Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 1 Agenda

Senator Marty Block, Chair
Senator Benjamin Allen
Senator John M. W. Moorlach

Thursday, March 10, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 3191

Consultants: Elisa Wynne and Anita Lee

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6110 DEPARTMENT OF EDUCATION
6870 CALIFORNIA COMMUNITY COLLEGES

Issue 1: Adult Education Block Grant

Panel I:
- Natasha Collins, Legislative Analyst's Office
- Jessica Holmes, Department of Finance
- Debra Brown, California Department of Education
- Debra Jones, California Community Colleges

Panel II:
- Bill Bettencourt, Principal, Placer School for Adults
- Susan Yamate, Director, San Diego Adult Education Regional Consortium

Background:

Adult Education Block Grant. The 2015-16 Budget Act provided $500 million in ongoing Proposition 98 funding for the Adult Education Block Grant (AEBG) and budget trailer bill, AB 104 (Committee on Budget and Fiscal Review), Chapter 13, Statutes of 2015,contained implementing statute. This new program built on two years of planning to improve and better coordinate the provision of adult education by the Chancellor of the California Community Colleges and the Superintendent of Public Instruction. Under the restructuring effort, regional consortia, made up of adult education providers, formed to improve coordination and better serve the needs of adult learners within each region.

There are currently 71 regional consortia with boundaries that coincide with community college district service areas. Formal membership in consortia is limited to school and community college districts, county offices of education (COEs), and joint powers agencies (JPAs). Each formal member is represented by a designee of its governing board. With input from other adult education and workforce service providers, such as local libraries, community organizations, and workforce investment boards, the consortia developed regional plans to coordinate and deliver adult education in their regions. Only formal consortia members may receive AEBG funding directly. However, under a regional plan, funds may be designated for and passed through to other adult education providers serving students in the region.

Consortia Governance Structures. To be eligible for AEBG funds, regional consortia are required to establish a governance structure, however statute does not specify the type of governance structures consortia must adopt, instead providing flexibility for local decision-making. The chancellor and superintendent must approve the governance structure of each consortium. Of the 71 consortia, 53 currently indicate a governance structure of one vote per member. The chart below describes the governance structures that consortia have adopted.

Voting Power for Regional Consortia in 2015-16	Number of Consortia	Percentage of Consortia
One vote per member (1:1)	53	75%
Modified 1:1 – additional votes for community colleges	7	10%
Modified 1:1 – additional votes for larger member institutions	5	7%
Modified 1:1 – additional votes for members with MOE funds	3	4%
No assigned voting power due to consensus model	3	4%

According to California Department of Education (CDE) and the California Community Colleges Chancellor's Office (CCC), seven consortia are in the process of revising their governance structure for 2016-17.

Instruction Authorized in Seven Areas. Block grant funds may be used for programs in seven adult education instructional areas:

1) Elementary and secondary reading, writing, and mathematics (basic skills).

2) English as a second language and other programs for immigrants.

3) Workforce preparation for adults (including senior citizens) entering or re-entering the workforce.

4) Short-term career technical education with high employment potential.

5) Pre-apprenticeship training activities coordinated with approved apprenticeship programs.

6) Programs for adults with disabilities.

7) Programs designed to develop knowledge and skills that enable adults (including senior citizens) to help children to succeed in school.

Consortia Funding. The 2015-16 Budget Act provided $500 million in ongoing Proposition 98 funding to regional consortia. In 2015-16, $337 million of this funding was distributed based on a maintenance of effort amount for school districts and COEs that operated adult education programs in 2012-13 and subsequently became members of regional consortia. Each of these providers received the same amount of funding in 2015-16 as it spent on adult education in 2012-13. The remainder of the funds were designated for regional consortia based on each region's share of the statewide need for adult education as determined by the chancellor, superintendent, and executive director of the State Board of Education. In determining need, statute requires these leaders to consider, at a minimum, measures related to adult population, employment, immigration, educational attainment, and adult literacy. The CDE and CCC report that need-based funding in 2015-16 for consortia was $158 million, with $5 million not yet allocated and set-aside for the potential expansion of consortia.

Beginning in 2016-17, the CCC and CDE will distribute block grant funding based on (1) the amount allocated to each consortium in the prior year, (2) the consortium's need for adult education, and (3) the consortium's effectiveness in meeting those needs. If a consortium receives more funding in a given year than in the prior year, each member of the consortium will receive at least as much funding as in the prior year. The CCC and CDE report that the preliminary 2016-17 fiscal year allocation schedule, to be released in March, 2016, will reflect the provision of the same amount of funding to consortia as provided in the 2015-16 fiscal year.

AB 104 authorized each consortium to choose a fiscal agent to receive state funds and then distribute funding to consortium members, or to opt out and have members receive funds directly. The current distribution of fiscal agents, as of March 2016, includes, 12 K-12 districts, 48 community college districts, three county offices of education, and nine consortia that opted instead for direct funding from the state.

Data and Reporting. In the 2015-16 Budget Act, the CCC and CDE were provided $25 million Proposition 98 funds to identify common measures for determining the effectiveness of the consortia in providing quality adult education. AB 104 specified that, at a minimum, the chancellor and superintendent accomplish both of the following:

- Define the specific data that each consortium shall collect.

- Establish a menu of common assessments and policies regarding placement of adults in education programs that measure the educational needs of adults and the successfulness of the provider in meeting those needs.

Of the total data allocation, 85 percent is available for grants to establish systems or obtain necessary data and 15 percent is available for grants for development of statewide policies and procedures related to data collection and reporting, or for technical assistance to consortia. The CDE and CCC have not yet awarded grants or expended any of the $25 million.

Legislative intent language also specifies that the chancellor and superintendent work together to enter into agreements between their two agencies and other agencies, including the Education Development Department and the California Workforce Investment Board.

