

# *KASBO Special Education Funding*

*November 2022*

*S. Craig Neuenswander, Deputy Commissioner*

*Christy Weiler, Coordinator, SETS*

# Maintenance of Effort



# LEA MOE: Why Is It Required and What Does It Mean?

- LEA MOE is required to ensure that LEAs do not replace state/local funding with federal funds.
- LEA MOE means that, in each year for the education of children with disabilities, an LEA:
  - Budgets at least as much as it expended in the most recent year it met LEA MOE.
  - Expends at least as much as it expended in the most recent year it met LEA MOE.
- This comparison can be calculated in four ways.
- Then it gets complicated.



# Overview of the LEA MOE Regulations

---



- 34 CFR §300.203 Maintenance of effort
  - (a) Eligibility standard (including intervening years)
  - (b) Compliance standard
- 34 CFR §300.204 Exception to maintenance of effort
- 34 CFR §300.205 Adjustment to local fiscal efforts in certain fiscal years
- 34 CFR §300.203 Maintenance of effort
  - (c) Subsequent years
  - (d) Consequences of failure to maintain effort



# The Eligibility Standard

# LEA MOE Regulation 34 CFR §300.203(a)(1)

---



- *Eligibility standard.* (1) For purposes of establishing the LEA's eligibility for an award for a fiscal year, the SEA must determine that the LEA budgets, for the education of children with disabilities, at least the same amount, from at least one of the following sources,\* as the LEA spent for that purpose from the same source for the most recent fiscal year for which information is available.
  
- *\*will be discussed in the "four methods" section*



# The Compliance Standard

# LEA MOE Regulation 34 CFR §300.203(b)

---



- *Compliance standard.* (1) Except as provided in 34 CFR §§300.204 and 300.205, funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.





# The Four Methods

# Methods for Calculating LEA MOE

---



- Total amount of state and local funds.
- Per pupil amount of state and local funds
- Total amount of local funds.
- Per pupil amount of local funds.

# How is MOE calculated?

- Eligibility is compared to the amount spent in the most recent fiscal year.
- Compliance is compared to the last fiscal year the test is met.

*The LEA must meet only one test in eligibility and compliance to be meet the requirements of IDEA.*



# Basics Recap

- Budget as much as expended in the most recent state fiscal year for which information is available and in which LEA MOE is met.
- Expend as much as expended in the most recent state fiscal year in which LEA MOE is met.
- Two sources of funds and four methods of calculation.
- Method can change SFY to SFY; comparison year method must match current SFY method.



# Check Your Understanding

## Eligibility Standard

## Compliance Standard

- **Budgeting**
- **Most recent fiscal year for which information is available on expenditures**

**Four Calculation Methods**

- **Spending**
- **Expenditures for the preceding fiscal year**





# Allowable Exceptions

# Exceptions — General

---



- It is permissible to take multiple exceptions in one year, as long as each exception applies in that year.
- An LEA may apply these exceptions to reduce its required MOE level and meet the compliance standard using any of the four methods.
- An LEA also may apply these exceptions to reduce its required MOE level and meet the eligibility standard using any of the four methods.

# Exception (a)

As described in 34 CFR §300.204, an LEA may reduce LEA MOE for...

- (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.





# Exception (b)

- As described in 34 CFR §300.204, an LEA may reduce MOE for...
- (b) A decrease in the enrollment of children with disabilities.



# Exception (c)

- As described in 34 CFR §300.204, an LEA may reduce LEA MOE for...
- (c) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child —
  - Has left the jurisdiction of the agency;
  - Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
  - No longer needs the program of special education.



# Exception (c): State Definition

- The program must meet our state's definition of an exceptionally costly program:

“Exceptionally Costly Program” is defined as a program agreed to by the individualized education program (IEP) team for any child with a disability, for which the associated cost is greater than four times the LEA average special education expenditure per pupil, as determined in the prior fiscal year.



# Exception (d)

- As described in 34 CFR §300.204, an LEA may reduce LEA MOE for...
- (d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.



# Exception (e)

- As described in 34 CFR §300.204, an LEA may reduce LEA MOE for...
- (e) The assumption of cost by the high-cost fund operated by the SEA under §300.704(c).

Kansas does not operate a high cost fund and does not utilize this exception.





# Adjustment to LEA MOE

# Adjustment to local fiscal effort in certain fiscal years: 34 CFR §300.205

---



“...for any fiscal year for which the allocation received by an LEA under §300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by §300.203(a) by not more than 50 percent of the amount of that excess....”

