

SB035 L.008

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.SB16-035 be amended as follows:

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).
24 THE BOARD MUST MEET FOR THE FIRST TIME NO LATER THAN THIRTY DAYS
25 AFTER THE APPOINTMENT OF THE MEMBERS AS REQUIRED IN THIS
26 PARAGRAPH (b), AND THE BOARD MUST MEET NO LESS THAN QUARTERLY
27 THEREAFTER.

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

30 (2) EXCEPT FOR THE STATE TREASURER, MEMBERS OF THE BOARD
31 SERVE TWO-YEAR TERMS AND MAY NOT SERVE MORE THAN THREE
32 CONSECUTIVE TERMS, AND NONE OF THE BOARD MEMBERS, EXCEPT FOR
33 THE TREASURER, MAY HOLD ANY STATE ELECTIVE OFFICE. THE STATE
34 BOARD OF LAND COMMISSIONERS OR THE STATE TREASURER MAY REMOVE
35 THEIR APPOINTED MEMBERS FOR ANY CAUSE THAT RENDERS THE MEMBER
36 INCAPABLE OF DISCHARGING OR UNFIT TO DISCHARGE HIS OR HER DUTY TO
37 THE BOARD. THE STATE BOARD OF LAND COMMISSIONERS OR THE STATE



1 TREASURER MAY FILL ANY VACANCY BY APPOINTMENT AND SUCH
2 APPOINTMENT MUST BE MADE NO LATER THAN NINETY DAYS AFTER THE
3 DATE OF THE VACANCY. A MEMBER APPOINTED TO FILL A VACANCY
4 SERVES UNTIL THE EXPIRATION OF THE TERM FOR WHICH THE VACANCY
5 WAS FILLED. MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION
6 BUT MAY RECEIVE REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY
7 EXPENSES ACTUALLY INCURRED IN THE PERFORMANCE OF THEIR DUTIES.
8 THE REIMBURSEMENTS ARE PAID FROM THE INTEREST AND INCOME
9 EARNED ON THE DEPOSIT AND INVESTMENT OF THE PUBLIC SCHOOL FUND
10 SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION 22-41-102.

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

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

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

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

23 (III) A POLICY REGARDING THE DISTRIBUTION OF INCOME AND
24 INTEREST SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION
25 22-41-102 (3) (f).

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

28 (5) THE BOARD MAY ENTER INTO CONTRACTS WITH PRIVATE
29 PROFESSIONAL FUND MANAGERS TO PROVIDE EXPERTISE, TECHNICAL
30 SUPPORT, AND ADVICE ON INVESTMENT MARKET CONDITIONS. SUCH
31 CONTRACT OR CONTRACTS MUST BE BID BY EMPLOYING STANDARD PUBLIC
32 BIDDING PRACTICES INCLUDING, BUT NOT LIMITED TO, THE USE OF
33 REQUESTS FOR INFORMATION, REQUESTS FOR PROPOSALS, OR ANY OTHER
34 STANDARD VENDOR SELECTION PRACTICES DETERMINED BY THE BOARD TO
35 BE BEST SUITED TO SELECTING AN APPROPRIATE PRIVATE PROFESSIONAL
36 FUND MANAGER. PAYMENTS FOR THESE SERVICES WILL BE PAID FROM THE
37 INTEREST AND INCOME OF THE PUBLIC SCHOOL FUND SUBJECT TO THE
38 REQUIREMENTS SET FORTH IN SECTION 22-41-102.

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

41 **22-41-102. Fund inviolate.** (1) The public school fund shall

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

14 (3) (e) For the 2015-16 AND THE 2016-17 state fiscal year, and
15 ~~each state fiscal year thereafter~~, the first twenty-one million dollars of any
16 interest or income earned on the investment of the moneys in the public
17 school fund shall be IS credited to the state public school fund created in
18 section 22-54-114 for distribution as provided by law. Any amount of
19 such interest and income earned on the investment of the moneys in the
20 state public school fund in excess of twenty-one million dollars, other
21 than interest and income credited to the public school capital construction
22 assistance fund, created in section 22-43.7-104 (1), pursuant to section
23 22-43.7-104 (2) (b) (I), shall remain in the fund and shall become part of
24 the principal of the fund.

