

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0744.01 Esther van Mourik x4215

SENATE BILL 16-035

SENATE SPONSORSHIP

Johnston,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PUBLIC SCHOOL FUND, AND, IN CONNECTION
102 THEREWITH, CREATING A PUBLIC SCHOOL FUND INVESTMENT
103 BOARD TO DIRECT THE STATE TREASURER ON THE INVESTMENT
104 OF THE FUND AND CHANGING THE DISTRIBUTION OF THE
105 INTEREST OR INCOME EARNED ON THE INVESTMENT OF THE
106 MONEYS IN THE FUND.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates the public school fund investment board (board)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

to direct the state treasurer on the investment of the constitutionally created public school fund (fund). The fund consists of the proceeds of land that was granted to the state by the federal government for educational purposes. The bill specifies that the board is made up of 5 members including the treasurer, a member of the state board of land commissioners, and 3 members appointed by the governor and confirmed by the senate. The board may enter into contracts with private professional fund managers to provide expertise, technical support, and advice on investment market conditions but such contracts must be bid by employing standard public bidding practices.

The bill changes the distribution of the interest or income earned on the investment of the moneys in the fund so that the interest or income earned on the investment of the moneys in the public school fund may first be used to pay for the services of private professional fund managers hired by the board and to pay for any reimbursement for travel and other necessary expenses incurred by the members of the board.

The bill then specifies that for the 2017-18 and 2018-19 state fiscal years the first \$21 million is credited to the statutorily created state public school fund, the next \$10 million is credited to the public school capital construction assistance fund for the "Building Excellent Schools Today" grant program, and any money in excess of \$31 million is credited as the board sets forth in established policy.

The bill also specifies that for the 2019-20 state fiscal year, and each state fiscal year thereafter, the first \$21 million is credited to the statutorily created state public school fund, the next \$20 million is credited to the public school capital construction assistance fund for the "Building Excellent Schools Today" grant program, and any money in excess of \$41 million is credited as the board sets forth in established policy.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 22-41-102.5 as
3 follows:

4 **22-41-102.5. Public school fund investment board - creation.**

5 (1)(a) THERE IS HEREBY CREATED THE PUBLIC SCHOOL FUND INVESTMENT
6 BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD". THREE VOTING
7 MEMBERS OF THE BOARD CONSTITUTES A QUORUM. THE BOARD CONSISTS
8 OF FIVE MEMBERS, AS FOLLOWS:

- 1 (I) THE STATE TREASURER, WHO SERVES AS CHAIR;
- 2 (II) A MEMBER OF THE STATE BOARD OF LAND COMMISSIONERS,
- 3 APPOINTED BY MAJORITY VOTE OF THE COMMISSIONERS; AND
- 4 (III) THREE MEMBERS APPOINTED BY THE GOVERNOR AND
- 5 CONFIRMED BY THE SENATE. THE MEMBERS APPOINTED BY THE GOVERNOR
- 6 MUST HAVE OUTSTANDING PROFESSIONAL QUALIFICATIONS REGARDING
- 7 THE PRUDENT INVESTMENT OF TRUST FUND MONEY OR EXPERTISE IN
- 8 INSTITUTIONAL INVESTMENT MANAGEMENT.