<u>Report on Progress:</u>

AB 104 required the chancellor and Superintendent to report on the progress made towards defining specific data collected, establishing menus of common assessments and policies, and enacting data sharing agreements to be submitted by November 1, 2015. The statutory requirements and report responses are compared below:

1. **Requirement:** Identify the specific data that each consortium shall collect.

   Report Response: An interim reporting tool has been created on the Adult Education Block Grant website for consortia to enter data required by AB 104, plus data on the number of adult students transitioning from the K-12 system to the community college system. This system will also require consortia to report expenditures by program area. The required information under AB 104 is as follows:

   1. How many adults are served by members of the consortium.

   2. How many adults served by members of the consortium have demonstrated the following:

      - Improved literacy skills.

  - Completion of high school diplomas or their recognized equivalents.
  - Completion of postsecondary certificates, degrees, or training programs.
  - Placement into jobs.
  - Improved wages.

- Specific data elements already identified in the final planning report required last spring in statute (AB 86 (Committee on Budget), Chapter 43, Statutes of 2013), that should be collected are:

  - Student headcount for each academic term and year by provider, aggregated into statewide and consortium totals and disaggregated by age, gender, and race/ethnicity.
  - Fulltime equivalent students/average daily attendance of each of the five instructional areas, in total and by course sections.
  - Degrees/certificates attained.
  - Learning gains (i.e. test scores or advancing to a higher instructional levels.
  - Employment outcomes (e.g. entered employment, retained employment, and wage gains).
  - Transition to postsecondary education or training.

- The CDE and CCC have examined the student identifiers that are used in the K-12 system (Statewide Student Identifiers) and the community college system (social security numbers). Other potential identifiers are the Individual Taxpayer Identification number and the California Driver's License number. A decision to align identifiers or collect either of the potential additional identifiers has not been made and would require changes to the data systems being used by CDE and CCC.

- The CCC and CDE have also identified that a centralized clearinghouse is needed to track student outcomes within and across both systems.

2. **Requirement:** Establish a menu of common assessments and policies regarding placement of adults in education programs that measure the educational needs of adults and the successfulness of the provider in meeting those needs.

   Report Response: Within consortia, local providers are aligning assessments to ease the transition between programs or into the workforce. The CCC and CDE identified the assessments used by both the adult education and the CCC system. These include:

   - Comprehensive Adult Student Assessment System (K-12 adult education, CCC who receive federal Title II or WIOA funds).

   - Test of Adult Basic Education (CCC and K-12).

- General Assessment of instructional Needs (CCC and K-12).
- Basic English Skills Test for Literacy (CCC and K-12).
- Common Assessment Initiative – under development (CCC).

The CCC and CDE have not yet identified work readiness assessments used by providers. The report also did not included data on state or consortia-specific policies regarding the placement of adults.

3. **Requirement:** Development of memorandums-of-understanding (MOUs) for the purposes of data sharing.

   Report Response: There are MOUs between CCC and CDE that allow for the matching of students between the CDE's CALPADS system and CCC's data system. CDE and CCC are also working on MOUs with the Employment Development Department to enable the identification of wage data.

Member Effectiveness Data. AB 104 also required the CCC and CDE to identify specific metrics on member effectiveness. CDE and CCC recently identified the following metrics:

- Each member must participate in completing and updating the Annual Plan Template.
- Adult Education Block Grant member funds must be expended in the seven program areas, and services provided must be consistent with the plan.
- Each member must participate in completing and updating the 3-year Consortia Plan, including any amendments.
- Member expenditures of Adult Education Block Grant funds must match the objectives and activities included in the Annual Plan.
- Members participate in consortium/public meetings.
- Members participate in consortium final decisions.
- Members report student level enrollment data and outcomes for mid-year and final reporting.
- Members share information on programs offered, and the resources being used to support the programs.

Coordination of Other Adult Education Fund Sources. AB 104 requires the state to coordinate funding of two federal adult education programs, the Adult Education and Family Literacy Act, also known as Workforce Innovation and Opportunity Act (WIOA) Title II, and the Carl D. Perkins Career and Technical Education Act (Perkins), with state Adult Education Block Grant funding. WIOA Title II was reauthorization that became effective July 1, 2015, and funding is allocated by the CDE to numerous adult education providers, including adult schools, community colleges, libraries, and community-based organizations. The CDE distributes funding based on student learning gains and other outcomes. Perkins is ongoing federal funding allocated by CDE to schools, community colleges, and correctional facilities. This funding may be used for a number of career technical education purposes, including curriculum and professional development and the purchase of equipment and supplies for the classroom. Of these funds, 85 percent directly supports local career technical education programs and 15 percent supports statewide administration and leadership activities, such as support for career technical education student organizations.

The CCC and CDE are required to submit a plan to Department of Finance, the State Board of Education, and the Legislature by January 31, 2016 on the distribution of WIOA Title II and Perkins funds in alignment with AEBG funds. As of writing this agenda, CCC and CDE state the plan is still undergoing editing, however, they have provided the committee with a draft copy that anticipates these funds will continue to be allocated the same way as they have been allocated in the past.

The CCC and CDE note that the reauthorization of WIOA Title II and Perkins may make changes in structure, goals and implementation of the acts, which could drive state-level changes for alignment purposes. Until reauthorization of the Carl D. Perkins Act, and until guidance for WIOA is released, the CDE and CCC have determined it is premature to change funding processes and will continue to allocate funds under the current structure and plan. Once WIOA Title II regulations are released and Perkins is reauthorized, CCCCO and CDE recommend reconstituting the Joint Advisory Committee on Career Technical Education to assist in the development of alternative methods of allocating multiple funding streams.

