

ITEM 16
EXECUTIVE DIRECTOR'S REPORT

**Workload, Budget, Interim Strategic Plan, New Practices, 2010 Meeting Calendar, and
Next Meeting**

I. WORKLOAD

A. PENDING COMMISSION CASELOAD (Info)

Type of Action	March 11, 2010
Test Claims ¹ to be Heard and Determined	50
Test Claims to be Reconsidered	0
Test Claims to be Reconsidered or Reinstated Based on Court Action	0
Incorrect Reduction Claims to be Heard and Determined	157
Incorrect Reduction Claims to be Reconsidered Based on Court Action	0
Reasonable Reimbursement Methodologies/Statewide Estimate of Costs	2
Proposed Parameters and Guidelines	18
Proposed Parameters and Guidelines Amendments	26 ²
Parameters and Guidelines to be Amended, Set Aside, or Reinstated, as Directed by the Legislature or Court Action	0
Statewide Cost Estimates to be Adopted	6
Revised Statewide Cost Estimates to be Adopted Following Amendment to Parameters and Guidelines Based on Court Action	1
New Test Claim Filings to be Reviewed	0
New Incorrect Reduction Claim Filings to be Reviewed	0
Appeals of Executive Director's Decision	0
Regulatory Actions Pending	1

¹ This includes 32 test claims filed by school districts and 18 filed by local agencies.

² Twenty-one of the proposed amendments are requests from the State Controller's Office to update boilerplate language.

B. PENDING REQUESTS TO JOINTLY DEVELOP LEGISLATIVELY DETERMINED MANDATES

Type of Action	
Notice of Intent to Pursue Legislatively Determined Mandates	3

C. APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS

Type of Action	
Applications for Findings of Significant Financial Distress Pending	0

No applications have been filed. However, in recent years, four counties inquired about the process (Sacramento, Los Angeles, San Diego, and Alameda).

II. BUDGET

On January 7, 2010, the Governor and the Director of Finance issued the proposed 2010-2011 budget. There are no significant changes in the Commission on State Mandates' budget. Here are excerpts regarding mandate reimbursements:

A. Legislative Analyst's Report – Education Mandates: Overhauling a Broken System³ (See http://www.lao.ca.gov/reports/2010/edu/educ_mandates/ed_mandates_020210.aspx.)

The Legislative Analyst's Office (LAO) report presents a comprehensive K-14 mandate reform plan. The report is divided into four sections. First, LAO provides background on the current mandate system. Second, LAO discusses problems current K-14 mandates create for both local educators and the state. Third, LAO summarizes the Governor's 2010-11 proposal to suspend K-14 mandates and highlights two major shortcomings of such an approach. Finally, LAO recommends a strategy for comprehensive K-14 mandate reform and describes how to implement that strategy. The report also addresses reconsideration of prior decisions, and suggests that a few refinements be made to the CSM proposal.

B. Senate Budget and Fiscal Review – Subcommittee Number 4

The Commission on State Mandates budget is set for hearing on April 29, 2010. On March 5, 2010, Subcommittee Chair Mark DeSaulnier requested that the Commission submit the following information by March 31, 2010.⁴

- Mission Statement
- Strategic Plan
- Summary of enabling legislation
- Brief summary of who you serve and how many you serve for each of your major programs
- Description of measurements and outcomes you use to define success for each of your major programs

³ Exhibit A.

⁴ Exhibit B.

All of the information requested is readily available except for the Strategic Plan.

The Commission has not adopted or updated its strategic plan for several years, and recently approved development of a three-year plan as part of the Executive Director's annual work plan. To respond to Senator DeSaulnier's request, the attached "Interim Strategic Plan" has been drafted for review and approval by the Commission. (See Attachment to this report.) If the Commission approves the "Interim Strategic Plan" it will be submitted to Senator DeSaulnier and posted on the website for review and public comment by stakeholders. After a comment period, staff will make revisions, if necessary, and schedule the revised "Interim Strategic Plan" on the May agenda for Commission hearing and consideration. Upon adoption by the Commission, the Strategic Plan will be submitted to the Senate Budget Subcommittee.

III. NEW PRACTICES

The Bureau of State Audit's October 15, 2009 Report recommends that Commission staff prioritize its workload and seek efficiencies in the process to the extent possible. This new section of the Executive Director's Report will report to the Commission members and the public on new practices staff is implementing to make the mandates process more efficient. Since the BSA audit was issued, staff:

- Added a permanent item to the bimonthly meeting agendas to discuss implementation of the October 15, 2009 BSA Report.
- Included new information in our biannual Reports to the Legislature on Approved Mandates that identifies pending joint requests for reasonable reimbursement methodologies, pending requests for legislatively determined mandates, and any delays in the process these requests may cause.

IV. REPORTS TO THE LEGISLATURE

The Commission's Report on Denied Mandates for 2009 was issued on March 11, 2010.

V. APPROVAL OF 2010 MEETING CALENDAR (action)

The Commission is required to meet at least once every two months. The time and place of meetings may be set by resolution of the commission, by written petition of a majority of the members, or by written call of the chairperson. The chairperson may, for good cause, change the starting time or place, reschedule, or cancel any meeting. (Gov. Code, § 17526.)

The League of Cities holds its annual meeting in mid-September, the California State Association of Counties holds its annual meeting in mid-November; and the CSBA holds its annual meeting in early December.

Staff recommends that after discussion and public comment, the Commission approve the remaining 2010 meeting dates:

Thursday, May 27, 2010 (Prior to a 3-day Memorial Day weekend)

Friday, June 25, 2010 (Tentative)

Friday, July 29, 2010

Friday, September 24, 2010

Friday, October 29, 2010 (Tentative)

Friday, December 3, 2010

The 2010 Meeting Calendar will be placed on the Commission's website.

VI. NEXT MEETING AND TENTATIVE AGENDA

The tentative agendas are subject to change based on Commission staff's actual authorized work days, workload, requests for extensions of time to file comments on draft staff analyses, hearing postponements, pre-hearing conferences, and the complexity of the statutes and executive orders that are pled.

May 27, 2010

- A. Incorrect Reduction Claim (1)
 - 1. *Investment Reports*, 00-9635802-I-01
County of Los Angeles, Claimant
- B. Proposed Parameters and Guidelines (4)
 - 1. *Academic Performance Index*, 01-TC-22
San Juan Unified School District
 - 2. *Crime Statistic Reports for Department of Justice and Amendment*
02-TC-04, 02-TC-11, 07-TC-10
City of Newport Beach and County of Sacramento, Claimants
 - 3. *Crime Victims' Domestic Violence Incident Reports II*, 02-TC-18
County of Los Angeles, Claimant
 - 4. *Expulsions II* (96-358-03, 03A, 03B, 98-TC-22., 01-TC-18),
Pupil Suspensions II (98-TC-23) and *Educational Services Plan*
(97-TC-09), San Juan Unified School District, Claimant
- C. Request to Amend Parameters and Guidelines to Add Boilerplate Language
State Controller's Office, Requestor (5)
 - 1. *Seriously Emotionally Disturbed Students*, 05-PGA-42
 - 2. *Annual Parent Notification*, 05-PGA-45
 - 3. *Notification of Truancy*, 05-PGA-56
 - 4. *Notification to Teachers: Pupils Subject to Suspension or Expulsion*,
05-PGA-57
 - 5. *Pupil Suspensions, Expulsions, and Expulsions Appeals*, 05-PGA-65
- D. Dismissal of Withdrawn Request to Amend Parameters and Guidelines (2)
 - 1. *Caregiver Affidavits*, 01-PGA-03
Clovis Unified School District, Claimant
 - 2. *Interdistrict Transfer Requests: Parents Employment*, 01-PGA-10
Clovis and San Jose Unified School Districts, Claimants
- E. Statewide Cost Estimates (3)
 - 1. *Pupil Discipline Record*, and *Notification to Teachers: Pupils Subject to
Expulsion/Suspension II*, 00-TC-10 and 00-TC-11
Sweetwater Union High School District, Carpinteria Unified School
District and Grant Joint Union High School District
 - 2. *Local Government Employment Relations*, 01-TC-30
City of Sacramento and County of Sacramento, Claimants

3. *Integrated Waste Management (Post-Litigation)*, 05-PGA-16
Santa Monica and Lake Tahoe Community College Districts,
Co-claimants

F. Adoption of Order to Initiate Rulemaking Proceeding.

G. Approval of Strategic Plan, 2010-2012

July 29, 2010

A. Test Claims (4)

1. *Minimum Conditions for State Aid and Notice to Students*,
02-TC-25 and 02-TC-31,
Los Rios, Santa Monica and West Kern Community College Districts,
Claimants
2. *School Bus Safety Bus III*, 03-TC-01
San Diego Unified School District, Claimant
3. *Employment of College Faculty and Instructors*, 02-TC-27
Santa Monica Community College District, Claimant

B. Parameters and Guidelines (4)

1. *Comprehensive School Safety Plans II, and Amendment*,
02-TC-33 and 07-TC-11
Bakersfield City School District, Sweetwater Union High School District,
Claimants
2. *Student Records*, 02-TC-34
Riverside Unified School District & Palomar Community College District,
Claimants
3. *Modified Primary Election*, 01-TC-13
County of Orange, Claimant
4. *Interagency Child Abuse and Neglect (ICAN) Investigation Reports*,
00-TC-22
County of Los Angeles, Claimant

C. Requests to Amend Parameters and Guidelines (2)

1. *Habitual Truants*, 01-PGA-01
2. *Enrollment Fee Collection and Waivers*,

D. Statewide Cost Estimates (2)

1. *Tuition Fee Waivers*, 02-TC-21
Contra Costa Community College District, Claimant
2. *Local Agency Formation Commissions*, 02-TC-23
Sacramento Metropolitan Fire District

E. Public Hearing on Proposed Rulemaking Proceeding (If Requested)



Commission on State Mandates

Interim Strategic Plan

January 2010 – December 2012

Mission

The Commission on State Mandates' mission is as follows:

To fairly and impartially hear and determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state.

