



CALIFORNIA
DEPARTMENT OF
EDUCATION

JACK O'CONNELL
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

December 1, 2010

Dear County and District Superintendents, Direct-Funded Charter School Administrators, and Chief Business Officers:

2010 BUDGET ACT AND RELATED LEGISLATION

On October 8, 2010, Governor Arnold Schwarzenegger signed Senate Bill 870 (Chapter 712, Statutes of 2010), the Budget Act of 2010. In addition to the Budget Act, the Governor signed various "trailer bills" that amend the California *Education Code (EC)* and other California codes to reflect technical changes necessary to implement the budget. In enacting the 2010 Budget Act, the Governor and the Legislature were obligated to take drastic measures for the third consecutive year to bring the state budget into balance in the worst recession that the state of California has endured since the Great Depression.

Prepared by the California Department of Education (CDE) fiscal policy staff, this letter provides information on budget provisions affecting kindergarten through grade twelve (K–12) education. Copies of this document, as well as other budget-related documents, are available through the CDE Education Budget Web page at <http://www.cde.ca.gov/fg/fr/eb/>. Official state budget documents are available through the Department of Finance Web site at <http://www.dof.ca.gov/> (Outside Source).

Governor's Budget Proposal

On January 8, 2010, Governor Arnold Schwarzenegger released his budget for 2010–11. He projected a deficit of \$19.9 billion for the two-year period including fiscal years 2009–10 and 2010–11. In addition to proposals for 2010–11, the budget included proposals for revising the enacted 2008–09 and 2009–10 budgets to address the state's fiscal crisis.

For education, the Governor's January budget proposed to reduce 2010–11 funding for revenue limits by \$1.5 billion to reflect proposals to cut administrative and contracting costs incurred by local educational agencies (LEAs). The budget also proposed to reduce revenue limits and categorical funding for LEAs by \$206.3 million due to a negative cost-of-living adjustment (COLA).

The January budget proposed suspension of most K–12 education mandates except for \$65 million for mandated behavioral intervention plans, \$7.7 million for mandated costs related to interdistrict and intradistrict transfers, and \$6.8 million for costs related to the California High School Exit Examination.

Governor's May Revision

On May 14, 2010, the Governor released his revised budget plan. The deficit amount was projected at \$19.9 billion.

There were two major changes from the January education proposals. First, the May Revision proposed a reduction of \$1.4 billion to reflect the proposed elimination of General Fund support for child care programs administered through the CDE.

Second, the May Revision continued the Governor's January budget proposal to reduce 2010–11 revenue limits funding by \$1.5 billion, but proposed an unallocated reduction rather than linking the reduction to administrative and contracting savings.

Final Budget Act of 2010

At last, after much controversy, the record 100-day budget standoff ended on October 8, 2010, with a budget agreement.

The 2010–11 budget package authorizes total spending of \$86.6 billion from the General Fund compared to \$86.3 billion in 2009–10. The budget package closes an estimated \$19.3 billion deficit through a combination of \$8.4 billion in spending reductions, \$5.4 billion in additional federal funds, and \$5.5 billion in other solutions.

The budget agreement also includes changes in law intended to help alleviate future budget crises. Specifically, it places before the voters a constitutional amendment intended to build budgetary reserves. If approved, the measure would increase the size of the state's rainy day fund, which was created by Proposition 58 (2004). The measure would require that unanticipated revenues, as defined, be deposited into the fund—unless needed to fund Proposition 98 obligations resulting from the increase in revenues. The measure would also restrict withdrawals from the fund and limit the situations in which required deposits (Proposition 58 requires that 3 percent of annual revenues be deposited into the fund) could be diverted to other purposes.

