

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE FINANCING OF PUBLIC SCHOOLS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Prime Sponsors: Reps. Hamner and Buckner
Sens. Kerr and Steadman

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Date Prepared: April 7, 2014

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/07/14.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Legislative Council Staff Revised Fiscal Note (Fiscal Note) assumes that appropriations for the additional Colorado Preschool Program (CPP) slots authorized in the bill will be from the General Fund. The General Assembly has the authority to appropriate cash funds from the State Education Fund for this purpose. At the sponsors' direction, this analysis and the amendments discussed below assume that the appropriation is from the State Education Fund rather than the General Fund.

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment
L.007	Bill Sponsor amendment - changes fiscal impact
L.006	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

Current Appropriations Clause in Bill

The bill includes an appropriation clause that appropriates \$2.0 million cash funds from the State Education fund to provide additional funding for Boards of Cooperative Educational Services (BOCES) for FY 2014-15. However, the existing clause does not provide funding for the additional CPP slots authorized in the bill.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to change the existing clause to include the appropriations shown in the following Table 1. Please note that the bill requires an

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appropriation of \$68,084 General Fund and 1.1 FTE to the Department of Human Services for FY 2014-15. Pursuant to direction from the Chairmen of the Appropriations Committees, this amendment includes a provision to access the \$20.0 million General Fund that has been set aside in the Joint Budget Committee’s FY 2014-15 budget package to fund 2014 legislation.

In addition, amendment J.001 includes an appropriation contingent upon the enactment of H.B. 14-1292. As shown in the table, the additional CPP slots authorized in this bill require an appropriation of \$17.0 million if H.B. 14-1292 is not enacted or \$18.5 million if H.B. 14-1292 is enacted. Thus, enactment of H.B. 14-1292 would increase this bill's impact on the State Education Fund by \$1,489,066 in FY 2014-15.

TABLE 1		
FY 2014-15 Appropriations to Department of Education and Long Bill Adjustments		
Purpose	Amount	Fund Source
<i>Section 8: Long Bill Adjustments and Appropriations</i>		
(1) (a) BOCES funding	\$2,000,000	Cash Funds - State Education Fund (SEF)
(1) (b) Department of Education - CPP Administration	63,607	Cash Funds - SEF - includes 0.7 FTE
(2) Reduce Appropriation to Controlled Maintenance Trust Fund	(68,084)	General Fund
(3) Department of Human Services Child Care Licensing and Administration	68,084	General Fund - includes 1.1 FTE
<i>Section 9: Long Bill Adjustment Related to School Finance Formula Change for CPP Slots <u>without</u> enactment of H.B. 14-1292</i>		
(a) State Share of Districts' Total Program Funding (for additional CPP slots)	\$16,996,593	Cash Funds - SEF
<i>Section 10: Long Bill Adjustment Related to School Finance Formula Change for CPP Slots <u>with</u> enactment of H.B. 14-1292</i>		
(a) State Share of Districts' Total Program Funding (for additional CPP slots)	\$18,485,659	Cash Funds - SEF (<u>not</u> included in totals below)
Totals	<u>\$19,060,200</u>	Total Funds
	0	General Fund
	19,060,200	Cash Funds - SEF

L.007 Bill sponsor amendment **L.007** (attached) updates the statutory total program amount reflecting the impact of H.B. 14-1292 (Student Success Act) to reflect the House

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Appropriations Committee's amendments to H.B. 14-1292 (see the House Appropriations Committee Report dated April 4, 2014). The House Appropriations Committee increased total program spending under H.B. 14-1292 to reduce the negative factor by an additional \$10.0 million in FY 2014-15. Legislative Council Staff and JBC staff agree that amendment L.007 does not require changes to the appropriations in amendment J.001.

L.006 Bill sponsor amendment **L.006** (attached): (1) repeals and reenacts the English Language Proficiency Act (ELPA); and (2) creates the English Language Proficiency Act Excellence Award Program, to be supported by the Excellence Awards Fund created in the amendment. The amendment includes the following appropriations for FY 2014-15: (1) \$30.0 million cash funds from the State Education Fund to increase English Language Proficiency categorical program funding; and (2) \$500,000 cash funds from the State Education Fund appropriated to the Excellence Awards Fund created in the amendment and then reappropriated out of the Excellence Awards Fund to support the awards program.

The Committee should adopt amendment J.001 regardless of whether it adopts amendments L.007 or L.006.

If the Committee adopts amendment L.006, staff requests permission to harmonize the appropriation clauses with the appropriations included in amendments L.006 and J.001.

The following Table 2 shows the appropriations required by the bill assuming the Committee adopts amendment L.006.

