

**Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0502.01 Richard Sweetman

**HOUSE BILL 08-1002**

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**HOUSE SPONSORSHIP**

**King,** and Buescher

**SENATE SPONSORSHIP**

**Bacon,** and Penry

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**House Committees**  
Education

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Allows the secretary and treasurer of Mesa state college to also be members of the board of trustees of Mesa state college ("Mesa state board"). Allows the Mesa state board to invest the assets of the college. Requires the Mesa state board to establish an investment advisory committee and a written investment policy if the board elects to invest the assets of the college. Under certain conditions, authorizes the Mesa state board to hold certificates of stock in the name of a selected nominee

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.*

without disclosing the fact that the certificates are held by the Mesa state board or are held in a fiduciary capacity.

Grants to the board of governors of the Colorado state university system ("CSU board") exclusive control and direction of all funds of and appropriations to its institutions. Requires the CSU board to establish an investment advisory committee and a written investment policy if the board elects to invest the assets of the Colorado state university system. Under certain conditions, authorizes the CSU board to hold certificates of stock in the name of a selected nominee without disclosing the fact that the certificates are held by the CSU board or are held in a fiduciary capacity.

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

2           **SECTION 1.** 23-53-102 (1) (b), Colorado Revised Statutes, is  
3 amended to read:

4           **23-53-102. Board of trustees - creation - members - powers -**  
5 **duties.** (1) (b) The board of trustees and its successors shall have  
6 perpetual succession, shall have a seal, may make bylaws and regulations  
7 for the well-ordering and governance of Mesa state college, and may  
8 conduct the business of the college in a manner not repugnant to the  
9 constitution and laws of this state. The board of trustees shall elect from  
10 the appointed members a chairperson, whose duties and responsibilities  
11 shall be prescribed in the duly adopted bylaws of the board of trustees.  
12 The board of trustees shall also elect a secretary and a treasurer, who ~~are~~  
13 ~~not~~ MAY BE members of the board and whose duties and responsibilities  
14 shall be prescribed in the duly adopted bylaws of the board of trustees.  
15 The staff of Mesa state college shall provide staff support for the board  
16 of trustees.

17           **SECTION 2.** 23-53-103 (1), Colorado Revised Statutes, is  
18 amended, and the said 23-53-103 is further amended BY THE  
19 ADDITION OF A NEW SUBSECTION, to read:

1           **23-53-103. Board of trustees for Mesa state college fund -**

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

21           (4) IF THE BOARD OF TRUSTEES VOTES TO INVEST MESA STATE  
22 COLLEGE'S ASSETS PURSUANT TO SECTIONS 23-53-103.3 AND 23-53-103.4,  
23 THE BOARD SHALL ESTABLISH AN INVESTMENT ADVISORY COMMITTEE  
24 CONSISTING OF AT LEAST FIVE MEMBERS TO MAKE RECOMMENDATIONS TO  
25 THE BOARD REGARDING INVESTMENTS. THE INVESTMENT ADVISORY  
26 COMMITTEE, AT A MINIMUM, SHALL INCLUDE THE MESA STATE COLLEGE  
27 TREASURER, A MEMBER OF THE BOARD, AND THREE REPRESENTATIVES

1 FROM THE FINANCIAL COMMUNITY.

2 **SECTION 3.** Article 53 of title 23, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF THE FOLLOWING NEW  
4 SECTIONS to read:

5 **23-53-103.3. Investments in consolidated funds.** UNLESS  
6 OTHERWISE RESTRAINED BY THE TERMS OF A WILL, TRUST AGREEMENT, OR  
7 OTHER INSTRUMENT OF GIFT, THE BOARD OF TRUSTEES IS AUTHORIZED TO  
8 HOLD INVESTMENTS IN ONE OR MORE CONSOLIDATED INVESTMENT FUNDS  
9 IN WHICH THE PARTICIPATING TRUSTS OR ACCOUNTS HAVE UNDIVIDED  
10 INTERESTS.

11 **23-53-103.4. Corporate stock in name of nominee authorized.**

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

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

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

27 (2) THE BOARD OF TRUSTEES SHALL MAINTAIN A LIST OF

1 CERTIFICATES OF STOCK HELD IN THE NAMES OF NOMINEES PURSUANT TO  
2 THIS SECTION AND SHALL MAKE THE LIST AVAILABLE FOR PUBLIC  
3 INSPECTION DURING NORMAL BUSINESS HOURS.

4 (3) THE BOARD OF TRUSTEES SHALL REPORT TO THE JOINT BUDGET  
5 COMMITTEE OF THE GENERAL ASSEMBLY AT EACH REGULAR SESSION  
6 REGARDING THE INVESTMENTS MADE AND THE INTEREST DERIVED  
7 THEREFROM UNDER THE PROVISIONS OF THIS SECTION AND SECTION  
8 23-53-103.3.