Other actions include:

- The budget package suspends the net operating loss corporate tax benefit for an additional two years, which results in increased tax revenue of \$1.2 billion in 2010–11 and \$400 million in 2011–12.
- The budget package assumes \$1.2 billion in one-time revenue from the sale of 11 state office buildings as authorized in the 2009–10 budget accord.
- The budget package includes \$2.7 billion of loans, loan repayment extensions, transfers, and shifts from special funds.
- The budget package increases the age from 62 to 65 at which newly hired state employees may obtain full retirement benefits and permanently increases pension contributions for current and new employees. This reform was achieved through collective bargaining and legislation that includes a rollback of SB 400 (Chapter 555, Statutes of 1999).

2009–10 Proposition 98 Changes

For 2009–10, the final Proposition 98 minimum funding level was calculated to be \$51.3 billion. Of this amount, \$49.5 billion was allocated, with a settle-up obligation of \$1.8 billion to be paid in future years. Proposition 98 spending was reduced by \$876 million. The spending reductions consist of \$176 million due to lower-than-expected costs for K–12 revenue limits, \$340 million due to savings in the K–3 Class Size Reduction program, and a savings of \$360 million due to savings in various other K–12 and community college (K–14) programs.

The 2010 Budget Act puts to rest the uncertainties that plagued the Proposition 98 funding levels for 2008–09 and 2009–10. As of the final 2009 Budget Act, the 2008–09 Proposition 98 guarantee was certified in statute at a funding level of \$49.1 billion with an outstanding maintenance factor of \$11.2 billion. This funding level represented a decrease of \$9 billion from the originally enacted 2008–09 funding level. In the proposed budget for 2010–11, the Governor recalculated the Proposition 98 minimum funding level for 2008–09 and asserted the \$11.2 billion obligation to schools was a statutory obligation, not a constitutionally required maintenance factor. This change in proposed methodology resulted in 2009–10 and 2010–11 Proposition 98 minimum funding levels that were lower than levels calculated under the previous methodology.

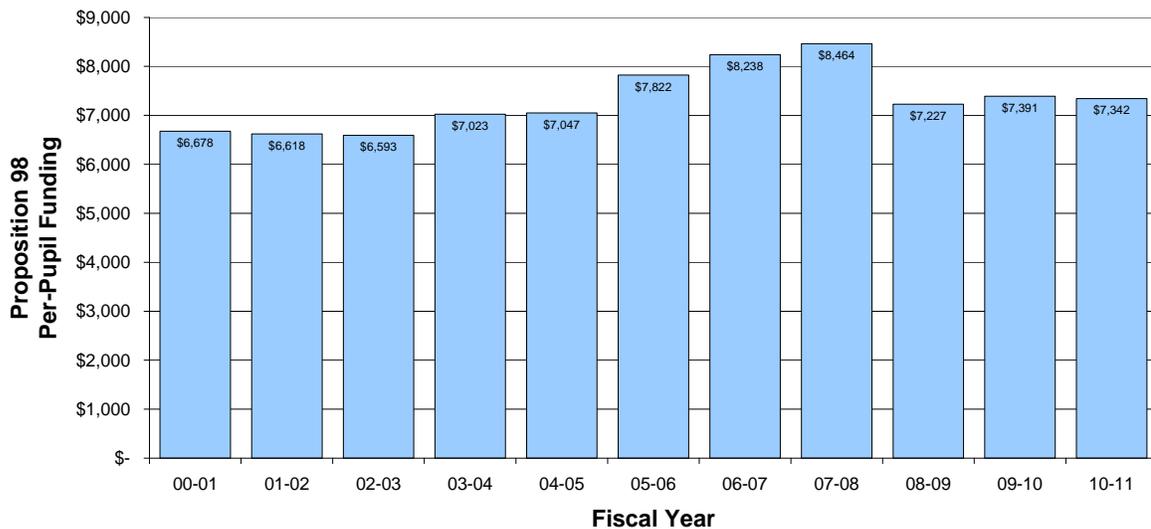
The final 2010 Budget Act settled this issue by retaining the \$49.1 billion Proposition 98 minimum funding level for 2008–09, with an outstanding maintenance factor of \$11.2 billion as approved in the final 2009 Budget Act.

