

The FISCAL REPORT 32 informational update

Copyright © 2010 School Services of California, Inc.
Volume 30 For Publication Date: January 15, 2010 No. 1
Governor's Proposals for the 2010-11 State Budget and K-12 Education

The Words Don't Match the Music

As California and the nation begin year three of the deepest recession since the Great Depression, the State Budget continues to be problematic. Revenues have fallen, even while caseloads, workloads, and the attendant costs of government services have continued to grow. The Governor's Budget Proposals for 2010-11 reflect those realities. However, the Governor proclaimed in his State-of-the-State Address that education funding would be protected. As we review the details behind the Governor's Budget plan for California in 2010-11, there is evidence of effort to protect education, but some of the details don't fully match the Governor's State-of-the-State yodel.

Positive evidence of the protection that the Governor provides for education includes the avoidance of midyear district-level cuts to K-14 education in spite of a \$6.6 billion Budget gap in 2009-10. There are reductions to the appropriation for K-14 education in 2009-10, but the reduction comes from sweeping up unexpended resources, such as balances in the K-3 Class-Size Reduction (CSR) program.

The Governor provides additional evidence of protecting education by fully funding the Proposition 98 guarantee in 2009-10 and 2010-11. While it is true that Proposition 98 funding remains relatively stable—at around \$50 billion for 2008-09 through 2010-11—this will necessitate cuts of nearly \$2 billion from Proposition 98 funded activities in 2010-11. So, on one hand, K-14 education is protected when the level of funding is considered, but when the level of commitments required from K-14 education is considered, real cuts must be made. To be fair, considering that there is a projected Budget gap of \$12.3 billion for 2010-11, the proposed cuts could have been far worse; one need look no further than the cuts proposed to health and human services to see examples of this.

Higher Costs and Lost One-Time Dollars

The Governor has recognized that 2010-11 will be much more difficult for schools and other public agencies than 2009-10. While school funding has been reduced dramatically from 2007-08 levels, in both 2008-09 and 2009-10, a variety of sources of one-time dollars were made available by the state and the federal government to soften the blow. For 2010-11 and beyond, the one-time dollars have been largely expended, but the ongoing loss of state funds persists.

As a result, leaders in education will find it challenging to explain why, in an economy that is forecast to be improving, and with the assertion of no additional education cuts from the state, it is necessary to continue past cost savings measures and make even deeper cuts for the next year. And—make no mistake—it will definitely be necessary for most districts to reduce their spending further for next year.

Room for Improvement—Remember Local Flexibility

But we also think there is room for improvement in the Governor's Budget. The Governor has proposed, for the first time in three years, to "fully fund" the statutory cost-of-living adjustment (COLA); unfortunately, the COLA is actually negative and results in a funding loss—not a gain. In addition, the Governor proposes targeted reductions to education funding aimed at administrative costs. The Governor's rationale is to keep cuts farthest from the classroom, but such a proposal presumes that districts, without being required to, will not make adequate cuts to noninstructional areas. Such a proposal takes a step back from the valuable flexibility that was introduced by the Governor in 2008-09.

The FISCAL REPORT *32* *informational* *update*

On the other hand, the Governor proposes a variety of reforms to laws governing teacher seniority, layoff, and overall teacher quality as a means to expand on flexibility options added last year. We applaud the recognition that, during difficult times, management should be given much more flexibility to set priorities and to protect programs for students and hope this spirit will guide the refinement of the Governor's Budget. While we would like to avoid cuts, to the extent they are necessary, we think it's best to trust the judgment of our local educational leaders over statewide directives.

Long-Term Solutions

This Budget again seeks to treat the symptoms of a prolonged economic downturn. We are frequently asked what we think is the cure to the structural fiscal problems the state seems to have year after year. Do we need higher taxes? Do we need less spending? Is federal help going to solve our problems? What about borrowing? We think the answers to these questions can be simplified a bit.

For California, as compared to the average of other states, both revenues and expenditures per capita are higher. But the distribution of revenue sources and the amounts allocated to various types of expenditures are far different. On the revenue side, California is far too dependent on the most volatile taxes—sales and income—and does not benefit from the greater stability provided by less volatile property taxes. Even in this difficult year for property values, property taxes have been much more stable than sales and income taxes. We would like to see more of the tax burden shifted toward property taxes rather than a higher overall tax level.

