BILL TOPIC: "Investment Of Public School Fund Study & Report"

A BILL FOR AN ACT

CONCERNING THE INVESTMENT OF MONEY IN THE PUBLIC SCHOOL 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://leg.colorado.gov/.)

Legislative Interim Committee on School Finance. The bill amends the distribution of interest and income earned on the money in the public school fund (fund). After paying the costs of the investment consultant, the bill distributes up to $21 million to the state public school fund for school finance and then distributes up to $20 million to the

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
public school capital construction assistance fund. The remaining interest and income may be credited or appropriated as specified by the general assembly, taking into account the recommendations of the public school fund investment board (investment board).

The bill staggers the terms of the state treasurer’s 3 appointed members to the investment board, commencing with new appointments beginning on and after July 1, 2022, to ensure that no more than 2 members’ terms expire in the same year.

With respect to the management of money in the fund, the bill creates a distinction between an investment consultant with whom the investment board contracts and for whose services money is annually appropriated from the fund, and professional fund managers for the fund who are paid from fund assets under management.

The bill creates a working group, convened by the state treasurer, to consider opportunities to improve earnings on the deposit and investment of money in the fund, while safeguarding the endowment for public schools and complying with state and federal laws relating to state school trust lands and the fund. The bill authorizes the state treasurer, after consulting with the investment board, to select the members of the working group, and the bill specifies the issues the working group must study. The state treasurer shall report the findings and recommendations of the working group to the legislative interim committee on school finance during the 2022 legislative interim.

The bill clarifies the time frame and circumstances in which a realized investment loss to the fund may be offset by realized gains before the general assembly is required to appropriate money to cover losses to the fund.

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

SECTION 1. In Colorado Revised Statutes, 22-41-102, amend (3)(g) introductory portion; and add (3)(h) as follows:

22-41-102. Fund inviolate - appropriation. (3) (g) For the 2019-20 state fiscal year, and each state fiscal year thereafter through the 2021-22 state fiscal year, interest or income earned on the investment of the money in the public school fund must be used or credited in the following order:

(h) For the 2022-23 state fiscal year, and each state fiscal year thereafter, interest or income earned on the investment of
THE MONEY IN THE PUBLIC SCHOOL FUND MUST BE USED OR CREDITED AS
FOLLOWS:

(I) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE TO
THE STATE TREASURER AN AMOUNT NECESSARY TO PAY FOR THE SERVICES
OF THE INVESTMENT CONSULTANT HIRED BY THE PUBLIC SCHOOL FUND
INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5) AND TO PAY
FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT
BOARD PURSUANT TO SECTION 22-41-102.5 (2);

(II) AFTER THE APPROPRIATION MADE PURSUANT TO SUBSECTION
(3)(h)(I) OF THIS SECTION, ANY AMOUNT REMAINING, UP TO TWENTY-ONE
MILLION DOLLARS, SHALL BE CREDITED TO THE STATE PUBLIC SCHOOL
FUND CREATED IN SECTION 22-54-114 FOR DISTRIBUTION AS PROVIDED IN
THAT SECTION;

(III) AFTER THE AMOUNTS APPROPRIATED AND CREDITED
PURSUANT TO SUBSECTIONS (3)(h)(I) AND (3)(h)(II) OF THIS SECTION, ANY
AMOUNT REMAINING, UP TO TWENTY MILLION DOLLARS SHALL BE
CREDITED TO THE RESTRICTED ACCOUNT OF THE PUBLIC SCHOOL CAPITAL
CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (5)
FOR USE AS PROVIDED IN THAT SECTION; AND

(IV) AFTER THE AMOUNTS CREDITED AND APPROPRIATED
PURSUANT TO SUBSECTIONS (3)(h)(I) TO (3)(h)(III) OF THIS SECTION, THE
GENERAL ASSEMBLY MAY CREDIT OR APPROPRIATE ANY AMOUNT
REMAINING, TAKING INTO CONSIDERATION THE RECOMMENDATIONS OF
THE PUBLIC SCHOOL FUND INVESTMENT BOARD DESCRIBED IN SECTION
22-41-102.5 (4)(a)(III).

SECTION 2. In Colorado Revised Statutes, 22-41-102.5, amend
(2), (4)(a)(III), and (5); and add (6) and (7) as follows:

22-41-102.5. Public school fund investment board - creation - working group - report - repeal. (2) (a) Except for the state treasurer, members of the board serve two-year terms and may not serve more than three consecutive terms, and none of the board members, except for the treasurer, may hold any state elective office. The state board of land commissioners or the state treasurer may remove their appointed members for any cause that renders the member incapable of discharging or unfit to discharge his or her THE MEMBER’S duty to the board. The state board of land commissioners or the state treasurer may fill any vacancy by appointment, and such appointment must be made no later than ninety days after the date of the vacancy. A member appointed to fill a vacancy serves until the expiration of the term for which the vacancy was filled. Members of the board serve without compensation but may receive reimbursement for travel and other necessary expenses actually incurred in the performance of their duties. The reimbursements are paid from the interest and income earned on the deposit and investment of the public school fund subject to the requirements set forth in section 22-41-102.

