

JOINT BUDGET COMMITTEE



STAFF FIGURE SETTING FY 2023-24

DEPARTMENT OF EDUCATION

(School Finance and Categorical Programs Only)

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

PREPARED BY:
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FEBRUARY 13, 2023

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HOW TO USE THIS DOCUMENT

The Department Overview contains a table summarizing the staff recommended incremental changes followed by brief explanations of each incremental change. A similar overview table is provided for each division, but the description of incremental changes is not repeated, since it is available under the Department Overview. More details about the incremental changes are provided in the sections following the Department Overview and the division summary tables. Decision items, both department-requested items and staff-initiated items, are discussed at the beginning of the most relevant division. Within a section, decision items are listed in the requested priority order, if applicable.

In some of the analysis of decision items in this document, you may see language denoting certain ‘levels of evidence’, e.g. theory-informed, evidence informed, or proven. For a detailed explanation of what is meant by ‘levels of evidence’, and how those levels of evidence are categorized, please refer to Section 2-3-210 (2), C.R.S.

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.
- Issuing school and district performance reports for every public school and school district 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 (through FY 2022-23); 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 duties 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 OF STAFF RECOMMENDATIONS

DEPARTMENT OF EDUCATION – SCHOOL FINANCE AND CATEGORICALS ONLY						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$5,658,399,601	\$4,404,371,294	\$1,085,947,945	\$235,455	\$167,844,907	92.1
TOTAL	\$5,658,399,601	\$4,404,371,294	\$1,085,947,945	\$235,455	\$167,844,907	92.1
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$5,658,399,601	\$4,404,371,294	\$1,085,947,945	\$235,455	\$167,844,907	92.1
R1/BA1 Total program	(158,516,275)	0	(158,516,275)	0	0	0.0
R2 Categorical programs increase	0	0	0	0	0	0.0
R5 Gifted and talented DMS	0	0	0	0	0	0.0
R6 Personnel for school support - Part B	83,811	83,811	0	0	0	0.9

DEPARTMENT OF EDUCATION – SCHOOL FINANCE AND CATEGORICALS ONLY						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
BA5 Audit payment true-up	1,500,000	0	1,500,000	0	0	0.0
Annualize prior year budget actions	324,087	53,848	8,904	0	261,335	0.0
Annualize prior year legislation	(45,421,057)	(414,857)	(45,000,000)	(6,200)	0	(4.6)
TOTAL	\$5,456,370,167	\$4,404,094,096	\$883,940,574	\$229,255	\$168,106,242	88.4
INCREASE/(DECREASE)	(\$202,029,434)	(\$277,198)	(\$202,007,371)	(\$6,200)	\$261,335	(3.7)
Percentage Change	(3.6%)	(0.0%)	(18.6%)	(2.6%)	0.2%	(4.0%)
FY 2023-24 EXECUTIVE REQUEST	\$5,659,784,984	\$4,404,831,831	\$1,086,617,656	\$229,255	\$168,106,242	88.4
Request Above/(Below) Recommendation	\$203,414,817	\$737,735	\$202,677,082	\$0	\$0	0.0

DESCRIPTION OF INCREMENTAL CHANGES

R1/BA1 TOTAL PROGRAM INCREASE: The preliminary staff recommendation for the State Share of Districts’ Total Program Funding, which is based on current (December 2022) projections of state and local revenues as well as pupil counts, includes two components: (1) appropriations for the Long Bill and (2) recommendations regarding planning for the School Finance Bill.

Long Bill: The recommendation for the *Long Bill* appropriation includes a *decrease* of \$158.5 million total funds below the FY 2022-23 appropriation as adjusted by S.B. 23-136 (Adjustments to School Funding Fiscal Year 2022-23). That decrease in state funds is possible primarily because increased assessed values are driving a large increase in local property tax revenues for FY 2023-24. Pursuant to current law, the recommendation includes the state funding necessary to maintain the budget stabilization factor (BSF) in FY 2023-24 at the same dollar amount as in FY 2022-23 (\$321.2 million), assuming passage of S.B. 23-136.

- The recommendation holds the total General Fund appropriation constant at \$4.2 billion, with no change from the FY 2022-23 appropriation. The appropriation from the State Education Fund decreases by \$356.7 million below FY 2022-23 and the appropriation from the State Public School Fund increases by \$198.2 million, using one-time funding transferred to that fund in S.B. 22-238 (2023 and 2024 Property Tax).

School Finance Bill: Looking toward the annual School Finance Bill, staff recommends that the Committee incorporate updated revenue estimates from the March 2023 revenue forecasts and work with interested colleagues and stakeholders to plan for appropriations through the school finance bill or other legislation. Current data indicate that the General Assembly has an opportunity to make significant changes to school funding, enabled by both increasing local revenues and a large one-time fund balance in the State Education Fund. Barring major changes such as large reductions in anticipated property tax revenues, the General Assembly may be in a position to consider significant reductions to the BSF, changes to the school finance formula, and/or other educational priorities. Given the scale of funding involved, staff recommends that the General Assembly focus on a path forward that will be sustainable and minimize the risk of large fluctuations in the BSF. To that end, staff recommends that the Committee consider specifying a placeholder amount of State Education Fund (or General Fund) money to support its policy goals for education through separate legislation.

R2 CATEGORICAL PROGRAMS INCREASE: The State Constitution will require the General Assembly to increase total state funding for categorical programs (in aggregate) by at least \$35,309,028 for FY 2023-24 based on the final CY 2022 inflation rate of 8.0 percent. Consistent with prior years, staff

recommends appropriating the entire increase from the State Education Fund, although the Committee could also elect to use General Fund.

- If the Committee wishes to appropriate the increase in the Long Bill, staff has provided an illustrative scenario allocating the minimum increase among categorical programs using the methodology used by the Committee in most years to allocate the funding (see the detailed discussion of request R2 beginning on page 16 of this document).
- However, staff is recommending that the Committee not appropriate the increase for FY 2023-24 in the Long Bill. Given the magnitude of the mandatory increase, the General Assembly may wish to prioritize specific policy goals with the funding for FY 2023-24 through separate legislation, such as S.B. 23-099 (Special Education Funding), approved by the Interim Committee on School Finance.

While staff recommends that the General Assembly address the mandatory increase for FY 2023-24 through separate legislation, such as S.B. 23-099 and/or the 2023 School Finance Bill, the Committee should note that the Constitution requires enactment of at least that increase for FY 2023-24. Staff therefore recommends that the Committee establish a placeholder of at least \$35,309,028 in the State Education Fund (or the General Fund) to support the mandatory increase in other legislation and facilitate tracking of that requirement.

R5 GIFTED AND TALENTED DMS: The recommendation includes a one-time increase of \$250,000 cash funds from the State Education Fund for FY 2023-24 (with no ongoing increase) to support the development of a new gifted education data management system (DMS). The Department uses the DMS to securely transfer data and files related to gifted education identification and programming between CDE and local administrative units, and the Department reports that the contract for the previous system terminated in FY 2021-22. The Department is using a “stopgap” system in FY 2022-23 and the recommendation would provide the one-time increase to develop a new system that will meet the needs of both the Department and administrative units. While the request proposes the increase within the Special Education Programs for Gifted and Talented Children categorical program, staff recommends appropriating the funds to the Information Technology Services line item in the Management and Administration section.

R6 PERSONNEL FOR SCHOOL SUPPORT – PART B: The recommendation includes an increase of \$83,811 General Fund and 0.9 FTE in FY 2023-24, increasing to \$110,260 General Fund and 1.0 FTE in FY 2024-25, to support an additional position managing data and distributions to school districts under the school finance formula. The request and recommendation respond to increasing workload associated with recent legislation such as H.B. 20-1418 (School Finance) and S.B. 22-202 (State Match for Mill Levy Override Revenue) and represent an effort to add redundancies to the school finance funding distribution system. In response to that increasing workload, the Department posted and filled this position in the summer of 2022 with available funds associated with vacancy savings and one-time appropriations in S.B. 22-202. The request and recommendation would provide ongoing funding to support the position.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The recommendation includes adjustments to reflect the FY 2023-24 impact of salary survey increases provided for FY 2022-23.

ANNUALIZE PRIOR YEAR LEGISLATION: The recommendation includes adjustments for the out-year impacts of prior year legislation, as summarized in the following table.

ANNUALIZE PRIOR YEAR LEGISLATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FTE
HB22-1390 Public School Finance	\$735,695	\$735,695	\$0	\$0	0.0
HB22-1295 Dept. Early Childhood universal PK	(338,621)	(338,621)	0	0	(4.0)
SB22-202 State match mill levy override	(41,238)	(41,238)	0	0	(0.5)
HB22-1202 At-risk student measure school finance	(34,998)	(34,998)	0	0	(0.1)
SB22-127 Special education funding	(25,000)	0	(25,000)	0	0.0
SB22-193 Air Quality Improvements	(6,200)	0	0	(6,200)	0.0
TOTAL	\$289,638	\$320,838	(\$25,000)	(\$6,200)	(4.6)

MAJOR DIFFERENCES FROM THE REQUEST

The recommendation includes the following major differences from the *request*:

- *Budget Stabilization Factor:* A decrease of \$120.0 million total funds below the request based on the Governor’s proposal to reduce the BSF by \$120.0 million in FY 2023-24 (from \$321.2 million in FY 2022-23 to \$201.2 million in FY 2023-24). Pursuant to current law, the recommendation *for the Long Bill* includes the state funding necessary to maintain the budget stabilization factor in FY 2023-24 at the level approved for FY 2022-23. The recommendation assumes that any change to the BSF would take place through separate legislation.
- *Categorical Programs:* A decrease of \$35.5 million below the request *for the Long Bill* for categorical programs. As discussed above, the State Constitution will require the General Assembly to increase total funding for categorical programs by at least that amount for FY 2023-24. However, staff recommends providing the mandatory increase through separate legislation (such as S.B. 23-099 and/or the School Finance Bill) rather than through the Long Bill. To that end, staff recommends that the Committee establish a set-aside of at least \$35,309,028 in either the State Education Fund or the General Fund to support that increase.
- *Distributions to Rural Schools:* A decrease of \$35.0 million cash funds below the request for distributions to rural school districts and institute charter schools. The request reflects a continuation appropriation of \$35.0 million cash funds from the Rural Schools Cash Fund for distributions to rural school districts and institute charter schools, with no change from the FY 2022-23 appropriation. However, JBC Staff and the Department agree that this component of the request is a technical error. That funding, distributed pursuant to H.B. 20-1427 (Cigarette Tobacco & Nicotine Products Tax) and Proposition EE (adopted by the voters at the November 2020 election), is not available beyond FY 2022-23. Continuing that funding would require separate action by the General Assembly to identify a fund source.
- *Mill Levy Override Matching:* A decrease of \$10.0 million cash funds from the Mill Levy Override Match Fund below the official request. The request reflects a continuation appropriation of \$10.0 million from that source, with no change from the FY 2022-23 appropriation provided in S.B. 22-202 (Mill Levy Override Match). That bill transferred \$10.0 million General Fund to the Mill Levy Override Match Fund to support the appropriation for FY 2022-23 – but there is no revenue source identified for FY 2023-24. As discussed during the FY 2023-24 briefing process, staff is

recommending statutory changes to clarify the distribution of funding under the program.¹ Staff recommends providing ongoing funding for the matching program as part of that legislation.

(2) ASSISTANCE TO PUBLIC SCHOOLS

This section provides funding that is distributed to public schools and school districts, as well as funding for Department staff who administer this funding or who provide direct support to schools and school districts. The following table summarizes staff's recommendation for the Public School Finance and Categorical Programs subdivisions within the Assistance to Public Schools division. All of the other subdivisions and line items will be presented at a later date.

ASSISTANCE TO PUBLIC SCHOOLS – SCHOOL FINANCE AND CATEGORICALS ONLY						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$5,658,399,601	\$4,404,371,294	\$1,085,947,945	\$235,455	\$167,844,907	92.1
TOTAL	\$5,658,399,601	\$4,404,371,294	\$1,085,947,945	\$235,455	\$167,844,907	92.1
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$5,658,399,601	\$4,404,371,294	\$1,085,947,945	\$235,455	\$167,844,907	92.1
R1/BA1 Total program	(158,516,275)	0	(158,516,275)	0	0	0.0
R2 Categorical programs increase	0	0	0	0	0	0.0
R5 Gifted and talented DMS	0	0	0	0	0	0.0
R6 Personnel for school support - Part B	83,811	83,811	0	0	0	0.9
BA5 Audit payment true-up	1,500,000	0	1,500,000	0	0	0.0
Annualize prior year budget actions	324,087	53,848	8,904	0	261,335	0.0
Annualize prior year legislation	(45,421,057)	(414,857)	(45,000,000)	(6,200)	0	(4.6)
TOTAL	\$5,456,370,167	\$4,404,094,096	\$883,940,574	\$229,255	\$168,106,242	88.4
INCREASE/(DECREASE)	(\$202,029,434)	(\$277,198)	(\$202,007,371)	(\$6,200)	\$261,335	(3.7)
Percentage Change	(3.6%)	(0.0%)	(18.6%)	(2.6%)	0.2%	(4.0%)
FY 2023-24 EXECUTIVE REQUEST	\$5,659,784,984	\$4,404,831,831	\$1,086,617,656	\$229,255	\$168,106,242	88.4
Request Above/(Below) Recommendation	\$203,414,817	\$737,735	\$202,677,082	\$0	\$0	0.0

DECISION ITEMS - ASSISTANCE TO PUBLIC SCHOOLS

→ R1/BA1 TOTAL PROGRAM INCREASE [REQUIRES LEGISLATION]

REQUEST: As modified by BA1, the Department's request for school finance for FY 2023-24 targets a \$120.0 million reduction to the budget stabilization factor (from \$321.2 million in FY 2022-23 to \$201.2 million in FY 2023-24). Using the Office of State Planning and Budgeting December 2022 revenue forecast, the request includes a proposal to eliminate the budget stabilization factor (BSF) over three years, with the BSF at \$0 for FY 2025-26.

The following table shows the FY 2022-23 appropriation (as adjusted by S.B. 23-136), the Governor's proposed fund sources for FY 2023-24, and the requested change from the FY 2022-23 appropriation.

¹ For reference, see the issue brief beginning on page 38 of the FY 2023-24 JBC Staff Briefing Document available at: https://leg.colorado.gov/sites/default/files/fy2023-24_edubr2.pdf

REQUESTED FUND SOURCES FOR THE STATE SHARE OF DISTRICTS' TOTAL PROGRAM			
FUND SOURCE	FY 2022-23 APPROPRIATION (ADJUSTED)	FY 2023-24 REQUEST	ANNUAL CHANGE
General Fund	\$4,238,686,861	\$4,237,853,668	(\$833,193)
<i>Annual Percent Change</i>	<i>4.90%</i>	<i>-0.02%</i>	
Cash Funds (State Education Fund)	638,436,892	414,575,002	(223,861,890)
<i>Annual Percent Change</i>	<i>34.46%</i>	<i>-35.06%</i>	
Cash Funds (State Public School Fund)	112,930,863	299,079,876	186,149,013
<i>Annual Percent Change</i>	<i>-41.58%</i>	<i>164.83%</i>	
Total State Funds	\$4,990,054,616	\$4,951,508,546	(\$38,546,070)

RECOMMENDATION: The preliminary staff recommendation for the State Share of Districts’ Total Program Funding, which is based on current projections of state and local revenues as well as pupil counts, includes three components: (1) the Long Bill; (2) the School Finance Bill; and (3) State Education Fund reserves.

Long Bill: Pursuant to current law, the recommendation for the *Long Bill* appropriation would hold the BSF constant at \$321.2 million, with no change from the FY 2022-23 appropriation. Based on current (December 2022 Legislative Council Staff) revenue estimates for FY 2023-24, staff recommends approving an appropriation of \$4,831,538,341 total funds, which represents a decrease of \$158,516,275 total funds below the FY 2022-23 appropriation and is enabled by the projected increase in local revenues for FY 2023-24. The preliminary recommendation for the Long Bill for the state share of districts’ total program funding includes:

- \$4,238,686,861 General Fund, with no change from the FY 2022-23 appropriation. Staff recommends maintaining at least the existing “base” of General Fund appropriations for school finance – and this aligns with the Governor’s request.
- \$284,248,338 cash funds from the State Education Fund, a decrease of \$354,188,554 below the adjusted FY 2022-23 appropriation. The recommendation will retain those funds in the State Education Fund for appropriation in other legislation or subsequent years.
- \$308,603,142 cash funds from the State Public School Fund, an increase of \$195,672,279 above the FY 2022-23 appropriation. That increase is feasible because S.B. 22-238 transferred \$200.0 million from the General Fund to the State Public School Fund in FY 2022-23 to offset projected decreases in local revenues as a result of that bill.

LONG BILL RECOMMENDATION: STATE SHARE OF DISTRICTS' TOTAL PROGRAM FUNDING			
FUND SOURCE	FY 2022-23 APPROPRIATION (ADJUSTED)	FY 2023-24 LONG BILL STAFF REC.	ANNUAL CHANGE
General Fund	\$4,238,686,861	\$4,238,686,861	\$0
<i>Annual Percent Change</i>	<i>4.90%</i>	<i>0.00%</i>	
Cash Funds (State Education Fund)	638,436,892	284,248,338	(354,188,554)
<i>Annual Percent Change</i>	<i>34.46%</i>	<i>-55.48%</i>	
Cash Funds (State Public School Fund)	112,930,863	308,603,142	195,672,279
<i>Annual Percent Change</i>	<i>-41.58%</i>	<i>173.27%</i>	
Total State Funds	\$4,990,054,616	\$4,831,538,341	(\$158,516,275)

The Committee should note that the recommended amounts from the SEF and SPSF will likely change based on the March 2023 revenue forecast as well the Committee’s decisions affecting available

fund balances in those funds (staff does not anticipate a change to the General Fund recommendation). In addition, the current recommendation assumes support for 49 slots funded through the Teacher Recruitment and Education Preparation (TREP) Program, with no change from the number of slots actually accepted/used in the current year. Staff's preliminary recommendation includes 250 slots, however, which would increase the cost of total program by approximately \$1.9 million above the amount shown here.² Staff will include the Committee's decision

Staff will address those changes and the Committee's decisions for a final recommendation through a staff "comeback" following the March forecast.

