

CHAPTER 110

GOVERNMENT - STATE

SENATE BILL 97-150

BY SENATOR Coffman;
also REPRESENTATIVES Pfiffner, Arrington, and Schauer.

AN ACT

CONCERNING STATE FUNDS AND, IN CONNECTION THEREWITH, ELIMINATING CERTAIN REPORTS TO BE PROVIDED TO THE STATE TREASURER, SPECIFYING THE INVESTMENTS IN WHICH THE STATE TREASURER CAN INVEST CERTAIN MONEYS IN THE STATE TREASURY, AND ELIMINATING THE REQUIREMENT THAT EACH DEPARTMENT OF THE STATE PREPARE AN ANNUAL WORK PLAN.

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

SECTION 1. 12-47.1-203 (2) (i) (I), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-47.1-203. Director - qualification - powers and duties. (2) In addition to the duties imposed upon the director elsewhere in this part 2, the director shall:

(i) (I) Furnish to the ~~state treasurer and the~~ commission a monthly report which contains a full and complete statement of the division's revenue and expenses for each month.

SECTION 2. The introductory portion to 24-35-210 (4) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-35-210. Lottery fund - repeal. (4) (b) ~~At least fifteen days prior to any distribution of net lottery proceeds required by subsection (10) of this section, the commission shall notify the state treasurer of the amount of money to be transferred from the lottery fund to the conservation trust fund.~~ The amount to be transferred OF MONEY TO BE TRANSFERRED FROM THE LOTTERY FUND TO THE CONSERVATION TRUST FUND over the course of the fiscal year shall consist of:

SECTION 3. 24-35-210 (4.1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

24-35-210. Lottery fund - repeal. (4.1) (a) ~~At least fifteen days prior to any distribution of net lottery proceeds required by subsection (10) of this section, the commission shall notify the state treasurer of the amount of money to be transferred from the lottery fund to the conservation trust fund. The amount to be transferred FROM THE LOTTERY FUND TO THE CONSERVATION TRUST FUND shall be forty percent of the net proceeds of the lottery for the preceding fiscal quarter after payment of the expenses of the division and any prizes for the lottery and after reserving sufficient moneys, as of the end of the fiscal year, to ensure the operation of the lottery for the ensuing fiscal year. Beginning with the fourth quarter of fiscal year 1998-99, and each fiscal year thereafter, distributions of net lottery proceeds to the conservation trust fund shall be made in accordance with the provisions of paragraph (a) of subsection (1) of section 33-60-104 (1) (a), C.R.S.~~

SECTION 4. 24-75-302.5 (2) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-75-302.5 Controlled maintenance - trust fund. (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). 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 other purpose. 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.

SECTION 5. 24-36-113, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-36-113. Investment of state moneys - limitations. (1) Whenever there are moneys in the state treasury ~~which~~ THAT are not immediately required to be disbursed, the state treasurer is authorized to invest the same in ~~short-term interest-bearing~~ UNITED STATES DOMESTIC FIXED INCOME securities. ~~which shall be readily convertible into cash.~~ In making such investments ~~he~~ 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.

(2) Such moneys may be invested, without limitation, in DEBT OBLIGATIONS OF THE United States treasury, ~~bills and notes or in notes, debentures, or other obligations issued by~~ any agency of the United States government, or United States government-sponsored corporations. ~~including, but not limited to, such agencies as the federal national mortgage association.~~

(3) The state treasurer may in the state treasurer's discretion invest such moneys

in repurchase agreements, in BANKER'S acceptances, ~~of banks that are~~ OR BANK NOTES, issued ~~in the regular course of business, and~~ 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 ~~which rates such paper, but any investment in commercial paper shall be limited to that issued by corporations organized and operating within the United States having net worth in excess of two hundred fifty million dollars, which paper matures within two hundred seventy days from the date of purchase~~ 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 ~~or bank notes that are the obligation of a corporation or bank that has a rating of~~ DEBT OBLIGATIONS RATED at least "A" INVESTMENT GRADE by ~~one or more~~ A nationally recognized rating ~~organizations~~ ORGANIZATION. ~~but any investment in such notes shall be limited to those issued by corporations or banks organized and operating within the United States having a net worth in excess of two hundred fifty million dollars, which notes mature within three years from the date of purchase.~~

(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 ~~one or more~~ A nationally recognized ~~organizations which regularly rate such obligations, which securities have an expected average life of less than five years from the date of purchase~~ 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 ~~one or more~~ A nationally recognized ~~organizations which regularly rate such obligations~~ 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 ~~short-term~~ ALL investment securities as will enable ~~him~~ THE STATE TREASURER to make prompt delivery thereof upon maturity or in the event of sale.

