

Commission on State Mandates

Backlog Reduction Plan

A Comprehensive Plan Prepared by Staff
to Complete All Pending Claims

May 25, 2011

I. Executive Summary

As of May 25, 2011, the Commission on State Mandates (Commission) has a backlog of 51 test claims and 163 incorrect reduction claims. The Commission has pledged to develop a strategy to reduce the backlog of incorrect reduction claims. This document sets forth staff's plan to reduce the backlog of both test claims and incorrect reduction claims. The plan describes several tools Commission staff plan to employ to reduce the backlog as expeditiously as possible. The plan contemplates presenting all of the most complicated test claims (the 2002 and 2003 claims) to the Commission for decision by the end of fiscal year 2011-2012, and all backlogged test claims by 2014. Of the 163 pending incorrect reduction claims, 102 involve just two programs. Commission staff believe by working closely with the State Controller's Office and the claimant community, the backlog of IRCs could also be eliminated by 2014.

II. Overview

Local agencies and school districts are authorized by law to file test claims with the Commission alleging that a statute or executive order imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. If the Commission finds that there is a reimbursable state-mandated program, the Commission is required to determine the amount to be subvended by adopting parameters and guidelines for the program. The State Controller's Office (Controller) then prepares and issues claiming instructions to local agencies and school districts to notify them of the right to file reimbursement claims for the fiscal years eligible for reimbursement.

Local agencies and school districts may then file reimbursement claims with the Controller for the reimbursement of state-mandated costs. The Controller is authorized to reduce reimbursement claims it deems excessive or unreasonable. If the Controller reduces a reimbursement claim, a local agency or school district may file an incorrect reduction claim (IRC) with the Commission alleging that the Controller incorrectly reduced the claim. The Commission is required to hear these claims and determine if they were incorrectly reduced.

Despite having a small staff of only about 11 employees, the Commission over the last decade has completed a substantial amount of work. Between fiscal years 2003-2003 and 2009-2010, the Commission decided a total of 146 test claims, reconsidered another 17 test claims, adopted or set aside 184 parameters and guidelines (and parameters and guidelines amendments), adopted 55 statewide cost estimates, and decided 86 incorrect reduction claims. In addition, Commission staff during this time worked on numerous litigation matters and on a host of special projects such as the mandate reform process and the audits performed by the Bureau of State Audits.

Nevertheless, over time, a backlog of claims has accumulated. Preparing staff analyses for test claims and IRCs is the most time-consuming activity for Commission staff and is the primary area the Commission needs to focus on in order to reduce the backlog. The oldest test claims were filed in 2002 and 2003. Collectively, those claims are much larger and more complicated than claims from any subsequent year because in 2003 the law was amended to only allow claimants to allege mandates going back three years. Prior to this amendment, claimants could allege mandates going all the way back to 1975. This amendment caused local agencies and school districts to file 51 test claims for 2002 and 23 for 2003. These test claims allege that nearly 500 statutes and 400 regulatory sections and executive orders are mandated programs. As of May 25, 2011, 12 test claims from 2002 and 12 from 2003 are still pending with the Commission.

The Commission also has 163 pending IRCs. In October 2009, the Bureau of State Audits published a report (BSA 2009 Report¹) regarding the Commission on State Mandates. The BSA paid particular attention to IRCs and recommended that the Commission accelerate its efforts to complete IRCs. The report stated:

Until the incorrect reduction claims are resolved, the Controller may continue to make similar field-audit reductions that are reversed later by the Commission. Conversely, if the Commission ultimately finds the Controller's reductions to be correct, local entities will have continued to submit inappropriate claims until the time the Commission makes its decision. Either way, speedier resolution of outstanding incorrect reduction claims would allow the Controller to conduct audits with an awareness of the Commission's decisions and to incorporate those results into its audit findings and outreach efforts. (BSA 2009 Report, p. 40.)

