

JOINT BUDGET COMMITTEE



SUPPLEMENTAL BUDGET REQUESTS FY 2016-17

DEPARTMENT OF EDUCATION

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
CRAIG HARPER, JBC STAFF
JANUARY 24, 2017

JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR • DENVER • COLORADO • 80203
TELEPHONE: (303) 866-2061 • TDD: (303) 866-3472
<https://leg.colorado.gov/agencies/joint-budget-committee>

CONTENTS

Department Overview	1
Summary: FY 2016-17 Appropriation and Recommendation	2
Prioritized Supplementals in Department-assigned Order	4
S1 Total Program Mid-year Adjustment	4
S2 Contingency Reserve	14
S3 Department of Education Legal Services	19
S4 CORE Operations Overexpenditure Release	21
Statewide Common Policy Supplemental Requests	22
Numbers Pages	23
S1 Total Program Mid-Year Adjustment	23
S2 Contingency Reserve	24
S3 Legal Services	25
S4 CORE Operations Overexpenditure Release	26

DEPARTMENT OF EDUCATION

DEPARTMENT OVERVIEW

The elected members of the State Board of Education are responsible for the general supervision of public schools throughout Colorado. The Commissioner of Education, appointed by the State Board, advises the State Board concerning the operation and status of public schools and serves as the executive officer of the Department of Education. Among other tasks and responsibilities, the Department supports the Board in its duties by:

- accrediting public schools and school districts;
- developing and maintaining state model academic content standards and administering associated student assessments for certain subject areas and grade levels; and
- issuing school performance reports for every public school in the State.

The Department also administers a number of education-related programs, including: educator licensure and professional development; the School Finance Act and the distribution of state and federal funds to school districts; special education for children with disabilities; English language proficiency programs; the Colorado Preschool Program; educator effectiveness and evaluation programs; and adult basic education programs.

The Department includes three independent agencies: (1) the Board of Trustees for the Colorado School for the Deaf and the Blind; (2) the State Charter School Institute Board, which is responsible for authorizing and monitoring the operations of institute charter schools located within certain school districts; and (3) the Public School Capital Construction Assistance Board, which is responsible for assessing public school capital construction needs statewide and making recommendations concerning the prioritization and allocation of state financial assistance for school construction projects.

In addition to its responsibilities related to public schools, the Department is charged with promoting the improvement of library services statewide to ensure equal access to information, including providing library services to persons who reside in state-funded institutions and to persons who are blind or physically disabled.

SUMMARY: FY 2016-17 APPROPRIATION AND RECOMMENDATION

DEPARTMENT OF EDUCATION: RECOMMENDED CHANGES FOR FY 2016-17						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$5,452,310,190	\$3,765,024,305	\$1,005,881,952	\$33,075,421	\$648,328,512	599.0
Other legislation	5,688,160	(397,199)	6,085,359	0	0	0.5
CURRENT FY 2016-17 APPROPRIATION	\$5,457,998,350	\$3,764,627,106	\$1,011,967,311	\$33,075,421	\$648,328,512	599.5
RECOMMENDED CHANGES						
Current FY 2016-17 Appropriation	\$5,457,998,350	3,764,627,106	\$1,011,967,311	\$33,075,421	\$648,328,512	599.5
S1 Total program mid-year adjustment	3,950	0	3,950	0	0	0.0
S2 Contingency reserve	1,000,000	0	1,000,000	0	0	0.0
S3 Department of Education legal services	171,090	171,090	0	0	0	0.0
S4 CORE operations overexpenditure release	121,724	0	0	121,724	0	0.0
NP Property fund supplemental	0	0	0	0	0	0.0
NP Annual fleet supplemental	0	0	0	0	0	0.0
RECOMMENDED FY 2016-17 APPROPRIATION	\$5,459,295,114	\$3,764,798,196	\$1,012,971,261	\$33,197,145	\$648,328,512	599.5
RECOMMENDED INCREASE/(DECREASE)	\$1,296,764	\$171,090	\$1,003,950	\$121,724	\$0	0.0
Percentage Change	0.0%	0.0%	0.1%	0.4%	0.0%	0.0%
FY 2016-17 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$69,019	\$541,521	(\$1,000,000)	\$527,498	\$0	(0.0)

REQUEST/RECOMMENDATION DESCRIPTIONS

S1 TOTAL PROGRAM MID-YEAR ADJUSTMENT: The request proposes to maintain the existing appropriation for the state share of districts' total program funding with no change. However, the request includes statutory adjustments to both total program funding and the negative factor to align with actual data concerning pupil counts and local revenues available to support school finance. As a result of lower-than-anticipated pupil counts, total program before the application of the negative factor is \$25.5 million lower than anticipated in the original appropriation. Local revenues are \$23.1 million lower than anticipated in the original appropriation. Because the decrease in total program funding exceeds the decrease in local revenues, maintaining the existing state share appropriation would reduce the dollar value of the negative factor by \$2.4 million (from \$830.7 million in the original FY 2016-17 appropriation to \$828.3 million in the Department's request). The request includes an increase of \$3,950 cash funds from the State Education Fund for the Hold-harmless Full-day Kindergarten line item to align appropriations for that line item with the proposed reduction in the negative factor. Please note that the request requires separate legislation to adjust the statutory provisions detailing total program funding amounts in FY 2016-17. Staff recommends approving the request.

S2 CONTINGENCY RESERVE FUND: The request includes an increase of \$1,054,996 total funds, including \$527,498 General Fund to be appropriated into the Contingency Reserve Fund and that same amount of reappropriated funds appropriated out of the Contingency Reserve Fund, to support potential assistance payments to six school districts pursuant Section 22-54-117 (1) (a)

(VIII), C.R.S. (added through H.B. 16-1422 (School Finance)). Staff recommends approving an appropriation of \$1,000,000 cash funds from the Contingency Reserve Fund to allow the Department to utilize the existing fund balance (\$672,825) and an anticipated repayment from South Routt County School District (South Routt) to assist the districts in question. The recommendation would align appropriations with the original FY 2016-17 appropriation from the Contingency Reserve Fund based on the potential repayment by South Routt and does not require a General Fund appropriation in FY 2016-17. However, staff notes that the recommendation does affect both the timing (based on the timing of potential repayment by South Routt) and the amount available for distribution by the State Board of Education, reducing the total amount available for distribution to eligible districts by between \$172,093 (if the South Routt is able to repay the remaining balance to the State) and \$499,268 (if South Routt is unable to repay the State in FY 2016-17).

S3 Department of Education legal services: The request includes an increase of \$171,090 General Fund to allow the Department to purchase 1,800 additional hours of legal services from the Department of Law based on higher than anticipated need for legal services in the current year. The request is driven primarily by a need for additional services associated with the five-year accountability clock and the Department's review and response to the federal Every Student Succeeds Act (ESSA). Staff recommends approving the request.

S4 CORE operations overexpenditure release: The request includes an increase of \$121,724 reappropriated funds to release a restriction on the FY 2016-17 appropriation for CORE Operations resulting from overexpenditures in FY 2014-15 and FY 2015-16. The overexpenditures were the result of technical errors in the appropriations. Staff recommends approving the request to release the restriction and allow the Department to make its anticipated payments in FY 2016-17.

NP PROPERTY FUND SUPPLEMENTAL: The request includes an increase of \$14,918 General Fund to adjust the Department's share of property insurance carried by the Department of Personnel. This request was addressed through a separate supplemental presentation for the Department of Personnel on January 12, 2017. Please note that the dollar amounts in the table above reflect the Committee's action denying the Department of Personnel supplemental request.

NP ANNUAL FLEET SUPPLEMENTAL: The request includes a net decrease of \$895 General Fund which is offset by reductions in cash, reappropriated, and federal funds to adjust the Department's share of expenses related to leasing fleet vehicles through the Department of Personnel. This request was addressed through a separate supplemental presentation for the Department of Personnel on January 12, 2017. Please note that the dollar amounts in the table above reflect the Committee's action denying the Department of Education component of the Department of Personnel supplemental request.

PRIORITIZED SUPPLEMENTAL REQUESTS

S1 TOTAL PROGRAM MID-YEAR ADJUSTMENT

	REQUEST	RECOMMENDATION
TOTAL	\$3,950	\$3,950
Cash Funds	3,950	3,950

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that were not available when the original appropriation was made.

