rates under his proposed LCFF formula. Should the Legislature choose to adopt this approach, the LAO recommends the 2013–14 budget also provide about 10 percent of the funds necessary to equalize AB 602 rates. The LAO recommends similar alignment between general education and special education equalization efforts in future years. The LAO recommends adopting a target AB 602 rate at the level where 90 percent of ADA in the state receives the same rate --\$535. (The state has used the 90th percentile target to equalize revenue limits in the past.) The LAO estimates equalizing to this target rate would cost approximately **\$300 million**. As such, the LAO recommends that the Legislature increase special education funding by **\$30 million**—or about 10 percent of the total equalization cost—in 2013–14.
3. **Update STR to Reflect New Equalization Target.** In addition to providing funds to equalize AB 602 rates, the LAO recommends updating the State Target Rate (STR) from \$465 (which reflects an outdated statewide average rate) to \$535 (which represents the rate for the 90th percentile of ADA). Under this approach, all new SELPA ADA would be funded at \$535. (The SELPAs would continue to experience funding reductions for declines in ADA based on their unique AB 602 state rate.) This would ensure the STR operates as it was originally envisioned when the AB 602 formula was designed—to gradually increase overall per-pupil rates for SELPAs funded below the equalization target and gradually decrease overall rates for SELPAs funded above the target. In contrast, leaving the STR at \$465—as proposed by the Governor—effectively would establish a much lower equalization target.

## ISSUE 2. Special Education – Separation of State and Federal Funding

### STAFF COMMENTS:

- **Governor’s Proposal to Delink State and Federal Funds Fixes Addresses Unintended Problems in Recent Years.** Changes to the AB 602 formula needed to conform to new federal laws in 2005-06 created some new problems for SELPAs. Specifically, the bifurcation of funding for growth and cost-of-living adjustments distorted the funding rates for purposes of growing and declining SELPAs. Under the Governor’s proposal, SELPAs grow and decline reflecting state funding rates, instead of “blended” state and federal funded rates under current law.
- **Opportunity to Update STR as a Part of Delinking State and Federal Funds.** The Governor calculates the new State Target Rate by simply subtracting federal funds from SELPAs’ blended AB 602 rates. While this calculation is fairly straightforward, the resulting State Target Rate is about \$10 per ADA below the new statewide average. For growing SELPAs, this will equalize per pupil rates down to this lower State Target Rate. (Declining SELPAs would lose funding based upon their unique state funding rates.)
- **Very Small Costs Associated with Updating State Target Rate to Statewide Average.** Raising the State Target Rate of **\$465 per ADA** to the statewide average of **\$475 per ADA**, results in a \$10 per ADA increase for growing SELPAs. The Department of Education estimates additional Proposition 98 costs of **\$1.2 million** associated with this proposal. Staff recommends that this small, additional cost be covered in 2013-14 and beyond. Due to other offsetting budget adjustments, additional funding may not be required beyond currently proposed levels in 2013-14.
- **Failure to Equalize Special Education Funding Will Continue Serious Inequities for SELPAs Statewide.** AB 602 funding reforms enacted in the late 1990s commenced a process of addressing significant, historical inequities in special education funding among SELPAs statewide. Given the extent of these inequities, AB 602 set its goals on bringing all SELPAs to the statewide average funding rate at that time. Recent changes in the formula have distorted achievement of that goal. Large unjustified funding variations remain among SELPAs. Per the LAO, per-ADA funding rates for SELPAs range from about **\$570** to about **\$1,090**, with a current statewide weighted average rate of about **\$660**.
- **Special Education Equalization Consistent with Governor’s School Finance Restructuring Proposal.** The Governor’s Local Control Funding Formula (LCFF) proposes to gradually equalize state revenue limits and most state categorical funding for school districts statewide. While special education is not included in the Governor’s LCFF proposal, there is no policy or fiscal reason for leaving special education out of the equalization process. Special education is one of the state’s largest categorical programs. Historical funding disparities for SELPAs are significant in size and impact. There is no policy or fiscal reason for not addressing these inequities as a part of the Governor’s overall plan. In fact, failure to address these inequities will undermine the Governor’s goals to achieve greater equity in funding for our school finance system.

## **ISSUE 2. Special Education – Separation of State and Federal Funding**

### **STAFF RECOMMENDATIONS:**

Staff recommends the following Subcommittee actions:

1. Approve the Governor’s proposal to delink state and federal funding, but modify to establish a new State Target Rate based upon recalculation of a new statewide average rate once federal funds are removed. (This proposal could include costs of \$1.2 million; however, it is unclear at this time whether this will result in an actual increase in the Governor’s budget for special education. If so, any such appropriation can be considered by the Subcommittee at May Revise.)

Staff further recommends that the Subcommittee:

- Consider adopting the LAO’s equalization proposal as a part of the Proposition 98 package at May Revise. [Under the LAO proposal, special education funding equalization (to the 90<sup>th</sup> percentile) would be adopted and aligned with whatever approach is adopted at May Revise for equalizing general education funding rates.]

### **SUGGESTED QUESTIONS:**

1. What are the benefits of delinking state and federal special education funding within AB 602 per the Governor’s formula? Are there any negative consequences to delinking?
2. What are the costs of recalculating the AB 602 State Target Rate to reflect the updated statewide average rate after removing federal funds from the formula?
3. What are the Administration’s thoughts about recalculating the AB 602 State Target Rate under the Governor’s Proposal t?
4. What is the impact of different funding rates for SELPAs – which commonly range between \$100 and \$150 dollars per ADA? Is it correct to assume that SELPAs with 50,000 ADA could currently experience a \$5-\$7.5 million per year difference in funding due to funding rate variations?

### ISSUE 3. Special Education - Program Consolidations

**DESCRIPTION:** The Governor proposes to consolidate a number of separate special education programs in 2013-14 in order to provide greater efficiencies and improve flexibility so that funding can better meet student needs.

**BACKGROUND:** In addition to their AB 602 formula allocations, SELPAs statewide receive a total of **\$926.4 million** in funding for separate special education programs and calculations in 2012-13. Of this amount, **\$740.8 million** is currently derived from state funding and **\$185.7 million** from federal funding.

While not appropriated to SELPAs, some school districts and county offices of education receive state funding \$181.9 million through the Home-to-School Transportation program that is directed specifically to transportation for severely disabled students and orthopedically impaired students.

**GOVERNOR'S BUDGET PROPOSAL:** According to the Administration, a number of special program add-ons created over the years have resulted in both inefficiencies and a lack of flexibility at the local level. To address these issues, the Governor proposes to consolidate funding for a total of eight existing special education programs described below.

**1. Rolls Two Special Education Grants Into the AB 602 Formula.** The Governor proposes to consolidate two grants -- Program Specialists and Regionalized Services (PSRS) and Staff Development -- into the AB 602 base. The Governor's proposal would allow SELPAs -- and their member districts -- to use these funds for any special education purpose.

Per the LAO, roughly **\$90 million** in PSRS funds are currently set aside for regional SELPA activities and a **\$2.7 million** supplement for small SELPAs located in less populous areas of the state. In addition, SELPAs currently receive **\$2.5 million** specifically to conduct staff and parent training activities.

Consolidated funds would be allocated to SELPAs based upon the AB 602 ADA formula. PSRS funds are currently allocated on a per-ADA basis -- similar to AB 602. Staff development grants are currently allocated on a per-SWD basis.

**2. Consolidates Six Grants Into Three.** The Governor also proposes to consolidate six special education grants into three larger grants, as follows:

- **Combine Two WorkAbility Grants.** The proposal would consolidate two discrete grants supporting WorkAbility, a vocational education program that serves SWDs in middle and high schools. The two current programs include the WorkAbility I LEA Project currently funded at **\$29.5 million** and the WorkAbility I Vocational Education Project funded at **\$10.3 million** annually. The proposal would not alter the allowable uses or current recipients of the funds, as the two grants already are administered as one program.

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- **Combine Two Low-Incidence Disabilities Grants.** The proposal would combine two separate grants specifically directed exclusively for students with low-incidence disabilities -- equipment and materials currently funded at **\$13.4 million** and specialized services currently funded at **\$1.7 million** annually. Low incidence disabilities are defined as hearing impairments, vision impairments, and severe orthopedic impairments. The proposed change would allow SELPAs to use the combined funds on any mix of services or equipment costs, provided the funds still were targeted for students with these low incidence disabilities.
- **Merge Assessment Research Grant Into Technical Assistance Grant.** The proposal would eliminate the **\$200,000** annual grant currently dedicated to researching how best to assess students from different cultural backgrounds, and shift the funding to increase a **\$1.1 million** state grant that the California Department of Education (CDE) currently uses for California Services for Technical Assistance and Training (CalSTAT) statewide technical assistance activities. The proposal would leave it to CDE's discretion whether to require CalSTAT to dedicate a share of the funding for activities related to cross-cultural assessments, or to allow the funds to be repurposed for other activities.

#### LAO RECOMMENDATIONS:

1. The LAO recommends substantial approval of the following Governor's proposals:

- **Roll Two Stand Alone Programs into AB 602, But Continue Providing Additional Funding for Small SELPAs** The LAO believes the Governor's proposal to roll the Program Specialists and Regionalized Services (PSRS) funds (\$90 million) and Staff Development Grant funds (\$2.5 million) into the AB 602 formula is a good first step towards increasing SELPAs' flexibility.

However, the LAO recommends one modification to continue **\$2.7 million** in PSRS funding for exceptionally small, geographically isolated SELPAs that cannot take advantage of economies of scale.

Per the LAO, PSRS and Staff Development grants currently fund activities that all SELPAs must perform. As such, allocating the funds on an equal per-ADA basis and allowing SELPAs to determine how much to spend on these activities, weighed against other special education priorities, makes sense. According to the LAO, this particular component of the proposal is consistent with the Governor's overall K-12 funding approach that removes most spending requirements, including those related to staff development.

### ISSUE 3. Special Education - Program Consolidations

- **Consolidation of Statewide Activity Funds.** The Governor’s proposal to merge state Cross Cultural Assessments into a broader statewide capacity-building effort also seems reasonable to the LAO.

The 2012-13 budget provides \$4.5 million (\$3.4 million in federal funds and \$1.1 million in state funds) to provide special education–related professional development and technical assistance activities to LEAs around the state. (The CDE currently contracts with Napa County Office of Education (COE) to run these activities through the California Services for Technical Assistance and Training (CalSTAT) project.)