Governor's Budget Proposal

The Governor's budget proposal includes no changes to the funding amount of $500 million in ongoing Proposition 98 each year for the AEBG.

The Governor proposes trailer bill language that modifies consortia decision-making procedures. Specifically, trailer bill language requires a consortium to consider input provided by pupils, teachers employed by local educational agencies, community college faculty, principals, administrators, classified staff, and the local bargaining units of the school districts and community college districts before making a decision.

Staff Comments

The first year of the AEBG has highlighted many successes among consortia, funding has been allocated and local governance and financing structures have been established. Most consortia have reported significantly increased collaboration among consortia members. However, staff continue to be concerned with slow progress on the development of systems for collecting and reporting data statewide. While the reports required in statute have been released or are in progress, it is difficult to determine what the chancellor and the superintendent have accomplished since the AB 86 cabinet report was released in Spring 2015. Many of the same issues around data collection, student identifiers and assessments remain.

Staff are also concerned that the $25 million allocated specifically to develop data systems remains unspent. These funds were specifically intended to address the lack of data consistency among the providers of adult education. Adult education is an area of education that can result in a variety of positive outcomes for students from employment, to additional education, to improved English language skills. The AEBG does not require a specific number of adult students to be served. As a result of the unique nature of adult education, accurate tracking of positive student outcomes is vital to determining the success of the AEBG program and the appropriate allocation of any future funding increases. The Legislature may wish to explore whether additional legislative direction is needed to align data systems to ensure reliable outcome indicators for adult education.

Finally, the CCC and CDE have noted in several reports that the anticipated WIOA Title II regulations and Perkins reauthorizations limit the CCC and CDE from making changes to disbursement and alignment of funds, and identifying and aligning common assessments. However, it is unclear if WIOA regulations will significantly change the current understanding of the law's requirements. Further, the Perkins reauthorization and subsequent rulemaking process could take another several years. The Legislature may wish to require follow-up reporting from the CCC and CDE specifying which in areas they feel it is important to delay further progress on state coordination of federal funds, as well as common assessments, until WIOA's (and later, Perkins) final regulations are released and which state priorities they can move forward in the coming months.

Subcommittee Questions

1) What are the next steps that the CDE and CCC plan to take in the current year towards alignment of data to measure effectiveness and ensure positive outcomes for adult students?

2) How is the CCC's Common Assessment Initiative, currently under development, aligned with other assessments used by adult education providers?

3) How are consortia directing programs to meet the needs of their regions? What indicators of need are most useful for local planning purposes?

Staff Recommendation

Hold open pending May Revision funding projections.

Issue 2: K-14 Education Mandates

Panel:

- Rebecca Hamilton, Department of Finance
- Dan Kaplan, Legislative Analyst's Office
- Debra Brown, California Department of Education
- Dan Troy, California Community Colleges

Background:

The concept of state reimbursement to local agencies and school districts for state-mandated activities originated with the Property Tax Relief Act of 1972, SB 90 (Dills), Chapter 1406, Statutes of 1972, known as SB 90. The primary purpose of the act was to limit the ability of local agencies and school districts to levy taxes, however it also included provisions to require the state to reimburse local governments when they incurred costs as the result of state legislation. In 1979, Proposition 4 (superseding SB 90) was passed by voters, amending the California Constitution to require local governments to be reimbursed for new programs or higher levels of services imposed by the state. In response to Proposition 4, the Legislature created the Commission on State Mandates (CSM) to hear and decide upon claims requesting reimbursement for costs mandated by the state.

In the area of K-14 education, school districts, county offices of education (COEs), and community colleges, collectively referred to as local educational agencies (LEAs), can file mandate claims to seek reimbursement. Charter schools have filed mandate claims in the past and the CSM disapproved the claims stating that a charter school is voluntarily participating in the charter program and therefore their activities are not mandates. In addition, a charter school is not considered a school district under the Government Code sections that allow for the claiming of reimbursement. However, charter schools are required, as a course of operation, to provide some of the same programs, or higher levels of service for which other education agencies may file mandate claims and receive reimbursement.

Mandate Reimbursement Process. A test claim must be filed within 12 months of the effective date of the activity. The CSM first determines whether an activity is a mandate. Generally, a new program or higher level of service for a local government may not be considered a reimbursable mandate if 1) it is a federally-required program or service; 2) it is the result of a voter-approved measure; 3) it is the result of an optional or voluntary activity; 4) it has offsetting saving or revenues designated for that purpose; or 5) the requirement was enacted prior to 1975. The test claim must include detailed information on the enacting statutes or executive orders, mandated activities, and costs incurred as a result.

If the CSM determines the program or service to be a reimbursable mandate, the next step is for the CSM to approve "Parameters and Guidelines" that identify the eligible claimants, activities, costs, and time-period as needed for LEAs to file claims. The State Controller's Office (SCO) then issues claiming instructions and LEAs file initial claims, followed by annual claims for reimbursement. The SCO reviews, approves, and audits a sample of claims. After the initial claims are filed for a reimbursable state mandate, the SCO aggregates these costs and provides a statewide cost estimate for adoption by the CSM. These statewide cost estimates are reported to the Legislature and used to estimate ongoing state mandate costs and the backlog of unpaid mandate claims.

The mandates reimbursement process has some identified shortcomings. The process often takes years for decisions to be reached, allowing potentially significant costs to accrue prior to initial claims and delaying a decision by the state to suspend or amend the requirements. Reimbursements under this process are based on actual costs; therefore LEAs may lack an incentive to perform required activities as efficiently as possible. In addition, reimbursement on an annual basis requires potentially significant bureaucratic workload for LEAs to keep required records for all of the various mandated activities. Also, depending on the amount of reimbursement available, not all LEAs may file a claim; those with less administrative capacity may simply absorb the costs of the mandate. The reverse is likely also true; LEAs with the necessary administrative resources may more aggressively pursue reimbursement, resulting in uneven funding for the same mandated activities.

