

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

DRAFT  
1.17.22

**BILL 4**

LLS NO. 22-0406.01 Brita Darling x2241

**INTERIM COMMITTEE BILL**

**Legislative Interim Committee on School Finance**

---

BILL TOPIC: "Investment Of Public School Fund Study & Report"

---

**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 amends the distribution of interest and income earned on the money in the public school fund (fund). After paying the costs of the investment consultant, the bill distributes up to \$21 million to the state public school fund for school finance and then distributes up to \$20 million to the

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

public school capital construction assistance fund. The remaining interest and income may be credited or appropriated as specified by the general assembly, taking into account the recommendations of the public school fund investment board (investment board).

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.

With respect to the management of money in the fund, the bill creates a distinction between an investment consultant with whom the investment board contracts and for whose services money is annually appropriated from the fund, and professional fund managers for the fund who are paid from fund assets under management.

The bill creates a working group, convened by the state treasurer, 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 legislative interim committee on school finance during the 2022 legislative interim.

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, **amend**  
3 (3)(g) introductory portion; and **add** (3)(h) as follows:

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

9 (h) FOR THE 2022-23 STATE FISCAL YEAR, AND EACH STATE FISCAL  
10 YEAR THEREAFTER, INTEREST OR INCOME EARNED ON THE INVESTMENT OF

1 THE MONEY IN THE PUBLIC SCHOOL FUND MUST BE USED OR CREDITED AS  
2 FOLLOWS:

3 (I) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE TO  
4 THE STATE TREASURER AN AMOUNT NECESSARY TO PAY FOR THE SERVICES  
5 OF THE INVESTMENT CONSULTANT HIRED BY THE PUBLIC SCHOOL FUND  
6 INVESTMENT BOARD PURSUANT TO SECTION 22-41-102.5 (5) AND TO PAY  
7 FOR ANY REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES  
8 INCURRED BY THE MEMBERS OF THE PUBLIC SCHOOL FUND INVESTMENT  
9 BOARD PURSUANT TO SECTION 22-41-102.5 (2);

10 (II) AFTER THE APPROPRIATION MADE PURSUANT TO SUBSECTION  
11 (3)(h)(I) OF THIS SECTION, ANY AMOUNT REMAINING, UP TO TWENTY-ONE  
12 MILLION DOLLARS, SHALL BE CREDITED TO THE STATE PUBLIC SCHOOL  
13 FUND CREATED IN SECTION 22-54-114 FOR DISTRIBUTION AS PROVIDED IN  
14 THAT SECTION;

15 (III) AFTER THE AMOUNTS APPROPRIATED AND CREDITED  
16 PURSUANT TO SUBSECTIONS (3)(h)(I) AND (3)(h)(II) OF THIS SECTION, ANY  
17 AMOUNT REMAINING, UP TO TWENTY MILLION DOLLARS SHALL BE  
18 CREDITED TO THE RESTRICTED ACCOUNT OF THE PUBLIC SCHOOL CAPITAL  
19 CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (5)  
20 FOR USE AS PROVIDED IN THAT SECTION; AND

21 (IV) AFTER THE AMOUNTS CREDITED AND APPROPRIATED  
22 PURSUANT TO SUBSECTIONS (3)(h)(I) TO (3)(h)(III) OF THIS SECTION, THE  
23 GENERAL ASSEMBLY MAY CREDIT OR APPROPRIATE ANY AMOUNT  
24 REMAINING, TAKING INTO CONSIDERATION THE RECOMMENDATIONS OF  
25 THE PUBLIC SCHOOL FUND INVESTMENT BOARD DESCRIBED IN SECTION  
26 22-41-102.5 (4)(a)(III).