In its September 15, 2010 Report² to the Director of the Department of Finance, the Commission stated that it would prepare a plan to reduce and ultimately eliminate the backlog of IRCs. Because the Commission has limited staff resources, if staff shifts its efforts from test claims to IRCs, the time it will take to reduce the test claim backlog will increase, and vice versa. Accordingly, Commission staff decided to assemble a plan to comprehensively address the problem by focusing both on IRCs and test claims. This document represents that plan, and is divided into three sections. The first section describes the nature of the backlog, with tables that illustrate the types of claims before the Commission. The second section describes the challenges Commission staff faces in trying to reduce this backlog. The third section articulates Commission staff's plan to reduce and ultimately eliminate the backlog.

III. Backlog of Claims

The Commission's pending caseload consists of matters filed by claimants and state agencies, including test claims, incorrect reduction claims, parameters and guidelines and proposed

¹ The full title of the report is *State Mandates: Operational and Structural Changes Have Yielded Limited Improvements in Expediting Processes and in Controlling Costs and Liabilities, October 2009, Report 2009-501*. It can be found at <http://www.bsa.ca.gov/pdfs/reports/2009-501.pdf>

² This document can be found at <http://www.csm.ca.gov/docs/091510b.pdf>

amendments to parameters and guidelines, reasonable reimbursement methodologies, statewide cost estimates, and requests to review claiming instructions. Commission staff also tracks pending joint proposals for legislatively-determined mandates. Table A shows the Commission's current pending caseload and the number of proposed legislatively determined mandates.

Table A. Complete Pending Workload, April 1, 2011

Type of Action	Number Pending
Test Claims to be Heard and Determined	51
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	163
Incorrect Reduction Claims to be Reconsidered Based on Court Action	0
Reasonable Reimbursement Methodologies/Statewide Estimate of Costs	0
Proposed Parameters and Guidelines	11
Proposed Parameters and Guidelines Amendments	7
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	9
Revised Statewide Cost Estimates to be Adopted	1
Requests to Review Claiming Instructions	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	0
Requests for Redetermination	0
Notice of Intent to Pursue Legislatively Determined Mandates	0

As noted above, the bulk of the pending workload consists of test claims and incorrect reduction claims.

A. Pending Test Claims

There are 51 test claims pending completion. Table B shows the pending test claim filings by fiscal year and claimant type.

**Table B. Pending Test Claims
By Fiscal Year of Filing and Claimant Type**

Filing Date by Fiscal Year	Total New Filings ³	Pending School District Test Claims (K-14)	Pending Local Agency Test Claims	Total Pending Test Claims
2002-2003	51	10	2	12
2003-2004	23	8	4	12
2004-2005	4	0	1	1
2005-2006	6	3	1	4
2006-2007	2	0	1	1
2007-2008	12	2	3	5
2008-2009	6	3	2	5
2009-2010	3	0	2	2
2010-2011	8	2	7	8
Totals		28	23	51

Of the 25 2002 – 2004 test claims – the largest and most complicated test claims – 18 were filed by school districts and only six were filed by local agencies.

B. Pending IRCs

As the BSA 2009 Report noted, the IRC backlog has grown “from 77 in December 2003 to 146 in June 2009.” As of May 1, 2011, there were 163 IRCs pending before the Commission that allege a total of \$91,753,912 million in reductions to mandate reimbursement claims. The following tables provide an overview of the IRCs pending before the Commission. Table C shows the pending IRC caseload by fiscal year and claimant type.

**Table C. Pending Incorrect Reduction Claims
By Fiscal Year of Filing and Claimant Type**

Filing Date by Fiscal Year	Total New Filings ⁴	Pending School District Claims (K-14)	Pending Local Agency Claims	Total Pending Claims
2001-2002	7	2	0	2
2002-2003	73	0	70	70
2003-2004	7	1	0	1
2004-2005	5	4	1	5
2005-2006	30	27	2	29
2006-2007	2	1	1	2
2007-2008	28	22	2	24
2008-2009	9	9	1	10
2009-2010	17	14	3	17
2010-2011	3	3	0	3
Totals		83	80	163

³ All test claims filed prior to 2002-2003 are complete.