In order to simplify the process, in 2004 the state created the Reasonable Reimbursement Methodology (RRM). Rather than requiring LEAs to submit detailed documentation of actual costs, RRM uses general allocation formulas or other approximations of costs approved by the CSM. Only three school mandates currently have approved RRMs.

Payment of Mandates. Over the years, as the cost and number of education mandates has grown, the state began to defer the full cost of education mandates for multiple years at a time, paying claims on an inconsistent schedule, mostly when one-time funds are available. After deferring payments for years, in 2006, the state provided more than $900 million in one-time funds for state mandates, retiring almost all district and community college mandate claims (plus interest) through the 2004-05 fiscal year. However on a regular ongoing basis, the state continues to defer the cost of roughly 50 education mandates, but still requires LEAs to perform the mandated activity by providing a nominal amount of money ($1,000) for each activity.

There have been some attempts to force the state to pay mandate claims. For example, Proposition 1A, approved by the state's voters in 2004, required the Legislature to appropriate funds in the annual budget to pay a mandate's outstanding claims, "suspend" the mandate (render it inoperative for one year), or "repeal" the mandate (permanently eliminate it or make it optional). The provisions in Proposition 1A, however, do not apply to K-14 education. In addition, in 2008, a superior court found the state's practice of deferring mandate payments unconstitutional, however constitutional separation of powers means the courts cannot force the Legislature to make appropriations for mandates.

More recently the state has had significant one-time Proposition 98 funding available and has made sizeable payments towards the mandates backlog. After 2013-14, the LAO estimated that the mandates backlog reached a high of approximately $4.5 billion. The 2014-15 Budget Act, provided $450 million to pay K-14 mandates. The 2015-16 Budget Act, provided an additional $3.8 billion for mandates. In both of these years, the funds were not apportioned for specific claims, but provided on an equal amount per average daily attendance (ADA) for K-12 and per full time equivalent student (FTES) for community colleges. Charter schools were also included in the per ADA allocation although they do not have mandate claims. This payment methodology acknowledges that all LEAs and community colleges were required to complete mandated activities, but for a variety of reasons, not all LEAs and community colleges submitted claims.

Recent K-14 Mandate
Recent Backlog Payments

	2014 Budget Act	2015 Budget Act
K-12 Education (In thousands)	**$400,500**	**$3,205,137**
Per ADA Rate (In whole dollars)	$67	$529
Community Colleges (In thousands)	**$49,500**	**$632,024**
Per FTES Rate (In whole dollars)	$45	$556
Total (In thousands)	**$450,000**	**$3,837,161**

Does not account for leakage.
Source: Department of Finance

This payment methodology has a significant limitation in its ability to fully pay off remaining mandate claims. The per ADA and FTES methodology results in "leakage", or the amount of the one-time payments that does not count against the mandate backlog because it was provided to LEAs or community colleges that did not submit claims or whose claims have already been paid off. As the state pays off more of the mandate backlog, the amount of leakage becomes more significant. With fewer LEAs that have remaining claims on the books, additional funding provided on a per ADA and per FTES basis has a diminishing return on reducing the backlog as the remaining claims become concentrated in those LEAs with high per-student claims.

Remaining Mandates Backlog. The Administration roughly estimates that after the 2015-16 payments are applied to the mandates backlog, the remaining balance of unpaid claims totals approximately $2.3 billion for K-12 mandates and close to $300 million for the California Community College mandates. This includes an estimate that the $3.8 billion provided in 2015-16 reduces mandate claims by approximately $2.8 million. However, the SCO has not yet applied this funding to claims, so actuals are not yet available. In addition, some mandates are currently involved in litigation and the SCO has not applied the CSM ruling on offsetting revenue pending completion of the lawsuit. The LAO takes into account pending litigation and adjusts the backlog down to $1.9 billion. The estimation of the actual amount of the backlog is complicated by a variety of factors, mandates claims continue to accrue on an annual basis, there is a lag in the SCO application of new one-time funds towards claims, and as a result in the calculation of leakage, claims continue to be subject to audit, and some statewide mandate costs are involved in litigation.

Mandates Block Grant. As an alternative to the traditional mandates claims process and to help create more certainty for LEAs in the payment of mandates, in the 2012-13 budget, the state created two block grants for education mandates: one for school districts, COEs, and charter schools (for which some mandated activities apply) and another for community colleges. Instead of submitting detailed claims that track the time and money spent on each mandated activity on an ongoing basis, LEAs can choose to receive block grant funding for all mandated activities included in the block grant. The mandates block grant does not reflect the actual statewide costs estimates for each included mandate.

Block Grant Funding and Participation. The 2015-16 budget includes a total of $251 million for the mandates block grants ($219 million for schools and $32 million for community colleges). Block grant funding is allocated to participating LEAs on a per-pupil basis, based on ADA or FTES. The rate varies by type of LEA and by grade span, due to the fact that some mandates only apply to high schools. The per-pupil rates are as follows:

- School districts receive $28.42 per student in grades K-8 and $56 per student in grades 9-12.

- Charter schools receive $14.21 per student in grades K-8 and $42 per student in grades 9-12.

- County offices of education (COEs) receive $28.42 for each student they serve directly, plus an additional $1 for each student within the county. (The $1 add–on for COEs is intended to cover mandated costs largely associated with oversight activities, such as reviewing district budgets.)

- Community colleges receive $28 per student.

Most school districts and COEs, and virtually all charter schools and community college districts, have opted to participate in the block grant. Specifically, in 2015-16, the LEAs participating in the block grant serve about 96 percent of LEAs, including charter schools, and 99 percent of ADA and 100 percent of community college districts and FTES.

