

1 ENGROSSED HOUSE  
2 BILL NO. 3315

By: Martin (Scott) of the House

3 and

4 Anderson of the Senate

5  
6  
7 An Act relating to property; amending 60 O.S. 2001,  
8 Sections 651.2, 661, as last amended by Section 1,  
9 Chapter 433, O.S.L. 2009, 664, 674.2, as amended by  
10 Section 12, Chapter 224, O.S.L. 2003 and 675, as  
11 amended by Section 5, Chapter 433, O.S.L. 2009 (60  
12 O.S. Supp. 2009, Sections 661, 674.2 and 675), which  
13 relate to the Uniform Unclaimed Property Act;  
14 creating prima facie standard; establishing burden of  
15 proof State Treasurer shall meet in certain  
16 circumstances; allowing for certain affirmative  
17 defenses; authorizing State Treasurer to require  
18 certain electronic reports; authorizing State  
19 Treasurer to promulgate certain rules; modifying  
20 definition; specifying certain decree of title  
21 requirement; specifying requirements for certain  
22 claims against the Mineral Owner's Fund; amending  
23 Section 43, Chapter 441, O.S.L. 2009 (62 O.S. Supp.  
24 2009, Section 34.66), which relates to checks and  
warrants; modifying provisions related to Oklahoma  
Open Records Act; amending 62 O.S. 2001, Sections  
89.2, as last amended by Section 8, Chapter 433,  
O.S.L. 2009, 89.6, as amended by Section 9, Chapter  
433, O.S.L. 2009 and 89.7 (62 O.S. Supp. 2009,  
Sections 89.2 and 89.6), which relate to the Small  
Business Linked Deposit Act; modifying investment  
reporting requirements of Treasurer; modifying amount  
of certain fees; extending certain deadline; and  
providing an effective date.

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

1 SECTION 1. AMENDATORY 60 O.S. 2001, Section 651.2, is  
2 amended to read as follows:

3 Section 651.2 A. Any sum payable on a check, certified check,  
4 cashier's check, draft, or similar instrument, except those subject  
5 to Section 651.1 of this title, on which a banking or financial  
6 organization is directly liable, which has been outstanding for more  
7 than five (5) years after it was payable or after its issuance if  
8 payable on demand, is presumed abandoned, unless the owner, within  
9 five (5) years, has communicated in writing with the banking or  
10 financial organization concerning it or otherwise indicated an  
11 interest as evidenced by a memorandum or other record, on file,  
12 prepared by an employee thereof.

13 B. A record of the issuance of a check, draft, or similar  
14 instrument shall be prima facie evidence of an obligation.

15 C. The burden of proof upon the State Treasurer in claiming  
16 property from a holder, who is also the issuer, shall be satisfied  
17 by demonstrating the issuance of the instrument and the passage of  
18 the requisite period of abandonment as provided in subsection A of  
19 this section.

20 D. The holder may assert affirmative defenses of:

21 1. Payment;

22 2. Satisfaction;

23 3. Discharge; and

24 4. Want of consideration.

1 SECTION 2. AMENDATORY 60 O.S. 2001, Section 661, as last  
2 amended by Section 1, Chapter 433, O.S.L. 2009 (60 O.S. Supp. 2009,  
3 Section 661), is amended to read as follows:

4 Section 661. A. A person holding property, tangible or  
5 intangible, presumed abandoned and subject to custody as unclaimed  
6 property under the Uniform Unclaimed Property Act shall report to  
7 the State Treasurer concerning the property as provided in this  
8 section.

