

Edmund G. Brown Jr.  
GOVERNOR



# STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

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## REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

**January 1, 2015 – June 30, 2015**

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## **I. INTRODUCTION**

### **Commission on State Mandates**

#### Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.<sup>1</sup> The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to claim reimbursement for costs mandated by the state. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that are entitled to be reimbursed by the state for costs mandated by the state.<sup>2</sup>

#### Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvented to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553).

#### Alternative Processes

In 2007, AB 1222 (Stats. 2007, ch. 329) was enacted to provide an alternate process for determining the amount to be subvented for mandated programs. The test claimant and the Department of Finance may jointly develop RRMs and statewide estimates of costs for mandated programs for approval by the Commission, in lieu of parameters and guidelines and statewide cost estimates. Any approved RRM would then be included in this Report to the Legislature.

AB 1222 also provided a process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive order imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process was intended to bypass the Commission's test claim process, thus providing the Commission with more time to complete the historic caseload backlog. To date, this process has not been successfully utilized.

### **Report to the Legislature**

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.<sup>3</sup> In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

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<sup>1</sup> Statutes 1984, chapter 1459, Government Code section 17500, et seq.

<sup>2</sup> Government Code section 17551.

<sup>3</sup> Government Code section 17600.

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the completion of the above-named caseload.

This report fulfills these requirements.

### **Legislative Analyst**

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

### **The Legislature**

Upon receipt of the report submitted by the Commission pursuant to Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.<sup>4</sup>

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodologies, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.<sup>5</sup>

### **Mandate Funding Provisions**

The Government Code provides that if the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.<sup>6</sup> Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

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<sup>4</sup> Government Code section 17612(a).

<sup>5</sup> Government Code section 17612(b).

<sup>6</sup> Government Code section 17612(c).

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (Controller) shall include accrued interest at the Pooled Money Investment Account rate.<sup>7</sup>

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the Controller will prorate the claims.<sup>8</sup> If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the Controller shall report this information to the legislative budget committees and the Commission.

## II. NEW MANDATES

The following table shows the statewide cost estimates that were adopted during the period of January 1, 2015 through June 30, 2015.

**Statewide Cost Estimates (SCE) Adopted  
During the Period of January 1, 2015 through June 30, 2015**

Adoption Date, Claim Number and Initial Claiming Period			Estimated Costs for Initial Claiming Period			Estimated Future Annual Costs
Date	Test Claim No.	Initial Claiming Period	Education (K-14)	Local Agency	Totals	Annual
1/23/15	<i>State Authorized Risk Assessment Tool for Sex Offenders, 08-TC-03</i>	7/1/07 – 6/30/13	-	\$151,012	\$151,012	\$30,624
1/23/15	<i>Medi-Cal Eligibility of Juvenile Offenders, 08-TC-04</i>	1/1/08 – 6/30/13	-	\$27,469	\$27,469	\$5,428
3/27/15	<i>Sexually Violent Predators, CSM-4509 (12-MR-01)</i>	7/1/11 – 6/30/13	-	\$14,051,306	\$14,051,306	\$7,026,000 <sup>9</sup>
3/27/15	<i>Race to the Top, 10-TC-06</i>	4/12/10 – 6/30/13	\$95,464	-	\$95,464	\$31,109
<b>TOTAL</b>			\$95,464	\$14,229,787	<b>\$14,325,251</b>	<b>\$7,093,161<sup>10</sup></b>

<sup>7</sup> Government Code section 17561.5(a).

<sup>8</sup> Government Code section 17567.

<sup>9</sup> This is not a new cost. It reflects a reduction in annual mandated costs of approximately \$14 million compared to prior years based upon the mandate redetermination.

<sup>10</sup> This reflects a reduction of annual state-mandated costs of approximately \$14 million per year based on the redetermination in *Sexually Violent Predators*.

### III. PENDING PARAMETERS AND GUIDELINES, AMENDMENTS, AND STATEWIDE COST ESTIMATE CASELOAD<sup>11</sup>

Following are tables showing parameters and guidelines, parameters and guidelines with proposed reasonable reimbursement methodologies (RRMs), requests to amend parameters and guidelines, requests to amend parameters and guidelines with proposed RRM, and statewide cost estimates that are pending Commission determination. A request to include an RRM in parameters and guidelines or amendments thereto is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5. These requests are often disputed by one or more of the parties and interested parties.

#### A. Pending Parameters and Guidelines

	<b>Program</b>	<b>Status</b>
1.	<i>Discharge of Stormwater Runoff</i> , 07-TC-09*	Inactive pending court action.
2.	<i>California Public Records Act</i> , 02-TC-10 and 02-TC-51 (14-MR-02)	This item is tentative pending the outcome of the mandate redetermination's second hearing. Draft proposed decision issued, tentatively set for hearing on July 24, 2015.

\* Local agency programs † School district or community college district programs

#### B. Pending Parameters and Guidelines with Proposed RRM

	<b>Program</b>	<b>Status</b>
1.	NONE	

\* Local agency programs † School district or community college district programs

#### C. Pending Requests to Amend Parameters and Guidelines

	<b>Program</b>	<b>Status</b>
1.	<i>Graduation Requirements</i> , 11-PGA-03 (CSM-4435)†	Inactive pending court action.

\* Local agency programs † School district or community college district programs

#### D. Pending Requests to Amend Parameters and Guidelines with Proposed RRM

	<b>Program</b>	<b>Status</b>
1.	<i>Immunization Records – Pertussis</i> , 14-PGA-01 (11-TC-02)†	Draft proposed decision issued, set for hearing on September 25, 2015.

\* Local agency programs † School district or community college district programs

#### E. Pending Statewide Cost Estimates

	<b>Program</b>	<b>Status</b>
1.	<i>Sheriff Court-Security Services</i> , 09-TC-02*	Decision on parameters and guidelines adopted on March 27, 2015.
2.	<i>Municipal Storm Water and Urban Runoff Discharges</i> , 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21*	Pending court action.