New Education Mandates. New mandate claims continue to be filed on an ongoing basis and generally, once the CSM has adopted the statewide cost estimate, this amount is added to the mandates backlog. In addition, the state must make a determination about whether to add new mandates to the block grant and correspondingly increase the mandates block grant and by what amount. Finally, if the state is not going to suspend the mandate, generally a minimal appropriation of $1,000 is provided in the annual budget act towards the costs of the mandate. In the past, the mandates block grant has not been adjusted for low-cost mandates, but has been adjusted for high-cost mandates, such as the graduation requirements mandate, which results in an increase in the block grant in 2013-14 of $50 million.

The CSM approved a new mandate for the required technology, training, and internet access LEAs need to provide to administer the new California Assessment of Student Performance and Progress, beginning in 2013-14. While the CSM approved mandated activities for reimbursement in January 2016, it will be some time before the CSM process results in a statewide cost estimate.

<u>Governor's Proposal</u>:

The Governor proposes to provide $1.4 billion (1.3 billion for school districts, county offices, and charter schools, and $76 million for community colleges) in one–time discretionary Proposition 98 funds. These funds would offset any existing mandate claims. Similar to prior years, this funding would be allocated on a per ADA and per FTES basis, with school receiving $214 per ADA and community colleges receiving $72 per FTES. LEAs can use their funds for any purpose, however the Governor includes language suggesting that school districts, COEs, and charter schools dedicate their one–time funds to implementation of Common Core State Standards, technology, professional development, induction programs for beginning teachers, and deferred maintenance and community colleges use their one–time funds for campus security, technology, professional development, and the development of open education resources and zero–textbook–cost degrees.

Providing funds on a per ADA and per FTES basis means that all LEAs, including charter schools and community colleges, would receive some funding, regardless of whether they had submitted mandate claims, or the dollar amount of their outstanding claims. As a result, the entire $1.4 billion will not offset the mandates backlog, but rather some lesser portion of the total, as determined by the SCO. The Governor estimates this amount to be approximately $786 million, leaving a remaining mandates backlog of approximately $1.8 billion.

The Governor provides $219 million for the K-12 mandates block grant, reflecting a $1 million reduction for a decline in ADA and $33 million for the community colleges block grant, reflecting a $1 million increase for new FTES estimates. Per-pupil rates remain the same and there are no changes to the mandates included in the block grant. The Governor did not provide a COLA for the mandates block grant.

The Governor also proposes trailer bill language that would require that costs used to determine a reasonable reimbursement methodology for a mandate are based on audited claims.

LAO Analysis and Recommendations

The LAO's recent report, *The 2016-17 Budget: Proposition 98 Analysis*, analyzes the mandates backlog. The LAO found that many LEAs no longer have claims – 50 percent of school districts, 31 percent of county offices of education, and 86 percent of community colleges. They also looked at the cost per student and found that it varied widely and there was no uniform reason why any LEA would still have claims, although county offices in general had larger per student claims than school districts. In particular the widespread differences are highlighted in looking at community college claims where remaining clams are concentrated – 90 percent in four community college districts, who represent just seven percent of FTES.

Distribution of LEAs' Outstanding Claims per Student

	Share With Claims	Minimum Claim	Median Claim	Maximum Claim
School districts	50%	—[a]	$400	$8,673
County offices of education	69	$148	2,649	29,719
Community college districts	14	183	1,514	5,001

[a]Actual value of claim is $0.39 per student.

Note: Local education agencies (LEAs) with no outstanding balances have been omitted.

Source: Legislative Analyst's Office

The LAO notes that the prior years' practice of paying mandate claims with a per ADA and per FTES amount for all LEAs did ensure that LEAs that did not claim for mandates because it was administratively burdensome or provided services at a lower cost were not disadvantaged compared with other LEAs. However, paying the full mandates backlog using this methodology is not reasonable, given the growing amount of leakage as remaining claims become more concentrated.

The LAO recommends an alternative payoff methodology, providing $2.6 billion over the next few years. Under this plan, in exchange for a designated amount of one-time funding LEAs would be required to write-off remaining mandate claims. School districts would receive $450 per ADA, equal to the median outstanding per-student school district and county office claim. County offices would receive the greater of $1 million or $450 per ADA, plus $20 per each countywide ADA. If all school districts and county offices choose to participate, the cost would be $2.4 billion for school districts and $160 million for county offices. The LAO does not recommend making additional payments to charter schools as they do not have outstanding claims and were paid the same per-ADA rate as school districts in prior backlog payments, despite having to perform fewer mandated activities. The LAO also does not recommend making payments to community colleges as their remaining claims are so concentrated in a few districts. While there may be LEAs that choose not to participate and community colleges that retain claims on the books, there will be relatively few remaining claims. The state can continue to monitor the claims backlog over time as new mandates arise, and in future years when claims once again build up, can take a similar approach to retiring debt.

The LAO also reviewed the Governor's proposal for the mandates block grant and recommends that the Legislature apply the same COLA (0.47 percent) to the mandates block grant as is applied to other education programs, at an estimated cost of 1.2 million. The LAO notes that a COLA would ensure that the purchasing power of the mandates block grant is maintained and better reflect the costs of performing mandated activities.

Staff Comments

Significant progress has been made in paying down the mandates backlog over the past few years with the additional benefit that LEAs have received unrestricted one-time resources as the economy has recovered and they build back programs for their students. However, during this same time period, there have been significant education reforms, including new academic content standards and assessments that have required significant professional development, instructional materials, and technology upgrades. While the Governor proposes language that suggests, but does not require, the expenditure of funds on identified priorities, the Legislature may wish to consider whether funds should be instead specifically targeted to priority areas, although the state would not be able to count those funds as reducing the mandates backlog.