2010–11 Proposition 98 Changes

The minimum funding level required by Proposition 98 is projected to be \$53.8 billion or \$4.3 billion higher than the level provided to K–14 programs under the final 2009–10 budget package. Because the state economy has not fully recovered, the Legislature and the Governor suspended the Proposition 98 guarantee by \$4.1 billion. SB 851 (Chapter 715, Statutes of 2010) declared the minimum funding level for K–14 education is \$49.6 billion. However, the amount actually provided in the 2010 Budget Act is only \$49.4 billion. The difference is a veto of \$256 million in child care funds.

Chart 1 shows the trend in Proposition 98 funding per pupil in K–12 schools from 2000–01 through 2010–11. The chart shows that, under the 2010–11 budget package, schools will receive Proposition 98 funding averaging \$7,342 per pupil in average daily attendance (ADA) compared to \$7,391 for 2009–10.

Chart 1—Proposition 98 Per-pupil Funding



Revenue Limits

The Legislature rejected the Governor’s proposal to implement a negative 0.39 percent cost-of-living adjustment. The deficit factor for school districts is 17.963 percent and for county offices of education 18.25 percent.

Deferrals

The budget package defers \$1.7 billion in revenue limit funds from 2010–11 to 2011–12. This \$1.7 billion consists of (1) increasing the deferral of April and May payments to July by \$1.2 billion and (2) increasing by \$500 million the amount of the June–July deferral counted towards the next fiscal year. The latter does not affect payments but is simply a Proposition 98 accounting maneuver.

The budget package also includes a new intra-year deferral of K–12 funding. Assembly Bill 1627 (Chapter 713, Statutes of 2010) authorized a new deferral of K–12 funding, from October 2010 to November 2010, of most state apportionments to county offices of education, school districts, and charter schools. This deferral was to address an immediate state cash shortfall as a result of the late budget.

Special Education

The Legislature eliminated \$52 million originally proposed to pay county mental health departments for mandated special education mental health (AB 3632, 1984) services. The Governor vetoed \$133 million for prior-year mandate costs (in the Department of Mental Health budget), stating in his veto message that the effect of this action is to eliminate the mandate and thereby require LEAs to assume responsibility for providing mental health services. The Governor's authority to suspend the AB 3632 mandate is being challenged in court.

The Governor also vetoed provisional language that requires the CDE to distribute \$76 million in federal funds to county offices of education, which in turn distribute the funds to county mental health departments for mental health services. The CDE has since distributed the funds as they had been distributed previously.

The budget package provides \$500,000 for an evaluation of the state's approach to providing mental health services to students with disabilities.

The Legislature rejected a proposed settlement agreement on the behavioral intervention plan mandate and instead adopted language providing that existing regulations governing behavior intervention plans are necessary to implement federal law and do not create a higher level of service. The purpose of this language is to eliminate the behavioral intervention mandate beginning in 2010–11. In addition, the Legislature adopted language to provide that the first call on General Fund special education funds appropriated in the Budget Act is to offset the cost of this program if it is deemed to be a reimbursable state mandate.

AB 184 (Chapter 403, Statutes of 2010) continues authority for the special disabilities adjustment for both 2009–10 and 2010–11 and repeals the current formula on July 1, 2011. The budget package provides \$300,000 in federal carryover funds for a study on the distribution of the incidence of severe disabilities.

Child Care and Development

The budget eliminates the California Work Opportunity and Responsibility to Kids (CalWORKs) Stage 3 child care program, via Governor's veto, effective November 1, 2010. Elimination of the CalWORKs Stage 3 program represents a \$256 million funding cut to the child care and development appropriation.

