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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

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January 1, 2005 – March 31, 2005

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EXECUTIVE SUMMARY

The Commission on State Mandates (Commission) adopted four statewide cost estimates during the period from January 1, 2005, through March 31, 2005. For the initial period of reimbursement, the statewide cost estimate for four new school district programs totaled \$9,321,840. The statewide cost estimates were not included in a local government claims bill or appropriated in the 2004-2005 Budget Act or trailer bills.

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.¹

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 The Legislative Analyst's report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.²

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.³ 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.⁴ 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.⁵

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.⁶

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

¹ Government Code section 17600.

² Government Code section 17562, subdivision (c).

³ Government Code section 17612, subdivision (a).

⁴ Government Code section 17612, subdivision (b).

⁵ Government Code section 17612, subdivision (c).

⁶ Government Code section 17561.5, subdivision (a).

⁷ 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.

The table below shows the statewide cost estimates that have been adopted during the period of January 1, 2005, through March 31, 2005.

**Statewide Cost Estimates (SCE) Adopted
During the Period of January 1, 2005 – March 31, 2005**

Date SCE Adopted ⁸	Test Claim	Initial Period of Reimbursement (Fiscal years)	<i>Estimated Costs</i>		
			Education	Non- Education	Totals
01/27/05	<i>Pupil Promotion and Retention, 98-TC-19</i>	1997-1998 through 2004-2005	\$9,025,655		\$9,025,655
01/27/05	<i>AIDS Prevention Instruction II, 99-TC-07, 00-TC-01</i>	1998-1999 through 2004-2005	\$44,622		\$44,622
01/27/05	<i>Teacher Incentive Program, 99-TC-15</i>	1998-1999 through 2004-2005	\$59,530		\$59,530
03/30/05	<i>Differential Pay and Reemployment, 99-TC-02</i>	1998-1999 through 2004-2005	\$192,033		\$192,033
TOTALS			\$9,321,840		\$9,321,840

⁸ 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

Pupil Promotion and Retention (98-TC-19)

Education Code Sections 37252, 37252.5 (now 37252.2), 48070, and 48070.5

Statutes 1981, Chapter 100

Statutes 1982, Chapter 1388

Statutes 1983, Chapter 498

Statutes 1990, Chapter 1263

Statutes 1998, Chapters 742 and 743

Test Claim Filed: June 21, 1999

Reimbursement Period: 1997-1998 through 2004-2005

Initial Reimbursement Claims Filed: March 22, 2004

Eligible Claimants: School Districts⁹

Statewide Cost Estimate: \$9,025,655

Adopted: January 27, 2005

The statewide cost estimate includes eight fiscal years for a total of \$9,025,655. This averages to \$1,128,207 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Estimated Cost
1997-1998	\$ 470,532
1998-1999	665,403
1999-2000	1,248,816
2000-2001	1,351,928
2001-2002	1,389,036
2002-2003	1,267,998
2003-2004 (estimated)	1,297,162
2004-2005 (estimated)	1,334,780
TOTAL	\$ 9,025,655

Summary of the Mandate

The test claim legislation for *Pupil Promotion and Retention* required school districts to adopt and implement policies regarding the promotion and retention of pupils between specified grade levels, and to offer supplemental instruction, including summer school, to certain students as part of the adopted policies.

The claimant filed the test claim on June 21, 1999. The Commission adopted the Statement of Decision on May 23, 2002, and the parameters and guidelines on September 25, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by March 22, 2004.