\* Local agency programs † School district or community college district programs

<sup>11</sup> As of June 30, 2015.

**IV. PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES AND LEGISLATIVELY-DETERMINED MANDATES**

**A. Pending Joint Reasonable Reimbursement Methodologies**

Following is a table showing programs where Department of Finance and test claimants are negotiating RRM's.

	<b>Program</b>	<b>Date of Notice by Local Agencies or Department of Finance</b>	<b>Status</b>
	None		

**B. Pending Joint Legislatively-Determined Mandates**

Following is a table showing programs for which Department of Finance and local agencies are negotiating legislatively-determined mandates (LDMs) they may jointly propose to the Legislature for adoption.

	<b>Program</b>	<b>Date of Notice</b>	<b>Status</b>
	None		

**C. Delays in the Process**

Government Code section 17600 requires the Commission to report any delays in the process for joint RRM's or LDM's being developed by Department of Finance and local entities and for RRM's proposed by any party pursuant to Government Code section 17518.5. Currently, there are no pending joint RRM's, LDM's or RRM's proposed by any party. Therefore, there are no delays in these processes.

With regard to RRM's included in parameters and guidelines amendments pursuant to Government Code sections 17557 and 17518.5, since the 2011-12 fiscal year, the Commission has adopted a total of five proposed RRM's in parameters and guidelines, or amendments thereto, and has denied five proposals based on a lack of evidence in the record, that the proposed formula or unit cost reasonably represents the costs mandated by the state for all eligible claimants in the state. Currently, there is one pending parameters and guidelines amendment containing an RRM. That proposed amendment was filed with the Commission on April 15, 2015 and it is set for hearing on September 25, 2015. Therefore, there are currently no delays in the process for parameters and guidelines or amendments thereto containing RRM's.

With the exception of two newly filed test claims, both of which are set for hearing within less than a year from their filing dates, the only pending test claims are those being stayed pending court action. Additionally, Commission staff expects to present all currently pending parameters and guidelines and amendments thereto, except for those being stayed pending court action, for hearing by the September 25, 2015 Commission meeting.

Commission staff also expects to complete the incorrect reduction claim backlog by the end of 2016 calendar year, if there are no increases in the Commission's workload or reductions (or turn over) in staff.<sup>12</sup> With regard to the thirteen test claims which are on inactive status pending a determination by the California Supreme Court, Commission staff projects it will take

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<sup>12</sup> This scenario is unlikely because it assumes that no new test claims, parameters and guidelines or amendments thereto are filed, that there is no litigation and that the California Supreme Court does not remand the storm water cases back to the Commission. It also assumes current staffing. Any of these increases in workload would take precedence over incorrect reduction claims and any change in staffing would slow the progress being made on the incorrect reduction backlog.

approximately one full year dedicating all Commission resources to present those claims for hearing if the court either upholds the Commission decision being challenged or directs the Commission to rehear that claim and hear the remaining claims applying the law as specified by the court in its decision. These claims will take substantially longer to prepare for hearing than test claims generally, because of the complex and detailed records and mixed issues of fact and law that must be addressed. These claims will also be expedited and will take priority over other matters pending with the Commission.

Because test claim decisions, parameters and guidelines and statewide cost estimates have a statutory deadline of 12-18 months for completion, they will generally be prepared for hearing prior to other matters, including RRM's in parameters and guidelines amendments. Thus, in order to promptly hear and decide parameters and guidelines amendment proposals that contain RRM's, it is necessary that the Commission operate without a backlog of test claims, parameters and guidelines and statewide cost estimates. At present, there is no backlog of test claim, parameters and guidelines or statewide cost estimates.

## V. ADOPTED STATEWIDE COST ESTIMATES

Adopted: January 23, 2015

### STATEWIDE COST ESTIMATE \$151,012

#### (Approximate Prospective Cost of \$30,624 Annually)

Penal Code Sections 290.05, 290.06, 290.07, 1202.8, 1203, 1203c, and 1203e  
Statutes 2006, Chapter 336 (SB 1178); Statutes 2006, Chapter 337 (SB 1128); Statutes 2006,  
Chapter 886 (AB 1849); Statutes 2007, Chapter 579 (SB 172)  
California Department of Mental Health's Executive Order, State Authorized Risk Assessment  
Tool for Sex Offenders Review Committee Notification, issued on February 1, 2008  
*State Authorized Risk Assessment Tool for Sex Offenders*

08-TC-03

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### STAFF ANALYSIS

#### Background and Summary of the Mandate

This program addresses activities performed by counties and cities relating to the statutory requirement that registered sex offenders shall be subject to an assessment of the offender's risk of recidivism using the *State Authorized Risk Assessment Tool for Sex Offenders*, or SARATSO.

On January 24, 2014, the Commission on State Mandates (Commission) adopted a statement of decision<sup>13</sup> on the *State Authorized Risk Assessment Tool for Sex Offenders (SARATSO)* test claim (08-TC-03) finding that the test claim statutes and executive order impose a reimbursable state mandated program for county probation departments and authorized local law enforcement agencies to perform specified SARATSO assessment related activities.

Parameters and guidelines<sup>14</sup> were adopted on March 28, 2014 approving the reimbursable activities described below under the *Reimbursable Activities* section.

Eligible claimants were required to file initial reimbursement claims, for costs incurred between July 1, 2007, and June 30, 2013, with the State Controller's Office (SCO) by October 31, 2014. Late initial reimbursement claims may be filed until October 31, 2015. Annual reimbursement claims for fiscal year 2013-2014 are due by February 17, 2015.

#### Eligible Claimants and Period of Reimbursement

Any county, city, or city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on January 22, 2009, establishing eligibility for reimbursement for the 2008-2009 fiscal year.

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<sup>13</sup> Exhibit A, Test Claim Statement of Decision.

<sup>14</sup> Exhibit B, Parameters and Guidelines.

