



Investment Policy

2006

The Honorable Mark Hillman
State Treasurer
Colorado Department of the Treasury
140 State Capitol
Denver, Colorado 80203

www.treasurer.state.co.us

Colorado Department of the Treasury

Investment Policies – 2006

Table of Contents

1.	General Policy	1
2.	Treasury Pool	4
3.	Public School Permanent Fund	10
4.	State Education Fund	15
5.	Major Medical Insurance Fund	16
6.	Unclaimed Property Tourism Promotion Trust Fund	20
7.	Controlled Maintenance Trust Fund	24
8.	Tobacco Litigation Settlement Trust Fund	25
9.	Prepaid Tuition Trust Fund	26
10.	State Treasurer's Acceptance	27
11.	Appendix A – Investment Statutes	28
12.	Appendix B – Broker/Dealer Acknowledgement	67

GENERAL POLICY

AUTHORITY

The constitution and laws of the state of Colorado vest in the State Treasurer the custody of all state monies including the *Public School Fund (d/b/a Public School Permanent Fund)*, the *State Education Fund*, the *Major Medical Insurance Fund*, the *Unclaimed Property Tourism Promotion Fund*; the *Controlled Maintenance Trust Fund*, and the *Tobacco Litigation Settlement Trust Fund* the authority to invest said monies in such manner as in his judgment will best serve the interest of the State pursuant to CRS 24-36-109 through 113; CRS 22-41-101 through 106, CRS 24-75-601.1 through 601.5; CRS 8-46-210; CRS 38-13-116.7; CRS 22-55-103; CRS 24-22-115.5 and 24-75-302.5. The state Treasurer is also the custodian for the *Colorado Prepaid Tuition Fund* under CRS 23-3.1-206.7. The Treasurer has delegated the administration of policy and investment authority to the investment officers of the Treasury investment section.

INVESTMENT ADVISORY COMMITTEE

Several local investment professionals and representatives from the Department of Labor & Employment, and the state Land Board, voluntarily serve with Treasury investment staff on the Treasurer's Investment Advisory Committee. The investment professionals on the committee may work for a company that conducts business with the State, provided that the business relationship is disclosed. The purpose of this committee is to provide guidance on policies and general strategies and to monitor investment results. The committee meets regularly to exchange information and ideas on investment outlook and to review performance, policy, procedures and legislation. The volunteer members do not have decision-making authority and thus do not have any fiduciary responsibility for the portfolios of the Treasury.

PRUDENCE

All participants in the investment process shall act responsibly as fiduciaries of the public trust. The standard of prudence applied to the officers of the Investment Division shall be the Uniform Prudent Investor Act (CRS 15-1.1-102), which states: "A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard the trustee shall exercise reasonable care, skill, and caution."

ETHICS AND CONFLICT OF INTEREST

Departmental employees involved in the investment process shall refrain from personal business activity that could create an appearance of impropriety or could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Employees and investment officials shall disclose to the Treasurer any financial interests in financial institutions that conduct business within Colorado, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the portfolio. Employees shall be subject to CRS 24-22-110, regarding unlawful personal profit on state moneys.

OBJECTIVES

The Treasury's primary objectives for managing its investment portfolios are detailed in statute, and listed in order of precedence: legality, safety, liquidity, and yield. Standards have been developed for each portfolio to establish the asset allocation, the level of liquidity, the credit risk profile, the average maturity/duration, and performance monitoring measures appropriate to the public purpose and goals of each fund.

The Treasury will seek to enhance overall portfolio performance by means of active portfolio management. The Treasurer will not employ the use of speculative investment practices that gain or profit through the taking of unusual risks. Unusual risks include, but are not limited to, taking excessive short or long duration positions and leveraging the portfolio through the use of derivative instruments. However, trading in response to changes in market value or market direction is warranted under active portfolio management.

QUALITY RATINGS

Eligible securities must have two minimum acceptable debt ratings. One primary rating must be from Moody's or Standard & Poor's; a secondary rating may be from Fitch or another nationally recognized rating agency. Minimum acceptable ratings vary by individual portfolio.

A legal opinion obtained from the Attorney General's office in July 2000 states that while bonds rated below investment grade may not be purchased, bonds whose rating is downgraded subsequent to their purchase may be retained at the Treasurer's discretion.

RISK RESTRICTIONS

To minimize market event risk, no derivative securities will be purchased. Derivative securities are defined as any instrument whose value is derived from the value of some underlying asset, commodity, index or benchmark, including but not limited to, structured notes, swaps, options, forwards or futures. The Treasury also will not accept structures of adjustable rate securities that are characterized by high levels of volatility and whose market value may differ significantly from their amortized cost values.

BROKER/DEALER REQUIREMENTS

Registered broker/dealers must be one of the following: designated as a primary government securities dealer by the Federal Reserve Bank of New York; a primary mortgage dealer, a direct issuer of eligible investments (BAs, CP), or a dealer with a minimum net worth of fifteen million dollars. The firm must have been in operation for at least three years. Current financial statements must be on file with the Treasury; the firm must not have a qualification of the auditor's opinion or a contingent liability that could materially affect the capital of the firm. The firm must be in compliance with the Uniform Net Capital rule of the Securities & Exchange Commission.

Except when authorized in writing, no broker/dealer may list the Colorado State Treasury as a reference or client for any purpose.

REPORTING

Monthly reports are prepared to detail the asset mix, average life/duration and rate of return for each portfolio. Annual reports will also include market value and long-term performance.

INTERNAL CONTROLS

The Treasurer has established a system of internal controls designed to prevent the loss of public funds arising from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees and officers of the Treasury. Controls deemed most important include: a code of ethics; clear delegation of authority; separating transaction authority from accounting, record keeping, custodial and safekeeping; written confirmation of telephone transactions; minimizing the number of authorized investment officials; and documentation of transaction strategies.

SAFEKEEPING AND CUSTODY

All security transactions will be conducted on a delivery versus payment basis for the account of the Treasurer. Written confirmation by the broker/dealer and the Treasury's bank is required for every trade. Securities will be held by the Treasurer or by a third-party custodian designated by the Treasurer and evidenced by safekeeping receipts.

PERFORMANCE EVALUATION

For management purposes, and for Investment Advisory Committee review, both the book yield performance and total rate of return performance will be calculated for each portfolio and compared to various appropriate security market indices.

TREASURY POOL

FUND DESCRIPTION (CRS 24-36-109/113)

With the exception of the other funds listed in this document, all general fund, state agency, and political subdivision of the state monies deposited into Treasury accounts are pooled for investment purposes. The pooling process provides administrative efficiency and increased yield and liquidity due to the economies of scale. Interest is allocated on a pro rata basis to pool participants monthly. The *TPool* (Treasury Pool) is comprised of two portfolios that are separately managed. The *TCash* (Treasury Cash) portfolio, which includes the Certificate of Deposit Program, and the *TPool 1-5* year portfolio. These two separate segments of the total *TPool* portfolio are carefully coordinated to provide a stable base to meet the liquidity requirements of the state.

The *TCash* portfolio serves as the first line of liquidity for the state. It functions essentially as an interest bearing checking account from which all the State's daily expenditures are paid and in to which revenues are deposited. Money market securities are purchased to match dates of large cash outflows. The Treasurer is authorized by statute to deposit moneys with national or state banks doing business in the state for fixed periods of time. Under this statute the Treasury operates the Colorado Certificate of Deposit Program which is managed separately from other investments in the pool because of its limited liquidity. All investments in *TCash* have a maturity under one year, with the exception of the two-year CD issued in conjunction with the SBA Main street Loan Program.

The *TPool 1-5* year portfolio investment funds are not expected to be expended near term. Investments are made to a maximum maturity of five years.

TRADES AND EXCHANGES

Treasury may sell or exchange securities in the course of daily management of the portfolio. Such trades may be executed to raise cash, to shift maturity, to change asset mix, to enhance yield, to improve quality and as preemptive moves in anticipation of changes in economic conditions or the quality rating of securities.

LIQUIDITY

Sufficient liquidity must be maintained to ensure that all operational cash requirements are met. A minimum of \$300 million, or up to a maximum of 20% of investments, will have maturities of less than one year.

TCASH PORTFOLIO

Maturity

The maximum maturity for *TCash* is one year.

Diversification

Treasury Securities

Treasury securities may be purchased without limitation, and with a maximum maturity of one year.

Agency Securities

Agency discount notes and notes may be purchased with a maximum maturity of one year. A maximum of 75% of agencies may be held in the combined *TPool*.

Bankers' Acceptances & Commercial Paper

The issuer must be US domiciled and must have a net worth exceeding \$250 million (exception: if the issuer is a bankruptcy-remote, Special-Purpose Corporation (SPC) for the funding of asset-backed commercial paper).

An issuer's short-term debt must be rated the equivalent of prime one (A1/P1) by at least two nationally recognized rating organizations and the senior debt of the issuer must be rated no less than 'A' (exception: if the issuer is a bankruptcy-remote, Special-Purpose Corporation (SPC) for the funding of asset-backed commercial paper).

Commercial paper programs must be registered 3(a)3. 144A paper is not permitted because the Colorado State Treasury is not a 'Qualified Institutional Buyer' under the rules issued by the SEC.

The total value of all *TCash* bankers' acceptances and commercial paper, and *TPool 1-5* bank notes and corporate notes will not exceed 65% of the portfolio. No more than 30% of the portfolio will be held in any one of these types of securities.

Certificates of Deposit

CDs are purchased by the Treasury with maturities of 3 months, 6 months, 1 year, and 2 years. The 2-year CD is purchased as part of the Treasury's *SBA Main Street Loan Program* only. CDs may be redeemed prior to maturity with penalty.

From time to time the State's liquidity may require the CD maturities to be altered, the size of the program to be limited, or the program to be temporarily suspended.

The issuer must be a Colorado commercial bank or Colorado savings & loan association which is a certified public depository having a combination of federal insurance and properly pledged collateral equal to the amount of the deposit plus interest.

Banks and savings and loans must have a minimum tangible capital/tangible asset ratio of 4%.

Deposits in any one bank will be limited to 80% of the current four-quarter average of equity capital with a maximum of \$20 million per bank.

Deposits in any one savings and loan will be limited to 80% of the current four-quarter average of tangible capital with a maximum of \$20 million per savings and loan.

Banks participating in a brokered deposit program, through which the FDIC insures the entire CD principal and interest amount, are otherwise expected to comply with all requirements of the state time deposit program.

No more than 5% of the average combined *T*Pool portfolio will be held in the Certificates of Deposit or brokered deposit programs.

Repurchase Agreements: Treasury and Agency Securities Collateral

All trades will be executed delivery vs. payment. The market value of the repurchase collateral must be at least 101% of the cash price. Collateral is limited to treasury bills, notes/bonds, agency discount notes, term notes/bonds.

Term trades will be limited to three months (exception: note account trades may be longer if matched to cash flow projections). All term trades will be reviewed at least weekly to determine collateral adequacy.

Trades will be limited to dealers who meet the following criteria: the dealer must be designated as a primary government securities dealer by the Federal Reserve Bank of New York, and a Public Securities Association Master Repurchase Agreement must be properly signed and on file.

Repurchase Agreements will be limited to \$200 million per dealer.

Money Market Funds

Institutional Money Market Funds may be used for liquidity or when there is a clear rate advantage over other available short-term alternatives. The funds used must be in compliance with CRS 24-75-601.1 and will be selected based on fund size, experience, performance and administrative capacity. The Money Market Fund must invest in treasury or treasury/agency securities only, to avoid exposure to credit risk. No more than 35% of the total *T*Pool portfolio will be held in money market funds, and no more than \$50 million will be held in any one fund. Treasury may invest \$50 million

in each separately managed treasury or treasury/agency money market fund offered within a fund family.

TPOOL 1-5 PORTFOLIO

Management

Although *TPool 1-5* is managed separately from *TCash*, its management is coordinated with *TCash*.

Maturity

The maximum maturity for any *TPool 1-5* investment shall not exceed five years. Because the interest income is often expended, an average maturity is used. The average maturity of all investments shall not exceed two and one half years.

Combined *TPool* Diversification

The specific standards per security type provide diversification of maturity, instrument type and issuer. Asset exposures for *TPool 1-5* are viewed in combination with the *TCash* portfolio. A summary of the limitations by type follows:

Security	Min/Max
Treasury	10/100
Agency	0/75
Agency CMO	0/15
Misc. Government Guaranteed	0/50
Certificates of Deposit	0/5
Asset-Backed	0/25
Repurchase Agreements	0/50
BA, CP, Bank and Corporate Notes	0/65*
Money Market Funds	0/35**

* No more than 30% of the portfolio will be held in any one of these categories.

** No more than 10% of the portfolio will be held in any one fund.

NOTE: Limits apply to the total portfolio at the time of purchase.

SECURITY STANDARDS

Treasury Securities

No treasury security will be bought with a maturity exceeding five years.

The entire portfolio may be invested in Treasury securities. A minimum of 10% of the portfolio will be held in treasury securities.

Agency Securities

No agency security will be bought with a maturity exceeding five years. A maximum of 75% of the portfolio may be held in agency securities.

Agency CMO (Collateralized Mortgage Obligation)

Purchases of mortgage-backed CMOS collateralized by FNMA, FHLMC, and GNMA will be limited to those issues whose cash flows are modeled on the Bloomberg mortgage analysis system. The average life will not exceed 3 years based upon a conservative and reasonable prepayment speed assumption. The assumption will take into account the coupon rate, seasoning and current interest rate environment. The total value of all mortgage-backed securities shall not exceed 15% of the portfolio.

Miscellaneous Government Guaranteed

No more than 50% of the portfolio will be held in other direct obligations of the US or obligations which are fully insured or guaranteed as to payment of principal and interest by the US or its agencies or instrumentalities.

Asset Backed Securities

The issuer must be US domiciled.

The issue must be rated at least 'AA' by a nationally recognized rating organization at the time of purchase.

No more than 5% of a single issue will be held. No more than 4% of the portfolio will be held in the securities of a single issuer.

The expected maturity may not exceed five years.

No more than 25% of the portfolio will be held Asset Backed Securities.

Bank & Corporate Notes

The issuer must be US domiciled and must have a net worth exceeding \$250 million. Banks must be FDIC insured.

The senior debt of the issuer must be rated no less than 'A' by at least two nationally recognized rating organizations.

Total holdings of the securities of a given 'A' rated issuer will be limited to 3% of the portfolio, with maturities of more than one year limited to 1% of the portfolio.

Total holdings of the securities of a given 'AA' or 'AAA' issuer will be limited to 4% of the portfolio, with maturities of more than one year being limited to 2% of the portfolio.

No notes will be purchased with a maturity exceeding five years.

144A paper is not permitted because the Colorado State Treasury is not a 'Qualified Institutional Buyer' under the rules issued by the SEC.

The total value of all bankers' acceptances, commercial paper, bank notes and corporate notes will not exceed 65% of the portfolio. No more than 30% of the portfolio will be held in any one of these types of securities.

Securities Lending Agreement

A bonds borrowed style securities lending agreement that is collateralized in excess of 100% according to collateral type, may be executed for incremental income with a reputable and financially responsible primary dealer or a financially and operationally stable FDIC insured major regional or money center bank through the RFP process. The dealer or bank must have had a securities lending program in place for a minimum of three years, or the principals managing the securities lending program must have a minimum of three years direct experience. The institution must have at least one other public fund participant in the program.

PERFORMANCE EVALUATION

The yield evaluation benchmark for the *TCash* portfolio is ~~will be~~ the 12-month moving average of the discounted yield of the 30-day treasury bill, reviewed annually. *TCash* does not use a total return benchmark.

The yield evaluation benchmark for the *TPool 1-5 year* will be based on the 12 month moving average yield of the US Treasury two year Constant Maturity Index as published by the Federal Reserve, and reviewed over a three-year time period.

