



**Legislative  
Council Staff**

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**HB 19-1055**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated January 22, 2019)

**Drafting Number:** LLS 19-0643  
**Prime Sponsors:** Rep. Bird  
Sen. Zenzinger

**Date:** February 25, 2019  
**Bill Status:** House Finance  
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**Bill Topic:** PUBLIC SCHOOL CAPITAL CONSTRUCTION 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

This bill diverts additional marijuana excise tax revenue from the Public School Fund to the BEST program. It also increases the total amount of lease payments. Finally, the bill changes the amount appropriated from the State Education Fund annually on behalf of charter school capital construction. The bill will result in an annual increase in state and school district expenditures for K-12 capital construction projects. These impacts will continue in future years.

**Appropriation Summary:** For FY 2019-20, the bill requires an appropriation of up to \$2.1 million to the Department of Education.

**Fiscal Note Status:** This revised fiscal note reflects amendments adopted by the House Education Committee and updates the amount of retail marijuana excise tax revenue forecast for FY 2019-20 and FY 2020-21.

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

		<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	-	-
	Cash Funds	up to \$8.1 million	up to \$8.9 million
<b>Transfers</b>	Cash Funds	\$5.8 million	\$5.6 million
	Cash Funds	(\$5.8 million)	(\$5.6 million)

## Summary of Legislation

Currently, under the Building Excellent Schools Today (BEST) program, the Treasurer may enter into lease-purchase agreements for public school facility capital construction projects, subject to the limitation that the maximum total annual amount of lease payments payable under these agreements does 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.

Current law also 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. It also authorizes continuous spending authority from the assistance fund beginning in the current fiscal year and continuing through FY 2019-20.

In addition, the bill changes the percentage of retail marijuana excise tax revenue that is further credited to an account within the fund for distribution to charter school facilities from 12.5 percent to a percent equal to the percentage of students included in the statewide funded pupil count who were enrolled in a charter school the prior 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 the number of students included in the statewide funded pupil count enrolled in charter schools.

## 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

This bill increases the amount of marijuana excise tax revenue transferred to the assistance fund by \$5.8 million in FY 2019-20 and \$5.6 million in FY 2020-21, 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 December 2018 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	\$57.9	\$52.1	\$57.9	\$5.8
FY 2020-21	\$56.4	\$50.7	\$56.4	\$5.6

*Source: Legislative Council Staff December 2018 Revenue Forecast*

### State Expenditures

This bill increases state expenditures on behalf of K-12 capital construction by up to \$8.1 million in FY 2019-20 and \$8.9 million in FY 2020-21. For FY 2019-20, these increases include up to \$5.8 million in additional spending from the assistance fund and up to \$2.1 million in additional spending by charter schools from an appropriation made from the State Education Fund. These impacts will continue in future years.

**Department of Education.** This bill increases state expenditures by up to \$5.8 million in FY 2019-20 and \$5.6 million in FY 2020-21 for COP lease-purchase agreements and cash awards under the BEST program. An increase in transfers 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.

Because lease payments have a local match and the state share is capped at 50 percent, this bill authorizes the increase of state expenditures from the assistance fund for lease payments for BEST projects by up to \$5 million in FY 2019-20 and \$10 million in FY 2020-21. These amounts are not reflected in the total state expenditure increase.

**Charter schools.** The bill is expected to increase expenditures on behalf of state charter school capital construction in FY 2019-20 and beyond. The total FY 2019-20 increase is projected to be \$2.3 million and the total FY 2020-21 increase is projected to be about \$3.3 million. These amounts encompass changes in the allocation to an account in the assistance fund and the 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 2019-20	\$6.5	\$6.7	\$20.0	\$22.1	\$26.5	\$28.8	\$2.3
FY 2020-21	\$6.3	\$6.7	\$20.0	\$22.9	\$26.3	\$29.6	\$3.3

*Source: Legislative Council Staff December 2018 Revenue Forecast*

**Charter school assistance fund allocation.** Under current law, the FY 2019-20 and FY 2020-21 allocation on behalf of charter school facility construction is anticipated to be about \$6.5 million and \$6.3 million, respectively, 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 students included in the statewide funded pupil count who were enrolled in a charter school in the prior fiscal year. The FY 2019-20 calculation is based on the FY 2018-19 percent of the total count of 11.5 percent. The FY 2020-21 calculation is based on the estimated FY 2019-20 percent of the total count of 11.9 percent. Based on these percentages, this fiscal note assumes that assistance fund transfers allocated on behalf of charter school facility construction will increase over current law by \$0.2 million in FY 2019-20 and \$0.4 million in FY 2020-21.

**Charter school State Education Fund appropriation.** Additionally, revenue and expenditures for charter school capital construction will be increased through the formula allocation created in the bill determining the appropriation from the State Education Fund to charter schools. Under current law, the appropriation amount is fixed at \$20 million. 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 growth rate of 11.4 percent divided by the FY 2017-18 growth rate of 10.4 percent. The FY 2020-21 calculation is based on the comparison of the projected FY 2019-20 growth rate of 11.9 percent divided by the FY 2017-18 growth rate. Based on these calculations, this fiscal note assumes that the FY 2019-20 and FY 2020-21 appropriations on behalf of charter schools from the State Education Fund will increase by at least \$2.1 million and \$2.9 million, respectively.

**School District Impact**

Increased revenue to the assistance fund will increase BEST program grants for school district capital construction projects in FY 2019-20 and beyond.

**Appropriation**

For FY 2019-20, the bill requires an appropriation from the State Education Fund of up to \$2.1 million to the Department of Education for charter school capital construction.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State and Local Government Contacts**

Education  
School Districts

Information Technology  
Treasury

Revenue