9 B. The report must be verified and must include:

10 1. The name, if known, and last-known address, if any, of each  
11 person appearing from the records of the holder to be the owner of  
12 property of the value of Fifty Dollars (\$50.00) or more presumed  
13 abandoned under the Uniform Unclaimed Property Act and items of  
14 value under Fifty Dollars (\$50.00), reported in the aggregate,  
15 except property which is one of a recurring number of continuous  
16 payments, including, but not limited to, royalties, annuities,  
17 dividends, distributions and other sums presumed abandoned pursuant  
18 to subsection D of Section 655 of this title, which shall be  
19 reported in the same manner as property with a value of Fifty  
20 Dollars (\$50.00) or more;

21 2. In the case of unclaimed funds of Fifty Dollars (\$50.00) or  
22 more held or owing under any life or endowment insurance policy or  
23 annuity contract, the full name and last-known address of the  
24

1 insured or annuitant and of the beneficiary according to the records  
2 of the insurance company holding or owing the funds;

3 3. In the case of the contents of a safe deposit box or other  
4 safekeeping repository or of other tangible personal property, a  
5 description of the property and the place where it is held, which  
6 may be inspected by the State Treasurer, and any amounts, including  
7 offsets for drilling costs and rent, owing to the holder;

8 4. The description of the property, including type and  
9 identifying number if any, and the amount appearing from the records  
10 to be due;

11 5. The date when the property became payable, demandable or  
12 returnable, and the date of the last transaction with the owner with  
13 respect to the property;

14 6. In the case of a cashier's check, if known, the names and  
15 last-known addresses of the payee(s), the payor(s) and the  
16 purchaser(s); and

17 7. Any other information reasonably required by the Treasurer.

18 C. If the person holding property presumed abandoned and  
19 subject to custody as unclaimed property is a successor to other  
20 persons who previously held the property for the apparent owner or  
21 if the name of the holder has changed while holding the property,  
22 the holder shall file with the report all known names and addresses  
23 of each previous holder of the property.

24

1 D. The report must be filed before November 1 of each year for  
2 property reportable as of the preceding July 1, but the report of  
3 any life insurance company must be filed before May 1 of each year  
4 for property reportable as of the preceding March 1. The State  
5 Treasurer may postpone the reporting date upon written request by  
6 any person required to file a report.

7 E. Not more than one hundred twenty (120) days before filing  
8 the report required by this section, the holder in possession of  
9 property presumed abandoned and subject to custody as unclaimed  
10 property under the Uniform Unclaimed Property Act shall send written  
11 notice to the apparent owner at the owner's last-known address  
12 informing the owner that the holder is in possession of property  
13 subject to the Uniform Unclaimed Property Act if:

14 1. The holder has in the records of the holder an address for  
15 the apparent owner which the holder's records do not disclose to be  
16 inaccurate;

17 2. The claim of the apparent owner is not barred by the statute  
18 of limitations; and

19 3. The property has a value of Fifty Dollars (\$50.00) or more,  
20 or the property has a value of less than Fifty Dollars (\$50.00) and  
21 is one of a recurring number of continuous payments, including, but  
22 not limited to, royalties, annuities, dividends, distributions and  
23 other recurring sums presumed abandoned pursuant to subsection D of  
24 Section 655 of this title. The holder is not required to send

1 written notice to the owner if the holder has previously attempted  
2 to communicate with the owner, or otherwise exercised due diligence  
3 to ascertain the whereabouts of the owner. The mailing of notice by  
4 first-class mail to the last-known address of the owner by the  
5 holder shall constitute compliance with this subsection and, if  
6 done, no further act on the part of the holder shall be necessary.

7 F. Reports filed by a holder shall remain confidential except  
8 for that information required to be subject to public inspection  
9 pursuant to the Uniform Unclaimed Property Act.

10 G. The Treasurer may require a holder reporting fifteen or more  
11 items of property pursuant to this section to file the report  
12 electronically. The Treasurer shall promulgate rules necessary to  
13 carry out provisions for electronic filing.

14 SECTION 3. AMENDATORY 60 O.S. 2001, Section 664, is  
15 amended to read as follows:

16 Section 664. A. Upon the payment or delivery of abandoned  
17 property to the State Treasurer, the state assumes custody and  
18 responsibility for the safekeeping of the property. A person who  
19 pays or delivers property to the State Treasurer in good faith is  
20 relieved of all liability to the extent of the value of the property  
21 paid or delivered for any claim then existing or which thereafter  
22 may arise or be made in respect to the property.