Vision

The Commission on State Mandates' vision statement is as follows:

The Commission on State Mandates implements the most effective and expeditious services and processes to resolve disputes over state-mandated local programs.

Values

As an organization, the Commission on State Mandates adopts the following Statement of Core Values:

We act with professionalism, integrity, objectivity, and efficiency in making quasi-judicial and quasi-legislative determinations. We value:

- Parties before the Commission on State Mandates. We consider the views of all parties with objectivity, courtesy, and respect.
- Excellence. We strive to make sound and well-reasoned decisions in a timely manner. We produce our work using innovative tools and techniques to improve our efficiency.
- Ethical Behavior. We demonstrate fair, honest, and ethical behavior.

- A safe and healthy work environment. We believe that physical and mental health is important.
- Teamwork. We, the Commission, urge our staff to function as a team. Staff members are encouraged to develop personally and professionally and to contribute their greatest potential.

Goals and Objectives

1. Caseload

Goal 1.1

Eliminate the test claim and incorrect reduction claim backlog.

Goal 1.2

Complete the caseload within the statutorily-required timeframes.

Goal 1.3

Increase the adoption of reasonable reimbursement methodologies by assisting claimants, Department of Finance, and the State Controller's Office in the development process.

2. Customer Service

Goal 2.1

Implement a new website system for retrieving mandates-related documents via the Commission's website by April 19, 2010.

Goal 2.2

Reduce paper usage by implementing procedures to allow claimants and state agencies to e-file documents by December 31, 2010.

Goal 2.3

Continue conducting annual meetings with claimants and affected state agencies to seek their input on ways to improve the Commission's processes.

3. Learning and Growth

Goal 3.1

Review current retention practices and identify and implement improvements that will result in retaining the high quality personnel currently staffing the Commission.

Goal 3.2

Focus on employee development and training by adding and/or updating courses in the Commission's training program.

4. Internal Business Processes

Goal 4.1

Review current division of administrative workload, and if necessary, reassign duties, so that the workload is more evenly distributed.

Goal 4.2

Review and update all Commission policies and procedures.

Goal 4.3

Take an active role in seeking ways to lower greenhouse gas emissions by recycling, reducing paper usage by posting reports on the website.

DRAFT



Educational Mandates Overhauling a Broken System

MAC TAYLOR • LEGISLATIVE ANALYST • FEBRUARY 2, 2010



AN LAO REPORT



EXECUTIVE SUMMARY

California has an elaborate system for identifying mandates and reimbursing local government agencies, including school districts and community colleges, for performing related activities. Currently, the state has more than 50 education mandates, with each mandate requiring school districts and/or community colleges to perform as many as a dozen specific activities. In 2009-10, these education mandates are estimated to cost a total of more than \$200 million. When coupled with a pending mandate relating to high school science graduation requirements, annual costs total more than \$400 million.

California's process for identifying mandates creates major problems for schools, community colleges, and the state. At the local level, districts are required to perform hundreds of activities even though many of these requirements do not benefit students or educators. The existing mandate system also can reward districts for performing activities not only inefficiently but ineffectively. Making matters worse, the state's system for funding mandates is broken. Oftentimes, districts claim vastly different amounts for performing comparable activities. Moreover, the state does not pay for these activities on a regular basis, instead deferring district reimbursements to future years. As a result of these deferrals, which were deemed unconstitutional by a superior court in 2008, the state owes roughly \$3.6 billion in outstanding mandate claims (including the high school science mandate, which more than doubled the backlog). In short, districts are required to perform hundreds of activities—many of dubious merit—without regular pay, resulting in billions of dollars in state debt.

In this report, we present a comprehensive K-14 mandate reform package. As a general principle, we think the state should not mandate an activity unless it is of fundamental importance to the education system. Using this standard, we evaluate mandates on a case-by-case basis. In the few cases mandates are serving essential purposes, we recommend funding them using a simplified reimbursement process. For some mandates, the underlying policy objective appears worth preserving but the mandate process is not the best means of achieving that objective. In these cases, we find a more effective policy alternative that largely achieves the same goal. We recommend eliminating the remaining mandates either in whole or part. By relieving schools from performing the vast majority of K-14 mandate requirements, our package of recommendations would result in more than \$350 million in annual savings.

AN LAO REPORT



INTRODUCTION

This report presents a comprehensive K-14 mandate reform plan. The report is divided into four sections. First, we provide background on the current mandate system. Second, we discuss problems current K-14 mandates create for both local educators and the state. Third, we summa-

rize the Governor's 2010-11 proposal to suspend most K-14 mandates and highlight two major shortcomings of such an approach. Finally, we recommend a strategy for comprehensive K-14 mandate reform and describe how to implement that strategy.

MULTISTEP PROCESS USED TO IDENTIFY REIMBURSABLE MANDATES

In this section, we provide background information on mandates, including the role of the Commission on State Mandates (CSM) and the number of K-14 mandates that currently exist.

Mandate Determination Process Overseen by CSM. In 1979, voters passed Proposition 4, which added a requirement to the California Constitution that local governments be reimbursed for new programs or higher levels of service the state imposes on them. As part of its response to Proposition 4, the Legislature created the CSM to hear and decide claims that a state law imposes new requirements on local governments, including school districts and community colleges. In its current form, CSM consists of seven members entrusted with overseeing the mandate determination process (see Figure 1).

California Has Unique Legal System for Identifying Reimbursable Mandates. Due in part to the requirements placed on the state by Proposition 4, California now has an elaborate legal process for determining whether new requirements constitute mandates (see Figure 2 for a simplified overview of this process). Following the passage of a state law, executive order, or regulation, school districts and community colleges (as other local government entities) have one year to file a "test claim" with CSM asserting the new requirements impose on them a new program or higher level of service and are therefore reimbursable. The CSM adopts a "Statement of Decision" articulating the reasons for its determination whether a test claim is a mandate. Following adoption of the Statement of Decision,

the commission must adopt a "statewide cost estimate" for the mandate. Upon adoption of a statewide cost estimate, CSM's role is largely finished and responsibility for reimbursing school districts and community college's is turned over

Figure 1
Membership of Commission on State Mandates

- State Controller
- State Treasurer
- Director of the Department of Finance
- Director of the Office of Planning and Research
- Local government officials—gubernatorial appointees (2)
- Public member—gubernatorial appointee

to the State Controller's Office (SCO). The SCO accepts claims from school districts and community colleges that are based on the commission's adopted guidelines for reimbursement. From beginning to end, the mandate determination process usually takes roughly five years to complete.

Determination Process Limits Legislature's Role in Mandate Process. The legal authority given to CSM has implications for the role the Legislature plays in the mandate determination process. Before legislation is passed into law, the Legislature has options for avoiding many mandates by structuring policies in ways that do not shift requirements onto local governments. However, once a bill becomes law and activities required of local governments are deemed reimbursable by CSM, so long as those requirements remain in law, the state has no choice but to eventually reimburse them. Short of taking legal action, the Legislature merely can fund the mandate or eliminate its cost by changing the statute creating it.

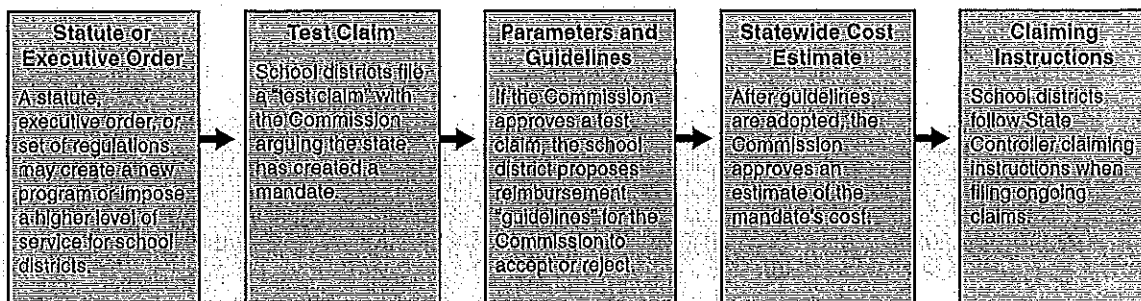
School Districts and Community Colleges Required to Perform 51 Reimbursable Activities. The state now imposes 51 mandates on

school districts and community colleges each year (see Figure 3). The majority of these mandates apply only to K-12 schools whereas seven mandates apply solely to community colleges. Some mandates, such as collective bargaining, are required of both school districts and community colleges. Finally, some mandates involving other local agencies, such as city governments, also apply to school districts and community colleges. (These local government mandates extend beyond the scope of this report and therefore are not discussed in detail.)

