

HB19-1055**Public School Cap Construction Financial Assistance**

Sponsored by: Representative Shannon Bird and Senator Rachel Zenzinger



HB19-1055 would **strengthen the Building Excellent Schools Today (BEST) program**, one of the only sustainable pools of funding available for Colorado school districts to construct safe and adequate classroom space.

HB19-1055 would do the following:

- **Supports Colorado students as voters intended** by requiring all state marijuana excise tax revenues to be credited to BEST program.
- **Equitably provides capital construction funds for charter school students** by providing a percentage of funding to the charter school facilities assistance account based on the percentage of charter school students.
- **Bolsters funding for BEST, the only statewide source of capital construction funds for public schools in Colorado**, by allowing the BEST Board of Directors to fund additional grants via Certificates of Participation (COP). A COP allows a school district to finance construction much like homeowners would do with a personal mortgage loan.

HB19-1055 has broad support from stakeholders including:

The Colorado Association of School Boards (CASB)

Colorado Association of School Executives (CASE)

Association of General Contractors

Great Education Colorado

Colorado Rural Schools Alliance

Poudre Valley School District

Opportunity Coalition (includes the school districts listed below)

Westminster Public Schools; Mapleton; Sheridan; Durango; Lake County;

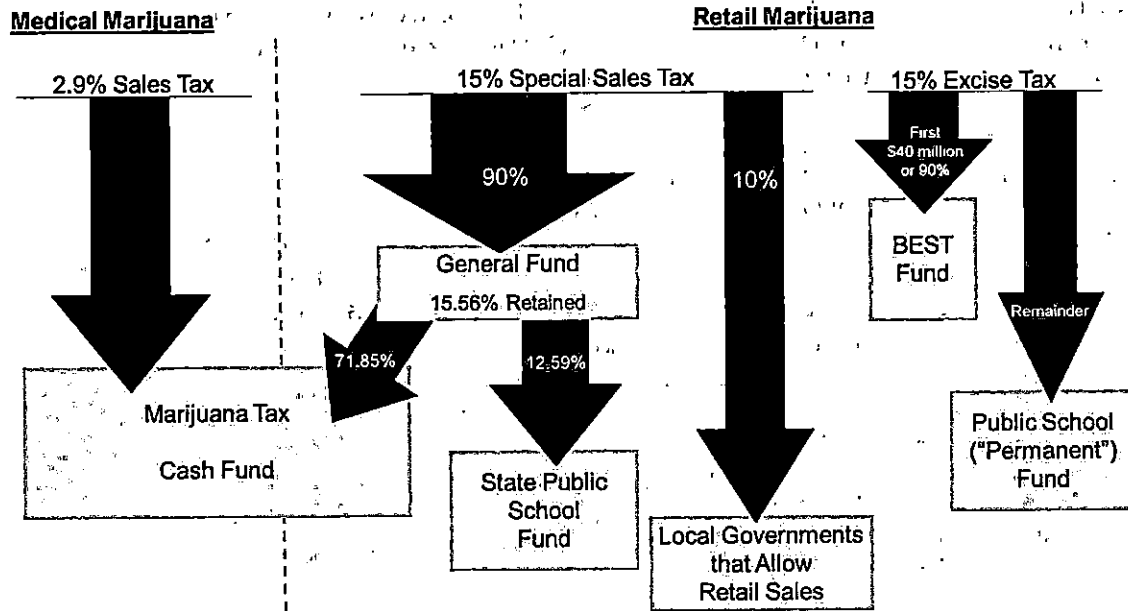
Canon City; Las Animas; Campo; Rocky Ford; and, Brush

BEST Accomplishments and needs include:

- Awarded 354 grants in 141 school districts.
- Utilizing district matches and financing for increased project dollars, BEST has funded \$2.1 billion in projects from \$4.6 billion in requests.
- Improved health, safety and security in 524 schools.
- Improved the learning environment for nearly 225,000 students.
- Created and supported roughly 28,824 jobs as of Dec. 2017 (direct, indirect and induced jobs per the Colorado Department of Local Affairs).
- In 2009, over 8,000 school facilities were inventoried and more than 123 million square feet assessed, revealing \$13.9 billion in capital construction needs.
- Facility assessment revisions began in 2016 with a goal to complete by 2021. Current data shows a 46 percent increase in capital needs for schools that have not been addressed since the 2009 assessment.

TAX REVENUE OVERVIEW

The State collects three types of taxes on marijuana products. The following graphic (designed by Legislative Council Staff) illustrates the allocation of state tax revenue related to marijuana. A discussion of each type of tax and the allocation of the associated tax revenue follows.



