

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 13-0788.01 Jason Gelender x4330

SENATE BILL 13-214

SENATE SPONSORSHIP

Schwartz, Baumgardner, Giron

HOUSE SPONSORSHIP

Fischer, Szabo, Vigil

Senate Committees
Education

House Committees

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

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.

SENATE
Amended 2nd Reading
April 17, 2013

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

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

2 **SECTION 2.** In Colorado Revised Statutes, 22-43.7-104, **add**
3 (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.** (3.5) IN
7 DETERMINING THE AMOUNT OF FINANCIAL ASSISTANCE THAT IT PROVIDES
8 AND IN SO DOING MANAGING THE BALANCE OF THE ASSISTANCE FUND, THE
9 BOARD SHALL ENSURE THAT, EFFECTIVE JUNE 30, 2013, AND EFFECTIVE
10 EACH JUNE 30 THEREAFTER, THE BALANCE OF THE ASSISTANCE FUND IS AT
11 LEAST EQUAL TO THE TOTAL AMOUNT OF PAYMENTS TO BE MADE BY THE
12 STATE DURING THE NEXT FISCAL YEAR UNDER THE TERMS OF ANY
13 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION
14 22-43.7-110 (2) LESS THE AMOUNT OF ANY SCHOOL DISTRICT MATCHING
15 MONEYS AND ANY FEDERAL MONEYS TO BE RECEIVED FOR THE PURPOSE OF
16 MAKING THE PAYMENTS.

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

20 **22-43.7-109. Financial assistance for public school capital**
21 **construction - application requirements - evaluation criteria - local**
22 **match requirements.** (1) For fiscal years commencing on or after July
23 1, 2008, the board, with the support of the division and subject to the ~~final~~
24 approval of the state board AND, IN THE CASE OF FINANCIAL ASSISTANCE
25 THAT INVOLVES LEASE-PURCHASE AGREEMENTS, SUBJECT TO BOTH THE
26 PRELIMINARY APPROVAL OF THE STATE BOARD AND THE FINAL APPROVAL
27 OF THE CAPITAL DEVELOPMENT COMMITTEE, regarding financial assistance

1 awards as specified in this section, shall provide financial assistance as
2 specified in this section subject to the following limitations:

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

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

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

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

14 (b) NO LATER THAN JUNE 25 OF EACH YEAR, THE STATE BOARD
15 SHALL SUBMIT TO THE CAPITAL DEVELOPMENT COMMITTEE A REVISED
16 PRIORITIZED LIST THAT INCLUDES ONLY THOSE PROJECTS FOR WHICH THE
17 STATE BOARD IS RECOMMENDING AWARDS OF FINANCIAL ASSISTANCE
18 THAT INVOLVE LEASE-PURCHASE AGREEMENTS. THE STATE BOARD SHALL
19 SUBMIT WITH THE LIST THE INFORMATION REGARDING THE DETAILS OF THE
20 FINANCING OF THE LISTED PROJECTS THAT THE BOARD SUBMITTED TO THE
21 STATE BOARD AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (7).
22 NO LATER THAN JULY 15 OF EACH YEAR, THE CAPITAL DEVELOPMENT
23 COMMITTEE MAY APPROVE THE LIST OR MAY DISAPPROVE THE LIST IF THE
24 COMMITTEE CONCLUDES THAT THE INCLUSION OF ONE OR MORE OF THE
25 PROJECTS ON THE LIST WILL UNREASONABLY INCREASE THE COST OF
26 PROVIDING FINANCIAL ASSISTANCE THAT INVOLVES LEASE-PURCHASE
27 AGREEMENTS FOR ALL OF THE PROJECTS ON THE LIST. IF THE CAPITAL

1 DEVELOPMENT COMMITTEE DOES NOT APPROVE OR DISAPPROVE THE LIST
2 BY JULY 15, IT IS DEEMED TO HAVE APPROVED THE LIST AS SUBMITTED.

3 (c) IF THE CAPITAL DEVELOPMENT COMMITTEE DISAPPROVES THE
4 REVISED PRIORITIZED LIST, IT SHALL PROVIDE ITS REASONS FOR DOING SO
5 IN WRITING TO THE BOARD NO LATER THAN JULY 20. NO LATER THAN
6 AUGUST 1, THE BOARD MAY RESUBMIT THE LIST WITH MODIFICATIONS OR
7 ADDITIONAL INFORMATION, OR BOTH, THAT ADDRESS THE COMMITTEE'S
8 CONCERNS. NO LATER THAN AUGUST 15, THE CAPITAL DEVELOPMENT
9 COMMITTEE MAY APPROVE THE ENTIRE RESUBMITTED LIST OR MAY
10 DISAPPROVE ONE OR MORE PROJECTS ON THE RESUBMITTED LIST IF THE
11 COMMITTEE AGAIN CONCLUDES THAT THE INCLUSION OF THE PROJECT
12 OR PROJECTS WILL UNREASONABLY INCREASE THE COST OF PROVIDING
13 FINANCIAL ASSISTANCE THAT INVOLVES LEASE-PURCHASE AGREEMENTS
14 FOR ALL OF THE PROJECTS ON THE LIST. IF THE CAPITAL DEVELOPMENT
15 COMMITTEE DISAPPROVES A PROJECT ON THE RESUBMITTED LIST, THE
16 PROJECT SHALL NOT RECEIVE FINANCIAL ASSISTANCE THAT INVOLVES
17 LEASE-PURCHASE AGREEMENTS, AND THE REMAINING PROJECTS ON THE
18 RESUBMITTED LIST SHALL RECEIVE SUCH FINANCIAL ASSISTANCE AS
19 RECOMMENDED BY THE STATE BOARD. IF THE CAPITAL DEVELOPMENT
20 COMMITTEE DOES NOT APPROVE OR DISAPPROVE THE RESUBMITTED LIST
21 BY AUGUST 15, IT IS DEEMED TO HAVE APPROVED THE LIST AS
22 RESUBMITTED.

23 (9) Except as otherwise provided in subsection (10) of this
24 section, the board ~~shall~~ MAY recommend, and the state board ~~shall~~ MAY
25 approve financial assistance THAT DOES NOT INVOLVE A LEASE-PURCHASE
26 AGREEMENT for OR RECOMMEND TO THE CAPITAL DEVELOPMENT
27 COMMITTEE THE APPROVAL OF FINANCIAL ASSISTANCE THAT INVOLVES A

1 LEASE-PURCHASE AGREEMENT FOR a public school facility capital
2 construction project only if the applicant provides matching moneys in an
3 amount equal to a percentage of the total financing for the project
4 determined by the board after consideration of the applicant's financial
5 capacity, as determined by the following factors:

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

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

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

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

26 (e) AN ESTIMATE, TO THE EXTENT FEASIBLE, OF THE TOTAL
27 AMOUNTS OF REVENUES TO BE CREDITED TO THE ASSISTANCE FUND

1 DURING THE CURRENT FISCAL YEAR AND THE NEXT FISCAL YEAR AND
2 FINANCIAL ASSISTANCE TO BE AWARDED DURING THE NEXT FISCAL YEAR,
3 INCLUDING SEPARATE ESTIMATES OF THE TOTAL AMOUNTS OF FINANCIAL
4 ASSISTANCE TO BE AWARDED AS CASH GRANTS AND UNDER THE TERMS OF
5 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION
6 22-43.7-110 (2).

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

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