Mandates in Various Stages of the Determination Process. Mandates can be in different stages of the mandate determination process. Mandate claims that have completed the process typically appear in the annual budget act. Other mandates that have not fully completed the process, however, can still generate costs. For example, mandates involved in litigation or awaiting an official cost estimate might generate substantial costs though not listed in the budget act. (The additional claimable mandates listed in Figure 3 either have not completed the determination process or were simply omitted when the budget act was crafted.)

Figure 2

Mandate Determination Process



**Figure 3
Comprehensive List of K-14 Mandates^a**

Claimable Only by K-12 School Districts (36)	
Included in 2009-10 Budget Act	
AIDS Prevention Instruction I-III	Notification to Teachers of Mandatory Expulsion
Annual Parent Notification	Physical Education Reports
Caregiver Affidavits	Physical Performance Tests
Charter Schools I-III	Pupil Health Screenings
Comprehensive School Safety Plans	Pupil Promotion and Retention
County Office of Education Fiscal Accountability Reporting	Pupil Residency Verification and Appeals
Criminal Background Checks	Pupil Suspensions, Expulsions, and Expulsion Appeals
Criminal Background Checks II	Removal of Chemicals
Differential Pay and Reemployment	School District Fiscal Accountability Reporting
Expulsion Transcripts	School District Reorganization
Financial and Compliance Audits	Scoliosis Screening
Graduation Requirements	Teacher Incentive Program
Habitual Truants	Additional Claimable Mandates
Immunization Records	High School Exit Examination
Immunization Records—Hepatitis B	Missing Children
Intradistrict Attendance	Pupil Safety Notices
Juvenile Court Notices II	School Accountability Report Cards
Law Enforcement Agency Notifications	Stall Act
Notification of Truancy	
Claimable Only by Community Colleges (7)	
Included in 2009-10 Budget Act	
Health Fee/Services	Additional Claimable Mandates
Law Enforcement College Jurisdiction Agreements	Enrollment Fee and Waiver
Sex Offenders: Disclosure by Law Enforcement	Integrated Waste Management
	Reporting Improper Governmental Activities
	Sexual Assault Response Procedures
Claimable by Both School Districts and Community Colleges (3)	
Included in 2009-10 Budget Act	
Collective Bargaining	Additional Claimable Mandates
	Agency Fee Arrangements
	California State Teachers' Retirement System Service Credit
Claimable by Local Governments (5)	
Included in 2009-10 Budget Act	
Mandate Reimbursement Process	Additional Claimable Mandates
Public Safety Officers Procedural Bill of Rights	Absentee Ballots
	Open Meetings Act
	Threats Against Peace Officers

^a In addition to these 51 mandates, two mandates claimable only for school districts (School Bus Safety I:II and County Treasury Withdrawals) and three mandates claimable for both school districts and community colleges (Law Enforcement Sexual Harassment Training, Health Benefits for Survivors of Peace Officers and Firefighters, and Grand Jury Proceedings) have all been suspended in recent years.

Some Mandates Have Been Suspended.

Once a mandate has been established, the Legislature retains the authority to determine whether it remains in effect. The Legislature can eliminate a mandate by repealing the provisions of law or "suspend" a mandate on a year-to-year basis. Suspending a mandate means the law creating the mandate technically remains in statute, but school districts and community colleges do not

have to perform the mandated activities during the suspension period. Currently, five mandates applying to school districts (three of which also apply to community colleges) are suspended. These mandates were suspended on a case-by-case basis. For example, the School Bus Safety mandate was suspended in part because its costs were exceeding expectations.

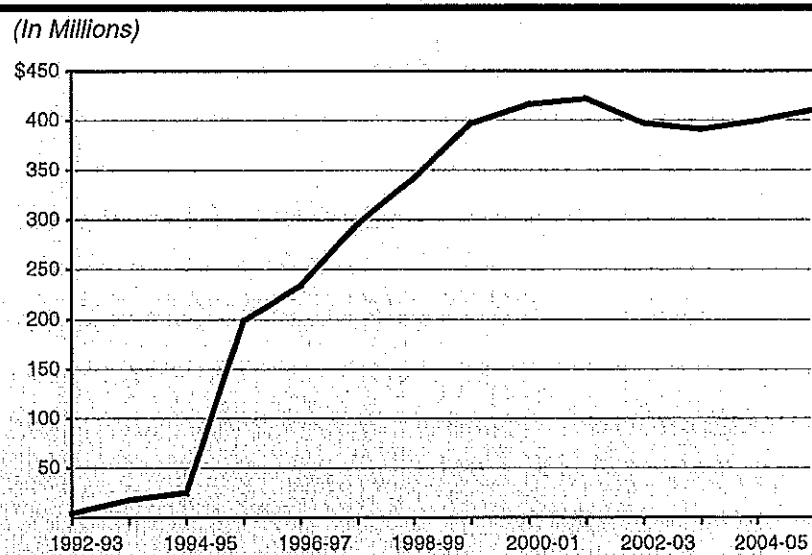
CURRENT STATUS OF K-14 MANDATE FUNDING

In this section, we describe the state's general approach to paying for K-14 mandates and address their long-term costs to the state.

Yearly Claims Have Increased Substantially, Sporadically Over Time. Over the last two decades, as the state has passed more laws that impose new local government requirements and CSM has heard more cases, annual K-14 mandate claims have grown substantially. As shown in Figure 4, in 1992-93 (the first year for which data are readily accessible), annual K-14 unadjusted mandate claims totaled less than \$5 million. By 2005-06 (the most recent year for which complete data were available at the time this report was being prepared), annual claims exceeded \$400 million. (These figures include claims for some of the

mandates still completing the determination process.) Increases in claims have corresponded with the identification of more mandates, more districts filing claims, and increased costs for existing mandates. While claims have increased significantly over time, year-to-year changes can be volatile due largely to the number of claim-

Figure 4
Annual K-14 Mandate Claims Have Increased Substantially Over Time^a



^a Represents all claims filed with the State Controller's Office. Includes claims for some mandates still completing the determination process, such as the mandate relating to high school science graduation requirements.

able mandates. For example, the number of mandates doubled between 1994-95 and 1995-96, increasing claims from \$25 million to roughly \$200 million. By contrast, claims fell in 2002-03, due largely to decreases in certain volume-driven mandates, such as processing interdistrict transfers and collective bargaining.

Mandates Just Finishing Process Likely to Lead to Large Cost Increases in Future Years.

Our office estimates annual school district and community college mandate claims will reach \$416 million in 2009-10, including roughly \$200 million in new annual claims associated with the high school science graduation mandate. (The SCO recently released new retroactive claims data for the graduation requirement mandate, which serves as the basis for our estimate.) Another mandate related to special education with potentially big costs is involved in a court case awaiting resolution. In addition, over a dozen claims are still on file with CSM awaiting statements of decision. In short, while uncertainty remains over exactly how much annual costs will increase, they are likely to grow considerably in the near term.

State Typically Defers Mandate Payments to Future Years. In recent years, the state has not paid these annual K-14 mandate claims. Instead,

the state has deferred payments by providing only a nominal sum for each mandate in the annual budget act. The 2009-10 Budget Act, for example, provides only \$41,000 (\$1,000 per identified mandate) for activities school districts and community colleges will likely claim in excess of \$400 million to perform. Despite receiving virtually no funding, districts must still perform the activities required by each mandate.

Current Backlog of Mandate Claims Substantial. As shown in Figure 5, the backlog of unpaid K-14 mandate claims is substantial. We anticipate unpaid K-14 mandates, including the graduation requirement, will total roughly \$3.6 billion in 2009-10. The state has a constitutional obligation to eventually pay off this backlog (though it has some options for reducing some costs for pending mandates, such as the high school graduation requirement mandate).

Superior Court Declares Deferring Payments Unconstitutional. In December 2008, a superior court found the state's practice of deferring education mandates unconstitutional and ordered the state to fully fund mandated programs "in the future." (The opinion responds to a lawsuit filed in 2007 by five school districts and the California School Boards Association against the Department of Finance and State Controller

seeking payment of past mandate claims and an end to deferrals.) While constitutional separation of powers means the court cannot force the Legislature to make appropriations for past mandate costs, its decision increases pressure

**Figure 5
Outstanding K-14 Mandate Obligations Total \$3.6 Billion^a**

(In Millions)

	2007-08	2008-09	2009-10
Outstanding K-12 claims	\$2,141	\$2,501	\$2,867
Ongoing cost of K-12 claims	360	366	373
Outstanding CCC claims	260	299	340
Ongoing cost of CCC claims	39	41	43
Total Outstanding Obligations	\$2,800	\$3,207	\$3,623

^a Excludes mandates still in the mandate determination process. Includes mandate relating to high school science graduation requirement.

on the state to pay the annual ongoing cost of education mandates.

