

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 28, 2016

Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

SB16-035 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. **Legislative declaration.** (1) The general
4 assembly hereby finds and declares that the public purpose for the
5 creation of the public school fund investment board is to ensure
6 reasonable growth in the public school fund through investments in stocks
7 and other financial assets as specified in the public school fund
8 investment board investment policy.

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

11 **22-41-102.5. Public school fund investment board - creation.**

12 (1)(a) THERE IS HEREBY CREATED THE PUBLIC SCHOOL FUND INVESTMENT
13 BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD". THE BOARD
14 CONSISTS OF FIVE MEMBERS, AS FOLLOWS:

15 (I) THE STATE TREASURER, WHO SERVES AS CHAIR;

16 (II) A MEMBER OF THE STATE BOARD OF LAND COMMISSIONERS,
17 APPOINTED BY MAJORITY VOTE OF THE COMMISSIONERS; AND

18 (III) THREE MEMBERS APPOINTED BY THE STATE TREASURER. SUCH
19 APPOINTEES MUST HAVE PROFESSIONAL QUALIFICATIONS REGARDING THE
20 PRUDENT INVESTMENT OF TRUST FUND MONEY OR EXPERTISE IN
21 INSTITUTIONAL INVESTMENT MANAGEMENT.

22 (b) INITIAL APPOINTMENTS OF MEMBERS MUST BE MADE NO LATER
23 THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b).

1 THE BOARD MUST MEET FOR THE FIRST TIME NO LATER THAN THIRTY DAYS
2 AFTER THE APPOINTMENT OF THE MEMBERS AS REQUIRED IN THIS
3 PARAGRAPH (b), AND THE BOARD MUST MEET NO LESS THAN QUARTERLY
4 THEREAFTER.

5 (c) THE STATE TREASURER AND TWO OTHER VOTING MEMBERS OF
6 THE BOARD CONSTITUTES A QUORUM OF THE BOARD.

7 (2) EXCEPT FOR THE STATE TREASURER, MEMBERS OF THE BOARD
8 SERVE TWO-YEAR TERMS AND MAY NOT SERVE MORE THAN THREE
9 CONSECUTIVE TERMS, AND NONE OF THE BOARD MEMBERS, EXCEPT FOR
10 THE TREASURER, MAY HOLD ANY STATE ELECTIVE OFFICE. THE STATE
11 BOARD OF LAND COMMISSIONERS OR THE STATE TREASURER MAY REMOVE
12 THEIR APPOINTED MEMBERS FOR ANY CAUSE THAT RENDERS THE MEMBER
13 INCAPABLE OF DISCHARGING OR UNFIT TO DISCHARGE HIS OR HER DUTY TO
14 THE BOARD. THE STATE BOARD OF LAND COMMISSIONERS OR THE STATE
15 TREASURER MAY FILL ANY VACANCY BY APPOINTMENT AND SUCH
16 APPOINTMENT MUST BE MADE NO LATER THAN NINETY DAYS AFTER THE
17 DATE OF THE VACANCY. A MEMBER APPOINTED TO FILL A VACANCY
18 SERVES UNTIL THE EXPIRATION OF THE TERM FOR WHICH THE VACANCY
19 WAS FILLED. MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION
20 BUT MAY RECEIVE REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY
21 EXPENSES ACTUALLY INCURRED IN THE PERFORMANCE OF THEIR DUTIES.
22 THE REIMBURSEMENTS ARE PAID FROM THE INTEREST AND INCOME
23 EARNED ON THE DEPOSIT AND INVESTMENT OF THE PUBLIC SCHOOL FUND
24 SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION 22-41-102.

25 (3) THE BOARD SHALL DIRECT THE STATE TREASURER ON HOW TO
26 SECURELY INVEST MONEYS DEPOSITED IN THE PUBLIC SCHOOL FUND FOR
27 THE INTERGENERATIONAL BENEFIT OF PUBLIC SCHOOLS AND IN A MANNER
28 THAT COMPLIES WITH THE "UNIFORM PRUDENT INVESTOR ACT", ARTICLE
29 1.1 OF TITLE 15, C.R.S.

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

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

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

37 (III) A POLICY REGARDING THE DISTRIBUTION OF INCOME AND
38 INTEREST SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION
39 22-41-102 (3) (f).