DEPARTMENT REQUEST: The request proposes to maintain the existing appropriation for the state share of districts’ total program funding with no change. However, the request includes statutory adjustments to both total program funding and the negative factor to align with actual data concerning pupil counts and local revenues available to support school finance.

- As a result of lower-than-anticipated pupil counts, total program before the application of the negative factor is \$25.5 million lower than anticipated in the original appropriation.
- Local revenues are \$23.1 million lower than anticipated in the original appropriation.
- Because the decrease in total program funding prior to the negative factor exceeds the decrease in local revenues, maintaining the existing state share appropriation would reduce the dollar value of the negative factor by \$2.4 million (from \$830.7 million in the original FY 2016-17 appropriation to \$828.3 million in the Department’s request).
- The request includes an increase of \$3,950 cash funds from the State Education Fund for the Hold-harmless Full-day Kindergarten line item to align appropriations for that line item with the proposed reduction in the negative factor.

Please note that the request requires separate legislation to adjust the statutory provisions detailing total program funding amounts in FY 2016-17.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the Department’s request to: (1) maintain the state share of districts’ total program funding at the level of the original appropriation; and (2) increase appropriations for the Hold-harmless Full-day Kindergarten Funding line item by \$3,950 cash funds from the State Education Fund. Staff recommends that the Committee introduce separate legislation providing the appropriation for Hold-harmless Full-day Kindergarten Funding and making the statutory changes associated with the request.

STAFF ANALYSIS:

BACKGROUND: Under the School Finance Act, each school district’s total program funding is built on four basic variables: (1) inflation (Amendment 23 increases statewide base per pupil funding by the rate of inflation each year based on the change in the Denver-Boulder-Greeley consumer price index from the previous calendar year); (2) funded pupil count (which is multiplied by per pupil funding for each district to generate the total program amount); (3) at-risk pupil counts for each

district; and (4) local revenues (from property taxes and specific ownership taxes) available to support total program. Once the formula calculates a per pupil amount for each district, the Department then adds a flat per pupil funding amount for two groups of students: multi-district on-line students and ASCENT participants.

Of these variables, only the applicable inflation rate and the legislatively-approved number of ASCENT participants are known when the General Assembly establishes the Long Bill appropriation for school finance. The General Assembly uses estimates of pupil counts, at-risk pupil counts, and local revenues to set the initial school finance appropriation each year. Subsequently:

- School districts conduct an annual pupil count (on or near October 1) and then work with the Department to finalize both funded pupil counts and at-risk pupil counts by mid-December.
- County assessors certify to the Department of Education the total valuation for assessment of all taxable property (by August 25) and the State Board of Equalization certifies assessors' abstracts of assessments (by December 20).
- School district boards, with the assistance of the Department, certify to their respective boards of county commissioners and inform their county treasurers of the district's mill levy for school finance (by December 15).

Thus, by early January of each fiscal year, school districts and the Department know the actual funded pupil count, at-risk pupil count, and local revenues available to support school finance. Section 22-54-106 (4) (b), C.R.S., requires the Department to submit a request for a supplemental appropriation in an amount that would fully fund the state share of districts' total program funding. Statute does not require the General Assembly to fund the requested supplemental appropriation. If existing appropriations are insufficient and the General Assembly does not provide additional funds or reduces the existing appropriation, Section 22-54-106 (4) (c), C.R.S., requires the Department to reduce state aid for each school district and each Institute charter school on a pro rata basis.

TOTAL PROGRAM FUNDING SUMMARY: The Department is requesting legislative action to adjust total program funding to account for lower than anticipated local revenues as well as lower than anticipated pupil counts and at-risk pupil counts. The Department proposes to hold the state share of total program funding constant, with no change from the current appropriation. Total program after the application of the negative factor would decrease by \$23.1 million as a result of lower-than-anticipated local revenues for school finance. However, because the actual funded pupil count and at-risk student counts are both lower than anticipated in the original appropriation, total program before the application of the negative factor decreases by \$25.5 million below the level assumed in the original appropriation. Thus, the Department's request to hold the state share constant actually reduces the dollar value of the negative factor by \$2.4 million. Although the Department is not requesting a change to the state share of total program funding, the request still requires legislation to align the statutory provisions associated with total program funding in FY 2016-17 with the proposed changes.

Table A summarizes the changes in the Department's total program supplemental request. Table B then compares the Department's supplemental request to mid-year adjustments to the state share in recent years (as shown in the table, FY 2016-17 would be the only year since FY 2006-07 without a mid-year adjustment to the state share of total program funding). The sections following the summary tables describe each major change in greater detail.

TABLE A: CHANGES TO SCHOOL FINANCE BASED ON ACTUAL ENROLLMENT AND LOCAL REVENUES

FISCAL YEAR	FY 2015-16 FINAL APPROPRIATION	FY 2016-17		MID-YEAR CHANGE
		DATA USED FOR INITIAL APPROPRIATION	DATA RELATED TO REVISED REQUEST	
Funded Pupil Count	853,251.4	861,441.4	858,795.8	(2,645.6)
<i>Annual Percent Change</i>		1.0%	0.6%	
Statewide Base Per Pupil Funding	\$6,292	\$6,368	\$6,368	\$0
<i>Annual Percent Change</i>	2.8%	1.2%	1.2%	
Total Program Funding PRIOR TO Negative Factor	\$7,070,267,168	\$7,226,612,607	\$7,201,112,934	(\$25,499,673)
Less: Negative Factor Reduction	(830,702,393)	(830,702,393)	(828,280,474)	2,421,919
<i>Negative Factor as % of Total program</i>	11.75%	11.50%	11.50%	
EQUALS: Adjusted Total Program Funding	\$6,239,564,775	\$6,395,910,214	\$6,372,832,460	(\$23,077,754)
<i>Annual Percent Change</i>	5.2%	2.5%	2.1%	
Statewide Average Per Pupil Funding (for adjusted total program funding)	\$7,312.69	\$7,424.66	\$7,420.66	(\$4.00)
<i>Annual Percent Change</i>	4.1%	1.5%	1.5%	
Local Share of Districts' Total Program Funding	\$2,259,785,802	\$2,280,782,709	\$2,257,704,955	(\$23,077,754)
Property Tax Revenue	2,104,957,889	2,121,309,958	2,089,992,070	(31,317,888)
Specific Ownership Tax Revenue	154,827,913	159,472,751	167,712,885	8,240,134
<i>Annual Percent Change on Total</i>	14.0%	0.9%	-0.1%	
State Share of Districts' Total Program Funding	\$3,979,778,973	\$4,115,127,505	\$4,115,127,505	\$0
<i>Annual Percent Change</i>	0.7%	3.4%	3.4%	
<i>State Share as Percent of Districts' Total Program</i>	63.8%	64.3%	64.6%	

TABLE B: HISTORY OF MID-YEAR APPROPRIATION ADJUSTMENTS FOR STATE SHARE OF SCHOOL FINANCE /A

FISCAL YEAR	TOTAL STATE SHARE APPROPRIATION MADE IN SESSION PRECEDING FISCAL YEAR	MID-YEAR ADJUSTMENTS		FINAL APPROPRIATION
		DOLLARS	% CHANGE	
FY 2003-04	2,604,731,215	22,342,837	0.9%	2,627,074,052
FY 2004-05	2,732,460,144	11,444,662	0.4%	2,743,904,806
FY 2005-06	2,838,429,178	32,800,098	1.2%	2,871,229,276
FY 2006-07	3,040,302,744	20,866,091	0.7%	3,061,168,835
FY 2007-08	3,266,328,775	(113,617,998)	-3.5%	3,152,710,777
FY 2008-09 b/	3,393,363,222	(418,016)	0.0%	3,392,945,206
FY 2009-10 c/	3,696,288,785	(177,332,868)	-4.8%	3,518,955,917
FY 2010-11 d/	3,399,817,396	(193,428,514)	-5.7%	3,206,388,882
FY 2011-12	3,336,347,674	(4,425,519)	-0.1%	3,331,922,155
FY 2012-13	3,336,460,619	13,253,672	0.4%	3,349,714,291
FY 2013-14	3,532,662,765	55,437,495	1.6%	3,588,100,260
FY 2014-15	3,953,506,569	(2,894,086)	-0.1%	3,950,612,483
FY 2015-16	4,113,321,146	(133,542,173)	-3.2%	3,979,778,973
FY 2016-17 (requested adjustment)	4,115,127,505	0	0.0%	4,115,127,505

a/ Amounts include additional state aid related to locally negotiated business incentive agreements, and exclude appropriations to transfer moneys from the General Fund to the State Education Fund.