On the expenditure side, California's expenditures are skewed toward entitlement programs that, once granted, take on a life of their own. We spend less per capita on education, but as the Governor pointed out, more than other large states on prisons, health and welfare, and social services.

We think that, long-term, it is all about priorities. In order to invest in education at the same level as other states, we need to be closer to the average of the other states in other categories of expenditures as well. At the same time, we need to recognize that, in many states, the fact that local property taxes stay in local schools makes property owners more willing to invest in education through higher property taxes.

That helpless feeling we get from time to time comes from ceding control of our schools to the state. We have seen that state money means state control, and federal money means federal control. We believe local money would lead to local control and that any true financial reform needs to deal not only with the level of funding but with the sources and control issues as well.

Remember that the Governor's Budget is not the end of the Budget process; it is the beginning. In yet another difficult year in a series of difficult years, we can expect many of these proposals to change and some to fall away. We will keep you abreast of developments throughout the cycle. All of us at School Services of California, Inc., wish you the very best as we embark together on what we expect to be yet another difficult year.

RON BENNETT

President and CEO

Economy and Revenues

One year ago, the state and national economies were rapidly deteriorating, as the collapse of the nation's financial sector threatened the entire credit market. The effects of the federal government's intervention—the Troubled Asset Relief Program (TARP)—had yet to take hold and great uncertainty gripped the nation, with similar problems emerging throughout the industrial world.

In January 2010, a full two years after the onset of the recession, the key question is whether the economy has hit bottom. Some signs of a turnaround are emerging, such as stabilizing home prices, a 60% rebound in the stock market from the March 2009 lows, and strengthening exports. However, considerable uncertainty remains. On Friday, January 8, 2010, the U.S. Bureau of Labor Statistics reported that, for the month of December 2009, the country lost 85,000 jobs and the unemployment rate remained at 10%. In December 2007, the U.S. unemployment rate stood at 5%. (The December employment report for California will be available on January 15, 2009.) This latest report disappointed many economists who had hoped for an upturn in the jobs market by the end of 2009.

Economic Outlook

In this environment of economic uncertainty, the Governor's Budget for 2010-11 paints a cautiously optimistic picture. The Budget does not assume a continuation of the slide that was underway one year ago. Instead, the Budget assumes that the national and state economies are stabilizing and forecasts tepid growth for 2010 and 2011. Department of Finance (DOF) economists forecast California personal income, the broadest gauge of state economic activity, to increase 2.4% in 2010 and 3.6% in 2011. This compares to a 2.8% decrease in the year just past. Similarly, the housing sector is expected to strengthen, with the number of housing permits increasing from 36,300 in 2009 to 60,800 in 2010. By 2011, the state's housing sector is expected to have rebounded, with permits reaching 101,000, almost three times the 2009 low.

The outlook for job seekers, however, will remain bleak for at least the next two years. The DOF projects the unemployment rate to average 12% in 2010 and drop only slightly to 11.2% in 2011. As of November 2009, California's unemployment rate was 12.3%, which was among the highest in the nation.

Revenue Forecast

The Administration's forecast of an anemic economic recovery in turn translates into a weak outlook for state revenues. The Governor's Budget projects that current year General Fund revenues will be \$88.084 billion—\$1.457 billion down from the \$89.541 billion assumed in the 2009-10 Budget Revision. For the Budget year, the Governor's Budget anticipates General Fund revenues of \$89.322 billion, a 1.4% increase over the revised current-year level. The Governor is not proposing any new or higher taxes to help solve the \$19.9 billion State Budget gap.

In fact, one of the Governor's major revenue proposals is to repeal the sales tax on gasoline and substitute that tax with a fee. The result would be a loss of state tax revenues, but a corresponding increase in fee revenues. The Administration explains that this change is being sought in response to a prior court decision that disallowed the state's redirection of gas tax revenues to retire transportation bonds. The Governor's Budget asserts that fee revenues are more flexible and can be targeted to numerous transportation-related expenditures, including debt service on bonds.

This change, however, also affects the minimum funding guarantee under Proposition 98 as discussed below.

Proposition 98

Proposition 98 sets in the State Constitution a series of complex formulas that establish the minimum funding level for K-12 education and the community colleges from one year to the next. This target level is determined by prior-year appropriations that count toward the guarantee, plus (1) workload changes as measured by the change in average daily attendance (ADA) and (2) inflation adjustments as measured by the change in either per capita personal income or per capita state General Fund revenues, whichever is less. Under certain circumstances, the minimum level is set by a fixed percentage of General Fund revenues. Through a series of manipulations, fund shifts, and new interpretations of the constitutional measure, Proposition 98 is becoming even more complex and providing an even less certain guarantee of funding for K-12 education and the community colleges.