The total return benchmark for the *TPool 1-5 year* is a Merrill Lynch customized index comprised of treasury, agency, asset-backed and corporate bonds, as follows:

20% US Corporates A-AAA RATED, 1-5 Years Index

70% Treasuries/Agencies, 1-5 Years Index

10% Asset-backed Securities, 0-3 Years, Fixed-Rate Index

The yield evaluation benchmark for the combined *TPool* portfolio will be based on the 12 month moving average yield of the US Treasury one year Constant Maturity Index as published by the Federal Reserve, and reviewed over a three-year time period. The combined *TPool* does not have a separate total rate of return benchmark.

PUBLIC SCHOOL PERMANENT FUND

FUND DESCRIPTION (STATE CONST., ART. IX §3; CRS 22-41-101/106)

The Public School Fund, d/b/a the *Public School Permanent Fund (PSPF)*, consists of the proceeds from the sale or use of such lands as have been, or may be, granted to the state by the federal government for educational purposes; all estates that may escheat to the state; and all other grants, gifts or devises that may be made to the state for educational purposes.

Interest earnings of the Fund are credited to the Public School Income Fund and transferred to the state Department of Education. Beginning in the 2003/04 fiscal year and each fiscal year thereafter, the amount of interest expended from the Fund shall not exceed \$19 million. Any interest earned on the investment of the moneys in the Fund that exceeds \$19 million shall remain in the fund and shall become part of the principal of the Fund.

The *PSPF* is exempt from the Taxpayer Bill of Rights (TABOR) revenue and spending limitations.

TRADES AND EXCHANGES

The state constitution states that this fund is to remain inviolate and intact. The Treasurer has authority to effect exchanges or sales whenever such exchanges or sales will not result in any ultimate loss of principal, and to effect exchanges or sales that will result in a loss of principal whenever such loss can be offset by a corresponding gain within three years of such exchange or sale. No exchange or sale of securities may be transacted which will result in a net loss of principal unless the General Assembly has previously appropriated a sum to the Fund equivalent to the anticipated net loss of principal from such exchange or sale.

LIQUIDITY

Given the permanent status of this Fund, liquidity is not an operational concern; however, sufficient liquidity will be maintained to ensure the overall quality and marketability of the portfolio. The liquidity must be sufficient to provide for the annual \$19 million transfer to Education.

MATURITY

Because most of the investment income generated by the portfolio is not reinvested, the portfolio uses an average life calculation. The average life of the portfolio is between four and six years. Decisions on maturity will depend on the current level of interest rates, the shape of the yield curve, economic forecasts and impact on the average life of the portfolio.

DIVERSIFICATION

The average life requirements and specific standards per security type provide diversification of maturity, instrument type and issuer. A summary of limitations by type follows:

Security	Min/Max
Treasury/Agency	20/100
Misc. Government Guaranteed	0/50
Mortgage	0/50
Domestic Corporate	0/20
Asset-Backed	0/30
Municipal	0/15
Repurchase Agreements	0/50
<i>T</i> Pool	0/20
BAs and Bank Notes	0/20

SECURITY STANDARDS

Treasury/Agency

A minimum of 20% of the portfolio will be held in US Treasury or Agency securities.

A maximum of 100% of the portfolio may be held in US Treasuries, and a maximum of 75% may be held in Agency securities.

Miscellaneous Government Guaranteed

No more than 50% of the portfolio will be held in other direct obligations of the US or obligations which are fully insured or guaranteed as to payment of principal and interest by the US or its agencies or instrumentalities.

From time to time the Treasury may find it advantageous to purchase bonds representing securitized pools of Small Business Association loans from the Colorado Housing & Finance Authority. The loans are fully guaranteed by the US government. No more than 5% of the total portfolio may be invested in these securities.

Mortgage

Mortgage-backed pools and collateralized mortgage obligations (CMOs) may be purchased.

Mortgage pools must be issued by GNMA, FNMA or FHLMC.

CMOs either must be backed by GNMA, FNMA or FHLMC pools, or if Private label issues must have received a rating of 'AAA' by a nationally recognized rating organization.

In the case of agency backed CMO issues whereby the broker/dealer is acting as official agent for Fannie Mae or Freddie Mac, there will be no maximum amount constraint per issuer, as long as the Fannie Mae and Freddie Mac maintain their agency status.

In the case of Ginnie Mae-backed CMO issues whereby the broker/dealer is acting as sponsor for the Ginnie Mae, a direct obligation of the US Government, there will be no maximum amount constraint.

No more than 5% of the portfolio will be invested in the securities of any one private label issuer.

The original issuance of any issue purchased must have been at least \$100 million.

No more than 50% of the portfolio will be held in mortgage securities.

Domestic Corporate

The long-term debt of the issuer must be rated at least 'A' by a nationally recognized rating organization for securities with a maturity of less than five years. The long-term debt of the issuer must be rated at least 'AA' by a nationally recognized rating organization for securities with a maturity of five or more years.

No more than 5% of the portfolio will be held in the securities of any issuer. No more than 5% of any issue may be held.

No more than 20% of the portfolio will be held in Domestic Corporate Securities.

144A paper is not permitted under the SEC's 'Qualified Institutional Buyer Rule'.

Asset-Backed Securities

The issuer must be US domiciled.

The issue must be rated in one of the two highest rating categories by one or more nationally recognized rating organizations.

No more than 5% of a single issue will be held. No more than 5% of the portfolio will be held in the securities of a single issuer.

No more than 30% of the portfolio will be held in Asset-Backed Securities.

Taxable Municipal Securities

Taxable obligations of political and governmental subdivisions of the state of Colorado and of school districts within the state may be purchased.

The issue must be rated at least 'AA' by a nationally recognized security rating organization.

The amount of purchase of each issue will be determined on a case-by-case basis consistent with prudent care.

No more than 15% of the portfolio will be held in Taxable Municipal Securities.

Repurchase Agreements: Treasury & Agency Securities as Collateral

All trades will be executed delivery versus payment. The market value of the repurchase collateral must be at least 101% of the cash price. Collateral is limited to treasury bills, notes/bonds, agency discount notes, term notes/bonds.

Term trades will be limited to a maximum of three months. All term trades will be reviewed at least weekly to determine collateral adequacy.

Trades will be limited to dealers who meet the following criteria: The dealer must be designated as a primary government securities dealer by the Federal Reserve Bank of New York and a Public Securities Association Master Repurchase Agreement must be properly signed and on file.

Repurchase agreements will be limited to \$50 million per dealer.

Treasury Pool

Earnings on the Fund's investment in the pool will be determined and distributed monthly based on the Fund's monthly average balance in the pool as determined by the state accounting system records.

Under normal circumstances, no more than 20% of the portfolio will be held in the *TPool*. Exceptions may occur on a temporary basis when a major portfolio restructuring may be necessary.

Bankers' Acceptances & Bank Notes

The bank must be US domiciled and a member of the FDIC with a net worth exceeding \$250 million.

The short term debt rating of the accepting bank must be rated prime one (A1/P1) and the long-term debt of the bank and/or the bank holding company must be rated no less than 'A' by a nationally recognized rating organization.

No more than 5% of the portfolio will be held in the acceptances and/or notes of a bank. Holdings in BAs and bank notes will be applied against the corporate security limits of the bank holding company.

No more than 20% of the portfolio will be held in bankers' acceptances and bank notes.

Securities Lending Agreement

A bonds borrowed style securities lending agreement that is collateralized in excess of 100% according to collateral type, may be executed for incremental income with a reputable and financially responsible primary dealer or a financially and operationally stable FDIC insured major regional or money center bank through the RFP process. The dealer or bank must have had a securities lending program in place for a minimum of three years and must have at least one public fund participant in the program.

REPORTING

Annually the Treasurer is required to report the investment income to the Legislature.

PERFORMANCE EVALUATION

The yield evaluation benchmark for the *Public School Permanent Fund* is the 12-month average yield of the US treasury five-year Constant Maturity Index as published by the Federal Reserve, and reviewed over a five-year time period.

The total return performance benchmark is a customized index comprised of treasury, agency, mortgage, and corporate bonds, as follows:

- 37% *Merrill Lynch US Treasury, 1-10 Years Index*
- 34% *Merrill Lynch Mortgages, 0-10 Years WAL Index*
- 19% *Merrill Lynch AAA US Agencies, 1-10 Years Index*
- 10% *Merrill Lynch US Corporates, A-AAA Rated, 1-10 Years Index*

STATE EDUCATION FUND

FUND DESCRIPTION (STATE CONST., ART. IX §3; CRS 22-55-103)

Section 17 of Article IX of the state Constitution requires a specified percentage of state income tax revenues collected on income earned on or after December 28, 2000, to be diverted to a newly created *State Education Fund (SEF)* from which moneys may be appropriated only for specified education-related purposes.

CASH FLOWS

It is the intent of the General Assembly to ensure that the *SEF* remains viable and that the fund moneys will always be available to meet a significant portion of the long-term state education funding requirements of the Constitution. However, due to liquidity concerns and current projections, the bulk allocation of the assets held are invested in the *TPool* as virtually the entire annual balance of the transfers into the fund annually are spent.

The *SEF* shall consist of the regular transfer of state income tax revenue, plus all interest and income earned on the deposit and investment of moneys in the fund, and any gifts or other moneys that are exempt from the limitation on state fiscal year spending set forth in Section 20 (7) (a) of Article X of the state Constitution and Section 24-77-103, CRS that may be credited to the fund. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the *SEF*. At the end of any state fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not revert to the general fund or any other fund.

LEGAL INVESTMENTS

Moneys may be invested in the types of securities authorized in sections 24-36-109, 24-36-112, and 24-36-113, CRS as follows:

Colorado time deposits, treasury securities, securities of any agency of the US government or US government sponsored corporations, repurchase agreements, bankers' acceptances or bank notes, money market funds, corporate securities, asset-backed securities, miscellaneous government guaranteed securities, mortgage pools and collateralized mortgage obligations, reverse repurchase agreements and securities lending programs.

MAJOR MEDICAL INSURANCE FUND

FUND DESCRIPTION (CRS 8-46-210)

The *Major Medical Insurance Fund (MMIF)* and the *Subsequent Injury Fund (SIF)* are special funds within the Division of Workers' Compensation of the Colorado Department of Labor and Employment (DOLE) which pay current and future injury related benefits to injured workers who meet specific criteria.

The investment portfolio of the united *MMIF* and the *SIF* is comprised of the surplus and reserves in excess of current needs, which is being held for future medical and indemnity expenses for current and future claimants.

DOLE provides the Treasury with periodic financial and actuarial reports for both funds.

TRADES AND EXCHANGES

Treasury may sell or exchange securities in the course of daily management of the portfolio. Such trades may be executed to raise cash, to shift maturity, to change asset mix, to enhance yield, to improve quality, and as preemptive moves in anticipation of economic and quality changes. The goal of all such trades is to maximize portfolio performance.

LIQUIDITY

Sufficient liquidity must be maintained to ensure that all operational requirements are met and that the overall quality and marketability of the portfolio is maintained. Both short term cash needs and long term projections will be reviewed on a regular basis to establish an appropriate level of liquidity.

DURATION

Decisions on maturity will be based upon DOLE's actuarial opinions and cash flow projections, the current level of interest rates, the shape of the yield curve, economic forecasts, and impact on the duration of the portfolio. Given the long-term nature of the liabilities, a duration of 5-8 years is appropriate.

DIVERSIFICATION

The specific standards per security type provide diversification of maturity, instrument type and issuer. A summary of limitations by type follows:

Security	Min/Max
Treasury	20/100
Agency	0/75

Security	Min/Max
Misc. Government Guaranteed	0/50
Mortgage	0/50
Domestic Corporate	0/35
Asset-Backed	0/30
Repurchase Agreements	0/50
<i>T</i> Pool	0/30
BAs and Bank Notes	0/20

SECURITY STANDARDS

Treasury

A minimum of 20% of the portfolio will be held in Treasury securities.

Agency

A maximum of 75% of the portfolio may be held in agency securities.

Miscellaneous Government Guaranteed

No more than 50% of the portfolio will be held in other direct obligations of the US or obligations which are fully insured or guaranteed as to payment of principal and interest by the US or its agencies or instrumentalities.

From time to time the Treasury may find it advantageous to purchase bonds representing securitized pools of Small Business Association loans from the Colorado Housing & Finance Authority. The loans are fully guaranteed by the US government. No more than 5% of the total portfolio may be invested in these securities.

Mortgage

Mortgage-backed pools and collateralized mortgage obligations (CMOs) may be purchased.

CMOs must be backed by GNMA, FNMA or FHLMC collateral. Private label issues must have a rating of 'AAA' by a nationally recognized rating organization.

The original size of any issue purchased must have been at least \$100 million.

No more than 5% of the portfolio will be held in any given private label issuer. In the case of agency-direct CMO issues whereby the broker/dealer is acting as official agent for Fannie Mae or Freddie Mac, and the Trustee is Fannie Mae or Freddie Mac, there will be no maximum amount constraint per issuer.

No more than 50% of the portfolio will be held in mortgage securities.

Domestic Corporate

The long-term debt of the issuer must be rated at least 'A' by a nationally recognized rating organization. There is no maturity restriction.

No more than 5% of the portfolio will be held in the securities of any issuer. No more than 5% of any issue may be held.

No more than 35% of the portfolio will be held in Domestic Corporate Securities.

144A paper is not permitted under the SEC's 'Qualified Institutional Buyer Rule'.

Asset-Backed Securities

The issuer must be US domiciled.

The issue must be rated 'AA' by a nationally recognized rating organization.

No more than 5% of a single issue will be held. No more than 5% of the portfolio will be held in the securities of a single issuer.

No more than 30% of the portfolio will be held in Asset-Backed securities.

Repurchase Agreements: Treasury & Agency Securities as Collateral

All trades will be executed delivery vs payment. The market value of the repurchase collateral must be at least 101% of the cash price. Collateral is limited to treasury bills, notes/bonds, agency discount notes, term notes/bonds.

Term trades will be limited to three months. All term trades will be reviewed at least weekly to determine collateral adequacy.

Trades will be limited to dealers who meet the following criteria: the dealer must be designated as a primary government securities dealer by the Federal Reserve Bank of New York and a Public Securities Association Mast Repurchase Agreement must be properly signed and on file.

Repurchase Agreements will be limited to \$50 million per dealer.

Bankers' Acceptances & Bank Notes

The bank must be US domiciled and a member of the FDIC with a net worth exceeding \$250 million.

The short term debt rating of the accepting bank must be rated prime one (A1/P1) and the long term debt of the bank and/or the bank holding company must be rated no less than 'A' by a nationally recognized rating organization.

No more than 5% of the portfolio will be held in notes of any one bank. Holdings in BAs and notes will be applied against the corporate security limits of the bank holding company.

No more than 20% of the portfolio will be held in Bankers' Acceptances and Bank Notes securities.

Treasury Pool

Earnings on the fund's investment in the *TPool* will be determined and distributed monthly, based on their monthly average balance in the pool as determined by the state accounting system records.

No more than 30% of the portfolio will be held in the *TPool*.

Securities Lending Agreement

A bonds borrowed style securities lending agreement that is collateralized in excess of 100% according to collateral type may be executed for incremental income with a reputable and financially responsible primary dealer or a financially and operationally stable FDIC insured major regional or money center bank through the RFP process. The dealer or bank must have had a securities lending program in place for a minimum of three years and must have at least one public fund participant in the program.

PERFORMANCE MEASUREMENT

The yield performance evaluation benchmark for the *Major Medical Insurance Fund* will be based on the 12-month average yield for the US Treasury Seven-year Constant Maturity Index as published by the Federal Reserve, and reviewed over a five-year time period.

