

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUEST
FOR FY 2009-10
CONCERNING THE STATE SHARE OF TOTAL
PROGRAM FUNDING FOR STEAMBOAT SPRINGS
DEPARTMENT OF EDUCATION**

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:
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September 21, 2009**

For Further Information Contact:

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**DEPARTMENT OF EDUCATION
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Interim Supplemental - State Share Funding for Steamboat Springs

	Request	Recommendation
Cash Funds -- State Public School Fund	\$3,684,365	\$3,684,365

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]	YES
Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in the appropriation; new data; or an unforeseen contingency]	YES
Staff and the Department agree that this request satisfies the interim statutory supplemental criteria as the request is consistent with applicable programmatic statutory provisions for which the overexpenditure is required. Further, the request satisfies JBC supplemental criteria as the request is a result of a technical error in the appropriation.	

Department Request

Summary. The Department of Education has submitted an interim supplemental request for FY 2009-10 pursuant to the provisions of H.B. 98-1331; this request has been approved by the Office of State Planning and Budgeting. **The Department requests \$3,684,365 cash funds from the State Public School Fund to provide additional state funding to Steamboat Springs RE-2 School District due to an erroneous over-collection of local revenues in the last two fiscal years.** This error resulted in the state share of the district's total program expenses being understated. **The Department thus requests a one-time appropriation through a new line item entitled "State Share Correction for Local Share Overpayments in Prior Fiscal Years" to allow the district to repay local taxpayers.** The dollar amount requested is comprised of the following amounts for each fiscal year:

FY 2007-08	\$1,588,932
FY 2008-09	<u>\$2,095,433</u>
Total Request	\$3,684,365

The Department is requesting a separate line item appropriation to avoid commingling payments associated with previous fiscal years and those for the current fiscal year.

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Background Information - Calculation of Local Share. In the 2007 Session, the General Assembly modified the School Finance Act to change the method for calculating school district property taxes. Pursuant to Sections 22-54-106 (2) and 22-54-107 (1), C.R.S., a school district must levy the smallest mill¹ of the following options:

1. The mill that it levied in the prior year;
2. The mill necessary to pay for its total program funding plus its categorical programs, less any specific ownership tax revenues and minimum state aid for total program;
3. *For a district that has not obtained voter approval to retain and spend revenues in excess of the property tax limitation imposed by TABOR, the number of mills allowed by TABOR²;*
or
4. *Twenty-seven mills.*

The italicized language, above, was added through S.B. 07-199. This new language changed the method of calculating school district property taxes that support school finance in two ways. First, it imposed a cap of 27 mills on school finance levies. Second, for districts that have received voter approval to exceed the TABOR property tax revenue limit (i.e., they have "de-Bruced"), it set the levy for FY 2007-08 and future budget years at the levy for FY 2006-07. These changes caused some districts' mill levies to be higher than they otherwise would have been, caused other districts' mill levies to be lower than they otherwise would have been, and left some districts' mill levies unchanged.

¹ Local property tax revenues are calculated as follows: [Total property valuation X Assessment rate X Mill levy]. One "mill" equals one-tenth of one percent (.001). For example, for a property with an *actual* value of \$100,000, and an *assessed* value of \$7,960 (based on the 7.96 percent assessment rate for residential property effective for property tax years 2003 through 2010), each mill of tax raises \$7.96.

² Please note that a school district may seek approval from its voters to raise and expend additional ("override") property tax revenues in excess of the district's total program via an additional mill levy. An override is different than approval to collect revenues in excess of the district's TABOR limit. A district's override revenues cannot exceed 20 percent of its total program funding or \$200,000, whichever is greater. A district's authorization to raise and expend "override" revenues does not affect the amount of State Share funding which the district is eligible to receive. As of FY 2007-08, 78 of the 178 districts had voter-approved override mill levies providing \$491.5 million in additional local revenues. [See Section 22-54-108, C.R.S.]