The Governor's Budget projects that the Proposition 98 guarantee for 2009-10 will be \$49.9 billion, a drop of \$568 million from the \$50.4 billion assumed in the 2009-10 Budget Revision. For the budget year, the minimum guarantee is projected at \$50 billion, essentially unchanged from 2009-10. In both years, the guarantee is determined by Test 1—a fixed share of General Fund revenues—which is set at 41.2%.

The current-year drop in the guarantee will not result in midyear cuts to funding received by local educational agencies (LEAs). Instead, the state will capture overbudgeted amounts in the K-3 Class-Size Reduction program and other programs for which local entitlements and claims are lower than initially assumed.

Two significant issues emerge with regard to Proposition 98 in the Governor's Budget. First, the proposal to eliminate the state tax on gasoline has the effect of reducing General Fund revenues by \$1.6 billion, which drives the calculation of the minimum guarantee. The proposal to substitute this loss with an increase in the excise tax on gasoline, however, cannot be counted as an offsetting adjustment because these revenues do not flow through the General Fund. As a result, the minimum guarantee will be lower than what it would have been absent this proposal.

Second, in prior years, when state tax revenues were weak and funding was determined by Test 3—per capita General Fund revenue growth plus ½ percent—the state tracked an amount owed to K-14 education known as the Maintenance Factor. Last year, a dispute arose between the DOF and the education community regarding whether a Maintenance Factor amount is generated in a Test 1 year, with the DOF asserting that it was not. Ultimately, this issue was resolved legislatively, with the 2009-10 Budget Revision including a provision to pay K-14 education \$11.2 billion over a number of years, commencing in 2010-11.

For 2010-11, the Governor's Budget indicates that funding will again be determined by Test 1. However, there is no recognition in the Budget that any additional amount is owed under the negotiated Maintenance Factor repayment. In fact, the Governor's Budget proposes to postpone payment of \$110 million owed in 2010-11. Thus, it appears that K-14 education is no longer automatically entitled to a Maintenance Factor amount when funding is determined by either Test 1 or Test 3. Instead, public education must rely upon annual negotiations to establish the amount owed and the repayment schedule.

Revenue Limits

Revenue limits provide about two-thirds of school districts' revenues and the vast majority of general purpose funding. For the current year, the Governor's Budget proposes no change in revenue limit funding, with the deficit factor remaining at 18.355%.

For 2010-11, the Governor's Budget projects the statutory COLA at a negative 0.38% and proposes to "fund" the negative COLA. In other words, the Governor's Budget assumes that revenue limits are reduced

The FISCAL REPORT 32 informational update

pursuant to statute. For the budget year, we estimate these negative COLAs to be \$23 per ADA for elementary districts, \$28 per ADA for high school districts, and \$24 per ADA for unified districts (see table below).

	<u>2009-10</u>	<u>2010-11</u>
Statutory COLA	4.25%	-0.38%
COLA Amounts		
Elementary	\$250	-\$23
High School	\$300	-\$28
Unified	\$261	-\$24
Deficit Factor	18.355%	18.355%
Deficit Due to COLA	9.215%	9.215%
Deficit Due to Revenue Limit Cuts	10.068%	10.068%

The Governor's Budget proposes to leave the deficit factor unchanged at 18.355%, which automatically implements the negative COLA.

In addition to the negative COLA and the continuation of the 18.355% deficit factor, the Governor's Budget proposes an ongoing targeted cut of \$1.5 billion in 2010-11, comprising \$1.2 billion aimed at "school district administrative costs" and recaptured savings of \$300 million assumed to follow from the "elimination of barriers to contracting out." The Governor's Budget provides no details on how local school districts would achieve these savings nor does it describe how the state would cut school funding related to these savings.

However, discussions with the DOF indicate that the Administration intends to reduce revenue limit funding by \$1.5 billion in the budget year. The details of how this would be implemented have not yet been worked out. Based on information provided by the DOF to School Services of California, we estimate that revenue limits could be reduced by an additional \$191 per ADA for elementary districts, \$231 per ADA for high school districts, and \$201 per ADA for unified districts on top of the negative COLA and deficit factor. (These estimates were calculated after adjusting for the COLA and deficit factor.)