⁹ Any "school district," as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

- A. Pupil Promotion and Retention Policies. (Ed. Code, §§ 48070 and 48070.5.)
(One-time Activities)
1. Develop policies regarding pupil promotion and retention for adoption at a public meeting by the school district governing board and county superintendent of schools. (Ed. Code, § 48070.) (Although this was added by Statutes 1983, chapter 498, operative July 28, 1983, reimbursement is limited to those districts performing the activity for the first time on or after July 1, 1997. *Reimbursement period begins: July 1, 1997.*)
 2. Develop a policy regarding the promotion and retention of pupils between second grade and third grade; third grade and fourth grade; fourth grade and fifth grade; the end of the intermediate grades and the beginning of middle school grades, which typically occurs between sixth grade and seventh grade; and the end of the middle school grades and the beginning of high school, which typically occurs between eighth grade and ninth grade, for approval by the school district governing board and county superintendent of schools. (Ed. Code, § 48070.5, subd. (a).) (*Reimbursement period begins: January 1, 1999.*)
- B. Notification to Parent or Guardian and Appeal Process of Teacher's Decision for Pupils Who are Performing Below the Minimum Standard for Promotion. (Ed. Code, § 48070.5.)
(Ongoing Activities – *Reimbursement period begins: January 1, 1999.*)
1. Provide and discuss the teacher's evaluation, or written recommendation that retention is not appropriate, with the pupil's parent or guardian and the school principal before any final determination of pupil retention or promotion. (Ed. Code, § 48070.5, subd. (d)(1).)
 2. Provide parental notification when a pupil is identified as being at risk of retention. Provide a pupil's parent or guardian the opportunity to consult with the teacher or teachers responsible for the decision to promote or retain the pupil. (Ed. Code, § 48070.5, subd. (e).)
 3. Provide a process for appeal of teacher's decision to retain or promote a pupil. If an appeal is made, the burden shall be on the appealing party to show why the decision of the teacher should be overruled. (Ed. Code, § 48070.5, subd. (f).)
- C. Summer School Instructional Programs for Pupils Enrolled in Grades 7 through 12, Inclusive, and Pupils Enrolled in Grade 12 During the Prior School Year, Who Were Assessed as Not Meeting the District's Adopted Standards of Proficiency in Basic Skills Pursuant to Education Code Section 51215. (Ed. Code, § 37252.) (*Reimbursement Period: July 1, 1997 – December 31, 1999.*)
1. Develop programs of instruction in basic skills in accordance with Education Code section 51215. (One-time Activity.)
 2. Purchase materials necessary for the instruction. (Ongoing Activity.)
 3. Provide instruction during the summer for pupils specified in Education Code section 37252. (Ongoing Activity.)

4. Provide support services for mandatory pupil instruction programs during the summer. Reimbursement for this activity is limited to facilities, janitorial, and data processing. (Ongoing Activity – only the pro-rata portion used to implement this activity can be claimed.)

Instructor time for the provision of summer school pursuant to Education Code section 37252 is only reimbursable when it is required to occur outside the normal school schedule. “Outside the normal school schedule,” as used throughout this document, means outside the school district’s minimum daily minutes of instruction and minimum school days in a fiscal year, as defined in Education Code sections 41420, 46112, 46113, 46115, and 46141.

D. Supplemental Instruction Programs for Pupils Enrolled in Grades 2 through 9, Inclusive, Who Have Been Retained Pursuant to Education Code Section 48070.5. (Former Ed. Code, § 37252.5, now 37252.2.) (Ongoing Activities – Reimbursement period begins: September 23, 1998.)

1. Develop supplemental instruction programs, with the involvement of parents and classroom teachers, for pupils that have been retained pursuant to Education Code section 48070.5. An intensive remedial program in reading and written expression offered shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills. (Former Ed. Code, § 37252.5, subs. (f) and (g); Ed. Code, § 37252.2, subs. (e) and (f).)
 - a. Development of the program includes identifying, purchasing, and distributing texts and materials. (Only the pro-rata portion used to implement this activity can be claimed.)
 - b. Development of the program also includes providing reasonable notices and conducting meetings involving parents and classroom teachers in the development and implementation of supplemental instruction programs. (Former Ed. Code, § 37252.5, subd. (g); Ed. Code, § 37352.2, subd. (f).)
2. Provide supplemental instruction for each pupil that has been retained pursuant to Education Code section 48070.5. Services shall not be provided during the pupil’s regular instructional day if it would result in the pupil being removed from classroom instruction in the core curriculum. (Former Ed. Code, § 37252.5, subd. (c); Ed. Code, § 37252.2, subd. (b).)
3. Provide a mechanism for a parent or guardian to decline to enroll his or her child in the supplemental instruction program. (Former Ed. Code, § 37252.5, subd. (a); Ed. Code, § 37252.2, subd. (a).)

Instructor time for the provision of supplemental instruction pursuant to Education Code section 37252.2 is only reimbursable when it is required to occur outside the normal school schedule.

E. Pupil Reassessment if the Teacher's Recommendation to Promote is Contingent Upon the Pupil's Participation in a Summer School or Interim Session Remediation Program (Ed. Code, § 48070.5, subd. (d)(1).) (Ongoing Activity – *Reimbursement period begins: January 1, 1999.*)

1. Reassess the pupil's academic performance at the end of the remediation program, and reevaluate the decision to retain or promote the pupil.

Instructor time for the provision of reassessment activities pursuant to Education Code section 48070.5, subdivision (d)(1), is only reimbursable when it is required to occur outside the normal school schedule.

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The actual claims data showed that school districts filed 334 claims between fiscal years 1997-1998 and 2002-2003, for a total of \$54.5 million.¹⁰ Concerned about the total, staff conducted a pre-hearing conference to discuss the claims data and the issue of offsetting savings on July 29, 2004. At this conference, the California Department of Education (CDE) and the SCO agreed to submit additional information to assist in the development of a proposed statewide cost estimate for this program. On August 9, 2004, CDE submitted data regarding the amount of funding provided to school districts for summer school and/or supplemental instruction. On September 14, 2004, the SCO provided a breakdown of costs claimed for each of the program's reimbursable components. Based on the data provided by the CDE and SCO, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

A draft staff analysis and proposed statewide cost estimate was issued on September 29, 2004, but no comments were received. A final staff analysis was issued on November 1, 2004, with a proposed estimate of over \$72 million. Since then, staff reanalyzed the data and modified its assumptions, as described below.

