

ARNOLD SCHWARZENEGGER  
GOVERNOR



# STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

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## REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

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October 1, 2004 – December 31, 2004

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#### **New Mandates: Reimbursable Activities Detail**

## **EXECUTIVE SUMMARY**

The Commission on State Mandates (Commission) adopted two statewide cost estimates during the period from October 1, 2004, through December 31, 2004. For the initial period of reimbursement, the statewide cost estimate for one new local agency program totaled \$9,975,928 and one new school district program totaled \$37,096,034. The statewide cost estimates add up to \$47,071,962, and were not included in a local government claims bill or appropriated in the 2004-2005 Budget Act or trailer bills.

The new local agency program is subject to article XIII B, section 6, subdivision (b)(1) and (2) as added by Statutes 2004, Chapter 133 (S.C.A.4) (Prop. 1A, approved by the voters at the November 2, 2004 election).



## I. INTRODUCTION

The Commission on State Mandates (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>1</sup>

On October 15, 2003, the Bureau of State Audits (BSA) issued an audit report on two mandated programs and the mandates process. The BSA issued one recommendation regarding the development of statewide cost estimates, stating:

To project more accurate statewide cost estimates, the Commission staff should more carefully analyze the completeness of the initial claims data they use to develop the estimates and adjust the estimates accordingly. Additionally, when reporting to the Legislature, the Commission should disclose the incomplete nature of the initial claims data it uses to develop the estimates.

After the Commission submits its second semiannual 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 The Legislative Analyst's report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.<sup>2</sup>

Immediately upon receipt of this report, a local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates approved by the Commission.<sup>3</sup> The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature changes the parameters and guidelines, it shall make a declaration in the local government claims bill specifying the basis for the amendment, modification, or supplement.<sup>4</sup> If the Legislature deletes funding for a mandate from a local government claims bill, the local agency or school district may file an action in declaratory relief in the Superior Court of the County of Sacramento to declare the mandate unenforceable and enjoin its enforcement.<sup>5</sup>

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 (SCO) shall include accrued interest at the Pooled Money Investment Account rate.<sup>6</sup>

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.<sup>7</sup> If the deficiency funds are not appropriated in the Budget Act, the SCO reports this information to the legislative budget

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<sup>1</sup> Government Code section 17600.

<sup>2</sup> Government Code section 17562, subdivision (c).

<sup>3</sup> Government Code section 17612, subdivision (a).

<sup>4</sup> Government Code section 17612, subdivision (b).

<sup>5</sup> Government Code section 17612, subdivision (c).

<sup>6</sup> Government Code section 17561.5, subdivision (a).

<sup>7</sup> Government Code section 17567.

committees and the Commission. The Commission will then include the deficiency in its report to the Legislature in order to ensure that it is included in the next claims bill.

On November 2, 2004, California voters approved Proposition 1A, which amended article XIII B, section 6 of the California Constitution. The amendment applies to a mandate only as it affects a city, county, city and county, or special district. Payable 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.

Table 1 below shows the statewide cost estimates that have been adopted during the period of October 1, 2004, through December 31, 2004.

**Table 1. Statewide Cost Estimates (SCE) Adopted  
During the Period of October 1, 2004 – December 31, 2004**

Date SCE Adopted <sup>8</sup>	Test Claim	Initial Period of Reimbursement (Fiscal years)	<i>Estimated Costs</i>		
			Education	Non- Education	Totals
12/09/04	<i>Administrative License Suspension – Per Se, 98-TC-16</i>	1997-1998 through 2004-2005		\$9,975,928	\$9,975,928
12/09/04	<i>Comprehensive School Safety Plans, 98-TC-01</i>	1997-1998 through 2004-2005	\$37,096,034		\$37,096,034
<b>TOTALS</b>			\$37,096,034	\$9,975,928	<b>\$47,071,962</b>

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<sup>8</sup> If payment for an initial reimbursement claim is made more than 365 days after adoption of the statewide cost estimate, the Controller shall include accrued interest at the Pooled Money Investment Account rate. (Gov. Code, § 17561.6, subd. (a).)

## **II. NEW MANDATES**



## ***Administrative License Suspension – Per Se (98-TC-16)***

Vehicle Code Sections 13202.3, 13353, 13353.1, 13353.2,  
14100, 23136, 23137, 23157, 23158.2, and 23158.5

Statutes 1989, Chapter 1460

Statutes 1990, Chapter 431

Statutes 1992, Chapter 1281

Statutes 1993, Chapters 899 and 1244

Statutes 1994, Chapter 938

Statutes 1997, Chapter 5

Test Claim Filed: June 11, 1999

Reimbursement Period: 1997-1998 through 2004-2005

Initial Reimbursement Claims Filed: May 31, 2004

Statewide Cost Estimate: \$9,975,928

Adopted: December 9, 2004

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### **Summary of the Mandate**

The *Administrative License Suspension* legislation became effective on July 1, 1990. Generally, the test claim legislation authorizes a peace officer, on behalf of the Department of Motor Vehicles (DMV), to immediately seize a valid California driver's license in the possession of a person arrested or detained for driving under the influence of alcohol (DUI), to immediately serve an order of suspension or revocation, and to issue a temporary driver's license to the driver.

The Commission adopted uniform allowances for this program pursuant to Government Code section 17557. The uniform time allowances cover the cost of the salaries and benefits of the employees performing the reimbursable activities. See Appendix A for the specific reimbursable activities.

### **Statewide Cost Estimate**

The statewide cost estimate is based on 1,161 unaudited, actual reimbursement claims filed by local agencies for fiscal years 1997-1998 through 2002-2003.

