

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE PROVISION OF STATE FINANCIAL ASSISTANCE FOR PUBLIC SCHOOL CAPITAL CONSTRUCTION, AND, IN CONNECTION THEREWITH, INCREASING THE AMOUNT OF RETAIL MARIJUANA EXCISE TAX REVENUE THAT IS CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND, INCREASING THE MAXIMUM TOTAL AMOUNT OF ANNUAL LEASE PAYMENTS PAYABLE BY THE STATE FOR FINANCIAL ASSISTANCE PROVIDED UNDER THE TERMS OF LEASE-PURCHASE AGREEMENTS, AND MORE PRECISELY TYING THE TOTAL AMOUNT OF FINANCIAL ASSISTANCE PROVIDED TO CHARTER SCHOOLS TO THE NUMBER OF STUDENTS ENROLLED IN CHARTER SCHOOLS.

Prime Sponsors: Representative Bird
Senator Zenzinger

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Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 03/14/19.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Legislative Council Staff Revised Fiscal Note relies on the December 2018 Legislative Council Staff Revenue Forecast (December 2018 Revenue Forecast) estimates of marijuana excise taxes to estimate the impact of the bill. This (JBC Staff) analysis is based on revised revenue estimates from the March 2019 Legislative Council Staff Revenue Forecast (March 2019 Revenue Forecast) and revised pupil count data from the Department of Education.

The March 2019 Revenue Forecast anticipates more marijuana excise tax revenues in FY 2018-19 and FY 2019-20 than were anticipated in the December 2018 Revenue Forecast. The increase in anticipated revenues results in increased deposits to the Public School Capital Construction Assistance Fund (Assistance Fund) and the Charter School Facilities Assistance Account (Charter Assistance Account) within the Assistance Fund. The following table shows the disposition of marijuana excise tax revenues anticipated under the March 2019 Revenue Forecast under current law and under H.B. 19-1055 (including changes related to updated charter school pupil counts provided by the Department of Education).

Marijuana Excise Tax Revenues - March 2019 Legislative Council Staff Revenue Forecast				
	FY 2017-18 Actual	FY 2018-19 Est.	FY 2019-20 Est.	FY 2020-21 Est.
Current Law				
Total Marijuana Excise Tax	\$61,161,684	\$64,338,066	\$62,517,335	\$59,364,295
Deposit to Assistance Fund (90.0 percent of total starting in FY 2018-19)	40,000,000	57,904,259	56,265,602	53,427,865
Portion credited to the Charter Assistance Account (12.5 percent of deposits to the Assistance Fund)	5,000,000	7,238,032	7,033,200	6,678,483
Deposit to Permanent Fund	28,161,684	6,433,807	6,251,734	5,936,429
House Bill 19-1055				
Total Marijuana Excise Tax	\$61,161,684	\$64,338,066	\$62,517,335	\$59,364,295
Deposit to Assistance Fund (100.0 percent of total starting in FY 2019-20)	40,000,000	57,904,259	62,517,335	53,427,865
Portion credited to the Charter Assistance Account (12.5 percent in FY 2018-19 and 13.9 percent in FY 2019-20)	5,000,000	7,238,032	8,689,910	8,251,367
Deposit to Permanent Fund	28,161,684	6,433,807	0	0

Pupil Counts: This analysis also includes revised charter school pupil count data provided by the Department of Education. Current law requires an annual appropriation of \$20.0 million from the State Education Fund for charter school capital construction. As amended by the Education Committee Report (dated February 7, 2019), the bill requires increases to the appropriation from the State Education Fund based on changes in the total statewide funded pupil count in charter schools relative to that count in FY 2017-18. Based on an increase from 112,998.3 funded pupils in charter schools in FY 2017-18 to 116,707.8 in FY 2018-19, this provision requires an appropriation of an additional \$656,559 cash funds from the State Education Fund in FY 2019-20 (adding to the FY 2019-20 Long Bill appropriation of \$20.0 million).

Amendments in This Packet for Consideration by Appropriations Committee	
Amendment	Description
J.001	Staff-prepared appropriation amendment
L.007	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$5,656,559 to the Department of Education for FY 2019-20. The appropriation includes \$5.0 million cash funds from the Public School Capital Construction Assistance Fund for lease-purchase payments under the Building Excellent Schools Today (B.E.S.T.) Program and \$656,559 cash funds from the State Education Fund for State Aid for Charter School Facilities.