Treasury began investing for the *MMIF* in November of 2004. A total return benchmark was created effective July of 2005, and the portfolio is transitioning to this benchmark. The total rate of return performance evaluation benchmark for *MMIF* is as follows:

65% of the Merrill Lynch US Domestic Master 1-10 Years, A-rated and above
35% of the Merrill Lynch US Corporate & Government, 10+ years, A-rated and above

UNCLAIMED PROPERTY TOURISM PROMOTION TRUST FUND

FUND DESCRIPTION (CRS 38-13-116.7)

The *Unclaimed Property Tourism Promotion Trust Fund (UPTF)* was created in Treasury, and the principal shall consist of all proceeds collected by the administrator from the sale of securities pursuant to CRS 38-13-115.

The principal of the *UPTF* shall not be expended except to pay claims. All interest shall be credited to the Colorado travel and tourism promotion fund created in CRS 24-49.7-106(1) and shall be subject to appropriation by the General Assembly.

The principal of the *UPTF* is exempt from TABOR; the interest is not exempt from TABOR.

TRADES AND EXCHANGES

Treasury may sell or exchange securities in the course of daily management of the portfolio. Such trades may be executed to raise cash, to shift maturity, to change asset mix, to enhance yield, to improve quality, and as preemptive moves in anticipation of economic and quality changes. The goal of all such trades is to maximize portfolio performance.

LIQUIDITY

Sufficient liquidity must be maintained to ensure that all operational requirements are met and that the overall quality and marketability of the portfolio is maintained. Both short term cash needs and long term projections will be reviewed on a regular basis to establish an appropriate level of liquidity.

MATURITY

Because the investment income generated by the portfolio is not reinvested, the portfolio uses an average life calculation. The average life of the portfolio is between five and ten years. Decisions on maturity will depend on the current level of interest rates, the shape of the yield curve, economic forecasts and impact on the average life of the portfolio.

DIVERSIFICATION

The specific standards per security type provide diversification of maturity, instrument type and issuer. A summary of limitations by type follows:

Security	Min/Max
Treasury	20/100

Security	Min/Max
Agency	0/75
Misc. Government Guaranteed	0/50
Mortgage	0/50
Domestic Corporate	0/50
Asset-Backed	0/30
Repurchase Agreements	0/50
<i>TPool</i>	0/30
BAs and Bank Notes	0/20

SECURITY STANDARDS

Treasury

A minimum of 20% of the portfolio will be held in Treasury securities.

Agency

A maximum of 75% of the portfolio may be held in agency securities.

Miscellaneous Government Guaranteed

No more than 50% of the portfolio will be held in other direct obligations of the US or obligations which are fully insured or guaranteed as to payment of principal and interest by the US or its agencies or instrumentalities.

From time to time the Treasury may find it advantageous to purchase bonds representing securitized pools of Small Business Association loans from the Colorado Housing & Finance Authority. The loans are fully guaranteed by the US government. No more than 5% of the total portfolio may be invested in these securities.

Mortgage

Mortgage-backed pools and collateralized mortgage obligations (CMOs) may be purchased.

CMOs must be backed by GNMA, FNMA or FHLMC collateral. Private label issues must have a rating of 'AAA' by a nationally recognized rating organization.

The original size of any issue purchased must have been at least \$100 million.

No more than 5% of the portfolio will be held in any given private label issuer. In the case of agency-direct CMO issues whereby the broker/dealer is acting as official agent for Fannie Mae or Freddie Mac, and the Trustee is Fannie Mae or Freddie Mac, there will be no maximum amount constraint per issuer.

No more than 50% of the portfolio will be held in mortgage securities.

Domestic Corporate

Purchases will be limited to non-convertible corporate notes and bonds of US domestic corporations that have a net worth exceeding \$250 million.

The long-term debt of the issuer must be rated at least 'A' by two nationally recognized rating organizations.

No more than 5% of the portfolio will be held in the securities of any issuer. No more than 5% of an issue may be held.

No more than 50% of the portfolio will be held in Domestic Corporate securities.

144A paper is not permitted under the SEC's 'Qualified Institutional Buyer Rule'.

Asset-Backed Securities

The issuer must be US domiciled.

The issue must be rated 'AA' by a nationally recognized rating organization.

No more than 5% of a single issue will be held. No more than 5% of the portfolio will be held in the securities of a single issuer.

No more than 30% of the portfolio will be held in Asset-Backed securities.

Repurchase Agreements: Treasury & Agency Securities as Collateral

All trades will be executed delivery vs. payment. The market value of the repurchase collateral must be at least 101% of the cash price. Collateral is limited to treasury bills, notes/bonds, agency discount notes, term notes/bonds.

Term trades will be limited to three months. All term trades will be reviewed at least weekly to determine collateral adequacy.

Trades will be limited to dealers who meet the following criteria: the dealer must be designated as a primary government securities dealer by the Federal Reserve Bank of New York and a Public Securities Association Mast Repurchase Agreement must be properly signed and on file.

Repurchase Agreements will be limited to \$50 million per dealer.

Bankers' Acceptances & Bank Notes

The bank must be US domiciled and a member of the FDIC with a net worth exceeding \$250 million.

The short term debt rating of the accepting bank must be rated prime one (A1/P1) and the long term debt of the bank and/or the bank holding company must be rated no less than 'A' by a nationally recognized rating organization.

No more than 5% of the portfolio will be held in notes of any one bank. Holdings in BAs and notes will be applied against the corporate security limits of the bank holding company.

No more than 20% of the portfolio will be held in Bankers' Acceptances and Bank Notes securities.

Treasury Pool

Earnings on the fund's investment in the pool will be determined and distributed monthly, based on their monthly average balance in the pool as determined by the state accounting system records. Because claims may be made at any time against the *Unclaimed Property Tourism Promotion Trust Fund*, a certain percentage of funds must be allocated to cash.

No more than 30% of the portfolio will be held in the *TPool*.

Securities Lending Agreement

A securities lending agreement that is collateralized in excess of 100% according to collateral type, may be executed for incremental income with a reputable and financially responsible primary dealer or a financially and operationally stable FDIC insured major regional or money center bank through the RFP process. The dealer or bank must have had a securities lending program in place for a minimum of three years and must have at least one public fund participant in the program.

PERFORMANCE MEASUREMENT

The yield performance evaluation benchmark for the *UPTF* will be based on the 12-month average yield for the US Treasury Seven Year Constant Maturity Index as published by the Federal Reserve, and reviewed over a five-year time period.

The total rate of return performance evaluation benchmark for the *UPTF* is as follows:

65% of the Merrill Lynch US Domestic Master 1-10 Years, A-rated and above
35% of the Merrill Lynch US Corporate & Government, 10+ years, A-rated and above

CONTROLLED MAINTENANCE TRUST FUND

FUND DESCRIPTION (CRS 24-75-302.5)

The *Controlled Maintenance Trust Fund (CMTF)* was created to provide a stable, predictable and consistent source of revenues for controlled maintenance projects.

The General Assembly previously transferred the balance of the *CMTF* to the General Fund. The current balance of \$185.7 million will be transferred to the General Fund at the end of FY 2005-06. The *CMTF* is invested in the TPool.

LEGAL INVESTMENTS

Monies may be invested in the types of securities authorized in sections 24-36-109, 24-36-112, and 24-36-113, CRS as follows:

Colorado time deposits, treasury securities, securities of any agency of the US government or US government sponsored corporations, repurchase agreements, bankers' acceptances or bank notes, money market funds, corporate securities, asset-backed securities, miscellaneous government guaranteed securities, mortgage pools and collateralized mortgage obligations, reverse repurchase agreements and securities lending programs.

TOBACCO LITIGATION SETTLEMENT TRUST FUND

FUND DESCRIPTION (CRS 24-22-115.5)

The *Tobacco Litigation Settlement Trust Fund (TSTF)* was created to ensure a permanent source of tobacco litigation monies so that all programs or funds authorized by law to be funded with such monies, can be fully funded without appropriations of general fund monies. Interest earned on the monies in the *TSTF* shall be retained in the fund until such time as the state auditor certifies that actuarially sound projections of future interest earnings indicate that such interest shall be sufficient to fully fund such programs and funds. Statute permits the fund to invest in both fixed income securities and equities.

Current law eliminates transfers to the fund. No new revenues are projected to the fund until FY 2007-08. The current balance of the *TSTF* is invested in the *TPool* in order to fund programs.

LEGAL INVESTMENTS

Monies may be invested in the types of securities authorized in sections 24-36-109, 24-36-112, and 24-36-113, CRS.

CRS 24-22-115.5 (I) authorizes investments in common or preferred stock.

COLORADO PREPAID TUITION FUND

FUND DESCRIPTION (CRS 23-3.1-206.7)

The *Colorado Prepaid Tuition Fund (CPTF)* exists within the Colorado Student Obligation Bond Authority, d.b.a. CollegeInvest, and was established to provide families with a new opportunity to invest toward future college education expenses. Participants could purchase either lump sum, installment, or combination contracts (the amount of which is determined by the specific number of Tuition Units purchased) to provide a named student with funding toward the cost of education expenses at the institution of choice. The primary investment goal of the fund is to achieve an investment return which, when managed to the duration of the contracts, will allow the fund to distribute funds beginning on the date identified in the contract.

On August 1, 2002 the Fund was closed to new entrants, and is in a run-off position.

Effective July 1, 2004 CollegeInvest assumed investment authority for the *Colorado Prepaid Tuition Fund*. The Treasury remains custodian of the assets for the fund.

CollegeInvest established a policy to defease the *CPTF's* liabilities through the purchase of a laddered portfolio of fixed income investments. The Treasury cooperated with CollegeInvest's investment advisor to execute this strategy. The program was completed February 11, 2005.

STATE TREASURER'S ACCEPTANCE

The policies and procedures contained herein are accepted as the official Investment Policy for the Colorado Department of Treasury.

A handwritten signature in black ink, appearing to read "Mark Hillman", with a long horizontal stroke extending to the right.

Mark Hillman
Colorado State Treasurer

Accepted Tuesday, November 8, 2005

APPENDIX A – INVESTMENT STATUTES

TREASURY POOL (CRS 24-36-109/113)

24-36-109. Time deposits.

(1) Subject to the requirements of subsection (2) of this section, the state treasurer is authorized to deposit state moneys with national or state banks doing business in this state for fixed periods of time, not exceeding two years, at such rate of interest as may be negotiated from time to time. For the purpose of making such deposits, the state treasurer may, in his or her discretion, appoint in writing one or more persons to act as custodians of the moneys. Such persons shall give surety bonds in such amounts and form and for such purposes as the state treasurer requires.

(2) (a) The state treasurer shall deposit state moneys for fixed periods in national or state banks that have applied and are eligible as depositories for state moneys pursuant to subsection (1) of this section and pursuant to the time deposit rules established by the department of the treasury that are in effect at that time in accordance with the procedure established in paragraph (b) of this subsection (2) or in paragraph (c) of this subsection (2). Such procedure utilized shall be at the discretion of the treasurer.

(b) (I) Except as provided in paragraph (c) of this subsection (2), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the interest rate at which such moneys may be deposited for a fixed period in eligible national or state banks but shall not disclose the amount of state moneys available for deposit.

(II) An eligible national or state bank may request the state treasurer to deposit a specified amount of state moneys with that bank at the interest rate announced by the treasurer. Except as otherwise provided by subparagraph (III) of this paragraph (b), the treasurer shall deposit all or a portion of the state moneys available for deposit with any eligible national or state bank or banks making such a request in an amount equal to the amount requested by that bank.

(III) In the event that the total amount of state moneys requested for deposit by all eligible national or state banks pursuant to subparagraph (II) of this paragraph (b) exceeds the amount of state moneys available for deposit, the state treasurer shall determine the total amount of state moneys that all such banks requested for deposit and calculate the percentage of such total that each eligible national or state bank requested. The state treasurer shall deposit with each eligible national or state bank an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(c) (I) In the alternative to paragraph (b) of this subsection (2), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the amount of state moneys available for deposit for a fixed period in any eligible national or state bank but shall not announce the interest rate at which such moneys shall be deposited.

(II) Except as provided by subparagraph (III) of this paragraph (c), any eligible national or state bank may submit a bid to the state treasurer specifying the interest rate that such bank will pay if state moneys are deposited in such bank and the amount of such moneys the bank will accept for deposit at that interest rate. The bank submitting a bid with the highest interest rate shall be awarded the deposit

of state moneys in the full amount requested or the full amount available for deposit at that time, whichever is less.

(III) In the event that two or more eligible national or state banks submit the highest bid for the same interest rate and the total amount requested for deposit by the banks exceeds the amount of state moneys available for deposit at that time, the state treasurer shall determine the total amount of state moneys that all such banks requested for deposit and calculate the percentage of such total that each eligible national or state bank requested. The state treasurer shall deposit with each eligible national or state bank an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(IV) In the event that depositing state moneys in the highest bidding eligible national or state bank or banks does not exhaust the total amount of state moneys available for deposit at that time, the state treasurer shall deposit the remaining state moneys in other eligible banks giving priority to the highest remaining bidders.

(V) The state treasurer shall have the authority to establish a minimum acceptable bid for an interest rate. The rate shall be announced before the start of the bidding by any eligible national or state bank.

Source: L. 71: R&RE, p. 97, § 1. C.R.S. 1963: § 3-6-9. L. 79: Entire section amended, p. 1616, § 9, effective June 8. L. 81: Entire section amended, p. 1070, § 4, effective May 21. L. 2001: Entire section amended, p. 109, § 1, effective August 8.

24-36-110. Surety bond or collateral security required. (Repealed)

Source: L. 71: R&RE, p. 98, § 1. C.R.S. 1963: § 3-6-11. L. 75: Entire section repealed, p. 392, § 6, effective January 1, 1976.

24-36-111. Authority to accept deposits.

Any state bank or any national bank having its principal office in this state is authorized to accept and hold deposits of state moneys as provided in sections 24-36-104 and 24-36-109 and to give surety bonds or pledge collateral security as provided in article 10.5 of title 11, C.R.S.

Source: L. 71: R&RE, p. 98, § 1. C.R.S. 1963: § 3-6-11. L. 75: Entire section amended, p. 391, § 3, effective January 1.

ANNOTATION

C.J.S. See 81A C.J.S., States, §§ 374-376.

24-36-111.5. Authority to invest in real property owned by a school district.

Whenever there are moneys in the state treasury that are not immediately required to be disbursed, the state treasurer may, in the state treasurer's discretion, invest such moneys in real property owned by a school district pursuant to the provisions of section 22-54-110 (2) (d), C.R.S. The state treasurer shall ensure that the investment in real property shall yield a fair and equitable

return to the state; except that this requirement shall not apply to an investment in real property that is related to a loan agreement entered into prior to July 1, 2003.

Source: L. 2003: Entire section added, p. 1288, § 3, effective April 22.

24-36-112. Deposits in savings and loan associations.

(1) Subject to the requirements of subsection (4) of this section, the state treasurer is authorized to deposit state moneys with any state-chartered savings and loan association, or federally chartered savings and loan association having its principal office in this state, for fixed periods of time not exceeding three years, at such rate of interest as may be negotiated from time to time, but in no event shall any such deposit be in excess of the amount insured by the federal deposit insurance corporation or its successor, unless such savings and loan association has been designated as an eligible public depository by the state commissioner of financial services, pursuant to the provisions of article 47 of title 11, C.R.S.

(2) Any such savings and loan association is authorized to accept deposits of state moneys to the extent permitted in this section.

(3) For the purpose of making such deposits, the state treasurer may, in his discretion, appoint in writing one or more persons to act as custodians of the moneys. Such persons shall give surety bonds in such amounts and form and for such purposes as the state treasurer requires.

(4) (a) The state treasurer shall deposit state moneys for fixed periods in state-chartered or federally chartered savings and loan associations that have applied and are eligible as depositories for state moneys pursuant to subsection (1) of this section and pursuant to the time deposit rules established by the department of the treasury that are in effect at that time in accordance with the procedure established in paragraph (b) of this subsection (4) or in paragraph (c) of this subsection (4). Such procedure utilized shall be at the discretion of the treasurer.

