

JBC WORKING DOCUMENT - ALL DECISIONS SUBJECT TO CHANGE
Staff Recommendation Does Not Represent Committee Decision

**DEPARTMENT OF EDUCATION
FY 2008-09**

FORMAT NOTES: Individual line items appear in bold underlined font, decision items appear in bold *italic* font, and summary descriptions of staff recommendations appear in **bold** font.

SUMMARY OF RECOMMENDATIONS INCLUDED IN THIS PACKET

The following table provides a summary of the most significant staff recommendations included in this packet. Detailed recommendations for each line item follow.

Summary of Significant Staff Recommendations in this Packet						
Description	Total Funds	General Fund	Cash Funds	Cash Fund Exempt	Federal Funds	FTE
<i>Recommended Changes to FY 2007-08 Appropriation (Recent Supplemental Requests):</i>						
Military dependent suppl. pupil enrollment aid	\$1,818,517	\$1,818,517	\$0	\$0	\$0	0.0
Refinance categorical programs	0	0	0	0	0	0.0
Colorado Student Assessment Program (CSAP)	(2,645,912)	(800,343)	0	0	(1,845,569)	(1.3)
School finance	(113,617,998)	(33,949,953)	0	(79,668,045)	0	0.0
<i>Recommended Changes from Adjusted FY 2007-08 Appropriation for FY 2008-09:</i>						
School finance (DI #1)	191,415,698	147,857,384	0	43,558,314	0	0.0
Categorical programs (DI #2)	6,736,155	0	0	6,736,155	0	0.0
Closing the Achievement Gap (DI #3)	1,800,000	1,800,000	0	0	0	0.0
Read-to-Achieve	1,397,884	0	0	1,397,884	0	0.0
Colorado Virtual Library (DI #10)	1,000,000	1,000,000	0	0	0	0.0
Employee salary and benefit increases	892,289	533,391	17,113	108,690	233,095	0.0
Colorado student assessment program	703,167	809,916	0	0	(106,749)	0.0
Content specialists (DI #4)	440,698	440,698	0	0	0	4.6

Summary of Significant Staff Recommendations in this Packet						
Description	Total Funds	General Fund	Cash Funds	Cash Fund Exempt	Federal Funds	FTE
Data program management office (BA)	161,853	157,504	0	0	0	0.9
Dropout Prevention Activity Grant Program (DI #6)	159,131	0	0	159,131	0	0.0
Fees and conference revenue for CSDB (DI #7)	45,000	0	45,000	0	0	0.0
Auditor travel (DI #9)	13,702	13,702	0	0	0	0.0
Talking Book Library (DI #5)	9,637	9,637	0	0	0	0.0
Family literacy education grants	0	200,000	0	(200,000)	0	0.0
Base personal services reduction (1.0 percent)	(140,650)	(127,099)	0	(13,551)	0	0.0

General Note Regarding Long Bill Column Format Change. The Committee has voted to change the format of the Long Bill for FY 2008-09 to include a "Reappropriated Funds" (RF) column rather than a "Cash Funds Exempt" (CFE) column. Pursuant to this format change, all of the funds that were previously listed under the "Cash Funds" (CF) column for this department will continue to be included in the CF column, and all of the funds that were previously included in the CFE column will be included in the new RF column, with the exceptions summarized in the following table.

Summary of Impact of Long Bill Format Change on FY 2007-08 Appropriations			
Description	Total Funds	Cash Funds	Cash Funds Exempt/ Reappropriated Funds
State Education Fund*	\$0	\$359,945,898	(\$359,945,898)
State Public School Fund*	0	108,088,954	(108,088,954)
Cash fund reserves	0	10,885,882	(10,885,882)
Gifts, grants, and donations	<u>0</u>	<u>447,000</u>	<u>(447,000)</u>
Total	0	479,367,734	(479,367,734)

* These amounts do not reflect any mid-year adjustments to the appropriation for the State Share of Districts' Total Program Funding.

- Appropriations from the **State Education Fund** will move from CFE to CF. Please note, however, that pursuant to Section 17 (3) of Article IX of the Colorado Constitution, appropriations from the State Education Fund are not subject to the limitation on fiscal year spending set forth in Section 20 of Article X of the Colorado Constitution (the Taxpayer's Bill of Rights or "TABOR").

- Appropriations from the **State Public School Fund**, including appropriations of federal mineral lease revenues, interest earned on moneys in the Public School Fund, fund reserves, and audit recoveries, will move from CFE to CF. Please note, however, that federal mineral lease revenues are credited to the Mineral Leasing Fund upon receipt, and are subsequently distributed and transferred to other cash funds pursuant to Section 34-63-102, C.R.S. These funds originate as federal funds, which are excluded from the definition of "fiscal year spending" and are thus not subject to TABOR spending limits. In addition, please note that state revenues that are distributed to school districts are "counted" for purposes of TABOR spending limits when they are received. When these moneys are recovered from a school district pursuant to an audit, these moneys are not counted a second time.
- Appropriations from **reserves in various cash funds** (including the Educator Licensure Cash Fund, the On-line Education Cash Fund, the Public School Transportation Fund, the Comprehensive Health Education Fund, the Read-to-Achieve Cash Fund, and the State Public School Fund Contingency Reserve) will move from CFE to CF.
- Appropriations from **gifts, grants, and donations** will be reflected as CF. Please note, however, that these amounts are excluded from the definition of "fiscal year spending" and are thus not subject to TABOR spending limits.

For FY 2007-08, this new Long Bill format requires in a shift of a total of \$479,367,734 from the existing CFE column to the CF column. For FY 2008-09, staff has estimated each of the above-described shifts for each line item. Staff has reflected recommended funding in the new Long Bill format in the "Staff Rec. New Format" column on pages one through 22. Once the Committee has finalized its decisions for all pending line items, staff will work with the Department to ensure that the correct amounts are shifted to the CF column in the FY 2008-09 Long Bill.

Recommended Changes to Long Bill Organization. As summarized in Appendix A and detailed in pages 1 through 22, **staff recommends modifying the organization of the Long Bill for FY 2008-09.**

First, staff recommends re-ordering line items and adding subsection headings in two Long Bill sections: (1) Management and Administration; and (2) (C) Grant Programs, Distributions, and Other Assistance (within the Assistance to Public Schools section). Both of these sections now include a large number of line items. Despite staff's attempts in the past to list line items in a rational order, it is difficult for the reader to find a specific line item of interest. Staff recommends grouping like line items, and adding descriptive subsection headings.

Second, staff recommends transferring certain FTE and the associated funding from the existing consolidated line item in the Management and Administration section (the General Department and Program Administration line item) to separate line items. For those FTE responsible for administering a specific program or funding source, staff recommends reflecting these FTE and

the associated funds with the relevant program or funding source (e.g., staff responsible for school finance, library programs, assessments, transportation, and nutrition programs). In addition, staff recommends adding a new line item to separately identify those FTE responsible for information technology services; this new line item would be included in the new Information Technology subsection within the Management and Administration section. These transfers are detailed within the narrative, below, for each relevant line item.

Third, staff recommends transferring two significant sources of federal funding from the consolidated Appropriated Sponsored Programs line item to the relevant program areas. Specifically, staff recommends transferring federal U.S.D.A. funding and the associated FTE to the new Health and Nutrition subsection within the Assistance to Public Schools section. Staff also recommends transferring federal library funding and the associated FTE to the Library Programs section. These transfers are detailed within the narrative, below, for each relevant line item.

Throughout the packet, where staff has simply re-ordered line items within a Long Bill section, line items appear in the recommended order (rather than the current Long Bill order). In those instances where staff is recommending the transfer of funding and/or FTE, staff has specifically identified these amounts in each relevant line item.

(1) MANAGEMENT AND ADMINISTRATION

(A) Administration and Centrally-Appropriated Line Items [New subsection heading]

State Board of Education [New line item]. As described in the narrative for the following line item, **staff recommends including a separate line item in the FY 2008-09 Long Bill to reflect funding that directly supports the State Board of Education.** Based on information requested from and provided by Department staff, staff recommends transferring **a total of \$264,283 General Fund and 2.0 FTE**, including \$140,283 and 2.0 FTE personal services, \$76,000 for operating expenses, and \$48,000 for travel expenses.

General Department and Program Administration. This line item provides funding and staff for the State Board of Education, for the management and administration of a variety of education- and library-related programs, and for general department administration, including support for the State Board of Education, human resources, budgeting, accounting, and information management. This line item supports both personal services and operating expenses. Sources of cash funds for this line item include general education development (GED) program fees, indirect cost recoveries, and transfers from various cash- and federally-funded line items in other sections of the budget. The Department has requested a total of \$7,661,196 and 87.8 FTE for this line for FY 2008-09, including \$7,033,726 and 82.3 FTE in continuation funding and \$627,470 and 5.5 FTE in new funding. The latter amount, requested through three initiatives, represents an 8.2 percent funding increase for this line item.

Background Information. This consolidated line item was established in FY 1987-88 to facilitate a \$2.5 million reduction in General Fund appropriations for the administration of the Department and library programs. This reduction ultimately resulted in the elimination of 35.0 FTE (a 25 percent reduction). From FY 2000-01 through FY 2003-04, base General Fund appropriations for staff supported through this line item were reduced by another \$1.8 million. As a result, the number of FTE supported by General Fund decreased by another 31.5 FTE (39 percent). Of the total 31.5 General Fund-supported FTE reduction, 12.0 FTE were eliminated and 19.5 FTE were transferred to various cash and federal fund sources. Positions that were eliminated include senior consultants on regional service teams, staff at the Talking Book Library, staff responsible for institutional library programs, staff in the Commissioner's Office, management services staff who supported data and human resource functions, and staff responsible for some special education-related functions.

When compared to Department staffing levels that existed in FY 1984-85, current staffing levels are considerably lower. Specifically, 69.5 FTE now perform general Department and program administration functions, compared to 84.7 FTE in FY 1984-85 (an 18 percent reduction); and 12.5 FTE now support library programs, compared to 26.3¹ in FY 1984-85 (a 52 percent reduction).

Please note that in FY 2006-07, the General Assembly added General Fund appropriations to support a total of 4.5 FTE currently reflected in this line item:

- Restored 1.0 FTE Auditor for the School Finance Unit that was eliminated by the Department in FY 2002-03 to manage reductions in administrative funding
- Added 1.0 FTE Principal Consultant for the School Finance Unit to improve the unit's ability to assist school districts with accounting, data submission, and reporting requirements
- Added 1.0 FTE for the Accounting Unit to address workload increases
- Added 1.0 FTE for the Colorado Preschool and Kindergarten Program (H.B. 06-1375)
- Added 0.5 FTE to administer the Special Education High-Cost Grant Program (H.B. 06-1375)

Personal Services: This line item provides funding for employees' salaries and wages, as well as the associated state contribution to the Public Employees Retirement Association and the state share of federal Medicare taxes. This line item also provides funding for certain professional and temporary services. Pursuant to Section 22-2-107, C.R.S., the State Board of Education has the power to

¹ Positions included: 2.0 FTE Assistant Commissioner and Secretary; 10.5 FTE for the Library for the Blind and Physically Handicapped; 1.5 FTE regional systems supervisor; 1.5 FTE project director and secretary for the library network; 4.0 FTE for correctional libraries; 1.8 FTE for the state library and state documents depository; and 5.0 FTE consultants and secretary for institutions, continuing education, and resource libraries.

employ personnel as necessary for the performance of powers and duties delegated to the Board or the Commissioner of Education. This provision also authorizes the Board to, "approve within the appropriation made by the general assembly a salary schedule for personnel of the department who are not within the state personnel system". Finally, the Board has the power to "create, maintain, and modify, from time to time, such administrative organization for personnel of the department as may be deemed necessary or beneficial".

With respect to personal services, the Department requests \$6,196,110 and 82.3 FTE in continuation funding for FY 2008-09. This request reflects the elimination of one-time funding that was provided through H.B. 07-1232 (Military Dependent Supplemental Pupil Enrollment Aid) and H.B. 07-1320 (Education Data Management), and the addition of funding pursuant to S.B. 07-228 (Monitoring Vendor Performance on State Contracts). The request includes continuation of funding for 1.0 FTE from the State Public School Fund, consistent with the Legislative Council Staff Fiscal Note for H.B. 07-1320. The Department is requesting an additional \$530,645 and 5.5 FTE through Decision Item #4 and Budget Amendment #1.

The following table details staff supported by this line item, by function or duty. Given several staffing changes initiated by the new Commissioner and the availability of better data, staff has reflected a greater level of detail in the staffing table than in the past (for both FY 2006-07 and FY 2008-09).

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Commissioner/ Deputy and Assistant Commissioners/ Chief of Staff/ Directors		13.0		
Commissioner	1.1		1.0	1.0
Deputy Commissioner			2.0	2.0
Assistant Commissioner	1.7			
Communications Unit			2.0	2.0
Controller/ Accounting/ Purchasing	9.1	10.0	10.3	10.3
Budget	1.5		1.5	1.5
Human Resources	2.0		2.0	2.0
Research and Evaluation	4.7		4.7	4.7
Regional Service Teams	5.3		3.4	3.4
Exceptional Student Services	3.1		3.4	3.4
Data Program Mgmt. Office (BA)			0.9	0.9
English Language Proficiency	0.5		0.5	0.5
GED Program	1.5	1.5	1.5	1.5

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Other (Supervisors/ Consultants/ Support Staff)	5.0	22.0	7.7	6.7
Subtotal	35.5	not comparable	40.9	39.9
State Board Relations	1.5		2.0	2.0
Information Management Services	8.2	10.0	11.3	11.3
Colorado Student Assessment Program	2.3		2.3	2.3
Public School Finance/ Colorado Preschool and Kindergarten Program	7.1	8.0	7.0	8.0
School District Audits	<u>4.6</u>	<u>5.0</u>	<u>5.0</u>	<u>5.0</u>
Subtotal	11.7	13.0	12.0	13.0
Public School Transportation	2.0		2.0	2.0
Nutrition	0.6		0.9	0.9
Content Specialists (DI #4)			4.6	4.6
Library Programs	12.8	12.5	11.8	11.8
Total	74.6	82.0	87.8	87.8

Operating Expenses and Capital Outlay: In addition to personal services, this line item provides funding for supplies and materials, as well as for certain services that are not covered by other line items such as utilities, custodial services, equipment rental, storage, dues and subscriptions, and printing. This line item also provides funding for the purchase or replacement of equipment, furniture, and other items that cost less than \$50,000, as well as for building repair and remodeling costing less than \$15,000. With respect to operating and capital outlay expenses, the Department requests \$837,616 in continuation funding for FY 2008-09. The request reflects the elimination of one-time funding that was provided through H.B. 07-1320 (Education Data Management), and the addition of funding pursuant to S.B. 07-228 (Monitoring Vendor Performance on State Contracts). The Department is requesting an additional \$87,562 through Decision Items #4 and #9, and Budget Amendment #1.

Staff's overall recommendation for this line item, detailed in the following table, is calculated in accordance with Committee policy with one exception (noted below). A discussion of each decision item and budget amendment referenced in the table, as well as staff-initiated adjustments and transfers, are described in the narrative that follows the table.

Summary of Recommendation: General Department and Program Administration					
Description	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$6,025,766	\$4,686,620	\$93,854	\$1,245,292	81.0
Other personal services appropriations (H.B. 07-1232: \$8,000 for contract programming; H.B. 07-1320: \$204,000 for contractual services and \$64,389 for 1.0 FTE)	276,389	8,000	0	268,389	1.0
Eliminate one-time funding (H.B. 07-1232 and H.B. 07-1320)	(212,000)	(8,000)	0	(204,000)	0.0
Annualization of S.B. 07-228	14,471	14,471	0	0	0.3
Salary survey awarded in FY 07-08	181,160	144,922	2,681	33,557	0.0
80% of Performance-based pay awarded in FY 07-08	60,324	47,655	824	11,845	0.0
Requested shift from personal services to operating expenses	(150,000)	(150,000)	0	0	0.0
Base reduction (1.0% for lines with 20.0+ FTE) - <u>not</u> applied to cash funds portion, which only supports 1.5 FTE; also applied <u>after</u> the shift of \$150,000 to operating expenses	(60,988)	(47,437)	<u>0</u>	(13,551)	0.0
Fund mix adjustment - transfer 1.0 FTE added through H.B. 07-1320 from State Public School Fund to General Fund	0	64,389	0	(64,389)	0.0
DI #4: Content Specialists (11 months of funding for 5.0 FTE)	383,625	383,625	0	0	4.6
BA #1: Data Program Management Office (11 months of funding for 1.0 FTE)	<u>147,299</u>	<u>147,299</u>	<u>0</u>	<u>0</u>	<u>0.9</u>
Subtotal: Personal Services	6,666,046	5,291,544	97,359	1,277,143	87.8
Operating expenses and capital outlay portion of FY 07-08 Long Bill appropriation	686,616	511,876	750	173,990	
Other operating expenses appropriations (H.B. 07-1320)	6,315	0	0	6,315	
Eliminate one-time funding (H.B. 07-1320)	(5,315)	0	0	(5,315)	
Fund mix adjustment - transfer operating expenses added through H.B. 07-1320 from State Public School Fund to General Fund	0	1,000	0	(1,000)	

Summary of Recommendation: General Department and Program Administration					
Description	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	FTE
Requested shift from personal services to operating expenses	150,000	150,000	0	0	
DI #4: Content Specialists	49,855	49,855	0	0	
BA #1: Data Program Management Office	10,205	10,205	0	0	
DI #9: Funding for school audit unit	<u>13,702</u>	<u>13,702</u>	<u>0</u>	<u>0</u>	
Subtotal: Operating and Capital Outlay Expenses	911,378	736,638	750	173,990	0.0
Transfers from this line item to:					
State Board of Education [new line item]	(264,283)	(264,283)	0	0	(2.0)
Information Technology Services [new line item]	(923,302)	(923,302)	0	0	(11.3)
Colorado Student Assessment Program	(265,302)	(265,302)	0	0	(2.3)
Assistance to Public Schools, Public School Finance, Administration [new line item]	(1,145,439)	(1,145,439)	0	0	(13.0)
Assistance to Public Schools, Categorical Programs, Public School Transportation (dollar amount is an <u>estimate</u> of the amount that should be eliminated from this line; only a transfer of FTE to the Transportation line item is necessary)	(197,357)	0	0	(197,357)	(2.0)
Assistance to Public Schools, Grant Programs, Distributions, and Other Assistance, Health and Nutrition, Federal nutrition programs	(79,936)	(79,936)	0	0	(0.9)
DI #4: Content Specialists (11 months of funding for 5.0 FTE)	(433,480)	(433,480)	0	0	(4.6)
Library Programs	<u>(743,128)</u>	<u>(743,128)</u>	<u>0</u>	<u>0</u>	<u>(11.8)</u>
Subtotal: Transfers to Other Line Items	(4,052,227)	(3,854,870)	0	(197,357)	(47.9)
Recommended FY 08-09 appropriation	3,525,197	2,173,312	98,109	1,253,776	39.9

Requested Shift from Personal Services to Operating Expenses. Based on actual expenditures related to this line item, **the Department's budget request reflects a shift of \$150,000 General Fund from the personal services portion of this request to operating expenses.** Staff's

recommendation is consistent with the request. According, staff has applied the 1.0 percent base reduction *after* shifting funds from personal services to operating expenses.

Base reduction. Staff has applied a 1.0 percent base reduction, with two exceptions. First, staff did not apply this reduction to cash funds portion of the appropriation, which only supports 1.5 FTE. Second, as indicated above, staff applied the base reduction after the shift of \$150,000 to operating expenses.

Fund mix adjustment. House Bill 07-1320 included an appropriation of \$274,704 and 1.0 FTE for FY 2007-08. The appropriation clause specified that the funding shall be from audit recoveries credited to the State Public School Fund. The act included the following provision:

"In presenting its budget request to the joint budget committee of the general assembly for the 2008-09 fiscal year, the commissioner shall ensure that the department of education requests funding for the ongoing costs associated with the data dictionary pursuant to section 22-2-305 and identifies appropriate funding sources". [see Section 22-2-112 (3) (a), C.R.S.]

The budget request reflects a total of \$65,389 cash funds exempt continuation funding in this line item for the position added by the bill. Staff assumes that requested amounts for centrally appropriated line items also include cash funds exempt associated with this position. **Staff's recommendation reflects General Fund support for the position added through H.B. 07-1320;** staff reflects a commensurate increase in the appropriation from the State Public School Fund for the State Share of Districts' Total Program Funding. Staff is not able to calculate the additional fund mix adjustments that are necessary to several centrally-appropriated line items associated with this position (e.g., Health, life and dental, workers' compensation, etc.). **Staff requests permission to work with Department staff to identify the additional fund source adjustments that are necessary in centrally appropriated line items to fund all of the costs associated with this FTE from the General Fund, rather than the State Public School Fund.** Staff has not assumed any appropriations from the State Public School Fund for these centrally appropriated line items when calculating the amount available for the State Share. Overall, **staff's recommendations related to H.B. 07-1320 do not result in more General Fund than requested; staff simply limits the number of line items supported by the State Public School Fund.**

Decision Item #4 - Content Specialists. The Department requests \$451,915 General Fund and 4.6 FTE to hire five "content specialists" to provide leadership, guidance, and support for schools and school districts in specific content areas to positively impact student achievement. The Department indicates that it has been able to find the resources to support literacy, but is in great need of individuals specializing in five areas:

- mathematics
- science
- social studies (history, geography, civics, and economics)

- arts (visual arts and music)
- achievement gaps

The individuals hired must understand how content knowledge is represented by standards, how standards are assessed, and the linkages between standards assessment and classroom practice and student achievement. Further, these individuals will need to evidence an understanding of assessment and data analysis and how these indices reflect the knowledge and skills of children.

The request for FY 2008-09 reflects only 11 months of funding due to the pay date shift. This funding is thus expected to "annualize" in FY 2009-10 for a total of \$467,626 and 5.0 FTE. The request includes the following components:

\$343,750	Starting salaries for each content specialist (\$75,000 for 11 months) ²
39,875	PERA and Medicare (for 11 months) ³
7,218	AED and SAED (for 11 months) ⁴
20,105	One-time costs (laptop, software, and office equipment)
29,750	Ongoing operating (supplies, telephone, and travel)
<u>11,500</u>	Leased space
\$452,198	Total

Consistent with budget request instructions, the request does not include funding for health, life, and dental insurance or for short-term disability; the Department would request funding for these benefits beginning in FY 2009-10. The Department anticipates posting these positions for hire in May 2008, interviewing and hiring in June so that all five positions would be filled by July 1, 2008.

Similar to the Department's request related to closing the achievement gap, the Department indicates that this initiative is anticipated to ultimately increase the number of students who graduate from high school. This, in turn, could increase students' earnings (thereby benefitting the State's economy) and reduce the number of crimes committed.

Staff recommends appropriating a total of \$440,698 and 4.6 FTE for FY 2008-09. Staff's recommendation reflects three adjustments to the request. First, consistent with Committee policy, **staff's recommendation does not include funding for additional leased space.** If the Department does not have adequate space in its current building, staff assumes that it will move more federally-funded staff to commercial space to accommodate the requested state staff. Second, **staff's recommendation corrects a couple of computational errors related to the pay date shift** which resulted in a slightly understated request. Third, **staff recommends providing funding for**

² Request erroneously includes \$343,500.

³ Request erroneously includes \$39,846.

⁴ Request erroneously includes \$7,214.

the requested staff through a separate line item so that it can be co-located with other appropriations of state funds devoted to professional development and instructional support activities.

This request is consistent with the new Commissioner's "Forward Thinking" Report goal of "enhancing professional development involving best practices". The Commissioner is seeking to acquire and develop expertise in certain subject areas within the Department in order to provide educators in the field with high quality technical assistance and support. The Department has indicated that the individual who would be hired as an achievement gap specialist would both oversee the Department's Closing the Achievement Gap initiative (DI #3) and provide technical assistance for districts that are not part of that pilot project. This capacity-building approach is consistent with policy research which emphasizes the importance of providing high quality, evidence-based support to improve instructional practices in the classroom.

In addition to performance data related to achievement gaps, the Department lists graduation and dropout data as relevant performance measures related to this request. Specifically, the Department has a goal of annually *increasing* the graduation rate (the number of graduates in a fiscal year divided by the membership base⁵). In 2006, the graduation rate was 74.1 percent. The Department also has a goal of annually *decreasing* the dropout rate (the annual number of dropouts in grades seven through twelve⁶ divided by the annual membership base). In 2006, the dropout rate was 4.5 percent.

Staff's recommends appropriating a total of \$440,698 for FY 2008-09, including: \$433,480 and 4.6 FTE in a new line item for personal services, PERA, Medicare, and operating and travel expenses; \$5,500 for PERA AED; and \$1,718 for PERA SAED. Continuation funding for FY 2009-10 for the new line item would total \$448,250 and 5.0 FTE.

Budget Amendment #1 - Data Program Management Office. The Department requests \$161,853 General Fund and 1.0 FTE for a Data Program Management Office to implement key recommendations from the Data Infrastructure Review completed as required by H.B. 07-1270. This request was not included in the Department's November 1, 2007, budget submission because the Department was not statutorily required to report the findings and recommendations of the North Highland report until December 1, 2007.

⁵ "Membership base" is defined as the number of students entering ninth grade four years earlier, adjusted for students who have transferred into or out of the district during the years covering grades nine through twelve.

⁶ A "dropout" is a person who leaves school for any reason, except death, before completion of a high school diploma or its equivalent, and who does not transfer to another public or private school or enroll in an approved home study program. A student is not a dropout if he/she completes a G.E.D., is committed to an institution that maintains educational programs, or is so ill that he/she is unable to participate in a homebound or special therapy program. A student who reaches the age of 21 before receiving a diploma or designation of completion are counted as dropouts.

The Department's request includes the following components:

\$87,186	Starting salary for the Program Management Office Director (for 11 months)
10,113	PERA and Medicare (for 11 months)
2,049	AED and SAED (for 11 months)
4,255	One-time costs (laptop, software, and office equipment)
5,950	Ongoing operating (supplies, telephone, and travel)
2,300	Leased space
<u>50,000</u>	Contractual services for training and support
\$161,853	Total

Consistent with budget request instructions, the request does not include funding for health, life, and dental insurance or for short-term disability; the Department would request funding for these benefits beginning in FY 2009-10. The Department anticipates posting this position for hire in May 2008, interviewing and hiring in June so that the position would be filled by July 1, 2008.

The Department notes the following recommendations from the North Highland report⁷ that directly relate to this request:

- “Currently, the data collection process is fragmented, contains redundancies across data collections and does not involve the stakeholders...There is a need for a Data Program Management Office (PMO) to oversee the entire data collection process from legislation to implementation and collection execution. By having a PMO, the entire process would become more streamlined internally and eliminate redundancies. The PMO could also ensure stakeholder involvement by guiding a Data Committee that would involve the stakeholders in the data collection process. This would result in a better understanding and acceptance of data collection elements, windows, and processes. The end result would be cleaner data being entered into the system and better results.”
- The addition of a PMO will help the Department meet these key needs. The Department is under constant and increasing pressure to add new collections, make comprehensive changes to existing collections, and make major enhancements to the data systems. It is very difficult if not impossible for the Department to accomplish these items with the current resource constraints. Over the years more and more data collections have been added, but no resources have been added to the Department for this purpose. A PMO would manage the additions of new collections and generally manage the data collections process.
- No one person or organization at the Department has a system-wide view of all the data collections or how they interact. Prioritization issues are determined by default by information management staff as they have resource constraints in regards to programming

⁷ This report is available online at (<http://www.cde.state.co.us/Communications/download/PDF/CDE-Data-Infrastructure-Review.pdf>).

data collection changes. A PMO position will have the span of control to view all of the data and how they interact, plus facilitate change to the data landscape when necessary. This area is probably the most significant role the PMO will play going forward. It is anticipated this role will result in a better data collection process and stakeholders will experience better service and support from the Department.

Staff recommends appropriating a total of \$159,553 and 0.9 FTE for FY 2008-09. Staff's recommendation reflects one adjustment to the request. Consistent with Committee policy, **staff's recommendation does not include funding for additional leased space.** If the Department does not have adequate space in its current building, staff assumes that it will move more federally-funded staff to commercial space to accommodate the requested state staff.

This request is consistent with the stated objectives of H.B. 07-1270, including supporting data-based decision making, and improving the efficiency in the collection and reporting of education data (both for the Department and for school districts). The North Highland report indicates that a PMO should be created to oversee the entire data collection process from legislation to implementation and collection execution. The PMO would implement standards across the organization regarding requirements analysis, communication, training, and support. The PMO could also ensure stakeholder involvement, resulting in higher quality data. In addition, the report suggests that the PMO and Data Committee could work closer with the legislature to better answer their questions, remove redundancies and help formulate legislation that meets the data request needs.

Staff's recommends appropriating a total of \$159,553 for FY 2008-09, including: \$157,504 and 0.9 FTE in the General Department and Program Administration line item for personal services, PERA, Medicare, contractual services, as well as operating and travel expenses; \$1,395 for PERA AED; and \$654 for PERA SAED. Continuation funding for FY 2009-10 for this line item would total \$162,095 and 1.0 FTE.

Decision Item #9 - Increase funding for travel for school audit team. The Department requests an increase of \$13,702 General Fund to cover a shortfall in funding for travel costs of the school finance audit team. The 5.0 FTE audit unit ensures compliance with public school finance, the federal School Lunch Program, public school transportation, and English Language Proficiency programs. In addition, this unit audits hospitals and facilities that provide on-grounds schools.

In order to manage reductions in administrative funding in FY2002-03, the Department reduced the number of school district auditors from 5.0 FTE to 4.0 FTE. However, in FY 2006-07 the General Assembly approved a request to restore 1.0 FTE in the audit unit. Existing appropriations for this unit are not sufficient to cover anticipated operating and travel expenditures. This unit incurred travel expenditures totaling \$27,852 in FY 2006-07 (an average of \$6,897 per auditor) -- \$8,955 above the amount appropriated. Based on the assumption that travel costs will increase at 3.2 percent per year, the Department projects a shortfall of \$13,702 in FY 2008-09. The Department has covered the shortfall using vacancy savings, when possible. The increased travel costs are based,

in part, on the fact that the request related to restoration of the 1.0 FTE did not include any funding associated with travel expenses.

Staff recommends approving the request. The Department indicates that absent the requested funding increase, the audit unit will be forced to stop travel in approximately February of each year. This would likely lead to a decrease in audit units' abilities to ensure proper resource allocation in school finance and/or an audit backlog.

Transfers of Funding and Staff. As indicated at the beginning of this narrative, **staff recommends transferring certain FTE and the associated funding from this consolidated line item to several other existing or new line items.** Staff has detailed each of the recommended transfers in the table on page 31, and staff describes each of the recommended transfers below.

- **State Board of Education.** **Staff recommends including a separate line item in the FY 2008-09 Long Bill to reflect funding that directly supports the State Board of Education.** Based on information requested from and provided by Department staff, **staff recommends transferring a total of \$264,283 and 2.0 FTE**, including \$140,283 for personal services, \$76,000 for operating expenses, and \$48,000 for travel expenses. Staff's recommendation is based on increased interest by legislators and others, as well as evidence that State Board-related expenditures have not historically been closely tracked or monitored. A separate line item should assist the State Board and their staff in managing this appropriation, and make funding for State Board operations more transparent.
- **Information Technology Services.** **Staff recommends including a separate line item in the FY 2008-09 Long Bill, within the new "Information Technology" subsection, to consolidate funding and staff related to information technology support functions.** Based on information requested from and provided by Department staff, **staff recommends transferring a total of \$923,302 General Fund and 11.3 FTE**, including \$903,582 for personal services and \$19,720 for operating and travel expenses. **In addition, staff recommends including an additional \$512,586 cash funds exempt/reappropriated funds and 5.7 FTE in this new line item to reflect various sources of federal funds that are used to support information technology services-related functions.** This total amount includes \$494,338 for personal services and \$18,248 for operating expenses. Staff's recommendation is based on increased interest by legislators in the Department's information technology systems and data management functions (demonstrated through the passage of H.B. 07-1320 and H.B. 07-1270), the Data Infrastructure Review report prepared by North Highland Company as required by H.B. 07-1270, and the Governor's recent initiative to centralize management of state agency information technology resources.
- **Colorado Student Assessment Program (CSAP).** **Staff recommends transferring \$265,302 General Fund and 2.3 FTE responsible for administration of the CSAP to the CSAP line item** (in the new "Assessments and Data Analyses" subsection, below). This amount includes \$237,902 for personal services, \$21,400 for operating expenses, and \$6,000 for

travel operating expenses. Given concerns expressed by the Department associated with the use of federal assessment-related funds, staff recommends reflecting all CSAP-related staff and funding in a single line item to facilitate the analysis of financing issues. In addition, staff frequently receives inquiries about the costs of the CSAP, and this recommended transfer will make the total CSAP budget more transparent.

- *Assistance to Public Schools; Public School Finance; Administration.* **Staff recommends transferring to a new line item \$1,145,439 General Fund and 13.0 FTE responsible for administration of the School Finance Act and the Colorado Preschool and Kindergarten Program, as well as auditing school districts** to ensure compliance with the federal school lunch program, public school transportation, and English language proficiency programs. This amount includes \$1,060,459 for personal services, \$38,031 for operating expenses, and \$46,949 for travel expenses (including \$13,702 requested through DI #9).

Staff recommends including a separate line item for this purpose for two reasons. First, the General Assembly appropriated additional General Fund for 3.0 FTE in this unit in FY 2006-07, including 2.0 FTE requested by the Department (1.0 FTE auditor and 1.0 FTE Principal Consultant), and 1.0 FTE associated with the expansion of the Colorado Preschool and Kindergarten Program (through H.B. 06-1375). Staff has learned that the Department has subsequently refinanced the equivalent of 1.0 FTE using the "off-the-top" funding it is authorized to spend to perform its duties related to the State Charter School Institute and its charter schools. While this unit's workload has certainly been impacted by the Institute, staff assumes that the "off-the-top" funding was intended to cover additional costs and staffing requirements, rather than to refinance existing staff. It is unclear to staff what the General Fund that was displaced is currently supporting. Staff thus recommends shifting the full 13.0 FTE legislatively authorized for this unit, along with 100 percent General Fund support, to a separate line item.

Second, moving these FTE closer to the sources of funding they are responsible for managing should make the Long Bill a more readable, transparent document.