b/ In FY 2008-09 the General Assembly did not approve a \$26.3 million supplemental request to fully fund the existing statutory total program funding formula. The General Assembly passed legislation (S.B. 09-215) to adjust base per pupil funding for FY 2008-09, eliminating the additional \$19.72 per pupil that was not constitutionally required, thereby reducing total program funding by \$20.0 million. Ultimately, the Department was required to rescind \$5,777,656.

c/ The 2009 school finance bill (S.B. 09-256) included a provision requiring school districts and the State Charter School Institute to create and budget an amount in FY 2009-10, equivalent to about 1.9 percent of total program funding (a total of \$110 million statewide), to a fiscal emergency restricted reserve. The act allowed districts to spend the moneys in the reserve beginning January 29, 2010, unless the General Assembly reduced state appropriations for school finance prior to that date. The General Assembly subsequently reduced state appropriations by \$177 million, including a reduction of \$110 million as contemplated in S.B. 09-256, as well as a reduction of \$67 million to reflect higher than anticipated local revenues. This mid-year adjustment did not add \$19.8 million to fund a higher than anticipated number of funded pupils and at-risk pupils. Thus, the Department was required to rescind a total of \$129,813,999.

d/ The mid-year adjustments for FY 2009-10 included: (1) a reduction of \$216,358,164 General Fund, which was fully offset by the appropriation of federal moneys; and (2) an increase of \$22,929,650 cash funds to offset lower than anticipated local revenues. This mid-year adjustment did not increase the appropriation to fund a higher than anticipated number of funded pupils and at-risk pupils, resulting in a decrease in the average per pupil funding amount.

The following sections provide additional detail and historical context for each component of the Department's request.

FUNDED PUPIL COUNT: The actual funded pupil count is lower than anticipated in the original FY 2016-17 appropriation. The original appropriation assumed a total statewide funded pupil count of 861,441.4; the actual count is 858,795.8, a decrease of 2,645.6 (0.3 percent) below the anticipated count. As shown in Table C, this is a typical mid-year adjustment.

FISCAL YEAR	ESTIMATE FOR INITIAL APPROPRIATION	MID-YEAR ADJUSTMENTS		ESTIMATE FOR FINAL APPROPRIATION
		FUNDED PUPILS	% CHANGE	
FY 2006-07	750,306.8	3,031.2	0.4%	753,338.0
FY 2007-08	768,416.3	7,499.0	1.0%	775,915.3
FY 2008-09	776,017.0	2,118.9	0.3%	778,135.9
FY 2009-10	788,648.3	862.8	0.1%	789,511.1
FY 2010-11	797,438.5	1,238.1	0.2%	798,676.6
FY 2011-12	805,890.6	2,303.9	0.3%	808,194.5
FY 2012-13	817,221.0	438.7	0.1%	817,659.7
FY 2013-14	828,045.0	2,788.0	0.3%	830,833.0
FY 2014-15	845,136.0	(589.6)	-0.1%	844,546.4
FY 2015-16	855,390.5	(2,139.1)	-0.3%	853,251.4
FY 2016-17 (requested adjustment)	861,441.4	(2,645.6)	-0.3%	858,795.8

Prior to the implementation of the negative factor, a decrease in the funded pupil count would generally decrease districts' total program funding pursuant to the School Finance Act. For example, the original FY 2016-17 appropriation assumes \$7,424.66 in statewide average per pupil funding. With 2,645.6 fewer students in the actual count, maintaining a statewide average of \$7,424.66 would allow for a reduction of \$19.6 million in total program funding. The supplemental request proposed by the Department (a net reduction in total program funding of \$23.1 million) would reduce statewide average per pupil funding by \$4.00).

PER PUPIL FUNDING: The number of at-risk students is also lower than anticipated. The original appropriation assumed a total of 311,413 at-risk pupils. However, the Department's actual count is

307,384, a decrease of 4,029 (1.3 percent) below the anticipated count. Based on the actual October 2016 student count, at-risk students now comprise 35.8 percent of students statewide, 0.3 percent below the 36.1 percent of students in FY 2015-16.

The School Finance Act provides additional funding for at-risk students. Thus, an increased number of at-risk students would typically increase a district's total program funding and statewide average per pupil funding, while a decreased number of at-risk students would typically decrease total program funding and statewide average per pupil funding. The Department's request (and staff's recommendation) would maintain the state share of total program funding at current levels and decrease statewide average per pupil funding by \$4.00. The proposal would allow the Department to reduce the dollar value of the negative factor by \$2.4 million below the original dollar amount for FY 2016-17. Table D compares the requested adjustment to mid-year changes in recent years.

TABLE D: COMPARISON OF ESTIMATED AND FINAL STATEWIDE AVERAGE PER PUPIL FUNDING

FISCAL YEAR	ESTIMATE FOR INITIAL APPROPRIATION	MID-YEAR ADJUSTMENTS PER PUPIL FUNDING	% CHANGE	ESTIMATE FOR FINAL APPROPRIATION
FY 2006-07	6,375.68	(16.76)	-0.3%	6,358.92
FY 2007-08	6,658.37	2.66	0.0%	6,661.03
FY 2008-09	6,904.49	(22.58)	-0.3%	6,881.91
FY 2009-10 (prior to mid-year rescision)	7,225.40	16.28	0.2%	7,241.68
FY 2010-11 (mid-year adjustment) a/	6,823.57	(280.80)	-4.1%	6,542.77
FY 2011-12	6,468.24	6.00	0.1%	6,474.24
FY 2012-13	6,474.24	5.18	0.1%	6,479.42
FY 2013-14	6,652.28	0.00	0.0%	6,652.28
FY 2014-15	7,020.70	4.90	0.1%	7,025.60
FY 2015-16	7,294.41	18.28	0.3%	7,312.69
FY 2016-17 (requested adjustment)	7,424.66	(4.00)	-0.1%	7,420.66

a/ Mid-year adjustment for FY 2010-11 does not reflect \$216,358,164 in federal money that was made available to school districts but was technically not part of districts' total program funding. Including these funds would increase final per pupil funding to \$6,813.27, representing a \$10.30 mid-year decrease.

STATE VS. LOCAL FUNDING FOR FY 2016-17: Local tax revenues are \$23.1 million (1.0 percent) lower than anticipated in the original appropriation. Specifically, property tax revenues are \$31.3 million (1.4 percent) lower than projected last spring, while specific ownership taxes¹ are \$8.2 million (5.2 percent) higher than projected. As shown in Table E, the net change is comparable to recent years although FY 2015-16 saw a significant increase in local revenues relative to the original projections for that year.

¹ Counties collect vehicle registration taxes and share the revenues with local school districts. Pursuant to Section 22-54-106 (1) (a) (I), C.R.S., each district's local share of total program funding includes a portion of these district "specific ownership tax revenues" – specifically, that portion that was collected for the previous budget year that is attributable to all property tax levies made by the school district, except those levies made for the purpose of satisfying bonded indebtedness obligations (both principal and interest) and those authorized pursuant to voter approval to raise and expend additional "override" property tax revenues in excess of the district's total program (see Section 22-54-103 (11), C.R.S.). Total specific ownership tax revenues are directly related to the number and taxable value of vehicles. The portion of these revenues that count toward the local share of total program funding is impacted by school districts' general fund mill levies in relation to other school district mill levies, as well as other local mill levies.

