

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 13-0979.01 Richard Sweetman x4333

HOUSE BILL 13-1297

HOUSE SPONSORSHIP

McLachlan and Schafer, Gerou

SENATE SPONSORSHIP

Roberts and Nicholson,

House Committees
Finance

Senate Committees
Finance

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF CERTAIN INSTITUTIONS OF HIGHER**
102 **EDUCATION TO INVEST MONEYS.**

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://www.leg.state.co.us/billsummaries>.)

The board of trustees of Colorado school of mines and the board of trustees of Fort Lewis college (boards) are granted exclusive control and direction of all funds of and appropriations to their institutions. If a board elects to invest the assets of its institution, it must establish an investment advisory committee and a written investment policy. Unless

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
May 2, 2013

HOUSE
3rd Reading Unamended
April 25, 2013

HOUSE
Amended 2nd Reading
April 23, 2013

otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, a board may hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests. Under certain conditions, a board may hold certificates of stock in the name of a selected nominee without disclosing the fact that the certificates are held by the board or are held in a fiduciary capacity.

Each board must maintain a list of certificates of stock held in the names of nominees and make the list available for public inspection during normal business hours.

Each board must report to the joint budget committee at each regular legislative session regarding investments made and the earnings or losses derived therefrom. Neither board shall request from the general assembly any general fund appropriations to replace any losses incurred due to investment activities.

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

2 **SECTION 1.** In Colorado Revised Statutes, 23-41-103.5, **amend**
3 (1); and **add** (4) as follows:

4 **23-41-103.5. The Colorado school of mines fund - creation -**
5 **control - use.** (1) There is hereby created in the state treasury the
6 Colorado school of mines fund which shall be under the control of ~~AND~~
7 ~~ADMINISTERED BY~~ the board of trustees of the Colorado school of mines
8 in accordance with the provisions of this article. ~~and any moneys in said~~
9 ~~fund shall be invested by the state treasurer's office. Except as otherwise~~
10 ~~allowed by section 24-36-103 (2), C.R.S., all~~ THE BOARD OF TRUSTEES
11 SHALL HAVE AUTHORITY AND RESPONSIBILITY FOR ALL MONEYS OF THE
12 BOARD OF TRUSTEES AND OF COLORADO SCHOOL OF MINES. THE BOARD OF
13 TRUSTEES SHALL DESIGNATE, PURSUANT TO ITS CONSTITUTIONAL AND
14 STATUTORY AUTHORITY, THOSE moneys received or acquired by the board
15 of trustees or by the Colorado school of mines, whether by appropriation,
16 grant, contract, or gift, by sale or lease of surplus real or personal
17 property, or by any other means, whose disposition is not otherwise

1 provided for by law, ~~and all interest derived from the deposit and~~
2 ~~investment of moneys in the fund shall be credited to the fund~~ THAT
3 ~~SHALL~~ BE CREDITED TO THE FUND. ALL INTEREST DERIVED FROM THE
4 DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND MUST BE CREDITED TO
5 THE FUND. The moneys in the fund are hereby continuously appropriated
6 to the board of trustees and shall remain in the fund UNDER THE CONTROL
7 OF THE BOARD OF TRUSTEES and shall not be transferred or revert to the
8 general fund of the state at the end of any fiscal year.

9 (4) IF THE BOARD OF TRUSTEES VOTES TO INVEST COLORADO
10 SCHOOL OF MINES ASSETS PURSUANT TO SECTIONS 23-41-103.6 AND
11 23-41-103.7, THE BOARD SHALL ESTABLISH AN INVESTMENT ADVISORY
12 COMMITTEE CONSISTING OF AT LEAST FIVE MEMBERS TO MAKE
13 RECOMMENDATIONS TO THE BOARD REGARDING INVESTMENTS. THE
14 ~~INVESTMENT ADVISORY COMMITTEE MAY INCLUDE THE TREASURER OF THE~~
15 ~~BOARD AND UP TO~~ THREE REPRESENTATIVES FROM THE FINANCIAL
16 COMMUNITY.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 23-41-103.6,
18 23-41-103.7, and 23-41-103.8 as follows:

19 **23-41-103.6. Investments in consolidated funds.** UNLESS
20 OTHERWISE RESTRAINED BY THE TERMS OF A WILL, TRUST AGREEMENT, OR
21 OTHER INSTRUMENT OF GIFT, THE BOARD OF TRUSTEES MAY HOLD
22 INVESTMENTS IN ONE OR MORE CONSOLIDATED INVESTMENT FUNDS IN
23 WHICH THE PARTICIPATING TRUSTS OR ACCOUNTS HAVE UNDIVIDED
24 INTERESTS. ~~TO THE EXTENT PERMITTED BY LAW, THE BOARD MAY ALSO~~
25 ~~TRANSFER MONEY FOR INVESTMENT IN CONSOLIDATED FUNDS HELD BY A~~
26 ~~RELATED ENTITY SO LONG AS THE INVESTMENTS ARE SEPARATELY~~
27 ~~ACCOUNTED FOR.~~

1 **23-41-103.7. Corporate stock in name of nominee authorized.**

2 (1) IN ORDER TO FACILITATE THE INVESTMENT, REINVESTMENT, SALE,
3 AND DISPOSITION OF CORPORATE STOCKS, THE BOARD OF TRUSTEES MAY
4 HOLD CERTIFICATES OF STOCK IN THE NAME OF A NOMINEE OF ITS
5 SELECTION WITHOUT DISCLOSING THE FACT THAT THE CERTIFICATES ARE
6 HELD BY THE BOARD OF TRUSTEES OR ARE HELD IN A FIDUCIARY CAPACITY
7 IF:

8 (a) THE RECORDS OF THE BOARD OF TRUSTEES AND ALL REPORTS
9 OR ACCOUNTS RENDERED BY IT CLEARLY SHOW THE OWNERSHIP OF THE
10 STOCK BY THE BOARD AND THE FACTS REGARDING THE BOARD'S HOLDING;
11 AND

12 (b) THE NOMINEE DEPOSITS WITH THE BOARD OF TRUSTEES A
13 SIGNED STATEMENT SHOWING THE TRUST OWNERSHIP, ENDORSES THE
14 STOCK CERTIFICATE IN BLANK, AND DOES NOT HAVE POSSESSION OF OR
15 ACCESS TO THE STOCK CERTIFICATE EXCEPT UNDER THE IMMEDIATE
16 SUPERVISION OF THE TREASURER OF COLORADO SCHOOL OF MINES OR
17 ANOTHER PERSON THAT THE BOARD OF TRUSTEES HAS DESIGNATED.

18 (2) THE BOARD OF TRUSTEES SHALL MAINTAIN A LIST OF
19 CERTIFICATES OF STOCK HELD IN THE NAMES OF NOMINEES PURSUANT TO
20 THIS SECTION AND SHALL MAKE THE LIST AVAILABLE FOR PUBLIC
21 INSPECTION DURING NORMAL BUSINESS HOURS.

22 (3) THE BOARD OF TRUSTEES SHALL REPORT TO THE JOINT BUDGET
23 COMMITTEE OF THE GENERAL ASSEMBLY AT EACH REGULAR SESSION,
24 BEGINNING AFTER THE EFFECTIVE DATE OF THIS SECTION, REGARDING THE
25 INVESTMENTS MADE AND THE EARNINGS OR LOSSES DERIVED THEREFROM
26 UNDER THE PROVISIONS OF THIS SECTION AND SECTION 23-41-103.6. THE
27 REPORT MUST INCLUDE INFORMATION INDICATING THE EXTENT TO WHICH


1 THE INVESTMENT MANAGERS HIRED BY THE BOARD OF TRUSTEES HAVE
2 ACHIEVED OR FAILED TO ACHIEVE THE PERFORMANCE BENCHMARKS
3 ESTABLISHED PURSUANT TO SECTION 23-41-103.8 (1) (b).