9 (b) INITIAL APPOINTMENTS OF MEMBERS MUST BE MADE NO LATER

10 THAN JUNE 30, 2016. THE BOARD MUST MEET FOR THE FIRST TIME NO

11 LATER THAN AUGUST 15, 2016, AND THE BOARD MUST MEET NO LESS

12 THAN QUARTERLY THEREAFTER.

13 (2) EXCEPT FOR THE STATE TREASURER, MEMBERS OF THE BOARD

14 SERVE TWO-YEAR TERMS AND MAY NOT SERVE MORE THAN THREE

15 CONSECUTIVE TERMS, AND NONE OF THE BOARD MEMBERS, EXCEPT FOR

16 THE TREASURER, MAY HOLD ANY STATE ELECTIVE OFFICE. THE STATE

17 BOARD OF LAND COMMISSIONERS OR THE GOVERNOR MAY REMOVE THEIR

18 APPOINTED MEMBERS FOR ANY CAUSE THAT RENDERS THE MEMBER

19 INCAPABLE OF DISCHARGING OR UNFIT TO DISCHARGE HIS OR HER DUTY TO

20 THE BOARD. THE STATE BOARD OF LAND COMMISSIONERS OR THE

21 GOVERNOR MAY FILL ANY VACANCY BY APPOINTMENT AND SUCH

22 APPOINTMENT MUST BE MADE NO LATER THAN NINETY DAYS AFTER THE

23 DATE OF THE VACANCY. A MEMBER APPOINTED TO FILL A VACANCY

24 SERVES UNTIL THE EXPIRATION OF THE TERM FOR WHICH THE VACANCY

25 WAS FILLED. MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION

26 BUT MAY RECEIVE REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY

27 EXPENSES ACTUALLY INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

1 THE REIMBURSEMENTS ARE PAID FROM THE INTEREST AND INCOME
2 EARNED ON THE DEPOSIT AND INVESTMENT OF THE PUBLIC SCHOOL FUND
3 SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION 22-41-102.

4 (3) THE BOARD SHALL DIRECT THE STATE TREASURER ON HOW TO
5 SECURELY INVEST MONEYS DEPOSITED IN THE PUBLIC SCHOOL FUND FOR
6 THE INTERGENERATIONAL BENEFIT OF PUBLIC SCHOOLS AND IN A MANNER
7 THAT COMPLIES WITH THE "UNIFORM PRUDENT INVESTOR ACT", ARTICLE
8 1.1 OF TITLE 15, C.R.S.

9 (4) (a) NO LATER THAN MARCH 31, 2017, THE BOARD SHALL
10 ESTABLISH POLICIES THAT ARE NECESSARY AND PROPER FOR THE
11 ADMINISTRATION OF THIS SECTION, INCLUDING BUT NOT LIMITED TO:

12 (I) A CONFLICT OF INTEREST POLICY FOR BOARD MEMBERS;

13 (II) A POLICY ESTABLISHING ALLOWABLE INVESTMENTS THAT
14 COMPLY WITH SECTION 22-41-104 AND SECTION 3 OF ARTICLE IX OF THE
15 STATE CONSTITUTION; AND

16 (III) A POLICY REGARDING THE DISTRIBUTION OF INCOME AND
17 INTEREST SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION
18 22-41-102 (3) (f).

19 (b) THE POLICIES MUST BE POSTED ON THE DEPARTMENT OF THE
20 TREASURY'S WEBSITE NO LATER THAN APRIL 5, 2017.

21 (5) THE BOARD MAY ENTER INTO CONTRACTS WITH PRIVATE
22 PROFESSIONAL FUND MANAGERS TO PROVIDE EXPERTISE, TECHNICAL
23 SUPPORT, AND ADVICE ON INVESTMENT MARKET CONDITIONS. SUCH
24 CONTRACT OR CONTRACTS MUST BE BID BY EMPLOYING STANDARD PUBLIC
25 BIDDING PRACTICES INCLUDING, BUT NOT LIMITED TO, THE USE OF
26 REQUESTS FOR INFORMATION, REQUESTS FOR PROPOSALS, OR ANY OTHER
27 STANDARD VENDOR SELECTION PRACTICES DETERMINED BY THE BOARD TO

1 BE BEST SUITED TO SELECTING AN APPROPRIATE PRIVATE PROFESSIONAL
2 FUND MANAGER. PAYMENTS FOR THESE SERVICES WILL BE PAID FROM THE
3 INTEREST AND INCOME OF THE PUBLIC SCHOOL FUND SUBJECT TO THE
4 REQUIREMENTS SET FORTH IN SECTION 22-41-102.