- *Assistance to Public Schools; Categorical Programs; Public School Transportation.* **Staff recommends transferring 2.0 FTE responsible for administering public school transportation programs to accompany the General Fund appropriation that supports the FTE. Staff also recommends eliminating the duplicative cash funds exempt appropriation in this line item associated with these staff.** Please note that staff has estimated the amount to be eliminated (\$197,357). **Staff requests authorization to work with Department staff and to adjust this amount, as well as various centrally appropriated line items, if necessary.**
- *Assistance to Public Schools; Grant Programs, Distributions, and Other Assistance; Health and Nutrition; Federal nutrition programs.* **Staff recommends transferring \$79,936 General Fund and 0.9 FTE responsible for administration of federal nutrition**

programs to a new line item. This amount includes \$78,736 for personal services and \$1,200 for operating expenses. Staff recommends including this state funding and FTE with the \$96 million in federal funds available from the U.S. Department of Agriculture for a variety of nutrition-related programs (as well as the 7.1 FTE federally-funded staff). Staff has learned that this amount of state funding is required to comply with a federal maintenance of effort requirement associated with these federal funds. Staff recommends including this new line item in a subsection with other state funding that relates to these federal nutrition programs.

- **Library Programs; Administration.** Staff recommends transferring **\$743,128 General Fund and 11.8 FTE responsible for administration of library programs to a new line item.** This amount includes \$722,622 for personal services, \$18,656 for operating expenses, and \$1,850 for travel expenses. Staff understands that this amount of state funding, along with other state funds, is required to comply with a federal maintenance of effort and matching requirements associated with federal library funding. Staff recommends including this new line item in a section with other state and federal funding for library programs.

Office of Professional Services. This office is responsible for administration of the Colorado Educator Licensure Act. This Office is funded entirely through fees paid by educators seeking licenses, endorsements, and authorizations. Pursuant to Section 22-60.5-112, C.R.S., the State Board of Education is to annually adjust fees charged for licensing purposes, if necessary, so that the revenue generated approximates the direct and indirect costs of administering the Colorado Educator Licensing Act. Fee revenues are deposited into the Educator Licensure Cash Fund.

The Department requests a total of \$1,632,935 and 20.0 FTE for FY 2008-09, including \$1,578,234 and 19.0 FTE in continuation funding and \$54,701 and 1.0 FTE in new funding. The latter amount is requested through a budget amendment. **Staff's overall recommendation for this line item** (with the exception of the indirect cost assessment), **detailed in the following table, is calculated in accordance with Committee policy.** A discussion of each component is included following the table.

Summary of Recommendation: Office of Professional Services		
Description	Cash Funds	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$1,086,485	19.0
Other personal services appropriations (H.B. 08-1283)	23,040	0.0
Eliminate one-time funding (H.B. 08-1283)	(23,040)	0.0
Salary survey awarded in FY 07-08	36,726	
80% of Performance-based pay awarded in FY 07-08	12,278	
Base reduction (1.0% for lines with 20.0+ FTE)	0	

Summary of Recommendation: Office of Professional Services		
Description	Cash Funds	FTE
BA: Licensure Background Check Backlog	0	0.0
Subtotal: Personal Services	1,135,489	19.0
Operating expenses and capital outlay portion of FY 07-08 Long Bill appropriation	287,836	
BA: Licensure Background Check Backlog	0	
Subtotal: Operating and Capital Outlay Expenses	287,836	
Indirect Cost Assessment portion of FY 07-08 Long Bill appropriation	154,909	
Adjustment for FY 08-09	Pending	
Subtotal: Indirect Cost Assessment	Pending	
Recommended FY 2008-09 Appropriation	1,578,234	19.0

Personal Services: This line item provides funding for employees' salaries and wages, as well as the associated state contribution to the Public Employees Retirement Association and the state share of federal Medicare taxes. This line item also includes \$11,460 for contract services to conduct annual survey of superintendents (pursuant to H.B. 06-1001).

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Director / Supervisors	2.7	3.0	3.0	3.0
Consultants/ General Professionals/ Program Assistants	13.0	13.0	13.0	13.0
Licensure Backlog (BA)			1.0	0.0
Administrative Support	2.5	3.0	3.0	3.0
TOTAL	18.2	19.0	20.0	19.0

Budget Amendment - Criminal Background Check Backlog. The Department submitted both a FY 2007-08 supplemental request and a budget amendment for FY 2008-09 concerning a criminal background check backlog. For FY 2008-09, the Department requests \$55,654 and 1.0 FTE to process criminal background check information. The Department indicates that approval of this request would not increase licensure fees. The Department's request for additional funding and staff for FY 2007-08, FY 2008-09, and subsequent fiscal years is detailed in the following table.

	FY 2007-08 Supplemental Request	FY 2008-09 Budget Amendment	FY 2009-10 Projection
<i>Personal Services:</i>			
Salary for Program Assistant II (4 months in FY 2007-08; does not reflect salary increases in future fiscal years)	\$15,000	\$45,000	\$45,000
PERA (10.15%)	1,523	4,568	4,568
Medicare (1.45%)	218	653	653
Prior Year SAED	0	75	263
SAED	75	263	225
AED	195	720	720
<i>Operating Expenses:</i>			
Supplies	0	500	500
Computer	0	900	0
Office Suite Software	0	330	0
Office Equipment	0	2,225	0
Telephone	0	450	0
<i>Temporary Services</i> (the equivalent of 1.0 FTE for four months, working 160 hours/month at a cost of \$18/hour)	11,520	0	0
Total - Educator Licensure Cash Fund	28,531	55,684	51,929
FTE	0.3	1.0	1.0

The Department indicates that the new staff position would be responsible for the following:

- receiving CBI and FBI criminal background history results and entering the information into the licensing database;
- communicating with courts, law enforcement agencies, and district attorneys to obtain criminal history records;
- storing background information for individuals for whom a licensing application has not yet been received;
- storing license applications for individuals for whom verification of submission of fingerprints has not yet been received; and
- cross-referencing CBI e-mails concerning rejected fingerprint cards, logging in correct documentation identification numbers, and returning rejected fingerprint cards to applicants.

The Department indicates that there is an ongoing need for additional support related to background checks, and it would prefer a full-time position rather than temporary services due to issues related to training, turnover, and confidentiality.

Staff's write-up related to the supplemental request (dated January 23, 2008), provides a great deal of background information and it more fully describes both the Department's request. **Consistent with staff's January 23, 2008, recommendation (which the Committee approved), staff does not recommend approving the Department's FY 2008-09 request.** Staff's recommendation also eliminates the one-time funding provided for FY 2007-08 in response to the supplemental request.

First, the Department's rate of processing background check results has improved in the last year and it is not clear that additional staff will be needed once the backlog is minimized or eliminated. Second, it appears that the Department may be able to work with the CBI to make a couple of additional improvements that would assist the Licensure Unit and potentially reduce licensure time frames. Third, the Department may be able to make programming changes similar to those made by other state agencies in order to upload the background check information into its licensure system electronically. Finally, it is not clear to staff that the Licensure Unit has considered other internal changes that could alleviate the backlog, such as cross-training staff and/or re-distributing duties among existing staff.

Operating and Capital Outlay Expenses: This line item provides funding for supplies and materials, as well as for certain services that are not covered by other line items such as utilities, custodial services, equipment rental, storage, dues and subscriptions, and printing. This line item also provides funding for the purchase or replacement of equipment, furniture, and other items that cost less than \$50,000, as well as for building repair and remodeling costing less than \$15,000. With respect to operating and capital outlay expenses, the Department requests \$287,836 in continuation level funding for FY 2008-09. The Department is also requesting an additional \$54,701 for this line item through a Budget Amendment. **Staff recommends a continuation level of funding (\$287,836) for operating expenses.**

Indirect Costs: This line item also includes an indirect cost assessment for both statewide and departmental indirect costs. The Department's request is essentially a placeholder. **Staff will calculate this amount once the rates for legal services are determined and approved by the Committee. Staff will adjust the \$154,909 accordingly, and include the amount required based on the appropriate indirect cost rate.**

Division of On-line Learning [New line item]. Senate Bill 07-215 changed the oversight, structure, and funding of public school on-line education. This act required the State Board of Education to establish quality standards for on-line programs, and it created the Division of On-line Learning in the Department to support on-line programs, certify multi-district programs, and document and track complaints about on-line programs. The act also created a nine-member On-line Learning Advisory Board to report to the State Board on the operations of on-line programs and to provide policy recommendations. The act created the On-line Education Cash Fund, and it transferred to this cash fund \$830,000 of audit recoveries credited to the State Public School Fund. The act requires the General Assembly to annually appropriate moneys from this fund to support the Division of On-line Learning. The act appropriated \$418,861 from this fund and 3.5 FTE to the Department for FY 2007-08. Thus, the bill essentially provided for two years of funding for the new division, but it did

not provide an ongoing source of revenue to support the required activities after FY 2008-09. **Next Fall, staff will bring this matter to the Committee's attention again so that the Committee can consider how to fund these activities beginning in FY 2009-10 and whether legislation is necessary.**

The Department requests a continuation level of funding for the Division, consistent with the Legislative Council Staff Fiscal Note for the act. **Staff recommends approving the request for \$376,817 and 3.5 FTE for FY 2008-09.** This recommendation is calculated in accordance with Committee policy.

Summary of Recommendation: Division of On-line Learning		
Description	On-line Education	
	Cash Fund	FTE
Personal services appropriation (S.B. 07-215)	\$339,297	3.5
Salary survey awarded in FY 07-08	0	
80% of Performance-based pay awarded in FY 07-08	0	
Base reduction (1.0% for lines with 20.0+ FTE)	0	
Subtotal: Personal Services	339,297	3.5
Operating and travel expenses portion of FY 07-08 appropriation	49,067	
Eliminate one-time funding (S.B. 07-215)	(11,547)	
Subtotal: Operating and Capital Outlay Expenses	37,520	
Recommended FY 2008-09 Appropriation	376,817	3.5

If the Department spends the full amounts appropriated from the On-line Education Cash Fund for FY 2007-08, at least \$411,139 should remain in the Fund and be available for FY 2008-09. If the Committee approves staff's recommendation for this line item, \$34,322 would remain available to cover legal services costs as well as all the associated centrally-appropriated line items. **Staff will need to work with Department staff, once the legal services rate is established by the Committee and all centrally appropriated line items are finalized, to verify that the Fund will have sufficient funds to cover all FY 2008-09 appropriations. Staff will prepare a technical comeback if it appears likely that the balance will fall short of approved appropriations.**

Health, Life, and Dental. This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees. The Department, through a budget amendment submitted in January 2008, is requesting \$2,493,799 (including \$1,346,641 General Fund) for FY 2008-09. **Staff recommends approving the request, consistent with Committee policy.**

Short-term Disability. This line item provides funding for the employer's share of state employees' short-term disability insurance premiums. The Department requests \$38,953 for this purpose for FY 2008-09. **Staff recommends approving the request, which is consistent with the Committee policy of applying a rate of 0.13 percent to base salaries** (including salary increases for FY 2008-09 as well as shift differential payments). Please note, however, that staff utilized the base salary information included in the Department's January 2008 submittal, rather than information included in the Department's November 1, 2007 budget request. First, the budget request does not always include a sufficient level of detail concerning base salaries for federally funded positions. Second, given the number of staffing changes that have been made by the new Education Commissioner, staff believes it is appropriate to use more recent base salary information for purposes of calculating this line item.

S.B. 04-257 Amortization Equalization Disbursement. Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The Department requests a total of \$487,037 (including \$238,677 General Fund). **Pursuant to Committee policy** [1.4 percent of base salaries for CY 2008 and 1.8 percent of base salaries for CY 2009 (including salary increases for FY 2008-09 as well as shift differential payments)], **staff recommends an appropriation of \$474,597** (including \$226,957 General Fund.)

In addition, staff's recommendation includes \$5,500 General Fund associated with the 4.6 FTE recommended in response to *DI #3*, and \$1,395 General Fund associated with the 0.9 FTE recommended in response to the "PMO" budget amendment.

S.B. 06-235 Supplemental Amortization Equalization Disbursement. Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The Department requests a total of \$156,064 (including \$76,614 General Fund). **Pursuant to Committee policy** [0.5 percent of base salaries for CY 2008, and 1.0 percent of base salaries for CY 2009 (including salary increases for FY 2008-09 as well as shift differential payments)], **staff recommends an appropriation of \$218,694** (including \$102,613 General Fund.)

In addition, staff's recommendation includes \$1,718 General Fund associated with the 4.6 FTE recommended in response to *DI #3*, and \$654 General Fund associated with the 0.9 FTE recommended in response to the "PMO" budget amendment.

Salary Survey and Senior Executive Service. The Department uses this line item to pay for annual increases for salary survey and senior executive service positions. The Department, through a budget amendment submitted in January 2008, is requesting \$1,123,011 (including \$557,504 General Fund) for this line item for FY 2008-09. This amount includes the associated contributions to PERA and Medicare. **Consistent with Committee policy, staff recommends appropriating \$1,044,492 for this line item for FY 2008-09, as detailed in the following table.**

Calculation of Salary Survey and Senior Executive Service Recommendation					
Description	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	Total
Department Request	\$557,503	\$37,953	\$110,533	\$417,021	\$1,123,010
Plus: 0.25 percent SAED deducted by Dept.	<u>34,408</u>	<u>2,304</u>	<u>6,950</u>	<u>27,640</u>	<u>71,302</u>
Subtotal	591,911	40,257	117,483	444,661	1,194,312
Less: 0.5 percent SAED as calculated by staff	(72,433)	(4,844)	(14,596)	(57,947)	(149,820)
Total	519,478	35,413	102,887	386,714	1,044,492
<u>Department of Education:</u>					
Classified employees	54,032	23,120	36,398	84,018	197,568
At-will employees	<u>116,452</u>	<u>12,293</u>	<u>52,552</u>	<u>302,696</u>	<u>483,993</u>
Subtotal	170,484	35,413	88,950	386,714	681,561
<u>Colorado School for the Deaf and the Blind:</u>					
Classified employees	153,007	0	6,110	0	159,117
At-will employees	41,826	0	1,670	0	43,496
Teachers (using local school district pay scale)	<u>154,161</u>	<u>0</u>	<u>6,157</u>	<u>0</u>	<u>160,318</u>
Subtotal	348,994	0	13,937	0	362,931

Please note that pursuant to Section 22-80-106.5, C.R.S., the amount listed above for teachers at the School for the Deaf and the Blind is based on compensating teachers in accordance with the salary schedule that is adopted annually by the board of education for the school district in which the School is located (D-11). For FY 2007-08, this amounts to an average increase of 4.12 percent.

Performance-Based Pay Awards. This line item funds awards relating to employee performance. The Department, through a budget amendment submitted in January 2008, is requesting a total of \$403,242 (including \$164,763 General Fund) for performance-based pay awards for FY 2008-09. **Staff recommends approving the request, which is consistent with Committee policy.**

Summary of Performance-based Pay Recommendation					
Description	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	Total
Department of Education	\$70,209	\$14,928	\$44,980	\$178,571	\$308,688
Colorado School for the Deaf and the Blind	94,554	0	0	0	94,554

Summary of Performance-based Pay Recommendation					
Description	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	Total
Total	164,763	14,928	44,980	178,571	403,242

Workers' Compensation. This line item is used to pay the Department's estimated share for inclusion in the state's workers' compensation program for state employees. This program is administered by the Department of Personnel and Administration. The Department, through a budget amendment submitted in January 2008, is requesting a total of \$253,515 (including \$123,937 General Fund). **Staff's recommendation for workers' compensation is pending a Committee common policy for workers' compensation.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Legal Services. This line item provides funding for the Department to purchase legal services from the Department of Law. Prior to FY 2007-08, funding for the purchase of legal services was provided as part of a larger, consolidated line item ("General Department and Program Administration"). The FY 2007-08 Long Bill includes a separate line item for this purpose, consisting of three funding sources:

- \$30,497 cash funds exempt (from the On-line Education Cash Fund) to cover 450 hours of services provided to the Division of On-line Learning pursuant to S.B. 07-215;
- \$129,654 cash funds (from the Educator Licensure Cash Fund) to cover 1,800 hours of services provided to the Office of Professional Services; and
- \$137,505 General Fund for all other legal services required by the State Board or Department staff (1,909 hours).

In addition, the State Charter School Institute utilizes a portion of its annual cash funds exempt administrative appropriation to purchase legal services.

Decision Item #8 - Increase Funding for Legal Services. The Department requests an increase in funding to purchase an additional 1,354 hours of legal services (compared to the original FY 2007-08 Long Bill appropriation). The following table details the Department's legal services expenditures for the last three fiscal years.

Actual Expenditures to Purchase Legal Services: FY 2004-05 through FY 2006-07			
Description (Fund source)	FY 2004-05	FY 2005-06	FY 2006-07
Charter school appeals (GF)	\$29,074	\$84,010	\$94,833
Administration (GF)	54,106	26,376	60,553

Actual Expenditures to Purchase Legal Services: FY 2004-05 through FY 2006-07			
Description (Fund source)	FY 2004-05	FY 2005-06	FY 2006-07
School finance (GF)	4,493	58,389	22,636
Special Education - children with disabilities (GF)	8,477	4,655	9,370
Colorado School for the Deaf and the Blind (GF)	11,134	4,771	4,860
Educational services (GF)	0	0	1,994
Miscellaneous (GF)	953	645	0
Teacher licensure (CF)	<u>59,384</u>	<u>104,079</u>	<u>97,246</u>
Subtotal: Legal Services line item	167,621	282,925	291,492
State Charter School Institute (CFE - paid by SCSI)	24,452	23,972	36,970
Total Expenditures	<u>192,073</u>	<u>306,897</u>	<u>328,462</u>
<i>Hours</i>	<i>3,147.3</i>	<i>4,792.2</i>	<i>4,826.9</i>
General Fund	108,237	178,846	194,246
Cash Funds (Educator Licensure Cash Fund)	59,384	104,079	97,246
Cash Funds Exempt (SCSI)	24,452	23,972	36,970

The Department indicates that recent increases in legal expenditures primarily relate to charter schools and the State Charter School Institute. First, charter school appeals have doubled since 2003 and tripled since 2002. Written briefs are submitted by both parties in any given appeal along with a thorough record on appeal. The Attorney General's Office reviews each complete record and brief and offers a legal overview and summary for the State Board of Education. A representative from the Attorney General's Office attends the hearing for the appeal and provides legal clarification where needed. The Department indicates that charter appeals are becoming more complicated in nature, and the State Board is more likely to receive second appeals than before.

Second, the Department indicates that legal costs have increased substantially since the General Assembly established the State Charter School Institute in 2004 (H.B. 04-1362). The Attorney General's Office has reviewed several districts' applications to retain exclusive authority to authorize charter schools. Also, the law allows for any party to challenge a district's chartering authority, and those challenges come before the State Board. The representative from the Attorney General's Office is involved in reviewing these documents and in providing legal clarification for the State Board. The Department anticipates that appeals and challenges related to exclusive chartering authority will continue to rise and occur year-round.

Staff Recommendation. Staff's write-up related to the supplemental request (dated January 23, 2008), provides a great deal of background information and it more fully describes both the Department's

request. With respect to the General Fund portion of the Department's legal services appropriation, the appropriation did not significantly exceed or fall short of expenses until FY 2005-06. In FY 2006-07, expenditures exceeded the appropriation by nearly \$65,000 (50 percent).

Recent History: General Fund Appropriations for Legal Services and Expenditures							
	Appropriations		Actual Expenditures			Excess/(Shortfall)	
	Dollars	Hours	Dollars	Hours	% Change	Dollars	Hours
FY 2003-04	\$116,048	1,909	\$120,871	1,988		(\$4,823)	(79)
FY 2004-05	117,537	1,909	108,237	1,758	-11.6%	9,300	151
FY 2005-06	123,035	1,909	178,846	2,775	57.9%	(55,811)	(866)
FY 2006-07	129,373	1,909	194,248	2,866	3.3%	(64,875)	(957)
FY 2007-08	137,505	1,909	n/a	n/a	n/a	n/a	n/a
FY 2007-08 with Supp. Request	213,683	2,966	n/a	n/a	n/a	n/a	n/a
FY 2008-09 Request	235,040	3,263	n/a	n/a	n/a	n/a	n/a

The three primary areas for which the Department expends General Fund to purchase legal services include charter school appeals, administration, and school finance. While expenditures for the latter two areas have fluctuated up and down in the last three years, expenditures related to charter school appeals increased steadily and rapidly. Specifically, these expenditures increased by \$54,936 in FY 2005-06 and by another \$10,823 in FY 2006-07 -- a more than three-fold increase from FY 2004-05 to FY 2006-07. These amounts cover expenditures related to both charter school appeals and exclusive chartering authority.

The large increase in legal costs associated with charter schools occurred in FY 2005-06 (a 189 percent increase). A portion of these costs relate to charter school appeals, and a portion relate to exclusive chartering authority. As of July 2007, all but 11 school districts have been granted exclusive chartering authority by the State Board. It is staff's understanding that these 11 districts may apply again for exclusive chartering authority. In addition, statute allows "a party" to challenge a district's exclusive chartering authority, and it appears that such a challenge can occur at any time. Thus, it is certainly possible that the State Board will continue to incur legal services expenses related to exclusive chartering authority.

To date, the Department has been using General Fund appropriations to purchase these legal services. Pursuant to Section 22-30.5-513 (4), C.R.S., the Department is authorized to retain up to two percent of the amount withheld from per pupil funding for Institute charter schools "as reimbursement for the reasonable and necessary costs to the department to implement the provisions of [Part 5 of Article 30.5 of Title 22, C.R.S.]". The State Board's duties related to exclusive

chartering authority are included in Part 5. Thus, staff believes that the Department could and should be using a portion of the two percent that it is authorized to withhold to cover the legal services associated with exclusive chartering authority.

With respect to charter school appeals, the number of charter school appeals increased sharply in 2005, rising from three in 2004, to 11 in 2005, to 14 in 2006. The number of second appeals has also increased, rising from one in 2003, to two in 2005, to four in 2006.

The Department's FY 2007-08 supplemental request was based on the assumption that the Department will need to purchase 100 more hours of legal services in FY 2007-08 (an increase of 1,057.6 hours compared to the FY 2007-08 Long Bill appropriation). For FY 2008-09, the Department has requested a further increase of 296.4 hours. **Consistent with staff's recommendation in January 2008, staff recommends requiring the Department to utilize a portion of its appropriation for "Department Implementation of Section 22-30.5-501 et seq., C.R.S." to cover about half of the increase in hours. Staff thus recommends an appropriation for this line item sufficient for the Department to purchase a total of 4,640 hours, including 1,800 for the Office of Professional Services (a continuation level), 450 hours for the Division of On-line Learning (a continuation level), and 2,390 hours for other purposes.** This recommendation assumes no increase in the number of hours purchased in FY 2007-08 or in FY 2008-09, and it assumes that about 476 hours will be purchased from the appropriation for "Department Implementation of Section 22-30.5-501 et seq., C.R.S." to cover the other half.

At staff's request, Department staff recently reviewed recent legal services billings and determined that only \$1,982 was incurred in FY 2006-07 related to exclusive chartering authority (the equivalent of about 29 hours). However, this amount does not include costs associated with district appeals associated with exclusive chartering authority. Staff believes that the Department should pay for all legal services expenditures related to the Institute or exclusive chartering authority using its "off-the-top" appropriation. Absent information to determine the total number of hours of services related to exclusive chartering authority, staff continues to assume that splitting the recommended increase in the number of hours in half is a reasonable approximation. **The dollar amount of staff's recommendation is pending the determination of the hourly rate for legal services.**

Administrative Law Judge Services. This line item provides funding for the Department to purchase services from the Department of Personnel and Administration, Administrative Hearings Division. The FY 2007-08 appropriation for this line item, as recently adjusted, totals \$44,357 for the purchase of administrative law judge services. This amount includes \$9,314 for services provided to the Office of Professional Services and \$35,043 provided for the Special Education unit. The Department requests \$45,989 for the purchase of administrative law judge services for FY 2008-09. **Staff's recommendation for this line item is pending Committee policy for these services.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Payment to Risk Management and Property Funds. This line item provides funding for the Department's share of the statewide costs for two programs operated by the Department of Personnel

and Administration: (1) the liability program, and (2) the property program. The state's liability program is used to pay liability claims and expenses brought against the State. The property program provides insurance coverage for state buildings and their contents. The Department, through a budget amendment submitted in January 2008, requests a total of \$149,476 (including \$130,650 General Fund) for this purpose for FY 2008-09. **The staff recommendation for this line item is pending a common policy approved by the Committee for this line item.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Capitol Complex Leased Space. This line item is used to pay the Department of Personnel and Administration for the costs of maintaining state buildings that are part of the capitol complex. The Department, through a budget amendment submitted in January 2008, requests a total of \$556,414 (including \$167,812 General Fund). **Staff recommends providing funding sufficient to cover the leased space costs for office space at the building located at 201 E. Colfax Avenue in Denver (44,433 square feet). Staff's dollar recommendation is pending a determination of lease rates.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Communication Services Payments. Staff has recommended including this line item here, along with most other centrally-appropriated line items. For further details, see the narrative for the School for the Deaf and the Blind section of the Long Bill, below.

Reprinting and Distributing Laws Concerning Education. Pursuant to Section 22-2-112 (1) (i), C.R.S., the Department is required to "cause to be reprinted annually laws enacted by the general assembly concerning education...and to furnish copies thereof to interested persons." All publishing costs are to be paid out of the State Public School Fund. The Department's practice for a number of years has been to reflect this as an expenditure of rental income earned on state education trust lands that is credited to the State Public School Fund. The Department requests a continuation level of funding (\$35,480). **Staff recommends approving the request.**

Emeritus Retirement. This line item provides supplemental retirement payments to eligible K-12 and higher education teachers, as required pursuant to Section 22-64-119, C.R.S. The Department requests \$17,330 General Fund for FY 2008-09. Based on current monthly payments for four individuals totaling \$1,027.04, and the statutory requirement to increase these payments by the average salary survey percentage increase (3.8 percent for FY 2008-09), **staff recommends appropriating \$12,793 General Fund to cover 12 months of emeritus retirement payments.**

(B) Information Technology [New subsection heading]

Information Technology Services [New line item]. As recommended in the narrative for the General Department and Program Administration line item, above, **staff recommends including a separate line item in the FY 2008-09 Long Bill to consolidate funding and staff associated with information technology services.** This amount includes \$923,302 General Fund and 11.3 FTE transferred from the General Department and Program Administration line item (including \$903,582 for personal services and \$19,550 for operating expenses), and \$512,586 cash funds exempt and 5.7 FTE to reflect various sources of federal funds that are used to support information technology services-related functions (including \$494,338 for personal services and \$18,249 for operating expenses).

School Accountability Reports and State Data Reporting System. Senate Bill 00-186 required the Department of Education to establish a state data reporting system, including computer capabilities and procedures, to produce school report cards (later renamed school accountability reports). The act established the format of the school accountability reports and specified how the school academic performance and school improvement grades and the designations of school improvement would be calculated. The Department is required to annually deliver school accountability reports to each school by January 15 of each year, providing a sufficient number of copies for each student enrolled in the school and each teacher in the school. The Department is also to establish and maintain a web site that provides access to each school's accountability report (plus reports for the previous three years).

The FY 2008-09 appropriation will cover the costs of preparing, printing, and distributing SARs in January 2009. The following table provides an estimated break-down of expenditures.

Summary of Recommendation: School Accountability Reports and State Data Reporting System		
Description	General Fund	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$247,859	3.0
Salary survey awarded in FY 07-08	7,866	
80% of Performance-based pay awarded in FY 07-08	2,416	
Base reduction (1.0% for lines with 20.0+ FTE)	0	
Subtotal: Continuation personal services for FY 08-09	258,141	3.0
<u>Contractual Services:</u>		
Information technology / programming services related to formatting the cards and building/maintaining the data warehouse	300,000	
Subtotal	300,000	

Summary of Recommendation: School Accountability Reports and State Data Reporting System		
Description	General Fund	FTE
<u>Operating Expenses:</u>		
Printing and reproduction services	290,000	
Information technology software and equipment purchases	181,594	
Software maintenance and technical support contracts	250,000	
Supplies / postage	19,500	
Communications / telephone / fax	5,000	
Registrations	11,000	
Travel	<u>3,500</u>	
Subtotal	760,594	
Recommended FY 08-09 appropriation	1,318,735	3.0

Staff recommends approving the request, which is calculated in accordance with Committee policy.

Purchase of Services from Computer Center. This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. The Department, through a budget amendment submitted in January 2008, requests \$42,435 General Fund for this purpose for FY 2008-09. **Staff's recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Multi-use Network Payments. This line item is used to pay the Department's share of the statewide multi-use network. The Department, through a budget amendment submitted in January 2008, requests \$35,640 General Fund for multi-use network payments for FY 2008-09. **The Committee policy is pending for this decision item, so staff's recommendation for this purpose is pending.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Information Technology Asset Maintenance. This line item provides funding for the Department to implement an asset management plan to achieve and maintain a standard information technology environment. The Department requests a continuation level of funding for this line item (\$90,697). **Staff recommends approving the request for \$90,697 for FY 2008-09**, which is equal to the Department's actual expenditures in FY 2001-02. This level of appropriation should provide sufficient funding for the Department to continue to pay for critical hardware and software

maintenance contracts, as well as a relatively small amount of funding to cover necessary replacements of equipment at risk of failing (e.g., servers, switches, printers, or personal computers).

Disaster Recovery. This line item provides funding for the equipment, disks, and tapes necessary to implement a disaster recovery plan. In FY 2001-02 and FY 2002-03, funding for this line item was reduced by \$7,464 (27.5 percent). Funding is currently used for: equipment and supplies; offsite tape rotation; and server lease payments. The Department's request for this line item for FY 2008-09 represents a continuation level. **Staff recommends approving the request for \$19,722.**

(C) Assessments and Data Analyses [New subsection heading]

Colorado Student Assessment Program (CSAP).

Background Information. Pursuant to H.B. 93-1313 and subsequent legislation, the Department developed educational model content standards in twelve subject areas and, each year since 1997, has administered student assessments in several subject areas and grades. The costs associated with administering the assessments include initial and ongoing development of the exams, printing and mailing of the exams, teacher training related to exam administration, scoring of the exam, and reporting exam scores. The total cost of assessments thus directly relates to the number of subject areas and grade levels assessed each year. In the current school year, the Department will administer all 23 assessments currently required by statute, as well as the ACT.

Please note that the federal *No Child Left Behind Act*, passed by Congress in December 2001, required Colorado to implement four new assessments: mathematics assessments for third grade and fourth grade students; a science assessment for third, fourth or fifth grade students (Colorado chose fifth grade); and a science assessment for tenth, eleventh, or twelfth grade students (Colorado chose tenth grade). Pursuant to H.B. 03-1306 [Section 22-7-409 (1) (g), C.R.S.], the Department was required to develop and administer these four new assessments if the State received sufficient moneys from the federal government through the *No Child Left Behind Act*. The following table provides a summary of the assessments administered pursuant to state law, and those now required by federal law.

Grade	Colorado Student Assessment Program*	Federal Requirements	Existing Assessments <u>Not</u> Required by Federal Law
3	reading writing math	reading math	writing
4	reading writing math	reading math	writing
5	reading writing math science	reading math science (in grades 3, 4, or 5)	writing

Grade	Colorado Student Assessment Program*	Federal Requirements	Existing Assessments <u>Not</u> Required by Federal Law
6	reading writing math	reading math	writing
7	reading writing math	reading math	writing
8	reading writing math science	reading math science (in grades 6, 7, 8, or 9)	writing
9	reading writing math		reading writing math
10	reading writing math science	reading math science (in grades 10, 11, or 12)	writing
11	ACT		ACT

*The Department also administers "CSAP-A" assessments for children with disabilities who are unable to participate in the CSAP, even with accommodations. CSAP-A are administered in the same grade/subject levels as the CSAP with the exception of the fifth grade science assessment and the ACT. A CSAP-A is also administered to 11th grade students in reading, writing, math, and science. The Department utilizes federal special education funding (*IDEA Part B*) to pay for the development and administration of CSAP-A assessments (an estimated \$1,941,129 for FY 2007-08, including \$154,229 to implement the Colorado Parent Network).

Department Request. The Department requests a total of \$22,274,148 (including \$15,709,849 General Fund) and 6.0 FTE for this line item for FY 2008-09. This request includes an increase of \$19,007 compared to FY 2007-08; this increase is solely related to salary increases awarded in FY 2007-08.

Staff Recommendation. The majority of funding in this line item supports three contracts; two of these contracts were re-bid and renewed in 2006. Last year, the Department's budget request for FY 2007-08 did not reflect any contract-related changes. Based on information obtained from Department staff early in 2007, staff recommended an increase of \$483,801 federal funds to cover the costs of the re-bid contracts. The Department's budget request also did not reflect any change in financing, despite evidence that the methodology should be revised.

Similarly, the Department's budget request for FY 2008-09 does not reflect any contract-related changes, nor does it reflect a revised financing methodology. Based on the information provided to staff a year ago, the Department anticipated requiring at least an additional \$351,266 for two of the three contracts. Again this year, staff requested detailed information concerning contract obligations for FY 2008-09 to cover the costs of reporting the results of assessments administered in the Spring

of 2008 to school districts, plus the costs of administering 23 assessments and the Colorado statewide administration of the national college admission examination (ACT) in the Spring of 2009.

On February 20, 2008, the Department provided the requested information, including information about several contract amendments the Department is in the process of implementing; these amendments will affect costs in FY 2007-08, FY 2008-09, and subsequent fiscal years. The following table lists these recent contract amendments and the associated fiscal impacts for FY 2007-08 and FY 2008-09.