Reducing School Year Length and Collective Bargaining Contracts

The Governor's Budget continues to authorize school districts to reduce the statutorily required school year from 180 days to 175 days. It is important to note that, while the Governor has changed the law to allow for a shorter school year, the fact remains that, for LEAs to alter the length of their school year calendars, collective bargaining units must agree to a shorter calendar and a commensurate reduction in compensation.

County Office of Education (COE) Revenue Limits

County offices of education (COEs) receive a -0.38% (est.) COLA for their Form "O" revenue limit calculations with an 18.621% revenue limit deficit. Like school district revenue limits, COE revenue limits are funded based on ADA. As the statewide ADA continues to decline, COEs have funding reductions in proportion to ADA served. Unlike school districts, COEs are funded on current-year ADA only and do not have the option of receiving funding based on prior-year ADA.

The Governor's Budget includes a \$45 million reduction targeted to COE administrative costs. The Governor is proposing that COEs across the state form consortiums for central administration to consolidate multiple functions and services, with the expectation that economies of scale will reduce

The FISCAL REPORT 32 informational update

administrative costs. It will be very difficult to implement this reduction given the increased workload of COEs—especially for oversight of school agencies in the county.

Special Education

The Governor's Budget Proposal includes \$3.2 billion for special education in 2010-11, which includes funding for growth, but a downward adjustment for the -0.38% COLA.

There is also a revived proposal to fund the agreement related to the Positive Behavioral Intervention Plan (BIP) settlement. In 2008-09, following a 14-year court process, the Governor and the education community finally reached a settlement agreement for this disputed mandate claim. The negotiated agreement between the DOF and school agencies includes \$510 million in one-time funds and \$65 million in ongoing funds in lieu of filing ongoing BIP mandate claims. Attempts were made in 2008-09 and 2009-10 to add funding for BIP, but it has yet to be funded. The Governor's Budget proposes \$65 million in ongoing funds effective in 2010-11, which amounts to approximately \$10.92 per ADA, to the AB 602 base.

Under the original settlement agreement, which has yet to be passed into law, school districts would receive \$85 million annually, from 2011-12 through 2016-17, and SELPAs would receive \$65 million annually on an ongoing basis. The first year of the ongoing payments was to be 2009-10, which clearly has been delayed by one year. The Governor has presumed the settlement will be ratified and included the \$65 million as part of the proposed Budget.

The Governor's Budget includes special education among the programs for which additional federal funding will be pursued. The Budget identifies \$1 billion for special education support from the federal government to meet the 40% level of contribution required by the federal Individuals with Disabilities Act (IDEA) provisions. Presumably, if this funding were to be received, it would result in an increased base using the AB 602 funding model.

Categorical Programs

There are no new changes proposed to categorical program flexibility. The Governor's proposed Budget presumes that the categorical flexibility introduced in 2008-09 will continue, including the change introduced to K-3 CSR, school year length, ending balance sweeps, and ongoing flexibility for 42 state categorical programs.

However, the Governor's proposed Budget includes a reduction in funding of -0.38% for the COLA, which affects the programs included in the Tier II and Tier III categories. The rates for K-3 CSR remained unchanged (\$1,071/student for full-day/Option 1, \$535/student for half-day/Option 2).

The Governor's Budget does not propose any changes to the After School Education and Safety Program (Proposition 49) or Quality Education Investment Act (QEIA). In the case of QEIA, this would mean that the program returns to the funding structure in place as of 2008-09 with no federal funding relied upon to support the program.

The Governor's Budget includes \$29.5 million to provide categorical funding for new schools established in 2008-09 or thereafter that are impacted by the base year established for Tier III categorical programs and/or the limits placed on K-3 CSR incentive funding. The proposal provides the same level of funding to such schools as they would have received had they been in existence prior to the introduction of Tier III categorical programs or K-3 CSR flexibility.

Child Care

The FISCAL REPORT 32 informational update

The Governor's Budget proposes several measures that would reduce funding for early child care and education programs. The Budget proposes to seek approval from voters to redirect \$550 million of Proposition 10 funding for the California Children and Families Commission to existing state programs serving children. In addition, the Governor proposes decreasing CalWORKs child care funding by \$13.8 million based on eligibility changes, applying the -0.38% COLA to child care programs (a reduction of \$5.9 million), and phasing out \$5 million in one-time funding added in 2009-10 to minimize a cut to extended day/latchkey programs.