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

1 (5) THE BOARD MAY ENTER INTO CONTRACTS WITH PRIVATE
2 PROFESSIONAL FUND MANAGERS TO PROVIDE EXPERTISE, TECHNICAL
3 SUPPORT, AND ADVICE ON INVESTMENT MARKET CONDITIONS. SUCH
4 CONTRACT OR CONTRACTS MUST BE BID BY EMPLOYING STANDARD PUBLIC
5 BIDDING PRACTICES INCLUDING, BUT NOT LIMITED TO, THE USE OF
6 REQUESTS FOR INFORMATION, REQUESTS FOR PROPOSALS, OR ANY OTHER
7 STANDARD VENDOR SELECTION PRACTICES DETERMINED BY THE BOARD TO
8 BE BEST SUITED TO SELECTING AN APPROPRIATE PRIVATE PROFESSIONAL
9 FUND MANAGER. PAYMENTS FOR THESE SERVICES WILL BE PAID FROM THE
10 INTEREST AND INCOME OF THE PUBLIC SCHOOL FUND SUBJECT TO THE
11 REQUIREMENTS SET FORTH IN SECTION 22-41-102.

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

14 **22-41-102. Fund inviolate.** (1) The public school fund shall
15 forever remain inviolate and intact; the interest and income earned on the
16 deposit and investment of the fund only shall be expended in the
17 maintenance of the schools of the state and shall be distributed to the
18 several school districts of the state in such manner as may be prescribed
19 by law. No part of said fund, principal or interest and income, shall ever
20 be transferred to any other fund or used or appropriated, except as
21 provided in this article and article 43.7 of this title. The state treasurer
22 shall be custodian of the fund, and the same shall be securely and
23 profitably invested as may be directed by ~~law~~ THE PUBLIC SCHOOL FUND
24 INVESTMENT BOARD CREATED IN SECTION 22-41-102.5. The state, by
25 appropriation, shall supply all losses of principal that may occur as
26 determined pursuant to section 2-3-103 (5), C.R.S., or section 22-41-104
27 (2).

28 (3) (e) For the 2015-16 AND THE 2016-17 state fiscal year, ~~and~~
29 ~~each state fiscal year thereafter~~, the first twenty-one million dollars of any
30 interest or income earned on the investment of the moneys in the public
31 school fund ~~shall be~~ IS credited to the state public school fund created in
32 section 22-54-114 for distribution as provided by law. Any amount of
33 such interest and income earned on the investment of the moneys in the
34 state public school fund in excess of twenty-one million dollars, other
35 than interest and income credited to the public school capital construction
36 assistance fund, created in section 22-43.7-104 (1), pursuant to section
37 22-43.7-104 (2) (b) (I), shall remain in the fund and shall become part of
38 the principal of the fund.

39 (f) FOR THE 2017-18 AND 2018-19 STATE FISCAL YEARS, INTEREST
40 OR INCOME EARNED ON THE INVESTMENT OF THE MONEYS IN THE PUBLIC
41 SCHOOL FUND MUST BE USED OR CREDITED IN THE FOLLOWING ORDER:

1 (I) THE FIRST TWENTY-ONE MILLION DOLLARS IS CREDITED TO THE
2 STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 FOR
3 DISTRIBUTION AS PROVIDED IN THAT SECTION; EXCEPT THAT, IF THE
4 INTEREST OR INCOME EARNED ON THE INVESTMENT OF THE MONEYS IN THE
5 PUBLIC SCHOOL FUND IS LESS THAN TWENTY-ONE MILLION DOLLARS THEN
6 THE AVAILABLE AMOUNT MUST ALSO BE USED TO ENTIRELY COVER THE
7 COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN SUBPARAGRAPH
8 (II) OF THIS PARAGRAPH (f);

9 (II) AN AMOUNT TO PAY FOR THE SERVICES OF PRIVATE
10 PROFESSIONAL FUND MANAGERS HIRED BY THE PUBLIC SCHOOL FUND
11 INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5), AND TO PAY
12 FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
13 INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT
14 BOARD PURSUANT TO SECTION 22-41-102.5 (2);

15 (III) ANY AMOUNT IN EXCESS OF TWENTY-ONE MILLION DOLLARS
16 PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN
17 SUBPARAGRAPH (II) OF THIS PARAGRAPH (f), UP TO THIRTY-ONE MILLION
18 DOLLARS PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED
19 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (f), IS CREDITED TO THE
20 RESTRICTED ACCOUNT OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION
21 ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (5) FOR USE AS
22 PROVIDED IN THAT SECTION; AND

23 (IV) ANY AMOUNT IN EXCESS OF THIRTY-ONE MILLION DOLLARS
24 PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN
25 SUBPARAGRAPH (II) OF THIS PARAGRAPH (f) IS CREDITED AS SPECIFIED IN
26 THE POLICY ESTABLISHED BY THE PUBLIC SCHOOL FUND INVESTMENT
27 BOARD AS REQUIRED IN SECTION 22-41-102.5 (4) (a).