The budget package reduces the regional market rate ceilings for license-exempt providers from 90 percent to 80 percent of the 85th percentile of the Regional Market Rate (RMR). The package also reduces Alternative Payment Program administrative rates from a maximum of 19 percent to a maximum of 17.5 percent of their total contract amount, and places a cap of 5 percent of the contract amount on local child care contractor reserves. The budget captures excess reserve balances, which total \$85 million, to provide child care services.

The budget expands the language requiring the CDE to report on administrative overpayments in state subsidized child care programs to require that the report include additional criteria to distinguish between administrative errors and fraud.

California Longitudinal Pupil Achievement Data System

The Governor vetoed \$6.4 million in federal funds for the administration and implementation of the California Longitudinal Pupil Achievement Data System (CALPADS) and the California Teachers Integrated Data Education System (CALTIDES). An additional \$3.9 million was vetoed for the administration of the California School Information Services (CSIS). The CSIS program assists LEAs with the electronic transfer of student records to allow state reporting from electronic records.

Categorical Flexibility

The budget package incorporates the English Language Acquisition Program into the Economic Impact Aid (EIA) program. The budget package also provides \$3.1 million in EIA funding to county court schools beginning in 2010–11 and approves statutory changes to assure that court school students receive required instructional time.

The budget package provides supplemental categorical block grant funding to any new charter school that began operation during the 2008–09, 2009–10, or 2010–11 fiscal years. The funding amount is \$127 per unit of average daily attendance as determined at the 2010–11 second principal apportionment, and is based on the amount received by pre-existing charter schools for programs affected by the 2008–09 categorical flexibility changes.

State Mandates

The budget package provides \$300 million in Proposition 98 “settle-up” payments to pay for K–14 mandated costs. This amount includes \$90 million for 2010–11 mandated costs (\$80.4 million for K–12). The remaining \$210 million will be distributed on an equal per-student basis and will be applied to school district, county office of education, and community college unpaid prior-year mandate claims.

Figure 1 identifies funded K–12 mandates.

**Figure 1
Funded K–12 Mandates**

Program	2010–11 Amount
Agency fee arrangements	22,000
AIDS instruction I & AIDS prevention instruction II	1,293,000
California High School Exit Examination	5,776,000
California State Teachers Retirement System services credit	85,000
Caregiver affidavits	502,000
Charter schools I, II & III	1,306,000
Collective bargaining	1,789,000
Comprehensive school safety plans	2,977,000
Consolidation of notification to teachers: pupils subject to suspension or expulsion I & II, & pupil discipline records	6,656,000
Consolidation of annual parent notification/school site discipline rules/alternative schools	8,844,000
County office of education fiscal accountability reporting	282,000
Criminal background checks I	568,000
Criminal background checks II	303,000
Differential pay & re-employment	2,000
Financial & compliance audits	359,000
Habitual truants	1,383,000

Immunization records	3,802,000
Immunization records—hepatitis B	4,626,000
Intradistrict attendance	3,397,000
Juvenile court notices II	1,024,000
Notification of truancy	3,645,000
Physical performance tests	3,485,000
Pupil health screenings	759,000
Pupil promotion & retention	1,074,000
Pupil safety notices	72,000
Pupil suspensions, expulsions, expulsion appeals	5,205,000
School district fiscal accountability reporting	2,668,000
The Stull act	18,451,000

The budget package made changes to several of the funded mandates to reduce costs.

The budget package amends the Notification of Truancy mandate by adding language to require school districts to use “the most cost effective method possible” to notify parents when a student is initially classified as a truant. The budget package also defines “conscientious effort” used in the Habitual Truants mandate language.

The budget package suspends a portion of the Pupil Promotion and Retention mandate until July 1, 2013. School districts will not be required to provide supplemental instruction to pupils who have been retained or recommended for retention.

The budget package also contains language that requests the Department of Finance to file a request with the Commission on State Mandates to seek adoption of a new test claim to supersede the Collective Bargaining mandate.

