

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0746.01 Jason Gelender x4330

SENATE BILL 16-072

SENATE SPONSORSHIP

Kerr, Kefalas, Newell, Crowder, Garcia, Aguilar, Heath, Hodge, Jahn, Johnston, Merrifield,
Todd

HOUSE SPONSORSHIP

Garnett and Wilson,

Senate Committees

Education
Finance
Appropriations

House Committees

Education
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN THE MAXIMUM TOTAL AMOUNT OF**
102 **ANNUAL LEASE PAYMENTS AUTHORIZED FOR LEASE-PURCHASE**
103 **AGREEMENTS ENTERED INTO UNDER THE "BUILDING**
104 **EXCELLENT SCHOOLS TODAY ACT", AND, IN CONNECTION**
105 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

Under the "Building Excellent Schools Today Act" (BEST), the state may enter into lease-purchase agreements for public school facility

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 10, 2016

HOUSE
Amended 2nd Reading
May 9, 2016

SENATE
3rd Reading Unamended
April 29, 2016

SENATE
Amended 2nd Reading
April 28, 2016

capital construction projects subject to the limitation that the maximum total annual amount of lease payments payable under the terms of the agreements does not exceed \$80 million. The bill increases the maximum total annual amount of lease payments authorized to be paid with both state money and local matching money to \$90 million for the 2016-17 fiscal year, \$100 million for the 2017-18 fiscal year, \$110 million for the 2018-19 fiscal year, and \$120 million for the 2019-20 fiscal year and for each fiscal year thereafter. In addition, to match the increase in the maximum annual amount of lease payments authorized and thereby ensure that the annual transfer of public school lands income to the BEST program continues to be sufficient, by itself, to cover the 50% state share of the total amount of annual lease payments, the bill increases the minimum amount of the annual transfer from \$40 million to \$60 million.

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

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

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

6 **(7) "Charter school" means a charter school as described in**
7 **section 22-54-124 (1) (f.6) (I) (A) or (1) (f.6) (I) (B). that has been**
8 **chartered for at least five years on the date its authorizer forwards an**
9 **application for financial assistance to the board on the charter school's**
10 **behalf.**

11 **SECTION 2. In Colorado Revised Statutes, 22-43.7-109, amend**
12 **(1) (b), (3), (5) (a) (I), and (5) (b); and repeal (5) (c) as follows:**

13 **22-43.7-109. Financial assistance for public school capital**
14 **construction - application requirements - evaluation criteria - local**
15 **match requirements.** (1) For fiscal years commencing on or after July
16 **1, 2008, the board, with the support of the division and subject to the**
17 **approval of the state board and, in the case of financial assistance that**
18 **involves lease-purchase agreements, subject to both the preliminary**

1 approval of the state board and the final approval of the capital
2 development committee, regarding financial assistance awards as
3 specified in this section, shall provide financial assistance as specified in
4 this section subject to the following limitations:

5 (b) The board may provide financial assistance to a charter school
6 that first occupies a public school facility on or after May 22, 2008, only
7 if the public school facility occupied by the charter school complied with
8 all public school facilities construction guidelines addressing health and
9 safety issues established by the board pursuant to section 22-43.7-107 (2)

10 (a) at the time the charter school first occupied the facility. THE BOARD
11 MAY ONLY PROVIDE FINANCIAL ASSISTANCE FOR A CAPITAL
12 CONSTRUCTION PROJECT FOR A PUBLIC SCHOOL FACILITY THAT HAS BEEN
13 USED FOR EDUCATIONAL PURPOSES FOR AT LEAST THREE YEARS AT ANY
14 TIME BEFORE THE BOARD RECEIVES AN APPLICATION FOR FINANCIAL
15 ASSISTANCE.