⁴ All incorrect reduction claims filed prior to 2001-2002 are complete.

There are currently IRCs filed on 24 state-mandated programs. Table D shows the programs listed by type of claimant and the dollar amount per program.

**Table D. Pending IRCs and Amount of Reductions
By Program**

	Program	Number of IRCs Filed	Amount of Reductions
		Local Agency Claims	
1.	<i>Absentee Ballots</i>	2	\$933,286
2.	<i>Child Abduction and Recovery</i>	1	\$1,268,210
3.	<i>Firefighters' Cancer Presumption</i>	1	\$516,132
4.	<i>Handicapped and Disabled Students</i>	4	\$14,515,444
5.	<i>Investment Reports</i>	70	\$1,994,905
6.	<i>Open Meetings Act</i>	1	\$4,654,917
7.	<i>Peace Officers Bill of Rights (POBOR)</i>	1	\$526,802
8.	<i>Seriously Emotionally Disturbed Pupils</i>	1	\$1,979,388
9.	<i>Sexually Violent Predators</i>	2	\$373,643
	Subtotal	83	\$26,762,727
		School District Claims	
10.	<i>Collective Bargaining</i>	3	\$1,282,045
11.	<i>Emergency Procedures</i>	1	\$1,201,436
12.	<i>Emergency Procedures, Earthquake and Disasters</i>	2	\$1,941,572
13.	<i>Graduation Requirements</i>	6	\$19,722,699
14.	<i>Interdistrict Attendance Permits</i>	2	\$24,556
15.	<i>Intradistrict Attendance</i>	4	\$1,738,767
16.	<i>Mandate Reimbursement Process</i>	1	\$1,122
17.	<i>National Norm-Referenced Achievement Test (NNRAT)</i>	1	\$160,120
18.	<i>Notification of Truancy</i>	10	\$3,246,985
19.	<i>Notification to Teachers: Pupils Subject to Suspension or Expulsion</i>	1	\$354,046
20.	<i>School District of Choice: Transfer and Appeals</i>	4	\$3,262,306
21.	<i>Standardized Testing and Reporting (STAR)</i>	1	\$1,446,786
	Subtotal	36	\$34,382,440
		Community College District Claims	
22.	<i>Collective Bargaining</i>	8	\$2,154,254
23.	<i>Health Fee Elimination</i>	35	\$28,444,487
24.	<i>Mandate Reimbursement Process</i>	1	\$10,004
	Subtotal	44	\$30,608,745
	TOTAL	163	\$91,753,912

C. Audits by the State Controller's Office

The State Controller's Office is authorized, by desk review or field audit, to reduce reimbursement claims that it deems to be excessive or unreasonable. The claimant is then authorized to appeal any reduction by filing an IRC with the Commission. Of the 163 pending incorrect reduction claims, 52 are based on claims that were reduced based on a field audit that resulted in a published report. Field audits are generally conducted at the claimant's place of business and involve the review of documents and interviews with witnesses. The remaining

111 claims were reduced based on the results of a desk audit conducted by Controller staff. The following is an overview of the completed audits organized by type of claimant.

1. Local Agencies (Cities, Counties, and Special Districts)

The Commission’s regulations allow IRCs to be filed no later than three years following the date of the Controller’s final state audit report. Between May 1, 2008 and May 1, 2011, the Controller issued 109 audit reports on 22 local agency programs. The table below shows the programs and number of audit reports filed on each program. Twenty-two of the audits are on the *Peace Officers Procedural Bill of Rights* program, 18 are on *Handicapped and Disabled Students I or II* programs, and 11 are on the *Seriously Emotionally Disturbed Students: Out of State Commitments*. Table E shows the programs that were audited and the number of audit reports produced for each program.