The budget package eliminates the Teacher Incentive Program mandate, the Behavioral Intervention Plan mandate, and the High School Graduation mandate. The Behavioral Intervention Plan mandate is discussed in the special education section of this letter. For High School Graduation, the legislation requires that costs incurred by a school district or county office of education for salaries and benefits of teachers to provide courses required for high school graduation shall be offset by revenue limit funding.

Figure 2 identifies mandates that are suspended in 2010–11.

Figure 2
Suspended Mandates

County treasury withdrawals
Grand jury proceedings
Health benefits for survivors of peace officers & firefighters

Law enforcement sexual harassment training
Physical education reports
Pupil residency verification & appeals
Removal of chemicals
School bus safety I & II
Scoliosis screening

Figure 3 identifies mandates that are still in effect but are not funded.

Figure 3
Mandates That Are Not Funded

Absentee ballots
Consolidation of law enforcement agency notifications (LEAN) & missing children reports
Mandate reimbursement process
Prevailing wage
Public safety officers procedural bill of rights act
School accountability report cards II & III
School district reorganization
Threats against peace officers

Finally, the budget package adds language that directs the Legislative Analyst's Office to convene a working group, in which the CDE will participate, to develop recommendations on mandate reform, including whether to preserve, modify, or eliminate particular mandates.

Federal Funds

The budget package appropriates \$37.7 million from American Recovery and Reinvestment Act (ARRA) of 2009 funds for the Enhancing Education Through Technology (EETT) Competitive Grant Program. The purpose of the program is to provide funding to promote the acquisition, maintenance, and use of data to improve college and career readiness and/or to improve the high school graduation rate in school districts and direct-funded charter schools serving students in grades seven through twelve, inclusive.

Separate legislation, SB 847 (Chapter 220, Statutes of 2010), appropriated \$1.2 billion from the federal Education Jobs Fund to be distributed based on revenue limit formulas. AB 185 (Chapter 221, Statutes of 2010) appropriated \$415 million in federal funds for local improvement plans for low-performing schools participating in the School

Improvement Grant program. The participating schools must implement one of four specified school intervention models.

AB 185 also appropriated \$272 million for the last installment of K–12 funding from the ARRA State Fiscal Stabilization Fund for LEAs.

Other Issues

The budget package eliminates the Alternative Schools Accountability Model (ASAM) for a savings of \$775,000. The ASAM provides school-level supplemental accountability measures for more than 1,000 alternative schools serving 450,000 high-risk students in the state.

The budget package includes language which stipulates that payments from the Charter Schools Facilities Grant program for current-year lease costs must be allocated by October 1 of each fiscal year or 90 days after the enactment of the Budget Act, whichever is later. However, the funding is first to be used to reimburse eligible prior-year unreimbursed costs.

Budget and Trailer Bills

Listed below are the budget and trailer bills that affect education.

Bill	Chapter	Date	Subject
SB 870	712	October 2010	2010 Budget Act
SB 847	220	September 2010	Federal education jobs funding
SB 851	715	October 2010	Proposition 98 suspension
AB184	403	September 2010	Special disabilities adjustment
AB 185	221	September 2010	School improvement grants and State Fiscal Stabilization Fund
AB 1610	724	October 2010	Education trailer bill
AB 1624	713	October 2010	Cash flow provisions
ABX8 5	1	March 2010	Cash flow provisions
ABX8 14	10	March 2010	Cash flow provisions
Assembly Constitutional Amendment 4	174	October 2010	Budget Stabilization Fund

December 1, 2010
Page 11

If you have any questions regarding the state education budget, please contact Carol Bingham, Director, Fiscal Policy, by phone at 916-324-4728 or by e-mail at cbingham@cde.ca.gov.

Sincerely,

JACK O'CONNELL

JO:cb

NOTICE: The guidance in this letter is not binding on LEAs or other entities. Except for the statutes, regulations, and court decisions that are referenced herein, this bulletin is exemplary, and compliance with it is not mandatory. (See *EC* Section 33308.5.)