

ENROLLED SENATE
BILL NO. 1489

By: Fisher of the Senate

and

Askins of the House

An Act relating to public finance; amending 62 O.S. 2001, Section 89.2, as amended by Section 13, Chapter 224, O.S.L. 2003 (62 O.S. Supp. 2003, Section 89.2), which relates to investment of public funds; authorizing the State Treasurer to invest in short term bond funds; amending 70 O.S. 2001, Section 4306, which relates to gifts to public institutions; authorizing certain constituent agencies or entities to accept certain gifts, grants or contracts; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 2001, Section 89.2, as amended by Section 13, Chapter 224, O.S.L. 2003 (62 O.S. Supp. 2003, Section 89.2), is amended to read as follows:

Section 89.2 A. The State Treasurer is directed to invest the maximum amount of funds under control of the State Treasurer consistent with good business practices; provided that the Treasurer shall keep eighty percent (80%) or more of the money under control of the State Treasurer invested during each fiscal year based on the average daily balances during the fiscal year. Except as otherwise provided for by law, the investments shall earn not less than the rate for comparable maturities on United States Treasury obligations. Except as otherwise provided for by law, the State Treasurer may purchase and invest only in:

1. Obligations of the United States Government, its agencies and instrumentalities;

2. Collateralized or insured certificates of deposit and other evidences of deposit at banks, savings banks, savings and loan associations and credit unions located in this state;

3. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings bank, a savings and loan association or a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not more than one-half (1/2) of the ten

percent (10%) limit shall be invested in any one financial institution specified in this paragraph;

4. Prime banker's acceptances which are eligible for purchase by the Federal Reserve System and which do not exceed two hundred seventy (270) days' maturity. Purchases of prime banker's acceptances shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not more than three-fourths (3/4) of the ten percent (10%) limit shall be invested in any one commercial bank pursuant to this paragraph;

5. Prime commercial paper which shall not have a maturity that exceeds one hundred eighty (180) days nor represent more than ten percent (10%) of the outstanding paper of an issuing corporation. Purchases of prime commercial paper shall not exceed seven and one-half percent (7 1/2%) of the cash available for investment which may be invested pursuant to this section;

6. Investment grade obligations of state and local governments, including obligations of Oklahoma state public trusts which possess the highest rating from at least one nationally recognized rating agency acceptable to the State Treasurer. Purchases of investment grade obligations of state and local governments shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section;

7. Repurchase agreements, provided that such agreements are included within the written investment policy required by subsection D of this section that have underlying collateral consisting of those items and those restrictions specified in paragraphs 1 through 6 of this subsection; and

8. Money market funds and short term bond funds regulated by the Securities and Exchange Commission and which investments consist of those items and those restrictions specified in paragraphs 1 through 7 of this subsection.

B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

C. The State Treasurer shall appoint an investment officer who shall perform duties related to the investment of state funds in the Office of the State Treasurer. The investment officer shall not perform or supervise any accounting functions, data processing functions or duties related to the documentation or settlement of investment transactions.

D. Investments of public funds by the State Treasurer shall be made in accordance with written policies developed by the State Treasurer. The written investment policies shall address:

1. Liquidity;

2. Diversification;
3. Safety of principal;
4. Yield;
5. Maturity and quality; and
6. Capability of investment management.

The State Treasurer shall place primary emphasis on safety and liquidity in the investment of public funds. To the extent practicable taking into account the need to use sound investment judgment, the written investment policies shall include provision for utilization of a system of competitive bidding in the investment of state funds. The written investment policies shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested.

E. The State Treasurer shall select one custodial bank to settle transactions involving the investment of state funds under the control of the State Treasurer. The State Treasurer shall review the performance of the custodial bank at least once every year. The State Treasurer shall require a written competitive bid every five (5) years. The custodial bank shall have a minimum of Five Hundred Million Dollars (\$500,000,000.00) in assets to be eligible for selection. Any out-of-state custodial bank shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. In order to be eligible for selection, the custodial bank shall allow electronic access to all transaction and portfolio reports maintained by the custodial bank involving the investment of state funds under control of the State Treasurer. The access shall be given to both the State Treasurer and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the State Treasurer and the custodial bank. Neither the State Treasurer nor the custodial bank shall permit any of the funds under the control of the State Treasurer or any of the documents, instruments, securities or other evidence of a right to be paid money to be located in any place other than within a jurisdiction or territory under the control or regulatory power of the United States Government.

