

CHAPTER 150

GOVERNMENT - COUNTY

HOUSE BILL 06-1287

BY REPRESENTATIVE(S) Stafford, Hall, Kerr J., Liston, and Berens;
also SENATOR(S) Sandoval.

AN ACT**CONCERNING THE INVESTMENT OF PUBLIC FUNDS.**

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

SECTION 1. 22-63-401, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-63-401. Salary schedule - adoption - changes. (5) THE TRUSTEE OR TRUSTEES OF A TRUST FOR THE BENEFIT OF A TEACHER COMPENSATION SYSTEM IN A SCHOOL DISTRICT COTERMINOUS WITH A CITY AND COUNTY SHALL MANAGE AND INVEST THE FUNDS AND ASSETS HELD IN TRUST PURSUANT TO THE STANDARDS AND OTHER PROVISIONS FOR TRUSTEES SET FORTH IN THE "COLORADO UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, C.R.S.

SECTION 2. 24-75-601, Colorado Revised Statutes, is amended to read:

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.

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

(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. "PUBLIC FUNDS" SHALL NOT INCLUDE FUNDS INVESTED BY THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION CREATED IN ARTICLE 51 OF THIS TITLE OR ANY OTHER FUNDS INVESTED FOR EMPLOYEE RETIREMENT OR PENSIONS. "PUBLIC FUNDS" SHALL ALSO NOT INCLUDE TRUSTS MANAGED ON BEHALF OF THE BOARD OF EDUCATION OF A SCHOOL DISTRICT COTERMINOUS WITH A CITY AND COUNTY FOR THE BENEFIT OF A RETIREE'S HEALTH INSURANCE AND TEACHER COMPENSATION.

~~(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~~ BILL, NOTE, BOND, BANKERS' ACCEPTANCE, COMMERCIAL PAPER, REPURCHASE AGREEMENT, REVERSE REPURCHASE AGREEMENT, SECURITIES LENDING AGREEMENT, GUARANTEED INVESTMENT CONTRACT, GUARANTEED INTEREST CONTRACT, ANNUITY CONTRACT, FUNDING AGREEMENT, certificate of indebtedness or other evidence of indebtedness, or interest in any of the foregoing. NO FOREGOING INSTRUMENT SHALL BE CONVERTIBLE TO EQUITY OR REPRESENT ANY EQUITY INTEREST. ALL FOREGOING INSTRUMENTS SHALL BE DENOMINATED IN THE CURRENCY OF THE UNITED STATES.

SECTION 3. 24-75-601.1, Colorado Revised Statutes, is amended to read:

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, FULLY guaranteed by, or for which the FULL credit of ~~any of the following~~ THE UNITED STATES TREASURY is pledged for payment AND,

NOTWITHSTANDING PARAGRAPH (a) OF SUBSECTION (1.3) OF THIS SECTION, INFLATION INDEXED SECURITIES ISSUED BY THE UNITED STATES TREASURY. ~~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;~~ THE PERIOD FROM THE DATE OF SETTLEMENT OF THIS TYPE OF SECURITY TO ITS MATURITY DATE SHALL BE NO MORE THAN FIVE YEARS UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES INVESTMENT FOR A PERIOD IN EXCESS OF FIVE YEARS.

(b) (I) Any security issued by, FULLY guaranteed by, or for which the FULL credit of the following is pledged for payment: THE 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, THE TENNESSEE VALLEY AUTHORITY, THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, THE WORLD BANK, OR an entity or organization ~~which~~ THAT is not listed in ~~paragraph (a) of this subsection (1)~~ THIS PARAGRAPH (b) but ~~which~~ THAT is created by, or the creation of which is authorized by, legislation enacted by the United States congress and ~~which~~ THAT is subject to control by the federal government ~~which~~ THAT is at least as extensive as that which governs an entity or organization listed in ~~paragraph (a) of this subsection (1)~~ THIS PARAGRAPH (b). THE PERIOD FROM THE DATE OF SETTLEMENT OF THIS TYPE OF SECURITY TO ITS MATURITY DATE SHALL BE NO MORE THAN FIVE YEARS UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES INVESTMENT FOR A PERIOD IN EXCESS OF FIVE YEARS.

