Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 1 Agenda

Senator Marty Block, Chair
Senator Benjamin Allen
Senator Mike Morrell

Thursday, March 19, 2015
9:30 a.m. or Upon Adjournment of Session
Room 3191, State Capitol

Consultants: Elisa Wynne and Anita Lee

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-651-1505. Requests should be made one week in advance whenever possible.

6110 DEPARTMENT OF EDUCATION

Item 1: Local Control Funding Formula – Funding Implementation

Description

In the 2013-14 budget, the Governor and the Legislature enacted the Local Control Funding Formula (LCFF), which provides funding for local educational agencies (LEAs) (school districts, charter schools, and county offices of education) using a formula that provides per pupil amounts plus additional supplemental and concentration grant funds based on the enrollment of "unduplicated" (low-income, English learner, and foster youth) students. LEAs are transitioning to this new funding model, with full implementation of the formula anticipated to be in 2020-21.

The Governor's 2015-16 budget proposal includes approximately $4 billion in additional, ongoing Proposition 98 funding to continue transitioning LEAs towards full implementation of the LCFF.

Panel

- **Carolyn Chu, Legislative Analyst's Office**
- **Ian Johnson, Department of Finance**
- **Aaron Heredia, Department of Finance**
- **Monique Ramos, Department of Education**

Background

Local Control Funding Formula. As part of the 2013-14 budget, the state enacted the LCFF, which significantly reformed the system for allocating resources to LEAs. Specifically, the new LCFF replaces the state's prior system of distributing funds to LEAs through revenue limit apportionments (based on per student average daily attendance) and approximately 50 state categorical education programs. The LCFF combines the prior funding from revenue limits and more than 30 categorical programs that were eliminated, and uses a new formula to allocate these resources and future allocations to school districts, charter schools, and county offices of education, allowing LEAs much greater flexibility in how they spend the funds than under the prior system. There is a single funding formula for school districts and charter schools, and a separate funding formula for county offices of education that has some similarities to the district formula, but also some key differences.

Fiscal Impact. The LCFF establishes new funding amounts for each LEA, and these amounts will be adjusted annually for COLAs and pupil counts. When the formula was initially introduced, funding all school districts and charter schools at their LCFF levels was expected to take eight years, with completion by 2020-21. The Department of Finance has not released an updated estimate at this point. County offices of education reached their target funding levels in 2014-15.

Over the past two years, the state has made considerable investments towards implementing the LCFF. The 2013-14 budget provided an increase of $2.1 billion in Proposition 98 funding for schools to begin LCFF implementation; and an additional $4.75 billion was provided in the 2014-15 budget. The 2014-15 funding closed more than 29 percent of the remaining gap to full funding of the LCFF target levels for school districts and charter schools and brought county offices of education to full implementation. The remaining gap is recalculated annually based on funding provided, and adjusted for changes to the estimated cost of fully funding LCFF.

School Districts and Charter Schools Formula. This formula is designed to provide districts and charter schools with the bulk of their resources in unrestricted funding to support the basic educational program for all students. Additional funding, based on the enrollment of unduplicated students, is also provided for increasing or improving services to these high-needs students. Major components of the formula are briefly described below.

- **Base Grants** are calculated on a per-pupil basis (measured by student average daily attendance), according to grade span (K-3, 4-6, 7-8, and 9-12) with adjustments that increase the base rates for grades K-3 (10.4 percent of base rate) and grades 9-12 (2.6 percent of base rate). The adjustment for grades K-3 is associated with a requirement to reduce class sizes in those grades to no more than 24 students by 2020-21, unless other agreements are collectively-bargained at the local level. The adjustment for grades 9-12 recognizes the additional cost of providing career technical education in high schools.

- **Supplemental Grants** provide an additional 20 percent in base grant funding for unduplicated students.

- **Concentration Grants** provide an additional 50 percent above base grant funding for unduplicated students that exceed 55 percent of total enrollment.

- **Categorical Program** add-ons for Targeted Instructional Improvement Block Grant and Home-to-School Transportation provide districts the same amount of funding they received for these two programs in 2012-13. The transportation funds must be used for transportation purposes. Charter schools are not eligible for these add-ons.

- **LCFF Economic Recovery Target** add-on ensures that districts receive, in 2020-21, at least the amount of funding they would have received under the old finance system to restore funding to their 2007-08 level, adjusted for inflation. Districts are not eligible for this add-on if their LCFF funding exceeds the 90th percentile of per-pupil funding rates estimated under the old system.

- **Hold Harmless Provision** ensures that no school district or charter school will receive less funding under the LCFF than its 2012-13 funding level.

County Office of Education Formula. County offices of education have their own LCFF formula. The county office formula includes a base amount for county operations plus an amount for each school district in the county, and an amount for countywide average daily attendance (ADA). In addition they receive a per pupil grant, similar to the school district formula, for those students that they serve directly in county-operated schools, with a 35 percent increase for the supplemental grant and a 35 percent increase for the concentration grant (received if unduplicated student enrollment exceeds 50 percent).