In addition, the payment of mandate claims has been inconsistent at best over the past decade. The inequities in the mandates system are well documented and over time, some LEAs have amassed large amounts of claims on the books. In 2012-13, the state created the mandates block grant and took a step towards preventing future backlogs of mandate claims totaling billions of dollars, with LEAs uncertain as to when they would be paid back for required activities. However the remaining backlog, created before the block grant, remains on the books and the Legislature may wish to consider alternative methods of paying the backlog off in a timely manner.

Subcommittee Questions

1. Does the DOF have a response to the LAO's alternative proposal?

2. Does the LAO anticipate there will be sufficient one-time funds in future years to fund the entire $2.6 billion needed under their proposal if all LEAs participate?

3. Why did the DOF not apply a COLA to the mandates block grant to retain the purchasing power of the grant?

Staff Recommendation

Hold open pending May Revision funding projections.

Issue 3: Proposition 39 Energy Efficiency Projects

Description

The California Clean Energy Jobs Act was created with the approval of Proposition 39 in the November 6, 2012 statewide general election. Under this act, specific proceeds of corporate tax revenues are allocated to the Clean Energy Job Creation Fund through 2017-18, and are available for appropriation by the Legislature for eligible projects to improve energy efficiency and expand clean energy generation. This item includes an update on projects that have been completed or are underway and the Governor's proposal for the 2016-17 expenditure of funds.

Panel:

- Dan Kaplan, Legislative Analyst's Office
- Cheryl Ide, Department of Finance
- Debra Brown, California Department of Education
- Drew Bohan, California Energy Commission
- Dan Troy, California Community Colleges

Background:

Proposition 39 changed the corporate income tax code to require most multistate businesses to determine their California taxable income using a single sales factor method. The increase in the state's corporate tax revenue resulting from Proposition 39, is allocated half to the General Fund and half to the Clean Energy Job Creation Fund for five fiscal years, from 2013-14 through 2017-18. The Clean Energy Job Creation Fund is available for appropriation by the Legislature for eligible projects to improve energy efficiency and expand clean energy generation. For fiscal years 2013-14 through 2015-16 the state provided $973 million in Proposition 39 revenue for K-12 energy efficiency projects and planning, $124 million for community college energy projects, and $56 million for a revolving loan program to fund similar types of projects in both segments. The state also provided smaller amounts to the California Workforce Investment Board and the California Conservation Corps.

K-12 - Local Educational Agency Proposition 39 Award Program. SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statues of 2013, establishes that 89 percent of the funds deposited annually into the Clean Energy Job Creation Fund, and remaining after any transfers or other appropriations, be allocated by the State Superintendent of Public Instruction for awards and made available to LEAs for energy efficiency and clean energy projects. Minimum grant amounts were established for LEAs within the following average daily attendance (ADA) thresholds:

- $15,000 for LEAs with ADA of 100 students or less.
- $50,000 for LEAs with ADA of 100 to 1,000 students.
- $100,000 for LEAs with ADA of 1,000 to 2,000 students.

The Energy Commission, in consultation with the Department of Education, the Chancellor's Office and the Public Utilities Commission, was required to develop guidelines for contracts with LEAs. The Energy Commission released these guidelines in December 2013.

In order to receive an energy efficiency project grant, LEAs must submit an expenditure plan to the Energy Commission outlining the energy projects to be funded. The Energy Commission reviews these plans to ensure they meet the criteria set forth in the guidelines. The Department of Education distributes funding to LEAs with approved expenditure plans. LEAs can also request funding for planning prior to submission of the plan. The Department of Education notes that as of February 2016, 1,646 LEAs have received planning funds and 516 have received energy project funds and the Energy Commission has approved $354 million in projects.

K-12 Proposition 39 Energy Efficiency Funds For 2013-14 through 2015-16 fiscal years as of February 2016 (dollars in millions)	
Total Allocation	**$ 973.4**
Planning funds paid	$ (153.6)
Energy projects paid	$ (338.2)
Total Payments	**$ (491.8)**
Remaining balance	**$ 481.6**

Source: Department of Education

The types of projects approved for K-12 education are as follows:

Project Type	Count	Percentage of Total
Lighting	4,666	47%
Lighting Controls	1,081	11%
HVAC	1,683	17%
HVAC Controls	1,007	10%
Plug Loads	636	6%
Generation (PV)	251	3%
Pumps, Motors, Drives	219	2%
Building Envelope	128	1%
Domestic Hot Water	133	1%
Kitchen	32	0%
Electrical	15	0%
Energy Storage	24	0%
Pool	6	0%
Power Purchase Agreements	4	0%
Irrigation	3	0%
Total Projects	**9,888**	**100%**

Source: California Energy Commission

California Community College Chancellor's Office. SB 73 established that 11 percent of the funds deposited annually into the Clean Energy Job Creation Fund be allocated to the California Community College Chancellor's Office to be made available to community college districts for energy efficiency and clean energy projects.

In conjunction with the Energy Commission, the Chancellor's Office developed guidelines for districts as they plan to use Proposition 39 funds. Funding has been distributed to colleges on a per-student basis. In 2013-14, the Proposition 39 allocation was $36 per full-time equivalent students (FTES), $28 per FTES in 2014-15, and $27 per FTES in 2015-16. The guidelines also sought to leverage existing energy efficiency programs, including partnerships most districts had with investor-owned utilities. These partnerships had been in existence since 2006, thus most college districts did not need to use Proposition 39 for planning; the planning was complete.

