CHAPTER 449

## **GOVERNMENT - STATE**

SENATE BILL 25-167

BY SENATOR(S) Amabile and Frizell, Ball, Bridges, Cutter, Daugherty, Exum, Hinrichsen, Kipp, Michaelson Jenet, Mullica, Roberts, Simpson, Snyder, Sullivan, Wallace, Coleman;

also REPRESENTATIVE(S) Bird and Lukens, Bacon, Brown, Clifford, Froelich, Garcia, Lindsay, Mauro, Phillips, Ricks, Rutinel, Sirota, Stewart K., McCluskie.

## AN ACT

CONCERNING THE INVESTMENT OF STATE FUND MONEY TO BENEFIT COLORADO COMMUNITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

**SECTION 1.** In Colorado Revised Statutes, 22-41-102, **amend** (3)(j)(I) and (3)(k)(I) as follows:

- **22-41-102. Fund inviolate.** (3) (j) For the 2025-26 state fiscal year, interest and 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) AND TO PAY FOR COSTS REQUIRED TO ACCOMMODATE TRANCHE PAYMENTS TO THE PROGRAM MANAGER, PURSUANT TO 22-41-104.7(4)(b)(I);
- (k) For the 2026-27 state fiscal year and each state fiscal year thereafter, interest and 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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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) AND TO PAY FOR COSTS REQUIRED TO ACCOMMODATE TRANCHE PAYMENTS TO THE PROGRAM MANAGER, PURSUANT TO 22-41-104.7(4)(b)(I);

**SECTION 2.** In Colorado Revised Statutes, 22-41-102.5, **amend** (1)(a)(III), (3), (4)(a)(II), and (5) as follows:

- **22-41-102.5.** Public school fund investment board creation working group report. (1) (a) There is hereby created the public school fund investment board, referred to in this section as the "board". The board consists of five members as follows:
- (III) Three members appointed by the state treasurer Such appointees must have diversity in party affiliation and with diverse party affiliations. At least one appointee required by this subsection (1)(a)(III) must have expertise in community investments, as defined in section 22-41-104.7(1), and the other two must have professional qualifications regarding the prudent investment of trust fund money or expertise in institutional investment management.
- (3) The board shall direct the state treasurer on how to securely invest money deposited in the public school fund:
  - (a) For the intergenerational benefit of public schools; and
- (b) In a manner that complies with the "Uniform Prudent Investor Act", article 1.1 of title 15; C.R.S. AND
  - (c) In a manner that targets the following investment objectives:
  - (I) PRESERVING THE PRINCIPAL OF THE PUBLIC SCHOOL FUND; AND
- (II) Providing substantial benefit to the beneficiaries of the public school fund through community investing as outlined in section 22-41-104.7.
- (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:
- (II) A policy establishing allowable investments that comply with section 22-41-104, SECTION 22-41-104.7, and section 3 of article IX of the state constitution; and
- (5) The board may enter into contracts with private professional fund managers, INVESTMENT ADVISORS, OR OTHER INVESTMENT PROFESSIONALS to provide expertise, technical support, and advice on investment market conditions and to PROVIDE SUPPORT FOR THE IMPLEMENTATION OF THE COMMUNITY INVESTMENT PORTFOLIO. 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. 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.

Government - State

**SECTION 3.** In Colorado Revised Statutes, 22-41-104, **amend** (1) and (2); and **add** (4) as follows:

- **22-41-104.** Lawful investments legislative declaration. (1) The state treasurer, as directed by the public school fund investment board, may invest and reinvest moneys MONEY accrued or accruing to the public school fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S., and bonds issued by school districts. The moneys MONEY may also be invested in stocks and other financial assets as specified in the public school fund investment board investment policy established as required in section 22-41-102.5 (4)(b); except that investment includes only mutual funds, index funds, and any other instrument that is not a direct investment in a corporation.
- (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 eighteen TWENTY-FOUR 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.
  - (4) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:
- (a) The mission of the public school fund is to support Colorado children and Colorado schools. The strategic investment of capital can achieve positive social outcomes and beneficial financial returns. The fund's intergenerational mission is best served by investing a portion of the fund's corpus in a way that advances clear, meaningful, and measurable outcomes through the community investment portfolio. Investments should be aligned with the fund's mission and should benefit Colorado schools and children.
- (b) Investment in communities can lead to increased construction of housing and affordable home ownership for teachers and public school employees, scaling of innovative educational tools, provision of capital for early childhood businesses, and subsidization of school facilities. These investments can improve the lives of Colorado families, increase educational opportunities, and advance the intergenerational mission of the fund.
- (c) The public purpose of the community investment portfolio within the public school fund is to amplify the benefit provided to Colorado schools and children by investing in Colorado children, families, and communities.
  - (d) Investing money in the public school fund into the community

INVESTMENT PORTFOLIO COMPLIES WITH THE "UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, AND SPECIFICALLY SECTION 15-1.1-102.5, BECAUSE THE ASSETS HAVE A "SPECIAL RELATIONSHIP OR SPECIAL VALUE" TO THE PURPOSES OF THE TRUST AND TO ONE OR MORE OF THE BENEFICIARIES. COMMUNITY INVESTMENTS BENEFIT COLORADO SCHOOL CHILDREN AND ADVANCE "THE INTERGENERATIONAL BENEFIT OF PUBLIC SCHOOLS" IN ACCORDANCE WITH SECTION 22-41-102.5 (3).