Table E. Programs Audited (Number of Audit Reports)

<i>Absentee Ballots</i> (8)	<i>Not Guilty by Reason of Insanity</i> (3)
<i>Animal Adoption</i> (10)	<i>Open Meetings Act/Brown Act Reform</i> (3)
<i>Cancer Presumption Peace Officers</i> (2)	<i>Peace Officers Procedural Bill of Rights</i> (22)
<i>Child Abduction and Recovery</i> (7)	<i>Pesticide Use Reports</i> (2)
<i>Court Costs and Other Related Charges</i> (1)	<i>Photographic Record of Evidence</i> (2)
<i>Domestic Violence Arrest Policies & Standards</i> (4)	<i>Prisoner Parental Rights</i> (1)
<i>Domestic Violence Treatment Services</i> (2)	<i>Racial Profiling: Law Enforcement Training</i> (1)
<i>Firefighters Cancer Presumption</i> (3)	<i>Search Warrant: AIDs</i> (1)
<i>Grand Jury</i> (1)	<i>Seriously Emotionally Disturbed Pupils: Out of State Mental Health Services</i> (11)
<i>Handicapped and Disabled Students I & II</i> (18)	<i>Sexually Violent Predators</i> (4)
<i>Mentally Disordered Offenders Extended Commitment Proceedings</i> (3)	

To date, only two IRCs have been filed on these audit reports. Therefore, local agencies may still file 107 IRCs on these audit reports.

2. School Districts (K-12 and County Offices of Education)

Between May 1, 2008 and May 1, 2011, the Controller issued 47 audit reports on school district programs. Eighteen of these reports were filed on the *Standardized Testing and Reporting* program, 13 were filed on the *Notification of Truancy* program, and 4 were filed on the *Collective Bargaining* program. Table G shows the programs audited and the number of audit reports.

Table G. Programs Audited (Number of Audit Reports)

<i>AIDS Prevention Instruction</i> (1)	<i>Pupil Health Screenings</i> (1)
<i>Collective Bargaining</i> (4)	<i>Pupil Promotion and Retention</i> (1)
<i>Intradistrict Attendance</i> (3)	<i>School District of Choice: Transfers and Appeals</i> (3)
<i>National Norm-Referenced Achievement Test</i> (2)	<i>Standardized Testing and Reporting</i> (18)
<i>Notification of Truancy</i> (13)	<i>Stull Act</i> (1)

To date, only eight IRCs have been filed on these audit reports. Therefore, school districts may still file IRCs on 39 audit reports.

3. Community College Districts

Between May 1, 2008 and May 1, 2011, the Controller issued 45 audit reports on community college district programs. Thirty-six of these reports are based on the *Health Fee Elimination* program and six involve the *Collective Bargaining* program. Table H shows the programs audited and the number of audit reports.

Table H. Programs Audited (Number of Audit Reports)

<i>Collective Bargaining</i> (6)	<i>Health Fee Elimination</i> (36)
<i>Enrollment Fee Collection and Waivers</i> (2)	<i>Law Enforcement College Jurisdiction Agreements</i> (1)

Eighteen IRCs have been filed on these reports. Therefore, community college districts may still file 27 IRCs based on these audit reports.

IV. Challenges to Reducing the Backlog

In attempting to reduce the backlog of pending matters, the Commission faces a wide range of challenges, as discussed below.

A. Multiple Statutory Mandates

The Commission is charged by law with multiple responsibilities in addition to hearing test claims and IRCs. Government Code section 17500 *et seq.* also requires the Commission to adopt parameters and guidelines, hear requests to amend parameters and guidelines, prepare statewide cost estimates, hear requests to review the State Controller’s claiming instructions, hear requests to re-determine and issue a new test claim decision, and review county applications for a finding of severe financial distress.

The Commission is also involved in litigation. In 2010 and the first quarter of 2011 alone, Commission staff was involved in six litigation matters, some of which required the commitment of a substantial amount of staff time. The Commission also periodically amends its regulations. In 2010 and 2011, Commission staff completed two sets of amendments to the Commission’s regulations, and as of May 2011, is drafting a third set of regulatory amendments.

B. Number and Complexity of Filings

As noted above, the most labor-intensive activity for Commission staff is preparing staff analyses for test claims and IRCs.