School Finance Bill: Looking toward the annual School Finance Bill, staff recommends that the Committee work with colleagues to plan for priorities related to education funding and school finance in FY 2023-24 and beyond. Staff recommends that the planning focus on achieving those priorities in a way that is sustainable in subsequent years and will reduce the risk of significant fluctuations in the BSF. Staff also recommends that the Committee consider creating a placeholder for additional school finance funding (mostly likely in the State Education Fund) for FY 2023-24.

- Current estimates of available revenues and the costs associated with school finance indicate that the General Assembly may have a unique opportunity to address longstanding priorities related to education funding, including phasing out the BSF, making significant changes to the formula, or making more changes to other education programs.
- However, the assumptions underlying the Governor's request for FY 2023-24 (discussed below) highlight some of the uncertainty inherent in the current revenue projections, and staff understands that legislative changes outside of school finance may also directly impact the revenues available (for example through property tax reforms).
- The General Assembly's final decisions on school finance funding for FY 2023-24 will need to incorporate updated state and local revenue projections, including the March 2023 revenue forecast selected for balancing, as well as the impact of any major statutory changes impacting state and local revenues.

State Education Fund Reserve: While not immediately relevant based on the significant balances in the State Education Fund, staff recommends that the Committee plan to maintain a targeted ending balance of at least \$150.0 million the State Education Fund following the depletion of one-time fund balances over the next several years. In recent years, the Committee had targeted a minimum ending balance of \$100.0 million each year. However, similar to the General Fund reserve, staff recommends that the Committee plan to maintain an ending balance equal to at least 15.0 percent of annual appropriations from the fund. With annual revenues to the fund of roughly \$1.0 billion during the current forecast period, staff anticipates that a balance of at least \$150.0 million would be necessary on an ongoing basis assuming that appropriations are roughly equal to annual revenues.

EVIDENCE LEVEL: The Department classified this request as evidence-informed. Evidence-informed means that the program "reflects a moderate, supported, or promising level of confidence related to the effectiveness, ineffectiveness, or harmfulness as determined by an evaluation with a comparison group, multiple pre- and post-evaluations, or an equivalent measure."³ The Department provided multiple research citations indicating a link between increased funding and improved outcomes. The

² The Department reports that school districts have estimated potential participation for 395 slots in FY 2023-24.

³ Sec. 2-3-210 (2)(a), C.R.S.

Department’s objective is “to provide a better quality education for all Colorado students” and the Department intends to use standardized assessment scores, college entrance exams, the statewide six-year graduation rate, and the statewide matriculation rate as the measures.

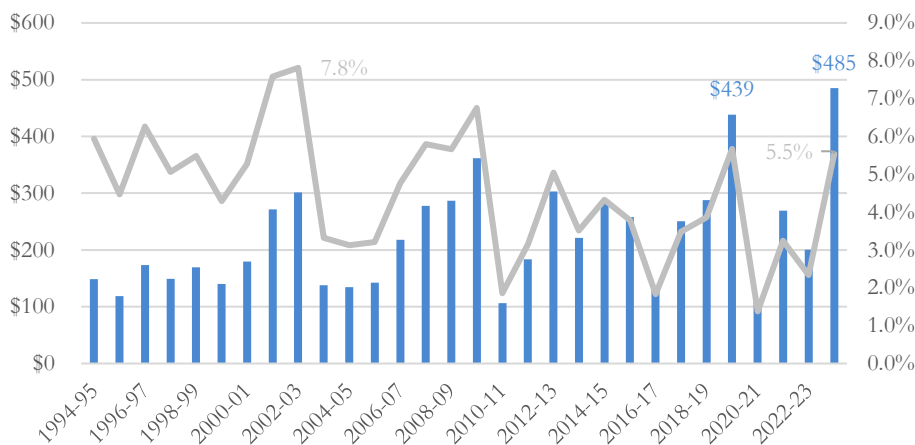
While there are identifiable outputs related to school finance, and staff agrees that the cited research shows a correlation between funding and outcomes, the Department does not control districts’ use of funds – or know which specific interventions/programs districts may use. Based on that, JBC staff disagrees that adding funding for school finance qualifies as an “intervention” that is intended to lead to a specific change with measurable outcomes. The local education providers will use this funding to support specific programs and interventions – but the Department does not control the use of those funds or know which interventions may be used. Thus, JBC staff has determined that, pursuant to S.B. 21-284, assignment of a level of evidence is not applicable to this request.

ANALYSIS:

CONTEXT AND ASSUMPTIONS: The Committee finds itself in a highly unusual situation. Inflationary pressures are driving significant increases in the cost of the school finance formula – and yet the combination of rapid projected growth in local revenues and a large balance of one-time money in the State Education Fund may provide an opportunity to make significant changes to education funding (including school finance and/or other programs) in FY 2023-24.

- As expected during the 2022 Session, the high inflation rate from CY 2022 (8.0 percent, which was actually higher than the 7.0 percent projected during the 2022 Session) is indeed driving a large increase in total program funding before the application of the BSF in FY 2023-24 – an increase of \$485.0 million (5.5 percent) above FY 2022-23. The declining pupil count, driven largely by the movement of preschool students out of the funded pupil count but also by long-predicted demographic factors, is mitigating some of that increase.⁴ Even with that mitigation, the \$485.0 million increase to total program funding is the largest annual increase in nominal (unadjusted) dollars on record (see chart below). As shown in the chart, there have been years with larger percentage increases, with FY 2002-03 showing the largest increase at 7.8 percent.

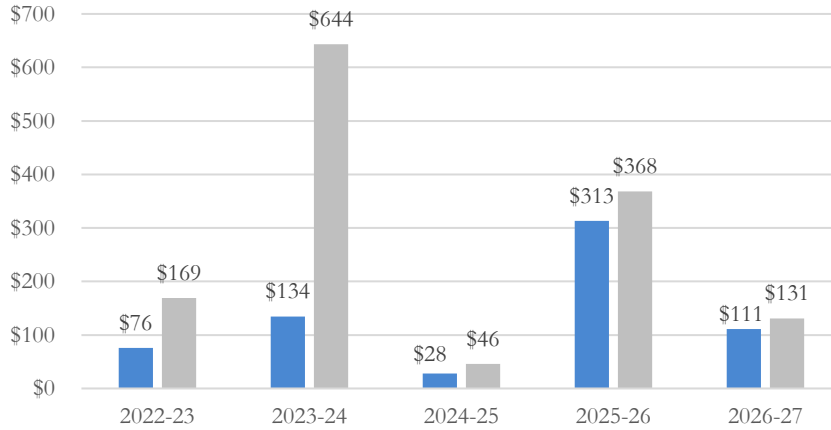
FY 2023-24 represents the largest annual **nominal dollar increase** in total program funding (before the BSF) on record - though not the highest percentage increase. (\$ in millions)



⁴ It is important to note that the reduction associated with preschool implementation is actually moving those costs (and \$139.1 million) to the Department of Early Childhood, so that component does not actually equate to a decrease in total state spending.

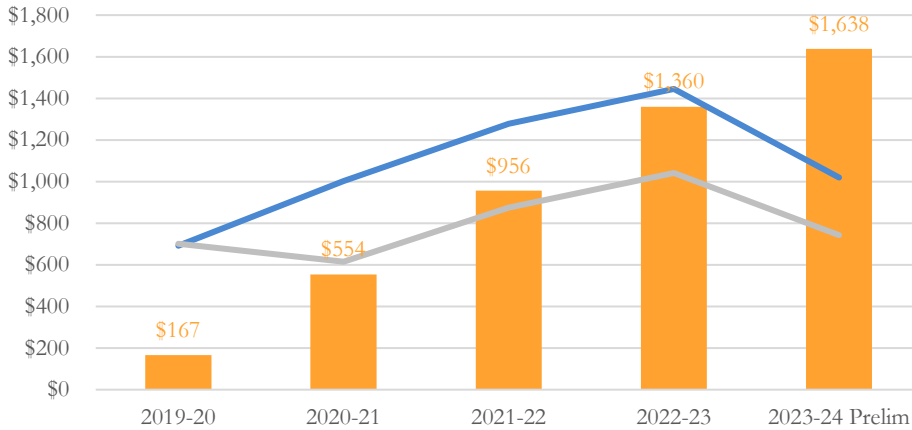
- As of last session, using the December 2021 forecast of local revenues, such a large increase in total program costs would have presented challenges to support the state share of total program. However, expectations for local revenues have changed significantly from December 2021 to December 2022 (see chart below). The new (December 2022) projected increase in local revenues for FY 2023-24 (\$643.5 million) more than offsets the increase in the cost of the formula (note that the chart shows only the annual increase from year to year – not total revenues).

The December 2022 LCS forecast anticipates higher annual increases in local revenues than assumed in the original December 2021 projections, especially in FY 2023-24. (\$in millions)



- With the new expectations for local revenues, holding the BSF constant at \$321.2 million (as recommended for the Long Bill) allows for a reduction of \$158.5 million in state funds below the FY 2022-23 appropriation.
- Finally, the SEF has accumulated a significant balance, as revenues (including income tax deposits and transfers to the fund) have exceeded expenditures every year since FY 2019-20 (see chart below). Similar to the dynamic with the General Fund, the General Assembly enacted deep reductions for FY 2020-21 but revenues came in well above expectations, and that pattern has continued. In addition, the General Assembly has made a variety of other transfers to the fund, including \$290 million from the General Fund in FY 2022-23.

Beginning in FY 2020-21, SEF revenues have exceeded expenditures, increasing the ending balance. (\$in millions, FY 22-23 and 23-24 based on LCS December 2022 forecast)



Staff currently projects that the SEF will end FY 2022-23 with a balance of approximately \$1.4 billion – and the December Legislative Council Staff Revenue Forecast anticipates approximately \$1.0 billion per year in annual income tax deposits to the fund. The preliminary staff recommendations for the FY 2023-24 Long Bill, combined with the December 2022 LCS Forecast of revenues, would leave \$1.6 billion in the fund at the end of FY 2023-24.

The Committee should note that the OSPB forecast is less optimistic about SEF deposits, anticipating approximately \$100 million less per year through the forecast period, highlighting an area of uncertainty as the General Assembly considers funding scenarios for the next several years.

UNCERTAINTY AND POTENTIAL RISK: In short, while the inflationary environment is driving real increases in the cost of the formula, current data indicate that the General Assembly may have an opportunity to address longstanding priorities in school finance such as significantly reducing the BSF and/or making changes to improve the school finance formula. Before providing additional background on the two stages of the recommendation, staff wants to highlight that this entire discussion is based on forecasts of pupil counts, revenues, and economic conditions. Major assumptions and areas of potential uncertainty include:

- *Local Revenues:* Given the upward inflationary pressure on total program, the anticipated increase in local revenues is a critical assumption. If those revenues do not materialize (as a result of either economic conditions or major tax policy changes) then there is a direct dollar-for-dollar impact on the state funds required to support any given target for funding. That is, if the local share decreases by \$1, the state share would have to increase by \$1 to backfill the reduction and avoid growth in the BSF. As with all components of the revenue forecast, uncertainty and risk increase in the outyears. Staff also notes that the Governor has proposed an additional \$200 million in property tax relief for FY 2023-24. Staff’s preliminary estimate is that such a reduction would require an increase of approximately \$73.2 million per year in the state share. Larger adjustments to property tax would require larger “backfill” of the foregone local share.
- *General Fund/ State Education Fund Revenues:* Income and sales taxes drive General Fund collections. The SEF is entirely driven by the income tax. A significant recession would decrease revenues to both sources, and the resulting decline in State Education Fund collections would place additional pressure on the General Fund. As noted above, the December 2022 OSPB revenue forecast assumes about \$100 million less per year in SEF revenues than the December LCS forecast throughout the forecast period. In addition to the lower forecast of collections, the Governor’s request proposes an additional set-aside/reserve of \$125.0 million in the SEF beginning in FY 2025-26 to account for economic uncertainty. That amount would be in addition to the targeted minimum ending balance of \$140.0 million under the Governor’s request.
- *Pupil Counts and At-risk Counts:* Current projections anticipate a continued gradual decline in the funded pupil count, and the demographic dynamics have been projected for years.⁵ There is more uncertainty in the at-risk count. House Bill 22-1202 (At-risk Student Measure for School Finance) establishes a new at-risk measure for the formula beginning in FY 2023-24 and creates a working group to make recommendations regarding the specifics of the new factor. Given challenges in obtaining the data, the working group’s final report recommends delaying the implementation of the new measure until FY 2024-25. In addition, the implementation of universal free meals in FY 2023-24 may, again, decrease the submission of free and reduced price lunch forms, impacting the count under the current measure. That uncertainty will be addressed in response to actual counts

⁵ The impacts of COVID-19 have added uncertainty to those preexisting dynamics since FY 2020-21.

at mid-year. On a smaller scale, there is also uncertainty regarding the potential cost of Accelerating Students through Concurrent Enrollment (ASCENT) participants with the elimination of the annual cap on participation pursuant to H.B. 22-1390 (School Finance).

- *Policy Changes and Competing Priorities:* Staff’s recommendations in this document are based on projections of costs under the current formula, and changes to the formula will change the required state share. Increased costs could include both the formula changes themselves and any potential “hold-harmless” provisions to support districts that would be negatively impacted by the formula changes (should the General Assembly elect to provide hold-harmless payments). Assuming passage of formula changes in the 2023 Session, the Governor’s request assumes a need for \$100.0 million in hold-harmless funding in FY 2023-24, with that hold-harmless provision decreasing by \$10.0 million per year through the forecast period. The impact of any such policy changes would be evaluated through the legislative fiscal note process, and staff has not attempted to anticipate those costs in this document. In addition, the General Assembly may have competing priorities outside of school finance (e.g., categorical programs, facility schools, or others) or outside of education that would reduce the funding available in these projections.
- *Future General Fund Demands Outside of School Finance:* As the Committee has discussed in other presentations, the depletion of one-time General Fund and federal funds outside of school finance over the next two years will likely add pressure to the General Fund in FY 2025-26. If that “cliff effect” is large then sustaining large increases in General Fund for school finance may be challenging. And staff notes that this cliff effect would interact with (and compound) potential challenges related to reductions to the local share and the depletion of one-time funds in the SEF.

FY 2023-24 LONG BILL: Given the assumptions outlined above, the staff recommendation for the Long Bill is straightforward (see table below). Current law does not allow the BSF to grow above the dollar amount from FY 2022-23 (\$321.2 million). Consistent with prior years, the staff recommendation therefore provides the state share appropriation necessary to hold the BSF at that dollar amount, with an assumption that any changes to the BSF will take place through separate legislation.

FY 2023-24 LONG BILL: STATE SHARE OF TOTAL PROGRAM FUNDING	
COMPONENT	FY 2023-24 PROJECTION
Total Program Before the BSF	\$9,245,575,921
Minus the BSF	(321,243,484)
Equals: Total Program After the BSF	\$8,924,332,437
Minus the Projected Local Share	(4,092,794,096)
Equals: State Share of Total Program (Long Bill)	\$4,831,538,341

Please note that staff anticipates some movement in these calculations prior to the introduction of the Long Bill. For example, the amounts reconciled between the Department and Legislative Council Staff assume a continuation of 49 slots actually funded and accepted for the Teacher Recruitment Education and Preparation (TREP) Program for FY 2022-23. Joint Budget Committee Staff’s current recommendation would fund 250 slots for FY 2023-24 (including 201 “new” slots and 49 current slots). Under the Long Bill recommendation to hold the BSF constant, those slots would each cost \$9,392, so increasing to 250 slots as recommended above would add \$1,887,792 to the total cost anticipated in the current projection. If the slots remain unused then the General Assembly will have an opportunity to true up those amounts at mid-year.

After calculating the total appropriation necessary for the state share, the recommendation must identify the fund sources to support that appropriation. The three sources of state money that support total program funding are: (1) the General Fund (84.9 percent of the FY 2022-23 appropriation for the state share); (2) the State Education Fund (SEF, 12.8 percent in FY 2022-23); and (3) the State Public School Fund (SPSF, 2.3 percent).⁶ Each year, staff estimates the amounts available in the SEF and the SPSF, and then the General Fund provides the remaining funds. However, for FY 2023-24 the situation is slightly more complicated because:

- The Long Bill recommendation actually represents a reduction to the state share below the FY 2022-23 appropriation, so the decision before the Committee is which source(s) to *reduce*.
- In addition, both the SEF and the SPSF have large balances available. The SEF balance is largely the result of higher-than-expected revenues during the pandemic and transfers of other funds to the SEF. The SPSF balance is due to a transfer of \$200.0 million from the General Fund to the SPSF in FY 2022-23 in S.B. 22-238 (to backfill the bill’s projected impact on the local share).
- Those balances will reduce the pressure on the General Fund – but as they are one-time funds, JBC staff recommends managing the use of such funds to avoid a “cliff effect” in the outyears when the balances are depleted.

Consistent with the Governor’s request for FY 2023-24, staff recommends holding the General Fund appropriation constant with no change from the FY 2022-23 appropriation. Staff’s projections for FY 2023-24 actually assume that the General Fund appropriation will not change in either the Long Bill or the school finance bill. While the balances in the SEF and SPSF would allow for a reduction in General Fund appropriations, staff recommends against reducing the “base” appropriation of General Fund for school finance.

With respect to the other fund sources, staff makes the following recommendations:

- Consistent with recent years, the recommendation for the SPSF would retain an estimated balance equal to the projected deposits of marijuana taxes to the fund in FY 2023-24 plus a “buffer” of \$5.0 million dollars (see highlighted cells in table below). This allows appropriations for total program funding from SPSF to increase from \$112.9 million in FY 2022-23 to \$308.6 million in FY 2023-24 based on the December 2022 LCS Revenue Forecast. Staff expects this number to change with the March 2023 revenue forecast that the Committee selects for balancing purposes.