**Table 2. Estimated Total Costs per Fiscal Year**

Fiscal Year	Number of Claims Filed with SCO	Claim Totals
1997-1998	159	\$ 970,856
1998-1999	172	1,049,213
1999-2000	192	1,165,058
2000-2001	204	1,233,277
2001-2002	213	1,268,519
2002-2003	221	1,394,496
2003-2004 (est.)	N/A	1,426,569
2004-2005 (est.)	N/A	1,467,940
<b>TOTALS</b>		<b>\$ 9,975,928</b>

In adopting the estimate, the Commission made the following assumptions:

1. *The claiming data is inaccurate.* The 1,124 actual claims filed by local agencies for fiscal years 1997-1998 through 2002-2003 are unaudited and inaccurate.<sup>9</sup>
  - a. *A significant number of claims may be inflated.* In its comparison of the reimbursement claims and the DUI arrest reports submitted to the DOJ in fiscal years 2001-2002 and 2002-2003, DMV found that overall, those jurisdictions that filed claims reported an average of 25 to 29 percent more APS actions than total DUI arrests reported to DOJ. Although DMV noted that the two figures were not meant to perfectly correspond, they should not deviate by more than 10 percent. Thus, DMV concluded that a significant number of claims were inflated.
  - b. *Offsetting savings reimbursements, or grant monies, were not offset from the claims.* The parameters and guidelines specifically state: “Any offsetting savings 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 received 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.” Moreover, the Commission specifically identified sources of offsetting savings, including fees collected pursuant to Vehicle Code section 14905, and grant monies received by the state and passed through to local agencies (obtained by Public Law 100-690, which added United States Code, title 23, sections 408 and 410).
2. *The actual amount claimed will increase when late or amended claims are filed.* As noted by DMV, only about 35 percent of the state’s eligible claiming entities filed reimbursement claims for this program in fiscal years 2001-2002 and 2002-2003. The data submitted by DMV shows that those jurisdictions that reported a significant number of DUI arrests to DOJ, but have not filed reimbursement claims with the SCO, include the San Diego, Sacramento, Santa Ana, and San Jose Police Departments.
3. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

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<sup>9</sup> Claims data reported by the SCO as of July 16, 2004.

## ***Comprehensive School Safety Plans (98-TC-01, 99-TC-10)***

Former Education Code Sections 35294.1, 35294.2, 35294.6, and 35294.8

Statutes 1997, Chapter 736

Statutes 1999, Chapter 996

Amended and Re-numbered as Education Code Sections 32280, 32281, 32282, 32286, 32288  
by Statutes 2003, Chapter 828 (SB 719)

Test Claim Filed: July 10, 1998

Reimbursement Period: 1997-1998 through 2004-2005

Initial Reimbursement Claims Filed: November 25, 2003

Statewide Cost Estimate: \$37,096,034

Adopted: December 9, 2004

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

Statutes 1997, chapter 736 and Statutes 1999, chapter 996 enacted the *Comprehensive School Safety Plans* program that requires each school district and county office of education to develop and adopt comprehensive school safety plans that are relevant to the safety needs of each school.

The Commission adopted the Statement of Decision on August 23, 2001, and amended it on July 30, 2002. The Commission found that former Education Code sections 35294.1, 35294.2, 35294.6, and 35294.8 constitute a new program or higher level of service and impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.<sup>10</sup> See Appendix A for the specific reimbursable activities.

### **Statewide Cost Estimate**

The statewide cost estimate was developed using unaudited, actual reimbursement claims. Three hundred and eighty one (381) school districts and county offices of education claimed costs for at least one year during fiscal year 1997-1998 through 2002-2003. Four hundred and eighty (480) school districts with fewer than 2,501 units of average daily attendance did not file reimbursement claims. And, several large school districts did not file any claims.<sup>11</sup>

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<sup>10</sup> Statutes 2002, chapter 828 (SB 719) amended and re-numbered the test claim statutes to Education Code sections 32281, 32282, 32286, and 32288.

<sup>11</sup> Non-filing districts include the following: Oakland Unified School District, Elk Grove Unified School District, San Juan Unified School District, Capistrano Unified School District, Riverside Unified School District, Mt. Diablo Unified School District, Montebello Unified School District, Pomona Unified School District, Kern Union High School District, Lodi Unified School District, and Placentia-Yorba Linda Unified School District.

**Table 3. Estimated Total Costs per Fiscal Year**

Fiscal Year	Number of Claims Filed with SCO	Claim Totals
1997-1998	206	\$ 4,895,498
1998-1999	214	3,394,994
1999-2000	213	3,614,110
2000-2001	254	4,475,053
2001-2002	260	5,446,790
2002-2003	293	4,964,643
2003-2004 (est.)	N/A	5,078,830
2004-2005 (est.)	N/A	5,226,116
<b>TOTAL</b>		<b>\$37,096,034</b>

In adopting the estimate, the Commission made the following assumptions:

1. Some school districts may not have filed claims or not claimed costs for one-time activities because the district or its schools had pre-existing compliant plans and did not have to develop new comprehensive school safety plans.
2. Small school districts may not have claimed costs for one-time activities because they were exempt from writing and developing a comprehensive school safety plan for *each* school site if there was a *district wide* plan that was applied to each school site.
3. School districts that did not incur increased costs of at least \$1,000 per fiscal year did not file reimbursement claims.
4. The actual amount claimed could increase if late or amended claims are filed, and could exceed the statewide cost estimate. Late claims for the initial reimbursement period (January 1, 1998 through June 30, 2003) may be filed until November 25, 2004.
5. The number of claims and the amount claimed will continue to increase each fiscal year because several large school districts have not filed reimbursement claims.
6. Costs for one-time activities will continue to be claimed for development and adoption of school safety plans for new schools if districts do not receive new school planning grants.
7. School districts receiving Department of Education grants for specific school sites did not claim costs for those sites unless their reimbursable costs exceeded the amount of the grant.
8. School districts receiving Department of Education grants for specific school sites in 2003-2004 and 2004-2005 will not claim costs for those sites through mandate reimbursement claims unless costs exceed the amount of the grant.
9. A field review by the SCO will be necessary to determine (1) if appropriate amounts were claimed because there is a wide variation in costs claimed based on the number of schools in a given fiscal year; (2) if some reimbursement claims prematurely included costs for the *Emergency Procedures* or *School Accountability Report Cards* program.
10. Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