Restrictions on Supplemental Funding. Statute requires LEAs to increase or improve services for unduplicated students in proportion to the supplemental funding LEAs receive for the enrollment of these students. The law also allows this funding to be used for school-wide and district-wide purposes. The law requires the State Board of Education (SBE) to adopt regulations governing a LEA's expenditure of this supplemental funding. On January 16, 2014, the SBE adopted LCFF emergency regulations, including these spending regulations, and adopted the permanent regulations on November 14, 2014. The regulations were approved by the Office of Administrative Law on January 6, 2015.

The regulations require an LEA to increase or improve services for unduplicated students, as compared to the services provided for all students, in proportion to the supplemental funding LEAs receive for the enrollment of these students. The regulations allow an LEA to meet this requirement in a qualitative or quantitative manner. In addition, the LEA is required to detail these expenditures in their Local Control and Accountability Plan, discussed under Item 2 of this agenda, and must include a description of how the expenditures improve outcomes for unduplicated students in the state priority areas. The regulations also provide a formula to determine a proportionality percentage. Finally, the regulations authorize district-wide, school-wide, county-wide, and charter-wide expenditures of funds. LEAs with enrollment of unduplicated students over 55 percent in a school district and over 40 percent in a school, may expend funds district-wide or school-wide if they provide a description of how these funds are principally directed towards, and effective in meeting goals in, the state priority areas for unduplicated students. If a school district or school is under these enrollment thresholds, they must additionally describe how this is the most effective use of the funds. Charter-wide and countywide expenditures must meet the same requirements as districts above the enrollment threshold.

Governor's Budget Proposal

The Governor's budget provides an increase of $4 billion in Proposition 98 funding for LEAs for the third year of LCFF implementation. This is the largest K-12 funding proposal out of the increased Proposition 98 expenditures in 2015-16. According to the Legislative Analyst's Office (LAO), this represents an 11 percent year-over-year increase for the LCFF. The Department of Finance indicates this funding level represents closing approximately 32 percent of the remaining gap between the school districts' 2014-15 funding levels and the LCFF full implementation target rates as of the budget year. County offices of education, which reached full implementation in 2014-15, would receive a cost-of-living increase of $109,000.

According to the LAO, under the Governor's budget, the LCFF would be 85 percent funded in 2015-16. The estimates for LCFF at initial implementation reflected an eight-year phase-in for funding of school district and charter school LCFF target rates, and the budget proposal reflects a continued acceleration of LCFF funding for districts and charter schools over the early part of the implementation period that will likely taper down in later years.

LAO Analysis and Recommendations

The LAO supports the Governor's budget proposal to provide additional ongoing funding towards implementation of the LCFF. They note that the use of funding to move towards full implementation is consistent with the priorities of the Legislature and the Governor over the past few years, and under the adoption of the LCFF. The LAO has identified some concerns with the LCFF calculation: 1) property taxes are not being accurately captured in the Administration's LCFF calculation, and 2) the county office of education LCFF formula results in significant funding advantages for some county offices of education. These issues are discussed in more detail below and in the Legislative Analyst's Office report; "The 2015-16 Budget: Proposition 98 Education Analysis".

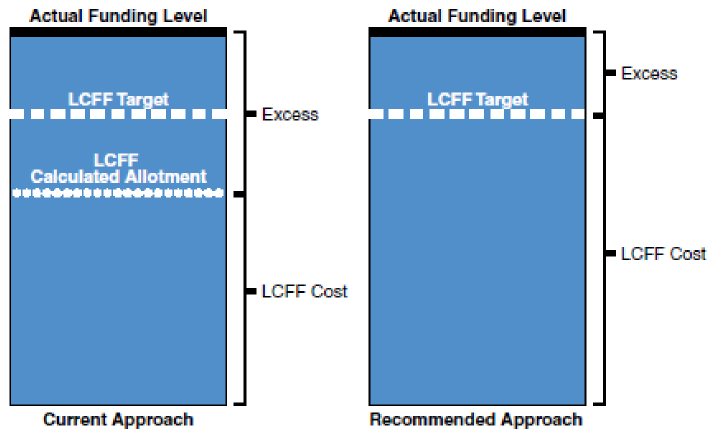
1) Basic aid districts retain any additional property tax above their LCFF funding level and can use it for any educational purpose. In calculating the LCFF funding provided to districts each year, pursuant to statute, the Department of Education calculates the "gap" between a district's prior year LCFF funding (the starting point was a district's 2012-13 revenue limit) and full implementation funding level. The Department of Education then allocates funding to close a portion of the gap. Basic aid districts are not receiving Proposition 98 General Fund resources for gap closure; instead the state counts an additional part of their local property taxes towards their LCFF allocation each year. Under this calculation, the state is not acknowledging that basic aid districts have additional local property taxes that could be counted toward meeting their LCFF

target immediately. The LAO notes that this treatment of basic aid district gap funding results in the state not fully capturing local property taxes that could count towards the Proposition 98 Guarantee. In addition, the estimate for the LCFF gap funding does not reflect the additional property tax counted for basic aid districts, resulting in the potential over-appropriation of Proposition 98. "Basic aid" refers to those school districts who receive local property taxes in amounts that exceed their LCFF transition funding. Most school districts receive a mix of local property taxes and Proposition 98 General Fund to meet their LCFF funding level. The below table illustrates this issue:

Figure 19

Two Approaches to Calculating A Basic Aid District's LCFF Cost

Local Property Tax Funding for Illustrative Basic Aid District



LCFF = Local Control Funding Formula.