1. Test Claims

The oldest test claims were filed in 2002 and 2003. Collectively, those 24 claims are much larger and more complicated than claims from any subsequent year because in 2003 the law was

amended to only allow claimants to allege mandates going back three years. Prior to this amendment, claimants could allege mandates going all the way back to 1975. This amendment caused local agencies and school districts to file 51 test claims in 2002 and 23 in 2003. As of May 2011, 12 test claims from 2002 and 12 from 2003 are still pending with the Commission.

Test claims are often thought to be filed on one individual statute. This is not correct. Test claims are filed on numerous statutes, regulations, and executive orders. For example, the 51 test claims filed in 2002 allege that nearly 500 statutes, and 400 regulatory sections and executive orders are mandated programs. By law, each statute, regulation, and executive order pled requires a finding by the Commission.

2. Incorrect Reduction Claims

Unlike test claims, where one claimant represents all potential claimants statewide in a manner analogous to a class action lawsuit, individual claimants file IRCs with the Commission and seek redress for reductions that apply directly only to that one claimant.⁵ The process for resolving IRCs can be complex, and differ with each claim. Most IRCs involve issues of law and fact. Thus, analysis of each IRC requires legal, analytical, and audit review. For some claims, once the claimant files an IRC, an informal conference is conducted where Commission staff mediates the issues in dispute between the claimant and the SCO. If the issues are resolved in the informal conference, the IRC is settled.

When the issues cannot be resolved, Commission staff prepares a detailed analysis of the legal and fiscal issues, the Commission approves or denies the IRC, and a statement of decision is prepared. Whether or not the issues are resolved at the informal conference, Commission staff must spend time to prepare and review the record (including the original test claim record, parameters and guidelines, and claiming instructions), review detailed reimbursement claims, and determine the legal and fiscal issues. This process can be lengthy, particularly in cases where numerous IRCs are filed on one program.

C. Number and Level of Positions

As of March 2011, the Commission employs four full-time attorneys: one chief counsel, two staff counsel IIIs, and one staff counsel. Some staff analyses take one attorney many months to research and write. Larger staff analyses can exceed 200 pages. This is particularly true for the 2002 and 2003 test claims still pending before the Commission. As discussed above, these test claims were filed when state law allowed claimants to file test claims that allege mandates going all the way back to 1975.

The Commission's position authority has decreased over the past several fiscal years. In addition, since 2009, Commission staff, like staff from other state offices, have also been subject to furloughs. This has naturally made it more difficult to complete the backlog of filings.

⁵ California has 58 counties, so county claims are limited to 58 potential IRCs per test claim. Mandates involving cities or school districts, however, create the potential for over 1,500 IRCs per test claim.

V. Backlog Reduction Strategy

The Commission has had a long-standing practice of hearing each matter in the order that it was filed with the Commission. This first-in-time approach is a core policy that has served the Commission well. Over the years, however, the Commission has made exceptions to this policy in certain circumstances. For example, when a court has ruled on a matter before the Commission, the Commission has consistently responded by moving that matter ahead in the cue even though the courts have not ordered the Commission to do so.

The Commission has also taken matters out of order for staff development purposes. As discussed above, the oldest pending test claims are also among the largest, most complicated, and most time-consuming. Commission management has on occasion assigned one or more less-complicated matters out of order to a staff person who has just completed a complicated assignment that received that staff member's complete focus for a year or more. This increases the opportunities for staff to gain experience in a wide variety of legal matters.

The Commission remains committed to continuing to eliminate the backlog by adhering to the first-in-time policy except in circumstances that justify deviating from it. The following is a list of strategies the Commission will employ to more effectively decide matters, particularly IRCs, with an eye toward eliminating the backlog as soon as possible: (1) claim consolidation; (2) common issues; (3) simple test claims and single-issue IRCs; (4) stakeholder requests; and (5) joint reasonable reimbursement methodologies.

1. *Claim consolidation* – It may be appropriate to consolidate test claims and IRCs filed by different claimants so that one analysis and statement of decision adopted by the Commission support multiple claims. This is a very efficient way to complete multiple claims with essentially the same amount of staff time required to complete just one.