16 (3) A CHARTER SCHOOL THAT CHOOSES TO APPLY FOR FINANCIAL
17 ASSISTANCE MUST APPLY DIRECTLY TO THE BOARD. A charter school shall
18 notify its authorizer that it intends to apply IF THE CHARTER SCHOOL
19 APPLIES for financial assistance. ■ ■ ■ at least four months prior to
20 the application submission deadline. The charter school shall forward its
21 application for financial assistance to its authorizer, which shall forward
22 the application to the board together with a letter indicating the
23 authorizer's position on the application. THE AUTHORIZER FOR AN
24 APPLYING CHARTER SCHOOL MAY SUBMIT A LETTER TO THE BOARD
25 STATING ITS POSITION ON THE APPLICATION. The Colorado school for the
26 deaf and blind shall ALSO apply for financial assistance directly. Financial
27 assistance awarded to a charter school as a matching cash grant shall be

1 provided to the authorizer, which shall distribute all financial assistance
2 received as a grant to the charter school and may not retain any portion of
3 such moneys for any purpose. All other financial assistance shall be
4 provided in the form of lease payments made by the board directly to a
5 lessor or trustee as required by the terms of the applicable lease-purchase
6 agreement.

7 (5) The board, taking into consideration the financial assistance
8 priority assessment conducted pursuant to section 22-43.7-108, shall
9 prioritize applications that describe public school facility capital
10 construction projects deemed eligible for financial assistance based on the
11 following criteria, in descending order of importance:

12 (a) (I) Projects that will address safety hazards or health concerns
13 at existing public school facilities, including concerns relating to public
14 school facility security, AND PROJECTS THAT ARE DESIGNED TO
15 INCORPORATE TECHNOLOGY INTO THE EDUCATIONAL ENVIRONMENT.

16 (b) Projects that will relieve overcrowding in public school
17 facilities, including but not limited to projects that will allow students to
18 move from temporary instructional facilities into permanent facilities;
19 AND

20 (c) ~~Projects that are designed to incorporate technology into the~~
21 ~~educational environment; and~~

22 _____

23 **SECTION 3.** In Colorado Revised Statutes, 22-43.7-110, **amend**
24 (2) (a) (III) and (2) (a) (IV); and **add** (2) (a) (V), (2) (a) (VI), (2) (a) (VII),
25 and (2) (a) (VIII) as follows:

26 **22-43.7-110. Financial assistance - grants - lease-purchase**
27 **agreements.** (2) Subject to the following requirements and limitations,

1 the board may also instruct the state treasurer to enter into lease-purchase
2 agreements on behalf of the state to provide financial assistance to
3 applicants by financing public school facility capital construction projects
4 for which the state board has recommended and the capital development
5 committee has authorized the provision of financial assistance that
6 involves a lease-purchase agreement pursuant to section 22-43.7-109 (7):

7 (a) Subject to the limitation specified in paragraph (b) of this
8 subsection (2), the maximum total amount of annual lease payments
9 payable by the state during any fiscal year under the terms of all
10 outstanding lease-purchase agreements entered into by the state treasurer
11 as instructed by the board pursuant to this subsection (2) is:

12 (III) Sixty million dollars for the 2010-11 fiscal year; ~~and~~

13 (IV) Eighty million dollars for the 2011-12 fiscal year and for
14 each fiscal year thereafter THROUGH THE 2015-16 FISCAL YEAR;

15 (V) NINETY MILLION DOLLARS FOR THE 2016-17 FISCAL YEAR; AND

16 (VI) ONE HUNDRED MILLION DOLLARS FOR THE 2017-18 FISCAL
17 YEAR AND FOR EACH FISCAL YEAR THEREAFTER.

18 **SECTION 4. Appropriation.** For the 2016-17 state fiscal year,
19 \$5,000,000 is appropriated to the department of education for use by the
20 division of public school capital construction assistance. This
21 appropriation is from the public school capital construction assistance
22 fund created in section 22-43.7-104 (1), C.R.S. To implement this act, the
23 department may use this appropriation for public school capital
24 construction assistance board - lease payments.

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