27 **SECTION 2.** In Colorado Revised Statutes, 22-41-102.5, **amend**

1 (2), (4)(a)(III), and (5); and **add** (6) and (7) as follows:

2 **22-41-102.5. Public school fund investment board - creation**  
3 **- working group - report - repeal.** (2) (a) Except for the state treasurer,  
4 members of the board serve two-year terms and may not serve more than  
5 three consecutive terms, and none of the board members, except for the  
6 treasurer, may hold any state elective office. The state board of land  
7 commissioners or the state treasurer may remove their appointed members  
8 for any cause that renders the member incapable of discharging or unfit  
9 to discharge ~~his or her~~ THE MEMBER'S duty to the board. The state board  
10 of land commissioners or the state treasurer may fill any vacancy by  
11 appointment, and such appointment must be made no later than ninety  
12 days after the date of the vacancy. A member appointed to fill a vacancy  
13 serves until the expiration of the term for which the vacancy was filled.  
14 Members of the board serve without compensation but may receive  
15 reimbursement for travel and other necessary expenses actually incurred  
16 in the performance of their duties. The reimbursements are paid from the  
17 interest and income earned on the deposit and investment of the public  
18 school fund subject to the requirements set forth in section 22-41-102.

19 (b) BEGINNING WITH THE STATE TREASURER'S APPOINTMENTS TO  
20 THE BOARD TO REPLACE EXISTING BOARD MEMBERS WHOSE FINAL TERMS  
21 EXPIRE ON OR AFTER JULY 1, 2022, THE STATE TREASURER SHALL STAGGER  
22 THE TERMS OF NEWLY APPOINTED BOARD MEMBERS TO ENSURE THAT THE  
23 TERMS OF NO MORE THAN TWO OF THE STATE TREASURER'S THREE  
24 APPOINTMENTS TO THE BOARD EXPIRE IN THE SAME YEAR. OF THE FIRST  
25 THREE MEMBERS APPOINTED, ONE MEMBER SERVES AN INITIAL TERM OF  
26 ONE YEAR, ONE MEMBER SERVES AN INITIAL TERM OF TWO YEARS, AND  
27 ONE MEMBER SERVES AN INITIAL TERM OF THREE YEARS, AS DETERMINED

1 BY THE STATE TREASURER. AFTER THE INITIAL TERM, THE MEMBERS SERVE  
2 TWO-YEAR TERMS FOR A TOTAL OF THREE CONSECUTIVE TERMS, AS SET  
3 FORTH IN SUBSECTION (2)(a) OF THIS SECTION.

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

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

10 (5) The board may enter into ~~contracts with private professional~~  
11 ~~fund managers~~ A CONTRACT WITH AN INVESTMENT CONSULTANT to  
12 provide expertise, technical support, and advice on investment market  
13 conditions. ~~Such contract or contracts~~ THE CONTRACT must be bid by  
14 employing standard public bidding practices including, but not limited to,  
15 the use of requests for information, requests for proposals, or any other  
16 standard vendor selection practices determined by the board to be best  
17 suited to selecting an appropriate ~~private professional fund manager~~  
18 INVESTMENT CONSULTANT. Payments for these services will be paid from  
19 the interest and income of the public school fund subject to the  
20 requirements set forth in section 22-41-102.

21 (6) THE BOARD MAY ENTER INTO CONTRACTS WITH ONE OR MORE  
22 PROFESSIONAL FUND MANAGERS TO INVEST MONEY IN THE PUBLIC SCHOOL  
23 FUND. A PROFESSIONAL FUND MANAGER IS RESPONSIBLE FOR  
24 IMPLEMENTING THE FUND'S INVESTMENT STRATEGY AND IS PAID FROM  
25 ASSETS UNDER MANAGEMENT. THE BOARD'S INVESTMENT CONSULTANT  
26 SHALL RECOMMEND PROFESSIONAL FUND MANAGERS FOR SELECTION BY  
27 THE BOARD.