Recent Amendments to CTB - McGraw Hill CSAP and CELA Contracts		
Description	FY 07-08	FY 08-09
<i>CSAP Contract:</i>		
Non-embedded field test design	(\$2,989,286)	(\$2,925,350)
Colorado parent network	656,762	683,032
Science standard setting	172,860	0
Translations of oral transcripts	100,000	104,000
CTB Navigator On-line training	45,000	46,800
Planning meetings	20,740	20,740
Provide pre-CVAS augmented item review documentation and reporting	15,600	16,224
Technical Advisory Committee (TAC) membership stipend increase	15,000	15,600
Vision impaired printing enhancements	15,000	15,600
District Assessment Coordinators (DAC) Management meetings	9,300	9,672
Increase TAC meetings from two to three per year	6,000	6,240
Navigator e-mail history	<u>5,000</u>	<u>5,200</u>
Subtotal	(1,928,024)	(2,002,242)
<i>CELA Contract:</i>		
Colorado parent network (phases 1A, 1B, and 1C)	347,936	157,676
CELAplace (student screener) tests and online data collection	140,450	146,068
Standard setting FY09	0	86,400
Validation study	0	37,500
K-1 test redesign	30,000	0
Project management meetings	20,740	21,570

Recent Amendments to CTB - McGraw Hill CSAP and CELA Contracts		
Description	FY 07-08	FY 08-09
Split K-2 CELApro test booklets into three scannable test books	20,000	0
TAC meetings	13,765	14,316
CTB Navigator On-line training for DACs	10,000	10,000
Create and maintain a secure site on Navigator to store Department e-mails to DACs	5,000	5,200
Post test workshops	<u>1,560</u>	<u>1,622</u>
Subtotal	589,451	480,352
Total	(1,338,573)	(1,521,890)

Most of the above amendments are technical, including a significant reduction associated with a "non-embedded field test design". Apparently, based on the advise of its technical advisory panel (TAC) in 2005, the Department planned to embed new items into CSAPs to test the items' validity. The Department included this requirement in its 2005 request for proposals. Subsequently, the TAC reversed this advice, due to the Department's previous experience without embedded field tested items, as well as concerns over the length of the assessments.

Another large increase is associated with the "Colorado Parent Network". Staff has learned that this is a website to provide secure parental access to on-line information about CSAP, educational resources and home activities, student test results, and student action plans. Contract documents indicate that the vendor is required to launch the network from December 2007 through February 2008, load assessment data through April 2008, and update and maintain the website thereafter. The vendor is to provide support to school administrators via e-mail, and to parents via a toll-free customer service number during non-holiday business hours. While the Department and the Commissioner have discussed the Colorado Parent Network publicly in a number of settings, the Department has not discussed it with the Joint Budget Committee, nor has it specifically requested funding for this purpose.

Staff's recommendations do not include funding for contract amendments related to the Colorado Parent Network. This recommendation is not based on the merits of this new method of reporting results to parents. Rather, given the nature and magnitude of these contract amendments, staff believes that the Department should not have directed the vendor to begin developing the Network without legislative authorization. Staff's recommendation does reflect all of the other budget amendments. In addition, given concerns that have been expressed by Department staff concerning the current method of financing this line item, staff recommends correcting the financing methodology. **Staff recommends the following:**

- **Staff recommends decreasing the FY 2007-08 appropriation for this line item by a total of \$2,645,912** (including \$800,343 General Fund and \$1,845,569 federal funds) **and 1.3 FTE**, from \$22,255,141 to \$19,609,229. **Staff's recommendation for FY 2007-08 excludes a total of \$1,004,698 related to the Colorado parent network** (including \$560,218 General Fund and \$444,480 federal funds).
- **Staff recommends appropriating a total of \$20,312,396 and 7.0 FTE for this line item for FY 2008-09** (including \$15,719,422 General Fund). This amount is \$1,961,752 lower than the Department request. **Staff's recommendation for FY 2008-09 excludes a total of \$840,708 related to the Colorado parent network**, including \$582,626 General Fund and \$258,082 federal funds.

These recommendations include several components, detailed in the table below and discussed in the narrative that follows.

Summary of Recommendation for CSAP Line Item		
Description	FY 07-08 Revised Recomm.	FY 08-09 Recomm.
Contract with CTB - McGraw Hill for developing, scoring, and reporting CSAPs (other than CSAP-A, the new Colorado English Language Assessment, and the ACT) -- Recommendations <u>exclude</u> General Fund for Colorado parent network	<u>\$15,608,858</u>	<u>\$15,903,771</u>
General Fund	13,314,356	13,565,917
Federal Funds	2,294,502	2,337,854
Contract with CTB - McGraw Hill for developing, scoring, and reporting the Colorado English Language Assessment (CELA) -- Recommendations <u>exclude</u> federal funds for Colorado parent network (FF)	1,965,769	2,106,317
ACT test for 11th grade students (GF)	1,595,150	1,699,282
Support for state staff (7.0 FTE) who administer the CSAP	439,452	603,026
FTE	<u>4.7</u>	<u>7.0</u>
General Fund	0	454,223
Federal Funds	439,452	148,803

Summary of Recommendation for CSAP Line Item		
Description	FY 07-08 Revised Recomm.	FY 08-09 Recomm.
Total Recommendation	19,609,229	20,312,396
FTE	<u>4.7</u>	<u>7.0</u>
General Fund	14,909,506	15,719,422
Federal Funds	4,699,723	4,592,974
Change from existing appropriations	(2,645,912)	n/a
FTE	<u>(1.3)</u>	
General Fund	(800,343)	
Federal Funds	(1,845,569)	

I. Contract for development, scoring, and reporting related to the Colorado Student Assessment Program. Last year, the Department issued a request for proposal, received bids from several vendors, and awarded this contract to CTB - McGraw Hill. The components of the contract are detailed in the following table, including recent amendments.

Summary of Costs Associated With CTB - McGraw Hill Contract (Five-year contract)					
Description	FY 06-07	FY 07-08		FY 08-09	
		Original	Amended	Original	Amended
<i>Estimated # of students</i>	479,055	493,426	493,426	508,229	508,229
Development	\$1,679,472	\$1,363,922	\$848,293	\$1,319,180	\$873,743
Production	1,033,521	1,031,258	449,096	942,272	428,305
Manufacturing	4,680,367	4,820,772	3,197,400	4,934,904	3,313,653
Test administration	758,992	798,394	781,760	856,611	839,478
Scoring and reporting	9,341,573	9,597,136	9,478,713	9,885,054	9,763,079
Post-test management	565,207	582,162	449,096	651,024	445,437
Colorado parent network			656,762		683,032
Science standard setting			172,860		0
Translations of oral transcripts			100,000		104,000

Summary of Costs Associated With CTB - McGraw Hill Contract (Five-year contract)					
Description	FY 06-07	FY 07-08		FY 08-09	
		Original	Amended	Original	Amended
CTB Navigator On-line training			45,000		46,800
Planning meetings			20,740		20,740
Provide pre-CVAS augmented item review documentation and reporting			15,600		16,224
Technical Advisory Committee (TAC) membership stipend increase			15,000		15,600
Vision impaired printing enhancements			15,000		15,600
District Assessment Coordinators (DAC) Management meetings			9,300		9,672
Increase TAC meetings from two to three per year			6,000		6,240
Navigator e-mail history			<u>5,000</u>		<u>5,200</u>
Totals	18,059,132	18,193,644	16,265,620	18,589,045	16,586,803

Staff recommends decreasing the FY 2007-08 appropriation for the CSAP contract by \$2,584,786, from \$18,193,644 to \$15,608,858. Staff's recommendation excludes \$656,762 associated with the Colorado Parent Network (including \$560,218 General Fund and \$96,544 federal funds).

Staff recommends providing the \$15,903,771 to cover the costs of this contract for FY 2008-09. This amount is \$2,289,873 lower than the continuation level funding requested by the Department. Staff's recommendation excludes \$683,032 associated with the Colorado Parent Network (including \$582,626 General Fund and \$100,406 federal funds)

Fund Splits. Section 22-7-409 (3), C.R.S., states that, "for the fiscal year 1998-99 and for fiscal years thereafter, the general assembly shall appropriate moneys in the annual general appropriation act to the department to fund the Colorado student assessment program". However, consistent with the General Assembly's appropriations since FY 2002-03, staff recommends including a portion of the federal funding made available through the federal *No Child Left Behind Act* in this line item, with the balance of the appropriation coming from the General Fund. Given the anticipated

reduction in CSAP contract costs for both FY 2007-08 and FY 2008-09, **staff's recommendations are based on an updated methodology that more accurately reflects the federal share of costs of the CSAP program.** Specifically, consistent with Section 22-7-409 (1) (g), C.R.S., staff recommends applying federal funds to cover the costs of the four new federally-required assessments. This provision bars the use of General Fund moneys to develop or administer these assessments. Based on the number of each assessment administered in 2007, **staff recommends that 85.3 percent of the total costs of this contract be supported by General Fund, with the remaining 14.7 percent being supported by federal funds. Staff recommends applying this fund split to contract costs for both FY 2007-08 and FY 2008-09.**

II. Colorado English Language Assessment. The above contract with CTB - McGraw Hill does not include funding for the new Colorado English Language Assessment (CELA). The federal *No Child Left Behind Act* requires Colorado to administer a single, statewide assessment to determine the English language proficiency level of English language learners. The State is required to administer an assessment in the areas of listening, speaking, reading, and writing, and the assessment is to be based on Colorado English language development standards for particular grade configurations. Previously, school districts utilized one of three assessment for this purpose. None of these assessments were aligned with Colorado English language development standards.

The Department solicited proposals from testing companies to implement the CELA, and it awarded the contract to CTB - McGraw Hill. The CELA program consists of two distinct tests: (1) a placement test ("CELAplace") used soon after registration to screen students whose home language survey indicates that a language other than English is spoken in the home; and (2) an assessment test ("CELApro") that is administered in January each year to students identified as "no English language proficiency" (NEP), or "limited English language proficiency" (LEP) in the body of evidence gathered in the screening process. The assessment test measures proficiency in the domains of listening, speaking, reading, and writing, and it is used to calculate growth rates for English language learners statewide. In March 2006, staff provided the Committee with a table detailing the cost of the CELA over a five-year period (FY 2005-06 through FY 2009-10). Staff has updated this information based on more recent amendments to the contract.

Summary of Costs Associated With CTB - McGraw Hill CELA Contract (Years Two - Five)					
	FY 06-07	FY 07-08		FY 08-09	
Description	Actual	Original	Amended	Original	Amended
<i>Estimated # of students (four tests each)</i>		91,451		93,280	
Development	\$273,600	\$201,192	\$201,192	\$119,398	\$119,398
Printing, distribution, and collection	360,000	387,752	387,752	396,440	396,440
Scoring	590,400	599,919	459,084	611,917	574,605
Ongoing development	46,800	18,290	18,290	18,656	18,656

Summary of Costs Associated With CTB - McGraw Hill CELA Contract (Years Two - Five)					
	FY 06-07	FY 07-08		FY 08-09	
Description	Actual	Original	Amended	Original	Amended
Analysis of data	212,400	358,488	358,488	373,120	373,120
Reporting	178,200	192,048	192,048	194,022	194,022
Printing, distribution, collection, and scoring of additional materials (up to 20,000 overage)	40,000	107,400	107,400	107,400	107,400
Validation study	37,500	37,500	0	37,500	37,500
Grades 3-5 scannable formatting	61,500	61,500	0	61,500	0
Colorado parent network			347,936		157,676
Student screener tests			140,450		146,068
Standard setting			0		86,400
K-1 test redesign	142,859		30,000		0
Project management meetings			20,740		21,570
Split K-2 CELApro into 3 booklets			20,000		0
TAC meetings			13,765		14,316
On-line Navigator training			10,000		10,000
Create and maintain e-mail repository			5,000		5,200
Post test workshops	<u>1,500</u>		<u>1,560</u>		<u>1,622</u>
Totals	1,944,759	1,964,089	2,313,705	1,919,953	2,263,993

Staff recommends increasing the FY 2007-08 appropriation for the CELA contract by \$1,680 federal funds, from \$1,964,089 to \$1,965,769. Staff's recommendation excludes \$347,936 associated with the Colorado Parent Network.

Staff recommends appropriating \$2,106,317 federal funds to cover the costs of the CELA contract for FY 2008-09. This amount is \$142,228 higher than the continuation level funding requested by the Department. Staff's recommendation excludes \$157,676 associated with the Colorado Parent Network.

III. Funding for Administration of Spring 2009 ACT Test. Pursuant to Section 22-7-409 (1.5), C.R.S., all eleventh grade students in public schools are required to take a "standardized, curriculum-based, achievement, college entrance examination selected by the department,

administered throughout the United States, and relied upon by institutions of higher education that, at a minimum, tests in the areas of reading, writing, mathematics, and science...". This same provision requires the Department to "pay all costs associated with administering the curriculum-based, achievement college entrance exam." The Department entered into a contract with ACT, Inc., following the passage of S.B. 00-186. This initial contract covered the statewide ACT tests to be administered from the Spring of 2001 through 2005. The contract requires the State to pay for certain training and reporting functions performed by ACT, Inc. (functions that would not be required if Colorado did not have a statewide test date), as well as the costs of conducting the test. ACT, Inc. is responsible for the following:

- mailing administration manuals and forms, assessment test booklets, and answer sheets to test supervisors at each school;
- reviewing and approving requests for accommodations;
- providing copies of student test preparation booklets to each school;
- collecting test booklets, answer sheets, and administration manuals, and scoring student answer folders;
- producing standard score reports for each student, each school, each district, and up to four colleges/universities for each student; and
- providing an electronic detail test results file to the Department.

Since 2005 the Department has negotiated a contract with ACT annually. The following table details the basis for the existing FY 2007-08 appropriation, and the Department's most recent estimates for FY 2007-08 and FY 2008-09.

Summary of Costs Associated With ACT Contract			
Description	FY 07-08 Original	FY 07-08 Amended	FY 08-09
<i>Estimated # of students taking ACT on statewide test date</i>	<i>51,169</i>	<i>50,800</i>	<i>52,375</i>
Price per student (same as national rate)	<u>\$29.00</u>	<u>\$28.00</u>	<u>\$29.00</u>
Subtotal: Statewide test date	1,483,901	1,422,400	1,518,875

Summary of Costs Associated With ACT Contract			
Description	FY 07-08 Original	FY 07-08 Amended	FY 08-09
<i>Estimated # of students receiving voucher to take ACT on alternate test date (e.g., athletes, online students)</i>	3,500	3,000	3,750
Price per student for voucher	<u>\$31.00</u>	<u>\$30.00</u>	<u>\$31.00</u>
Subtotal: Statewide test date	108,500	90,000	116,250
Total: Student testing service costs	1,592,401	1,512,400	1,635,125
Test administration training workshops	11,000	11,000	11,000
College Readiness Standards reports (@ \$80 per request)	30,960	48,000	49,280
Data sent on CDs to schools (@ \$125/CD)	23,625	23,750	24,250
Total: Other costs	65,585	82,750	84,530
Grand Total	1,657,986	1,595,150	1,719,655

Staff recommends reducing the FY 2007-08 General Fund appropriation for the ACT contract by \$62,836, from \$1,657,986 to \$1,595,150.

Staff recommends appropriating \$1,699,282 General Fund for the ACT contract for FY 2008-09. Staff's recommendation is based on the Department's most recent estimates, but staff reduced the amount for student vouchers by \$20,367. It is not clear why one would assume the number of students requiring a voucher would increase by 25 percent in FY 2008-09. Staff assumes that the number of vouchers will increase commensurate with the overall number of tests (3.1 percent). This amount is \$41,296 higher than the continuation level funding requested by the Department.

IV. Support for state staff that administer the CSAP. This recommendation is not calculated in accordance with Committee policy and it is lower than the Department's request. Since FY 2004-05, 6.0 FTE have been reflected in this line item and have been supported by federal funds. However, based on more recent detailed information requested of and provided by Department staff, it appears that only 4.7 FTE are supported by this line item. Staff's recommendation thus includes a reduction of \$120,735 and 1.3 FTE.

In addition, as discussed earlier in this document, staff recommends transferring \$265,302 General Fund and 2.3 FTE from the "General Department and Program Administration" line item to this line item for FY 2008-09. This amount includes \$237,902 for personal services, \$21,400 for operating expenses, and \$6,000 for travel operating expenses. Given concerns expressed by the Department associated with the use of federal assessment-related funds, staff recommends reflecting all CSAP-related staff and funding in a single line item to facilitate the analysis of financing issues. The following table details the calculation of this component of the line item for FY 2008-09.

Summary of Recommendation: Personal Services and Operating Expenses Portion of CSAP Line Item		
Description	Amount	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$403,950	6.0
Salary survey awarded in FY 07-08	14,579	
80% of Performance-based pay awarded in FY 07-08	4,428	
Base reduction (1.0% for lines with 20.0+ FTE)	0	
Adjustment to reflect actual FTE	(107,323)	(1.3)
Transfer from General Department and Program Administration line item	<u>237,902</u>	<u>2.3</u>
Subtotal: Continuation personal services for FY 08-09	553,536	7.0
Operating and travel expense portion of FY 07-08 Long Bill appropriation	35,502	
Adjustment to reflect actual expenditures	(13,412)	
Transfer from General Department and Program Administration line item	<u>27,400</u>	
Subtotal: Continuation operating and travel expenses for FY 08-09	49,490	
Recommended FY 08-09 appropriation	603,026	7.0

Fund Splits. As indicated above, Section 22-7-409 (3), C.R.S., states that, “for the fiscal year 1998-99 and for fiscal years thereafter, the general assembly shall appropriate moneys in the annual general appropriation act to the department to fund the Colorado student assessment program”. However, the costs of four new federally-required assessments are to be paid for by federal funds. Staff recommends financing these 7.0 FTE based on the financing of the CSAP and CELA contracts. Staff thus recommends appropriating \$454,223 General Fund (75 percent) and \$148,803 federal funds (25 percent) to support these 7.0 FTE.

Federal Grant for State Assessments and Related Activities. Beginning with the FY 2002-03 Long Bill, the General Assembly has reflected federal funds anticipated to be available to Colorado annually pursuant to the federal *No Child Left Behind Act*, passed by Congress in December 2001. This funding is provided to states to cover the costs of developing additional statewide assessments and standards as required by the federal legislation. If a state has already developed the required assessments and standards, it may use the federal funds for other activities related to ensuring that schools and local educational agencies are held accountable for results, such as the following:

- Developing challenging state academic content and student academic achievement standards and aligned assessments in academic subjects for which standards and assessments are not required by the federal legislation;
- Developing or improving assessments of English language proficiency necessary to comply with other provisions of the federal legislation;
- Ensuring the continued validity and reliability of state assessments;
- Refining State assessments to ensure their continued alignment with the state's academic content standards and to improve the alignment of curricula and instructional materials;
- Developing multiple measures to increase the reliability and validity of state assessment systems;
- Strengthening the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement, including carrying out professional development activities aligned with state student academic achievement standards and assessments;
- Expanding the range of accommodations available to students with limited English proficiency and students with disabilities to improve the rates of inclusion of such students, including professional development activities aligned with state academic achievement standards and assessments; and
- Improving the dissemination of information on student achievement and school performance to parents and the community, including the development of information and reporting systems designed to identify best educational practices based on scientifically based research or to assist in linking records of student achievement, length of enrollment, and graduation over time.

Prior to FY 2006-07, staff asked the Department to identify what portion of this federal funding it needed to spend for activities or programs, other than the Colorado Student Assessment Program (CSAP), in order to comply with the federal *No Child Left Behind Act*. Staff's recommendations for this line item were based on the information provided by the Department, with the remaining federal funds being used to offset the costs of developing and administering federally required assessments. Thus, the level of funding reflected in this line item directly affected the amount of General Fund appropriated in the CSAP line item. The following table provides a comparison of appropriations for this line item to date and actual expenditures.

Federal Grant for State Assessments and Related Activities: FY 02-03 through FY 05-06						
State Fiscal Year	Appropriation		Actual Expenditures		Difference	
	Dollars	FTE	Dollars	FTE	Dollars	FTE
2002-03	\$1,750,457	0.0	\$239,066	4.4	(\$1,511,391)	4.4
2003-04	1,750,457	7.3	1,875,953	9.9	125,496	2.6
2004-05	1,005,673	6.0	510,037	5.6	(495,636)	(0.4)
2005-06	1,017,141	10.0	634,106	5.7	(383,035)	(4.3)

Given the significant disparities between the Department's proposed and actual expenditures for this line item, staff changed the methodology for this line item beginning in FY 2006-07. As described above, this line item now reflects the amount of federal funds that remain available after application of federal funds for the CSAP line item.

Staff thus recommends increasing the FY 2007-08 appropriation from \$188,178 and 3.0 FTE to \$2,033,747, and staff recommends reflecting \$2,140,496 and 5.7 FTE for FY 2008-09. The recommended increase in FTE is based on more recent information provided by the Department. The recommended dollar amounts are detailed in the following table.

Summary of Costs Associated With ACT Contract			
Description	FY 07-08 Original	FY 07-08 Amended	FY 08-09
Available federal funds	\$6,733,470	\$6,733,470	\$6,733,470
Costs of federally required assessments (3rd and 4th grade math assessments; 5th and 10th grade science assessments)		2,294,502	2,337,854
Colorado English language assessments		1,965,769	2,106,317
Federally-funded staff		<u>439,452</u>	<u>148,803</u>
Total federal funds required for CSAP line item	6,545,292	4,699,723	4,592,974
Federal funds remaining available for other allowable activities	188,178	2,033,747	2,140,496

Longitudinal Analyses of Student Assessment Results.

Background Information - Statutory Requirements. Since 2000, the General Assembly has passed several bills⁸ concerning longitudinal analyses of student assessment results, and the provision of diagnostic information to districts and schools for the purpose of improving instruction. The Department has accomplished the following tasks to date:

- The Department has implemented a state data reporting system, which stores individual student assessment results.
- The Department has developed a process for assigning individual student identifiers to all students in public schools, including preschool children participating in the Colorado Preschool and Kindergarten Program and disabled preschool children receiving special education services. In addition, pursuant to S.B. 06-24, the Department has worked with the Colorado Commission on Higher Education to ensure that these unique identifiers will be used by Colorado higher education institutions.
- As required by Section 22-7-604, C.R.S., the Department now assigns each school an annual academic growth rating based on the proportion of students who make gains from one year to the next (i.e., comparing students' scale scores from one year to the next).
- As required by Section 22-7-604.3, C.R.S., the Department has developed a "mixed effects statistical model" to diagnostically calculate individual students' academic growth. The Department has calculated what constitutes sufficient academic growth for each student for each school year (i.e., how much growth needs to occur for that student to become proficient by at least 10th grade). In addition, just last school year, the Department provided districts and charter schools with electronic diagnostic growth information for each student enrolled in each school, based on assessment results.

Most recently, H.B. 07-1048 directed the Governor to appoint, and the Department of Education to convene, a new technical advisory panel to assist the Department in developing a longitudinal growth model to measure the academic growth of students. The act established new requirements and a timeline for development and implementation of the model, and it required the Department to calculate adequate longitudinal growth for each student and each school beginning July 1, 2007, and by July 1 each year thereafter. The panel was to develop a new method to identify schools that demonstrate the highest rate of academic growth for purposes of the Governor's Distinguished Improvement Awards. The Technical Advisory Panel has submitted a report to the State Board concerning the recommended statistical model, and the State Board anticipates promulgating rules related to the growth model on March 13, 2007.

⁸ Bills concerning longitudinal assessment have included the following: S.B. 00-186, S.B. 01-129, S.B. 02-59, H.B. 02-1349, S.B. 03-248, H.B. 04-1433, H.B. 05-1217, H.B. 06-1109, and H.B. 07-1048.

Department Request/ Staff Recommendation. The Department requests a continuation level of funding and staff for FY 2008-09 (\$286,732 and 3.0 FTE). The Department has filled two of the three FTE, and it is currently contracting for the third FTE. **Staff recommends approving the request, which is calculated in accordance with Committee policy.** The following table identifies the components of the appropriation.

Summary of Recommendation: Longitudinal Analyses of Student Assessment Results		
Description	Total Funds	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$217,629	3.0
Salary survey awarded in FY 07-08	7,350	
80% of Performance-based pay awarded in FY 07-08	2,258	
Base reduction (1.0% for lines with 20.0+ FTE)	0	
Subtotal: Continuation personal services	227,237	3.0
Contractual services	34,500	
Operating expenses and capital outlay	24,995	
Recommended FY 08-09 appropriation	286,732	3.0

(D) State Charter School Institute [New subsection heading]

Background Information - Creation. House Bill 04-1362 created the State Charter School Institute as an independent agency in the Department of Education. The Institute is allowed to authorize "institute charter schools" located within a school district's boundaries if the school district has not retained exclusive authority to authorize charter schools. The act also created a board to oversee the operations of the Institute, and permits the Institute to hire staff and contract for services.

The act directs the Department to withhold a portion of the State Share of Districts' Total Program funding from the school district where an institute charter school is located and to forward the withheld amount to the Institute. The act permits the Department to retain up to 2.0 percent of the amount withheld from the State Share "as reimbursement for the reasonable and necessary costs to the department to implement the provisions of [Section 22-30.5-501 et seq., C.R.S.]" (see Section 22-30.5-513 (4) (a), C.R.S.). The act also permits the Institute to retain up to 3.0 percent of the amount withheld from the State Share for the "actual costs incurred by the institute in providing necessary administration, oversight, and management services" to institute charter schools (see Sections 22-30.5-513 (2) (b) and (4) (a), C.R.S.).

Current Status, Projections. There are currently 12 Institute charter schools⁹. The following table details funding that will be transferred from various line items and made available to the Institute and its schools in FY 2007-08, as well as estimates for FY 2008-09.

State Charter School Institute: Funding		
Description	FY 07-08	FY 08-09 Estim. <a>
<i>Transfer from State Share line item:</i>		
Number of Schools	12	15
Funded Pupil Count	4,087.5	5,469.5
Per pupil funding	\$6,480.27	\$6,714.12
Total transfer from State Share line item	\$26,488,112	\$36,722,897
<i>Transfers from categorical programs:</i>		
Special Education - Children with Disabilities	\$271,112	\$341,654
English Language Proficiency Program	30,357	38,256
Public School Transportation	145,519	200,000
Special Education - Gifted and Talented Children	<u>36,583</u>	<u>46,102</u>
Subtotal - Categorical funding	483,571	626,012
Categorical funding / funded pupil count	\$118	\$114
<i>Other grants and distributions:</i>		
Charter school capital construction	\$437,506	\$574,298
Smart Start Nutrition Program	14,000	17,643
State Match for School Lunch Program	<u>3,058</u>	<u>3,854</u>
Other grants and distributions	454,564	595,795
Total: Categorical programs and other transfers	\$938,135	\$1,221,807

<a> All FY 2008-09 estimates provided by State Charter School Institute (via Department) February 26, 2008.

⁹ Including: Pinnacle Charter School (Adams 12 - Northglenn); Colorado Distance & Electronic Learning Academy, and The Academy at High Point (Adams - Brighton 27J); Ricardo Flores Magon Academy (Adams - Westminster); 21st Century, Colorado Springs Charter Academy, Colorado Springs Early Colleges, and CCSN (El Paso - Colorado Springs D-11); Ross Montessori (Garfield - Roaring Fork); Stone Creek Elementary (Eagle), Northern Colorado Academy of Arts & Knowledge (Larimer - Poudre); and Caprock Academy (Mesa - Mesa Valley 51).

General Description of Appropriations Format. House Bill 04-1362 did not include provisions requiring the Institute to establish funds and accounts for budgeting and accounting purposes (similar requirements for school districts are included in Article 45 of Title 22, C.R.S.). Absent these requirements, the accounting staff at the Department (who perform all accounting duties on behalf of the Institute) use the State Charter School Institute Fund for purposes of accounting for all of the funds that flow through or are spent by the Institute. This fund was originally created for purposes of accounting for gifts, grants, or donations received by the Institute. Moneys in this fund are subject to available appropriations. Department staff indicated that pursuant to Section 22-54-114 (1), C.R.S., they are authorized to forward the State Share moneys to Institute charter schools without a separate appropriation. However, Department staff believe that spending authority is required out of the State Charter School Institute Fund for the Institute to incur administrative expenses and for the Institute to forward any categorical funding to Institute charter schools.

Since FY 2006-07, the Long Bill has included four line items to allow the Department to forward funds as necessary to the Institute and its schools, and to track Department-level expenditures related to the Institute. While this structure is not ideal, it appears to be functional given the current circumstances. Each of the line items is discussed below, along with recommended funding levels for FY 2008-09.

State Charter School Institute Administration, Oversight, and Management. This line item provides spending authority to the Institute to spend up to 3.0 percent of the amount withheld from the State Share of Districts' Total Program Funding line item. Moneys are used to provide the necessary administration, oversight, and management services to Institute charter schools. **Staff recommends providing \$1,738,844 cash funds exempt spending authority (transfer from the State Share line item) and 13.0 FTE.** The dollar amount includes two components: (1) \$1,101,687 (based on multiplying the projected transfer from the State Share line item or \$36,722,897, times 3.0 percent); and \$637,157 to allow the Institute to pay the Pikes Peak Board of Cooperative Services to provide exceptional student services to four individual Institute charter schools (consistent with the Committee's approval of a FY 2007-08 supplemental request in October 2007).

The FTE level is based on information recently provided by the Institute. Pursuant to Section 22-30.5-505, C.R.S., any staff hired by the Institute Board "shall be deemed employees subject to the state personnel system of this state...except that, as a matter of legislative determination, all positions classified by the institute board as professional officers and professional staff of the institute are declared to be educational in nature and exempt from the state personnel system". Thus, staff believes that it is appropriate to reflect the staff hired by the Institute in the annual Long Bill, along with the funding source(s) that support the staff. The following table details the Institute's current and planned staffing levels.

State Charter School Institute Staffing	
FTE	Position
<u>Current Positions:</u>	
1.0	Executive Director
1.0	Director Exceptional Student Services
1.0	District Assessment Coordinator
1.0	Office Manager
1.0	Assistant Director of Exceptional Student Services
1.0	Director of Fiscal Services
1.0	Director of Academics
1.0	Special Educational Assistant
<u>1.0</u>	Director of Food Service and Nutrition
9.0	
<u>Additional Positions Proposed for FY 2008-09:</u>	
1.0	Accounting Tech II
1.0	School Teacher Monitor
0.5	Compliance Manager
0.5	School Training Coordinator
0.5	Assistant Director of Exceptional Student Services
<u>0.5</u>	Assistant to Director of Exceptional Student Services GT/ESL
4.0	
13.0	Total for FY 2008-09

Direct Administrative and Support Services Provided by the Department to the State Charter School Institute. This line item provides spending authority for the Department to receive funds from the Institute out of the above line item. House Bill 04-1362 authorized the Institute to "contract with any boards of cooperative services ... or with any other qualified individual or public or private entity or organization, including a school district, for the provision of administrative or other support services directly to the institute or for the benefit of institute charter schools" (see Section 22-30.5-505 (6) (a), C.R.S.). The Department currently performs a number of duties on behalf of the Institute, including accounting, payroll, purchasing, human resources, contracts, etc. This line item thus allows the Department to receive and expend moneys from the Institute, out of the above line item, for this purpose.

Staff recommends approving the request for \$99,686 cash funds exempt spending authority (transfer from the above line item) and 2.0 FTE for FY 2008-09. This amount represents a continuation level of funding, calculated consistent with Committee policy. It is staff's understanding that the Department provided these services pursuant to a memorandum of understanding with the Institute.

Other Transfers to Institute Charter Schools. This line item was intended to provide spending authority to the Department to forward categorical funding, as appropriate, to Institute charter schools. **Staff recommends providing \$1,222,000 cash funds exempt spending authority for FY 2008-09** (transfer from various categorical line items). The components for this rounded dollar amount are detailed in the table on page 69.

Department Implementation of Section 22-30.5-501 et seq., C.R.S. This line item is intended to provide spending authority to the Department to spend up to 2.0 percent of the amount withheld from the State Share for performing Department-level duties associated with the implementation of H.B. 04-1362. **Staff recommends providing \$734,458 cash funds exempt spending authority** (transfer from the State Share line item) **and 5.0 FTE.** The dollar amount is based on multiplying the projected transfer from the State Share line item (\$36,722,897) times 2.0 percent. The Department has not requested a change in the FTE authorization for FY 2008-09.

Please note that staff's recommendation assumes that the Department's workload related to the implementation of Section 22-30.5-501 *et seq.*, C.R.S., will increase proportionately with increases in the number of students attending Institute charter schools. If the Department spends less than the amount appropriated through this line item, the unspent funds should be forwarded to Institute charter schools (similar to the arrangement between school districts and their charter schools). It is not clear to staff that it will be reasonable to continue authorizing the Department to spend the full amount statutorily allowed each fiscal year. **Staff thus recommends that the Committee include the following written request for information:**

Department of Education, Management and Administration, State Charter School Institute, Department Implementation of Section 22-30.5-501 et seq., C.R.S. - The Department is requested to submit a report to the Joint Budget Committee by July 1, 2008, concerning the method used to calculate the costs and additional Department staff required to implement Section 22-30.5-501 *et seq.*, C.R.S. The Department is also requested to make a recommendation as to whether the 2009 Long Bill should continue to include a separate line item appropriation for this purpose, or whether the costs and associated FTE should be reflected in the other relevant line items.

(E) Other [this subsection would not be necessary per staff's recommendations for these line items]

Civic Education. Pursuant to Section , 22-1-104 (6), C.R.S. (S.B. 05-200), the Department is required to assist school districts in developing and promoting civic education programs (*emphasis added*):

"(a) In an effort to strengthen the teaching of civic education in all public schools of the state in accordance with the requirements of this section, the department of education shall assist the school districts of the state in developing and promoting programs for

elementary and secondary students that address the state model content standards for civics and promote best practices in civic education.

(b) It is the intent of the general assembly that the objectives specified in this subsection (6) are to be funded through the state education fund created in section 17 (4) of article IX of the state constitution. The general assembly hereby finds that the development, promotion, and maintenance by the school districts of the state of programs for elementary and secondary students that address the state model content standards for civics and promote best practices in civic education *assist these students in meeting state academic standards* and may therefore be funded from moneys in the state education fund."

For the last three fiscal years, the General Assembly has appropriated \$200,000 from the State Education Fund for this purpose.

In FY 2005-06 and FY 2006-07, the Department used this funding to support a professional development initiative on teaching and learning civic content and skills in Colorado classrooms. The initiative focused on selected promising practices, including: discussion of public issues; study of law, U.S. government, civics, and democracy; simulations of democratic practices and procedures; and collaborating with the community to provide civic learning, particularly through authentic interactions with policymakers. In addition, for teachers, the initiative provided professional development and assistance with linking civics and literacy.