9 **23-53-103.6. Investment policy - fiduciary responsibility.**

10 (1) IF THE BOARD OF TRUSTEES VOTES TO INVEST MESA STATE COLLEGE'S  
11 ASSETS PURSUANT TO SECTIONS 23-53-103.3 AND 23-53-103.4, THEN THE  
12 BOARD OF TRUSTEES SHALL DEVELOP AND ANNUALLY REVIEW A WRITTEN  
13 INVESTMENT POLICY FOR MESA STATE COLLEGE, WHICH POLICY SHALL  
14 INCLUDE A DESCRIPTION OF THE AMOUNT OF THE COLLEGE'S ASSETS THAT  
15 WILL BE INVESTED AND THE AMOUNT OF THE COLLEGE'S ASSETS THAT WILL  
16 BE RETAINED AS LIQUID ASSETS FOR CASH-FLOW PURPOSES. THE WRITTEN  
17 INVESTMENT POLICY SHALL INCLUDE AN ACKNOWLEDGMENT BY THE  
18 BOARD OF TRUSTEES OF THE BOARD'S FIDUCIARY RESPONSIBILITY WITH  
19 RESPECT TO OVERSIGHT OF THE INVESTMENT POLICY OF MESA STATE  
20 COLLEGE.

21 (2) IN SELECTING INVESTMENT ADVISORS FOR THE PURPOSES OF  
22 THIS SECTION, THE BOARD OF TRUSTEES SHALL USE AN OPEN AND  
23 COMPETITIVE PROCESS.

24 (3) IF THE BOARD OF TRUSTEES VOTES TO INVEST MONEYS  
25 PURSUANT TO SECTIONS 23-53-103.3 AND 23-53-103.4, THE BOARD SHALL  
26 REQUIRE ANNUAL FINANCIAL STATEMENTS CONCERNING THE INVESTMENT  
27 EARNINGS OF MESA STATE COLLEGE TO BE SUBMITTED TO THE BOARD OF

1 TRUSTEES, THE STATE TREASURER, THE STATE AUDITOR, AND THE JOINT  
2 BUDGET COMMITTEE OF THE GENERAL ASSEMBLY.

3 (4) MESA STATE COLLEGE SHALL NOT REQUEST FROM THE  
4 GENERAL ASSEMBLY ANY GENERAL FUND APPROPRIATIONS TO REPLACE  
5 ANY LOSSES INCURRED DUE TO INVESTMENT ACTIVITIES CONDUCTED BY  
6 THE BOARD OF TRUSTEES PURSUANT TO SECTIONS 23-53-103.3 AND  
7 23-53-103.4.

8 **SECTION 4.** 23-30-105 (2), Colorado Revised Statutes, is  
9 repealed.

10 **SECTION 5.** 23-30-106 (1), Colorado Revised Statutes, is  
11 amended, and the said 23-30-106 is further amended BY THE  
12 ADDITION OF A NEW SUBSECTION, to read:

13 **23-30-106. Board of governors of the Colorado state university**  
14 **system fund - creation - control - use.** (1) There is hereby created in  
15 the state treasury the board of governors of the Colorado state university  
16 system fund which shall be under the control of and administered by the  
17 board of governors of the Colorado state university system in accordance  
18 with the provisions of this article. ~~Except as otherwise allowed by section~~  
19 ~~24-36-103 (2), C.R.S., all~~ THE BOARD OF GOVERNORS SHALL HAVE  
20 AUTHORITY AND RESPONSIBILITY FOR ALL MONEYS OF THE BOARD OF  
21 GOVERNORS AND ANY ENTITY GOVERNED BY IT. THE BOARD OF  
22 GOVERNORS SHALL DESIGNATE, PURSUANT TO ITS STATUTORY AUTHORITY,  
23 THOSE moneys received or acquired by the board of governors of the  
24 Colorado state university system or any of the entities it governs, whether  
25 by appropriation, grant, contract, or gift, by sale or lease of surplus real  
26 or personal property, or by any other means, whose disposition is not  
27 otherwise provided for by law, ~~and~~ THAT SHALL BE CREDITED TO THE

1 FUND. All interest derived from the deposit and investment of moneys in  
2 the fund shall be credited to the fund. The moneys in the fund are hereby  
3 continuously appropriated to the board of governors of the Colorado state  
4 university system and shall remain in the fund UNDER THE CONTROL OF  
5 THE BOARD OF GOVERNORS and shall not be transferred or revert to the  
6 general fund of the state at the end of any fiscal year.