1           (7) (a) THE STATE TREASURER SHALL CONVENE A WORKING GROUP  
2 TO CONSIDER OPPORTUNITIES TO IMPROVE THE LONG-TERM  
3 SUSTAINABILITY OF THE FUND AND THE STABILITY OF DISTRIBUTIONS FOR  
4 THE INTERGENERATIONAL BENEFIT OF PUBLIC SCHOOLS.

5           (b) THE STATE TREASURER, IN CONSULTATION WITH THE BOARD,  
6 SHALL SELECT THE MEMBERS OF THE WORKING GROUP, WHICH MAY  
7 INCLUDE:

8           (I) MEMBERS WITH INVESTMENT MANAGEMENT EXPERTISE,  
9 INCLUDING KNOWLEDGE OF LONG-TERM ENDOWMENT INVESTMENT AND  
10 SPENDING POLICIES;

11           (II) MEMBERS WITH TAX EXPERTISE, INCLUDING KNOWLEDGE  
12 RELATING TO FUNDING SOURCES FOR CURRENT AND FUTURE CERTIFICATE  
13 OF PARTICIPATION AGREEMENTS FOR PUBLIC SCHOOL CAPITAL  
14 CONSTRUCTION;

15           (III) MEMBERS WITH LEGAL EXPERTISE, INCLUDING KNOWLEDGE  
16 OF THE COLORADO CONSTITUTION AND STATUTES GOVERNING THE ISSUES  
17 STUDIED BY THE WORKING GROUP;

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

20           (V) MEMBERS WHO REPRESENT INTERESTS SERVED THROUGH  
21 REVENUE FROM STATE SCHOOL TRUST LANDS OR INTEREST AND INCOME  
22 FROM THE PUBLIC SCHOOL FUND.

23           (c) THE WORKING GROUP SHALL CONSIDER:

24           (I) THE DISTRIBUTION OF REVENUE FROM STATE SCHOOL TRUST  
25 LANDS;

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

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

4 (IV) POLICIES TO INCREASE THE PRINCIPAL OF THE PUBLIC SCHOOL  
5 FUND;

6 (V) THE IMPACT OF COLORADO CONSTITUTIONAL AND STATUTORY  
7 PROVISIONS ON THE INVESTMENT OF MONEY IN THE PUBLIC SCHOOL FUND,  
8 INCLUDING PROVISIONS RELATING TO CERTIFICATE OF PARTICIPATION  
9 AGREEMENTS; AND

10 (VI) ANY OTHER ISSUES, AS DETERMINED BY THE STATE  
11 TREASURER.

12 (d) NOT LATER THAN DECEMBER 1, 2022, THE STATE TREASURER  
13 SHALL REPORT TO THE LEGISLATIVE INTERIM COMMITTEE ON SCHOOL  
14 FINANCE CONCERNING THE ISSUES CONSIDERED BY THE WORKING GROUP,  
15 THE FINDINGS AND RECOMMENDATIONS OF THE WORKING GROUP, AND ANY  
16 NECESSARY CHANGES TO COLORADO LAW TO IMPLEMENT  
17 RECOMMENDATIONS OF THE WORKING GROUP.

18 (e) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 2023.

19 **SECTION 3.** In Colorado Revised Statutes, 22-41-104, **amend**  
20 (2) as follows:

21 **22-41-104. Lawful investments.** (2) The state treasurer has  
22 authority, to be exercised at the state treasurer's discretion, to effect  
23 exchanges or sales whenever such exchanges or sales will not result in an  
24 aggregate loss of principal to the public school fund. An aggregate loss  
25 of principal to the public school fund occurs only when an exchange or  
26 sale that resulted in an initial loss of principal is not offset by a gain on an  
27 exchange or sale in the fund within ~~twelve~~ EIGHTEEN months. THE

1      CALCULATION OF AN AGGREGATE LOSS MUST ALSO INCLUDE ANY GAINS  
2      THAT WERE REALIZED IN THE TWELVE MONTHS PRIOR TO THE LOSS OF  
3      PRINCIPAL.

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