## Reimbursable Activities

For each eligible claimant that incurs increased costs, the following *ongoing* activities are reimbursable:

### A. For a county, city, and city and county beginning February 1, 2008 to:

1. Designate key persons within their organizations to attend training and, as authorized by the department, to train others within their organizations;<sup>15</sup> and
2. Ensure that persons administering the SARATSO receive training no less frequently than every two years.<sup>16</sup>

*These activities are approved on an ongoing basis, and will be triggered each time the SARATSO Review Committee exercises its discretion to review the SARATSO selected for a given population and adopt a new or additional risk assessment tool, in accordance with Penal Code section 290.04.*

### B. For county probation departments only to:

1. Assess eligible individuals, as set forth in section 290.04, as follows:
  - a. Assess, using the SARATSO, as set forth in section 290.04, every eligible person for whom the department prepares a presentencing report pursuant to section 1203; and
  - b. Assess, using the SARATSO, as set forth in section 290.04, every eligible person under the department's supervision who was not assessed pursuant to a presentencing report, prior to the termination of probation but no later than January 1, 2010.<sup>17</sup>

*This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an appropriate risk assessment tool for adult male offenders and juvenile male offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.*

2. Include the results of the SARATSO assessment administered pursuant to sections 290.04 to 290.06 in the presentencing report made to the court pursuant to section 1203, if the person was convicted of an offense that requires him or her to register as a sex offender, or if the probation report recommends that registration be ordered at sentencing.<sup>18</sup>

*Preparing the presentencing report under section 1203 is not a new activity and, thus, not eligible for reimbursement.*

*This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an appropriate risk assessment tool for adult male offenders and juvenile male*

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<sup>15</sup> Penal Code section 290.05 (added, Stats. 2006, ch. 337 (SB 1128); as amended, Stats. 2007, ch. 579 (SB 172)); and SARATSO Review Committee Notification, issued February 1, 2008.

<sup>16</sup> *Ibid.*

<sup>17</sup> Penal Code section 290.06 (added, Stats. 2006, ch. 337 (SB 1128)).

<sup>18</sup> Penal Code section 1203 (as amended, Stats. 2006, ch. 337 (SB 1128)).

*offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.*

3. Include in the report prepared for the department pursuant to section 1203c the results of the SARATSO, administered pursuant to sections 290.04 to 290.06, inclusive, if applicable, whenever a person is committed to the jurisdiction of the Department of Corrections and Rehabilitation for a conviction of an offense that requires him or her to register as a sex offender.<sup>19</sup>

*Preparing the report under section 1203c is not a new activity and, thus, not eligible for reimbursement.*

*This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an appropriate risk assessment tool for adult male offenders and juvenile male offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.*

4. Beginning January 1, 2010:
  - (a) Compile a Facts of Offense Sheet for every person convicted of an offense that requires him or her to register as a sex offender and who is referred to the department pursuant to section 1203;
  - (b) Include in the Facts of Offense Sheet all of the information specified in section 1203e, including the results of the SARATSO, as set forth in section 290.04, if required;
  - (c) Include the Facts of Offense Sheet in the probation officer's report to the court made pursuant to section 1203; and
  - (d) Send a copy of the Facts of Offense Sheet to the Department of Justice Sex Offender Tracking Program within 30 days of the person's sex offense conviction.

*Obtaining information required to complete the presentencing report pursuant to section 1203, as amended by Statutes 1996, chapter 719 (AB 893), or the report to the Department of Corrections and Rehabilitation under section 1203c if applicable, as amended by Statutes 1963, chapter 1785 is not new or reimbursable under this activity.<sup>20</sup>*

*This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an appropriate risk assessment tool for adult male offenders and juvenile male offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.*

5. Beginning January 1, 2009, and every two years thereafter, report to the Corrections Standards Authority all relevant statistics and relevant information regarding the effectiveness of continuous electronic monitoring of

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<sup>19</sup> Penal Code section 1203c (as amended, Stats. 2006, ch. 337 (SB 1128)).

<sup>20</sup> Penal Code section 1203e (added, Stats. 2006, ch. 337 (SB 1128)).

sex offenders, including the costs of monitoring and recidivism rates of those persons who have been monitored.<sup>21</sup>

6. Grant access to all relevant records pertaining to a registered sex offender to any person authorized by statute to administer the SARATSO.<sup>22</sup>

*This activity is limited to granting access to records exempt from disclosure under the California Public Records Act. (Gov. Code § 6250, et seq.).*

## **Offsetting Revenues and Reimbursements**

The parameters and guidelines provide:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.<sup>23</sup>

## **Statewide Cost Estimate**

### Assumptions

Staff reviewed the reimbursement claims data submitted by 5 counties and compiled by the SCO.<sup>24</sup> The actual claims data showed that 18 initial claims were filed for fiscal years 2007-2008 through 2012-2013 for a total of \$151,012. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are currently 58 counties in California. Of those, only 5 counties filed claims. There are approximately 478 cities in California and no cities filed claims. If eligible claimants file late or amended initial claims, the reimbursement claims would exceed the statewide cost estimate. Late initial claims for this program are due by October 31, 2015.

- *The number of reimbursement claims filed will vary from year to year.*

This program allows reimbursement for certain activities associated with designating key persons within an organization to attend training and, as authorized by the department, to train others within their organizations on how to administer the SARATSO. The program requires a minimum of training every two years, thus, claims will vary depending on the number of employees who require training in a given year, costs will likely go up and down for individual claimants on a biennial basis, based on their training calendar.

Another approved activity requires that beginning on January 1, 2009, and every two years thereafter, that a report be submitted to the Corrections Standards Authority

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<sup>21</sup> Penal Code section 1202.8 (as amended, Stats. 2006, ch. 336 (SB 1178); Stats. 2006, ch. 886 (AB 1849)).

<sup>22</sup> Penal Code section 290.07 (added, Stats. 2006, ch. 337 (SB 1128)).