23 B. A holder who has paid money to the State Treasurer pursuant  
24 to the Uniform Unclaimed Property Act may make payment to any person

1 appearing to the holder to be entitled to payment; and upon filing  
2 proof of such payment and proof that the payee was entitled thereto,  
3 the State Treasurer shall promptly reimburse the holder for the  
4 payment without imposing a fee or other charge. If reimbursement is  
5 sought for a payment made on a negotiable instrument, including a  
6 travelers check or money order, the holder ~~must~~ shall be reimbursed  
7 under this subsection upon filing proof that the instrument was  
8 presented and that payment was made to a person who appeared to the  
9 holder to be entitled to payment. The holder ~~must~~ shall be  
10 reimbursed for payment made under this subsection even if the holder  
11 paid a person whose claim was barred under subsection A of Section  
12 666 of this title.

13 C. A holder who has delivered property, including, but not  
14 limited to, a certificate of an ownership interest in a business  
15 association, other than money to the State Treasurer pursuant to the  
16 Uniform Unclaimed Property Act may reclaim the property if still in  
17 the possession of the Treasurer, without paying any fee or other  
18 charge, upon filing proof that the owner has claimed the property  
19 from the holder.

20 D. The State Treasurer may accept the holder's affidavit as  
21 sufficient proof of the facts that entitle the holder to recover  
22 money and property under this section.

23 E. If the holder pays or delivers property to the State  
24 Treasurer in good faith and thereafter another person claims the

1 property from the holder or another state claims the money or  
2 property under its laws relating to escheat or abandoned or  
3 unclaimed property, the State Treasurer, upon written notice of the  
4 claim, shall defend the holder against the claim and, to the extent  
5 of the property's value, shall indemnify the holder against  
6 liability on the claim. Neither the holder nor the State Treasurer  
7 shall be liable for more than the value of the property, determined  
8 as of the time of its payment or delivery to the State Treasurer, if  
9 the holder paid or delivered the property to the State Treasurer in  
10 good faith.

11 F. For the purposes of this section, "good faith" means that:

12 1. Payment or delivery was made in a reasonable attempt to  
13 comply with the Uniform Unclaimed Property Act;

14 2. The person delivering the property was not a fiduciary then  
15 in breach of trust in respect to the property and had a reasonable  
16 basis for believing, based on the facts then known, that the  
17 property was abandoned for the purposes of the Uniform Unclaimed  
18 Property Act; ~~and~~

19 3. There is no showing that the records under which the  
20 delivery was made did not meet reasonable commercial standards of  
21 practice in the industry; and

22 4. The reporting and delivery of property was made in  
23 compliance with Sections 661 and 663 of this title and any  
24 applicable administrative rules.

1 SECTION 4. AMENDATORY 60 O.S. 2001, Section 674.2, as  
2 amended by Section 12, Chapter 224, O.S.L. 2003 (60 O.S. Supp. 2009,  
3 Section 674.2), is amended to read as follows:

4 Section 674.2 If any person claims an interest in any property  
5 delivered to the State Treasurer in which the owner of the property  
6 is determined to be deceased, the State Treasurer shall not pay over  
7 or deliver to the claimant property as provided in Section 651 et  
8 seq. of this title, unless the claimant provides the following  
9 items:

10 1. A certified copy of letters of administration or letters  
11 testamentary from the probate of the estate of the decedent naming  
12 the claimant as the personal representative of the estate of the  
13 decedent;

14 2. A certified copy of the decree of distribution from the  
15 probate of the estate of the decedent determining the claimant to be  
16 entitled to receive such property through the estate of the  
17 decedent;

18 3. If the owner of the property executed an inter vivos trust  
19 which provided for the disposition of the property of the owner, a  
20 properly verified copy of the trust instrument which shows the  
21 claimant is the trustee or beneficiary of the trust or otherwise  
22 entitled to the property reported; ~~or~~

23 4. If the property is derived from real property located in  
24 Oklahoma, a certified copy of a final decree quieting title of the

1 decedent's real property, determining the claimant to be the  
2 successor in interest of decedent's ownership interest; or

3 5. If the value of the property is Ten Thousand Dollars  
4 (\$10,000.00) or less, a signed affidavit executed by the claimant  
5 stating that the claimant is entitled to receive such property, the  
6 reason the claimant is entitled to receive such property, that there  
7 has been no probate of the estate of the deceased owner, that no  
8 probate is contemplated and that claimant will indemnify the state  
9 for any loss, including attorney fees, should another claimant  
10 assert a prior right to the property.

