



Legislative  
Council Staff

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**HB 18-1070**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated April 2, 2018)

**Drafting Number:** LLS 18-0691  
**Prime Sponsors:** Rep. Young; Wist  
Sen. Scott; Zenzinger

**Date:** April 10, 2018  
**Bill Status:** Senate Education  
**Fiscal Analyst:** Marc Carey | 303-866-4102  
Marc.Carey@state.co.us

**Bill Topic:** ADDITIONAL PUBLIC SCHOOL CAP CONSTRUCTION FUNDING

**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<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 and raises the cap on annual BEST lease payments. It 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:** In FY 2018-19, this bill contains an appropriation of up to \$34.0 million to the Colorado Department of Education.

**Fiscal Note Status:** This fiscal note reflects the reengrossed version of the bill.

**Table 1  
State Fiscal Impacts Under HB 18-170**

		<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	Cash Funds	up to \$34.0 million	up to \$35.4 million
	<b>Total</b>	up to \$34.0 million	up to \$35.4 million
	<b>Total FTE</b>	-	-
<b>Transfers</b>	Cash Funds - Assistance Fund	\$34.0 million	\$35.4 million
	Cash Funds - Pub School Fund	(\$34.0 million)	(\$35.4 million)
	<b>Total</b>	-	-

## 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 \$100 million in a fiscal year. This bill establishes the following incremental caps on lease payments:

- \$100 million in FY 2017-18;
- \$110 million in FY 2018-19; and
- \$120 million in FY 2019-20 and thereafter.

In addition, current law provides that the first \$40 million 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 2018-19, this bill increases the amount of retail marijuana excise tax revenue transferred to the assistance fund to the greater of \$40 million or 90 percent of the revenue collected. The remainder of the revenue continues to be transferred to the Public School Fund.

The bill requires that for any fiscal year that the total amount due on lease-purchase agreements exceeds the total amount credited to the assistance fund in the prior year:

- the annual appropriation for the state's share of total program be reduced by an amount equal to the difference; and
- the state treasurer transfer from the General Fund to the assistance fund an amount necessary to ensure that all lease-purchase payments due are made in full.

## 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 (COPs), 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 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 the 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 COPs;
- lottery proceeds; and
- interest earnings.

Table 2 provides information on actual state revenue supporting the BEST program for FY 2013-14 through FY 2016-17.

**Table 2**  
**State Revenue for the BEST Program**

<b>Revenue Source</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
State Land Board	\$85,914,869	\$92,505,484	\$65,802,073	\$58,501,081
Marijuana Excise Tax	\$3,012,860	\$23,949,565	\$40,000,000	\$40,000,000
Proposition BB Funds	\$0	\$0	\$40,000,000	\$0
Lottery Proceeds	\$4,735,342	\$1,997,456	\$8,070,499	\$2,273,562
Interest Income	\$1,714,872	\$2,032,658	\$2,646,015	\$4,099,368
<b>Total Revenue</b>	<b>\$95,377,943</b>	<b>\$120,485,163</b>	<b>\$156,518,587</b>	<b>\$104,874,011</b>

*Source: Colorado Department of Education*

**State Transfers**

This bill increases the amount of marijuana excise tax revenue transferred to the assistance fund by \$34.0 million in FY 2018-19 and \$35.4 million in FY 2019-20, 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 18-1070, based on the Legislative Council Staff March 2018 revenue forecast.

**Table 3**  
**Marijuana Excise Tax Revenue to Assistance Fund Under Current Law and HB 18-1070**  
*(Million Dollars)*

<b>Fiscal Year</b>	<b>Marijuana Excise Tax Revenue</b>	<b>Current Law</b>	<b>HB 18-1070</b>	<b>Difference</b>
FY 2018-19	\$82.2	\$40.0	\$74.0	\$34.0
FY 2019-20	\$83.8	\$40.0	\$75.4	\$35.4

*Source: Legislative Council Staff March 2018 Revenue Forecast*

**State Expenditures**

**Department of Education.** This bill increases state expenditures by \$34.0 million in FY 2018-19 and \$35.4 million in FY 2019-20 for COP lease-purchase agreements and cash awards under the BEST program. Of this amount, 12.5 percent is credited to the Charter School Facilities Assistance Account within the assistance fund.

The bill increases the statutory cap on annual COP payments incrementally by \$10 million in each of the next two 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 2018-19 and \$10 million in FY 2019-20. This means that of the additional \$34.0 million credited to the assistance fund, an estimated \$29.0 million would be available to support K-12 capital construction through cash awards in FY 2018-19. While increasing the number of K-12 capital projects funded through the BEST program increases administrative costs for the program, the increased workload is anticipated to be minimal, and may be accomplished within existing appropriations.

**School District Impact**

Assuming additional COPs and cash awards are executed as a result of the bill's provisions, school districts could see increased BEST program grants for capital construction projects in FY 2018-19 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 50 percent of overall project costs, and has ranged from 10 to 90 percent, depending on district resources.

**Effective Date**

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

**State Appropriations**

In FY 2018-19, this bill contains a cash fund appropriation of \$34.0 million from the Public School Capital Construction Assistance Fund to the Colorado Department of Education.

**State and Local Government Contacts**

Education  
Revenue

Information Technology  
Treasury

Natural Resources