Source: Legislative Analyst's Office

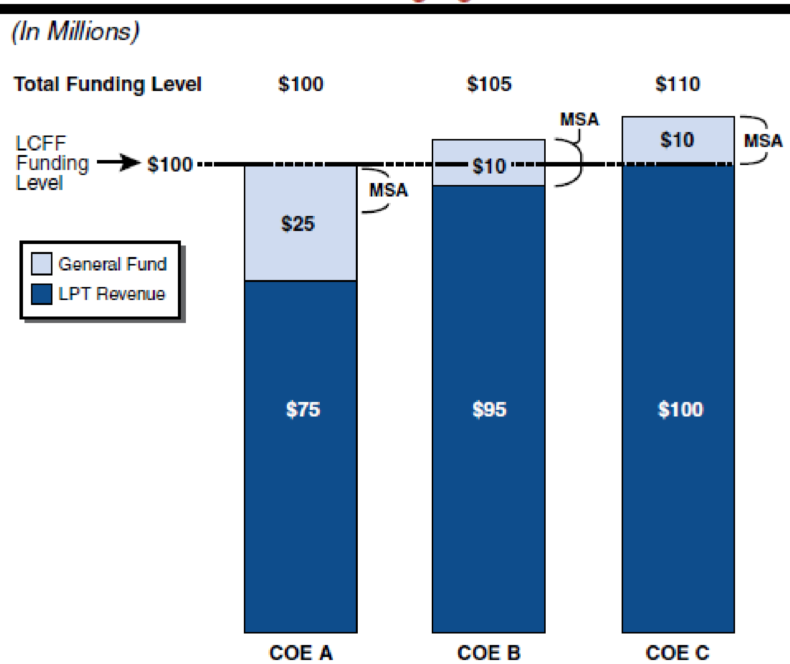
The LAO recommends amending statute to count basic aid districts at their full LCFF target. The LAO notes that adopting this recommendation would have no fiscal impact on basic aid districts. The LAO additionally notes that if the state were to determine that basic aid districts were fully funded under the formula, then up to $400 million in additional property tax could be counted towards the Proposition 98 guarantee, reducing the General Fund obligation towards meeting the Proposition 98 guarantee and freeing up non-Proposition 98 General Fund resources. If the state chooses to continue its current treatment of basic aid districts under the LCFF, the LAO recommends that the full cost of LCFF gap funding in a given year should be reflected in the Proposition 98 expenditure estimates to ensure Proposition 98 is not over appropriated. They estimate this cost to be approximately $110 million in 2015-16.

2) The LAO has also reviewed the county office of education LCFF calculation and notes that the formula set in statute results in funding advantages for some county offices of education that are well above their LCFF targets. Under the LCFF, county offices of education have two hold harmless provisions (these also apply to school districts). County offices of education will receive at least as much funding as they received from revenue limits and categorical programs in 2012-13 and at least as much Proposition 98 General Fund as they received in 2012-13, called "minimum state aid." County offices and school districts differ in that school districts with additional taxes above their LCFF target, keep those taxes and use them for educational purposes, while additional tax in county offices of education is redirected and used for other purposes. County offices of education historically have varied widely in their amount of Proposition 98 funding and, to some degree, as a result of the hold harmless provisions under LCFF, this variance continues.

LAO notes that county offices of education receive the minimum state aid amount on top of their LCFF allocation, further widening the variance between county offices of education funding levels.

Figure 22

Minimum State Aid Advantaging Some COEs



MSA = minimum state aid; COE = county office of education; LCFF = Local Control Funding Formula; and LPT = local property tax.

Source: Legislative Analyst's Office

The LAO recommends either repealing the minimum state aid allocation for county offices of education or including it within the county office of education LCFF target amount. The LAO estimates that eliminating the minimum state aid allocation would reduce the amount of Proposition 98 resources being provided to county offices of education in 2015-16 by $60 million and in 2014-15 by $40 million and make those resources available for other Proposition 98 priorities. Additionally, the LAO believes the Governor has underestimated the cost of implementing the current minimum state aid provision by $16 million in 2014-15 and $36 million in 2015-16. The LAO therefore estimates that if the Legislature does not make the recommending change to modify this provision, the budget would need to include this additional amount of Proposition 98 funding.

Staff Comments

LEAs have seen large investments in ongoing funding for the LCFF as the state's economy recovers from the last recession. This trend continues with the 2015-16 Governor's budget proposal, however both the LAO and the Department of Finance show the pace of economic growth slowing, beginning in 2016-17. The Legislature may wish to continue to monitor investments in the LCFF to ensure LEAs reach pre-recession levels of funding and meet their LCFF targets. Funding for any new ongoing programs within the Proposition 98 guarantee over the next few years should be considered within the context of meeting LCFF funding obligations.

Staff notes that the issues the LAO raises around the LCFF calculations for basic aid districts and county offices of education potentially result in some technical LCFF calculation issues, may have distributional impacts, and may interact with other property tax-related calculations. The Department of Finance, Department of Education, and the LAO are committed to working together to continue to examine these issues.