In FY 2007-08, the Department plans to: (1) provide professional exchange programming and support for teachers who participated in previous years; (2) replicate and refine the seminar and classroom coaching program in two new sites; and (3) develop and support a statewide study group focused on government courses that reflect best practice. The Department anticipates serving approximately 130 new teachers and continuing programming for 40 teachers who participated during the previous two years. In addition, the Department plans to conduct a review of research and best practices in civic education and disseminate findings and recommendations to the field.

In FY 2008-09, the Department plans to align activities with the Department's "Forward Thinking" goals, and engage in the following activities:

- Enhance professional development involving best practices in civic education;
- In order to design and implement a more consistent and comprehensive statewide system of support to the civic education community, provide support to help schools and districts build the capacity needed to achieve ambitious student outcomes;
- Review and refine the civics model content standards to reflect 21st Century skills, college, and workforce readiness; and
- Design, detail, and disseminate model civics curricula and related assessment tools that districts may voluntarily use and that are aligned with research, proven to deliver results, and supported through competent providers of technical support.

The Department requests a continuation level of funding for FY 2008-09. **Staff recommends approving the request.** In addition, as part of staff's recommended re-organization of the Long Bill, **staff recommends transferring this line item to the Assistance to Public Schools, (C) Grant Programs, Distributions, and Other Assistance, (IV) Professional Development and Instructional Support.**

Financial Literacy. Pursuant to Section 22-2-127, C.R.S. (H.B. 04-1360), the State Board of Education is required to create, maintain, and make available to school districts a resource bank of materials pertaining to financial literacy. The Department is required to provide technical assistance related to curriculum design upon the request of a school district or a charter school. This provision includes a legislative declaration that the creation of a financial literacy resource bank is "an important element of an *accountable program to meet state academic standards*" and may therefore receive funding from the State Education Fund. The Department is also authorized to accept and expend any gifts, grants, or donations for purposes of implementing this provision, which are to be credited to the Financial Literacy Cash Fund.

Initially, the Department added links through its webpage to various materials and information sources related to financial literacy resources, curriculum instruction and assessment materials. Beginning in FY 2005-06, the Department distributed a request for proposals allowing schools and districts to submit proposals for designing and implementing financial literacy curriculum and instruction.

In FY 2005-06, six schools and districts received grants ranging from \$5,234 to \$8,044. In FY 2006-2007, four schools and districts received grants of \$10,000 each. The Department has not yet distributed funds for FY 2007-08. The Department sought feedback from previous grantees and financial groups in the state, and learned that while financial literacy curriculum materials are readily available at low or no cost, teachers lack a clear understanding of how to implement financial literacy tenets into existing curriculum structures. The Department determined that what educators value most is model curriculum that integrates these financial literacy concepts into the curriculum design in a meaningful way. Teachers also need technical support on how to teach using these integrated materials.

The Department plans to convene focused groups of financial literacy institutions and educators of business, economics, and math to study this issue and design model curriculum. The graduation guidelines council and Colorado Department of Higher Education will also be included in these planning conversations. The Department will use feedback from these various groups to determine and outline next steps for technical assistance. A school district may be engaged to develop and implement model curriculum that integrates financial literacy into their existing curricula for all students and provide these materials to others in the state.

In FY 2008-09, the Department plans to disseminate and provide technical assistance for the implementation of model financial literacy curriculum. This approach is consistent with the

Department's "Forward Thinking" goal to design, detail and disseminate model curricula in the area of financial literacy. The Department indicates that pilot programs would continue and be expanded that would help to find ways to integrate financial literacy into existing curriculum at various grade levels. The artifacts that are developed would be available to districts and schools across the state.

Staff recommends approving the request for a continuation level of funding (\$40,000) for this line item for FY 2008-09. In addition, staff recommends transferring this line item to the Assistance to Public Schools, (C) Grant Programs, Distributions, and Other Assistance, (IV) Professional Development and Instructional Support.

(2) ASSISTANCE TO PUBLIC SCHOOLS

(A) Public School Finance

Administration [New line item]. As discussed more fully in the narrative for the General Department and Program Administration line item, **staff recommends transferring to this new line item \$1,145,439 General Fund and 13.0 FTE responsible for administration of the School Finance Act and the Colorado Preschool and Kindergarten Program, as well as auditing school districts** to ensure compliance with the federal school lunch program, public school transportation, and English language proficiency programs. This amount includes \$1,060,459 for personal services, \$38,031 for operating expenses, and \$46,949 for travel expenses (including \$13,702 requested through DI #9).

State Share of Districts' Total Program Funding.

Background Information. The primary source of funding for public schools in Colorado is provided pursuant to the Public School Finance Act of 1994, which establishes a per pupil-based formula for determining the "total program" funding level for each school district. The formula provides the same *base* amount of funding per pupil for every district. Pursuant to Section 17 of Article IX of the Colorado Constitution, the General Assembly is required to provide annual inflationary increases in base per pupil funding. Specifically, for FY 2001-02 through FY 2010-11, the base per pupil funding amount must increase annually by at least the rate of inflation plus one percent; for FY 2011-12 and each fiscal year thereafter, the base per pupil funding amount must increase annually by at least the rate of inflation. For FY 2008-09, base per pupil funding will need to increase from \$5,087.61 to \$5,250.41 (3.2 percent), based on an actual inflation rate of 2.2 percent in CY 2007.

The formula increases base per pupil funding for each district based on factors that affect districts' costs of providing educational services. The formula also provides additional funding for districts with students who may be at risk of failing or dropping out of school. Thus, actual per pupil funding varies for each district. Legislative Council staff project that, on average, districts will receive per pupil funding of \$6,881.06 in FY 2008-09 (an increase of 3.3 percent). Each individual district's per pupil funding is multiplied by its funded pupil count to determine its "total program" funding.

Local property and specific ownership taxes provide the first source of revenue for districts' total program funding, and the remainder is covered by state funds. Property taxes are based on each district's mill levy and the assessed (taxable) value of property in each district. Specific ownership taxes are paid on motor vehicles. State funds are then appropriated to fund the balance of districts' total program funding. For FY 2008-09, Legislative Council staff project that local property taxes and specific ownership taxes will increase by 2.6 percent.

Department Request. The Department's request for school finance for FY 2008-09 is based on a 1.4 percent projected increase in the funded pupil count (including (including the statutorily authorized increase of 3,500 Colorado Preschool and Kindergarten Program half-day slots), a 3.8 percent increase in the statewide base per pupil funding, and a 2.6 percent increase in available local revenues. The Department has also submitted a supplemental request and a budget amendment to adjust the financing of this line item for both FY 2007-08 and FY 2008-09. These requests provide for a 5.0 percent increase in the *General Fund portion* of school finance appropriations for FY 2007-08, and a 5.3 percent increase from FY 2007-08 to FY 2008-09. The following table summarizes the key components of the Department's requests for FY 2007-08 and FY 2008-09 (which includes increases requested through **Decision Item #1**) and staff's recommendations for both FY 2007-08 and FY 2008-09.

School Finance: Total Program	FY 07-08			FY 08-09	
	Current Approp.	Requested Approp.	Recomm. Approp.	Request	Recomm.
Funded Pupil Count	768,416.3	760,839.8	760,917.3	771,555.2	771,555.2
<i>Annual Percent Change</i>	2.0%	1.0%	1.0%	1.4%	1.4%
Statewide <u>Base</u> Per Pupil Funding	\$5,087.61	\$5,087.61	\$5,087.61	\$5,280.94	\$5,250.41
<i>Annual Percent Change</i>	4.6%	4.6%	4.6%	3.8%	3.2%
Statewide <u>Average</u> Per Pupil Funding	\$6,658.37	\$6,661.03	\$6,661.03	\$6,919.16	\$6,881.06
<i>Annual Percent Change</i>	4.7%	4.7%	4.7%	3.9%	3.3%
Total Program Funding	\$5,116,400,811	\$5,067,974,797	\$5,068,490,332	\$5,338,513,109	\$5,309,121,089
<i>Annual Percent Change</i>	6.8%	5.8%	5.8%	5.3%	4.7%
<u>Local Share</u> of Districts' Total Program Funding	\$1,850,072,036	\$1,915,779,555	\$1,915,779,555	\$1,965,507,032	\$1,964,994,614
Less: Local taxes foregone as a result of locally negotiated business incentive agreements	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$418,016)</u>
Net local share	\$1,850,072,036	\$1,915,779,555	\$1,915,779,555	\$1,965,507,032	\$1,964,576,598
<i>Annual Percent Change</i>	7.0%	10.8%	10.8%	2.6%	2.5%
<u>State Share</u> of Districts' Total Program Funding (<u>including</u> amount related to BIAs)	\$3,266,328,775	\$3,152,195,242	\$3,152,710,777	\$3,373,006,077	\$3,344,544,491
<i>Annual Percent Change</i>	6.8%	3.0%	3.0%	7.0%	6.1%
<i>State Share as % of Districts' Total Program</i>	63.8%	62.2%	62.2%	63.2%	63.0%

For FY 2007-08, staff recommends a total reduction in state funding of \$113,617,998. This is slightly less of a reduction than indicated by staff on January 23, 2008, based on updated information from the Department. Specifically, following the resolution of a dispute between Pueblo-60 and one of its charter schools, the funded pupil count and the state share of funding are now slightly higher. Consistent with staff's January recommendation, **staff recommends reducing the General Fund appropriation by the maximum allowable amount (\$33,949,953), reducing appropriations from the State Public School Fund by \$13,400,000 (based on lower than projected federal mineral lease revenues), and reducing the State Education Fund appropriation by \$66,268,045.**

For FY 2008-09, staff recommends providing a total of \$3,344,544,491 state funding for school finance. Staff's recommendation is based on current law, and the most recent projections provided by Legislative Council Staff. [Please note that the annual appropriation for school finance is based on estimates of pupil counts and local property tax revenues. Thus, the annual appropriation typically requires a mid-year adjustment once the actual data is available.] The staff recommendation is lower than the Department's request due to a lower than anticipated inflation rate (2.2 percent compared to OSPB's projection of 2.8 percent). The following table summarizes staff's recommendation, by fund source, in relation to the request. Staff has provided a discussion of each funding source following the table.

Sources of Funds Appropriated for Public School Finance (Including Amounts Related to Business Incentive Agreements)				
Fund Source	FY 07-08 Recommended Appropriation	FY 2008-09 Request	FY 2008-09	
			Recomm. Approp.	Annual Change
General Fund (including amount appropriated for BIAs)	\$2,790,546,868	\$2,938,404,252	\$2,938,404,252	\$147,857,384
<i>Annual Percent Change</i>	<i>5.0%</i>	<i>5.3%</i>	<i>5.3%</i>	
Cash Funds: State Public School Fund (rental income earned on public school lands)	9,491,876	9,491,876	9,491,876	0
<i>Annual Percent Change</i>	<i>0.0%</i>	<i>0.0%</i>	<i>0.0%</i>	
Cash Funds Exempt: State Public School Fund (federal mineral lease revenues, interest earned on the Public School Fund, audit recoveries, and reserves)	93,609,000	99,100,000	96,026,807	2,417,807
<i>Annual Percent Change</i>	<i>2.1%</i>	<i>5.9%</i>	<i>2.6%</i>	
Cash Funds Exempt: State Education Fund	259,063,033	326,009,949	300,621,556	41,558,523
<i>Annual Percent Change</i>	<i>-13.6%</i>	<i>25.8%</i>	<i>16.0%</i>	
Total State Funds (including BIA-related appropriation)	3,152,710,777	3,373,006,077	3,344,544,491	191,833,714
<i>Annual Percent Change</i>	<i>6.8%</i>	<i>7.0%</i>	<i>6.1%</i>	

State Public School Fund. The State Public School Fund (SPSF) is the smallest source of revenue available for public school finance. The SPSF receives revenues from four primary sources¹⁰, discussed below.

1. *Federal Mineral Lease Revenues.* A portion of federal funds received by the State for sales, bonuses, royalties, and rentals of public lands within the State are also credited to the SPSF. These "federal mineral lease revenues" are primarily derived from coal, gas, and oil, and most revenues are earned from federal lands on the Western Slope. Due to production and price changes, federal mineral lease revenues can vary significantly from year to year, and are therefore difficult to project. Staff has utilized information recently provided by Legislative Council Staff to estimate federal mineral lease revenues for FY 2008-09.
2. *Interest and Income Earned on the Public School Fund.* Section 3 of Article IX of the Colorado Constitution establishes the "Public School Fund" (often referred to as the "Permanent" School Fund). This fund consists of proceeds from lands that were granted to the State by the federal government for educational purposes (usually referred to as "state trust lands" or "public school lands"). The Public School Fund is to remain intact, but pursuant to a provision enacted in 1877, the interest earned on the Fund:

"... shall be expended in the maintenance of the schools of the state, and shall be distributed amongst the several counties and school districts of the state, in such manner as may be prescribed by law".

Subsequently, voter approval of an initiated measure in 1996 amended this provision in three ways:

- The provision now pertains to both interest "and other income" earned on the Fund.
- The General Assembly is now allowed to establish terms and conditions under which the State Treasurer may: (a) invest the Fund in school district bonds; (b) use the Fund and associated earnings to guaranty school district bonds; or (c) make loans to school districts.
- The provision now requires that, "Distributions of interest and other income for the benefit of public schools provided for in [Article IX] shall be in addition to and not a substitute for other moneys appropriated by the general assembly for such purposes".

¹⁰ Please note that the Department is required to transfer to the SPSF, on a quarterly basis, amounts appropriated from the General Fund for the state share of districts' total program funding [see Section 22-54-114 (1), C.R.S.]. The SPSF thus serves as a flow-through account for much of the state funding for school finance. In addition, the Department is required to transfer half of any unexpended balance at the end of each fiscal year to the Colorado Comprehensive Health Education Fund. These portions of the SPSF are excluded from the above discussion.

All interest derived from the investment and reinvestment of the Public School Fund is to be credited to the "Public School Income Fund", and then periodically transferred to the "State Public School Fund" [Section 22-41-106, C.R.S.]. Moneys in the State Public School Fund (SPSF) are then appropriated by the General Assembly for the State's share of districts' total program funding and other educational programs. Pursuant to S.B. 03-248 [Section 22-41-102 (3), C.R.S.], the maximum amount of interest earnings that may be expended annually is \$19.0 million.

3. *Rental Income Earned on Public School Lands.* A portion of rental income earned on public school lands, including mineral royalties, grazing fees, land sales, timber sales, and interest earnings, is credited to the SPSF. A portion of rental income is also appropriated to support the State Land Board, and the remainder is transferred to the Public School Fund. Pursuant to S.B. 05-196 [Section 36-1-116 (1) (a) (II), C.R.S.], beginning in FY 2005-06, the amount transferred to the SPSF is limited to \$12.0 million.

4. *District Audit Recoveries.* The balance of annual revenues to the SPSF come from amounts recovered by the Department pursuant to school district audits. Prior to FY 1997-98, these amounts were simply deposited into the General Fund. These recoveries may decline now that the Department is able to identify many student count errors and duplications electronically during the school year.

Based on the most recent projections of the above-described revenue sources, **staff's recommendation is based on the following projected revenues to the State Public School Fund for FY 2008-09:**

Projections of Moneys Available in the State Public School Fund: FY 2008-09	
Description	Amount
Projected year-end fund balance, FY 07-08	\$3,085,907
Interest earnings (capped statutorily)	19,000,000
Federal mineral lease revenues	74,470,900
Rental income earned on public school lands (capped statutorily)	12,000,000
District audit recoveries	<u>3,000,000</u>
Total funds projected to be available	111,556,807

Projections of Moneys Available in the State Public School Fund: FY 2008-09	
Description	Amount
Amount required to public school laws [pursuant to Section 22-2-112 (1) (i), C.R.S.]	(35,480)
State match for School Lunch Program [pursuant to Section 22-54-123, C.R.S.]	(2,472,644)
Supplemental on-line education programs [pursuant to Sections 22-2-130 and 22-5-119]	(530,000)
Subtotal: Expenditures for purposes other than the School Finance Act	(3,038,124)
Recommended appropriation from State Public School Fund for the State Share of Districts' Total Program Funding for FY 08-09	<u>105,518,683</u>
Cash funds portion	9,491,876
Cash funds exempt portion	96,026,807
Projected fund balance for FY 2008-09 (based on current accounts receivable)	3,000,000

Staff's recommended appropriation from the State Public School Fund is lower than the Department's request because staff is utilizing more recent projections of federal mineral lease revenues.

State Education Fund. The State Education Fund consists of one-third of one percent of income tax revenues, plus any interest earned on the fund balance. The General Assembly may annually appropriate moneys from the State Education Fund for a number of education-related purposes, including complying with the requirement to annually increase base per pupil funding for public school finance. State Education Fund revenues are not subject to the Taxpayer Bill of Rights (TABOR) limitation on fiscal year spending, and any appropriation from the State Education Fund is not subject to the six percent statutory limitation on state General Fund appropriations. **Staff recommends appropriating a total of \$300,621,556 from the State Education Fund for this line item**, which is simply the difference between the total recommended appropriation for this line item and the amounts available from other available fund sources.

General Fund. Although moneys available in the State Public School Fund and the State Education Fund may be used to provide a portion of the funding required for districts' total program and for categorical programs, the state General Fund has always been and will continue to be the primary source of funding for this purpose. Currently, the General Fund provides over 88 percent of the *state* funding for districts' total program funding.

For purposes of providing a historical perspective, the following table summarizes annual appropriations for the *state share* of school districts' total program funding since FY 1994-95 (when the current School Finance Act was adopted). From FY 1994-95 to FY 2000-01, the compound annual growth rate in General Fund appropriations for districts' total program funding was 6.13

percent. This compares to a compound annual growth rate of 5.02 percent for the six years following the passage of Amendment 23 (FY 2001-02 through FY 2006-07).

TABLE 6 Recent History of Appropriations for the State Share of Districts' Total Program Funding						
Fiscal Year	General Fund	Annual % Change	State Public School Fund/ State Education Fund	Annual % Change	Total Funds	Annual % Change
1994-95	\$1,393,562,842		\$34,016,762	-36.87%	\$1,427,579,604	
1995-96	1,469,655,920	5.5%	56,613,541	66.43%	1,526,269,461	6.91%
1996-97	1,594,123,930	8.5%	53,580,360	-5.36%	1,647,704,290	7.96%
1997-98	1,689,946,178	6.0%	35,647,023	-33.47%	1,725,593,201	4.73%
1998-99	1,776,015,806	5.1%	74,830,202	109.92%	1,850,846,008	7.26%
1999-00	1,887,449,285	6.3%	42,685,306	-42.96%	1,930,134,591	4.28%
2000-01	1,974,673,211	4.6%	73,400,663	71.96%	2,048,073,874	6.11%
Passage of Amendment 23						
2001-02	2,073,406,872	5.0%	156,629,363	113.39%	2,230,036,235	8.88%
2002-03	2,137,582,405	3.1%	346,960,158	121.52%	2,484,542,563	11.41%
2003-04	2,247,917,791	5.2%	379,156,261	9.28%	2,627,074,052	5.74%
2004-05	2,342,782,148	4.2%	401,122,658	5.79%	2,743,904,806	4.45%
2005-06	2,480,460,455	5.9%	390,768,821	-2.58%	2,871,229,276	4.64%
2006-07	2,657,663,684	7.1%	403,505,151	3.26%	3,061,168,835	6.62%
2007-08 rec.	2,790,546,868	5.0%	362,163,909	-10.25%	3,152,710,777	2.99%
2008-09 rec.	2,938,404,252	5.3%	407,285,678	12.46%	3,345,689,930	6.12%

Maintenance of Effort Requirement. Section 17 of Article IX of the Colorado Constitution requires the General Assembly to annually increase the General Fund appropriation for the state share of districts' total program by at least five percent annually through FY 2010-11. This "maintenance of effort" requirement, however, does not apply in any fiscal year in which Colorado personal income grows less than 4.5 percent between the two previous calendar years¹¹. While the maintenance of

¹¹ The determination of whether the maintenance of effort provision applies to a particular fiscal year is based on the Colorado personal income data that is released in December of that same fiscal year.

effort requirement did not apply for FY 2002-03 through FY 2004-05, current estimates indicate that it will apply for FY 2007-08 through FY 2010-11. [Please note that even though the five percent maintenance of effort requirement did not apply for FY 2003-04, the General Assembly increased the General Fund appropriation by more than five percent.]

In enacting the provisions of Amendment 23, the General Assembly declared the following with respect to the funding increases required by Amendment 23 and the potential impact of such increases on other state programs and services:

"In enacting legislation to implement section 17 of article IX of the state constitution, it is the duty, intent, and legislative prerogative of the general assembly to mitigate any adverse impact that the state education funding requirements of said section 17 of article IX may have on the financial condition of the state and other state programs and services by *ensuring that moneys are credited to the state education fund, invested while in the fund, and expended from the fund in a manner that will ensure that the fund remains viable and that fund moneys will always be available to meet a significant portion of the long-term state education funding requirements* of said section 17 of article IX." (emphasis added) [Section 22-55-101 (3) (c), C.R.S.]

Other Legal Requirements. In addition to the General Fund maintenance of effort requirement, two other provisions place legal limits on the General Assembly's authority to set the level of General Fund appropriations for total program and categorical programs. First, Article IX, Section 17 (5) of the Colorado Constitution states that moneys appropriated from the State Education Fund may not be used to supplant the level of General Fund appropriations that existed on December 28, 2000 (the effective date of Amendment 23) for categorical programs and total program. Thus, General Fund appropriations for categorical programs could be reduced. However, in order to continue to comply with other provisions of Amendment 23, another source of state funding would need to be appropriated to offset such a reduction (i.e., State Education Fund).

Second, the General Assembly is required to increase base per pupil funding and state funding for categorical programs by at least inflation plus one percent each year through FY 2010-11, and by inflation each year thereafter. Thus, the General Assembly needs to appropriate an amount of General Fund for total program each year sufficient to ensure that the General Assembly is capable of providing the required annual inflationary increases -- both now and in the future.

Following the adoption of Amendment 23, the Pacey Economics Group prepared a report at the request of the Legislative Audit Committee concerning the implementation of Amendment 23¹². This report described the model that Pacey developed to project future funding requirements for education. The model was designed to allow policymakers to determine the future impact of decisions about: (a) the level of General Fund appropriation for education; and (b) the level of appropriations from the State Education Fund for discretionary purposes. This report included a

¹² Pacey Economics Group, "Amendment 23: Economic Modeling for Decision Makers", (February 2001).

variety of funding scenarios, using different economic assumptions; the primary scenarios are described below:

- *5.0 Percent Annual General Fund Increases.* The model predicted that if General Fund appropriations for school finance only increased by 5.0 percent annually, the State Education Fund would become insolvent (by FY 2015-16) even if no moneys were appropriated from the State Education Fund for discretionary purposes.
- *5.6 Percent Annual General Fund Increases.* The model predicted that if General Fund appropriations for school finance increased by 5.6 percent annually, the State Education Fund would remain solvent unless there was a significant economic slowdown. In addition, the General Assembly could spend up to \$50 million per year from the State Education Fund for discretionary purposes without adversely impacting the solvency of the Fund (unless there was a significant economic slowdown).
- *6.0 Percent Annual General Fund Increases.* The model predicted that if General Fund appropriations for school finance increased by 6.0 percent annually, the State Education Fund would remain solvent even if there was a significant economic slowdown. In addition, given this level of General Fund support, the General Assembly could spend up to \$50 million per year from the State Education Fund for discretionary purposes without adversely impacting the solvency of the Fund.

Thus, prior to the economic downturn, it was clear that the General Assembly would need to increase the General Fund appropriation for school finance by more than 5.0 percent to ensure it is capable of providing the required funding increases over the long-term. During the economic downturn, the General Assembly relied heavily on the State Education Fund to allow it to comply with constitutional funding requirements and mitigate the need for even greater cuts in General Fund support for other program areas. In subsequent fiscal years, staff projected that General Fund appropriations for education would need to increase by more than six percent annually to comply with constitutional funding requirements.

Due largely to the passage of S.B. 07-199 and significant increases in assessed values in certain counties, staff's projections have changed significantly. Specifically, staff projects that if the Committee approves staff's recommendations in this packet, and if the General Fund appropriations for school finance are increased by 5.0 percent annually in future fiscal years, the General Assembly will be able to comply with constitutional funding requirements while maintaining a significant balance in the State Education Fund. Staff has included at Appendix B

General Fund Appropriation Increases Required to Maintain State Education Fund Solvency. Staff has utilized the model originally developed by Pacey Economics Group for the State Auditor to estimate the impact of various levels of General Fund appropriations on the solvency of the State Education Fund. The model was recently updated by Legislative Council staff in order to submit a statutorily-required report to the General Assembly. Subsequently, staff has further updated the

model to reflect the actual inflation rate for CY 2007, Legislative Council staff's estimates related to funding the School Finance Act for FY 2008-09, as well as more recent estimates of federal mineral lease revenues provided by Legislative Council Staff. **The updated model now indicates that if the Committee approves the requested level of General Fund for FY 2008-09 (a 5.3 percent increase), followed by annual increases of 5.0 percent, the General Assembly will be able to comply with constitutional funding requirements in future years and avoid a "spike" in the General Fund appropriation in one or more fiscal years.** Under this scenario, the State Education Fund balance would increase by \$116.3 million in FY 2008-09, and continue increasing each year thereafter.

Alternatively, the General Assembly could choose to increase the General Fund appropriation by the minimum allowable amount in both FY 2007-08 and FY 2008-09 (5.0 percent) and subsequent fiscal years. This would allow for a reduction of \$8,330,041 below the amounts reflected in staff's recommendations for FY 2008-09. However, this would eliminate any opportunities to free up General Fund in January 2009 should the General Assembly need to fund one or more mid-year funding increases in other state agencies. Also, please note that staff's recommendations, as well as Appendix B, assume: (a) the Committee will not approve the Department's request to refinance categorical programs beginning in FY 2007-08; (b) the State will be successful in defending itself in the recent lawsuit that was filed concerning school finance; (c) Legislative Council staff's projections of revenues, assessed values, and the rate of inflation are reasonable; and (d) the General Assembly will not appropriate additional amounts from the State Education Fund for new or expanded programs.

Finally, please note that staff's recommendation reflects the same level of appropriation from the General Fund Exempt Account as in FY 2007-08. Staff will ultimately reflect whatever amount the Committee approves (following release of Legislative Council Staff's March revenue forecast).

Additional State Aid Related to Locally Negotiated Business Incentive Agreements. Since 1990¹³, school districts have had the authority to negotiate incentive agreements with new or expanded businesses as a means of promoting economic development¹⁴. State law allows school districts, as well as cities and counties, to negotiate with taxpayers to forgive up to 50 percent of the property taxes levied on personal property attributable to a new or expanded business facility. A school district that negotiates such an agreement is eligible for additional state aid equal to the property tax revenues which are foregone as part of the agreement.¹⁵ The state "backfill" for

¹³ Senate Bill 90-118 (Wells/Arveschoug), "Concerning the Authority of Local Governments to Negotiate Incentive Payments to Taxpayers Who Establish New Business Facilities or Who Expand Existing Business Facilities".

¹⁴ See Section 22-32-110 (1) (ff) and (gg), C.R.S.

¹⁵ See Section 22-54-106 (8), C.R.S.

foregone property tax revenues for any single facility is limited to ten years. Pursuant to S.B. 03-248, however, local school boards have not been allowed to enter into any new business incentive agreements since May 22, 2003.

The annual cost of backfilling for locally-negotiated business incentive agreements has ranged from \$67,250 in FY 1994-95 to \$2,785,645 in FY 2002-03. However, in FY 2002-03, the appropriation fell \$784,157 short of funding the required state aid associated with these agreements. The Department was thus required to reduce the state aid for all districts by the amount of the shortfall. Similar recisions were required in FY 2001-02 (\$244,237), and in FY 2003-04 (\$393). Pursuant to S.B. 05-200, however, a statewide recision is no longer necessary when the appropriation falls short. Instead, the shortfall only affects those districts that are receiving additional state aid as a result of an incentive agreement. The FY 2005-06 appropriation of \$1,140,015 fell short by \$757,126 (39.9 percent), the FY 2006-07 appropriation of \$904,942 fell short by \$845,430 (48.3 percent), and the FY 2007-08 appropriation of \$0 is anticipated to fall short by \$450,112 (100 percent).

The Department has not requested an appropriation for FY 2008-09 for the additional state aid required to “backfill” existing agreements. Based on the most recent assessed valuation data, **staff recommends appropriating \$418,016 General Fund for FY 2008-09. This amount is projected to cover the full amount required to backfill local agreements.** The following table lists those agreements still active, along with the additional state aid estimated to be required to offset property tax revenues that are foregone as part of such agreements. Similar to the previous line item, the actual amount required will not be known until January 2008.

Estimated Additional State Aid Required to Offset Property Tax Revenues Foregone as a Result of Locally Negotiated Business Incentive Agreements (BIAs): FY 2008-09					
County	School District	Company (Term of Agreement)	Assessed Value Attributable to Incentive	Increase in State Aid	Percent of Total
El Paso	Harrison	Atmel Corporation (FY 04-05 to FY 10-11)	\$9,086,949	\$86,835	20.77%
El Paso	Fountain	Front Range Power Co. (FY 04-05 to FY 10-11)	24,996,100	246,012	58.85%
Morgan	Ft. Morgan	Leprino Foods (FY 04-05 to FY 08-09)	2,349,260	31,715	7.59%
Weld	Windsor	Kodak (FY 04-05 to FY 08-09)	3,959,609	53,455	6.11%
TOTAL				418,017	100.00%

Please note that the appropriation for this line item is considered part of the amount appropriated for purposes of complying with the General Fund maintenance of effort requirement, discussed above.

If the Committee chooses to approve the Department request for FY 2008-09 (\$0), it will reduce the total increase in General Fund appropriations by \$418,017 (0.015 percent).

LONG BILL FOOTNOTES

Staff recommends continuing the following footnote, as amended:

- 12 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding** -- The minimum state aid for fiscal year ~~2007-08~~ 2008-09 is established at ~~\$131.21~~ \$119.01 per student.

The Public School Finance Act of 1994 indicates that “no district shall receive less in state aid than an amount established by the general assembly in the annual general appropriation act based upon the amount of school lands and mineral lease moneys received pursuant to the provisions of article 41 of [Title 22] and section 34-63-102 (2), C.R.S., multiplied by the district's funded pupil count” [see Section 22-54-106 (1) (b), C.R.S.]. No school districts are affected by the “*minimum state aid*” factor in FY 2006-07, and none are anticipated to be affected by it in FY 2007-08. [Please note that this is different than the *minimum per pupil funding* referenced in Section 22-54-104 (2) (a), C.R.S.]

The minimum per pupil state aid amount identified in this footnote is used by both the Department of Education and Legislative Council staff in calculating the amount of state aid for which each district is eligible based upon annual public school finance legislation. Staff has calculated the *minimum per pupil state aid* for FY 2008-09 as follows:

Interest/ investment earnings on the Public School Fund	\$19,420,598
Rental income earned on state public school lands	12,000,000
Mineral lease moneys allocated to State Public School Fund	<u>60,398,179</u>
Total estimated revenues	\$98,818,777
Divided by: Projected statewide funded pupil count (Long Bill)	<u>771,555.2</u>
Minimum per pupil state aid	\$119.01

Please note that staff has included rental income that is earned on state public school lands in the above calculation for a number of years. Staff notes that the statutory provision concerning minimum per pupil state aid does not reference the statutory section that allocates (up to \$12 million in) rental income earned on state public school lands to the State Public Income Fund [Section 36-1-116, C.R.S.]. However, given that the above statutory provision references “school lands and mineral lease moneys”, staff assumes that it is appropriate to continue to include the rental income earned on state public school lands that is available for appropriation.

Staff recommends including the following footnote as a request for information, as amended:

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, ~~2007~~ 2008, information concerning the Colorado Preschool and Kindergarten Program. The information provided is requested to include the following for fiscal year ~~2006-07~~ 2007-08: (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; (d) data indicating the number of Program FTE used to provide a full-day kindergarten component; and (e) the state and local shares of total program funding that is attributable to the Program.

This footnote was vetoed by the Governor on the basis that: (1) it violates the separation of powers by attempting to administer the appropriation; and, (2) it constitutes substantive legislation. In his May 2, 2007, letter to the General Assembly, however, the Governor indicated that he would instruct the Department to comply to the extent feasible. Further, after the General Assembly overrode all Long Bill vetoes, the administration reviewed each footnote to determine which could be reasonably complied with given available resources and departmental priorities. To the extent that this footnote could be adhered to without adversely impacting executive branch operations or the delivery of services, the Governor directed departments to comply pursuant to the August 16, 2007 letter from the director of the Office of State Planning and Budgeting to the leadership of the General Assembly.

Staff recommends eliminating the following footnote:

14 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding -- Of the amount appropriated for this line item, a portion, not to exceed \$250,000 for fiscal year 2007-08, 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.

Pursuant to Section 22-54-104 (5) (c) (III) (A), C.R.S., the Legislative Council staff is required 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. Thus, the results of the current study will impact funding requirements for FY 2008-09 and FY 2009-10. This footnote is not necessary to include in the FY 2008-09 Long Bill.

(B) Categorical Programs

Description / 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, based on the actual inflation rate for calendar year 2007 (2.2 percent), the General Assembly is required to increase state funding for categorical programs by at least \$6.7 million (3.2 percent) for FY 2008-09.

The General Assembly determines on an annual basis how to finance the required increase, and how to allocate the required increase among the various categorical programs. The following table details increases in the annual appropriation of state funds since FY 2000-01, by program area.

Increases in State Funding for Categorical Programs			
Long Bill Line Item	FY 2007-08 Appropriation, as Amended	Change in Annual Appropriation of State Funds Since FY 2000-01	
Special education - children with disabilities	\$121,980,438	\$50,469,665	70.6%
English language proficiency program	7,201,113	4,099,515	132.2%
Public school transportation	44,215,305	7,293,078	19.8%
Colorado Vocational Act distributions	21,208,319	3,415,469	19.2%
Special education - gifted and talented children	7,997,177	2,497,177	45.4%
Expelled and at-risk student services grant program	6,340,676	551,869	9.5%
Small attendance center aid*	961,817	13,677	1.4%
Comprehensive health education	600,000	0	0.0%
Total	\$210,504,845	\$68,340,450	48.1%

* Although funding provided for small attendance center aid has declined since FY 2000-01, the amount appropriated for FY 2007-08 is estimated to be sufficient to fully fund the program.

Pursuant to Section 22-55-107 (3), C.R.S., for FY 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". However, staff is not aware of any recommendations made by either Committee.