### **III. Pending Statewide Cost Estimates**

### III. PENDING STATEWIDE COST ESTIMATES

**Table 4. Pending Statewide Cost Estimates,  
Local Agencies and School Districts**

Local Agencies	School Districts
<i>Domestic Violence Arrests and Victim Assistance, 98-TC-14*</i>	<i>Behavioral Intervention Plans, 4464*</i>
<i>Crime Victims' Domestic Violence Incident Reports, 99-TC-08*</i>	<i>Pupil Promotion and Retention, 98-TC-19</i>
<i>Postmortem Exams: Unidentified Bodies, Human Remains, 00-TC-18</i>	<i>Stull Act, 98-TC-25<sup>?</sup></i>
<i>Peace Officer Personnel Records: Unfounded Complaints and Discovery, 00-TC-24 and 00-TC-25*</i>	<i>Differential Pay &amp; Reemployment, 99-TC-02</i>
<i>False Reports of Police Misconduct, 00-TC-26*</i>	<i>AIDS Prevention and Instruction II, 99-TC-07</i>
<i>DNA Database, 00-TC-27* and Amendment to Post Mortem Exams: Unidentified Bodies, 02-TC-39*</i>	<i>Enrollment Fee Collection, 99-TC-13* and Enrollment Fee Waivers, 00-TC-15*</i>
	<i>Teacher Incentive Program, 99-TC-15</i>
	<i>High School Exit Exam, 00-TC-06*</i>
	<i>Integrated Waste Management, 00-TC-07*</i>

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<sup>?</sup> Currently in the parameters and guidelines phase.

# **APPENDIX**

## **New Mandates: Reimbursable Activities Detail**

## STATEWIDE COST ESTIMATE

Vehicle Code Sections 13202.3, 13353, 13353.1, 13353.2, 14100, 23136, 23137<sup>12</sup>, 23157<sup>13</sup>, 23158.2<sup>14</sup>, and 23158.5<sup>15</sup>

Statutes 1989, Chapter 1460  
Statutes 1990, Chapter 431  
Statutes 1992, Chapter 1281  
Statutes 1993, Chapters 899 and 1244  
Statutes 1994, Chapter 938  
Statutes 1997, Chapter 5

### *Administrative License Suspension – Per Se (98-TC-16)*

City of Newport Beach, Claimant

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#### Summary of the Mandate

The *Administrative License Suspension* legislation became effective on July 1, 1990. Generally, the test claim legislation authorizes a peace officer, on behalf of the Department of Motor Vehicles (DMV), to immediately seize a valid California driver's license in the possession of a person arrested or detained for driving under the influence of alcohol (DUI), to immediately serve an order of suspension or revocation, and to issue a temporary driver's license to the driver.

The claimant filed the test claim on June 11, 1999. The Commission adopted the Statement of Decision on August 29, 2002, and the parameters and guidelines on December 2, 2003. The parameters and guidelines include uniform time allowances and cover the cost of salaries and benefits of employees performing the reimbursable activities. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by May 31, 2004.

#### Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

- A. Minors (under the age of 21) that Are *Detained But Not Ultimately Arrested* for Violation of a DUI Statute (Blood Alcohol Level of 0.01 Percent or Greater (Veh. Code, § 23136).)

*Claimants are not eligible for reimbursement for these activities if the driver under the age of 21 is arrested for violation of a DUI statute.*

1. Admonishing those drivers, detained under Vehicle Code section 23136 and *not ultimately arrested* for having a concentration of alcohol in their blood in violation of

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<sup>12</sup> Renumbered to 13388 (Stats. 1998, ch. 118).

<sup>13</sup> Renumbered to 23612 (Stats. 1999, ch. 22).

<sup>14</sup> Renumbered to 13380 (Stats. 1998, ch. 118).

<sup>15</sup> Renumbered to 13382 (Stats. 1998, ch. 118).

a DUI statute, that the failure to submit to, or the failure to complete, a preliminary alcohol screening test or other chemical test as requested will result in the suspension or revocation of the driver's license. (Veh. Code, § 23136.)

2. Requesting and administering the alcohol screening test on minors that are detained pursuant to Vehicle Code sections 23136 and 23137 and are *not ultimately arrested* for having a concentration of alcohol in their blood in violation of a DUI statute. (Veh. Code, §§ 23136 and 23137.)
3. Taking possession of any driver's license issued by the state and serving the notice of order of suspension or revocation on the detained minor if the driver refuses or fails to complete the chemical test, or has been found to have a concentration of alcohol in the blood in violation of Vehicle Code section 23136. This activity includes providing the non-English notice, when appropriate, and issuing the temporary driver's license endorsed on the back of the notice. (Veh. Code, §§ 13353, 13353.1, 13353.2, 14100, 23137, 23157, and 23158.5.)
4. Completing a sworn report for those minors detained under Vehicle Code section 23136. (Veh. Code, § 23158.2.)
5. Submitting a copy of the completed notice of order of suspension, driver's license, and sworn report to the DMV. (Veh. Code, §§ 23137, 23157, 23158.2, and 23158.5.)

