

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

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

(None),

Senate Committees

Education
Finance

House Committees

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".

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 capital construction projects subject to the limitation that the maximum

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.

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, 22-43.7-104, **amend**
3 (2) (b) (I) 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.** (2) (b) For
7 each fiscal year commencing on or after July 1, 2008, the following
8 moneys shall be credited to the assistance fund:

9 (I) (A) Unless and until the state treasurer, pursuant to
10 sub-subparagraph (B) of this subparagraph (I), provides written notice to
11 the joint budget committee of the general assembly that the state treasurer
12 has determined that the use of interest or income earned on the deposit
13 and investment of moneys in the public school fund to make lease
14 payments under a lease-purchase agreement entered into pursuant to
15 section 22-43.7-110 (2) will prevent the interest component of the lease
16 payments from qualifying for exemption from federal income taxation,
17 the greater of thirty-five percent of the gross amount of public school
18 lands income received during the fiscal year or ~~forty~~ SIXTY million
19 dollars. The moneys required to be credited to the assistance fund

1 pursuant to this sub-subparagraph (A) may be taken from any single
2 source or combination of sources of public school lands income.

3 (B) Except as otherwise provided in sub-subparagraph (C) of this
4 subparagraph (I), if the state treasurer determines during any fiscal year
5 that the use of interest or income earned on the deposit and investment of
6 moneys in the public school fund to make lease payments under a
7 lease-purchase agreement will prevent the interest component of the lease
8 payments from qualifying for exemption from federal income taxation
9 and provides written notice to the joint budget committee of the general
10 assembly of the determination, for the portion of the fiscal year beginning
11 on the date the written notice is provided to the joint budget committee
12 and for each subsequent fiscal year, the greater of fifty percent of the
13 gross amount of public school lands income other than interest or income
14 earned on the deposit and investment of moneys in the public school fund
15 received during the fiscal year or ~~forty~~ SIXTY million dollars. The moneys
16 required to be credited to the assistance fund pursuant to this
17 sub-subparagraph (B) may be taken from any single source or
18 combination of sources of public school lands income other than interest
19 or income earned on the deposit and investment of moneys in the public
20 school fund.

21 (C) If, after making a determination and providing notice pursuant
22 to sub-subparagraph (B) of this subparagraph (I), the state treasurer
23 makes a new determination during any fiscal year that the use of interest
24 or income earned on the deposit and investment of moneys in the public
25 school fund to make lease payments under a lease-purchase agreement
26 entered into pursuant to section 22-43.7-110 (2) will not prevent the
27 interest component of the lease payments from qualifying for exemption

1 from federal income taxation and the state treasurer provides written
2 notice to the joint budget committee of the general assembly that the state
3 treasurer has made a new determination and is rescinding the
4 determination made pursuant to said sub-subparagraph (B) as of the date
5 the written notice is provided, for the portion of the fiscal year beginning
6 on the date the written notice is provided to the joint budget committee
7 and for each subsequent fiscal year, the greater of thirty-five percent of
8 the gross amount of public school lands income received during the fiscal
9 year or ~~forty~~ SIXTY million dollars. The moneys required to be credited to
10 the assistance fund pursuant to this sub-subparagraph (C) may be taken
11 from any single source or combination of sources of public school lands
12 income.

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

16 **22-43.7-110. Financial assistance - grants - lease-purchase**
17 **agreements.** (2) Subject to the following requirements and limitations,
18 the board may also instruct the state treasurer to enter into lease-purchase
19 agreements on behalf of the state to provide financial assistance to
20 applicants by financing public school facility capital construction projects
21 for which the state board has recommended and the capital development
22 committee has authorized the provision of financial assistance that
23 involves a lease-purchase agreement pursuant to section 22-43.7-109 (7):

24 (a) Subject to the limitation specified in paragraph (b) of this
25 subsection (2), the maximum total amount of annual lease payments
26 payable by the state during any fiscal year under the terms of all
27 outstanding lease-purchase agreements entered into by the state treasurer

1 as instructed by the board pursuant to this subsection (2) is:
2 (III) Sixty million dollars for the 2010-11 fiscal year; and
3 (IV) Eighty million dollars for the 2011-12 fiscal year and for
4 each fiscal year thereafter THROUGH THE 2015-16 FISCAL YEAR;
5 (V) NINETY MILLION DOLLARS FOR THE 2016-17 FISCAL YEAR;
6 (VI) ONE HUNDRED MILLION DOLLARS FOR THE 2017-18 FISCAL
7 YEAR;
8 (VII) ONE HUNDRED TEN MILLION DOLLARS FOR THE 2018-19
9 FISCAL YEAR; AND
10 (VIII) ONE HUNDRED TWENTY MILLION DOLLARS FOR THE 2019-20
11 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER.

12 **SECTION 3. Effective date - applicability.** This act takes effect
13 upon passage; except that section 1 of this act takes effect July 1, 2016,
14 and applies to fiscal years commencing on or after said date.

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