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Education Trailer Bills Emerge At Last

Today, Friday, July 24, 2009, the education trailer bills were at last released for public review. While the final details of the Budget agreement had been worked out by the "Big 5" on Monday evening, July 20, it has taken the remainder of the week for the actual bill language to be drafted and compiled into the various trailer bills. As of 3:00 p.m. on Friday, both the Senate and the Assembly had passed ABX4 1, the revision to the 2009 Budget Act, and all but a few of the associated trailer bills. (The Assembly failed to pass measures authorizing offshore oil drilling and highway user taxes.) Both houses have adjourned for their summer break.

In this article, we discuss the major provision of the following education-related trailer bills:

ABX4 2-Primary Omnibus Education Trailer Bill

ABX4 3-Proposition 98 and 2008-09 Categorical Program Sweeps

ABX4 10-Home-to-School Transportation

ABX4 16-Apportionment Deferrals

Proposition 98

Proposition 98 funding was one of the "Big 5's" final stumbling blocks in reaching a Budget agreement. In particular, avoiding suspension of the guarantee in 2009-10 and ensuring that the Maintenance Factor is recognized and paid were the two critical issues.

Minimum Guarantee-ABX4 3 specifies the method the state will follow in recapturing the 2008-09 Proposition 98 "overappropriation," which in turn will establish the lower minimum guarantee for 2009-10. Specifically, the measure declares that "unallocated, unexpended, or not liquidated" categorical funds totaling \$1.6 billion as of June 30, 2009, shall revert to the state General Fund. In turn, for 2009-10, the Superintendent of Public Instruction shall allocate the same amount, less \$90.5 million for the High Priority Schools Grant (HPSG) Program, to local educational agencies (LEAs) and recipient entities in accordance with the amount they would have received but that was reverted in 2008-09. Thus, over the two-year period, LEAs will receive the same amount that they were originally expected to receive for the categorical programs, less HPSG funding, since this program is being eliminated.

In addition, however, revenue limits for 2009-10 will be reduced by an estimated \$250 per 2008-09 second principal apportionment (P-2) average daily attendance (ADA) to yield the equivalent savings for the state from the reversion of unallocated categorical funds (i.e., \$1.516 billion divided by P-2 ADA for 2008-09). Through this mechanism, the state lowers 2008-09 Proposition 98 appropriations to the minimum (\$49.102 billion) and then establishes the 2009-10 guarantee without suspension. School districts and county offices of education (COEs) will experience a loss of revenue limit funds in 2009-10 from this recapture. This recapture, however, should be generally equivalent to the amount that the May Revision proposed to cut from

revenue limits with the higher 2008-09 deficit factor. (Recall that the May Revision proposed to increase the 2008-09 deficit factor from 7.844% to 11.428% as the means by which the "overappropriation" would be recaptured.)

Maintenance Factor-Unlike prior years, the Maintenance Factor was a key Budget issue because of the Department of Finance's contention that under Test 1 no Maintenance Factor obligation is created or payment required, regardless of how low the Proposition 98 funding level drops. ABX4 3 resolves this controversy by creating two alternative mechanisms under which Maintenance Factor payments are continued: (1) the obligation is recognized in accordance with the method outlined in the State Constitution, or (2) the obligation is recognized in accordance with the statutory requirements of the bill (which generally mirror the constitutional provisions). The bill contains language that attempts to ensure that in any event either one or both provisions are operative in 2009-10, thereby ensuring that the Maintenance Factor obligation is acknowledged. In addition, ABX4 3 specifies that, for 2008-09, the Maintenance Factor totals \$11.2 billion, thus eliminating any ambiguity about the amount in question.

Quality Education Investment Act (QEIA)

ABX4 2 deletes the \$450 million in General Fund appropriation (non-Proposition 98) contained in the 2009 Budget Act enacted in February 2009. Of this amount, \$402 million was earmarked for K-12 QEIA and \$48 million for community colleges. The deletion of these funds is used to bolster the state's reserve for economic uncertainties.

The measure also makes a new direct Proposition 98 appropriation to fund the QEIA allocations in 2009-10. However, LEAs that receive QEIA funds in 2009-10 will have their revenue limit allocations reduced by an amount equivalent to their QEIA allocation, thus leaving a hole in their general purpose funding. ABX4 3 suggests that, as means of backfilling the reduction created by the revenue limit reduction, districts may apply for Title I School Improvement Funds and may receive funds if they meet all eligibility requirements.

Finally, ABX4 2 authorizes an additional year for the QEIA program through 2014-15.

California High School Exit Exam (CAHSEE)

The Conference Committee proposal to exempt all students from having to pass the CAHSEE for graduation was not included in the final package; however, students with disabilities are exempted from having to pass the CAHSEE until the State Board of Education (SBE) adopts an alternative way to assess these students. Students with disabilities will still be required to take the exam in the 10th grade to fulfill the federal No Child Left Behind (NCLB) requirement.