TABLE E: COMPARISON OF ESTIMATED AND FINAL LOCAL SHARE OF FUNDING

FISCAL YEAR	ESTIMATE FOR INITIAL APPROPRIATION	MID-YEAR ADJUSTMENTS		ESTIMATE FOR FINAL APPROPRIATION
		LOCAL FUNDING	% CHANGE	
FY 2006-07	1,744,552,387	(14,398,874)	-0.8%	1,730,153,513
FY 2007-08	1,850,072,036	65,707,519	3.6%	1,915,779,555
FY 2008-09	1,965,055,671	(9,186,989)	-0.5%	1,955,868,682
FY 2009-10	2,002,007,038	66,609,048	3.3%	2,068,616,086
FY 2010-11	2,041,563,656	(22,707,653)	-1.1%	2,018,856,003
FY 2011-12	1,876,347,000	24,178,468	1.3%	1,900,525,468
FY 2012-13	1,924,424,268	(6,175,383)	-0.3%	1,918,248,885
FY 2013-14	1,975,723,359	(36,889,870)	-1.9%	1,938,833,489
FY 2014-15	1,979,937,820	2,894,086	0.1%	1,982,831,906
FY 2015-16	2,126,243,629	133,542,173	6.3%	2,259,785,802
FY 2016-17	2,280,782,709	(23,077,754)	-1.0%	2,257,704,955

Maintaining the current state share appropriation (as requested by the Department and recommended by staff) would decrease total program funding by \$23.1 million in FY 2016-17. Alternatively, maintaining a constant level of total program funding (including the state and local share) would require an increase of \$23.1 million in state funds.

SUMMARY OF OPTIONS AND STAFF RECOMMENDATION ASSOCIATED WITH FY 2016-17

REQUEST: Staff is recommending approval of the Department’s request to maintain the state share of total program funding at the original appropriated level. However, the Committee may wish to consider additional options. While the Committee could elect to change funding in any number of ways, staff offers two additional illustrative options for the Committee’s consideration. Staff summarizes the options below and in Table F (on the following page).

- *Constant Negative Factor:* Maintaining the negative factor at the level of the original FY 2016-17 appropriation (\$830.7 million) would allow the state share to decrease by \$2.4 million because of the lower-than-anticipated pupil count, which is largely offset by the reduction in local revenues. Statewide average per pupil funding would decrease by \$6.82 from the amount anticipated in the original appropriation (from \$7,424.66 to \$7,417.84) because of the reduced at-risk count relative to the original projections.
- *Constant Total Program:* Maintaining total program funding (the combination of state and local shares) would require the state share to increase by \$23.1 million to offset the reduction in local revenues. Statewide average per pupil funding would increase by \$22.87 relative to the original appropriation and the dollar value of the negative factor would decrease by \$25.5 million (from \$830.7 million in the original appropriation to \$805.2 million). Given the state’s budgetary situation in FY 2016-17 and FY 2017-18, staff is not recommending taking on this additional cost in FY 2016-17.
- *Request and Staff Recommendation – Constant State Share:* As discussed above, maintaining a constant state share would result in a \$23.1 million reduction in total program funding because of the reduction in local revenues relative to the amounts assumed in the original appropriation. However, because of the lower-than-anticipated funded pupil counts and at-risk pupil counts, this option still reduces the dollar value of the negative factor by \$2.4 million in FY 2016-17. As requested by the Department, this option does require an increase of \$3,950 cash funds from the State Education Fund for the Hold-harmless Full-day Kindergarten line item to align appropriations for that program with the reduction in the negative factor. Thus, while staff

recommends leaving the state share of total program funding unchanged, the recommendation includes the requested increase for Hold-harmless Full-day Kindergarten Funding.

TABLE F: FY 2016-17 TOTAL PROGRAM SUPPLEMENTAL APPROPRIATION OPTIONS

	ORIGINAL APPROPRIATION	CONSTANT NEGATIVE FACTOR	CONSTANT TOTAL PROGRAM	REQUEST AND STAFF REC: CONSTANT STATE SHARE
Total Program before Negative Factor	\$7,226,612,607	\$7,201,112,934	\$7,201,112,934	\$7,201,112,934
Negative Factor	(830,702,393)	(830,702,393)	(805,202,720)	(828,280,474)
<i>Negative Factor as Percentage</i>	<i>-11.50%</i>	<i>-11.54%</i>	<i>-11.18%</i>	<i>-11.50%</i>
Adjusted Total Program	\$6,395,910,214	\$6,370,410,541	\$6,395,910,214	\$6,372,832,460
Pupil Count	861,441.4	858,795.8	858,795.8	858,795.8
Statewide Average Per Pupil	\$7,424.66	\$7,417.84	\$7,447.53	\$7,420.66
Change from Original Appropriation in Statewide Average Per Pupil Funding	N/A	(\$6.82)	\$22.87	(\$4.00)
Local Share	\$2,280,782,709	\$2,257,704,955	\$2,257,704,955	\$2,257,704,955
State Share	4,115,127,505	4,112,705,586	4,138,205,259	4,115,127,505
Change in State Share from Original Appropriation (Supplemental Amount)	N/A	(\$2,421,919)	\$23,077,754	\$0
Statutory Change Required/Recommended to Adjust Total Program Amount	N/A	Yes	Yes	Yes

RECOMMENDED COMPANION BILL: As has been the precedent in previous years, staff recommends that the Committee make the recommended statutory (total program and negative factor) and appropriation (Hold-harmless Full-day Kindergarten Funding) changes through a separate bill. Specifically, staff recommends that the Committee introduce a bill that includes the following provisions:

- A non-statutory legislative declaration to explain the current situation and the General Assembly’s intent to reduce total program funding. Specifically, the declaration would state that: (a) Based on the actual funded pupil count and the actual at-risk student counts for FY 2016-17, total program funding is \$25,499,673 lower than anticipated when appropriations were established in the 2016 Session; (b) Based on actual local property tax and specific ownership taxes available to school districts for FY 2016-17, the local share of total program funding is \$23,077,754 lower than anticipated when appropriations were established in the 2016 Session; and (c) It is the intent of the General Assembly to maintain the state share of districts’ total program funding at the level of the original appropriation and to adjust total program funding, after the application of the negative factor, to reflect the reduction in the negative factor.
- A provision to adjust the total program floor for FY 2016-17 to provide clear direction to the Department of Education and Legislative Council Staff in recalculating the FY 2016-17 negative factor.
- An appropriation clause to appropriate an additional \$3,950 cash funds from the State Education Fund to the Hold-harmless Full-day Kindergarten Funding line item to align with the recommended changes in total program funding.

As discussed below with respect to the Governor’s revised FY 2017-18 budget request (Budget Amendment 1), the Committee may also wish to include a provision to adjust the “current law” total program funding amount for FY 2017-18.

FY 2017-18 – GOVERNOR’S REVISED REQUEST (BUDGET AMENDMENT 1): In addition to proposing revisions to the current year appropriations for school finance, the Governor’s January 17, 2016 budget submission also revises the request for FY 2017-18. The Governor’s revised request continues to target the same dollar value for the negative factor as the November 1, 2016 request (\$876.1 million, an increase of \$45.4 million above the current FY 2016-17 appropriation and \$47.8 million above the level proposed in the FY 2016-17 supplemental). Because of changes in the underlying data (discussed below), maintaining the negative factor value targeted in the November 1 request requires an increase of \$100.2 million in state funds above the level proposed in the November 1 request.

NEW DATA: The revised request incorporates a variety of updates and changes based on either new information or new proposals. The revised request incorporates the following changes in underlying data:

- *Pupil Counts:* Based on the December 2016 Legislative Council Staff Revenue Forecast, the revised request reduces the funded pupil count and the at-risk student count relative to the levels assumed in the November 1 request. These reductions reduce total program funding before the application of the negative factor by \$34.8 million.
- *Local Revenues:* Current estimates have reduced local revenues relative to the assumptions in the November 1 request, with the primary driver being an anticipated reduction in the residential assessment rate as discussed during the presentation of the Legislative Council Staff December 2016 Revenue Forecast. Legislative Council Staff’s forecast of assessed value anticipates an overall reduction of \$169.8 million in local revenues relative to the amounts assumed in December (a reduction of \$178.3 million in property taxes which is partially offset by an increase of \$8.5 million in specific ownership taxes). The Governor’s revised request, which is based on estimates from the Division of Property Taxation within the Department of Local Affairs, assumes a total reduction of \$135.1 million (a reduction of \$143.6 million in property taxes which is partially by the same \$8.5 million increase in specific ownership taxes). Thus, the Governor’s revised request anticipates \$34.4 million *more* in local revenues than the Legislative Council Staff Revenue Forecast.