# Conditions for Using Adjustment

- The LEA must:
  - Use the freed-up local (or state and local) funds to carry out ESSA activities during the SFY in which the adjustment takes place.
  - Receive a determination of “meets requirements” from the SEA for the SFY of the adjustment.
  - Not have had action taken against it by the SEA under IDEA Section 616.
  - Not have had the responsibility for providing FAPE taken away by the SEA.
  - Not be determined to have significant disproportionality for the SFY of the adjustment.







# The Subsequent Years Rule

# LEA MOE Regulation

## 34 CFR §300.203(c)(1)

---



- The Subsequent Years Rule

“...the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the LEA’s reduced level of expenditures.”

# Summary of Key Takeaways

- Required level of effort (for either standard) is based on the last state fiscal year in which LEA MOE compliance was met.
- Must use the same calculation method when comparing current year to comparison year.
- If LEA meets LEA by any of the four methods, LEA MOE is met.





# Consequences of LEA Failure to Maintain Fiscal Effort

# Consequences of Failing to Meet LEA MOE

- State must repay federal government the amount by which LEA failed to maintain effort (34 CFR §300.203(d)).
- Payback must be made from nonfederal funds or federal funds for which accountability to federal government is not required (GEPA 20 U.S.C. 1234a(a)(1) and (a)(2) and 1234(a)(1)).
- State may or may not require the LEA to repay the state (depending upon state law).
- An LEA will not receive an IDEA subgrant if it does not budget at least as much as expended in the most recent year it met MOE.





Christy Weiler  
Coordinator  
Special Education and Title Services  
(785) 296-1712  
[cweiler@ksde.org](mailto:cweiler@ksde.org)

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the nondiscrimination policies: KSDE General Counsel, Office of General Counsel, KSDE, Landon State Office Building, 900 S.W. Jackson, Suite 102, Topeka, KS 66612, (785) 296-3201.



# Consensus Revenue Estimates



November: FY 2022 **\$1.3 Billion**  
**Increase**

April: FY2022 & 2023 **\$340 million**  
**Increase**

Exceeded FY2022 Estimate **\$437 million**

FY 2023 Exceed Estimate **\$306 million**

# Special Education Excess Costs Calculation

What Does Excess Cost Mean?

KSA 72-3422

Note: State Total, NOT Individual District





# Special Education Excess Costs Calculation

|  |                  |
|--|------------------|
| Projected Total Spec Educ Expenditure<br>(Prior Year Actual + Inflation) | \$1.1 B          |
| <b>Less:</b>   |                  |
| • Federal Aid (ESSER)  | \$135 M          |
| • Medicaid   | \$50 M           |
| • State Hospitals  | \$300 K          |
| • Reg Ed Cost for Special Ed Pupils                                      | \$250 M          |
| <b>Equals</b>  |                  |
| <b>Excess Costs</b>  | <b>\$664.7 M</b> |



# Special Education Excess Costs Calculation

**Excess Costs**

**\$664.7 M**

Appropriation = \$520 M

Divide by 664.7 = 78.2%

Statute: Excess Cost X 92% = \$611.5 M

Shortfall: \$611.5 M – \$520 M = \$91.5 M



# Special Education Excess Costs Calculation

Regular Ed Costs for Special Ed Pupils (KSA 72-3422)