F. The investment policy shall specify the general philosophy, policies and procedures to be followed in the investment of state monies by the State Treasurer. The investment policy shall include, but not be limited to, the following:

1. Policy objectives;
2. Performance measure objectives;
3. Authority for investment program;
4. Possible use of an investment advisory committee;

5. Reporting and documentation of investments;
6. Authorized investment instruments;
7. Diversification of investment risk;
8. Maturity limitations;
9. Selections of financial institutions;
10. Interest controls;
11. Safekeeping of investments;
12. Investment ethics; and
13. Formal adoption of policy.

G. The State Treasurer shall provide weekly reports of all investments made by the State Treasurer for that week to the Executive Review Committee of the Cash Management and Investment Oversight Commission, and list any commissions, fees or payments made for services regarding such investments. The reports required by this subsection shall be delivered to the Committee within three (3) business days of the end of the applicable week, and the Committee shall communicate any facts or information it deems appropriate to the Cash Management and Investment Oversight Commission and shall also prepare all reports necessary for the quarterly meeting of the Commission.

H. Not later than July 1 of each year, the State Treasurer shall forward a copy of the written investment policy to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Attorney General, the Bank Commissioner, and the Director of State Finance. In addition, the State Treasurer shall maintain one copy of the investment policy in the office of the State Treasurer for public inspection during regular business hours. Copies of any modifications to the investment policy shall be forwarded to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, and each member of the Cash Management and Investment Oversight Commission.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 4306, is amended to read as follows:

Section 4306. ~~(a)~~ A. All state higher educational institutions, constituent agencies or other entities are hereby authorized to accept and receive any and all grants or contracts of all kinds, gifts, devises and bequests of money or property, either real or personal, which may be, or which may heretofore have been tendered to them by grant or contract, will or gift, conditionally or unconditionally; and the Board of Regents of said institutions, constituent agencies or other entities are hereby directed, authorized and empowered to hold such funds or property in trust, or invest or sell them and use either principal or interest or the proceeds of sale for the benefit of such institutions or entities or

the students or others for whose benefit such institutions or entities are conducted; all in any manner which is consistent with the terms of the gift as stipulated by the donor and with the provisions of any applicable laws. Money donated to a college- or university-related foundation for student scholarships or grants to students of an institution of The Oklahoma State System of Higher Education shall not be loaned or given to any regent, officer, director, or employee of such foundation or institution or to any relative of such person within the third degree of affinity or consanguinity. The following, however, shall not be prohibited:
~~(1) students~~

1. Students in the employ of such foundation or institution may be given scholarships~~;~~ and ~~(2) scholarships~~

2. Scholarships may be awarded to an otherwise disqualified relative of any faculty member, staff employee, foundation or institution officer or maintenance worker of such foundation or institution if such relative is meritoriously qualified.

~~(b)~~ B. Any person willfully violating the prohibitions of subsection ~~(a)~~ A of this section shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a period of not more than five (5) years or by a fine of not more than Twenty Thousand Dollars (\$20,000.00), or by both such fine and imprisonment. Any person found guilty of said violations shall also be subject to immediate removal from office or employment where applicable.

~~(c)~~ C. The Oklahoma State Regents for Higher Education, any institution or agency of The Oklahoma State System of Higher Education or the regents or governing board of such institution or agency shall not directly or indirectly transfer any funds to any college- or university-related foundation or render services or provide any thing of value to any such foundation without receiving documented adequate payment or reimbursement therefor according to written contract; provided, nothing herein shall be construed as prohibiting payment by the institution or agency of claims for expenses of fund raising for the benefit of the institution or agency by state employees if such fund raising activities are approved in advance by the governing board of regents responsible for such institution or agency and made a part of the minutes of the meeting of the board.

~~(d)~~ D. Neither the Oklahoma State Regents for Higher Education nor any institution or agency of The Oklahoma State System of Higher Education shall receive any funds, services, or thing of value from any college- or university-related foundation which has any officers or employees who are officers or employees of any institution or agency of the State System or State Regents unless such foundation makes all its financial records and documents, including work papers, except for names of donors, available to auditors who are performing audits of the institution or agency.

SECTION 3. This act shall become effective July 1, 2004.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of February, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2004.

Presiding Officer of the House
of Representatives