Please note that because the final inflation rate for CY 2016 was not available prior to the submission of the Governor’s request, the Governor’s revised request continues to assume an inflation rate of 2.7 percent. The actual rate (the Denver-Boulder-Greeley Consumer Price Index for CY 2016) is 2.8 percent, which increases the cost of total program (before the negative factor) by \$7.3 million above the level assumed in the Governor’s revised request.

LEGISLATIVE PROPOSALS: Building on the November 1 request, the Governor’s revised request includes three separate legislative proposals to provide additional revenues to support total program funding (a total of \$119.5 million). Each proposal is discussed briefly below.

Homestead Exemption: The revised request proposes legislation to reduce the General Fund dedicated to the Homestead Property Tax Exemption by 50.0 percent (approximately \$68.1 million) and to dedicate \$62.7 million of that funding to total program. Staff notes the following:

- Homestead Exemption funds are continuously appropriated to the Department of Treasury (based on the threshold set in statute by the General Assembly) and the savings associated with the proposed 50.0 percent reduction in the exemption are somewhat uncertain. However, the

Governor’s request assumes that this modification will provide the requested \$62.7 million increase in General Fund.

Marijuana Sales Tax: The revised request proposes to increase the special sales tax on marijuana to 12.0 percent, effective July 1, 2017. Under current law, the rate will decline from 10.0 percent in FY 2016-17 to 8.0 percent in FY 2017-18. Thus, the proposal equates to a 50.0 percent increase in the tax rate for FY 2017-18 relative to current law. With respect to the marijuana tax proposal, staff notes the following:

- First, the proposal would dedicate marijuana funds, which may have an uncertain future, to ongoing (operating) funding for school finance. Currently, marijuana funds appropriated to the Department of Education support specific grant programs (Building Excellent Schools Today, Charter School Capital Construction, School Health Professionals Grant Program, Bullying Prevention, and the Office of Dropout Prevention and Student Reengagement). The use of funds to support the ongoing operation of the school finance system would be new, and the use of an uncertain revenue source may introduce additional risk into the State’s ability to support school finance appropriations.
- Second, to date, the Committee and the General Assembly have appropriated Marijuana Tax Cash Fund revenues *in the year after the revenues were collected*. This practice allows the General Assembly to make appropriations based on approximately nine months of revenue collections, increasing certainty regarding revenue estimates. The Governor’s proposal is a departure from this practice and would spend tax revenues collected in FY 2017-18 (with a tax beginning on July 1, 2017) in FY 2017-18. Staff is concerned that the proposal would increase the risk of appropriations exceeding actual revenues and increase risk to the General Fund.

Cash Fund Transfer: The November 1 request includes a proposal to transfer \$15.0 million cash funds from the Public School Capital Construction Assistance Fund (which supports the Building Excellent Schools Today (B.E.S.T.) Program) to the State Public School Fund to support total program funding in FY 2017-18.

CURRENT LAW AND THE FY 2017-18 LONG BILL APPROPRIATION: As the Committee looks toward the FY 2017-18 budget process and the Long Bill, staff is concerned that meeting the requirements of current law (holding the negative factor constant) may not be possible within the available revenues. However, given that the Long Bill is written to current law, without a change in statute (either to adjust the negative factor requirement or provide additional revenues such as those proposed by the Governor), staff anticipates making a Long Bill recommendation that would meet the current law requirements, largely through the use of General Fund (which may not be available).

For the Committee’s reference, the following table compares the proposed FY 2016-17 appropriation, the Governor’s November 1 request, the revised (January 17) request, and current law requirements. Please note that the “current law” column: (1) assumes the negative factor cannot grow as a dollar amount from FY 2016-17 to FY 2017-8 based on current law; (2) uses the actual CY 2016 inflation rate of 2.8 percent rather than the 2.7 percent assumed by the Governor’s request; (3) uses the Legislative Council Staff forecast of assessed value and property tax revenues rather than the Department of Local Affairs estimates used in the Governor’s request; and (4) does not assume enactment of the Governor’s legislative proposals to provide additional revenue (discussed above).

TABLE H: FY 2017-18 TOTAL PROGRAM FUNDING - GOVERNOR'S REVISED REQUEST

	FY 2016-17 APPROPRIATION (WITH SUPPLEMENTAL)	GOVERNOR'S FY 2017-18 REQUEST			CURRENT LAW BASED ON LCS DECEMBER FORECAST
		NOVEMBER 1, 2016 REQUEST	BUDGET AMDT 1 (JANUARY 17, 2017 PROPOSED CHANGE)	REVISED REQUEST	
Funded Pupil Count	858,796	869,550	(3,665)	865,885	865,885
Inflation Rate	1.2%	2.7%	0.0%	2.7%	2.8%
Statewide Base Per Pupil Funding	\$6,368	\$6,540	\$0	\$6,540	\$6,546
Total Program Funding					
Total Program before Negative Factor	\$7,201,112,934	\$7,490,454,238	(\$34,843,110)	\$7,455,611,128	\$7,462,880,656
Negative Factor	(828,280,474)	(876,068,148)	0	(876,068,148)	(828,280,474)
<i>Negative Factor as Percentage</i>	<i>-11.50%</i>	<i>-11.70%</i>	<i>N/A</i>	<i>-11.75%</i>	<i>-11.10%</i>
Adjusted Total Program	\$6,372,832,460	\$6,614,386,090	(\$34,843,110)	\$6,579,542,980	\$6,634,600,182
Statewide Average Per Pupil	\$7,421	\$7,607	(\$8)	\$7,599	\$7,662
Local And State Shares					
Local Share	\$2,257,704,955	\$2,451,069,817	(\$135,087,397)	\$2,315,982,420	\$2,281,627,987
Property Tax	2,089,992,070	2,286,812,884	(143,574,735)	2,143,238,149	2,108,883,715
Specific Ownership Tax	167,712,885	164,256,933	8,487,338	172,744,271	172,744,272
State Share	\$4,115,127,505	\$4,163,316,273	\$100,244,287	\$4,263,560,560	\$4,352,972,195
General Fund*	3,591,655,995	3,789,807,689	62,654,059	3,852,461,748	3,998,773,384
Cash Funds (SEF)	467,218,161	297,508,583	1,690,228	299,198,811	299,198,811
Cash Funds (SPSF)*	56,253,349	76,000,000	(6,000,000)	70,000,000	55,000,000
Cash Funds (MTCF)*	0	0	41,900,000	41,900,000	0
Annual General Fund Increase		\$198,151,694	\$62,654,059	\$260,805,753	\$407,117,389
Statutory Change Required		Yes	Yes	Yes	Yes

*The Governor's requested appropriations from the General Fund, the State Public School Fund (SPSF), and the Marijuana Tax Cash Fund (MTCF) all assume enactment of legislation that would provide additional revenues to those fund sources (discussed below).

As shown in the table, the current law column (using the assumptions outlined above) requires the following increases in General Fund: (1) \$407.1 million General Fund above the FY 2016-17 appropriation and (2) \$146.3 million above the Governor's revised request. If the Committee suspects that those amounts may not be achievable, staff offers two basic options for the Committee's consideration.

- The Committee could sponsor legislation to adjust current law to either reduce the required appropriations (increase the allowable value of the negative factor) or make additional revenues available (such as the proposals offered by the Governor). Staff is not making a recommendation regarding a targeted level of the negative factor or other potential legislation that would impact FY 2017-18 revenues.
- Alternatively, during figure setting staff will recommend a Long Bill appropriation that would meet current law requirements. If sufficient revenues are not available to meet those requirements, then the Committee would presumably sponsor separate balancing legislation (as part of the FY 2017-18 Long Bill "package") to reduce school finance appropriations and/or provide additional revenues.

S2 CONTINGENCY RESERVE

	REQUEST	RECOMMENDATION
TOTAL	\$1,054,996	\$1,000,000
General Fund	527,498	0
Cash Funds	0	1,000,000
Reappropriated Funds	527,498	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES
 [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that were not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests an increase of \$1,054,996 total funds (including \$527,498 General Fund) for the Contingency Reserve Fund line item. The request proposes to appropriate \$527,498 General Fund to the Contingency Reserve Fund and that same amount of reappropriated funds from the Contingency Reserve Fund to support payments to up to six school districts that were fully locally funded in FY 2015-16 but have experienced a decline in assessed value in FY 2016-17 and are now facing reductions as a result of the negative factor. The request seeks to support payments authorized by a provision included in H.B. 16-1422.