Required Reserve for Economic Uncertainties

- 2009-10-the reserve for economic uncertainties is one-third of the percentage for a reserve adopted by the State Board as of May 1, 2009
- 2010-11-progress must be made toward returning to compliance with the minimum reserve for economic uncertainties (it shall be higher than one-third of the percentage in 2009-10)
- 2011-12-the reserve must be restored to the percentage adopted by the State Board as of May 1, 2009

Revenue Limit

Revised Revenue Limit Deficits

	2008-09	2009-10
Statutory COLA	5.660%	4.250%
K-12 Deficit	7.844%	18.355%
County Office Deficit	7.839%	18.621%

Beginning Teachers Salary (BTS) Incentive-The base year for the two programs will be the 2007-08 P-2 fiscal year ADA. Therefore, there will be a single year used for both BTS #1 and BTS #2 for the period 2008-09 through 2012-13. This adjustment will be applied to both district revenue limit calculations and COE revenue limit calculations.

Supplemental Instruction and Regional Occupational Centers/Programs (ROC/Ps)-The 2007-08 fiscal year has been established as the base for average daily attendance for classes for supplemental instruction and ROC/Ps for the 2008-09 through 2012-13 fiscal years.

Apportionments and Deferrals

ABX4 16 makes changes to the apportionment schedule and identifies additional deferrals through the entire 2009-10 fiscal year. The change in the schedules includes the alternative schedules and special purpose schedule.

All deferrals total \$7.18 billion for the 2009-10 fiscal year excluding the P-2 shift. This includes:

Month From	Month To	Dollar Amount
New		
November 2009	January 2010	\$1 billion
Amended		
July 2009	December 2009	\$1 billion
Existing		
August 2009	October 2009	\$1.5 billion

February 2010	July 2010	\$2 billion
April 2010	August 2010	\$679 million
May 2010	August 2010	\$1 billion
Total		\$7.18 billion

Flexibility

As reported previously, the 2009-10 Budget Act included flexibility to soften the impact of the significant cuts that LEAs are facing for the 2008-09 and 2009-10 fiscal years. This flexibility will be in place from 2008-09 through 2012-13. There is flexibility in the ending fund balance and the use of 42 different programs for use on "any other educational purpose." The following items address changes and clarifications from the most recent version of the Governor's latest proposal as a revision to the original 2009-10 Budget:

- The base year for Adult Education and ROC/Ps will be 2007-08 for purposes determining ADA for the fiscal years 2008-09 through 2012-13.
- The categorical flexibility will be reported to the California Department of Education (CDE) through the Standardized Account Code Structure (SACS). The report will include expenditures of funds based on the function codes. The Unaudited Actuals reported to the CDE already include this information. The reports are due to the Legislature by April 15 each year.
- ABX4 2 clarifies that funding for K-3 class-size reduction (CSR) will be based on the 2008-09 application filed with the CDE in the fall 2008. This will be the basis upon which funding will be provided through 2011-12.
- The Ending Fund Balance "Sweeps" on Restricted Fund balances can be used for "any other educational purpose." The following programs have been added to the list of programs that are allowable to be used in this flexibility:
 - Adult Education
 - Deferred Maintenance
 - Pupil Transportation Equipment
 - CAHSEE
 - Targeted Instructional Improvement Grant
 - Instructional materials

In addition, ABX4 2 authorizes access to the fund balance for capital outlay funds, which may include ROC/P facilities, general fund restricted set-asides, and special reserve for capital outlay funds.

The following programs are specifically not eligible to have the fund balances swept:

- The English Language Learner Acquisition and Development Pilot
- Child Development
- Child Nutrition

Child Care

- ABX4 2 terminates the advisory committee for the state's child care program. The committee was

assigned the task of assisting the CDE with developing a state plan for a child care program.

Charter Schools

- ABX4 2 clarifies that authorizing agencies of charter schools are prohibited from redirecting this funding for another purpose, unless otherwise authorized in law or pursuant to an agreement between a charter school and its chartering agency. This funding must continue to be distributed to the appropriate charter school. The base year is 2007-08 for the purpose of funding, with adjustments as necessary for ADA.
- A charter school established in 2008-09 or later will use ADA of the year of establishment as its base year through the 2012-13 fiscal year for funding purposes.

Other Local Options

Program Improvement Schools-ABX4 2 clarifies that schools, school districts, COEs, and charters schools identified for program improvement pursuant to NCLB, and school districts and COEs that received a federal corrective action are eligible to utilize the Tier III flexibility provisions through 2012-13.

Routine Restricted Maintenance Account (RRMA)-The RRMA deposit requirement is reduced to zero for five years (2008-09 through 2012-13) for school districts that keep facilities in good repair.

Sale of Surplus Property-School districts may sell surplus real property, together with any personal property located on the property, and use the proceeds for any one-time general fund purpose. There are specific requirements and certifications that have to be made to the state in order to utilize this option. It remains in effect until January 1, 2012.

Instructional Materials-ABX4 3 suspends the requirements for school districts to purchase newly adopted instructional materials until 2013-14 and delays the SBE's instructional materials adoption cycle for that same period.

-SSC Staff

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