(b) (I) Except as provided in paragraph (c) of this subsection (4), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the interest rate at which state moneys may be deposited for a fixed period in eligible state-chartered or federally chartered savings and loan associations but shall not disclose the amount of state moneys available for deposit.

(II) An eligible state-chartered or federally chartered savings and loan association may request the state treasurer to deposit a specified amount of state moneys in that savings and loan association at the interest rate announced by the treasurer. Except as otherwise provided by subparagraph (III) of this paragraph (b), the treasurer shall deposit all or a portion of the state moneys available for deposit with any eligible state-chartered or federally chartered savings and loan association or associations making such a request in an amount equal to the amount requested by that savings and loan association.

(III) In the event that the total amount of state moneys requested for deposit by all eligible state-chartered or federally chartered savings and loan associations pursuant to subparagraph (II) of this paragraph (b) exceeds the amount of state moneys available for deposit, the state treasurer shall determine the total amount of state moneys that all such savings and loan associations requested for deposit and calculate the percentage of such total that each eligible state-chartered or federally chartered

savings and loan association requested. The state treasurer shall deposit with each eligible state-chartered or federally chartered savings and loan association an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(c) (I) In the alternative to paragraph (b) of this subsection (4), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the amount of state moneys available for deposit for a fixed period in any eligible state-chartered or federally chartered savings and loan associations but shall not announce the interest rate at which such moneys shall be deposited.

(II) Except as provided by subparagraph (III) of this paragraph (c), any eligible state-chartered or federally chartered savings and loan association may submit a bid to the state treasurer specifying the interest rate that the eligible savings and loan association will pay if state moneys are deposited in such savings and loan association and the amount of such moneys the savings and loan association will accept for deposit at that interest rate. The savings and loan association submitting a bid with the highest interest rate shall be awarded the deposit of state moneys in the full amount requested or the full amount available for deposit at that time, whichever is less.

(III) In the event that two or more eligible state-chartered or federally chartered savings and loan associations submit the highest bid for the same interest rate and the total amount requested for deposit by the eligible savings and loan associations exceeds the amount of state moneys available for deposit at that time, the state treasurer shall determine the total amount of state moneys that all such savings and loan associations requested for deposit and calculate the percentage of such total that each eligible state-chartered or federally chartered savings and loan association requested. The state treasurer shall deposit with each eligible state-chartered or federally chartered savings and loan association an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(IV) In the event that depositing state moneys in the highest bidding eligible state-chartered or federally chartered savings and loan association or associations does not exhaust the state moneys available for deposit at that time, the state treasurer shall deposit the remaining moneys in other eligible savings and loan associations giving priority to the highest remaining bidders.

(V) The state treasurer shall have the authority to establish a minimum acceptable bid for an interest rate. The rate shall be announced before the start of the bidding by any eligible state-chartered or federally chartered savings and loan association.

Source: L. 71: R&RE, p. 99, § 1. C.R.S. 1963: § 3-6-12. L. 75: (1) amended, p. 406, § 3, effective January 1, 1976. L. 79: (3) added, p. 1616, § 10, effective June 8. L. 89: (1) amended, p. 621, § 18, effective July 1. L. 2001: (1) amended and (4) added, p. 111, § 2, effective August 8. L. 2004: (1) amended, p. 154, § 67, effective July 1.

ANNOTATION

C.J.S. See 81A C.J.S., States, §§ 374-376.

24-36-113. Investment of state moneys - limitations.

(1) (a) Whenever there are moneys in the state treasury that are not immediately required to be disbursed, the state treasurer is authorized to invest the same in United States domestic fixed income

securities. In making such investments, the state treasurer shall use prudence and care to preserve the principal and to secure the maximum rate of interest consistent with safety and liquidity. The state treasurer shall formulate investment policies regarding liquidity, maturity, and diversification appropriate to each fund or pool of funds in the state treasurer's custody available for investment.

(b) (I) If the state treasurer invests state moneys through an investment firm offering for sale corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, the investment firm shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the state treasurer whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the state treasurer and because of such agreement the investment firm:

(A) Had received compensation for investment banking services within the most recent twelve months; or

(B) May receive compensation for investment banking services within the next three consecutive months.

(II) For the purposes of this paragraph (b), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.

(2) Such moneys may be invested, without limitation, in debt obligations of the United States treasury, any agency of the United States government, or United States government-sponsored corporations.

(3) The state treasurer may, in the state treasurer's discretion, invest such moneys in repurchase agreements, in banker's acceptances or bank notes issued by banks rated at least investment grade by a nationally recognized rating organization, in commercial paper of prime quality as so classed by a nationally recognized rating organization, and in money market funds that are registered as an investment company under the federal "Investment Company Act of 1940", as amended.

(3.5) The state treasurer may, in the state treasurer's discretion, invest such moneys in corporate debt obligations rated at least investment grade by a nationally recognized rating organization.

(3.6) The state treasurer may, in the state treasurer's discretion, invest such moneys in asset-backed securities rated in one of the two highest rating categories by a nationally recognized rating organization.

(3.7) The state treasurer may, in the state treasurer's discretion, invest such moneys in securities that are issued or guaranteed by the world bank, the inter-American development bank, the Asian development bank, or the African development bank or for which the credit of the world bank, the inter-American development bank, the Asian development bank, or the African development bank is pledged for payment and that are rated in one of the two highest rating categories by a nationally recognized rating organization.

(3.8) The state treasurer may, in the state treasurer's discretion, invest such moneys in mortgage pass-through securities and collateralized mortgage obligations that are issued by any agency of the United States government or a United States government-sponsored corporation or that are rated in one

of the two highest rating categories by a nationally recognized rating organization.

(4) The state treasurer may make such arrangements for the custody, safekeeping, and registration of all investment securities as will enable the state treasurer to make prompt delivery thereof upon maturity or in the event of sale.

(5) The state treasurer may engage in reverse repurchase agreements and securities lending programs for any securities in the state treasurer's custody.

(6) Notwithstanding any restrictions on the investment of state moneys set forth in this section or in any other provision of law, the state treasurer may authorize the escrow agent appointed pursuant to section 1 of the escrow agreement entered into in connection with, and attached as exhibit B to, the master settlement agreement entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver, to invest any tobacco litigation settlement moneys held in escrow for the state of Colorado pursuant to the master settlement agreement and the escrow agreement in any manner permitted by section 5 of the escrow agreement.

(7) Notwithstanding any restrictions on the investment of state moneys set forth in this section or in any other provision of law, the state treasurer may invest moneys transferred on July 5, 2002, from the tobacco litigation settlement trust fund to the general fund pursuant to section 24-75-201.5 (1) (d) in any manner in which the trust fund moneys may be invested pursuant to section 24-22-115.5 (3) (a).

Source: L. 71: R&RE, p. 99, § 1. C.R.S. 1963: § 3-6-13. L. 73: p. 171, § 2. L. 77: (4) amended and (5) added, p. 1059, § 2, effective June 1. L. 81: (2) amended, p. 1070, §§ 5, 6, effective May 21. L. 88: (3) amended and (3.5) and (3.6) added, p. 950, § 3, effective March 24. L. 92: (3), (3.5), and (3.6) amended and (3.7) added, p. 1113, § 3, effective July 1. L. 97: Entire section amended, p. 373, § 5, effective August 6. L. 99: (6) added, p. 1405, § 4, effective June 5. L. 2003: (7) added, p. 462, § 3, effective March 5; (1) amended, p. 674, § 2, effective August 6.

ANNOTATION

Am. Jur.2d. See 63C Am. Jur.2d, Public Funds, § 67.

C.J.S. See 81A C.J.S., States, §§ 374-376.

PUBLIC SCHOOL PERMANENT FUND (STATE CONST., ART. IX §3; CRS 22-41-101/106)

Colorado Constitution Article IX, §3. School fund inviolate.

The public school fund of the state shall, except as provided in this article IX, forever remain inviolate and intact and the interest and other income thereon, only, shall be expended in the maintenance of the schools of the state, and shall be distributed amongst the several counties and school districts of the state, in such manner as may be prescribed by law. No part of this fund, principal, interest, or other income shall ever be transferred to any other fund, or used or appropriated, except as provided in this article IX. The state treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The state shall supply all losses thereof that may in any manner occur. In order to assist public schools in the state in providing necessary buildings, land, and equipment, the general assembly may adopt laws establishing the terms and conditions upon which the state treasurer may (1) invest the fund in bonds of school districts, (2) use all or any portion of the fund or the interest or other income thereon to guaranty bonds issued by school districts, or (3) make loans to school districts. Distributions of interest and other income for the benefit of public schools provided for in this article IX shall be in addition to and not a substitute for other moneys appropriated by the general assembly for such purposes.

Source: Entire article added, effective August 1, 1876, see L. 1877, p. 55. **Initiated 96:** Entire section amended, effective upon proclamation of the Governor, L. 97, p. 2399, December 26, 1996.

Cross references: For the public school fund, see also article 41 of title 22; for pledging the credit of a state, county, city, town or school district, see § 1 of art. XI, Colo. Const.

ANNOTATIONS

Am. Jur.2d. See 68 Am. Jur.2d, Schools, § 99.

C.J.S. See 78 C.J.S., Schools and School Districts, §§ 9, 11, 12, 503.

Law reviews. For article, "The 'New' Colorado State Land Board", see 78 Den. U. L. Rev. 347 (2001).

This section is imperative mandate binding upon all departments of government. In re Loan of Sch. Fund, 18 Colo. 195, 32 P. 273 (1893).

The changes to this section enacted in 1996 do not violate Colorado's fiduciary obligations arising out of the federal trust enacted by the Colorado Enabling Act and therefore do not facially violate the supremacy clause of article VI of the United States Constitution. Branson Sch. Dist. RE-82 v. Romer, 161 F.3d 619 (10th Cir. 1998).

Appropriation of land and proceeds to state or municipal purpose prohibited. State constitutional provisions, declaring that land granted by the federal government to states for school purposes and the proceeds thereof shall be faithfully applied to the objects for which it was given, prohibit its appropriation to state or municipal purposes, directly or indirectly. People ex rel. Dunbar v. City of Littleton, 183 Colo. 195, 515 P.2d 1121 (1973).

This section can be held to be requirement, and not prohibition, and such construction is in harmony with the progressive school policy of the state, and will enable the general assembly to confer

upon all classes of children the advantages of a system that has proven of incalculable benefit. In re Kindergarten Sch., 18 Colo. 234, 32 P. 422, 19 L.R.A. 469 (1893).

Public school fund of state and interest derived therefrom is state property. Such interest pursuant to this section must be apportioned and distributed amongst the several counties and school districts in this state in such manner as may be prescribed by law and not in conflict with any constitutional provision. Upon the distribution thereof, title thereto vests in the distributees. *Craig v. People ex rel. Hazzard*, 89 Colo. 139, 299 P. 1064 (1931).

This section requires state to supply all losses to school fund, and that liability rested upon the state at the moment it came into being. *Leddy v. People ex rel. Farrar*, 59 Colo. 120, 147 P. 365 (1915).

Security of investment of school fund is of highest importance. It is true, the section provides that the public school fund shall be invested as may be by law directed; but a further requirement is, that such fund shall be securely and profitably invested. The security of the investment is of the first and highest importance. In re Loan of Sch. Fund, 18 Colo. 195, 32 P. 273 (1893).

Legislation respecting such investment is left to discretion of general assembly and governor. It may in some cases be difficult to determine in advance whether a proposed investment of the school fund will be secure as well as profitable. In general, legislation respecting such matters must be left to the wisdom and discretion of the general assembly and of the chief executive of the state. In re Loan of Sch. Fund, 18 Colo. 195, 32 P. 273 (1893).

Lands granted by federal government to states for school purposes are exempt from special assessments upon one of three overlapping reasons, the essence of which is that enforcement of the assessments against either the land or its proceeds would be a diversion of school funds in violation of either: (1) the act of congress granting the land to the state for school purposes; (2) state constitutional provisions making such land part of the state school fund and declaring that the principal must remain inviolate; and (3) the fact that the state holds such lands in trust for the purpose of the grant. *People ex rel. Dunbar v. City of Littleton*, 183 Colo. 195, 515 P.2d 1121 (1973).

Municipal fee for flood control was not a "special assessment", but instead was a service fee reasonably related and essential to the provision of flood control services benefiting all property within the municipal flood control district, including school lands. Therefore, imposition of the fee against the State Land Board did not contravene constitutional limitations on the board's authority to expend state funds. *City of Littleton v. State*, 855 P.2d 448 (Colo. 1993).

Taxpayer has no standing to challenge the management decisions of the state board of land commissioners with regard to school lands. Such decisions have no effect on taxpayers, because the management of school lands has no effect on the state's funding of schools through the taxing power. *Brotman v. East Lake Creek Ranch L.L.P.*, 31 P.3d 886 (Colo. 2001).

Applied in *Post Printing & Publishing Co. v. Shafroth*, 53 Colo. 129, 124 P. 176 (1912); *People ex rel. Miller v. Higgins*, 69 Colo. 79, 168 P. 740 (1917); *Wilmore v. Annear*, 100 Colo. 106, 65 P.2d 1433 (1937); *People ex rel. Dunbar v. People ex rel. City & County of Denver*, 141 Colo. 459, 349 P.2d 142 (1960).

22-41-101. Composition of fund.

(1) The general assembly hereby finds and declares that:

(a) For fiscal years 1994-95 and 1995-96, a total of ten million eight hundred thousand dollars was transferred from the state public school fund to the public school fund in accordance with sections 24 and 25 of House Bill 95-1327, enacted at the first regular session of the sixtieth general assembly;

(b) House Bill 95-1327 also amended this section to require that interest earned on moneys transferred to the public school fund during these two fiscal years be retained in the fund;

(c) Through the language added by section 3 of House Bill 95-1327, the general assembly intended that only the interest earned on the moneys transferred to the public school fund in accordance with sections 24 and 25 of House Bill 95-1327 be retained in the fund;

(d) The general assembly did not intend that interest earned on other moneys transferred to the public school fund during the 1994-95 and 1995-96 fiscal years also be retained in the public school fund;

(e) The fact that this interest has been retained in the fund does not result in the interest becoming principal of the public school fund and does not prevent the transfer of this interest to any other fund in accordance with law;

(f) As soon as practicable and in accordance with law, the state treasurer should comply with the provisions of this section and transfer the interest earned on all moneys transferred to the public school fund during the 1994-95 and 1995-96 fiscal years, except for the interest earned on moneys transferred to the fund pursuant to sections 24 and 25 of House Bill 95-1327, to the public school income fund.

(2) The public school fund of the state shall consist of the proceeds of such lands as have been, or may be, granted to the state by the federal government for educational purposes; all estates that may escheat to the state; all other grants, gifts, or devises that may be made to the state for educational purposes; and such other moneys as the general assembly may appropriate or transfer. The interest earned on any moneys transferred to the public school fund during the 1994-95 and 1995-96 fiscal years pursuant to sections 24 and 25 of House Bill 95-1327 shall remain in the public school fund and may not be transferred to any other fund.

(3) Notwithstanding the provisions of subsection (2) of this section, the proceeds from the sale or other disposition of state land pursuant to a nonsimultaneous exchange pursuant to section 36-1-124.5, C.R.S., shall not be deemed a part of the designated trust fund except as provided in section 36-1-124.5 (4), C.R.S.

Source: L. 73: R&RE, p. 1240, § 1. C.R.S. 1963: § 123-4-1. L. 95: Entire section amended, p. 607, § 3, effective May 22. L. 96: Entire section amended, p. 1795, § 11, effective June 4. L. 97: (3) added, p. 852, § 38, effective May 21.

ANNOTATION

Am. Jur.2d. See 68 Am. Jur.2d, Schools, §§ 99, 104.

C.J.S. See 78 C.J.S., Schools and School Districts, §§ 9, 10.