Noneducation Mandates Already Funded on an Ongoing Basis. One motivation for the court case involving education mandates was that other local government (cities, counties, and special districts) mandates are already funded on an annual ongoing basis. Under Proposition 1A, approved by the state's voters in 2004, the Legislature has only three options for addressing other local government mandates: (1) appropriate funds

in the annual budget to pay a mandate's outstanding claims, (2) suspend the mandate (render it inoperative for one year), or (3) "repeal" the mandate (permanently eliminate it or make it optional). Two categories of mandates—those relating to K-14 education and employee rights—are exempt from this payment requirement. Though the exact impact of Proposition 1A on the mandate process is unclear, noneducation mandates are more likely to be suspended or eliminated than K-14 mandates.

VIRTUALLY EVERY ASPECT OF K-14 MANDATE SYSTEM BROKEN

In this section of the report, we discuss problems with K-14 mandates and the state's approach to funding them. These problems are summarized in Figure 6.

Mandates Often Do Not Serve Compelling Purpose. Mandated activities do not necessarily serve a more compelling purpose than other policies that are not mandated. Oftentimes, a law becomes a mandate not because it serves an essential function, but because the original legislation did not phrase its requirements very carefully. Further, many mandated activities are of altogether questionable value. For example, one mandate requires districts to submit physical education data that are already collected during regular audits. Another requires schools to remove chemicals from science classrooms even though state Health and Safety Code includes

similar provisions. Yet another requires administrators to inform teachers when one of their students has committed an expellable offense, even though principals are already responsible for keeping teachers safe and would provide staff with this information in the absence of a mandate. (In stark contrast to the state's treatment of K-14 mandates, the amended *2008-09 Budget Act* removed requirements associated with many categorical programs that arguably serve more compelling purposes, such as requirements re-

Figure 6
Problems With Current K-14 Mandate System

- ❓ Mandates often do not serve a compelling purpose.
- ❓ Costs can be higher than anticipated.
- ❓ Recent court ruling likely to make containing costs even more difficult.
- ❓ Reimbursement rates can vary greatly without justification.
- ❓ Reimbursement process can reward inefficiency.
- ❓ Reimbursement process ignores effectiveness.

lated to summer school, programs for suspended or expelled students, instructional materials, and professional development. See nearby box for more detail.)

Costs Can Be Higher Than Anticipated. Not only are mandates often of questionable value, but their costs often are much higher than anticipated. The mismatch between initial expectations and final costs can occur for several reasons. In some cases, the state can end up being required to reimburse districts for activities that were not intended to increase total education costs. In other cases, lawmakers do not anticipate the range of activities that eventually will be deemed reimbursable. The high school graduation requirement mandate fits both categories. For instance, our office's *Analysis of the 1983-84 Budget Bill* (the year after the state increased graduation requirements) anticipated minimal costs for this mandate. Nonetheless, based on a 2004 superior court ruling, which expanded the scope of reimbursable activities, annual claims are all but certain to reach about \$200 million. In general, costs per mandate can vary dramatically depending on the number of districts that ulti-

mately file claims, the number of years covered by claims, the activities deemed allowable, and subsequent statutory decisions and legal rulings. Consequently, legislators can rarely predict the fiscal ramifications of the policies they establish that eventually are deemed mandates.

Recent Court Ruling Likely to Make Containing Costs Even More Difficult. A 2009 Appellate Court ruling found unconstitutional the Legislature's practice of referring mandates back to CSM in an attempt to reduce associated costs through "reconsideration." Specifically, the court ruled the Legislature cannot refer any previously decided mandate back to CSM without a consistent process for doing so. This is significant because legal developments after a mandate's initial determination can occasionally reduce the cost of a mandate and the Legislature has wanted a way to recognize these savings. For example, several court rulings involving collective bargaining rights have been issued that would likely impact the costs associated with the K-14 collective bargaining mandate. Specifically, the courts have clarified that requirements applicable to public and private entities are not mandates. Nonethe-

LITTLE JUSTIFICATION FOR TREATING MANDATES AND CATEGORICAL PROGRAMS SO DIFFERENTLY

Beginning in 2008-09, the state significantly increased local flexibility by essentially eliminating the requirements associated with roughly 40 state-funded categorical programs. One rationale for this categorical flexibility was to allow school districts and community colleges to focus resources on a smaller range of top priorities amidst diminishing state funding. Despite offering more categorical flexibility, the state chose to maintain more than 50 K-14 mandates, many of which have dozens of specific requirements. Given the types of requirements associated with categorical programs and mandates can be quite similar, eliminating many categorical requirements while simultaneously maintaining virtually all K-14 mandate requirements has little justification. Moreover, eliminating mandated requirements would result in as much, if not more, local flexibility, especially given the highly detailed process entailed in filing a mandate claim.

less, as a result of the 2009 ruling, CSM has no way to revise its decisions in light of new legal precedent until a new process is developed that is consistent with the court's findings. Thus, the recent ruling further limits the state's options for lowering the cost of an established mandate.

Reimbursement Rates Vary Greatly Without Justification. In addition to these overarching problems, mandates allow districts to claim widely different reimbursement amounts and receive widely different rates for performing the same activities. The variation often reflects local record keeping and claim-filing practices more than substantive cost differences in implementing policy objectives. For example, some larger districts have staffing units dedicated to processing mandate claims or hire accounting firms to file claims whereas many smaller districts have one administrator to file claims while juggling many other responsibilities. Figure 7 provides an example of the notable variation in reimbursement amounts. As shown in the figure, among a subset of districts selected by our office for purposes of illustration, reimbursements for the graduation requirement mandate ranged from \$6 to \$264 per pupil and reimbursements for the high school exit exam ranged from \$3 to \$26 per pupil. Moreover, more than 11 percent of eligible school districts did not file a claim for the high school exit exam, suggesting the process was not worth the investment of staff time. For some mandates, as many as one in four districts does not file a claim.

Reimbursement Process Can Reward Inefficiency. Districts also receive more in mandate funding by claiming more activity, not by performing an activity efficiently. Many mandates are reimbursed based on the amount of time devoted to a required activity and the salary of the staff member performing it. In other words, the more time devoted to an activity and the higher the staff member's rank, the greater the reimbursement. For example, the longer it takes school districts to reach collective bargaining agreements or evaluate their teachers, the greater the reimbursement.

Reimbursement Process Ignores Effectiveness. The state also has little power to hold districts accountable for performing mandated activities effectively. That is, districts can claim expenses for performing an activity regardless of how well it is performed or whether its underlying policy objectives are achieved. For example, school districts receive the same amount for sending a form letter home when a student becomes a truant, regardless of whether the districts' efforts increase parental involvement or reduce dropout rates.

Figure 7
Mandate Reimbursement Claims Vary Widely

School District	2005-06 Claims Per Pupil ^a
Graduation Requirement	
Clovis Unified	\$264
Grossmont Union High	203
Los Angeles Unified	81
Visalia Unified	6
High School Exit Exam	
Colusa Unified	\$26
East Side Union High	18
Clovis Unified	8
Los Angeles Unified	3

^a Ranges in per-pupil claims differ by roughly the same magnitude when claims are averaged over several years.

GOVERNOR'S PROPOSAL TO SUSPEND MOST K-14 MANDATES MISSES OPPORTUNITY

The Governor's 2010-11 budget includes funding for the annual cost of three K-12 mandates but suspends all remaining K-14 mandates (except for the graduation requirement mandate, which the administration is challenging in court). Unlike the practice of deferring mandate costs, suspending mandates would relieve the state from the obligation to pay for required activities as well as relieve local schools from performing them. The Governor's proposed suspensions would reduce associated 2010-11 claims by roughly \$373 million. While the Governor's plan reduces state mandate costs and is a better option than continuing to defer costs, we believe his plan misses an opportunity to engage in substantive mandate reform. Specifically, we think the Governor's plan has two major shortcomings as described below.

Treats All Currently Mandated Activities Alike Regardless of Policy Merits. The Governor's proposal does nothing to preserve the state policies that underlie many education mandates. For instance, suspension would temporarily remove requirements that students receive a

medical examination and potentially lifesaving immunizations before entering school. In the past, lawmakers have found strategies to limit the high cost of some mandates while creating strong incentives for schools to perform activities fundamental to the operation of a school district. By suspending mandates, the administration fails to create such incentives.