STAFF RECOMMENDATION: Staff recommends that the Committee approve an appropriation of \$1,000,000 cash funds from Contingency Reserve Fund. The recommendation would provide spending authority for the current balance of the fund (\$672,825) and would allow the State Board to distribute an additional \$327,175 anticipated to be repaid by South Routt County School District in 2017 (the total anticipated repayment is \$435,405). The recommendation includes the following changes from the request:

- First, the recommendation makes a maximum of \$1.0 million available for distribution to the affected school districts (a reduction of \$172,093 (14.7 percent) from the amount anticipated in the request). When enacting H.B. 16-1422, the General Assembly assumed that the \$1.0 million appropriation from the Contingency Reserve Fund would be available for this purpose, and the recommendation remains within that level of spending. Please note that the recommendation would not, however, fully fund the request. Assuming that all six of the eligible districts apply (as expected by the Department), the State Board would have to either prioritize the requests based on need or prorate assistance based on the available resources (such as a 14.7 percent reduction in the assistance provided to each district).
- Second, the recommendation does not include an appropriation of General Fund and instead relies upon the existing and anticipated balance of the Contingency Reserve Fund. According to the Department, the current fund balance is \$672,825. Because that fund balance includes \$564,595 in funds that were already distributed to South Routt County School District in July 2016 and then repaid to the Department, the Department requires additional spending authority to distribute the funds a second time. The remaining \$108,230 in the fund balance was not appropriated in the FY 2016-17 Long Bill appropriation. Please note that the Department agrees that the additional cash funds appropriation is necessary to allow for any use of the fund balance.

Based on discussions with the Department, it seems likely that South Routt School District will be able to repay the Department the remaining \$435,405 from the \$1.0 million provided to the district in July 2016. Under that scenario, the staff recommendation would retain \$108,230 in the Contingency Reserve Fund, reducing the General Fund appropriation necessary to replenish the fund to a target balance of \$1.0 million in FY 2017-18.

STAFF ANALYSIS:

BACKGROUND: The Contingency Reserve Fund, created in Section 22-54-117 (1) (a), C.R.S., provides a fund source for the State Board of Education to assist school districts facing specific circumstances. Section 22-54-117 (1), C.R.S., authorizes the State Board to approve payments from the Contingency Reserve Fund to assist school districts under the following circumstances:

- (a) (I): financial emergencies caused by an act of God or arising from extraordinary problems in the collection of taxes;
- (a) (II): financial emergencies caused by nonpayment of property taxes;
- (a) (III): revenues are insufficient to make abatements and refunds of property taxes;
- (a) (IV): unforeseen contingencies (e.g., reductions in valuation exceeding 20 percent);
- (a) (V): unusual financial burden caused by the instruction of court-ordered or agency-placed non-resident children;
- (a) (VI): unusual financial burden caused by the instruction of children who move into the district following the pupil count date (applies to small districts only);
- (a) (VII): unusual financial burden caused by a significant enrollment decline pursuant to a reorganization;
- (a) (VIII): beginning in FY 2016-17, unusual financial burden caused by a significant reduction in assessed value within a district whose state share of total program prior to the application of the negative factor was less than 0.5 percent of total program funding in the previous budget year and the reduction in assessed value is causing a negative factor reduction in the budget year (this provision was added in H.B. 16-1422 and is the provision relevant to request S2); and
- (b): in cases of extreme emergency, other factors that affect the ability of the district to maintain its schools without additional financial assistance.

Please note that districts that receive assistance related to a lack of collection of taxes must reimburse the Department if and when the taxes are eventually paid. Any such reimbursements are credited to the Contingency Reserve Fund and are available for future appropriation.

Historically, the Contingency Reserve Fund has largely assisted districts facing unforeseen contingencies and emergencies. Recent examples include:

- The General Assembly appropriated \$1.7 million General Fund into the Contingency Reserve Fund (and reappropriated that amount out of the fund) in FY 2013-14 to assist districts impacted by the September 2013 floods, districts that had been fully funded locally that were facing unanticipated declines in local revenues (similar to request S2), and districts experiencing an unanticipated decline in per pupil funding as a result of higher-than-expected pupil counts.
- In July 2016 (FY 2016-17), the State Board provided \$1.0 million (using the full FY 2016-17 appropriation) in assistance to the South Routt County School District to mitigate the impact of nonpayment of property taxes by Peabody Energy in FY 2015-16 and FY 2016-17. Relevant to request S2, please note that Peabody Energy has now paid \$564,595 in property taxes due in

2016 and the school district has reimbursed the Department for those funds. According to the Department, South Routt is optimistic that Peabody will pay property taxes due in 2017, in which case South Routt would reimburse the Department for the remaining \$435,405.

The annual Long Bill generally provides \$1.0 million in cash funds spending authority from the Contingency Reserve Fund. It is worth noting, however, that the funds originate as General Fund which the General Assembly appropriates into the fund to allow the State Board to provide assistance. As a result, when the balance of the fund is depleted, the Department generally requests General Fund appropriations to replenish the fund.

REQUEST S2: The Department is requesting supplemental funding to provide \$1,172,093 in assistance to six school districts (Clear Creek, Genoa-Hugo, Wiggins, Keenesburg, Platte Valley, and Prairie) that qualify under the Contingency Reserve Fund provision enacted in H.B. 16-1422 (School Finance, see Section 22-54-117 (1) (a) (VIII), C.R.S.). Below, staff breaks the analysis down into two basic questions:

- How much assistance are the six districts eligible to receive?
- How much assistance should the General Assembly provide?

QUESTION 1: HOW MUCH ASSISTANCE ARE THE SIX DISTRICTS ELIGIBLE TO RECEIVE?

As outlined in the background section above, H.B. 16-1422 authorizes the State Board to provide assistance to school districts that meet the following criteria:

- The district was “fully funded” locally in the prior year. Specifically, the state share of total program *before the negative factor* could not exceed 0.5 percent of the school district’s total program funding in the previous year (FY 2015-16). As shown in the following table, all six districts satisfy this criterion.

CRITERION 1: FULLY LOCALLY FUNDED IN FY 2015-16				
DISTRICT	FY 2015-16 TOTAL PROGRAM BEFORE NEGATIVE FACTOR	STATE SHARE BEFORE NEGATIVE FACTOR	STATE SHARE (PERCENTAGE)	STATE SHARE LESS THAN 0.5 PERCENT?
Clear Creek	\$7,504,498	\$310	0.004%	Yes
Genoa-Hugo	2,222,252	21	0.001%	Yes
Wiggins	4,840,723	52	0.001%	Yes
Keenesburg	17,981,753	914	0.005%	Yes
Platte Valley	9,514,161	1,650	0.017%	Yes
Prairie	2,543,419	244	0.010%	Yes

- A decline in assessed value results in the school district’s state share (again, before the negative factor) exceeding 0.5 percent in the current year (FY 2016-17). Again, as shown in the following table, all six districts qualify.

CRITERION 2: DECLINE IN ASSESSED VALUE LEADING TO INCREASED STATE SHARE					
DISTRICT	FY 2015-16 ASSESSED VALUE	FY 2016-17 ASSESSED VALUE	STATE SHARE BEFORE NF	STATE SHARE (PERCENT)	STATE SHARE GREATER THAN 0.5 PERCENT?
Clear Creek	\$587,798,220	\$519,184,740	\$641,210	8.6%	Yes
Genoa-Hugo	125,606,145	75,234,940	826,614	36.1%	Yes
Wiggins	194,469,300	181,138,490	413,373	8.1%	Yes

Keenesburg	1,584,510,440	976,149,010	6,542,281	36.2%	Yes
Platte Valley	1,654,165,730	990,222,870	3,398,177	35.5%	Yes
Prairie	484,230,810	453,964,990	177,946	6.7%	Yes

- Because of the increase in state share, the districts are no longer fully funded with local revenues, at least prior to the negative factor. The negative factor then reduces the state share available to the district (up to a maximum reduction of 11.5 percent of total program funding in FY 2016-17). Statute authorizes the State Board to provide assistance equaling up to 25.0 percent of the negative factor reduction to each eligible district (within the constraints of the funds available in the Contingency Reserve Fund). As shown in the following table, the maximum assistance allowable under statute in FY 2016-17 is \$1,172,093, an increase of \$216,251 above the amount anticipated in the Final Legislative Council Staff Fiscal Note for H.B. 16-1422.