For previous inclusion of receipts from fines and penalties in school fund, see *City & County of Denver v. Sch. Dist. No. 1*, 94 Colo. 406, 30 P.2d 866 (1934); *State v. Beckman*, 149 Colo. 54, 368 P.2d 793 (1961) (decided prior to earliest source of this section, § 123-4-1, C.R.S. 1963).

22-41-102. Fund inviolate.

(1) The public school fund shall forever remain inviolate and intact; the interest thereon, only, shall be expended in the maintenance of the schools of the state and shall be distributed to the several school districts of the state in such manner as may be prescribed by law. No part of said fund, principal or interest, shall ever be transferred to any other fund or used or appropriated, except as provided in this article. The state treasurer shall be custodian of the fund, and the same shall be securely and profitably invested as may be directed by law. The state, by appropriation, shall supply all losses of principal that may occur as determined pursuant to section 2-3-103 (5), C.R.S., or section 22-41-104 (2).

(2) (Deleted by amendment, L. 2003, p. 2131, § 25, effective May 22, 2003.)

(3) For the 2003-04 fiscal year and each fiscal year thereafter, the amount of interest expended from the public school fund shall not exceed nineteen million dollars. Any interest earned on the investment of the moneys in the public school fund that exceeds the amount specified in this subsection (3) shall remain in the fund and shall become part of the principal of the fund.

Source: L. 73: R&RE, p. 1240, § 1. C.R.S. 1963: § 123-4-2. L. 77: Entire section amended, p. 1055, § 1, effective July 15. L. 2003: (2) amended and (3) added, p. 2131, § 25, effective May 22.

ANNOTATION

Am. Jur.2d. See 68 Am. Jur.2d, Schools, § 99.

C.J.S. See 78 C.J.S., Schools and School Districts, §§ 9, 10.

22-41-103. Certain lands considered to be investments of fund.

(1) All lands, title to which has or may become vested in the state as the result of foreclosure proceedings, shall be designated as "public school fund lands" and shall be considered an investment of the public school fund.

(2) Such lands shall be under the control and direction of the state board of land commissioners and may be disposed of by the board in the same manner as public school lands; except that any mineral rights acquired under said foreclosure proceedings may be sold with the land. The board shall keep a separate list of all such lands in its office.

Source: L. 73: R&RE, p. 1240, § 1. C.R.S. 1963: § 123-4-3.

ANNOTATION

Am. Jur.2d. See 68 Am. Jur.2d, Schools, § 99.

C.J.S. See 78 C.J.S., Schools and School Districts, § 12.

Annotator's note. Cases relevant to § 22-41-103 decided prior to its earliest source, § 123-4-3, C.R.S. 1963, have been included in the annotations to this section.

The investment in the state of the right to become the purchaser at foreclosure sale constitutes a safeguard against loss which might otherwise result from a borrower's failure to repay a loan, and whatever may be realized from subsequent sale of the property diminishes correspondingly the amount necessary for reimbursement of the school fund. *People ex rel. Miller v. Higgins*, 69 Colo. 79, 168 P. 740 (1917).

The right to purchase does not impose any liability upon the state. Under this section the state, acting through its proper agents, may become the purchaser of the real estate securing the loan at a foreclosure sale thereof, but it is equally true that it need not become such purchaser. It may resort to any lawful "procedure that may be necessary and appropriate" in the collection of the loan. The statute does not, either directly or indirectly, impose upon the state any liability in the premises. *Leddy v. People ex rel. Farrar*, 59 Colo. 120, 147 P. 365 (1915); *People ex rel. Miller v. Higgins*, 69 Colo. 79, 168 P. 740 (1917).

22-41-104. Lawful investments.

(1) The state treasurer in the state treasurer's discretion may invest and reinvest moneys accrued or accruing to the public school fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S., and bonds issued by school districts.

(2) The state treasurer has authority, to be exercised at the state treasurer's discretion, to effect exchanges or sales whenever such exchanges or sales will not result in any ultimate loss of principal and to effect exchanges or sales that will result in a loss of principal whenever such loss can be offset by a corresponding gain within three fiscal years of such exchange or sale. No exchange or sale of securities shall be consummated by the state treasurer that will result in a net loss of principal unless the general assembly has previously appropriated a sum to the public school fund equivalent to the anticipated net loss of principal from such exchange or sale.

(3) (Deleted by amendment, L. 97, p. 375, § 6, effective August 6, 1997.)

Source: L. 73: R&RE, p. 1241, § 1. C.R.S. 1963: § 123-4-4. L. 77: (2) amended and (3) added, p. 1055, § 2, effective July 15. L. 78: (2) amended, p. 264, § 56, effective May 23, 1979. L. 81: (1)(a) amended, p. 1069, § 1, effective May 21. L. 88: (1)(f) and (1)(g) added, p. 950, § 2, effective March 24. L. 92: (1)(f) amended and (1)(h) to (1)(j) added, p. 1112, § 2, effective July 1. L. 97: IP (1) amended and (1)(c.3) added, p. 852, § 39, effective May 21; entire section amended, p. 375, § 6, effective August 6. L. 2002: (2) amended, p. 1793, § 56, effective June 7.

Editor's note: Amendments to subsection (1) by Senate Bill 97-206 and Senate Bill 97-150 were harmonized.

Cross references: For provisions for legal investments for governmental units, see § 24-75-601.1.

ANNOTATION

Am. Jur.2d. See 68 Am. Jur.2d, Schools, §§ 115, 118-121, 123, 124.

C.J.S. See 78 C.J.S., Schools and School Districts, § 12.

Annotator's note. Cases relevant to § 22-41-104 decided prior to its earliest source, § 123-4-1, C.R.S. 1963, have been included in the annotations to this section.

For previously permitted investments in loans on cultivated farmlands or ranches, see People ex rel. Miller v. Higgins, 69 Colo. 79, 168 P. 740 (1917).

For previous direction of investments by board of land commissioners, see Denver & R. G. W. R. R. v. Town of Castle Rock, 99 Colo. 340, 62 P.2d 1164 (1936).

22-41-104.5. Other financial transactions.

(1) The state treasurer may engage in financial transactions whereby:

(a) Obligations are purchased with moneys accrued or accruing to the public school fund under an agreement providing for the resale of such obligations to the original seller at a stated price together with a payment to the fund of interest for the period the fund holds the obligations, but the market value of such obligations shall at all times be at least equal to the total purchase price;

(b) Obligations owned by the fund are sold under an agreement providing for the repurchase of such obligations by the fund at a stated price together with the payment to the buyer of interest for the period the buyer holds the obligations;

(b.5) Loans are made to school districts under the provisions of section 3 of article IX of the state constitution;

(c) Obligations owned by the fund are delivered to reputable and financially responsible dealers in such obligations under an agreement which provides:

(I) For the replacement thereof with obligations of the same kind and amount upon demand therefor by the state treasurer; and

(II) For the payment to the state treasury by said dealer of a commission or other compensation, based upon the amount of such obligations, for the period of time between the delivery of such obligations to such dealer and the replacement thereof; and

(III) For the pledge and delivery by said dealer to the state treasury of other obligations which are lawful investments having a market value at all times equal to at least the market value of the obligations so delivered to guarantee the replacement of such obligations.

(d) (Repeal provision deleted by revision.)

(2) The state treasurer may make such arrangements for the custody, safekeeping, and

registration of obligations as will enable him to make prompt delivery thereof upon maturity or in the event of sale.

Source: L. 77: Entire section added, p. 1058, § 1, effective June 1; (1)(b) and (1)(c) repealed, p. 1059, § 1, effective July 1. L. 81: (1)(b) and (1)(c) RC&RE, p. 1069, § 2, effective May 21. L. 97: (1)(b.5) added, p. 852, § 40, effective May 21.

Editor's note: Paragraph (d) of subsection (1) provided for the repeal of paragraphs (b) and (c) of subsection (1), effective July 1, 1979. Subsequent to July 1, 1979, paragraphs (b) and (c) of subsection (1) were recreated and reenacted, and paragraph (d) of subsection (1) was therefore deleted by revision as obsolete. See L. 81, p. 1069, § 2.

ANNOTATION

C.J.S. See 78 C.J.S., Schools and School Districts, § 12.

22-41-105. Income distinguished from principal.

Any amount paid as a premium for an interest-bearing obligation in excess of the amount realized upon disposition of said obligation shall be recovered as a return of principal out of interest thereafter derived from the public school fund. Such recovery shall be made and recorded on a systematic basis applied consistently from year to year.

Source: L. 73: R&RE, p. 1241, § 1. C.R.S. 1963: § 123-4-5. L. 77: Entire section amended, p. 1056, § 3, effective July 15.

22-41-106. Disposition of income.

All interest derived from the investment and reinvestment of the public school fund shall be credited to the public school income fund and periodically transferred therefrom to the state public school fund.

Source: L. 73: R&RE, p. 1241, § 1. C.R.S. 1963: § 123-4-6. L. 96: Entire section amended, p. 1008, § 1, effective July 1, 1997. L. 97: Entire section amended, p. 589, § 23, effective April 30.

ANNOTATION

Am. Jur.2d. See 68 Am. Jur.2d, Schools, §§ 99, 115, 118, 119.

C.J.S. See 78 C.J.S., Schools and School Districts, § 12.

STATE EDUCATION FUND (STATE CONST., ART. IX §3; CRS 22-55-103)

Colorado Constitution Article IX, §3. School fund inviolate.

The public school fund of the state shall, except as provided in this article IX, forever remain inviolate and intact and the interest and other income thereon, only, shall be expended in the maintenance of the schools of the state, and shall be distributed amongst the several counties and school districts of the state, in such manner as may be prescribed by law. No part of this fund, principal, interest, or other income shall ever be transferred to any other fund, or used or appropriated, except as provided in this article IX. The state treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The state shall supply all losses thereof that may in any manner occur. In order to assist public schools in the state in providing necessary buildings, land, and equipment, the general assembly may adopt laws establishing the terms and conditions upon which the state treasurer may (1) invest the fund in bonds of school districts, (2) use all or any portion of the fund or the interest or other income thereon to guaranty bonds issued by school districts, or (3) make loans to school districts. Distributions of interest and other income for the benefit of public schools provided for in this article IX shall be in addition to and not a substitute for other moneys appropriated by the general assembly for such purposes.

Source: Entire article added, effective August 1, 1876, see L. 1877, p. 55. **Initiated 96:** Entire section amended, effective upon proclamation of the Governor, L. 97, p. 2399, December 26, 1996.

Cross references: For the public school fund, see also article 41 of title 22; for pledging the credit of a state, county, city, town or school district, see § 1 of art. XI, Colo. Const.

ANNOTATIONS

Am. Jur.2d. See 68 Am. Jur.2d, Schools, § 99.

C.J.S. See 78 C.J.S., Schools and School Districts, §§ 9, 11, 12, 503.

Law reviews. For article, "The 'New' Colorado State Land Board", see 78 Den. U. L. Rev. 347 (2001).

This section is imperative mandate binding upon all departments of government. In re Loan of Sch. Fund, 18 Colo. 195, 32 P. 273 (1893).

The changes to this section enacted in 1996 do not violate Colorado's fiduciary obligations arising out of the federal trust enacted by the Colorado Enabling Act and therefore do not facially violate the supremacy clause of article VI of the United States Constitution. Branson Sch. Dist. RE-82 v. Romer, 161 F.3d 619 (10th Cir. 1998).

Appropriation of land and proceeds to state or municipal purpose prohibited. State constitutional provisions, declaring that land granted by the federal government to states for school purposes and the proceeds thereof shall be faithfully applied to the objects for which it was given, prohibit its appropriation to state or municipal purposes, directly or indirectly. People ex rel. Dunbar v. City of Littleton, 183 Colo. 195, 515 P.2d 1121 (1973).

This section can be held to be requirement, and not prohibition, and such construction is in harmony with the progressive school policy of the state, and will enable the general assembly to confer

upon all classes of children the advantages of a system that has proven of incalculable benefit. In re Kindergarten Sch., 18 Colo. 234, 32 P. 422, 19 L.R.A. 469 (1893).

Public school fund of state and interest derived therefrom is state property. Such interest pursuant to this section must be apportioned and distributed amongst the several counties and school districts in this state in such manner as may be prescribed by law and not in conflict with any constitutional provision. Upon the distribution thereof, title thereto vests in the distributees. *Craig v. People ex rel. Hazzard*, 89 Colo. 139, 299 P. 1064 (1931).

This section requires state to supply all losses to school fund, and that liability rested upon the state at the moment it came into being. *Leddy v. People ex rel. Farrar*, 59 Colo. 120, 147 P. 365 (1915).

Security of investment of school fund is of highest importance. It is true, the section provides that the public school fund shall be invested as may be by law directed; but a further requirement is, that such fund shall be securely and profitably invested. The security of the investment is of the first and highest importance. In re Loan of Sch. Fund, 18 Colo. 195, 32 P. 273 (1893).

Legislation respecting such investment is left to discretion of general assembly and governor. It may in some cases be difficult to determine in advance whether a proposed investment of the school fund will be secure as well as profitable. In general, legislation respecting such matters must be left to the wisdom and discretion of the general assembly and of the chief executive of the state. In re Loan of Sch. Fund, 18 Colo. 195, 32 P. 273 (1893).

Lands granted by federal government to states for school purposes are exempt from special assessments upon one of three overlapping reasons, the essence of which is that enforcement of the assessments against either the land or its proceeds would be a diversion of school funds in violation of either: (1) the act of congress granting the land to the state for school purposes; (2) state constitutional provisions making such land part of the state school fund and declaring that the principal must remain inviolate; and (3) the fact that the state holds such lands in trust for the purpose of the grant. *People ex rel. Dunbar v. City of Littleton*, 183 Colo. 195, 515 P.2d 1121 (1973).

Municipal fee for flood control was not a "special assessment", but instead was a service fee reasonably related and essential to the provision of flood control services benefiting all property within the municipal flood control district, including school lands. Therefore, imposition of the fee against the State Land Board did not contravene constitutional limitations on the board's authority to expend state funds. *City of Littleton v. State*, 855 P.2d 448 (Colo. 1993).

Taxpayer has no standing to challenge the management decisions of the state board of land commissioners with regard to school lands. Such decisions have no effect on taxpayers, because the management of school lands has no effect on the state's funding of schools through the taxing power. *Brotman v. East Lake Creek Ranch L.L.P.*, 31 P.3d 886 (Colo. 2001).

Applied in *Post Printing & Publishing Co. v. Shafroth*, 53 Colo. 129, 124 P. 176 (1912); *People ex rel. Miller v. Higgins*, 69 Colo. 79, 168 P. 740 (1917); *Wilmore v. Annear*, 100 Colo. 106, 65 P.2d 1433 (1937); *People ex rel. Dunbar v. People ex rel. City & County of Denver*, 141 Colo. 459, 349 P.2d 142 (1960).

22-55-103. State education fund - creation - transfers to fund - use of moneys in fund - permitted investments - exempt from spending limitations.

(1) In accordance with section 17 (4) of article IX of the state constitution, there is hereby created in the state treasury the state education fund. The fund shall consist of state education fund revenues, all interest and income earned on the deposit and investment of moneys in the fund, and any gifts or other moneys that are exempt from the limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S., that may be credited to the fund. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any state fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not revert to the general fund or any other fund.

(2) (a) The legislative council, in consultation with the office of state planning and budgeting, shall calculate the amount of state education fund revenues for the period commencing December 28, 2000, and ending June 30, 2001, and the amount of state education fund revenues for each state fiscal year commencing on or after July 1, 2001. The legislative council and the office of state planning and budgeting shall rely upon the quarterly state revenue estimates issued by the legislative council in calculating such amounts and shall update its calculations no later than five days following the issuance of each quarterly state revenue estimate.