7 (4) IF THE BOARD OF GOVERNORS VOTES TO INVEST MONEYS  
8 PURSUANT TO SECTIONS 23-30-121 AND 23-30-122, THE BOARD OF  
9 GOVERNORS SHALL ESTABLISH AN INVESTMENT ADVISORY COMMITTEE  
10 CONSISTING OF AT LEAST FIVE MEMBERS TO MAKE RECOMMENDATIONS TO  
11 THE BOARD OF GOVERNORS REGARDING INVESTMENTS. THE INVESTMENT  
12 ADVISORY COMMITTEE SHALL INCLUDE, AT A MINIMUM, THE TREASURER  
13 OF THE COLORADO STATE UNIVERSITY SYSTEM, A MEMBER OF THE BOARD  
14 OF GOVERNORS, AND THREE REPRESENTATIVES OF THE FINANCIAL  
15 COMMUNITY.

16 **SECTION 6.** Article 30 of title 23, Colorado Revised Statutes, is  
17 amended BY THE ADDITION OF THE FOLLOWING NEW  
18 SECTIONS to read:

19 **23-30-121. 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 GOVERNORS OF THE  
22 COLORADO STATE UNIVERSITY SYSTEM MAY HOLD INVESTMENTS IN ONE  
23 OR MORE CONSOLIDATED INVESTMENT FUNDS IN WHICH THE  
24 PARTICIPATING TRUSTS OR ACCOUNTS HAVE UNDIVIDED INTERESTS.

25 **23-30-122. Corporate stock in nominee authorized.** (1) IN  
26 ORDER TO FACILITATE THE INVESTMENT, REINVESTMENT, SALE, AND  
27 DISPOSITION OF CORPORATE STOCKS, THE BOARD OF GOVERNORS OF THE

1 COLORADO STATE UNIVERSITY SYSTEM , REFERRED TO IN THIS SECTION AS  
2 THE "BOARD", IS AUTHORIZED TO HOLD CERTIFICATES OF STOCK IN THE  
3 NAME OF A NOMINEE OF ITS SELECTION WITHOUT DISCLOSING THE FACT  
4 THAT THE CERTIFICATES ARE HELD BY THE BOARD OR ARE HELD IN A  
5 FIDUCIARY CAPACITY IF:

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

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

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

19 (3) THE BOARD SHALL REPORT TO THE JOINT BUDGET COMMITTEE  
20 OF THE GENERAL ASSEMBLY AT EACH REGULAR SESSION REGARDING THE  
21 INVESTMENTS MADE AND THE INTEREST DERIVED THEREFROM UNDER THE  
22 PROVISIONS OF THIS SECTION AND SECTION 23-30-121.

23 **23-30-123. Investment policy - fiduciary responsibility.** (1) IF  
24 THE BOARD OF GOVERNORS VOTES TO INVEST ASSETS OF THE COLORADO  
25 STATE UNIVERSITY SYSTEM PURSUANT TO SECTIONS 23-30-121 AND  
26 23-30-122, THE BOARD SHALL DEVELOP AND ANNUALLY REVIEW A  
27 WRITTEN INVESTMENT POLICY FOR THE COLORADO STATE UNIVERSITY

1 SYSTEM, WHICH POLICY SHALL INCLUDE A DESCRIPTION OF THE AMOUNT  
2 OF THE SYSTEM'S ASSETS THAT WILL BE INVESTED AND THE AMOUNT OF  
3 THE SYSTEM'S ASSETS THAT WILL BE RETAINED AS LIQUID ASSETS FOR  
4 CASH-FLOW PURPOSES. THE WRITTEN INVESTMENT POLICY SHALL INCLUDE  
5 AN ACKNOWLEDGMENT BY THE BOARD OF GOVERNORS OF THE BOARD'S  
6 FIDUCIARY RESPONSIBILITY WITH RESPECT TO OVERSIGHT OF THE  
7 INVESTMENT POLICY OF THE SYSTEM.

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

11 (3) IF THE BOARD OF GOVERNORS VOTES TO INVEST ASSETS OF THE  
12 COLORADO STATE UNIVERSITY SYSTEM PURSUANT TO SECTIONS 23-30-121  
13 AND 23-30-122, THE BOARD SHALL REQUIRE ANNUAL FINANCIAL  
14 STATEMENTS CONCERNING THE INVESTMENT EARNINGS OF THE COLORADO  
15 STATE UNIVERSITY SYSTEM TO BE SUBMITTED TO THE BOARD OF  
16 GOVERNORS, THE STATE TREASURER, THE STATE AUDITOR, AND THE JOINT  
17 BUDGET COMMITTEE OF THE GENERAL ASSEMBLY.

18 (4) THE COLORADO STATE UNIVERSITY SYSTEM SHALL NOT  
19 REQUEST FROM THE GENERAL ASSEMBLY ANY GENERAL FUND  
20 APPROPRIATIONS TO REPLACE ANY LOSSES INCURRED DUE TO INVESTMENT  
21 ACTIVITIES CONDUCTED BY THE BOARD OF GOVERNORS PURSUANT TO  
22 SECTIONS 23-30-121 AND 23-30-122.

23 **SECTION 7. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.