STATE PUBLIC SCHOOL FUND CASH FLOW - DECEMBER 2022 LCS FORECAST			
	FY 2021-22	FY 2022-23 EST.	FY 2023-24 EST.
Beginning Balance	\$167,373,575	\$57,615,332	\$247,656,211
Federal Mineral Lease	58,625,101	74,453,878	65,519,413
Marijuana Sales Tax	29,316,810	26,590,346	27,973,044
Permanent Fund Earnings	21,000,000	21,000,000	21,000,000
Audit Recoveries	1,428,239	1,000,000	1,000,000
General Fund Transfer (SB 22-238)	0	200,000,000	0
Total Available	\$277,743,725	\$380,659,556	\$363,148,668
Expenditures			
Total Program	(\$193,298,094)	(\$112,930,863)	(308,603,142)
Other Expenditures	(26,830,299)	(20,072,482)	(21,572,482)
Total Expenditures	(220,128,393)	(133,003,345)	(330,175,624)
Ending Balance	\$57,615,332	\$247,656,211	\$32,973,044

⁶ SEF revenues originate as income tax (Amendment 23 directs income tax equal to one-third of 1.0 percent of taxable income to the SEF. SPSF revenues are primarily from federal mineral lease, marijuana taxes, and transfers from the State Land Board.

- The Long Bill recommendation reduces appropriations from the SEF by \$354.2 million below the FY 2022-23 appropriation (from \$638.4 million in FY 2022-23 to \$284.2 million in the FY 2023-24 Long Bill) in order to hit the targeted total program amount while holding the General Fund constant and increasing the appropriation from the SPSF as outlined above. Staff also expects this amount to change with the March 2023 revenue forecast in response to the changes for the SPSF and to align with the Committee’s decision regarding TREP slots.

POLICY SCENARIOS FOR OTHER LEGISLATION: If the General Assembly wishes to either reduce the BSF or make changes to the formula that would require additional funding, then the staff recommendation assumes that those appropriations would be in other legislation such as the school finance bill. This section briefly summarizes updated multi-year projections of the cost of three specific scenarios.⁷

- The Governor’s request, which uses the December 2022 OSPB revenue forecast and proposes a 3-year buy-down of the BSF.
- A scenario eliminating the BSF in FY 2023-24 based on the December 2022 LCS revenue forecast and assuming collection of the full local share as projected in the forecast.
- A scenario eliminating the BSF in FY 2023-24 but reducing the local share by \$73.2 million per year as a preliminary estimate of the impact of \$200.0 million per year in total property tax relief (as proposed by the Governor).

The Committee should note that staff is not recommending for or against the elimination of the BSF in FY 2023-24. These are simply illustrative scenarios, and the March 2023 revenue forecast could significantly alter the feasibility of all of these scenarios. In addition, staff recommends that the Committee exercise caution to reduce the risk of the BSF growing dramatically in the outyears if revenues do not meet expectations. Finally, the General Assembly may well have competing priorities, either inside or outside of school finance, that would reduce the amounts available.

However, given the available data (the December 2022 LCS Forecast) and not knowing how the General Assembly may wish to change the formula or otherwise use the state funds either inside or outside of school finance, scenarios short of eliminating the BSF either required General Fund reductions (which staff would not recommend) or left large enough balances in the SEF at the end of the forecast period to seem unrealistic.

Staff notes that the Governor’s request includes several assumptions that make the request more conservative than the scenarios that legislative staff have generated using the LCS forecast. Thus, staff suggests that the Governor’s request provides a useful comparison with a more conservative set of assumptions than the LCS forecast (lower annual SEF revenues, a hold-harmless provision for formula changes, and a set-aside for economic uncertainty, all of which reduce the amounts available in the SEF).

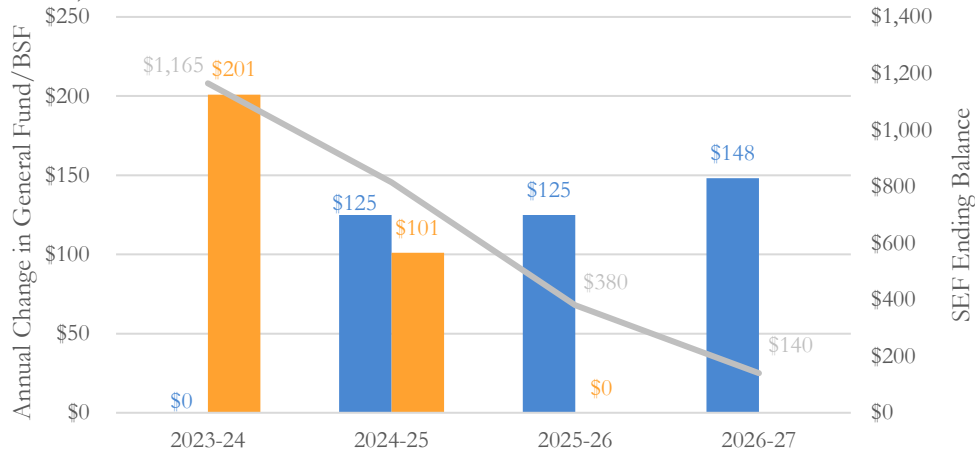
⁷ These projections are updates to multi-year projections in the FY 2023-24 briefing document and to the more recent projections included in the FY 2022-23 supplemental document for school finance. The supplemental document is available at: https://leg.colorado.gov/sites/default/files/cy23_edusup2.pdf

Governor’s Request: The Governor’s request for FY 2023-24 proposes a 3-year plan for the elimination of the BSF.⁸ The Governor’s revised FY 2023-24 request includes four major components directly relevant to the projections:

- The request proposes to reduce the BSF by \$120.0 million in FY 2023-24 and to eliminate it over three years (by FY 2025-26).
- The request sets aside \$100.0 million in the State Education Fund in FY 2023-24 to support hold harmless provisions that may be required by adjustments to the school finance formula in the 2023 Session. The request assumes a phase-out of the hold harmless provision, reducing the hold-harmless amounts by \$10.0 million per year (to \$90.0 million in FY 2024-25 and \$80.0 million in FY 2025-26, etc.). That assumption would use a total of \$340.0 million of the SEF balance for hold-harmless payments from FY 2023-24 through FY 2026-27, spending down the balance of the SEF and increasing pressure on the General Fund.
- In an effort to mitigate against potential economic risk, the request assumes a set-aside of an additional \$125 million for each year beginning in FY 2025-26, further reducing the SEF available.
- The December 2022 OSPB revenue forecast also anticipates approximately \$100.0 million less per year in deposits to the SEF, further constraining the amount available from that source – and increasing pressure on the General Fund.

With all of those assumptions in place and OSPB’s projected revenues to the State Education Fund (and to a lesser extent the State Public School Fund), the request scenario assumes annual General Fund increases of between \$125 million and \$150 million for FY 2024-25 through FY 2026-27. Like the staff recommendation, the request does not include any increase in General Fund for FY 2023-24. Those assumptions require a depletion of the *available* State Education Fund balance from \$1.2 billion projected at the end of FY 2022-23 to \$140 million at the end of FY 2026-27 (see graph below).

The Governor’s proposed 3-year buydown of the BSF would require an average annual General Fund increase of \$132.7 million General Fund after FY 2023-24 and spend the SEF balance down to \$140.0 million (all \$ in millions)



The combination of assumptions in the Governor’s request spends down the balance of the SEF at a much faster rate than the next two scenarios, even with a slower elimination of the BSF.

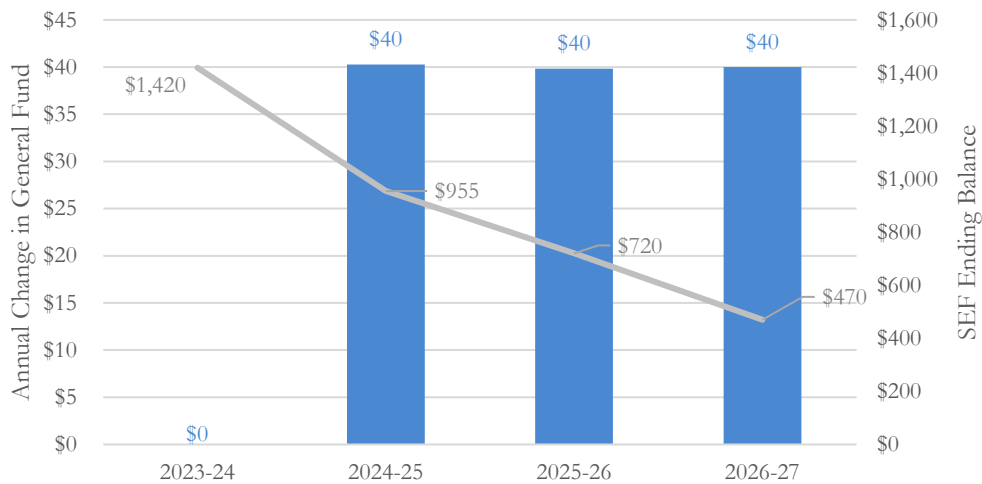
⁸ The multi-year plan is discussed in Appendix A of the Governor’s January 17, 2023, submittal letter at: <https://drive.google.com/file/d/19YGYwWvYIo5S0r2ZEBnpMe9Dv26ROu9/view>

LCS Forecast Scenario 1 – Full Local Share:

Using the LCS Forecast assumptions for local revenues as well as SEF and SPSF deposits changes the picture significantly. After incorporating the changes in the FY 2022-23 mid-year adjustment (which, if enacted, will retain an additional \$76.4 million in the SEF at the end of FY 2022-23 above what staff presented in the supplemental document), the current data indicate that the General Assembly could:

- *Eliminate* the BSF in FY 2023-24 with no increase in General Fund in that year.
- Increase the General Fund appropriation by roughly \$40 million per year through FY 2026-27.
- Still end FY 2026-27 with \$470.0 million in the State Education Fund (see chart below).

Under the December 2022 LCS forecast, eliminating the BSF in FY 2023-24 would require an average annual General Fund increase of \$81.7 million General Fund and still end FY 2026-27 with an SEF balance of \$470.0 million. (all \$ in millions)



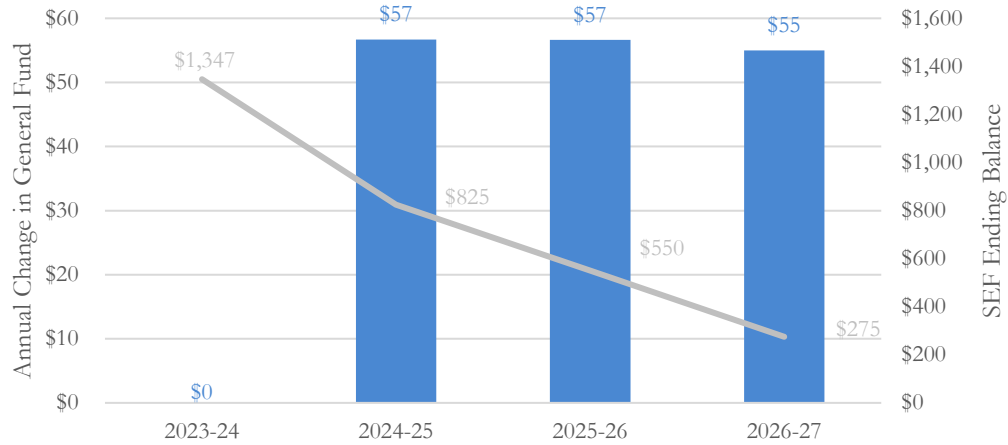
For context, staff’s original projections from the FY 2023-24 briefing (prior to the increased local share) assumed that eliminating the BSF in FY 2023-24 would have required annual General Fund increases averaging \$264.1 million per year *beginning in FY 2023-24*.

LCS Forecast Scenario 2 – Reduced Local Share:

The Governor’s budget proposes an additional \$200.0 million in property tax relief for FY 2023-24. Based on estimates from 2022 Session legislation, staff estimates that this change would reduce local revenues for school finance by \$73.2 million (36.6 percent of the total property tax change). Incorporating that assumption and reducing anticipated local share revenues by \$73.2 million per year throughout the forecast period increases the pressure on both the SEF and the General Fund. As shown in the following graph:

- The annual General Fund increase is approximately \$56.0 million per year starting in FY 2024-25 (as compared to \$40.0 million under Scenario 1).
- The SEF spends down to \$275.0 million at the end of FY 2026-27 (\$195.0 million below the ending balance from Scenario 1).

Eliminating the BSF in FY 2023-24 with local revenues reduced by \$73.2 million per year require an average **annual General Fund increase** of \$56.1 million in FY 2024-25 and beyond while spending the SEF balance down to \$275.0 million. (all \$ in millions)



Staff has not attempted to model scenarios with formula changes, other allocations of funds outside of the formula, or larger reductions in property tax. However, if the General Assembly moves forward with such changes, legislative staff can provide updated projections based on those scenarios.

➔ R2 CATEGORICAL PROGRAMS INCREASE

REQUEST: Amendment 23 requires the General Assembly to increase total state funding for all categorical programs (in aggregate) by at least the rate of inflation in FY 2023-24. The request, based on the OSPB-projected inflation rate for CY 2022 (8.3 percent), seeks an increase of \$36.6 million cash funds from the State Education Fund to support the required increase. The request proposes to allocate the increase among seven programs, with two major components:

- Allocate \$29.0 million to special education programs for children with disabilities. The request includes a legislative proposal to increase the per pupil amount for Tier A (which includes every student identified with a disability) from \$1,750 (as increased in S.B. 22-127) to \$1,850 in FY 2023-24. Based on the estimates in the request, the proposal would allow for the increase in Tier A and still leave enough funding to increase funding for Tier B (a smaller pool of students with specific disabilities requiring more intensive services) from \$4,318 per pupil to \$5,202.
- The remainder of the money (\$7.6 million) would be distributed to six other categorical programs using a method similar to previous years and as shown in the following table.

LONG BILL LINE ITEM	FY 2022-23 APPROPRIATION	FY 2023-24 REQUEST	CHANGE IN STATE FUNDING	PERCENT CHANGE
Special Education - Children with Disabilities	\$300,154,633	\$329,174,785	\$29,020,152	9.7%
English Language Proficiency Program	25,257,742	28,416,760	3,159,018	12.5%
Public School Transportation	62,771,962	65,706,428	2,934,466	4.7%
Career and Technical Education Programs	28,244,361	29,432,629	1,188,268	4.2%
Special Education - Gifted and Talented Children	12,994,942	13,321,750	326,808	2.5%
Expelled and At-risk Student Services Grant Program	9,493,560	9,493,560	0	0.0%
Small Attendance Center Aid	1,314,250	1,317,707	3,457	0.3%
Comprehensive Health Education	1,131,396	1,132,343	947	0.1%

R2 REQUESTED INCREASES IN STATE FUNDING FOR CATEGORICAL PROGRAMS				
LONG BILL LINE ITEM	FY 2022-23 APPROPRIATION	FY 2023-24 REQUEST	CHANGE IN STATE FUNDING	PERCENT CHANGE
Total	\$441,362,846	\$477,995,962	\$36,633,116	8.3%

RECOMMENDATION: Based on the actual Denver-Aurora-Lakewood change in the consumer price index for CY 2022 (8.0 percent as compared to the 8.3 percent assumed in the request), the Constitution requires an increase of at least \$35,305,028 for categorical programs in FY 2023-24 (a decrease of \$1.3 million below the Governor’s request as a result of the change in the inflation rate). Consistent with prior years, staff recommends appropriating the additional funds from the State Education Fund although the Committee could also use General Fund.

Similar to the Committee’s action for FY 2022-23, staff is not recommending appropriating the increase for FY 2023-24 in the Long Bill. Given the magnitude of the increase required for FY 2023-24 and the General Assembly’s ongoing discussion of educational priorities relating to the categorical programs, staff recommends that the Committee defer the actual allocation of the increase among programs to take place in separate legislation.

Staff recommends that the Committee work with the members of the School Finance Interim Committee, the Education Committees, and other stakeholders to develop the allocation of the categorical programs increase for FY 2023-24. Given that the Constitution requires an increase of at least \$35.3 million, however, staff recommends that the Committee establish a “placeholder” of at least that minimum amount as part of the budget process to ensure that the funds are tracked through the passage of the subsequent legislation.

ANALYSIS:

Background - Constitutional Funding Requirement: Programs designed to serve particular groups of students (e.g., students with limited proficiency in English) or particular student needs (e.g., transportation) have traditionally been referred to as "categorical" programs. Unlike public school finance funding, there is no legal requirement that the General Assembly increase funding commensurate with the number of students eligible for any particular categorical program. However, Section 17 of Article IX of the Colorado Constitution requires the General Assembly to increase *total state funding* for all categorical programs annually by at least the rate of inflation plus one percent for FY 2001-02 through FY 2010-11, and by at least the rate of inflation for subsequent fiscal years. For example, in calendar year 2021 the percentage change in the Denver-Aurora-Lakewood consumer price index was 3.5 percent, so the General Assembly was required to increase state funding for categorical programs by at least that amount (\$12,647,700) for FY 2022-23.

The General Assembly determines on an annual basis how to allocate the required increase among the various categorical programs. Since FY 2000-01, the General Assembly has increased annual state funding for categorical programs by \$299.2 million. In certain fiscal years (including FY 2022-23), the General Assembly elected to increase state funding by more than the minimum, constitutionally-required amount, resulting in appropriations that are now \$175.7 million higher than the minimum amount that would have otherwise been required.

The following table details the allocation of the \$299.2 million increase since FY 2000-01 among categorical programs.

INCREASES IN STATE FUNDING FOR CATEGORICAL PROGRAMS SINCE FY 2000-01				
LONG BILL LINE ITEM	FY 2000-01 APPROPRIATION	FY 2022-23 APPROPRIATION	TOTAL INCREASE IN ANNUAL APPROPRIATION OF STATE FUNDS SINCE FY 2000-01	
Special Education - Children with Disabilities	\$71,510,773	\$300,154,633	\$228,643,860	319.7%
English Language Proficiency Program	3,101,598	25,257,742	22,156,144	714.3%
Public School Transportation	36,922,227	62,771,962	25,849,735	70.0%
Career and Technical Education Programs	17,792,850	28,244,361	10,451,511	58.7%
Special Education - Gifted and Talented Children	5,500,000	12,994,942	7,494,942	136.3%
Expelled and At-risk Student Services Grant Program	5,788,807	9,493,560	3,704,753	64.0%
Small Attendance Center Aid	948,140	1,314,250	366,110	38.6%
Comprehensive Health Education	600,000	1,131,396	531,396	88.6%
Total	\$142,164,395	\$441,362,846	\$299,198,451	210.5%

The constitution also requires that money from the State Education Fund not supplant the level of General Fund appropriations existing on December 28, 2000, for categorical programs [see Section 17 (5) of Article IX of the Colorado Constitution]. Staff’s recommendations for this section maintain \$163,765,474 in General Fund appropriations to comply with this requirement. This provision actually requires the General Assembly to maintain an appropriation of at least \$141,765,474 General Fund (the amount appropriated as of December 28, 2000); however, the General Assembly added \$22.0 million General Fund to the Special Education Programs for Children with Disabilities line item in FY 2019-20 (appropriated in S.B. 19-246 (School Finance)).

