

First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

DRAFT  
2.12.09

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LLS NO. 09-0764.02 Jason Gelender

COMMITTEE BILL

Joint Select Committee on Job Creation and Economic Growth

**SHORT TITLE:** "Impr Pub Sch Cap Constr Prog Efficiency"

**A BILL FOR AN ACT**

101 CONCERNING AMENDMENTS TO THE "BUILDING EXCELLENT SCHOOLS  
102 TODAY ACT" THAT WILL ALLOW MORE EFFICIENT  
103 IMPLEMENTATION OF THE ACT WITHOUT REDUCING ITS FUNDING  
104 OR RESTRICTING EXISTING LEASE-PURCHASE AGREEMENT  
105 AUTHORIZATION.

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Joint Select Committee on Job Creation and Economic Growth.** In order to allow more efficient implementation of the "Building Excellent Schools Today Act" (BEST):

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

- To improve the credit rating of certificates of participation and thereby reduce the cost of associated lease payments under lease-purchase agreements authorized by BEST, clarifies existing statutory language regarding the use of state moneys and local matching moneys to make lease payments and regarding the facilities to be leased, and allows the general assembly to appropriate or transfer moneys from any legally available source to the assistance fund to make the lease payments if the amount of moneys in the assistance fund will otherwise be insufficient to cover the full amount of the lease payments.
- Eliminates the requirement that the director of the division of public school capital construction assistance serve as a nonvoting ex officio member of the public school capital construction assistance board (assistance board).
- Extends through the 2009-10 fiscal year the period for which the assistance board may establish an annual timeline for the BEST financial assistance application process that takes into account any incomplete status of the priority assessment required by BEST, allows awards of financial assistance to be made based on consideration of so much of the assessment as has been completed, and differs from subsequent annual timelines.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 22-43.7-104 (2) (b) (II), Colorado Revised Statutes,  
3 is amended, and the said 22-43.7-104 (2) (b) is further amended BY THE  
4 ADDITION OF A NEW SUBPARAGRAPH, to read:

5           **22-43.7-104. Public school capital construction assistance fund**  
6 **- creation - crediting of moneys to fund - use of fund - emergency**  
7 **reserve - creation.** (2) (b) For each fiscal year commencing on or after  
8 July 1, 2008, the following moneys shall be credited to the assistance  
9 fund:

10           (II) The net proceeds MADE AVAILABLE TO THE STATE from the  
11 sale of ~~certificates of participation payable to the state~~ INSTRUMENTS  
12 EVIDENCING RIGHTS TO RECEIVE RENTALS AND OTHER PAYMENTS MADE

1 AND TO BE MADE under the terms of any lease-purchase agreement entered  
2 into pursuant to section 22-43.7-110 (2), ~~as consideration from the lessor~~  
3 ~~that issued the certificates of participation~~ UNLESS OTHERWISE REQUIRED  
4 BY THE DOCUMENTS PURSUANT TO WHICH THE INSTRUMENTS ARE ISSUED;

5 (V) ANY MONEYS TRANSFERRED OR APPROPRIATED TO THE  
6 ASSISTANCE FUND PURSUANT TO SUBSECTION (5) OF THIS SECTION.

7 **SECTION 2.** 22-43.7-104, Colorado Revised Statutes, is  
8 amended BY THE ADDITION OF A NEW SUBSECTION to read:

9 **22-43.7-104. Public school capital construction assistance fund**  
10 **- creation - crediting of moneys to fund - use of fund - emergency**  
11 **reserve - creation.** (5) IF THE AMOUNT OF MONEYS IN THE ASSISTANCE  
12 FUND WILL BE INSUFFICIENT TO COVER THE FULL AMOUNT OF THE LEASE  
13 PAYMENTS REQUIRED BY ANY LEASE-PURCHASE AGREEMENTS ENTERED  
14 INTO PURSUANT TO SECTION 22-43.7-110 (2), THE GENERAL ASSEMBLY  
15 MAY APPROPRIATE OR TRANSFER FROM ANY LEGALLY AVAILABLE SOURCE  
16 TO THE ASSISTANCE FUND SUFFICIENT MONEYS TO MAKE THE LEASE  
17 PAYMENTS.

