

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

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2.4.13

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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 OVERSIGHT OF P-12 PUBLIC SCHOOL CAPITAL
102 CONSTRUCTION PROJECTS THAT RECEIVE FUNDING UNDER THE
103 BUILDING EXCELLENT SCHOOLS 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/billssummaries>.)

Capital Development Committee. The bill grants the capital development committee limited oversight over the building excellent schools today (BEST) program by:

- Allowing the committee to review and approve or

disapprove for funding BEST projects included on a revised prioritized list of projects recommended by the public school capital construction assistance board (board) and the state board of education for BEST funding that involves lease-purchase agreements; and

- 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 include in its reporting, to the extent feasible, an estimate of the amount of BEST funding to be provided during the next fiscal year.

The bill also creates a new public school capital construction reserve account in the public school capital construction assistance fund. On July 1, 2013, and on each July 1 thereafter, the state treasurer must transfer from the portion of the assistance fund that is not the reserve account to the reserve account the lesser of:

- _____ percent of the moneys in excess of the total amount of payments to be made by the state during the fiscal year in which the transfer is effective under the terms of any BEST lease-purchase agreements; or
- The amount of such moneys needed to keep the balance of the reserve account equal to the total amount of such lease payments to be made during that fiscal year.

The board may expend moneys from the reserve account to make payments required by BEST lease-purchase agreements if the amount of moneys in the portion of the assistance fund that is not the reserve account is insufficient to cover the full amount of the lease payments.

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
8 SECTION 2-3-1302 (1), C.R.S.
9 **SECTION 2.** In Colorado Revised Statutes, 22-43.7-104, **amend**
10 (6); and add (4.5) as follows:

1 **22-43.7-104. Public school capital construction assistance fund**
2 **- creation - crediting of moneys to fund - use of fund - emergency**
3 **reserve - creation - reserve account - creation and use.** (4.5) (a) A
4 PUBLIC SCHOOL CAPITAL CONSTRUCTION RESERVE ACCOUNT IS HEREBY
5 CREATED IN THE ASSISTANCE FUND. ON JULY 1, 2013, AND ON EACH JULY
6 1 THEREAFTER, THE STATE TREASURER SHALL TRANSFER TO THE RESERVE
7 ACCOUNT FROM THE PORTION OF THE ASSISTANCE FUND THAT IS NOT THE
8 ACCOUNT THE LESSER OF:
9 (I) _____ PERCENT OF THE MONEYS IN THE PORTION OF THE
10 ASSISTANCE FUND THAT IS NOT THE RESERVE ACCOUNT THAT ARE IN
11 EXCESS OF THE TOTAL AMOUNT OF PAYMENTS TO BE MADE BY THE STATE
12 DURING THE FISCAL YEAR IN WHICH THE TRANSFER IS EFFECTIVE UNDER
13 THE TERMS OF ANY LEASE-PURCHASE AGREEMENTS ENTERED INTO
14 PURSUANT TO SECTION 22-43.7-110 (2); OR
15 (II) THE AMOUNT OF SUCH MONEYS NEEDED TO KEEP THE BALANCE
16 OF THE RESERVE ACCOUNT EQUAL TO THE TOTAL AMOUNT OF SUCH LEASE
17 PAYMENTS TO BE MADE DURING THAT FISCAL YEAR.
18 (b) INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
19 INVESTMENT OF THE RESERVE ACCOUNT SHALL BE CREDITED TO THE
20 RESERVE ACCOUNT. SUBJECT TO ANNUAL APPROPRIATION, THE BOARD
21 MAY EXPEND MONEYS FROM THE RESERVE ACCOUNT TO MAKE PAYMENTS
22 UNDER THE TERMS OF LEASE-PURCHASE AGREEMENTS ENTERED INTO
23 PURSUANT TO SECTION 22-43.7-110 (2) IF THE AMOUNT OF MONEYS IN THE
24 PORTION OF THE ASSISTANCE FUND THAT IS NOT THE RESERVE ACCOUNT
25 IS INSUFFICIENT TO COVER THE FULL AMOUNT OF THE LEASE PAYMENTS.
26 (6) If the TOTAL amount of moneys in the assistance fund,
27 INCLUDING THE RESERVE ACCOUNT OF THE ASSISTANCE FUND CREATED IN

1 SUBSECTION (4.5) OF THIS SECTION, that, subject to the limitations set forth
 2 in subsection (5) of this section, is available to pay lease payments under
 3 any lease-purchase agreements entered into pursuant to section
 4 22-43.7-110 (2) will be insufficient to cover the full amount of the lease
 5 payments required by the lease-purchase agreements, the general
 6 assembly may appropriate or transfer from any legally available source to
 7 the assistance fund sufficient moneys to make the lease payments.