Charter Schools

The table below reflects estimated 2010-11 charter school funding rates under the Governor's Budget Proposal.

The General Purpose Rates are based on statewide average revenue limits—and thus reflect the -0.38% COLA that is then reduced by the deficit factor. The rates also reflect changes in the statewide cost of the revenue limit adjustments for unemployment insurance and the Public Employees' Retirement System (PERS) Reduction, as well as the per-ADA targeted cut of \$1.5 billion statewide. These rates will be recalculated by the California Department of Education (CDE) at each apportionment during 2010-11 and can fluctuate up or down by more than \$20 per ADA.

2010-11 ESTIMATED CHARTER SCHOOL RATES

**Caution: The General Purpose Rates are rough estimates;
actual rates may change considerably**

	K-3	4-6	7-8	9-12
General Purpose Block Grant	\$4,983	\$5,058	\$5,203	\$6,040
	-191*	-191*	-191*	-231*
Categorical Block Grant	\$399	\$399	\$399	\$399
Total	\$5,191	\$5,266	\$5,411	\$6,208

Source: Department of Finance

*This reduction to the general purpose block grant represents the same ongoing per-ADA targeted cut of \$1.5 billion as applied to school district revenue limits.

The Governor's Budget includes \$57.9 million in one-time funds for the charter school facilities grant program, often called the Senate Bill (SB) 740 program after the initial implementing legislation. Under this program, charter schools that serve primarily low-income students are eligible to receive up to \$750 per ADA for their rent. The amended 2009 Budget Act included language that changed this program from a reimbursement program to an annual grant program.

Mandate Reimbursements

Under current statutory and constitutional law, the state may direct local agencies to provide new services to the public, but must also reimburse those agencies for costs incurred in providing those services. Over the years, the state generally honored this pact until it faced a Budget gap commencing in 2001-02. In that year—and in every year since, with the exception of 2006-07—the state has elected to sidestep its obligation to reimburse local agencies for mandated costs and instead has deferred payments to some unspecified future fiscal year. During this period, school districts were not freed of the obligation to

provide the mandated service, but instead were required to maintain services and fund them from existing resources.

Court Ruling Invalidates State's Mandate Deferrals

In response to the ongoing practice of deferring mandate reimbursements, a coalition of school districts and the California School Boards Association (CSBA) filed suit against the state, arguing that the state's policy violated the California Constitution by denying school districts funding for costs imposed by state law and regulation. In December 2008, the Superior Court in San Diego County agreed with the petitioners and invalidated the state's practice of deferring mandate reimbursements. The court ruled that the Legislature must "comply with the Constitutional requirements of Article XIII B, Section 6, by fully funding state mandated programs and thereby foregoing the practice of deferring payment to school districts and county offices of education." The Administration has filed an appeal of this decision.

Governor's Budget Proposal

In prior years, the Governor's Budget proposed and the Legislature enacted a Budget that provided a token \$1,000 for each of 38 education mandates. This policy triggered the requirement to provide the mandated services, but provided essentially no funding for cost reimbursements. The Governor's Budget for 2010-11 proposes to fund only two education mandates: \$7.7 million for mandated costs related to interdistrict and intradistrict attendance and \$6.8 million for costs related to the California High School Exit Exam (CAHSEE). The proposal to fund only two mandates mirrors last January's Budget Proposal funding only two mandates.

Under the Governor's proposal, no funding is proposed for the remaining mandates and they would be suspended for 2010-11. These mandates include, among others, collective bargaining, criminal background checks, removal of chemicals, and COE fiscal accountability reporting. The following is a list of all education mandates as reported by the State Controller's Office:

School District and COE Mandates

Proposed for Funding in 2010-11

- Chapter 1/1999—High School Exit Exam
- Chapter 161/1993—Interdistrict and Intradistrict Attendance