- (e) Housing developments that include preferences for public school employees promote a substantial, legitimate, and nondiscriminatory state interest that cannot be served by another practice with a less discriminatory effect; do not constitute source of income discrimination under section 24-34-501 (4.5) or 24-34-502; and comply with the federal "Fair Housing Act", 42 U. S.C. sec. 3601 et seq., part 5 of article 34 of title 24, and other state and local laws, ordinances, and resolutions.
- (f) The state treasurer may invest in asset classes including mutual funds and education-related community investments. Investment in these asset classes furthers the mission of the public school fund.

**SECTION 4.** In Colorado Revised Statutes, add 22-41-104.7 as follows:

- **22-41-104.7.** Community investment portfolio required investments creation legislative declaration definitions. (1) Definitions. As used in this section, unless the context otherwise requires:
- (a) "Community investment" means an investment that is intended to generate positive, measurable impact for Colorado school children, families, or communities while simultaneously generating financial returns. Community investments may have below-market rates of return.
- (b) "Fund" means the public school fund of the state created in Section 3 of Article IX of the State Constitution.
- (c) "PORTFOLIO" MEANS THE COMMUNITY INVESTMENT PORTFOLIO CREATED IN THIS SECTION.
- (d) "Program" means the educator first home ownership program created in this section.
- (e) "Program manager" means the Colorado housing and finance authority; except that, if the Colorado housing and finance authority elects at any time not to serve as program manager, the public school fund investment board shall select a replacement entity that agrees to serve as program manager.
- (f) "Public school employee" means any employee of a Colorado school district, charter school, institute charter school, board of cooperative educational services, or innovation zone.
  - (g) "Shared equity down payment assistance program" means a program

THROUGH WHICH A BORROWER RECEIVES FINANCIAL ASSISTANCE FOR A DOWN PAYMENT ON A PROPERTY IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

- (2) **Portfolio created.** The community investment portfolio is created within the fund. By July 1, 2032, the treasurer shall invest at least twenty percent of the fund's value into the portfolio.
- (3) Allowable portfolio investments. Money in the portfolio must be invested in community investments. Allowable community investments include but are not limited to:
  - (a) Bonds issued by Colorado school districts and charter schools;
- (b) CERTIFICATES OF PARTICIPATION ISSUED BY COLORADO SCHOOL DISTRICTS AND CHARTER SCHOOLS;
- (c) Mortgage pass-through securities and collateralized mortgage obligations secured by residential real estate, the majority of which is owned by public school employees;
- (d) Loans to the Colorado middle income housing authority for a revolving loan fund that funds rental housing developments that include preferences for public school employees;
- (e) Bonds issued by the middle income housing authority that fund rental housing developments that include preferences for public school employees;
- (f) Bonds or mortgage-backed securities issued by the Colorado housing and finance authority that fund housing developments that include preferences for public school employees or mortgages secured by residential real estate, the majority of which is owned by public school employees;
- (g) Mortgage revenue bonds that support public school employee mortgages with interest rates of three percent or less;
- (h) Loans to community development financial institutions or nonprofits with a history of providing affordable homeownership financing that fund:
  - (I) Housing that includes preferences for public school employees; or
- (II) LOW-INTEREST MORTGAGES SECURED BY RESIDENTIAL REAL ESTATE THAT IS OWNED BY PUBLIC SCHOOL EMPLOYEES;
- (i) DOWN PAYMENT SHARED APPRECIATION PRODUCTS SECURED BY RESIDENTIAL REAL ESTATE THAT IS OWNED BY PUBLIC SCHOOL EMPLOYEES; AND
- (j) Other investments that support the public purpose of the community investment portfolio.

