

# SENATE BILL REPORT

## SB 5995

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As of January 30, 2020

**Title:** An act relating to establishing the Washington investment trust.

**Brief Description:** Establishing the Washington investment trust.

**Sponsors:** Senators Hasegawa, Das, Nguyen, Van De Wege, Keiser, Conway, Saldaña, Billig, Darneille, Takko, Liias and Hunt.

**Brief History:**

**Committee Activity:** Financial Institutions, Economic Development & Trade: 1/28/20.

**Brief Summary of Bill**

- Establishes the Washington Investment Trust (Trust) to serve as a depository for public funds including state funds and federal transportation funds.
- Authorizes the Trust to invest state funds to facilitate financing and construction of public infrastructure.

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**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE**

**Staff:** Clint McCarthy (786-7319)

**Background:** The state treasurer (treasurer) is responsible for the management of state funds including managing cash flows for state funds, issuing and managing state debt, and producing a detailed annual report on the condition of the State Treasury (Treasury). The Department of Financial Institutions (DFI) is the agency responsible for monitoring and regulating financial institutions, including banks, in Washington.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The Trust is created to serve as a depository for state monies and federal transportation funds and is authorized to manage and invest state monies in order to facilitate financing and construction of new and existing public infrastructure systems.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Washington Investment Trust Commission (Commission) is established as the primary governing authority of the Trust. The Commission is comprised of five statewide elected officials including the Governor, the lieutenant governor, the attorney general, the treasurer, and the state auditor. The Commission must begin operations by July 1, 2018, and may adopt rules regarding the standards and transparency requirements of the Trust. The Commission may delegate duties and powers necessary to implement the Trust's business to the Trust president. The Commission may also establish technical and advisory committees and consult with private sector experts as needed.

The Trust Transition Board (Transition Board) is established and is comprised of two representatives and two senators, one from each major caucus of the House of Representatives and the Senate, and seven citizen members. The citizen members are appointed by the president of the Senate and the speaker of the House, with one of the citizen members appointed as chair of the Transition Board. The Transition Board shall develop and make recommendations to the Commission regarding a start-up business plan for the Trust. The start-up plan must include plans and timelines for functions that are new and functions transitioning to the Trust that were previously performed by another entity, initial capital requirements of the Trust, and options for capitalizing the Trust.

The treasurer and local government agencies must deposit state monies and federal transportation funds into the Trust in accordance with the timeframe and guidelines determined by the Commission. The Commission must review state accounts that are not part of the Treasury and make recommendations to the Governor and the Legislature as to which accounts should be deposited in the Trust. The Trust may accept deposits from any public source, including federal funds.

All deposits in the Trust are guaranteed by the state rather than insured by the FDI. Administrative and strategic planning expenses of the Trust are funded from its earnings, subject to legislative authorization. The Trust must deposit, in the general fund, interest earnings that exceed required distributions and those necessary for the continued sound operation of the Trust. The Trust is exempt from the requirements of the Public Deposit Protection Commission.

The Commission and the Treasurer must jointly determine the amount of funds necessary to meet the operational needs of state government. The Treasurer retains authority to manage and invest the amount of funds necessary to meet the operational needs of state government.

The Trust is authorized to manage and invest state monies in order to facilitate financing of new and existing public infrastructure systems. By November 1, 2020, the Commission must present an implementation plan and any necessary legislation to the Governor and legislative committees that:

- identify any existing accounts in the Treasury associated with state infrastructure programs that the Trust recommends be transferred under its umbrella;
- describes additional infrastructure funding that the trust recommends; and
- demonstrates how the Trust plans to maximize revenues and public benefit.

The Trust must maintain capital adequacy and other standard indicators of safety and soundness monitored by the DFI. The director of DFI must examine the Trust, and the state auditor must conduct an annual audit of the Trust's accounts and financial transactions. The Trust must submit quarterly reports to the Commission. By December 1st of each year, the Commission must make an annual report to the Legislature on the affairs of the Trust.

An Investment Trust Advisory Board (Board) is created consisting of 11 members to review the Trust's operations and make recommendations regarding trust management and policies. The Governor shall appoint members with experience in trust activities, with at least six members with experience in finance. Members serve a three-year term at the pleasure of the Governor.

The financial and commercial information supplied by businesses or individuals during application for loans or program services and examination reports and information obtained by DFI from the Trust are exempt from public disclosure. The Trust may not make a loan to a board member, the president, or employees. The Trust is exempt from all fees and taxes levied by the state or its subdivisions.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 2020.

**Creates Committee/Commission/Task Force that includes Legislative members:** Yes.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Proposed Substitute:** PRO: This bill clarifies that the state bank would be more of a cooperative model than previous versions of the bill. The concept is that we have to run all of the states funds through the Bank of America. The BofA has been the only bidder whenever the state uses a bank for state funds. Private banks are profiting off of holding the state's funds. In a state banks, the state could reinvest the interest into more public infrastructure. The state has been running up against its state bonding limit for quite some time now. This has hampered the state's ability to maintain our infrastructure. The American Society of Civil Engineers has graded Washington state a D- on the condition of the state infrastructure. A state bank is a solution to meet our state's current and future infrastructure needs. Our entire capital budget was \$4.5 billion because it was constrained by the state debt limit. Imagine how much more we could invest if we had a state bank. The Bank of North Dakota has been in business for 100 years and has enjoyed 15 years of record profits. It has had 15 percent returns, while the state investment board's goal is to achieve 7 percent returns on its investments. Public Banks are in most civilized countries, while the U.S. relies on private banks. This should be a bipartisan issue. We need a better way to invest in local projects. The Public Works funds have not been making their way back to local governments and is taking away funds from projects like fiber, roads, and other utilities.

CON: At a minimum, stakeholders should see the state bank report due back to the Legislature. There are five statewide elected officials that would bring a political element to the process, which would make the state banks a more political entity. Local governments should be able to use whatever bank that meets their needs. A failed state bank would be

catastrophic for our state's credit rating. The International Monetary Fund recommended that Germany invest in private banks rather than its public banks because the private banks operated more efficiently. Depositors would have to take a lower rate of return in order for the state to fund projects more efficiently. The State Investment Board cannot be used to capitalize the bank. WSIB funds need to be used exclusively for the benefit of the beneficiaries. If it were to be used, WSIB could lose its tax exempt status for retirement plans and deferred compensation plan. WSIB acts as a fiduciary for its funds. If WSIB invested in the state trust, it would violate its fiduciary responsibility because the funds in the bank would be used for the benefit of the beneficiaries. This would likely lead to lawsuits on behalf of beneficiaries.

**Persons Testifying:** PRO: Senator Bob Hasegawa, Prime Sponsor; Christopher Stearns, PUD Commissioner of Thurston County.

CON: Brad Tower, Community Bankers of Washington.

OTHER: Trent House, Washington Bankers Association; Joe Adamack, Northwest Credit Union Association; Chris Phillips, State Investment Board.

**Persons Signed In To Testify But Not Testifying:** No one.