According to the Chancellor's Office, for fiscal year 2015-16, $22.8 million of $32.7 million funding has been allocated for 130 projects. At least 80 percent of the projects approved in 2015-16 are expected to be installed by June 30, 2016 and closed out by September 1, 2017. The Chancellor's Office estimates annual system-wide cost savings of about $2.56 million from these projects. About 52 percent of the projects were related to upgrading lighting systems to make them more energy efficient and 29 percent of the projects were related to heating, ventilation, and air conditioning projects (HVAC). The chart below indicates uses of the funding at community colleges in the first three years of Proposition 39.

Project Type	2013-14		2014-15		2015-16	
	Count	Percentage of Year 1 Projects	Count	Percentage of Year 2 Projects	Count	Percentage of Year 3 Projects
Lighting	168	56.57%	102	43.97%	68	52.31%
HVAC	55	18.52%	72	31.03%	38	29.23%
Controls	45	15.15%	34	14.66%	11	8.46%
Other	11	3.70%	4	1.72%	4	3.08%
RCx	13	4.38%	6	2.59%	2	1.54%
Technical Assistance	3	1.01%	0	0.00%	0	0.00%
Self- Generation	2	0.67%	2	0.86%	1	0.77%
MBCx	0	0.00%	12	5.17%	6	4.62%
Total Projects	**297**	**100%**	**232**	**100%**	**130**	**100%**

The Chancellor's office reports that in the first three years, community colleges have spent $94.2 million on these projects and have achieved the following savings:

- $12.4 million in annual energy costs savings
- 65.6 kilowatt-hours annual savings
- 1,402 therms annual savings

From 2013 to 2016, the system spent $15.7 million of its Proposition 39 funding on workforce development programs related to energy efficiency. Workforce development funds have been used to purchase new equipment, create and improve curriculum, and provide professional development for faculty and support for regional collaboration. Specifically, 13,734 certificates, degrees, and energy certifications were awarded in energy-related fields, such as construction, environmental controls technology and electrical and electronics technology.

The Governor's proposed budget provides $45.1 million in Proposition 39 funding for community colleges in 2016-17. The Chancellor's Office reported that a call for projects was issued to community college districts on January 8, 2016, and 63 of 72 districts have responded and provided preliminary project lists. The deadline to submit project applications with detailed costs and scope information for 2016-17 is April 1, 2016.

California Energy Commission Energy Conservation Assistance Act − Education Subaccount: Loan and Technical Assistance Grant Program. In 2013-14, $28 million was appropriated to the Energy Commission for the Energy Conservation Assistance Act − Education Subaccount. Of this amount, about 90 percent was to be made available for low-interest or no-interest loans. The remaining 10 percent was to be transferred to the Energy Commission's Bright Schools Program to provide technical assistance grants to LEAs and community colleges. The Bright Schools Program technical assistance can provide American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Level Two energy audits to identify cost-effective energy efficiency measures. The Governor's budget does not include additional funding for the Energy Commission revolving loan program.

California Workforce Investment Board (CWIB). SB 73 appropriates Proposition 39 funding to the CWIB each year to develop and implement a competitive grant program for eligible workforce training organizations, which prepares disadvantaged youth, veterans, or others for employment.

California Conservation Corps. Funds have been allocated each year to the California Conservation Corps for energy surveys and other energy conservation-related activities for public schools.

Governor's Proposal:

The Governor's budget estimates $838 million in Proposition 39 revenue, based on projections by the Franchise Tax Board. Of this amount, one-half ($419 million) is dedicated, primarily to schools and community colleges, as follows:

- $365.5 million and $45.2 million to K‑12 school and community college districts, respectively, for energy efficiency project grants.
- $5.4 million to the California Conservation Corps for continued technical assistance to K‑12 school districts.
- $3 million to the California Workforce Investment Board for continued implementation of the job‑training program.

Subcommittee Questions

1) What types of projects have yielded the most energy savings for K-12 schools or community colleges?

2) The K-12 projects in particular, have taken longer for completion. Do the CDE and CEC anticipate acceleration in the use of K-12 funds over the next year as LEAs move into completing projects?

3) Projects vary by the size of a recipient and the state of their facilities. How have smaller recipients and those with unique needs, i.e. charter schools, used Proposition 39 funds?

Staff Recommendation

Hold open pending May Revision revenue projections.

6110 DEPARTMENT OF EDUCATION

Issue 4: Career Technical Education Incentive Grant Program

Panel:

- Natasha Collins, Legislative Analyst's Office
- Amber Alexander, Department of Finance
- Debra Brown, California Department of Education

Background:

The California Department of Education defines career technical education as a *"….program of study that involves a multiyear sequence of courses that integrates core academic knowledge with technical and occupational knowledge to provide students with a pathway to postsecondary education and careers."* It further defines 15 industry fields for career technical education as noted in the table below:

Industry Sectors	
Agriculture	Health Science and Medical Technology
Arts, Media, and Entertainment	Hospitality, Tourism, and Recreation
Building Trades and Construction	Information Technology
Business and Finance	Manufacturing and Product Development
Child Development and Family Services	Marketing, Sales, and Services
Energy and Utilities	Public Services
Engineering and Design	Transportation
Fashion and Interior Design	

In recent years, career technical education has largely been operated through Regional Occupational Centers and Programs (ROCPs), which provide services for high school students over 16 and some adult students. According to the California Department of Education, approximately 470,000 students enroll in ROCPs each year. Students may receive training at schools or regional centers. The provision of career technical education by ROCPs varies across the state and services are provided under the following organizational structures: 1) county office of education operates an ROCP in which school districts participate, 2) school districts participate in a joint powers agreement that operates an ROCP, or 3) a single school district operates an ROCP. Funding for ROCPS historically was on an hourly attendance basis, but is now provided under the LCFF.