Finally, please note that pursuant to Section 22-55-107 (3), C.R.S., for the 2008-09 budget year and each budget year thereafter, on or before February 15, "the education committees of the house of representatives and senate, or any successor committees, may submit to the joint budget committee of the general assembly a joint recommendation regarding the allocation of the increase in total state funding for all categorical programs as required by subsection (1) of this section for the next budget year. The joint budget committee shall consider but shall not be bound by any joint recommendations made pursuant to this subsection (3) when developing the annual general appropriation bill for the budget year for which the joint recommendation is made". To date, these Committees have not made any such recommendation.

This write-up (of R2) summarizes the staff recommendation for FY 2023-24, which is to hold appropriations constant in the Long Bill and instead allocate the increase in separate legislation. The Committee should note, however, that a more detailed description of each categorical program line item, including a description of the funds available -- other than state funds -- may be found in the Line Item Detail section for categorical programs.

Allocation of Required Funding Increase for FY 2023-24: As noted above, the Constitution requires the General Assembly to increase total state funding for all categorical programs annually by at least the rate of inflation (based on the change in the Denver-Aurora-Lakewood Consumer Price Index for calendar year 2022) for FY 2023-24. Based on the actual change in the CPI for CY 2022 (8.0 percent), the Constitution requires and staff recommends adding a total of \$35,309,028 state funds for FY 2023-24. Consistent with prior years, staff recommends appropriating the increase from the State Education Fund, although the Committee could elect to use General Fund instead.

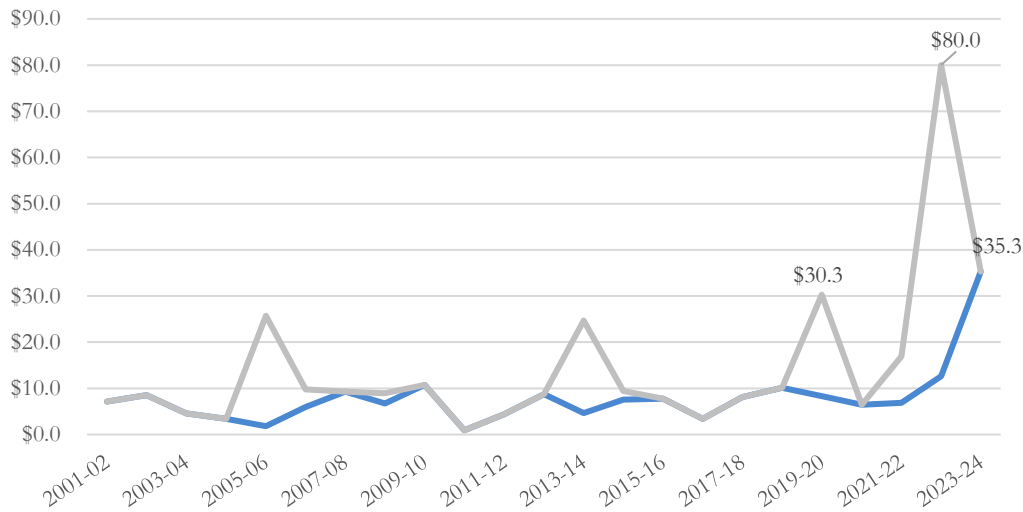
In most recent years, JBC Staff and the Department and staff have used similar mechanisms to allocate the Constitutionally-required increases among categorical line items, with increases based on the difference between state and federal funding provided for a program and school districts’ actual

expenditures. Thus, programs with a larger gap between state and federal funds and total district expenditures (those for which school districts are absorbing the greatest cost within their budgets) receive the largest increase. For illustrative purposes and the Committee’s consideration, staff has included a table below showing how that model would allocate the increase for FY 2023-24.

However, staff is not recommending appropriating the increase in funding for FY 2023-24 in the Long Bill for two reasons.

- First, the high inflation rate combined with a large “base” of state funding results in a historically large required increase in FY 2023-24 (see graph below). While the General Assembly did appropriate a larger amount in FY 2022-23 in S.B. 22-127, the increase for FY 2023-24 is the largest “mandatory” increase since the passage of Amendment 23 in 2000. Staff suggests that the magnitude of the mandatory increase may provide an opportunity for the Committee and the General Assembly to focus on specific priorities within the categorical programs.

The anticipated inflationary increase for FY 2023-24 is the largest-ever required increase and exceeds the actual increases for every year but FY 2022-23.



Second, and related to the first point, staff is aware of at least two specific priorities outside of the “standard” allocation of categorical funding based on actions to date (and the General Assembly may well wish to consider whether other targeted increases would achieve policy priorities):

- The Interim Committee on School Finance unanimously approved S.B. 23-099 for introduction as an interim committee bill.⁹ Building on the FY 2022-23 appropriation in S.B. 22-127, the bill would require the General Assembly to appropriate sufficient funding for FY 2023-24 to fully fund \$6,000 per Tier B student within the **special education programs for children with disabilities** line item. According to the Legislative Council Staff Fiscal Note, S.B. 22-099 would require an appropriation of \$40.2 million for FY 2023-24 (\$4.9 million above the minimum inflationary increase for categorical funding as a whole and \$11.2 million above the Governor’s proposal for special education for FY 2023-24). Staff notes that achieving and maintaining the

⁹ The Senate Education Committee heard the bill on February 6, 2023, and referred the bill to the Appropriations Committee.

goal of fully funding the statutory amounts for special education would require a shift in the standard allocation model in future years to align funding with the population slated to receive those services. For the first time that staff is aware of, that would directly tie the *appropriation* for special education services with the population receiving those services.

- As part of the FY 2022-23 Long Bill process, the Committee included a request for information for the Department of Education seeking information on the cost to implement a universal screening program for the **special education programs for gifted and talented children**. As discussed in the FY 2023-24 briefing document for school finance and categorical programs, the Department estimates that doing so would require *annual increases* of \$1.1 million per year for five years in addition to the “standard” categorical programs increase. If the Committee wished to pursue this option, then it could carve that amount out of the inflationary increase or build it outside of that increase (at additional cost). Staff assumes that the Committee made that request for information based on interest in providing the universal screening.

While staff is not recommending appropriating the increase in funding in the Long Bill, staff has included the tables that inform the recommended allocation of funding in more typical years for the Committee’s consideration. Thus, the following pages include three tables associated with categorical funding.

- Table A shows the gap between state and federal funding and actual local expenditures in FY 2020-21 (the most recent year for which the necessary data are available).
- Table B shows the gap between FY 2021-22 funding levels and "full funding" for the programs with statutory formulas for that year.
- Table C summarizes the “standard” allocation if the Committee elected to recommended by staff, the allocation requested by the Department, and two other potential options for illustrative purposes.

TABLE A: CATEGORICAL PROGRAM REVENUES AND EXPENDITURES: FY 2020-21

LONG BILL LINE ITEM	(a) STATE FUNDS	(b) FEDERAL FUNDS	(c) = (a) + (b) TOTAL STATE AND FEDERAL FUNDS	(d) TOTAL DISTRICT EXPENDITURES	(e) = (c)/(d) STATE/FEDERAL SHARE OF EXPENDITURES	(f) = (d) - (c) LOCAL SHARE OF EXPENDITURES
District Programs Required by Statute						
Special Education - Children with Disabilities ^a	\$241,326,581	\$153,956,118	\$395,282,699	\$1,162,984,064	34.0%	\$767,701,365
English Language Proficiency Program ^b	51,104,870	9,370,067	60,474,937	286,797,477	21.1%	226,322,540
Other Categorical Programs						
Public School Transportation	64,050,757	0	64,050,757	274,285,674	23.4%	210,234,917
Career and Technical Education	27,978,242	5,347,846	33,326,088	118,457,588	28.1%	85,131,500
Special Education - Gifted and Talented Children	12,142,251	0	12,142,251	35,555,854	34.1%	23,413,603
TOTAL						\$1,312,803,925

^a State funding includes Public School Finance Act funding for preschool children with disabilities.

^b State funding includes money provided through the English Language Learners Professional Development and Student Support Program. The General Assembly eliminated funding for that program in FY 2021-22 with the creation of the English language learners factor in the school finance formula - but the program was still in place for FY 2020-21.

TABLE B: MAXIMUM AMOUNT OF STATE FUNDS DISTRICTS WERE STATUTORILY ELIGIBLE TO RECEIVE FOR FY 2021-22

LONG BILL LINE ITEM	DESCRIPTION OF WHAT DETERMINES MAXIMUM STATE FUNDING	TOTAL STATE FUNDS	MAXIMUM STATE FUNDING	PERCENT OF MAXIMUM COVERED BY STATE FUNDS	ESTIMATED INCREASE REQUIRED TO FUND STATUTORY MAXIMUM
District Programs Required by Statute					
Special Education - Children With Disabilities a/	Driven by the number of children requiring special education services, characteristics of the children eligible for such services, and the cost of such services	\$217,579,593	\$276,395,500	78.7%	\$58,815,907
English Language Proficiency Program b/	Driven by the number of eligible students and statewide average per pupil operating revenue	25,257,713	37,685,990	67.0%	12,428,277
Other Categorical Programs (with specified statutory reimbursement levels)					
Public School Transportation	Driven by total miles traveled and total transportation-related costs (excluding capital outlay expenses)	63,391,612	104,402,687	60.7%	41,011,075
Colorado Vocational Distributions Act	Driven by the number of students participating in vocational education programs and the costs of such services per FTE in relation to each districts per pupil operating revenue	28,244,361	34,666,975	81.5%	6,422,614
Small Attendance Center Aid	Driven by the number of eligible schools, such schools' enrollment, and eligible districts' per pupil funding	1,314,250	1,561,938	84.1%	247,688
TOTAL					\$118,925,561

a/ The estimated increase to fund the statutory maximum for special education for children with disabilities in FY 2021-22 is based on the following: \$132,875,000 for Tier A (\$1,250 for each student with disabilities); \$141,474,000 for Tier B (assuming districts received \$6,000 per student for 100 percent of the 23,579 students with specified disabilities, rather than for 56.5 percent of these students); \$4,000,000 for high cost grants; and \$500,000 for "educational orphans." Staff has not attempted to estimate the costs of "fully funding" the high cost grant program.

b/ The State funds provided for the English Language Proficiency Program in FY 2021-22 only reflect categorical program funding amounts. They do *not* include amounts in the school finance formula associated with the English language learners (ELL) factor added to the formula through S.B. 21-268 (School Finance).

TABLE C: OPTIONS FOR THE ALLOCATION OF THE INCREASE IN STATE FUNDING FOR CATEGORICAL PROGRAMS IN FY 2023-24									
LONG BILL LINE ITEM	FY 22-23 APPROP.	EXAMPLES OF OPTIONS FOR ALLOCATING REQUIRED INCREASE							
		A :STANDARD MODEL	%	B: DEPT. REQUEST	%	C	%	D	%
Special education programs for children with disabilities	\$300,154,633	\$20,648,011	6.9%	\$29,020,152	9.7%	\$32,568,424	10.9%	\$24,012,371	8.0%
English language proficiency programs	\$25,257,742	6,087,146	24.1%	3,159,018	12.5%	\$2,740,604	10.9%	2,020,619	8.0%
Public school transportation	\$62,771,962	5,654,455	9.0%	2,934,466	4.7%	0	0.0%	5,021,757	8.0%
Career and technical education	\$28,244,361	2,289,687	8.1%	1,188,268	4.2%	0	0.0%	2,259,549	8.0%
Special education programs for gifted and talented children	\$12,994,942	629,730	4.8%	326,808	2.5%	0	0.0%	1,039,595	8.0%
Expelled and at-risk student services grant program	\$9,493,560	0	0.0%	0	0.0%	0	0.0%	759,485	8.0%
Small attendance center aid	\$1,314,250	0	0.0%	3,457	0.3%	0	0.0%	105,140	8.0%
Comprehensive health education	\$1,131,396	0	0.0%	947	0.1%	0	0.0%	90,512	8.0%
Totals (may not sum due to rounding)	\$441,362,846	\$35,309,028	8.0%	\$36,633,116	8.3%	\$35,309,028	8.0%	\$35,309,028	8.0%

Description of Potential Allocation Options

A: Standard model, based on actual 8.0 percent inflation rate.

B: Department's request, based on OSPB September Revenue Forecast inflation rate (8.3 percent), and funding the proposed policy changes for special education programs for children with disabilities.

C: Provide a 10.9% increase for children with disabilities and English language proficiency programs (the two programs required by statute).

D: Provide the same percentage increase for all programs.

→ R5 GIFTED AND TALENTED DMS

REQUEST: The request includes a one-time increase of \$250,000 cash funds from the State Education Fund for FY 2023-24 (with no ongoing increase) to support the development of a new gifted education data management system (DMS).

RECOMMENDATION: Staff recommends approving the requested one-time increase of \$250,000 cash funds from the State Education Fund to support the development of the new system. However, staff recommends allocating the increase to the Information Management Systems line item in the Management and Administration Section rather than to the Special Education Programs for Gifted and Talented Children categorical program line item.

ANALYSIS: The Department uses the DMS to securely transfer data and files related to gifted education identification and programming between CDE and local administrative units. The Department reports that the contract for the previous system terminated in FY 2021-22, and the Department is using a “stopgap” system (Syncplicity) in FY 2022-23. The request seeks a one-time increase in funding for FY 2023-24 to develop a new system that will meet the needs of both the Department and administrative units. According to the Department, Syncplicity is a secure file sharing system but it does not provide the features of a full DMS. For example, it does not allow administrative units to run data reports from the system or “roll up” individual budgets into a state budget.

The Department has also indicated that the development of the new system should “significantly reduce the fiscal burden to CDE of the annual costs for the DMS system” (amounts that have previously been paid through the categorical program line item). Historically, the Department spent \$117,063 on annual maintenance of the previous system – but the Department expects maintenance costs to fall by \$100,000 per year in the second year of operation of the new system. If accurate, reducing those overhead costs should increase the distribution of funds through the program.

Staff has also reached out to representatives of the gifted and talented community. The Colorado Association for the Gifted and Talented (CAGT) confirms the need for a DMS and that Syncplicity is only a partial solution as it “is not an interactive two-way system that allows AU [administrative unit] leads to download and manipulate data as they track student identification rates and budget expenditures.” The CAGT also indicated that the single statewide system is important for efficiency and that the group “would fully support the need to have a data management system built independent of special education at the state level.”

Based on the Department’s descriptions and the feedback from CAGT, staff recommends approving the requested one-time increase of \$250,000 cash funds from the State Education Fund. However, staff recommends appropriating that amount to the Information Management Systems line item rather than to the categorical program line item for gifted and talented education. Doing so will allow the appropriation to be one-time in nature rather than building it into the “base” of the categorical programs for inflationary increases.

→ R6 PERSONNEL FOR SCHOOL SUPPORT

REQUEST: The request includes an increase of \$103,439 General Fund and 0.9 FTE in FY 2023-24, increasing to \$110,260 General Fund and 1.0 FTE in FY 2024-25, to support an additional position

managing data and distributions to school districts under the school finance formula. The Department reports that the request responds, in part, to increasing workload associated with recent legislation such as H.B. 20-1418 (School Finance) and S.B. 22-202 (State Match for Mill Levy Override Revenue). In response to that increasing workload, the Department posted and filled this position in the summer of 2022 with available funds associated with vacancy savings and one-time appropriations in S.B. 22-202. The request seeks ongoing funding to support the position.

RECOMMENDATION: Staff recommends approving an increase of \$83,811 General Fund and 0.9 FTE for FY 2023-24 (annualizing to \$111,202 and 1.0 FTE in FY 2024-25) specific to this decision item, with all of that amount appropriated in the School Finance Administration line item. Based on the existing workload in the school finance unit, staff recommends supporting the additional FTE on an ongoing basis in an effort to mitigate risk in this distribution of funds. The recommendation includes the following changes from the request:

- Consistent with the Committee’s common policy not to provide funding for centrally appropriated amounts for FTE in the first year, the recommendation does not include a total of \$17,628 that the request proposed for centrally appropriated items. Staff also notes that because this particular position is already filled, the employee is already included in the templates used to calculate those amounts.
- The recommendation does not include \$2,000 requested for the purchase of a computer. The position is already filled and the Department has already absorbed the standard one-time start-up costs. The Department agrees that the funding for the computer is not necessary.

ANALYSIS: The public school finance unit is responsible for the calculation and distribution of all funds allocated under the Public School Finance Act, equating to a total of more than \$8.4 billion (\$5.0 billion in state funds) in FY 2022-23. This unit is responsible for the calculation of total program funding for each school district multiple times per year (including work with both school district personnel and legislative staff) and the distribution of payments under the formula on a monthly basis. Those calculations require the program staff to collect and compile a large amount of data from school districts associated with pupil counts, at-risk pupil counts, mill levies, assessed values, and local revenues. The Department reports, and JBC Staff agrees, that the quantity and complexity of information have increased in recent years.

Recognizing the increasing workload and the financial exposure to the Department (and the State) associated with that workload and the distribution of school finance funding, the Department posted and filled this position in 2022 using one-time funds from vacancy savings for other positions, specifically including preschool-related positions that will transfer to the Department of Early childhood at the end of FY 2022-23. While JBC staff would obviously prefer for the Committee and the General Assembly to have the opportunity to react to proposed positions before the positions are filled, staff agrees that the existing workload and the degree of financial exposure warrant the additional position. Staff recommends approving the additional funding in an effort to mitigate risk associated with the distribution of school finance funds.

→ BA5 AUDIT PAYMENT TRUE-UP

REQUEST: The request includes an increase of \$1.5 million cash funds from the State Public School Fund above FY 2022-23 appropriation (as adjusted by the FY 2022-23 supplemental bill) to support

additional audit payments to school districts under the School Finance Act. The request would provide a total of \$3.0 million for the payments in FY 2022-23.

RECOMMENDATION: Staff recommends approving the request. The Department is obligated to make the audit payments under current law. If the full amount is not necessary to make the payments required by the audits for FY 2023-24 then any unused funds will simply revert to (remain in) the State Public School Fund and will be available for appropriation in subsequent years.