4 **23-41-103.8. Investment policy - fiduciary responsibility.**

5 (1) IF THE BOARD OF TRUSTEES VOTES TO INVEST COLORADO SCHOOL OF
6 MINES ASSETS PURSUANT TO SECTIONS 23-41-103.6 AND 23-41-103.7,
7 THEN THE BOARD OF TRUSTEES SHALL DEVELOP AND ANNUALLY REVIEW
8 A WRITTEN INVESTMENT POLICY FOR COLORADO SCHOOL OF MINES, WHICH
9 POLICY SHALL INCLUDE:

10 (a) AN ACKNOWLEDGMENT BY THE BOARD OF TRUSTEES OF THE
11 BOARD'S FIDUCIARY RESPONSIBILITY WITH RESPECT TO OVERSIGHT OF THE
12 INVESTMENT POLICY OF COLORADO SCHOOL OF MINES; AND

13 (b) THE ESTABLISHMENT OF PERFORMANCE BENCHMARKS FOR
14 EACH INVESTMENT MANAGER HIRED BY THE BOARD OF TRUSTEES
15 PURSUANT TO SECTIONS 23-41-103.6 AND 23-41-103.7.

16 

17 (2) IF THE BOARD OF TRUSTEES VOTES TO INVEST MONEYS
18 PURSUANT TO SECTIONS 23-41-103.6 AND 23-41-103.7, THE BOARD SHALL
19 REQUIRE ANNUAL FINANCIAL STATEMENTS TO BE SUBMITTED TO THE
20 BOARD OF TRUSTEES, THE STATE TREASURER, THE STATE AUDITOR, AND
21 THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY. THE
22 FINANCIAL STATEMENTS MUST INCLUDE, AT A MINIMUM, INFORMATION
23 CONCERNING INVESTMENT INCOME, GAINS, AND LOSSES, IF ANY, OF
24 COLORADO SCHOOL OF MINES. THE FINANCIAL STATEMENTS MUST REPORT
25 THE PERFORMANCE OF INVESTMENTS ON BOTH A GROSS-OF-FEE AND A
26 NET-OF-FEE BASIS.

27 (3) IF THE BOARD OF TRUSTEES VOTES TO INVEST MONEYS

1 PURSUANT TO SECTIONS 23-41-103.6 AND 23-41-103.7, THE BOARD SHALL
2 ENSURE THAT, AT ALL TIMES, LIQUID INVESTMENT ASSETS REMAIN AT A
3 LEVEL SUFFICIENT TO PAY FOR ALL BUDGETED, OUTSTANDING
4 OPERATIONAL OBLIGATIONS AND EXPENSES OCCURRING WITHIN THE
5 CURRENT FISCAL YEAR.

6 (4) COLORADO SCHOOL OF MINES SHALL NOT REQUEST FROM THE
7 GENERAL ASSEMBLY ANY GENERAL FUND APPROPRIATIONS TO REPLACE
8 ANY LOSSES INCURRED DUE TO INVESTMENT ACTIVITIES CONDUCTED BY
9 THE BOARD OF TRUSTEES PURSUANT TO SECTIONS 23-41-103.6 AND
10 23-41-103.7.

11 **SECTION 3.** In Colorado Revised Statutes, **amend** 23-41-123 as
12 follows:

13 **23-41-123. Moneys from Colorado school of mines lands.** All
14 moneys that arise from the sale of lands ~~acquired other than by~~
15 ~~appropriation~~, belonging to the Colorado school of mines, or from the
16 leasing of lands belonging to the said school, or from interest arising on
17 the investment of such funds ~~shall be deposited in the Colorado school of~~
18 ~~mines fund created in section 23-41-103.5~~ and are placed under the
19 exclusive control of the board of trustees of the ~~said~~ COLORADO school
20 OF MINES. The state treasurer is instructed to turn over to the ~~said~~ BOARD
21 OF trustees all the moneys, warrants, bonds, and other securities of any
22 nature that have come from the sale of said lands belonging to said
23 school.

24 **SECTION 4.** In Colorado Revised Statutes, 23-52-103, **amend**
25 (1); and **add** (4) as follows:

26 **23-52-103. Board of trustees for Fort Lewis college fund -**
27 **creation - control - use.** (1) Effective September 1, 2002, there is