Subcommittee Questions

1. Do the Department of Finance and the Department of Education have a position on the LAO's proposed LCFF calculation changes for school districts and county offices of education?

2. Does the Department of Finance or the LAO have an updated projection on whether the state will reach full implementation of LCFF by 2020-21? If not, when will that be available?

3. If there are additional Proposition 98 funds available at the May Revision, does the Department of Finance anticipate proposing to increase the amount of ongoing funds committed to fully funding the LCFF?

Staff Recommendation

Hold open pending May Revision funding projections and additional information on potential LCFF calculation changes.

Item 2: Local Control and Accountability Plans – Implementation and Technical Assistance (Information Only)

Description

The LCFF includes new requirements for local planning and accountability that focus on improving student outcomes in state educational priorities and ensuring engagement of parents, students, teachers, school employees, and the public in the local process. In addition, the LCFF features a new system of support and intervention for underperforming LEAs that do not meet their goals for improving student outcomes.

Panel I: Implementation Update

- **Monique Ramos, Department of Education**
- **Peter Birdsall, Executive Director, California County Superintendents Educational Services Association**
- **Brooks Allen, State Board of Education**
- **Carolyn Chu, Legislative Analyst's Office**

Panel II: Local Perspectives

- **Cindy Marten, Superintendent, San Diego Unified School District**
- **Dr. Maria Armstrong, Superintendent, Woodland Joint Unified School District**
- **Dr. Al Mijares, Orange County Superintendent of Schools**
- **Oscar Cruz, President and CEO, Families in Schools**

Background

Local Control and Accountability Plans. To ensure accountability for LCFF funds, the state required that all school districts, charter schools, and county offices of education annually adopt and update a Local Control and Accountability Plan (LCAP). The LCAP must include locally-determined goals, actions, services, and expenditures of LCFF funds for each school year in support of the state educational priorities that are specified in statute, as well as any additional local priorities. In adopting the LCAP, LEAs must consult with parents, students, teachers, and other school employees.

The eight state priorities that must be addressed in the LCAP, for all students and significant student subgroups in a school district and at each school, are:

- Williams settlement issues (adequacy of credentialed teachers, instructional materials, and school facilities).
- Implementation of academic content standards.
- Parental involvement.
- Pupil achievement (in part measured by statewide assessments, Academic Performance Index, and progress of English-language learners toward English proficiency).
- Pupil engagement (as measured by attendance, graduation, and dropout data).
- School climate (in part measured by suspension and expulsion rates).
- The extent to which students have access to a broad course of study.
- Pupil outcomes for non-state-assessed courses of study.

County offices of education must also address the following two priorities:

- Coordination of services for foster youth.
- Coordination of education for expelled students.

LEAs must use the LCAP template that is adopted by the SBE. The board adopted an initial LCAP template through emergency regulations in January of 2014, and LEAs used this template to complete LCAPs for the 2014-15 year. The SBE revised the template based on extensive stakeholder input, to increase transparency and ease of use, in regulations in November of 2014, and this new template will be used for the 2015-16 year. The new template also includes a detailed annual update section for LEAs to compare their planned actions, services, and expenditures in the past LCAP year with estimated actuals and review progress towards and applicability of goals.

School district LCAPs are subject to review and approval by county offices of education, while county office of education LCAPs are subject to review and approval by the State Superintendent of Public Instruction (SPI). Reviews of the first year of LCAPs by advocacy groups, media, and others contained a mix of praise for increased collaboration and outreach with school communities, but also criticism that many LCAPs were unclear in whether they met all statutory and regulatory requirements. The SBE, SPI, and the California County Superintendents Educational Services Association (CCSESA) have begun efforts to increase the quality and transparency of LCAPs, specifically through the revised template, additional outreach and training, and working with county offices of education. Statute also established a process for LEAs to receive technical assistance related to their LCAPs. The SPI is authorized to intervene in a struggling district, under certain conditions. The SBE is required to adopt evaluation rubrics by October of 2015, for the state educational priorities that will assist LEAs and the SPI to assess district and school performance under the LCAPs and to identify where assistance and intervention are warranted. The SBE is currently working with stakeholders to develop the evaluation rubrics, initial drafts have been released for feedback, most recently on the SBE website, and reviewed by SBE at their March board meeting.

California Collaborative for Educational Excellence. The California Collaborative for Educational Excellence (CCEE) was created as part of the new LCFF accountability framework with the role to advise and assist school districts, charter schools, and county offices of education to achieve goals in their LCAPs under the LCFF. The 2013-14 budget provided $10 million in Proposition 98 funding for the CCEE, and the 2014 education budget trailer bill (SB 858 [Committee on Budget and Fiscal Review], Chapter 32, Statutes of 2014) extended the encumbrance date for these funds through the 2014-15 fiscal year. The first meeting of the CCEE took place in February of 2015.