(b) To ensure that all state education fund revenues are transferred to the state education fund and that other state revenues are not erroneously transferred to the fund:

(I) No later than two days after calculating or recalculating the amount of state education fund revenues for the period commencing December 28, 2000, and ending June 30, 2001, or for any state fiscal year commencing on or after July 1, 2001, the legislative council, in consultation with the office of state planning and budgeting, shall certify to the department of revenue the amount of state education fund revenues that the department shall transfer to the state treasurer for deposit into the state education fund on the first day of each of the three succeeding calendar months as required by paragraph (c) of this subsection (2);

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), no later than May 25 of any state fiscal year commencing on or after July 1, 2000, the legislative council, in consultation with the office of state planning and budgeting, may certify to the department of revenue an adjusted amount for any transfer to be made on the first business day of the immediately succeeding June; and

(III) Subject to review by the state auditor, the legislative council, in consultation with the office of state planning and budgeting, may correct any error in the total amount of state education fund revenues transferred during any state fiscal year by adjusting the amount of any transfer to be made during the next state fiscal year.

(c) On the first business day of each calendar month that commences after June 5, 2001, the department of revenue shall transfer to the state treasurer for deposit into the state education fund state education fund revenues in an amount certified to the department by the legislative council, in consultation with the office of state planning and budgeting, pursuant to paragraph (b) of this subsection (2).

(3) (a) Except as provided by law, all moneys in the state education fund are subject to annual appropriation by the general assembly to the department of education for the purposes set forth in this subsection (3). The department shall expend all interest derived from the deposit and investment of moneys in the fund prior to expending any of the principal in the fund. The moneys in the fund shall only be used to comply with the requirements of section 17 (1) of article (IX) of the state constitution

and for such purposes as may be authorized by law and that are consistent with section 17 (4) (b) of article IX of the state constitution.

(b) Nothing in this subsection (3) shall be construed to require additional or future appropriations from the state education fund for any program for which an appropriation from the fund has previously been authorized for any given fiscal year in accordance with the provisions of paragraph (a) of this subsection (3).

(4) Moneys in the state education fund may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(5) Pursuant to section 17 (3) of article IX of the state constitution, all moneys credited to the fund, appropriated by the general assembly out of the fund, or distributed from the fund and expended by any school district shall be exempt from:

(a) The limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S.;

(b) The limitation on local government fiscal year spending set forth in section 20 (7) (b) of article X of the state constitution; and

(c) The statutory limitation on general fund appropriations growth.

Source: L. 2001: Entire article added, p. 993, § 1, effective June 5.

MAJOR MEDICAL INSURANCE FUND (CRS 8-46-210)

8-46-210. State treasurer to invest funds.

(1) The state treasurer shall invest any portion of the major medical insurance fund, including its surplus and reserves, which the director of the division of workers' compensation determines is not needed for immediate use. All interest earned upon such invested portion shall be credited to the fund and used for the same purposes and in the same manner as other moneys in the fund. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(2) Repealed.

Source: L. 90: Entire article R&RE, p. 548, § 1, effective July 1. L. 92: (1) amended, p. 1830, § 4, effective May 19. L. 97: (2) repealed, p. 377, § 9, effective August 6. L. 99: (1) amended, p. 618, § 6, effective August 4.

Editor's note: This section was contained in an article that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 8-66-110 as said section existed in 1989, the year prior to the repeal and reenactment of this article.

ANNOTATION

Am. Jur.2d. See 82 Am. Jur.2d, Workers' Compensation, § 47.

C.J.S. See 100 C.J.S., Workers' Compensation, § 648.

UNCLAIMED PROPERTY TOURISM PROMOTION TRUST FUND (CRS 38-13-116.7)

38-13-116.7. Unclaimed property tourism promotion trust fund - creation - payments - interest - transfers.

(1) There is hereby created in the state treasury the unclaimed property tourism promotion trust fund. The principal in the trust fund shall consist of all proceeds collected by the administrator from the sale of securities pursuant to section 38-13-115.

(2) The principal of the unclaimed property tourism promotion trust fund shall not be expended except to pay claims made pursuant to this article. Moneys comprising the principal of the trust fund that are credited to or expended from the trust fund to pay claims shall not constitute fiscal year spending of the state for purposes of section 20 of article X of the state constitution, and such moneys shall be deemed custodial funds that are not subject to appropriation by the general assembly.

(3) All interest derived from the deposit and investment of moneys in the unclaimed property tourism promotion trust fund shall be credited to the Colorado travel and tourism promotion fund created in section 24-49.7-106 (1), C.R.S., and, beginning with the 2005-06 state fiscal year, shall be subject to appropriation by the general assembly as provided in section 24-49.7-106 (3) (a), C.R.S. Any moneys that are credited to and expended from the Colorado travel and tourism promotion fund pursuant to this subsection (3) shall constitute fiscal year spending of the state for purposes of section 20 of article X of the state constitution.

(4) The moneys in the unclaimed property tourism promotion trust fund shall not revert to the general fund at the end of any fiscal year.

Source: L. 2004: Entire section added, p. 1262, § 3, effective May 27.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 322, Session Laws of Colorado 2004.

CONTROLLED MAINTENANCE TRUST FUND (CRS 24-75-302.5)

24-75-302.5. Controlled maintenance - trust fund.

(1) In light of the fluctuating amounts of state revenues which have been available for controlled maintenance purposes in the past, the general assembly hereby finds and declares that a stable, predictable, and consistent source of revenues for controlled maintenance projects will better allow the state to fund such projects on a timely basis and avoid higher replacement costs. In order to provide a consistent source of revenues, the general assembly hereby further finds and declares that it is appropriate to create a trust fund which will generate an annual amount of interest which will be dedicated to controlled maintenance.

(2) (a) There is hereby created the controlled maintenance trust fund, the principal of which shall consist of general fund revenues transferred thereto as provided in section 24-75-201.1 (1) (c.5) (II), any general fund revenues appropriated thereto by law, and proceeds of leveraged leasing agreements deposited thereto pursuant to section 24-82-1003 (3). For the 1996-97 fiscal year and fiscal years thereafter, the principal of the trust fund may constitute all or some portion of the state emergency reserve established pursuant to section 24-77-104 and may be expended in any given fiscal year as provided in said section. The principal of the trust fund shall not be expended or appropriated for any purpose other than use as part of the state emergency reserve. The state treasurer may in the state treasurer's discretion deposit, redeposit, invest, and reinvest moneys accrued or accruing to the controlled maintenance trust fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113.

(b) Beginning September 1, 1994, and on September 1 of each year thereafter, the state treasurer shall certify to the general assembly the amount of interest actually earned on the principal of the trust fund during the previous fiscal year and shall also provide an estimate of the interest expected to be earned on such principal during the current fiscal year.

(c) Beginning with the 1996-97 fiscal year, the interest earned on the principal of the trust fund balance may be appropriated for controlled maintenance, as defined in section 24-30-1301 (2), as follows: Up to fifty percent of the amount of interest expected to be earned on the principal of the trust fund during the current fiscal year as estimated by the state treasurer and the amount of interest actually earned on the principal of the trust fund during the previous fiscal year as certified by the state treasurer, not to exceed a maximum of thirty-five million dollars in any fiscal year.

(d) The principal of the trust fund and any unappropriated interest earned on the principal of the trust fund at the close of any fiscal year shall remain therein and shall not revert to the general fund.

(e) (Deleted by amendment, L. 2004, p. 261, § 1, effective April 5, 2004.)

(f) Repealed.

(3) Notwithstanding any other provision of this section to the contrary:

(a) On July 1, 2001, the state treasurer and the controller shall transfer an amount equal to the principal balance of the trust fund as of June 30, 2001, to the general fund to be expended or transferred as provided by law.

(b) Repealed.

(4) Notwithstanding any other provision of this section to the contrary, on March 27, 2002, the state treasurer and the controller shall transfer nine million five hundred thousand dollars from the trust fund to the general fund.

(5) Notwithstanding any other provision of this section to the contrary, on June 1, 2006, the state treasurer and controller shall transfer one hundred eighty-five million six hundred twenty-seven thousand eight hundred one dollars from the trust fund to the general fund.

(6) (a) Notwithstanding any provision of this section to the contrary, on February 1, 2006, the state treasurer and the controller shall transfer three million one hundred forty-four thousand one hundred sixty-two dollars from the interest earned on the principal of the trust fund balance to the general fund to be used to increase the general fund appropriation for safety net provider payments for private hospitals under the Colorado indigent care program created in part 1 of article 15 of title 26, C.R.S.

(b) If, on February 1, 2006, there is not sufficient interest earned on the principal of the trust fund to make the transfer required by paragraph (a) of this subsection (6), the state treasurer and controller shall transfer the available interest as of February 1, 2006, and shall transfer the remaining interest due as the interest accrues.

Source: L. 93: Entire section added, p. 1859, § 4, effective July 1. L. 95: (2) amended, p. 1261, § 3, effective June 3. L. 97: (2)(a) amended, p. 373, § 4, effective August 6. L. 2001: (3) added, p. 8, § 1, effective February 13; (3)(a) amended, p. 1288, § 84, effective June 5. L. 2002: (4) added, p. 156, § 14, effective March 27; (3)(b) amended, p. 391, § 1, effective April 30. L. 2003: (3)(b) amended, p. 1469, § 2, effective May 1; (2)(a) amended, p. 1719, § 2, effective May 14; (2)(a) amended and (2)(e) added, p. 2502, § 4, effective June 5. L. 2004: (2)(a) and (2)(e) amended and (2)(f) added, p. 261, § 1, effective April 5; (3)(b) repealed, p. 538, § 1, effective April 21. L. 2005: (2)(a) amended and (5) added, p. 1025, § 2, effective June 2; (6) added, p. 1044, § 1, effective June 2.

Editor's note: (1) Amendments to subsection (2)(a) by Senate Bill 03-342 and Senate Bill 03-249 were harmonized.

(2) Subsection (2)(f)(II) provided for the repeal of subsection (2)(f), effective July 1, 2004. (See L. 2004, p. 262.)

(3) Subsection (6) was originally numbered as subsection (5) in House Bill 05-1349 but has been renumbered on revision for ease of location.

(4) Section 3 of chapter 265, Session Laws of Colorado 2005, provided that the enactment of subsection (6) is effective upon passage only if Senate Bill 05-210 is enacted and becomes law. Senate Bill 05-210 was signed June 2, 2005.

TOBACCO LITIGATION SETTLEMENT TRUST FUND (CRS 24-22-115.5)

24-22-115.5. Legislative declaration - tobacco litigation settlement trust fund - creation.

(1) The general assembly hereby finds and declares that:

(a) The purpose of the tobacco litigation settlement trust fund created by this section is to provide a permanent source of tobacco litigation settlement moneys so that all programs or funds authorized by law to be funded with tobacco litigation settlement moneys can be fully funded without appropriations of general fund moneys; and

(b) It is the intent of the general assembly that all interest derived from the deposit and investment of moneys in the tobacco litigation settlement trust fund be retained in the trust fund until such time as actuarially sound projections of future interest earnings indicate that the interest to be derived from the deposit and investment of moneys in the trust fund will be sufficient to fully fund any programs or funds authorized by law to be funded by tobacco litigation settlement moneys.

(2) (a) There is hereby created in the state treasury the tobacco litigation settlement trust fund. The principal of the trust fund shall consist of:

(I) The first thirty-three million dollars of all moneys, other than attorney fees and costs, paid to the state treasurer in accordance with the terms of the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver;

(II) For the 2005-06 fiscal year and for each fiscal year thereafter, up to twenty-one percent of the moneys, other than attorney fees and costs, paid to the state treasurer in accordance with the settlement agreements and the consent decree in the preceding fiscal year, less the amount transferred to the general fund pursuant to section 24-22-115 (3).

(III) (Deleted by amendment, L. 2004, p. 1706, § 2, effective June 4, 2004.)

(IV) Repealed.

(a.5) Repealed.

(a.7) (I) The principal of the tobacco litigation settlement trust fund shall not be expended or appropriated for any purpose; except that moneys in the trust fund may be allocated to the children's basic health plan trust as provided in section 24-75-1104.5 (1) (c). All interest derived from the deposit and investment of moneys in the trust fund shall be credited to the trust fund. Such interest shall become subject to appropriation by the general assembly for the funding of any programs or funds authorized by law to be funded by tobacco litigation settlement moneys at such time as the state auditor certifies that actuarially sound projections of future interest earnings indicate that such interest will be sufficient to fully fund such programs and funds. No part of such trust fund, principal or interest,

shall be transferred to the general fund or any other fund or used or appropriated except as provided in this section.

(II) and (III) Repealed.

(b) (I) Notwithstanding any provision of this section to the contrary, on March 5, 2003, the state treasurer shall transfer the balance of moneys in the tobacco litigation settlement trust fund to the general fund.

(II) Repealed.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (2), any moneys paid to the state treasurer in accordance with the terms of the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver, other than attorney fees and costs, after March 5, 2003, but before July 1, 2003, shall be credited to the tobacco litigation settlement cash fund created by section 24-22-115 (1).

(d) Notwithstanding any other provision of this section, on July 1, 2004, the state treasurer shall transfer the balance of moneys in the tobacco litigation settlement trust fund to the general fund.

(3) (a) The state treasurer shall contract with one or more private, professional fund managers, professional fund advisors, or portfolio managers for the investment of moneys in the tobacco litigation settlement trust fund as provided in this section. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113. Such moneys may also be invested in domestic and international equities; except that:

(I) Any investment of tobacco litigation settlement trust fund moneys in the common or preferred stock, or both, of any single corporation shall not exceed five percent of the then book value of the trust fund;

(II) The tobacco litigation settlement trust fund shall not acquire more than five percent of the outstanding stock or bonds of any single corporation; and

(III) The aggregate amount of moneys of the tobacco litigation settlement trust fund invested in common or preferred stock or in corporate bonds, notes, or debentures that are convertible into common or preferred stock shall not exceed sixty percent of the then book value of the trust fund. No more than fifteen percent of these investments shall be in the common or preferred stock of corporations not organized under the laws of the United States or any state, territory, or possession of the United States or the District of Columbia or of the Dominion of Canada or any province thereof.

(a.5) In addition to the types of investments specified in paragraph (a) of this subsection (3), the state treasurer may invest moneys in the tobacco litigation settlement trust fund in any type of security, regardless of its maturity date, in which a public entity may invest public funds pursuant to section 24-75-601.1 (1) (d) or (1) (e).

(b) The state treasurer may make payments without appropriation of all actual and necessary charges for expenses related to the investment of the tobacco litigation settlement trust fund moneys. Such payments shall be made from investment assets or income.

Source: L. 99: Entire section added, p. 1403, § 2, effective June 5. L. 2000: (2) amended and (3) added, p. 595, § 4, effective May 18. L. 2002: (2) amended, p. 564, § 7, effective May 24. L. 2003: (2) amended, p. 461, § 2, effective March 5; (2) amended and (3)(a.5) added, pp. 2544, 2547, §§ 3, 4, effective June 5. L. 2004: (2)(a)(II), (2)(a)(III), and (2)(a.7)(I) amended and (2)(d) added, p. 1706, § 2, effective June 4.

Editor's note: (1) Subsection (2)(a.5)(III) provided for the repeal of subsection (2)(a.5), effective December 15, 2003. (See L. 2003, p. 2544.)

(2) Subsections (2)(a.5)(II), (2)(a.7)(II)(E), (2)(a.7)(III)(B), and (2)(b)(II)(B) provided for the repeal of subsections (2)(a)(IV), (2)(a.7)(II), (2)(a.7)(III), and (2)(b)(II), respectively, effective December 15, 2003, unless the state treasurer and the tobacco litigation settlement financing corporation entered into at least one property sale contract pursuant to article 82.5 of this title. No such contract had been entered into as of December 15, 2003. (See L. 2003, p. 2544.)

PREPAID TUITION TRUST FUND (CRS 23-3.1-206.7)

23-3.1-206.7. Prepaid expense program.