Assumptions

Staff made the following assumptions:

1. *The actual claiming data is inaccurate.* The 334 actual claims filed by school districts for fiscal years 1997-1998 through 2002-2003 are unaudited and inaccurate.
 - a. *Funds received from CDE specifically for the Pupil Promotion and Retention program were not offset from the claims.*

The parameters and guidelines provide reimbursement for school districts to provide supplemental instruction programs for pupils enrolled in grades two through nine, inclusive, who have been retained. The parameters and guidelines also 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."

¹⁰ Claims data reported by the SCO as of May 19, 2004.

School districts receive funding from CDE to provide supplemental instruction programs pursuant to the *Pupil Promotion and Retention* program. According to the CDE data, \$124.3 million was disbursed among 708 school districts in fiscal year 2001-2002. Of these districts, 69 filed reimbursement claims with the SCO. Although these 69 districts received over \$38 million in funding altogether, only 12 districts reported offsets for a total of \$14.8 million. Similarly, in fiscal year 2002-2003, \$124.9 million was disbursed among 698 districts. Of these districts, 75 filed reimbursement claims and received funds totaling \$34.8 million. However, only 14 districts reported offsets totaling \$12.9 million (see Exhibit A).

- b. *Activities associated with summer school instructional programs were claimed beyond the reimbursement period.*

The adopted parameters and guidelines for this program provide reimbursement for summer school instructional programs (activity group C), but reimbursement was limited to the period between July 1, 1997, and December 31, 1999. Still, several school districts claimed activity group C after fiscal year 1999-2000, as shown in Table 1 below.

Table 1. School Districts Claiming Reimbursement for Summer School Programs Beyond the Reimbursement Period

Fiscal Year	2000-01	2001-02	2002-03	
Humboldt CSS	20,557	-	-	
Arcata SD	11,400	-	-	
Covina-Valley USD	695	14,385	12,148	
Kentfield ESD	3,574	8,992	9,005	
Sausalito Marin City SD	48,407	-	-	
Grass Valley ESD	28,044	34,187	-	
Central SD	3,300	2,900	3,200	
San Marcos USD	4,469	4,587	4,683	
Hemet USD	-	4,038	-	
Ramona USD	-	3,147	3,414	
Desert Sands USD	-	-	540	
Colfax ESD	-	-	8,349	
TOTALS	\$ 120,446	\$ 72,236	\$ 41,339	\$234,021

- c. *One-time activities were claimed for multiple fiscal years.*

The adopted parameters and guidelines for this program also provide *one-time* reimbursement for the development of pupil promotion and retention policies (activities A1 and A2). Thus, these activities should only be claimed under a single year. However, several school districts claimed these activities for multiple fiscal years, as shown in Tables 2 and 3 below.

Table 2. School Districts Claiming More than One-Time Reimbursement for Activity A1

Fiscal Year	1997-98	1998-99	1999-00	2000-01	
Castro Valley USD	7,469	13,643	-	-	
Humboldt CSS	-	-	153	120	
Rosedale Union SD	1,348	1,413	-	-	
Bonita USD	2,621	2,752	-	-	
Manhattan Beach USD	16,215	19,984	-	-	
Newport-Mesa USD	12,094	12,713	-	-	
Carlsbad USD	1,123	2,396	-	-	
Dehesa SD	4,181	3,926	-	-	
Encinitas Union ESD	9,320	7,879	-	-	
San Ysidro SD	1,089	572	-	-	
Union ESD	-	-	134	194	
TOTALS		\$ 65,278		\$ 314	\$ 65,592

Note: Those in bold are amounts claimed after the first year and are not reimbursable.