Report to the Legislature. Statute directed the SBE, in collaboration with the SPI, to complete a report to the Legislature on the roles and responsibilities of those agencies charged with implementing the LCFF, implementation challenges and efforts to address those challenges, a reflection on the first year of LCAPs, and the long-term vision of the SBE. The report, released in February 2015, noted that the most challenging part of implementation to date was the timeline; the SBE had only months to adopt emergency regulations on the expenditure of funds and a template for LEAs to use to complete their LCAPs. LEAs, in turn, had less than six months to complete their LCAPs. The report noted the ongoing efforts of various agencies to support LCFF and LCAP implementation and laid out a vision for continuing to support LEAs and improve the LCAP and LCFF going forward.

<u>LAO Analysis and Recommendations</u>

The LAO released a report in January 2015, titled "Review of School District's 2014-15 Local Control and Accountability Plans." In this report, they reviewed LCAPs from 50 school districts. Their analysis concluded that meeting all of the statutory LCAP requirements was difficult for school districts and required significant effort that may take away from the time school districts' could spend on local instruction or operational needs. The LAO recommends that the Legislature allow school districts to focus their LCAPs on the state priority areas that reflect their highest need or priority instead of covering all state priority areas in the LCAP. They also note that information in the LCAP related to services for English learner and low-income students were often unclear and recommend the

Legislature continue to monitor this reporting requirement and consider clarifying how this information must be collected and reported. Also the LAO recommends that the Legislature consider clarifying metrics under the state priority areas to ensure districts are reporting consistent information and for the state to continue to improve their technical assistance for completing LCAPs, specifically by providing model LCAPs to the field.

Subcommittee Questions

Panel I

1. The LAO's report, and others, identify that many 2014-15 LCAPs failed to meet all the statutory requirements. How are CDE, SBE, and CCSESA working to improve LCAP quality in 2015-16?

2. The SBE has the authority to amend the LCAP without going through the regulatory process. Does the SBE anticipate any changes in the near future?

3. The CCEE has just had its first meeting. When does the SBE envision the CCEE to provide support to the field and what will that support look like?

Panel II

4. What supports/resources did districts and county offices of education receive that were the most helpful in completing the LCAPs in 2014-15? What other resources would be most helpful?

5. How has the school district/ county office of education's relationship with their community (parents, students, other education stakeholders) changed as a result of the LCAP process?

6. What was the biggest program change the school district or county office of education made as a result of the LCFF and the LCAP process?

7. Although LEAs are still in the early stages of LCFF and LCAP implementation, can you share any early results/progress towards LCAP goals?

8. How have parents, guardians, or families, particularly those of "unduplicated" (low income, English learner, and foster youth students) been included in the LCAP process?

Staff Recommendation

Information Only

Item 3: School Facilities

Description

The Governor's budget proposes the creation of a new program to fund school facilities that relies on significant local financing, with state resources provided only to the neediest schools. In addition, the Governor's budget includes proposals to fund facilities for charter schools and to pay off the remaining balance of the Emergency Repair Program obligation.

Panel

- **Maritza Urquiza, Department of Finance**
- **Jameel Naqvi, Legislative Analyst's Office**
- **Monique Ramos, Department of Education**

Background

State Funding for Facilities. Historically, school facilities have been funded through a combination of state and local funds, with the largest share provided by the state through general obligation bond funding. Since 1998, the state has authorized a total of $35.4 billion in K-12 facilities bonds. The most recent bond, Proposition 1D, passed in 2006 and provided $7.3 billion in funds. The state pays the debt service on these bonds from non-Proposition 98 General Fund. Approximately $50 billion is still owed in debt service and the State Treasurer estimates the state will pay off an average of $1.7 billion per year through 2044 to retire the existing debt.

Local Funding. School districts have a variety of options to raise funds locally for facilities, including issuing local general obligation bonds, developer fees, certificates of participation, and Mello-Roos taxes. Since 1998, school districts have authorized approximately $75.2 billion in local general obligation bonds. The voter threshold for local general obligation bonds was lowered to 55 percent in 2000 by Proposition 39. According to the LAO, approximately 80 percent of local bond measures have been approved since the lowering of the voter threshold. Districts are also allowed to levy developer fees to fund up to 100 percent of the project costs. Districts may levy developer fees in three tiers. Tier I is the lowest fee level and is set by the SAB and adjusted for inflation. Tier II fees may be levied if the state is providing new construction funds and are intended to over 50 percent of the project costs. Finally, Tier III can cover the full cost of the project if there are no state new construction funds available; Tier III fees have never been enacted.

School Facilities Program. State bond funding has been distributed through the school facilities program, which provided grants largely for new construction and modernization, but also for a handful of other programs such as for charter schools, seismic upgrades, overcrowding reduction, and energy efficiency. For new construction, the state share is intended to cover 50 percent of the cost of the project; and for modernization, the state share increases to 60 percent. The state has no bonding authority left in the new construction and modernization programs. Some authority does remain in the other programs, including: $141 million in seismic repair and $32 million for charter schools. School districts that participate in the new construction and modernization programs were required to set aside at least three percent of their annual general fund budget for routine maintenance for 20 years after receiving state funds. This requirement was waived in 2008-09 when the state enacted categorical flexibility policies. Categorical flexibility is set to expire at the end of 2014-15 and the maintenance set-aside requirements will resume.

