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First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

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LLS NO. 13-0788.01 Jason Gelender x4330

COMMITTEE BILL

Capital Development Committee

SHORT TITLE: "BEST Program Oversight & Funding"

A BILL FOR AN ACT

101 CONCERNING LEGISLATIVE OVERSIGHT OF THE FUNDING OF P-12
102 PUBLIC SCHOOL CAPITAL CONSTRUCTION PROJECTS THAT
103 RECEIVE FUNDING UNDER THE "BUILDING EXCELLENT SCHOOLS
104 TODAY ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Capital Development Committee. The bill grants the capital development committee limited oversight over the building excellent

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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schools today (BEST) program by:

- Allowing the committee to review and approve or, if the committee concludes that the public school capital construction assistance board (board) misinterpreted the results of the BEST prioritization assessment or misapplied BEST prioritization criteria, disapprove a revised prioritized list of projects recommended by the board and the state board of education for BEST funding that involves lease-purchase agreements. If the committee disapproves the list, the board may resubmit the list, with modifications or additional information, or both, that address the committee's concerns, and the committee may approve or, if the committee again concludes that the board misinterpreted the results of the BEST prioritization assessment or misapplied BEST prioritization criteria, disapprove the resubmitted list.
- Requiring the board, which currently reports annually to the education and finance committees of both houses of the general assembly, to also report annually to the capital development committee and to include in its reporting, to the extent feasible, an estimate of the amount of BEST revenues for the current and next fiscal year and BEST funding to be provided during the next fiscal year.

The bill also requires the board, in determining the amount of financial assistance that it provides and in so doing managing the balance of the public school capital construction assistance fund (assistance fund), to ensure that, effective June 30, 2013, and effective each June 30 thereafter, the balance of the assistance fund is at least equal to the total amount of payments to be made by the state, less the amount of any school district matching moneys and federal moneys to be received for the purpose of making the payments, during the next fiscal year under the terms of any BEST lease-purchase agreements.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 22-43.7-103, **add**
3 (6.5) as follows:

4 **22-43.7-103. Definitions.** As used in this article, unless the
5 context otherwise requires:

6 (6.5) "CAPITAL DEVELOPMENT COMMITTEE" MEANS THE CAPITAL
7 DEVELOPMENT COMMITTEE OF THE GENERAL ASSEMBLY ESTABLISHED IN

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1 SECTION 2-3-1302 (1), C.R.S.

2 SECTION 2. In Colorado Revised Statutes, 22-43.7-104,

3 add (3.5) as follows:

4 **22-43.7-104. Public school capital construction assistance fund**
5 **- creation - crediting of moneys to fund - use of fund - emergency**
6 **reserve - creation - reserve account - creation and use.**

7 (3.5) IN DETERMINING THE AMOUNT OF FINANCIAL ASSISTANCE
8 THAT IT PROVIDES AND IN SO DOING MANAGING THE BALANCE OF THE
9 ASSISTANCE FUND, THE BOARD SHALL ENSURE THAT, EFFECTIVE JUNE 30,
10 2013, AND EFFECTIVE EACH JUNE 30 THEREAFTER, THE BALANCE OF THE
11 ASSISTANCE FUND IS AT LEAST EQUAL TO THE TOTAL AMOUNT OF
12 PAYMENTS TO BE MADE BY THE STATE DURING THE FISCAL YEAR
13 FOLLOWING THE FISCAL YEAR IN WHICH THE TRANSFER IS EFFECTIVE
14 UNDER THE TERMS OF ANY LEASE-PURCHASE AGREEMENTS ENTERED INTO
15 PURSUANT TO SECTION 22-43.7-110(2) LESS THE AMOUNT OF ANY SCHOOL
16 DISTRICT MATCHING MONEYS AND ANY FEDERAL MONEYS TO BE RECEIVED
17 FOR THE PURPOSE OF MAKING THE PAYMENTS.