**B. All Drivers (Adults and Minors) that Are Arrested for Violation of a DUI Statute (Blood Alcohol Level of 0.08 Percent or Greater for Adults (Veh. Code, §§ 23152 and 23153) and Blood Alcohol Level of 0.05 Percent or Greater for Minors (Veh. Code § 23140).)**

1. Taking possession of any driver's license issued by the state and serving the notice of order of suspension or revocation on the driver if the driver refuses or fails to complete the chemical test, or has been found to have a concentration of alcohol in the blood in violation of Vehicle Code sections 23140, 23152 and 23153. This activity includes providing the non-English notice, when appropriate, and issuing the temporary driver's license endorsed on the back of the notice. (Veh. Code, §§ 13353, 13353.1, 13353.2, 14100, 23137, 23157, and 23158.5.)
2. Completing a sworn report for those drivers that are arrested with a blood alcohol concentration higher than the legal limits. (Veh. Code, § 23158.2.)
3. Submitting a copy of the completed notice of order of suspension, driver's license, and sworn report to the DMV. (Veh. Code, §§ 23137, 23157, 23158.2, and 23158.5.)

**C. Drivers Arrested for a Specified Controlled Substance Offense**

1. Informing a person arrested for a specified controlled substance offense of the driver's license sanctions of suspension or delay of driving privileges either orally or in writing. If the information is provided orally, indicating on the arrest report or on the notice to appear the time and date that the information was provided. If the information is provided in written form, attaching the written form to the arrest report or notice to

appear. Preparing the arrest report and/or the notice to appear is not reimbursable. (Veh. Code, § 13202.3, subd. (e).) (*Reimbursement period: July 1, 1997 – June 30, 1999.*)<sup>16</sup>

### **Uniform Time Allowances**

The Commission adopted uniform allowances for this program pursuant to Government Code section 17557. The uniform time allowances cover the cost of the salaries and benefits of the employees performing the reimbursable activities. For purposes of the following calculations, productive hours means: “Time spent performing any kind of mental or physical work. Paid leave is not included.”

1. Minors (under the age of 21) that Are Detained But Not Ultimately Arrested for Violation of a DUI Statute (Blood Alcohol Level of 0.01 Percent or Greater (Veh. Code, § 23136).)
  - a. For activities IV. A. 1. and IV. A. 2., multiply as follows:  
*(the number of cases) x (0.2667 hours<sup>17</sup>) x (the productive hourly rate [total wages and related benefits divided by productive hours] for employees performing the reimbursable activities).*
  - b. For activities IV. A. 3. through IV. A. 5., multiply as follows:  
*(the number of cases) x (0.2500 hours) x (the productive hourly rate [total wages and related benefits divided by productive hours] for employees performing the reimbursable activities).*
2. All Drivers (Adults and Minors) that Are Arrested for Violation of a DUI Statute (Blood Alcohol Level of 0.08 Percent or Greater for Adults (Veh. Code, §§ 23152 and 23153) and Blood Alcohol Level of 0.05 Percent or Greater for Minors (Veh. Code § 23140).)
  - a. For activities IV. B. 1. through IV. B. 3., multiply as follows:  
*(the number of cases) x (0.2500 hours) x (the productive hourly rate [total wages and related benefits divided by productive hours] for employees performing the reimbursable activities).*
3. Drivers Arrested for a Specified Controlled Substance Offense
  - a. For activity IV. C. 1., multiply as follows:  
*(the number of cases) x (0.0083 hours) x (the productive hourly rate [total wages and related benefits divided by productive hours] for employees performing the reimbursable activity).*

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. A draft staff analysis and proposed statewide cost estimate of over \$9.9 million was issued on August 9, 2004. DMV submitted comments dated August 19, 2004, stating that its Research and Development Branch completed a comparison of total cases claimed by each local agency to the

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<sup>16</sup> This activity was added by the Legislature by Statutes 1997, chapter 5 and became effective on April 15, 1997. Vehicle Code section 13202.3 became inoperative on June 30, 1999, and was repealed on January 1, 2000.

<sup>17</sup> Equivalent to 16 minutes.

total number of DUI arrests the agencies filed with the Department of Justice (DOJ) for activities completed in fiscal years 2001-2002 and 2002-2003. The Department of Finance (DOF) submitted comments dated August 23, 2004, suggesting that the proposed statewide cost estimate be reduced by 25 percent based on what DMV's comparison revealed. The claimant also submitted comments, dated September 10, 2004, supporting the draft statewide cost estimate.

Based on the comments received, staff requested additional information from the DMV in a letter dated September 10, 2004. Specifically, staff requested:

- ?? copies of the reports or documents that the comparison was based on;
- ?? a breakdown by jurisdiction of those agencies that submitted reports to DOJ in fiscal years 2001-2002 and 2002-2003; and
- ?? DMV's statewide totals for detained versus arrested zero tolerance actions, and the total number of claimable adult administrative per se (APS) actions for fiscal years 1997-1998 through 2002-2003.

DMV provided the requested information on September 27, 2004. Therefore, based on the additional information received, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

#### Assumptions

Staff made the following assumptions:

4. *The claiming data is inaccurate.* The 1,124 actual claims filed by local agencies for fiscal years 1997-1998 through 2002-2003 are unaudited and inaccurate.<sup>18</sup>
  - a. *A significant number of claims may be inflated.* In its comparison of the reimbursement claims and the DUI arrest reports submitted to the DOJ in fiscal years 2001-2002 and 2002-2003, DMV found that overall, those jurisdictions that filed claims reported an average of 25 to 29 percent more APS actions than total DUI arrests reported to DOJ. Although DMV noted that the two figures were not meant to perfectly correspond, they should not deviate by more than 10 percent. Thus, DMV concluded that a significant number of claims were inflated.

Based on what DMV's comparison revealed, DOF suggested in a letter dated August 23, 2004, that the proposed statewide cost estimate of approximately \$10 million be reduced by 25 percent.

- b. *Offsetting savings reimbursements, or grant monies, were not offset from the claims.* The parameters and guidelines specifically state: "Any offsetting savings 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 received 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." Moreover, the Commission specifically identified sources of offsetting savings, including fees collected pursuant to Vehicle Code section 14905, and

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<sup>18</sup> Claims data reported by the SCO as of July 16, 2004.

grant monies received by the state and passed through to local agencies (obtained by Public Law 100-690, which added United States Code, title 23, sections 408 and 410).