Proposed for Suspension in 2010-11

- Chapter 77/1978—Absentee Ballots
- Chapter 893/2000—Agency Fee Arrangements
- Chapter 818/1991—AIDS Prevention Instruction II
- Chapter 98/1994—Caregiver Affidavits
- Chapter 34/1998—Charter Schools
- Chapter 34/1998—Charter Schools III
- Chapter 917/1987—COE Fiscal Accountability Reporting
- Chapter 961/1975—Collective Bargaining
- Chapter 736/1997—Comprehensive School Safety Plans
- Chapter 448/1975—Consolidation of Annual Parent Notification
- Chapter 594/1998—Criminal Background Checks II
- Chapter 30/1998—Differential Pay and Reemployment
- Chapter 650/1994—Employee Benefits Disclosure

The FISCAL REPORT 32 informational update

- Chapter 1253/1975—Expulsion Transcripts
- Chapter 36/1977—Financial and Compliance Audits
- Chapter 498/1983—Graduation Requirements
- Chapter 1184/1975—Habitual Truant
- Chapter 1120/1996—Health Benefits for Survivors of Peace Officers & Firefighters
- Chapter 1176/1977—Immunization Records
- Chapter 325/7198—Immunization Records: Hepatitis B
- Chapter 1011/1984—Juvenile Court Notices II
- Chapter 1117/1989—Law Enforcement Agency Notification
- Chapter 249/1986—Missing Children Reports
- Chapter 828/1997—National Norm-Referenced Achievement Test
- Chapter 498/1983—Notification of Truancy
- Chapter 1306/1989—Notification to Teachers: Pupils Subject to Suspension or Expulsion
- Chapter 1284/1988—Parent Classroom Visits
- Chapter 465/1976—Peace Officers Procedural Bill of Rights
- Chapter 875/1985—Photographic Record of Evidence
- Chapter 640/1997—Physical Education Reports
- Chapter 975/1995—Physical Performance Tests
- Chapter 965/1977—Pupil Classroom Suspension: Counseling
- Chapter 668/1978—Pupil Exclusions
- Chapter 965/1977—Pupil Health Screenings
- Chapter 100/1981—Pupil Promotion and Retention
- Chapter 309/1995—Pupil Residency Verification and Appeals
- Chapter 1253/1975—Pupil Suspensions, Expulsions, and Expulsion Appeals
- Chapter 1107/1984—Removal of Chemicals
- Chapter 1463/1989—School Accountability Report Cards
- Chapter 100/1981—School District Fiscal Accountability Reporting
- Chapter 1192/1980—School District Reorganization
- Chapter 1347/1980—Scoliosis Screening
- Chapter 828/1997—Standardized Testing and Reporting
- Chapter 331/1998—Teacher Incentive Program
- Chapter 1249/1992—Threats Against Peace Officers

One existing mandate, Science Graduation Requirements (Chapter 498/1983—Graduation Requirements), is specifically highlighted in the proposal. Funding is not included for the science graduation requirement and the assertion from the Administration is that the requirement is not a reimbursable state mandate because other funding offsets the cost of the requirement. This contradicts actions the Commission on State Mandates (CSM) took to adopt the reimbursement rate methodology for calculating the costs of the science graduation requirement. The Governor's Budget proposal intends to seek a court decision to reject the reimbursement rate methodology adopted by the CSM.

If the Legislature adopts the Governor's mandate proposal, LEAs would not be required to implement the suspended mandates nor would state reimbursement be provided for costs incurred during the year of suspension. From a practical standpoint, however, districts will likely continue to implement many of these activities, although not necessarily in conformity with the level specified in statute.

State School Facilities Program

There continues to be a need for more funding for modernization and new construction of school facilities, and in December 2009, at the Senate Select Committee on School Facilities hearing, State Superintendent of Public Instruction Jack O'Connell cited the need for a new school bond to meet the needs of California students in the 21st century.

The FISCAL REPORT 32 informational update

The Office of Public School Construction (OPSC) reports that, as of November 4, 2009, the following amounts have been apportioned and remain to be apportioned from the following state facilities bonds:

(\$ in millions)	
Proposition 1D—2006	
Remaining Proposition 1D Funds	\$3,899.5
Proposition 55—2004	
Remaining Proposition 55 Funds	\$1,081.2
Proposition 47—2002	
Remaining Proposition 47 Funds	\$869.8

Over a year ago, on December 17, 2008, the state's Pooled Money Investment Board (PMIB) took action to halt disbursing cash from the state's Pooled Money Investment Account (PMIA) for capital projects, including public school construction, given the current Budget and cash flow issues at the state level. The OPSC uses cash from the PMIA to release funds for projects that have been approved by the State Allocation Board (SAB).

