



Legislative  
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*Nonpartisan Services for Colorado's Legislature*

**HB 19-1055**

# FINAL FISCAL NOTE

<b>Drafting Number:</b>	LLS 19-0643	<b>Date:</b>	August 14, 2019
<b>Prime Sponsors:</b>	Rep. Bird Sen. Zenzinger; Coram	<b>Bill Status:</b>	Signed into Law
		<b>Fiscal Analyst:</b>	Kori Donaldson   303-866-4976 Kori.Donaldson@state.co.us

**Bill Topic:** PUBLIC SCHOOL CAP CONSTR FINANCIAL ASSISTANCE

**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> School Districts
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill will result in an annual increase in state and school district expenditures for K-12 capital construction beginning in the current year. These impacts continue in future years. The bill diverts marijuana excise tax revenue from the Public School Fund to the BEST program. It increases the total amount of lease payments. It appropriates money to support the implementation of full-day kindergarten. Finally, the bill changes the amount appropriated from the State Education Fund annually on behalf of charter school capital construction.

**Appropriation Summary:** For FY 2019-20, the bill appropriates \$80.7 million to the Department of Education.

**Fiscal Note Status:** This fiscal note reflects the enacted bill.

**Table 1  
State Fiscal Impacts Under HB 19-1055**

		FY 2018-19	FY 2019-20	FY 2020-21
<b>Revenue</b>		-	-	-
<b>Expenditures</b>	General Fund	-	-	-
	Cash Funds	\$4.3 million	\$80.7 million	\$170.0 million
<b>Transfers</b>	Cash Funds	\$4.3 million	\$6.2 million	\$5.9 million

## Summary of Legislation

**Lease payments.** Under the Building Excellent Schools Today (BEST) program, the State Treasurer may enter into lease-purchase agreements for public school capital construction projects. The maximum total annual amount of lease payments payable under these agreements may not exceed \$100 million in a fiscal year. The bill establishes the following incremental increase on lease payments:

- \$105 million in FY 2019-20; and
- \$110 million in FY 2020-21 and thereafter.

**BEST cash grants.** The bill increases the FY 2019-20 appropriation and establishes a FY 2020-21 appropriation from the assistance program to the Department of Education for the BEST cash grant program.

**Retail marijuana excise tax.** Current law provides that the greater of \$40 million or 90 percent of retail marijuana excise tax revenue annually collected is transferred to the Public School Capital Construction Assistance Fund (assistance fund) to support the BEST program and the remainder of the revenue is transferred to the Public School Fund. Beginning in FY 2019-20, the bill requires all retail marijuana excise tax revenue to be transferred to the assistance fund.

**Construction grants for full-day kindergarten.** The bill makes a FY 2019-20 appropriation from the assistance fund to support the implementation of full-day kindergarten. It also establishes a formula for distribution of the funds. At the end of FY 2019-20, any undistributed moneys are transferred back to the assistance fund.

**Increased funding for charter school capital construction.** The bill increases a FY 2018-19 appropriation from the assistance fund on behalf of charter school capital construction. The bill also changes the percentage of retail marijuana excise tax revenue credited to an account within the assistance fund for charter school capital construction from 12.5 percent to the percentage of the statewide pupil enrollment count enrolled in a charter school in the prior school year. Finally, the bill changes the amount of money annually appropriated from the State Education Fund for charter school capital construction from \$20 million a year to \$20 million a year annually adjusted for changes in charter school enrollment.

## Background

**BEST Program.** The BEST program was established in 2008 to provide grants to public schools to rebuild, repair, or replace the state's aging K-12 educational facilities. Grant awards for BEST-qualified projects may come in the form of either long-term financing through lease-purchase agreements called certificates of participation or cash awards. The source of state funds for the program is the assistance fund.

The BEST program is supported primarily by rent and royalty income earned on state trust lands administered by the State Land Board and retail marijuana excise tax revenue, but receives some additional funding from lottery proceeds and interest earnings. Current law credits the following revenue to the assistance fund:

- 50 percent of gross revenue from state school trust lands, with a minimum guarantee of \$40 million annually;

- the greater of \$40 million or 90 percent of retail marijuana excise tax revenue annually collected;
- net proceeds from the sale of certificates of participation (COPs);
- lottery proceeds; and
- interest earnings.

Table 2 provides information on actual state revenue supporting the BEST program for FY 2014-15 through FY 2017-18.

**Table 2**  
**State Revenue for the BEST Program**

<b>Revenue Source</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
State Land Board	\$92,505,484	\$65,802,073	\$58,501,081	\$69,227,578
Marijuana Excise Tax	\$23,949,565	\$40,000,000	\$40,000,000	\$40,000,000
Proposition BB Funds	\$0	\$40,000,000	\$0	\$0
Lottery Proceeds	\$1,997,456	\$8,070,499	\$2,273,562	\$4,117,403
Interest Income	\$2,032,658	\$2,646,015	\$4,099,368	\$6,343,427
<b>Total Revenue</b>	<b>\$120,485,163</b>	<b>\$156,518,587</b>	<b>\$104,874,011</b>	<b>\$119,688,408</b>

*Source: Colorado Department of Education*

## State Transfers

The bill increases state transfers on behalf of charter school capital construction by \$4.3 million in FY 2018-19. Additionally, the bill increases state transfers on behalf of K-12 capital construction by up to \$6.2 million in FY 2019-20 and up to \$5.9 million in FY 2020-21 from additional retail marijuana excise tax revenue distributions to the assistance fund, and correspondingly reduces the amount transferred to the Public School Fund. Table 3 shows the amount of marijuana excise tax revenue that would be transferred to the assistance fund under current law and under House Bill 19-1055, based on the Legislative Council Staff March 2019 revenue forecast.