1 created in the state treasury the board of trustees for Fort Lewis college
2 fund, referred to in this section as the "fund", which shall be under the
3 control of and administered by the board of trustees in accordance with
4 the provisions of this article. ~~Except as otherwise allowed by state law,~~
5 ~~including but not limited to section 24-36-103 (2), C.R.S.,~~ all THE BOARD
6 OF TRUSTEES HAS AUTHORITY AND RESPONSIBILITY FOR ALL MONEYS OF
7 THE BOARD OF TRUSTEES AND OF FORT LEWIS COLLEGE. THE BOARD OF
8 TRUSTEES SHALL DESIGNATE, PURSUANT TO ITS STATUTORY AUTHORITY,
9 THOSE moneys received or acquired by the board of trustees or by Fort
10 Lewis college, ~~shall be deposited in the fund,~~ whether received by
11 appropriation, grant, contract, or gift or by sale or lease of surplus real or
12 personal property or by any other means, whose disposition is not
13 otherwise provided for by law, THAT MAY BE CREDITED TO THE FUND. All
14 interest derived from the deposit and investment of moneys in the fund
15 shall be credited to the fund. The moneys in the fund are hereby
16 continuously appropriated to the board of trustees and shall remain in the
17 fund UNDER THE CONTROL OF THE BOARD OF TRUSTEES and shall not be
18 transferred or revert to the general fund of the state at the end of any
19 fiscal year.

20 (4) IF THE BOARD OF TRUSTEES VOTES TO INVEST FORT LEWIS
21 COLLEGE'S ASSETS PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4,
22 THE BOARD SHALL ESTABLISH AN INVESTMENT ADVISORY COMMITTEE
23 CONSISTING OF AT LEAST FIVE MEMBERS TO MAKE RECOMMENDATIONS TO
24 THE BOARD REGARDING INVESTMENTS. THE INVESTMENT ADVISORY
25 COMMITTEE, AT A MINIMUM, SHALL INCLUDE THE FORT LEWIS COLLEGE
26 TREASURER, A MEMBER OF THE BOARD, AND THREE REPRESENTATIVES
27 FROM THE FINANCIAL COMMUNITY.

1 **SECTION 5.** In Colorado Revised Statutes, **add** 23-52-103.3,
2 23-52-103.4, and 23-52-103.5 as follows:

3 **23-52-103.3. Investments in consolidated funds.** UNLESS
4 OTHERWISE RESTRAINED BY THE TERMS OF A WILL, TRUST AGREEMENT, OR
5 OTHER INSTRUMENT OF GIFT, THE BOARD OF TRUSTEES MAY HOLD
6 INVESTMENTS IN ONE OR MORE CONSOLIDATED INVESTMENT FUNDS IN
7 WHICH THE PARTICIPATING TRUSTS OR ACCOUNTS HAVE UNDIVIDED
8 INTERESTS.

9 **23-52-103.4. Corporate stock in name of nominee authorized.**

10 (1) IN ORDER TO FACILITATE THE INVESTMENT, REINVESTMENT, SALE,
11 AND DISPOSITION OF CORPORATE STOCKS, THE BOARD OF TRUSTEES MAY
12 HOLD CERTIFICATES OF STOCK IN THE NAME OF A NOMINEE OF ITS
13 SELECTION WITHOUT DISCLOSING THE FACT THAT THE CERTIFICATES ARE
14 HELD BY THE BOARD OF TRUSTEES OR ARE HELD IN A FIDUCIARY CAPACITY
15 IF:

16 (a) THE RECORDS OF THE BOARD OF TRUSTEES AND ALL REPORTS
17 OR ACCOUNTS RENDERED BY IT CLEARLY SHOW THE OWNERSHIP OF THE
18 STOCK BY THE BOARD AND THE FACTS REGARDING THE BOARD'S HOLDING;
19 AND

20 (b) THE NOMINEE DEPOSITS WITH THE BOARD OF TRUSTEES A
21 SIGNED STATEMENT SHOWING THE TRUST OWNERSHIP, ENDORSES THE
22 STOCK CERTIFICATE IN BLANK, AND DOES NOT HAVE POSSESSION OF OR
23 ACCESS TO THE STOCK CERTIFICATE EXCEPT UNDER THE IMMEDIATE
24 SUPERVISION OF THE TREASURER OF FORT LEWIS COLLEGE OR ANOTHER
25 PERSON THAT THE BOARD OF TRUSTEES HAS DESIGNATED.