<sup>23</sup> Exhibit B, Parameters and Guidelines, page 8.

<sup>24</sup> Claims data reported as of September 10, 2014.

containing all relevant statistics and relevant information regarding the effectiveness of continuous electronic monitoring of sex offenders, including the costs of monitoring and recidivism rates of those persons who have been monitored, therefore, costs claimed could be higher in odd numbered years.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable. Some of the reimbursable activities in this program are part of a larger process. Claimants may file claims for activities that, while also part of the larger process, are not reimbursable and those claims may therefore be reduced by the SCO. For example, the presentencing reports are not a new requirement, only the inclusion of the SARATSO assessment results is a newly required activity.

Methodology

*Fiscal Years 2007-2008 through 2012-2013*

The statewide cost estimate for fiscal years 2007-2008 through 2012-2013 was developed by totaling the 18 reimbursement claims filed with the SCO for these years, for a total of \$151,012. Staff finds that the averages for the most recent three-year period are most indicative of potential ongoing costs. For the most recent three-year period, costs averaged \$30,624 annually.

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2007-2008	2	\$25,531
2008-2009	3	\$22,928
2009-2010	2	\$10,680
2010-2011	4	\$31,064
2011-2012	4	\$33,611
2012-2013	3	\$27,198
<b><i>TOTAL</i></b>	<b>18</b>	<b>\$151,012</b>

**Draft Proposed Statewide Cost Estimate**

On December 9, 2014, Commission staff issued a draft proposed statewide cost estimate.<sup>25</sup> No comments were received on the draft proposed statewide cost estimate.

**Conclusion**

On January 23, 2015, the Commission adopted the proposed statewide cost estimate of **\$151,012** (approximately \$30,624 annually) for costs incurred in complying with the *State Authorized Risk Assessment Tool for Sex Offenders* program on consent.

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<sup>25</sup> Exhibit C, Draft Proposed Statewide Cost Estimate.

## STATEWIDE COST ESTIMATE

**\$27,469**

**(Approximate Prospective Cost of \$5,428 Annually)**

Welfare and Institutions Code Section 14029.5

Statutes 2006, Chapter 657

*Medi-Cal Eligibility of Juvenile Offenders*

08-TC-04

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### STAFF ANALYSIS

#### **Background and Summary of the Mandate**

This program addresses activities of county juvenile detention facilities and county welfare departments (CWDs) to assist juveniles whose Medi-Cal coverage is terminated as a result of incarceration in a juvenile detention facility for 30 days or more to obtain Medi-Cal or other health coverage immediately upon release from custody.

On December 6, 2013, the Commission on State Mandates (Commission) adopted a statement of decision<sup>26</sup> finding that Welfare and Institutions Code section 14029.5, as amended by test claim statute, imposes a partially reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514.

Parameters and guidelines<sup>27</sup> were adopted on March 28, 2014 approving the reimbursable activities described below under the *Reimbursable Activities* section.

Eligible claimants were required to file initial reimbursement claims, for costs incurred for the period January 1, 2008 through June 30, 2008 and fiscal years 2008-2009 through 2012-2013, with the State Controller's Office (SCO) by October 31, 2014. Late initial reimbursement claims may be filed until October 31, 2015.

#### Eligible Claimants and Period of Reimbursement

Any county and city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. County of Alameda filed the test claim on January 29, 2009, establishing eligibility for reimbursement for the 2007-2008 fiscal year. However, the effective date of the reimbursable state-mandated activities begins January 1, 2008, the effective date of the test claim statute. As a result, any costs incurred for the activities in these parameters and guidelines are reimbursable on or after January 1, 2008.

#### **Reimbursable Activities**

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<sup>26</sup> Exhibit A. Test Claim Statement of Decision.

<sup>27</sup> Exhibit B. Parameters and Guidelines.

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

For County Juvenile Detention Facilities:

1. Subject to the provisions in Activity 2 below, immediately following the issuance of an order of the juvenile court committing the ward to a juvenile hall, camp, or ranch for 30 days or longer, provide the appropriate CWD with the following information: (a) the ward's name, (b) scheduled or actual release date, (c) any known information regarding the ward's Medi-Cal status prior to disposition, and (d) sufficient information when available for the CWD to begin the process of determining the ward's eligibility for the Medi-Cal program, including available contact information for the ward's parent or guardian if the ward is a minor.
2. If the ward is a minor and before providing information to the CWD, notify the parent or guardian in writing of the intention to submit the information to the CWD. The parent or guardian shall be given a reasonable time to opt out of the Medi-Cal eligibility determination. If the parent or guardian opts out of the Medi-Cal eligibility determination, the county detention facility shall not provide information to the CWD.

For County Welfare Departments:

1. From January 1, 2008, until December 31, 2008, upon receipt of the information from the county detention facility, and pursuant to the protocols and procedures developed by the Department of Health Services (DHCS), initiate an application for benefits under the Medi-Cal program for all juvenile wards.
2. Beginning January 1, 2009, upon receipt of the information from the county detention facility, and pursuant to the protocols and procedures developed by DHCS, initiate an application for benefits under the Medi-Cal program only for wards not already enrolled in the Medi-Cal program. If the ward is a minor, promptly contact the parent or guardian to arrange for completion of the application. Applications shall be expedited for those wards scheduled to be released in fewer than 45 days.
3. If the ward does not meet the eligibility requirements for the Medi-Cal program, forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program, or other appropriate health coverage program, with the consent of the ward's parents or guardian if the ward is a minor.
4. If the ward meets eligibility requirements for the Medi-Cal program, provide sufficient documentation to enable the ward to obtain necessary medical care upon release from custody. The documentation consists of issuing an immediate need paper Medi-Cal card for the juvenile as soon as eligibility is established.