During this time, the OPSC continued to process applications and make unfunded approvals on a "first in, first out" basis in an attempt to keep project paperwork flowing.

Early in October 2009, the California State Treasurer's Office conducted a general obligation bond sale that resulted in more than \$4.1 billion in bonds being sold. The State School Facilities Program received approximately \$478 million to fund apportionments made by the SAB prior to December 17, 2008.

Projects approved after December 17, 2008, remain unfunded and LEAs will need contingency plans for cash flow as they wait their turn for state funding.

The Budget proposal includes an increase of \$51 million to fully fund the 2008-09 appropriation for the Emergency Repair Program.

Future State Bond Proposals

In the current legislative session, Assembly Bill (AB) 220 (Brownley [D-Santa Monica]), would authorize the sale of state General Obligation Bonds to provide funds for the construction and modernization of K-University facilities. At this time, AB 220 is a placeholder for a public education facilities bond and, as it currently exists, does not include a specific dollar amount for the bonds.

Deferred Maintenance

On November 4, 2009, the SAB approved the annual item to distribute \$255,344,942 in Deferred Maintenance Program (DMP) funding to school districts and COEs. One hundred percent of the funding available was proportionately distributed to all participating school districts and COEs based on a funding baseline established by the SAB on April 22, 2009, for the 2008-09 through 2012-13 funding cycles. The funding is provided to LEAs for the unrestricted General Fund and as part of the provision in the 2009-10 Budget Revision, which allows the funds to be used for "any educational purpose."

The Governor is proposing to fund the state's contribution with \$250.9 million in the 2010-11 State Budget. LEAs are not required to make a match to receive the funds and this flexibility continues through 2012-13.

Routine Restricted Maintenance Account

The FISCAL REPORT *32* *informational* *update*

Based on the flexibility provisions in the 2009-10 Budget Revision, LEAs are not required to contribute to the Routine Restricted Maintenance Account; however, the requirements to maintain functional facilities in good repair remain intact and agencies must, as with all flexibility, review their options and utilize the flexibility provisions as reasonable and applicable.

Lottery Funding

The Lottery has provided LEAs with more than \$1 billion annually for each of the past ten years. Lottery funding continues to be a volatile source of revenues for school agencies, but appreciated nonetheless. The 2008-09 fiscal year ended with a 5% drop in funding followed by a 1.2% increase for the 2009-10 fiscal year. No adjustments have been made to the original budget adopted by the Lottery Commission in June 2009.

In the first quarter of 2009-10, the per-ADA amount distributed by the State Controller's Office was approximately 10% higher than the first quarter apportionment of 2008-09. The 2009-10 first quarter Lottery payment was \$33.74 per ADA (unrestricted), which was an increase of \$3.22 per-ADA. The Lottery Commission is not expected to make any adjustments for 2009-10, unless there are indications of material changes in Lottery ticket sales.

While we are beginning to see signs of a turnaround in the economy, generally, we are maintaining the projections for the 2010-11 fiscal year at \$110 per Annual ADA (unrestricted) and \$13 per Annual ADA (restricted), unchanged from the 2009-10 level.

Federal Funding

The Governor's Budget includes proposals to pursue approximately \$6.9 billion in additional federal funding that, as the Governor stated, represents "fairness" for California. Of this amount, as noted in the Special Education section, \$1 billion would provide additional funding to that program, which is not presumed in his proposed Budget. The Governor shared, as part of his press conference, that additional one-time money is not what California needs and that his efforts will be put into gaining ongoing funding for California.

Earlier the week of January 4, the Governor signed two bills aimed at positioning California to win a federal grant in the Race to the Top (RTTT) funding competition. Senate Bill 4 of the Fifth Extraordinary Session (SBX5 4 [Romero, D-Los Angeles]) and SBX5 1 (Steinberg, D-Sacramento) add new requirements for schools, including defining the "persistently lowest achieving schools," expanding school choice options, and encouraging parent involvement in schools. The state expects to submit its application by January 19, 2010, in hopes of securing \$350 million to \$700 million for K-12 education.

A bill is working its way through Congress that would provide \$23 billion to states to save education jobs, but at this point the Governor does not include any assumptions regarding the funding associated with this bill.