In a response to staff's request for additional information during the development of the parameters and guidelines, DMV submitted on April 30, 2002, a list provided by the Office of Traffic Safety of section 410 grant contracts issued to local law enforcement agencies for DUI-related projects between July 1997 and June 2002. Below are examples of three funded projects:

?? Newport Beach Police Department, *Targeted Collision Reduction Program.*  
Received a total of \$175,710 for the period December 1, 2000, to December 31, 2002. This program established a dedicated DUI Enforcement Team composed of an existing motor officer paired with a grant-funded motor officer to reduce primary collision factors in Newport Beach – DUI and speeding violations.

?? City of Irvine, *DUI/Speed Enforcement and Education 2000 Project.*  
Received a total of \$200,303 for the period October 1, 1998, to December 31, 2001. This program specifically targeted drunk drivers prior to involvement in a traffic collision to reduce alcohol-related traffic collisions. A team of two officers (one grant funded, one donated) patrolled high activity streets where alcohol-related traffic collisions occurred.

?? City of Huntington Beach, *Minor Offender-Zero Tolerance.*  
Received a total of \$93,809 for the period October 1, 1998, to December 31, 1999. The purpose of this program was to increase enforcement of the zero tolerance laws and to initiate specific enforcement teams targeting minor drivers. To accomplish this goal, the Huntington Beach Police Department purchased, among other things, preliminary alcohol screening (PAS) devices for use by traffic and patrol personnel.

In a letter dated September 10, 2004, the claimant responded to the draft statewide cost estimate, arguing that

The purpose of the [*Targeted Collision Reduction Program*] grant was to reduce primary collision factors, and was not created to for the purpose of defraying the City's role in acting on behalf of the [DMV] in the *Admin Per Se* program. [¶] For grant funds to be able to be offset against the reimbursable costs of this program, the grant funds must cover those activities which were deemed reimbursable in the test claim and parameters and guidelines.

Staff notes that the creation of DUI checkpoints and enforcement programs like those described above may result in the performance of administrative license suspensions by grant-funded officers, which should be offset against the amount of reimbursement claimed under this mandate. However, few of the claims filed by local agencies showed deductions of offsetting savings reimbursements, or grant monies, from their claims. Thus, there may be a significant difference between reimbursable costs and costs claimed. A field review by the SCO may be necessary to determine the amount, if any, that can be offset from the cost of this program.

5. *The actual amount claimed will increase when late or amended claims are filed.* As noted by DMV, only about 35 percent of the state's eligible claiming entities filed reimbursement claims for this program in fiscal years 2001-2002 and 2002-2003. The data submitted by

DMV shows that those jurisdictions that reported a significant number of DUI arrests to DOJ, but have not filed reimbursement claims with the SCO, include the San Diego, Sacramento, Santa Ana, and San Jose Police Departments. Late claims may be filed for this program until May 2005.

6. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

*Costs for Fiscal Years 1997-1998 through 2002-2003*

The proposed statewide cost estimate for fiscal years 1997-1998 through 2002-2003 is based on 1,124 unaudited, actual reimbursement claims.

As the entity responsible for administering this program, DMV makes valid arguments. Based on those arguments, DOF proposes that the proposed statewide cost estimate be reduced by 25 percent. While staff acknowledges DMV’s concerns regarding the significant number of claims that may be inflated, closer review of the DMV data revealed that DOF’s recommendation is unreasonable because there is insufficient evidence to support the reduction of the proposed estimate. Therefore, staff did not reduce the estimate.

The following table was included in DMV’s comments dated September 27, 2004. On October 6, 2004, a DMV representative clarified that 44 percent of total APS actions were for CHP arrests, which are not reimbursable under this mandate. Thus, it was subtracted from the total to derive the estimated claimable APS actions for activity groups A and B.:

**Table 1. DMV’s Estimated Claimable APS Actions by Fiscal Year**

APS Claim Category	Fiscal Year					
	97/98	98/99	99/00	00/01	01/02	02/03
Zero tolerance offenders detained (APS action in activity group A)	926	3,133	3,394	3,595	3,666	3,933
Adult APS actions (APS actions in activity group B)	184,788	191,469	187,326	180,384	178,516	172,456
Total APS actions initiated	185,714	194,602	190,720	183,979	182,182	176,389
CHP Arrests (approximately 44% of total APS actions initiated)	81,714	85,625	83,917	80,951	80,160	77,611
<i>Claimable APS actions for activity groups A and B</i>	104,000	108,977	106,803	103,028	102,022	98,778

As discussed previously, staff assumes that a number of the claims may be inflated and grant monies were not offset from the claims. At the same time, however, only about 35 percent of the state’s eligible claiming entities filed reimbursement claims for this program in fiscal years 2001-2002 and 2002-2003. There are at least four large jurisdictions that reported a significant number of DUI arrests to DOJ that have not filed reimbursement claims. Table 1 above estimates that in fiscal years 2001-2002 and 2002-2003, a total of 102,022 and 98,778 APS actions are claimable for activity groups A and B, respectively. Actual claimed arrests, as stated

by DMV, are only 80,632 in 2001-2002, and 82,713 in 2002-2003. While these APS actions reported by 35 percent of the eligible claimants may be inaccurate, there is the potential for more claims to be filed. In the event that late claims are filed, they will be reduced by 10 percent, but it is still likely that the cost of the program may be more than the estimate presented here.

*Costs for Fiscal Years 2003-2004 and 2004-2005*

Staff projected totals for fiscal year 2003-2004 by multiplying the total on 2002-2003 reimbursement claims by the implicit price deflator for 2002-2003 (2.3%), as forecast by DOF. Staff projected totals for fiscal year 2004-2005 by multiplying the 2003-2004 projection by the implicit price deflator for 2003-2004 (2.9%).