First, a **regular state sales tax** (2.9 percent) applies to consumer goods. With respect to marijuana products, this tax applies to sales of medical marijuana and to non-marijuana products sold by marijuana stores (e.g., t-shirts and other novelty items). Since July 1, 2017, retail marijuana has been exempt from this tax. All general sales tax revenue related to marijuana is credited to the *Marijuana Tax Cash Fund* (MTCF) and is used to support a variety of state programs and services. The next section of this document provides an overview of the allocation of money in this fund.

Second, a **special sales tax** (15.0 percent⁶) is collected on retail marijuana sales (medical marijuana is exempt from this tax). Of the total amount collected annually, 10.0 percent is allocated to local governments based on the percentage of such revenues collected within the boundaries for each local government. The remaining 90.0 percent state share of special sales tax revenues is allocated among three funds:

- 71.85 percent is transferred to the *MTCF* and is annually appropriated to support a variety of state programs and services;

⁶ In 2013, voters approved Proposition AA, which authorized the State to levy up to a 15.0 percent excise tax and up to a 15.0 percent special retail sales tax on retail marijuana and marijuana products. The State initially chose to levy a 10.0 percent special sales tax (effective beginning January 1, 2014). Pursuant to S.B. 17-267, the special sales tax rate increased to 15.0 percent, effective July 1, 2017.

- 12.59 percent is transferred to the *State Public School Fund* and is statutorily appropriated in the fiscal year in which the revenue is collected⁷ to the Department of Education for the State's share of total program funding for school districts and institute charter schools⁸; and
- the remainder (15.56 percent⁸) is retained in the *General Fund* and is thus available for appropriation in the fiscal year in which it is collected.

Third, a marijuana excise tax (15.0 percent) is applied to the average market wholesale price of the product being sold or otherwise transferred from a retail marijuana cultivation facility. Average market wholesale prices are periodically set by the Department of Revenue's Marijuana Enforcement Division (MED). Table 1 lists the current average market wholesale prices.

**TABLE 1:
MED ESTABLISHED AVERAGE MARKET WHOLESAL PRICE FOR RETAIL MARIJUANA
(EFFECTIVE OCTOBER 1 THROUGH DECEMBER 31, 2018)**

PRODUCT CATEGORY	DETAILED DESCRIPTION	PRICE	MEASUREMENT
Retail bud	Product in the flowering stage	\$759	pound
Retail trim	Any part of a plant other than the bud or wet whole plant	\$325	pound
Retail immature plant	Nonflowering plant no larger than 8 inches tall or wide	\$8	plant
Wet whole plant	A plant that is cut off just above the roots and is not trimmed, dried, or cured. The plant must be weighed within two hours of being harvested.	\$100	pound
Seed	Seeds of the marijuana plant	\$4	seed
Trim allocated for extraction	Trim that is designated for the extraction of retail marijuana concentrate and not for direct sale to consumers	\$225	pound
Bud allocated for extraction	Bud that is designated for the extraction of retail marijuana concentrate and not for direct sale to consumers	\$228	pound

As required by the State Constitution⁹, the first \$40.0 million of excise tax revenue raised annually from retail marijuana wholesale products is transferred to the *Public School Capital Construction Assistance Fund (PSCCAF)*. Money in this fund helps pay for local K-12 school construction projects through the Building Excellent Schools Today (BEST) program, which is administered through the Department of Education. Starting July 1, 2018, the greater of \$40.0 million or 90.0 percent of the total excise tax revenue collected annually is transferred to the PSCCAF. [Please note that the language added by H.B. 18-1101 appears to require \$40.0 million to be transferred to the PSCCAF even if total annual excise tax revenues fall short of \$40.0 million.] Any excise tax revenue in excess of the amount transferred to the PSCCAF is credited to the *Public School "Permanent" Fund*, which is a constitutionally created trust fund that generates income to support public K-12 schools.

⁷ Pursuant to H.B. 18-1101 [Section 22-54-139 (3), C.R.S.], starting with the FY 2019-20 budget year the General Assembly may appropriate all or any portion of the marijuana sales tax proceeds that are transferred to the State Public School Fund during the prior budget year. Thus, these revenues will be subject to annual appropriation and be distributed to school districts in a fiscal year following the fiscal year in which the revenue is received.

⁸ For FY 2017-18 only, a flat amount of \$30,000,000 was transferred to the State Public School Fund (rather than applying 12.59 percent to annual special sales tax revenues) and was statutorily appropriated to the Department of Education for disbursement to schools in rural school districts.

⁹ See Article XVIII, Section 16 (5)(d), of the State Constitution.