26 (2) THE BOARD OF TRUSTEES SHALL MAINTAIN A LIST OF
27 CERTIFICATES OF STOCK HELD IN THE NAMES OF NOMINEES PURSUANT TO

1 THIS SECTION AND SHALL MAKE THE LIST AVAILABLE FOR PUBLIC
2 INSPECTION DURING NORMAL BUSINESS HOURS.

3 (3) THE BOARD OF TRUSTEES SHALL REPORT TO THE JOINT BUDGET
4 COMMITTEE OF THE GENERAL ASSEMBLY AT EACH REGULAR SESSION,
5 BEGINNING AFTER THE EFFECTIVE DATE OF THIS SECTION, REGARDING THE
6 INVESTMENTS MADE AND THE EARNINGS OR LOSSES DERIVED THEREFROM
7 UNDER THE PROVISIONS OF THIS SECTION AND SECTION 23-52-103.3. THE
8 REPORT MUST INCLUDE INFORMATION INDICATING THE EXTENT TO WHICH
9 THE INVESTMENT MANAGERS HIRED BY THE BOARD OF TRUSTEES HAVE
10 ACHIEVED OR FAILED TO ACHIEVE THE PERFORMANCE BENCHMARKS
11 ESTABLISHED PURSUANT TO SECTION 23-52-103.5 (1) (b).

12 **23-52-103.5. Investment policy - fiduciary responsibility.**

13 (1) IF THE BOARD OF TRUSTEES VOTES TO INVEST FORT LEWIS COLLEGE'S
14 ASSETS PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4, THEN THE
15 BOARD OF TRUSTEES SHALL DEVELOP AND ANNUALLY REVIEW A WRITTEN
16 INVESTMENT POLICY FOR FORT LEWIS COLLEGE, WHICH POLICY MUST
17 INCLUDE:

18 (a) AN ACKNOWLEDGMENT BY THE BOARD OF TRUSTEES OF THE
19 BOARD'S FIDUCIARY RESPONSIBILITY WITH RESPECT TO OVERSIGHT OF THE
20 INVESTMENT POLICY OF FORT LEWIS COLLEGE; AND

21 (b) THE ESTABLISHMENT OF PERFORMANCE BENCHMARKS FOR
22 EACH INVESTMENT MANAGER HIRED BY THE BOARD OF TRUSTEES
23 PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4.

24 (2) IN SELECTING INVESTMENT MANAGERS FOR THE PURPOSES OF
25 THIS SECTION, THE BOARD OF TRUSTEES SHALL USE AN OPEN AND
26 COMPETITIVE PROCESS.

27 (3) IF THE BOARD OF TRUSTEES VOTES TO INVEST MONEYS

1 PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4, THE BOARD SHALL
2 REQUIRE ANNUAL FINANCIAL STATEMENTS TO BE SUBMITTED TO THE
3 BOARD OF TRUSTEES, THE STATE TREASURER, THE STATE AUDITOR, AND
4 THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY. THE
5 FINANCIAL STATEMENTS MUST INCLUDE, AT A MINIMUM, INFORMATION
6 CONCERNING INVESTMENT INCOME, GAINS, AND LOSSES, IF ANY, OF FORT
7 LEWIS COLLEGE. THE FINANCIAL STATEMENTS MUST REPORT THE
8 PERFORMANCE OF INVESTMENTS ON BOTH A GROSS-OF-FEE AND A
9 NET-OF-FEE BASIS.

10 (4) IF THE BOARD OF TRUSTEES VOTES TO INVEST MONEYS
11 PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4, THE BOARD SHALL
12 ENSURE THAT, AT ALL TIMES, LIQUID INVESTMENT ASSETS REMAIN AT A
13 LEVEL SUFFICIENT TO PAY FOR ALL BUDGETED, OUTSTANDING
14 OPERATIONAL OBLIGATIONS AND EXPENSES OCCURRING WITHIN THE
15 CURRENT FISCAL YEAR.

16 (5) FORT LEWIS COLLEGE SHALL NOT REQUEST FROM THE GENERAL
17 ASSEMBLY ANY GENERAL FUND APPROPRIATIONS TO REPLACE ANY LOSSES
18 INCURRED DUE TO INVESTMENT ACTIVITIES CONDUCTED BY THE BOARD OF
19 TRUSTEES PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4.

20 **SECTION 6. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

- 1 November 2014 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.