ANALYSIS: The General Assembly added the School Finance Audit Payments line item to the FY 2021-22 Long Bill to support audit payments to school districts pursuant to Sec. 22-2-113 (1)(j), C.R.S. The Department makes these payments to make up for previous underpayments to school districts and schools that are discovered through the audit process. Prior to FY 2020-21, the Department had made audit payments to districts from audit revenues collected from districts that are deposited to the State Public School Fund. The payments out to districts were not specifically appropriated and were effectively off-budget. However, in FY 2020-21, the anticipated payments exceeded anticipated revenues, requiring an additional appropriation which the General Assembly included in the annual school finance bill (H.B. 20-1418). The Department requested the creation of the new Long Bill line item for FY 2021-22 to reflect anticipated audit payments on a more transparent basis.

The Department provided the following examples of potential issues identified through the audit process:

- **Enrollment:** The process requires school districts to repay the Department for amounts associated with students that were not enrolled as of the official count date but that were erroneously counted as enrolled. Conversely, the Department must pay districts for students that were enrolled as of the count day, as confirmed by supporting documentation, but for some reason were not included in the official count.
- **Attendance:** Districts must repay amounts for students that did not meet minimum attendance requirements.
- **Scheduled Hours:** Districts must repay amounts for students that did not meet the requirement for scheduled hours for which the student was reported (part-time vs. full-time). The Department pays districts for students that were submitted for part-time funding but that were actually eligible for full-time funding.
- **At-risk Students:** Districts must repay the Department for students that were counted as at-risk but for which there was not sufficient documentation. The Department pays districts for students that were eligible for at-risk funding (as confirmed by supporting documentation) but were not included in the count.

The Department’s collections from districts and payments to districts fluctuate from year to year, as shown in the following table. The Department reports that the recent larger-than-normal swings in pupil counts are also resulting in significant audit findings (including both payments to the Department and to districts). The table shows actual collections and payments for FY 2017-18 through FY 2021-22 and the Department’s current estimates for FY 2022-23 and FY 2023-24.

SCHOOL DISTRICT AUDIT COLLECTIONS AND PAYMENTS			
FISCAL YEAR	DEPARTMENT AUDIT COLLECTIONS FROM DISTRICTS	DEPARTMENT AUDIT PAYMENTS TO DISTRICTS	
FY 2017-18	\$989,456	\$80,279	

SCHOOL DISTRICT AUDIT COLLECTIONS AND PAYMENTS		
FISCAL YEAR	DEPARTMENT AUDIT COLLECTIONS FROM DISTRICTS	DEPARTMENT AUDIT PAYMENTS TO DISTRICTS
FY 2018-19	1,465,320	442,057
FY 2019-20	2,048,691	81,821
FY 2020-21	2,072,393	2,201,912
FY 2021-22	1,566,617	517,486
FY 2022-23	TBD	1,500,000
FY 2023-24	TBD	3,000,000

The FY 2022-23 Long Bill included an appropriation of \$1.0 million cash funds from the State Public School Fund for these payments, with no change from the FY 2021-22 appropriation. In response to the increased estimate of payments required for FY 2022-23, the Department requested and the Committee approved an increase of \$500,000 for the current year (appropriated in the Department’s FY 2022-23 supplemental bill), for a total appropriation of \$1.5 million. The request for FY 2023-24 therefore represents an increase of \$1.5 million above the adjusted FY 2022-23 appropriation (assuming enactment of the supplemental appropriation). As noted above, statute requires the Department to make these payments when an audit identifies an underpayment. Staff recommends approving the increase for FY 2023-24; any unused funds will revert to the State Public School Fund and remain available for subsequent years.

LINE ITEM DETAIL - ASSISTANCE TO PUBLIC SCHOOLS

(A) PUBLIC SCHOOL FINANCE

ADMINISTRATION

This line item includes funding to support Department staff who administer the School Finance Act, the Colorado Preschool Program, and full-day kindergarten programs. This unit oversees the Financial Policy and Procedures Advisory Committee, and provides technical assistance to school districts related to preschool and full-day kindergarten programs, as well as statutory and regulatory budgetary, accounting, and reporting requirements. This unit works with the State Treasurer’s Office to intercept charter school debt payments, and with the Department of Human Services to withhold School to Work Alliance Program matching funds for vocational rehabilitation. This unit also distributes funding for other programs, including facility school funding, transportation reimbursements, small attendance center aid, grant writing funds for boards of cooperative services, and concurrent enrollment funding.

This line item also supports an audit team to ensure compliance related to funds that districts receive for school finance, public school transportation, and English language proficiency programs, as well as funds that facility schools and state agencies receive for education programs.

As authorized by S.B. 09-215, the Long Bill supported line item with "off-the-top" funding from the State Share of Districts’ Total Program Funding line item from FY 2009-10 through FY 2020-21. This funding mechanism was reinstated in 2009 to reduce General Fund expenditures and maintain critical Department functions. However, for FY 2021-22, the General Assembly transitioned back to supporting the line item with direct appropriations from the General Fund, in addition to a smaller appropriation from the State Education Fund. As a result, school finance administration is no longer holding funds back from distribution to school districts through the school finance formula.

STATUTORY AUTHORITY: Sections 22-2-112, 22-2-113, and 22-54-114 (2.3), C.R.S.

REQUEST: The Department requests an appropriation of \$1,741,993 total funds and 14.3 FTE for FY 2023-24. The request includes \$1,643,801 General Fund and \$98,192 cash funds from the State Education Fund. The request includes the following changes from the FY 2022-23 appropriation:

- An increase of \$85,891 General Fund and 0.9 FTE associated with request R6 (Personnel for School Support), discussed above.
- An increase of \$61,700 total funds (\$53,848 General Fund) to annualize FY 2022-23 salary survey appropriations.
- A decrease of \$414,857 General Fund and 4.6 FTE to reflect the FY 2023-24 impact of prior year legislation. The primary driver of the reduction is a decrease of \$338,621 and 4.0 FTE associated with H.B. 22-1295 (Universal Pre-K), as those FTE move to the Department of Early Childhood.

RECOMMENDATION: Staff recommends approving an appropriation of \$1,739,953 total funds (\$1,641,761 General Fund and \$98,192 cash funds from the State Education Fund) and 14.3 FTE for FY 2023-24. The recommendation is \$2,040 below the request based on adjustments to request R6 (Personnel for School Support), discussed above. The following table shows the recommended changes from the FY 2022-23 appropriation.

ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$2,009,299	\$1,918,959	\$90,340	\$0	\$0	18.0
TOTAL	\$2,009,299	\$1,918,959	\$90,340	\$0	\$0	18.0
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$2,009,299	\$1,918,959	\$90,340	\$0	\$0	18.0
R6 Personnel for school support - Part B	83,811	83,811	0	0	0	0.9
Annualize prior year budget actions	61,700	53,848	7,852	0	0	0.0
Annualize prior year legislation	(414,857)	(414,857)	0	0	0	(4.6)
TOTAL	\$1,739,953	\$1,641,761	\$98,192	\$0	\$0	14.3
INCREASE/(DECREASE)	(\$269,346)	(\$277,198)	\$7,852	\$0	\$0	(3.7)
Percentage Change	(13.4%)	(14.4%)	8.7%	0.0%	0.0%	(20.6%)
FY 2023-24 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$2,040	\$2,040	\$0	\$0	\$0	0.0

FINANCIAL TRANSPARENCY SYSTEM MAINTENANCE

The General Assembly added this line item to the FY 2018-19 Long Bill to support the ongoing maintenance of the financial transparency system authorized in H.B. 14-1292 (Student Success Act). The original legislation transferred \$3.0 million cash funds from the State Education Fund to the newly created Financial Reporting Fund and continuously appropriated those funds to the Department for FY 2014-15 through FY 2017-18 to create a financial transparency system allowing for the comparison of expenditures across schools, districts, and other local education providers.¹⁰ Money remaining in

¹⁰ The system website is available at: <https://coloradok12financialtransparency.com/#/>

the Financial Reporting Fund (\$1.1 million at the end of FY 2017-18 and an estimated \$492,507 at the end of FY 2018-19) is subject to legislative appropriation in FY 2018-19 and subsequent years. The Final Fiscal Note for H.B. 14-1292 assumes ongoing expenses of \$600,000 per year to maintain the system. For FY 2020-21, the General Assembly reduced the appropriation to \$462,000 total funds based on revised contract information.

For FY 2021-22, the General Assembly approved the Department’s request to reduce funding for this line item and operate and maintain the system “in house” rather than contracting for the operation and maintenance of the system. As a result, the FY 2021-22 appropriation includes \$88,120 cash funds from the State Education Fund and 1.0 FTE, \$373,880 below the FY 2020-21 appropriation.

STATUTORY AUTHORITY: Sections 22-44-105, C.R.S.

REQUEST: The Department is requesting a continuation appropriation of \$89,172 cash funds from the State Education Fund for FY 2023-24, an increase of \$1,052 above the FY 2022-23 appropriation to annualize FY 2022-23 salary survey appropriations.

RECOMMENDATION: Staff recommends approving the request.

STATE SHARE OF DISTRICTS’ TOTAL PROGRAM FUNDING

The State Share of Districts’ Total Program Funding line item provides for the State’s share of funding under the statutory school finance formula; the appropriation does not reflect the local share of funding. A brief discussion of this line item is above, with the discussion of R1/BA1 (Total Program Increase).

STATUTORY AUTHORITY: Section 22-54-101, et seq., C.R.S.

REQUEST: The Department’s request for the state share of districts’ total program funding for FY 2022-23 would provide \$4,951,508,546 total funds (including \$4,237,853,668 General Fund). The request represents a net decrease of \$38.5 million cash funds below the FY 2022-23 appropriation as adjusted by S.B. 23-136. With R1/BA (Total Program Increase), the request proposes to reduce the budget stabilization factor by \$120.0 million below the adjusted FY 2022-23 appropriation.

RECOMMENDATION: Pursuant to current law, staff’s preliminary recommendation *for the Long Bill appropriation for total program* would hold the budget stabilization factor constant at \$321.2 million. The staff recommendation does not include any change in the budget stabilization factor and assumes that the General Assembly would accomplish any such change through the School Finance Bill.

Based on estimates of local revenues for FY 2022-23, staff recommends approving an appropriation of \$4,831,538,341 total funds, representing a net reduction of \$158,516,275 total funds below the adjusted FY 2022-23 appropriation. The preliminary staff recommendation for the Long Bill includes \$4,238,686,861 General Fund, \$282,248,338 cash funds from the State Education Fund, and \$303,603,142 cash funds from the State Public School Fund. Relative to the FY 2022-23 appropriation, the recommendation: (1) holds General Fund appropriations constant with no change; (2) decreases appropriations from the State Education Fund by \$354,188,554; and (3) increases appropriations from the State Public School Fund by \$195,672,279. Please note that the fund sources are may change based

on the March 2022 revenue forecasts as well the Committee’s decisions affecting available fund balances in the State Education Fund and State Public School Fund. Staff will address those changes through a staff “comeback.” The following table shows the (preliminary) recommended changes from the FY 2022-23 appropriation for the Long Bill.

ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, STATE SHARE OF DISTRICTS' TOTAL PROGRAM FUNDING						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$4,990,054,616	\$4,238,686,861	\$751,367,755	\$0	\$0	0.0
TOTAL	\$4,990,054,616	\$4,238,686,861	\$751,367,755	\$0	\$0	0.0
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$4,990,054,616	\$4,238,686,861	\$751,367,755	\$0	\$0	0.0
R1/BA1 State share of total program increase	(158,516,275)	0	(158,516,275)	0	0	0.0
TOTAL	\$4,831,538,341	\$4,238,686,861	\$592,851,480	\$0	\$0	0.0
INCREASE/(DECREASE)	(\$158,516,275)	\$0	(\$158,516,275)	\$0	\$0	0.0
Percentage Change	(3.2%)	0.0%	(21.1%)	0.0%	0.0%	0.0%
FY 2023-24 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$121,539,093	\$735,695	\$120,803,398	\$0	\$0	0.0

SCHOOL FINANCE AUDIT PAYMENTS

The General Assembly added this line item to the FY 2021-22 Long Bill to support audit payments to school districts pursuant to Sec. 22-2-113 (10)(j), C.R.S. The Department makes these payments to make up for previous underpayments to school districts and schools that are discovered through the audit process. Prior to FY 2020-21, the Department had made audit payments *to* districts from audit revenues collected *from* districts and deposited to the State Public School Fund. The payments out to districts were not specifically appropriated and were effectively off budget. However, in FY 2020-21, the anticipated payments exceeded anticipated revenues, requiring an additional appropriation which the General Assembly included in the annual school finance bill (H.B. 20-1418). The Department requested the creation of the new Long Bill line item for FY 2021-22 to reflect anticipated audit payments on a more transparent basis.

STATUTORY AUTHORITY: Section 22-2-113 (1)(j), C.R.S.

REQUEST: The Department requests an appropriation of \$3.0 million cash funds from the State Public School Fund. The request includes an increase of \$1.5 million above the FY 2022-23 appropriation as adjusted by the Department’s supplemental bill (see the discussion of BA5 above) to align with the Department’s preliminary projections of the audit payments required for FY 2023-24.

RECOMMENDATION: **Staff recommends approving the request.** Staff notes that the Department has reported significant fluctuations in audit payments in recent years, with large increases in the payments in FY 2020-21 relative to previous years. The Department is expecting a similar increase in FY 2023-24 – but is optimistic that payments will stabilize after that time. Staff will continue to work

with the Department in an attempt to develop a more predictable system to fund these payments. The following table shows the recommended change from the FY 2022-23 appropriation.

ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, SCHOOL FINANCE AUDIT PAYMENTS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$1,500,000	\$0	\$1,500,000	\$0	\$0	0.0
TOTAL	\$1,500,000	\$0	\$1,500,000	\$0	\$0	0.0
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$1,500,000	\$0	\$1,500,000	\$0	\$0	0.0
BA5 Audit payment true-up	1,500,000	0	1,500,000	0	0	0.0
TOTAL	\$3,000,000	\$0	\$3,000,000	\$0	\$0	0.0
INCREASE/(DECREASE)	\$1,500,000	\$0	\$1,500,000	\$0	\$0	0.0
Percentage Change	100.0%	0.0%	100.0%	0.0%	0.0%	0.0%
FY 2023-24 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

AT-RISK PER PUPIL ADDITIONAL FUNDING

Created in S.B. 15-267 (School Finance) and first funded in FY 2015-16, this line item provides additional funding to school districts and Institute charter schools for at-risk pupils. The program provides funding on a per pupil basis, calculated as \$5.0 million divided by the number of at-risk pupils statewide for the applicable budget year. In order to support the program, S.B. 15-267 increased the transfer of interest and income earned on the Public School (Permanent) Fund to the State Public School Fund by \$5.0 million per year (see Section 22-41-102 (3) (e), C.R.S.) and dedicated that funding to the At-risk Per Pupil Additional Funding program beginning in FY 2015-16. The bill sets the \$5.0 million level of funding in statute and directs the General Assembly to appropriate that amount of funding for the program each year beginning in FY 2015-16.

STATUTORY AUTHORITY: Section 22-54-136, C.R.S.

REQUEST: The Department requests a continuation appropriation of \$5.0 million cash funds from the State Public School Fund (from interest and income earned on the Permanent Fund that is transferred to the State Public School Fund), with no change from the FY 2021-22 appropriation and as required by current statute.

RECOMMENDATION: **Staff recommends approving the request**, which is consistent with current law as enacted in S.B. 15-267. That bill permanently increased transfers of interest and income earned on the Permanent Fund to the State Public School Fund and directs that the funds be used for this program.

AT-RISK SUPPLEMENTAL AID

House Bill 12-1345 created a program to provide supplemental aid to qualifying school districts and charter schools. The bill provided an appropriation of \$3,839,627 cash funds from the State Education Fund in FY 2012-13. The Committee added this line item to the FY 2013-14 Long Bill and

appropriated the same amount as in FY 2012-13. In FY 2014-15, the General Assembly increased the appropriation to \$5,094,358 cash funds from the State Education Fund in an effort to fully fund the statutory calculation, and the appropriation remained at that level through FY 2020-21. For FY 2021-22, the General Assembly reduced the appropriation by \$250,000 (to \$4,844,358) based on recent expenditures under the line item as expenditures had consistently been below the appropriation.

STATUTORY AUTHORITY: Section 22-30.5-112.2, C.R.S.

REQUEST: The Department requests a continuation appropriation of \$4,844,358 cash funds from the State Public School Fund, with no change from the FY 2022-23 appropriation.

RECOMMENDATION: **Staff recommends approving the request.** Based on recent expenditures, the request appears to be sufficient to support likely costs for FY 2023-24. For the current year, the calculated distribution is \$4,116,818, a decrease of \$727,540 below the current appropriation. That amount will revert to the State Public School Fund and remain in the State Public School Fund for appropriation in subsequent years. Given recent fluctuations in the calculation, and that any unspent amounts would again revert to the State Public School Fund, staff is hesitant to recommend a reduction to the appropriation at this time.

DISTRICT PER PUPIL REIMBURSEMENT FOR JUVENILES HELD IN JAIL

Section 22-32-141, C.R.S., enacted as S.B. 10-054, requires the General Assembly to appropriate moneys to reimburse school districts for educational services provided to juveniles held in jails. This act authorized the appropriation of moneys from the Read-to-Achieve Cash Fund for such purpose. The enactment of H.B. 12-1238 (Early Literacy) eliminated the Read-to-Achieve Cash Fund and supported this line item with cash funds from the State Education Fund in FY 2012-13 and subsequent years.

This line item has historically provided funding for two types of expenses:

- Funding for all juveniles receiving educational services in jail (whether or not they were included in a district's pupil enrollment): The district providing educational services receives the daily rate established for facility schools for each day of service (recognizing that they are only required to provide four hours of educational services per week).
- Funding for juveniles who were not included in a district's pupil enrollment: The district providing educational services can receive reimbursement for costs incurred up to state average per pupil revenue, prorated for the period services are provided.

STATUTORY AUTHORITY: Section 22-32-141, C.R.S.

REQUEST: The Department requests a continuation appropriation of \$10,000 cash funds from the State Education Fund, with no change from the FY 2022-23 appropriation.

