

# LAW SUMMARY

*Office of Legislative Legal Services*



## ***DISTRIBUTION OF COLORADO LOTTERY PROCEEDS<sup>1</sup>***

### **I. The Colorado Lottery and Lottery Proceeds.**

In 1982, the Colorado general assembly (general assembly) created the Colorado lottery (lottery) and the state lottery division (division), the division of the department of revenue that administers the lottery. Within the division, the five-member Colorado lottery commission makes rules that govern the division's administration of the lottery, including rules regarding the types of lottery games offered, lottery ticket prices, and lottery prize payouts.

Lottery proceeds are distributed pursuant to a distribution formula, which has changed several times since 1982. The lottery proceeds distributed are net lottery proceeds: The proceeds from lottery ticket sales and other sources<sup>2</sup> that remain after the lottery awards prizes to players and pays its administrative and operating expenses. Colorado law requires the lottery to award at least 50 percent of its gross proceeds from lottery ticket sales as lottery prizes.

Through the fiscal year (FY) 2010-11,<sup>3</sup> the lottery collected \$9 billion in gross proceeds and paid out \$5.13 billion in lottery prizes. In accordance with distribution formula requirements, the lottery distributed \$2.33 billion in lottery proceeds to state agencies and local governments in order to fund open space acquisition, state and local parks, and state and school district capital construction. Chart 1 shows the distribution of the \$2.33 billion of lottery proceeds that have been distributed from FY 1982-83 through FY 2010-11.

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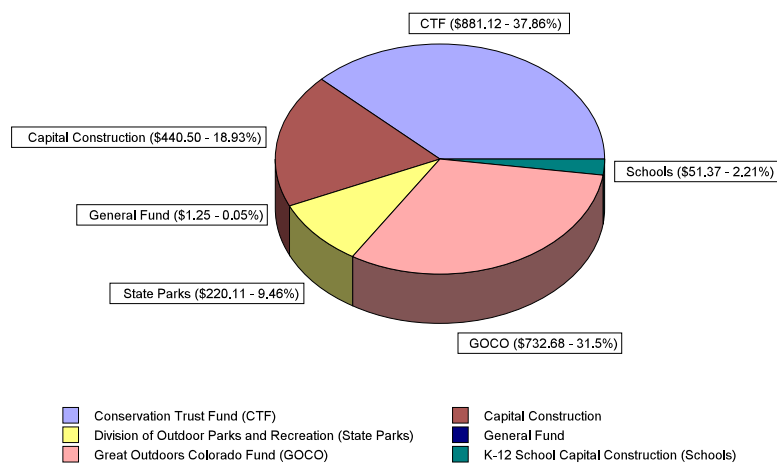
<sup>1</sup> **This summary contains information commonly requested from the Office of Legislative Legal Services. It does not represent an official legal opinion of the General Assembly or the state of Colorado and does not bind the members of the General Assembly. It is intended to provide a general overview of Colorado law as of the date of its preparation. Any person needing legal advice should consult his or her own lawyer and should not rely on the information in this memorandum.**

<sup>2</sup> Ticket sales generate over 99 percent of lottery gross proceeds. Investment income accounts for almost all of the remaining gross proceeds.

<sup>3</sup> The state FY runs from July 1 through June 30. This memorandum therefore covers distributions made through June 30, 2011.

**Chart 1: Distribution of Net Lottery Proceeds FY 1982-83 - FY 2010-11**

Dollars in Millions



The remainder of this memorandum provides more specific information regarding the historical development of the lottery proceeds distribution formula and the administration and allocation of lottery proceeds distributions.

## II. Historical Development of the Lottery Proceeds Distribution Formula.

From FY 1982-83 through March 30, 1993, a statutory distribution formula governed the distribution of lottery proceeds. The original statutory distribution formula required lottery proceeds to be distributed as follows:

- 40 percent to the conservation trust fund;
- 10 percent to the division of parks and outdoor recreation; and
- 50 percent to the capital construction fund.

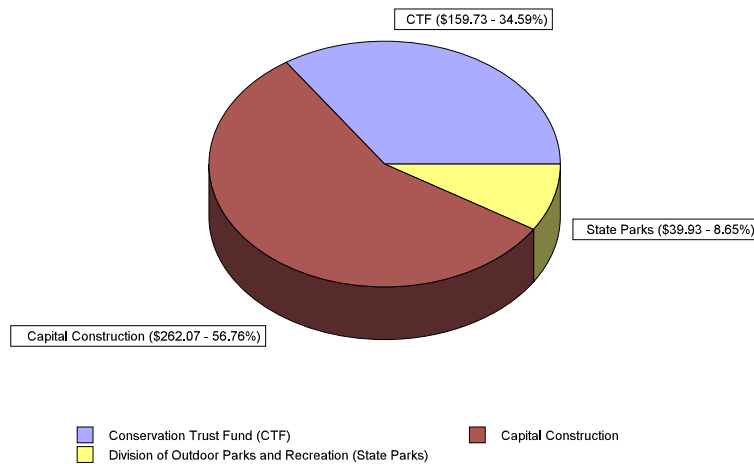
Beginning in 1988, the General Assembly amended the statutory distribution formula several times in order to divert additional lottery proceeds from the conservation trust fund and the division of parks and outdoor recreation to the capital construction fund to fund correctional facilities and other capital construction projects. By FY 1991-92, the amendments to the original statutory distribution formula were causing nearly 62 percent of the lottery proceeds to be distributed to the capital construction fund. Chart 2 shows the distribution of the \$461.7 million of lottery proceeds that were distributed under the statutory distribution formula, as amended, from FY 1982-83 through March 30, 1993.<sup>4</sup>