Governor's Budget Proposal

The Governor's budget proposes a new state facilities program that would target state funding to the neediest school districts by limiting eligibility to school districts that are unable to issue local bonds in amounts that meet student needs, providing priority for health, safety, and severe overcrowding projects, and establishing a sliding scale for determining the state share of funding based on local funding capacity. The Governor also proposes to continue the dialogue with the Legislature and stakeholders that began in the current year about the best way to fund school facilities going forward.

The Governor does make some specific proposals for a new facilities program that would increase local capacity to fund facilities projects in the neediest schools and would not rely on state bond funding. These include:

- Raising the caps on local bonded indebtedness and tax rates associated with individual bond measures. Currently a school district's outstanding debt cannot exceed 2.5 percent of assessed value in the district for a unified school district and 1.25 percent for an elementary or high school district. In addition, districts are capped at levying tax rates to repay bonds at $60 (unified school district) and $30 (high school or elementary district) per $100,000 of assessed value per election. The Governor does not recommend specific caps.

- Establishing consistency in developer fee levels. The Governor proposes to eliminate the three tiers of developer fees and set one fee level between tier II and tier III that could be subject to local negotiation.

- Expand the allowable use of restricted routine maintenance funds to include modernization and new construction.

In addition, the Governor makes additional facilities proposals for the following:

Charter School Facility Grant Program. The Charter School Facility Grant Program was established in 2001 to provide facilities funding for charter schools serving low-income students. Charter schools are eligible for funding if at least 70 percent of the students enrolled are eligible for free or reduced-price meals or if the schools is physically located within an elementary school attendance area where at least 70 percent of the students enrolled are eligible for free or reduced-price meals. The charter schools are funded at $750 per unit of classroom-based average daily attendance or 75 percent of the annual facilities rent and lease costs, whichever is lower. Legislation enacted in 2014, (AB 948 [Olsen], Chapter 871, Statutes of 2014) amended the Charter School Facility Grant Program eligibility to allow any funds that remain, after funds have been distributed to those charter schools who meet the 70 percent threshold, to be distributed to other charter schools by reducing the free and reduced-price meals threshold one percentage point at a time, but in no case below 60 percent. The state appropriated $92 million Proposition 98 General Fund for the Charter School Facility Grant Program in 2014-15.

The Governor proposes to increase charter school access to the Charter School Facility Grant Program by reducing the eligibility threshold from 70 to 55 percent of enrollment of students eligible for free or reduced-price meals and provides an additional $50 million Proposition 98 General Fund for the program.

Emergency Repair Program. The *Williams v. California* lawsuit, originally filed in 2000, charged that the state had failed to give thousands of children the basic tools necessary for their education, in part due to "inadequate, unsafe, and unhealthful facilities." As a part of the *Williams* settlement, SB 6 (Alpert), Chapter 899, Statutes of 2004, established the Emergency Repair Program (ERP). To help fund the ERP, the School Facilities Emergency Repair Account is funded from the Proposition 98 Reversion Account until a total of $800 million has been disbursed for the purpose of addressing emergency facilities needs at school sites in deciles 1 through 3 based on the 2006 Academic Performance Index. As a continuation of the provisions of the settlement, AB 607 (Goldberg), Chapter 704, Statutes of 2006, adopted and encouraged participation in the ERP by providing grant funding, as well as funding to reimburse applicants for emergency repairs, and provides for a permanent state standard of good repair. Thus far, the state has contributed a total of $526.6 million for the ERP, including an installment of $188 million in the 2014-15 budget.

The Governor proposes to provide $273.4 million in one-time Proposition 98 General Fund to retire the ERP obligation in 2015-16. Of this total, $110 million is from Proposition 98 savings and the remaining $163 million is from one-time Proposition 98 funds and counts towards meeting settle-up obligations. The funds would be made available for districts that submitted applications and were approved for ERP funding in 2008. New funding is disbursed to districts in the order in which projects were originally submitted and approved. Over 100 districts have approved ERP projects, at over 700 school sites on file. These projects include emergency repairs such as heating and air conditioning system replacement, plumbing, electrical and roof repair.

LAO Analysis and Recommendations

In their recent report "The 2015-16 Budget: Rethinking How the State Funds School Facilities", the LAO notes that they share many of the concerns the Governor has noted with the existing School Facilities Program, particularly that the current system does not adequately take into account local property wealth, has a first-come, first served system that may favor certain districts, has an overly complex administration, and lacks a complete accountability system.

The LAO lays out a potential new funding system that would require the Legislature to provide an annual facilities grant to school districts to reflect that facilities are an ongoing need because school districts are always expending funds on maintenance, modernization, or new construction. The annualized grant would be based on a per pupil rate. This rate would be adjusted based on local resources and prior state investment in a district's facilities. While the LAO does not determine a specific rate nor total cost for the program, they do suggest that school districts would need an average of $650 to $1,300 per student per year from all sources (state and local) to maintain existing school buildings in their current state. The LAO does not specify a fund source, but believes the Legislature could choose to fund a facilities program with Proposition 98 funding. The LAO also suggests using one-time funds to address the current backlog of facilities projects. Finally, the LAO recommends requiring districts to formally adopt a five-year facility plan that would detail the district's plans for maintenance, modernization, and construction of new facilities to accommodate enrollment growth.