11 The State Treasurer may require other reasonable documentation,  
12 in addition to the above items, to determine the validity of the  
13 claim.

14 SECTION 5. AMENDATORY 60 O.S. 2001, Section 675, as  
15 amended by Section 5, Chapter 433, O.S.L. 2009 (60 O.S. Supp. 2009,  
16 Section 675), is amended to read as follows:

17 Section 675. A. The State Treasurer shall consider any claim  
18 filed under the Uniform Unclaimed Property Act and may hold a  
19 hearing and receive evidence concerning it. The procedure to be  
20 followed hereunder shall be as prescribed by the Administrative  
21 Procedures Act. If a hearing is held, the State Treasurer shall  
22 prepare a finding and decision in writing on each claim filed,  
23 stating the substance of any evidence heard by the State Treasurer

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1 and the reasons for the State Treasurer's decision. The decision  
2 shall be a public record.

3 B. Upon approval by the State Treasurer, the claim shall be  
4 paid forthwith from the Unclaimed Property Fund. The claim shall be  
5 paid without deduction for costs of notices or sale or for service  
6 charges.

7 C. The State Treasurer shall not pay monies to rightful owners,  
8 or their heirs, devisees, and assigns, exceeding the reimbursement  
9 amount the Treasurer shall receive from the Mineral Owner's Fund  
10 attributable to such payments to rightful owners, or their heirs,  
11 devisees, and assigns.

12 D. Claims against the Mineral Owner's Fund shall be subject to  
13 the same statutory requirements and administrative rules as  
14 applicable to claims under the Uniform Unclaimed Property Act.

15 SECTION 6. AMENDATORY Section 43, Chapter 441, O.S.L.  
16 2009 (62 O.S. Supp. 2009, Section 34.66), is amended to read as  
17 follows:

18 Section 34.66 A. The State Treasurer shall write checks or  
19 warrants in payment of claims and payrolls certified to the State  
20 Treasurer for payment by the Division of Central Accounting and  
21 Reporting or:

- 22 1. The Department of Human Services;
- 23 2. The Department of Rehabilitative Services;
- 24 3. The State Department of Health;

- 1 4. The Department of Transportation;  
2 5. The State Department of Education;  
3 6. The Oklahoma Department of Career and Technology Education;  
4 and  
5 7. The institutions within The Oklahoma State System of Higher  
6 Education.

7 B. The State Treasurer, within such limitations as the State  
8 Treasurer may prescribe, may authorize the Director of the Office of  
9 State Finance and the entities specified in subsection A of this  
10 section to issue the checks or warrants for payment of claims and  
11 payrolls that have been certified by the respective agency.

12 C. The Director of the Office of State Finance and the entities  
13 specified in subsection A of this section shall provide the State  
14 Treasurer a register of each payment for each check or warrant  
15 issued. To protect against fraud, information contained within the  
16 register of checks or warrants shall not be subject to the Oklahoma  
17 Open Records Act until the earlier of:

- 18 1. Such checks or warrants are submitted for redemption; or  
19 2. Such checks or warrants are cancelled by statute.

20 D. In lieu of checks or warrants:

21 1. The Director of the Office of State Finance may, with the  
22 concurrence of the State Treasurer, settle interagency claims by  
23 transfer entry; and  
24

1        2. At the discretion of the State Treasurer, pay claims and  
2 payrolls by the electronic transfer of funds.