Table 3. School Districts Claiming More than One-Time Reimbursement for Activity A2

Fiscal Year	1998-99	1999-00	2000-01	2001-02	2002-03	
Castro Valley USD	-	11,053	17,374	11,282	12,762	
Humboldt CSS	-	77	1,601	-	-	
Eureka City SD	5,606	4,423	-	-	-	
Greenfield USD	-	152	1,217	2,281	72	
Rosedale Union SD	-	222	233	243	47	
Bonita USD	-	428	1,091	2,213	2,849	
Charter Oak USD	-	3,927	2,369	1,112	869	
Manhattan Beach USD	-	4,621	4,852	5,309	3,542	
Monrovia USD	-	-	498	-	3,738	
Palos Verdes Peninsula USD	1,685	-	344	-	-	
Redondo Beach USD	-	528	372	686	1,447	
Kentfield ESD	-	-	-	1,428	392	
Newport-Mesa USD	-	1,910	2,062	2,911	1,660	
Sacramento City USD	3,403	1,198	-	-	-	
Cardiff ESD	-	174	183	192	197	
Carlsbad USD	-	5,550	4,292	1,218	1,454	
Encinitas Union ESD	-	3,380	2,834	2,610	1,562	
Julian Union ESD	-	300	304	340	355	
San Ysidro SD	-	549	197	435	243	
Valley Center-Pauma USD	-	-	872	1,588	362	
Warner USD	-	63	68	70	71	
Union ESD	-	417	130	-	2,795	
Live Oak ESD	-	-	-	2,634	2,721	
Cascade Union ESD	9,738	11,328	-	-	-	
Twin Hills Union SD	-	-	-	313	70	
Waterford USD	-	7,911	-	2,457	-	
Corning Union ESD	994	-	1,167	-	-	
TOTALS		\$ 16,949	\$ 40,690	\$ 34,947	\$ 37,208	\$129,794

Note: Those in bold are amounts claimed after the first year and are not reimbursable.

2. *Los Angeles Unified School District's claims are excessive.* The Los Angeles Unified School District alone claimed a total of over \$46.6 million, as shown in Table 1 below. For fiscal years 2001-2002 and 2002-2003, the district claimed over \$13.8 million and \$25.3 million, respectively. While staff acknowledges that Los Angeles Unified is greater in size and complexity compared to the other districts, the claims are still excessive.

Table 4. Los Angeles Unified School District's Total Costs per Fiscal Year

Fiscal Year	Claimed Cost
1997-1998	\$ 4,254,499
1998-1999	3,254,170
1999-2000	0
2000-2001	0
2001-2002	13,814,130
2002-2003	25,317,281
TOTAL	\$46,640,080

The district's representative stated that when summer school programs were replaced with supplemental instruction programs in 2000, there was a programmatic shift in administration. Thus, the significant increase in the district's claims for fiscal year 2001-2002 and 2002-2003 mostly reflect the operational and oversight costs incurred. The representative also indicated that the district's claims would be amended, but exact figures were not available as they were in the process of conducting a statistical study. However, the representative estimated that the 2001-2002 claim would be reduced to between \$7 and \$9 million, and the 2002-2003 claim to somewhere in the teens. Claimant representatives later stated that they may reduce their claims to zero, but to date, no amended claims have been filed. Accordingly, staff eliminated Los Angeles Unified School District's claims from the data used to develop this statewide cost estimate.

3. *The actual amount claimed will increase when late or amended claims are filed.* Five of the top ten school districts have not filed any reimbursement claims for this program. The amount of reimbursement claims may exceed the statewide cost estimate if reimbursement claims are filed by Fresno Unified School District, San Francisco Unified School District, San Bernardino City Unified School District, Elk Grove Unified School District, and San Juan Unified School District. For this program, late claims may be filed until March 2005. Staff notes that a high number of late claim filings are not anticipated. According to a claimant representative, many school districts received sufficient funds to offset the actual costs of this program.
4. *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

Fiscal Years 1997-1998 through 2000-2001

The statewide cost estimate for fiscal years 1997-1998 through 2000-2001 is based on the 190 unaudited, actual reimbursement claims filed for these years. As shown below, totals for fiscal years 1998-1999 through 2000-2001 were adjusted for the elimination of Los Angeles Unified's claims, the amounts claimed beyond the first year for activities A1 and A2, and the amounts claimed for fiscal year 2000-2001 for activity group C.

Table 5. Proposed Estimates for Fiscal Years 1997-1998 through 2000-2001

Fiscal Year	Number of Claims Filed with SCO	Claim Totals (A)	Adjustments for LA Unified's claims (B)	Adjustments for Activity Group A (C)	Adjustments for Activity Group C (D)	Proposed Estimate (A) – (B+C+D)
1997-1998	17	\$4,725,031	\$ - 4,254,499	\$0	\$0	\$ 470,532
1998-1999	43	3,984,851	- 3,254,170	- 65,278	0	665,403
1999-2000	67	1,265,765	N/A	- 16,949	0	1,248,816
2000-2001	63	1,513,378	N/A	- 41,004	- 120,446	1,351,928

Fiscal Years 2001-2002 and 2002-2003

The statewide cost estimate for fiscal years 2001-2002 and 2002-2003 is based on the actual claims data adjusted by the funding data provided by CDE.¹¹ For each claim filed in these years, totals were reduced to exclude non-reimbursable costs, including costs claimed beyond the first year for activity A2, any costs claimed for activity group C, and some costs claimed for activity group D. Costs claimed for activity group D were excluded if offsets were not reported and the amount of CDE funding received exceeded the costs claimed. However, if the district did not receive sufficient funds to offset the costs associated with activity group D, the amount was only adjusted by the amount of funding received. If a district reported offsets equal to or greater than the amount of funding received, or if the district did not receive any funding, the claimed amount was not changed (see Exhibit B).