*The activity to "determine the individual's eligibility for benefits under the Medi-Cal program" is not reimbursable because it is not new.*

### **Offsetting Revenues and Reimbursements**

The parameters and guidelines<sup>28</sup> provide:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source,

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<sup>28</sup> Exhibit B. Parameters and Guidelines.

including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

## **Statewide Cost Estimate**

### Assumptions

Staff reviewed the reimbursement claims data submitted by the three counties that submitted initial claims, which was compiled by the SCO.<sup>29</sup> The data showed that three counties filed initial claims for fiscal years 2009-2010 through 2012-2013, two counties filed initial claims for fiscal year 2008-2009 and only one county filed an initial claim for fiscal year 2007-2008 for a total of \$27,469. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are currently 58 counties and 482 cities in California. Of those combined, only three counties filed initial reimbursement claims totaling \$27,469. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial reimbursement claims for this program for the period January 1, 2008 through June 30, 2008 and fiscal years 2008-2009 through 2012-2013 may be filed until October 31, 2015. There also may be several reasons that non-claiming counties did not file reimbursement claims, including but not limited to, (1) they did not incur more than \$1,000 in increased costs for this program and (2) they did not have supporting documentation to file a reimbursement claim.

- *The annual costs of the program may vary depending on the number of Medi-Cal-eligible wards.*

The reimbursable activities of this program are based on caseload rather than a fixed cycle. The number of Medi-Cal-eligible wards at a county juvenile detention facility will directly correlate to the volume of activities such as information dissemination to the county welfare department, notice to the ward's parent or guardian, and initiation of application for Medi-Cal benefits.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

### Methodology

January 1, 2008 through June 30, 2008 and fiscal years 2008-2009 through 2012-2013.

The statewide cost estimate for the period January 1, 2008 through June 30, 2008 and fiscal years 2008-2009 through 2012-2013 was developed by totaling the 15 reimbursement claims filed with the SCO for this period totaling \$27,469. Staff finds that the average for the most recent three-year period is likely indicative of potential future costs. For that three-year period, costs

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<sup>29</sup> Claims data reported as of November 18, 2014.

averaged \$5,428 annually

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2007-2008	1	\$2,155
2008-2009	2	\$3,758
2009-2010	3	\$5,273
2010-2011	3	\$6,160
2011-2012	3	\$5,519
2012-2013	3	\$4,604
<i><b>TOTAL</b></i>	<b>15</b>	<b>\$27,469</b>

### **Draft Proposed Statewide Cost Estimate**

On December 9, 2014, Commission staff issued the draft proposed statewide cost estimate.<sup>30</sup> No comments were filed on the draft proposed statewide cost estimate.

### **Conclusion**

On January 23, 2015, the Commission adopted the proposed statewide cost estimate of **\$27,469 (Approximate Prospective Cost of \$5,428 Annually)** for costs incurred in complying with the *Medi-Cal Eligibility of Juvenile Offenders* program.

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<sup>30</sup> Exhibit C. Draft Proposed Statewide Cost Estimate.

**STATEWIDE COST ESTIMATE**  
**\$14,051,306**

**(Approximate Prospective Cost of \$7,026,000 Annually)**

Welfare and Institutions Code Section 6602

Statutes 1995, Chapter 762 (SB 1143); Statutes 1995, Chapter 763 (AB 888);  
Statutes 1996, Chapter 4 (AB 1496)

As Modified by:

Proposition 83, General Election, November 7, 2006

*Sexually Violent Predators*

CSM-4509

(amended by 05- PGA-43, 12-MR-01)

This amendment is effective beginning July 1, 2011

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

Summary of the Mandate

Statutes 1995, chapters 762 and 763, and Statutes 1996, chapter 4 require counties to provide indigents accused of being sexually violent predators the assistance of counsel and experts necessary to prepare the defense. On June 25, 1998, the Commission on State Mandates (Commission) adopted a statement of decision on the test claim, approving reimbursement for preparation and attendance by the county's designated counsel at the probable cause hearing, trial, and further hearings; and related activities, including housing and transportation of potential sexually violent predator while awaiting trial.<sup>31</sup>

On December 6, 2013, the Commission adopted a new test claim decision pursuant to Government Code section 17570, and found that several of the activities previously found to be state-mandated were now required by an intervening voter-enacted ballot measure, and therefore no longer reimbursable pursuant to Government Code section 17556(f). The parameters and guidelines were amended to conform to the new test claim decision.<sup>32</sup> The only remaining reimbursable activities are preparation and attendance by the county's designated counsel and the indigent defense counsel at the probable cause hearing (and specified related reasonably necessary activities) and transportation between the designated secure facility and the courthouse for purposes of the probable cause hearing, as described below under the *Reimbursable Activities* section.

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<sup>31</sup> Exhibit A. Test Claim Statement of Decision, adopted June 25, 1998, at p. 13.

<sup>32</sup> Exhibit B. Parameters and Guidelines Amendment, adopted May 30, 2014, Corrected February 27, 2015.

## Recent Program Appropriations

Because this is not a new program, appropriations have already been made to fund it. Appropriations for mandated programs are made two years in arrears. The 2013-2014 Budget appropriated \$ 21,792,000 for payment of 2011-2012 claims. The 2014-15 Budget appropriated \$7,000,000 for 2012-13 claims, a figure which anticipated reduced program costs as a result of the new test claim decision. The proposed 2015-16 Budget includes an appropriation of \$7,140,000 for this program.

## **Eligible Claimants and Period of Reimbursement**

Any county or city and county which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Government Code section 17570(f) provides that a request for adoption of a new test claim decision (mandate redetermination) shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year. The request for mandate redetermination was filed on January 15, 2013, establishing eligibility for reimbursement or loss of reimbursement beginning July 1, 2011.