Suspension Creates Confusion for Districts. Suspension also would lead to confusion among districts about what activities they are required to perform. Rather than actually repeal or amend sections of the Education Code, suspension through the budget act makes sections of law inoperative only for the year in which they are suspended. As a result, districts would be forced to cross-reference the budget act with the Education Code and lengthy CSM decisions to determine what activities they are still required to perform. Moreover, districts cannot dismantle costly programs for a single year if there is a chance the mandate will be reinstated the following year. For example, a district is unlikely to release science teachers one year only to rehire them the next.

RECOMMEND COMPREHENSIVE MANDATE REFORM

In this section, we recommend comprehensively reforming K-14 mandates, discuss related implementation issues, and make suggestions for addressing future mandates. As shown in Figure 8 (see next page), our reform package would save the state \$363 million annually by no longer requiring non-essential or ineffective activities. Our package would fund slightly more than \$30 million in ongoing mandate costs to support essential activities.

State Should Adopt Comprehensive Mandate Reform Package. We recommend the state assess the merits of each K-14 mandate. For most mandates, we recommend either funding or eliminating them in their entirety. For a few mandates, however, we recommend a hybrid approach whereby certain activities associated with a mandate would be funded and the remaining activities eliminated. Eliminating a mandate is not necessarily the same as eliminating the related

policy. Oftentimes, a mandate can be eliminated while still preserving underlying policies that serve a compelling purpose. Under our reform package—taken in totality—the state can relieve schools from performing hundreds of activities of relatively little value to students while saving hundreds of millions in mandate costs annually.

Fund Select Mandates

As a general rule, the state should only mandate activities of fundamental importance to the effective operation of a school district. That is, implementing a policy that has reasonable objectives in an effective manner is not by itself sufficient justification for mandating an activity. In many cases, reasonable education policies that are not essential still can be implemented by creating a different incentive to perform related activities, such as making funding available for a school district to conduct the activities at its discretion. By comparison, an activity should only be mandated when it is essential—that is,

in its absence, the educational system will not function with nearly the same effectiveness or integrity or the state will encounter significant health or safety risks. Specifically, in determining if a mandate is essential, we assess whether it meets five longstanding Legislative Analyst’s Office (LAO) criteria (see Figure 9).

Use Narrow Definition of Statewide Interest. In making our assessment of each education mandate, we use a somewhat narrow definition of “statewide interest”—focusing primarily on activities related to accountability as well as public health and safety. Over time, the education system has gradually shifted to a focus on outcomes and accountability. An outcomes-based system cannot function, however, without data and procedures to assess effectiveness and hold schools accountable. Furthermore, the education system cannot meet its accountability goals if students and teachers are not protected from health and safety risks. In short, we believe educational activities should only be a mandate

Figure 8
Systematic Approach to Comprehensive K-14 Mandate Reform

(Dollars in Thousands)

Recommendation	Number of Mandates ^a	Annual Fiscal Effect ^a	
		Cost	Savings
K-12 Mandates			
Fund	11	\$26,379	—
Eliminate	19	—	\$271,052
Hybrid	6	7,165	16,934
Community College Mandates			
Fund	1	\$1	—
Eliminate	6	—	\$32,322
Hybrid	—	—	—
K-14 Mandates			
Fund	—	—	—
Eliminate	2	—	\$42,167
Hybrid	1	\$54	54
Totals	46	\$33,599	\$362,529

^a Based on estimated 2009-10 claims. Excludes the five mandates that apply to all local governments and the Behavioral Intervention Plan mandate. Also excludes the five currently suspended mandates, which we recommend eliminating.

if they are needed to hold schools accountable or protect students and educators. This narrow definition of a statewide interest conforms to the approach the state has recently adopted for local agency mandates—funding certain public safety and oversight activities while suspending most other local agency mandates.

Several Existing Mandates Meet This Definition and Should Be Funded. While many existing mandates do not translate into essential services for students or teachers, some mandates do require activities of fundamental importance. In these cases, we recommend funding associated costs (see Appendix A). For example, despite an annual cost of nearly \$10 million, we recommend the state pay to ensure students entering school have been immunized against certain infectious diseases, such as mumps, measles, and hepatitis B. The effectiveness of immunizations in preventing these communicable diseases, all of which could prove debilitating to school districts and their students, is well documented. We also recommend local education agencies continue to provide oversight of district budgets, charter schools, and plans to combine school districts. In each case, lack of sufficient regulation could have serious negative effects on impacted school districts.

Standardize Reimbursement for These Mandates. While we recommend funding the activities in Appendix A, we also recommend the state improve the manner in which it funds those activities. Specifically, we recommend the state work with original claimants and statewide organizations like the California School Boards Association to develop a standardized reimbursement methodology. For example, under our proposal, rather than fund school districts based on whatever they claim for the high school exit exam mandate, every district submitting a claim would receive a set amount for each student tested. A reasonable reimbursement methodology (or RRM) would help ensure districts are compensated reasonably for performing the same activities. An RRM also would reduce the staff time needed to file a claim, thereby making the claims process easier for smaller districts.

Pay Annually Based on Actual Prior-Year Costs. Once standardized reimbursements are adopted, we recommend the state pay for mandates on an annual basis and align payment schedules for education and other local government mandates. Other local government mandates currently are paid annually but two years in arrears. (For example, 2007-08 claims were paid in 2009-10.)

Figure 9
LAO Criteria for Funding Mandates

- ✓ Statute has resulted in a "true" mandate by requiring local governments to establish a new program or provide an increased level of service.
- ✓ The mandate serves a statewide interest.
- ✓ The mandate has produced results consistent with the Legislature's intent and expectations.
- ✓ The benefits achieved by the mandate are worth the cost.
- ✓ The goal of the mandate cannot be achieved through a less-costly alternative.

Such a practice allows districts time to document their activities and file claims after the end of the year, which in turn allows the state to pay districts based on the actual activities they performed. Aligning mandate payments would mean all mandates are reimbursed two years in arrears.

Eliminate Mandates That Do Not Serve a Fundamental Purpose

Despite the important nature of certain mandates, others can be eliminated with little if any impact on students (see Appendix B). In some cases, these mandates require activities that also are required elsewhere in law. For example, the Notification of Truancy mandate largely overlaps with federal law that also requires school districts to develop policies for increasing parental involvement and reducing dropout rates. For other mandates, the activity may add some small value but does not justify its price tag. For instance, the state now pays \$2 million a year for physical performance tests in certain grades. While physical activity is important for kids, these tests do not supplement state physical education requirements in any substantive way, nor do they provide data used to improve physical education practices. (While mandates suspended in the *2009-10 Budget Act* do not generate costs and are therefore not addressed in Appendix B, we recommend eliminating them as part of our reform package.)

Truancy Mandates Exemplify Requirements That Should Be Eliminated. The two mandates requiring school districts to notify parents when students are truant exemplify requirements that should be eliminated. These particular mandates are expensive (\$25 million annually), ineffective, and broadly duplicative of other requirements. While notifying parents when a student misses class repeatedly is important, the mandate does

little to increase parental involvement or reduce dropout rates. Rather than lead to substantive interaction between educators and parents, the mandate simply requires districts to send a form letter to parents when a student is truant, which the state reimburses at a rate of approximately \$17 per notification. In general, educators believe a form letter is neither sufficient to increase parental involvement nor as effective as a phone call. Beyond the ineffective and inefficient implementation of these mandates, federal accountability policies require schools serving low-income families to develop detailed plans for increasing parent involvement. This federal requirement directly targets students at risk of dropping out, whereas the state's truancy mandates often fund affluent districts with very low dropout rates.

Eliminate Other Mandates While Preserving Core State Policies

For some mandates, we recommend eliminating required activities while still preserving important state policies underlying the mandate (see Appendix C). In these cases, in our view, the core state policies add significant value to the education system. Relatively simple changes to statute, however, often can drastically reduce the cost of the mandate without removing these fundamental requirements. The high costs of the mandates typically stem from quirks in the mandate process. For example, requiring students to take two, rather than one, science class in order to graduate from high school now costs upwards of \$200 million annually. Through a simple change to statute, the same requirement could be preserved at no cost to the state by clarifying that districts need to provide the additional science class as part of their regular course of study, which virtually all of them now do. (As discussed in the box on page 18, another mandate involving behavioral

interventions for students with disabilities also could be reformed using this approach.)

Refine and Implement New Reconsideration Process

To help preserve certain policies while reducing costs, we also recommend the state establish a new mandate reconsideration process. Toward this end, CSM already has proposed a new process for how mandates impacted by changes in legal precedent, fact, or circumstance could be reconsidered. While our office has some concerns with specific components of CSM's proposal (particularly with provisions disallowing reconsideration after a set number of years), CSM's general approach addresses the court's concerns. With a few refinements, we recommend the Legislature adopt this reconsideration process. Establishing a new reconsideration process would mean the state could reduce mandate costs in the event a court finds that certain types of activities are no longer reimbursable.

Reduce Cost of Collective Bargaining Using New Reconsideration Process. As our office has argued in the past, collective bargaining laws now largely apply both to public and private organizations, which means most of the state's education collective bargaining requirements should not be a reimbursable mandate. By requesting CSM to reconsider this mandate, which was originally decided before CSM even existed, we believe the commission will find most bargaining requirements not to be reimbursable. This action would significantly reduce costs while preserving current bargaining requirements.