RECOMMENDATION: **Staff recommends approving the request.** Staff notes that the appropriation has not been used in recent years and may well not be necessary. However, current law requires the Department to provide reimbursement if requested and the General Assembly has maintained the appropriation for that reason. Based on the lack of use of the funding, the General Assembly may

wish to consider eliminating the statutory requirement (and the appropriation) as part of separate legislation such as the School Finance Bill. Should the appropriation remain in place, any unspent moneys will remain in the State Education Fund and be available for appropriation in subsequent years.

ADDITIONAL FUNDING FOR RURAL DISTRICTS AND INSTITUTE CHARTER SCHOOLS

The General Assembly added this line item to the FY 2021-22 Long Bill to support additional per pupil payments to rural school districts and institute charter schools pursuant to H.B. 20-1427 (Cigarette Tobacco & Nicotine Products Tax) and Proposition EE (adopted by the voters at the November 2020 election). Senate Bill 21-053 (Adjustments to School Funding for FY 2020-21) includes an appropriation of \$25.0 million from the Rural Schools Cash Fund for FY 2020-21, as required by H.B. 20-1427. That bill requires distributions of \$30.0 million in FY 2021-22 and \$35.0 million in FY 2022-23. The Committee should note that the bill does not require any such distribution for FY 2023-24 – and does not leave additional revenue available for that purpose as the revenues previously supporting the distribution to rural schools are instead dedicated to preschool programs beginning in FY 2023-24.

Similar to “one-time” distributions provided in FY 2018-19 and FY 2019-20, the bill directs per pupil distributions to rural school districts and institute charter schools on the following basis:

- 55.0 percent of the total funding is distributed to large rural districts (districts that the Department has identified as rural that have between 1,000 and 6,500 pupils in kindergarten through 12th grade) and to institute charter schools located in those districts.
- 45.0 percent of the total funding is distributed to small rural districts (districts that the Department has identified as rural that have less than 1,000 pupils in kindergarten through 12th grade). Although it is less than half of the total funds, the per pupil distributions for these districts are higher because that amount of funding is applied to a smaller number of pupils.

STATUTORY AUTHORITY: Section 22-54-142, C.R.S.

REQUEST: The request includes an appropriation of \$35.0 million cash funds from the Rural School Cash Fund for FY 2023-24, with no change from the FY 2022-23 appropriation.

RECOMMENDATION: **Staff recommends not approving any funding for this line item for the Long Bill.** Based on current law, FY 2022-23 was the last year of funding directed by H.B. 20-1427 and the tobacco and nicotine tax funds that supported these distributions for FY 2020-21 through FY 2022-23 are now directed to the Preschool Programs Cash Fund. Therefore, the staff recommendation to eliminate the funding reflects the FY 2023-24 impact of the previous legislation. If the General Assembly wishes to continue to provide this funding in FY 2023-24 then staff recommends doing so through separate legislation.

MILL LEVY OVERRIDE MATCHING PURSUANT TO SEC. 22-54-107.9, C.R.S.

The request includes a line item to support the mill levy override matching program created in S.B. 22-202 (State Match for Mill Levy Override Revenue).

STATUTORY AUTHORITY: Section 22-54-107.9, C.R.S.

REQUEST: The request includes a continuation appropriation of \$10.0 million cash funds from the Mill Levy Override Match Fund for FY 2023-24, with no change from the FY 2022-23 appropriation. However, the request does not propose a specific fund source for the appropriation for FY 2023-24 (for transfer or appropriation to the Mill Levy Override Match Fund).

RECOMMENDATION: As discussed above in the “Major Changes from the Request” section and in the FY 2023-24 JBC Staff Briefing Document for school finance and categorical programs, staff does recommend continuing to fund the override match program. However, that recommendation also includes statutory changes to the program, both to clarify the distribution of funds under the program and to make funds available for the program. Given that there is not currently a revenue source for the \$10.0 million request, staff recommends not including the line item and funds in the Long Bill and instead making any appropriation in the legislation making the statutory changes to the program.

LINE ITEMS INCLUDED IN THE NUMBERS PAGES DUE TO PRIOR YEAR FUNDING

ADDITIONAL AT-RISK FUNDING FOR FY 2021-22 (SEC. 22-54-144, C.R.S.)

House Bill 22-1186 (FY 2021-22 Mid-year School Finance Adjustments) appropriated \$91.4 million cash funds from the State Education Fund to offset an estimated undercount of at-risk students in many school districts throughout the state. The bill directed the Department to distribute funds based on the proportion of each school district’s at-risk count that was identified through either direct certification or categorical eligibility in FY 2019-20 – and then assume that the direct certification/categorical eligibility population for FY 2021-22 would represent the same proportion of the at-risk population in FY 2021-22.

The bill provided the funding on a one-time basis as the estimated undercount was associated with the availability of universal free lunch under federal law in FY 2020-21 and FY 2021-22. Thus, neither the request nor the recommendation include funding for this purpose for FY 2022-23.

ADDITIONAL FUNDING PURSUANT TO SEC. 22-54-143 (3)(a), C.R.S.

Senate Bill 21-053 (FY 2020-21 Mid-year School Finance) appropriated \$14.7 million General Fund for FY 2020-21 to ensure that no school district’s total program funding for FY 2020-21 would fall below its estimated amount (in the original FY 2020-21 appropriation) by a percentage greater than its decrease in enrollment below the original projection. The funding was provided on a one-time basis. Thus, neither the request nor the staff recommendation include funding for this purpose for FY 2022-23.

ADDITIONAL FUNDING PURSUANT TO SEC. 22-54-143 (3)(b), C.R.S.

Senate Bill 21-053 (FY 2020-21 Mid-year School Finance) appropriated \$4.6 million General Fund for FY 2020-21 to ensure that no school district’s total program funding would decrease by more than 2.0 percent below its estimated total program funding (in the original FY 2020-21 appropriation). The funding was provided on a one-time basis. Thus, neither the request nor the staff recommendation include funding for this purpose for FY 2022-23.

ADDITIONAL FUNDING PURSUANT TO SEC. 22-54-143 (6), C.R.S.

Senate Bill 21-053 (FY 2020-21 Mid-year School Finance) appropriated \$569,849 General Fund for FY 2020-21 to provide additional funding for Institute Charter Schools located in school districts that received one-time funding through Sections 22-540143 (3)(a) and (b) in FY 2020-21. The funding was provided on a one-time basis. Thus, neither the request nor the staff recommendation include funding for this purpose for FY 2022-23.

(B) CATEGORICAL PROGRAMS

(I) DISTRICT PROGRAMS REQUIRED BY STATUTE

SPECIAL EDUCATION PROGRAMS FOR CHILDREN WITH DISABILITIES

The federal *Individuals with Disabilities Education Act (IDEA)* and the state *Exceptional Children's Educational Act* [Article 20 of Title 22, C.R.S.] require school districts to provide free educational services to children, ages three to 21, who by reason of one or more conditions are unable to receive reasonable benefit from ordinary educational services. Districts are also required to provide free educational services to children "whose presence in the ordinary educational program is detrimental to the education of others and who must therefore receive modified or supplementary assistance and services in order to function and learn". Services provided must be individualized and appropriate for the specific needs of the child, and, to the extent possible, be provided in the least restrictive environment. Federal and state law require administrative units (usually a school district or a board of cooperative service) to provide all necessary services to children identified as having a disability regardless of the cost or other district needs and priorities.

In addition to total program funds districts receive to provide educational services to children with disabilities (including three- and four-year-old children¹¹), districts are statutorily eligible to receive reimbursement for additional costs incurred in providing educational services to school-age children with disabilities. These reimbursements include federal funding and state funding (subject to available appropriations). Federal funds are generally allocated based on the total number of elementary and secondary students within the boundaries of each administrative unit, with a portion of the funding allocated based on the number of children living in poverty.

Pursuant to Sections 22-20-114 and 114.5, C.R.S., the Department allocates *state funds* among units as follows:

- **"Tier A":** Administrative units receive \$1,750 for each child with a disability who was reported on the prior year special education count. Senate Bill 22-128 (Special Education Funding) increased Tier A funding from \$1,250 to \$1,750 per student beginning in FY 2022-23. In addition, that bill requires Tier A funding to increase annually based on inflation beginning in FY 2024-25. Thus, for FY 2023-24, districts will continue to receive \$1,750 per identified student.

¹¹ Pursuant to Section 22-54-103 (10) (d), C.R.S., three- and four-year-old children with disabilities are counted as half-day pupils.

- **"Tier B":** Administrative units receive an additional \$6,000 per student for a percentage of the children reported on the prior year special education count with the following disabilities: intellectual disability; serious emotional disability; hearing impairment, including deafness; vision impairment, including blindness; deaf-blindness; autism spectrum disorders; traumatic brain injury, and multiple disabilities. The percentage is determined by the appropriation.
- **"Tier C":** Administrative units receive grants for reimbursement of high costs incurred in providing special education services to a child in the preceding fiscal year. These grants are distributed based on recommendations from the Colorado Special Education Fiscal Advisory Committee, taking into consideration the magnitude of the high costs incurred by a unit in relation to its budget. A total of \$4.0 million is allocated for this purpose, including \$2 million for costs incurred to serve students within the school district, and \$2 million for costs incurred to serve students outside the district.
- **"Educational Orphans":** Up to \$500,000 is used to reimburse administrative units for excess costs paid to eligible facilities within the unit's boundaries for "educational orphans", those students with disabilities: (a) for whom parental rights have been relinquished or terminated; (b) the parents of whom are incarcerated or cannot be located; (c) the parents of whom reside out of the state but the Department of Human Services has placed such children within the administrative unit; or (d) who are legally emancipated.

STATUTORY AUTHORITY: Sections 22-20-114 and 114.5, C.R.S.

REQUEST: The Department's request for FY 2023-24 includes a total of \$486.2 million, including \$329.2 million in state funds (\$93.6 million General Fund and \$235.6 million cash funds from the State Education Fund). The request includes an increase of \$29.0 million (9.7 percent) in state funding associated with request R2. The Department's request also reflects a continuation appropriation of \$191,090 reappropriated funds and 1.0 FTE from funds transferred from the Department of Labor and Employment, Division of Vocational Rehabilitation, and \$156.8 million in federal funds that are anticipated to be available to reimburse administrative units and support 62.0 federally-funded Department FTE. The request includes the following changes from the FY 2022-23 appropriation:

- An increase of \$29,020,152 cash funds from the State Education Fund) as part of the requested inflationary increase required by Amendment 23 (request R2, discussed above).
- An increase of \$252,339 *federal funds* to annualize FY 2022-23 salary survey appropriations.
- A decrease of \$25,000 cash funds from the State Education Fund to eliminate "one-time" funding provided in S.B. 22-127. That bill included \$25,000 which the Final Legislative Council Staff Fiscal Note identified as one-time funding for the Department to hire a contractor to support the Special Education Fiscal Advisory Committee in completing a report to the General Assembly required by the bill.

RECOMMENDATION: Staff recommends reflecting a total appropriation of \$457,168,562, including \$93,572,347 General Fund; \$133,812,012 cash funds from the State Education Fund, with no change in state funding from the FY 2022-23 appropriation. As discussed with R2 above, staff is not recommending providing an inflationary increase for categorical programs in the Long Bill and is instead recommending that the Committee create a placeholder of at least \$35,309,028 (in either the General Fund or the State Education Fund) to appropriate the increase in separate legislation.

The recommendation includes \$191,090 reappropriated funds and \$156,822,839 federal funds (including the increase to annualize FY 2022-23 salary survey increases for the federally funded employees), as requested. Staff also recommends reflecting the requested 63.0 FTE. The following table shows the recommended changes from the FY 2022-23 appropriation.

ASSISTANCE TO PUBLIC SCHOOLS, CATEGORICAL PROGRAMS, SPECIAL EDUCATION - CHILDREN WITH DISABILITIES						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$456,916,223	\$93,572,347	\$206,582,286	\$191,090	\$156,570,500	63.0
TOTAL	\$456,916,223	\$93,572,347	\$206,582,286	\$191,090	\$156,570,500	63.0
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$456,916,223	\$93,572,347	\$206,582,286	\$191,090	\$156,570,500	63.0
Annualize prior year budget actions	252,339	0	0	0	252,339	0.0
Annualize prior year legislation	0	0	0	0	0	0.0
R2 Categorical programs increase	0	0	0	0	0	0.0
TOTAL	\$457,168,562	\$93,572,347	\$206,582,286	\$191,090	\$156,822,839	63.0
INCREASE/(DECREASE)	\$252,339	\$0	\$0	\$0	\$252,339	0.0
Percentage Change	0.1%	0.0%	0.0%	0.0%	0.2%	0.0%
FY 2023-24 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$28,995,152	\$0	\$28,995,152	\$0	\$0	0.0

ENGLISH LANGUAGE PROFICIENCY PROGRAM

Pursuant to the federal *No Child Left Behind Act* [Title III - Language Instruction for Limited English Proficient and Immigrant Students], the federal *Civil Rights Act of 1964* [Title VI], and the English Language Proficiency Act [Article 24 of Title 22, C.R.S.], districts are required to identify and provide programs for students with limited English proficiency.

Some federal funding is available for such programs, and, with the enactment of H.B. 14-1298 (School Finance), the State now provides assistance to districts through three mechanisms. First, districts receive "at-risk" funding through the School Finance Act for some students with limited English proficiency. Second, districts receive funding through the English Language Proficiency Act (ELPA) categorical program for students with limited English proficiency. As enacted in H.B. 14-1298, Section 22-24-104 (2) (a), C.R.S., limits state ELPA funding to a maximum of five years per student (prior to FY 2014-15, statute limited payments to no more than two years per student). Third, beginning in FY 2014-15, districts receive additional funding (a total of \$27.0 million per year since FY 2014-15) through the English Language Learners Professional Development and Student Support Program created in H.B. 14-1298.

The Department has provided data detailing the number of students eligible for state funding as well as the number receiving English language learner (ELL) services who are not eligible for state funding, by grade level. With the five-year limit on ELPA funding eligibility, the majority (74.9 percent) of ELL students receiving state funding in FY 2022-23 are in kindergarten through fourth grade. Those kindergarten through fourth-grade students represent 45.2 percent of the total number of ELL students statewide in FY 2022-23. It is important to note that it often takes more than five years for

students to progress out of English language services and that state and federal law require school districts to continue to provide services beyond the five-year window based on the needs of the student.

- For example, in FY 2022-23, school districts are providing English language services to 43,486 students that are no longer eligible for state funding, representing 39.9 percent of the 108,948 students receiving ELL services.
- School districts must absorb those costs within their operating budgets, increasing the gap between state and federal funds available for ELL services and the school districts' total costs for those services. In FY 2020-21, school districts spent \$226.3 million more on ELL services than was available in state and federal funding. That gap between available funds and district costs drives the standard JBC Staff recommendation for the Committee's allocation of the constitutionally required increases in categorical funding.

House Bill 18-1379 (School Finance) adjusted the allocation of the categorical funding.

- Prior law had required the Department to allocate three-quarters of the total appropriation to districts serving students considered non-English proficient (NEP), defined as students who: (a) speak languages other than English and do not comprehend or speak English; or (b) students who comprehend or speak some English, but whose primary comprehension or speech is in a language other than English. The remaining 25 percent of the amount appropriated was distributed to districts serving students considered limited-English proficient (LEP), defined as students who comprehend and speak English and one or more other languages but whose English language development and comprehension is either (1) at or below the district mean or below the mean or equivalent on a nationally standardized test; or (2) below the acceptable proficiency level based on the instrument or technique developed and approved by the Department.
- House Bill 18-1379 adjusted the allocation so that the Department distributes funds based on the proportion of eligible students in each category. As under prior law, the statute limits per pupil funding for each classification of students (the greater of \$400 or 20.0 percent of statewide average per pupil funding for NEP students and \$200 or 10.0 percent of statewide average per pupil funding for LEP students).

STATUTORY AUTHORITY: Section 22-24-106, C.R.S.

REQUEST: The Department's FY 2023-24 request seeks \$39.7 million total funds, including \$28.4 million state funds (including \$3.1 million General Fund and \$25.3 million cash funds from the State Education Fund) and \$11.3 million federal funds. The request reflects continuation of 4.6 federally funded FTE. The request includes the following increases above the FY 2022-23 appropriation:

- \$3,159,018 cash funds from the State Education Fund associated with request R2 (Categorical Programs Increase, discussed above) to provide the inflationary increase required by Amendment 23. The request represents a 12.5 percent increase in state funding.
- \$8,996 federal funds to reflect the annualization of FY 202-22 salary survey appropriations (\$8,776) and the FY 2021-22 impact of S.B. 18-200 (\$1,324).

RECOMMENDATION: Staff recommends a total appropriation of \$36,541,145, including \$3,101,598 General Fund and \$22,156,144 cash funds from the State Education Fund, and 4.6 FTE. As discussed with R2 above, staff is not recommending providing an inflationary increase for categorical programs in the Long Bill and is instead recommending that the Committee create a placeholder of at least \$35,309,028 (in either the General Fund or the State Education Fund) to appropriate the increase in

separate legislation. Staff recommends reflecting \$11,283,403 federal funds and 4.6 federally funded FTE in this line item, as requested. The following table shows the recommended changes from the FY 2022-23 appropriation.

ASSISTANCE TO PUBLIC SCHOOLS, CATEGORICAL PROGRAMS, ENGLISH LANGUAGE PROFICIENCY PROGRAM						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$36,532,149	\$3,101,598	\$22,156,144	\$0	\$11,274,407	4.6
TOTAL	\$36,532,149	\$3,101,598	\$22,156,144	\$0	\$11,274,407	4.6
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$36,532,149	\$3,101,598	\$22,156,144	\$0	\$11,274,407	4.6
Annualize prior year budget actions	8,996	0	0	0	8,996	0.0
R2 Categorical programs increase	0	0	0	0	0	0.0
TOTAL	\$36,541,145	\$3,101,598	\$22,156,144	\$0	\$11,283,403	4.6
INCREASE/(DECREASE)	\$8,996	\$0	\$0	\$0	\$8,996	0.0
Percentage Change	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%
FY 2023-24 EXECUTIVE REQUEST	\$39,700,163	\$3,101,598	\$25,315,162	\$0	\$11,283,403	4.6
Request Above/(Below) Recommendation	\$3,159,018	\$0	\$3,159,018	\$0	\$0	0.0

(II) OTHER CATEGORICAL PROGRAMS

PUBLIC SCHOOL TRANSPORTATION

Pursuant to Section 22-32-113, C.R.S., a school district may provide transportation for students to and from school. However, a school district must provide transportation for students who fall under the federal *Individuals with Disabilities Education Act* or Section 504 of the federal *Rehabilitation Act of 1973*, as well as homeless students. The Department indicates that two of Colorado's 178 school districts (San Juan – Silverton and Wiggins) did not provide transportation services in FY 2021-22. Statewide, approximately 35.7 percent of students were being transported in FY 2021-22 (a reduction from approximately 39 percent prior to the COVID-19 pandemic). In recent years prior to FY 2019-20, school districts travelled a total of almost 60 million miles each year for routes (home to school, school to school, and school to home) and activity trips. During the 2019-20 school year, total miles traveled decreased to approximately 41 million miles as a result of the Spring 2020 impacts of the COVID-19 pandemic. For FY 2020-21, travel decreased again to approximately 33 million miles due to the ongoing impacts of the pandemic. Total travel increased roughly 46 million miles in FY 2021-22.