As shown in Table 6, the non-reimbursable costs and Los Angeles Unified's claim totals were subtracted from the total claimed amounts.

¹¹ Since the actual costs claimed increased significantly beginning fiscal year 2001-2002, staff examined costs claimed in 2001-2002 and 2002-2003 more closely.

Table 6. Proposed Estimates for Fiscal Years 2001-2002 and 2002-2003

Fiscal Year	Total Claimed Amount (A)	Adjustments for LA Unified's claims (B)	Adjustments for Non-Reimbursable Costs (C)	Proposed Estimate (A) – (B+C)
2001-2002	\$ 15,970,364	\$ - 13,814,130	\$ - 767,198	\$ 1,389,036
2002-2003	27,126,220	- 25,317,281	- 540,941	1,267,998

Fiscal Years 2003-2004 and 2004-2005

Staff estimated fiscal year 2003-2004 costs by multiplying the 2002-2003 estimate by the implicit price deflator for 2002-2003 (2.3%), as forecast by the Department of Finance. Staff estimated fiscal year 2004-2005 costs by multiplying the 2003-2004 estimate by the implicit price deflator for 2003-2004 (2.9%).

AIDS Prevention Instruction II (99-TC-07, 00-TC-01)

Education Code Sections 51201.5,
51553, Subdivision (b)(1)(A), and 51554
Statutes 1998, Chapter 403
Statutes 1999, Chapter 234

Test Claim Filed: March 20, 2000
Test Claim Amendment Filed: July 13, 2000
Reimbursement Period: 1998-1999 through 2004-2005

Initial Reimbursement Claims Filed: June 7, 2004
Eligible Claimants: School Districts¹²

Statewide Cost Estimate: \$44, 622
Adopted: January 27, 2005

The statewide cost estimate includes seven fiscal years for a total of \$44,622. This averages to \$6,375 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1998-1999	1	\$3,018
1999-2000	1	\$2,942
2000-2001	1	\$4,834
2001-2002	1	\$2,849
2002-2003	2	\$13,735
2003-2004	2	\$8,499
2004-2005 (estimated)	N/A	\$8,745
Total	8	\$44,622

Background

AIDS Instruction I Program

On February 25, 1993, the Commission on State Mandates (Commission) determined that the provisions of Education Code sections 51201.5 and 51229.8, as added by Statutes 1991, chapter 818, impose a new program or higher level of service in an existing program on school districts, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. This is known as the *AIDS Instruction* program.

The *AIDS Instruction* program requires school districts to cooperatively plan and conduct in-service training for all teachers and school employees who provide AIDS prevention instruction, including salaries and benefits of resource teachers who instruct employees and students; to provide appropriate written notice explaining the purpose of the AIDS prevention instruction to

¹² Any “school district” as defined in Government Code section 17519, with students in grades 7 to 12, which incurs increased costs due to this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

each pupil's parent or guardian; and to participate in the selection and purchase of AIDS instructional materials. In July 1993, the Commission adopted the parameters and guidelines for the *AIDS Instruction* program.

Summary of the Mandate

AIDS Prevention Instruction II Program

On October 24, 2002, the Commission adopted its Statement of Decision for the second AIDS mandate, entitled *AIDS Prevention Instruction II*. The Commission found that Education Code sections 51201.5 and 51554 as added or amended by Statutes 1998, chapter 403 impose new activities on school districts within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514 by adding instructional content to the AIDS prevention instruction and altering the parent/guardian notification requirements.

The claimant, Sweetwater Union High School District, filed the test claim on March 20, 2000, and filed an amendment to the test claim on July 13, 2000. The Commission adopted the Statement of Decision on October 24, 2002, and the parameters and guidelines on December 2, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 7, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Reimbursable Activities

A. Instructional Costs

Beginning January 1, 1999, instruction includes the following: (1) emphasis on monogamy and the avoidance of multiple sexual partners; (2) discussion of compassion for persons suffering from debilitating handicaps and terminal diseases; (3) prohibiting the instruction be conducted so as to advocate drug use, a particular sexual practice, or sexual activities, and (4) requiring that the instruction be consistent with sex education course criteria of Education Code section 51553 (Ed. Code, § 51201.5, subd. (b).).

The reasonable costs of consultants providing this instruction are also reimbursable. However, in-classroom teacher time is not a reimbursable item.