MAXIMUM FY 2016-17 SUPPLEMENTAL ASSISTANCE				
DISTRICT	FY 2016-17 NEGATIVE FACTOR	MAXIMUM ASSISTANCE (25.0 PERCENT)	ESTIMATED ASSISTANCE IN FINAL FISCAL NOTE	CHANGE FROM FISCAL NOTE
Clear Creek	\$641,210	\$160,302	\$14,607	\$145,695
Genoa-Hugo	264,082	66,020	38,375	27,645
Wiggins	413,373	103,343	140,687	(37,344)
Keenesburg	2,087,458	521,865	439,584	82,281
Platte Valley	1,104,304	276,076	277,440	(1,364)
Prairie	177,946	44,487	45,149	(663)
Total		\$1,172,093	\$955,842	\$216,251

QUESTION 2: HOW MUCH ASSISTANCE SHOULD THE GENERAL ASSEMBLY PROVIDE?

As outlined above and requested by the Department, the six districts in question are eligible for a maximum of \$1,172,093 in assistance in FY 2016-17. The Department's request seeks to provide that amount of assistance using the existing balance of the Contingency Reserve Fund as well as \$527,498 General Fund to fill the gap between the fund balance and the maximum amount of assistance. However, statute explicitly states that the General Assembly is not required to appropriate funds to assist school districts applying for assistance from the Contingency Reserve Fund or to fully fund the amount requested.² Thus, the Committee and the General Assembly could elect to provide anywhere from \$0 to \$1,172,093 to assist the six districts in question.

In light of that flexibility, staff offers three potential options for the Committee's consideration:

- No Assistance.* In providing the \$1.0 million payment/loan to South Routt in July 2016, the Department exhausted the spending authority provided in the Long Bill. Although the Department reports a current fund balance of \$672,825 in the Contingency Reserve Fund, without additional spending authority the Department will be unable to distribute any funds to these (or any other) districts.
- Staff Recommendation – Cash Funds Only.* As discussed above, the existing fund balance is \$672,825. In addition, it appears likely that South Routt School District will be able to repay the

² Section 22-54-117 (1) (a), C.R.S., indicates that, "In deciding the amount to be appropriated to the contingency reserve, the general assembly may take into consideration any recommendations made by the department of education, but nothing in this section shall be construed to obligate the general assembly to provide supplemental assistance to all districts determined to be in need or fully fund the total amount of such need."

remaining \$435,405 provided to the district if Peabody Energy pays the anticipated property taxes in spring 2017. With that repayment, the total fund balance would be \$1,108,230. Although the staff recommendation assumes that the General Assembly intends to spend up to \$1.0 million on this provision in FY 2016-17, the General Assembly could provide up to \$1,108,230 in spending authority without any additional General Fund appropriation in FY 2016-17. The Department and State Board would be unable to use the spending authority above the existing fund balance unless and until South Routt is able to repay the remaining balance. Please note that staff assumes that the General Assembly would then need to “refill” the fund with General Fund to reach a targeted balance of \$1.0 million in FY 2017-18. In addition, because the request is not fully funded, the Department and the State Board would need to prioritize or prorate funding to stay within the available funds.

- 3 *Department Request –General Fund Supplement* – If corrected to provide cash funds spending authority for the existing fund balance, the Department’s request would fully fund the districts’ anticipated requests. Providing a General Fund appropriation would allow the Department to provide assistance sooner (before any potential repayment by South Routt) and regardless of whether or not South Routt is able to repay the remaining balance. However, given current budget conditions, staff is reluctant to recommend \$0.5 million in additional General Fund for this purpose in FY 2016-17. Based on the updated existing fund balance, if the Committee elected to use General Fund to fully fund the request, staff would recommend an appropriation of \$1,671,361 total funds, including \$499,268 General Fund, \$672,825 cash funds (for the existing fund balance), and \$499,268 reappropriated funds.

ADDITIONAL POINTS TO CONSIDER: Although staff is recommending approving cash funds spending authority to assist the districts associated with this request, staff notes that the provision in question raises potential concerns about both the precedent for use of the Contingency Reserve Fund and equity among the State’s school districts.

- First, as discussed above, the Contingency Reserve Fund has historically assisted districts with unforeseen contingencies and emergencies that the district did not anticipate or where the district was unable to collect tax revenue due to the district by law. The floods in 2013 and the delayed payment of Peabody Energy’s property taxes in 2016 provide the most recent examples in that the affected districts did not anticipate the impact and were facing unanticipated financial challenges. The provision associated with S2 is different, however, in that the challenges were known ahead of time (and anticipated for all six affected districts in the Legislative Council Staff Fiscal Note).
- Second, the mitigation of the impact of the negative factor for school districts that have been fully funded raises potential equity concerns for school districts that have absorbed the full impact of the negative factor since FY 2010-11. Staff notes that the assistance in question in this provision is limited to 25.0 percent of the value of the negative factor and that each district may only receive assistance under the provision one time. However, staff also notes that the nearly all Colorado school districts have absorbed the full impact of the negative factor every year since its implementation. Statewide, the negative factor results in an 11.5 percent reduction in total program funding. Three of the six districts associated with request S2 are facing that level of reduction in FY 2016-17 (prior to any assistance from the Contingency Reserve Fund).

However, the remaining three are facing reductions ranging from 6.7 percent to 8.6 percent from total program prior to the negative factor and are already closer to fully funded than other school districts statewide (again, prior to any additional assistance – see table below).

FY 2016-17 NEGATIVE FACTOR AS A PERCENTAGE OF TOTAL PROGRAM	
DISTRICT	FY 2016-17 NEGATIVE FACTOR PERCENTAGE
Statewide	11.5%
Clear Creek	8.6%
Genoa-Hugo	11.5%
Wiggins	8.1%
Keenesburg	11.5%
Platte Valley	11.5%
Prairie	6.7%

S3 DEPARTMENT OF EDUCATION LEGAL SERVICES

	REQUEST	RECOMMENDATION
TOTAL	\$171,090	\$171,090
General Fund	171,090	171,090

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that were not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests an increase of \$171,090 General Fund to allow the Department to purchase additional legal services from the Department of Law in FY 2016-17. The Department’s use of legal services has increased over the past two years, primarily as a result of schools and districts reaching the end of the five-year accountability clock and the enactment of (and necessary review and response to) the federal Every Student Succeeds Act in December 2015. The Department did not anticipate the necessary increase during the FY 2016-17 budget process and is requesting a supplemental appropriation.

STAFF RECOMMENDATION: Staff recommends approving the request.

STAFF ANALYSIS: Each state department’s appropriation for the purchase of legal services is based on assumptions about the number of hours of legal services that the department will require during the fiscal year. The original FY 2016-17 appropriation provides a continuation level of funding for legal services. The appropriation assumes that the Department will require 6,071 total hours of legal services, including 2,782 hours supported by General Fund appropriations (the appropriation also provides cash funds for the purchase of legal services by the licensure office and reappropriated funds for the purchase of legal services by the Building Excellent Schools Today (B.E.S.T.) Program).

While the current appropriation provides a continuation level of funding, the Department’s use of legal services has increased in FY 2016-17.

- Through the first six months of FY 2016-17 (as of December 31, 2016), the Department had already purchased 2,430 hours, representing 87.3 percent of the original General Fund appropriation. Working with the Department of Law, the Department is projecting a need for 4,582 hours of legal services supported by General Fund, requiring a supplemental increase of \$171,090 General Fund to support 1,800 additional hours (see following table).