Staff Comments

Over the past few years, the Governor has sent a clear message that he does not support a new state general obligation bond to fund school facilities, citing the burden of debt service payments on the General Fund and the need for school facilities funding to be considered in the context of other education needs. However, the Governor's proposal lacks clear detail on the eligibility, funding, and statutory changes that would be needed to shape his proposed facilities program. The Governor's budget emphasizes a willingness to continue a conversation with the Legislature and stakeholders on these issues. The Legislature may wish to consider the impact of the Governor's proposals to shift much of the school facilities funding responsibility to the local level, particularly the extent to which local financing is feasible and available, the role of the state in ensuring all students have adequate facilities that are properly maintained, and the amount and type of state funding that can be committed to a new program.

The Legislature may also wish to examine how recent legislative changes to the Charter School Facility Grant Program serve to increase access to the current level of ongoing funding for the program before considering the Governor's proposal to increase funding and further increase eligibility.

Finally staff notes that the Governor puts forth a framework for a new facilities program with a variety of components, while some of these changes would be made to individual programs; the Legislature should consider these proposals as a package to ensure that the state ultimately moves toward a comprehensive facilities program that meets the varied school facilities needs across the state.

<u>Subcommittee Questions</u>

1. Does the Department of Finance or LAO have any information on the extent to which school districts flexed their routine restricted maintenance funding under categorical flexibility? Is there evidence to suggest that the routine restricted maintenance percentage would result in unused funds such that these would be available to fund new construction or modernization per the Governor's proposal?

2. In past years the LAO has expressed concerns about paying off the ERP obligation, why does the LAO now support the Governor's current proposal to pay off this obligation?

3. Does the Department of Finance anticipate any facilities funding for charter schools other than the Charter School Facility Grant Program?

4. Charter schools below the 70 percent threshold may already qualify for funds in the charter school facility grant program based on recently passed legislation, why does the Governor's proposal no longer provide priority funding to those over the 70 percent threshold?

5. How much in savings has the Charter School Facility Grant Program allocation program resulted in over the past few years?

6. Why is there existing bond authority for seismic repairs and charter schools? Are there barriers to these programs being fully utilized?

<u>Staff Recommendation:</u>

Hold Open pending May Revision

Item 4: Proposition 39 Energy Efficiency Projects

Description

The California Clean Energy Jobs Act was created with the approval of Proposition 39 in the November 6, 2012 statewide general election. Under this act, specific proceeds of corporate tax revenues are allocated to the Clean Energy Job Creation Fund through 2017-18, and are available for appropriation by the Legislature for eligible projects to improve energy efficiency and expand clean energy generation. This item includes an update on projects that have been completed or are underway and the Governor's proposal for the 2015-16 expenditure of funds.

Panel

- **Maritza Urquiza, Department of Finance**
- **Monique Ramos, Department of Education**
- **Marcia Smith, California Energy Commission**
- **Dan Troy, California Community Colleges**

Background

Proposition 39 changed the corporate income tax code to require most multistate businesses to determine their California taxable income using a single sales factor method. The increase in the state's corporate tax revenue, resulting from Proposition 39, is allocated half to the General Fund and half to the Clean Energy Job Creation Fund for five fiscal years, from 2013-14 through 2017-18. The Clean Energy Job Creation Fund is available for appropriation by the Legislature for eligible projects to improve energy efficiency and expand clean energy generation. For fiscal years 2013-14 and 2014-15 the state provided $660 million in Proposition 39 revenue for K-12 energy efficiency projects and planning, $85 million for community college energy projects, and $56 million for a revolving loan program to fund similar types of projects in both segments. The state also provided smaller amounts to the California Workforce Investment Board and the California Conservation Corps.

K-12 - Local Educational Agency Proposition 39 Award Program. SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statues of 2013, establishes that 89 percent of the funds deposited annually into the Clean Energy Job Creation Fund, and remaining after any transfers or other appropriations, be allocated by the State Superintendent of Public Instruction for awards and made available to LEAs for energy efficiency and clean energy projects. Minimum grant amounts were established for LEAs within the following average daily attendance (ADA) thresholds:

- $15,000 for LEAs with ADA of 100 students or less.
- $50,000 for LEAs with ADA of 100 to 1,000 students.
- $100,000 for LEAs with ADA of 1,000 to 2,000 students.

The Energy Commission, in consultation with the Department of Education, Chancellor's Office and the Public Utilities Commission, was required to develop guidelines for contracts with LEAs. The Energy Commission released these guidelines in December 2013.

In order to receive an energy efficiency project grant, LEAs must submit an expenditure plan to the Energy Commission outlining the energy projects to be funded. The Energy Commission will review these plans to ensure they meet the criteria set forth in the guidelines. The Department of Education distributes funding to LEAs with approved expenditure plans. LEAs can also request funding for planning prior to submission of the plan. The Department of Education notes that as of February 2015, 1,645 LEAs have received planning funds and 216 have received energy project funds. The Energy Commission has approved $170.8 million in projects affecting 788 schools; of these 80 percent are multi-year projects.