A description of each categorical program line item is provided below, including a description of the funds available -- other than state funds -- for each program. A discussion and recommendations related to the constitutionally required funding increase for this group of programs for both FY 2007-08 and FY 2008-09 follows, beginning on page 96.

(I) District Programs Required by Statute

Special Education - Children with Disabilities. Pursuant to the federal *Individuals with Disabilities Education Act* and the state *Exceptional Children's Educational Act* [Article 20 of Title 22, C.R.S.], school districts are required 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 children¹⁶), districts are statutorily eligible to receive reimbursement for additional costs incurred in providing educational services to school-age children with disabilities. These reimbursements are subject to available appropriations. For FY 2006-07, the Department allocated the following amounts to administrative units and state-operated programs:

State Funding	\$ 115,953,326
Federal IDEA, Part B Grant	124,738,515
Federal IDEA, Part B, Section 619 Grant (Preschool)	<u>3,726,919</u>
Total: SFY 2006-07	244,418,760

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 H.B. 06-1375, the Department allocated *state funds* among units as follows for FY 2006-07:

¹⁶ 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.

- Administrative units received \$1,250 for each child with a disability who was reported on the December 2005 (prior year) special education count. [\$103.9 million for FY 2006-07]
- Administrative units received an additional \$6,000 per student for a percentage of the children reported on the December 2005 count with the following disabilities: significant limited intellectual disability, significant identifiable emotional disability, hearing disability, vision disability, deaf-blind, autism, traumatic brain injury, and multiple disabilities. The percentage is determined by the appropriation. [\$9.6 million for FY 2006-07]
- Administrative units received grants for reimbursement of high costs incurred in providing special education services to a child in the preceding fiscal year. For FY 2006-07, "high costs" were considered those exceeding \$40,000. These grants were 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. [\$2.0 million for FY 2006-07]
- A total of \$402,000 was allocated to reimburse administrative units for excess costs paid to eligible facilities within the unit's boundaries for 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.

The Department's \$281.6 million request represents a 2.5 percent increase in total funding when compared to the FY 2007-08 appropriation. The Department's request includes \$99.6 million General Fund, \$29.2 million from the State Education Fund, and \$98,768 cash funds exempt and 0.5 FTE funded from a transfer from the Department of Human Services, Division of Vocational Rehabilitation. The request also includes \$152.7 million in federal funds that are anticipated to be available to reimburse administrative units and support 64.5 federally-funded Department FTE.

Staff recommends approving the Department's request with respect to federal funds, cash funds exempt transfers, and Department staff. Staff's recommendation related to state funding is discussed at the end of this section.

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 whose dominant language is not English. The Department previously 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. This data indicated that the largest numbers of students are receiving ELL services in preschool through third grade (46 percent).

Some federal funding is available for such programs (an estimated \$11.3 million for FY 2007-08), and the State provides assistance to districts through two mechanisms. First, districts receive "at-risk" funding through the School Finance Act for students whose dominant language is not English. Second, districts receive funding through the English Language Proficiency Act (ELPA) for students whose dominant language is not English. This ELPA funding, however, is limited to a maximum of two years per student. For FY 2006-07, the Department of Education distributed \$6.1 million in state ELPA funding to 143 school districts for 71,582 eligible students. Nearly two-thirds of state funding is provided for students in kindergarten through third grade.

The Department is required to allocate state funding in two parts:

- Three-quarters of the amount appropriated is to be used to provide funding to districts serving students who: (a) speak languages other than English and do not comprehend or speak English; or (b) students who comprehend or speak limited English, but whose predominant language is not English. Annual per eligible student funding for these types of students may not exceed \$400 or 20 percent of the state average per pupil operating revenues for the preceding year, whichever is greater.
- The remaining 25 percent of the appropriated is to be distributed to districts that serve students whose dominant language is difficult to determine as they speak and comprehend limited English and at least one other language. Annual per eligible student funding for these types of students may not exceed \$200 or 10 percent of the state average per pupil operating revenues for the preceding year, whichever is greater.

The Department's \$18.7 million request represents a 1.3 percent increase in total funding. The Department's request includes \$4.7 million General Fund, and \$2.8 million from the State Education Fund. The request also includes \$18.7 million in federal funds that are anticipated to be available and would support 4.6 FTE.

Staff recommends approving the Department's request with respect to federal funds and Department staff. Staff's recommendation related to state funding is discussed at the end of this section.

(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 with the exception of one district (San Juan - Silverton), all districts provide transportation services. Statewide, over 40 percent of students are transported. School districts employ a fleet of over 6,200 buses and small vehicles traveling approximately 50.4 million miles each year.

State funding is provided 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. Six districts have received voter approval to levy separate mills to generate additional local revenues¹⁷, but no district has imposed a separate user fee. In years when the appropriation does not fully fund the maximum allowable reimbursement, the Department prorates reimbursements accordingly.

The Department's \$45.3 million request includes \$38.1 million General Fund, \$6.8 million from the State Education Fund, and \$450,000 cash funds exempt from the State Public School Transportation Fund. The latter fund consists of moneys that are recovered by the Department when it identifies a transportation-related overpayment to a district. The requested appropriation would allow the Department to re-distribute moneys that are recovered in the current fiscal year in FY 2008-09. **Staff recommends approving the Department's request with respect to the State Public School Transportation Fund.** Staff's recommendation related to state funding is discussed at the end of this section. **Finally**, as discussed earlier in this document, **staff recommends reflecting the 2.0 FTE who are supported by this line item, rather than in the General Department and Program Administration line item** (via funds transferred from this line item).

Transfer to the Department of Higher Education for Distribution of State Assistance for Vocational Education. The State Board for Community Colleges and Occupational Education is responsible for approving vocational education programs, as well as distributing state funds to school districts with students enrolled in approved vocational education programs. The Colorado Commission on Higher Education indicates that roughly 93 percent of school districts provide vocational educational opportunities to their students.

The state funds appropriated pursuant to the Colorado Vocational Act are distributed to school districts to partially reimburse related personnel, books and supplies, and equipment for approved programs. Specifically, state funding is available to a district if its approved vocational education 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.

Each participating district is required to estimate program costs and enrollments at the beginning of each school year, and 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

¹⁷ Districts include: Eagle, Gilpin, Grand - West Grand, Rio Blanco - Rangely, San Miguel - Telluride, and Summit.

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.

The Department's \$21.5 million request includes \$18.3 million General Fund and \$3.1 million from the State Education Fund. Staff's recommendation related to state funding is discussed at the end of this section.

Special Education - Gifted and Talented Children. The state *Exceptional Children's Educational Act* defines gifted students as those whose "abilities, talents, and potential for accomplishments are so outstanding that they require special provisions to meet their educational needs" [see Section 22-20-103 (3.7), C.R.S.]. Unlike providing educational services for children with disabilities, Colorado school districts are not required to provide special educational services for gifted and talented children. Pursuant to Section 22-20-104.5, C.R.S., however, each administrative unit is required to adopt and implement a program to identify and serve gifted children; the plan is to be implemented "to the extent that funds are provided for the implementation". Funding that is provided by the state for gifted and talented programs are to supplement, not supplant, programs for students with disabilities.

For FY 2006-07, the Department allocated \$7.5 million to administrative units. State distributions may be used for teacher salaries, staff training and development, and activities, materials and equipment associated with the education of gifted students. In order to receive funding, a district or board of cooperative service must submit a complete and thorough plan for gifted and talented education programming. The Department has established a formula for distributing funds that allocates funds on a per-student basis, while ensuring that each administrative unit receives the same base amount of funding each year (based on FY 2002-03 funding levels). Another \$500,000 will be used to support ten gifted education regional consultants and professional development.

The Department's \$8.0 million request includes \$7.1 million General Fund and \$0.9 million from the State Education Fund. Staff's recommendation related to state funding is discussed at the end of this section.

Expelled and At-risk Student Services Grant Program. This program, first funded in FY 1997-98, provides grants to school districts, to boards of cooperative services, to charter schools, alternative schools within school districts, to nonpublic, nonparochial schools, and to pilot schools (established pursuant to 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 sustain ability after grant funding ends. The Board is required to award at least 45 percent of the moneys to applicants who provide educational services to students from more than one school district. 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's request for a total of \$6.7 million for FY 2008-09 includes \$5.8 million General Fund and \$0.5 million from the State Education Fund. The Department requests continuation of the 1.0 FTE that was approved for FY 2007-08. **Staff has included a recommendation related to this staff position below**, and staff's recommendation related to state funding for the grants is discussed at the end of this section.

Summary of Recommendation: Expelled and At-risk Student Services Grant Program		
Description	Total Funds	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$52,000	1.0
Salary survey awarded in FY 07-08	0	
80% of Performance-based pay awarded in FY 07-08	0	
Base reduction (1.0% for lines with 20.0+ FTE)	<u>0</u>	
Subtotal: Continuation personal services	52,000	1.0
Operating expenses and capital outlay portion of FY 07-08 Long Bill appropriation	3,505	
Eliminate one-time capital outlay funding	<u>(3,005)</u>	
Subtotal: Continuation operating expenses	500	
Grant awards portion of FY 07-08 Long Bill appropriation	6,285,171	
Increase in grant funding	<u>3,005</u>	
Subtotal: Grant awards	6,288,176	
Recommended FY 08-09 appropriation	6,340,676	1.0

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. 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:

The general assembly shall appropriate annually an amount for small attendance center aid to be distributed pursuant to the formula in subsection (2) of this section. In the event the amount of money appropriated by the general assembly is less than the amount of aid authorized by this section to all districts, the amount to be distributed to each school district shall be in the same proportion as the amount that the appropriation bears to the total amount of aid for all districts. [Section 22-54-122 (3), C.R.S.]

However, the amounts appropriated annually since FY 1998-99 have provided adequate funding to reimburse eligible districts for the full amount statutorily allowed.

The original FY 2007-08 appropriation was based on an estimate of the number of districts and small attendance centers that would be eligible to receive additional state funding under the statutory formula. The Committee recently approved a mid-year decrease of \$18,484 for this line item based on actual pupil counts for eligible districts and small attendance centers. The Department requests \$986,308, which matches the initial FY 2007-08 appropriation. **Staff recommends appropriating \$943,333 for FY 2008-09, which matches the adjusted FY 2007-08 appropriation.**

Comprehensive Health Education. The *Colorado Comprehensive Health Education Act of 1990* encourages every school district to provide a pre K-12th grade planned, sequential health education program. The program stresses parental and community involvement, and parents have the right to exempt students from any or all of the health education program. This line item provides funding for the Department to allocate funds among school districts and BOCES seeking funding for a local comprehensive health education program. The Department of Education is to work with the Department of Public Health and Environment to review applications for state funding, and the State Board of Education is to allocate available funds. Grants to implement a pre K-12th grade comprehensive health education program are available in three year cycles. The next application period begins this Spring.

The Department requests a continuation level of funding (\$600,000), including \$300,000 General Fund and \$300,000 from the Comprehensive Health Education Fund (the Fund). Staff recommends approving the request, with one exception. The Fund consists of fifty percent of any moneys that were appropriated from the State Public School Fund and were not spent (i.e., half of any reversions of appropriations for total program), as well as any gifts, grants, and donations. The revenues to this fund are unpredictable. Given a significant increase in revenues to the Fund in FY 2006-07, **staff recommends appropriating \$500,000 from the Fund, and only \$100,000 General Fund for FY 2008-09.**

Supplemental Funding Request for FY 2007-08. The Office of State Planning and Budgeting submitted a supplemental request concerning categorical programs on February 14, 2008. The request is essentially a refinancing in order to free up General Fund for both FY 2007-08 and FY 2008-09. Specifically, the request is to reduce General Fund appropriations for five categorical programs by a total of \$7,977,565, and to increase appropriations from the State Education Fund by

the same amounts. Thus, this request does not affect the amount of funding available for these categorical programs. The Office of State Planning and Budgeting then requests that this adjustment carry forward to FY 2008-09.

Staff does not recommend approving the request because it does not meet supplemental criteria. However, staff notes that the General Assembly could choose to make the financing adjustments requested for FY 2007-08, and/or for FY 2008-09. The only restriction governing the financing of categorical programs is that moneys in the State Education Fund "shall not be used to supplant the level of general fund appropriations existing on the effective date of [Article IX, Section 17 of the Colorado Constitution] for total program...and for categorical programs". Thus, General Fund appropriations for categorical programs may not fall below \$141,765,474. Currently, General Fund appropriations for categorical programs total \$182,665,025. Thus, the General Assembly could reduce General Fund appropriations by up to \$40,899,551. Please note the following considerations, however:

- In FY 2004-05, the General Fund appropriation for categorical programs was at the same level that existed when Amendment 23 was adopted. Over the course of FY 2005-06 and FY 2006-07, (primarily after the passage of Referendum C), the General Assembly appropriated an additional \$32,866,481 General Fund for categorical programs. Thus, the majority of the \$40.9 million General Fund that could be refinanced was added due to the passage of Referendum C.
- The more the General Assembly chooses to refinance now, the less that will be available in the future in the event of an economic downturn, an unfavorable lawsuit outcome, etc.
- If the General Assembly chooses to refinance categorical programs for FY 2007-08 and/or for FY 2008-09, the State Education Fund balance will be reduced commensurately each fiscal year.

Allocation of Required Funding Increase for FY 2008-09. As noted earlier, 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 2008-09. **Based on an actual inflation rate of 2.2 percent for CY 2007, the General Assembly is required to provide an additional \$6,736,155 state funds for categorical programs for FY 2008-09** The General Assembly determines on an annual basis how to allocate the required increase among the various categorical programs.

In December 2006, staff recommended that the Committee consider at least four factors when allocating state funds among categorical programs:

1. Are districts statutorily required to provide the services?
2. If the program has a statutory reimbursement formula, how close does state funding come to the maximum statutory reimbursement?
3. What percent of districts' actual expenditures are covered by state and federal funds?
4. Are districts' expenditures for providing the service proportionate, or are certain districts impacted significantly more than others?

Staff's December 6, 2007, briefing provided the Committee with updated information related to each of these factors (see pages 55 through 61). Based on the above criteria, staff again recommends using the gaps between the sum of state and federal funding, and actual district expenditures, to allocate state funding increases among categorical programs. This results in the following prioritization:

Special Education-Children with Disabilities (51% of new funds)
English Language Proficiency Programs (21% of new funds)
Public School Transportation (18% of new funds)
Colorado Vocational Act Distributions (7% of new funds)
Gifted and Talented Programs (3% of new funds)

The Department's budget request for FY 2008-09 includes a request (*Decision Item #2*) to increase appropriations from the State Education Fund for categorical programs by \$7,999,185 to provide a 3.8 percent increase in state funding. **Staff recommends approving the request, but using the actual rate of inflation (2.2 percent).** On the next page, staff has provided a table summarizing the allocation recommended by staff, the allocation requested by the Department, as well as two other options for discussion purposes.

Required Increase in <i>State</i> Funding for Categorical Programs for FY 2008-09									
Long Bill Line Item	FY 07-08 Approp.	Examples of Options for Allocating Required Increase							
		A: Staff Recomm.	%	B: OSPB Request	%	C	%	D	%
Special education - children with disabilities	\$121,980,438	\$3,435,439	2.8%	\$6,794,288	5.6%	\$4,690,583	3.8%	\$3,931,874	3.2%
English language proficiency program	7,219,597	1,414,593	19.6%	256,704	3.6%	277,619	3.8%	232,714	3.2%
Public school transportation	44,215,305	1,212,508	2.7%	656,742	1.5%	972,737	2.2%	1,414,890	3.2%
Colorado Vocational Act distributions	21,208,319	471,531	2.2%	266,960	1.3%	466,583	2.2%	678,666	3.2%
Special education - gifted and talented children	7,997,177	202,085	2.5%	0	0.0%	175,938	2.2%	255,910	3.2%
Expelled and at-risk student services grant program	6,340,676	0	0.0%	0	0.0%	139,495	2.2%	202,902	3.2%
Small attendance center aid	943,333	0	0.0%	24,491	2.6%	0	0.0%	0	0.0%
Comprehensive health education	600,000	0	0.0%	0	0.0%	13,200	2.2%	19,200	3.2%
Totals (may not sum due to rounding)	210,504,845	6,736,155	3.2%	7,999,185	3.8%	6,736,155	3.2%	6,736,155	3.2%

Description of Potential Allocation Options:

- Staff recommendation (described on page 98)
- Official request submitted through the Office of State Planning and Budgeting.
- Provide a 3.8 percent increase for services for children with disabilities and English language proficiency programs, and a 2.2 percent increase for all other programs except Small attendance center aid.
- Provide the same percent increase to all programs except small attendance center aid.

LONG BILL FOOTNOTES

Staff recommends continuing the following footnote as a request for information, as amended:

Department of Education, Assistance to Public Schools, Categorical Programs; and Department of Higher Education, Division of Occupational Education, Colorado Vocational Act Distributions 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 - children with disabilities, English language proficiency programs, public school transportation, Colorado Vocational Act distributions, 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 ~~2006-07~~ 2007-08 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 ~~2005-06~~ 2006-07 and actual district expenditures for each program. The information for special education services - 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 ~~2005-06~~ 2006-07 and actual district expenditures.

This footnote was vetoed by the Governor on the basis that: (1) it violates the separation of powers by attempting to administer the appropriation; and, (2) it constitutes substantive legislation. In his May 2, 2007, letter to the General Assembly, however, the Governor indicated that he would instruct the Department to comply to the extent feasible. Further, after the General Assembly overrode all Long Bill vetoes, the administration reviewed each footnote to determine which could be reasonably complied with given available resources and departmental priorities. To the extent that this footnote could be adhered to without adversely impacting executive branch operations or the delivery of services, the Governor directed departments to comply pursuant to the August 16, 2007 letter from the director of the Office of State Planning and Budgeting to the leadership of the General Assembly.

This is a request for information that allows staff to inform the Committee concerning the "adequacy" of existing funding for each program.

(C) Grant Programs, Distributions, and Other Assistance [Renamed]

(I) Health and Nutrition [New subsection heading]

Federal Nutrition Programs [New line item]. Staff recommends reflecting all federal funding that is available for nutrition programs (an estimated \$96 million for FY 2008-09), along with the staff that are supported by a portion of that funding (7.1 FTE), in a separate line item in this new subsection of the Long Bill. These amounts are currently included in the "Appropriated Sponsored Programs" line item. As described earlier in this document, staff also recommends transferring the state funding that supports 0.9 FTE of the 8.0 FTE staff responsible for administering nutrition programs from the General Department and Program Administration line item.

State Match for Federal School Lunch Program. The National School Lunch Program, which is administered by the Food and Nutrition Service of the U.S. Department of Agriculture, was created in 1946. The program allows public or private non-profit schools and public or private non-profit residential child care facilities to receive cash subsidies and donated commodities from the U.S.D.A. for each meal they serve. Participating schools and facilities must serve meals that meet certain federal requirements and they must offer free or reduced price lunches and after school snacks to eligible children.

Specifically, meals must be free to children whose families are at or below 130 percent¹⁸ of the federal poverty level, and offered at a reduced price (up to \$0.40 per meal) to those with families between 130 percent and 185 percent of the federal poverty level. Children from families with incomes above 185 percent of the federal poverty level must pay full price, but their meals are still subsidized to some extent. For FFY 2007-08, participating schools and facilities receive:

- \$2.47 for each free lunch;
- \$0.68 for each free snack;
- \$2.07 for each reduced price lunch;
- \$0.34 for each reduced price snack;
- \$0.23 for each full price lunch; and
- \$0.06 for each full price snack.

Schools with a high percentage of low-income children may also qualify for higher reimbursement rates. In addition, participating schools and facilities are entitled to receive commodity foods for each meal served. Participation in the federal program has increased steadily since 1946. In Colorado, school districts and child care facilities received about \$83.4 million to serve 364,556 children in FFY 2006-07.

¹⁸ For the period July 1, 2007, through June 30, 2008, 130 percent of the poverty level is \$26,845 for a family of four; 185 percent is \$38,203.

Under federal law, states must comply with a maintenance of effort (MOE) requirement in order to receive a portion of federal funds available through the National School Lunch Program. Colorado must comply with a \$2,472,644 MOE requirement or risk losing about \$11 million of the federal funds available through the program annually. Prior to FY 2001-02, a portion (approximately 80 percent) of Colorado's MOE was met by counting "unrecovered indirect costs". Specifically, school districts in Colorado have not historically recovered the maximum allowable amount of federal funds to cover the indirect costs of operating a school lunch program. Federal funds that could have been used for indirect expenses have instead been spent directly on districts' school lunch programs.

Pursuant to S.B. 01-129, the General Assembly is now required to appropriate by separate line item an amount to comply with the MOE requirement for National School Lunch Program [see Section 22-54-123, C.R.S.]. The state matching funds are allocated by the Department among participating school districts. Districts may only use funds provided by this line item for the school lunch program, and districts that have previously used their own general fund moneys to subsidize school lunch service are not allowed to use moneys received from this line item to supplant that level of subsidy. Senate Bill 01-129 included an appropriation of \$2,472,644 from the State Public School Fund for FY 2001-02, and the General Assembly has appropriated the same amount annually in subsequent fiscal years. Subsequently, the federal government has indicated that states are required to meet the MOE requirement each school year as a condition of the state's receipt of federal "general cash assistance" funds, and the intent of this requirement is that a minimum amount of state revenues be provided to supplement the federal funds provided to schools to support the overall aim of the National School Lunch Program (which is to provide lunches to children in school). States are required to "ensure that State revenues, and State revenues only, can be shown to have been transferred into the school food service accounts of participating schools, or that school food service expenses have been borne by State revenues where these are to be counted in meeting the revenue match".

Staff thus recommends approving the Department's request for a continuation level of funding (\$2,472,644). Pursuant to federal law [Title 42, Chapter 13, Section 1756, Subsection (1) (a), U.S. Code] and the associated federal regulations [Title 7, Chapter II, Part 210, Subpart D, Section 210.17, Subsection (d), U.S. Code of Federal Regulations], in order to comply with the MOE requirement, *state* moneys must be appropriated or used specifically for National School Lunch Program purposes (excluding state-level administrative expenses). It appears clear that the State would risk the loss of about \$11 million in federal funds if this appropriation were eliminated. Staff recommends continuing to reflect this appropriation as cash funds -- rental income earned on public trust lands.

School Breakfast Program. The federal school breakfast program, administered by the Food and Nutrition Service of the U.S. Department of Agriculture, began as a pilot program in 1966 and was made permanent in 1975. Similar to the federal School Lunch Program, public or private non-profit schools and public or private non-profit residential child care facilities may participate in the program. Participating schools and facilities receive federal subsidies for every meal they serve. Participating schools and facilities must serve breakfasts that meet certain federal requirements and

they must offer free or reduced price breakfasts to eligible children. Specifically, meals must be free to children whose families are at or below 130 percent of the federal poverty level, and offered at a reduced price (up to \$0.30) to those with families between 130 percent and 185 percent of the federal poverty level. Children from families with incomes above 185 percent of the federal poverty level must pay full price, but their meals are still subsidized to some extent. For FFY 2007-08, participating schools and facilities receive:

- \$1.35 for each free breakfast;
- \$1.05 for each reduced price breakfast; and
- \$0.24 for each full price breakfast.

Schools may also qualify for higher "severe need" reimbursements (up to \$0.24 higher) if a specified percentage of their breakfasts are free or reduced price. Participation in the federal program has increased steadily since 1970. In Colorado, school districts and child care facilities received about \$18.6 million to serve 90,710 children in FFY 2006-07. The following table details school breakfast program participation in recent years.

School Breakfast Program Participation						
Federal Fiscal Year	Children Participating in School Breakfast Program	Annual % Change	Children Participating in School Lunch Program	Annual % Change	Ratio of Participation in Breakfast Program to Lunch Program	Comparable National Ratio
2002	61,666		325,715		18.9%	29.1%
2003	66,496	7.8%	327,775	0.6%	20.3%	29.7%
2004	74,332	11.8%	335,266	2.3%	22.2%	30.7%
2005	78,172	5.2%	336,565	0.4%	23.2%	31.6%
2006	86,001	10.0%	347,945	3.4%	24.7%	32.4%
2007	90,710	5.5%	364,556	4.8%	24.9%	33.2%

Pursuant to H.B. 02-1349, as amended by S.B. 03-183 [Section 22-54-123.5, C.R.S.], the General Assembly, may appropriate by separate line item an amount to assist school districts and Institute charter schools that are providing a school breakfast program through participation in the federal School Breakfast Program. The Department of Education is required to allocate the state funds among participating school districts, and school districts are required to use the state moneys to create, expand, or enhance the school breakfast program in each low-performing school of the receiving district with the goal of improving the academic performance of the students attending such schools.

The Department has requested a continuation level of funding for FY 2008-09. **Staff recommends approving the request for \$500,000 General Fund.** [Please note that pursuant to S.B. 06-127, for

FY 2006-07 and FY 2007-08, if the General Assembly appropriated \$500,000 or more for this purpose, the Department was required to use \$150,000 of the appropriation to fund the Fresh Fruits and Vegetables Pilot Program (created in Section 22-82.5-105, C.R.S.). This pilot program is repealed January 1, 2009.]

Smart Start Nutrition Program Fund.

Smart Start Nutrition Program.

Senate Bill 07-59 created the Smart Start Nutrition Program to eliminate the amount paid by students participating in the federal School Breakfast Program who are eligible for reduced-price meals (Section 22-82.7-101 et seq., C.R.S.). Other objectives of the program include increasing the number of students who consume a nutritious breakfast each day, decreasing statewide health care costs by improving the health of school-age children, and lessening students' risk of obesity by providing nutritious breakfast options. This act requires the General Assembly to annually appropriate at least \$700,000, but not more than \$1,500,000, to the newly created Smart Start Nutrition Program Fund for such purpose. The Department is authorized to spend up to one percent of moneys appropriated from the Fund to cover associated administrative costs. The act included an appropriation of \$700,000 General Fund to the Smart Start Nutrition Program Fund, along with a commensurate amount of cash funds exempt spending authority out of such fund.

The Department requests a continuation level of funding (\$700,000 General Fund and \$700,000 in cash funds exempt spending authority) for FY 2008-09. **Staff recommends approving the request for \$700,000 General Fund (the minimum amount allowable by statute), but staff recommends providing \$670,000 cash funds exempt spending authority.** The Department indicates that it expended \$250,441 through December 2007 for this program, and it anticipates spending a total of \$576,332 for FY 2007-08 (leaving a fund balance of about \$123,600). Data provided by the Department indicates that while the number of free and full priced breakfast meals served increased by 10.4 percent from October 2006 to October 2007, the number of reduced price meals (provided for free in 2007 pursuant to this program) increased by 36.0 percent. The Department provided two projections of expenses for FY 2008-09, assuming either a ten or fifteen percent increase in the number of reduced price meals served. Even if reduced price meals increase by 15 percent over the total anticipated for FY 2007-08, the Department would only spend about \$663,000. Staff thus recommends authorizing the Department to spend \$670,000 out of the Smart Start Nutrition Program Fund for FY 2008-09, including up to \$6,766 for administrative costs and \$663,234 to provide free breakfasts.

NOTE: Please note that if this act had not specified a minimum General Fund appropriation level, the General Assembly could choose to appropriate \$546,332 General Fund for FY 2008-09 rather than \$700,000. The Department could utilize the projected fund balance for the remainder of the \$670,000 anticipated to be required for FY 2008-09.

S.B. 97-101 Public School Health Services. Pursuant to Section 25.5-5-318, C.R.S. (S.B. 97-101), school districts, boards of cooperative services (BOCES), and state K-12 educational institutions are

authorized to be reimbursed through Medicaid for health care services¹⁹ provided to Medicaid-eligible students. In order to do so, districts and BOCES must certify local expenditures on health care services in order to claim and receive federal Medicaid funding.

Districts are required to use the Medicaid funds received to provide student health care services. Each district is required to develop a local services plan that identifies the types of health services needed by students and the services it plans to provide. Districts spend the Medicaid funds for a variety of health-related purposes. The majority of funds are spent: providing nursing and other health clinic services; providing mental health services; providing speech, language, and vision services; providing physical and occupational therapy services; for health-related materials, equipment, and supplies; and conducting health insurance outreach activities (for Medicaid and CHP+).

The Department of Health Care Policy and Financing is responsible for the Medicaid billing aspects of the program, including developing regulations and administrative guidelines for submitting claims and contracting with individual districts. The Department of Education is responsible for providing technical assistance to districts in meeting administrative requirements and developing local service plans. Up to ten percent of the federal Medicaid funds that districts "earn" may be used to cover administrative costs incurred by the Department of Health Care Policy and Financing (DHCPF) and the Department of Education, and the remainder is paid directly to districts and BOCES for the provision of health care services.

The appropriations to DHCPF for this program reflect both the federal Medicaid funds (reflected as federal funds) and the local certified matching funds (reflected as cash funds exempt). The total funds appropriated to DHCPF cover the administrative costs incurred by the DHCPF and the Department of Education, as well as actual costs of health care claims. The appropriation to the Department of Education, however, only reflects the federal Medicaid funds that are used by the Department of Education to administer the program²⁰.

For FY 2008-09, the Department of Education has requested \$195,033 1.4 FTE. **Staff recommends appropriating \$207,747 and 1.4 FTE for this line item.** Staff's recommendation is slightly higher than the Department's request because it includes all benefits and expenses related to the staff

¹⁹ Services for which districts may bill Medicaid include: targeted case management (e.g., time spent developing an individual education plan for a student eligible for special education services or a health care plan for a student with diabetes); direct services (e.g., providing services as mandated in a student's individual education plan); diagnostic services (e.g., a special education-related evaluation); and health encounters (e.g., a school nurse treating a student with a stomach ache).

²⁰ Please note that prior to FY 2006-07, the appropriation to the Department of Education also reflected the federal Medicaid funds anticipated to be distributed to contracting entities for the provision of health care services.

supported by this line item, some of which were excluded from the Department's request. The calculation, which is consistent with Committee policy, is detailed in the following table.

Summary of Recommendation: S.B. 97-101, Public School Health Services, Department of Education Administrative Costs		
Description	Total Funds	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$94,533	1.4
Salary survey awarded in FY 07-08	2,575	
80% of Performance-based pay awarded in FY 07-08	762	
Base reduction (1.0% for lines with 20.0+ FTE)	0	
Contract services portion of appropriation for FY 07-08	<u>45,000</u>	
Subtotal: Continuation personal services	142,870	1.4
Estimated salary survey awarded in FY 08-09	2,393	
Estimated performance-based pay awarded in FY 08-09	<u>729</u>	
Subtotal: Recommended personal services for FY 08-09	145,992	1.4
Health, life, and dental	4,487	
Short-term disability (.13%)	99	
S.B. 04-257 Amortization Equalization Disbursement (1.6%)	1,217	
S.B. 06-235 Supplemental Amortization Equalization Disbursement (1.25%)	951	
Workers' Compensation	669	
Operating and travel portion of appropriation for FY 07-08	<u>35,274</u>	
Subtotal: Other expenses for FY 08-09	42,697	
Indirect cost assessment (estimated at 10.1 percent)	19,058	
Recommended authorization related to administration for FY 08-09	207,747	1.4

(II) Capital Construction [New subsection heading]

School Capital Construction Expenditures Reserve Fund.

Background Information: Giardino Lawsuit Settlement Requirements. Pursuant to S.B. 00-181, the General Assembly is required to appropriate a total of \$190.0 million from the General Fund over an eleven-year period to assist school districts with capital improvements. The \$190.0 million is to be split between two funds. A total of \$105.0 million is to be appropriated to the *School Capital*

*Construction Expenditures Reserve Fund*²¹ (the Reserve Fund) for capital expenditures of school districts that: (a) address immediate safety hazards or health concerns; (b) relieve excessive operating costs created by insufficient maintenance or construction spending; or (c) relieve conditions that detract from an effective learning environment. The remaining \$85.0 million is to be appropriated to the *School Construction and Renovation Fund (SCR)*²² to provide matching grants to districts for qualified capital construction projects.

Please note that S.B. 00-181 does not require any of the above appropriations in any fiscal year in which the General Fund revenues do not exceed certain annual obligations by more than \$80.0 million. Specifically, S.B. 00-181 included the following provision:

"(c) Notwithstanding the provisions of paragraph (b) of this subsection (4), in any fiscal year 2000-01 through 2010-11, no appropriation shall be made in such fiscal year if general fund revenues for the applicable fiscal year do not exceed general fund obligations and the moneys required to be allocated to the highway users tax fund pursuant to section 39-26-123 (2) C.R.S., for the applicable fiscal year by more than eighty million dollars as determined by the general assembly as of the time any conference committee report is adopted on the general appropriation bill enacted for the applicable fiscal year.

(d) For purposes of paragraph (c) of this subsection (4), "general fund obligations" include:

(I) General fund appropriations required by permanent statute or constitutional provision;

(II) General fund appropriations up to the limitation established by paragraph (a) of subsection (1) of this section and general fund appropriations that are exceptions to said limitation;

(III) The general fund transfer to the capital construction fund provided in section 24-75-302 (2) including any additional transfers necessary to fund capital construction priorities for the applicable fiscal year;

(IV) Any transfer to the controlled maintenance trust fund pursuant to the provisions of section 24-75-302.5;

(V) Any refunds required to be made by section 20 of article x of the state constitution; and

(VI) The reserve required to be maintained pursuant to paragraph (d) of subsection (1) of this section."

Thus, the General Assembly is not required to make the scheduled General Fund appropriation if revenues are not projected to be sufficient to fund: (1) the operating budget (the full six percent

²¹ See Sections 22-54-117 and 24-75-201.1 (4), C.R.S.

²² See Sections 22-43.7-101, et seq. and 24-75-201.1 (4), C.R.S.

allowable increase); (2) obligations included within "rebates and expenditures" (such as the state contribution to local fire and police pension plans); (3) General Fund transfers to the Capital Construction Fund and the Controlled Maintenance Trust Fund (including any transfers necessary for FY 2008-09 projects); (4) TABOR refunds; (5) the four percent statutory reserve; plus, (6) \$80 million.

Subsequently, the General Assembly has chosen to waive this provision in certain years, and it passed legislation last Session to allow the General Assembly to appropriate General Fund moneys for the Giardino lawsuit settlement even if General Fund revenues are not projected to exceed the above-described threshold (i.e., through the Long Bill rather than requiring a statutory change). The deadline for the adoption of the conference committee report on the FY 2008-09 Long Bill is April 11. Thus, this threshold should be applied on a prospective basis based on the March 2008 Legislative Council Staff revenue forecast.