L.007 Bill Sponsor amendment **L.007** (attached) strikes the Education and Finance committee reports. Thus, the amendment eliminates the continuous appropriation of the Public School Capital Construction Assistance Fund for cash grants in FY 2018-19 and FY 2019-20. In addition to technical changes, amendment L.007 also includes the following provisions (also summarized in the table on the following page):

- For FY 2018-19, the amendment transfers \$4.25 million from the Public School Capital Construction Assistance Fund to the Charter School Facilities Assistance Account. The amendment includes an associated appropriation of \$4.25 million from the Charter School Facilities Assistance Account to the Department of Education to support State Aid for Charter School Facilities in FY 2018-19.
- For FY 2019-20, the amendment includes the appropriations from amendment J.001 (discussed above), totaling \$5,656,559 cash funds (including \$5.0 million from the Public School Capital Construction Assistance Fund for B.E.S.T. Program lease-purchase payments and \$656,559 from the State Education Fund for State Aid for Charter School Facilities).
- For FY 2019-20, the amendment includes an appropriation of \$50.0 million cash funds from the Public School Capital Construction Assistance Fund to the Department of Education for cash grants under the B.E.S.T. Program. Combined with an FY 2019-20 Long Bill appropriation of \$85.0 million for cash grants, the amendment would provide a total of \$135.0 million for cash grants in FY 2019-20. In addition, the amendment specifies that the General Assembly shall appropriate a total of \$160.0 million for B.E.S.T. cash grants in FY 2020-21 (an increase of \$25.0 million above the total appropriation for FY 2019-20 with the amendment).
- For FY 2019-20, the amendment includes a transfer of \$25.0 million from the Public School Capital Construction Assistance Fund to the Full-day Kindergarten Facility Capital Construction Fund to support formula-based distributions (the amendment also details the formula) for full-day kindergarten implementation grants. The amendment also includes the associated appropriation of \$30.0 million cash funds from the Full-day Kindergarten Facility Capital Construction Fund for FY 2019-20.

If the Committee adopts amendment L.007 then it should not adopt amendment J.001.

Appropriations in Amendment L.007 to H.B. 19-1055	
Activity/Cash Fund Source	Appropriation in Amendment L.007
FY 2018-19 Appropriation Adjustment	
State Aid for Charter School Facilities (Transferred from Public School Capital Construction Assistance Fund to Charter School Facilities Assistance Account and then appropriated)	\$4,250,000
FY 2019-20 Appropriations	
B.E.S.T. Program - Cash Grants (Public School Capital Construction Assistance Fund)	\$50,000,000
Full-day Kindergarten Implementation (Transferred from Public School Capital Construction Assistance Fund to Full-day Kindergarten Facility Capital Construction Fund and then appropriated)	25,000,000
B.E.S.T. Program - Lease-purchase Payments (Public School Capital Construction Assistance Fund)	5,000,000
State Aid for Charter School Facilities (State Education Fund)	656,559
Total FY 2019-20 Appropriations	\$80,656,559

Points to Consider

Public School (Permanent) Fund Impact

Current law credits the greater of \$40.0 million or 90.0 percent of marijuana excise taxes to the Public School Capital Construction Assistance Fund to support the Building Excellent Schools Today (B.E.S.T.) Program and deposits the remaining marijuana excise taxes into the Public School (Permanent) Fund, which then generates interest to support a variety of educational programs. Beginning in FY 2019-20, this bill credits all marijuana excise tax revenues to the Public School Capital Construction Assistance Fund, eliminating transfers to the Permanent Fund. For example, the March 2019 Legislative Council Staff Revenue Forecast anticipates a total of \$62.5 million in marijuana excise tax revenues in FY 2019-20. Current law would credit 90.0 percent of that amount (\$56.3 million) to the Public School Capital Construction Assistance Fund and the remaining \$6.2 million to the Permanent Fund. This bill would credit the entire amount to the Public School Capital Construction Assistance Fund for B.E.S.T. and eliminate the deposit to the Permanent Fund.

Revenue Source

The bill increases the statutory cap on the Department's annual debt service payments for the B.E.S.T. program to \$105.0 million in FY 2019-20 and \$110.0 million in FY 2020-21 and subsequent years. Current law caps the state share of annual lease payments to no more than 50.0 percent of the statutory cap on the *total lease payments* (that is, no more than \$55.0 million of the \$110.0 million limit proposed for FY 2020-21 and beyond). As discussed in the Revised Fiscal Note, the program's primary sources of state revenues are School Trust revenues from State Land Board

lands and marijuana excise tax revenues. As indicated in Table 2 on page 3 of the attached Fiscal Note, State Land Board revenues can fluctuate significantly. In addition, according to the March 2019 Revenue Forecast, marijuana excise tax revenues are projected to continue to decline annually. After spending down the B.E.S.T. Program's available fund balance in the Assistance Fund (which would be accelerated by amendment L.007), ongoing revenues may not be sufficient to support \$55.0 million per year in state funding for lease payments and still maintain current levels of funding for cash grants (\$85.0 million in FY 2018-19).

Future Budget Processes

The bill will increase the amount of marijuana excise tax revenues credited to the Charter School Facilities Assistance Account within the Public School Capital Construction Assistance Fund. Pursuant to Section 22-43.7-110.3 (1), C.R.S., this account is subject to annual appropriation. The FY 2019-20 Long Bill includes an appropriation of \$8.0 million from this account. The General Assembly can make the extra revenues available by increasing the appropriation for FY 2019-20, or by appropriating the additional revenues that are credited to the account in subsequent fiscal years.