Prior to 2008-09, ROCPs received funding through a categorical block grant (approximately $450 million Proposition 98 annually). However under the policy of categorical flexibility, school districts could use ROCP funds for any purpose through 2012-13. Commencing with the 2013-14 fiscal year, the state transitioned to funding K-12 education under the Local Control Funding Formula. This new formula eliminated most categorical programs, including separate ROCP funding, and instead provided school districts with a grade span adjusted per ADA amount based on the number and type (low income, English learner and foster youth students generate additional funds) of K-12 students. The high school grade span rate included an additional 2.6 percent increase over the base grant to represent the cost of career technical education in high schools; however, school districts are not required to spend this funding on career technical education. In order to protect career technical education programs as the state transitioned to LCFF, the Legislature and the Governor enacted a maintenance-of-effort requirement to ensure local educational agencies continued to expend, from their LCFF allocation, the same amount of funds on career technical education as they had in 2012-13 through the 2014-15 fiscal year.

New Career Technical Education Incentive Grant Program. In 2015-16, the Legislature and Governor responded to concerns that career technical education programs needed additional support outside of the LCFF in the short-term to ensure sustainability of quality programs by enacting the Career Technical Education Incentive Grant program. This grant program provides one-time Proposition 98 funding for each of 2015-16 through 2017-18 with a local matching requirement. The funding amount and match requirement adjust each year, as follows:

- 2015-16: $400 million, match requirement 1 : 1 (grant funding : local match)
- 2016-17: $300 million, match requirement 1 : 1.5
- 2017-18: $200 million, match requirement 1 : 2

Within the annual allocation, the funds are further subdivided in statute according to the following:

- Four percent designated for applicants with average daily attendance (ADA) of less than or equal to 140.
- Eight percent designated for applicants with ADA of more than 140 and less than or equal to 550.
- 88 percent designated for applicants with ADA of more than 550.

School districts, charter schools, county offices of education, joint powers agencies, or any combination of these are invited to apply for these funds to develop and expand career technical education programs. Matching funds may come from Local Control Funding Formula, foundation funds, federal Perkins Grant, California Partnership Academies, the Agricultural Incentive Grant, and any other fund source with the exception of the California Career Pathways Trust. Grantees are also required to provide a plan for continued support of the program for at least three years after the expiration of the three year grant. New grantees, or those that applied but did not receive funding in the initial year, may apply in later years. Additional minimum eligibility standards include:

- Curriculum and instruction aligned with the California Career Technical Education Model Curriculum Standards .
- Quality career exploration and guidance for students.
- Pupil support and leadership development.
- System alignment and coherence.
- Ongoing, formal industry and labor partnerships.
- Opportunities for after-school, extended day, and out-of-school work based learning.
- Reflect regional or local labor market demands, and focus on high skill, high wage, or high demand occupations.
- Lead to an industry recognized credential, certificate, or appropriate post-secondary training or employment.
- Skilled teachers or faculty with professional development opportunities.
- Data reporting.

The CDE in conjunction with the California State Board of Education (SBE) shall determine whether a grantee continues to receive funds after the initial year based on the data reported by program participants.

2015-16 Career Technical Incentive Grant Program Funding
The 2015-16 Budget Act included $400 million in one-time Proposition 98 funding for the Career Technical Education Incentive Grant Program. Of the funds, $396 million will be allocated to program applicants and $4 million, or one percent, will be used for technical assistance activities.

The CDE identified 100 applicants which met program requirements and took them to the state board of education for approval in January 2016. The CDE is taking a second group of applicants (265 grantees) to the March, 2016 state board meeting. Applicants approved at the January meeting will receive the first installment of funds in March, while those approved at the March meeting will receive funding in April.

The per ADA grant amount is determined within each size-based grant allocation, as follows:

- A base amount calculated on an LEA's proportional share of the total 2014–15 ADA in grades seven through twelve.

- A supplemental allocation formula calculated on each of the following:
  - A new career technical education program.
  - English-learner, low-income, and foster youth students.
  - Higher than average dropout rates.
  - Higher than average unemployment rates.
  - Current student participation in career technical education programs.
  - Regional collaboration.
  - Location within a rural area.

In order to award the technical assistance funds, the CDE divided the state into seven regions and solicited grantees to provide technical assistance. The CDE has identified the following county offices to provide regional technical assistance: Butte, Fresno, Los Angeles, Napa, Sacramento, San Bernardino, and Santa Barbara.

<u>Governor's Proposal</u>

The Governor's budget proposal reflects the second year of Proposition 98 funds for the career technical incentive grant program, $300 million in one-time funds.

The Governor also proposes additional trailer bill language that would allow the superintendent, in collaboration with the executive director of the state board to determine the amount of grant funds provided for each applicant, instead of splitting the funds by the prescribed size-based category. According to the CDE and the Department of Finance, the number of applicants in each size-based category was significantly different than anticipated. This additional statutory authority is requested to allow CDE and the state board flexibility to more equitably spread grant funding across recipients.

Staff Comments

The new Career Technical Education Incentive Grant program is intended to allow school districts, charter schools, county offices of education, and joint powers agencies an additional three years to transition to funding of career technical education within the LCFF. The new program is further intended to incentivize high-quality, sustainable CTE programs, replacing the ROP maintenance-of-effort requirement included under the LCFF. However, the roll-out of the new program has been significantly slower than anticipated by the Legislature. With the 2015-16 year more than half over, no funding has actually gone out to LEAs. The Legislature may wish to recommend that CDE and the state board focus on disbursing funds immediately and ask for a review of procedures to ensure that funding is not significantly delayed in years two and three of the program.

Subcommittee Questions

1) How many new career technical education programs have been put in place with the support of this additional funding?

2) What were the barriers to getting funding out in a timely manner? How does the CDE propose to remedy these barriers?

3) Given the delays, does the CDE anticipate enough data will be available to determine eligibility for the second year of funding?

Staff Recommendation. Hold open pending May Revision.