Use a Hybrid Approach for Remaining Mandates

For some mandates, there are a mix of requirements that, based on our review, should

neither be funded nor eliminated in their entirety. In these cases, we recommend the state consider the merits of each activity required by the mandate and fund or eliminate it accordingly (see Appendix D). This hybrid approach allows the state to preserve important policies while reducing costs and relieving school districts from performing unnecessary activities. For example, the state now requires schools to inform parents annually of certain information. Some of this information, such as the right of students to take necessary medications during the school day and receive support from staff, is important for families to know. Other information, however, is unnecessary, overly costly to provide, or would be provided even in the absence of a mandate. Much of the cost associated with annual parent notifications, for instance, is generated by the requirement that districts include the complete text of their sexual harassment policies in the notification. Rather, the state could require districts to inform parents generally of sexual harassment policies and of their right to obtain a complete copy by request. As shown in Appendix E, simple changes like these would have little to no impact on students while significantly reducing the cost of these mandates.

Mandates Completing the Determination Process This Year Could Be Included in Reform Package

Chapter 1124, Statutes of 2002 (AB 3000, Committee on Budget), requires the LAO to review each mandate included in CSM's annual report of newly identified mandates. Since our last review, three new education mandates have been identified by CSM. We recommend the following approaches on these provisions:

BEHAVIORAL INTERVENTION PLANS MANDATE SHOULD BE ELIMINATED THROUGH WORK GROUP

A mandate related to Behavioral Intervention Plans (BIPs) for students with disabilities, which could add significantly to ongoing state costs, is currently involved in litigation. We recommend eliminating this mandate because federal special education laws now largely overlap with state laws. Under state law, if a student with a disability exhibits behavior that impedes his or her Individualized Education Plan, school districts are required to perform three primary activities: (1) assess the student's behavior using a "functional analysis assessment," (2) implement a plan for addressing the behavior (the BIP), and (3) ensure teachers are properly trained to perform BIPs. After state laws and regulations were adopted, the federal government essentially chose to require the same primary activities (see figure below, which highlights federal regulations related to IDEA generally and BIPs specifically). As a result of the new changes in federal law, IDEA funding likely could be used to implement most, if not all, desired BIP activities.

New Federal Requirements Offer Sufficient Protection

Topic	Federal Rules and Regulations
Functional Analysis Assessments	The IDEA "requires the public agency to ensure that the child is assessed in all areas related to the suspected disability...If a child's behavior or physical status is of concern, evaluations addressing these areas must be conducted."
Behavioral Intervention Plans	The IDEA "emphasizes a proactive approach to behaviors that interfere with learning by requiring that, for children with disabilities whose behavior impedes their learning...the IEP team consider...the use of positive behavioral interventions. This provision should ensure that children who need behavior intervention plans to succeed in school receive them."
Related Professional Development	The IDEA requires the state "to ensure that personnel are appropriately and adequately prepared and trained...(IDEA) specifically focuses on professional development for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions and provide educational and behavioral evaluations, services, and supports."

Given the high degree of overlap among state and federal law, most state BIP requirements could be eliminated with minimal impact on students. Nonetheless, given this mandate involves issues related to student safety, we believe the state should use heightened care when repealing state requirements that duplicate federal law. Specifically, we recommend creating a work group that includes special education experts to make recommendations for revising associated state laws and regulations. The work group could help ensure new federal requirements are implemented effectively and state requirements are rolled back carefully, such that important existing protections for students and districts are not undermined.

- We recommend eliminating expanded hearing costs for students mandatorily expelled from school. As indicated earlier in the report, we recommend leaving offenses that now result in a mandatory expulsion to a school district's discretion, an approach that would automatically eliminate these expanded hearing costs.
- For a new mandate involving reporting requirements placed on school districts and community colleges related to the California State Teachers' Retirement System, we recommend a hybrid approach (as described in Appendix D and Appendix E).
- Lastly, one mandate involving the state's Norm Referenced Test (NRT) that recently completed the entire CSM process is no longer claimable because the NRT was eliminated during the 2008-09 school year.

State Should Develop Long-Term Plan For Reducing Backlog of Unpaid Claims

Given the Legislature is essentially limited to reforming mandates on a prospective basis, the state will likely have to pay for the vast majority of prior-year mandate claims. We recommend a two-tiered approach to paying down this backlog over time. First, the state should schedule out annual payments until the debt is retired. The annual obligation, however, should not be so large as to create an undue burden on the K-14 budget but should still constitute enough to pay down the debt slowly over time. Second, the state should use any unanticipated Proposition 98 revenues received at the end of a fiscal year to accelerate payments such that the backlog could be retired more quickly.

CONCLUSION

Continuing to defer mandate costs while avoiding substantive mandate reform has several negative consequences. For school districts and community colleges, deferral means still having to perform hundreds of activities, which are often of little benefit to students, even amid steep budget cuts. Mandates also allow districts and community colleges without justification to claim very different amounts for performing the same activities. For the state, deferral means the debt owed to schools will grow steeply and, without substantive reform, most mandated policies likely will continue to be implemented ineffectively and inefficiently.

We recommend comprehensively reforming K-14 mandates. If a mandate serves a purpose fundamental to the education system, such as protecting student health or providing essential assessment and oversight data, it should be funded. If not, the mandate should be eliminated. Taken as a whole, our reform package would relieve school districts and community colleges of performing hundreds of activities that provide little value to students while providing them with adequate and timely compensation for the activities still required of them. In addition, comprehensively reforming mandates would reduce the state's annual obligations by more than \$350 million—funds that could be saved or allocated to districts for higher priorities.

Appendix

APPENDIX

Appendix A

LAO Recommends Funding a Dozen Mandates

(In Thousands)

Mandate	Requirements	Annual Cost ^a
K-12 Mandates		
High School Exit Exam	Cover excess costs for administering the California High School Exit Exam.	\$8,458
Immunization Records—Hepatitis B	Request, record, and follow-up on documentation that student is immunized against hepatitis B, measles, mumps, rubella, diphtheria, tetanus, and pertussis (whooping cough). Exclude students from school if documentation is not provided within a set period.	6,160
Immunization Records—Original		4,821
Charter Schools I-III	Review petitions for charter schools and charter renewals, notify charter schools of reasons for charter revocation, and administer facility rentals.	2,325
Pupil Health Screenings	Inform parents that students must have a health screening before enrollment in kindergarten or first grade; follow up with parents to ensure compliance, and exclude any pupil without a screening after 91 days in school from attending for at most five days.	1,570
School District Fiscal/Accountability Reporting/ County Office Fiscal Accountability Reporting	Counties must annually certify that district budgets are financially sound and follow specific timelines for certification and public review of budgets. Includes district compliance activities.	2,612
Differential Pay and Reemployment		404
Differential Pay and Reemployment	Maintain a list of certificated employees who have exhausted all sick leave and process paperwork to return that employee to work upon recovery.	11
School District Reorganization	Counties must send district reorganization petitions to the State Board of Education, make petitions public, and review petitions based on established criteria.	9
Pupil Safety Notices	Inform parents when a school does not meet certain safety standards, including for lead, and provide an interpreter anytime a parent does not speak English and wishes to discuss certain safety issues, such as child abuse.	6
Missing Children Reports	Post notices of missing children provided by law enforcement. Notify law enforcement if another school requests the student's records.	3

Community College Mandates

Sex Offenders: Disclosure by Law Enforcement	Campus police must register students who are sex offenders and live on campus.	\$1
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^a Based on estimated 2009-10 claims. Costs could increase to the extent more districts file claims given our recommendation to simplify the reimbursement process.