(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~~ TWO or more nationally recognized organizations ~~which~~ THAT regularly rate such obligations AND NO SUCH ORGANIZATIONS RATE THE SECURITY LOWER THAN ITS HIGHEST RATING CATEGORY. SHOULD THE SECURITY ISSUED AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) FAIL TO MEET THE MINIMUM CREDIT RISK REQUIREMENTS, THE SECURITY MAY BE CONSIDERED FOR PURCHASE TO THE EXTENT IT CONFORMS WITH THE REQUIREMENTS OF PARAGRAPH (m) OF THIS SUBSECTION (1).

~~(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~~ TWO highest rating categories by ~~one~~ TWO or more nationally recognized organizations ~~which~~ THAT 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.~~

(C) THE PERIOD FROM THE DATE OF SETTLEMENT OF THIS TYPE OF SECURITY TO ITS MATURITY DATE SHALL BE NO MORE THAN THREE YEARS UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES INVESTMENT FOR A PERIOD IN EXCESS OF THREE YEARS.

(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~~ CATEGORY by ~~one~~ TWO or more nationally recognized organizations ~~which~~ THAT regularly rate such obligations.

(III) THE PERIOD FROM THE DATE OF SETTLEMENT OF THIS TYPE OF SECURITY TO ITS MATURITY DATE SHALL BE NO MORE THAN THREE YEARS.

~~(f) 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.~~

(H) 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) THE PURCHASE OF 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 (VI) 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 VERSUS PAYMENT to the public ~~entity~~ ENTITY'S CUSTODIAN 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.

(V) THE SECURITIES SUBJECT TO THE REPURCHASE AGREEMENT MAY HAVE A MATURITY IN EXCESS OF FIVE YEARS.

(VI) THE PERIOD FROM THE DATE OF SETTLEMENT OF A REPURCHASE AGREEMENT TO ITS MATURITY DATE SHALL BE NO MORE THAN FIVE YEARS UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES INVESTMENT FOR A PERIOD IN EXCESS OF FIVE YEARS.

(j.5) ANY REVERSE 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 (VII) OF THIS PARAGRAPH (j.5) ARE MET:

(I) ANY NECESSARY TRANSFER DOCUMENTS MUST BE TRANSFERRED TO THE INVESTING PUBLIC ENTITY.

(II) CASH MUST BE RECEIVED BY THE INVESTING PUBLIC ENTITY OR A CUSTODIAN ACTING ON BEHALF OF THE INVESTING PUBLIC ENTITY IN A DELIVER VERSUS PAYMENT SETTLEMENT.

(III) THE CASH RECEIVED FROM A REVERSE REPURCHASE AGREEMENT MUST BE COLLATERALIZED AT NO MORE THAN ONE HUNDRED AND FIVE PERCENT AND MARKED TO MARKET NO LESS FREQUENTLY THAN WEEKLY.

(IV) THE REPURCHASE AGREEMENT IS NOT GREATER THAN NINETY DAYS IN MATURITY FROM THE DATE OF SETTLEMENT UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES INVESTMENT FOR A PERIOD IN EXCESS OF NINETY DAYS.

(V) THE COUNTER-PARTY MEETS THE CREDIT CONDITIONS OF AN ISSUER THAT

WOULD QUALIFY UNDER PARAGRAPH (m) OF THIS SUBSECTION (1).

(VI) THE VALUE OF ALL SECURITIES REVERSED UNDER THIS PARAGRAPH (j.5) DOES NOT EXCEED EIGHTY PERCENT OF THE TOTAL DEPOSITS AND INVESTMENTS OF THE PUBLIC ENTITY.

(VII) NO SECURITIES ARE PURCHASED WITH THE PROCEEDS OF THE REVERSE REPURCHASE AGREEMENT THAT ARE GREATER IN MATURITY THAN THE TERM OF THE REVERSE REPURCHASE AGREEMENT.

(j.7) A SECURITIES LENDING AGREEMENT IN WHICH THE PUBLIC ENTITY LENDS SECURITIES IN EXCHANGE FOR SECURITIES AUTHORIZED FOR INVESTMENT IN THIS SECTION, IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) ANY NECESSARY TRANSFER DOCUMENTS MUST BE TRANSFERRED TO THE INVESTING PUBLIC ENTITY.

