



**Colorado  
Legislative  
Council  
Staff**

**SB16-072**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0746

**Date:** January 26, 2016

**Prime Sponsor(s):** Sen. Kerr

**Bill Status:** Senate Education

**Fiscal Analyst:** Marc Carey (303-866-4102)

**BILL TOPIC:** INCREASE ANNUAL BEST LEASE-PURCHASE PAYMENT CAP

<b>Fiscal Impact Summary</b>	<b>FY 2016-2017</b>	<b>FY 2017-2018</b>
<b>State Revenue</b>		
Public School Fund	<b>\$0</b>	<b>(\$650,000)</b>
<b>State Diversions</b>		
Public School Capital Construction Assistance Fund	\$20 million	\$20 million
Public School Fund	(20 million)	(20 million)
<b>State Expenditures</b>		
<b>General Fund</b>	<b>\$0</b>	<b>\$6,524,360</b>
Public School Capital Construction Assistance Fund	up to 5 million	up to 10 million
State Land Board Administration Fund	0	(\$6,524,360)
<b>Appropriation Required:</b> Up to \$5 million - Assistance Fund (FY 2016-17).		
<b>Future Year Impacts:</b> Ongoing revenue and expenditure impacts.		

**Summary of Legislation**

Currently under the Building Excellent Schools Today Act (BEST), the state 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 \$80 million in a fiscal year. This bill establishes the following incremental caps on lease payments:

- \$80 million in FY 2015-16;
- \$90 million in FY 2016-17;
- \$100 million in FY 2017-18;
- \$110 million in FY 2018-19; and
- \$120 million in FY 2019-20 and thereafter.

In addition, the bill increases, from \$40 million to \$60 million, the minimum transfer of public school lands income to the BEST program.

**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 Public Schools Capital Construction Assistance Fund (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 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 first \$40 million in annual recreational marijuana excise tax revenue;
- net proceeds from the sale of certificate's of participation (COP's);
- lottery proceeds; and interest earnings.

**Allocation of state school trust land revenue.** State school land trust revenue is allocated first to the BEST program and to the State Land Board to cover its operating expenses. In FY 2015-16, these operating expenses totaled about \$10.5 million. Any remaining income is deposited in the Public School Fund, also known as the Permanent Fund.

**State trust land revenue and the permanent fund.** The Permanent Fund is inviolate, and money credited to the fund becomes part of a permanent trust. Under current law, the first \$21 million in interest earned from this fund is credited to the State Public School Fund for use in funding school finance. Any remaining interest earnings are retained in the Permanent Fund. As Table 1 shows, State trust land revenue is projected to decline over the next three fiscal years, primarily due to the sharp decline in oil prices. Colorado oil prices averaged about \$30 per barrel in December 2015.

Table 1 provides information on actual and estimated school trust land revenue for FY 2014-15 through FY 2017-18 as well as the balance of and interest earnings on the Permanent Fund.

<b>Table 1. Actual and Projected School Trust Land Revenue and the Balance of and Interest Earnings on the Permanent Fund*</b>				
<b>Revenue Source</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
School Trust Land Revenue	\$189,504,612	\$131,559,544	\$79,754,677	\$63,975,640
Permanent Fund Balance	\$817,637,532	\$875,000,000	\$908,000,000	\$926,000,000
Permanent Fund Interest	\$22,803,665	\$26,759,321	\$28,437,500	\$29,510,000

\* Revenue from FY 2015-16 through FY 2017-18 are estimated by the State Land Board.

Sources: State Land Board January 2016 State Land Revenue Forecast

**State Revenue**

The bill would result in a reduction of interest earnings to the Permanent Fund of \$650,000 in FY 2017-18. Interest earnings from the Permanent Fund are projected to fall because there would be a lower fund balance.

**State Diversions**

The bill increases, from \$40 million to \$60 million annually, the minimum amount of public school lands income credited to the assistance fund in support of the BEST program in the event that state land income drops below \$80 million. According to the current state land board projections, in FY 2016-17 and FY 2017-18, state land income will be just below \$80 million and \$64 million, respectively. Thus state land revenue diverted to the assistance fund would increase by \$20 million under Senate Bill 16-072 in both years.

Because total state land income is projected to be about \$64 million in FY 2017-18, increasing the minimum diversion to the BEST program to \$60 million would not leave enough revenue to cover current State Land Board operational expenses. Table 2 provides information on the projected impacts that the bill would have on diversions to the assistance fund, and the State Land Board Administration Fund.

<b>Table 2. Impacts to School Trust Land Revenue Diversions to the Assistance Fund and the State Land Board Administration Fund from SB16-072</b>		
<b>Revenue Source</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Assistance Fund	\$20,000,000	\$20,000,000
State Land Board Administration Fund	\$0	(\$6,524,360)

Sources: State Land Board January 2016 State Land Revenue Forecast and Legislative Council Staff.

**TABOR Impact**

Interest earnings retained in the Permanent Fund are exempt from TABOR revenue limits.

**State Expenditures**

**Department of Education.** This bill increases the statutory cap on annual COP payments incrementally by \$10 million in each of the next four fiscal years. Because lease payments have a local match and the state share is capped at 50 percent, this bill would authorize the increase of state expenditures from the assistance fund for lease payments for BEST projects by up to \$5 million in FY 2016-17 and \$10 million in FY 2017-18. While raising the statutory cap would increase the number of COP's to administer, the increased workload is anticipated to be minimal.

**State Land Board.** Increasing the minimum diversion of state land income to the BEST program from \$40 to \$60 million would leave insufficient funds available to cover State Land Board operating expenses in FY 2017-18 assuming these costs remain at their current \$10.5 million level. Expenditures from the State Land Board Administration Fund would fall by roughly \$6.5 million in FY 2017-18. This fiscal note assumes that this deficit would be made up through a General Fund appropriation.

### **School District Impact**

Assuming additional COPs are executed as a result of this bill's provisions, school districts could see increased BEST program grants for capital construction projects in FY 2016-17 and beyond.

Any additional COP agreement that is executed would also involve a local match from school districts. Historically, the average local match has covered 31 percent of overall project costs, and has ranged from 10 to 90 percent, depending on district resources.

Under current law, school districts and Boards of Cooperative Educational Services (BOCES) may submit a separate estimate of fiscal impacts within seven days of a bill's introduction. Estimates submitted by districts or BOCES for this bill can be found on the Legislative Council website at this address: <http://www.colorado.gov/lcs>.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, except that section 1 of the bill takes effect July 1, 2016.

### **State Appropriations**

For FY 2016-17, this bill requires a cash funds appropriation of \$5,000,000 from the Public School Capital Construction Assistance Fund to the Colorado Department of Education.

### **State and Local Government Contacts**

Education

Natural Resources

Treasury

### **Research Note Available**

An LCS Research Note for Senate Bill 16-072 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.