Under the Governor’s proposal, the \$200,000 for cross cultural would be added to these statewide technical assistance activities. As background, the LAO notes that the funding for cross-cultural assessments relates to a 1979 court case that required the state to develop methods other than intelligence quotient tests for assessing learning disabilities, particularly for African–American students.

2. LAO provides the following recommendations which build upon the Governor’s proposals:

- **Combine WorkAbility Grants into “Transition Services” Funding Supplement, Allocate to All SELPAs.** Per the LAO, the Governor’s proposed consolidation of the two WorkAbility grants into a single **\$39.8 million** grant would have virtually no effect on the existing program. Maintaining this categorical program, with its specific requirements and uneven statewide participation rates, seems counter to the restructuring approach the Governor is applying to K–12 education.

The LAO recommends adopting a more consistent approach, which would increase local flexibility and equalize funding across all SELPAs serving high school SWDs. Under this approach, the funds would be allocated based on a SELPA’s ADA in grades 9–12 and could be used to provide any transition service for SWDs in those grades. (Per the LAO, Transition services is an area where the state has been flagged by federal review as needing improvement.)

Because reallocating these funds across all SELPAs would decrease per–pupil rates compared to the existing grants, the LAO suggests that the Legislature could consider increasing funding for this new grant in the future should it wish to enable SELPAs to continue offering WorkAbility–like services.

- **Add Low-Incidence Disability ROC/P Funding to Low-Incidence Disability Block Grant.** The state currently provides funding for students with low-incidence disabilities (LIDs) to participate in ROC/Ps. The per–pupil rates are quite high (\$6,199 per visually impaired ADA, \$3,549 per deaf ADA, and \$1,964 per orthopedically impaired ADA) because these students require more intensive assistance.

### ISSUE 3. Special Education - Program Consolidations

Given all other state funding for ROC/P has been subject to categorical flexibility since 2009 and the Governor is proposing to permanently eliminate ROC/P programmatic requirements and funding, continuing to earmark funds for SWDs to participate in this specific program seems illogical.

Instead, the LAO recommends combining **\$5.3 million** in LID ROC/P funds with the **\$15.1 million** for the other two LID grants proposed for consolidation by the Governor and distributing the funds on an equal rate for each student with a LID. Under this approach, educators can dedicate the funds to the most appropriate educational program for the student—be it an ROC/P-like program, other CTE program, or other activity.

3. **Maximize Flexibility by Consolidating Additional Special Education Categorical Programs.** To empower local SELPAs with additional flexibility over how best to serve their SWDs, the LAO recommends the Legislature adopt a more expansive approach to streamlining special education funding than that proposed by the Governor. The LAO believes this approach is consistent with its recommendations—and the Governor’s proposals—for increasing local discretion over other K–12 funds. In addition to adopting the Governor’s proposed grant consolidations, the LAO recommends the following changes:

- **Add Mental Health Funding to AB 602 Base Grant.** All SELPAs are required to provide IEP-related mental health services, and the associated funding already is allocated on a per-ADA basis. As such, the LAO recommends consolidating this grant into the SELPA’s base funding would not change any SELPA’s allocation. Rather, the change would provide SELPAs with greater discretion to target special education funds for the needs of their local SWDs (whose mental health needs may change from year-to-year).
- **Combine Two Extraordinary Cost Pools (ECPs).** The state currently maintains two ECPs with similar, but distinct eligibility criteria. One ECP program covers the costs of non-public school placements in general and is funded at **\$3 million**; the other ECP program covers mental health related non-public school placements and is currently funded at **\$3 million** annually. Individual SELPAs can apply for a share of these funds if they experience exceptionally high costs associated with placing students in specialized schools. The Governor did not propose changes to this structure; however, the LAO believes streamlining the application and approval process would maximize effective use of these funds. Specifically, the LAO recommends combining the two pools and applying one uniform set of eligibility criteria.

### ISSUE 3. Special Education - Program Consolidations

#### STAFF COMMENTS:

- **Governor’s & LAO Proposals Provide Opportunity to Simplify and Equalize Special Education Funding Consistent with Governor’s General School Finance Restructuring Goals.** Historically, special education programs are inequitable and notoriously complicated. In addition, many programs are outdated and therefore have become overly restrictive. As noted by the LAO, current special education spending restrictions lead to inefficiencies and constrain SELPAs’ abilities to meet student needs.

The Governor proposals take important, initial steps to consolidate several discrete special education programs in order to equalize funding for special education and provides greater flexibility for meeting student needs. The LAO offers additional proposals which build upon the Governor’s proposals. All together, these changes start to make special education funding easier to understand and as a result could increase engagement for students and parents, educators, and state policymakers. Building more equitable and needs-based funding systems are major goals behind the Governor’s new Local Control Funding Formula – and reflected in several of the Administration and LAO proposals for special education.

- **Continuation of Set-Asides for Mental Health Funding Needed Until Transition Complete.** Heading into the third year of transition, the Governor’s 2013-14 budget continues to set-aside funding for realignment of mental health services for special education students – a major transition process that commenced in 2011-12. More specifically the Governor continues **\$357 million** in Proposition 98 General Fund and **\$69 million** in federal funds for this purpose in 2013-14. The LAO recommends consolidating these funds into the base funding for SELPAs to give SELPAs greater discretion to target special education funds based upon student needs. For example, with additional flexibility, SELPAs might be able to boost other special education and related services to prevent the need for more intensive and costly mental health services. SELPAs that invest more in early interventions may need to set-aside less funding for mental health services. However, staff believes it is important to continue set-asides for mental health services within the AB 602 formula until transition is complete.
- **Not Clear About Basis for Separate Special Education Allocation for Home-to-School Transportation Program.** Since the 1992–93 fiscal year, the Home-to-School Transportation categorical program funding has been split between general home-to-school and special education transportation. (Special education transportation is defined as transportation for severely disabled and orthopedically impaired (SD/OI) students.) All subsequent allocations of HTS funding have been based on the amount eligible districts received in 1992-93.

### **ISSUE 3. Special Education - Program Consolidations**

#### **STAFF RECOMMENDATIONS:**

Staff recommends the following Subcommittee actions:

1. Approve the Governor's proposal to add Program Specialists and Regional Services and Staff Development Grant funds into the AB 602 formula, with one modification (per the LAO) to continue a \$2.7 million set-aside for small SELPAs.
2. Approve the Governor's proposal to merge the Cross-Cultural Assessments Grant into the Statewide Training and Technical Assistance grant.
3. Approve the Governor's proposal to consolidate two WorkAbility grant programs into one funding stream.
4. Approve Governor's proposal to combine two programs for students with low-incidence disabilities.
5. Adopt LAO proposal to combine two separate extraordinary cost pools and adopt a uniform set of eligibility criteria for subsidizing high-cost student placements, with modification to assure coverage for mental health services.

Staff further recommends that:

- Staff work with DOF and CDE to consider the LAO proposal to change the combined program from a competitive grant based program to a new more flexible Transition Services funding supplement for all SELPAs based upon ADA for students in grades 9-12.
- Staff work with the DOF and CDE to further consider the LAO recommendation to add low-incidence funding for ROC/P programs into this consolidated grant at May Revise.

#### **SUGGESTED QUESTIONS:**

1. What special education transition issues have been raised as a part of recent reviews by the U.S. Department of Education?
2. How much funding within the state's Home-to-School Transportation program is set aside for students with disabilities? Why was funding separated out in the early 1990's? How many school districts and county offices receive this funding?

## **ISSUE 4. Education Mandates – Block Grant Funding**

**DESCRIPTION:** The Governor proposes an additional **\$100 million** in Proposition 98 funding in 2013-14 for the mandates block grant. The Governor would remove five mandates from the block grant and include two additional programs – Behavioral Intervention Plans and Graduation Requirements.

**BACKGROUND:** The LAO offers the following background information from its **2013-14 Budget Analysis – Proposition 98 Analysis**, which details recent mandate budget reforms for K-12 schools and community colleges. Most notably, the LAO provides a description and update of the mandate block grants created for K-14 education in the 2012-13 budget.

### **Block Grant Alternative Created Last Year**

- **Block Grant Intended to Address Some of the Problems With Reimbursement System.** To address some of the problems identified above, the Legislature and Governor created a block grant as an alternative method of reimbursing school and community college districts. Instead of submitting detailed claims listing how much time and money was spent on mandated activities, districts now can choose to receive funding through the block grant. The state included 43 mandates (and \$167 million) in the block grant for schools and 17 mandates (and \$33 million) for community colleges.
- Block grant funding is allocated to participating local educational agencies (LEAs) on a per-student basis that varies by type of LEA, as different mandates apply to each type. Charter schools receive \$14 per student, while school and community college districts receive \$28 per student. County offices of education (COEs) receive \$28 for each student they serve directly, plus an additional \$1 for each student within the county. (The \$1 add-on for COEs is intended to cover mandated costs largely associated with oversight activities, such as reviewing district budgets.) Due to concerns regarding the state's constitutional obligation to reimburse districts for mandated costs, the state also retained the existing mandates claiming process for districts not opting into the block grant.
- **Block Grant Participation Relatively High in First Year of Program.** As shown in the figure below, most school districts and COEs and virtually all charter schools and community college districts opted to participate in the block grant. These LEAs represent 86 percent of K-12 students and 96 percent of community college students. Charter schools likely opted in at such high rates because they have been deemed ineligible for mandate reimbursements through the claims process. The lower participation rate for school districts and COEs could be due to various reasons. Some might have continued claiming for reimbursements because they calculated that they could receive more money that way (because of very high claiming costs compared to others due to differences in salaries and staffing). Other districts and COEs might not have participated due to transitional issues, such as terminating contracts with companies that had been providing reimbursement services for them.

## ISSUE 4. Education Mandates – Block Grant Funding

### Most Local Educational Agencies (LEAs) Opted Into Mandates Block Grants 2012–13

	Number in Block Grant	Total	Percent in Block Grant	Corresponding ADA <sup>a</sup>
Community colleges	67	72	93%	96%
Charter schools	877	946	93	91
School districts	634	943	67	86
County offices	35	58	60	87

<sup>a</sup> Reflects average daily attendance (ADA) for K–12 LEAs. For community colleges, reflects full–time equivalent students.

- Block Grant Left Some Issues Unanswered.** Moving forward, the state left unanswered how to include new mandates in the block grant. Specifically, the state did not address at what point in the mandate determination process a new mandate would be included in the block grant. The state also did not address how much funding to provide for new mandates. (Though the block grant in 2012–13 provided levels of funding that were roughly similar to how much schools and community colleges had been claiming for the included mandates, the amounts were not directly tied to claims costs.) Additionally, the state did not address whether adjustments would be made to the block grant in the future to account for any changes in costs (such as for inflation).

**GOVERNOR’S BUDGET PROPOSAL:** The Governor proposes additional funding and statutory changes related to two education mandates outside of the K-12 mandate block grant.

- Increase Mandate Block Grant Funding.** The Governor provides an additional **\$100 million** for the K-12 Mandate Block Grant, which will increase Proposition 98 funding for the K-12 Mandate Block Grant from \$167 million in 2012-13 to \$267 million in 2013-14.

The Governor would remove five mandates from the K-12 block grant. School districts submitted approximately \$20 million in claims for these mandates in 2010-11, the latest year for which complete data is available.

The Governor proposes to include two mandate programs that were not included last year – Behavioral Intervention Plans (BIP) and Graduation Requirements.

The cost estimate recently adopted by the Commission on State Mandates places the costs of the BIP mandate at about **\$65 million** per year. As a result of these statutory modifications proposed by the Governor, the Administration estimates that BIP mandate costs would drop to about **\$7 million** annually.

## **ISSUE 4. Education Mandates – Block Grant Funding**

Per the Administration, the remaining funds would cover the costs of the Science Graduation Requirements mandate.

- 2. Modification of the Behavioral Intervention Plans Program.** The Governor also proposes to restructure the BIP program to align it with federal requirements and eliminate almost all reimbursable costs for this program. In so doing, the Governor proposes trailer bill language intended to modify the BIP mandate to continue protections for students with disabilities while eliminating most costs. More specifically, the Governor proposes language to:
  - Eliminate current regulations that require the use of specific behavior assessments and specific behavioral intervention plans.
  - Eliminate specific personnel and training requirements of current regulations
  - Continue in statute student protections currently in state regulations that prohibit specific interventions that would cause pain, discomfort, ridicule, humiliation, or trauma and that guide the use of prone containment. [Electric shock was added to the list of prohibitions.]
  - Continue in statute current regulations that guide the use of emergency interventions and emergency reports.
  - Continue language in current law that offsets any state mandate costs within special education appropriations.
  
- 3. No Changes to Science Graduation Requirement Proposed – But Governor’s Proposes Elimination of Offset Language if New Funding Formula.** The Governor does not propose any changes to modify the Graduation Requirements program requirements, as is the case for the BIP mandate.

As a part of trailer bill language for the new Local Control Funding Formula (LCFF), the Governor proposes to eliminate current statute that would be make any costs for the science graduation requirement offsetting to current revenue limits. Such language is necessary because revenue limits are eliminated and replaced by the new formula. The Governor has not offered other trailer bill language trailer bill language to replace this language if the LCFF is adopted.

## ISSUE 4. Education Mandates – Block Grant Funding

### LAO BACKGROUND

#### Graduation Requirements

**Science Courses Required to Graduate From High School.** In 1983, the state added greater specificity to high school graduation requirements, including a provision requiring two years of science (as well as three years of English, three years of social science, two years of mathematics, two years of physical education, and one year of visual or performing arts or foreign language). Though none of the other 12 high school graduation requirements became state reimbursable mandates, the Commission on State Mandates (CSM)—the quasi-judicial body that makes mandate determinations—determined the *second* year of science to be a mandate. Specifically, CSM found that district costs could increase to (1) remodel or acquire new space for additional science courses, and (2) staff and supply equipment for them. At the same time, CSM found that offsetting savings could result from reductions in non-science courses and any other funds districts receive to pay for the mandate could be applied as offsets. Based on a sample of districts, CSM estimated costs for the mandate would be a few million dollars annually.

**Several Lawsuits Over Graduation Requirements Mandate.** After districts began claiming reimbursements, the state became involved in several lawsuits over many years regarding the mandate. In one case, the courts limited the state's ability to apply offsetting savings from reductions in non-science courses by essentially requiring the state to find direct evidence that the additional science course led to a reduction in other courses. Two additional lawsuits still remain unresolved. In the first case, the state is suing CSM over the specific reimbursement methodology it adopted to calculate the costs of the mandate. The state believes the methodology adopted by CSM does not meet statutory requirements. The methodology also significantly increases state costs—both prospectively and retrospectively. In the second case, school districts are suing the state regarding whether revenue limits are an allowable offset for covering science teacher salary costs. The Legislature amended state law to require this offset a few years ago. (School districts recently amended this second lawsuit to include a charge that the schools mandate block grant itself was illegal. Given the amendment, the suit essentially restarts a process that can take several years to complete.)

**Significant Uncertainty Over Reimbursable Costs of Graduation Requirements Mandate.** Currently, districts are claiming \$265 million annually for the Graduation Requirements mandate (more than what they claim for all other mandates combined). These costs, however, are based on the reimbursement methodology that the state believes to be flawed. The costs also have not been offset with revenue limits as required under state law. (The CSM has not yet included the revenue limits offset in its reimbursement guidelines due to the pending litigation.) If the state succeeds in having the reimbursement methodology changed and the revenue limits offset applied, reimbursable claims would be significantly less than what districts are now claiming. Due to this uncertainty, the state neither included the mandate in the block grant last year nor provided any funding for reimbursement claims.

## **ISSUE 4. Education Mandates – Block Grant Funding**

### **Behavioral Intervention Plan Mandate.**

**Mandate Requires Planning and Other Activities for Certain SWDs.** In 1990, the Legislature enacted a statute directing the Superintendent of Public Instruction and the State Board of Education (SBE) to implement regulations for how districts should respond when a student with a disability exhibits behavioral problems. The SBE subsequently adopted regulations requiring (1) a “functional analysis assessment” of the student’s behavior, (2) the development of a positive BIP, (3) the development of emergency intervention procedures, and (4) a few other related activities. The regulations also prohibited certain types of interventions (such as seclusion and restraints). After these regulations were issued, CSM found these activities to be a reimbursable mandate.

**Also Significant Uncertainty Over Costs for BIP Mandate.** The BIP mandate was not included in the block grant last year nor was any money provided for reimbursement claims since districts are not yet filing for reimbursement. Though the mandate dates back over two decades, various legal challenges and settlement negotiations delayed CSM’s adoption of reimbursement guidelines until just last month. At this time, it is still unclear how much districts will claim for the mandate. Based on the reimbursement guidelines adopted by CSM, statewide claims could total \$65 million annually. The reimbursement guidelines require that these claims be offset, however, by special education funding specifically designated in state law for the BIP mandate. Enough special education funding is available to offset virtually all claims. Uncertainty regarding the offset exists, however, because the state is currently being sued in court over it as part of the same lawsuit regarding the offset for the Graduation Requirements mandate.

### **LAO ANALYSIS**

- **Block Grant Increase Could Be Significantly More or Less Than Claims for Science Course and BIP Mandates.** Given the uncertainty regarding the costs of the Graduation Requirements and BIP mandates, it is difficult to assess whether \$100 million is an appropriate amount to add to the block grant. On the one hand, if the state were to lose all the various lawsuits involving these mandates, then the claims for the two mandates combined could be over \$300 million annually. On the other hand, if the state were to prevail in court, then claims for the two mandates likely would be almost entirely offset with Proposition 98 funding. From a state perspective, this means that the block grant augmentation potentially is too large and the state might be “overpaying.” From a district perspective, this means that the block grant augmentation potentially is too small. In that case, some districts might view this as a disincentive to participate in the block grant.

## **ISSUE 4. Education Mandates – Block Grant Funding**

- **Graduation Requirements Mandate Also Raises Serious Distributional Concerns.** Because the mandates block grant is distributed on a uniform per–student basis, districts that serve different grade spans receive the same rate. For example, an elementary district receives the same \$28 per–student rate as a high school district. The Graduation Requirements mandate raises serious distributional concerns since the mandate is so costly and applies only to high schools. The LAO estimates that \$63 million of the proposed increase for the mandate would be distributed to districts for students not in high school. In effect, many districts would receive a substantial amount for a mandate that does not apply to them. These distributional issues would alter the incentives districts have to participate in the block grant (either on a continuing basis or for the first time).
- **Current Law Approach to Offset Costs Reasonable.** While we understand the Governor’s desire to address the two mandate’s costs, we think the existing offset language for both mandates already provides a reasonable approach. Notably, the state has been successful in the past using offsets for several other education and local government mandates. Moreover, in the case of BIP, CSM has already included the offset in its guidelines for reimbursements. Though CSM has not yet included the offset for Graduation Requirements, we believe a compelling case can be made to consider revenue limits an offset for this mandate for the following reasons.
- **The State Did Not Require Districts to Lengthen School Day.** When the state added specificity to high school graduation requirements in 1983, the Legislature did not believe costs would increase notably, as no change had been made to the length of the school day. Furthermore, virtually all local teacher contracts do not pay science teachers higher salaries than other teachers, such that a district could not reasonably make a claim that the second science course resulted in higher compensation costs. Though the state’s ability to automatically apply offsetting savings by assuming reductions in non–science courses has been limited by the courts, the courts noted that offsetting savings could exist.
- **Revenue Limits Pay for Teacher Salaries and Other Graduation Requirements.** Revenue limit funding is the state program most closely aligned with paying teacher compensation, with revenue limit funding covering the vast majority of teacher compensation costs. In addition, the state effectively uses revenue limit funding to cover all the other high school graduation requirements that it established at the same time as the second science course requirement. This funding is available for districts to cover costs for the second science course.

## **ISSUE 4. Education Mandates – Block Grant Funding**

- **Aligning State and Federal BIP Requirements Would Increase Flexibility and Reduce Costs.** The Governor’s proposal to better align state and federal BIP requirements has several positive features. First, the proposal recognizes that since the state enacted its BIP requirements over 20 years ago, many changes have been made to federal law that strengthen protections for all SWDs. As a result, the requirements in state law provide relatively few additional benefits. Moreover, state law is more prescriptive in terms of the types of assessments and BIPs that districts must develop, whereas federal law allows for a broader spectrum of options. At the same time, the Governor’s proposal retains a few key state requirements that offer stronger protections than federal law, such as the prohibition on using emergency interventions that involve physical discomfort. Finally, the Governor’s proposal has the advantage that it would significantly reduce the associated mandate costs.

### **LAO RECOMMENDATIONS:**

- 1. Reject Adding Graduation Requirements and BIP to the Block Grant.** While the LAO appreciates the Governor’s attempt to try to address the costs of these two mandates, the LAO recommends the Legislature reject his proposal to include them in the block grant since (1) considerable uncertainty remains regarding whether their cost will be much higher or much lower than the proposed \$100 million augmentation, and (2) funding for the second science course mandate largely would be associated with non–high school students, to whom the mandate does not apply.
- 2. Consider Strengthening Offset for Graduation Requirements Mandate.** Though the LAO thinks the existing statutory provision offsetting the costs of the science mandate is appropriate, the LAO believes the state could strengthen the language going forward. Specifically, the state could designate that first call on the future increases in per–student funding for high school students that would occur under the Governor’s proposed K–12 funding formula is for the science mandate.
- 3. Adopt Proposed Statutory Changes for BIP.** The LAO recommends the Legislature adopt the Governor’s proposal to align state BIP requirements more closely with federal requirements. This approach would provide districts with additional flexibility in addressing behavioral problems while at the same time maintain certain stronger student protections not included in federal law. Moreover, though state costs for the BIP mandate are subject to considerable uncertainty due to ongoing litigation, the proposal would reduce state costs for the mandate in the event the state loses in court.

## ISSUE 4. Education Mandates – Block Grant Funding

### STAFF COMMENTS:

- **Governor’s Intent to Continue Important Education Mandate Reforms Commendable – But Adding the Science Graduation Requirement to the Mandate Block Grant Does Not Seem Like the Way to Go.** Staff commends the Administration for their continued efforts to address two expensive mandates that are not included in the K-12 mandate block grant. Significant financing reforms – most notably mandate block grants – have been enacted in recent years. These reforms were the result of initiatives from the Administration – and considerable support from the LAO. That said, staff does not support providing an additional \$100 million to the block grant to support the Science Graduation Requirement per the Governor’s proposal. This is a controversial and expensive mandate. Per the LAO, districts are claiming **\$265 million** annually for the Graduation Requirements mandate – more than the entire amount of the current K-12 block grant. The K-12 mandate block grant is experiencing strong initial success. Staff is concerned that adding the Science Graduation Requirement mandate could undermine this success. As a result, staff recommends working with DOF and LAO on other alternatives at May Revise.
- **Commission on State Mandates Decision on BIP Mandate.** The Commission on State Mandates acted in January 2013 to adopt reimbursement guidelines for the BIP mandate. For prior-year claims only, the Commission adopted a Reasonable Reimbursement Methodology (RRM) proposed by the claimants. This RRM was based upon cost estimates from a selected sample of self-reported data from SELPAs identified by the claimants. Cost estimates from the sample included significant outlier costs – that do not appear to have been fully explained by the claimants or excluded by the calculations. Based on the RRM adopted by the Commission, statewide claims for the BIP mandate for prior years is estimated at over **\$1 billion**. While the Department of Finance raised serious questions about the representative nature of the claimant’s proposed RRM methodology and its ability to accurately represent the cost of the program, the Commission expressed concern it would be too burdensome and difficult to require districts to submit actual claims for prior years dating back to 1993. At the same time, the Commission did agree with some of the concerns expressed by the Department of Finance about the RRM. For this reason, the Commission is requiring districts to submit actual claims for current and future years.

### STAFF RECOMMENDATIONS:

Staff recommends the following Subcommittee actions:

1. Approve the Governor’s proposal to modify the BIP mandate, with changes to (1) add statute to restate the federal mandate; and (2) add legislative intent language to reflect federal statute. (Both of these revisions restore language included in AB 1476, as passed by the Senate on August 24, 2012.)

## **ISSUE 4. Education Mandates – Block Grant Funding**

2. Approve \$230,000 in one-time federal special education carryover funds to Department of Education in order to provide technical assistance and monitoring to local educational agencies related to the provision of positive behavior intervention services. (This provision was also included in AB 1476, as passed by the Senate on August 26, 2012).

Staff further recommends that the Subcommittee:

- Hold open any action on the Governor’s proposal to add \$100 million for the Behavioral Intervention Plan and Science Graduation Requirements mandates. Direct staff to work with DOF and LAO on alternative options to address funding for these two mandates. Staff recommends that any action on these items be taken at May Revise as part of the overall Proposition 98 package.
- Consider the LAO recommendation to strengthen the offsetting language in current law for the Science Graduation Requirement and align any changes to reflect decisions on the K-12 school finance structure at May Revise.
- Direct staff to work with local government budget staff, DOF and LAO to explore options for strengthening statutes guiding the utilization of Reasonable Reimbursement Methodology by the Commission on State Mandates.

### **SUGGESTED QUESTIONS:**

1. DOF: Does the Administration have concerns that adding the Graduation Mandate to the block grant – without knowing if it is a mandate and not knowing the costs – could undermine the success of the block grant?
2. CDE: Can the Department provide an update on school district and charter school participation rates in the mandate block grant?
3. DOF: Has the Administration requested that the Commission on State Mandates reconsider the Open Meetings Act mandate to reflect changes in Proposition 30? When does DOF plan to make this request?

## ISSUE 5. Education Mandates – New and Suspended Mandates

**DESCRIPTION:** The Governor proposes to suspend six additional education mandates – to conform to the approach taken on these mandates for local governments. Most of these mandates apply to both K-12 schools and community colleges. The Governor also proposes to provide reimbursement claims for one additional K-12 education mandate in the budget.

### BACKGROUND:

The 2013-14 budget bill - as proposed by the Governor - includes the following items for funding K-14 education mandates.

Agency/Item	Purpose	Dollar Amount
<b>K-12 Education</b>		
6110-295-0001	List of 41 education mandates and appropriation for reimbursements claims for activities performed in 2011-12	\$ 41,000
6110-296-0001	Mandate Block Grant for activities performed in 2013-14	266,609,000*
6110-403	List of mandates suspended in 2013-14	NA
<b>Community Colleges</b>		
6870-295-0001	List of 18 education mandates and appropriation for reimbursements claims for activities performed in 2011-12	17,000
6870-296-0001	Mandate Block Grant for activities performed in 2013-14	33,338,000
6870-296-0001	List of mandates suspended in 2013-14	NA

\*Includes an \$100 million augmentation to the Mandate Block Grant.

In addition, the Governor proposes trailer bill language to amend Government Code sections related to mandate block grants and mandate suspensions as they related to his budget proposals.

### GOVERNOR'S BUDGET PROPOSALS

**1. Suspends Six Additional Mandates.** The Governor's budget continues to suspend the same education mandates in 2013–14 that were suspended in 2012–13. The Governor further proposes to suspend six additional education mandates in 2013-14, to conform to the approach taken on these mandates for local governments. Five of these six mandates apply to K-12 schools and community colleges, and one mandate applies only to the community colleges, as listed below:

## ISSUE 5. Education Mandates – New and Suspended Mandates

### K-14 Education:

- **Absentee Ballots.** Requires that absentee ballots be provided to any eligible voter upon request.
- **Brendon Maguire Act.** Requires a special election (or the reopening of nomination filings) when a candidate for office dies within a specified time prior to an election.
- **California Public Records Act.** Requires the disclosure of agency records to the public upon request. Also requires agencies to assist the public with their requests.
- **Mandate Reimbursement Process I and II:** Requires reimbursement for the costs of (1) filing initial mandate test claims, if found to be a mandate, and (2) filing annual mandate reimbursement claims.
- **Open Meetings/Brown Act Reform.** Requires local governing boards to post meeting agendas and perform other activities related to board meetings.

### Community Colleges:

- **Sex Offenders: Disclosure by Law Enforcement Officers.** Requires law enforcement to obtain, maintain, and verify certain specific information about sex offenders.
2. **Includes Funding for Claims for New K-12 Pupil Suspension/Expulsion Mandate.** The Governor recognizes a new K-12 mandate related to pupil suspensions and expulsions in the 2013-13 budget. More specifically, the Governor adds this mandate to the budget bill item that lists of mandates eligible to receive funding for mandate reimbursement claims. However, the Governor does not propose to add this mandate to the block grant related to the mandate.

This mandate relates to an existing mandate requiring districts to suspend or expel students for committing certain offenses. The reimbursable costs are largely attributable to expulsion and suspension hearings, including appeals. The new mandate pertains largely to offenses not included within the purview of the original mandate. For example, the new mandate includes the requirement that a school board expel a student who brandishes a knife at another person.

## ISSUE 5. Education Mandates – New and Suspended Mandates

### LAO RECOMMENDATIONS.

#### 1. Mixed Approach on Mandate Suspensions.

- ✓ The LAO recommends conforming to the approach taken by the local government subcommittee on four of the six education mandates recommended for suspension by the Governor given their similarity to corresponding local government mandates. These four mandates include: three K-14 education mandates -- Absentee Ballots, Brendon Maguire Act, Public Records Act -- and one community college mandate -- Sex Offenders: Disclosure by Law Enforcement Officers.

The LAO recommends suspending the Mandate Reimbursement Process is that it would also provide an additional incentive for school districts and community colleges to participate in the block grant.

- ✓ The LAO recommends rejecting the Governor's proposal to suspend the Open Meetings/Brown Act Reform mandate, but recommends adopting a proposal to remove it from the block grant, given the changes made by Proposition 30 that eliminated the state's reimbursement obligation for this mandate.

2. **Recast the Public Records Act Mandate (CPRA).** The LAO recommends the Legislature recast the CPRA mandate provisions as optional best practices—eliminating the state's responsibility to reimburse school districts, community college districts, and local governments for these activities. Under the LAO approach, each year a local government would be required to either: (1) comply with the best practices or (2) announce at its first regularly scheduled public meeting that the local government will not meet the best practices. Per the LAO, this approach would facilitate discussions between local government officials and residents about the costs and benefits of improved public access to local government records.

3. **Place New Pupil Suspension/Expulsions Mandate in School Block Grant.** The LAO recommends that the Legislature place the new mandate in the block grant – instead of adding it to the funded mandates list per the Governor-- since the mandate is intended to protect public safety. This action is consistent with last year when the Legislature placed the similar existing mandate in the block grant.

## ISSUE 5. Education Mandates – New and Suspended Mandates

### STAFF COMMENTS:

- **Should New Pupil Suspensions/Expulsions Be Included in Mandate Block Grant Instead?** The mandate relates to pupil safety, which provides strong justification for retaining as a state-mandated activity. The Governor proposes to fund this mandate through the regular claims reimbursement process. The mandate is closely related to an existing mandate that has been active for many years and was included in the block grant last year; however the Governor does not propose to add this to the block grant. The Commission on State Mandates estimates that this mandate will cost a little over **\$1 million** annually.
- **California Public Records Act (CPRA) Mandate.** The Governor proposes to suspend this mandate for local governments and K-14 education agencies. The LAO recommends to recast this mandate – making it optional best practice – for local governments and K-14 agencies. Staff does not support either of these recommendations – since the mandate provides access to public documents. Additionally, since the Commission on State Mandates has not yet issued a statewide cost estimate, the annual state cost of funding the CPRA mandate is uncertain. It may be premature to address this mandate in the budget this year.

### STAFF RECOMMENDATIONS:

Staff recommends the following Subcommittee actions:

1. Suspend four mandates proposed by the Governor that have also been suspended for local government agencies, including three K-14 education mandates and one community college mandate as follows:
  - Absentee Ballots (K-14)
  - Brendon Maguire Act (K-14)
  - Mandate Reimbursements I & II (K-14)
  - Sex Offenders: Disclosure by Law Enforcement Officers (Community Colleges)
2. Reject the Governor's proposal to suspend the Open Meeting/Brown Act Reform mandate for K-14 education – as recommended by the LAO -- since Proposition 30 eliminated the state's reimbursement obligation for school districts and other local agencies.

Staff further recommends that the Subcommittee:

- Hold open action on the Governor's proposal to suspend the Public Records Act mandate for K-14 education. Direct staff to work with DOF on alternatives to suspension. This new mandate is not suspended for local government agencies in 2012-13.
- Hold open action on Governor's proposal to add new Pupil Suspension/Expulsion mandate to budget. Direct staff to work with DOF and LAO to develop funding options.

## **ISSUE 5. Education Mandates – New and Suspended Mandates**

### **SUGGESTED QUESTIONS:**

1. DOF: What guidelines is the Administration using for handling new mandates under the new block grant system?
2. DOF: How is the Administration deciding which new mandates should be added to the block grant and/or which should be subject to the traditional claims reimbursement process?
3. DOF/LAO: How many new K-14 education mandates are in the Commission of State Mandates pipeline? Is there any preliminary evidence that the new mandate block grant is slowing demand?

## ISSUE 6. Charter Schools – LAO Update

**DESCRIPTION:** The LAO will provide some basic information on charter schools and funding in California, as background for the evaluating the Governor’s charter school budget proposals on the Subcommittee hearing agenda today. In so doing, the LAO will highlight finding from their January 2012 entitled *Comparing Funding for Charter Schools and Their School District Peers*.

### GENERAL BACKGROUND:

Under current law, charter schools are public schools – covering any combination of grades Kindergarten through 12 – that are initiated by parents, teachers, or community members through a charter petition, which is typically presented to and approved by a local school district governing board.

Current law also grants chartering authority to county boards of education and to the State Board of Education under certain circumstances, such as the appeal of a petition’s denial by a school district governing board or the direct approval of countywide benefit or statewide benefit charter schools.

The specific goals and operating procedures for a charter school are detailed in the “charter” agreement between the authorizing entity and the school’s organizers. While charter schools are free from many of the state statutes and regulations that apply to school districts, they are subject to the following conditions, as identified by the California Department of Education (CDE):

- An existing private school may not be converted to a charter school.
- A charter school must be nonsectarian.
- A charter school may not discriminate, nor can it charge tuition.
- No pupil can be required to attend a charter school, nor can teachers be required to work in a charter school.
- A charter school must have highly qualified, credentialed teachers in all core subjects.
- Charter schools must admit all students who wish to attend the school; however, if the number of students exceeds the school's capacity, attendance shall be determined by a public random drawing. Certain attendance preferences are available under state law.

According to CDE, there are currently about **1,054 charter schools** and **8 all-charter districts** operating in California. As reflected by the following table, charter schools have been growing by about 100 schools annually over the last couple of years. Nearly **470,718 pupils** now attend charter schools, which equates to about **7.57 percent** of the public school pupil population statewide.

**ISSUE 6. Charter Schools – LAO Update**

	2010-11		2011-12		2012-13	
	Number	Funded ADA**	Number	Funded ADA**	Numbers	Funded ADA**
<b>Charter Schools</b>	902	343,070	975	393,732	1,054	448,937
<b>Charter Districts*</b>	8	6,992	8	7,032	8	7,173
<b>TOTAL, Charters</b>	<b>910</b>	<b>350,062</b>	<b>983</b>	<b>400,754</b>	<b>1,062</b>	<b>456,110</b>

\*Charter district average daily attendance (ADA) included both block grant and revenue limit ADA.

\*\*Numbers are from principal apportionment system and may not exactly match other sources.

As last reported, CDE identifies the following characteristics for individual charter schools statewide:

- Approximately **82.5 percent** are **start-up schools**, and the remainder are conversions of pre-existing public schools.
- Approximately **77.4 percent** are **classroom-based or site-based**, and the remainder are either partially or exclusively non-classroom based (independent study).
- Approximately **70 percent** are **directly funded** (i.e., have a separate account in the county treasury), and the remaining 30 percent are locally funded (i.e., are included in the budget of the chartering authority).

**BACKGROUND:** There are several state and federal resources that help charter schools obtain school facilities, which are listed below. **Some of these programs are the subject of proposals included later in this agenda.** These programs use different approaches to assist charter schools with their facility needs, including loan, grants, and statutory requirements.

**State Programs.**

**Charter School Revolving Loan Fund.** The Charter School Revolving Loan Fund (CSRLF), established in statute and created in the State Treasury, provides low-interest loans of up to **\$250,000** to new, non-conversion charter schools to provide startup and initial operating capital to assist schools in establishing charter school operations. Specifically, the loan helps meet the objectives established in a school's charter, such as leasing facilities, making necessary improvements to facilities, purchasing instructional materials and equipment, and expanding programs.

SB 1759, Chapter 586, Statutes of 2000, established the **Charter School Security Fund (CSSF)** to deposit interest payments on loans made to charter schools from the CSRLF. Funds deposited into the CSSF are made available to the CSRLF to cover defaulted loans. The law requires the DOF to monitor the adequacy of the fund and report annually to the Legislature on the need, if any, to adjust the terms of the CSRLF and the Security Fund.

## ISSUE 6. Charter Schools – LAO Update

**Charter School Facility Grant Program.** The Charter School Facility Grant Program was established by SB 740, (Chapter 892; Statutes of 2001) as a non-competitive grant program that provides assistance with facilities rent and lease expenditures for charter schools that meet specific eligibility criteria. The program is targeted to schools and communities with high proportions of economically disadvantaged students. Eligible applicants must have at least 70 percent of students enrolled at the charter school who are eligible for free or reduced-price meals or the charter school must be physically located in an elementary school attendance area where at least 70 percent of students enrolled are eligible for free or reduced-price meals. The charter school must also give a preference in admissions to students who reside in the elementary school attendance area. Eligible charter schools are funded \$750 per unit of classroom-based average daily attends, up to 75 percent of its annual facilities rent and lease costs for the school.

**Proposition 39.** Proposition 39, which passed in November 2000 and went into effect in 2003, requires school districts to provide to each charter school having a projected average daily attendance of at least 80 or more students from that district with **"facilities sufficient to accommodate the charter school's needs."** Districts can provide charter schools with existing facilities; use discretionary funds; or use other revenues, such as local school bonds, to satisfy this requirement. The school district may charge the charter school a pro rata share of the district's facilities costs which are paid with unrestricted general fund revenues, based upon the ratio of space the charter school uses divided by the total space of the district.

**Charter School Facilities Program (Bond Program).** In 2002, AB 14 created the Charter School Facilities Program (CSFP). This program is jointly administered by the California School Finance Authority (CSFA) and Office of Public School Construction (OPSC). Through the passage of Propositions 47, 55 and 1D, **\$900 million** has been made available for the new construction of charter school facilities or the rehabilitation of existing school district facilities for charter schools that provide site based instruction. The CSFP funds 50 percent of project costs as a grant, and the charter school is responsible for paying the 50 percent balance either through a lump sum payment or through payments due on a long-term lease obligation. The school district in which the project is located retains ownership of the project for the benefit of the public education system. To qualify for funding, a charter school must be deemed financially sound by the CSFA.

## ISSUE 6. Charter Schools – LAO Update

### Federal Programs

**State Charter School Facilities Incentive Grants Program.** This is a federal program administered by CSFA through the State Treasurers Office. The program provides two five-year funding rounds of **\$49.3 million and \$46.1 million**, respectively, to assist California charter schools in meeting their facility needs. Charter schools may apply for this program along with the Charter School Facility Grant program; however, charter schools that receive grant funds authorized under either of those two programs may not receive funding in excess of 75 percent of annual lease costs through either program, or in combination with either program, for any one school year. Charters must meet a number of criteria including: being in good standing with the charter authorizer; have provided at least one school year of instruction; and provide at least eighty percent of the instructional time at the school site with an average daily attendance rate of at least eighty percent based on the school’s most recent state attendance reports.

**Qualified School Construction Bonds.** This federal program allows charter schools to issue tax-advantaged bonds. The program, which is administered by CSFA, was first established under the federal ARRA program.

**Credit Enhancement Program.** This federal program increases credit-worthiness by making debt payments if a school defaults. The program is administered by CSFA.

**Public Charter School Grant Program (PCSGP).** This federal program – administered by the Department of Education -- provides start up and dissemination grants to new charter schools. More specifically, the federal program provides both planning and implementation grants and dissemination grants of up to \$575,000 for new charter schools. Dissemination grants provide funding to allow disseminate best practices likely to significantly improve academic achievement in California's K-12 public education system. Grants are intended to provide startup and initial operating capital to assist schools in establishing high quality, high performing charter school operations.

**STAFF COMMENTS:** This is an informational item. While the remaining Subcommittee agenda today covers a number of individual charter school issues proposed by the Governor, staff notes that the Governor’s major school finance restructuring proposal – the Local Control Funding Formula – includes charter schools in substantial, new ways. In addition, the new K-12 Mandate Block Grant – established in the current year – also benefits charter schools.

## **ISSUE 6. Charter Schools – LAO Update**

### **SUGGESTED QUESTIONS:**

1. DOF/LAO: What are the benefits of the Governor's proposed Local Control Funding Formula for charter schools? How do these benefits compare to the benefits from the Governor's other charter school budget proposals that will be discussed in the agenda today?
2. LAO: What funding disparities were identified by your report on charter schools and students?
3. DOF/LAO: How does the K-12 Mandate Block Grant change funding access for charter schools?
4. LAO/LAO: Have charter schools been able to access school facility bond funds?

<b>ISSUE 7. Charter Schools -- Education Funding for Non-Classroom Based Instruction</b>
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**DESCRIPTION:** The Governor proposes trailer bill language to revise the current law funding determination process for non-classroom-based instruction to streamline the process. Specifically, the Governor’s proposal limits the determination process to the first and third year of a charter school’s operation.

**BACKGROUND:** Current law regulates the provision of funding to charter schools that provide instruction in non-classroom based settings.

**Non Classroom Based Instruction Defined.** Under current law, non-classroom based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based instruction.

Non-classroom based schools differ from traditional schools in that they generally deliver instruction outside the confines of the classroom setting. Non-classroom based instruction may encompass homeschooling and various forms of independent study, including computer-based instruction using software modules and teacher-directed distance learning. Non-classroom based schools tend to serve somewhat different students from those found in other schools—that is, students seeking personalized instruction and a pace tailored to their needs.

**Number of Non-Classroom Based Schools.** According to the California Department of Education (CDE), most of the more than 1,062 charter schools receive full funding -- 100 percent of pupil average daily attendance (ADA). However, through a “determination” process administered by CDE and the State Board of Education, a limited number of charter schools statewide receive less than full funding based due to exclusions of their non-classroom based ADA. Per CDE, a total of 210 charter schools were operating under funding “determinations”. These schools are referred to as non-classroom based schools and are either partially or exclusively non-classroom based (independent study) settings.

Of the 210 non-classroom based charter schools, only 11 schools receive less than full funding, as indicated in the table below, and most student ADA for non-classroom based charter schools is funded. An estimated 114,986 student ADA (97.6 percent) for non-classroom based charter schools is being funded in 2012-13; only 2,795 student ADA (2.4 percent) is not being funded.

	2010-11	2011-12	2012-13
<b>Non-Classroom Based Charter Schools – Funded &amp; Non-Funded ADA</b>	Student ADA	Student ADA	Student ADA
<b>Reported ADA</b>	--	<b>109,989</b>	<b>114,986</b>
<b>Funded ADA</b>	--	<b>107,090</b>	<b>112,191</b>
<b>ADA Not Funded</b>	<b>2,781</b>	<b>2,899</b>	<b>2,795</b>
<i>Number of non-classroom based schools</i>	<i>213</i>	<i>216</i>	<i>210</i>
<i>Schools funded at 100 percent</i>	<i>200</i>	<i>205</i>	<i>199</i>
<i>Schools funded at less than 100 percent</i>	<i>13</i>	<i>11</i>	<i>11</i>

## **ISSUE 7. Charter Schools -- Education Funding for Non-Classroom Based Instruction**

In 2011-12, a total of 79 non-classroom based charter schools applied for 100 percent funding per CDE. All but two charter schools were approved for full funding, and the remaining two charter schools are still under review by the State Board.

**SB 740 Determination Process.** As enacted, SB 740 (Chapter 892; Statutes of 2001) strengthened state oversight of non-classroom based charter schools and implemented state funding reductions for schools failing to meet specific standards. In order for a charter school to receive 100 percent ADA funding the school must meet the following conditions:

- Ensure the charter school's pupils are engaged in educational activities required of those pupils, and the pupils are under the immediate supervision and control of an employee of the charter school who is authorized to provide instruction to the pupils.
- Provide at least 80 percent of the instructional time at the school site.
- The charter school-site must be a facility that is used principally for classroom instruction.
- The charter school requires its pupils to be in attendance at the school site at least 80 percent of the minimum instructional time required for pupils.

**GOVERNOR'S BUDGET PROPOSAL:** The Governor proposes trailer bill language to modify the annual funding determination process for non-classroom-based instruction by limiting it to the first and third years of operation for charter schools that maintain specific minimum standards. Thereafter, charter schools would not be required to submit further funding determinations unless one of the following conditions exists:

1. The charter school receives a notice to cure for financial issues.
2. The charter school receives an intent to revoke the charter.
3. The charter school receives an apportionment significant audit exception.
4. The charter school initiates a request for an additional funding determination for the purpose of seeking a change to its current funding level.

Under current law and regulations, most non-classroom based charter schools are required to submit funding determinations to the State Board of Education every two years. (Non-classroom based charter schools with an Academic Performance Index rank of 6 or higher are required to submit funding determinations every five years.)

According to the Administration, this change will reduce workload for staff at the California Department of Education, State Board of Education, charter schools and charter authorizers. In addition, the Administration believes this change will equalize funding disparities between charter schools that offer non-classroom-based instruction and school districts that offer independent study instruction.

## ISSUE 7. Charter Schools -- Education Funding for Non-Classroom Based Instruction

### LAO COMMENTS & RECOMMENDATIONS:

- **Reject Governor’s Proposal.** The Governor’s proposal would continue a process for charter schools during their initial years of operation that includes restrictions on programmatic flexibility, penalties for small changes in spending, and unclear effects of mitigating circumstances. Moreover, charter schools in operation more than three years would receive little oversight, even if the charter school changed its structure or enrollment significantly. For these reasons, the LAO recommends rejecting the Governor’s proposal.
  
- **Refine Funding Determination Process.** The LAO recommends that the Legislature continue to use a funding determination process but make several changes. Specifically, the LAO recommends that the Legislature:
  - ✓ Eliminate the requirement that at least 40 percent of state and federal revenue be spent on certificated staff salary and benefits. Also eliminate the student-teacher ratio requirement.
  - ✓ Retain the existing requirement for spending on instruction and related services.
  - ✓ Provide general guidelines for the types of mitigating circumstances that would be accepted by SBE, such as unanticipated non-instructional costs, major one-time costs for technology or infrastructure, and funds set aside to protect the school from possible midyear budget reductions. Specify how those circumstances would affect the calculations used to determine the charter school’s funding level.
  - ✓ Establish graduated funding reductions, such that a charter’s funding reduction is proportional to the extent the spending threshold is missed.
  - ✓ Retain the requirements that schools receive a new funding determination every two to five years.

Given that most aspects of the funding determination process are contained in SBE regulations, the LAO recommends further that the Legislature change state law and direct SBE to adopt new conforming regulations.

**STAFF RECOMMENDATION:** Staff recommends that the Subcommittee hold this issue open for further evaluation and to consider the LAO alternative.

### SUGGESTED QUESTIONS:

1. DOF: What are the problems with the current determination process that the Administration is trying to address or streamline?

<b>ISSUE 7. Charter Schools -- Education Funding for Non-Classroom Based Instruction</b>
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2. DOF: To his credit, the Governor has developed an alternative to complete elimination of the funding determination process proposed last year. Does the Administration have any concerns about the loss of less frequent determinations?
3. DOF: The Administration believes the Governor's proposal will equalize funding disparities between charter schools that offer non-classroom-based instruction and school districts that offer independent study instruction. Can the Administration provide more detail about this comparison?
4. DOF: What are the costs of providing full funding to about eleven charter schools not receiving full funding, per the Governor's proposal?
5. CDE: What is the audit process for non-classroom based charter schools approved for funding? How often are these charter schools audited?
6. CDE: What are the Department's thoughts about the Governor's proposal and LAO alternative?

## **ISSUE 8. Charter Schools – Charter School Facilities Grant Program**

**DESCRIPTION:** The Governor proposes several changes to the Charter School Facilities Grant program beginning in 2013-14. First, the Governor proposes to transfer administration of the program from the Department of Education to the California School Finance Authority, with the State Treasurer's Office. Second, the Governor proposes to expand program eligibility to charter schools with non-classroom-based instruction, instead of limiting funding to classroom-based instruction. Last, the Governor proposes to make changes to expedite program funding payments to charter schools.

**BACKGROUND:** The Charter School Facility Grant Program was established by SB 740, (Chapter 892; Statutes of 2001) as a non-competitive grant program to provide assistance with facilities rent and lease expenditures for charter schools that meet specific eligibility criteria.

Specifically, the Charter School Facility Grant Program is targeted to schools and communities with high proportions of economically disadvantaged students. Eligible applicants must have at least 70 percent of students enrolled at the charter school who are eligible for free or reduced-price meals or the charter school must be physically located in an elementary school attendance area where at least 70 percent of students enrolled are eligible for free or reduced-price meals. The charter school must also give a preference in admissions to students who reside in the elementary school attendance area.

The charter schools are funded at \$750 per unit of classroom-based average daily attendance or up to 75 percent of its annual facilities rent and lease costs for the school, whichever is lower. Under current law, if funds appropriated in the budget are insufficient to fully fund these amounts, the Department of Education shall apportion available funds on a pro-rata basis.

Historically, the program was structured to reimburse eligible charter schools for their prior year facilities rent and lease expenditures. In 2009-10, the program was converted from a reimbursement-based to a grant-based program.

**Funding History.** The enacting legislation stated the Legislature's intent to appropriate \$10 million for the program for three years -- 2001-02, 2002-03, and 2003-04. However, funding for the program was extended annually through the budget act after the three year time limit.

Funds for this program increased substantially with the transfer of funds from the phase out of the Multi-track Year-Round Education (MTYRE) Operational Grant Program. Chapter 271 (2008) required all funds appropriated for the MTYRE program in 2007-08 – a total of \$97 million -- to be transferred to the Charter School Facility Grant Program a rate of 20 percent each year. The 2012-13 budget makes the final transfer payment of \$15 million from MTYRE program to the Charter School Facility Grant program

Beginning in 2008-09, the Charter School Facility Grant Program was subject to across-the-board categorical reductions for most state categorical programs. Under current law, these reductions will remain in place through 2014-15 – a total of seven years.

## **ISSUE 8. Charter Schools – Charter School Facilities Grant Program**

With the final MTYRE funding transfer, total funding for the Charter School Facility Grant program grew to **\$114.8 million** in 2012-13. However, due to across-the-board reductions currently in place for most categorical programs, the 2012-13 budget appropriates a total of **\$92.0 million** for the Charter School Facility Grant program.

**GOVERNOR’S BUDGET PROPOSALS:** According to the Governor’s proposed changes to the Charter School Facilities Grant program are intended to equalize funding disparities between charter schools that offer non-classroom based instruction and school districts that offer independent study instruction, as well as provide much needed cash flow relief to charter schools through the earlier apportionment schedule, as follows:

- 1. Program Transfer.** The Governor proposes to transfer **\$92.0 million** in Proposition 98 funding from the Department of Education for the California School Finance Authority to reflect the program shift. Trailer bill language specifies that this amount shall be considered the base level of funding for the program in subsequent fiscal years.

In addition, the Governor proposes to shift **\$175,000** in General Fund (Non-98) and **2.0 positions** from CDE to CSFA to support the program transfer in 2013-14 and beyond. However, it should be noted these state operations funds and positions are also intended to cover the shift of the Charter School Revolving Loan Fund program from CDE to CSFA, also proposed by the Governor. (See Agenda Issue #9.)

- 2. Coverage for Non-Classroom Based Instruction.** The Governor’s budget proposes trailer bill language to repeal provisions of current law which prohibit Charter School Facility Grant funding for units of average daily attendance (ADA) generated through non-classroom based instruction. Instead, proposed language disallows apportionments for “non-instructional facilities operated by non-classroom based charter schools”, but allows apportionments for “portions of a charter school's facilities that are used to provide direct instruction and instructional support to pupils enrolled in the school”.
- 3. Apportionment Schedule.** The Governor proposes trailer bill language to require the CSFA to apportion CSFG funding by August 31, of each fiscal year or 30 days after the enactment of the annual budget act, whichever is later. Current law requires CDE to apportion funding by October 1<sup>st</sup> of each fiscal year.

The Governor's proposal further requires that August apportionments be based upon prior year data on pupil eligibility for free and reduced price meals for the schoolsite and prior year rent or lease costs provided by the charter school to determine eligibility for the grant program until current year data or actual rent or lease costs become known or until June 30 of each fiscal year.

## **ISSUE 8. Charter Schools – Charter School Facilities Grant Program**

If this data is not available, the Governor’s language directs CSFA to use estimates provided by the charter school so the total rent and lease costs do not exceed the school’s total advanced apportionment funding.

The Governor proposes these changes to expedite the apportionment schedule for the CSFG program to address delays in payments to charter schools

### **LAO COMMENTS & RECOMMENDATIONS:**

- **Program Transfer.** The LAO recommends support of the Governor’s proposal.
- **Program Payments Schedule.** The LAO recommends support of the Governor’s proposal.
- **Non-Classroom ADA.** The LAO suggests that the Legislature consider an alternative mechanism for expanding the facility grant program to include non-classroom based charter schools. The LAO will provide additional detail on their recommendation at the hearing.

### **RECENT LEGISLATION:**

- **SB 645 (Simitian). 2011-12 Session.** This 2011 measure addressed a number of charter school issues, including authorizing Charter School Facility Grant program funds to be apportioned to charter schools providing non-classroom based instruction, if the charter school operates facilities that provide direct instruction/support to pupils enrolled at the school and meets all of the other existing eligibility requirements. **Status:** Held in Assembly Appropriations.
- **Transfer of Grant Program to CSFA Appears Reasonable – If Parties Are Amenable.**

### **STAFF COMMENTS:**

- **More Information is Needed on Costs of Existing Program.**
- **More Information is Needed on the Impact of Expanding CSFG Eligibility to Non-Classroom Based Charter Schools.** How many new schools will be eligible? How much additional ADA will result? What are the costs.

### **STAFF RECOMMENDATIONS:**

Staff recommends the following actions:

1. Approve Governor’s proposal to transfer the Charter Schools Facilities Grant program to the California School Finance Authority.

## **ISSUE 8. Charter Schools – Charter School Facilities Grant Program**

2. Approve Governor’s proposal to transfer 2.0 positions and funding from the Department of Education to the California School Finance Authority to support the transfer of the Charter School Facilities Grant program. Staff will work with DOF, LAO, CDE and CSFA to determine if any staffing adjustments are needed at May Revise.
3. Approve the Governor’s proposal to expedite the payment schedule for the Charter Schools Facilities Grant program, with modification recommended by LAO to specify full, annual payment schedule in statute.
4. Hold open the Governor’s proposal on non-classroom based instruction open until May Revise in order to further evaluate the costs of the proposal and available funding, and to explore LAO recommendations more fully.

### **SUGGESTED QUESTIONS:**

1. DOF: Given the nature of non-classroom ADA – which presumably does not require school facilities - why is there a need to provide additional facilities funding for these pupils?
2. CDE: What is the current annual cost of the Charter School Facility Grant Program and how does it compare to the amount of funding appropriated for the program?
3. DOF: What are the costs of adding non-classroom ADA to the Charter School Facility Grant program per the Governor’s proposal? Will additional costs be covered within current appropriation levels?
4. DOF: What will the impact of ADA expansion be for charter schools currently served by the program?
5. CDE: Please describe the apportionment schedule for the Charter School Facility Grant program and indicate how it compares to allocations for most other school programs.
6. CDE/CSFA: Is the Governor’s proposal to make first grant payments by August 31<sup>st</sup> each year achievable for all charter schools, including schools new to the program?

## **ISSUE 9. Charter Schools -- Charter School Revolving Loan Program**

**DESCRIPTION:** The Governor proposes to shift administration of the Charter School Revolving Loan Fund program from the California Department of Education to the California School Finance Authority in the State Treasurer's Office beginning in 2013-14.

**BACKGROUND:** The Charter School Revolving Loan Fund (CSRLF), as established in statute and created in the State Treasury. The CSRLF is comprised of federal funds obtained by the state for charter schools, interest from loans issued to charter schools, and any other funds appropriated or transferred to the fund through the annual budget process. Statute also establishes the Charter School Security Fund (CSSF), which consists of revenue from interest payments on loans

**Administration of Loan Program.** The CSRLF program is administered by the California Department of Education (CDE). As such, CDE is authorized to provide loans to non-conversion charter schools of up to \$250,000 – over the lifetime of the charter school -- to provide startup and initial operating capital in order to assist schools in establishing charter school operations. Loans shall be used only to meet the purposes of the charter grant. Priority for loans is given to new, non-conversion charter schools. Typically loans cover costs associated with leasing facilities, making necessary facility improvements, purchasing instructional materials and equipment, and expanding programs.

CDE may consider the following when determining whether to approve a school's loan application:

- soundness of the charter school's financial business plans;
- availability of other sources of funding for the charter school;
- geographic distribution of loans made from the Charter School Revolving Loan Fund;
- impact that receipt of these funds will have on the charter school's receipt of other private and public financing;
- plans for creative uses of the funds received, such as loan guarantees or other types of credit enhancements;
- financial needs of the charter school; and,
- start-up costs for new charter schools, which is a priority for loans.

**Loan Terms:** CSRLF loans must be repaid within five years, beginning with the first fiscal year after receipt of the loan. Loans shall be made at the interest rate earned by the money in the Pooled Money Investment Account (PMIA) as of the date of disbursement of the funds to the charter school. In the case of default of a loan made directly to a charter school, the charter school is liable for repayment of the loan.

**Loan Requests & Criteria:** A loan request must be submitted by the school district or county office of education that authorized the charter jointly with the charter school or a charter school directly if the charter school is incorporated (charter schools that are incorporated have the option to apply directly or jointly with the chartering entity).

## **ISSUE 9. Charter Schools -- Charter School Revolving Loan Program**

**Loan Deposits.** Under current law (EC Section 41367), funds in the CSSF shall be available for deposit into the CSRLF, in case of default on any loan made from the CSRLF. Until amended by the 2012-13 budget, the statute was silent regarding the transfer process and no transfer had been made from the Charter School Security Fund (CSSF) to the CSRLF. The new statute provides specific authority to transfer funds from the CSSF to the CSRLF.

**Fund Balance.** Under current law, the Department of Education is required to provide a detailed fund condition statement for the CSRLF and CSSF by October 1<sup>st</sup> of each year. According to the Department, the current balance for the CSFRL is **\$8.9 million** and the current balance of the CSSF is **\$4.3 million**.

**California School Finance Authority (CSFA).** The CSFA was created in 1985 to oversee the statewide system for the sale of revenue bonds to reconstruct, remodel or replace existing school buildings, acquire new school sites and buildings to be made available to public school districts (K-12) and community colleges, and to assist school districts by providing access to financing for working capital and capital improvements.

Over the last 25 years, the CSFA has developed a number of school facilities financing programs and most recently is focused on assisting charter schools to meet their facility needs. The CSFA is a three-member board comprised of the State Treasurer, the Superintendent of Public Instruction, and the Director of the DOF, and is administered within the Office of the State Treasurer.

Current law authorizes the CSFA to issue lease-revenue bonds for the purpose of financing working capital for school districts, county offices of education, community college districts, and charter schools. This working capital is available to be used by these educational entities to pay maintenance or operating expenses incurred in connection with the ownership or operation of an educational facility, that could include reserves for maintenance or operating expenses, interest for up to two years on any working capital loan, reserves for debt service and any other financing costs, payments for the rent or lease of an educational facility.

**GOVERNOR'S BUDGET PROPOSAL:** The Governor's Budget proposes trailer bill language to transfer administration of the CSRLF from the California Department of Education to the California School Finance Authority in the State Treasurer's Office beginning in 2013-14. The Administration states that CSFA already administers similar programs. Per the Administration, the proposed shift is intended to improve the efficiency of charter school program administration and disbursement of funds to local charter schools.

The Governor proposes to shift **\$175,000** in General Fund (Non-98) and **2.0 positions** from CDE to CSFA to support the program transfer in 2013-14 and beyond. However, it should be noted these state operations funds and positions are also intended to cover the shift of the Charter School Facility Grant program from CDE to CSFA, also proposed by the Governor. (See Agenda Issue #8.)

## **ISSUE 9. Charter Schools -- Charter School Revolving Loan Program**

### **LAO COMMENTS & RECOMMENDATIONS:**

- The LAO supports approval of the Governor's proposal to transfer administration of the Charter School Revolving Fund to the CSFA in 2013-14.

### **STAFF COMMENTS:**

- **Charter Schools Loan Default Rate is Problematic.** The LAO has raised concerns about the current imbalance of the Charter School Revolving Fund due to a high loan default rate and the small amount of revenues available to offset loan defaults. Funds generated from interest payment on loans are supposed to offset the losses the state incurs when a charter school cannot repay its loan (or closes and the state cannot recover associated funds). According to CDE, the primary reason for loan default is the closure of some charter schools. As of last year, the LAO reported the Revolving Fund has accumulated \$5.7 million in losses from the default of 38 charter school loans.
- **2012-13 Budget Language.** As background, trailer bill language adopted in 2012-13 requires the CDE to monitor the adequacy of the amount of funds in the Charter School Revolving Loan Fund and report annually to the DOF and the Controller on the need, if any, to transfer funds from the Charter School Security Fund to the Charter School Revolving Loan Fund. This new statute is intended to ensure that the interest payments collected in the Security Fund can be transferred to the Revolving Loan Fund as the original law intended.

**STAFF RECOMMENDATIONS:** Staff recommends that the Subcommittee take the following action:

1. Approve the Governor's budget proposal.

### **SUGGESTED QUESTIONS:**

1. DOF: Why does the Administration propose to transfer the Revolving Loan Program?
2. DOF: Will the transfer achieve efficiencies and/or better align programs?
3. DOF: Does the Administration believe the CSFA would be in a better position to improve the loan balance and make the fund self-sustaining? Will CSFA be in any better position to recoup funds from charter schools that default?
4. CDE: What are the Department of Education's thoughts about the proposed transfer?
5. CSFA: What are the Treasurer's Office thoughts about the proposed transfer?

## **ISSUE 10. Charter Schools – Access to Surplus District Property**

**DESCRIPTION:** The Governor proposes to extend for five years provisions of current law that require school districts with surplus property to sell those resources first to charter schools before selling those assets to other entities or disposing of them. The Governor also proposes to permanently extend rules that provide exceptions on the use of proceeds from the sale of surplus property.

### **BACKGROUND:**

**2012-13 Budget.** The 2012-13 budget included trailer bill language to require a school district seeking to sell or lease surplus property to first offer the property to any interested charter school. The real property sold or leased must be used by the charter school for direct instruction or instructional support. The new statute is operative for the 2012-13 only, and is limited to surplus property identified after July 2, 2012.

### **GOVERNOR’S BUDGET PROPOSALS:**

The Governor’s budget includes two provisions related to the sale and lease of surplus property, and the use of proceeds from these sales, as follows:

- 1. Extends Requirement to Offer Surplus Property to Charter Schools for Five Years.** The Governor proposes to extend for an additional five years the requirement that school districts give charter schools first call on purchase or lease of surplus property. Under current law, this requirement is operative through June 30, 2013. The Governor’s proposal would sunset on June 30, 2018.
- 2. Permanently Extends Exceptions for Use of Proceeds From Locally Purchased Property Sales.** The Governor proposes to eliminate the January 1, 2014 expiration date on the rules pertaining to the sale of surplus property financed entirely with local funds. As a result, districts would continue to be able to use proceeds from the sale of these properties for one-time operating expenses permanently without forfeiting eligibility for new construction or modernization funding through the School Facilities Program. Districts would continue to forfeit eligibility for hardship funding through the School Facilities Program and Deferred Maintenance Programs.

## **ISSUE 10. Charter Schools – Access to Surplus District Property**

### **LAO COMMENTS & RECOMMENDATIONS:**

- **Modify Proposal to Provide Charter Schools First Call on Surplus Property.** The LAO recommends that the Legislature adopt the Governor’s proposal to provide charter schools first call on surplus property, but with some key modifications. Specifically, the LAO recommend that the state:
  - ✓ Require the charter school to use the purchased or leased property for instructional activities or support.
  - ✓ Require that before the property may be sold or used for any other purpose, it must be offered for sale or lease to the school district that provided the property, followed by any interested charter schools. Require that if one of these interested charter schools obtains the property, it is likewise bound by these terms. (If the school district and other charter schools decline the offer to purchase or lease, the property could be sold or leased to another entity or used for any purpose.)
  - ✓ Limit the price paid by a school district to reacquire property it provided to a charter school to the price paid by the charter school, adjusted for inflation and the cost of any construction that has occurred (or 5 percent of this amount for an annual lease). Establish similar limits if the property is sold or leased to another charter school.
  - ✓ Require charter schools to use proceeds from the sale or lease of surplus property for capital outlay or maintenance costs (with the same exceptions as provided to school districts).
  - ✓ Require charter schools to maintain Field Act compliance for all buildings obtained from a school district that are compliant on the date the charter school takes possession.
- **Reject Governor’s Proposal to Make Permanent Certain Exceptions for Use of Proceeds From Surplus Property Sales.** The LAO recommends that the Legislature reject the Governor’s proposal to make permanent certain rules regarding the use of proceeds from the sale of surplus property purchased entirely with local funds. Districts still would be allowed, under existing law, to sell surplus property and use the proceeds for one-time general purposes. Districts would have to consider this option carefully, however, since they would forfeit their eligibility for state construction and modernization funds for at least five years. In the LAO’s view, this higher stakes trade-off better protects the state from providing future facility funding to a school district that has recently sold property and used the proceeds for non-facility purposes.

## **ISSUE 10. Charter Schools – Access to Surplus District Property**

### **RELATED LEGISLATION:**

- **AB 2434 (Block). 2011-12 Session.** Existing law authorizes a school district that meets prescribed requirements to deposit the proceeds from the sale of surplus school property, together with any personal property located on that property, purchased entirely with local funds, into the general fund of the school district and to use those proceeds for any one-time general fund purpose. This flexibility is currently granted to school districts through January 1, 2014. This bill would extend the operation of this provision to January 1, 2019. **Status: Held in Assembly Appropriations.**

### **STAFF COMMENTS:**

- **Few, If Any, Charters Have Been Able to Buy or Lease Surplus Property in 2012-13.** According to DOF, few – if any – charter schools have been able to buy or lease surplus property or facilities due to the one-year timeframe under current law. Extending the program five years provides a reasonable timeframe to give charter schools a real chance to participate.

**STAFF RECOMMENDATION:** Staff recommends the Subcommittee take the following action.

1. Approve the LAO alternative.

### **SUGGESTED QUESTIONS:**

1. DOF: Under the Governor’s proposal, are charter schools required to provide maintenance and upkeep of any property purchased or leased from school districts?
2. DOF: Under the Governor’s proposal, what happens to purchased or leased property if a charter school closes its operations?
3. DOF: Does the Governor’s proposal change how the sale of surplus property affects district eligibility for state bond funding?

## **ISSUE 11. Charter Schools – Other Issues**

**DESCRIPTION:** The Governor proposes three additional fiscal and policy changes for charter schools. These separate proposals are presented in the items below.

### **Item 1. County-Wide Benefit Charter School Petitions**

**GOVERNOR’S BUDGET PROPOSAL:** The Governor proposes new statute to allow county-wide benefit charter petitions to designate multiple sites as individual schools for purposes of compliance monitoring, data reporting and collection, student performance data, oversight, and apportionment.

Under current law, county-wide benefit charters – with approval from their charter authorizers – can request school site designations for multiple school sites from the Department of Education. The Governor’s proposal would allow county-wide benefit charters – with approval from their charter authorizers – to make this designation.

Per the Governor, this language would allow county-wide benefit charter schools with multiple sites to be treated the same as state-wide benefit charter schools with regard to designation of individual schools.

### **LAO COMMENTS & RECOMMENDATION**

The LAO recommends adopting the Governor’s proposal to authorize separate tracking of countywide charter schools’ individual sites. Although countywide charter schools are operated by a single entity, individual sites may serve different grade spans or student populations. Different sites also could be more or less effective than other sites. As such, a countywide charter school may want each site to be tracked separately for accountability purposes and be able to apply directly for funding for each site. Although certain countywide charter schools could receive additional funding from SGP or RLF due to the proposal, the LAO thinks this is reasonable given that start-up costs are typically incurred on a per-site basis. Since SGP is federally funded and RLF consists of a fixed pool of state funds, additional funding applications are unlikely to increase state General Fund costs.

**STAFF COMMENTS:** The Governor’s proposal appears to conform treatment for county-wide benefit chart school site designations with the practice for statewide benefit charter designation.

**STAFF RECOMMENDATION:** Staff recommends that the Subcommittee take the following action:

1. Approve the Governor’s budget proposal.

## **ISSUE 11. Charter Schools – Other Issues**

### **SUGGESTED QUESTIONS:**

1. CDE: What is the process for establishing school sites for county-wide benefit charters with multiple sites?
2. CDE: Do you think statute is unclear with regard to determination of school sites for county wide benefit charters with multiple sites? For statewide-benefit charter schools?
3. CDE: Can the Department of Education grant requests from county-wide charters for school site designation? In other words, can CDE grant requests for CDS codes?

### **Item 2. Delegation of State Board Oversight**

**GOVERNOR’S BUDGET PROPOSAL:** The Governor proposes changes to existing statute to allow the State Board of Education -- by mutual agreement -- to delegate its oversight responsibilities for a charter school it has approved to any local educational agency.

Under current law, the State Board has the authority to delegate oversight responsibility for charter schools it has approved, but can only delegate to a local educational agency in the county where the charter school is located or to the governing board of the school district that first denied the petition.

According to the Administration, this language is necessary because it is difficult for the State Board to identify local agencies willing to provide oversight of State Board approved charter schools in all the counties where these approved charters are located.

Additionally, the Administration believes it is not reasonable to have local agencies that denied the original petition conduct oversight of the state approved charter school.

### **LAO COMMENTS & RECOMMENDATION**

The LAO recommends adopting the Governor’s proposal to allow SBE to delegate oversight to any LEA in the state. For charter schools located in smaller counties, the options for delegating oversight within the county may be very limited. By allowing SBE to delegate oversight to a capable school district or county office outside of the county, the proposal would help ensure that every charter school receives quality oversight. Given that oversight is currently managed by CDE—which is located a considerable distance from some of the schools it oversees—the entity selected as the oversight authority under the Governor’s proposal likely would not be located further away from the charter school.

## **ISSUE 11. Charter Schools – Other Issues**

**STAFF RECOMMENDATIONS:** Staff recommends the Subcommittee take the following action.

1. Approve the Governor’s budget proposal.

### **Item 3. Multi-Track Attendance Accounting**

**GOVERNOR’S BUDGET PROPOSAL:** The Governor proposes changes to existing statute to specify the conditions under which charter schools can receive attendance funding for students on multi-track school calendars.

The Governor’s proposal is intended to regulate multi-track attendance funding for charter schools through statute – instead of through State Board waivers to streamline the process.

**LAO COMMENTS & RECOMMENDATION:** The LAO supports the Governor’s proposal. The LAO views this proposal as technical.

#### **STAFF COMMENTS:**

- **Governor’s Proposal Intended to Regulate Multi-Track Attendance through Statute & Reduce State Board Waivers.** The Department of Education has received 38 multi-track waiver requests in the last three years. All of these requests have been approved by the State Board of Education, typically on consent a vote.
- **CDE Amendments Reflect Conditions for State Board Waivers.** CDE recommends that the Administration consider language that reflects the current requirements utilized by the State Board of Education in granting waivers for charter schools with multi-track attendance.

**STAFF RECOMMENDATIONS:** Staff recommends that the Subcommittee take the following action:

1. Approve the Governor’s proposal with amendments suggested by CDE placeholder language.

#### **SUGGESTED QUESTIONS:**

1. DOF: Is the Administration okay with the CDE alternative language?