3        SECTION 7.        AMENDATORY        62 O.S. 2001, Section 89.2, as  
4 last amended by Section 8, Chapter 433, O.S.L. 2009 (62 O.S. Supp.  
5 2009, Section 89.2), is amended to read as follows:

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

16        1. Obligations of the United States Government, its agencies  
17 and instrumentalities, or other obligations fully insured or  
18 unconditionally guaranteed as to the payment of principal and  
19 interest by the United States government or any of its agencies and  
20 instrumentalities;

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

1        3. Negotiable certificates of deposit issued by a nationally or  
2 state-chartered bank, a savings bank, a savings and loan association  
3 or a state-licensed branch of a foreign bank. Purchases of  
4 negotiable certificates of deposit shall not exceed ten percent  
5 (10%) of the cash available for investment which may be invested  
6 pursuant to this section. Not more than one-half (1/2) of the ten  
7 percent (10%) limit shall be invested in any one financial  
8 institution specified in this paragraph;

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

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

22        6. Investment grade obligations of state and local governments,  
23 including obligations of Oklahoma state public trusts which possess  
24 the highest rating from at least one nationally recognized rating

1 agency acceptable to the State Treasurer. Purchases of investment  
2 grade obligations of state and local governments shall not exceed  
3 ten percent (10%) of the cash available for investment which may be  
4 invested pursuant to this section;

5 7. Repurchase agreements, provided that such agreements are  
6 included within the written investment policy required by subsection  
7 D of this section that have underlying collateral consisting of  
8 those items and those restrictions specified in paragraphs 1 through  
9 6 of this subsection;

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

14 9. Bonds, notes, debentures or other similar obligations of a  
15 foreign government which the International Monetary Fund lists as an  
16 industrialized country and for which the full faith and credit of  
17 such nation has been pledged for the payment of principal and  
18 interest; provided, that any such security shall be rated at least  
19 A- or better by Standard & Poor's Corporation or A3 or better by  
20 Moody's Investors Service, or an equivalent investment grade by a  
21 securities ratings organization accepted by the National Association  
22 of Insurance Commissioners; and provided further, that the total  
23 investment in such foreign securities at any one time shall not  
24 exceed five percent (5%) of the cash available for investment which

1 may be invested pursuant to this section. In no circumstance shall  
2 investments be made in bonds, notes, debentures or any similar  
3 obligations of a foreign government that:

4 a. is identified as a state sponsor of terrorism by the  
5 United States Department of State, or

6 b. any authoritarian or totalitarian government the  
7 sovereign powers of which are exercised through a  
8 single person or group of persons who are not elected  
9 by any form of legitimate popular voting.

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

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

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

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

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

15 E. The State Treasurer shall select one custodial bank to  
16 settle transactions involving the investment of state funds under  
17 the control of the State Treasurer. The State Treasurer shall  
18 review the performance of the custodial bank at least once every  
19 year. The State Treasurer shall require a written competitive bid  
20 every five (5) years. The custodial bank shall have a minimum of  
21 Five Hundred Million Dollars (\$500,000,000.00) in assets to be  
22 eligible for selection. Any out-of-state custodial bank shall have  
23 a service agent in the State of Oklahoma so that service of summons  
24 or legal notice may be had on such designated agent as is now or may

1 hereafter be provided by law. In order to be eligible for  
2 selection, the custodial bank shall allow electronic access to all  
3 transaction and portfolio reports maintained by the custodial bank  
4 involving the investment of state funds under control of the State  
5 Treasurer. The access shall be given to both the State Treasurer  
6 and to the Cash Management and Investment Oversight Commission. The  
7 requirement for electronic access shall be incorporated into any  
8 contract between the State Treasurer and the custodial bank.

9 Neither the State Treasurer nor the custodial bank shall permit any  
10 of the funds under the control of the State Treasurer or any of the  
11 documents, instruments, securities or other evidence of a right to  
12 be paid money to be located in any place other than within a  
13 jurisdiction or territory under the control or regulatory power of  
14 the United States Government.