18 **SECTION 3.** The introductory portion to 22-43.7-106 (1) (a),  
19 Colorado Revised Statutes, is amended to read:

20 **22-43.7-106. Public school capital construction assistance**  
21 **board - creation - general powers and duties - rules.** (1) (a) There is  
22 hereby created within the department the public school capital  
23 construction assistance board, which shall exercise its powers and  
24 perform its duties and functions under the department as if the same were  
25 transferred to the department by a **type 1** transfer, as such transfer is  
26 defined in the "Administrative Organization Act of 1968", article 1 of title  
27 24, C.R.S. The board shall consist of nine appointed members, none of

1 whom shall hold any state elective office. ~~and the director of the division,~~  
2 ~~who shall serve as a nonvoting ex officio member of the board:~~ Five  
3 voting members of the board shall constitute a quorum. Board members  
4 shall be appointed as follows:

5 **SECTION 4.** 22-43.7-109 (2) (b) (I) (B), Colorado Revised  
6 Statutes, is amended to read:

7 **22-43.7-109. Financial assistance for public school capital**  
8 **construction - application requirements - evaluation criteria - local**  
9 **match requirements.** (2) (b) Notwithstanding the provisions of  
10 paragraph (a) of this subsection (2):

11 (I) The board:

12 (B) May establish a timeline for the 2008-09 fiscal year OR THE  
13 2008-09 AND 2009-10 FISCAL YEARS only that takes into account any  
14 incomplete status of the priority assessment required by section  
15 22-43.7-108, allows awards of financial assistance to be made based on  
16 consideration of so much of the assessment as has been completed, and  
17 differs from subsequent annual timelines.

18 **SECTION 5.** 22-43.7-110 (2) (b), Colorado Revised Statutes, is  
19 amended, and the said 22-43.7-110 (2) is further amended BY THE  
20 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

21 **22-43.7-110. Financial assistance - grants - lease-purchase**  
22 **agreements.** (2) Subject to the following requirements and limitations,  
23 the board may also instruct the state treasurer to enter into lease-purchase  
24 agreements on behalf of the state to provide financial assistance to  
25 applicants by financing public school facility capital construction projects  
26 for which the state board has authorized the provision of financial  
27 assistance pursuant to section 22-43.7-109 (7):

1           (b) ~~The board may expend only matching moneys credited to the~~  
2 ~~assistance fund pursuant to paragraph (c) of this subsection (2) or section~~  
3 ~~22-43.7-104 (2) (b) (IV) or interest or income derived from the deposit~~  
4 ~~and investment of such matching moneys to make~~ STATE TREASURER MAY  
5 ENTER INTO LEASE-PURCHASE AGREEMENTS FOR WHICH THE AGGREGATE  
6 annual lease payments of principal or interest for any fiscal year ~~in excess~~  
7 ~~of~~ EXCEED one-half of the maximum total amount of annual lease  
8 payments permitted for the fiscal year pursuant to paragraph (a) of this  
9 subsection (2) ONLY IF THE AGGREGATE AMOUNT OF MATCHING MONEYS  
10 EXPECTED TO BE CREDITED TO THE ASSISTANCE FUND PURSUANT TO  
11 PARAGRAPH (c) OF THIS SUBSECTION (2) AND SECTION 22-43.7-104 (2) (b)  
12 (IV) AND ANY INTEREST OR INCOME DERIVED FROM THE DEPOSIT AND  
13 INVESTMENT OF THE MATCHING MONEYS IS AT LEAST EQUAL TO THE  
14 ANNUAL LEASE PAYMENTS THAT EXCEED ONE-HALF OF SAID MAXIMUM  
15 TOTAL AMOUNT.

16           (g) IF THE STATE TREASURER DEEMS IT TO BE NECESSARY OR  
17 ADVISABLE, THE STATE TREASURER MAY ENTER INTO A LEASE-PURCHASE  
18 AGREEMENT ON BEHALF OF THE STATE FOR ONLY A PORTION OF A PUBLIC  
19 SCHOOL FACILITY FOR WHICH FINANCIAL ASSISTANCE IS BEING PROVIDED  
20 OR FOR ALL OR A PORTION OF A DIFFERENT PUBLIC SCHOOL FACILITY OR  
21 OTHER PROPERTY OF A SCHOOL DISTRICT.

22           (h) NOTWITHSTANDING THE AUTHORITY OF THE BOARD TO  
23 INSTRUCT THE STATE TREASURER TO ENTER INTO LEASE-PURCHASE  
24 AGREEMENTS ON BEHALF OF THE STATE, IN ORDER TO ENSURE THAT  
25 LEASE-PURCHASE AGREEMENTS ARE ENTERED INTO UNDER FAVORABLE  
26 FINANCIAL MARKET CONDITIONS, THE STATE TREASURER SHALL HAVE  
27 SOLE DISCRETION TO DETERMINE THE TIMING OF THE STATE TREASURER'S

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1 ENTRY INTO ANY LEASE-PURCHASE AGREEMENT ON BEHALF OF THE STATE  
2 PURSUANT TO THIS SUBSECTION (2).

3 **SECTION 6. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.