28 (g) FOR THE 2019-20 STATE FISCAL YEAR, AND EACH STATE FISCAL
29 YEAR THEREAFTER, INTEREST OR INCOME EARNED ON THE INVESTMENT OF
30 THE MONEYS IN THE PUBLIC SCHOOL FUND MUST BE USED OR CREDITED IN
31 THE FOLLOWING ORDER:

32 (I) THE FIRST TWENTY-ONE MILLION DOLLARS IS CREDITED TO THE
33 STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 FOR
34 DISTRIBUTION AS PROVIDED IN THAT SECTION; EXCEPT THAT, IF THE
35 INTEREST OR INCOME EARNED ON THE INVESTMENT OF THE MONEYS IN THE
36 PUBLIC SCHOOL FUND IS LESS THAN TWENTY-ONE MILLION DOLLARS THEN
37 THE AVAILABLE AMOUNT MUST ALSO BE USED TO ENTIRELY COVER THE
38 COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN SUBPARAGRAPH
39 (II) OF THIS PARAGRAPH (g);

40 (II) AN AMOUNT TO PAY FOR THE SERVICES OF PRIVATE
41 PROFESSIONAL FUND MANAGERS HIRED BY THE PUBLIC SCHOOL FUND

1 INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5), AND TO PAY
2 FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
3 INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT
4 BOARD PURSUANT TO SECTION 22-41-102.5 (2);

5 (III) ANY AMOUNT IN EXCESS OF TWENTY-ONE MILLION DOLLARS
6 PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN
7 SUBPARAGRAPH (II) OF THIS PARAGRAPH (g), UP TO FORTY-ONE MILLION
8 DOLLARS PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED
9 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (g), IS CREDITED TO THE
10 RESTRICTED ACCOUNT OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION
11 ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (5) FOR USE AS
12 PROVIDED IN THAT SECTION; AND

13 (IV) ANY AMOUNT IN EXCESS OF FORTY-ONE MILLION DOLLARS
14 PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN
15 SUBPARAGRAPH (II) OF THIS PARAGRAPH (g) IS CREDITED AS SPECIFIED IN
16 THE POLICY ESTABLISHED BY THE PUBLIC SCHOOL FUND INVESTMENT
17 BOARD AS REQUIRED IN SECTION 22-41-102.5 (4) (a).

18 **SECTION 4.** 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
28 REQUIRED IN SECTION 22-41-102.5 (4) (b); EXCEPT THAT:

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

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

34 **SECTION 5.** In Colorado Revised Statutes, **amend** 22-41-105 as
35 follows:

36 **22-41-105. Income distinguished from principal.** (1) Any
37 amount paid as a premium for an interest-bearing obligation in excess of
38 the amount realized upon disposition of said obligation ~~shall~~ MUST be
39 recovered as a return of principal out of interest thereafter derived from
40 the public school fund. Such recovery ~~shall~~ MUST be made and recorded
41 on a systematic basis applied consistently from year to year.

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

4 **SECTION 6.** In Colorado Revised Statutes, **amend** 22-41-107 as
5 follows:

6 **22-41-107. Reports.** ~~(1) The state treasurer shall furnish a~~
7 ~~quarterly report to the state board of land commissioners showing the~~
8 ~~investment transactions effected and the amount of investment income~~
9 ~~collected during the preceding three-month period.~~

10 ~~(2) Repeated~~ THE PUBLIC SCHOOL FUND INVESTMENT BOARD
11 SHALL SUBMIT FINANCIAL STATEMENTS ON NOVEMBER 1 OF EACH FISCAL
12 YEAR TO THE STATE TREASURER, THE STATE BOARD OF LAND
13 COMMISSIONERS, THE OFFICE OF STATE PLANNING AND BUDGETING, THE
14 JOINT BUDGET COMMITTEE, AND THE EDUCATION AND FINANCE
15 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR SUCH
16 SUCCESSOR COMMITTEES.

17 **SECTION 7. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2016 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor."

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