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HOUSE BILL 19-1179

BY REPRESENTATIVE(S) Gray, Bird, Kraft-Tharp, Titone, Snyder;
also SENATOR(S) Lee, Tate.

CONCERNING THE FINANCIAL RISK PROFILES OF LEGAL INVESTMENTS OF
PUBLIC FUNDS.

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

SECTION 1. In Colorado Revised Statutes, 24-75-601, **add** (4) and (5) as follows:

24-75-601. Definitions. (4) "NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS" OR "NRSROs" MEANS A CREDIT RATING AGENCY THAT IS REGISTERED WITH THE U.S. SECURITIES AND EXCHANGE COMMISSION'S OFFICE OF CREDIT RATINGS.

(5) "NEGOTIABLE CERTIFICATE OF DEPOSIT" MEANS AN UNSECURED, NONCOLLATERALIZED OBLIGATION OF A BANK TO PAY THE HOLDER OF A NEGOTIABLE CERTIFICATE OF DEPOSIT SPECIFIED PRINCIPAL, PLUS INTEREST, UPON A PARTICULAR MATURITY. A NEGOTIABLE CERTIFICATE OF DEPOSIT IS A SECURITY SUBJECT TO FEDERAL SECURITIES LAW AND CAN BE UNIQUELY IDENTIFIED BY A SECURITY IDENTIFIER ISSUED BY THE COMMITTEE ON

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

UNIFORM SECURITIES IDENTIFICATION PROCEDURES.

SECTION 2. In Colorado Revised Statutes, 24-75-601.1, **amend** (1)(d)(II) introductory portion, (1)(d)(II)(A), (1)(e)(II), (1)(h.5), (1)(k)(III), (1)(l)(I), (1)(m)(I) introductory portion, (1.3)(a) introductory portion, and (1.3)(a)(I); **repeal** (1)(k)(IV); and **add** (1)(m)(I)(C) and (1)(m)(IV) as follows:

24-75-601.1. Legal investments of public funds - definition. (1) It is lawful to invest public funds in any of the following securities:

(d) (II) No security may be purchased pursuant to this ~~paragraph (d)~~ SUBSECTION (1)(d) unless:

(A) At the time of purchase, the security carries at least two credit ratings at or above "A A- OR A3" or its equivalent from ~~nationally recognized statistical rating organizations~~ NRSROs if it is a general obligation of this state or of any political subdivision, institution, department, agency, instrumentality, or authority of this state or carries at least two credit ratings at or above "AA AA- OR Aa3" or its equivalent from such ~~organizations~~ NRSROs if it is a general obligation of any other governmental entity listed in ~~subparagraph (I) of this paragraph (d)~~ SUBSECTION (1)(d)(I) OF THIS SECTION;

(e) (II) No security may be purchased pursuant to this ~~paragraph (e)~~ SUBSECTION (1)(e) unless, at the time of purchase, the security carries at least two credit ratings at or above "A A- OR A3" or its equivalent from ~~nationally recognized statistical rating organizations~~ NRSROs if it is a revenue obligation of this state or of any political subdivision, institution, department, agency, instrumentality, or authority of this state or carries at least two credit ratings at or above "AA AA- OR Aa3" or its equivalent from such ~~organizations~~ NRSROs if it is a revenue obligation of any other governmental entity listed in ~~subparagraph (I) of this paragraph (e)~~ SUBSECTION (1)(e)(I) OF THIS SECTION.

(h.5) Any certificate of participation or other security evidencing rights in payments to be made by a school district under a lease, lease-purchase agreement, or similar arrangement if the security, at the time of purchase, carries at least two credit ratings from ~~nationally recognized statistical rating organizations~~ NRSROs and is rated at or above "A A- OR

A3" or its equivalent by all such organizations that have provided a rating;

(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:

~~(III) The investments of The fund consist only of securities with a maximum remaining maturity as specified in~~ OPERATES IN ACCORDANCE WITH rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under ~~such~~ THAT act regulating money market funds. THE FUND MUST HAVE AN INVESTMENT POLICY OR OBJECTIVE WHICH SEEKS TO MAINTAIN A STABLE NET ASSET VALUE OF ONE DOLLAR PER SHARE. ~~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 statistical rating organizations.~~

~~(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.~~

(l) (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 two or more ~~nationally recognized statistical rating organizations~~ NRSROs.

(m) (I) Any corporate or bank security that is denominated in United States dollars, that matures within three years from the date of settlement, that at the time of purchase carries at least two credit ratings from any of the ~~nationally recognized statistical ratings organizations~~ NRSROs, and that is not rated below:

(C) THESE RATING REQUIREMENTS FIRST APPLY TO THE SECURITY BEING PURCHASED AND SECOND, IF THE SECURITY ITSELF IS UNRATED, TO THE ISSUER, PROVIDED THE SECURITY CONTAINS NO PROVISIONS SUBORDINATING IT FROM BEING A SENIOR DEBT OBLIGATION OF THE ISSUER.

(IV) AS USED IN THIS SUBSECTION (1)(m), THE TERM "BANK SECURITY" INCLUDES NEGOTIABLE CERTIFICATES OF DEPOSIT ISSUED BY BANKS ORGANIZED AND CHARTERED WITHIN THE UNITED STATES. PUBLIC ENTITIES MUST CONSIDER THESE BANK SECURITIES AS INVESTMENTS AND NOT DEPOSITS SUBJECT TO THE PROTECTIONS OF THE "PUBLIC DEPOSIT PROTECTION ACT", ARTICLE 10.5 OF TITLE 11, OR INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.

~~(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)~~ SUBSECTIONS (1)(a) AND (1.3)(b) OF THIS SECTION, public funds ~~shall~~ MUST 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 SECURED OVERNIGHT FINANCING RATE, THE FEDERAL FUNDS RATE, OR OTHER REFERENCE RATES WHICH ARE SIMILAR TO THE UNITED STATES DOLLAR LONDON INTERBANK OFFER RATE, THE SECURED OVERNIGHT FINANCING RATE, THE FEDERAL FUNDS RATE, the cost of funds index, or the prime rate as published by the federal reserve; and

SECTION 3. In Colorado Revised Statutes, 24-75-702, **amend** (1) as follows:

24-75-702. Local governments - authority to pool surplus funds.

(1) In accordance with ~~the provisions of~~ this part 7, it is lawful for any local government to pool any ~~moneys~~ MONEY in its treasury, which ~~are~~ IS not immediately required to be disbursed, with the same ~~such moneys~~ MONEY in the treasury of any other local government and to ~~deposit~~ INVEST such ~~moneys~~ MONEY in a local government investment pool trust fund in order to ~~take advantage of short-term investments and maximize net interest~~

~~earnings~~ MORE EFFICIENTLY AND SAFELY INVEST THEIR FUNDS.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO