

SUBCOMMITTEE NO. 1 on Education



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

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

PART B

Consultant: Kim Connor

<u>Item</u>	<u>Department</u>	<u>Page</u>
6110	California Department of Education (CDE)	
Issue 1	School Cafeteria Funds – Senate Office of Oversight & Outcomes Report	Page 2
Issue 2	Federal Migrant Education Program - General Background	Page 10
Issue 3	Federal Migrant Education Program – Bureau of State Audit	Page 14
Issue 4	School District Fiscal Status – Fiscal Crisis & Management Assistance Team Update	Page 21
Issue 5	Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal	Page 28
Issue 6	CDE State Operations -- Governor’s Budget Proposals	Page 38

Public Comment

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-651-1505. Requests should be made one week in advance whenever possible.

6110 Department of Education

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

DESCRIPTION: The Department of Education will respond to findings and recommendations from the recent report on School Cafeteria Funds published by the Senate Office (Senate Office) of Oversight and Outcomes in February, 2013.

PANELISTS: Department of Education
Legislative Analyst's Office
Department of Finance

SENATE REPORT – SUMMARY OF FINDINGS & RECOMMENDATIONS.

Background: The Senate Office report provides the following background:

“The National School Lunch Program (NSLP) subsidizes 80 percent of the 3 million lunches served on average every day in California’s public schools. The U.S. Department of Agriculture (USDA), which administers the lunch program, also pays for school breakfast, snack, afterschool and summer meal programs.

For the 2012-13 school year, the federal government pays up to \$2.94 for each free lunch and \$1.85 for each free breakfast served. In California, the state also helps, providing 22 cents for each free and reduced-price lunch or breakfast. The subsidies, however, were never intended to cover the full cost of providing school meals.

Statewide, the federal lunch and breakfast funding, including commodities, totals more than \$2 billion a year. The state adds another \$145 million a year. For Los Angeles Unified, the nation’s second largest school district, the federal subsidy alone amounted to nearly \$250 million in fiscal year 2010-11.

To qualify for free meals, students must be from families with incomes at or below 130 percent of the federal poverty level. For a family of four, that threshold is \$29,965 for the 2012-13 school year (the federal poverty level is \$23,050 for a family of four). For reduced-price meals, the eligibility line is raised to 185 percent of the federal poverty level, or \$42,643 for a family of four.”

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

Findings:

The Senate Office report identifies a number of “oversight gaps” as highlighted below:

According to the report, as a result of uncovered misuse in recent years, “CDE has ordered eight school districts to repay nearly **\$170 million** to student meal programs. Perhaps more troubling, department officials candidly acknowledge they have no idea how big the problem may be and fear they may have uncovered only a hint of the ongoing abuse.”

States must pay federal government if funding cannot be recouped. As highlighted by the report, “if the state fails to force repayment of misappropriations or refunds due from food service accounts, the federal government collects the unpaid amount from CDE. Over the past two decades, the department has had to pay the USDA more than **\$3 million** that it could not recoup from food service accounts. Those bad debts often involved agencies, such as child or adult care centers, which had gone out of business.”

“State and federal subsidies are paid as reimbursements for meals served. So, all eligible students who line up for lunch or breakfast at school are fed. But cafeteria fund diversions contributed to conditions that discouraged the target population – poor, often hungry students – from seeking free or reduced-price meals, school officials said.” Discouraging conditions cited in the report include reliance on processed foods instead of fresh foods, and limited the length of meal periods.

The Senate Office report also provides an overview of cafeteria fund misuse, highlighted below:

The misappropriations cited in the report were not found to be “diversions for personal gain” but rather funds directed to cover a greater share of personnel, utility and other costs. That said, funds used to buy lawn sprinklers and salaries of employees at a district television station were deemed “clearly improper” by the report.

In another case cited by the report, the district inflated subsidized meal counts. While meal subsidies increased by over 50 percent for that district, the change was not picked up by state reviewers, since the increase occurred just after the five year review.

The report points out that CDE – as the “steward” of USDA’s subsidized meal programs has “fewer than 60 field examiners to monitor nearly 3,000 school districts and other agencies that serve meals. According to the report, the department has not “completed all of the reviews required in any single year since 2001. Moreover, the field examiners that CDE sends in are nutritionists, not accountants or field specialists, and they rarely take more than a cursory look at the books.”

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

Per the report, CDE's conducts reviews under a five-year review cycle, per federal law; however, federal rules require districts to maintain records for only three years, unless they are in the process of correcting previous violations. Per the report, the "three-year limit on records retention has given districts two years during every five-year cycle in which they can be fairly certain no one from the state will ask to see their cafeteria books. That two-year gap will be closed when the new three-year review cycle takes effect this year, or in 2014."

The Senate Office report identified two state statutes that were in conflict with federal law but have remained on the books. More specifically, Education Code Section 38092 permits cafeteria fund revenue sharing with associated student bodies. Federal regulations no longer permit such revenue sharing with student groups. In addition, Education Code Section 38102 authorizes districts to establish cafeteria equipment funds with reserves from their meal programs. The USDA does not recognize such accounts and strictly limits cafeteria fund surpluses to three months average expenditures of the program.

The report finds that state and federal audit guides provide "no guidance on what may and may not be charged to cafeteria funds, something CDE has attempted to remedy without success. Federal rules limit surpluses to three months average expenditures.

Recommendations. The Senate Office report states that "during the research for the report weaknesses and gaps in the oversight system for student meal funds were acknowledged by officials at the California Department of Education, who monitor subsidized meal programs for the federal government, as well as school administrators who must comply with the rules. Enforcement appears to be difficult for all involved and the temptation to use restricted meal funds for other pressing needs can be great."

The following recommendations were provided by the Senate Office report:

- The California Department of Education should conduct an assessment of its food services workload and staffing needs and request sufficient federal funding to hire enough personnel to carry out the state's oversight responsibilities.
- The state Education Audit Appeals Panel should include in the state audit guide for K-12 local education agencies clear and comprehensive guidance on what school districts may and may not do with funds in cafeteria accounts. The Education Audit Appeals Panel should require annual audits to review cafeteria fund expenditures for compliance with state and federal rules.
- The state Department of Education should prepare simplified guidelines, such as those included in the Los Angeles Unified School District settlement agreement with the state, that address most of the common acceptable and unacceptable charges to cafeteria accounts.
- The state Department of Education should announce and publicize enforcement actions for misappropriation of cafeteria funds, to create an ongoing discussion of the rules and to encourage compliance.

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

- The Legislature should consider extending the three-year requirement to maintain financial records to perhaps five or 10 years to discourage creative accounting. Many records now are prepared electronically and can easily and inexpensively be stored electronically.
- The Legislature should consider adopting legislation that mirrors federal regulations and guidance to prohibit charges to cafeteria funds for expenses incurred in prior years, and any recouping of direct or indirect charges that were never charged during the appropriate fiscal year.
- The Legislature should consider requiring school districts to give food service directors access to all financial records involving student nutrition programs.
- The Legislature should consider repealing sections of the Education Code that conflict with federal law or regulations. Those sections include:
 - ✓ EC Section 38102, which authorizes the establishment of cafeteria equipment accounts which the USDA does not permit and which some school districts use to hide money.
 - ✓ EC Section 38092, which authorizes cafeteria fund revenue sharing with associated student bodies. Federal law does not permit such revenue sharing.
- The Legislature should consider eliminating or extending the Jan. 1, 2015, sunset date in EC Section 35400 for Los Angeles Unified's Office of Inspector General. The OIG documented LAUSD's decade-long misappropriation of cafeteria funds and has amassed an impressive body of work since it was established in response to outrage over the district's attempt to build a new downtown school on expensive property that later turned out to be contaminated.

RELATED LEGISLATION:

SB 302 (Cannella). This bill implements various recommendations contained in a recent Senate Office of Research report regarding school cafeteria funds, including the requirements that cafeteria funds be audited and that the Education Audit Appeals Panel revise the audit guide to include guidance on what school districts may or may not do with a cafeteria fund. This bill also proposes to extend the sunset date of the Los Angeles Unified School District's Office of the Inspector General (OIG) by ten years from January 1, 2015, to January 1, 2025. **Status:** Senate Appropriations Committee.

AB 626 (Skinner). Makes numerous changes to current law related to school nutrition, mostly to conform to the federal Healthy Hunger-Free Kids Act of 2010. Includes several statutory changes recommended by the Senate Office report. **Status:** Assembly Appropriations Committee.

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

STAFF COMMENTS:

- Recent Cases of School Districts with Cafeteria Fund Issues Handled by CDE.** Over the last ten years, CDE has handled 17 school district cases involving Cafeteria Fund non-compliance issues. Some of these same cases were identified by the Senate Office report. Sixteen of the cases involved mishandling of Cafeteria Funds. Another district case – Oxnard Union High – involved fraudulent meal claims. Of the 17 district cases, 11 are closed. Six district cases remain open, including: Alvord Unified, Los Angeles Unified, San Diego Unified, Santa Ana Unified, Grossmont Union High, and Sweetwater Union High.
- Districts Ordered to Repay Federal Meal Funds.** Over the last ten years, CDE has assessed repayment of meal funds totaling **\$189.6 million** for 17 schools districts with Cafeteria Fund compliance issues. This includes both open and closed cases. A list of the districts, repayment amounts assess, and status of cases is provided in the table below:

District	REPAYMENT	STATUS
Alvord Unified	10,000,000	Open
Los Angeles Unified	158,000,000	Open
San Diego Unified	4,472,562	Open
Santa Ana Unified	2,398,716	Open
Grossmont Union High	Undetermined	Open
Sweetwater Union High	316,068	Open
Baldwin Park Unified	1,400,000	Closed with continued monitoring.
Fresno Unified	2,024,787	Closed with continued monitoring
Lemoore Union Elementary	550,975	Closed with continued monitoring
Long Beach Unified	3,862,992	Closed with continued monitoring
Centinela Valley Union High	502,364	Closed
Compton Unified	4,647	Closed
Merced City Unified	3,565	Closed
Hesperia Unified	3,374	Closed
Newark Unified	83,716	Closed
San Francisco Unified	368,736	Closed
Oxnard Union High*	5,600,000*	Closed

*In 2008, the CDE received a whistle blower complaint alleging Oxnard Union High School District was submitting fraudulent School Nutrition Program reimbursement claims (over-claiming reimbursements for meals not served). The CDE referred the matter to the USDA's Office of Inspector General for investigation. USDA instructed CDE to take fiscal action against Oxnard going back to fiscal year 2005 -06. In September 2010, CDE billed Oxnard \$5.6 million in overpayments from July 2005 through June 2008. As of August 31, 2012, Oxnard Union High School District paid the balance of the \$5.6 million in overpayments.

- Staffing Levels.** CDE has a total of 58 authorized positions to conduct monitoring reviews in 2012-13. (These staff are currently responsible for conducting reviews nutrition program and financial reviews of 3,000 local agencies over five year period.) These 58 staff include an additional ten positions authorized in 2011-12 to reflect additional workload associated with implementation of the federal Healthy, Hunger Free Kids Act of 2010. All of these positions are supported with federal child nutrition funds. The department reports it is strengthening training to improve the financial components of local reviews.

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

- **Staffing Assessment to Reflect Federal Change to a Three Year Review Cycle.** New federal regulations associated with the Healthy, Hunger Free Kids Act, require that states change from a five-year to a three-year review cycle. This change takes effect on July 1, 2013. The Senate Office report saw potential for a 40 percent increase in the department's local monitoring workload as a result of the more frequent reviews. The Department did not request additional staff in 2013-14 for this purpose, and plans instead to train temporary staff to conduct additional reviews in 2013-14. However, the department is currently conducting a staffing assessment to inform a budget request for 2014-15. The results of that assessment should be available in the next few months. The department's preliminary assessment is that it may need an additional 10 to 15 positions on an ongoing basis to meet current and new workload demands.
- **Elimination of Conflicting Education Codes.** The Department of Education has identified two state statutes that are in conflict with federal law guiding nutrition programs. The Senate Office study recommends these sections be eliminated. These two changes are currently contained in SB 302 (Cannella) and AB 626 (Skinner). Staff recommends that in furtherance of the federal child nutrition appropriations that these two code sections be repealed in the budget trailer bill, so they can take effect immediately with the budget. These two sections include:
 - ✓ Education Code Section 38092. This section permits cafeteria fund revenue sharing with associated student bodies. Federal regulations no longer permit such revenue sharing with student groups.
 - ✓ Education Code Section 38102. Authorizes districts to establish cafeteria equipment funds with reserves from their meal programs. The USDA does not recognize such accounts and strictly limits cafeteria fund surpluses to a total of three months average expenditures for the program.

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

SUGGESTED QUESTIONS:

State and Federal Compliance.

1. What specific steps has CDE taken to investigate reports of non-compliance by specific local educational agencies in the Senate report, as well as additional cases identified by the department?
2. What has CDE done to respond to findings in the Senate report?
3. How serious were the issues of misuse raised by the Senate report?
4. The Senate report indicates that abuse of funds may be widespread among LEAs.
 - a. Has the Department investigated this allegation? If so, what process has the department utilized for the investigation?
 - b. What were the findings of the investigation?
 - c. How much funding could be at stake if misuse is more widespread?
5. What is CDE's role in enforcing federal laws on the misuse of federal child nutrition funds?
6. Given prominent examples of misuse in the Senate report, how will CDE be monitoring use of nutrition funds moving forward? How will department auditors be utilized in the future?

Staffing.

1. What are the departments staffing standards for local reviews? Assuming 3,000 agencies over the current five-year review cycle equates to 600 reviews per year. With 58 staff, that equates to about ten reviews per position per year, is that correct? Does the department believe it is currently understaffed to cover all LEAs over the current five-year cycle?
2. Can the department assure that most of the 58 monitoring positions are filled? How many of these positions are vacant?
3. Are all local five-year reviews current or are there any backlogs? If there are backlogs, how many backlogs exist and when will they be brought up to date?
4. How is the department going about assessing new staffing needs to transition to the new three-year review cycle required by federal law in July 2013?
5. Per the Senate report, the department has returned \$3 million in the last two decades to the federal government for failure to collect misused funds from school districts. What was the fund source for these repayments? Why was the department unable to collect repayments from districts in these cases?

ISSUE 1. School Cafeteria Funds -- Senate Office of Oversight & Outcome Report

District Support.

1. What has the department learned about why local educational agencies were misusing funds? Did the department determine that local educational agencies intended to misuse funds? Or were local educational agencies (LEAs) unaware about or confused by federal requirements? Were there other reasons?
2. Has the Department issued any new guidance to the field in the form of management bulletins or other advisories that restate federal law since release of the Senate Office report?
3. Has the Department utilized webinars or other activities to better train LEAs statewide?
4. Has the Department attempted to convene LEAs to determine the source of non-compliance and useful solutions?

STAFF RECOMMENDATIONS:

Staff recommends that the Subcommittee take the following actions:

1. Adopt budget provisional language requiring the Department of Education to report to the legislative budget subcommittees by October 1, 2013, on the outcomes of a staff assessment to determine staffing requirements for implementing more frequent reviews (every three years instead of every five years) of child nutrition programs pursuant to changes in federal law.
2. Adopt budget trailer bill language to eliminate two Education Code provisions that have been identified by the California Department of Education as directly conflicting with federal law. These changes are needed to conform state law to federal law and to eliminate any misunderstandings by local educational agencies. These provisions need to take place immediately to accompany any federal funds appropriated in the 2013-14 budget act. [These two changes are currently contained in SB 302 (Cannella) and AB 626 (Skinner).]

Staff further recommends that the Subcommittee:

- Direct staff to explore options for requesting an audit review of the federal child nutrition program by the State Auditor, Bureau of State Audits, in order to assess the misuse of funds by local agencies. This audit would provide critical information for the department's staffing assessment so that the state may assure fully compliant federal programs.

6110 Department of Education

ISSUE 2. Migrant Education Program – General Background (Information Only)

DESCRIPTION: The Legislative’s Analyst’s Office will provide a brief overview of the Migrant Education Program (MEP) as background to Issue 4 in the Subcommittee agenda.

PANELISTS: Legislative Analyst’s Office

BACKGROUND: The federally-funded Migrant Education Program (MEP) provides migratory students with additional supplemental instruction, English language development, and instructional materials. The purpose of the federal Migrant Education Program is to assist states to:

1. Support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;
2. Ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;
3. Ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;
4. Ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;
5. Design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of migrant children to do well in school, and to prepare them to make a successful transition to post-secondary education or employment; and
6. Ensure migratory children benefit from State and local systemic reforms.

Additionally, state statute requires the State Superintendent of Public Instruction to identify and recruit parents of identified migratory students for local parent advisory councils to participate in local-level MEP planning, operation, and evaluation.

ISSUE 2. Migrant Education Program – General Background (Information Only)

Migrant Students. California has the largest MEP enrollment in the nation with 136,467 migratory children reported for the most recent (2010-11) category 1 child count. This is a decrease of 20,673 (15 percent) from the 2009-10 child count of 176,001.

According to the California Department of Education (CDE), the reasons for the decrease in MEP enrollment include the overall economic downturn with high unemployment and high cost of living in the State; reduced agricultural activity due to drought and land development; and enhanced border control. CDE stated that 56 percent of MEP students make intrastate qualifying moves; 28 percent move between California and Mexico; and 16 percent move to or from other states.

Migrant Education Funding. The 2010-11 budget appropriates **\$135.0 million** for the federal Migrant Education Program grant. According to CDE, the state sets aside **\$1.3 million** (one percent) of the total grant for State Administration; **\$114.6 million** (85 percent) for Local Assistance to the Migrant Education Program regions; and **\$18.6 million** (14 percent) for State-Level Activities.

The **\$18.6 million** for State-Level Activities includes various statewide service contracts, including:

- **\$7.1 million** for Mini-Corp (services for undergraduate students);
- **\$6.0 million** for Migrant Education School Readiness Program; and
- **\$5.5 million** for other statewide programs including but not limited to identification and recruitment, data collection, summer institutes, and the Statewide Parent Advisory Council (SPAC).

Program and Service Delivery. California's Migrant Education Program is organized as a regional service system comprised of **23 regions** that include 14 county offices of education and nine direct funded districts (LEAs). These 23 regions serve migratory children enrolled in approximately one-half of the state's public schools in 568 of the 1,059 LEAs in the State. CDE uses four service delivery models under this system:

ISSUE 2. Migrant Education Program – General Background (Information Only)

1. **Centralized Region Model.** Region is responsible for all funds and provides all services to several districts;
2. **Direct Funded Districts Model.** Region is a single district (LEA);
3. **District Reimbursement Model.** Region funds districts (LEAs), which provide services through district service agreements (DSAs); district is responsible for funds and for providing services;
4. **Mixed Model.** Region provides services to some districts (as in Centralized Region Model) and reimburses other districts using DSAs. (Under this model, a region may also fund a consortium of small districts that elect one district to serve as their fiscal agent and provide services through the consortium.) The Mixed Model is the most common model for the 14 regions headed by county offices of education.

CDE subgrants MEP funds to its regions through the regional application review process. Regions distribute DSAs to districts with migrant populations and approve DSAs (using a checklist provided by CDE) in time for the region to submit its regional application and DSAs (including budgets) to CDE by May 31 each year. CDE uses this process to provide administrative oversight and monitoring, coordination, and technical assistance to its 23 regions. Regional directors coordinate and collaborate with one another (and with CDE) through the Regional Directors Council.

Recent Federal Audits and Resulting Corrective Actions.

In 2005 the U.S. Department of Education, Office of Migrant Education (OME) conducted a Federal Program Review (audit) of California’s Migrant Education Program. This review resulted in a number of corrective actions. Most notably, OME found that CDE had not adequately responded to three substantive concerns about its operation of the Migrant Education Program and placed special conditions on the state’s 2011-12 federal grant.

In July 2011, the U.S. Department of Education conducted a Targeted Desk Review (audit), whereby OME visited CDE to conduct a focused review of “program operations” for the Migrant Education Program. The Targeted Desk Review was initiated, in part, because CDE had not completed responses to the 2005 Program Review.

CDE received the findings of the OME Targeted Desk Review in 2011, which also reflect corrective actions from the 2005 Program Review. According to CDE, the OME review identified: deficiencies in analysis, review and reporting by the State Parent Advisory Council (SPAC); identification and recruitment of migrant students and families; and fiscal oversight of the 23 regions. According to CDE, some of the federal findings “were egregious and required additional investigation.” In response to the OME findings, CDE prepared a corrective action plan, which was transmitted to the federal government in January 2012.

ISSUE 2. Migrant Education Program – General Background (Information Only)

CDE's response to these corrective actions is still underway and formed the basis of the independent audit of the federal Migrant Education Program required by the 2012-13 budget act, as discussed in depth in Issue #3 of the Subcommittee agenda.

LAO Report on Migrant Education. In 2006, the LAO published a report on the federal Migrant Education Program, which included a comprehensive set of recommended reforms.

As a part of the report, the LAO report identified four major concerns with the MEP funding model, as follows:

- Disconnect between funding and accountability.
- Lack of coordination between MEP services and other services.
- Funding formula does not reflect statutory program priorities.
- Funding formula does not encourage broad participation.

In response, the LAO report made recommendations to the Legislature that address three major areas: (1) funding and service delivery model; (2) data system; and (3) carryover funding process. Specific recommendations include:

- Revise the MEP funding model to send the majority of funds directly to school districts rather than regional centers. Maintain some funds at county offices of education for certain regional activities and some funds at CDE for certain statewide activities.
- Direct CDE to: (1) revise the per-pupil funding formula so that it emphasizes federal and state program priorities and (2) report back on revisions once it has completed its statewide needs assessment.
- Expand the state's migrant education data system to include more data elements. Provide district and school personnel access to the enhanced system. Use \$4 million in carryover funds for the data system.
- Use the remainder of carryover funds to help transition to a district-based system. Direct CDE to develop a transition plan and associated spending plan by October 31, 2006.
- Adopt budget bill language that would allow up to five percent of annual migrant education funding to carryover at the local level, with any additional carryover designated for specific legislative priorities.

6110 California Department of Education

ISSUE 3. Migrant Education Program – Bureau of State Audit Review

DESCRIPTION: The California State Auditor (State Auditor) will present findings and recommendations from their March 2012 audit report concerning administration of the federal Migrant Education Program by the California Department of Education. The Legislature directed the State Auditor to conduct an independent audit of state and local implementation of this program in the 2012-13 budget act, which appropriated up to \$600,000 in one-time federal Migrant Education funding for the audit.

PANELISTS: California State Auditor
California Department of Education
Department of Finance
Legislative Analyst's Office

BACKGROUND ON AUDIT REQUEST. In response to outstanding federal findings and corrective actions placed upon California's federal Migrant Education Program (MEP) grant in both 2011 and 2012, the 2012-13 Budget Act provided **\$600,000** in one-time federal Title I – Part C (Migrant Education) carryover funds for the Bureau of State Audits to conduct an independent audit of state and local implementation of the federal MEP.¹ The provisional budget bill language required that the audit include the following:

1. A detailed audit of expenditures, fiscal practices, and fiscal oversight at the CDE and in a sample of local Migrant Education Program regions to determine whether there is compliance with applicable state and federal laws, regulations, and administrative policies.
2. A detailed audit of the State Parent Advisory Council (SPAC) makeup and activities at the state level and in a sample of local Migrant Education Program regions to determine whether there is compliance with applicable state and federal laws, regulations, and administrative policies, and to assess whether the state appropriately supports and engages migrant parents.
3. A detailed review of how effectively the state organizes and implements migrant education services at both the state and local levels, which includes alignment between program goals and program activities, outcomes from state-level contracts, effectiveness of data collection structures and internal operations, and the efficacy of the existing regional service delivery structure.
4. Recommendations for how the state may address audit findings related to the topics specified.

¹ Chapters 21 and 29, Statutes of 2012. Item 6110-001-0890, Provision 35.

ISSUE 3. Migrant Education Program – Bureau of State Audit Review

AUDIT REPORT – SUMMARY OF FINDINGS AND RECOMMENDATIONS. On February 28, 2013 the California State Auditor, Bureau of State Audits (BSA) released the audit report for the federal MEP required by the 2012-13 budget act. The report is entitled **California Department of Education -- Despite Some Improvements, Oversight of the Migrant Education Program Remains Inadequate.** The audit report “Summary” is presented in full below.

Results in Brief

Despite recent efforts to improve its oversight of the federally funded migrant education program (migrant program), the California Department of Education (Education) has not provided adequate guidance to the regional offices that administer the migrant program’s services. Instead, it has relied largely on the judgment of regional administrators and its individual program staff when making decisions about allowable expenses and financial codes used to categorize these expenses. This lack of formal guidance has created inconsistencies and controversy regarding allowable expenses as well as wide variation in how the migrant program regions classify expenses. As a result, Education’s recent calculations of regional administrative costs were flawed and inaccurate. These calculations, as well as recent decisions related to vehicle purchases, have continued to sow discord between Education and the regions. Because of a lack of trust, Education also has had difficulty making productive use of a state parent council whose purpose is to advise and assist the migrant program. Partly because of its past inaction and lack of communication, Education now faces numerous grant conditions and reporting requirements imposed by the federal agency overseeing the migrant program.

The migrant program, which is fully funded by the federal government, provides supplemental education services to migrant children. Children can receive migrant program services if they or their parents or guardians are migrant workers in the agriculture or fishing industries and their families have moved in the last three years for the purpose of finding temporary or seasonal employment. Education receives over \$130 million each year to carry out the migrant program. The purpose of the funding is to help migrant children achieve academically despite disruptions caused by repeated moves. Federal law and regulations broadly outline allowable activities and services, depending largely on state educational agencies to define more detailed program guidelines. However, Education has not clearly defined what is necessary and reasonable for a variety of expenditure categories. As a result, expenditures for items such as food, vehicles, and even instruction in music are areas of judgment that can lead to disagreements between Education and the migrant program’s regions.

Despite the lack of robust guidance, most of the expenditures we reviewed at eight migrant program regions appear allowable and reasonable. In a review of 320 randomly selected expenditures totaling \$12.6 million in migrant program funds, we found six instances for which we question whether the expenditures were allowable or reasonable uses of migrant funds. These six expenditures total roughly \$14,800. Half of these expenditures relate to food purchased for a parent conference Education sponsored annually; these food costs totaled \$100 per day for each attendee. Also, we observed food costs for a parent meeting in one region that totaled almost \$33 per person for breakfast and lunch. The costs were higher than what we would consider reasonable, using the federal per diem rates as our comparison. We questioned the remaining two expenditures because they did not relate directly to migrant students or their identified needs. Further, as part of our review of internal controls and regional applications for funds, we found other questionable expenditures that were not in our sample.

ISSUE 3. Migrant Education Program – Bureau of State Audit Review

For example, we found that in one region a former regional director entered into contracts with janitorial and catering companies that she or her then-husband owned. The payments made to these companies totaled approximately \$144,000.

Education presented flawed, unreliable calculations to the federal government regarding the amount of funding spent on administrative costs in its migrant program regions. In response to federal concerns, in January 2011 Education created direct service and administrative cost categories that had not existed before that time. Then, using data from prior fiscal years, Education sorted regional expenditures into these categories retroactively. However, Education did not explain these categories to the regions before 2011. Because Education did not direct the regions to use certain codes for administrative or direct service costs only, some regions charged administrative expenditures to codes that Education later determined were direct service codes. Similarly, some regions charged service-related costs to codes that Education later labeled administrative. Because Education retroactively used codes that did not align with the regions' underlying expenditures, its calculations were unreliable. Even so, the results fed perceptions that regional administrative costs were too high.

Additionally, Education has had internal difficulties that could affect its oversight of the migrant program. Over the past four years, Education's migrant program office has faced a turnover rate that is double the national average for turnover in state and local governments. As a result, staff who have been with the migrant program for a short time have been assigned critical tasks. Further, Education has a fractured relationship with some of its migrant program regions. Regional directors for the migrant program (regional directors) have expressed frustration that Education did not consult them before presenting administrative cost calculations to the federal government. The director for the statewide migrant program agreed that discussions between Education and some regional directors remain unproductive.

Finally, Education has not completed an evaluation of the statewide effectiveness of the migrant program and is hampered from doing so by limited data on program performance. Education has only a draft copy of an evaluation of the statewide migrant program, and the draft report indicates that Education cannot effectively measure about half of the program's target outcomes. The data collected about the migrant program are likely insufficient to thoroughly evaluate the program because only summary-level information about services is collected. Therefore, Education faces challenges in assessing the link between services provided and academic achievement. For example, Education's migrant database records a one-day reading program and a 14-week reading program identically under the same reading services category. Because of its data limitations, Education cannot effectively evaluate the services it provides through statewide contracts or the regional structure used to carry out the migrant program.

Recommendations

To minimize the potential for disagreement over allowable migrant program costs, Education should better define the criteria by which it will consider program costs allowable and include those criteria in the migrant program fiscal handbook it provides to the regions.

To address problems with its methodology for calculating administrative costs, Education should do the following:

- Review the regions' current use of accounting codes to identify the areas in which regions differ in accounting for similar migrant program costs.
- Provide regions with more specific direction about how to charge these expenses.

ISSUE 3. Migrant Education Program – Bureau of State Audit Review

- Revise its list of accounting codes that it considers administrative in light of its review of regional coding.

To determine if the migrant program is effective, Education should finalize its current evaluation of the program and begin developing the capacity to annually produce a more robust evaluation of the program.

To address a lack of detailed migrant program service and outcome data, Education should either expand the capabilities of its existing statewide databases or implement additional systems that would allow regions to capture more detailed data about migrant students

Agency Comments

Education generally agreed with the report recommendations but took exception to a recommendation that it essentially reverse its previous decision to disallow a vehicle purchase at the San Joaquin County Office of Education (San Joaquin). Because we did not make specific recommendations to seven regions we visited, they did not need to respond in writing to the audit report. However, we made recommendations to one of the regions—San Joaquin—resulting from a particular conflict of interest, and the region agreed that it would implement them.

Department Response to Migrant Education Audit. The BSA audit report includes a formal response from CDE, which include the following overall comments from the department:

- Education disagrees with the BSA’s narrow interpretation of the scope of work and does not believe it complies with the intent of the Legislature in authorizing this audit.
- The report highlights some important challenges but its characterization of these problems lacks context. For example, CDE expressed concerns that the BSA report did not provide an accurate depiction of the working relationship between CDE and the SPAC and lacked recommendations to help CDE with this relationship.
- Education is disappointed that large portions of the report are dedicated to citing problems without recommending corresponding solutions. For example, the report makes no recommendations regarding how to decrease staff turnover or improve the working relationship with the SPAC and regional directors.

As a part of its formal response, CDE states the department is committed to improving and expanding service to migrant students in California. CDE further states that the department has taken many steps to strengthen the operations of its program office and its oversight of migrant regions. In October 2011, CDE reorganized its operations to increase the Migrant Education Office as a priority within the division. In 2012, CDE created the Migrant Education Intervention Team, scheduled to complete its work in December 2013.

ISSUE 3. Migrant Education Program – Bureau of State Audit Review

Federal Grant Conditions. In summarizing the Office of Migrant Education (OME) 2011 review of California's MEP, the BSA audit reports that OME felt one of the reasons for the review was CDE's failure to respond to its requests for information on what CDE was doing to respond to allegations regarding the State Parent Advisory Council (SPAC). Per BSA, OME stated that it had notified CDE of allegations of impropriety and mismanagement on the SPAC in March 2010 and was unsatisfied with CDE's response and communications regarding this issue.

According to a recent Bureau of State Audit report, most of the concerns raised by the 2011 review were the result of inaction or lack of communication by CDE in response to requests from OME. While some concerns appear to have been resolved, other concerns formed the basis for special conditions imposed on CDE's 2011 federal grant. For the 2012 federal grant, OME continued several previous grant conditions and placed an additional grant condition on CDE, in response to concerns regarding the alleged conduct of MEP staff at the regional and statewide level. These current conditions – which reflect federal finding since 2006 -- are summarized in the BSA audit report, as follows:

1. **State Parent Advisory Council.** Education is required to report regularly to the federal Office of Migrant Education (OME) regarding its efforts to address these issues and to implement corrective actions. OME will remove the grant condition when Education establishes that it has implemented all appropriate corrective actions.*
2. **Regional Fiscal Review.** Education is required to submit a signed certification by the state superintendent of public instruction (state superintendent) that all expenses approved in the 2012–13 regional applications are both necessary and reasonable. No later than March 15, 2013, Education is required to provide a complete and accurate report on the administrative costs of its sub-grantees. OME will remove the grant condition when Education establishes that it has implemented all appropriate corrective actions.*
3. **Eligibility Reinterviews.** Education is required to report regularly to OME regarding its efforts to address these issues and to implement corrective actions. OME will remove the grant condition when Education establishes that it has implemented all appropriate corrective actions.*
4. **Migrant Staff Conduct.** Education was required to submit a final report regarding its investigation of the complaints against state and regional migrant program staff by August 15, 2012.*
5. **Subgrant Process.** Education was required to submit a copy of its written procedures for reviewing and approving work performed by its contractor with respect to the factors Education uses in its migrant program subgrant allocation process and to document that it has carried out these procedures.

**This required action is the result of Education's 2012 grant conditions.*

ISSUE 3. Migrant Education Program – Bureau of State Audit Review

6. **Federal Reporting.** Education was required to submit a written statement from the migrant program director that explains the scope of the problems and that addresses the federal concerns, including a plan to implement corrective actions.
7. **Special Tests and Provisions.** Education was required to submit written assurance that the migrant program director will review Education's statements in the performance report about its quality control processes and will ensure that these statements are accurate before it submits the performance report to the U.S. Department of Education.
8. **Subrecipient Monitoring.** Education was required to submit evidence that it implemented corrective actions on these issues.

Each grant condition requires CDE to provide reports to OME on its efforts to address problems raised in past reviews. OME stated that failure to respond satisfactorily to the conditions could result in further administrative action.

STAFF COMMENTS:

CDE Budget Request for May Revise. CDE has submitted a Budget Change Proposal (BCP) to the Department of Finance for consideration in the Governor's May Revision. More specifically, CDE is requesting **\$443,000** in ongoing Title I, Part C state level activity funding and **three positions**. These funds would be redirected from current state level activity contracts.

Per CDE, adding three permanent positions will allow the department to provide better oversight of the MEP as a whole, and ensure regions serve the needs of migrant students. More specifically, the proposal is intended to:

- improve CDE's identification and recruitment of migrant students,
- provide for accurate collection, management and reporting of student data to the U.S. Department of Education,
- ensure districts have accurate achievement data of their migrant population, and
- provide critical management and support for the State Parent Advisory Council (SPAC).

Per CDE, audit recommendations from both the State Auditor and the federal OME require the department to provide more direct state level activities. Currently, many state level activities are provided by contractors.

CDE believes the three additional positions will allow the department to address high-priority, long-term needs, bring the MEP into compliance with federal law, and resolve long-standing audit findings. CDE states that many of these federal audit findings have remained unresolved for many years, leading OME to increase its oversight of California's program in recent years. Per CDE, OME has imposed multiple conditions on the CDE's migrant education grant, and has warned repeatedly that it might request the federal Office of the Inspector General to review or take over the administration of California's migrant education program.

ISSUE 3. Migrant Education Program – Bureau of State Audit Review

SUGGESTED QUESTIONS:

1. **BSA.** How serious are the longstanding federal audit issues for California? By following the BSA recommendations, is resolution of these issues within reach for the department?
2. **CDE.** What progress has been made to date by the department in implementing the recommendations of the BSA audit report?
3. **CDE.** What is the timeframe for addressing BSA findings and recommendations, and for resolving longstanding federal audit issues? Please specify how the new positions will achieve these goals.
4. **CDE.** Do the BSA findings and recommendations lend general support to ideas included in the 2006 LAO report on migrant education, such as shifting to a more district based model, enhancing data systems, etc.?

STAFF RECOMMENDATION: Information only. No action required.

6110 Department of Education

ISSUE 4. Fiscal Status of School Districts – Presentation from Fiscal Crisis and Management Assistance Team
--

DESCRIPTION: The Fiscal Crisis and Management Assistance Team (FCMAT) will provide a presentation on the financial status of local education agencies, including an update on the number of these agencies with negative and qualified certifications on the latest financial status reports.

PANELIST: **Joel Montero, Chief Executive Officer, Fiscal Crisis & Management Assistance Team**

BACKGROUND:

Interim Financial Status Reports. Current law requires local educational agencies (LEAs) -- school districts and county offices of education -- to file two interim reports annually on their financial status with the California Department of Education. First Interim Reports are due to the state by January 15 of each fiscal year; Second Interim reports are due by April 15 each year. Additional time is needed by the Department to certify these reports.

LEA Certification. As a part of these reports, LEAs must certify whether they are able to meet their financial obligations. The certifications are classified as positive, qualified, or negative.

- A positive certification is assigned when an LEA will meet its financial obligations for the current and two subsequent fiscal years.
- A qualified certification is assigned when an LEA may not meet its financial obligations for the current and two subsequent fiscal years.
- A negative certification is assigned when an LEA will be unable to meet their financial obligations in the current year or in the subsequent fiscal year.

First Interim Report. The First Interim report, the most recent available, was published by CDE in February 2013 and identified seven school districts with negative certifications. The First Interim Report reflects data generated by LEAs in Fall 2012, prior to release of the Governor's January 2012-13 budget, which includes substantial mid-year trigger cuts if the Governor's proposed November ballot initiative is not passed by statewide voters. The seven school districts with negative certifications at First Interim in 2012-13, as listed below, will not be able to meet their financial obligations for 2012-13 or 2013-14.

ISSUE 4. Fiscal Status of School Districts – Presentation from Fiscal Crisis and Management Assistance Team
--

Negative Certifications, First Interim Report, 2012-13

	District	County	Budget (\$)
1	Inglewood Unified	Los Angeles	118.3 million
2	Walnut Valley Unified	Los Angeles	111.3 million
3	Cotati-Rohnert Park Unified	Sonoma	48.2 million
4	Victor Valley Union High	San Bernardino	33.4 million
5	South Monterey County Joint Union High*	Monterey	17.2 million
6	Wilsona Unified	Los Angeles	12.7 million
7	Denair Unified	Stanislaus	9.7 million

*Formerly King City Joint Union High School District.

The First Interim report also identified 117 school districts and one county office of education with qualified certifications. (Attachment A provides a complete list of LEAs with negative or qualified certifications for the First Interim Report for 2012-13.) These LEAs with qualified certifications may not be able to meet their financial obligations for 2012-13, 2013-14, or 2014-15.

A comparison of First Interim certifications over the last twenty years indicates that the number of districts with qualified and negative status districts has been climbing since 2008-09 coinciding with the downturn in the state economy and the beginning of reductions in education programs.

ISSUE 4. Fiscal Status of School Districts – Presentation from Fiscal Crisis and Management Assistance Team

**Summary of Negative and Qualified Certifications
For Local Educational Agencies**

Fiscal Year	Negative Certifications First Interim (1)	Negative Certifications Second Interim (1)	Negative Certifications Fiscal Year Totals (3)	Qualified Certifications First Interim (2)	Qualified Certifications Second Interim (2)	Qualified Certifications Fiscal Year Totals (3)
1991-92	1	3	3	19	21	27
1992-93	2	5	5	18	17	23
1993-94	3	5	6	24	22	33
1994-95	2	1	2	57	55	66 (6)
1995-96	1	1	2	12	17	21
1996-97	0	0	0	11	18	22
1997-98	0	1	1	12	7	15
1998-99	1	1	1	13	14	20
1999-00	2	6	6	13	20	27
2000-01	2	4	4	24	19	33
2001-02	8	6	8	32	35	48
2002-03	5	8	8	39	56	67
2003-04	7	9	10	50	36	60
2004-05	10	14	15	54	48	70
2005-06	5	4	5	32	29	41
2006-07	3	5	5	19	19	22
2007-08	7	14	15	29	109	122
2008-09	16	19	23	74	89	119
2009-10	12	14	18	114	160	190
2010-11	13	13	15	97	130	148
2011-12	7	12		120	176	

Source: California Department of Education

Notes:

- (1) A negative certification is assigned to a school district or county office of education that *will not* meet its financial obligation for the remainder of the current year or subsequent year.
- (2) A qualified certification is assigned to a school district or county office of education that *may not* meet its financial obligations for the current year or two subsequent years.
- (3) Fiscal Year Totals for negative and qualified certifications are unduplicated, not cumulative.
- (4) 1994-95 qualified certifications include all 27 school districts in Orange County and the Orange County Office of Education which were certified as qualified based on the uncertainty surrounding the Orange County bankruptcy.

ISSUE 4. Fiscal Status of School Districts – Presentation from Fiscal Crisis and Management Assistance Team

Preliminary FCMAT Reports for Second Interim. According to FCMAT, the Second Interim Report for 2012-13 will provide a more complete assessment of school district financial status and the number of districts on the negative and qualified list will probably increase when published by June or July. FCMAT will provide preliminary Second Interim information to the Subcommittee.

State Emergency Loans. A school district governing board may request an emergency apportionment loan from the state if the board has determined the district has insufficient funds to meet its current fiscal obligations. Current law states intent that emergency apportionment loans be appropriated through legislation, not through the budget. The conditions for accepting loans are specified in statute, depending on the size of the loan.

For loans that exceed 200 percent of the district's recommended reserve, the following conditions apply:

- The State Superintendent of Public Instruction (SPI) shall assume all the legal rights, duties, and powers of the governing board of the district.
- The SPI shall appoint an administrator to act on behalf of the SPI.
- The school district governing board shall be advisory only and report to the state administrator.
- The authority of the SPI and state administrator shall continue until certain conditions are met. At that time, the SPI shall appoint a trustee to replace the administrator.

For loans equal to or less than 200 percent of the district's recommended reserve, the following conditions apply:

- The SPI shall appoint a trustee to monitor and review the operation of the district.
- The school district governing board shall retain governing authority, but the trustee shall have the authority to stay and rescind any action of the local district governing board that, in the judgment of the trustee, may affect the financial condition of the district.
- The authority of the SPI and the state-appointed trustee shall continue until the loan has been repaid, the district has adequate fiscal systems and controls in place, and the SPI has determined that the district's future compliance with the fiscal plan approved for the district is probable.

State Emergency Loan Recipients. Eight school districts have sought emergency loans from the state since 1990. (Attachment B summarizes the amounts of these emergency loans, interest rates on loans, and the status of repayments.) Four of these districts: Coachella Valley Unified, Compton Unified, Emery Unified, and West Fresno Elementary, have paid off their loans. Four districts have continuing state emergency loans: Oakland Unified, Richmond/West Contra Costa Unified, South Monterey County Joint Union High (formerly King City Joint Union High), and Vallejo City Unified. Of the four districts with continuing emergency loans from the state, two remain on the negative list at First Interim 2011-12: South Monterey County Joint Union High and Vallejo City Unified.

ISSUE 4. Fiscal Status of School Districts – Presentation from Fiscal Crisis and Management Assistance Team

STAFF COMMENTS:

- **Inglewood Unified School District Required Emergency Loan Last Year.** As enacted, in September 2012, SB 533/Wright (Chapter 325, Statutes of 2012) appropriates **\$29 million** for an emergency loan to the Inglewood Unified School District (IUSD) and authorizes an **additional \$26 million** of lease financing through the California Infrastructure and Economic Development Bank (I-Bank). It also requires the Superintendent of Public Instruction (SPI) to assume all the rights, duties, and powers of the governing board of IUSD and, in consultation with the Los Angeles County Superintendent of Schools, appoint an administrator to serve in the district, as specified.
- **No Other Districts Have Required Loans During Downturn.** Despite the fiscal challenges and uncertainty faced by school districts following the recent economic downturn, no school district other than Inglewood Unified had required an emergency loan as a result of recent budget reductions. South Monterey County Joint Union High (formerly King City Joint Union High School District), the last school district to receive an emergency loan, required a loan in 2009 (SB 130/Chapter 20, Statutes of 2009) based on fiscal problems that were in place prior to major budget reductions.
- **Legislative Review of Qualifying Districts.** Statute added by AB 1200 (Chapter 1213; Statutes of 1991) states intent that the legislative budget subcommittees annually conduct a review of each qualifying school district. Specifically, Education Code 41326 (i) states the following:

It is the intent of the Legislature that the legislative budget subcommittees, annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the district, the impact of the recovery plans upon the district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the district.

ISSUE 4. Fiscal Status of School Districts – Presentation from Fiscal Crisis and Management Assistance Team

SUGGESTED QUESTIONS:

General

1. What is the primary focus of FCMAT as they work with districts in the current fiscal climate? What are the measures or factors used by FCMAT to assess fiscal solvency?
2. Are there any districts that are of particular concern? Any that may need emergency funding from the state and, if so, what is the potential impact on the state General Fund?
3. Can you describe the most common problems faced by school districts on the negative list?
4. Has categorical flexibility helped LEAs balance their budgets?
5. What trends are you seeing in enrollment? How is declining enrollment affecting district budgeting?

Governor's School Finance Reforms

1. How are school districts building their budgets for 2013-14 given uncertainty about the Governor's proposed Local Control Funding Formula?

Emergency Loans

1. Why is it important for LEAs to avoid state emergency loans? Where does the financial burden fall for state emergency loans – on LEAs or the state?
2. Why are the interest rates for districts with emergency loans so different?
3. Are you aware of any other LEAs that may be facing financial insolvency and requiring a state emergency loan?

Deferrals

1. How are payment deferrals affecting LEAs, especially in light of ongoing intra-year and inter-year deferrals?
2. How important is it to continue reductions of ongoing payment deferrals in 2013-14, as proposed by the Governor?

ISSUE 4. Fiscal Status of School Districts – Presentation from Fiscal Crisis and Management Assistance Team
--

Inglewood Unified School District Emergency Loan

1. What is the fiscal status of the Inglewood School District? How much has the district borrowed against the loan to date? What is the status of the State Administrator?

STAFF RECOMMENDATION: Information item only. No action required.

6110 Department of Education

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

DESCRIPTION: The Governor proposes trailer bill language as a part of the 2012-13 budget to enable school districts to offer asynchronous, online courses through a streamlined and outcome-focused independent study agreement.

PANELISTS: Department of Finance
Legislative Analyst’s Office
Department of Education

BACKGROUND:

California schools are funded on the basis of average daily attendance (ADA), based on the average amount of time a pupil attends class under the immediate supervision of a certificated employee. This is also sometimes referred to as "seat time".

School districts, county offices of education, and charter schools are able to provide online courses to pupils and generate ADA in the following ways:

- 1) By providing online instruction in a classroom setting under the immediate supervision of a certificated employee.
- 2) As a supplement to traditional classroom-based instruction. Under this scenario, pupils generate full ADA funding for meeting the minimum instructional requirements associated with classroom-based programs, and the online coursework is provided in addition to the pupils’ classroom instruction.
- 3) Through a part-time independent study (IS) program (i.e., the pupil may be taking regular classroom courses and one or two IS program courses online) or a full-time IS program. Pupils enrolled in an IS program complete academic work on their own time under a written learning contract. The work students complete is equated to an equivalent number of classroom hours. These “equivalent hours” generate revenue limit funding, similar to the ADA of a student in a classroom-based program.
- 4) Starting in 2015-16, pupils in grades 9-12 that are under the immediate supervision and control of a certificated employee of the school district or county office of education who is delivering synchronous, online instruction will also generate ADA for revenue limit funding purposes.

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

GOVERNOR’S BUDGET PROPOSAL.

Summary of Proposal. The Governor proposes trailer bill language as a part of the 2012-13 budget to enable school districts to offer asynchronous, online courses through a streamlined and outcome-focused independent study agreement. Per the Governor’s Budget Summary, these changes are intended to remove impediments to greater instructional flexibility. Asynchronous instruction does not require the simultaneous participation of all students and instructors, and per the Governor thereby increases flexibility in the delivery of instruction.

In order to hold asynchronous instruction accountable, the Governor proposes a more refined independent study contract focused on specific measurable student outcomes, and teacher validation of those outcomes, that will be used as the basis for whether schools receive funding for offering these courses. Per the Governor, under such a revised contract, schools will be held accountable for student achievement, rather than process requirements.

Specifics of Governor's Proposal. The Governor proposes modifying existing law related to technology-based instruction by (1) reworking the rules for synchronous instruction, (2) establishing a new set of rules for asynchronous instruction, and (3) eliminating many of the procedural requirements associated with independent study. A description of these modifications is summarized below:

- **Independent Study.** The Governor also proposes budget trailer bill language to simplify independent study programs and remove several of the requirements associated with independent study. Specifically, the Governor would make the following changes:
 - ✓ Eliminate pupil/teacher ratio requirements, similar to the proposal for synchronous instruction.
 - ✓ Remove the requirement that funding for independent study programs be linked to the “time value” of the work that students complete.
 - ✓ Require schools to develop measures of “satisfactory academic progress” for their students. Schools would be required to reevaluate the participation of any students not meeting these locally defined measures.

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

- ✓ Simplify independent study contracts. Under current law, each student in independent study must work under an individual contract detailing the procedure for submitting assignments, the method of evaluating work, the resources available to the student, and the number of allowable missed assignments. The Governor proposes instead that independent study contracts contain provisions for “periodic contact” between the teacher and the student and describe the accountability measures and assessments used to evaluate the student. The Governor would also permit independent study contracts to last for up to one year (rather than the current limit of one semester), and allow these contracts to be stored electronically (rather than in written form.)
- **Synchronous Online Education.** Synchronous, online instruction occurs when students and teachers interact over the internet in real time. Last year, AB 644 (Blumenfield), Chapter 579 allowed for this type of online instruction to generate ADA for purposes of revenue limit funding (rather than through independent study). The Governor's proposed trailer bill language would make changes to this law as follows:
 - ✓ Explicitly authorizes charter schools to offer synchronous online courses. (Current law is silent as to the ability of charter schools to offer synchronous online instruction.)
 - ✓ Eliminates pupil/teacher ratio requirements. (Current law requires school districts and country offices to ensure that the ratio of students to teachers in synchronous programs is no higher than the ratio of students to teachers present in other educational programs operated by the school district or county office.)
 - ✓ Allows statewide testing results for online pupils to be disaggregated for the purpose of comparing to regular classroom courses.
 - ✓ Requires governing boards to approve synchronous courses as being as rigorous as a classroom-based course, and meet or exceed all relevant state content standards.
 - ✓ Renames "synchronous online instruction" to "technology based synchronous instruction." The Governor’s proposal would explicitly define “technology based synchronous instruction” to mean “a class or course in which the pupil and the certificated employee who is providing instruction are online at the same time through the use of electronic means, including but not limited to, and the use of real-time, Internet-based collaborative software that combines audio, video, file sharing, and other forms of interaction.”
 - ✓ Moves the implementation date up from 2014-15 to 2013-14 and deletes the sunset date of July 1, 2019.
- **Asynchronous Online Education.** This type of course allows the teacher and pupil to be online at different times. Currently, districts offering asynchronous online education must claim ADA through the independent study process. According to the Administration, "independent study programs, while providing freedom from the traditional classroom-based setting, still mandate the same pupil-to-teacher ratios as regular classroom instruction and focus heavily on process compliance with independent study agreements, which are contracts with students that govern the goals and expectations for this type of instruction."

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

The Governor's proposed trailer bill would create a new mechanism for allowing pupils to generate ADA for asynchronous technology-based education by allowing LEAs to offer courses through "a streamlined and outcome-focused independent study agreement." The proposal requires students to show "satisfactory educational progress". This may include a number of factors such as testing, completion of assignments, working groups or other "indicators" that the student is learning concepts. Ultimately, this "progress" would be defined at the local school board level.

Key Features of the Governor’s Budget Proposal. The LAO has summarized below key features of the statutory changes proposed by the Governor:

- 1. Replaces Time Value Requirement With “Satisfactory Educational Progress.”** The Governor proposes to provide IS programs with substantially more flexibility than they receive under current law. Most notably, the Governor proposes to eliminate the requirement that supervising teachers equate student work products to an equivalent time value. Instead, teachers would determine if students are making satisfactory educational progress toward a set of locally defined educational outcomes. Satisfactory progress would be measured by factors such as the student’s performance on statewide tests, completion of assignments, participation in required activities, and other indicators determined by the supervising teacher. An IS program would be required to reevaluate the participation of any student who does not make satisfactory progress. (The Governor’s proposal does not specify how student participation or student outcomes would translate into funding rates.) As under current law, IS programs would be required to offer the same curriculum as offered in classroom-based programs.
- 2. Removes Student-Teacher Ratio Requirement.** The Governor also proposes to remove the student-teacher ratio requirement for IS programs. The IS students, however, still would be required to work under the general supervision of a credentialed teacher.
- 3. Simplifies Rules for Independent Study Contracts.** The Governor also proposes several changes to simplify the student contracts that govern participation in IS programs. Specifically, his proposal eliminates the requirement that IS contracts explicitly describe the procedure for submitting assignments, the method of evaluating work, the resources available to the student, and the number of allowable missed assignments. Instead, IS contracts would be required to include provisions for “periodic contact” between the teacher and the student and to describe the accountability measures and assessments used to evaluate the student. An IS contract could last up to one year (rather than one semester) and could be stored electronically (rather than in written form).

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

- 4. Authorizes Asynchronous Instruction Separately From IS.** Separate from his proposed changes to IS, the Governor would also create a set of rules authorizing “technology-based, asynchronous instruction” for grades 9-12. Although the Governor would treat this type of coursework separately from IS, the structure of IS and asynchronous instruction would be very similar. For example, asynchronous instruction would require students to have individual learning contracts that contain provisions for periodic contact between teachers and students, as well as requirements for students to make satisfactory educational progress. Similar to his proposal for traditional IS, the Governor would include no time value or student-teacher ratio requirement. As with IS, a specific funding mechanism is not provided. Unlike IS programs, however, asynchronous instruction would not be subject to the various other requirements established for IS (including age and geographic limitations).

LAO COMMENTS: The LAO thinks that the Governor’s proposal to eliminate most IS process-based requirements and shift focus to outcome measures is a positive step. Such an approach places more state and local attention on student learning, provides greater flexibility for instructional programs, and avoids overly burdensome administrative requirements.

The LAO, however, has several concerns with the proposal. The Governor’s approach does not incorporate many of the requirements established for IS into his proposal for asynchronous instruction, and does not clearly specify how funding would be generated for IS and asynchronous programs. The LAO is also concerned that the Governor's proposal does not directly link student funding with outcomes and has a vague definition of satisfactory educational progress. These problems could result in less rigorous IS and asynchronous programs.

The LAO discusses these concerns in more detail below.

- Lacks Clear Funding Mechanism.** The Governor’s proposal does not clearly define how IS and asynchronous programs would generate state funding for the students they serve. Under current law, funding for classroom-based programs is tied to daily student attendance, and IS programs borrow from this framework by equating work products to hours of classroom instruction. The Governor’s proposal indicates that students participating in IS or asynchronous instruction “shall be included” in computing average daily attendance, provided the students make satisfactory academic progress. There is no specific mechanism, however, for determining a per-pupil funding rate or equating participation to days of attendance. This could create ambiguous funding rules for IS and asynchronous programs. For example, it is not clear how the state would fund students who take part of their classes through IS or asynchronous programs and their remaining coursework through classroom-based instruction.

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

- **Does Not Make Funding Contingent on Educational Progress.** The Governor’s proposal would require IS programs to develop student outcomes and reconsider the participation of students who are not making satisfactory educational progress towards meeting those outcomes. The proposal does not, however, explicitly link funding to student performance. Until the student was removed from the program, an IS student not achieving satisfactory academic progress still would generate funding. By not tying funding explicitly to outcomes, the proposal misses an opportunity to create stronger incentives for IS programs to focus on student learning.
- **Satisfactory Educational Progress Too Broadly Defined.** The Governor’s proposal encourages IS and asynchronous programs to focus on student learning, but leaves schools to define what constitutes satisfactory educational progress. The LAO is also concerned that without clear state guidance on the definition of satisfactory educational progress, the state would find it virtually impossible to ensure IS and asynchronous programs maintain high-quality, academically rigorous expectations for all students. Existing provisions of state law require IS coursework to be as rigorous as classroom-based instruction, but few mechanisms currently exist to enforce this standard. The removal of most input-based requirements makes the absence of these enforcement mechanisms of even greater concern.
- **Missing Requirements for Asynchronous Instruction.** The LAO is concerned that certain restrictions currently applicable to IS programs would not apply to asynchronous instruction. The Governor’s proposal, for example, includes no age limitations for asynchronous instruction. The proposal also permits schools to enroll any students who are California residents for asynchronous instruction, regardless of their county of residence. Given the similarity between these two programs, the LAO sees no rationale for applying certain restrictions to IS but not to asynchronous instruction.
- **Additional Time May Be Needed for Implementation.** The Governor’s proposal would require major changes at the state and local level. The state would need to develop new rules for counting students in IS and asynchronous programs and auditing compliance with those rules. In addition, schools offering IS programs would need to revise their programs to focus on locally determined academic outcomes rather than the time value of a student’s work. Given both the state and local IS programs would need to make substantial changes, it likely would not be feasible to implement all of the Governor’s proposed changes by the start of the 2013-14 school year.

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

LAO RECOMMENDATIONS:

The LAO believes the Governor’s proposals to remove many of the input-based requirements (including the student-teacher ratio, time value rules, and high-level of detail in IS contracts) are reasonable, especially when coupled with a stronger emphasis on student outcomes. The LAO recommends adopting the Governor’s basic framework. However, the LAO recommends the Legislature modify the Governor’s proposal to:

- (1) require students enrolled in an asynchronous course to be part of an IS program,
- (2) explicitly link funding rates to achieving student learning outcomes,
- (3) require measures of satisfactory educational progress be aligned with the state content standards, (4) delay implementation of the proposed changes until 2014-15, and
- (5) retain the option for programs to use existing IS rules for the next few years.

The LAO provides more details on each of these modifications below.

Require Students Enrolled in an Asynchronous Course Be Part of an IS Program. The Governor’s proposal for asynchronous instruction has many similarities to his IS proposal but lacks the age limit and other requirements that currently apply to IS. To address this issue, the LAO recommends the Legislature require students enrolled in an asynchronous course also be part of an IS program. This would provide a consistent set of rules across both types of programs and simplify the procedures for tracking student attendance. By making asynchronous instruction a part of IS, the LAO’s remaining IS recommendations also would apply to asynchronous instruction.

Explicitly Link Funding to Student Learning Outcomes. The LAO recommends the Legislature explicitly link IS funding to student success by making IS funding contingent on students meeting the educational outcomes established for each course. For example, the state could establish a per-course funding rate and provide funding when students successfully complete a summative examination associated with each course. This change both would establish a clear funding mechanism and make funding contingent on students making educational progress.

Require Rigorous Content-Aligned Measures and External Review of Outcome Measures. To ensure IS programs are rigorous, the LAO recommends the Legislature require locally determined outcome measures be directly linked to the state’s content standards. The LAO further recommends the Legislature establish a process for the external review of these measures. For example, the state could require all IS measures of satisfactory progress be approved by COEs or the Superintendent of Public Instruction. Alternatively, the state could establish basic statutory criteria for IS programs to use when selecting outcome measures and require compliance with those criteria be part of the annual audit process. (The administration indicates that it intends to adopt some provisions for auditing through procedural changes to the state audit guide, but we recommend the Legislature be explicit and place basic guidelines for auditing or other external review in statute.)

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

Delay Full Implementation Until 2014-15 and Retain Option to Use Existing IS Rules During the Next Few Years. Given the number of changes contained in the Governor’s proposal, the LAO recommends delaying full implementation of the new IS rules until 2014-15. The LAO recommends using 2013-14 as a planning year to develop associated regulations and disseminate information to schools.

The LAO also recommends allowing schools to continue operating under the existing IS structure for the next few years. This would allow IS programs to gain some experience with the new outcome-based approach. Allowing a period in which both input-based and outcome-based IS programs could operate also would allow the Legislature to assess and compare the two models. After a few years of implementation, the Legislature could determine whether the new IS approach was successful and could replace existing input-based IS programs.

RECENT LEGISLATION.

2013-14 Legislation.

- **SB 714 (Block).** Allows school districts, county offices of education, or charter schools to claim state apportionment funding for three consecutive years for asynchronous attendance of pupils in “online educational learning programs.” Online educational learning programs may include one online course, multiple online courses, or a combination of online coursework and classroom-based coursework. **Status:** Senate Appropriations Committee.
- **AB 342 (Blumenfield).** Modifies existing law related to synchronous instruction and independent study. **Status:** Assembly Appropriations Committee.

Prior Legislation.

- **AB 644 (Blumenfield).** Authorizes a school district or county office of education to claim attendance for pupils in grades 9 to 12, taking online synchronous courses, toward average daily attendance (ADA) for the purpose of calculating revenue limit funding, as specified. **Status:** Chapter 579; Statutes of 2012.

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

STAFF COMMENTS:

CDE Concerns. The California Department of Education has the following concerns with the Governor's proposal.

Synchronous Online Education:

- **Implementation Timeline.** The CDE is concerned with implementing these changes starting in 2013-14 and prefer delayed implementation (existing law starts implementation in 2015-16).
- **Inclusion of Charter Schools.** CDE is concerned that students in charter schools could generate full ADA for students that participate in just one class. Further, it is not clear if participation in synchronous online education is considered classroom or non-classroom based instruction. To the extent it is considered non-classroom based, it conflicts with Title 5, which requires Independent Study attendance accounting to be used for non-classroom based instruction. There are also concerns with pupil residency and claiming apportionment funding.

Asynchronous Online Education:

- **Time Value Equivalents.** There is no provision for establishing a time value for the purposes of configuring students minimum day for compliance with compulsory education as well as how to calculate ADA.
- **Age Limits.** Allows traditional schools to enroll anyone, regardless of age.
- **Attendance Accounting.** Allows traditional and charter schools to generate perfect attendance for pupils enrolled in even just one asynchronous technology based class.
- **Inclusion of Charter Schools.** CDE has similar concerns with charter schools and synchronous education (see above).

ISSUE 5. Independent Study & Online, Technology-Based Instruction – Governor’s Budget Proposal

SUGGESTED QUESTIONS:

1. **State Funding.** How would independent study and asynchronous instruction generate state funding for students under the Governor’s proposals?
2. **Measurement of Student Progress.** How would the Governor’s proposal define “satisfactory educational progress”?
3. **Age Limits.** What are the age limits under the Governor’s asynchronous instruction proposals? How do they compare to age limits for independent study?
4. **Residency Requirements.** What are the residency requirements under the Governor’s proposals? How do they compare with residency requirements for attendance in asynchronous instruction and independent study?
5. **Relationship to Adult Education.** Would the Governor’s proposal allow adult education students to access K-12 coursework and programs?
6. **Relationship to Local Control Funding Formula.** Since the focus of the Governor’s proposal will ultimately affect how attendance is measured for purposes of apportionment funding.
 - a. How would the Governor’s proposal work under the Local Control funding Formula? Would pupil attendance be used for basic grants and supplements?
 - b. How would the Governor’s proposal interact with changes in charter school funding as a part of the Local Control Funding Formula?
7. **Delay in Implementation.** Given the major changes associated with the Governor’s proposals, is the Administration open to waiting another year to make these changes?

STAFF RECOMMENDATION: Hold open.

6110 Department of Education

ISSUE 6. STATE OPERATIONS – GOVERNOR’S BUDGET PROPOSALS

DESCRIPTION: The Governor proposes a number of adjustments for California Department of Education headquarters staff and expenses that have not already been heard by the Subcommittee. These proposed adjustments primarily involve staffing increases in 2013-14 to implement several statutes enacted in 2012.

PANELISTS: Department of Finance
Department of Education
Legislative Analyst’s Office

BACKGROUND: Funding and authorized positions for the California Department of Education are summarized by the table below.

California Department of Education Authorized Positions and State Operations Funding			
			Proposed
	2011–12	2012–13	2013–14
Authorized Positions			
Headquarters	1,486.80	1,469.30	1,470.30
State Special Schools	1,008.40	948.10	948.10
Total	2,495.20	2,417.40	2,418.40
Funding			
CDE Headquarters			
General Fund	39,853,000	40,569,000	41,536,000
Federal Fund	150,187,000	160,893,000	158,031,000
Other (Restricted)	31,632,000	31,565,000	31,652,000
Total	221,672,000	233,027,000	231,219,000
Percent General Fund	18%	17%	18%
Percent Federal	68%	69%	68%
CDE State Special Schools			
Proposition 98 GF	47,497,000	47,249,000	49,430,000
Non-Proposition 98 GF	41,345,000	40,046,000	42,950,000
Federal Fund	0	0	0
Other	10,395,000	12,217,000	10,475,000
Total	99,237,000	99,512,000	102,855,000
CDE Headquarters & State Special Schools			
General Fund	128,695,000	127,864,000	133,916,000
Federal Fund	150,187,000	160,893,000	158,031,000
Other	42,027,000	43,782,000	42,127,000
Total	320,909,000	332,539,000	334,074,000

Except for 2013-14, data are current-year estimates (middle column) from the Governor's Budget.

ISSUE 6. STATE OPERATIONS – GOVERNOR’S BUDGET PROPOSALS

Most CDE staff are employed at the department’s headquarters in Sacramento to administer state education programs and provide program support to local educational agencies. Remaining staff are employed at the State Special Schools (including State Diagnostic Centers) that provide direct instruction and support services to attending students.

BACKGROUND:

Recent Budget Reductions for Department State Operations. The Department of Education has experienced a variety of reductions to state operations – staffing and operating expenses -- since 2008-09. Most of these reductions are ongoing. In addition, the department is currently experiencing employee furloughs, although these furloughs are not currently proposed to continue for state agencies in 2013-14.

- **State Operations Reductions Beginning in 2009-10.** An Executive Order was issued by Governor Schwarzenegger to all state agencies effective in 2009-10 implementing a reduction equivalent to a three day per month furlough. Agencies headed by Constitutional Officers – such as CDE -- were exempt from the Executive Order, but received an equivalent reduction to their State Operations funding beginning in 2009-10. This veto resulted in a permanent reduction of **\$17.4 million** (across all fund sources), which the CDE mitigated through workload reductions associated with Categorical Flexibility. While other departments were restored when the three-day-per-month furloughs were lifted, the CDE was not. Over the two year period, the CDE experienced a reduction of 62 positions and **\$20 million** (all funds) in funding.
- **Additional Staff Reductions Associated with Categorical Flexibility Beginning in 2010-12.** SBX3 4 (Chapter 12; Third Extraordinary Session, Statutes 2009) granted LEAs the authority to use funding received for approximately 40 categorical programs for any educational purpose for a five year period beginning in 2008-09 and ending in 2012-13. (Subsequent legislation extended this flexibility through 2014-15.) This “categorical flexibility” freed LEAs from certain programmatic and fiscal restrictions and thus, to some degree the CDE’s role in monitoring and providing technical assistance for programs falling under categorical flexibility was eliminated. In 2010-11, as a result of categorical flexibility, state operations funding for the CDE was reduced by **\$2.6 million** (General Fund) and 22 positions.
- **Operational Efficiency Reductions Beginning in 2011-12.** The Department of Education received an “operation efficiency” reduction of **\$3.369 million** (General Fund) pursuant to Control Section 3.91 of the 2011-12 budget act. Operation efficiency reductions were applied to all state agency budgets and constitute ongoing cuts. The Department was required to submit an operation efficiency reduction plan to the Department of Finance to implement the reduction. The Department’s plan included a **\$1.5 million** (4.3 percent) reduction for the State Special Schools in 2011-12.

ISSUE 6. STATE OPERATIONS – GOVERNOR’S BUDGET PROPOSALS

Staff Furloughs in 2012-13 and Selected Prior Years. CDE received a department-wide reduction of **\$9.18 million** (all funds) as a result of one day per month Personal Leave Program (PLP) for all employees (including **\$3.39 million** for the State Special Schools) in 2012-13. The Governor does not propose to continue the PLP program for state agencies in 2013-14. CDE received a similar PLP reduction that began in November 2010 and extended through October 2011 and was equivalent to a **\$11.023 million** reduction (all funds).

Per the Department, the impact of state imposed PLP on CDE’s State Operations has resulted in delayed response time to the field and stakeholder groups as well as delays in the department’s internal administrative processes. As also noted in an LAO report regarding the impact of furloughs for state agencies, the CDE reports that the department has seen an increase in leave balances resulting from employees taking one day off per month that could otherwise be charged to accrued leave balances.

GOVERNOR’S BUDGET – CDE STAFFING AND EXPENDITURE PROPOSALS. The Governor’s January 10 budget proposes the following adjustments for the Department of Education:

General Fund (Non-Proposition 98) Adjustments.

- 1. Revision of Academic Performance Index.** Requests **\$217,000** in state General Fund and **2.0 positions** to redesign the state’s Academic Performance Index (API). This redesign will include a broader measure of school outcomes and success by including additional indicators in the API in addition to assessment results pursuant to SB 1458/Steinberg (Chapter 577, Statutes of 2012) in 2013-14. The bill will require the development of new student performance measures -- such as college going rates and career outcomes -- as well as new sources of data.

Staff Comments: The Governor proposes 2.0 ongoing positions beginning in 2013-14 for redesign workload that will last three years and for production of reports that will be completed by October 2013. Staff notes that while limited-term positions are not typically established for three-year time periods, these 2.0 positions should not be considered ongoing, and any ongoing need should be reconsidered before the positions are continued in 2016-17.

- 2. Pupil Fee Complaint Process.** Requests **\$109,000** in State General Fund and **1.0 position** to implement the requirements of AB 1578/Lara (Chapter 776, Statutes of 2012) beginning in 2013-14. This measure authorizes a complaint of noncompliance with the prohibition against pupil fees to be filed with the principal of a school under the existing Uniform Complaint Procedures process and authorizes a complainant who is not satisfied with the decision of the school to appeal the decision to the CDE. The bill further requires CDE, commencing in 2014-15 and every three years thereafter, to develop and distribute guidance regarding pupil fees and make it available on its Internet Web site.

Other Fund Adjustments:

- 3. Fee Reimbursements for Adoption of Instructional Materials for Mathematics.** Requests **\$350,000** in fee reimbursement authority to cover the costs of a new statewide mathematics instructional materials adoption beginning in 2012-13 and continuing through 2013-14 pursuant to AB 1246/Brownley (Chapter 668, Statutes of 2012). The 2008-09 budget suspended all statewide instructional materials adoptions due to the state budget shortfall. In 2009-10, \$705,000 in state General Fund support for the state Instructional Materials Commission was eliminated through a budget veto. AB 1246 authorizes a new statewide mathematics adoption and authorizes the state to assess a one-time fee payment from participating publishers and manufacturers to offset the costs of this adoption process.

Other State Operations Requests Covered in Previous Hearings.

- **Energy Efficiency Program Authorized by Proposition 39.** Requests **\$109,000** in General Fund (Non-98) and **1.0 position** to implement an Energy Efficiency Program for the K-12 schools. The Energy Efficiency Program is authorized by Proposition 39 – as approved by statewide voters in November 2012. The Governor proposes to provide \$400.5 million for a five year Energy Efficiency Program to K-12 schools beginning in 2013-14. The Governor also proposes \$49.5 million for a five year Energy Efficiency Program for community colleges beginning in 2013-14. (See Issue #1 - April 4, 2013, Subcommittee Agenda.)
- **Charter School Program Shifts.** Request to shift **\$175,000** in General Fund (Non-98) and **2.0 positions** from CDE to California School Finance Authority in the State Treasurer’s Office to support the transfer of two charter school programs beginning in 2013-14. The two programs include the Charter School Facility Grant program and the Charter School Revolving Loan Fund program. (See Issues #8 and #9 – March 21, 2013 Subcommittee Agenda.)

CDE STATE OPERATIONS PRIORITIES: There are a number of state operations requests that the CDE submitted to the DOF that were not approved by the Governor in the January budget or not included in the April Finance Letter. The department will provide information to the Subcommittee on those items that they designate as the highest priority.

ISSUE 7. STATE OPERATIONS – GOVERNOR’S BUDGET PROPOSALS
--

STAFF COMMENTS:

- **CDE Priority – General Fund (Non-98) Restoration to the State Special Schools.** The department requests a General Fund (Non-98) increase to restore the **\$1.8 million** reduction to the State Special Schools in 2012-13. This reduction was on top of a **\$1.5 million** General Fund (Non-98) ongoing “operational efficiency” reduction assessed in 2011-12. The department received a total operational efficiency reduction of \$3.4 million in 2011-12 and assessed \$1.5 million of this amount to the State Special Schools.

Staff believes restoration of funding for the State Special Schools is in keeping with restorations for other programs per the Governor’s Local Control Funding Formula. However, staff does not support restoration with General Fund (Non-98) dollars. A number of other funding options exist, that staff believes should be explored first, including:

- ✓ Identification of available federal special education carryover funds that could be used to backfill the Governor’s proposed reductions in 2012-13.
 - ✓ Assessment of local educational agency reimbursements for pupils attending the State Special Schools and options for increasing those charges.
 - ✓ Evaluation of alternative savings for the state diagnostic centers, including an increase in the charges to local educational agencies for providing these state assessments.
 - ✓ Review of state laws and policies to explore consolidating state funding for the State Special Schools within Proposition 98 and eliminating Non-98 General Funds.
- **State Special Schools – Proposition 39 Funding.** As enacted by voters in November 2012, Proposition 39 authorizes energy efficiency for public schools, universities and colleges, and other public buildings and facilities. The Governor’s proposes to allocate \$450 million in energy efficiency funding to (1) K-12 schools districts, county offices of education and charter schools, and (2) community college districts. Funds would be allocated annually for five years beginning in 2013-14. However, according to the Department of Finance, the Governor’s proposal does not explicitly include the State Special Schools.

Staff suggests any funding provided by the Legislature to K-12 schools for purposes of energy efficiency funding pursuant to Proposition 39 should include the State Special Schools. The State Special Schools have not been eligible for state general obligation bonds nor do they have authority to issue local general bonds to finance energy efficiency projects. As residential facilities, the State Special Schools operate 24 hours a day, 5 days a week during the school year. The State Special Schools has requested state General Funds for energy efficiency projects in the past and could likely benefit from these funds.

ISSUE 6. STATE OPERATIONS – GOVERNOR’S BUDGET PROPOSALS
--

STAFF RECOMMENDATION: Staff recommends that the Subcommittee delay approval of the Governor’s proposals for CDE state operations items #1-3 (as listed on previous page) until after May Revise to coordinate with actions for General Fund Proposition 98 local assistance programs and actions on federal programs.

Attachment A

First Interim Status Report FY 2012-13



First Interim Status Report, FY 2012-13

Listing of local educational agencies receiving negative and qualified certifications for fiscal year 2012-13 first interim.

List of Negative and Qualified Certifications Local Educational Agencies 2012-13 First Interim Report

NEGATIVE CERTIFICATION

A negative certification is assigned to a local educational agency when it is determined that, based upon current projections, the local educational agency will not meet its financial obligations for fiscal year 2012-13 or 2013-14.

Number	County	Local Educational Agency	Total Budget (\$) in millions
1	Los Angeles	Inglewood Unified	118.3
2	Los Angeles	Walnut Valley Unified	111.3
3	Los Angeles	Wilsona Elementary	12.7
4	Monterey	South Monterey County Joint Union High	17.2
5	San Bernardino	Victor Valley Union High	33.4
6	Sonoma	Cotati-Rohnert Park Unified	48.2
7	Stanislaus	Denair Unified	9.7

QUALIFIED CERTIFICATION

A qualified certification is assigned to a local educational agency when it is determined that, based upon current projections, the local educational agency may not meet its financial obligations for fiscal year 2012-13, 2013-14, or 2014-15.

Number	County	Local Educational Agency	Total Budget (\$) in millions
1	Alameda	Oakland Unified	413.9
2	Amador	Amador County Office of Education	9.6
3	Amador	Amador County Unified	29.2
4	Butte	Chico Unified	102.2
5	Butte	Durham Unified	8.6
6	Butte	Oroville City Elementary	21.6
7	Calaveras	Calaveras Unified	28.3
8	Contra Costa	John Swett Unified	14.8
9	Contra Costa	Mt. Diablo Unified	284.5
10	Humboldt	Fortuna Union Elementary	10.1
11	Imperial	Imperial Unified	24.1
12	Kern	Taft City	18.6

13	Lake	Upper Lake Union Elementary	3.1
14	Lassen	Janesville Union Elementary	2.6
15	Los Angeles	Antelope Valley Joint Union High	218.1
16	Los Angeles	Azusa Unified	92.2
17	Los Angeles	Bassett Unified	42.5
18	Los Angeles	Burbank Unified	119.1
19	Los Angeles	Compton Unified	232.6
20	Los Angeles	Eastside Union Elementary	25.3
21	Los Angeles	El Monte Union High	101.2
22	Los Angeles	Garvey Elementary	44.0
23	Los Angeles	Lennox	52.0
24	Los Angeles	Los Angeles Unified	5,976.6
25	Los Angeles	Palmdale Elementary	171.9
26	Los Angeles	Paramount Unified	129.2
27	Los Angeles	Pasadena Unified	184.4
28	Los Angeles	Pomona Unified	243.8
29	Los Angeles	Rosemead Elementary	23.6
30	Los Angeles	Saugus Union Elementary	76.7
31	Madera	Chawanakee Unified	8.8
32	Madera	Yosemite Unified	17.6
33	Mariposa	Mariposa County Unified	17.1
34	Mendocino	Willits Unified	16.2
35	Nevada	Pleasant Ridge Union Elementary	11.3
36	Orange	Anaheim City	158.5
37	Orange	Buena Park Elementary	42.0
38	Orange	Capistrano Unified	362.8
39	Orange	Fullerton Joint Union High	134.8
40	Orange	Garden Grove Unified	432.5
41	Orange	La Habra City Elementary	41.9
42	Orange	Ocean View	73.0
43	Orange	Placentia-Yorba Linda Unified	199.0
44	Orange	Santa Ana Unified	498.4
45	Orange	Westminster Elementary	77.0
46	Placer	Placer Hills Union Elementary	5.9
47	Riverside	Banning Unified	35.8
48	Riverside	Coachella Valley Unified	171.9
49	Riverside	Desert Sands Unified	231.0
50	Riverside	Hemet Unified	179.5
51	Riverside	Jurupa Unified	159.0
52	Riverside	Lake Elsinore Unified	164.8
53	Riverside	Menifee Union Elementary	62.4
54	Riverside	Murrieta Valley Unified	160.1
55	Riverside	Palo Verde Unified	30.4
56	Riverside	Perris Union High	77.8
57	Riverside	Temecula Valley Unified	199.2
58	Riverside	Val Verde Unified	168.1
59	Sacramento	Center Joint Unified	34.6

60	Sacramento	Elk Grove Unified	491.4
61	Sacramento	Folsom-Cordova Unified	139.3
62	Sacramento	Galt Joint Union High	19.1
63	Sacramento	Natomas Unified	72.7
64	Sacramento	Robla Elementary	16.6
65	Sacramento	Sacramento City Unified	389.9
66	Sacramento	San Juan Unified	332.2
67	San Benito	Southside Elementary	1.5
68	San Bernardino	Adelanto Elementary	58.8
69	San Bernardino	Bear Valley Unified	15.0
70	San Bernardino	Colton Joint Unified	183.9
71	San Bernardino	Lucerne Valley Unified	9.0
72	San Bernardino	Mountain View Elementary	17.4
73	San Bernardino	Rim of the World Unified	83.3
74	San Bernardino	Upland Unified	91.0
75	San Bernardino	Yucaipa-Calimesa Joint Unified	67.8
76	San Diego	Alpine Union Elementary	14.3
77	San Diego	Borrego Springs Unified	5.6
78	San Diego	Carlsbad Unified	78.2
79	San Diego	Fallbrook Union High	27.8
80	San Diego	Ramona City Unified	49.0
81	San Diego	San Diego Unified	1,098.3
82	San Diego	San Marcos Unified	146.0
83	San Diego	San Ysidro Elementary	41.9
84	San Diego	Vallecitos Elementary	2.1
85	San Luis Obispo	Atascadero Unified	38.2
86	San Luis Obispo	Paso Robles Joint Unified	53.0
87	San Luis Obispo	San Miguel Joint Union	5.1
88	San Luis Obispo	Shandon Joint Unified	3.6
89	San Mateo	Bayshore Elementary	3.5
90	San Mateo	San Bruno Park Elementary	25.3
91	Santa Clara	Alum Rock Union Elementary	107.5
92	Santa Clara	Evergreen Elementary	98.5
93	Santa Clara	Franklin-McKinley Elementary	75.3
94	Santa Clara	Gilroy Unified	83.3
95	Santa Cruz	Santa Cruz City Elementary	64.7
96	Santa Cruz	Santa Cruz City High	*
97	Shasta	Anderson Union High	15.7
98	Shasta	Cascade Union Elementary	11.5
99	Shasta	Cottonwood Union Elementary	6.8
100	Shasta	North Cow Creek Elementary	1.8
101	Sierra	Sierra-Plumas Joint Unified	5.5
102	Solano	Dixon Unified	26.6
103	Solano	Travis Unified	39.2
104	Sonoma	Geyserville Unified	3.1
105	Sonoma	West Sonoma County Union High	21.3
106	Sonoma	Wright Elementary	12.5

107	Stanislaus	Knights Ferry Elementary	1.1
108	Stanislaus	Riverbank Unified	23.3
109	Stanislaus	Stanislaus Union Elementary	24.2
110	Stanislaus	Waterford Unified	17.7
111	Tehama	Los Molinos Unified	5.3
112	Tehama	Manton Joint Union Elementary	0.5
113	Tehama	Plum Valley Elementary	0.4
114	Tulare	Hot Springs Elementary	0.4
115	Tuolumne	Sonora Union High	11.4
116	Ventura	Simi Valley Unified	152.1
117	Yuba	Wheatland Union High	6.1

* Santa Cruz City Elementary and Santa Cruz City High School Districts are two districts with joint administration and fiscal reporting. The amount shown in the column is the combined budget.

Questions: [Management Assistance Unit | 916-327-0538](#)

[Download Free Readers](#)

California Department of Education
 1430 N Street
 Sacramento, CA 95814

[Contact Us](#) | [FAQ](#) | [Web Policy](#)

Last Reviewed: Monday, March 04, 2013

Attachment B

CA State Emergency Loans To School Districts

1991-2012

CALIFORNIA STATE EMERGENCY LOANS TO SCHOOL DISTRICTS, 1991 to 2012

March 1, 2013

District	Tenure of State Administrators and State Trustees	Legal Authority (in addition to AB 1200)	Date of Issue	Amount of State Loan	Interest Rate	Date/Amount of I-Bank Refinance & Remaining General Fund Loan	Outstanding Balance of I-Bank and General Fund Loans	Amount of Annual Loan Payment; Due Date	Amount Paid By District Including Principal & Interest	Pay Off Date
Inglewood Unified	Administrator 10/3/12 – Present	SB 533 Ch 325/12	11/15/12 11/30/12 2/13/13	\$ 7,000,000 \$12,000,000 \$10,000,000 (\$55 million authorized)	.349%	Not yet refinanced by I-bank.	\$29,000,000 as of 3/1/13	To be determined after I-bank refinance.	\$0	November 2033
South Monterey County Joint Union High (formerly King City Joint Union High)	Administrator 7/23/09 – Present	SB 130 Ch 20/09	7/22/09 3/11/10 4/14/10	\$2,000,000 \$3,000,000 \$8,000,000 \$13,000,000	5.44%	4/14/10 I-Bank refinanced \$5 million GF loan, plus provided additional \$8 million (total I-bank loan of \$14,395,000 including principal, accrued interest, and expenses)	\$13,605,000 as of 8/15/12 (Bond debt service payments due February and August each year, through 2029.)	I-Bank: \$1.2 million total due during the period July through October, 2010-2028.	\$2,508,481	October 2028 I-bank
Vallejo City Unified	Administrator 6/22/04 – Present Trustee 7/13/07 - Present	SB 1190, Ch 53/04	6/23/04 8/13/07	\$50,000,000 \$10,000,000 \$60,000,000	1.500%	12/1/05 \$20,642,992 refinanced by sale of I-Bank bonds of \$21,205,000 (principal and accrued interest) \$25,000,000 – GF \$10,000,000 - GF	\$39,437,747 as of 7/1/12	I-Bank: \$1.3 million total due during the period July through January, 2006-2024; GF: \$1.6 million due each June, 2007 – 2024; GF: \$670,797 due each August, 2008- 2024	\$25,849,759	January 2024 I-bank 8/13/24 GF
Oakland Unified	Administrator 6/16/03 – 6/28/09 Trustee 7/1/08 - Present	SB 39, Ch 14/03	6/4/03 6/28/06	\$65,000,000 \$35,000,000 \$100,000,000	1.778%	12/1/05 \$50,830,859 refinanced by sale of I-Bank bonds of \$59,565,000 (principal and accrued interest) \$35,000,000 – GF	\$64,323,590 as of 7/1/12	I-Bank: \$3.8 million total due during the period July through January, 2006-2023; GF: \$2.1 million due each June, 2007-2026	\$47,584,224	January 2023 I-bank 6/29/26 GF
West Fresno Elementary	Administrator 3/19/03 – 6/30/11 Trustee 8/26/08 – 12/4/09	AB 38, Ch 1/03	12/29/03	\$1,300,000 (\$2,000,000 authorized)	1.93%	N/a	-0-	N/a	\$1,425,773	12/31/10 GF
Emery Unified	Administrator 8/7/01- 6/30/04; Trustee 7/1/04 – 7/29/11	AB 96, Ch 135/01	9/21/01	\$1,300,000 (\$2,300,000 authorized)	4.19%	N/a	-0-	N/a	\$1,742,501	6/20/11 GF
Compton Unified	Administrators 7/93- 12/10/01 Trustee 12/11/01-6/2/03	AB 657, Ch 78/93 AB 1708, Ch 924/93	7/19/93 10/14/93 6/29/94	\$3,500,000 7,000,000 9,451,259 \$19,951,259	4.40% 4.313% 4.387%	N/a	-0-	N/a	\$24,358,061	6/30/01 GF
Coachella Valley Unified	Administrators 5/26/92- 9/30/96 Trustee 10/1/96-12/20/01	SB 1278, Ch 59/92	6/16/92 1/26/93	\$5,130,708 2,169,292 \$7,300,000	5.338% 4.493%	N/a	-0-	N/a	\$9,271,830	12/20/01 GF
West Contra Costa Unified (formerly Richmond Unified)	Pre-AB 1200 Trustee 7/1/90 – 5/1/91; Administrator 5/2/91- 5/3/92; Trustee 5/4/92- 5/31/12	AB 1202, Ch 171/90 Superior Court Order	8/1/90 1/1/91 7/1/91	\$2,000,000 7,525,000 19,000,000 \$28,525,000	1.532% 2004 refi rate	12/1/05 \$15,475,263 refinanced by sale of \$15,735,000 in I-Bank bonds (principal plus accrued interest)	-0-	N/a	\$47,688,620	5/30/12 I-bank