(II) SECURITIES MUST BE RECEIVED BY THE INVESTING PUBLIC ENTITY OR A CUSTODIAN ACTING ON BEHALF OF THE INVESTING PUBLIC ENTITY IN A SIMULTANEOUS SETTLEMENT.

(III) THE SECURITIES RECEIVED IN THE SECURITIES LENDING AGREEMENT MUST BE NO LESS THAN ONE HUNDRED TWO PERCENT OF THE VALUE OF THE SECURITIES LENT AND MARKED TO MARKET NO LESS FREQUENTLY THAN WEEKLY.

(IV) THE COUNTER-PARTY MEETS THE CONDITIONS OF AN ISSUER SPECIFIED IN PARAGRAPH (m) OF THIS SUBSECTION (1).

(V) IN THE CASE OF A LOCAL GOVERNMENT, THE SECURITIES LENDING AGREEMENT SHALL BE APPROVED AND DESIGNATED BY WRITTEN RESOLUTION ADOPTED BY A MAJORITY VOTE OF THE GOVERNING BODY OF THE LOCAL GOVERNMENT, WHICH RESOLUTIONS SHALL BE RECORDED IN ITS MINUTES.

(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 AND NO FEE MAY BE CHARGED UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES SUCH A FEE AT THE TIME OF THE INITIAL PURCHASE;

(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~~ TWO 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) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (III), THE CONTRACTS OR AGREEMENTS PURCHASED UNDER THIS PARAGRAPH (I) SHALL NOT HAVE A MATURITY PERIOD GREATER THAN THREE YEARS.

(B) ~~A contract or agreement may be purchased under this paragraph (I) only if such contract or agreement is~~ CONTRACTS OR AGREEMENTS WITH A MATURITY PERIOD GREATER THAN THREE YEARS SHALL ONLY BE 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~~ SECURITY issued by a corporation or bank ~~which~~ THAT 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. IF THE SECURITY IS A MONEY MARKET INSTRUMENT SUCH AS COMMERCIAL PAPER OR BANKERS' ACCEPTANCE, THEN THE SECURITY MUST CARRY AT LEAST TWO CREDIT RATINGS FROM ANY OF THE NATIONALLY RECOGNIZED CREDIT RATING AGENCIES AND MUST NOT BE RATED BELOW "A1, P1, OR F1" 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~~ FIFTY percent of the book value of the public entity's investment portfolio UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES A GREATER PERCENT OF SUCH BOOK VALUE; 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 UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY AUTHORIZES A GREATER PERCENT OF SUCH BOOK VALUE.

(n) ~~A securities lending agreement using any securities authorized in paragraph (a) or (b) of this subsection (1) 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 (a) OF SUBSECTION (1) OF THIS SECTION AND 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, OR A SCHEDULE OF SPECIFIC FIXED COUPON RATES IS NOT ESTABLISHED, 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.

(2.3) PUBLIC ENTITIES SHALL ADOPT CRITERIA DESIGNATING ELIGIBLE BROKER-DEALERS FOR THE PURCHASE OF TERM SECURITIES, EXCEPT FOR BOND PROCEED INVESTMENTS, UNDER THIS SECTION.

(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 (H) 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.

SECTION 4. 38-37-113 (1), Colorado Revised Statutes, is amended to read:

38-37-113. Checking account - custodial funds. (1) In the performance of his or her duties under this article and article 38 of this title, the public trustee of each county shall have the authority to establish and manage a checking account, or similar banking services, OR SIMILAR OVERNIGHT DEPOSITORY ACCOUNT with a bank that has been designated as an eligible public depository under the "Public Deposit Protection Act", article 10.5 of title 11, C.R.S., IN LOCAL GOVERNMENT INVESTMENT POOL TRUST FUNDS AS DESCRIBED IN PART 7 OF ARTICLE 75 OF TITLE 24, C.R.S., AND IN ELIGIBLE MONEY MARKET MUTUAL FUNDS DESCRIBED IN PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.

SECTION 5. Effective date - applicability. (1) 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 (August 9, 2006, if adjournment sine die is on May 10, 2006); 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.

(2) This act shall apply to the investment of public funds on or after the effective date of this act.

Approved: April 24, 2006