General Fund + LOB

**Less Weightings:**

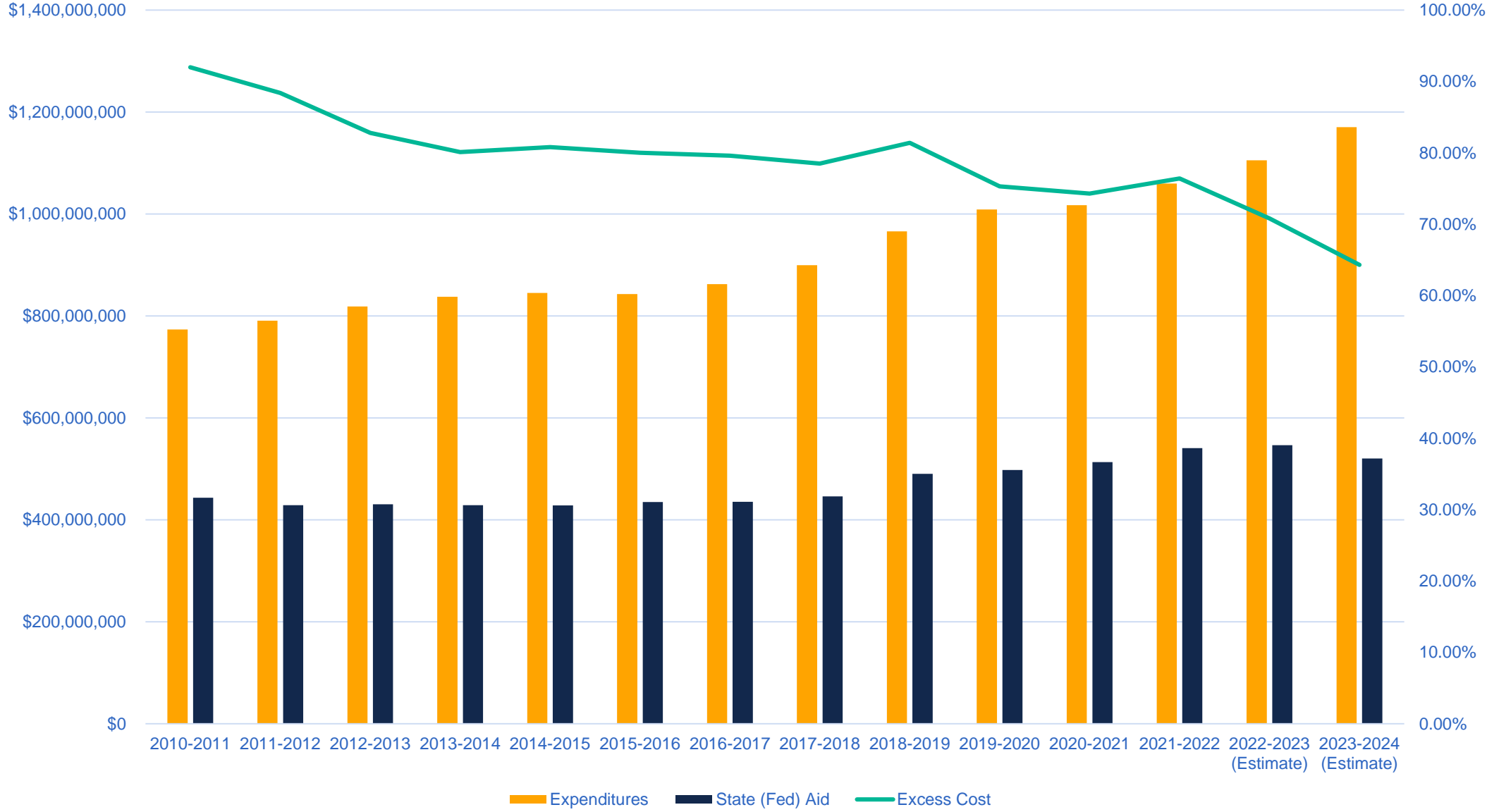
|                   |                |     |
|-------------------|----------------|-----|
| Special Education | At-Risk        | CTE |
| Bilingual         | Transportation |     |

