

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0406.01 Brita Darling x2241

HOUSE BILL 22-1146

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House Committees

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Appropriations

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Education
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE INVESTMENT OF MONEY IN THE PUBLIC SCHOOL**
102 **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 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.

The bill creates a working group, convened by the state treasurer,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
May 4, 2022

SENATE
2nd Reading Unamended
May 3, 2022

HOUSE
3rd Reading Unamended
April 22, 2022

HOUSE
Amended 2nd Reading
April 21, 2022

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 joint budget committee and to the education committees of the house of representatives and of the senate during the 2023 legislative session.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-41-102.5, **amend**
3 (2) and (4)(a)(III); and **add** (6) as follows:

4 **22-41-102.5. Public school fund investment board - creation**
5 **- working group - report - repeal.** (2) (a) Except for the state treasurer,
6 members of the board serve two-year terms and may not serve more than
7 three consecutive terms, and none of the board members, except for the
8 treasurer, may hold any state elective office. The state board of land
9 commissioners or the state treasurer may remove their appointed members
10 for any cause that renders the member incapable of discharging or unfit
11 to discharge ~~his or her~~ THE MEMBER'S duty to the board. The state board
12 of land commissioners or the state treasurer may fill any vacancy by
13 appointment, and such appointment must be made no later than ninety
14 days after the date of the vacancy. A member appointed to fill a vacancy
15 serves until the expiration of the term for which the vacancy was filled.
16 Members of the board serve without compensation but may receive
17 reimbursement for travel and other necessary expenses actually incurred

1 in the performance of their duties. The reimbursements are paid from the
2 interest and income earned on the deposit and investment of the public
3 school fund subject to the requirements set forth in section 22-41-102.

4 (b) BEGINNING WITH THE STATE TREASURER'S APPOINTMENTS TO
5 THE BOARD TO REPLACE EXISTING BOARD MEMBERS WHOSE FINAL TERMS
6 EXPIRE ON OR AFTER JULY 1, 2022, THE STATE TREASURER MAY STAGGER
7 THE TERMS OF NEWLY APPOINTED BOARD MEMBERS TO ENSURE THAT THE
8 TERMS OF NO MORE THAN TWO OF THE STATE TREASURER'S THREE
9 APPOINTMENTS TO THE BOARD EXPIRE IN THE SAME YEAR. ■ ■ IN THE
10 STATE TREASURER'S DISCRETION, THE FIRST THREE NEW MEMBERS
11 APPOINTED BY THE STATE TREASURER ON OR AFTER JULY 1, 2022, MAY
12 SERVE AN INITIAL TERM OF BETWEEN ONE AND THREE YEARS, AS
13 DETERMINED BY THE STATE TREASURER. AFTER THE INITIAL TERM, THE
14 MEMBERS SERVE TWO-YEAR TERMS FOR A TOTAL OF THREE CONSECUTIVE
15 TERMS, AS SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION.

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

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

22 (6) (a) THE STATE TREASURER SHALL CONVENE A WORKING GROUP
23 TO CONSIDER OPPORTUNITIES TO IMPROVE THE GROWTH OF THE PUBLIC
24 SCHOOL FUND AND ITS DISTRIBUTIONS FOR THE INTERGENERATIONAL
25 BENEFIT OF PUBLIC SCHOOLS.

26 (b) THE STATE TREASURER, IN CONSULTATION WITH THE BOARD,
27 SHALL SELECT THE MEMBERS OF THE WORKING GROUP, WHICH MAY

1 INCLUDE:

2 (I) MEMBERS WITH INVESTMENT MANAGEMENT EXPERTISE,
3 INCLUDING KNOWLEDGE OF LONG-TERM ENDOWMENT INVESTMENT AND
4 SPENDING POLICIES;

5 (II) MEMBERS WITH TAX EXPERTISE, INCLUDING KNOWLEDGE
6 RELATING TO FUNDING SOURCES FOR CURRENT AND FUTURE CERTIFICATE
7 OF PARTICIPATION AGREEMENTS FOR PUBLIC SCHOOL CAPITAL
8 CONSTRUCTION;

9 (III) MEMBERS WITH LEGAL EXPERTISE, INCLUDING KNOWLEDGE
10 OF THE COLORADO CONSTITUTION AND STATUTES GOVERNING THE ISSUES
11 STUDIED BY THE WORKING GROUP;

12 (IV) MEMBERS WITH OTHER RELEVANT EXPERTISE, AS
13 DETERMINED BY THE STATE TREASURER; AND

14 (V) MEMBERS WHO REPRESENT INTERESTS SERVED THROUGH
15 REVENUE FROM STATE SCHOOL TRUST LANDS OR INTEREST AND INCOME
16 FROM THE PUBLIC SCHOOL FUND.