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

- 19 1. Policy objectives;
- 20 2. Performance measure objectives;
- 21 3. Authority for investment program;
- 22 4. Possible use of an investment advisory committee;
- 23 5. Reporting and documentation of investments;
- 24 6. Authorized investment instruments;

- 1 7. Diversification of investment risk;
- 2 8. Maturity limitations;
- 3 9. Selections of financial institutions;
- 4 10. Interest controls;
- 5 11. Safekeeping of investments;
- 6 12. Investment ethics; and
- 7 13. Formal adoption of policy.

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

19 H. Not later than July 1 of each year, the State Treasurer  
20 shall forward a copy of the written investment policy to the  
21 Governor, the Speaker of the House of Representatives, the President  
22 Pro Tempore of the Senate, the Attorney General, the Bank  
23 Commissioner, and the Director of State Finance. In addition, the  
24 State Treasurer shall maintain one copy of the investment policy in

1 the office of the State Treasurer for public inspection during  
2 regular business hours. Copies of any modifications to the  
3 investment policy shall be forwarded to the Governor, Speaker of the  
4 House of Representatives, President Pro Tempore of the Senate, and  
5 each member of the Cash Management and Investment Oversight  
6 Commission.

7 SECTION 8. AMENDATORY 62 O.S. 2001, Section 89.6, as  
8 amended by Section 9, Chapter 433, O.S.L. 2009 (62 O.S. Supp. 2009,  
9 Section 89.6), is amended to read as follows:

10 Section 89.6 The State Treasurer may charge and collect the  
11 following fees:

12 1. For any returned check or electronic debit that is returned,  
13 a fee of Twenty-five Dollars (\$25.00);

14 2. For handling and processing rejected warrant items processed  
15 by the State Treasurer, a fee of ~~forty-two cents (\$0.42)~~ One Dollar  
16 (\$1.00) per item;

17 3. For handling a stop-payment item processed by the State  
18 Treasurer on behalf of a state agency, a fee of ~~Ten Dollars (\$10.00)~~  
19 Fifteen Dollars (\$15.00) for each item up to a maximum fee of ~~Two~~  
20 ~~Hundred Fifty Dollars (\$250.00)~~ Three Hundred Twenty-five Dollars  
21 (\$325.00) per day; and

22 4. Beginning July 1, 2010, for expenses incurred in managing  
23 the state agency blended portfolio, an annual fee of not more than  
24 two and one-half (2 1/2) basis points which may be charged monthly

1 against the average daily balance of the portfolio; provided, the  
2 fees shall be collected at the time earnings are deposited to  
3 participating state agencies.

4 SECTION 9. AMENDATORY 62 O.S. 2001, Section 89.7, is  
5 amended to read as follows:

6 Section 89.7 A. The State Treasurer shall prepare monthly and  
7 annual investment performance reports of the State Treasurer's  
8 Office in the form and manner required by the Cash Management and  
9 Investment Oversight Commission after consultation with the State  
10 Treasurer which summarize recent market conditions, economic  
11 developments and anticipated investment conditions and the  
12 investment plan performance, including portfolio diversification and  
13 rates of return measured against the investment plan of the State  
14 Treasury. The annual investment performance report shall be  
15 submitted to the Commission and shall be made within ~~thirty (30)~~  
16 sixty (60) calendar days after the end of the fiscal year. The  
17 monthly investment performance reports shall be submitted to the  
18 Executive Review Committee and shall be made within thirty (30) days  
19 after the end of the applicable month. The investment performance  
20 reports shall specify the investment strategies employed in the most  
21 recent reporting period and describe the investment portfolio of the  
22 state in terms of:

- 23 1. Securities;
- 24 2. Maturities;

1 3. Fund type;

2 4. Financial institutions from which securities were purchased,  
3 including the amounts and the city and state of location;

4 5. Investment return compared to budgetary expectations;

5 6. Average yield; and

6 7. Average life of the portfolio.