- (4) Educator first home ownership program. (a) The educator first home ownership program is created within the portfolio. In order to support public school employee home ownership, address educator shortages, and support the retention of public school employees, the treasurer shall invest the following amounts into the program, except that the total investment amount shall never exceed the sum of the investments made in accordance with subsection (4)(c) of this section plus the total amount of shared equity down payment assistance that has been provided through the shared equity down payment assistance program, by the following dates:
- (I) By July 1, 2028, the greater of SIX percent of the fund's value or one hundred million dollars;
- (II) By July 1, 2030, the greater of twelve percent of the fund's value or two hundred million dollars.
- (b) The treasurer shall aim to invest a target of seventy-five percent of the money in the program into a shared equity down payment assistance program for public school employees to be managed by the program manager. The shared equity down payment assistance program must be established by July 1,2026. Once the shared equity down payment assistance program is established:
- (I) The public school fund investment board shall purchase from the program manager the mortgage products created through the shared equity down payment assistance program in tranches of reasonable amounts that are mutually agreed upon by the public school fund investment board and the program manager; and
- (II) The public school fund investment board may provide notice of any discontinuation of future investments that the program manager has not already committed to the shared equity down payment assistance program, which notice must be provided at least six months prior to discontinuation.
- (c) The treasurer shall aim to invest a target of twenty-five percent of the money in the program into allowable community investments described in subsection (3) of this section with the purpose of increasing the supply of houses for sale and access to home ownership in rural and other underserved communities.
- (d) The program manager shall establish underwriting criteria for the shared equity down payment assistance program and shall establish guidelines so that the shared down payment equity assistance program:
- (I) Prioritizes first-time home buyers that use the home as a primary residence;
  - (II) PROVIDES SHARED EQUITY DOWN PAYMENT ASSISTANCE TO PUBLIC SCHOOL

EMPLOYEES AND AIMS TO HELP AS MANY PUBLIC SCHOOL EMPLOYEES AS POSSIBLE ACHIEVE AFFORDABLE HOME OWNERSHIP;

- (III) ALLOWS APPRECIATION-SHARING BETWEEN THE SHARED EQUITY DOWN PAYMENT ASSISTANCE PROGRAM AND THE BORROWER, WITH:
- (A) The shared equity down payment assistance program's proportional share of appreciation in a property never exceeding the percentage of the total purchase price that the shared equity down payment assistance program's financial assistance represented, as further described in program guidelines; and
- (B) Any profit or loss realized in the share of appreciation described in subsection (4)(d)(III)(A) of this section being borne by the shared equity down payment assistance program rather than the borrower or the program manager.
- (IV) IF THE PROGRAM MANAGER IS THE COLORADO HOUSING AND FINANCE AUTHORITY, IS PAIRED WITH A FIRST MORTGAGE LOAN PROVIDED THROUGH THE PROGRAM MANAGER'S PARTICIPATING LENDER NETWORK THAT BEARS AN INTEREST RATE THAT IS AT OR BELOW THE PREVAILING MORTGAGE RATES.
- (e) Unless investments in the shared equity down payment assistance program have been discontinued and there is no fund money invested in the shared equity down payment assistance program, the program manager shall annually publish and present a report to the public school fund investment board on shared equity down payment assistance program outcomes, including:
- (I) The number of shared equity down payment assistance program borrowers;
- (II) THE GEOGRAPHIC DISTRIBUTION OF SHARED EQUITY DOWN PAYMENT ASSISTANCE PROGRAM BORROWERS;
- (III) THE AREA MEDIAN INCOME OF SHARED EQUITY DOWN PAYMENT ASSISTANCE PROGRAM BORROWERS;
- (IV) THE MEDIAN PURCHASE PRICE, MEDIAN LOAN AMOUNT, AND AVERAGE INTEREST RATE ON FIRST MORTGAGES FOR PUBLIC SCHOOL EMPLOYEES THAT BENEFIT FROM THE SHARED EQUITY DOWN PAYMENT ASSISTANCE PROGRAM;
- (V) The amount of money provided in down payment assistance by the shared equity down payment assistance program;
- (VI) THE AMOUNT OF PRINCIPAL REPAID AND MONEY RECEIVED AS SHARED APPRECIATION BY THE SHARED EQUITY DOWN PAYMENT ASSISTANCE PROGRAM; AND
- (VII) THE AMOUNT OF LOSS, IF ANY, EXPERIENCED BY THE SHARED EQUITY DOWN PAYMENT ASSISTANCE PROGRAM.

- (f) The program manager shall present the first annual report required by subsection (4)(e) of this section no later than December 1, 2027. Each annual report must be published on the program manager's website and distributed to: The house of representatives education committee and the senate education committee, or their successor committees; the public school fund investment board; and the Colorado department of education.
- (g) Nothing in this section prevents the use of other sources of state or local funding to be leveraged with the program.
- **SECTION 5. Appropriation.** (1) For the 2025-26 state fiscal year, \$375,900 is appropriated to the department of the treasury for use by administration. This appropriation is from the interest or income earned on the investment of the money in the public school fund pursuant to section 22-41-102 (3)(h)(I), C.R.S. To implement this act, administration may use this appropriation as follows:
- (a) \$300,000 for personal services, which amount is based on an assumption that the department will require an additional 2.0 FTE; and
  - (b) \$75,900 for operating expenses.
- **SECTION 6. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: June 4, 2025