Moneys Made Available To Date. Due to revenue shortfalls, the General Assembly was not statutorily obligated to appropriate General Fund moneys for school capital construction, as delineated in S.B. 00-181, from FY 2001-02 through FY 2005-06. However, the General Assembly elected to waive this provision for certain fiscal years. It has also appropriated moneys from the State Education Fund for capital construction purposes. In addition, lottery proceeds have been available for capital construction needs in each of the last five fiscal years. The following table summarizes funding required by S.B. 00-181 (given sufficient revenues) and funding made available to date for capital construction programs (excluding funding specifically for charter schools).

Fiscal Year	Appropriations Required Pursuant to S.B. 00-181 if General Fund Revenues are Sufficient	Funding Made Available To Date for Capital Construction			
		General Fund	State Education Fund	Lottery Proceeds	Total
00-01	\$5,000,000	\$5,000,000	\$0	\$0	\$5,000,000
01-02	10,000,000	10,000,000	6,471,052	0	16,471,052
02-03	15,000,000	0	6,500,060	8,499,940	15,000,000
03-04	20,000,000	0	10,000,000	3,690,377	13,690,377
04-05	20,000,000	0	5,000,000	2,396,438	7,396,438
05-06	20,000,000	25,000,000	5,000,000	1,691,454	31,691,454
06-07	20,000,000	15,000,000	0	12,545,316	27,545,316
07-08	<u>20,000,000</u>	<u>20,000,000</u>	<u>0</u>	<u>8,219,905</u>	<u>28,219,905</u>
Subtotal	130,000,000	75,000,000	32,971,112	37,043,430	145,014,542

Fiscal Year	Appropriations Required Pursuant to S.B. 00-181 if General Fund Revenues are Sufficient	Funding Made Available To Date for Capital Construction			
		General Fund	State Education Fund	Lottery Proceeds	Total
08-09	20,000,000				n/a
09-10	20,000,000				n/a
10-11	<u>20,000,000</u>				n/a
Total	\$190,000,000	n/a	n/a	n/a	n/a

Department Request / Staff Recommendation. The Department's request reflects a continuation of the \$20.0 million General Fund appropriations included in the FY 2007-08 Long Bill. Based on the December 2007 Legislative Council Staff revenue forecast, revenues are projected to exceed the above-described threshold by \$19.3 million in FY 2008-09. Thus, **staff recommends approving the Department's request. If the March 2008 Legislative Council Staff revenue forecast indicates that revenues are not anticipated to exceed the above-described threshold in FY 2008-09, staff will inform the Committee** to allow the Committee to reconsider this line item and the line item discussed below.

The Department's request also includes 2.0 FTE, who are supported by the School Capital Construction Expenditures Reserve Fund. Current law allows the State Board to approve payments out of this fund without an appropriation, so these FTE do not currently appear in the Long Bill. However, the FY 2007-08 Long Bill includes an informational letter note specifying the amount the Department is anticipated to spend to support these 2.0 FTE and to cover administrative costs. **Staff recommends including a similar letter note in the FY 2008-09 Long Bill, authorizing the Department to utilize up to \$184,401 from the School Capital Construction Expenditures Reserve** to provide funding to continue to support the 2.0 FTE who administer this, and other, capital construction programs. Staff's recommendation concerning the funding required to support these two positions is detailed in the following table.

Summary of Recommendation: School Capital Construction Expenditures Reserve Fund, Administrative Costs		
Description	Total Funds	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$133,179	2.0
Salary survey awarded in FY 07-08	4,700	
80% of Performance-based pay awarded in FY 07-08	1,230	
Base reduction (1.0% for lines with 20.0+ FTE)	<u>0</u>	
Subtotal: Continuation personal services	139,109	2.0

Summary of Recommendation: School Capital Construction Expenditures Reserve Fund, Administrative Costs		
Description	Total Funds	FTE
Estimated salary survey awarded in FY 08-09	4,230	
Estimated performance-based pay awarded in FY 08-09	<u>1,290</u>	
Subtotal: Recommended personal services for FY 08-09	144,629	2.0
Health, life, and dental	19,574	
Short-term disability (.13%)	175	
S.B. 04-257 Amortization Equalization Disbursement (1.6%)	1,969	
S.B. 06-235 Supplemental Amortization Equalization Disbursement (1.25%)	1,538	
Workers' Compensation	956	
Operating and travel portion of appropriation for FY 07-08	<u>15,560</u>	
Subtotal: Other expenses for FY 08-09	39,772	
Recommended authorization related to administration for FY 08-09	184,401	2.0

School Construction and Renovation Fund. As described in the narrative associated with the above line item, it appears that the General Assembly will be required to appropriate \$10.0 million General Fund to the School Construction and Renovation Fund for FY 2008-09. Such funds would be used by the Department to provide matching grants to school districts for capital construction projects that have been prioritized based on statutory criteria. As described above, based on the December 2007 Legislative Council Staff revenue forecast, **staff recommends appropriating \$10.0 million General Fund to the School Construction and Renovation Fund.**

Charter School Capital Construction.

Background Information. Senate Bill 01-129 created a new program to distribute State Education Fund moneys to charter schools for capital construction, providing that certain "qualified" charter schools will receive a flat amount of funding per pupil for capital construction expenditures. The amount that each charter school received per pupil was originally calculated as 130 percent of the minimum per pupil capital reserve amount that each district is required to budget; for FY 2001-02, qualified charter schools received \$322 per pupil. Thus, the amount of funding required for charter school capital construction was originally required to increase each year based on the number of qualified charter schools, the number of pupils attending such schools, and inflationary increases in the minimum per pupil capital reserve amount.

Subsequently, the General Assembly adopted legislation which modified this program in two significant ways. First, the amount appropriated for the program is now specified in statute.

Pursuant to Section 22-54-124 (3) (a) (III) (A), C.R.S., the General Assembly shall appropriate \$5.0 million from the State Education Fund for FY 2007-08 and subsequent fiscal years. This provision includes a legislative declaration indicating that this is a permissible use of the moneys in the State Education Fund since these moneys are being used for "*public school building capital construction*".

Second, any charter school with capital construction costs is eligible to receive funding (except any charter that operates within a state facility). Moneys appropriated each year are allocated among charter schools on a per pupil basis, except that any charter school operating in a school district facility that does not have ongoing financial obligations to repay the outstanding costs of new construction undertaken for the charter school's benefit receives one-half the amount per pupil that other charter schools received. [See Section 22-54-124, C.R.S.]

Department Request. **Consistent with current law, the Department has requested \$5.0 million from the State Education Fund for FY 2008-09. Staff recommends approving the request.** The following table identifies the amounts eligible charter schools actually received per pupil the last three fiscal years, as well as estimates for the current and request fiscal years.

State Funding for Charter School Capital Construction Costs				
Fiscal Year	Number of Schools Eligible for Funding	Number of Students in Schools Eligible for Funding <a>	Total Appropriation	Funding per Pupil for Schools Eligible for Funding
2004-05	105	31,939	\$5,000,000	\$171.06
2005-06	115	36,825	5,000,000	\$145.09
2006-07	125	40,987	7,800,000	\$201.17
2007-08	134	43,189	5,000,000	\$115.77
2008-09 (projected)	134	54,841	5,000,000	\$105.30

<a> These figures represent the total number of students enrolled in charter schools eligible to receive state funding, whether or not the school operates in a district facility.

 This figure represents the amount that eligible schools operating in district facilities received; eligible schools operating in a district facility received one-half this amount per student.

Based on a projected enrollment figures, eligible charter schools are estimated to receive \$105.30 per pupil for FY 2008-09 (with eligible schools that are in district facilities receiving one-half that amount). Funding per pupil will continue to decline as the number of students attending eligible charter schools continues to increase.

(III) Reading and Literacy [New subsection heading]

Federal Title I Reading First Grant. The Reading First grant program was established through the *No Child Left Behind Act*, passed by Congress in December 2001 [Title I-B, Subpart 1]. States are eligible to receive federal funds annually to help school districts identify and adopt "scientifically

based" reading programs for children in kindergarten through third grade. Up to 10 percent of federal funds are available as target or incentive grants to states that increase the number of students reading at a "proficient" level. States are required to distribute at least 80 percent of their funds to districts, giving priority to high-poverty areas with a high percentage of students in kindergarten through third grade reading below grade level. States are allowed to use remaining funds for a number of related activities, including: teacher preparation, professional development, and licensure and certification (65 percent); technical assistance to help districts implement Reading First (25 percent); and administration, planning, and reporting (10 percent).

Colorado was one of the first three states to have its plan related to Reading First approved, and the State received \$9.0 million for the first year of the program. The majority of these funds (\$8.2 million) were not spent in FY 2002-03 and were "rolled forward" to FY 2003-04. Pursuant to federal law, the funds are awarded competitively to local programs that show they will enhance young children's language and cognitive development by providing high-quality instruction and ongoing professional development based on scientifically based research. Colorado Reading First has served 54 districts and 82 schools across the state. The first set of grants were awarded to 32 schools ("cohort 1") beginning in the Summer of 2003. Eleven of these schools received funding for a fourth year in FY 2006-07. The Department awarded grants to 50 schools ("cohort 2") beginning in the Summer of 2005.

The Department notes that some schools (21 in FY 2003-04 and 38 in FY 2004-05) have received both federal Reading First grants and Read-to-Achieve grants. The Department indicates that these high poverty schools were able to use Read-to-Achieve funds to provide additional intensive instruction (e.g., before and after school programs) for their students most at risk of failure, and to use Reading First funds to provide ongoing professional development and coaching supports for each K-3 teacher as well as special services providers.

The Department indicates that in addition to providing assistance to districts to establish reading programs based on scientifically based reading research for students in kindergarten through third grade classrooms, these federal funds are being used for the following purposes:

- To focus on providing significantly *increased teacher professional development* to ensure that all teachers, including special education teachers, have the skills they need to effectively teach reading; and
- To provide assistance to districts in selecting appropriate *screening and diagnostic assessments* and preparing classroom teachers to effectively screen, identify and overcome reading barriers facing their students.

This line item is included in the Long Bill for informational purposes. **Staff recommends approving the request to reflect \$10,918,897 federal funds and 15.4 FTE related to the Reading First program in the FY 2008-09 Long Bill.**

Read-to-Achieve Grant Program. Senate Bill 00-71 and S.B. 00-124 established the Read-to-Achieve Grant Program, and the program was recently modified through S.B. 07-192. Pursuant to Section 22-7-901 et seq., C.R.S., schools may apply for grants through the program to fund intensive reading programs for students in kindergarten through third-grade (including students between the third- and fourth-grades) whose literacy and comprehension skills are below grade level. Schools may utilize the funds for in-class support and assistance, one-on-one school day pull-out programs, after school tutoring programs, or summer programs. Schools may request grant funds for up to three years. However, schools are required to demonstrate that at least 65 percent of the pupils who completed the one year instructional cycle of the intensive reading program reached their achievement goals or demonstrated that they are on pace to achieve grade level proficiency on the statewide reading assessment. A history of program funding and grant awards is provided in the table below.

Summary of Read-to-Achieve Grant Program						
Time Period	Read-to-Achieve Grant Program Appropriations	Number of Schools Receiving Grants	Number of Students Served	Grant Funding per Student <a>		
				Minimum	Average	Maximum
Jan. 2001 to June 2002 (18 mo. grant cycle)	\$36,469,492	553	27,884	\$115	\$1,202	\$1,650
FY 2002-03	16,183,438	508	24,551	101	856	950
FY 2003-04	10,675,732	483	22,292	334	628	630
FY 2004-05	16,331,727	374	16,289	355	1,004	1,058
FY 2005-06<c>	15,922,311	350	14,985	1,078	1,078	1,078
FY 2006-07	4,369,567	335	14,115	282	282	282
FY 2007-08	5,277,293	51	3,862	110	1,339	5,477

<a> The Department notes that pursuant to S.B. 07-192, beginning in FY 2007-08, it no longer awards funds on a per-pupil basis. The Department hopes that this allows them to provide a more consistent level of funding to grantees.

 In addition to the appropriation reflected above, the Governor allocated \$3.0 million of the federal relief payments received by the State pursuant to the federal *Jobs and Growth Tax Relief Reconciliation Act of 2003* (P.L. 108-27) for the Read-to-Achieve Grant Program. These funds were used these federal funds to increase the per-student grant amount to schools for FY 2003-04 (to \$628 per pupil).

<c> This amount includes \$11,562,409 General Fund and \$4,359,902 in tobacco settlement moneys.

The primary source of funds for the program is the Tobacco Litigation Settlement Cash Fund. This program currently receives five percent of the annual amount of settlement moneys received by the State, up to a maximum of \$8.0 million. The Department is authorized to use up to three percent of moneys in the Read-to-Achieve Cash Fund for the expenses incurred by the Read-to-Achieve Board in administering the program. These costs include expenditures associated with 1.0 FTE, an external evaluator, tobacco oversight costs, outside consultants (who conduct site visits and provide technical

assistance), networking days, travel, temporary services, postage, printing/reproduction, supplies, and materials.

Department Request / Staff Recommendation. The Department requests an appropriation of \$5,277,293 and 1.0 FTE for FY 2008-09 from the Read-to-Achieve Cash Fund -- the same level of funding provided for FY 2008-09. Pursuant to H.B. 06-1310, the General Assembly is no longer required to appropriate tobacco settlement moneys to the Read-to-Achieve Cash Fund; instead, these moneys are transferred pursuant to statutory directive.

Staff recommends appropriating \$6,675,177 and 1.0 FTE from the Read-to-Achieve Cash Fund for FY 2008-09. This recommendation includes \$5,325,177 in anticipated transfers of tobacco settlement moneys, and \$1,350,000 from the balance available in the Read-to-Achieve Cash Fund. The Department reports that this fund had a balance of \$2,698,289 at the end of FY 2006-07. As FY 2007-08 is the first year of a three-year grant funding cycle, staff recommends allowing the Department to utilize the existing fund balance over the next two fiscal years, thereby stabilizing the funding for the program. The following table details the anticipated expenditures associated with staff's recommended funding level.

Summary of Recommendation: Read-to-Achieve Grant Program		
Description	Total Funds	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$0	0.0
Other personal services appropriation (S.B. 07-192)*	69,192	1.0
Portion of FY 07-08 Long Bill appropriation anticipated to be spent on contractual services	50,000	
Salary survey awarded in FY 07-08	0	
80% of Performance-based pay awarded in FY 07-08	0	
Base reduction (1.0% for lines with 20.0+ FTE)	0	
Subtotal: Continuation personal services	119,192	1.0
Distribution to BOCES as required by Section 22-2-122 (3), C.R.S. (1.0 percent of FY 08-09 appropriation)	66,752	
Other Read-to-Achieve Board administrative expenses authorized by Section 22-7-908 (2), C.R.S. (3.0 percent of FY 08-09 appropriation, less personal services expenses)	81,063	

Summary of Recommendation: Read-to-Achieve Grant Program		
Description	Total Funds	FTE
Grant awards (includes full amount of tobacco settlement moneys anticipated to be credited to the Read-to-Achieve Cash Fund in FY 08-09, plus \$1,350,000 of the available fund balance)	6,408,170	
Recommended FY 08-09 appropriation	6,675,177	1.0

* Please note that S.B. 07-192 appropriated 1.0 FTE only, thereby authorizing the Department to use a portion of the FY 07-08 Long Bill appropriation to hire 1.0 FTE. The amount the Department estimates spending for salary, PERA, and Medicare in FY 07-08 is shown above for purposes of calculating the personal services portion of the appropriation for FY 08-09.

Family Literacy Education Fund.

Background Information. House Bill 02-1303 [see Section 22-2-124, C.R.S.] established the Family Literacy Education Grant Program through which school districts, community colleges, libraries, and other organizations may receive funding to provide family literacy education, adult literacy education, and English language literacy education services. The program was to be funded with gifts, grants, or donations credited to the Family Literacy Education Fund. The act included provisions stating the intent of the General Assembly that no General Fund be appropriated to support the Program, and repealing the Program if sufficient moneys were not credited to the Family Literacy Education Fund prior to December 1 each year.

Prior to FY 2006-07, a total of \$371,753 was credited to the Family Literacy Education Fund, including \$300,000 received from the Daniels Fund, other private donations totaling \$46,753, and a \$25,000 federal grant received through the Department of Human Services. Eighteen programs received grants in FY 2003-04 and FY 2004-05. The Department indicates that grantees also received funding in FY 2005-06 through federal Adult Education and Family Literacy Act and Even Start grants.

The FY 2006-07 Long Bill, as amended in the House, included an appropriation of \$200,000 from the State Education Fund to the Family Literacy Education Fund (and a commensurate amount of spending authority out of the Family Literacy Education Fund). The Department received eight applications for a total of \$269,385 in response to a request for proposals that was issued in September 2006. The Department awarded seven grants (on a competitive basis) ranging from \$10,000 to \$48,000²³. The Department indicates that these grants allowed local communities to serve 325 families (including 338 children), at a cost of about \$677 per family. The educational services provided to families and children included early childhood education, English language

²³ Communities that received grants in FY 2006-07 included: Alamosa, Boulder, Delta, Durango, Greeley, Leadville, and Sterling.

acquisition, basic computer skills, economic self sufficiency opportunities for parents, and support of their children's development of excellence in their school activities.

The FY 2007-08 Long Bill again included a \$200,000 appropriation from the State Education Fund for this program. The Department received 11 applications for a total of \$385,740. The Department awarded seven grants ranging from \$7,133 to \$50,000²⁴. In addition, the General Assembly adopted H.B. 07-1271, which eliminated both the stipulation that no General Fund moneys be appropriated for the Family Literacy Education Grant Program and the conditional repeal of the Colorado Family Literacy Act of 2002.

Department Request / Staff Recommendation. The Department requests another \$200,000 appropriation from the State Education Fund to the Family Literacy Education Fund for FY 2008-09. **Staff recommends approving the request. However, staff recommends appropriating General Fund, rather than State Education Fund moneys.** As noted by staff consistently since the 2006 Session, there is no statutory authority to appropriate moneys from the State Education Fund for this purpose. Specifically, the legislation adopted by the General Assembly to implement Amendment 23 includes a provision limiting appropriations from the State Education Fund:

"The moneys in the fund shall only be used to comply with the requirements of section 17 (1) of article (IX) of the state constitution and *for such purposes as may be authorized by law and that are consistent with* section 17 (4) (b) of article IX of the state constitution." [see Section 22-55-103 (3) (a), C.R.S., *emphasis provided*]

The General Assembly's practice, when it has chosen to appropriate moneys from the State Education Fund for a purpose other than complying with the constitutional spending requirements related to base per pupil funding and categorical programs, has been to add a statutory provision specifically authorizing the use of State Education Fund moneys for that particular purpose, including a statement of legislative intent identifying the associated constitutionally authorized purpose.

The General Assembly is no longer barred from appropriating General Fund moneys for this program, so staff recommends appropriating General Fund for FY 2008-09.

Family Literacy Education Grant Program. This line item provides cash funds exempt spending authority for the Department to spend moneys in the Family Literacy Education Fund from sources other than gifts, grants, and donations. Consistent with the request for the above line item, the Department requests \$200,000 cash funds exempt spending authority. **Consistent with the**

²⁴ Grant recipients for FY 2007-08 included: Metro State College of Denver Family Literacy Program, Delta County Family Literacy Program, La Llave Family Resource Center, Alamosa, Right to Read Adult Education Program of Weld County, Adult Learning Center of Ignacio, Inc., and Phillips County Family Education Services.

recommendation for the above line item, staff recommends appropriating \$200,000 from the Fund for FY 2008-09.

Reading Assistance Grant Program Fund. House Bill 06-1004 established the Reading Assistance Grant Program to provide grants to nonprofit organizations that provide and distribute to school districts and eligible facilities accessible educational materials for students who have difficulty achieving the state model content standards, but are not identified as having a disability [see Section 22-88-101 et seq., C.R.S.]. The act included an appropriation of \$300,000 from the Read-to-Achieve Cash Fund to the newly created Reading Assistance Grant Program Fund for FY 2006-07. Moneys in the new fund are continuously appropriated to the Department, except that the State Board of Education may not award grants totaling more than \$100,000 per fiscal year. The Department is authorized to spend up to one percent of the moneys appropriated to the Reading Assistance Grant Program Fund to offset the costs of implementing the Program. The Program is repealed July 1, 2009. **The Department has not requested, nor does staff recommend, any appropriation for this program for FY 2008-09.**

(IV) Professional Development and Instructional Support [New subsection heading]

Closing the Achievement Gap [New line item].

Background Information

Legislation. In 2001, the House of Representatives adopted H.J.R. 01-1014 (Dean/Matsunaka) stating that, "... closing the learning gap is an important goal of Colorado's education reform program...", and urging the State Board of Education and the Department of Education "to take all appropriate steps to make closing the learning gap a central element of educational accountability in Colorado".

In 2003, the General Assembly passed S.B. 03-254 (Spence/Evans) [Section 22-7-611, C.R.S.] created the "Closing the Achievement Gap Program" to provide extensive assistance to eligible schools that are at risk of being converted into an independent charter school. Eligible schools include those that have received an academic performance rating of "unsatisfactory" or are identified by the State Board of Education as having a significant achievement gap. By April 1 of the school year preceding the year in which an eligible school intends to participate in the program, the Department is required to prepare and distribute an outline of different strategies that schools may implement to improve academic achievement. *Subject to available appropriations*, the Department is to make assistance available to participating eligible schools. The assistance could consist of information, personnel, and program and technical support. The bill also established the "Closing the Achievement Gap Commission" and the "Closing the Achievement Gap Cash Fund", which is to consist of gifts, grants, and donations received by the Department. The Legislative Council Staff fiscal note for this bill indicated that the program would be supported by gifts, grants, and donations.

Recent Funding Requests. The State Board of Education has talked about seeking funding for purposes of addressing the achievement gap for a number of years, and approved related funding

requests three times from November 2001 through January 2007. Only one of these requests was included as part of the Governor's official budget request, as described below:

FY 2002-03: The State Board and the Governor requested \$6,000,000 State Education Fund for the following purposes: \$300,000 for state data reporting system changes; \$800,000 for longitudinal analyses of student assessment data; \$400,000 for eight consultants to provide technical assistance to schools and districts related to closing the learning gap; and \$4.5 million to provide grants of \$50,000 to 90 schools identified as having significant gaps in achievement between groups of students. The General Assembly did not appropriate the moneys requested.

FY 2003-04: The State Board approved a budget request that included \$1.0 million from the State Education Fund for closing the achievement gap. This request was not included as part of the Governor's budget request.

FY 2006-07: On January 9, 2007, the State Board approved a budget request for \$1,462,500 General Fund to identify schools with significant achievement gaps and to support teams of experts to work with individual schools and communities to close the gap. This proposal was based on costs of \$20,000 to \$25,000 per school, for 60 to 65 schools. This request was not included as part of the Governor's budget request.

To date, the General Assembly has not appropriated any moneys specifically for purposes of addressing the achievement gap, and staff is not aware of any gifts, grants, or donations that have been credited to the Closing the Achievement Gap Cash Fund.

Through **Decision Item #3**, the State Board of Education and the Governor are requesting \$1.8 million General Fund for an initiative to address achievement gaps associated with race and income. The Department proposed inviting those districts in the highest quartile with respect to achievement gaps to apply for Department assistance. Department intervention is intended to be available each year to an estimated six school districts as a pilot program. Participating districts would receive three types of assistance, estimated to cost \$300,000 per year, per district:

- A "gap consultant", who would be hired by each school district, be located in the district, and be part of the district's administrative team. [\$75,000 to \$100,000 per year, per district]
- Software tools and hardware platform for monitoring progress for each district, including "formative" assessments. [\$100,000 per year, per district]
- Staff development and on-site coaching for both teachers and instructional leaders in each district. [\$100,000 per year, per district]

The Department anticipates issuing a request for program proposals by June 1, 2008, requiring districts to submit proposals by June 30, and reviewing proposals and making funding available to

selected districts by August 1. The Department anticipates requesting a continuation of this funding in subsequent fiscal years.

The Department indicates that this initiative is anticipated to ultimately increase the number of students who graduate from high school, which could increase students' earnings (thereby benefitting the State's economy) and reduce the number of crimes committed.

Staff recommends approving the request. The request is consistent with previous legislative initiatives, and it is consistent with the objectives and requirements of the federal *No Child Left Behind Act*. The Department has provided some compelling data indicating that many achievement gaps related to race and income have either not changed or have widened. The Department also provided compelling data indicating that some districts, either through their own initiative or through technical assistance provided by Department staff, have successfully narrowed achievement gaps related to race and income.

It is not clear to staff that the Department necessarily intends to use these funds in the specific manner contemplated when the General Assembly passed S.B. 03-254 to create the "Closing the Achievement Gap Program". Staff recommends that the Department be allowed the flexibility to modify eligibility criteria and the types of assistance provided to participating districts as necessary to achieve the objectives of this initiative. The Department provided the following statewide performance measure data related to the achievement gaps that it seeks to address through this initiative.

Performance Measures: Achievement Gap		
Description of Student Groupings Used for Analysis	Percent of Students Scoring "Proficient" or "Advanced" on Statewide Assessments (all grade levels)	
	Reading	Mathematics
<i>Income-based Gap:</i>	30.6%	27.2%
Eligible for federal free or reduced price lunch program	49.3%	36.9%
Not eligible for free or reduced price lunch program	79.9%	64.1%
<i>Ethnicity-based Gap:</i>	27.1%	25.2%
Other than White - not Hispanic	52.4%	38.9%
White - not Hispanic	79.5%	64.1%

Content Specialists [New line item]. As recommended at the beginning of this document, staff recommends approving the Department request for 4.6 FTE content specialists (with minor modifications). However, staff recommends appropriating \$433,480 and 4.6 FTE through this new

line item so that it can be co-located with other appropriations of state funds devoted to professional development and instructional support activities.

Boards of Cooperative Services.

Background Information. Public school districts and postsecondary institutions are authorized to establish boards of cooperative services (BOCES) for the purpose of offering shared instructional and administrative programs such as data processing, curriculum development, special education, and staff development to member school districts [see Section 22-5-101, et seq., C.R.S.]. Services performed under the direction of the BOCES are financed by member contributions. In addition, BOCES are eligible to receive state funds under three different statutory provisions, as described below.

First, pursuant to Sections 22-5-114 and 115, C.R.S., certain BOCES' are eligible to receive a basic state grant of at least²⁵ \$10,000 annually to fund professional educator development in standards-based education. A BOCES is entitled to such a grant upon approval by the State Board of Education, and if it:

- (a) serves school districts with a combined total enrollment of not less than 4,000 students; and
- (b) serves school districts in two or more counties or serves multiple school districts located in the same county.

If the amount appropriated is not sufficient to award each eligible BOCES a \$10,000 (or greater) grant, the State Board it to reduce grant awards proportionately.

The Department requested a continuation level of funding for this purpose (\$210,000). Staff recommends approving the request.

The second source of state funding potentially available to BOCES is provided pursuant to Section 22-5-118, C.R.S., which states that in addition to the basic state grant (described above), a BOCES may receive state moneys by submitting to the Department of Education a plan to increase efficiencies and economies in providing education and support services to the board's participating school districts. Any amount appropriated for such purpose is to be divided equally based on the total number of students enrolled in the member school districts of the participating boards and distributed based on the number of students participating in the funded education or support services program from each member school district of each participating board. This provision allows, but

²⁵ Prior to July 1, 2007, the basic grant for each eligible BOCES was \$10,000, subject to available appropriations. Pursuant to S.B. 06-130, the basic grant amount may be higher than \$10,000 if sufficient moneys are appropriated for such purpose. This bill also requires the General Assembly to "annually make a separate appropriation to cover the estimated cost of the basic state grants to eligible [BOCES]".

does not require, the General Assembly to appropriate moneys to the Department for this purpose in addition to any moneys appropriated for the basic grants described above. It does not appear that the Department has ever requested additional funding for the purposes identified in Section 22-5-118, C.R.S.

Third, pursuant to H.B. 02-1053 [Section 22-2-122 (3), C.R.S.], the Department is required to annually allocate to those BOCES that provide a wide range of services to their member school districts or school districts with student populations of less than 4,000 students, an amount equal to one percent "of the amount appropriated to all education grant programs for that fiscal year", or \$250,000, whichever is less. BOCES receiving such funding are required to use the moneys to assist member school districts and schools in applying for grants from education grant programs. For FY 2006-07, the Department allocated \$116,547 to 15 eligible BOCES, including \$62,852 from the Expelled and At-risk Student Services Grant Program, \$43,696 from appropriations for the Read-to-Achieve Grant Program, and \$10,000 from the Summer School Grant Program.

Civic Education. The details and recommendation for this line item appear in the Management and Administration section of the budget, above. Staff recommended transferring this line item to this section in the FY 2008-09 Long Bill.

National Credential Fee Assistance. This program, initially established through H.B. 02-1349, requires the Department to assist individuals seeking a national credential by paying a portion of the fees charged for such credential [see Section 22-60.5-112.5, C.R.S.]. The amount of fee assistance is to be equal to the amount of the national credential fee received by the applying teacher through a federal assistance program. Procedurally, individuals apply for federal fee assistance first. If the federal application is approved, the National Board for Teaching Standards submits a request to the Department for a matching amount of state funds. The General Assembly is to annually appropriate, if available, moneys in the State Education Fund for such purpose. This provision includes a legislative declaration that providing national credential fee assistance to teachers who obtain a national credential from an approved professional organization constitutes a *performance incentive for teachers* and such teachers may therefor receive funding from the State Education Fund.

The General Assembly appropriated \$60,000 from the State Education Fund for this purpose for FY 2002-03. Through S.B. 03-248, the General Assembly made this program subject to available appropriations. Funding was restored in FY 2005-06, and was increased to \$100,000 for FY 2006-07 and to \$125,000 for FY 2007-08. Data available from the National Board for Professional Teaching Standards (NBTS) indicates that as of the end of the 06-07 school year, there were a total of 332 National Board Certified teachers in Colorado. The following table summarizes appropriations to date, along with the number of applicants annually.

National Credential Fee Assistance						
Fiscal Year	Appropriation	Total Cost of National Credential	Federal Fee Assistance Available	State Fee Assistance Available	Number of Applicants (excluding those who withdrew)	Number of Individuals Certified
2002-03	\$60,000	n/a	\$1,000	1,000	60+	19
2003-04	0	2,365	1,000	0	36	35
2004-05	0	2,365	1,000	0	37	34
2005-06	83,000	2,365	1,000	1,000	88	18
2006-07	100,000	2,565	1,000	1,000	n/a	n/a
2007-08	125,000	2,565	1,000	1,000	n/a	n/a
2008-09 (request)	125,000	2,565	1,000	1,000	n/a	n/a

The Department has requested a continuation level of funding for this purpose for FY 2008-09. Staff recommends approving the request. The Department spent \$99,450 in FY 2006-07 (reverting \$550), and it has spent \$70,000 to date. Department staff anticipate spending the full \$125,000 this fiscal year, but were not able to obtain more detailed information from the NBTS to complete the table above in time for the publication of this packet. Last year, the Department spent \$86,000 through February 2007, and the remaining \$13,450 when additional federal moneys were made available.

Financial Literacy. The details and recommendation for this line item appear in the Management and Administration section of the budget, above. Staff recommended transferring this line item to this section in the FY 2008-09 Long Bill.

Colorado History Day. House Bill 04-1202, concerning the funding of "Colorado History Day", requires the Department to assist school districts in developing and promoting programs that engage students in the process of discovery and interpretation of historical topics. While this bill authorizes the Department to accept gifts, grants, and donations for such purpose, it also includes the following provision [see Section 22-1-104 (5) (c), C.R.S.]:

"It is the intent of the general assembly that the objectives specified in paragraph (a) of this subsection (5) are to be funded through the state education fund created in section 17 (4) of article IX of the state constitution. The general assembly hereby finds that the development, promotion, and maintenance by the school districts of the state of programs for elementary and secondary students that engage such students in the process of discovery and interpretation of historical topics assists these students in meeting state

academic standards and may therefore be funded from moneys in the state education fund."

The Department has a memorandum of understanding with the Department of History, University of Colorado at Denver and Health Sciences Center, for "Colorado History Day". Through this program, students in grades six through twelve engage in a year-long educational program leading to regional competitions in February and March; regional competition winners travel to the state-level competition in May at the University of Colorado, and winners at the state level advance to the national contest at the University of Maryland in June. The funds provided through this line item are used to support regional programs, teacher workshops and curriculum support, coordination of the annual state-level competition, and coordination of Colorado's delegation at the national competition. **The Department has requested a continuation level of funding (\$10,000) from the State Education Fund for FY 2008-09. Staff recommends approving the request.**

Principal Development Scholarship Program. House Bill 06-1001 created the Principal Development Scholarship Program to provide stipends for principals to obtain ongoing professional development (see Section 22-9.5-101 et seq., C.R.S.). The State Board of Education is to award stipends from the Principal Development Scholarship Fund, which consists of any gifts, grants, and donations received for such purpose. The Department is authorized to spend up to one percent of the moneys annually appropriated from the fund to offset the costs of implementing the Program. The act included an appropriation of \$250,000 cash funds exempt to allow the Department to spend up to \$250,000 gifts, grants, or donations received.

No gifts, grants, or donations have been received to date, and the Department has not requested an appropriation for this purpose for FY 2008-09.

(V) Summer and After-school Programs [New subsection heading]

Summer School Grant Program. House Bill 06-1375 included a provision that recreated and reenacted this program, which was originally established through S.B. 01-129 (see Section 22-7-801 et seq., C.R.S.). This program provides grants for districts to operate summer school programs for students entering the 4th through 8th grades who received an unsatisfactory score on the reading, writing, or math portion of the Colorado student assessment program in the preceding academic year. The Department is authorized to annually withhold up to three percent of the moneys appropriated for this program to offset the direct costs incurred in administering the program and to "evaluate the progress of the summer school programs operated by school districts and Institute charter schools that receive grants" through the program. The act included the following provision concerning funding:

"For the 2006-07 budget year and for each budget year thereafter, subject to available appropriations, the general assembly shall annually appropriate moneys from the state education fund...to the department to be used to award grants for summer school programs..."