Pursuant to California Code of Regulations, title 2, section 1183.06, the executive director may, subject to appeal, “consolidate part or all of any test claim, if necessary to ensure the complete, fair, or timely consideration of any test claim.” Similarly, Government Code section 17558.8 and section 1185.2 of the Commission's regulations allow the executive director to consolidate IRCs. To date, the Commission has consolidated numerous test claims. However, consolidation has been used sparingly for IRCs because it only works if the issues of law and fact are the same, and the Controller's auditors were consistent in making claim reductions based on similar documentation. Commission staff is working closely with Controller staff and the claimant community to identify situations where claims can be consolidated.

2. *Common issues* – Commission staff is working with the Controller and members of the claimant community to identify issues that are common to multiple IRCs. If the Commission decides an issue in one matter that is contested in other matters, the time required to complete those other matters will be greatly reduced.

For example, in 2010, the Commission adopted decisions on the County of Los Angeles and the City of Tustin IRCs that involve the *Investment Reports* program. In doing so, the Commission resolved certain issues that are common to nearly all of these IRCs. Of the approximately 160 pending IRCs as of March 2011, 70 involve this program. It

appears that many of the other issues in the remaining IRCs may be resolved informally through negotiations with claimants and Controller staff. Commission staff has been working with Controller staff and representatives of the claimants who have filed IRCs for the *Investment Reports* program to try to quickly resolve as many of these IRCs as possible.

3. *Simple test claims and single-issue IRCs* – Many test claims and IRCs contain numerous issues, some of which can be very complicated. However, other claims are more straightforward and deal with only one issue. Staff reviewed all pending IRCs and identified a total of nine that only involve a single issue. Staff plans to move them ahead in the cue. This satisfies two objectives. First, it more quickly reduces the overall number of pending IRCs. Second, it clarifies the Commission’s position on those single issues so that claimants can evaluate the merits of claims they are considering filing. Staff can complete these single-issue claims with a minimal time commitment so there is little disadvantage to claimants who submitted their claims earlier.
4. *Stakeholder Requests* – Commission staff occasionally receives requests from individual claimants to expedite certain matters. Naturally, all claimants would like their claims decided as quickly as possible. Commission staff entertains all requests, and has found that some are particularly worthy of special treatment.
5. *Joint reasonable reimbursement methodologies* – Government Code sections 17557.1 and 17557.2 provide a process whereby claimants can be reimbursed through the use of a reasonable reimbursement methodology (RRM). An RRM uses general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual costs. As of May 2011, the Commission had adopted three joint RRMs and one claimant-proposed RRM. If RRMs are used more, as was recommended in the BSA 2009 Report and by others, the Commission could more quickly adopt parameters and guidelines. In addition, it is possible that with RRMs in place the Controller will reduce fewer claims since they will be submitted based on an agreed-to formula.

VI. Plan of Action

It is impossible to predict with precision how many claims and other matters the Commission can complete in 2011 and future years. A number of factors contribute to this uncertainty. For example, in 2010 Commission staff worked with legislative staff on SB 856, legislation that would establish a new “redetermination” process to allow mandates to undergo revision when appropriate. SB 856 was signed into law on October 19, 2010, and became effective on January 1, 2011. Through May 10, 2011, the Commission has not received any redetermination requests. However, if requests are received, this will increase the Commission’s caseload.

In addition, as the number of mandated programs for which the state must reimburse local agencies and school districts grows, exposure to IRCs increases. Since auditor positions have been added to the Controller’s staff, the number of audits of mandate reimbursement claims has increased. An increase in claim reductions will likely result in more IRCs being filed with the Commission.

While the Commission has not received a county application for a finding of severe financial distress since 2005, state law is clear that when these applications are filed, the county is entitled to a final decision by the Commission within 90 days. If the Commission receives an application, substantial staff resources will need to be shifted to conduct the required investigation and hearing.