(1) The authority shall develop and administer, in accordance with this part 2, the Colorado prepaid postsecondary education expense program, which program is hereby created. Through the prepaid expense program, all or part of tuition or other costs, as determined by the authority, may be paid in advance of or accumulated toward enrollment at institutions of higher education.

(2) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(3) No purchaser or qualified beneficiary participating in the prepaid expense program shall be classified as a resident for tuition purposes as a result of such participation. Purchasers and qualified beneficiaries shall be required to establish residency status based on the requirements of the state institution at which the qualified beneficiary is seeking to enroll.

(4) The selection by a purchaser in an advance payment contract of a particular state institution shall not in any way constitute a promise or guarantee that a qualified beneficiary will be admitted to any particular state institution or other institution of higher education or allowed to continue enrollment in or graduate from any state institution or other institution of higher education.

(5) (a) The Colorado prepaid postsecondary education expense trust fund is hereby created. The prepaid expense trust fund shall consist of moneys remitted by purchasers, moneys acquired from governmental and private sources, and general fund appropriations, if any. In addition, the prepaid expense trust fund may include any moneys transferred or loaned thereto pursuant to section 23-3.1-205.4. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. On May 26, 2000, the prepaid expense trust fund, and all moneys in said fund, including all interest and earnings in said fund shall be transferred with the authority as provided in section 23-3.1-205.3. All moneys remitted by purchasers and other moneys received by the authority in connection with the prepaid expense program shall be transmitted by the authority to the state treasurer and credited to the prepaid expense trust fund. The state treasurer shall invest moneys in the prepaid expense trust fund based upon the direction of the authority and shall make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority and in a manner appropriate to carry out the prepaid expense program. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(c) The state treasurer shall maintain on behalf of the authority the prepaid expense trust fund as a separate fund. The state treasurer shall credit all moneys remitted to the state treasurer by the authority as provided in paragraph (a) of this subsection (5) to the prepaid expense trust fund.

(d) (I) The authority shall evaluate the actuarial soundness of the prepaid expense trust fund if, on the last day of the fiscal year, the aggregate amount of moneys of the prepaid expense trust fund

invested in any of the following forms of investment exceeds ten percent of the market value of investable assets of the prepaid expense trust fund:

(A) Common or preferred stock; or

(B) Corporate bonds, notes, or debentures that are convertible into common or preferred stock;
or

(C) Investment trust shares.

(II) The authority may contract with a private consultant or consultants to perform an actuarial evaluation of the prepaid expense trust fund and to provide financial advice to the authority in connection with the prepaid expense trust fund. Any actuarial report and written financial advice shall be provided by the authority to the state treasurer. If, based upon an actuarial evaluation, the authority determines that the prepaid expense trust fund is not actuarially sound, the authority may direct the state treasurer to distribute the available assets of the prepaid expense trust fund in a manner permitted by outstanding advance payment contracts. In connection with the evaluation of the prepaid expense trust fund, a calculation based on key assumptions approved by the board shall be made by or on behalf of the authority to determine whether an excess amount exists in the prepaid expense trust fund. If, based on this calculation, the authority determines that an excess amount exists in the prepaid expense trust fund, the authority shall calculate, by dividing such excess amount by the total number of expected tuition units in the prepaid expense trust fund, the portion of such excess amount that would be attributable on a pro rata basis to each such expected tuition unit. At the time the value of any tuition units under an advance payment contract is disbursed from the prepaid expense trust fund during the academic year immediately following such calculation, the portion of the excess amount attributable to such tuition units as a result of the calculation made pursuant to this paragraph (d) shall be paid as part of such disbursement. The excess amount shall otherwise remain in the prepaid expense trust fund as a part of the stabilization reserve.

(e) (I) All expenses of the authority incurred in developing and administering the prepaid expense program shall be payable from the prepaid expense trust fund. The authority may use moneys in the prepaid expense trust fund to reimburse the expenses of the authority incurred in connection with the development and administration of the prepaid expense program. In no event shall annual administration expenses of the authority exceed one percent of the contract price. Any recovery of development costs by the authority shall not include interest or finance charges. Any moneys in the prepaid expense trust fund that are not needed for immediate use by the authority shall be invested by the state treasurer in accordance with paragraph (a) of this subsection (5) and with the actuarial report provided by the authority and in investments permitted by section 23-3.1-216 (1) and (3). The authority shall determine the amount of moneys in the fund that shall be invested and shall notify the state treasurer in writing of such amount.

(II) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(6) and (7) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(8) If, at any time, the authority determines that the prepaid expense program, or any aspect thereof, is not financially sound, the authority may discontinue permanently or for a period of time the prepaid expense program or that particular aspect of the program and the execution of additional

advance payment contracts. The state treasurer shall continue to invest moneys in the prepaid expense trust fund based upon the direction of the authority and shall continue to make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority for the benefit of existing purchasers and qualified beneficiaries except as otherwise authorized.

Source: L. 96: Entire section added, p. 423, § 4, effective April 22. L. 98: (5)(a) amended, p. 213, § 4, effective August 5. L. 2000: Entire section amended, p. 1278, § 8, effective May 26. L. 2003: (5)(a) amended, p. 553, § 3, effective August 6. L. 2004: (1), (5)(a), (5)(d), and (8) amended, p. 566, § 15, effective July 1.

PUBLIC FUNDS – LEGAL INVESTMENTS (CRS 24-75-601/605)

Cross references: For investments in U.S. agency obligations, see article 60 of title 11; for investment of teachers' retirement funds, see § 22-64-112; for investment by veterans administration fiduciaries, see part 3 of article 5 of title 28; for investment of public employees' retirement fund, see § 24-51-206; for investment of municipal funds, see § 31-20-303; for investment of police officers' and firefighters' pension funds, see part 5 of article 30.5 of title 31; for investments in special district bonds, see §§ 32-4-544 and 32-11-810.

24-75-601. Definitions.

As used in this part 6, unless the context otherwise requires:

(1) "Public entity" means the state of Colorado; any institution, agency, instrumentality, authority, county, municipality, city and county, district, or other political subdivision of the state, including any school district and institution of higher education; any institution, department, agency, instrumentality, or authority of any of the foregoing, including any county or municipal housing authority; any local government investment pool organized pursuant to part 7 of this article; any public entity insurance pool organized pursuant to state law; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing.

(2) "Public funds" means any funds in the custody, possession, or control of a public entity; any funds over which a public entity has investment control; any funds over which a public entity would have investment control but for the entity's delegation of that control to another person; and any funds over which another person exercises investment control on behalf of or for the benefit of a public entity. "Public funds" includes, but is not limited to, proceeds of the sale of securities of a public entity and proceeds of certificates of participation or other securities evidencing rights in payments to be made by a public entity under a lease, lease-purchase agreement, or other similar arrangement, regardless of whether such proceeds are held by the public entity, a third-party trustee, or any other person.

(2.5) "Qualified provider" means either a state bank located in the state of Colorado or a national bank, either one of which:

(a) Is insured by the federal deposit insurance corporation;

(b) Has a long-term debt rating of "A" or better from at least two nationally recognized rating organizations;

(c) Is financially and operationally stable as determined by the public entity;

(d) Has at least one other public fund customer participating in its securities lending program; and

(e) Has a securities lending program in place for a minimum of three years.

(3) "Security" means any bond, note, bill, obligation, certificate of indebtedness or other evidence

of indebtedness, or interest in any of the foregoing.

Source: L. 37: p. 799, §§ 1, 2. CSA: C. 176, § 126(1). CRS 53: § 83-1-1. C.R.S. 1963: § 83-1-1. L. 65: p. 848, § 1. L. 69: p. 688, § 1. L. 71: p. 948, § 1. L. 75: (3) amended, p. 392, § 6, effective July 14. L. 83: (1.5) added, p. 1007, § 1, effective April 28. L. 89: Entire section R&RE, p. 1101, § 1, effective July 1. L. 2000: (2.5) added, p. 182, § 1, effective August 2.

24-75-601.1. Legal investments of public funds.

(1) It is lawful to invest public funds in any of the following securities if the period from the date of purchase of such security to its maturity date is five years or less or if the governing body of the public entity authorizes investment for such period in excess of five years:

(a) Any security issued by, guaranteed by, or for which the credit of any of the following is pledged for payment: The United States, a federal farm credit bank, the federal land bank, a federal home loan bank, the federal home loan mortgage corporation, the federal national mortgage association, the export-import bank, or the government national mortgage association;

(b) (I) Any security issued by, guaranteed by, or for which the credit of the following is pledged for payment: An entity or organization which is not listed in paragraph (a) of this subsection (1) but which is created by, or the creation of which is authorized by, legislation enacted by the United States congress and which is subject to control by the federal government which is at least as extensive as that which governs an entity or organization listed in paragraph (a) of this subsection (1).

(II) No security may be purchased pursuant to this paragraph (b) unless, at the time of purchase, the security is rated in its highest rating category by one or more nationally recognized organizations which regularly rate such obligations.

(c) (I) Any security issued by, guaranteed by, or for which the credit of any of the following is pledged for payment: The world bank, the inter-American development bank, the Asian development bank, or the African development bank.

(II) No security may be purchased pursuant to this paragraph (c) unless, at the time of purchase, the security is rated in one of its two highest rating categories by one or more nationally recognized organizations which regularly rate such obligations.

(d) (I) Any security that is a general obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.

(II) No security may be purchased pursuant to this paragraph (d) unless:

(A) At the time of purchase, the security is rated in one of its three highest rating categories by one or more nationally recognized organizations which regularly rate such obligations; or

(B) At the time of purchase, the security is issued by the state of Colorado or any political subdivision, institution, department, agency, instrumentality, or authority of the state of Colorado;

the issuer is rated in one of its three highest rating categories by one or more nationally recognized organizations that rate such issuers; and the security is secured by a pledge of loans, loan participations, or other assets that are insured or guaranteed by the United States or other entity identified in paragraph (a) of this subsection (1) or for which the credit of the United States or any such entity is pledged.

(e) (I) Any security that is a revenue obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.

(II) No security may be purchased pursuant to this paragraph (e) unless, at the time of purchase, the security is rated in one of its two highest rating categories by one or more nationally recognized organizations which regularly rate such obligations.

(f) (I) Any banker's acceptance that is issued by a state or national bank which has a combined capital and surplus of at least two hundred fifty million dollars.

(II) No security may be purchased pursuant to this paragraph (f) unless:

(A) The deposits of such bank are insured by the federal deposit insurance corporation; and

(B) At the time the security is purchased, the long-term debt of such bank or the holding company of such bank is rated in one of its three highest rating categories by one or more nationally recognized organizations which regularly rate such obligations.

(g) Commercial paper that, at the time of purchase, is rated in its highest rating category by one or more nationally recognized organizations which regularly rate such obligations;

(h) Any security of the investing public entity or any certificate of participation or other security evidencing rights in payments to be made by the investing public entity under a lease, lease-purchase agreement, or similar arrangement;

(i) Any interest in any local government investment pool organized pursuant to part 7 of this article;

(j) Any repurchase agreement concerning any securities referred to in paragraph (a) or (b) of this subsection (1) that can otherwise be purchased under this section if all of the conditions of subparagraphs (I) to (IV) of this paragraph (j) are met:

(I) The securities subject to the repurchase agreement must be marketable.

(II) The title to or a perfected security interest in such securities along with any necessary transfer documents must be transferred to the investing public entity or to a custodian acting on behalf of the investing public entity.

(III) Such securities must be actually delivered to the public entity or to a third-party custodian or third-party trustee for safekeeping on behalf of the public entity.

(IV) Except for investments by the state treasurer, the collateral securities of the repurchase agreement must be collateralized at no less than one hundred two percent and marked to market no less frequently than weekly.

(k) Any money market fund that is registered as an investment company under the federal "Investment Company Act of 1940", as amended, if, at the time the investing public entity invests in such fund:

(I) The investment policies of the fund include seeking to maintain a constant share price;

(II) No sales or load fee is added to the purchase price or deducted from the redemption price of the investments in the fund;

(III) The investments of the fund consist only of securities with a maximum remaining maturity as specified in rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under such act regulating money market funds, so long as such rule 2a-7 is not amended to, or such successor regulation does not, increase the maximum remaining maturity of such securities to a period that is greater than three years, and if the fund has assets of one billion dollars or more, or has the highest current credit rating from one or more nationally recognized organizations that regularly rate such obligations, or consists of the following:

(A) Securities listed in paragraphs (a) to (j) of this subsection (1); or

(B) Perfected reverse repurchase agreements which mature within thirty days and which provide for the simultaneous sale and repurchase by the fund at a future date of securities listed in paragraphs (a) to (i) of this subsection (1); or

(C) Any securities not listed in paragraphs (a) to (j) of this subsection (1) the interest on which is not includable in gross income for federal income tax purposes if such securities do not exceed fifteen percent of the investments of the fund, based on the purchase price of all securities held by the fund; and

(D) (Deleted by amendment, L. 95, p. 772, § 1, effective May 24, 1995.)

(IV) The dollar-weighted average portfolio maturity of the fund meets the requirements specified in rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under such act regulating money market funds, so long as such rule 2a-7 is not amended to increase the dollar-weighted average portfolio maturity of a fund to a period greater than one hundred eighty days.

(I) (I) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if, at the time the contract or agreement is entered into, the long-term credit rating, financial obligations rating, claims paying ability rating, or financial strength rating of the party, or of the guarantor of the party, with whom the public entity enters the contract or agreement is, at the time of issuance, rated in one of the two highest rating categories by one or more nationally recognized securities rating agencies that regularly issue such ratings.

(II) (Deleted by amendment, L. 2004, p. 950, § 7, effective May 21, 2004.)

(III) A contract or agreement may be purchased under this paragraph (I) only if such contract or agreement is purchased with proceeds of the sale of securities of a public entity and proceeds of certificates of participation or other securities evidencing rights in payments to be made by a public entity under a lease, lease-purchase agreement, or other similar arrangement or if purchased by revenues pledged to the payment of such securities or certificates; except that no contract or agreement may be purchased pursuant to this paragraph (I) with the proceeds of any of the foregoing that are held in an escrow or otherwise for the purpose of refunding bonds or other obligations of a public entity.

(m) (I) Any United States dollar denominated corporate or bank debt issued by a corporation or bank which is organized and operated within the United States and has a net worth in excess of two hundred fifty million dollars; except that the notes evidencing the debt must mature within three years from the date of settlement and, at the time of purchase, the debt must carry at least two credit ratings from any of the nationally recognized credit rating agencies and must not be rated below "AA- or Aa3" by any credit rating agency.

(II) At no time shall the book value of a public entity's investment in notes evidencing a debt pursuant to this paragraph (m) exceed the following:

(A) Thirty percent of the book value of the public entity's investment portfolio; or

(B) Five percent of the book value of the public entity's investment portfolio if the notes are issued by a single corporation or bank.

(n) A securities lending agreement using any securities authorized in paragraph (a) or (b) of this subsection (I) if all of the following conditions are met:

(I) The securities lending agreement is entered into with a qualified provider;

(II) The securities lending agreement requires the qualified provider to provide and maintain collateral with a mutually agreed-upon custodian. Such collateral shall be in the form of either cash, which the qualified provider may invest in a permitted investment stated in the securities lending agreement, or securities that are authorized investments for the public entity. Such collateral shall have a value that is equal to or greater than one hundred two percent of the value of the securities lent by the public entity plus any accrued interest. If the collateral is in the form of corporate securities, the collateral shall have a value that is equal to or greater than one hundred five percent of the value of the securities.