This line item provides state funding to reimburse school districts for a portion of the costs incurred to transport students. Pursuant to Section 22-51-104, C.R.S., and subject to available appropriations, each district is eligible to receive reimbursement equal to \$0.3787 per-mile-traveled plus 33.87 percent of its total transportation-related costs (excluding capital outlay expenses) in excess of the per-mile-traveled reimbursement. Districts are authorized to generate additional local revenues to support their transportation programs via an additional mill levy or a transportation user fee. While voter approval is required to levy additional taxes, as of FY 2005-06, a district is allowed to impose a user fee without prior voter approval. For the current year, nine districts have received voter approval to levy separate

mills to generate additional local revenues (a reduction of two districts from recent years because of mill levy sunsets).¹² Based on the most recent data available (FY 2020-21), eight districts reported that they were collecting fees from individuals for transporting students to and from school.¹³ In years when the appropriation does not fully fund the maximum allowable reimbursement, the Department prorates reimbursements accordingly.

This line item also supports 2.0 FTE who provide oversight of student transportation programs in school districts. This unit administers regulations related to safe transportation of students, and provides extensive training, technical assistance, and monitoring to assist districts in providing safe, efficient, and effective transportation of children.

STATUTORY AUTHORITY: Section 22-51-104, C.R.S.

REQUEST: The Department's FY 2023-24 request includes a total of \$66.2 million, including \$65.7 million in state funding (a 4.7 percent increase in state funding) and 2.0 FTE and a continuation appropriation of \$450,000 cash funds from the State Public School Transportation Fund, which consists of money recovered by the Department when it identifies a transportation-related overpayment to a district. The requested appropriation from the State Public School Transportation Fund would allow the Department to re-distribute money recovered in the current fiscal year in FY 2023-24. The request also includes \$38,165 reappropriated funds originating from the Department of Public Health and Environment associated with S.B. 22-193 (Air Quality Improvement Investments). The request includes the following changes from the FY 2022-23 appropriation (all of which are requested from the State Education Fund):

- An increase of \$2,934,466 cash funds from the State Education Fund to provide inflationary the inflationary increase required by Amendment 23 (request R2).
- An increase of \$3,426 cash funds from the State Education Fund to annualize FY 2022-23 salary survey appropriations.
- A decrease of \$6,200 reappropriated funds to reflect the FY 2023-24 impact of S.B. 22-193.

RECOMMENDATION: Staff recommends a total appropriation of \$63,260,127 and 2.0 FTE. The recommendation includes \$36,922,227 General Fund, \$25,849,735 cash funds from the State Education Fund, \$450,000 cash funds from the State Public School Transportation Fund, and \$38,165 reappropriated funds. representing a 3.3 percent increase in state funding. As discussed with R2 above, staff is not recommending providing an inflationary increase for categorical programs in the Long Bill and is instead recommending that the Committee create a placeholder of at least \$35,309,028 (in either the General Fund or the State Education Fund) to appropriate the increase in separate legislation.

In a change from the request (but consistent with prior years), staff does not recommend providing additional state funding outside of the inflationary changes to annualize salary survey appropriations. Staff does not recommend including additional base building funds (under Amendment 23) in the

¹² Districts include: Boulder - Boulder Valley, Eagle, Gilpin, Grand - East Grand, Las Animas - Primero, Rio Blanco - Rangely, Routt – South Routt, San Miguel - Telluride, and Summit.

¹³ Districts collecting fees include: Adams - Brighton, Douglas, El Paso – Academy, El Paso – Lewis Palmer, El Paso - Falcon, Jefferson, Summit, and Teller – Woodland Park.

appropriation for those purposes. Instead, staff recommends that the Department absorb those costs within the annual inflationary increase as part of the cost of operating the program.

ASSISTANCE TO PUBLIC SCHOOLS, CATEGORICAL PROGRAMS, PUBLIC SCHOOL TRANSPORTATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION						
FY 2022-23 Appropriation	\$63,266,327	\$36,922,227	\$26,299,735	\$44,365	\$0	2.0
TOTAL	\$63,266,327	\$36,922,227	\$26,299,735	\$44,365	\$0	2.0
FY 2023-24 RECOMMENDED APPROPRIATION						
FY 2022-23 Appropriation	\$63,266,327	\$36,922,227	\$26,299,735	\$44,365	\$0	2.0
Annualize prior year budget actions	0	0	0	0	0	0.0
R2 Categorical programs increase	0	0	0	0	0	0.0
Annualize prior year legislation	(6,200)	0	0	(6,200)	0	0.0
TOTAL	\$63,260,127	\$36,922,227	\$26,299,735	\$38,165	\$0	2.0
INCREASE/(DECREASE)	(\$6,200)	\$0	\$0	(\$6,200)	\$0	0.0
Percentage Change	(0.0%)	0.0%	0.0%	(14.0%)	0.0%	0.0%
FY 2023-24 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$2,937,892	\$0	\$2,937,892	\$0	\$0	0.0

TRANSFER TO THE DEPARTMENT OF HIGHER EDUCATION FOR DISTRIBUTION OF STATE ASSISTANCE FOR CAREER AND TECHNICAL EDUCATION

The State Board for Community Colleges and Occupational Education is responsible for approving career and technical education programs, as well as distributing state funds to school districts with students enrolled in approved programs [see Article 8 of Title 23, C.R.S.]. The state funds are distributed to school districts to partially reimburse costs related to personnel, books and supplies, and equipment for approved programs. Specifically, state funding is available to a district if its approved program cost per full-time equivalent student exceeds 70 percent of the district's per pupil operating revenues for the same fiscal year. A district is eligible to receive reimbursement for 80 percent of the first \$1,250 in "excess costs" incurred, and 50 percent of any excess costs above \$1,250.

The program requires each participating district to estimate program costs and enrollments at the beginning of each school year and provide actual cost data at the end of the school year. Districts receive funding quarterly based on such estimated figures. Any difference between a district's estimated and actual costs is added or subtracted from the first quarterly payment in the following fiscal year. If the appropriation is insufficient to fully fund the amount districts are eligible to receive, the Department of Higher Education prorates distributions accordingly.

STATUTORY AUTHORITY: Section 23-8-102, C.R.S.

REQUEST: The Department requests a total of \$29.4 million in state funding, including \$17.8 million General Fund and \$11.6 million cash funds from the State Education Fund, for FY 2023-24. The request includes an increase of \$1,188,268 cash funds from the State Education Fund (a 4.2 percent increase in state funding) associated with request R2.

RECOMMENDATION: Staff recommends a total appropriation of \$28,244,361 state funds, including \$17,792,850 General Fund and \$10,451,511 cash funds from the State Education Fund for the Long Bill, with no change from the FY 2022-23 appropriation. As discussed with R2 above, staff is not recommending providing an inflationary increase for categorical programs in the Long Bill and is instead recommending that the Committee create a placeholder of at least \$35,309,028 (in either the General Fund or the State Education Fund) to appropriate the increase in separate legislation.

SPECIAL EDUCATION PROGRAMS FOR GIFTED AND TALENTED CHILDREN

The state *Exceptional Children's Educational Act* defines a gifted child as one whose "aptitude or competence in abilities and talents and potential for accomplishments in one or more domains, as defined by state board rule, are so outstanding that he or she requires special provisions to meet his or her educational needs" [see Section 22-20-202 (11), C.R.S.]. Pursuant to Section 22-20-204, C.R.S. (as amended by H.B. 14-1102 (Gifted Education Programs)), each administrative unit is required to adopt and implement a program to identify and serve gifted children. The plan must be implementable within the local, state, and federal resources available for gifted education programs. State funding for gifted programs must supplement, not supplant, programs for students with disabilities.

State distributions may be used for universal screening of students, employing a gifted education coordinator, teacher salaries for appropriately licensed and endorsed personnel, programming options and counseling related to serving gifted children, materials used in serving gifted children, professional development for personnel who serve gifted children, and direct administrative costs incurred in implementing the gifted education program. In order to receive funding, an administrative unit (district, multi-district administrative unit, or board of cooperative service) must submit a comprehensive program plan and annual proposed budget for gifted education identification, programming, personnel, and accountability. The Department uses the appropriation: (a) for administrative unit per pupil distributions; (b) for "hold-harmless" allocations for certain rural school districts and boards of cooperative services that provide services to multiple school/rural districts; (c) to support ten regional grants for gifted education consultants and professional development; and (d) for state administration.

STATUTORY AUTHORITY: Section 22-26-101, C.R.S.

REQUEST: The Department requests a total of \$13.6 million in state funding, including \$5,500,000 General Fund and \$8,075,969 cash funds from the State Education Fund and 1.5 FTE in FY 2023-24. The request includes the following increases above the FY 2022-23 appropriation:

- An increase of \$326,808 cash funds from the State Education Fund associated with request R2 (Categorical Programs Increase), discussed above, representing a 2.5 percent increase in state funds with request R2.
- An increase of \$250,000 cash funds from the State Education Fund associated with request R5 (Gifted and Talented Data Management System), discussed above.
- An increase of \$4,219 cash funds from the State Education Fund to reflect the annualizations of FY 2022-23 salary survey.

RECOMMENDATION: Staff recommends a total appropriation of \$12,994,942 and 1.5 FTE, including \$5,500,000 General Fund and \$7,494,942 cash funds from the State Education Fund for the Long Bill, with no change from the FY 2022-23 appropriation. As discussed with R2 above, staff is not

recommending providing an inflationary increase for categorical programs in the Long Bill and is instead recommending that the Committee create a placeholder of at least \$35,309,028 (in either the General Fund or the State Education Fund) to appropriate the increase in separate legislation.

As discussed above with request R5 (Gifted and Talented Data Management System), staff does recommend approving the requested increase of \$250,000 cash funds from the State Education Fund for that purpose. However, staff recommends funding that increase in the Information Technology Services line item in the Management and Administration section rather than in the categorical program.

As with Public School Transportation (discussed above), staff does not recommend providing additional state funding related to salary survey annualization. Consistent with prior years, staff recommends that the Department absorb those costs within the annual inflationary increase as part of the cost of operating the program.

EXPULSED AND AT-RISK STUDENT SERVICES GRANT PROGRAM

This program, first funded in FY 1997-98, provides grants to school districts, boards of cooperative services, and charter schools [see Section 22-38-101 et seq., C.R.S.] for the provision of educational services to expelled students and to students at risk of being suspended or expelled. The Department evaluates grant applications received, and the State Board of Education approves annual grant awards. The Department places strong emphasis on research-validated programs and strategies, and programs are required to show significant district support for program sustainability after grant funding ends. Pursuant to Section 22-33-205, C.R.S., the Board is required to award grants based on the following:

- at least 45 percent of moneys appropriated for the program shall be annually awarded to applicants that provide educational services to students from more than one school district; and
- at least one-half of any increases in the appropriation for FY 2009-10 (\$500,000) shall be annually awarded to applicants that provide services and supports designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families.

The Department awards grants on a rolling basis (i.e., when one grant is completed, the funding is reallocated to fund a new award).

The Department is also authorized to retain: (a) up to one percent of moneys appropriated for the purpose of annually evaluating the program; and (b) up to two percent of moneys appropriated for the purpose of partnering with organizations and agencies that provide services and supports designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families.

For FY 2009-10, the General Assembly increased funding for this program by approximately \$1.0 million and required the Department to use half of that increase (\$500,000) on an ongoing basis (annually) to support applicants providing services and supports to reduce the number of truancy cases. The General Assembly provided additional increases of \$150,000 in FY 2010-11 and \$2.0 million in FY 2018-19 (for a total appropriation of \$9,493,560 in FY 2018-19 and FY 2019-20).

STATUTORY AUTHORITY: Sections 22-33-205 and 22-38-101 et seq., C.R.S.

REQUEST: The Department requests an appropriation of \$9.5 million state funds (including \$5,788,807 General Fund and \$3,710,735 cash funds from the State Education Fund) and 1.0 FTE in FY 2023-24. The request includes an increase of \$5,982 cash funds from the State Education Fund to reflect the annualization of FY 2022-23 salary survey appropriation.

RECOMMENDATION: Staff recommends approving an appropriation of \$9,501,996 total funds (including \$5,788,807 General Fund and \$3,704,753 cash funds from the State Education Fund) and 1.0 FTE for the Long Bill, with no change from the FY 2022-23 appropriation. As discussed with R2 above, staff is not recommending providing an inflationary increase for categorical programs in the Long Bill and is instead recommending that the Committee create a placeholder of at least \$35,309,028 (in either the General Fund or the State Education Fund) to appropriate the increase in separate legislation. Staff recommends that the appropriation build any increases for this program (including salary survey annualizations) into the potential inflationary increases.

SMALL ATTENDANCE CENTER AID

Pursuant to Section 22-54-122, C.R.S., school districts that operate a school with fewer than 200 pupils that is located twenty or more miles from any similar school in the same district are eligible to receive additional state funding to offset the unique costs associated with operating such schools. In addition, since FY 2008-09, small attendance center aid has been limited to those districts that received the aid prior to FY 2008-09. The amount of additional state aid that a district is eligible to receive is based on the number of eligible schools it operates, the number of pupils in each eligible school, and the district's per pupil funding.

Similar to other categorical programs, whether a school district eligible for Small Attendance Center Aid actually receives the maximum reimbursement allowable is subject to appropriation. From FY 1998-99 through FY 2007-08, the appropriation for this line item was sufficient to reimburse eligible districts for the full amount statutorily allowed. For FY 2008-09 through FY 2014-15, the appropriation fell short of full funding. For FY 2015-16, the General Assembly increased funding for the program by \$117,171 cash funds from the State Education Fund in order to fully fund the estimated need as of FY 2014-15. For FY 2019-20, the General Assembly added \$237,700 based on the actual shortfall below full funding for FY 2018-19.

The following table details the allocation of small attendance center aid for FY 2022-23. As indicated in the table, the current FY 2022-23 appropriation includes \$1,314,250 total funds for this line item. However, based on the calculations directed by statute, full funding for the formula this year would require \$1,599,991, an increase of \$285,741. On average, eligible schools are receiving an additional \$1,538 per pupil in FY 2022-23.

SMALL ATTENDANCE CENTER AID: FY 2022-23 CALCULATIONS					
SCHOOL DISTRICT	SCHOOL	22-23 ENROLLMENT	FULL FUNDING PER FORMULA	AMOUNT DISTRIB.	DISTRIB. PER FTE
Gunnison	Marble Charter School	54.5	174,623	143,438	2,632
Huerfano	Gardner School	69.5	159,938	131,375	1,890
La Plata - Durango	Fort Lewis Mesa Elementary	92.0	186,599	153,275	1,666

SMALL ATTENDANCE CENTER AID: FY 2022-23 CALCULATIONS

SCHOOL DISTRICT	SCHOOL	22-23 ENROLLMENT	FULL FUNDING PER FORMULA	AMOUNT DISTRIB.	DISTRIB. PER FTE
Larimer - Poudre	PSD Mountain Schools / Red Feather Elementary	99.0	175,037	143,777	1,452
Logan - Valley	Caliche Elementary	127.5	140,602	115,492	906
Logan - Valley	Caliche Jr./Sr. High	111.0	159,283	130,837	1,179
Mesa - Mesa Valley	Gateway School	21.0	80,277	65,941	3,140
Moffat	Maybell Charter School	16.0	61,886	50,834	3,177
Montrose - West End	Paradox Valley Charter School	18.0	43,084	35,390	1,966
Park	Guffey Community Charter School	20.0	71,173	58,462	2,923
Park	Lake George Charter School	131.0	172,471	141,670	1,081
Pueblo 70	Beulah School	95.0	175,016	143,760	1,513
Totals		854.5	\$1,599,991	\$1,314,250	\$1,538

STATUTORY AUTHORITY: Section 22-54-122, C.R.S.

REQUEST: The Department requests an appropriation of \$1,317,707 state funds (including \$787,645 General Fund and \$530,062 cash funds from the State Education Fund). The request includes an increase of \$3,457 cash funds from the State Education Fund (a 0.3 percent increase) associated with request R2.

RECOMMENDATION: Consistent with the recommendations for the other categorical programs, staff recommends approving an appropriation of \$1,314,250 total funds, with no change from the FY 2022-23 appropriation. Staff recommends making any changes to this line item, along with the other categorical programs, through separate legislation.

COMPREHENSIVE HEALTH EDUCATION

The *Colorado Comprehensive Health Education Act of 1990* requires the Department of Education to promote the development and implementation of local comprehensive health education programs and local student wellness programs. The Department is to: develop recommended guidelines for implementing these local programs; develop a plan for training teachers to provide comprehensive health education and student wellness; and provide technical assistance upon the request of a school district or board of cooperative services (and within available resources).

This line item provides funding for grants to school districts, facility schools, and boards of cooperative services to implement local comprehensive health education and student wellness programs, and for 1.0 FTE to administer the program and perform the duties required by the act. The Department of Education works with the Department of Public Health and Environment to review applications for state funding, and the State Board of Education allocates available funds. The comprehensive health grant program will start a new four-year grant cycle in FY 2023-24 (which will end in FY 2026-27). The request for applications for that cycle will open in April 2023. The wellness program began a new three-year cycle in FY 2021-22, which will end in FY 2023-24. That program will also transition to a four-year cycle beginning in FY 2024-25 (with applications for the four-year cycle opening in Spring of 2024).