Beginning January 1, 1999, instructional material must accurately reflect Education Code section 51201.5, subdivision (b).

B. Notification

Parent Notification of Guest Speaker and/or Assembly on AIDS Prevention

- a. Beginning January 1, 1999, notifying parents or guardians by mail or other method used by the school district to provide notices each time an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, and each time an assembly is held to deliver AIDS prevention instruction, including: (a) the date of the instruction, (b) the name of the organization or affiliation of each guest speaker, and (c) informing parents or guardians of their right to obtain a copy of Education Code sections 51201.5 and 51533 from the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and

once in high school) AIDS prevention instruction.¹³ (Ed. Code, § 51201.5, subd. (d)(3).)

- b. Beginning January 1, 1999, notifying parents or guardians at the beginning of each school year, or for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on sexually transmitted diseases, AIDS, human sexuality or family life that is delivered in an assembly by a teacher or district administrator that is employed by the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction. (Ed. Code, § 51554, subd. (b).)

C. Education Code sections 51201.5 and 51553

1. Beginning January 1, 1999, the one-time cost of revising the annual parent or guardian notification regarding the right to obtain a copy of Education Code sections 51201.5 and 51553 from the school district.
2. Beginning January 1, 1999, keeping on file copies of Education Code section 51201.5 and 51553 to give out on request.

Statewide Cost Estimate

Initial reimbursement claims were due to the SCO by June 7, 2004. The Commission received initial claims data from the SCO on July 9, 2004. The claims data included eight claims filed by two of the 1,086 districts. Therefore the Commission delayed preparing this statewide cost estimate in anticipation of more claims being filed. To date, no new claims have been filed.

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program.

Staff made the following assumptions:

Assumptions

- The statewide cost estimate is based on eight unaudited claims filed by two school districts.¹⁴
- The claiming data may be inaccurate. The Los Angeles Unified School District, which has an enrollment of 747,009 students, is claiming an average of \$3,362 per year for this program with the initial year claim of \$3,018. The Upland Unified School District, which has an enrollment of 13,585 students, is claiming an average of \$7,854 per year with the initial year claim of \$10,472. According to the claimant representative, the variance in claiming is due to controversial nature of sex education programs and the method of implementation from one district to another. The claimant representative indicated that the Los Angeles Unified School District may submit an amended claim; but to date, no amendments have been filed.
- The actual amount claimed will increase if late or amended claims are filed. Only two of the 1,086 school districts have filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of

¹³ Notification for assemblies or guest speakers that occur or appear more frequently is not reimbursable.

¹⁴ Claims data reported by the SCO as of December 2, 2004.

reimbursement claims may exceed the statewide cost estimate. Late claims may be filed for this program until June 7, 2005.

- Significant numbers of late claims will not be filed because the cost to perform the reimbursable activities for *AIDS Prevention Instruction II* are minimal when compared to the costs already claimed for the original *AIDS Instruction* mandate and are less than the \$1,000 minimum for filing an annual reimbursement claim. The claimant representative verifies this assumption, stating that it is unlikely that more claims will be filed, because most school districts are unable to meet the \$1,000 minimum filing threshold.
- 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

1998-1999 through 2003-2004 Projected Costs

- Staff reviewed the summary claims data provided by the SCO for fiscal years 1998-1999 through 2003-2004. Staff then reviewed the reimbursement claims to study claiming data and possible trends. No trends were identified for this program.
- The statewide cost estimate was developed based on the eight unaudited, actual reimbursement claims.

2004-2005 Projected Costs

- Staff projected totals for FY 2004-2005 by multiplying the FY 2003-2004 claims total by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance.

Teacher Incentive Program (99-TC-15)

Education Code Sections 44395 and 44396
Statutes 1998, Chapter 331

Test Claim Filed: June 29, 2000
Reimbursement Period: 1998-1999 through 2004-2005

Initial Reimbursement Claims Filed: August 3, 2004
Eligible Claimants: School Districts¹⁵

Statewide Cost Estimate: \$59,530
Adopted: January 27, 2005

The statewide cost estimate includes seven fiscal years for a total of \$59,530. This averages to \$8,502 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1998-1999	1	\$1,465
1999-2000	3	\$10,844
2000-2001	2	\$8,104
2001-2002	3	\$11,518
2002-2003	1	\$8,979
2003-2004	N/A	\$9,177
2004-2005 (estimated)	N/A	\$9,443
Total	11	\$59,530

Background and Summary of the Mandate

Education Code sections 44395, subdivisions (b) and (c), and 44396, subdivision (c) established a program for providing one-time \$10,000 merit awards for public school teachers who are certified by the National Board for Professional Teaching Standards (NBPTS), and require school districts to administer the program, which is conducted by the California Department of Education (CDE).