This provision does not include a statement of legislative intent identifying the associated constitutionally authorized purpose. However, it seems reasonable to assume that this program could be considered an "accountable program to meet state academic standards". The act included an appropriation of \$1,000,000 cash funds exempt from the State Education Fund and 0.3 FTE for FY 2006-07 for the new grant program. Thus, the Department is authorized to withhold up to \$30,000 for administrative costs.

In FY 2006-07, the Board awarded grants to 11 districts, representing 48 schools and approximately 5,000 students entering 5th-8th grades who received an unsatisfactory score in reading, writing or math, were served. Grants ranged in size from \$15,452 to \$265,574, with the average award being \$87,273. The programs and curricula funded were designed to provide intensive instruction that was research-based, and rigorous enough to demonstrate significant improvement in a student's performance in a short period of time. The curriculum was administered by teachers who had been trained in the use of the program. Evaluation data indicate that these intensive services have had a positive impact on participants' achievement.

The Department released a request for proposal in January 2008, with proposals from districts due March 3, 2008. Grants will be awarded to districts by April 30, 2008 for services that will be provided during Summer 2008; program impacts will be evaluated in November 2008.

The Department requests a continuation level of funding for this program (\$1,000,000 from the State Education Fund and 0.3 FTE). Staff recommends approving the request. The following table details the components of the \$1.0 million appropriation.

Summary of Recommendation: Summer School Grant Program		
Description	Total Funds	FTE
Personal services portion of FY 07-08 Long Bill appropriation	\$25,500	0.3
Salary survey awarded in FY 07-08	829	
80% of Performance-based pay awarded in FY 07-08	246	
Base reduction (1.0% for lines with 20.0+ FTE)	<u>0</u>	
Subtotal: Continuation personal services	26,575	0.3
Other administrative and evaluation-related expenses authorized by Section 22-7-807 (2), C.R.S. (a total of 3.0 percent of FY 08-09 appropriation)	3,425	
Grant awards (includes full amount of tobacco settlement moneys anticipated to be credited to the Read-to-Achieve Cash Fund in FY 08-09, plus \$1,350,000 of the available fund balance)	970,000	
Recommended FY 08-09 appropriation	1,000,000	0.3

Facility Summer School Grant Program. House Bill 06-1375 included a provision that amended this program, which was originally established through H.B. 02-1349 (see Section 22-86-101 et seq., C.R.S.). This program, as amended, provides grants to facility schools that operate summer school programs for children residing in the facilities. The Program is designed to assist facility schools in providing intensive educational research-based services for children who are performing below grade level in the areas of reading, writing, or mathematics. The act included the following provision concerning funding:

"For the 2006-07 budget year and for each budget year thereafter, subject to available appropriations, the general assembly shall appropriate moneys from the state education fund...to the department to be used to award grants for facility summer school programs..."

This provision does not include a statement of legislative intent identifying the associated constitutionally authorized purpose. However, it seems reasonable to assume that this program could be considered an "accountable program to meet state academic standards". The act included an appropriation of \$500,000 cash funds exempt from the State Education Fund for FY 2006-07 for the Program.

For FY 2006-07, the Department planned to cover the actual costs²⁶ of facility schools with applications that meet required criteria, not to exceed \$500 per eligible student (the maximum allowed per program rules). The Department indicates that for FY 2006-07, many facilities did not have appropriate curriculum in place and were not able to accomplish this in time for the grant process. The grant requires that the facility implement research-based curriculum, but only five percent of the grant funds could be used for materials, including the purchase of the curriculum. In addition, the Department indicates that several approved facilities are "for-profit" agencies, and these facilities will not be able to participate in this program due to internal agency requirements. Every facility that submitted an application was awarded the full \$500 per eligible student. Funding available in FY 2006-07 was distributed among 19 programs.

The Department requests a continuation level of funding for this program (\$500,000 from the State Education Fund). Staff recommends approving the request. Applications are currently being accepted for the FY 2007-08 program, and applications from 14 programs have been received. An additional 16 programs have requested an extension to prepare their applications. The Department plans to distribute funds to each facility that submits an application that meets the requirements set forth in State Board rules. While the total number of eligible students is not yet known, with the number of applications increasing by more than 50 percent it is anticipated that the Department will be able to distribute the full \$500,000 for FY 2007-08. If the \$500,000 appropriation is insufficient, the Department will prorate the per student funding accordingly.

²⁶ Actual costs include: salary and benefits of qualified teachers and up to one paraprofessional per qualified teacher; and materials and supplies (not to exceed five percent of the grant). Grant moneys may not be used for staff development, the purchase of equipment, capital construction, or administrative costs.

Dropout Prevention Activity Grant Program [New line item]. House Bill 05-1024 created the Dropout Prevention Activity Grant Program. This program is funded through voluntary income tax check-off contributions, which are credited to the Dropout Prevention Activity Grant Fund. This Fund is subject to annual appropriation, and the Department is authorized to expend up to two percent of the moneys annually appropriated from the Fund to offset the direct and indirect costs incurred in implementing the Program. Pursuant to Section 22-27.5-101 *et seq.*, C.R.S., the Department is to distribute these funds to before- and after-school programs that provide arts-based or vocational activities for students in grades six through nine who are at risk of dropping out of school. The Department will develop a grant application process for qualified schools and community-based organizations. Priority will be given to schools that experience high dropout rates.

The Department's request (*Decision Item #6*) is intended to provide spending authority for contributions collected in FY 2005-06 (\$28,643), FY 2006-07 (\$48,509), plus estimated contributions for FY 2007-08 (\$81,979). **The Department is thus requesting a total of \$159,131 spending authority from the Dropout Prevention Activity Grant Fund for FY 2008-09.**

The Department indicates that it chose to invite certain entities that were awarded 21st Century Learning Center grants through a competitive application process to apply for grants through this program. The applications for the 21st Century grants contain the criteria that is specified in the State Board rules for this program. The following nine middle and high schools have three years left of their 21st Century grant:

- Niver Creek/Goals Inc. (Adams 12)
- Alamosa High School/ Boys and Girls Clubs
- Aurora Central High School/ City of Aurora
- Kunsmiller Middle School/ Catholic Charities (Denver Public Schools)
- Lamar Middle School/ Project Acquire High School Alternative
- Centennial and Olathe middle schools/ Boys and Girls Clubs
- Sierra High School/ YMCA (El Paso 2)
- Cortez Middle School/ Pinon Project

All nine schools received an academic rating of low or unsatisfactory, have many students of color, and have high drop out rates. These nine schools and their community partners have been invited to apply for funds to supplement their 21st Century grants for the purpose of including art and vocational strategies in their after school learning centers. The Department anticipates making funding decisions in March 2008 and making funds available July 1, 2008.

Staff recommends approving the request. Pursuant to Section 39-22-2802, C.R.S., this tax check-off is only authorized for three tax years (2005 through 2007). Please note that the State Board is statutorily required to award grants "in each year in which moneys are credited to the [Dropout Prevention Activity Grant Fund]". However, this is the first time the Department has requested spending authority. Given the dollar amounts credited to the Fund in the first two years, and the fact that the tax check-off is only authorized for three tax years, staff agrees with the Department's

decision to request authority to spend the total amount collected over three years for purposes of awarding grants.

(VI) Other Assistance [New subsection heading]

Appropriated Sponsored Programs. As discussed later in this document, staff recommends including this line item in this new subsection.

Contingency Reserve Fund Pursuant to Section 22-54-117 (1) and (4), C.R.S., the State Board is authorized to approve payments from the Contingency Reserve Fund to assist school districts under the following circumstances:

- (a) (I) financial emergencies caused by an act of God or arising from extraordinary problems in the collection of taxes;
- (a) (II) financial emergencies caused by nonpayment of property taxes;
- (a) (III) revenues are insufficient to make abatements and refunds of property taxes;
- (a) (IV) unforeseen contingencies (e.g., reductions in valuation exceeding 20 percent);
- (a) (V) unusual financial burden caused by the instruction of court-ordered or agency-placed non-resident children;
- (a) (VI) unusual financial burden caused by the instruction of children who move into the district following the pupil count date (applies to small districts only);
- (a) (VII) unusual financial burden caused by a significant enrollment decline pursuant to a reorganization; and,
- (b) in cases of extreme emergency, other factors that affect the ability of the district to maintain its schools without additional financial assistance.

Section 22-54-117 (1) (a), C.R.S., indicates that, "In deciding the amount to be appropriated to the contingency reserve, the general assembly may take into consideration any recommendations made by the department of education, but nothing in this section shall be construed to obligate the general assembly to provide supplemental assistance to all districts determined to be in need or fully fund the total amount of such need." The following table summarizes amounts paid out to school districts since FY 1993-94.

Contingency Reserve			
Fiscal Year	Actual Payments	Fiscal Year	Actual Payments
1993-94	\$5,544,162	1998-99	\$1,913,133
1994-95	2,108,545	1999-00	1,800,000
1995-96	820,929	2000-01	3,770,983
1996-97	1,170,681	2001-02	1,966,353
1997-98	2,250,231	2002-03	3,900,000
<i>10-Year Average</i>			<i>2,670,094</i>
2003-04	0	2006-07	622,493
2004-05	0	2007-08 YTD	0
2005-06	622,493		

Although the State Board has not approved any payments to date for this fiscal year, the Department recently received several requests related to property tax abatements and errors in the valuation of property that the State Board will likely act on in March or April. The requests total approximately \$425,000.

Please note that pursuant to Section 22-54-117 (1) (c), C.R.S., when a school district reimburses the State for supplemental assistance received from the Contingency Reserve, the reimbursement is credited to the Contingency Reserve Fund rather than the General Fund. Thus, these repayments may then be made available to meet other districts' needs. Beginning in FY 2001-02, the appropriation related to the Contingency Reserve has included spending authority related to districts' repayments (in lieu of a General Fund appropriation to the Contingency Reserve). Specifically, \$310,000 of the assistance provided in FY 2001-02 came from district repayments, and \$758,226 of the assistance provided in FY 2002-03 came from district repayments. All other payments were provided through General Fund appropriations.

The General Assembly has not appropriated General Fund moneys for this line item since FY 2002-03. The source of funds for the FY 2006-07 appropriation for this line item (\$4,291,277 cash funds exempt) is reimbursements from Denver Public Schools. In FY 2000-01, the State Board paid Denver Public Schools a total of \$3,948,814 to offset property taxes owed by United Airlines when the company declared bankruptcy. The district reimbursed the State for the amount received plus interest once the bankruptcy case was resolved.

The Department's request reflects the same level of funding (\$4,439,728) for FY 2008-09. Staff recommends reflecting \$4,770,988 in the FY 2008-09 Long Bill for this line item, which is equivalent to the fund balance as of July 1, 2007. Please note that this is an informational

appropriation, as the State Board is statutorily authorized to approve payments from the Contingency Reserve as long as there is money available.

Military Dependent Supplemental Pupil Enrollment Aid. Pursuant to H.B. 08-1232 (Section 22-54-128, C.R.S.), certain school districts are eligible for additional state funding based on mid-year increases in enrollment. Specifically, for FY 2007-08 through 2010-11, any school district may apply for military dependent supplemental pupil enrollment aid for new pupils who are dependents of full-time active duty members of the U.S. military or are dependents of a member of the U.S. military reserve forces who has been called to active duty. If the number of these new pupils as of February 1 is at least 25 or represents at least a one percent increase. Eligible districts may receive one-half of the district's per pupil revenues for each of these new pupils. Districts are required to apply for such additional funding, and the Department is required to submit a request to the General Assembly by March 1 for a supplemental appropriation in an amount that will fully fund the aggregate amount of the military dependent supplemental pupil enrollment aid allowed. The General Assembly "shall appropriate, subject to available appropriations," the amount authorized for military dependent supplemental pupil enrollment aid. In the event that the amount appropriated by the General Assembly is less than the amount of aid authorized for each eligible district, the Department is required to distribute available funding proportionately.

The Department submitted a request a *Supplemental Funding Request for FY 2007-08* for an appropriation of \$1,924,185 from the State Education Fund. **Based on more recent information provided by the Department, staff recommends appropriating \$1,818,517**, as detailed in the following table.

Military Dependent Supplemental Pupil Enrollment Aid: FY 2007-08			
District (all in El Paso County)	Actual Count	Per Pupil Revenue	Funding
Harrison	45.0	\$6,791	\$152,795
Widefield	57.0	6,279	178,950
Fountain	300.0	6,279	941,844
Colorado Springs	54.5	6,509	177,383
Academy 20	76.0	6,285	238,825
Falcon	41.0	6,279	128,719
Total	573.5		1,818,517

In addition, staff recommends appropriating this amount from the General Fund, rather than the State Education Fund (as requested). The General Assembly has not specifically statutorily authorized the use of State Education Fund moneys for this purpose. The Legislative Council Staff Fiscal Note for this bill clearly indicated that a General Fund Appropriation would be required,

beginning in FY 2008-09. Pursuant to Article IX, Section 17 of the Colorado Constitution, the General Assembly may annually appropriate moneys from the State Education Fund for the following education-related purposes:

- to comply with the requirement to annually increase base per pupil funding for public school finance, as long as it is in addition to the required increases in General Fund appropriations;
- to comply with the requirement to annually increase funding for categorical programs;
- for accountable education reform;
- for accountable programs to meet state academic standards;
- for class size reduction;
- for expanding technology education;
- for improving student safety;
- for expanding the availability of preschool and kindergarten programs;
- for performance incentives for teachers;
- for accountability reporting; or
- for public school building capital construction.

This program does not appear to fall under any of the above categories, and the request does not provide any rationale for the requested funding source.

Finally, staff recommends appropriating this same amount for FY 2008-09. If this appropriation is not included in the FY 2008-09 Long Bill (and none was requested), the General Assembly will likely need to reduce one or more other operating appropriations to cover the appropriation needed for this program. Based on conversations with Department staff, it is reasonable to assume that the amount required for FY 2008-09 will be at least as high as the amount required for the current fiscal year.

Supplemental On-line Education Services. House Bill 06-1008 established a program whereby small school districts and certain charter schools could receive reimbursement for the cost of purchasing supplemental on-line education courses. This program was authorized for one year. Subsequently, H.B. 07-1066 established two programs to support supplemental on-line education services. The first program is supported by this line item. Pursuant to Section 22-5-119, C.R.S., the General Assembly is required to annually appropriate federal mineral lease revenues for the Mountain Board of Cooperative Services (BOCES) to contract with a supplemental on-line course provider to offer on-line courses to school districts, BOCES, and charter schools at a cost of no more than \$200 per student per semester course.

The act included an appropriation of \$480,000 from the State Public School Fund (federal mineral lease revenues) for FY 2007-08 for this program. The Department requests a continuation level of funding for this purpose for FY 2008-09. **Staff recommends approving the request.** The Mountain BOCES is statutorily required to submit a report summarizing the provision of supplemental on-line courses, including an accounting of expenditures. This report is not due until March 15, 2008.

Supplemental On-line Education Grant Program. The second program authorized by H.B. 07-1066 is supported by this line item. Pursuant to Section 22-2-130, C.R.S., the General Assembly is required to annually appropriate federal mineral lease moneys for the State Board of Education to award grants to BOCES and certain school districts and charter schools to remove financial or technical barriers to providing supplemental on-line education courses. Grants can be used to provide additional reimbursement for the cost of purchasing supplemental on-line courses, or to increase access to supplemental on-line courses by providing technical equipment, hiring technical specialists, providing staff training, or providing financial assistance to hire personnel to facilitate on-line access. The Board is to give priority to those entities that have been unable to provide supplemental on-line courses in the past, and consider the degree to which students require supplemental on-line courses to meet higher education admission standards, as well as other revenue sources available to each entity. A grant may not exceed \$5,000 in a fiscal year. The Department is allowed to spend up to two percent of the moneys annually appropriated for this program to offset the direct and indirect costs of administering the program.

The act included an appropriation of \$50,000 from the State Public School Fund (federal mineral lease revenues) for FY 2007-08 for this grant program. The Department requests a continuation level of funding for this purpose for FY 2008-09. **Staff recommends approving the request.** The Division of Online Learning is currently in the process of developing rules and the request for proposal (RFP) procedures for grant applications. Drafts of the rules and the RFP will be available for review by February 27, 2008. Thus, no grants have been awarded to date and no data is available concerning the number of applicants and the overall demand for the program.

Aid for Declining Enrollment Districts with New Charter Schools. House Bill 06-1375 included a provision that provides additional state aid for school districts with declining enrollment for the first year of operation of a new charter school (see Section 22-54-126, C.R.S.). The act included an appropriation totaling \$1,283,377, including \$1,000,000 from the State Education Fund and \$283,377 General Fund, for such purpose. The act included the following provision concerning funding:

"For the 2006-07 budget year and each budget year thereafter, the general assembly shall annually appropriate moneys from the general fund or any other source for additional aid to a declining enrollment district in which a new charter school is opened. The additional aid shall be distributed to all declining enrollment districts in which new charter schools are opened in the budget year for which the aid is appropriated. The additional aid shall be distributed among the declining enrollment districts in which new charter schools are opened in the proportion that the declining enrollment district's new charter school enrollment bears to the total new charter school enrollment in all declining enrollment districts statewide in which new charter schools are opened in the budget year for which the additional aid is appropriated."

Please note that this provision does not specifically authorize the use of State Education Fund moneys for the provision of such additional state aid, nor does it include a statement of legislative intent identifying the associated constitutionally authorized purpose.

For FY 2006-07, new charter schools opened in nine school districts²⁷. However, only three of these school districts experienced declining enrollment in FY 2006-07. The following table details the funding that was distributed for FY 2006-07:

Aid for Declining Enrollment Districts with New Charter Schools: FY 2007-08						
District	Funded Pupil Count	Actual Enrollment (FTE)	Difference	FTE in New Charter Schools	Aid Received (\$4,035.78 per FTE in New Charter)	Aid Received / Total Program Funding
Clear Creek	1,038.9	961.0	77.9	89.0	\$359,184	5.3%
Denver	67,975.3	67,585.5	389.8	100.0	403,578	0.1%
Jefferson	81,825.5	81,137.0	688.5	129.0	520,615	0.1%
Total	150,839.7	149,683.5	1,156.2	318.0	1,283,377	n/a

Subsequently, S.B. 07-199 set a \$300,000 cap for the total amount of aid that a declining enrollment district in which a new district charter school opens may receive in the fiscal year in which the new charter school opens.

The General Assembly did not appropriate any funds for this purpose for FY 2007-08, and the Department has not requested any funding for this purpose for FY 2008-09. **Staff recommends approving the request for \$0.**

Estimating the number of eligible districts: The Department is required to annually submit an estimate of the number of pupils expected to be enrolled in charter schools for the next fiscal year (for purposes of capital construction funding). Based on its most recent report, the Department has indicated that five new district charter schools will open in FY 2008-09 in four districts (one in Arapahoe - Aurora, one in Denver, two in El Paso - Falcon, and one in La Plata - Durango). However, only two of these four districts are currently projected to experience a decline in enrollment in FY 2008-09. Thus, it appears that Arapahoe - Aurora and Denver are the only districts that would be eligible for funding through this line item for FY 2008-09. The following table indicates that the General Assembly could appropriate up to \$450,000 for this program for FY 2008-09 if it intends to provide the same amount per FTE in the new charter school for each eligible district.

²⁷ New charter schools opened in the following school districts: Arapahoe-Aurora, Boulder Valley, Clear Creek, Denver, Douglas, El Paso-Cheyenne Mountain, El Paso-Falcon, Jefferson, and Larimer-Thompson.

Aid for Declining Enrollment Districts with New Charter Schools: FY 2008-09 Estimate						
District	Funded Pupil Count	Actual Enrollment (FTE)	Difference	FTE in New Charter Schools	Maximum Allowable Aid (\$1,250 per FTE in New Charter)	Aid Received / Total Program Funding
Arapahoe - Aurora	31,552.0	31,449.5	102.5	240.0	300,000	0.13%
Denver	68,360.0	68,294.0	66.0	120.0	<u>150,000</u>	0.03%
Total					450,000	

To the extent that the General Assembly appropriates less than \$450,000, each eligible district would receive a lower amount per FTE. Should the General Assembly choose to appropriate moneys for this programs, staff recommends appropriating General Fund moneys, rather than moneys in the State Education Fund. The statutory provision does not specifically authorize the use of State Education Fund moneys for the provision of such additional state aid. Further, it is unclear what constitutionally authorized purpose this funding fits under (i.e., accountable education reform? class size reduction?).

LONG BILL FOOTNOTES

Staff recommends continuing the following footnote as a request for information, as amended:

Department of Education, Assistance to Public Schools, Grant Programs and Other Distributions -- The Department is requested to provide information to the Joint Budget Committee by November 1, ~~2007~~ 2008, concerning the allocation of funding to eligible boards of cooperative services (BOCES) pursuant to Section 22-2-122 (3), C.R.S. Specifically, the Department is requested to detail the sources of funds and the allocations made to each BOCES in fiscal year ~~2006-07~~ 2007-08.

This footnote was vetoed by the Governor on the basis that: (1) it violates the separation of powers by attempting to administer the appropriation; and (2) it constitutes substantive legislation. In his May 2, 2007, letter to the General Assembly, however, the Governor indicated that he would instruct the Department to comply to the extent feasible. Further, after the General Assembly overrode all Long Bill vetoes, the administration reviewed each footnote to determine which could be reasonably complied with given available resources and departmental priorities. To the extent that this footnote could be adhered to without adversely impacting executive branch operations or the delivery of services, the Governor directed departments to comply pursuant to the August 16, 2007 letter from the director of the Office of State Planning and Budgeting to the leadership of the General Assembly.

Pursuant to a provision added by H.B. 02-1053 (Young/Taylor), the Department is required to annually allocate funds to those boards of cooperative services (BOCES) that provide a wide range

of services to their member school districts, or school districts with student populations of less than four thousand students. Specifically, up to \$250,000 is to be allocated annually using 1.0 percent of amounts appropriated for various education grant programs for that fiscal year; moneys are to be allocated proportionately on a per school district basis, based on the total number of school districts that have student populations of less than four thousand students and are members of eligible BOCES. The BOCES that receive allocations are to use such moneys to assist member school districts and schools in applying for grants. The BOCES use these funds to provide direct grant writing services (provided through BOCES staff or contracted professional staff), support to school staff, and training to member school districts.

(D) Appropriated Sponsored Programs

This section of the Long Bill reflects federal funding anticipated to be received by the Department. This section also provides cash funds spending authority for the Department to receive fees related to conferences and transfers from other agencies. The vast majority of funds reflected in this section are distributed directly to local school districts, and the balance is utilized by the Department to fund state-wide efforts, to provide technical assistance to school districts, and to cover Department administrative costs. Matching requirements for the federal funds, where required, are generally met by using other Department funds, school district funds, and other "non-state" funds. Thus, no General Fund appropriation is included in this line item.

Sponsored Programs. The Department requests a total of \$319,571,793 and 106.7 FTE for this line item, based on preliminary estimates of federal funding that will be available for FY 2008-09. Staff recommends approving the request. Staff has included Appendix C to provide more detail regarding estimates of funds anticipated to be available for FY 2007-08 and FY 2008-09, as well as actual amount received and spent in FY 2006-07 (for purposes of comparison). **However, staff recommends moving this line item to the "Grant Programs, Distributions, and Other Assistance" subsection, above.**

In addition, staff recommends reflecting federal U.S.D.A. funds, as well as federal library-related funds, in separate line items. Specifically, staff recommends reflecting \$96,043,011 and 7.1 FTE in the new "Federal Nutrition Programs" line item, and staff recommends reflecting \$2,983,084 and 26.3 FTE in the new "Federal Library Funding" line item. Staff first advised the Committee in the Fall of 2005 that staff may recommend including separate line items in the Long Bill for some of the more significant sources of federal funds (e.g., Title 1). Staff believes that this will provide better, more accessible information to members of the General Assembly and other interested parties.

(3) LIBRARY PROGRAMS

Statutory Authorization and Responsibilities. Article IV, Section 20 of the Colorado Constitution states that the "superintendent of public instruction shall be the ex officio state librarian." Pursuant to Section 24-90-104, C.R.S., the State Library is a division within the Department of Education, and its operation "is declared to be an essential administrative function of state government". The State Librarian has a number of statutory duties and responsibilities, including the following [see Section 24-90-105, C.R.S.]:

- to furnish library or information services to state officials, departments, institutional libraries, and persons who are blind and physically disabled;
- to contract for the furnishing of library resources to ensure equal access to information for all Coloradans;
- to provide for the collection, analysis, publication, and distribution of statistics and information relevant to the state library and to public, school, academic, and institutional libraries;
- to contract for the lending of books and other resources to publicly-supported libraries and institutions and to encourage contractual and cooperative relations to enhance resource sharing among all types of libraries and agencies throughout the state;
- to encourage contractual and cooperative relations to enhance resource sharing among all types of libraries and agencies throughout the state;
- to further library development and to promulgate service standards for school, public, and institutional libraries; and
- to receive and administer federal funds for libraries.

Recent Funding Reductions. As noted in the narrative at the beginning of this packet, prior to FY 1987-88, funding for library staff and library programs was appropriated through distinct line items. In FY 1987-88, however, funding for library program staff was consolidated with funding for other Department management and administrative staff to facilitate a \$2.5 million reduction in General Fund appropriations for the administration of the Department and library programs. From FY 2001-02 through FY 2004-05, base General Fund appropriations for staff supported through the consolidated line item were been reduced by another \$1.8 million, resulting in a reduction of 3.0 FTE library program staff (a 14 percent reduction). Positions that were eliminated include staff at the Talking Book Library and staff responsible for institutional library programs.

This section of the Long Bill currently includes line items associated with library programs, other than Department library program staff. The \$1,420,819 General Fund currently appropriated in this section of the Long Bill for library programs for FY 2006-07 represents 19 percent of the total General Fund appropriated by the General Assembly for library programs for FY 2001-02.

Administration [New line item]. As described earlier in this document, **staff recommends transferring to a new line item from the General Department and Program Administration line item \$743,128 General Fund and 11.8 FTE responsible for administration of library programs.**

This amount includes \$722,622 for personal services, \$18,656 for operating expenses, and \$1,850 for travel expenses. Staff understands that this amount of state funding, along with other state funds reflected in this section, is used to comply with federal maintenance of effort and matching requirements associated with federal library funding. Staff recommends including this new line item in a section with other state and federal funding for library programs. **In addition, staff recommends that his line item reflect donations from the "Friends of the Colorado Talking Book Library" (\$128,302), which are currently used to support 1.0 FTE.**

Federal Library Funding [New line item]. As discussed previously in this document, **staff recommends reflecting federal library-related funding (an estimated \$3,008,688) as well as the staff supported by that funding (23.8 FTE) in a separate line item in the Library Programs section of the Long Bill.** This amount includes funding available through the Library Services Technology Act and Adult Education Library Research funding.

Colorado Library Consortium.

Background Information. Historically, seven regional organizations of publicly-funded libraries (school, public, academic, and special libraries), known as "regional library service systems", provided cooperative services in designated geographic areas of Colorado. The seven regional systems provided the following services to member libraries:

- professional development and technical assistance for librarians, particularly those who work in school and public libraries (e.g., developing professional collections of books and videos on all aspects of library and school media services and loaning such materials to libraries and schools across the State);
- administration of cooperative purchasing programs for member libraries (negotiating significant discounts on books and other library materials); and
- coordination of interlibrary lending (including courier services) for member libraries.

Regional systems' budgets covered all program operations including personnel salaries and benefits, rent for office space, travel costs, and general program operations. The appropriation of state funds previously provided about 70 percent of regional systems' revenues; other revenues available to the regional systems included courier and other fees paid by member libraries. While a small portion of the state funding was used for cooperative projects, the majority of state funding was distributed to the regional systems based on a formula which accounted for each region's population, its geographic size, and the number of libraries in the region.

Previous Funding Levels. For purposes of providing a historical comparison, the following table provides a history of appropriations for regional library service systems in FY 1984-95, and over the last ten years:

Regional Library Service Systems			
Fiscal Year	Appropriation (General Fund, unless otherwise noted)	Dollar Increase	Percent Change
1984-85	\$1,111,679		
1997-98	2,019,128		
1998-99	2,449,893	430,765	21.33%
1999-00	2,449,893	0	0.00%
2000-01	2,449,893	0	0.00%
2001-02	2,425,394	(24,499)	-1.00%
2002-03	2,462,436	37,042	1.51%
2003-04*	600,000	(1,862,436)	-75.63%
2004-05	600,000	0	0.00%
2005-06	600,000	0	0.00%
2006-07	1,000,000	400,000	66.67%
2007-08	1,000,000	0	0.00%
2008-09 Request	1,000,000	0	0.00%

* Pursuant to S.B. 03-282, this funding was from tobacco settlement moneys.

Primarily in response to a 76 percent reduction in state funding in FY 2003-04, the seven regional systems were collapsed into a statewide cooperative called the "Colorado Library Consortium". Primarily, this cooperative provides administrative support for a statewide courier contract that allows libraries throughout Colorado to purchase courier services at a lower cost than they could individually. The Consortium also administers cooperative purchasing agreements (including database subscriptions) and negotiates discounts on various library materials, and it provides continuing education and technical assistance for librarians across the state.

In May 2004, the Colorado Library Advisory Board established a task force to gather information from the library community statewide and prepare a strategic plan (2005 through 2010). The library community participated in a process to prioritize goals and objectives. The six objectives selected by the library community as most crucial include the following:

1. Find new funding sources for libraries;
2. Find financial support for the courier;
3. Provide statewide access and funding for electronic resources;
4. Develop a single locator system for all Colorado library holdings;
5. Create a statewide continuing education plan for library staff; and
6. Provide sustainable access to statewide virtual services.

In FY 2006-07 the General Assembly approved a requested \$400,000 increase to help offset the costs of courier service to member libraries. The library courier transports five million items annually between 423 member libraries (including approximately 3,000 library buildings) as part of providing equitable library services to all state residents. These items include print material (books, journal articles, magazines, and newspapers), audiovisual material (CD's, computer disks, DVD's, and tapes), and correspondence between libraries (Summer reading program materials, promotional materials, etc.). This service saves libraries a significant amount in mailing costs. In addition, it reduces the cost of adding to and maintaining local library collections while providing patrons with access to materials statewide. The courier offers next day delivery to most locations.

Request/Recommendation. The Department requests a continuation level of funding (\$1,000,000) for FY 2008-09. **Staff recommends approving the request.**

State Grants to Publicly-Supported Libraries Fund
State Grants to Publicly-Supported Libraries Program

Background Information. Created in 2000 (S.B. 00-85), this grant program makes state moneys available to public libraries, school libraries, and academic libraries to obtain educational resources they would otherwise be unable to afford. Pursuant to Section 24-90-401 *et seq.*, C.R.S., the Department is responsible for awarding grants based on the criteria specified in statute, as well as reviewing and monitoring the expenditure of grant moneys. Each library that meets the statutory requirements must receive a grant of at least \$3,000. In FY 2000-01, 292 of the 324 libraries in Colorado received grant awards; in FY 2001-02, 299 libraries received grant awards. Please note that the allocation of funds through this program disproportionately benefits small, rural libraries. The following table provides a comparison of FY 2000-01 grant awards on a per capita basis.

State Grants to Publicly-Supported Libraries Grant Awards Lowest, Highest, and Average Per Capita Funding Amounts (FY 2000-01)			
Type of Library	Library	Grant Amount	Grant per Student/ per Capita
Public	Silverton Public Library	\$3,014	\$5.89
Public	Denver Public Library	148,617	\$0.28
<i>Public</i>	<i>Statewide/ average</i>	<i>1,282,413</i>	<i>\$0.32</i>
School district	Las Animas - Branson	3,001	\$62.52
School district	Jefferson County	25,647	\$0.29
<i>School district</i>	<i>Statewide/ average</i>	<i>580,356</i>	<i>\$0.94</i>
Academic	Lamar Community College	3,028	\$2.86
Academic	University of Colorado at Boulder	8,493	\$0.32
<i>Academic</i>	<i>Statewide/ average</i>	<i>87,227</i>	<i>\$0.51</i>

The State Grants to Publicly-Supported Libraries Fund consists of all moneys appropriated by the General Assembly and any other moneys collected by the State Librarian for such purpose. The Department is statutorily authorized to spend up to 2.5 percent of amount appropriated from the Fund each year for administrative expenses; the Department is authorized to distribute whatever portion of the 2.5 percent that is not spent for administrative expenses to the Regional Library Service System to assist publicly-supported libraries in meeting grant eligibility criteria. The program is subject to annual appropriation.

This program was funded with \$2.0 million General Fund and 0.5 FTE through S.B. 00-85, and \$1,980,000 General Fund and 0.5 FTE in FY 2001-02. No moneys have been made available for this program since FY 2001-02.

Decision Item #10 - Partially restore funding for State Grants to Publicly-supported Libraries Grant Program. The Department of Education requests \$1,000,000 General Fund for this program for FY 2008-09. The request also includes \$1 million in cash funds exempt spending authority for the State Grants to Publicly Supported Libraries Fund. No FTE authorization is requested.

The Department's request indicates that the elimination of funding for this program left Colorado as one of only six states with no direct financial support to libraries. While this program benefits all library types, the Department notes that Colorado currently ranks 47th nationally in financial support for its *public* libraries at \$0.03 per capita. The Department also references a 2000 Colorado study which determined that when school library staffing, expenditures, information resources, and technology are maximized, assessment scores run 18 percent higher in fourth grade and 10 to 15 percent higher in seventh grade. Further, the Department indicates that a recent study of students at Colorado colleges and universities show that nearly half use staff-provided assistance for accessing online or electronic resources, and nine of ten students find the books, print periodicals, and electronic resources they need through their institution's library.

Staff recommends approving the request to appropriate \$1 million General Fund for library resources. However, staff does not recommend appropriating these moneys to the State Grants to Publicly-Supported Libraries Fund. Instead, **staff recommends appropriating the requested funds through the existing "Colorado Virtual Library" line item**, described below. Although funding is requested for the State Grants to Publicly-Supported Libraries Program, the intent appears to be aimed at purchasing database products on a statewide basis to ensure that they are available to all publicly-supported libraries. The request lists the following performance measure associated with funding the request:

"Increase the number of schools and libraries participating in available statewide database purchasing programs which translates into higher CSAP reading test scores"

Constituent inquiries to legislators concerning this request reference the "Colorado Knowledge Initiative", and state that the requested funding will be used to "purchase reliable online resources for libraries statewide" and will thus assist public, school, and academic libraries in providing

"business support, reliable health information, meet literacy and education needs, and help all of us fully participate in our knowledge-based economy". Information provided by the Department concerning the Colorado Knowledge Initiative indicates that it is aimed at strengthening educational resources in schools, universities, libraries, and local communities by providing statewide access to selected high-end, proprietary databases for live homework help, science, medicine, technology and business.