(5) The state treasurer may engage in ~~financial transactions involving such moneys whereby:~~ REVERSE REPURCHASE AGREEMENTS AND SECURITIES LENDING PROGRAMS FOR ANY SECURITIES IN THE STATE TREASURER'S CUSTODY.

(a) ~~Obligations are purchased with such moneys under an agreement providing for the resale of such obligations to the original seller at a stated price together with a~~

payment to the state treasury of interest for the period the state treasury 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 state treasury are sold under an agreement providing for the repurchase of such obligations by the state treasury at a stated price together with the payment to the buyer of interest for the period the buyer holds the obligations;~~

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

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

~~(H) 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~~

~~(H) 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.)~~

SECTION 6. 22-41-104, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

22-41-104. Lawful investments. (1) The state treasurer in ~~his~~ THE STATE TREASURER'S discretion may invest and reinvest moneys accrued or accruing to the public school fund in ~~any of the following forms of investment:~~ THE TYPES OF DEPOSITS AND INVESTMENTS AUTHORIZED IN SECTIONS 24-36-109, 24-36-112, AND 24-36-113, C.R.S.

~~(a) Time deposits in banks and savings and loan associations doing business in this state;~~

~~(b) Interest-bearing obligations of the state of Colorado or of any agency or institution thereof;~~

~~(c) Interest-bearing obligations of political and governmental subdivisions of the state and of school districts within the state;~~

~~(d) Interest-bearing obligations of the United States or of any agency or instrumentality thereof and interest-bearing obligations the payment of principal and interest of which is insured or guaranteed by the United States or by any agency or instrumentality thereof;~~

~~(e) Interest-bearing obligations of corporations organized and operating within the United States which are rated as good or high quality by one or more nationally recognized organizations which regularly rate such obligations;~~

~~(f) Asset-backed securities rated in one of the two highest rating categories by one or more nationally recognized organizations which regularly rate such obligations;~~

~~(g) Mortgage-backed securities rated at least "AAA" by one or more nationally recognized organizations which regularly rate such obligations;~~

~~(h) Acceptances of banks that are issued in the normal course of business;~~

~~(i) Bank notes issued by any bank organized and operating within the United States if such bank has a rating of at least "A" by one or more nationally recognized rating organizations;~~

~~(j) 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 one or more nationally recognized organizations which regularly rate such obligations.~~

(2) The state treasurer has authority, to be exercised at ~~his~~ 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 thirty days and~~ within the same fiscal year of such exchange or sale. No exchange or sale of securities shall be consummated by the state treasurer which 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) For the purpose of this article, an obligation which does not bear interest but which is issued at a discount from its value at maturity shall be deemed to be interest-bearing.~~

SECTION 7. 8-45-120 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed as follows:

8-45-120. State treasurer to invest funds. (3) ~~In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance, or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service, or in asset-backed securities rated in one of the two highest categories by one or more nationally recognized organizations which regularly rate such obligations, or in mortgage-backed securities rated at least "AAA" by one or more nationally recognized organizations which regularly rate such obligations, or 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 one or more nationally recognized organizations which regularly rate such obligations.

SECTION 8. 8-46-103 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed as follows:

8-46-103. State treasurer to invest funds. (2) ~~In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service.~~

SECTION 9. 8-46-210 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed as follows:

8-46-210. State treasurer to invest funds. (2) ~~In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service.~~

SECTION 10. 8-46-308 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed as follows:

8-46-308. State treasurer to invest funds. (2) ~~In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service.~~

SECTION 11. 24-75-201.5 (1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-75-201.5. Revenue shortfalls - required actions by the governor with respect to the reserve. (1) (a) Whenever the revenue estimate for the current fiscal year, prepared in accordance with section 24-75-201.3 (2), indicates that general fund expenditures for such fiscal year based on appropriations then in effect will result in the use of one-half or more of the reserve required by section 24-75-201.1 (1) (d), the governor shall formulate a plan for reducing such general fund expenditures so that said reserve, as of the close of the fiscal year, will be at least one-half of the amount required by said section 24-75-201.1 (1) (d). The governor shall promptly notify the general assembly of such plan. Such plan shall be promptly implemented by the governor, using the procedures set forth in section 24-2-102 (4) ~~24-30-206 (3)~~; or 24-50-109.5 or any other lawful means.

SECTION 12. Repeal. 24-30-206, Colorado Revised Statutes, 1988 Repl. Vol.,

as amended, is repealed.

SECTION 13. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 19, 1997