## **Reimbursement Claim Deadline**

Because the parameters and guidelines were amended with an effective date of July 1, 2011 on May 30, 2014, after timely reimbursement claims were required to be submitted for fiscal years 2011-2012 and 2012-2013 and late claims were required to be submitted for 2011-2012, reimbursement claims were already submitted for those years and included costs that are no longer reimbursable beginning July 1, 2011. Late claims may still have been filed for 2012-2013 until February 17, 2015. The SCO has revised the claiming instructions and claimants may file amended claims for those two prior fiscal years without penalty. If a claimant does not file an amended claim, the SCO will reduce the claim by the amount of non-reimbursable activities.<sup>33</sup> Amended claims for fiscal years 2011-2012 and 2012-2013 must be filed with the SCO by December 31, 2014 and late amended claims can be filed until December 31, 2015. Claims for fiscal year 2013-2014 must be filed with the SCO by February 17, 2015.<sup>34</sup>

## **Reimbursable Activities**

For each eligible claimant, the following activities only are eligible for reimbursement:

- A. Preparation and attendance by the county's designated counsel and indigent defense counsel at the probable cause hearing. Preparation for the probable cause hearing includes the following:
  1. Secretarial, paralegal and investigator services;
  2. Copying and making long distance telephone calls; and
  3. Travel.
  4. Retention of necessary experts, investigators, and professionals for preparation for the probable cause hearing ONLY.

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<sup>33</sup> State Controller's Office State Mandated Costs Claiming Instructions No. 2014-10, Revised September 2, 2014.

<sup>34</sup> *Ibid.*

*This activity does not include retention of experts, investigators, and professionals for preparation for trial on the issue of whether an individual is a sexually violent predator.*

- B. Transportation for each potential sexually violent predator between the designated secured housing facility and the court only for purposes of a probable cause hearing. Counties shall be entitled to reimbursement for such transportation costs, regardless of whether the secured facility is a state facility or county facility, except in those circumstances when the State has directly borne the costs of transportation, in which case no reimbursement of such costs shall be permitted.

*This activity does not include transportation for purposes other than the probable cause hearing or for potential sexually violent predators awaiting trial.*

- C. Housing for each potential sexually violent predator from the time of the court's order that the person be detained in a secure facility pending a probable cause hearing pursuant to Section 6602, until the probable cause hearing is complete.

*Housing costs are not reimbursable after the completion of the probable cause hearing, including the costs incurred pending trial on the issue of whether an individual is a sexually violent predator. Housing costs are not reimbursable if the secured facility is a state facility, except in those circumstances when the state has charged the county for the state facility housing costs. Housing costs for those potential sexually violent predators currently serving a criminal sentence are not reimbursable pursuant to Government Code 17556(g).*

### **Offsetting Revenues and Reimbursements**

The parameters and guidelines<sup>35</sup> provide:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

### **Statewide Cost Estimate**

34 counties submitted reimbursement claims for fiscal year 2011-2012, prior to the mandate redetermination and amendment of the parameters and guidelines, and five counties submitted amended claims for that year based on the amended parameters and guidelines and revised claiming instructions. For fiscal year 2012-2013, 30 counties submitted claims prior to the amendment of the parameters and guidelines and five counties submitted amended claims based on the amended parameters and guidelines and revised claiming instructions. Since the reimbursement claims which have not been amended were filed under the previous parameters and guidelines, they include activities that are no longer reimbursable.

"If a claimant does not file an amended claim, the SCO will reduce the claim by the amount of non-reimbursable activities. Claimants will receive an adjustment letter stating the amount

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<sup>35</sup> Exhibit B. Parameters and Guidelines Amendment, adopted May 30, 2014, Corrected February 27, 2015.

reduced."<sup>36</sup> Specifically, the SCO is reducing the claims which were not amended by denying costs for all activities except for the two line items: "Preparation/Attendance at Probable Cause Hearing" and "Transportation and Housing Costs for Potential Sexually Violent Predators." The SCO has compiled the claims data for the 2011-2012 and 2012-2013 fiscal years, capturing the costs for these two activities for reimbursement purposes.<sup>37</sup> Staff has reviewed a sampling of the reimbursement claims and the data compiled by the SCO.<sup>38</sup> Based on this information, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

### Assumptions

- *The actual amount deemed eligible for reimbursement may increase and exceed the statewide cost estimate.*

The three activities that are reimbursable under the amended parameters and guidelines are not defined in exactly the same way as any of the eight activities which were reimbursable under the prior parameters and guidelines. As a result, for claimants who did not submit revised reimbursement claims, the two activity line items allowed by the SCO may not contain all of the currently reimbursable activities for which claimant incurred and claimed costs in its reimbursement claims. For example, under the former claiming instructions, claimants could claim for "Retention of Court-Approved Experts/Investigators/Professionals" without regard to where they were at in the proceedings and there was a separate line for "Preparation/Attendance at Probable Cause Hearing." Therefore, while it is possible that some claimants may have included all of their 2011-2012 and 2012-2013 costs for preparation and attendance at probable cause hearings under "Preparation/Attendance at Probable Cause Hearing," it is likely that at least some claimants included their costs for "Secretarial, paralegal and investigator services" and "Retention of necessary experts, investigators, and professionals for preparation for the probable cause hearing," which are now included as reasonably necessary activities for preparation and attendance at the probable cause hearing in the newly amended parameters and guidelines, under "Retention of Court-Approved Experts/Investigators/Professionals" when they submitted their reimbursement claims under the old parameters and guidelines. As a result, some claimants may dispute and provide evidence that they are entitled some of those reduced costs, which the SCO might then reinstate.

- *The actual amount deemed eligible for reimbursement may decrease and result in lower costs than the statewide cost estimate.*

As mentioned above, the three reimbursable activities under the current parameters and guidelines are not exactly the same as any of the prior reimbursable activities. "Transportation and Housing Costs for Potential Sexually Violent Predators" was reimbursable under the prior parameters and guidelines. However, that is significantly broader than what is now reimbursable:

Transportation for each potential sexually violent predator between the designated

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<sup>36</sup> State Controller's Office State Mandated Costs Claiming Instructions No. 2014-10, Revised September 2, 2014.

