



BUILDING EXCELLENT SCHOOLS TODAY (BEST) PROGRAM

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During the 2008 session, the General Assembly enacted House Bill 08-1335, the Building Excellent Schools Today (BEST) act. The act replaced existing law concerning state financial assistance for public school capital construction and established a grant program in order to accelerate funding for K-12 capital construction. This issue brief discusses the origins and administration of the BEST program and funding for BEST projects.

Background

Origins of the BEST program. Prior to 1998, public school capital construction was largely funded from local rather than state sources. A class action lawsuit filed in 1998 changed how the state contributes to K-12 capital construction (*Giardino v. Colorado State Board of Education*). The Colorado Constitution requires the state to "provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of 6 and 21 years, may be educated gratuitously." The lawsuit alleged that the state had not fulfilled its constitutional responsibility to establish and maintain a thorough and uniform system of public schools because of the deteriorating condition of many public schools and issues of overcrowding. Senate Bill 00-181 implemented the terms of a settlement, which required the General Assembly to appropriate \$190 million for public school capital construction over a period of 11 years. In 2008, the General Assembly enacted the BEST act,

which replaced the financial assistance programs established pursuant to the lawsuit.

BEST Program

The BEST program was established to provide grants to rebuild, repair, or replace the worst of the state's PreK-12 facilities. The following entities are qualified to participate in the BEST program:

- ✓ local school districts;
- ✓ charter schools;
- ✓ Boards of Cooperative Services; and
- ✓ the Colorado School for the Deaf and the Blind.

Capital construction projects qualify for funding and are prioritized in order based on the following criteria: (1) addresses potential safety hazards or health concerns; (2) relieves overcrowding; and (3) incorporates technology into the educational environment. The enacting legislation established a division and staff within the Colorado Department of Education (CDE) to manage the program.

Operation of the BEST program. The BEST program is administered by a nine-member Public School Capital Construction Assistance Board, including experts in public school finance and facilities planning. The board is charged with annually submitting a prioritized list of projects recommended for funding to the State Board of Education.

Facility assessment. The BEST act authorized an assessment of the physical condition of the state's public school buildings. Additional money was appropriated beginning in FY 2015-16 to update this assessment and to hire and train CDE staff to maintain and continuously update a priority assessment database. Facility condition information is used when evaluating BEST grant applications.

Funding for BEST Projects

Two types of grants may be awarded to fund BEST-qualified projects: (1) cash awards, including emergency grants; and (2) long-term borrowing, typically in the form of lease-purchase agreements called certificates of participation (COPs). The source of state funds to pay program costs, make cash grant awards, or to repay the state share of COP lease payments is the Public School Capital Construction Assistance Fund (assistance fund). Assistance fund revenue accrues from the following sources:

- the greater of 50 percent of the moneys earned each year from state public school lands in the form of income and mineral royalties, excluding interest and investment income, or \$40 million;
- lottery proceeds that would otherwise be transferred to the General Fund;
- up to \$40 million from a tax on the sale of recreational marijuana;
- a one-time \$40 million transfer authorized by the voters through Proposition BB to retain revenue from taxes on the sale of retail marijuana in FY 2014-15; and
- interest and investment income earned on the assistance fund.

Figure 1 illustrates the amount of revenue credited to the assistance fund in the last three fiscal years.

Figure 1: Assistance Fund Revenue
FY 2013-14 through FY 2015-16

Fund Source	FY 2013-14	FY 2014-15	FY 2015-16
State Land	85,914,869	92,505,484	65,700,000*
Lottery	4,4735,342	1,997,456	6,000,000*
Marijuana Tax	3,012,860	23,949,565	40,000,000
Proposition BB	N/A	N/A	40,000,000
Interest	1,714,872	2,032,658	1,800,000*
Totals	\$135,377,943	\$120,485,163	\$153,500,000

*Preliminary year-end estimates.

Sources: CDE and Legislative Council Staff

Beginning in FY 2017-18, Senate Bill 16-035 authorizes an additional transfer of up to \$10 million a year to the assistance fund from increased interest and income earning on the Public School Fund. This amount increases to up to \$20 million a year beginning in FY 2019-20.

Appropriations to the assistance fund.

Moneys in the assistance fund are subject to annual appropriation and can be used to pay administrative expenses, COP lease payments, and cash grant awards. The BEST program requires recipients to pay a portion of the cost of a project, unless a waiver is granted. Local cash matches are not appropriated through the state budget, except in the case of a cash match for an annual COP lease payment.

Use of COPs. The state share of COP lease payments cannot exceed \$40 million, or half of the maximum amount of annual lease payments allowed under law, currently \$80 million. New COP issuances require prior legislative authorization from the Capital Development Committee.

BEST grant awards. CDE reports that to date, the BEST program has funded 261 grant applications in 124 school districts. Since the program's inception, more the \$1.2 billion has been granted to projects statewide.