The proposed statewide cost estimate includes eight fiscal years for a total of **\$9,975,928**. This averages to \$1,246,991 annually in costs to the state.

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

**1. Table 2. Estimated Total Costs per Fiscal Year**

Fiscal Year	2. Number of Claims Filed with SCO	Claim Totals
1997-1998	159	\$ 970,856
1998-1999	172	1,049,213
1999-2000	192	1,165,058
2000-2001	204	1,233,277
2001-2002	213	1,268,519
2002-2003	221	1,394,496
2003-2004 (est.)	N/A	1,426,569
2004-2005 (est.)	N/A	1,467,940
<b>3. TOTALS</b>	<b>1,161</b>	<b>\$ 9,975,928</b>

## STATEWIDE COST ESTIMATE

Former Education Code Sections 35294.1, 35294.2, 35294.6, and 35294.8

Statutes 1997, Chapter 736

Statutes 1999, Chapter 996

Amended and Re-numbered as Education Code Sections 32280, 32281, 32282, 32286, 32288

by Statutes 2003, Chapter 828 (SB 719)

*Comprehensive School Safety Plans, 98-TC-01, 99-TC10*

Kern High School District, Claimant

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### Background and Summary of the Mandate

Statutes 1997, chapter 736 and Statutes 1999, chapter 996 enacted the *Comprehensive School Safety Plans* program that requires each school district and county office of education to develop and adopt comprehensive school safety plans that are relevant to the safety needs of each school.

The claimant filed the test claim on July 10, 1998. The Commission adopted the Statement of Decision on August 23, 2001, and amended it on July 30, 2002. The Commission found that former Education Code sections 35294.1, 35294.2, 35294.6, and 35294.8 constitute a new program or higher level of service and impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.<sup>19</sup>

### Parameters and Guidelines

#### *Reimbursable Activities*

The Commission approved the following reimbursable activities for this program:

#### A. One-Time Activities

##### 1. Review Existing Plan

Review the safety plan in existence on December 31, 1997, to determine if it satisfies the requirements of [former] Education Code section 35294.9.

##### 2. Comprehensive School Safety Plans

Schools satisfying [former] Education Code sections 35294.1, subdivision (d) (small school district if it develops a district-wide plan applicable to each school site) and/or

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<sup>19</sup> Statutes 2002, chapter 828 (SB 719) amended and re-numbered the test claim statutes to Education Code sections 32281, 32282, 32286, and 32288.

[former] section 35294.9 (schools with pre-existing compliant plans) are exempt from activities 2. a-g. Schools that are exempt may not seek reimbursement for these activities.

- a. Write and develop a comprehensive school safety plan relevant to the needs and resources of each school site ([former] Ed. Code, §35294.1, subd. (a) & (b)).
- b. Consult in writing with a law enforcement agency when writing and developing the plan ([former] Ed. Code, § 34294.1, subd. (b)(3)).
- c. Consult, cooperate and coordinate with other school sites, if practical, in developing a school safety plan ([former] Ed. Code, § 35294.2, subd. (d)).
- d. Assess the current status of school crime committed on school campuses and at school-related functions ([former] Ed. Code, §35294.2, subd. (a)(1)).
- e. Identify appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety ([former] Ed. Code, §35294.2, subd (a)(2)). Any activities already reimbursed under *School Crimes Report II (97-TC-03)*, shall not be reimbursed under *Comprehensive School Safety Plans*.
- f. Develop and include procedures in the school safety plan for:
  - ?? Child abuse reporting procedures consistent with Article 2.5 (commencing with section 11164) of Title 1 of Part 4 of the Penal Code.
  - ?? Routine and emergency disaster procedures, but only to the extent that these costs are not claimed under *Emergency Procedures, Earthquake Procedures, and Disasters* (Statutes 1985, chapter 1659).
  - ?? Policies pursuant to subdivision (d) of section 48915 (listing particular circumstances for expulsion) for pupils who have committed a listed act and other school-designated serious acts which could lead to suspension, expulsion, or mandatory expulsion recommendations, pursuant to Article 1 (commencing with section 48900) of Chapter 6 of Part 27, but only to the extent that these costs have not been claimed under *Suspensions, Expulsions, and Expulsion Appeals* (Statutes 1975, chapter 1253).
  - ?? The definition of "gang-related apparel" if a school has adopted a dress code. The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment.
  - ?? Procedures for safe ingress and egress of pupils, parents and school employees to and from school.
  - ?? Procedures for a safe and orderly environment conducive to learning at the school.
- g. Integrate existing policies and procedures on sexual harassment, emergency disasters, dress code, notification to teachers of dangerous pupils, and school discipline into the school safety plan.  
([former] Ed. Code, §35294.2, subd. (a)(2).)

### 3. Adoption of the Initial Plan

- a. Before adopting its comprehensive school safety plan, the schoolsite council or school safety planning committee holding a public meeting at the school site to allow members of the public the opportunity to express an opinion about the school safety plan ([former] Ed. Code, §35294.8, subd. (b)). Any activities already reimbursed under the *Open Meetings Act* (Statutes 1986, chapter 641) shall not be reimbursed under the *Comprehensive School Safety Plans*.
- b. Adoption by the school of a comprehensive school safety plan by March 1, 2000 ([former] Ed. Code, §35294.6, subd. (a)).
- c. In order to ensure compliance with this article, submission by each school of its comprehensive school safety plan to the school district or county office of education for approval ([former] Ed. Code, §§35294.2, subd. (f) and 35294.8, subd. (a)).