18 SECTION 3. In Colorado Revised Statutes, 22-43.7-109, amend
19 (1) introductory portion, (2) (a) (III), (7), and (9) introductory portion as
20 follows:

21 **22-43.7-109. Financial assistance for public school capital**
22 **construction - application requirements - evaluation criteria - local**
23 **match requirements.** (1) For fiscal years commencing on or after July
24 1, 2008, the board, with the support of the division and subject to the ~~final~~
25 approval of the state board AND, IN THE CASE OF FINANCIAL ASSISTANCE
26 THAT INVOLVES LEASE-PURCHASE AGREEMENTS, SUBJECT TO BOTH THE
27 PRELIMINARY APPROVAL OF THE STATE BOARD AND THE FINAL APPROVAL

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1 OF THE CAPITAL DEVELOPMENT COMMITTEE, regarding financial assistance
2 awards as specified in this section, shall provide financial assistance as
3 specified in this section subject to the following limitations:

4 (2) (a) Except as otherwise provided in subparagraph (II) of
5 paragraph (b) of this subsection (2), the board shall establish an annual
6 financial assistance timeline for use by applicants in applying for
7 financial assistance and otherwise meeting financial assistance
8 requirements and for use by the board in reviewing financial assistance
9 applications and recommending financial assistance awards to the state
10 board. The timeline shall specify:

11 (III) A deadline, NO LATER THAN JUNE 7, 2013, AND NO LATER
12 THAN JUNE 1 OF EACH YEAR THEREAFTER, for the board to submit to the
13 state board the prioritized list of projects for which the board recommends
14 the provision of financial assistance as required by subsection (7) of this
15 section; and

16 (7)(a) Pursuant to the timelines established pursuant to subsection
17 (2) of this section for any fiscal year for which financial assistance is to
18 be awarded, and after prioritizing public school facility capital
19 construction projects as specified in subsection (5) of this section, the
20 board shall submit to the state board a prioritized list of projects for which
21 the board recommends the provision of financial assistance. The
22 prioritized list ~~shall~~ MUST include the board's recommendation as to the
23 amount and type of financial assistance to be provided and a statement of
24 the source and amount of applicant matching moneys for each
25 recommended project based upon information provided by the applicant.
26 The board may recommend that any specific project only receive financial
27 assistance if another higher priority project or group of projects becomes

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1 ineligible for financial assistance due to the inability of an applicant to
2 raise required matching moneys by a deadline prescribed by the board as
3 a condition of a financial assistance award for the higher priority project
4 or group of projects. The state board SHALL REVIEW AND MAKE DECISIONS
5 REGARDING THE PRIORITIZED LIST NO LATER THAN JUNE 20 OF EACH YEAR
6 AND may approve, disapprove, or modify the provision of financial
7 assistance for any project recommended by the board if the state board
8 concludes that the board misinterpreted the results of the prioritization
9 assessment conducted pursuant to section 22-43.7-108 or misapplied the
10 prioritization criteria specified in subsection (5) of this section. The state
11 board shall specifically explain in writing its reasons for finding that the
12 board misinterpreted the results of the priority assessment or misapplied
13 the prioritization criteria when disapproving or modifying any financial
14 assistance award recommended by the board.

15 (b) NO LATER THAN JUNE 25 OF EACH YEAR, THE STATE BOARD
16 SHALL SUBMIT TO THE CAPITAL DEVELOPMENT COMMITTEE A REVISED
17 PRIORITIZED LIST THAT INCLUDES ONLY THOSE PROJECTS FOR WHICH THE
18 STATE BOARD IS RECOMMENDING AWARDS OF FINANCIAL ASSISTANCE
19 THAT INVOLVE LEASE-PURCHASE AGREEMENTS. THE STATE BOARD SHALL
20 SUBMIT WITH THE LIST THE INFORMATION REGARDING THE DETAILS OF THE
21 FINANCING OF THE LISTED PROJECTS THAT THE BOARD SUBMITTED TO THE
22 STATE BOARD AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (7).
23 NO LATER THAN JULY 15 OF EACH YEAR, THE CAPITAL DEVELOPMENT
24 COMMITTEE MAY APPROVE THE LIST OR MAY DISAPPROVE THE LIST IF THE
25 COMMITTEE CONCLUDES THAT THE BOARD MISINTERPRETED THE RESULTS
26 OF THE PRIORITIZATION ASSESSMENT CONDUCTED PURSUANT TO SECTION
27 22-43.7-108 OR MISAPPLIED THE PRIORITIZATION CRITERIA SPECIFIED IN

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1 SUBSECTION (5) OF THIS SECTION. IF THE CAPITAL DEVELOPMENT
2 COMMITTEE DOES NOT APPROVE OR DISAPPROVE THE LIST BY JULY 15, IT
3 IS DEEMED TO HAVE APPROVED THE LIST AS SUBMITTED.