APPENDIX

Appendix B

LAO Recommends Eliminating Most Education Mandates

(In Thousands)

Mandate	Requirements	Likely Impact on Students and Teachers	Annual Savings ¹
K-12 Mandates			
Truancy	Notification—Develop truancy procedures. Identify students absent or tardy three or more times as truant. Use a form letter to inform parents their child has been classified as truant.	<i>Minimal impact expected.</i> Almost all mandate costs are generated by form letters, which are reimbursed at a rate of \$17 each and do not substantively increase parent involvement or reduce dropouts. Further, the federal No Child Left Behind Act already requires districts to develop extensive policies for increasing parental involvement.	\$15,900
	Habitual Truants—If a student is truant three or more times, verify prior truancies, inform the parents using a form letter, and request a conference with the parent. After these steps, classify the student as habitually truant.		6,883
Notification to Teachers of Mandatory Expulsion	Document and maintain information on all students in the past three years who have committed suspendable or expellable offenses. Inform teachers of students who have engaged in such activities.	<i>Minimal impact expected.</i> Keeping teachers and students safe is one of the primary responsibilities of any principal. Moreover, compelling liability concerns provide a stronger incentive than a mandate to inform teachers.	6,818
Scoliosis Screening	Screen all female students in grade seven and male students in grade eight for scoliosis. Train staff as needed. Report results to state departments.	<i>Minimal impact expected.</i> Rigorous studies show these tests are costly and do a poor job of identifying students in need of further treatment.	3,652
Physical Performance Tests	Purchase equipment, train staff, conduct assessments, analyze assessment data, and respond to state agency requests associated with administering physical fitness tests in grades five, seven, and nine.	<i>Minimal impact expected.</i> The state already requires two years of physical education in high school and has well-developed curriculum standards for middle school. Data are not used to improve education practices.	2,325
Law Enforcement Agency Notifications	File a report with law enforcement whenever a student violates particular sections of state Penal Code. Maintain records of those reports.	<i>Minimal impact expected.</i> Most districts already inform law enforcement of crimes committed on campus, in part due to compelling liability concerns.	1,894
Removal of Chemicals	Hire consultants to inventory chemicals in science classrooms, review those inventories, and remove all chemicals that are outdated but have not yet become dangerous as defined in Health and Safety Code.	<i>No impact expected.</i> Health and Safety Code requires the removal of dangerous chemicals. Potential lawsuits resulting from harm to students create greater incentives for compliance than a mandate.	1,289
Caregiver Affidavits	For a student living with a caregiver residing in the district, prepare affidavit procedures and approve valid affidavits to allow the student to attend local schools. Perform related administrative tasks.	<i>Minimal impact expected.</i> Schools legally allowed to enroll these students. Attendance funding provides sufficient incentive to prepare an affidavit.	975

(Continued)

APPENDIX

Mandate	Requirement	Likely Impact on Students and Teachers	Annual Savings ^a
Pupil Residency Verification and Appeals	Verify student's residency in the district and U.S. citizenship at times other than annual residency verification, especially if concerns arise over the validity of residency documentation provided. Conduct appeals for students deemed not to be legal residents.	<i>Minimal impact expected.</i> No compelling reason exists to mandate the district verify residency outside of the annual residency period or upon the student's arrival at the district. Districts are still free to perform these activities at their discretion.	\$348
Expulsion Transcripts	Districts cannot charge students for the cost of providing a transcript for expulsion hearings if the family is low-income or the county reverses the district's decision.	<i>Minimal impact expected.</i> Costs are minimal and districts already frequently provide this service when a student's family cannot afford it.	13
Teacher Incentive Program	Inform teachers of a \$10,000 state incentive to receive National Board Certification. Certify to the National Board that the teacher is employed by the district. Submit the application to the California Department of Education.	<i>Minimal impact expected.</i> Additional funding from the state to attract and train qualified teachers is itself sufficient incentive for districts to participate.	6
Physical Education Reports	Report to the California Department of Education on whether students receive 200 minutes of physical education instruction every two weeks.	<i>No impact expected.</i> The state already receives this information as part of its broader district compliance and audit processes.	2
Community College Mandates			
Law Enforcement College Jurisdiction Agreements	Campus police must develop and update (as needed) agreements with local law enforcement agencies concerning which agency has responsibility for investigating violent crimes occurring on campus.	<i>No impact expected.</i> Campus police have already adopted agreements. New statute could allow them to keep in place such policies (or update at their discretion).	\$195
Sexual Assault Response Procedures	Districts must adopt policies and procedures on campus response if students are sexually assaulted.	<i>No impact expected.</i> Districts have already adopted procedures. New statute could allow them to keep in place such policies (or update at their discretion).	—
Reporting Improper Governmental Activities	Districts must pay for all costs of State Personnel Board hearings (as well as certain other related activities) if an employee files a complaint with the Board alleging retaliation by the district for whistleblowing.	<i>Minimal impact expected.</i> State law already provides protections and legal recourse for CCC whistleblowers. By eliminating requirement, CCC would be treated the same as K-12.	27
Shared K-12 and Community College Mandates			
Agency Fee Arrangements	Deduct bargaining unit fees from employees' paychecks. Provide the local bargaining unit representative with any new employee's home address.	<i>No impact expected.</i> Districts involved in bargaining likely already do these activities. Unions can also bargain to have these activities included in contracts.	\$75

^a Based on estimated 2009-10 claims.

APPENDIX

Appendix C

LAO Recommends Preserving Core Policies Underlying Some Mandates

(In Thousands)

Mandate	Requirements	Likely Impact on Students and Teachers	Annual Savings ¹
K-12 Mandates			
High School Science Graduation Requirement	Require two science classes for graduation (rather than one). Acquire space and equipment for additional science classes. Acquire and produce related instructional materials. Pay teacher salary costs for an additional science course.	<i>No impact expected.</i> A simple statute clarification can eliminate the mandate while preserving the requirement.	\$200,000
Stall Act	Evaluate certificated instructional personnel related to: adherence to curricular objectives and students' progress on state assessments. Review tenured teachers that receive an unsatisfactory evaluation on a yearly basis.	<i>No impact expected.</i> Core evaluation requirements are not part of the mandate. Assessment requirements are covered in other Education Code sections. Districts have a compelling interest in evaluating teachers, including those with previously unsatisfactory performance.	19,166
Inter/Intradistrict Attendance	Prepare policies regarding student transfer. Develop a random selection process for transfers. Determine school site capacity prior to transfer. Study the impact of any transfer on racial and ethnic balances. Within-district transfers are required, but across-district transfers are optional and only require county office oversight.	<i>Minimal impact expected.</i> Within-district transfers are required for failing schools under No Child Left Behind and across-district transfers are already optional.	5,792
Pupil Suspensions, Expulsions, and Expulsion Appeals	Automatically suspend students for certain offenses and recommend students for expulsion for certain offenses. Hold expulsion appeals and follow due process. Perform all related administrative activities.	<i>Minimal impact expected.</i> Leave suspension and expulsion decisions to local discretion—most serious offenses likely would still result in suspension or expulsion. (Students expelled for identified offenses would still generate higher funding at community and community day schools.)	3,849
Criminal Background Checks I and II	Conduct criminal background checks prior to hiring all certificated personnel and contractors. Purchase necessary electronic fingerprinting equipment. Prepare all related district policies. Exchange information with the Department of Justice and other law enforcement agencies.	<i>No impact expected.</i> Districts already charge fees for some of these services—the state could allow them to charge fees for all related services.	1,713
Financial and Compliance Audits	Conduct activities required to comply with new audit procedures, submit corrective plans to county offices, respond to requests for financial information, and review audits publicly.	<i>No impact expected.</i> State could streamline the audit process and requirements to correspond with the recent consolidation of state categorical programs.	427

(Continued)

APPENDIX

Mandate	Requirements	Likely/Impact on Students and Teachers	Annual Savings ^a
Community College Mandates			
Enrollment Fee Collection and Waivers	Districts must collect enrollment fees and waive fees for certain students (such as financially needy students).	<i>No impact expected.</i> Create a strong incentive for districts to perform these administrative duties by reducing districts' General Fund support by the amount of fee revenues that they decline to collect.	\$20,000
Integrated Waste Management	Districts must divert from landfills a specified percentage of their solid waste through reduction, recycling, and compacting activities. Develop and report annually on their ability to meet solid-waste diversion goals.	<i>Minimal impact expected.</i> Statewide cost estimate scheduled for January 2010. To the extent that savings and revenues fully offset all costs that districts incur from required activities, retain the mandate. If significant cost, treat CCC the same as K-12 school districts, which are encouraged—but not required—to comply with diversion goals. Like K-12 schools, likely that colleges would participate anyway in waste-diversion programs.	Unknown
Health Fee/Services	Each district is required to provide students at least the level of health services it provided in 1986-87. Fee districts may charge for health services is capped.	<i>No impact expected.</i> Continue to require districts to provide same level of health services, but eliminate mandate costs by allowing districts to assess a fee amount that covers the full cost to provide current service levels.	12,100
Shared K-12 and Community College Mandates			
Collective Bargaining	Determine appropriate bargaining units and representatives. Hold and certify elections for unit representatives. Negotiate contracts and make them public. Participate in impasse proceedings. Administrate and adjudicate contract disputes.	<i>No impact expected.</i> Recent court decisions suggest most collective bargaining requirements should no longer be considered a mandate. Upon adoption of new reconsideration process, laws could remain unchanged while drastically reducing the associated cost to the state.	\$42,092

^a Based on estimated 2009-10 claims.