### B. Ongoing Activities

#### 1. Update the Plan

- a. No less than once per year, evaluate and amend, as needed, the comprehensive school safety plan by the school safety planning committee to ensure the plan is properly implemented ([former] Ed. Code, §35294.2, subd. (e)).
- b. On or before March 1 of each year, review and update of the plan ([former] Ed. Code, §35294.6, subd. (a)).
- d. Consult, cooperate and coordinate with other school sites, *if practical*, in updating the safety plan ([former] Ed. Code, §35294.2, subd. (d)).
- e. Commencing in July 2000, and on or before July 1 of each year, each school shall include the status of their safety plan, including a description of its key elements, in the annual school accountability report card (Ed. Code, §35294.6, subd. (b)). Any activities already reimbursed under the *School Accountability Report Cards* program (Statutes 1989, chapter 1463) shall not be reimbursed under *Comprehensive School Safety Plans*.
- f. Submit the updated plan to the school district or county office of education ([former] Ed. Code, §35294.2, subd. (f) and §35294.8, subd. (c)).
- g. On or before October 15 of each year school districts and county offices of education shall report to the State Department of Education any schools that have not complied with the requirement to write and develop a safety plan ([former] Ed. Code, §35294.8, subd. (c)).
- h. Each school district shall make available an updated file of all safety-related plans and materials for public inspection ([former] Ed. Code, §35294.2, subd. (e)).

### **Offsetting Savings**

In fiscal years 2000-2001 and 2001-2002, the California Department of Education (CDE) administered the *Safe School Plans for New Schools Grant Program*. New schools received one-time grants to develop and implement school safety plans. The parameters and guidelines recognize this grant program in section VII. Offsetting Savings and Reimbursements:

Any offsetting savings 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. Any grants received under the Safe School Plans for New Schools Grant Program shall be identified and deducted from this claim.

School districts receiving grant funds were instructed to identify and deduct them from costs claimed on their reimbursement claims.

Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by November 25, 2003.

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by claimants and compiled by the SCO. Three hundred and eighty one (381) school districts and county offices of education claimed costs for at least one year during FY 1997-1998 through 2002-2003.<sup>20</sup> Four hundred and eighty (480) school districts with fewer than 2501 units of average daily attendance did not file reimbursement claims. And, several large school districts did not file any claims.<sup>21</sup>

Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program.

#### *Assumptions*

- ?? Some school districts may not have filed claims or not claimed costs for one-time activities because the district or its schools had pre-existing compliant plans and did not have to develop new comprehensive school safety plans.
- ?? Small school districts may not have claimed costs for one-time activities because they were exempt from writing and developing a comprehensive school safety plan for *each* school site if there was a *district wide* plan that was applied to each school site.
- ?? School districts that did not incur increased costs of at least \$1,000 per fiscal year did not file reimbursement claims.
- ?? The actual amount claimed could increase if late or amended claims are filed, and could exceed the statewide cost estimate. Late claims for the initial reimbursement period (January 1, 1998 through June 30, 2003) may be filed until November 25, 2004.
- ?? The number of claims and the amount claimed will continue to increase each fiscal year because several large school districts have not filed reimbursement claims.

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<sup>20</sup> Claims data reported by the SCO as of August 9, 2004.

<sup>21</sup> Non-filing districts include the following: Oakland Unified School District, Elk Grove Unified School District, San Juan Unified School District, Capistrano Unified School District, Riverside Unified School District, Mt. Diablo Unified School District, Montebello Unified School District, Pomona Unified School District, Kern Union High School District, Lodi Unified School District, and Placentia-Yorba Linda Unified School District.

- ?? Costs for one-time activities will continue to be claimed for development and adoption of school safety plans for new schools if districts do not receive new school planning grants.
- ?? School districts receiving Department of Education grants for specific school sites did not claim costs for those sites unless their reimbursable costs exceeded the amount of the grant.
- ?? School districts receiving Department of Education grants for specific school sites in 2003-2004 and 2004-2005 will not claim costs for those sites through mandate reimbursement claims unless costs exceed the amount of the grant.
- ?? A field review by the SCO will be necessary to determine (1) if appropriate amounts were claimed because there is a wide variation in costs claimed based on the number of schools in a given fiscal year; (2) if some reimbursement claims prematurely included costs for the *Emergency Procedures* or *School Accountability Report Cards* program.
- ?? Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

### *Methodology*

The statewide cost estimate is based on 1552 actual unaudited reimbursement claims filed by 381 claimants. Staff requested additional information from the Department of Education, State Controller, and claimants to assist in its evaluation of the claiming data.

### Department of Education

The test claim statute requires schools to adopt a comprehensive school safety plan by March 1, 2000 and requires school districts to report to the CDE any schools that have not complied with the requirement to write and develop a safety plan.

The Department of Education (CDE) was asked to provide school district level information on the number of schools that have not complied with the requirement to write and develop a safety plan. CDE did not respond to this request but informed Commission staff, "If a district were to discover non-compliance, they would tell the school to create the plan rather than notifying us that CDE needs to fine them."

Staff also requested assistance in determining what adjustments, if any, should be made for offsetting savings and reimbursements that were not deducted from claimed amounts. For example, in FY 2000-2001 and FY 2001-2002, the California Department of Education (CDE) administered a grant program to provide funding to new schools to develop and implement school safety plans. Six million dollars was given to schools during this two-year period. Since the grant monies were intended to cover the cost of developing and implementing the safety plans, school districts that filed reimbursement claims and received grant monies should have identified and deducted offsets from the amounts claimed if the amount claimed included costs for schools that received grants. None of the claims reflected offsets.

A comparison of the list of grantees and claimants disclosed that many districts that received grants did not file reimbursement claims for these fiscal years. However, for FY 2000-2001, 26 school districts filed reimbursement claims, received grant monies earmarked for specific

schools, and did not claim offsets.<sup>22</sup> Likewise, for FY 2001-2002, 25 school districts did the same. Although the parameters and guidelines identify these grant funds as offsets from the costs claimed, if districts did not claim reimbursement for the costs incurred by the grantee schools, then no offset would be necessary. There is no evidence on which staff can justify any offsets to the claimed amounts. Therefore, no adjustments are being made to the totals for these fiscal years.

