Overview
At the close of a fiscal year, state agencies often have unspent appropriations. This unspent money generally takes two forms in the state budget: Lapsing Balance or Nonlapsing Balance. In the case of a lapsing balance, any unspent money reverts (or lapses) back to the base fund where the appropriation originated (i.e. General Fund, Restricted Fund, etc.) unless otherwise designated by statute. With a nonlapsing balance, the Legislature has given the agency authority (either through statute or intent language) to retain the unspent money.

In most cases, an agency must request nonlapsing authority from the Legislature during the budget process. If granted, the Legislature will approve intent language in a budget bill authorizing the nonlapsing authority, specifying the amount of money that the agency can retain, and the purpose for which the retained funds may be used.

Public education has the benefit of statutory nonlapsing authority. Statute, 53F-2-205(7), states “money appropriated to the board is nonlapsing.” The State Board of Education retains all balances from appropriated funds at the close of a fiscal year, they do not need to seek additional approval or provide upfront how the funds will be expended. However, in some cases, statute further restricts what the Board can do with certain funds.

For example, 53F-2-205 also provides how the Board may use nonlapsing funds in the Minimum School Program. The Board may use these funds to:

1. Maintain the WPU Value;
2. Support the state guarantee for the Voted & Board Local Levy Programs;
3. Support the Charter School Local Replacement;
4. Support an LEA with a los in student enrollment; and
5. Support the program for which the funds were appropriated.

The Board can only move funds from the Basic School Program to support the Voted & Board Guarantee or the Charter School Local Replacement. It cannot move funds from those two programs, or any other Related to Basic School program, to support other categorical programs.

Issue Summary
The State Board of Education has prepared two reports detailing FY 2018 closing nonlapsing balances.

1. The first report details, by line-item and program, balances in the Minimum School Program. The reported balances total approximately $43.5 million. The bulk of this amount is the result of estimating differences, specifically, the number of students (WPUs) in the system or the amount of local property tax collections.
2. The second report details, by line-item and program, balances in the various administrative and support line-items of the State Board of Education budget. The reported balances in this report total more than $71.8 million and may be a mix of state, federal, or restricted revenue.

As mentioned above, statute controls how the Board may use the balances in the Minimum School Program. The Board has identified obligations to a portion of these balances in the FY 2019 budget. These obligations either support the program or origin or fulfill intent language adopted by the Legislature. Balances associated with differences due to the estimation process generally remain in the program until the Legislature transfers the funding back to the Education Fund for further appropriation.
In the case of the administrative and support line-items, the Board has more flexibility in how the nonlapsing balances will be expended in FY 2019 (or a subsequent fiscal year.) In many cases, the Board has identified that certain funds are “obligated,” “restricted,” or “plan submitted to board” but the Board does not further detail how the balances will be used. Subcommittee staff will continue to work with the Board to provide the Legislature with additional detail on these balances, including source revenue and anticipated expenditures.

**Recommendations**
Given the amount of preliminary balances reported for the Board line-items and the current lack of expenditure details, we recommend that the Legislature direct the State Board of Education to prepare a detailed list of the source of the nonlapsing balances and all planned expenditures, by line item (excluding the Minimum School Program), for discussion by the subcommittee during the 2019 General Session base budget review process.