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

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

36 (II) AN AMOUNT TO PAY FOR THE SERVICES OF PRIVATE
37 PROFESSIONAL FUND MANAGERS HIRED BY THE PUBLIC SCHOOL FUND
38 INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5), AND TO PAY
39 FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
40 INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT
41 BOARD PURSUANT TO SECTION 22-41-102.5 (2);

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

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

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

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

26 (II) AN AMOUNT TO PAY FOR THE SERVICES OF PRIVATE
27 PROFESSIONAL FUND MANAGERS HIRED BY THE PUBLIC SCHOOL FUND
28 INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5), AND TO PAY
29 FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
30 INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT
31 BOARD PURSUANT TO SECTION 22-41-102.5 (2);

32 (III) ANY AMOUNT IN EXCESS OF TWENTY-ONE MILLION DOLLARS
33 PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN
34 SUBPARAGRAPH (II) OF THIS PARAGRAPH (g), UP TO FORTY-ONE MILLION
35 DOLLARS PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED
36 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (g), IS CREDITED TO THE
37 RESTRICTED ACCOUNT OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION
38 ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (5) FOR USE AS
39 PROVIDED IN THAT SECTION; AND

40 (IV) ANY AMOUNT IN EXCESS OF FORTY-ONE MILLION DOLLARS
41 PLUS THE COST OF SERVICES AND REIMBURSEMENT DESCRIBED IN

1 SUBPARAGRAPH (II) OF THIS PARAGRAPH (g) IS CREDITED AS SPECIFIED IN
2 THE POLICY ESTABLISHED BY THE PUBLIC SCHOOL FUND INVESTMENT
3 BOARD AS REQUIRED IN SECTION 22-41-102.5 (4) (a).

4 **SECTION 4.** In Colorado Revised Statutes, 22-41-104, **amend**
5 (1) as follows:

6 **22-41-104. Lawful investments.** (1) The state treasurer, ~~in the~~
7 ~~state treasurer's discretion~~ AS DIRECTED BY THE PUBLIC SCHOOL FUND
8 INVESTMENT BOARD, may invest and reinvest moneys accrued or accruing
9 to the public school fund in the types of deposits and investments
10 authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S., and
11 bonds issued by school districts. THE MONEYS MAY ALSO BE INVESTED IN
12 STOCKS AND OTHER FINANCIAL ASSETS AS SPECIFIED IN THE PUBLIC
13 SCHOOL FUND INVESTMENT BOARD INVESTMENT POLICY ESTABLISHED AS
14 REQUIRED IN SECTION 22-41-102.5 (4) (b); EXCEPT THAT:

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

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

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

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

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

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

33 **22-41-107. Reports.** ~~(1) The state treasurer shall furnish a~~
34 ~~quarterly report to the state board of land commissioners showing the~~
35 ~~investment transactions effected and the amount of investment income~~
36 ~~collected during the preceding three-month period.~~

37 ~~(2) Repealed~~ THE PUBLIC SCHOOL FUND INVESTMENT BOARD
38 SHALL SUBMIT FINANCIAL STATEMENTS ON NOVEMBER 1 OF EACH FISCAL
39 YEAR TO THE STATE TREASURER, THE STATE BOARD OF LAND
40 COMMISSIONERS, THE OFFICE OF STATE PLANNING AND BUDGETING, THE
41 JOINT BUDGET COMMITTEE, AND THE EDUCATION AND FINANCE

1 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR SUCH
2 SUCCESSOR COMMITTEES.

3 **SECTION 7. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2016 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.

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