<sup>37</sup> State Controller's Office, Division of Accounting and Reporting Bureau of Payments - Local Reimbursements Section, Sexually Violent Predators Program, Schedule of Reduced Reimbursement Claims.

<sup>38</sup> Claims data reported as of February 12, 2015.

secured housing facility and the court only for purposes of a probable cause hearing. Counties shall be entitled to reimbursement for such transportation costs, regardless of whether the secured facility is a state facility or county facility, except in those circumstances when the State has directly borne the costs of transportation, in which case no reimbursement of such costs shall be permitted.

And;

Housing for each potential sexually violent predator from the time of the court's order that the person be detained in a secure facility pending a probable cause hearing pursuant to Section 6602, until the probable cause hearing is complete.<sup>39</sup>

To the extent costs claimed for transportation and housing under the former parameters and guidelines for 2011-2012 and 2012-2013 exceed what is reimbursable under the current parameters and guidelines, those claimed cost may be reduced by the SCO.

- *The actual amount claimed for reimbursement in future years may increase and exceed the statewide cost estimate for prospective annual costs.*

There are currently 58 counties in California. Of those, roughly two-thirds filed claims for fiscal years 2011-2012 and 2012-2013. If more counties file claims in the future, costs may exceed the estimate of prospective annual costs.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable or that do not comply with the parameters and guidelines. Furthermore, amended claims may reflect an amount owed *to* the state by the claimant because payments made on the original claim were in excess of the amended claim.

### Methodology

Fiscal years 2011-2012 and 2012-2013.

As described earlier in this statewide cost estimate, the SCO is reducing the reimbursement claims which were not amended by denying costs for all activities except for "Preparation/Attendance at Probable Cause Hearing" and "Transportation and Housing Costs for Potential Sexually Violent Predators". The table below shows the full claimed amount from these original claims as well as the amount identified for reduction in those claims by the SCO. The statewide cost estimate for fiscal years 2011-2012 and 2012-2013 was developed by adding the SCO's net estimated claimed amount for the 64 original claims that were not amended and the 10 amended claims for a total of \$14,051,306. The estimate of prospective future costs was developed by averaging the costs for the two years of data and rounding up to the nearest thousand.

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<sup>39</sup> Exhibit B. Parameters and Guidelines Amendment, adopted May 30, 2014, Corrected February 27, 2015, page 4.

Following is a breakdown of the claimed costs per fiscal year:

<b>Fiscal Year 2011-2012</b>	<b>Number of Claims</b>	<b>Original Claimed Amount</b>	<b>Original Reduced Amount</b>	<b>Net Estimated Claimed Amount</b>	<b>Amended Claimed Amount</b>	<b>Total Amount Claimed</b>
Original Claims	34	\$7,854,747	(\$5,572,715)	\$2,282,032		
Amended Claims	5				\$4,894,756	
Total	39					\$7,176,788
<b>Fiscal Year 2012-2013</b>	<b>Number of Claims</b>	<b>Original Claimed Amount</b>	<b>Original Reduced Amount</b>	<b>Net Estimated Claimed Amount</b>	<b>Amended Claimed Amount</b>	<b>Total Amount Claimed</b>
Original Claims	30	\$6,759,133	(\$4,258,674)	\$2,500,459		
Amended Claims	5				\$4,374,059	
Total	35					\$6,874,518
<i>Grand Total</i>	<b>74</b>					<b>\$14,051,306</b>

#### **Draft Proposed Statewide Cost Estimate**

On February 27, 2015, Commission staff issued the draft proposed statewide cost estimate.<sup>40</sup> No comments were filed.

#### **Conclusion**

On March 27, 2015, the Commission adopted the proposed statewide cost estimate of **\$14,051,306** (approximate prospective cost of \$7,026,000 annually) for costs incurred in complying with the *Sexually Violent Predators* program.

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<sup>40</sup> Exhibit C. Draft Proposed Statewide Cost Estimate, issued February 27, 2015.

## STATEWIDE COST ESTIMATE

**\$95,464**

**(Approximate Prospective Cost of \$31,109 Annually)**

Education Code Sections 48354(b)(1), 48356(d), 48357, 53202(a), 53202(b), 53300, and 53301

Statutes 2009-2010, 5th Extraordinary Session, Chapter 2 (SBX5 1);

Statutes 2009-2010, 5th Extraordinary Session, Chapter 3 (SBX5 4)

California Code of Regulations, Title 5, Section 4702(a) (Register 2010, No. 32)

*Race to the Top*

10-TC-06

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### STAFF ANALYSIS

#### Background and Summary of the Mandate

This test claim addresses statutes enacted in 2009 and 2010 and regulations adopted in 2010 to make California competitive in the federal *Race to the Top* (RTTT) education grant program.

On March 28, 2014, the Commission on State Mandates (Commission) adopted a statement of decision<sup>41</sup> on the *Race to the Top* (RTTT) test claim (10-TC-06) finding that the test claim statutes imposes a partially reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514.

Parameters and guidelines<sup>42</sup> were adopted on May 30, 2014 approving the reimbursable activities described below under the *Reimbursable Activities* section.

Eligible claimants were required to file initial reimbursement claims, for costs incurred for the period April 12, 2010 through June 30, 2013 by December 31, 2014 with the State Controller's Office (SCO), and fiscal year 2013-2014 by February 17, 2014. Late initial reimbursement claims may be filed until December 31, 2015.

#### Eligible Claimants and Period of Reimbursement

Any school district, with the exception of community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Twin Rivers Unified School District filed the test claim November 23, 2010, establishing eligibility for reimbursement for the 2009-2010 fiscal year. However, the effective date of the reimbursable state-mandated activities began April 12, 2010, the effective date of the test claim statute. As a result, any costs incurred for the activities in these parameters and guidelines are reimbursable on or after April 12, 2010.

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<sup>41</sup> Exhibit A. Test Claim Statement of Decision.

<sup>42</sup> Exhibit B. Parameters and Guidelines.

## Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

### 1. Race to the Top

School districts that receive notice that a school or schools within the district have been identified by the Superintendent of Public Instruction (SPI) as persistently lowest-achieving pursuant to Education Code section 53200(b) are required to perform the following activities:

- a) Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving. (Ed. Code, §53202(b); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)
- b) Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the *RTTT* program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
  - The turnaround model.
  - The restart model.
  - School closure.
  - The transformational model. (Ed. Code, §53202(a); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)
- c) Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools. (Ed. Code, §53202(a); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)

The following schools are *exempt* from the requirements of Education Code section 53202(a) and (b) and are, therefore, *not* mandated by the state to comply with the above activities:

- Schools identified by the SPI and State Board of Education (SBE) as already having implemented a reform that conforms to the intervention requirements of the *RTTT* program, and are showing significant progress in its reform pursuant to Education Code section 53202(a); and
- Schools listed in Education Code section 53201(e) (i.e., county community schools, juvenile court schools, schools that provide educational services exclusively to individuals with exceptional needs, and schools that have experienced academic growth of at least 50 points over the previous five years as measured by the Academic Performance Index (API)).

## 2. Parent Empowerment Act

School districts that receive a petition, signed by the number of parents specified in Education Code section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently lowest-achieving school, but is subject to corrective action pursuant to No Child Left Behind (NCLB), continues to fail to make adequate yearly progress, and has an API score of less than 800, are required to perform the following activities:

- a) Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines. (Ed. Code, §53300; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §2 (SBX5 4).)
- b) Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, Title 20 United States Code section 6301 et seq.. (Ed. Code, §53301; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §2 (SBX5 4).)

## 3. Open Enrollment Act

- a) The school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction. If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the California Department of Education's (CDE) Web site at <http://www.cde.ca.gov/>. (Ed. Code, §48354(b)(1); Cal. Code Regs., tit. 2, §4702(a).)
- b) Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, §48356(d); Stats. 2009-2010, 5th Ex. Sess., ch. 3, §1 (SBX5 4).)
- c) Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or

rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, §48357; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §1 (SBX5 4).)

Court, community, community day schools, and charter schools are *exempt and not mandated* by the state to comply with the Open Enrollment Act.<sup>43</sup>

### Offsetting Revenues and Reimbursements

The parameters and guidelines<sup>44</sup> provide:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. Specifically, the School Improvement Grant funds under the state Budget Act Item 6110-134-0890 must be identified as offsetting revenue and deducted from the costs claimed by the district for implementing an intervention model pursuant to Education Code section 53202.

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

### Statewide Cost Estimate

#### Assumptions

Staff reviewed the reimbursement claims data submitted by the two school districts that submitted initial claims, which was compiled by the SCO.<sup>45</sup> The data showed that only one school district filed initial claims for fiscal years 2009-2010 through 2011-2012 and two school districts filed an initial claim for fiscal year 2012-2013 for a total of \$95,464. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
  - a. *Additional districts are likely to file late initial reimbursement claims and late claims for 2013-2014*

There are currently over 1000 school districts in California. Of those, only two school districts filed initial reimbursement claims totaling \$95,464. The reimbursable activities of this program are based on the number of schools who have been identified by the Superintendent of Public Instruction (SPI) as persistently low-achieving. In 2014, California's Department of Education identified 188 schools within 76 different school districts as persistently low-achieving based on graduation rates and academic performance. These institutions must comply with the requirements listed in the parameters and guidelines. Thus, late initial claims are likely to be filed on this program by some of the 74 districts that have not yet filed claims. If eligible claimants file late initial claims, the cost of reimbursing those

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<sup>43</sup>Education Code section 48352(a)(2)(B) and (C).

<sup>44</sup> Exhibit B. Parameters and Guidelines.

<sup>45</sup> Claims data reported as of February 3, 2015.

claims may exceed the statewide cost estimate. Late initial reimbursement claims for this program for the period April 12, 2010 through June 30, 2014 may be filed until December 31, 2015. Annual reimbursement claims for fiscal year 2013-2014 were required to be filed by February 17, 2015 and late claims for that year may be filed until February 15, 2016.

- *There are reasons why a district that has incurred costs might not file a claim.*

There also may be several reasons that non-claiming school districts did not file reimbursement claims, including but not limited to, (1) they did not incur more than \$1,000 in increased costs for this program and (2) they did not have supporting documentation to file a reimbursement claim.

- *The number of reimbursement claims and amount of costs claimed will vary from year to year.*

As discussed above, costs under this program are driven by an SPI designation of a school as persistently low-achieving in a given year. Moreover, the number of petitions signed by parents requesting an intervention model for the purpose of improving academic achievement or pupil safety, and the number of parents who apply for a school transfer after receiving notification from the SPI the current school is low-achieving, can fluctuate year-to-year. Therefore, the reimbursable activities of this program are driven by circumstances rather than a fixed cycle.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

### Methodology

*April 12, 2010 through June 30, 2013.*

The statewide cost estimate for the period April 12, 2010 through June 30, 2013 was developed by totaling the 5 reimbursement claims filed with the SCO for this period. Staff finds that the average for the most recent three-year period is likely indicative of potential future costs. For that three-year period, costs averaged \$31,109 annually

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2009-2010	1	\$2,136
2010-2011	1	\$33,745
2011-2012	1	\$30,197
2012-2013	2	\$29,386
<b><i>TOTAL</i></b>	<b>5</b>	<b>\$95,464</b>

### **Draft Proposed Statewide Cost Estimate**

On February 23, 2015, Commission staff issued the draft proposed statewide cost estimate.<sup>46</sup> No comments were filed on the draft proposed statewide cost estimate.

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<sup>46</sup> Exhibit C. Draft Proposed Statewide Cost Estimate.

## **Conclusion**

On March 27, 2015, the Commission adopted the proposed statewide cost estimate of **\$95,464** (**Approximate Prospective Cost of \$31,109 Annually**) for costs incurred in complying with the *Race To The Top* program.