TABLE 2		
FY 2014-15 Appropriations to Department of Education and Long Bill Adjustments (with approval of L.006)		
Purpose	Amount	Fund Source
<i>Section 8: Long Bill Adjustments and Appropriations</i>		
(1) (a) BOCES funding	\$2,000,000	Cash Funds - State Education Fund (SEF)
(1) (b) Department of Education - CPP Administration	63,607	Cash Funds - SEF - includes 0.7 FTE
(1) (c) English Language Proficiency Program (Categorical)	30,000,000	Cash Funds - SEF
(2) Reduce Appropriation to Controlled Maintenance Trust Fund	(68,084)	General Fund
(3) Department of Human Services Child Care Licensing and Administration	68,084	General Fund - includes 1.1 FTE

TABLE 2		
FY 2014-15 Appropriations to Department of Education and Long Bill Adjustments (with approval of L.006)		
Purpose	Amount	Fund Source
<i>Section 9: Long Bill Adjustment Related to School Finance Formula Change for CPP Slots</i>		
(a) State Share of Districts' Total Program Funding (for additional CPP slots)	\$16,996,593	Cash Funds - SEF
<i>Section 10: Long Bill Adjustment Related to School Finance Formula Change for CPP Slots <u>with</u> enactment of H.B. 14-1292</i>		
(a) State Share of Districts' Total Program Funding (for additional CPP slots)	\$18,485,659	Cash Funds - SEF (<u>not</u> included in totals below)
<i>Section 11: New Appropriations</i>		
English Language Proficiency Act Excellence Award Program	\$500,000	Cash Funds - SEF appropriation to Excellence Awards Fund
English Language Proficiency Act Excellence Award Program	500,000	Reappropriated Funds - Excellence Awards Fund
Totals	<u>\$50,060,200</u>	Total Funds
	0	General Fund
	49,560,200	Cash Funds - SEF
	500,000	Reappropriated Funds

As discussed above, enactment of H.B. 14-1292 would increase the impact of this bill on the State Education Fund by \$1,489,066 for FY 2014-15.

Points to Consider

General Fund Impact

1. The Joint Budget Committee has proposed a budget package for FY 2014-15 based on the March 2014 Office of State Planning and Budgeting revenue forecast. The budget package allocates \$20.0 million General Fund to be available to fund 2014 legislation, and leaves approximately \$7.5 million General Fund unallocated. Thus, the General Assembly could appropriate up to \$25.8 million General Fund to fund 2014 legislation and maintain a 6.5 percent General Fund reserve.

State Education Fund Impact

2. This bill increases appropriations from the State Education Fund for FY 2014-15 by at least \$19.1 million (\$49.6 million if the Committee adopts L.006 and H.B. 14-1292 is enacted).

Based on the Office of State Planning and Budgeting March 2014 Revenue Forecast, and incorporating appropriations in the FY 2014-15 Long Bill (H.B. 14-1336), it is projected that \$907.0 million would remain in the State Education Fund at the end of FY 2014-15. However, that balance is the result of significant transfers of one-time funding from the General Fund, including \$1.074 billion in FY 2013-14, and annual appropriations from the State Education Fund currently exceed annual revenues. For example, the FY 2014-15 Long Bill appropriates \$757.8 million from the State Education Fund, while annual revenues pursuant to Amendment 23 are projected to be \$516.6 million in FY 2014-15 – a revenue shortfall of \$241.2 million or 32 percent of Long Bill appropriations. **The use of additional State Education Fund moneys in FY 2014-15 will reduce the amount available in subsequent years and require additional General Fund appropriations once one-time funding in the State Education Fund is depleted.**

Future Fiscal Impact

3. Sponsor amendment **L.006** increases the appropriation for the English Language Proficiency Program by \$30.0 million in FY 2014-15. 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. As a result, **any increase in categorical spending is permanent because the General Assembly is unable to reduce total appropriations of state funds for categorical programs. In addition, increasing categorical funding by \$30.0 million in FY 2014-15 will require additional annual increases to meet the constitutional requirement.**
4. The bill requires the transfer of 75.0 percent of the FY 2014-15 General Fund surplus to the State Education Fund, thereby reducing the amount of General Fund available for operating or capital construction expenses in FY 2015-16. The attached Fiscal Note estimates that \$133.3 million will be transferred to the State Education Fund as a result of this provision based on the March 2014 Legislative Council Staff revenue forecast.

Technical Issues

5. Sponsor amendment **L.006** creates the new Excellence Awards Fund, which would consist of cash funds from the State Education Fund appropriated by the General Assembly for the English Language Proficiency Act Excellence Award Program. Moneys in the Fund are subject to legislative appropriation. **Is it necessary to appropriate State Education Fund moneys into a new cash fund, rather than appropriating State Education Fund moneys directly to the Department for the program?**