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Description of Over-collection Error. In November 1998, the Steamboat Springs School District held a TABOR election, requesting that the district be allowed to retain and spend any revenues from grants, fees, leases, interest, sales and use taxes, and other non-property tax revenues, that exceed the district's TABOR limit. This measure passed.

Given that the district's TABOR question excluded property tax revenues, its mill levy may not exceed the number of mills that is allowed by the property tax limitation imposed by TABOR. However, **beginning in FY 2007-08, the district calculated its mill levy based on the amount required to pay for its total program funding plus its categorical programs, less specific ownership tax revenues and minimum state aid for total program. This resulted in a higher mill levy than allowed by TABOR.** The Department discovered this error when it conducted research related to the *Mesa County v. CDE* lawsuit. The following table details the Department's calculations related to the error.

	FY 2007-08			FY 2008-09		
	Initial Calculation	Corrected Calculation	Difference	Initial Calculation	Corrected Calculation	Difference
Assessed Valuation	\$867,321,020	\$867,321,020		\$890,536,842	\$890,536,842	
Mill levy	15.021	12.476	-2.545	15.021	12.476	-2.545
Total School Finance Property Taxes	\$13,028,029	\$10,820,697	(\$2,207,332)	\$13,376,754	\$11,110,338	(\$2,266,416)
Total Program	\$13,707,515	\$13,707,515	\$0	\$14,576,988	\$14,576,988	\$0
Property Taxes for Total Program	\$12,409,629	\$10,820,697	(\$1,588,932)	\$13,205,771	\$11,110,338	(\$2,095,433)
Specific Ownership Taxes for Total Program	<u>1,029,706</u>	<u>1,029,706</u>	<u>0</u>	<u>1,120,603</u>	<u>1,120,603</u>	<u>0</u>
Total Local Share of Total Program	\$13,439,335	\$11,850,403	(1,588,932)	\$14,326,374	\$12,230,941	(\$2,095,433)
% Local Share	98.0%	86.5%			83.9%	
State Share of Total Program	\$268,180	\$1,857,112	\$1,588,932	\$250,614	\$2,346,047	\$2,095,433
% State Share	2.0%	13.5%		1.7%	16.1%	
Property Tax for Categorical Buyout	\$618,400	\$0	(\$618,400)	\$170,983	\$0	(\$170,983)

The district's mill levies in FY 2007-08 and FY 2008-09 caused it to collect more property tax revenues than allowed by TABOR. Since the State provides the difference between funding allocated to districts through the School Finance Act and local property taxes, this error reduced the amount of state money distributed to the district in each fiscal year. The district is now required to

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refund the excess property taxes collected as a result of its error. The Department is requesting additional state funds to correct the error and allow the district to repay local taxpayers for over-collections in FY 2007-08 and FY 2008-09. The Department plans to submit a supplemental request in January to correct this error for FY 2009-10.

Please note that the Department is not requesting funding to pay back the property taxes collected by the district associated with categorical programs (a total of \$789,383). The Department discovered the district's error prior to distributing state funding for categorical programs for FY 2008-09. Thus, the Department did not require the district to use the \$170,983 in local revenues in lieu of state funding for categorical programs. These funds are thus available for the district to repay to local taxpayers. For FY 2007-08, however, the Department did require the district to use the \$618,400 in local funds in lieu of state funds for categorical programs. The state funds that were thus "freed up" were then distributed to other school districts for public school transportation as required by statute [see Section 22-54-107, C.R.S.]. The Department will correct this error by allocating an additional \$618,400 in state funding for public school transportation to Steamboat Springs in FY 2009-10³.

Source of Funding Requested. The Department is requesting funding from the State Public School Fund (SPSF). The SPSF currently receives revenues from three primary sources⁴:

1. *Federal mineral lease revenues* - a portion of federal funds received by the State for sales, bonuses, royalties, and rentals of federal lands within the State
2. *Rental income earned on public school lands* - Up to \$11.0 million of rental income earned on public school lands, including mineral royalties, grazing fees, land sales, timber sales, and interest earnings

³ The appropriation of state funds for Public School Transportation increased by \$3,800,796 (8.4 percent) in FY 2009-10. Thus, even though \$618,400 of this amount will be used to repay Steamboat Springs, remaining state funding distributions will still increase by 7.0 percent.