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<sup>4</sup> Because lottery proceeds distribution data is only available for entire FYs, the distributions for the first nine months of FY 1992-93 were estimated before being incorporated into the aggregate distribution data shown in Chart 2. Because the constitutional distribution formula that replaced the amended statutory distribution formula on April 1, 1993, did not change the formula for the conservation trust fund and division of parks and

Chart 2: Distribution of Net Lottery Proceeds FY 1982-83 - March 30, 1993

Dollars in Millions



In 1992, Colorado voters approved an amendment to the state constitution that established the Great Outdoors Colorado (GOCO) Program and a GOCO trust fund. The amendment included two different constitutional distribution formulas, which superseded the amended statutory distribution formula. The first constitutional distribution formula governed the distribution of lottery proceeds from April 1, 1993, through FY 1997-98. The formula required lottery proceeds to be distributed as follows:

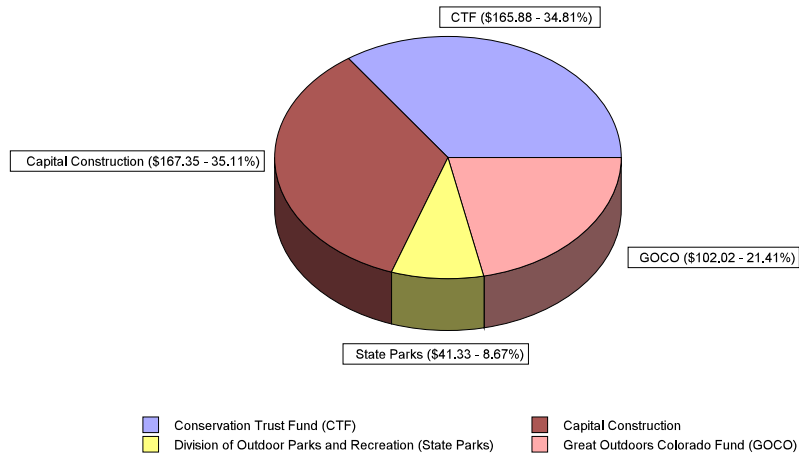
- To the conservation trust fund and the division of parks and recreation in accordance with the statutory distribution formula as it existed on January 1, 1992;
- To the capital construction fund to the extent necessary to make payments on specific financial obligations previously issued to finance capital facilities; and
- To the extent that any additional lottery proceeds remained after making the other distributions, to the GOCO trust fund.

Chart 3 shows the aggregate distribution of the \$476.6 million of lottery proceeds that were distributed under the first constitutional formula.

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outdoor recreation distributions, the nine-month estimates for those distributions are 75 percent of the amount of the full FY 1992-93 distributions. Because the April 1, 1993, distribution formula change diverted lottery proceeds directly from the capital construction fund to the Great Outdoors Colorado trust fund in the last quarter of FY 1992-93 only, the nine-month estimate for the capital construction fund distribution is 75 percent of the combined amount of capital construction fund and GOCO distributions for FY 1992-93.

**Chart 3: Distribution of Net Lottery Proceeds April 1, 1993 - FY 1997-98**  
Dollars in Millions

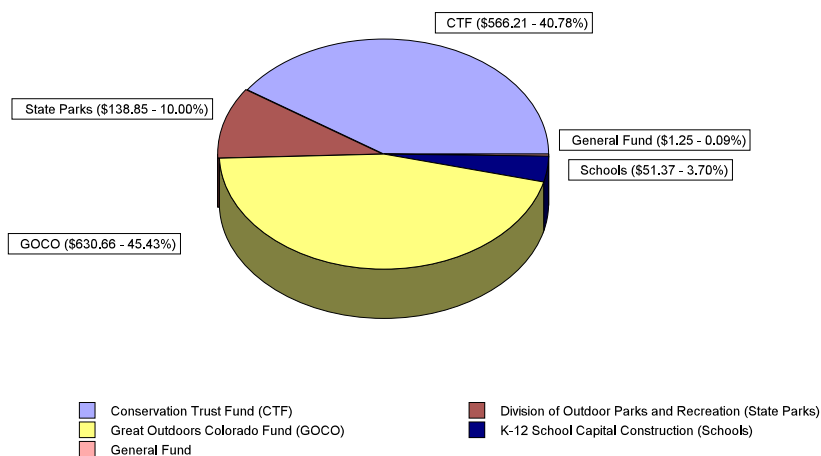


The second constitutional distribution formula (current formula) has controlled the distribution of lottery proceeds since FY 1998-99. The current formula requires lottery proceeds to be distributed as follows:

- 40 percent to the conservation trust fund;
- 10 percent to the division of parks and outdoor recreation;
- 50 percent to the GOCO trust fund subject to a maximum annual cap of \$35 million adjusted for inflation since 1992 (the GOCO cap); and
- Any remaining proceeds in excess of the GOCO cap to the state general fund. But general fund moneys can be spent for most governmental purposes, and the general assembly has enacted statutes that require the lottery proceeds that would otherwise be distributed to the general fund under the formula to instead be distributed for K-12 public school capital construction.

Chart 4 shows the aggregate distribution of the \$1.39 billion of lottery proceeds that have been distributed under the current formula.

**Chart 4: Distribution of Net Lottery Proceeds FY 1998-99 - FY 2010-11**  
Dollars in Millions



### **III. Administration and allocation of lottery distributions under the current formula.**

#### **A. Conservation trust fund.**

The department of local affairs administers the conservation trust fund. The department allocates the forty percent of lottery proceeds that are distributed to the conservation trust fund to over 450 eligible local governments, including counties, cities, towns, and eligible special districts, based on population. The local governments use the proceeds to purchase open space, develop new parks and trails, maintain and enhance existing parks, and renovate or restore existing local facilities. The department's division of local government monitors and enforces the use of conservation trust fund moneys. In FY 2010-11, \$45.3 million of lottery proceeds were distributed to the conservation trust fund and allocated to local governments.

#### **B. Division of parks and outdoor recreation.**

The division of parks and outdoor recreation uses the 10 percent of lottery proceeds that it receives to develop, maintain, and improve state parks, reservoirs, and other related recreational facilities. Specifically, the division uses the moneys to acquire open space and land, to construct and maintain trails, to purchase equipment and facilities, and to maintain and renovate existing state park facilities. In FY 2010-11, \$11.3 million of lottery proceeds were distributed to the division of parks and outdoor recreation.

#### **C. GOCO trust fund.**

A seventeen-member board administers the GOCO trust fund. The board consists of two members of the public from each of Colorado's seven congressional districts appointed by the governor, one member appointed by the state board of parks and outdoor recreation, one member appointed by the wildlife commission, and the executive director of the department of

natural resources. The state constitution requires the board to spend substantially equal amounts of the lottery proceeds credited to the trust fund over a period of years on:

- Investments in wildlife resources through the division of wildlife;
- Investments in outdoor recreation resources through the division of parks and outdoor recreation;
- Competitive grants to the division of wildlife, to the division of parks and outdoor recreation, and to political subdivisions of the state or nonprofit land conservation organizations for acquisition and management of open space and natural areas of statewide significance; and
- Competitive matching grants to local governments or other entities eligible for trust fund distributions for acquisition, development, and management of open lands and parks.

The state constitution limits the annual distribution of lottery proceeds to the Great Outdoors Colorado trust fund in a single year to \$35 million, adjusted for inflation since 1992. In FY 2010-11, \$56.0 million of lottery proceeds were distributed to the GOCO trust fund.

#### **D. Public school capital construction assistance fund.**

From FY 1998-99 through FY 2000-01, lottery proceeds in excess of the amounts distributed to the conservation trust fund, the division of parks and outdoor recreation, and the GOCO trust fund were distributed to the state general fund.<sup>5</sup> From FY 2001-02 through FY 2007-08, excess proceeds were distributed to the state public school fund and used to address health and safety capital construction issues in K-12 public schools. Since FY 2008-09, excess proceeds have been transferred to the public school capital construction assistance fund and used to help local school districts and charter schools fund K-12 public school facility capital construction as authorized by the "Building Excellent Schools Today Act". In FY 2008-09, \$5.53 million of lottery proceeds were distributed to the assistance fund. Because the economic downturn subsequently reduced total lottery proceeds, only \$88,550 of lottery proceeds were distributed to the assistance fund in FY 2009-10, and only \$662,230 of lottery proceed were distributed to the assistance fund in FY 2010-11.<sup>6</sup>

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<sup>5</sup> Because there were excess lottery proceeds only in FY 1999-2000, the only distribution to the general fund actually made was a \$1.25 million distribution in FY 1999-2000.

<sup>6</sup> The primary legal and factual sources for the information contained in this memorandum are: Article XXVII and section 2 (7) of article XVIII of the Colorado constitution; article 60 of title 33 and sections 24-35-210 and 22-43.7-104 (2) (a) (III) and (2) (b) (III), Colorado Revised Statutes; and the official Colorado state lottery web site at: <http://www.coloradolottery.com>.