The Commission also frequently receives requests for continuances. Historically, the executive director has more often than not granted the continuance request for good cause. If the Commission receives reasonable continuance requests and they are granted, the proposed calendar could be postponed.

If any of these things occur, singly or in combination with others, the proposed timeline could be delayed. On the other hand, it is possible that the Commission's efforts to reach out to claimants and the Controller to employ the strategies discussed above might lead to the resolution of more claims than planned. The Commission's executive staff meets every week to review progress on test claims, IRCs, and other matters. Some matters turn out to be significantly more or less complicated than originally anticipated based on a cursory review of the file. Despite the uncertainty caused by all of these factors, only some of which are within the Commission's control, Commission staff believes that the following represents an ambitious but achievable plan to reduce the backlog.

A. Complete All 2002 and 2003 Test Claims in Fiscal Year 2011-2012

Commission staff plans to present the Commission with staff analyses for all of the 2002 test claims by the end of 2011. This is an ambitious goal. As discussed above, the 2002 test claims are not only the oldest; collectively, they represent the largest and most complicated group of test claims before the Commission. Focusing on the oldest test claims is consistent with the Commission's long-standing first-in-time policy.

However, because most of the 2002 and 2003 test claims involve education mandates, Commission staff plans in 2011 to also present to the Commission staff analyses on several local government test claims that were filed subsequent to 2002. This satisfies two objectives. First, it allows local government claimants who have been waiting a long time for decisions to have some of their matters heard in 2011. Second, in January 2011 staff met with representatives from other state government agencies and from the claimant community to discuss the backlog of claims. It was suggested at that meeting that if the Commission focused exclusively on the education-related test claims, it would likely receive numerous continuance requests from education claimants.

B. Complete All Incorrect Reduction Claims on the Investment Reports Program in Fiscal Year 2011-2012

Government Code section 17553 directs the Commission to complete test claims within one year, or within 18 months upon request of either the claimant or Commission. No such deadline exists for IRCs. Accordingly, while the Commission has had difficulty meeting the statutory test claim deadline, Commission staff has historically prioritized test claims over IRCs based on the expressed intent of the Legislature to have test claims decided on a timely basis.

The BSA 2009 Report, however, shined light on the negative impacts both to the state and to local governments and school districts posed by delays in deciding incorrect reduction claims. Commission staff plans to redouble its efforts to complete staff analyses for IRCs and to work with stakeholders to resolve IRCs. Of the 163 incorrect reduction claims currently pending before the Commission, 70 involve the *Investment Reports* program. Commission staff will focus on these IRCs and believes that they can all be resolved by the end of Fiscal Year 2011-2012.

C. Fiscal Year 2012-2013 and Beyond

Commission staff intends this plan to be a living document that will be amended as all involved learn more about what approaches produce the best results. If Commission staff succeeds in meeting the targets set forth above, it will continue to employ the same strategies in fiscal year 2012-2013. If all continues to go as planned, Commission staff believes that all test claims filed in 2004, 2005, and 2006 could be completed in fiscal year 2012-2013. Test claims filed between 2007 through 2011 could be completed in fiscal year 2013-2014. Assuming the Commission does not receive a spike in test claim filings, the entire backlog of test claims could be eliminated by 2014.

IRC's offer more opportunities to employ the strategies discussed in section IV. If the strategies prove to be effective, the IRC backlog could also be eliminated by 2014. Completing the 70 IRCs related to the *Investment Reports* program will nearly halve the number of outstanding IRCs. Similarly, the 32 IRCs related to the *Health Fee Elimination* program may be resolved much more quickly than if each one was decided independent of every other IRC.

VII. Conclusion

Over the years, a backlog of test claims and incorrect reduction claims has built up at the Commission. This plan represents Commission staff's approach to reducing and ultimately eliminating that backlog as quickly as possible. It is important to note, however, that this ambitious plan is only an *estimate* of what can be completed in the coming years based on what staff knows as of May 2011. Many factors beyond the control of Commission staff could increase the time it takes to eliminate the backlog.