17 (c) THE WORKING GROUP SHALL CONSIDER:

18 (I) THE DISTRIBUTION OF REVENUE FROM STATE SCHOOL TRUST
19 LANDS;

20 (II) INVESTMENT OPPORTUNITIES TO INCREASE GROWTH AND
21 INCOME EARNED ON MONEY IN THE PUBLIC SCHOOL FUND;

22 (III) THE DISTRIBUTION OF INTEREST AND INCOME FROM THE
23 PUBLIC SCHOOL FUND AND WAYS TO CREATE A MORE SUSTAINABLE,
24 LONG-TERM DISTRIBUTION POLICY;

25 (IV) POLICIES TO INCREASE THE PRINCIPAL OF THE PUBLIC SCHOOL
26 FUND;

27 (V) THE IMPACT OF COLORADO CONSTITUTIONAL AND STATUTORY

1 PROVISIONS ON THE INVESTMENT OF MONEY IN THE PUBLIC SCHOOL FUND,
2 INCLUDING PROVISIONS RELATING TO CERTIFICATE OF PARTICIPATION
3 AGREEMENTS; AND

4 (VI) ANY OTHER ISSUES, AS DETERMINED BY THE STATE
5 TREASURER.

6 (d) NOT LATER THAN FEBRUARY 28, 2023, THE STATE TREASURER
7 SHALL REPORT TO THE JOINT BUDGET COMMITTEE AND TO THE EDUCATION
8 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE, OR
9 THEIR SUCCESSOR COMMITTEES, CONCERNING THE ISSUES CONSIDERED BY
10 THE WORKING GROUP, THE FINDINGS AND RECOMMENDATIONS OF THE
11 WORKING GROUP, AND ANY NECESSARY CHANGES TO COLORADO LAW TO
12 IMPLEMENT RECOMMENDATIONS OF THE WORKING GROUP.

13 (e) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2023.

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

16 **22-41-104. Lawful investments.** (2) The state treasurer has
17 authority, to be exercised at the state treasurer's discretion, to effect
18 exchanges or sales whenever such exchanges or sales will not result in an
19 aggregate loss of principal to the public school fund. An aggregate loss
20 of principal to the public school fund occurs only when an exchange or
21 sale that resulted in an initial loss of principal is not offset by a gain on an
22 exchange or sale in the fund within ~~twelve~~ EIGHTEEN months. THE
23 CALCULATION OF AN AGGREGATE LOSS MUST ALSO INCLUDE ANY GAINS
24 THAT WERE REALIZED IN THE TWELVE MONTHS PRIOR TO THE LOSS OF
25 PRINCIPAL.

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

1 **22-41-102. Fund inviolate.** (3) (g) For the 2019-20 state fiscal
2 ~~year, and each state fiscal year thereafter~~ YEAR THROUGH THE 2021-22
3 STATE FISCAL YEAR, interest or income earned on the investment of the
4 ~~moneys~~ MONEY in the public school fund must be used or credited in the
5 following order:

6 (h) FOR THE 2022-23 STATE FISCAL YEAR, AND EACH STATE FISCAL
7 YEAR THEREAFTER, INTEREST OR INCOME EARNED ON THE INVESTMENT OF
8 THE MONEY IN THE PUBLIC SCHOOL FUND MUST BE USED OR CREDITED AS
9 FOLLOWS:

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

17 (II) AFTER THE APPROPRIATION MADE PURSUANT TO SUBSECTION
18 (3)(h)(I) OF THIS SECTION, ALL REMAINING INTEREST AND INCOME, NOT TO
19 EXCEED TWENTY-ONE MILLION DOLLARS, SHALL BE CREDITED TO THE
20 STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 FOR
21 DISTRIBUTION AS PROVIDED IN THAT SECTION;

22 (III) AFTER MONEY IN THE PUBLIC SCHOOL FUND HAS BEEN
23 APPROPRIATED OR CREDITED PURSUANT TO SUBSECTIONS (3)(h)(I) AND
24 (3)(h)(II) OF THIS SECTION, ALL REMAINING INTEREST AND INCOME, NOT
25 TO EXCEED TWENTY MILLION DOLLARS, SHALL BE CREDITED TO THE
26 RESTRICTED ACCOUNT OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION
27 ASSISTANCE FUND, WHICH ACCOUNT IS CREATED IN SECTION 22-43.7-104

1 (5), FOR USE AS PROVIDED IN THAT SECTION; AND

2 (IV) ANY ADDITIONAL INTEREST AND INCOME REMAINING IN THE
3 PUBLIC SCHOOL FUND MAY BE CREDITED AS SPECIFIED BY THE GENERAL
4 ASSEMBLY, TAKING INTO CONSIDERATION THE RECOMMENDATIONS OF THE
5 PUBLIC SCHOOL FUND INVESTMENT BOARD DESCRIBED IN SECTION
6 22-41-102.5 (4)(a)(III), OR, IF NOT CREDITED PURSUANT TO THIS
7 SUBSECTION (3)(h)(IV), REMAINS IN THE PUBLIC SCHOOL FUND.

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