

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

INTRODUCED

LLS NO. 13-0979.01 Richard Sweetman x4333

HOUSE BILL 13-1297

HOUSE SPONSORSHIP

McLachlan and Schafer, Gerou

SENATE SPONSORSHIP

Roberts,

House Committees
Finance

Senate Committees

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.

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 the
7 board of trustees of the Colorado school of mines in accordance with the
8 provisions of this article, and any moneys in said fund shall be invested
9 by the state treasurer's office. ~~Except as otherwise allowed by section~~
10 ~~24-36-103(2), C.R.S., all~~ THE BOARD OF TRUSTEES HAS AUTHORITY AND
11 RESPONSIBILITY FOR ALL MONEYS OF THE COLORADO SCHOOL OF MINES.
12 THE BOARD OF TRUSTEES SHALL DESIGNATE, PURSUANT TO ITS STATUTORY
13 AUTHORITY, THOSE moneys received or acquired by the board of trustees
14 or by the Colorado school of mines, whether by appropriation, grant,
15 contract, or gift, by sale or lease of surplus real or personal property, or
16 by any other means, whose disposition is not otherwise provided for by
17 law, ~~and all interest derived from the deposit and investment of moneys~~

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

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

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

18 **23-41-103.6. Investments in consolidated funds.** UNLESS
19 OTHERWISE RESTRAINED BY THE TERMS OF A WILL, TRUST AGREEMENT, OR
20 OTHER INSTRUMENT OF GIFT, THE BOARD OF TRUSTEES MAY HOLD
21 INVESTMENTS IN ONE OR MORE CONSOLIDATED INVESTMENT FUNDS IN
22 WHICH THE PARTICIPATING TRUSTS OR ACCOUNTS HAVE UNDIVIDED
23 INTERESTS.

24 **23-41-103.7. Corporate stock in name of nominee authorized.**

25 (1) IN ORDER TO FACILITATE THE INVESTMENT, REINVESTMENT, SALE,
26 AND DISPOSITION OF CORPORATE STOCKS, THE BOARD OF TRUSTEES MAY
27 HOLD CERTIFICATES OF STOCK IN THE NAME OF A NOMINEE OF ITS

1 SELECTION WITHOUT DISCLOSING THE FACT THAT THE CERTIFICATES ARE
2 HELD BY THE BOARD OF TRUSTEES OR ARE HELD IN A FIDUCIARY CAPACITY
3 IF:

4 (a) THE RECORDS OF THE BOARD OF TRUSTEES AND ALL REPORTS
5 OR ACCOUNTS RENDERED BY IT CLEARLY SHOW THE OWNERSHIP OF THE
6 STOCK BY THE BOARD AND THE FACTS REGARDING THE BOARD'S HOLDING;
7 AND

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

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

18 (3) THE BOARD OF TRUSTEES SHALL REPORT TO THE JOINT BUDGET
19 COMMITTEE OF THE GENERAL ASSEMBLY AT EACH REGULAR SESSION,
20 BEGINNING AFTER THE EFFECTIVE DATE OF THIS SECTION, REGARDING THE
21 INVESTMENTS MADE AND THE EARNINGS OR LOSSES DERIVED THEREFROM
22 UNDER THE PROVISIONS OF THIS SECTION AND SECTION 23-41-103.6. THE
23 REPORT MUST INCLUDE INFORMATION INDICATING THE EXTENT TO WHICH
24 THE INVESTMENT MANAGERS HIRED BY THE BOARD OF TRUSTEES HAVE
25 ACHIEVED OR FAILED TO ACHIEVE THE PERFORMANCE BENCHMARKS
26 ESTABLISHED PURSUANT TO SECTION 23-41-103.8 (1) (b).

27 **23-41-103.8. Investment policy - fiduciary responsibility.**

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

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

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

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

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

25 (4) IF THE BOARD OF TRUSTEES VOTES TO INVEST MONEYS
26 PURSUANT TO SECTIONS 23-41-103.6 AND 23-41-103.7, THE BOARD SHALL
27 ENSURE THAT, AT ALL TIMES, LIQUID INVESTMENT ASSETS REMAIN AT A

1 LEVEL SUFFICIENT TO PAY FOR ALL BUDGETED, OUTSTANDING
2 OPERATIONAL OBLIGATIONS AND EXPENSES OCCURRING WITHIN THE
3 CURRENT FISCAL YEAR.

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

9 **SECTION 3.** In Colorado Revised Statutes, 23-52-103, **amend**
10 (1); and **add** (4) as follows:

11 **23-52-103. Board of trustees for Fort Lewis college fund -**
12 **creation - control - use.** (1) Effective September 1, 2002, there is
13 created in the state treasury the board of trustees for Fort Lewis college
14 fund, referred to in this section as the "fund", which shall be under the
15 control of and administered by the board of trustees in accordance with
16 the provisions of this article. ~~Except as otherwise allowed by state law,~~
17 ~~including but not limited to section 24-36-103 (2), C.R.S.,~~ all THE BOARD
18 OF TRUSTEES HAS AUTHORITY AND RESPONSIBILITY FOR ALL MONEYS OF
19 THE BOARD OF TRUSTEES AND OF FORT LEWIS COLLEGE. THE BOARD OF
20 TRUSTEES SHALL DESIGNATE, PURSUANT TO ITS STATUTORY AUTHORITY,
21 THOSE moneys received or acquired by the board of trustees or by Fort
22 Lewis college, ~~shall be deposited in the fund,~~ whether received by
23 appropriation, grant, contract, or gift or by sale or lease of surplus real or
24 personal property or by any other means, whose disposition is not
25 otherwise provided for by law, THAT MAY BE CREDITED TO THE FUND. All
26 interest derived from the deposit and investment of moneys in the fund
27 shall be credited to the fund. The moneys in the fund are hereby

1 continuously appropriated to the board of trustees and shall remain in the
2 fund UNDER THE CONTROL OF THE BOARD OF TRUSTEES and shall not be
3 transferred or revert to the general fund of the state at the end of any
4 fiscal year.