On February 27, 2003, the Commission adopted its Statement of Decision finding that Education Code sections 44395, subdivisions (b) and (c), and 44396, subdivision (c), constitute a reimbursable state-mandated program or higher level of service for school districts within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514.

The claimant, San Diego Unified School District filed the test claim on June 29, 2000. The Commission adopted the Statement of Decision on February 27, 2003, and the parameters and

¹⁵ Any “school district,” as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. A charter school is not an eligible claimant.

guidelines on January 29, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 3, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Reimbursable Activities

The Commission approved this test claim for the following activities:

A. One-Time Activity Per Teacher

1. Notification to Teachers (*Reimbursement Period: January 1, 1999 through July 4, 2000.*)
 - a. Inform the teachers employed by the school district, or by charter schools affiliated with the district, about the National Board for Professional Teaching Standards Certification Incentive Program and how they can acquire the necessary application and information materials distributed by the CDE. (The CDE shall distribute to school districts information about the certification process established by the National Board for Professional Teaching Standards along with application materials and instructions for the merit award program.) (Ed. Code, 44395, subd. (c).) This activity includes reimbursement for the cost of copying and distributing the information to teachers.

B. On-Going Activities

1. Review and Certification
 - a. Accept an application for the National Board for Professional Teaching Standards Certification Incentive Program, review the application, and certify that the applicant is employed by the district or a charter school operating under a charter granted by the school district, and that the applicant has met all the criteria established pursuant to Education Code section 44395, subdivision (b). (Ed. code, 44396, subd. (c).)
 - b. Submit the application to CDE for its review and approval. (Ed. Code, § 44396, subd. (c).)
2. Award Distribution

Distribute a one-time merit award of ten thousand dollars (\$10,000) from state-apportioned funds for each teacher who is certified by the National Board for Professional Teaching Standards and whose application is approved by the CDE. (Ed. Code, § 44396, subd. (d).) The costs are the time spent to process the awards through fiscal control and payroll department, similar to processing regular payroll.

Statewide Cost Estimate

Initial reimbursement claims were due to the SCO by August 3, 2004. The SCO provided unaudited claims totals to the Commission on August 9, 2004. The actual claims data showed that four school districts filed nine claims between fiscal years 1998-1999 and 2003-2004. Because only four out of 1,086 districts filed these claims, Commission staff delayed preparing this statewide cost estimate in anticipation of more claims being filed. On December 22, 2004, the SCO provided new data showing that two additional school districts filed two claims, for a total of six districts filing 11 claims.

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program.

Staff made the following assumptions:

Assumptions

- The statewide cost estimate is based on 11 unaudited claims filed by six school districts.¹⁶
- The claiming data may be inaccurate. There is a wide variation in the number of employees and number of hours used to notify teachers of the certificate program. For example, Los Angeles Unified School District, which employs 36,185 teachers, used two employees and spent 12 hours to inform its teachers, at a cost of \$1,052, or less than one cent per teacher. Escondido Union Elementary School District, which employs 1,070 teachers, used three employees and spent 26 hours to inform its teachers, at a cost of \$1,337, or approximately \$1 per teacher. In contrast, South Bay Union School District, which employs 479 teachers, used 25 employees, including principals, and spent 72 hours to inform its teachers, at a cost of \$3,700, or approximately \$8 per teacher.
- The actual amount claimed will increase if late or amended claims are filed. Only six of the 1,086 school districts have filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims may be filed for this program until August 3, 2005.
- Significant numbers of late claims will not be filed because most school districts are unable to meet the \$1,000 minimum filing threshold.
- 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

1998-1999 through 2002-2003 Projected Costs

- Staff reviewed the summary claims data provided by the SCO for fiscal years 1998-1999 through 2002-2003. Staff then reviewed the reimbursement claims to study claiming data and possible trends. No trends were identified for this program.
- The statewide cost estimate was developed based on the 11 unaudited, actual reimbursement claims.

2003-2004 and 2004-2005 Projected Costs

- Staff projected totals for FY 2003-2004 by multiplying the FY 2002-2003 claims total by the implicit price deflator for 2002-2003 (2.2%), as forecast by the Department of Finance.
- Staff projected totals for FY 2004-2005 by multiplying the FY 2003-2004 claims total by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance.

¹⁶ Claims data reported by the SCO as of December 22, 2004.