5 **SECTION 2.** In Colorado Revised Statutes, 22-41-102, **amend**
6 (1) and (3) (e); and **add** (3) (f) and (3) (g) as follows:

7 **22-41-102. Fund inviolate.** (1) The public school fund shall
8 forever remain inviolate and intact; the interest and income earned on the
9 deposit and investment of the fund only shall be expended in the
10 maintenance of the schools of the state and shall be distributed to the
11 several school districts of the state in such manner as may be prescribed
12 by law. No part of said fund, principal or interest and income, shall ever
13 be transferred to any other fund or used or appropriated, except as
14 provided in this article and article 43.7 of this title. The state treasurer
15 shall be custodian of the fund, and the same shall be securely and
16 profitably invested as may be directed by law THE PUBLIC SCHOOL FUND
17 INVESTMENT BOARD CREATED IN SECTION 22-41-102.5. The state, by
18 appropriation, shall supply all losses of principal that may occur as
19 determined pursuant to section 2-3-103 (5), C.R.S., or section 22-41-104
20 (2).

21 (3) (e) For the 2015-16 AND THE 2016-17 state fiscal year, ~~and~~
22 ~~each state fiscal year thereafter~~, the first twenty-one million dollars of any
23 interest or income earned on the investment of the moneys in the public
24 school fund shall be IS credited to the state public school fund created in
25 section 22-54-114 for distribution as provided by law. Any amount of
26 such interest and income earned on the investment of the moneys in the
27 state public school fund in excess of twenty-one million dollars, other

1 than interest and income credited to the public school capital construction
2 assistance fund, created in section 22-43.7-104 (1), pursuant to section
3 22-43.7-104 (2) (b) (I), shall remain in the fund and shall become part of
4 the principal of the fund.

5 (f) FOR THE 2017-18 AND 2018-19 STATE FISCAL YEARS, INTEREST
6 OR INCOME EARNED ON THE INVESTMENT OF THE MONEYS IN THE PUBLIC
7 SCHOOL FUND MAY FIRST BE USED TO PAY FOR THE SERVICES OF PRIVATE
8 PROFESSIONAL FUND MANAGERS HIRED BY THE PUBLIC SCHOOL FUND
9 INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5), AND TO PAY
10 FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
11 INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT
12 BOARD PURSUANT TO SECTION 22-41-102.5 (3). THE REMAINDER IS
13 CREDITED AS FOLLOWS:

14 (I) THE FIRST TWENTY-ONE MILLION DOLLARS IS CREDITED TO THE
15 STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 FOR
16 DISTRIBUTION AS PROVIDED IN THAT SECTION;

17 (II) ANY AMOUNT IN EXCESS OF TWENTY-ONE MILLION DOLLARS,
18 UP TO THIRTY-ONE MILLION DOLLARS, IS CREDITED TO THE PUBLIC SCHOOL
19 CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION
20 22-43.7-104 FOR USE AS PROVIDED IN THAT SECTION; AND

21 (III) ANY AMOUNT IN EXCESS OF THIRTY-ONE MILLION DOLLARS IS
22 CREDITED AS SPECIFIED IN THE POLICY ESTABLISHED BY THE PUBLIC
23 SCHOOL FUND INVESTMENT BOARD AS REQUIRED IN SECTION 22-41-102.5
24 (4) (c).

25 (g) FOR THE 2019-20 STATE FISCAL YEAR, AND EACH STATE FISCAL
26 YEAR THEREAFTER, INTEREST OR INCOME EARNED ON THE INVESTMENT OF
27 THE MONEYS IN THE PUBLIC SCHOOL FUND MAY FIRST BE USED TO PAY FOR

1 THE SERVICES OF PRIVATE PROFESSIONAL FUND MANAGERS HIRED BY THE
2 PUBLIC SCHOOL FUND INVESTMENT BOARD PURSUANT TO SECTION
3 22-41-102.5 (5), AND TO PAY FOR ANY REIMBURSEMENT FOR TRAVEL AND
4 OTHER NECESSARY EXPENSES INCURRED BY THE MEMBERS OF THE PUBLIC
5 SCHOOL FUND INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5
6 (3). THE REMAINDER IS CREDITED AS FOLLOWS:

7 (I) THE FIRST TWENTY-ONE MILLION DOLLARS IS CREDITED TO THE
8 STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 FOR
9 DISTRIBUTION AS PROVIDED IN THAT SECTION;

10 (II) ANY AMOUNT IN EXCESS OF TWENTY-ONE MILLION DOLLARS,
11 UP TO FORTY-ONE MILLION DOLLARS, IS CREDITED TO THE PUBLIC SCHOOL
12 CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION
13 22-43.7-104 FOR USE AS PROVIDED IN THAT SECTION; AND

14 (III) ANY AMOUNT IN EXCESS OF FORTY-ONE MILLION DOLLARS IS
15 CREDITED AS SPECIFIED IN THE POLICY ESTABLISHED BY THE PUBLIC
16 SCHOOL FUND INVESTMENT BOARD AS REQUIRED IN SECTION 22-41-102.5
17 (4) (c).

18 **SECTION 3.** In Colorado Revised Statutes, 22-41-104, **amend**
19 (1) as follows:

20 **22-41-104. Lawful investments.** (1) The state treasurer, ~~in the~~
21 ~~state treasurer's discretion~~ AS DIRECTED BY THE PUBLIC SCHOOL FUND
22 INVESTMENT BOARD, may invest and reinvest moneys accrued or accruing
23 to the public school fund in the types of deposits and investments
24 authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S., and
25 bonds issued by school districts. THE MONEYS MAY ALSO BE INVESTED IN
26 STOCKS AND OTHER FINANCIAL ASSETS AS SPECIFIED IN THE PUBLIC
27 SCHOOL FUND INVESTMENT BOARD INVESTMENT POLICY ESTABLISHED AS

1 REQUIRED IN SECTION 22-41-102.5 (4) (b); EXCEPT THAT:

2 (a) NO INVESTMENT OF THE FUND IN STOCK OF ANY SINGLE
3 CORPORATION MAY BE OF AN AMOUNT THAT EXCEEDS TEN PERCENT OF
4 THE THEN BOOK VALUE OF THE FUND; AND

5 (b) THE FUND MAY NOT ACQUIRE MORE THAN TEN PERCENT OF THE
6 OUTSTANDING STOCK OR BONDS OF ANY SINGLE CORPORATION.

7 **SECTION 4.** In Colorado Revised Statutes, **amend** 22-41-105 as
8 follows:

9 **22-41-105. Income distinguished from principal.** (1) Any
10 amount paid as a premium for an interest-bearing obligation in excess of
11 the amount realized upon disposition of said obligation ~~shall~~ MUST be
12 recovered as a return of principal out of interest thereafter derived from
13 the public school fund. Such recovery ~~shall~~ MUST be made and recorded
14 on a systematic basis applied consistently from year to year.

15 (2) INTEREST AND INCOME THAT IS NOT DISTRIBUTED AS SPECIFIED
16 IN SECTION 22-41-102 (3) ON JUNE 30 OF ANY FISCAL YEAR BECOMES PART
17 OF THE PRINCIPAL OF THE PUBLIC SCHOOL FUND.

18 **SECTION 5.** In Colorado Revised Statutes, **amend** 22-41-107 as
19 follows:

20 **22-41-107. Reports.** ~~(1) The state treasurer shall furnish a~~
21 ~~quarterly report to the state board of land commissioners showing the~~
22 ~~investment transactions effected and the amount of investment income~~
23 ~~collected during the preceding three-month period.~~

24 ~~(2) Repealed~~ THE PUBLIC SCHOOL FUND INVESTMENT BOARD
25 SHALL SUBMIT FINANCIAL STATEMENTS ON NOVEMBER 1 OF EACH FISCAL
26 YEAR TO THE STATE TREASURER, THE STATE BOARD OF LAND
27 COMMISSIONERS, THE OFFICE OF STATE PLANNING AND BUDGETING, THE

1 JOINT BUDGET COMMITTEE, AND THE EDUCATION AND FINANCE
2 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR SUCH
3 SUCCESSOR COMMITTEES.

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