5 (4) IF THE BOARD OF TRUSTEES VOTES TO INVEST FORT LEWIS
6 COLLEGE'S ASSETS PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4,
7 THE BOARD SHALL ESTABLISH AN INVESTMENT ADVISORY COMMITTEE
8 CONSISTING OF AT LEAST FIVE MEMBERS TO MAKE RECOMMENDATIONS TO
9 THE BOARD REGARDING INVESTMENTS. THE INVESTMENT ADVISORY
10 COMMITTEE, AT A MINIMUM, SHALL INCLUDE THE FORT LEWIS COLLEGE
11 TREASURER, A MEMBER OF THE BOARD, AND THREE REPRESENTATIVES
12 FROM THE FINANCIAL COMMUNITY.

13 **SECTION 4.** In Colorado Revised Statutes, **add** 23-52-103.3,
14 23-52-103.4, and 23-52-103.5 as follows:

15 **23-52-103.3. Investments in consolidated funds.** UNLESS
16 OTHERWISE RESTRAINED BY THE TERMS OF A WILL, TRUST AGREEMENT, OR
17 OTHER INSTRUMENT OF GIFT, THE BOARD OF TRUSTEES MAY HOLD
18 INVESTMENTS IN ONE OR MORE CONSOLIDATED INVESTMENT FUNDS IN
19 WHICH THE PARTICIPATING TRUSTS OR ACCOUNTS HAVE UNDIVIDED
20 INTERESTS.

21 **23-52-103.4. Corporate stock in name of nominee authorized.**

22 (1) IN ORDER TO FACILITATE THE INVESTMENT, REINVESTMENT, SALE,
23 AND DISPOSITION OF CORPORATE STOCKS, THE BOARD OF TRUSTEES MAY
24 HOLD CERTIFICATES OF STOCK IN THE NAME OF A NOMINEE OF ITS
25 SELECTION WITHOUT DISCLOSING THE FACT THAT THE CERTIFICATES ARE
26 HELD BY THE BOARD OF TRUSTEES OR ARE HELD IN A FIDUCIARY CAPACITY
27 IF:

1 (a) THE RECORDS OF THE BOARD OF TRUSTEES AND ALL REPORTS
2 OR ACCOUNTS RENDERED BY IT CLEARLY SHOW THE OWNERSHIP OF THE
3 STOCK BY THE BOARD AND THE FACTS REGARDING THE BOARD'S HOLDING;
4 AND

5 (b) THE NOMINEE DEPOSITS WITH THE BOARD OF TRUSTEES A
6 SIGNED STATEMENT SHOWING THE TRUST OWNERSHIP, ENDORSES THE
7 STOCK CERTIFICATE IN BLANK, AND DOES NOT HAVE POSSESSION OF OR
8 ACCESS TO THE STOCK CERTIFICATE EXCEPT UNDER THE IMMEDIATE
9 SUPERVISION OF THE TREASURER OF FORT LEWIS COLLEGE OR ANOTHER
10 PERSON THAT THE BOARD OF TRUSTEES HAS DESIGNATED.

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

15 (3) THE BOARD OF TRUSTEES SHALL REPORT TO THE JOINT BUDGET
16 COMMITTEE OF THE GENERAL ASSEMBLY AT EACH REGULAR SESSION,
17 BEGINNING AFTER THE EFFECTIVE DATE OF THIS SECTION, REGARDING THE
18 INVESTMENTS MADE AND THE EARNINGS OR LOSSES DERIVED THEREFROM
19 UNDER THE PROVISIONS OF THIS SECTION AND SECTION 23-52-103.3. THE
20 REPORT MUST INCLUDE INFORMATION INDICATING THE EXTENT TO WHICH
21 THE INVESTMENT MANAGERS HIRED BY THE BOARD OF TRUSTEES HAVE
22 ACHIEVED OR FAILED TO ACHIEVE THE PERFORMANCE BENCHMARKS
23 ESTABLISHED PURSUANT TO SECTION 23-52-103.5 (1) (b).

24 **23-52-103.5. Investment policy - fiduciary responsibility.**

25 (1) IF THE BOARD OF TRUSTEES VOTES TO INVEST FORT LEWIS COLLEGE'S
26 ASSETS PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4, THEN THE
27 BOARD OF TRUSTEES SHALL DEVELOP AND ANNUALLY REVIEW A WRITTEN

1 INVESTMENT POLICY FOR FORT LEWIS COLLEGE, WHICH POLICY MUST
2 INCLUDE:

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

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

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

12 (3) IF THE BOARD OF TRUSTEES VOTES TO INVEST MONEYS
13 PURSUANT TO SECTIONS 23-52-103.3 AND 23-52-103.4, THE BOARD SHALL
14 REQUIRE ANNUAL FINANCIAL STATEMENTS TO BE SUBMITTED TO THE
15 BOARD OF TRUSTEES, THE STATE TREASURER, THE STATE AUDITOR, AND
16 THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY. THE
17 FINANCIAL STATEMENTS MUST INCLUDE, AT A MINIMUM, INFORMATION
18 CONCERNING INVESTMENT INCOME, GAINS, AND LOSSES, IF ANY, OF FORT
19 LEWIS COLLEGE. THE FINANCIAL STATEMENTS MUST REPORT THE
20 PERFORMANCE OF INVESTMENTS ON BOTH A GROSS-OF-FEE AND A
21 NET-OF-FEE BASIS.

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

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

5 **SECTION 5. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2014 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.