8 SECTION 3. In Colorado Revised Statutes, 22-43.7-109, amend
 9 (1) introductory portion, (7), and (9) introductory portion as follows:

10 22-43.7-109. **Financial assistance for public school capital**
 11 **construction - application requirements - evaluation criteria - local**
 12 **match requirements.** (1) For fiscal years commencing on or after July
 13 1, 2008, the board, with the support of the division and subject to the final
 14 approval of the state board AND, IN THE CASE OF FINANCIAL ASSISTANCE
 15 THAT INVOLVES LEASE-PURCHASE AGREEMENTS, SUBJECT TO BOTH THE
 16 PRELIMINARY APPROVAL OF THE STATE BOARD AND THE FINAL APPROVAL
 17 OF THE CAPITAL DEVELOPMENT COMMITTEE, regarding financial assistance
 18 awards as specified in this section, shall provide financial assistance as
 19 specified in this section subject to the following limitations:

20 (7)(a) Pursuant to the timelines established pursuant to subsection
 21 (2) of this section for any fiscal year for which financial assistance is to
 22 be awarded, and after prioritizing public school facility capital
 23 construction projects as specified in subsection (5) of this section, the
 24 board shall submit to the state board a prioritized list of projects for which
 25 the board recommends the provision of financial assistance. The
 26 prioritized list shall MUST include the board's recommendation as to the
 27 amount and type of financial assistance to be provided and a statement of

1 the source and amount of applicant matching moneys for each
2 recommended project based upon information provided by the applicant.
3 The board may recommend that any specific project only receive financial
4 assistance if another higher priority project or group of projects becomes
5 ineligible for financial assistance due to the inability of an applicant to
6 raise required matching moneys by a deadline prescribed by the board as
7 a condition of a financial assistance award for the higher priority project
8 or group of projects. The state board may approve, disapprove, or modify
9 the provision of financial assistance for any project recommended by the
10 board if the state board concludes that the board misinterpreted the results
11 of the prioritization assessment conducted pursuant to section
12 22-43.7-108 or misapplied the prioritization criteria specified in
13 subsection (5) of this section. The state board shall specifically explain in
14 writing its reasons for finding that the board misinterpreted the results of
15 the priority assessment or misapplied the prioritization criteria when
16 disapproving or modifying any financial assistance award recommended
17 by the board.

18 (b) WITHIN FIFTEEN DAYS OF COMPLETING ITS REVIEW OF THE
19 BOARD'S PRIORITIZED LIST OF PUBLIC SCHOOL FACILITY CAPITAL
20 CONSTRUCTION PROJECTS, THE STATE BOARD SHALL SUBMIT TO THE
21 CAPITAL DEVELOPMENT COMMITTEE A REVISED PRIORITIZED LIST THAT
22 INCLUDES ONLY THOSE PROJECTS FOR WHICH THE STATE BOARD IS
23 RECOMMENDING AWARDS OF FINANCIAL ASSISTANCE THAT INVOLVE
24 LEASE-PURCHASE AGREEMENTS. THE STATE BOARD SHALL SUBMIT WITH
25 THE REVISED PRIORITIZED LIST SUCH INFORMATION REGARDING THE
26 DETAILS OF THE FINANCING OF THE LISTED PROJECTS AS THE CAPITAL
27 DEVELOPMENT COMMITTEE MAY REASONABLY REQUEST. WITHIN THIRTY

1 DAYS OF RECEIVING THE REVISED PRIORITIZED LIST AND ANY ADDITIONAL
2 REQUESTED INFORMATION, THE CAPITAL DEVELOPMENT COMMITTEE MAY
3 APPROVE OR DISAPPROVE THE PROVISION OF FINANCIAL ASSISTANCE FOR
4 ANY PROJECT ON THE LIST. IF THE CAPITAL DEVELOPMENT COMMITTEE
5 DOES NOT CONSIDER THE REVISED PRIORITIZED LIST WITHIN THIRTY DAYS
6 OF RECEIVING THE LIST AND ANY ADDITIONAL REQUESTED INFORMATION,
7 IT IS DEEMED TO HAVE APPROVED THE LIST AS SUBMITTED.

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

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

20 22-43.7-110. **Financial assistance - grants - lease-purchase**
21 **agreements.** (2) Subject to the following requirements and limitations,
22 the board may also instruct the state treasurer to enter into lease-purchase
23 agreements on behalf of the state to provide financial assistance to
24 applicants by financing public school facility capital construction projects
25 for which the state board has RECOMMENDED AND THE CAPITAL
26 DEVELOPMENT COMMITTEE HAS authorized the provision of financial
27 assistance THAT INVOLVES A LEASE-PURCHASE AGREEMENT pursuant to

1 section 22-43.7-109 (7):

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

4 22-43.7-111. Reporting requirements - auditing by state
5 auditor. (1) No later than February 15, 2010, and no later than each
6 February 15 thereafter, the board shall present a written report to the
7 education and finance committees of the house of representatives and the
8 senate AND THE CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL
9 ASSEMBLY, or any successor committees, regarding the provision of
10 financial assistance to applicants pursuant to this article. The report shall
11 include, at a minimum:

12 (e) AN ESTIMATE OF THE TOTAL AMOUNT OF FINANCIAL
13 ASSISTANCE TO BE AWARDED DURING THE NEXT FISCAL YEAR, INCLUDING
14 SEPARATE ESTIMATES OF THE TOTAL AMOUNTS OF FINANCIAL ASSISTANCE
15 TO BE AWARDED AS CASH GRANTS AND UNDER THE TERMS OF
16 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION
17 22-43.7-110 (2).

18 SECTION 6. Effective date - applicability. This act takes effect
19 January 1, 2014, and applies to applications for financial assistance filed
20 on or after said date.

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