STATUTORY AUTHORITY: Section 22-25-101, C.R.S.

REQUEST: The Department requests an appropriation of \$1,134,284 state funds (including \$300,000 General Fund and \$834,284 cash funds from the State Education Fund) and 1.0 FTE for FY 2023-24. The request includes the following increases above the FY 2022-23 appropriation:

- \$1,941 cash funds from the State Education Fund to reflect the annualization of FY 2022-23 salary survey increases.
- \$947 cash funds from the State Education Fund associated with request R2, discussed above, representing a 0.1 percent increase in state funding. The request is based on districts' reported expenditures associated with the program for FY 2019-20.

RECOMMENDATION: Staff recommends approving a continuation appropriation of \$1,131,396 state funds (including \$300,000 General Fund and \$831,396 cash funds from the State Education Fund) and 1.0 FTE, with no change from the FY 2022-23 appropriation. Staff notes that the General Assembly added \$126,000 to this line item for FY 2018-19. As discussed with R2 above, staff is not recommending providing an inflationary increase for categorical programs in the Long Bill and is instead recommending that the Committee create a placeholder of at least \$35,309,028 (in either the General Fund or the State Education Fund) to appropriate the increase in separate legislation. Staff recommends that the appropriation build any increases for this program (including salary survey annualizations) into the potential inflationary increases.

LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

LONG BILL FOOTNOTES

Staff recommends **ADDING/REINSTATING** the following footnote:

- X Department of Education, Assistance to Public Schools, Public School Finance, State share of Districts' Total Program Funding -- It is the General Assembly's intent that a portion of the amount appropriated for this line item, not to exceed \$250,000 for fiscal year FY 2023-24, shall be transferred to the Legislative Council for the purpose of funding the biennial cost of living analysis pursuant to Section 22-54-104 (5)(c)(III)(B), C.R.S.

COMMENT: Section 22-54-104 (5) (c) (III) (A), C.R.S., requires the Legislative Council Staff to conduct a biennial study concerning the relative cost of living in each school district. The results of the study are then to be used to adjust each school district's cost of living factor for purposes of calculating per pupil funding for the following two fiscal years. The results of the study are then to be used to adjust each school district's cost of living factor for purposes of calculating per pupil funding for the following two fiscal years. Last conducted in FY 2021-22, statute requires another study in FY 2023-24. The results of the study conducted in FY 2023-24 will impact funding requirements for FY 2024-25 and FY 2025-26.

Staff recommends **CONTINUING AND MODIFYING** the following footnotes:

- 8 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding -- Pursuant to Section 22-35-108.5 (2)(b)(II), C.R.S., the purpose of this footnote is to specify what portion of this appropriation is intended to be

available for the Teacher Recruitment Education and Preparation (TREP) Program for FY ~~2022-23~~ 2023-24. It is the General Assembly's intent that the Department of Education be authorized to utilize up to ~~\$425,614~~ \$2,348,000 of this appropriation to fund qualified students identified as TREP Program participants. This amount is calculated based on an estimated ~~49~~ 250 FTE TREP Program participants funded at a rate of \$8,686 per FTE pursuant to Section 22-54-104 (4.7), C.R.S.

COMMENT: This footnote was originally added to the Long Bill to specify the number of participants for the ASCENT program created in H.B. 09-1319 for students who voluntarily extend their high school education beyond 12th grade in order to attend college courses ("fifth year" students). Prior to FY 2022-23, the General Assembly capped the number of ASCENT participants each year through this Long Bill footnote. However, H.B. 22-1390 adjusted the eligibility criteria for ASCENT and eliminated the cap on participants – including making the adjustments to the Long Bill footnote reflected above. As a result, this footnote no longer applies to ASCENT.

The Committee added the Teacher Recruitment Education and Preparation (TREP) program to the footnote for FY 2022-23 to designate a cap required by S.B. 21-285 (Supporting Educator Workforce in Colorado). The program, which started in FY 2022-23, allows participating students to concurrently enroll in postsecondary courses for two years following the student's twelfth grade year. The Department can designate students as TREP participants if they are following the teaching career pathway, are on schedule to complete the specified courses by senior year, and are enrolling in the pathways postsecondary courses for the fifth and sixth year, among other requirements.

The bill requires the General Assembly to decide on the number of TREP participants each year through the long Bill process (with this footnote as the mechanism) but the bill limited the number in FY 2022-23 to no more than 200 students. The General Assembly initially approved the maximum number of slots for FY 2022-23 but then adjusted the limit down to 49 FTE at mid-year (with S.B. 23-136) to reflect the actual usage of slots in the current year. The recommendation would continue to support 49 slots from FY 2022-23 (as this is a two-year program) and add 201 slots "new" slots for allocation in FY 2023-24. However, the Committee could choose any number of slots for the footnote.

REQUESTS FOR INFORMATION

Staff recommends **CONTINUING AND MODIFYING** the following request for information:

- 2 Department of Education, Assistance to Public Schools, Categorical Programs; and Department of Higher Education, Division of Occupational Education, Distribution of State Assistance for Career and Technical Education pursuant to Section 23-8-102, C.R.S. – The Department of Education is requested to work with the Department of Higher Education and to provide to the Joint Budget Committee information concerning the distribution of state funds available for each categorical program, excluding grant programs. The information for special education programs for children with disabilities, English language proficiency programs, public school transportation, career and technical education, and small attendance center aid is requested to include the following: (a) a comparison of the state funding

distributed to each district or administrative unit for each program in fiscal year ~~2020-21~~ 2021-22 and the maximum allowable distribution pursuant to state law and/or State Board of Education rule; and (b) a comparison of the state and federal funding distributed to each district or administrative unit for each program in fiscal year ~~2020-21~~ 2021-22 and actual district expenditures for each program in fiscal year ~~2020-21~~ 2021-22. The information for special education programs for gifted and talented children is requested to include a comparison of the state funding distributed to each district or administrative unit for each program in fiscal year ~~2020-21~~ 2021-22 and actual district expenditures in fiscal year ~~2020-21~~ 2021-22.

COMMENT: This request provides the Joint Budget Committee with data that is used to annually determine the allocation of the required increase in state funding for categorical programs. The data provided through this request are essential to the formulation of recommendations for categorical program funding.

Staff recommends **ELIMINATING** the following requests for information:

- 1 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding – The Department is requested to provide to the Joint Budget Committee, on or before November 1, 2022, information concerning the Colorado Preschool Program. The information provided is requested to include the following for fiscal year 2021-22: (a) data reflecting the ratio of the total funded pupil count for the Program to the total funded pupil count for kindergarten; (b) data indicating the number of three-year-old children who participated in the Program; (c) data indicating the number of children who participated in the Program for a full-day rather than a half-day; and (d) the state and local shares of total program funding that are attributable to the Program.

COMMENT: With the transition to universal preschool administered by the Department of Early Childhood, this request for information no longer appears to be necessary in the Department of Education.

- 3 Department of Education, Assistance to Public Schools, Categorical Programs, Other Categorical Programs, Special Education Programs for Gifted and Talented Children – The Department is requested to work with interested stakeholders and develop a multiyear plan to fully fund universal screening for the gifted and talented program. The plan shall reflect the costs of screening as well as qualified personnel in administrative units. The Department is requested to submit such a plan to the Joint Budget Committee no later than November 1, 2022.

COMMENT: The Department submitted the requested plan as requested. Thus, the request no longer appears to be necessary. The response includes detail on distributions of gifted education funding streams for each administrative unit (as called for in the categorical programs request for information above) and a section responding directly to this request regarding universal screening. Staff is providing a brief summary below but the complete response is available at:

<https://drive.google.com/drive/folders/11-ht7M59KE2PyAtyFGgKhv1RSkRE7Y70>

House Bill 14-1102 (Gifted Education Programs) authorized a separate grant program (funded within the gifted and talented categorical program) to support universal screening, with administrative units applying to the Department to receive grant funds. Since the enactment of that bill, and starting in FY 2014-15, the Department has allocated approximately \$1.8 million per year to the universal screening grants. According to the response, in the first year that covered approximately 70.0 percent of the requests from administrative units. However, by FY 2020-21, that amount funded approximately 38 percent of the requests.

As requested, the Department worked with stakeholders to develop a multi-year plan to fund universal screening. As submitted by the Department, the plan would require *annual increases* \$1,058,115 for five years (FY 2023-24 through FY 2027-28), with funding dedicated to universal screening increasing from a base of \$1.9 million in FY 2022-23 to \$7.2 million dedicated to screening in FY 2027-28. This amount is proposed in addition to the annual inflationary increases for categorical programs pursuant to Amendment 23.

*JBC Staff Figure Setting - FY 2023-24
Staff Working Document - Does Not Represent Committee Decision*

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	FY 2023-24 Recommendation
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DEPARTMENT OF EDUCATION Dr. Katy Anthes, Commissioner
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(2) ASSISTANCE TO PUBLIC SCHOOLS

This section provides funding that is distributed to public schools and school districts, as well as funding for Department staff who administer this funding or who provide direct support to schools and school districts.

(A) Public School Finance

Administration	<u>1,865,358</u>	<u>1,867,742</u>	<u>2,009,299</u>	<u>1,741,993</u>	<u>1,739,953</u> *
FTE	17.4	17.4	18.0	14.3	14.3
General Fund	0	1,775,457	1,918,959	1,643,801	1,641,761
Cash Funds	79,384	92,285	90,340	98,192	98,192
Reappropriated Funds	1,785,974	0	0	0	0
Financial Transparency System Maintenance	<u>412,000 1.0</u>	<u>76,208 1.0</u>	<u>88,120 1.0</u>	<u>89,172 1.0</u>	<u>89,172 1.0</u>
Cash Funds	412,000	76,208	88,120	89,172	89,172
State Share of Districts' Total Program Funding	<u>4,224,698,017</u>	<u>4,708,971,499</u>	<u>4,990,054,616</u>	<u>4,953,077,434</u>	<u>4,831,538,341</u> *
General Fund	2,729,106,666	2,994,934,217	3,149,739,322	3,150,475,017	3,149,739,322
General Fund Exempt	1,023,829,253	1,045,914,612	1,088,947,539	1,088,947,539	1,088,947,539
Cash Funds	471,762,098	668,122,670	751,367,755	713,654,878	592,851,480
School Finance Audit Payments	<u>2,195,726</u>	<u>517,486</u>	<u>1,500,000</u>	<u>3,000,000</u>	<u>3,000,000</u> *
Cash Funds	2,195,726	517,486	1,500,000	3,000,000	3,000,000
At-risk Per Pupil Additional Funding	<u>4,999,999</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>
Cash Funds	4,999,999	5,000,000	5,000,000	5,000,000	5,000,000

JBC Staff Figure Setting - FY 2023-24
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	FY 2023-24 Recommendation
At-risk Supplemental Aid	<u>4,453,645</u>	<u>4,686,853</u>	<u>4,844,358</u>	<u>4,844,358</u>	<u>4,844,358</u>
Cash Funds	4,453,645	4,686,853	4,844,358	4,844,358	4,844,358
District Per Pupil Reimbursements for Juveniles Held in Jail	<u>0</u>	<u>0</u>	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>
Cash Funds	0	0	10,000	10,000	10,000
Additional Funding for Rural Districts and Institute Charter Schools	<u>24,979,636</u>	<u>29,999,974</u>	<u>35,000,000</u>	<u>35,000,000</u>	<u>0</u>
Cash Funds	24,979,636	29,999,974	35,000,000	35,000,000	0
Mill Levy Override Matching Pursuant to Sec. 22-54-107.9, C.R.S.	<u>0</u>	<u>0</u>	<u>10,000,000</u>	<u>10,000,000</u>	<u>0</u>
Cash Funds	0	0	10,000,000	10,000,000	0
Additional At-risk Funding for FY 2021-22 (Sec. 22-54-144, C.R.S.)	<u>0</u>	<u>91,433,760</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Funds	0	91,433,760	0	0	0
Additional Funding Pursuant to Sec. 22-54-143 (3)(a), C.R.S.	<u>14,710,777</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	14,710,777	0	0	0	0
Additional Funding Pursuant to Sec. 22-54-143 (3)(b), C.R.S.	<u>4,578,464</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	4,578,464	0	0	0	0

JBC Staff Figure Setting - FY 2023-24
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	FY 2023-24 Recommendation
Additional Funding Pursuant to Section 22-54-143					
(6), C.R.S.	569,849	0	0	0	0
General Fund	569,849	0	0	0	0
SUBTOTAL - (A) Public School Finance	4,283,463,471	4,842,553,522	5,048,506,393	5,012,762,957	4,846,221,824
<i>FTE</i>	<u>18.4</u>	<u>18.4</u>	<u>19.0</u>	<u>15.3</u>	<u>15.3</u>
General Fund	2,748,965,756	2,996,709,674	3,151,658,281	3,152,118,818	3,151,381,083
General Fund Exempt	1,023,829,253	1,045,914,612	1,088,947,539	1,088,947,539	1,088,947,539
Cash Funds	508,882,488	799,929,236	807,900,573	771,696,600	605,893,202
Reappropriated Funds	1,785,974	0	0	0	0

(B) Categorical Programs

(I) District Programs Required by Statute

Special Education - Children with Disabilities	<u>379,353,728</u>	<u>406,515,126</u>	<u>456,916,223</u>	<u>486,163,714</u>	<u>457,168,562</u> *
FTE	63.0	63.0	63.0	63.0	63.0
General Fund	93,572,347	93,572,347	93,572,347	93,572,347	93,572,347
Cash Funds	112,650,811	126,582,286	206,582,286	235,577,438	206,582,286
Reappropriated Funds	0	0	191,090	191,090	191,090
Federal Funds	173,130,570	186,360,493	156,570,500	156,822,839	156,822,839
English Language Proficiency Program	<u>33,922,573</u>	<u>35,421,328</u>	<u>36,532,149</u>	<u>39,700,163</u>	<u>36,541,145</u> *
FTE	4.6	4.6	4.6	4.6	4.6
General Fund	3,101,598	3,101,598	3,101,598	3,101,598	3,101,598
Cash Funds	21,003,951	22,156,115	22,156,144	25,315,162	22,156,144
Federal Funds	9,817,024	10,163,615	11,274,407	11,283,403	11,283,403

JBC Staff Figure Setting - FY 2023-24
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	FY 2023-24 Recommendation
SUBTOTAL - (I) District Programs Required by					
Statute	413,276,301	441,936,454	493,448,372	525,863,877	493,709,707
<i>FTE</i>	<u>67.6</u>	<u>67.6</u>	<u>67.6</u>	<u>67.6</u>	<u>67.6</u>
General Fund	96,673,945	96,673,945	96,673,945	96,673,945	96,673,945
Cash Funds	133,654,762	148,738,401	228,738,430	260,892,600	228,738,430
Reappropriated Funds	0	0	191,090	191,090	191,090
Federal Funds	182,947,594	196,524,108	167,844,907	168,106,242	168,106,242
(II) Other Categorical Programs					
Public School Transportation	<u>64,437,123</u>	<u>63,659,603</u>	<u>63,266,327</u>	<u>66,198,019</u>	<u>63,260,127</u> *
<i>FTE</i>	2.0	2.0	2.0	2.0	2.0
General Fund	36,922,227	36,922,227	36,922,227	36,922,227	36,922,227
Cash Funds	27,514,896	26,737,376	26,299,735	29,237,627	26,299,735
Reappropriated Funds	0	0	44,365	38,165	38,165
Transfer to the Department of Higher Education for Distribution of State Assistance for Career and Technical Education					
	<u>27,778,242</u>	<u>28,244,361</u>	<u>28,244,361</u>	<u>29,432,629</u>	<u>28,244,361</u> *
General Fund	17,792,850	17,792,850	17,792,850	17,792,850	17,792,850
Cash Funds	9,985,392	10,451,511	10,451,511	11,639,779	10,451,511
Special Education Programs for Gifted and Talented Children					
	<u>12,579,102</u>	<u>12,906,870</u>	<u>12,994,942</u>	<u>13,575,969</u>	<u>12,994,942</u> *
<i>FTE</i>	2.0	1.5	1.5	1.5	1.5
General Fund	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000
Cash Funds	7,079,102	7,406,870	7,494,942	8,075,969	7,494,942

JBC Staff Figure Setting - FY 2023-24
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	FY 2023-24 Recommendation
Expelled and At-risk Student Services Grant Program	<u>9,432,827</u>	<u>9,491,869</u>	<u>9,493,560</u>	<u>9,499,542</u>	<u>9,493,560</u>
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	5,774,762	5,788,800	5,788,807	5,788,807	5,788,807
Cash Funds	3,658,065	3,703,069	3,704,753	3,710,735	3,704,753
Small Attendance Center Aid	<u>1,314,250</u>	<u>1,314,250</u>	<u>1,314,250</u>	<u>1,317,707</u>	<u>1,314,250</u> *
General Fund	787,645	787,645	787,645	787,645	787,645
Cash Funds	526,605	526,605	526,605	530,062	526,605
Comprehensive Health Education	<u>1,110,209</u>	<u>986,599</u>	<u>1,131,396</u>	<u>1,134,284</u>	<u>1,131,396</u> *
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	300,000	300,000	300,000	300,000	300,000
Cash Funds	810,209	686,599	831,396	834,284	831,396
SUBTOTAL - (II) Other Categorical Programs	116,651,753	116,603,552	116,444,836	121,158,150	116,438,636
FTE	<u>6.0</u>	<u>5.5</u>	<u>5.5</u>	<u>5.5</u>	<u>5.5</u>
General Fund	67,077,484	67,091,522	67,091,529	67,091,529	67,091,529
Cash Funds	49,574,269	49,512,030	49,308,942	54,028,456	49,308,942
Reappropriated Funds	0	0	44,365	38,165	38,165
SUBTOTAL - (B) Categorical Programs	529,928,054	558,540,006	609,893,208	647,022,027	610,148,343
FTE	<u>73.6</u>	<u>73.1</u>	<u>73.1</u>	<u>73.1</u>	<u>73.1</u>
General Fund	163,751,429	163,765,467	163,765,474	163,765,474	163,765,474
Cash Funds	183,229,031	198,250,431	278,047,372	314,921,056	278,047,372
Reappropriated Funds	0	0	235,455	229,255	229,255
Federal Funds	182,947,594	196,524,108	167,844,907	168,106,242	168,106,242