(b) BEGINNING WITH THE STATE TREASURER’S APPOINTMENTS TO THE BOARD TO REPLACE EXISTING BOARD MEMBERS WHOSE FINAL TERMS EXPIRE ON OR AFTER JULY 1, 2022, THE STATE TREASURER SHALL STAGGER THE TERMS OF NEWLY APPOINTED BOARD MEMBERS TO ENSURE THAT THE TERMS OF NO MORE THAN TWO OF THE STATE TREASURER’S THREE APPOINTMENTS TO THE BOARD EXPIRE IN THE SAME YEAR. OF THE FIRST THREE MEMBERS APPOINTED, ONE MEMBER SERVES AN INITIAL TERM OF ONE YEAR, ONE MEMBER SERVES AN INITIAL TERM OF TWO YEARS, AND ONE MEMBER SERVES AN INITIAL TERM OF THREE YEARS, AS DETERMINED
BY THE STATE TREASURER. AFTER THE INITIAL TERM, THE MEMBERS SERVE TWO-YEAR TERMS FOR A TOTAL OF THREE CONSECUTIVE TERMS, AS SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION.

(4) (a) No later than March 31, 2017, the board shall establish policies that are necessary and proper for the administration of this section, including but not limited to:

(III) Recommendations to the general assembly regarding the distribution of income and interest described in section 22-41-102 (3)(f)(IV) and (3)(g)(IV) 22-41-102 (3)(h)(IV).

(5) The board may enter into contracts with private professional fund managers to provide expertise, technical support, and advice on investment market conditions. Such contract or contracts must be bid by employing standard public bidding practices including, but not limited to, the use of requests for information, requests for proposals, or any other standard vendor selection practices determined by the board to be best suited to selecting an appropriate private professional fund manager investment consultant. Payments for these services will be paid from the interest and income of the public school fund subject to the requirements set forth in section 22-41-102.

(6) The board may enter into contracts with one or more professional fund managers to invest money in the public school fund. A professional fund manager is responsible for implementing the fund’s investment strategy and is paid from assets under management. The board’s investment consultant shall recommend professional fund managers for selection by the board.
(7) (a) The state treasurer shall convene a working group to consider opportunities to improve the long-term sustainability of the fund and the stability of distributions for the intergenerational benefit of public schools.

(b) The state treasurer, in consultation with the board, shall select the members of the working group, which may include:

(I) Members with investment management expertise, including knowledge of long-term endowment investment and spending policies;

(II) Members with tax expertise, including knowledge relating to funding sources for current and future certificate of participation agreements for public school capital construction;

(III) Members with legal expertise, including knowledge of the Colorado constitution and statutes governing the issues studied by the working group;

(IV) Members with other relevant expertise, as determined by the state treasurer; and

(V) Members who represent interests served through revenue from state school trust lands or interest and income from the public school fund.

(c) The working group shall consider:

(I) The distribution of revenue from state school trust lands;

(II) Investment opportunities to increase growth and income earned on money in the public school fund;
(III) The distribution of interest and income from the public school fund and ways to create a more sustainable, long-term distribution policy;

(IV) Policies to increase the principal of the public school fund;

(V) The impact of Colorado constitutional and statutory provisions on the investment of money in the public school fund, including provisions relating to certificate of participation agreements; and

(VI) Any other issues, as determined by the state treasurer.

(d) Not later than December 1, 2022, the state treasurer shall report to the legislative interim committee on school finance concerning the issues considered by the working group, the findings and recommendations of the working group, and any necessary changes to Colorado law to implement recommendations of the working group.

(e) This subsection (7) is repealed, effective July 1, 2023.

SECTION 3. In Colorado Revised Statutes, 22-41-104, amend (2) as follows:

22-41-104. Lawful investments. (2) The state treasurer has authority, to be exercised at the state treasurer's discretion, to effect exchanges or sales whenever such exchanges or sales will not result in an aggregate loss of principal to the public school fund. An aggregate loss of principal to the public school fund occurs only when an exchange or sale that resulted in an initial loss of principal is not offset by a gain on an exchange or sale in the fund within twelve eighteen months. The
CALCULATION OF AN AGGREGATE LOSS MUST ALSO INCLUDE ANY GAINS
THAT WERE REALIZED IN THE TWELVE MONTHS PRIOR TO THE LOSS OF
PRINCIPAL.

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