FY 2016-17 DEPARTMENT OF EDUCATION GENERAL FUND APPROPRIATION FOR LEGAL SERVICES				
	ORIGINAL FY 2016-17 APPROPRIATION	UTILIZATION THROUGH DECEMBER 2016	PROJECTED FY 2016-17 USAGE	CHANGE/ SUPPLEMENTAL REQUEST AND REC.
Hours of Services	2,782	2,430	4,582	1,800
Blended Legal Rate	\$95.05	\$95.05	\$95.05	0
General Fund Appropriation	\$264,429	\$230,971	\$435,519	\$171,090

According to the Department three major factors are driving the need for additional legal services:

- *Five-Year Accountability Clock:* As discussed at the Department’s FY 2017-18 budget hearing with the Committee, this year marks the first time that schools and school districts are reaching the end of the five-year accountability clock established in S.B. 09-163 (Education Accountability System). Statute requires the State Board of Education to take action regarding schools and districts at the end of the clock, and the Department of Law is providing legal advice regarding both potential actions by the State Board and the State Board’s process for making those determinations.
- *Every Student Succeeds Act:* The federal Every Student Succeeds Act (ESSA), enacted in 2016, replaces the No Child Left Behind Act and reauthorizes the federal Elementary and Secondary Education Act. The Department of Law is assisting with the review of the ESSA and related regulations and ensuring alignment of State law and regulations with the new federal requirements.
- *School Violence Prevention and Discipline Manual:* The Department of Law is revising the School Violence Prevention and Discipline Manual to reflect recent additional changes in state law.

The following table reflects the Department’s estimates for the number of hours required by each of the above drivers (amounts that were not anticipated in the original FY 2016-17 appropriation).

DRIVERS OF FY 2016-17 LEGAL SERVICES INCREASE		
LEGAL REQUIREMENT	ESTIMATED HOURS	REQUIRED APPROPRIATION
Accountability Clock	1,200	\$114,060
ESSA	400	38,020
Student Violence Prevention and Discipline Manual	200	19,010
Total	1,800	\$171,090

Staff recommends approving the request. Staff believes that some of this workload *could* have been anticipated in the FY 2016-17 budget request and appropriation. However, the appropriation did not anticipate the additional requirements and staff agrees that the workload (particularly the accountability clock) is urgent enough to warrant the additional funding.

S4 CORE OPERATIONS OVEREXPENDITURE RELEASE

	REQUEST	RECOMMENDATION
TOTAL	\$121,724	\$121,724
Reappropriated Funds	121,724	121,724

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES
 [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that were not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests an increase of \$121,724 reappropriated funds for the CORE Operations line item to release a restriction that the State Controller has placed on the line item in FY 2016-17 as a result of overexpenditures in FY 2014-15 and FY 2015-16. The prior year overexpenditures were the result of technical errors in the appropriations.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request.

STAFF ANALYSIS: The Department’s FY 2014-15 and FY 2015-16 appropriations for CORE Operations (called COFRS Modernization in FY 2014-15) included a total of \$121,724 federal funds. However, the Department’s indirect cost plan agreement with the U.S. Department of Education does not allow the Department to directly charge these expenses to federal grants. Instead, the Department must allocate those charges to indirect cost assessments against federal funds. As a result, in FY 2014-15 and FY 2015-16, the Department overspent its reappropriated funds appropriation by the \$121,724 that was appropriated as federal funds. Based on that overexpenditure, the State Controller has restricted the FY 2016-17 reappropriated funds appropriation by that amount.

The Department is requesting additional spending authority in FY 2016-17 to release the restriction. Given that the restriction is a result of a technical error in the appropriations for FY 2014-15 and FY 2015-16, staff recommends approving the request.

STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

These requests are not prioritized and are not analyzed in this packet. The JBC acted on these items on January 12th when it made decisions regarding common policies.

DEPARTMENT'S PORTION OF STATEWIDE SUPPLEMENTAL REQUEST	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
NP Property fund supplemental	\$0	\$0	\$0	\$0	\$0	0.0
NP Annual fleet supplemental	0	0	0	0	0	0.0
DEPARTMENT'S TOTAL STATEWIDE SUPPLEMENTAL REQUESTS	\$0	\$0	\$0	\$0	\$0	0.0

STAFF RECOMMENDATION: These request items were addressed during the JBC staff supplemental presentation for the Department of Personnel on January 12, 2017. Staff requests permission to incorporate the Committee's action into the supplemental bill. The Committee denied the common policy supplemental requests, and the dollar amounts in the table above represent the Committee's action.

JBC Staff Supplemental Recommendations - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2016-17 Requested Change	FY 2016-17 Rec'd Change	FY 2016-17 Total w/Rec'd Change
DEPARTMENT OF EDUCATION					
Katy Anthes, Commissioner					
S1 Total program mid-year adjustments					
(2) ASSISTANCE TO PUBLIC SCHOOLS					
(A) Public School Finance					
Hold-harmless Full-day Kindergarten Funding	<u>7,778,615</u>	<u>7,922,486</u>	<u>3,950</u>	<u>3,950</u>	<u>7,926,436</u>
Cash Funds	7,778,615	7,922,486	3,950	3,950	7,926,436
Total for S1 Total program mid-year adjustments	7,778,615	7,922,486	3,950	3,950	7,926,436
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Cash Funds	7,778,615	7,922,486	3,950	3,950	7,926,436

JBC Staff Supplemental Recommendations - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2016-17 Requested Change	FY 2016-17 Rec'd Change	FY 2016-17 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

S2 Contingency reserve

(2) ASSISTANCE TO PUBLIC SCHOOLS

(C) Grant Programs, Distributions, and Other Assistance

(VI) Other Assistance

Contingency Reserve Fund	<u>0</u>	<u>1,000,000</u>	<u>1,054,996</u>	<u>1,000,000</u>	<u>2,000,000</u>
General Fund	0	0	527,498	0	0
Cash Funds	0	1,000,000	0	1,000,000	2,000,000
Reappropriated Funds	0	0	527,498	0	0

Total for S2 Contingency reserve	0	1,000,000	1,054,996	1,000,000	2,000,000
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	0	527,498	0	0
Cash Funds	0	1,000,000	0	1,000,000	2,000,000
Reappropriated Funds	0	0	527,498	0	0

JBC Staff Supplemental Recommendations - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2016-17 Requested Change	FY 2016-17 Rec'd Change	FY 2016-17 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

S3 Legal services

(1) MANAGEMENT AND ADMINISTRATION

(A) Administration and Centrally-Appropriated Line Items

Legal Services	480,453	577,049	171,090	171,090	748,139
General Fund	264,318	264,429	171,090	171,090	435,519
Cash Funds	210,552	293,610	0	0	293,610
Reappropriated Funds	5,583	19,010	0	0	19,010
Total for S3 Legal services	480,453	577,049	171,090	171,090	748,139
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	264,318	264,429	171,090	171,090	435,519
Cash Funds	210,552	293,610	0	0	293,610
Reappropriated Funds	5,583	19,010	0	0	19,010

JBC Staff Supplemental Recommendations - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2016-17 Requested Change	FY 2016-17 Rec'd Change	FY 2016-17 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

S4 CORE operations overexpenditure release

(1) MANAGEMENT AND ADMINISTRATION

(B) Information Technology

CORE Operations	<u>281,533</u>	<u>282,536</u>	<u>121,724</u>	<u>121,724</u>	<u>404,260</u>
General Fund	78,863	107,278	0	0	107,278
Cash Funds	7,119	35,374	0	0	35,374
Reappropriated Funds	121,724	139,884	121,724	121,724	261,608
Federal Funds	73,827	0	0	0	0

Total for S4 CORE operations overexpenditure release	281,533	282,536	121,724	121,724	404,260
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	78,863	107,278	0	0	107,278
Cash Funds	7,119	35,374	0	0	35,374
Reappropriated Funds	121,724	139,884	121,724	121,724	261,608
Federal Funds	73,827	0	0	0	0

Totals Excluding Pending Items					
EDUCATION					
TOTALS for ALL Departmental line items	5,255,580,575	5,457,998,350	1,351,760	1,296,764	5,459,295,114
<i>FTE</i>	<u>564.2</u>	<u>599.5</u>	<u>0.0</u>	<u>0.0</u>	<u>599.5</u>
General Fund	3,476,904,045	2,890,792,106	698,588	171,090	2,890,963,196
General Fund Exempt	0	873,835,000	0	0	873,835,000
Cash Funds	1,092,105,664	1,011,967,311	3,950	1,003,950	1,012,971,261
Reappropriated Funds	18,265,276	33,075,421	649,222	121,724	33,197,145
Federal Funds	668,305,590	648,328,512	0	0	648,328,512