4 (c) IF THE CAPITAL DEVELOPMENT COMMITTEE DISAPPROVES THE
5 REVISED PRIORITIZED LIST, IT SHALL PROVIDE ITS REASONS FOR DOING SO
6 IN WRITING TO THE BOARD NO LATER THAN JULY 20. NO LATER THAN
7 AUGUST 1, THE BOARD MAY RESUBMIT THE LIST WITH MODIFICATIONS OR
8 ADDITIONAL INFORMATION, OR BOTH, THAT ADDRESS THE COMMITTEE'S
9 CONCERNS. NO LATER THAN AUGUST 15, THE CAPITAL DEVELOPMENT
10 COMMITTEE MAY APPROVE THE RESUBMITTED LIST OR MAY DISAPPROVE
11 THE RESUBMITTED LIST IF THE COMMITTEE AGAIN CONCLUDES THAT THE
12 BOARD MISINTERPRETED THE RESULTS OF THE PRIORITIZATION
13 ASSESSMENT CONDUCTED PURSUANT TO SECTION 22-43.7-108 OR
14 MISAPPLIED THE PRIORITIZATION CRITERIA SPECIFIED IN SUBSECTION (5)
15 OF THIS SECTION. IF THE CAPITAL DEVELOPMENT COMMITTEE DOES NOT
16 APPROVE OR DISAPPROVE THE RESUBMITTED LIST BY AUGUST 15, IT IS
17 DEEMED TO HAVE APPROVED THE LIST AS RESUBMITTED.

18 (9) Except as otherwise provided in subsection (10) of this
19 section, the board ~~shall~~ MAY recommend, and the state board ~~shall~~ MAY
20 approve financial assistance THAT DOES NOT INVOLVE A LEASE-PURCHASE
21 AGREEMENT for OR RECOMMEND TO THE CAPITAL DEVELOPMENT
22 COMMITTEE THE APPROVAL OF FINANCIAL ASSISTANCE THAT INVOLVES A
23 LEASE-PURCHASE AGREEMENT FOR a public school facility capital
24 construction project only if the applicant provides matching moneys in an
25 amount equal to a percentage of the total financing for the project
26 determined by the board after consideration of the applicant's financial
27 capacity, as determined by the following factors:

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1 **SECTION 4.** In Colorado Revised Statutes, 22-43.7-110, **amend**
2 (2) introductory portion as follows:

3 **22-43.7-110. Financial assistance - grants - lease-purchase**
4 **agreements.** (2) Subject to the following requirements and limitations,
5 the board may also instruct the state treasurer to enter into lease-purchase
6 agreements on behalf of the state to provide financial assistance to
7 applicants by financing public school facility capital construction projects
8 for which the state board has RECOMMENDED AND THE CAPITAL
9 DEVELOPMENT COMMITTEE HAS authorized the provision of financial
10 assistance THAT INVOLVES A LEASE-PURCHASE AGREEMENT pursuant to
11 section 22-43.7-109 (7):

12 **SECTION 5.** In Colorado Revised Statutes, 22-43.7-111, **amend**
13 (1) introductory portion; and **add** (1) (e) as follows:

14 **22-43.7-111. Reporting requirements - auditing by state**
15 **auditor.** (1) No later than February 15, 2010, and no later than each
16 February 15 thereafter, the board shall present a written report to the
17 education and finance committees of the house of representatives and the
18 senate AND THE CAPITAL DEVELOPMENT COMMITTEE, or any successor
19 committees, regarding the provision of financial assistance to applicants
20 pursuant to this article. The report shall include, at a minimum:

21 (e) AN ESTIMATE, TO THE EXTENT FEASIBLE, OF THE TOTAL
22 AMOUNTS OF REVENUES TO BE CREDITED TO THE ASSISTANCE FUND
23 DURING THE CURRENT FISCAL YEAR AND THE NEXT FISCAL YEAR AND
24 FINANCIAL ASSISTANCE TO BE AWARDED DURING THE NEXT FISCAL YEAR,
25 INCLUDING SEPARATE ESTIMATES OF THE TOTAL AMOUNTS OF FINANCIAL
26 ASSISTANCE TO BE AWARDED AS CASH GRANTS AND UNDER THE TERMS OF
27 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION

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1 22-43.7-110 (2).

2 **SECTION 6. Applicability.** This act applies to applications for
3 financial assistance filed on or after the effective date of this act.

4 **SECTION 7. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.