**Divided By:** Adjusted Enrollment = Cost/Pupil

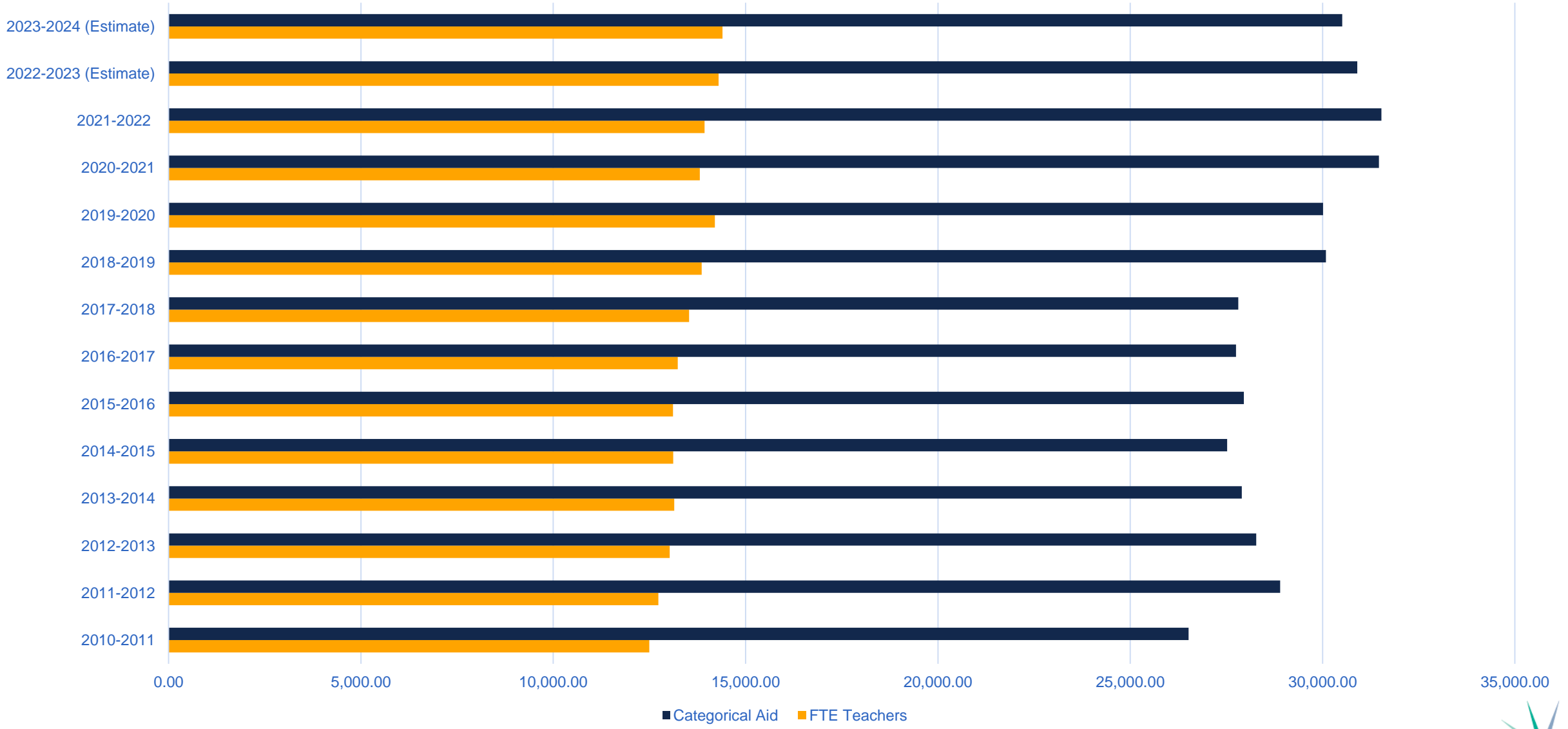
**Times:** FTE Spec Ed Students = Reg Ed Cost for Spec Ed Pupils



# Special Education Excess Cost



# FTE Teachers & Cat Aid



# Special Education Excess Costs Estimates

FY23: 76.0% = **\$109 million** (w/ ESSER)

Fed = 16.8%

Cat Aid Estimate \$30,900

92% Cat Aid **Add \$7,700**

FY24: 68.1% = **\$182 million**

Fed = 13.1%

Cat Aid Estimate \$30,509

92% Cat Aid **Add \$12,700**

- **No ESSER; No \$7.5 million state aid increase**



# Special Education State Aid

What does this mean for your budgeting?  
(Services Required)

Assessment vs. State Aid

*Start conversations about 2023-24 now.*



# FY 2024 State Board Recommendation

## Special Education State Aid

Five-year phase-in to fund current law. Assumes 5% annual growth in excess costs associated with special education.

| Fiscal Year | State Aid     | Excess Cost | Additional Cost |
|-------------|---------------|-------------|-----------------|
| 2024        | \$592,740,238 | 77.5%       | \$72,359,420    |
| 2025        | \$665,099,659 | 80.3%       | \$72,359,421    |
| 2026        | \$737,459,079 | 84.8%       | \$72,359,420    |
| 2027        | \$809,818,499 | 88.7%       | \$72,359,420    |
| 2028        | \$882,177,919 | 92.0%       | \$72,359,420    |





# Interim Committee on Special Education

## Topics:

- Special education funding and how funding is distributed;
- Current statutory requirements of special education;
- Current excess cost calculation methodology;
- Costs for regular and special education as reported by districts;
- Requirements to qualify for special education;
- Special education funding methodology in other states;
- Resources provided to students after graduation.

Nov. 10



# Interim Committee on Special Education

Chair: Rep. Kristey Williams

V Chair: Sen. Molly Baumgardner

Ranking Minority Member: Rep. Valdenia Winn

Members:

Sen. Renee Erickson

Sen. Michael Fagg

Sen. Alicia Straub

Sen. Dinah Sykes

Rep. Kyle Hoffman

Rep. Jo Ella Hoyer

Rep. Adam Thomas

Nov. 10



# Interim Committee on Special Education

July 1 Cash Balances are Large

LOB Special Ed Funding Not Included

Not all Special Ed Funding Included

Federal Gov't. Not Paying Their Share

Nov. 10