In late December 2009, the Senate and House adopted the fiscal year 2010 Subcommittee on Labor, Health and Human Services education appropriations bill that increases funding for Title I programs, teacher performance incentive funding, and other programs aimed at bolstering President Obama's education reform agenda. While the majority of the federal education programs, including IDEA funding, were funded at prior-year levels, House Resolution (HR) 3288 included a \$1.5 billion restoration of the President's proposed reduction to Title I grants, which may also be used to support early childhood education activities. Additionally, funding for the Teacher Incentive Fund program, earmarked for funding compensation systems that reward high-need schools for raising student achievement, increases from \$97 million nationally in 2009 to \$400 million. This funding will be part of the state's 2010-11 budget building

The FISCAL REPORT 32 informational update

process and estimates for California's share—generally 10%—have not yet been finalized and therefore are not reflected in the Governor's proposals.

The final package also included a national increase of \$40 million above 2009 to support the startup of 1,300 new charter schools in fiscal year 2010. The bill also includes new accountability measures. Additionally, the Striving Readers program is funded at \$250 million as a new comprehensive literacy initiative from pre-K through grade 12 to help struggling students build their literacy skills and improve the integration of reading initiatives across the Department of Education. The bill also includes \$50 million for the President's proposal for a new High School Graduation Initiative targeted at assisting high schools that have disproportionately high dropout rates.

Now that the 2010 levels are known, the President is poised to propose his fiscal year 2011 spending plan in late January or early February 2010, and Congress will spend most of next year debating the merits of his proposal. Efforts are already underway to ensure IDEA funding continues to be funded at the federal stimulus funding level and Title I programs are reauthorized, modified, and appropriately funded.

Personnel and Administrative Reforms

The Governor's Budget Proposal offers a series of cost-saving measures in the certificated personnel area aimed at protecting classroom spending by building on the reforms embodied in RTTT and breaking down bureaucracy. While many proposals lack specificity regarding proposed changes in law, it is clear that the Administration recognizes that, beyond the changes made by SBX5 4 and SBX5 1, there are numerous statutory rights and protections afforded certificated employees that create barriers to school reform. Additionally, there is some recognition that the resulting lack of flexibility directly impacts LEA budgets. The Governor's Budget Proposal calls for statutory relief that would change the seniority rights of certificated employees, layoff notifications and timelines, the rights of laid-off teachers, and student achievement reforms linked to teacher and principal quality.

Substitute Costs

Under Education Code Section (E.C.) 44956(a)(5), permanent certificated employees who have been laid off have a right to substitute service. If a laid-off teacher works more than 20 days in a 60-school day period, he or she is entitled to per-diem pay at the rate he or she would receive if he or she were reinstated. This provision of the law has had a profound impact on LEA budgets this year and, without a change, the Governor's Budget Proposal predicts a need for additional layoffs and cuts to classroom spending in 2010-11. The Governor's Budget proposes to eliminate the regulations giving laid off teachers first priority for substitute assignment and requiring that they be paid at their per diem rate.

Staffing Notification Process

We know all too well the challenges the March 15 layoff notice provision creates for LEAs. The Administration's proposal acknowledges the problems inherent in a process that requires the LEA to make important personnel and budget decisions with insufficient data and with little or no opportunity to make changes once that data is known. If adopted as written, the proposal would move the March 15 notice to 60 days after adoption or amendment of the State Budget.

Comprehensive School Reforms

In the spirit of reform, the Administration proposes the elimination of statutory and regulatory barriers to student achievement. The proposal provides few clues into the specific changes it is seeking; however, an education briefing document does. *Putting Children's Education Ahead of Special Interests and Protecting*

The FISCAL REPORT *an informational update*

Classroom Spending: Education Reforms in the 2010-2011 Budget, a two-page education budget-briefing document, characterizes the laws governing teacher dismissals as unnecessarily bureaucratic and states that the Commission on Professional Competence, commonly known as the three-member dismissal panel, unduly limits the ability of local governing boards to terminate teachers. Based on the Governor's Budget Proposal and the education briefing document, we expect to see proposed changes in certificated dismissal laws and other proposals that would restore management rights, such as the right to transfer and reassign employees.

Teacher Seniority

The proposal calls for changes in law that would allow the LEA to lay off, assign, reassign, transfer, and rehire teachers without regard to seniority in the interest of retaining the best teachers and minimizing impacts on struggling schools in low-income neighborhoods. While changes in the law would not supersede existing local collective bargaining agreements in these areas, it would provide LEAs with the ability to negotiate changes in successor agreements.

posted 01/09/2010