Differential Pay and Reemployment (99-TC-02)

Education Code Sections 44977 and 44978.1
Statutes 1998, Chapter 30

Test Claim Filed: August 23, 1999
Reimbursement Period: 1998-1999 through 2004-2005

Initial Reimbursement Claims Filed: December 2, 2004
Eligible Claimants: School Districts¹⁷

Statewide Cost Estimate: \$192,033
Adopted: March 30, 2005

The statewide cost estimate includes seven fiscal years for a total of \$192,033. This averages to \$27,433 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1998-1999	2	\$25,960
1999-2000	3	\$33,094
2000-2001	2	\$17,153
2001-2002	3	\$22,863
2002-2003	3	\$27,041
2003-2004	3	\$32,490
2004-2005 (estimated)	N/A	\$33,432
Total	16	\$192,033

Background and Summary of the Mandate

On July 31, 2003, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Differential Pay and Reemployment* program. The Commission found that Education Code sections 44977 and 44978.1 constitute a new program or higher level of service and impose a state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- When calculating differential pay, the sick leave, including accumulated sick leave, and the five-month period of differential pay shall run consecutively. (One-time administrative activity for shifting the calculation of differential pay from running concurrently to consecutively with accumulated sick leave.) (Ed. Code, § 44977.)

¹⁷ Any “school district,” as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

- When a certificated employee is not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period described in Education Code section 44977 has been exhausted, place the employee, if not placed in another position, on a reemployment list for 24 months for probationary employees, or 39 months for permanent employees. (This activity includes the one-time activity of establishing a reemployment list for this purpose, and ongoing activities of maintaining the list.) (Ed. Code, § 44978.1.)
- When the employee is medically able, return the employee to a position for which he or she is credentialed and qualified. (This activity includes the administrative duties required to process the re-employment paperwork, but not reimbursement of salary and benefits for the employee once they return to work.) (Ed. Code, § 44978.1.)

The claimant, Palmdale School District, filed the test claim on August 23, 1999. The Commission adopted the Statement of Decision on July 31, 2003, and the parameters and guidelines on May 27, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by December 2, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Reimbursable Activities

The Commission approved this test claim for the following activities:

A. One-Time Activities

1. Change the process for calculating the five-month differential pay period from running concurrently to consecutively with accumulated sick leave. Reimbursement for this activity is solely for the administrative modification of existing policies, procedures, and forms, and modification of computer programs to compute differential pay.
2. Establish a reemployment list for identified certificated employees who are not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period.¹⁸ Reimbursement for this activity is solely for the administrative modification of existing policies, procedures, and forms, and modification of computer programs to establish and track reemployment lists.¹⁹

B. On-going Activities²⁰

1. Maintain a reemployment list for identified certificated employees who are not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period. Reimbursement for this activity is limited to minimal staff time for periodically updating the reemployment lists.
2. Process the reemployment paperwork for a “medically able” certificated employee to return to an available position for which he or she is credentialed and qualified. Salary and benefits for the employee upon return to work are not reimbursable.

¹⁸ Education Code section 44978.1.

¹⁹ Education Code section 44977.

²⁰ Education Code section 44978.1.

Statewide Cost Estimate

Initial reimbursement claims were due to the SCO by December 2, 2004, and were provided to the Commission on February 17, 2005. Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The claims data included 16 claims filed by five of the 1,086 districts. Only two of the five school districts filed reimbursement claims each year for fiscal years 1998-1999 through 2003-2004. The remaining three districts filed reimbursement claims for one or two of those fiscal years.

Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology will be reported to the Legislature.

Staff made the following assumptions:

Assumptions

- The actual amount claimed will increase if late or amended claims are filed. Only five of the 1,086 school districts filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims may be filed for this program until December 2, 2005.
- It is unlikely that more claims will be filed. The cost to perform the reimbursable activities for *Differential Pay and Reemployment* are minimal and most school districts are unable to meet the \$1,000 minimum filing threshold.
- 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

1998-1999 through 2003-2004 Projected Costs

- The proposed statewide cost estimate for fiscal years 1998-1999 through 2003-2004 was developed based on the 16 unaudited, actual reimbursement claims.

2004-2005 Projected Costs

- Staff projected the total for FY 2004-2005 by multiplying the FY 2003-2004 claims total by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance.

III. PENDING STATEWIDE COST ESTIMATES

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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>Stull Act, 98-TC-25*</i>
<i>Postmortem Exams: Unidentified Bodies, Human Remains, 00-TC-18</i>	<i>Enrollment Fee Collection, 99-TC-13* and Enrollment Fee Waivers, 00-TC-15*</i>
<i>Peace Officer Personnel Records: Unfounded Complaints and Discovery, 00-TC-24 and 00-TC-25*</i>	<i>High School Exit Exam, 00-TC-06*</i>
<i>False Reports of Police Misconduct, 00-TC-26</i>	<i>Integrated Waste Management, 00-TC-07</i>
<i>DNA Database, 00-TC-27* and Amendment to Post Mortem Exams: Unidentified Bodies, 02-TC-39*</i>	<i>Missing Children Reports, 01-TC-09*</i>

* Currently in the parameters and guidelines phase.