(III) Either the custodian or the qualified provider if verified by the custodian marks to market daily the value of the collateral with all differences in valuation resolved on a daily basis; except that, if all of the collateral is cash, the difference in valuation need only be resolved at such time as the value of the collateral is less than one hundred percent of the value of the securities;

(IV) With respect to permitted investments purchased with cash received as collateral to a securities lending agreement:

(A) A minimum of twenty percent of such permitted investments matures or is redeemable on any business day;

(B) A permitted investment in the form of an instrument that is issued or guaranteed by the United States government or any agency thereof and that has a variable rate of interest set off of a money market index, readjusted no less frequently than every ninety-five days, is treated, for purposes of this paragraph (n), as having a maturity equal to the period remaining until the next readjustment of the interest rate;

(C) A permitted investment in the form of an instrument that is issued by a corporation that has a variable rate of interest set off of a money market index, readjusted no less frequently than every ninety-five days, is a final maturity not to exceed four hundred thirty days or an unconditional put back to the issuer not to exceed ninety-five days;

(D) The maximum maturity on any fixed rate investments or repurchase agreements does not exceed one hundred ninety days; and

(E) The investment maturity or reset date for such permitted investment is not greater than ninety-five days unless the securities lending agreement term and the permitted investment are matched to each other.

(V) In the case of local government, the securities lending agreement is approved and designated by written resolution duly adopted by a majority vote of the governing body of such local government, which resolution shall be recorded in its minutes.

(1.3) (a) Except as provided in paragraph (b) of this subsection (1.3), public funds shall not be invested in any security on which the coupon rate is not fixed from the time the security is settled until its maturity date, other than shares in qualified money market mutual funds, unless the coupon rate is:

(I) Established by reference to the rate on a United States treasury security with a maturity of one year or less or to the United States dollar London interbank offer rate of one year or less maturity, or to the cost of funds index or the prime rate as published by the federal reserve; and

(II) Expressed as a positive value of the referenced index plus or minus a fixed number of basis points.

(b) A municipal index may be used for the investment of bond or note accounts from issues with coupons linked to the same index.

(c) For purposes of this section, "maturity date" means the last possible date, barring default, that principal can be repaid to the purchaser.

(1.5) Any firm that sells any financial instrument that fails to comply with the provisions of this section, except for instruments representing interests in a money market fund covered by the federal "Investment Company Act of 1940", as amended, to any public entity in the state of Colorado shall, upon demand of the public entity through the state treasurer, repurchase such instruments for the

greater of the original purchase principal amount or the original face value, plus any and all accrued interest, within one business day of the demand.

(2) Investments made pursuant to this section shall be made in conformance with the standard set forth in section 15-1-304, C.R.S.

(2.5) (a) If a public entity invests public moneys through an investment firm offering for sale corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, the investment firm shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the public entity whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the public entity and because of such agreement the investment firm:

(I) Had received compensation for investment banking services within the most recent twelve months; or

(II) May receive compensation for investment banking services within the next three consecutive months.

(b) For the purposes of this subsection (2.5), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.

(3) Nothing in this section is intended to limit:

(a) The power of any public entity to invest any public funds in any security or other investment permitted to such public entities under any other valid law of the state; or

(b) The power of any home rule city, city and county, town, or county to invest any public funds in any security or other investment permitted under the charter or ordinance of such home rule city, city and county, town, or county; or

(c) The authority of the state board of regents to invest any funds available to the board in any security or other investment otherwise provided by law.

(3.5) Notwithstanding the limitations stated in the introductory portion to subsection (1) of this section, the securities subject to a repurchase agreement authorized in paragraph (j) of said subsection (1) and the securities authorized in sub-subparagraph (B) of subparagraph (II) of paragraph (d) of said subsection (1) may have a maturity in excess of five years.

(4) Nothing in this section is intended to apply to public funds held or invested as part of any pension plan, full or supplemental retirement plan, or deferred compensation plan.

Source: L. 89: Entire section added, p. 1102, § 2, effective July 1. L. 91: (4) amended, p. 1917, § 39, effective June 1. L. 93: (1)(k)(II), IP(1)(k)(III), and (1)(k)(III)(C) amended and (1)(k)(IV) added, p. 1260, § 7, effective June 6. L. 94: (1)(k)(III) amended and (1)(m) added, p. 449, § 1, effective March 29. L. 95: IP(1)(j), (1)(k)(III), (1)(k)(III)(C), and (1)(k)(III)(D) amended and (1.3) and (1.5) added, p. 772, § 1, effective May 24. L. 2000: (1)(n) added, p. 182, § 2, effective August 2; (3.5) added, p.

811, § 1, effective August 2. L. 2002: (1)(d)(II) and (3.5) amended, pp. 258, 259, §§ 2, 3, effective April 12. L. 2003: (1)(l)(I) amended, p. 623, § 40, effective July 1; (2.5) added, p. 674, § 3, effective August 6. L. 2004: (1)(j)(I) and (1)(l) amended, p. 950, § 7, effective May 21.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1)(d)(II) and (3.5), see section 1 of chapter 94, Session Laws of Colorado 2002.

24-75-601.2. Prior investments valid.

Nothing in this article shall be construed so as to invalidate any legal investment made prior to July 1, 1989. Such investments shall continue to be authorized through their dates of maturity.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-601.3. Remedial actions - investments not made in conformance with statute.

The audit of the financial statements of public entities required by part 6 of article 1 of title 29, C.R.S., shall, in addition to all other requirements, include a supplemental listing of all investments held by the public entity at the date of the financial statement. The public entity shall divest itself of any investment which is not included as a lawful investment in section 24-75-601.1 or other statutory authority within six months of the initial disclosure of the existence of such investment.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-601.4. Liability of officials of public entities.

Elected or appointed officials or employees of public entities who, in the good faith performance of their duties as public officials, comply with the standards established in this part 6 for the investment of public funds in securities shall not be liable for any loss of public funds resulting from such investment.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-601.5. Liability for sale of unlawful investments to public entities.

(1) Any person who sells or causes to be sold to a public entity any investment which is not a lawful investment for such public entity pursuant to section 24-75-601.1 or other authority, and who knew or should have known that said investment was not a lawful investment, shall be liable to such public entity for any loss of investment principal resulting from such investment and, in addition, shall be liable for any reasonably foreseeable costs resulting from such loss, including but not limited to:

(a) Attorney fees; and

(b) Interest on the principal which would have resulted from the investment of said principal on the day the unlawful investment was made in one-year United States treasury bills at the market yield on such bills on such day.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-602. Bonds of housing authority as legal investments.

Notwithstanding any restrictions on investments contained in any laws of this state, all banks, bankers, trust companies, savings banks and institutions, savings and loan associations, investment companies, and other persons carrying on a banking business and all insurance companies, insurance associations, and other persons carrying on an insurance business may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the "Housing Authorities Law", part 2 of article 4 of title 29, C.R.S., or issued by any public housing authority or agency in the United States when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, firms, corporations, and associations, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension, and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations. Public entities, as defined in section 24-75-601 (1), may invest public funds in such bonds or other obligations only if said bonds or other obligations satisfy the investment requirements established in this part 6. Nothing contained in this section shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

Source: L. 39: p. 415, § 1. CSA: C. 176, § 126(2). CRS 53: § 83-1-2. C.R.S. 1963: § 83-1-2. L. 89: Entire section amended, p. 1129, § 65, effective July 1.

ANNOTATION

Law reviews. For article, "The 'Prudent Man Rule' Now Applies to Investments by Fiduciaries", see 28 Dicta 213 (1951).

24-75-603. Depositories.

(1) It is lawful for the state of Colorado and any of its institutions and agencies, counties, municipalities, and districts, and any other political subdivision of the state, and any department, agency, or instrumentality thereof, or any political or public corporation of the state, whenever any of the foregoing have funds, and for any bank, savings and loan association, industrial bank, credit union, fraternal benefit society, trust deposit and security company, trust company, or any other financial institution operating under the laws of this state having funds in their possession or custody, respectively, to deposit, or cause to be deposited either by or through the treasurer or such other custodian of funds as may be appointed, such funds so eligible for investment in any state bank, national bank, or state or federal savings and loan association in Colorado that is, at the time the deposit is made, a member of the federal deposit insurance corporation or its successor to the extent that the deposit is insured by the federal deposit insurance corporation or its successor or is secured by pledge of eligible collateral as required by statute.

(2) Notwithstanding any provisions of law of this state or any rule or requirement of any political subdivision thereof requiring security for deposits in the form of collateral, surety bond, or any other form, such security for deposits of public funds shall not be required to the extent said deposits are insured by the federal deposit insurance corporation or its successor.

(3) Repealed.

(4) In lieu of or in addition to other statutory authorization for the investment of public funds, any public funds that are not needed for current operating expenses may be invested in accordance with the following conditions:

(a) The public funds shall initially be placed by the public entity in a bank or savings and loan association located in this state that is an eligible public depository certified by the state banking board or the state financial services board that offers federal deposit insurance corporation insurance on its deposits;

(b) The selected eligible public depository simultaneously shall arrange for the deposit of any public funds in excess of one hundred thousand dollars in certificates of deposit of one hundred thousand dollars or less in one or more other banks or savings and loan associations wherever located in the United States, for the account of the public entity;

(c) At the same time the public funds are deposited and the certificates of deposit are issued for the benefit of the public entity, the eligible public depository shall receive an amount of deposits from customers of other banks or savings and loan associations equal to the amount of the public funds initially placed by the public entity;

(d) Each such certificate of deposit shall be insured by the federal deposit insurance corporation;

(e) The selected eligible public depository shall act as custodian for the public entity with respect to the certificates of deposit issued for the public entity's account;

(f) Public funds invested in accordance with paragraphs (a) to (e) of this subsection (4) are not subject to the collateralization, requirements, or restrictions of article 10.5 of title 11, C.R.S., except for certification as an eligible public depository as provided in paragraph (a) of this subsection (4); and

(g) Banks and savings and loan associations that accept public funds for the purposes of investing them in accordance with paragraphs (a) to (e) of this subsection (4) are not subject to the additional requirements or restrictions of article 10.5 of title 11, C.R.S., except for certification as an eligible public depository as provided in paragraph (a) of this subsection (4).

Source: L. 39: p. 442, § 1. CSA: C. 176, § 126(3). L. 41: p. 365, § 2. CRS 53: § 83-1-3. L. 62: p. 179, § 1. C.R.S. 1963: § 83-1-3. L. 75: (1) amended, (2) R&RE, and (3) repealed pp. 855, 856, §§ 1-3, effective June 13. L. 77: (1) amended, p. 576, § 7, effective June 10. L. 2004: (4) added, p. 951 § 8, effective May 21; (1) and (2) amended, p. 154, § 68, effective July 1.

ANNOTATION

Am. Jur.2d. See 63C Am. Jur.2d, Public Funds, §§ 5-32.

C.J.S. See 81A C.J.S., States, § 373.

Law reviews. For article, "The 'Prudent Man Rule' Now Applies to Investments by Fiduciaries", see 28 Dicta 213 (1951).

24-75-604. Investments in bonds issued by member institutions of the farm credit system.

All savings banks, insurance companies, assurance, casualty, fidelity, and guaranty companies, and savings and loan associations which are permitted or directed by the laws of the state of Colorado to invest any of their moneys or deposits in securities may invest such moneys or deposits in bonds issued by any federal land bank or joint-stock land bank organized pursuant to an act of congress known as the "Farm Credit Act of 1971", and acts amendatory thereto. Such bonds shall be accepted as security for all public deposits and in all cases where bonds are required by law to be deposited with any department or public official of the state of Colorado; but this section shall not be so construed as to prohibit such moneys or deposits from being invested in such other securities as are provided for by law.

Source: L. 57: p. 274, § 3. CRS 53: § 83-1-4. C.R.S. 1963: § 83-1-4. L. 75: Entire section amended, p. 216, § 52, effective July 16.

Cross references: For the "Farm Credit Act of 1971", see 85 Stat. 583, 12 U.S.C.A. § 2001.

24-75-605. Legal investments - cities of 25,000 or more population-limitation in class of investments.

(1) Whenever cities having a population of twenty-five thousand or more, as determined by the last preceding federal decennial census, have moneys in policemen's or firefighters' pension funds, or other special funds of said cities, including pension, endowment, and trust funds, whether or not administered by a board or similar authority, it is lawful to invest or reinvest these moneys as set forth in this section if the authorization to invest moneys as provided in this section does not affect the administration of or control over the various funds, to wit:

(a) Class 1. Bonds or warrants of the United States, the state of Colorado, or in the bonds of any other state of the United States;

(b) Class 2. General obligation bonds of any city, town, or school district of the state of Colorado, the valuation for assessment of which city, town, or school district in the year next preceding the year in which such bonds may be purchased equals or exceeds two million dollars;

(c) Class 3. Obligations secured by first liens on real estate or by pledge of specific income or revenue and issued, insured, or guaranteed by any agency or instrumentality of the United States or the state of Colorado;

(d) Class 4. Notes, bonds, or debentures which are direct obligations of United States corporations engaged in the production, transportation, distribution, or sale of electricity or gas, or the operation of telephone or telegraph systems or water works, or any combination of them, which, at the time of purchase, are designated as investment grade securities by any two nationally recognized investment services as may, from time to time, be designated by the city council;

(e) Class 5. In share certificates for savings accounts in any state or federally chartered savings and loan association in Colorado if said association is a member of the federal deposit insurance corporation or its successor and further if the full amount of each account is insured by the federal deposit insurance corporation or its successor; and in any time certificate of deposit or savings account in any state or national bank in Colorado, which certificates of deposit or savings accounts are fully insured by the federal deposit insurance corporations or its successor;

(f) Class 6. In stocks, preferred or common, or bonds of corporations, created or existing under the laws of the United States, or any state, district, or territory thereof, which, at the time of purchase, are listed on a national stock exchange in the United States.

(2) Investments under this section shall be limited in their acquisition and retention in the above classes of securities so that the aggregate of all investments in each separate fund at any time shall be as follows:

(a) Classes 1, 2, and 3, or any combination thereof, up to any amount but not less than 70%;

(b) Class 4. In any amount not to exceed thirty percent;

(c) Class 5. In any amount that is fully insured by the federal deposit insurance corporation or its successor.

(3) The legal investments in this section authorized for cities having a population of twenty-five thousand or more shall be in addition to those investments otherwise by law authorized for said cities.

(4) Notwithstanding the provisions of subsection (2) of this section, investments of firefighters' pension funds shall be limited in their acquisition and retention in the classes of securities set forth in subsection (1) of this section so that the aggregate of all investments in each separate fund at any time shall be as follows:

(a) Classes 1, 2, and 3, or any combination thereof, up to any amount but not less than 50%;

(b) Class 4. In any amount not to exceed fifty percent, but not more than fifty percent of such class 4 aggregate may be invested in class 4 notes, bonds, or debentures which are convertible into shares of common stock or in common stocks of such class 4;

(c) Class 6. In any amount not to exceed fifty percent;

(d) As a further limitation thereon, in any amount not to exceed seven percent or one hundred thousand dollars, whichever is the greater, of any one issue valued at the time of purchase;

(e) In no event shall any investment be made in the common or preferred stock, or both, of any single corporation in an amount in excess of five percent of the then book value of the assets of the retirement fund.

Source: L. 63: p. 685, § 1. CRS 53: § 83-1-5. C.R.S. 1963: § 83-1-5. L. 69: p. 689, § 1. L. 97: IP(1) and IP(4) amended, p. 1022, § 40, effective August 6. L. 2004: (1)(e) and (2)(c) amended, p. 154, § 69, effective July 1.

ANNOTATION

Am. Jur.2d. See 63C Am. Jur.2d, Public Funds, § 67.

APPENDIX B – BROKER/DEALER ACKNOWLEDGEMENT

_____ acknowledges that the registered principal and all sales personnel conducting investment transactions with the Colorado Department of the Treasury have received and have thoroughly reviewed the Investment Policy of the Colorado Department of the Treasury. Broker acknowledges that Broker has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between Colorado Department of the Treasury and Broker.

This firm pledges due diligence in informing the Colorado Department of the Treasury of foreseeable risks associated with financial transactions connected with this firm.

Firm

Primary Representative, Title

Date