State Controller’s Report on Costs of One-Time Activities v. Ongoing Activities

From the summary data it was unclear how individual school districts were implementing the mandate and claiming costs. Therefore, staff requested additional detail of actual claiming data from the SCO to review how costs for one-time activities and ongoing activities were being claimed.

In response to staff’s request, the State Controller’s Office provided detailed claims data that included the actual amount claimed for one-time and ongoing activities. Table 1 presents an overview of this detailed claims data. One-time activities include review of the existing safety plan, costs to prepare comprehensive school safety plans for each school site, and adoption of the plan by each school site. Ongoing activities include updating the plan,

TABLE 1.  
Total Amount Claimed v Amount Claimed For One-Time Activities  
FY 1997-98 Through 2002-03

Fiscal Year	Number of Claimants	Total Amount Claimed	Number of Claims For One-Time Activities	Amount Claimed for One-Time Activities	One-Time Activities as Percent of Total Amount Claimed
1997-98	206	\$4,895,498	202	\$4,529,082	92.5%
1998-99	214	3,394,994	141	653,458	19.3%
1999-00	213	3,614,110	130	573,188	16.0%
2000-01	254	4,475,053	140	3,455,658	77.2%
2001-02	260	5,446,790	134	1,330,826	24.4%
2002-03	293	4,964,643	120	370,153	7.5%

The number of school districts filing reimbursement claims increased each fiscal year; the number of school districts claiming one-time costs declined each fiscal year; and the total amount claimed for ongoing costs to update plans continued to increase after 2000-01.

<sup>22</sup> California Department of Education List of Grantees, 2000-01 and 2001-02

### 2003-2004 Projected Costs

For 2003-2004, the Commission consolidated the parameters and guidelines for the *Comprehensive School Safety Plans* program with *Emergency Procedures, Earthquake Procedures and Disasters Programs* (01-PGA-01). Claimants are filing consolidated claims beginning in FY 2003-2004 for both programs. Therefore, staff estimates costs for FY 2003-2004 by multiplying the FY 2002-2003 claim total filed by claimants with the SCO by the implicit price deflator for 2002-2003 (2.3%), as forecast by the Department of Finance.

### 2004-2005 Projected Costs

For current year, \$1 million was appropriated for new schools to develop school safety plans pursuant to chapter 996, Statutes 1999 for allocation through an application process as determined by the Department of Education. The allocation of these grants will reduce the amount claimed for one-time costs in budget year. However, this will be reflected by lower costs claimed, or fewer claims being filed for one-time costs.

On August 18, 2004, CDE notified school districts of an apportionment for the *Carl Washington School Safety and Violence Prevention Act Program, Grades Eight Through Twelve, Fiscal Year 2004-2005*. The apportionment of \$80.98 million included amounts deferred from FY 2003-2004. The *School Safety and Violence Prevention Act* is a statewide program to be administered by the Superintendent.

These funds are allocated to school districts on the basis of enrollment of pupils in grades 8-12, inclusive, and may be used for any one or more of the following purposes:

1. Providing schools with personnel, including, but not limited to licensed or certificated school counselors, school social workers, school nurses, and school psychologists, who are trained in conflict resolution. Any law enforcement personnel hired pursuant to this article shall be trained and sworn peace officers.
2. Providing effective and accessible on-campus communication devices and other school safety infrastructure needs.
3. Establishing an in-service training program for school staff to learn to identify at-risk pupils, to communicate effectively with those pupils, and to refer those pupils to appropriate counseling.
4. Establishing cooperative arrangements with local law enforcement agencies for appropriate school-community relationships.
5. For any other purpose that the school or school district determines that would materially contribute to meeting the goals and objectives of current law in providing for safe schools and preventing violence among pupils.<sup>23</sup>

There is no requirement for school districts to use block grant funds for the costs of the *Comprehensive School Safety Plans* program. However, block grant funds may be used “for any other purpose that the school or school district determines would materially contribute to meeting the goals and objectives of current law in providing for safe schools and preventing violence among pupils.” Thus, if schools or school districts serving pupils in grades 8-12 determine that annually updating *comprehensive school safety plans* would materially contribute to meeting the goals and

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<sup>23</sup> Education Code section 32228.1, subdivision (b).

objectives of current law in providing for safe schools and preventing violence among pupils, they may expend block grant funds for the costs of the *Comprehensive School Safety Plans* mandate.

Although the availability of the block grant funds in FY 2004-2005 may reduce the number of claims filed and the costs claimed by districts serving pupils in grades 8-12, there is no evidence in the record to assist staff in recommending a reduction. Without specific language In Education Code section 32228.1, subdivision (b) that specifies that the block grant funds should first be used to implement the requirements of Education Code sections 32280, 32281, 32282, 32286, and 32288, school districts are not required to use these block grant funds for the comprehensive school safety plans mandate.

Even if school districts were required to expend *School Safety and Violence Prevention Act* grants for the *Comprehensive School Safety Plans* mandate, costs would still be claimed by unified school districts and elementary school districts for school sites that serve pupils in kindergarten through grade 7.

Therefore staff did not make any reductions and projected totals for FY 2004-2005 by multiplying the 2003-2004 estimates by the implicit price deflator for 2003-2004 (2.9%).

The statewide cost estimate includes eight fiscal years for a total of \$37,096,034. This averages to \$4,262,004 annually in costs for the state. The amount of this statewide cost estimate will be reported to the Legislature.

Following is a breakdown of total claimed and estimated costs by fiscal year.

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Claim Totals</b>
1997-1998	206	\$ 4,895,498
1998-1999	214	3,394,994
1999-2000	213	3,614,110
2000-2001	254	4,475,053
2001-2002	260	5,446,790
2002-2003	293	4,964,643
2003-2004 (est.)	N/A	5,078,830
2004-2005 (est.)	N/A	5,226,116
	Subtotal	\$37,096,034
	<b>TOTAL</b>	<b>\$37,096,034</b>