K-12 Proposition 39 Energy Efficiency Funds	
For 2013-14 and 2014-15 fiscal years as of February 2015	
(dollars in millions)	
Total Allocation	**$ 660.0**
Planning funds paid	$ (153.6)
Energy projects paid	$ (70.3)
Total Payments	**$ (223.9)**
Remaining balance	**$ 436.1**

Source: Department of Education

California Community College Chancellor's Office. SB 73 established that 11 percent of the funds deposited annually into the Clean Energy Job Creation Fund be allocated to the California Community College Chancellor's Office to be made available to community college districts for energy efficiency and clean energy projects.

In conjunction with the Energy Commission, the Chancellor's office developed guidelines for districts as they plan to use Proposition 39 funds. Funding has been distributed to colleges on a per-student basis. In 2013-14, the Proposition 39 allocation was $36 per full time equivalent students (FTES) and is $28 per FTES in 2014-15. The guidelines also sought to leverage existing energy efficiency programs, including partnerships most districts had with investor owned utilities. These partnerships had been in existence since 2006, thus most college districts did not need to use Proposition 39 for planning; the planning was complete.

According to the Chancellor's office, for fiscal year 2014-15, $30.9 million in funding has been allocated for 237 projects. At least 80 percent of the projects approved in 2014-15 are expected to be installed by June 30, 2015. The Chancellor's office estimates annual system-wide cost savings of about $4.2 million from these projects. About 43 percent of the projects were related to upgrading lighting systems to make them more energy efficient and 32 percent of the projects were related to heating, ventilation, and air conditioning projects (HVAC).

The chart below indicates uses of the funding at community colleges in the first two years of Proposition 39.

Project Type	Number of Projects	Percentage of Total Projects
Lighting	266	50%
HVAC	128	24%
Controls	81	15%
Retrocommissioning (Building tune-ups to optimize control systems)	19	3.5%
Technical Assistance	4	1%
Self-Generation	3	1%
Monitoring-Based Commissioning (Installing metering systems to better track energy usage)	13	2%
Other	19	3.5%
Total Projects	532	100%

The Chancellor's office reports that in the first two years, community colleges have spent $70.4 million on these projects and have achieved the following savings:

- $11.2 million in annual energy costs savings
- 78 kilowatt-hours annual savings
- 1,505 therms annual savings

In 2013-14, the system spent $5 million of its Proposition 39 funding on workforce development programs related to energy efficiency. In addition, beginning on April 1, the Chancellor's office will allocate $4.55 million of the Proposition 39 funding, in the current-year, to provide for job training and workforce development and creating certificate and Associate degree programs. The majority of this funding is being distributed through a request-for-application renewal process designed to align with the CCC's Doing What Matters for Jobs and the Economy framework, already in place. Another $240,000 will extend an existing UC Davis contract for additional professional development, curriculum development and training for college instructors. The Chancellor's Office will be reviewing the workforce development portion of this funding to determine an appropriate amount for 2015-16.

The Governor's proposed budget provides $39.5 million in Proposition 39 funding for community colleges in 2015-16. The Chancellor's office reported that districts have already submitted 300 efficiency projects and 11 solar projects, with total cost of $77.7 million. The deadline to submit project applications with detailed costs and scope information for 2015-16 is April 3rd. Since Proposition 39 is well established, this year's projects will focus on larger scale, more comprehensive projects with higher energy savings compared to previous years.

California Energy Commission Energy Conservation Assistance Act − Education Subaccount: Loan and Technical Assistance Grant Program. In 2013-14, $28 million was appropriated to the Energy Commission for the Energy Conservation Assistance Act − Education Subaccount. Of this amount, about 90 percent was to be made available for low-interest or no-interest loans. The remaining 10 percent was to be transferred to the Energy Commission's Bright Schools Program to provide technical assistance grants to LEAs and community colleges. The Bright Schools Program technical assistance can provide American Society of Heating, Refrigerating and Air-Conditioning

Engineers (ASHRAE) Level Two energy audits to identify cost-effective energy efficiency measures. The Governor's budget does not include additional funding for the Energy Commission revolving loan program.

California Workforce Investment Board. SB 73 appropriates Proposition 39 funding to the CWIB each year to develop and implement a competitive grant program for eligible workforce training organizations, which prepares disadvantaged youth, veterans, or others for employment.

California Conservation Corps. Funds have been allocated each year to the California Conservation Corps for energy surveys and other energy conservation-related activities for public schools.

Governor's Budget Proposal

The Governor's budget estimates $736 million in Proposition 39 revenue, based on projections by the Franchise Tax Board. Of this amount, one-half ($368 million) is dedicated, primarily to schools and community colleges, as follows:

- $320.1 million and $39.5 million to K‑12 school and community college districts, respectively, for energy efficiency project grants.
- $5.3 million to the California Conservation Corps for continued technical assistance to K‑12 school districts.
- $3 million to the California Workforce Investment Board for continued implementation of the job‑training program.

Subcommittee Questions

1. What types of projects have yielded the most energy savings for K-12 schools or community colleges?
2. There are still over $400 million in funds available for K-12 school districts, when will these funds be allocated for projects?

Staff Recommendation

Hold open pending updated revenue projections at May Revision.