**Table 3**  
**Marijuana Excise Tax Revenue to Assistance Fund Under Current Law and HB 19-1055**  
*(Million Dollars)*

<b>Fiscal Year</b>	<b>Marijuana Excise Tax Revenue</b>	<b>Current Law</b>	<b>HB 19-1055</b>	<b>Difference</b>
FY 2019-20	\$62.5	\$56.3	\$62.5	\$6.2
FY 2020-21	\$59.3	\$53.4	\$59.3	\$5.9

*Source: Legislative Council Staff March 2019 Revenue Forecast*

## State Expenditures

The bill increases expenditures on behalf of K-12 capital construction by up to \$4.3 million in FY 2018-19, \$80.7 million in FY 2019-20, and \$170 million in FY 2020-21 for COP lease-purchase agreements and cash awards under the BEST program.

For FY 2018-19, the bill is expected to increase expenditures for charter school capital construction by up to \$4.3 million, resulting from an increase in a transfer to an account in the assistance fund.

For FY 2019-20, the bill appropriates \$80 million from the assistance fund to the Department of Education, including \$5 million for increased lease payments, \$25 million for capital construction related to the implementation of full-day kindergarten, and \$50 million for the BEST cash grant program. Additionally, the bill increases an appropriation from the State Education Fund by \$0.6 million. This fiscal note assumes expenditures on behalf of the BEST program will correspondingly increase.

For FY 2020-21, the bill appropriates \$160 million from the assistance fund to the department for the cash grant program and increases the amount of lease payments that can be made by \$10 million. This fiscal note assumes expenditures on behalf of the BEST program will correspondingly increase.

**Department of Education.** An increase in appropriations to the program is anticipated to increase the number of grant awards and correspondingly increase program administration workload. The workload increase can be accomplished within existing appropriations.

**Increased funding for charter school capital construction.** The bill is expected to increase expenditures on behalf of state charter school capital construction in FY 2018-19 and beyond. These expenditure increases are reflected in the totals above. For FY 2018-19, the bill is expected to increase expenditures for charter school capital construction by up to \$4.3 million, resulting from an increase in a transfer to an account in the assistance fund. The FY 2019-20 increase is projected to be \$2.4 million and the FY 2020-21 increase is projected to be about \$2.2 million. The FY 2019-20 and FY 2020-21 amounts encompass changes in the allocation to the account in the assistance fund and an appropriation from the State Education Fund.

**Table 4**  
**Moneys for Charter School Capital Construction Under Current Law and HB 19-1055**  
*(Million Dollars)*

Fiscal Year	Assistance Fund Allocation		State Education Fund Appropriation		Totals		
	Current Law	HB 19-1055	Current Law	HB 19-1055	Current Law	HB 19-1055	Difference
FY 2018-19	\$5.0	\$9.3	\$20.0	\$20.0	\$25.0	\$29.3	\$4.3
FY 2019-20	\$7.0	\$8.7	\$20.0	\$20.7	\$27.0	\$29.4	\$2.4
FY 2020-21	\$6.7	\$7.6	\$20.0	\$21.3	\$26.7	\$28.9	\$2.2

*Source: Legislative Council Staff March 2019 Revenue Forecast*

**Charter school assistance fund allocation.** The bill increases the allocation from the assistance fund to the charter school facilities assistance account for FY 2019-20 and FY 2020-21. Under current law, the FY 2019-20 and FY 2020-21 allocation on behalf of charter school facility construction is based on a calculation of 12.5 percent of the forecast of total marijuana excise tax revenue. A new calculation under the bill is based on the percentage of the statewide pupil enrollment count enrolled in a charter school in the prior school year. The FY 2019-20 calculation is based on the FY 2018-19 percent of the total count of 13.9 percent. The FY 2020-21 calculation is based on the estimated FY 2019-20 percent of the total count of 14.3 percent.

*Charter school State Education Fund appropriation.* Under current law, \$20 million is annually appropriated from the State Education Fund to charter schools. A new calculation under the bill is based on the number of students included in the statewide funded pupil count who were enrolled in a charter school in FY 2017-18 as compared to the fiscal year preceding the calculation. The base funding amount of \$20 million is adjusted annually based on this calculation. The FY 2019-20 calculation is based on the comparison of the FY 2018-19 charter school pupil count of 112,998 divided by the FY 2017-18 charter school pupil count of 116,708. The FY 2020-21 calculation is based on the comparison of the projected FY 2019-20 charter school pupil count of 120,394 to the FY 2017-18 charter school pupil count.

## **School District Impact**

Increased appropriations to the assistance fund will increase BEST program grants for school district capital construction projects in FY 2018-19 and beyond.

## **Appropriation**

For FY 2019-20, the bill appropriates \$80,656,559 million to the Department of Education, including \$80 million from the assistance fund and \$656,559 from the State Education Fund.

## **Effective Date**

The bill was signed into law by the Governor and took effect on May 21, 2019.

## **State and Local Government Contacts**

Education  
School Districts

Information Technology  
Treasury

Revenue