7 The investment performance reports shall also indicate any areas of  
8 concern which the State Treasurer has concerning the basic  
9 investment strategies being employed. The investment performance  
10 reports shall contain:

11 a. combined and individual rates of return and a list of  
12 all losses by category of investment, over periods of  
13 time;

14 b. the rate of return on deposits and all fees and  
15 expenses charged as to all depository financial  
16 institutions of the State Treasury and a specific  
17 review of the adequacy of the collateralization;

18 c. any other information that the State Treasurer may  
19 include; and

20 d. such other information that the Cash Management and  
21 Investment Oversight Commission created by Section  
22 71.1 of this title may request and that the State  
23 Treasurer agrees to include in the investment  
24 performance reports.

1 B. To the extent that the State Treasurer should have reason to  
2 know, the State Treasurer shall also include in the investment  
3 performance reports a listing of all payments, fees, commissions, or  
4 other compensation received by any person, including but not limited  
5 to individuals, financial institutions, or investment companies or  
6 corporations, which have an investment agreement, contract, or other  
7 arrangement with the State Treasurer, or who receive any  
8 compensation as a result of a transaction involving the investment  
9 of state monies or funds or the purchase, sale, or trade of  
10 securities or bonds involving the Office of the State Treasurer.  
11 Said listings shall also include the social security or federal  
12 identification number of any person, including but not limited to  
13 individuals, financial institutions, or investment companies or  
14 corporations, receiving payments, fees, commissions, or other  
15 compensation.

16 C. The annual investment performance report shall be written in  
17 simple and easily understood language containing:

- 18 a. an analysis of the written investment plans developed  
19 by the Treasurer as required by law;
- 20 b. a quantitative analysis of the performance of all  
21 depository financial institutions approved by the  
22 State Treasurer, with regard to monies deposited;
- 23  
24

- 1           c.    the result of the analyses prepared pursuant to  
2                    subparagraphs a and b of this paragraph compared with  
3                    similar data for other states;
- 4           d.    recommendations on administrative and legislative  
5                    changes which are necessary to improve the performance  
6                    of the State Treasury in accordance with current  
7                    standards for large public fund portfolio management;  
8                    and
- 9           e.    a listing by object code of the expenses of the State  
10                   Treasury as audited by the independent auditor  
11                   provided by Section 89.10 of this title.

12           D.    The State Treasurer shall distribute the investment  
13 performance reports to the Governor, the President Pro Tempore of  
14 the Senate, the Speaker of the House of Representatives, the State  
15 Auditor and Inspector, the Attorney General, and members of the Cash  
16 Management and Investment Oversight Commission. Upon request, the  
17 State Treasurer shall make the annual investment performance report  
18 available to the members of the Legislature and the general public.  
19 The annual investment performance report shall also include an  
20 investment plan for the ensuing fiscal year.

21           E.    The State Treasurer shall require all employees in the State  
22 Treasury to sign an anti-collusion affidavit. Execution of a false  
23 affidavit shall make such employees subject to disciplinary action,  
24

1 including but not limited to termination, criminal prosecution or  
2 both.

3 F. The State Treasurer shall require an anti-collusion  
4 affidavit from brokers or other persons offering investment services  
5 to the State Treasury. The State Treasurer shall be prohibited from  
6 employing or doing business with any brokers or persons offering  
7 investment services to the State Treasury who have not executed such  
8 an affidavit.

9 G. The Cash Management and Investment Oversight Commission  
10 shall certify that the State Treasurer has delivered to the  
11 Commission the monthly and annual investment performance reports and  
12 the annual financial report required by this section. If the  
13 Commission determines that these reports have not been delivered by  
14 the State Treasurer as required by law, the Commission shall notify  
15 in writing the Governor, the Speaker of the House of  
16 Representatives, the President Pro Tempore of the Senate, the  
17 Attorney General, and the State Auditor and Inspector.

18 SECTION 10. This act shall become effective November 1, 2010.  
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22  
23  
24

1 Passed the House of Representatives the 4th day of March, 2010.

2  
3  
4 Presiding Officer of the House of  
Representatives

5  
6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

7  
8  
9 Presiding Officer of the Senate