APPENDIX

Appendix D
In a Few Cases, LAO Recommends a Hybrid Approach

(In Thousands)

Mandate and Required Activities	Annual Fiscal Effect	
	Fund	Eliminate
Annual Parent Notification		
Inform parents of:		
High school exit exam requirement	\$335	—
Right to exempt students from HIV prevention classes	395	—
Right of students to take necessary medications and receive school support	395	—
Right of student to refuse immunizations and other medical treatment	395	—
Alternative education options	335	—
Sexual harassment policies ^b	—	\$6,712
Local school discipline rules	—	395
Excusable absences	—	395
Dates of in-service training for teachers	—	395
Fingerprinting program for school staff	—	395
Subtotals	(\$1,855)	(\$8,292)
AIDS Prevention Effort		
Provide all middle school students with HIV prevention instruction	\$396	—
Provide professional development on HIV instruction	314	—
Provide all high school students with additional HIV prevention instruction	—	\$396
Notify parents of right to exempt students from HIV instruction	—	75
Provide instructional materials on HIV instruction	—	194
Keep relevant sections of Education Code available for parents	—	120
Subtotals	(\$710)	(\$785)
Comprehensive School Safety		
Develop a schoolwide safety plan ^c	\$151	—
Review and annually update safety plan ^c	—	\$4,890
Subtotals	(\$151)	(\$4,890)
Juvenile Court Notices II		
Maintain private record of students' juvenile court notices	\$154	—
Transfer notices to students' subsequent schools	461	—
Destroy records when student turns 18 years-old	154	—
Distribute notices to teachers	—	\$308
Provide juvenile courts with school's mailing address	—	154
Subtotals	(\$769)	(\$461)
Pupil Promotion and Retention		
Notify parent of teacher's recommendation to retain a student	\$480	—
Discuss recommendation with parent	480	—
Provide appeals process for student recommended for retention	480	—
Provide supplemental instruction for students underperforming on state tests	—	\$563
Provide supplemental instruction for students recommended for retention	—	563
Develop local policies on promotion and retention	—	563
Subtotals	(\$1,439)	(\$1,689)

(Continued)

APPENDIX

Mandate and Required Activities	Annual Fiscal Effect ^a	
	Incur	Eliminate
School Accountability Report Cards		
Schools must report the following information to the state and parents:		
Salaries paid to teachers and staff	\$408	—
Current year dropout rate	203	—
Student assessment data	407	—
Total number of instructional minutes and days	204	—
Average class size	408	—
Credentialing status and qualifications of staff members	407	—
Suspension and expulsion rates	204	—
School average Scholastic Aptitude Test scores when reported ^d	—	\$408
School days devoted to staff development ^d	—	204
Degree to which pupils prepared to enter workforce ^d	—	204
Subtotals	(\$2,241)	(\$816)
California State Teachers' Retirement System (CalSTRS) Service Credit		
Submit sick leave records to CalSTRS for audit purposes	\$18	—
Provide information to CalSTRS regarding reemployment of military personnel	18	—
Certify number of unused excess sick days to CalSTRS for retiring members	18	—
Inform new staff of eligibility for membership in the Defined Benefit Program	—	18
Alert new employee of right to make an election to CalSTRS or CalPERS and make available written information on the plans	—	18
Maintain new employees' written acknowledgment information was received	—	18
Subtotals	(\$54)	(\$54)
Total Estimated Annual Fiscal Effect	\$7,219	\$16,988
^a Based on estimated 2009-10 claims. ^b Requirement would not be eliminated entirely, but costs would be reduced substantially by alerting parents of right to obtain sexual harassment policies from the school by request rather than printing entire policy in the notification letter. ^c Proposal would fund cost of developing an initial plan, submitting it to the district, consulting with local law enforcement, conferring with other schools, assessing the current status of school crime, and developing strategies to comply with current safety laws. Any updates to the plan would be left to district discretion. ^d Alternatively, state could use these data reporting requirements to collect more useful data rather than simply eliminate the cost.		

Appendix E

Likely Minimal Impact From Eliminating Individual Requirements

Mandate and Required Activities	Likely Impact of Elimination on Students and Teachers
Annual Parent Notification	
Inform parents of: Sexual harassment policies	<i>No impact expected.</i> The majority of costs can be eliminated by informing parents of their right to obtain sexual harassment policies rather than printing the entire policy in the notification.
Local school discipline rules	<i>No impact expected.</i> Clarify districts cannot take disciplinary action against a student unless the student was informed about local rules in advance. This technical change eliminates state costs.
Excusable absences	<i>No impact expected.</i> Clarify schools cannot take any attendance-related disciplinary action against a student without verifying reasons for absence.
Dates of in-service training for teachers	<i>No impact expected.</i> Districts already have a compelling incentive to let parents know which days students are not required to attend school.
Fingerprinting program for school staff	<i>No impact expected.</i> Effectiveness of finger-printing programs and background checks are not contingent on parents' awareness of the programs.
AIDS Prevention III	
Provide a second HIV prevention course to all high school students	<i>Minimal impact expected.</i> All middle and high school students would still receive at least one course on HIV awareness and prevention. High school health content standards cover HIV multiple times. Data suggest the vast majority of high schools provide health classes.
Notify parents of right to exempt students from HIV instruction	<i>No impact expected.</i> Already included in annual parent notification.
Provide instructional materials on HIV instruction	<i>No impact expected.</i> Middle and high school content standards include detailed information on HIV prevention. Schools already receive funding for instructional materials.
Keep relevant sections of Education Code available for parents	<i>No impact expected.</i> If a parent wants a copy of the relevant Education Code from the district, it can be accessed online and printed.
California State Teachers' Retirement System (CalSTRS) Service Credit	
Inform new staff of benefit eligibility	<i>No impact expected.</i> All of these requirements could be achieved by allowing CalSTRS and CalPERS to charge districts that file benefits information after the deadline the cost of processing the material.
Alert new employee of right to make an election to CalSTRS or CalPERS	
Maintain employees' written acknowledgment	

(Continued)

APPENDIX

Mandate and Required Activities	Likely Impact of Elimination on Students and Teachers
Comprehensive School Safety	
Review and annually update safety plans ^a	<i>Minimal impact expected.</i> Schools would still be required to update their plans if they determine the original plan is no longer sufficient to protect student safety. Liability concerns create a stronger incentive than the mandate to update safety plans.
Juvenile Court Notices II	
Distribute notices to teachers	<i>Minimal impact expected.</i> Similar to Notification to Teachers of Mandatory Expulsion, schools already have strong incentives to alert teachers when students are expelled or commit a crime.
Provide juvenile courts with school's mailing address	<i>No impact expected.</i> Courts can find this information online.
Pupil Promotion and Retention	
Provide supplemental instruction for students underperforming on state tests or recommended for retention	<i>Minimal impact expected.</i> Accountability systems provide incentives for improving student performance and already require supplemental instruction. Also, research suggests an hourly after-school model often does not reach students most in need of help.
Develop local policies on promotion and retention	<i>No impact expected.</i> Districts already develop these policies. Moreover, protecting students' due process rights requires districts to have a rational basis for making retention decisions.
School Accountability Report Cards	
Schools must report the following information to the state:	
School average Scholastic Aptitude Test scores when reported	<i>Minimal impact expected.</i> Districts only collect data for students who report scores. As a result, scores are not representative of the student body.
School days devoted to staff development	<i>No impact expected.</i> Requirement does not tell families or the state anything about the quality of professional development.
Degree to which pupils prepared to enter workforce	<i>No impact expected.</i> The state has not found an effective way to measure or operationalize this reporting requirement.
^a Includes cost of developing a plan, submitting it to the district, consulting with local law enforcement, conferring with other schools, assessing the current status of school crime, and developing strategies to comply with current safety laws.	

AN LAO REPORT



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LAO Publications

This report was prepared by Jim Soland and reviewed by Jennifer Kuhn. The Legislative Analyst's Office (LAO) is a nonpartisan office which provides fiscal and policy information and advice to the Legislature.

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SENATOR
MARK DESAULNIER
CHAIR

March 5, 2010

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Executive Director Higashi,

As you know, California continues to face unprecedented fiscal conditions as it slowly emerges from the most severe economic downturn since the Great Depression. Last year we made difficult decisions to close a \$60 billion budget gap, which included significant reductions in services provided by government. This year we will need to make more difficult decisions as we work towards closing an additional \$20 billion budget gap. Inevitably, these budget decisions will impact direct services to Californians and will also challenge administrators to be more effective and creative as they fulfill their missions with fewer resources.

This year Budget and Fiscal Review Subcommittee No. 4 will start a Legislative oversight effort that will focus on how we measure performance of the programs and departments within the Subcommittee's jurisdiction. In this pursuit I would like to request the following baseline information about your department and major programs:

- Mission Statement.
- Strategic Plan.
- Summary of enabling legislation.
- Brief summary of who you serve and how many you serve for each of your major programs.
- Description of measurements and outcomes you use to define success for each of your major programs.

March 5, 2010
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This information is being collected for a multi-year effort to focus Legislative oversight on performance based management that is based on outcomes. Please provide this information in writing by **March 31, 2010**. If your Budget Subcommittee No. 4 hearing is before March 31, please be prepared to provide verbal testimony on the information requested above.

If you have any questions, please call me at 651-4007 or my budget staff at 651-4103. I look forward to working with you.

Sincerely,



Mark DeSaulnier,
Chair,

Senate Budget and Fiscal Review Subcommittee No. 4 on
State Administration, General Government, Judicial and Veterans Affairs

cc: Budget Director, Commission on State Mandates
Principal Program Budget Analyst, Department of Finance