⁴ 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.

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3. *District audit recoveries* - amounts recovered by the Department pursuant to school district audits

The Department is essentially requesting that it be allowed to use moneys recovered from various districts through prior year audits to repay the Steamboat Springs school district. The Department indicates that revenues credited to the SPSF in FY 2008-09 were higher than anticipated (largely due to higher than anticipated audit recoveries), resulting in a fund balance that is \$2,286,956 higher than anticipated. In addition, as of August 31, 2009, a total of \$1,405,780 in audit recoveries has been collected; another \$640,489 is anticipated to be collected by June 30, 2009. The sum of these dollar amounts (\$4,333,225) exceeds the amount the Department is requesting.

Staff Analysis and Recommendation

Staff recommends that the Committee approve the Department's request for a one-time appropriation of \$3,684,365 cash funds from the State Public School Fund (SPSF) to allow the Steamboat Springs school district to refund excess property taxes collected as a result of an error in setting mill levies in FY 2007-08 and FY 2008-09. The requested funding source, school district audit recoveries, is appropriate due to nature of the error that occurred.

	FY 2008-09	FY 2009-10	Fiscal Year 2009-10 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF EDUCATION					
Commissioner - Dwight D. Jones					
Interim Supplemental - State Share Funding for Steamboat Springs					
<i>(2) Assistance to Public Schools, (A) Public School Finance</i>					
State Share Correction for Local Share					
Overpayments in Prior Fiscal Years					
(NEW LINE ITEM)	N.A.	N.A.	3,684,365	3,684,365	3,684,365
FTE			<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund			0	0	0
Cash Funds			3,684,365	3,684,365	3,684,365
Reappropriated Funds			0	0	0
Federal Funds			0	0	0
Totals					
DEPARTMENT OF EDUCATION					
TOTALS for ALL Departmental line items	4,371,057,290	4,686,948,476	3,684,365	3,684,365	4,690,632,841
FTE	<u>536.1</u>	<u>557.3</u>	<u>0.0</u>	<u>0.0</u>	<u>557.3</u>
General Fund	3,215,359,907	3,239,416,000	0	0	3,239,416,000
Cash Funds	640,392,536	814,265,994	3,684,365	3,684,365	817,950,359
Reappropriated Funds	17,651,668	22,758,378	0	0	22,758,378
Federal Funds	497,653,179	610,508,104	0	0	610,508,104

Key:

"N.A." = Not Applicable

STATE OF COLORADO

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JOINT BUDGET COMMITTEE

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September 21, 2009

Mr. David J. McDermott
State Controller
Department of Personnel and Administration
633 17th Street, 15th Floor
Denver, CO 80202

Dear Mr. McDermott:

The Joint Budget Committee has considered an interim supplemental request submitted by the Department of Education under the provisions of H.B. 98-1331. This request was previously approved by the Office of State Planning and Budgeting. Pursuant to Section 24-75-111 (1), C.R.S., the Committee authorizes the overexpenditure listed in the following table and will sponsor a supplemental appropriations bill during the 2010 legislative session that reflects this increase.

Department of Education JBC Approved Adjustments to FY 2009-10 Appropriations	
	Cash Funds
Assistance to Public Schools, Public School Finance, State Share Correction for Local Share Overpayments in Prior Fiscal Years	\$3,684,365
Total	\$3,684,365

This appropriation shall be from audit recoveries credited to the State Public School Fund pursuant to Section 22-54-114 (4), C.R.S.

If you have any questions or concerns, please contact Carolyn Kampman of our staff at 303-866-4959.

Sincerely,

Senator Moe Keller
Chairman, Joint Budget Committee

cc: Mr. John Ziegler, Staff Director, Joint Budget Committee
Mr. Todd Saliman, Director, Office of State Planning and Budgeting
Mr. Dwight D. Jones, Commissioner of Education
Mr. Jeff Blanford, Budget Director, Department of Education