It is staff's understanding that if the request is approved as submitted, the Department plans to seek the agreement of libraries statewide to pool the grant moneys made available to purchase online resources that would be available to all libraries statewide. Given the statutory allocation formula for this grant program, and the discretion of local libraries over the use of these funds, staff does not recommend using the grant program to achieve the stated goal. Pursuant to Section 24-90-105 (1) (f), C.R.S., the State Librarian has the power and duty to "contract for the furnishing of library resources to ensure equal access to information for all Coloradans". In addition, Section 24-90-302, C.R.S., states that the Colorado Virtual Library shall include "indexes and full text database products selected...to serve the needs of the people of the state". This provision authorizes the State Librarian, subject to available appropriations, to "procure through a competitive bid process on-line databases necessary to provide on behalf of all publicly-supported libraries [such] indexes and database products..." Thus, staff recommends including the requested funding in the line item discussed below.

Colorado Virtual Library. In 1990, the General Assembly created the "Colorado Computer Information Network" to connect existing library information networks (e.g., the Colorado Alliance for Research Library Network), thereby providing all Colorado residents with equal access to library information [H.B. 90-1230]. In 2003, Section 24-90-301 et seq., C.R.S., was amended and the network was renamed the Colorado Virtual Library. The State Librarian is currently responsible for providing electronic resources through libraries to all Colorado residents and to students and staff at higher education institutions and public schools. The Colorado Virtual Library is thus a statewide, Internet-based library network that provides free access to:

- on-line catalogs of the holdings of Colorado libraries;
- locally produced databases; and
- digitized collections of Colorado resources.

The Colorado Virtual Library is managed cooperatively by the State's library community, including the Department of Education. The General Fund appropriation for this line item provides funding for ongoing operations, including:

\$162,510	Contract technical staff for operations and programming
115,416	Contract training and user support staff and in-state travel
66,970	Annual hardware and software maintenance fees
7,500	Leased space, database archiving services, backup tapes, etc.
7,100	T1 circuit and Internet connectivity

300 Annual domain name registration fees
359,796 Total General Fund appropriation

The Department requests a continuation level of funding (\$379,796), including \$359,796 General Fund and \$20,000 cash funds exempt spending authority for potential donations. **Staff recommends approving the request.** The Colorado Virtual Library is one of the most basic services provided through the State Library for school, public, and academic libraries throughout the state.

Colorado Talking Book Library, Maintenance and Utilities Expenses.

Background Information. The Colorado Talking Book Library is part of a national library program providing Braille and recorded materials for blind, physically, and reading disabled persons in Colorado. The Colorado Talking Book Library is one of the original 19 libraries established pursuant to the federal Pratt Smoot Act in 1931. Library services are provided to eligible individuals free of charge. The library's recorded materials and tape machines are provided by the Library of Congress; this collection is enhanced by recordings of local materials taped by volunteers and library staff. Since 1991, the library has been located at 180 Sheridan Boulevard in Denver. The building was purchased after the General Assembly appropriated \$750,000 from the Capital Construction Fund for FY 1989-90 (H.B. 90-1297). In FY 1997-98 the General Assembly appropriated \$238,607 from the Capital Construction Fund to replace the roof of the building. This building also currently houses backup computer equipment for the Department of Education.

The Library serves over 12,500 patrons and 677 institutional accounts (e.g., nursing homes, schools, etc.) statewide.

The Library operates in a very cost-effective manner. State funds currently support approximately half of operating expenses and 5.5 FTE (these are currently funded from allocations from the "General Department and Program Administration" line item), with the balance supported through federal funds (4.0 FTE) and donations. The Library currently operates with a total of 13.0 FTE staff and 150 volunteers who work hours equivalent to 8.0 FTE; American Library Association guidelines indicate that the Library should have 34.0 FTE. In addition, the National Library for the Blind and Physically Handicapped (NLS), within the Library of Congress, provides playback equipment and supplies, Braille and recorded books and magazines. The value of NLS support is estimated at over \$630,000 annually, and the existing inventory of materials and equipment provided by NLS is valued at over \$5.5 million. Finally, the U.S. Postal Service subsidizes mail service for materials sent to and returned from Library patrons, a savings of approximately \$2.3 million annually.

In addition to funding associated with the Talking Book Library facilities, the General Assembly has historically provided state funding for three purposes:

- A portion of the funding appropriated through the "General Department and Program Administration" line item is allocated to support some of the library staff.

- Prior to FY 2003-04, the General Assembly provided an annual appropriation of funds for the Talking Book Library and for 42 libraries in state residential institutions (e.g., correctional facilities, the Mental Health Institutes, youth corrections facilities, the Colorado School for the Deaf and the Blind, and nursing homes) to purchase periodicals, books, and other resources (e.g., \$97,823 General Fund for FY 2002-03).
- Prior to FY 2003-04, and again beginning in FY 2006-07, the General Assembly provided an annual appropriation of funds to cover the library's maintenance and utility expenses (e.g., \$61,023 General Fund for FY 2007-08).

In addition, the Library has access to interest earned on the Mary Jones Trust, which was established in 1981 with an initial donation of \$91,000. As of October 31, 2007, the balance in the Trust was \$1,142,092. While the Trust was intended to support projects that have an impact on a large number of library patrons, since 2002 interest earnings have been used to support 1.5 FTE. The State Board has approved expenditures totaling \$60,000 from the Trust Fund for FY 2008-09 to support 1.5 FTE.

Department Request. This line item was restored in the FY 2006-07 Long Bill to provide funding for maintenance and utilities expenses of the Talking Book Library. The existing appropriation consists of \$48,464 General Fund transferred from the "General Department and Program Administration" line item, plus \$12,559 new General Fund to cover the projected costs of electricity, natural gas, water/sewer, and building maintenance. The Department did not request any increase for this line item for FY 2007-08.

For FY 2008-09, the Department requests an increase of \$9,637 (15.8 percent) through **Decision Item #5**. This amount is requested to cover increased expenses related to utilities (water and sewer, waste disposal, telecommunications, electricity, and natural gas) and facility maintenance (custodial services, grounds maintenance, and building maintenance and repairs). **Staff recommends approving the request.** The library serves a number of elderly patrons, and most of the Library's 150 volunteers are over the age of 60.

Reading Services for the Blind.

Background Information - Colorado Disabled Telephone Users Fund. Pursuant to Sections 40-17-103 and 104, C.R.S., the Public Utilities Commission (PUC) is required to administer a contract for the provision of telecommunications relay services (which allow individuals who have a hearing or speech disability to communicate by wire or radio). The PUC is required to recover the costs of providing these services by assessing a monthly surcharges on each telephone access line. The PUC adjusts this surcharge annually, when necessary. All moneys received by the PUC are credited to the Colorado Disabled Telephone Users Fund.

Pursuant to a series of statutory changes beginning in 1999, moneys in the Colorado Disabled Telephone Users Fund are also used for other purposes, including: (a) privately operated reading services for the blind; (b) the Colorado Commission for the Deaf and Hard of Hearing; and (c) the Colorado Commission for Individuals Who are Blind or Visually Impaired. Cash fund

appropriations for each of these purposes are made to the PUC annually, and corresponding cash funds exempt appropriations appear in the other relevant state agencies' budgets.

Description of Line Item and Funding History. This line item provides spending authority to the Department of Education out of the Reading Services for the Blind Cash Fund. Pursuant to Sections 24-90-105.5 (5) and 40-17-104, C.R.S., the General Assembly is to annually appropriate moneys out of the Colorado Disabled Telephone Users Fund to the Reading Services for the Blind Cash Fund for use by the State Librarian in support of privately operated reading services for the blind.

Since FY 1999-00, at least a portion of this appropriation has been used to contract with Radio Reading Service of the Rockies, a non-profit on-the-air volunteer reading service for the blind, visually impaired, and print handicapped citizens of Colorado. Services provided do not duplicate existing broadcast information that is generally available through other media; programming consists largely of local newspapers and magazines and government publications. For FY 2007-08, the State Board of Education approved a \$150,000 payment for the Radio Reading Service of the Rockies to provide free access to ink print materials statewide through various broadcasts (via television SAP feed, Internet, telephone, and podcasts), related audio services, and listener equipment. Please note that the Radio Reading Service of the Rockies' Board recently approved a name change; the Service is now named the "Audio Information Network of Colorado".

For FY 2007-08, the State Board of Education approved a \$50,000 payment to the National Federation for the Blind (NFB) for its Newsline service, which provides eligible Coloradans access to newspapers nationwide and a few magazines via touchtone telephone. Newsline services now includes television listings (based on an individual's zip code); the NFB indicates that this increased use of their Newsline service nationwide by about 30 percent last year. Anyone who is a patron of the Colorado Talking Book Library (CTBL) is eligible to access Newsline services. The CTBL is able to sign patrons up for the Newsline service through their existing database.

The following table details appropriations from the Reading Services for the Blind Cash Fund.

Reading Services for the Blind					
Fiscal Year	Radio Reading Services of the Rockies*	National Federation of the Blind	Total	Dollar Increase	Percent Change
1999-00	\$93,800	\$0	\$93,800		
2000-01	93,800	0	93,800	0	0.00%
2001-02	93,800	0	93,800	0	0.00%
2002-03	93,800	0	93,800	0	0.00%
2003-04	93,800	0	93,800	0	0.00%
2004-05	93,800	0	93,800	0	0.00%

Reading Services for the Blind					
Fiscal Year	Radio Reading Services of the Rockies*	National Federation of the Blind	Total	Dollar Increase	Percent Change
2005-06	150,000	40,000	190,000	96,200	102.56%
2006-07	150,000	50,000	200,000	10,000	5.26%
2007-08	150,000	50,000	200,000	0	0.00%
2008-09 Req.	150,000	50,000	200,000	0	0.00%

* Recently renamed Audio Information Network of Colorado

The Department has requested a continuation level of funding \$200,000 for FY 2008-09 for the support of radio reading services. **Staff recommends approving the request.**

LONG BILL FOOTNOTES

Staff recommends continuing the following footnote:

- 17 Department of Education, Library Programs, Reading Services for the Blind** -- This appropriation is for the support of privately operated reading services for the blind, as authorized by Section 24-90-105.5, C.R.S. It is the intent of the General Assembly that \$150,000 of this appropriation be used to provide access to radio and television broadcasts of locally published and produced materials, and \$50,000 of this appropriation be used to provide telephone access to digital transmissions of nationally published and produced materials.

This footnote was vetoed by the Governor on the basis that: (1) it violates the separation of powers by attempting to administer the appropriation; and, (2) it constitutes substantive legislation. In his May 2, 2007, letter to the General Assembly, however, the Governor indicated that he would instruct the Department to comply to the extent feasible. Further, after the General Assembly overrode all Long Bill vetoes, the administration reviewed each footnote to determine which could be reasonably complied with given available resources and departmental priorities. To the extent that this footnote could be adhered to without adversely impacting executive branch operations or the delivery of services, the Governor directed departments to comply pursuant to the August 16, 2007 letter from the director of the Office of State Planning and Budgeting to the leadership of the General Assembly.

(4) SCHOOL FOR THE DEAF AND THE BLIND

Background Information. The Colorado School for the Deaf and the Blind (CSDB) is a state-funded school that was established for the purpose of providing comprehensive educational services for children under the age of twenty-two who are blind and/or deaf. Originally named the "Colorado Institute for the Education of Mutes", the School opened in a rented house in April 1874 with an appropriation from the Territorial Legislature. The student population rapidly outgrew the space available and in 1876 the School moved to its current campus, made possible with a donation of ten acres by the founder of the city of Colorado Springs. The CSDB received its initial accreditation from the Department of Education in 1961, and in 1977, the CSDB was transferred from the Department of Institutions to the Department of Education.

The CSDB currently occupies 18 buildings on 37 acres. Colorado students from the ages of birth through twenty-one are eligible to receive services either at or through the CSDB. Students enrolled at CSDB must have a documented hearing and/or vision loss and meet the enrollment criteria established by the Board of Trustees. Students may also be enrolled on a diagnostic basis in order to make an accurate determination of the student's eligibility status. A staffing team, including a CSDB staff member, the student's parents, and a local school district representative, determine if the CSDB is the appropriate learning environment based on the educational needs of the student. If a student's parents or legal guardians reside within Colorado and outside the El Paso County area, the student is eligible to participate in the residential living program during the week. There is no tuition for room and board. Out-of-state students are considered on a space available basis and are required to pay tuition.

In addition, pursuant to Section 22-80-102 (2), C.R.S. (added in 1991), the CSDB is to "be a resource to school districts, state institutions, and other approved education programs." In this capacity, the CSDB is to provide the following services:

1. Assessment and identification of educational needs;
2. Special curricula;
3. Equipment and materials;
4. Supplemental related services;
5. Special short-term programs;
6. Program planning and staff development;
7. Programs for parents, families, and the public; and
8. Research and development to promote improved educational programs and services.

In November 2002, the CSDB estimated that 1,824 students in Colorado were deaf, hearing impaired, blind, or vision impaired²⁸ -- 0.3 percent of the total number of public school students in grades one through 12. In FY 2002-03, the CSDB received per pupil funding for 197 on-campus

²⁸ Per the Department's November 2002 "Targeted Base Review" concerning the CSDB, this figure includes 1,385 deaf/hearing impaired students, 360 blind/vision impaired students, and 79 deaf and blind students.

students, representing about ten percent of the estimated total number of students with hearing or vision impairments. With respect to students who are blind/vision impaired, the CSDB gathers data from districts annually for purposes of providing Braille and large print materials to districts. The CSDB indicates that in FY 2005-06, there were a total of 836 blind/visually impaired students enrolled in 56 districts. The CSDB served 57 blind/visually impaired, or 6.8 percent of these students.

Enrollment. As summarized in the table below, the CSDB had an on-campus enrollment of 215 students (ages 3 to 21) in the 2006-07 school year, a decrease of 4.0 percent. The CSDB's total enrollment was 562 students, including 347 children under age three. Compared to FY 2005-06, the CSDB's total enrollment increased by 74 students (15.2 percent). The most significant increase occurred with respect to deaf/hearing impaired children under age three, increasing by 87 (37.0 percent). Total enrollment included 489 deaf/hearing impaired children and 73 blind children. Of the total number of students receiving on-campus services, 113 resided at the CSDB (returning home only on weekends) and the remaining 102 students only attended classes during the day.

Of the total number of students enrolled, 371 were infants, preschool students, attending classes part-time in local public schools, or in the transition program, and were thus not eligible for per pupil operating revenue. As a result, the CSDB only received per pupil operating revenue for 191 students. The CSDB indicates that the per pupil operating revenue covered about 11 percent of the average costs per student (including both residential and non-residential students).

Colorado School for the Deaf and the Blind: FY 2006-07 Enrollment						
Description	Children Under 3		On-campus Students		Total Enrollment	
	Number	Annual % Change	Number	Annual % Change	Number	Annual % Change
Deaf / Hearing Impaired	322	37.0%	167	0.0%	489	21.6%
Blind / Visually Impaired	25	-13.8%	48	-15.8%	73	-15.1%
Total Enrollment	347	31.4%	215	-4.0%	562	15.2%
Number of Residential Students	0	0.0%	113	-5.8%	113	-5.8%
Number of FTE for Whom Per Pupil Operating Revenues are Transferred from School Districts	0	0.0%	191	-4.5%	191	-4.5%
<i>Percent of FTE for Whom Per Pupil Operating Revenues are Transferred from Districts</i>	<i>0.0%</i>		<i>88.8%</i>		<i>34.0%</i>	

This section of the Long Bill is comprised of two subsections: School Operations and Special Purpose.

(A) School Operations

Personal Services. This line item provides funding for most School employees' salaries and wages, as well as the associated state contribution to the Public Employees Retirement Association and the state share of federal Medicare taxes. This line item also provides funding for certain professional and temporary services. This line item provides over 66 percent of the funding for the CSDB, supporting all school staff with the exception of those who are supported by specific grants or direct payments from districts. In addition, beginning in FY 2006-07, those staff devoted to early intervention programs are now funded through a separate line item (a description follows). The Department requests \$8,793,236 and 141.3 FTE for this line item for FY 2008-09.

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Superintendent/ Accountants/ Other Administrative Staff	22.5	22.5	23.1	23.1
Teachers/ Teacher Aides/ Special Education Technicians	69.8	75.4	76.3	76.3
Counselors/ Nurses/ Other Specialists	11.6	13.0	11.1	11.1
Facility Maintenance and Other Operational Support Staff	27.7	30.4	30.8	30.8
TOTAL	131.6	141.3	141.3	141.3

Staff recommends providing a continuation level of funding (\$8,713,574) to support 141.3 FTE, calculated in accordance with Committee policy and detailed in the table below. Staff's recommendation includes an estimated \$162,000 for substitute teachers and \$665,000 for contractual services (including physicians, interpreters, therapists, summer school services, security, facilities labor, professional development services, and background checks).

Summary of Recommendation: CSDB - Personal Services		
Description	Total Funds	FTE
FY 07-08 Long Bill appropriation	\$8,446,920	141.3
Salary survey awarded in FY 07-08	296,097	
80% of Performance-based pay awarded in FY 07-08	50,219	

Summary of Recommendation: CSDB - Personal Services		
Description	Total Funds	FTE
Base reduction (1.0%; <u>not</u> applied to \$162,000 used for substitute teachers and \$665,000 for contractual services)	(79,662)	
Recommended FY 08-09 appropriation	8,713,574	141.3

Staff's recommendation is lower than the CSDB's request based on the Committee's policy concerning base reductions.

Funding Splits. Pursuant to Section 22-80-113 (4), C.R.S., for those pupils eligible for funding under the CSDB Finance Act, the CSDB receives funding from students' "home" school districts. The Department effects such transfers by withholding amounts from the appropriation for the State Share of Districts' Total Program Funding that would otherwise be paid to the home school district. The amount the CSDB receives for each eligible pupil is equal to the statewide per pupil *operating* revenue; for FY 2008-09, this amount is estimated as follows:

Estimated statewide average per pupil funding	\$6,881.06
Less: amount related to capital/insurance reserve	(301.00)
Estimated statewide average per pupil <i>operating</i> revenue	6,580.06

The actual number of students for whom per pupil operating revenues are transferred from school districts has been declining in recent years, dropping from a high of 216 in FY 1999-00 to 191 in FY 2006-07; through December of the current school year, this number has declined further to 187. Staff's recommendation includes a total of \$1,230,471 cash funds exempt transferred from the State Share line item, calculated as follows:

$$187 \text{ funded pupil count} \times \$6,580.06 = 1,230,471$$

In previous fiscal years, the CSDB has received \$60,000 in federal National School Lunch Act and Child Nutrition Act funds through the Department (thus appearing as cash funds exempt) based on the number of meals served. Expenses that are not covered by these cash funds exempt transfers are covered by General Fund:

Total Funding for Personal Services	\$8,713,574
Less: Per Pupil Operating Revenues	(1,230,471)
Less: Federal Nutrition Funds	(60,000)
General Fund Share of Personal Services line item	7,423,103

Early Intervention Services.

Background Information. Since April 2001, the "Colorado Home Intervention Program" (called "CHIP") has been operating within the CSDB. This program was first started with federal grants in

1969, and it operated within the Colorado Department of Public Health and Environment from 1975 through March 2001. This home-based, family-centered early intervention program serves hearing impaired children (ages zero to three), and their parents. The program involves a facilitator: working with the child to develop language skills; providing parents with information and counseling to identifying strategies to use in communicating with their child; and assessing the dynamics of the parent-child interaction and providing support to improve it.

Prior to FY 2006-07, this program was supported by existing personal services funding, as well as various federal grants, donations, and in-kind services. For FY 2006-07, the CSDB requested an increase of \$462,620 General Fund and 1.8 FTE to continue and expand two early literacy development programs. These programs involve specially trained fluent sign language instructors/tutors (many of whom are deaf or hard of hearing themselves) visiting families weekly to provide support and instruction in techniques to build the child's literacy. One program (the Shared Reading Program) is designed for families who rely on American Sign Language; the second program (Integrated Reading Program) is designed for families who use English-based sign language and some speech. In addition, these initiatives involve coordinating with preschool and elementary school teachers so they may reinforce the family's use of early literacy strategies, thereby easing the child's transition into public school. The General Assembly approved the request. In addition, Long Bill appropriations were modified to separately identify funds and staff associated with early intervention programs. The FY 2006-07 Long Bill included a line item consisting of the following:

- \$462,620 General Fund and 1.8 FTE approved as requested;
- \$637,488 General Fund and 6.9 FTE transferred from the Personal Services line item; and
- \$153,608 cash funds exempt grants and 1.3 FTE transferred from the "Grants" line item.

For FY 2008-09, the Department requests a total of \$1,146,468 General Fund and 10.0 FTE for this line item. The Department requests that the \$153,608 in grants be reflected in the main "Grants" line item, rather than in this line item. The Department requests that all 10.0 FTE remain authorized on this line item, as any grant funding is being used to support contract staff, rather than state staff.

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Early Education Director	1.0	1.0	1.0	1.0
Early Intervention Specialists	0.7	1.6	1.7	1.7
Early Literacy Development Initiative	2.1	1.4	1.4	1.4
Regional hearing Resource Coordinators	3.8	5.2	4.4	4.4
Accounting technicians	1.0	0.0	1.5	1.5
Staff funded by grants	0.0	0.8	0.0	0.0
TOTAL	8.6	10.0	10.0	10.0

Staff recommends approving the request, which is calculated in accordance with Committee policy and detailed in the table below. Staff's recommendation includes an estimated \$385,000 for contractual services. **Staff also recommends approving the request to reflect all grant funding in a single line item.**

Summary of Recommendation: CSDB - Early Intervention Services				
Description	Total Funds	General Fund	Cash Funds Exempt	FTE
FY 07-08 Long Bill appropriation	\$1,263,773	\$1,110,165	\$153,608	10.0
Salary survey awarded in FY 07-08	30,879	30,879	0	
80% of Performance-based pay awarded in FY 07-08	5,424	5,424	0	
Base reduction (1.0% for lines with 20.0+ FTE; <u>not</u> applied to \$385,000 used for contractual services and \$153,608 in grant funding)	0	0	0	
Recommended FY 08-09 Appropriation	1,300,076	1,146,468	153,608	10.0

Shift Differential. This line item is used to pay for the adjustment to compensate employees for work performed outside a Monday through Friday, 8:00 a.m. to 5:00 p.m. work schedule. Currently, the State pays percentage increases for shift differential (7.5 percent for second shift and 10.0 percent for third shift). Unlike the other awards, the entire base budget and any increases have historically been included in the centrally-appropriated budget line at 80.0 percent of the total estimated costs. This Department uses its shift differential to provide 24-hour staff coverage for residential students at the CSDB. The Department requests \$84,932 for this line item for FY 2008-09. **Consistent with Committee policy, staff recommends approving the request.**

Operating Expenses. This line item provides funding for supplies and materials, as well as for certain services that are not covered by other line items such as capital outlay²⁹, custodial services, equipment rental, storage, dues and subscriptions, and printing. The Department requests a continuation level of funding (\$417,277). **Staff recommends approving the request, which is consistent with Committee policy.** The following table details the calculation of this amount.

²⁹ Capital outlay includes replacement of equipment, furniture, and other items that cost less than \$50,000, as well as building repair and remodeling costing less than \$15,000.

Summary of Recommendation: CSDB - Operating Expenses	
Description	General Fund
Appropriation for FY 07-08	\$417,277
No inflationary increase for food expenses (object code 3118)	0
No inflationary increase for medical expenses (object code 3119, medical supplies)	0
Recommended Operating Expenses appropriation for FY 08-09	417,277

Vehicle Lease Payments. This line item provides funding for annual payments to the Department of Personnel and Administration for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles [see Section 24-30-1117, C.R.S.]. The current appropriation covers costs associated with a total of 12 vehicles³⁰ that are all utilized at the CSDB. The Department's request for \$18,977 General Fund for FY 2008-09 represents a decrease of \$3,767 compared to the amended appropriation for FY 2007-08. The CSDB is requesting funding to replace three 1997 vehicles, including a full-sized sedan, a seven-passenger van, and a 15-passenger van. **Staff recommends the Committee approving the request to replace three vehicles, as all three exceeded the 100,000 threshold in June 2007. The dollar amount of staff's recommendation is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Communications Services Payments. This line item provides funding to pay to the Department of Personnel and Administration the Department of Education's share of the costs associated with operating the public safety communications infrastructure. The Department requests \$3,598 for this purpose for FY 2008-09. **The staff recommendation on this line items is pending a Committee common policy for communications services.** Staff will ultimately reflect Committee policy in the appropriation for this line item. In addition, **staff recommends moving this line item to the new "(A) Administration and Centrally-Appropriated Line Items" subsection within the (1) Management and Administration section of the Long Bill.** Unlike the other centrally-appropriated line items included in the CSDB section of the Long Bill (Shift Differential and Vehicle Lease Payments), this line item is not one that the CSDB has any role in managing.

Utilities. This line item provides funding for the CSDB's water and sewer, electricity, and natural gas expenses. The CSDB requests \$460,913 General Fund for this line item, which is the amount appropriated for FY 2007-08. The CSDB provided detailed rate and utilization information and projections. The following table provides a recent history of utility expenses and a comparison of the Department's FY 2008-09 request and the staff recommendation.

³⁰ Currently, these vehicles include: seven vans, one mini-bus with a wheelchair lift, one truck, and three passenger vehicles.

Colorado School for the Deaf and the Blind Utilities Expenses					
Service	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09	
				Request	Recomm.
Natural gas	\$231,240	\$220,758	\$255,244	\$255,244	\$255,244
Electricity	145,002	142,498	146,174	146,174	146,174
Water and sewer	70,977	40,869	59,495	59,495	59,495
Other	63,486	86,271	0	0	0
Total	510,705	490,396	460,913	460,913	460,913

Staff recommends approving the request for FY 2008-09. Although actual expenditures for FY 2006-07 indicate that the request may be too high, recent rate and utilization data indicates that the FY 2007-08 appropriation may fall short of funding the CSDB's utility needs by about \$6,000 (primarily in water and electricity expenses), and the requested level of funding for FY 2008-09 may fall short by about \$18,000 (again, primarily in water and electricity expenses).

Allocation of State and Federal Categorical Program Funding. The CSDB receives an allocation of state and federal moneys available for special education services for children with disabilities based on its December pupil count. In addition, the CSDB may receive allocations from other categorical programs (e.g., in recent years the CSDB has received allocations related to English language proficiency programs, special education for gifted and talented children, and the Expelled and At-risk Student Services Grant Program). **The Department requests a continuation level of cash funds exempt spending authority (\$150,000 and 0.4 FTE). Staff recommends approving the request.**

Medicaid Reimbursements for Public School Health Services. Similar to school districts, the CSDB is authorized to enter into contracts and receive federal matching funds for moneys spent in providing student health services [i.e., preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that are furnished to students by a school district, a board of cooperative services, or a state educational institution pursuant to the S.B. 97-101 Public School Health Services program]. It is staff's understanding that the CSDB has been participating in this program since FY 2000-01, and receives federal Medicaid moneys annually based on claims submitted. Section 26-4-531 (2) (b), C.R.S., states that "any moneys provided to a school district pursuant to a contract entered into under this section shall not supplant state or local moneys provided to school districts" for:

- (a) special education services for children with disabilities;
- (b) the Colorado preschool program; or
- (c) the School Finance Act.

Based on this provision, the CSDB has used the additional federal Medicaid moneys available to increase special education services to its students (e.g., providing an additional day of occupational or physical therapy, in accordance with a student's individual education program).

The Department requests \$85,000 and 1.5 FTE based on anticipated claims. Staff recommends approving the request.

(B) Special Purpose

Fees and Conferences. This line item provides spending authority for the Department to receive fees charged and received for various conferences or meetings held at the CSDB. Examples of conferences include the annual statewide deaf symposium, nursing conferences, and summer camps. These fees offset additional custodial, maintenance, and security costs incurred.

Decision Item #7 - Increased Spending Authority. The CSDB requests a \$45,000 increase in cash funds spending authority for this line item (from \$75,000 to \$120,000). Since the CSDB is a statewide resource, various conferences are held throughout the state of Colorado with the CSDB as the primary organization and fiscal agent. The CSDB had to reject the opportunity to provide a training workshop for educational interpreters in FY 2006-07 because the \$75,000 appropriation cap had been reached.

Currently, the CSDB hosts an annual Symposium on Deafness, Language and Learning. Each attendee pays a conference fee. The last two professional development conferences held in the Fall of 2006 and 2007 generated \$53,467 and \$44,883, respectively. Thus, this conference generates about two-thirds of the allowable revenues annually. Several Colorado programs have requested additional conferences. If this request is approved, the CSDB anticipates hosting additional conferences, such as those listed below:

- *Educational Interpreter Conference – Interpreter Skill Building* (estimated revenue of \$10,000 from 60 attendees). This is a new conference requested of the Department Consultant on Deafness, as well as educational interpreters statewide, to improve the skills of interpreters for students who are deaf or hard of hearing.
- *Early Literacy Development Initiative (ELDI) Conference – Serving Colorado Home Intervention Program facilitators, Integrated Reading Program instructors and Shared Reading Program tutors* (estimated revenue of \$12,000 from 75 individuals). The first ELDI conference occurred in 2007. This professional development conference is for Colorado Home Intervention Program facilitators, Integrated Reading Program instructors and Shared Reading Program tutors.
- *Conference on Blindness and Visual Impairment – Professional Development Conference* (estimated revenue of \$10,000 from 60 individuals). This is a proposed professional

development conference for service providers of students with blindness or visual impairment.

- *Leadership Academy Conference* (estimated revenue of \$8,000 from 45 students). This is a proposed conference for high school students who are deaf/hard of hearing or blind/visually impaired.

The CSDB also collects other fees, including fees paid for counseling services provided to students who are deaf/hard of hearing or blind/visually impaired in schools throughout Colorado (approximately \$10,000). Service providers, parents, and school administrators throughout the state, as well as the children and youth who are deaf/hard of hearing or blind/visually impaired will benefit from these conferences.

Staff recommends approving the request for an appropriation of \$120,000 for FY 2008-09.

Pursuant to Section 22-80-102, C.R.S., the CSDB is charged with being "a resource to school districts, state institutions, and other approved education programs". Among other resource services, the CSDB is required to provide "programs for parents, families, and the public". Approval of this request will allow the CSDB to host conferences that will benefit professionals working with students who are deaf/hard of hearing or blind/visually impaired, parents of those children, and the students themselves. Approval of the request should also assist the CSDB in meeting some of its goals related to student achievement gaps.

Federal Funds Transferred from School Districts. The CSDB is statutorily charged with being a resource to school districts by providing several services, including: assessment and identification of educational needs; special curricula; equipment and materials; and staff development. Districts currently transfer federal funds to the CSDB for three purposes:

- The CSDB occasionally accepts students from Colorado school districts for extended diagnostic periods prior to the student meeting School enrollment criteria. Typically, these students require a one-on-one aide who must be supplied by the home school district. Often the districts themselves are unable to find qualified applicants willing to work for district-level salaries while living in the Colorado Springs area. Due to union agreements, however, districts are unable to pay these employees more than other district employees. To address this issue, this line item provides spending authority for the CSDB to hire these professionals using federal special education funds transferred from school districts.
- School employees travel to districts to provide training for district staff and/or to provide direct support to students. Districts pay the CSDB for their staff time and travel expenses.
- Each district pays a flat amount (e.g., \$200/student) for each blind/visually impaired student enrolled in the district. These moneys are collected by the CSDB and paid to the Colorado Instructional Materials Center (CIMC) to provide Braille and large print materials for students.

The Department requests a continuation level of funding (\$269,000 and 2.8 FTE). This amount is estimated to include: \$95,000 for one-on-one aides (four individuals through the CSDB year or 2.8 FTE); \$28,000 for teacher visits to districts; and \$146,000 for Braille and large print materials. **Staff recommends approving the request.**

Tuition from Out-of-state Students. The CSDB is statutorily authorized to admit students from other states "...upon payment to the superintendent of such a sum quarterly as the board of trustees determines, to be not less than the total cost per capita of the students for the year immediately preceding the year in which the application is made." [see Section 22-80-110, C.R.S.] The CSDB is not allowed to admit a student from another state, however, to the exclusion of any Colorado resident. Tuition payments are generally used for curriculum, technology, and dorm furniture.

Historically, the CSDB has admitted students from Wyoming who cannot be appropriately served in their home school district. Wyoming does not have a state school to serve children who are deaf and/or blind. Prior to FY 2007-08, the CSDB required Wyoming to pay their students' tuition using federal funds (available under the federal *Individuals with Disabilities Education Act*), which were treated as cash funds exempt and are not subject to the limitation on state fiscal year spending imposed by Section 20 of Article X of the State Constitution ("TABOR"). Beginning in FY 2007-08, the CSDB has been authorized to accept tuition payments from other states for up to four students using state, rather than federal funds. [Apparently Wyoming school districts would prefer to use state funds to pay the tuition for students attending the CSDB, because the State of Wyoming reimburses school districts for 100 percent of their costs of providing special education services to students with disabilities.] This authorization ensures that children from neighboring states can be served at the CSDB (given available space) if it is determined that it is the best setting for the child. Tuition paid with state funds are subject to TABOR.

The Department requests, and staff recommends, a continuation level of spending authority (\$200,000) to allow children from neighboring states to receive services from the CSDB when it is deemed the most appropriate setting.

Summer Olympics Housing. This line item provides spending authority for the Department to receive fees charged to participating athletes for custodial, maintenance, and security costs associated with housing deaf/blind athletes in summer months. **Staff recommends providing the requested spending authority of \$10,000, which represents a continuation level.**

Grants. This line item provides spending authority for the CSDB to receive various federal grants transferred from other line items within the Department. This spending authority excludes amounts related to categorical programs and Medicaid reimbursements for public school health services, as these amount are now appropriated through separate line items (discussed above). The Department requests an appropriation of \$1,403,608 and 9.0 FTE based on funds anticipated to be available (including an estimated \$153,608 in grant funding that is used for early intervention services). **Staff recommends approving the request.**