

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1912

6 By: Christian and Key

7 COMMITTEE SUBSTITUTE

8 An Act relating to public finance; amending 62 O.S.
9 2001, Section 89.2, as last amended by Section 7,
10 Chapter 241, O.S.L. 2010 (62 O.S. Supp. 2010, Section
11 89.2), which relates to authorized investments;
12 authorizing State Treasurer to invest monies in gold
13 or silver; requiring certain form for acquisition;
14 restricting total value of metals in relation to
15 state funds; providing an effective date; and
16 declaring an emergency.

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

18 SECTION 1. AMENDATORY 62 O.S. 2001, Section 89.2, as
19 last amended by Section 7, Chapter 241, O.S.L. 2010 (62 O.S. Supp.
20 2010, Section 89.2), is amended to read as follows:

21 Section 89.2 A. The State Treasurer is directed to invest the
22 maximum amount of funds under control of the State Treasurer
23 consistent with good business practices; provided that the Treasurer
24 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

1 provided for by law, the investments shall earn not less than the
2 rate for comparable maturities on United States Treasury
3 obligations. Except as otherwise provided for by law, the State
4 Treasurer may purchase and invest only in:

5 1. Obligations of the United States Government, its agencies
6 and instrumentalities, or other obligations fully insured or
7 unconditionally guaranteed as to the payment of principal and
8 interest by the United States government or any of its agencies and
9 instrumentalities;

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

13 3. Negotiable certificates of deposit issued by a nationally or
14 state-chartered bank, a savings bank, a savings and loan association
15 or a state-licensed branch of a foreign bank. Purchases of
16 negotiable certificates of deposit shall not exceed ten percent
17 (10%) of the cash available for investment which may be invested
18 pursuant to this section. Not more than one-half (1/2) of the ten
19 percent (10%) limit shall be invested in any one financial
20 institution specified in this paragraph;

21 4. Prime banker's acceptances which are eligible for purchase
22 by the Federal Reserve System and which do not exceed two hundred
23 seventy (270) days' maturity. Purchases of prime banker's
24 acceptances shall not exceed ten percent (10%) of the cash available

1 for investment which may be invested pursuant to this section. Not
2 more than three-fourths (3/4) of the ten percent (10%) limit shall
3 be invested in any one commercial bank pursuant to this paragraph;

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

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

17 7. Repurchase agreements, provided that such agreements are
18 included within the written investment policy required by subsection
19 D of this section that have underlying collateral consisting of
20 those items and those restrictions specified in paragraphs 1 through
21 6 of this subsection;

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

3 9. Bonds, notes, debentures or other similar obligations of a
4 foreign government which the International Monetary Fund lists as an
5 industrialized country and for which the full faith and credit of
6 such nation has been pledged for the payment of principal and
7 interest; provided, that any such security shall be rated at least
8 A- or better by Standard & Poor's Corporation or A3 or better by
9 Moody's Investors Service, or an equivalent investment grade by a
10 securities ratings organization accepted by the National Association
11 of Insurance Commissioners; and provided further, that the total
12 investment in such foreign securities at any one time shall not
13 exceed five percent (5%) of the cash available for investment which
14 may be invested pursuant to this section. In no circumstance shall
15 investments be made in bonds, notes, debentures or any similar
16 obligations of a foreign government that:

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

19 b. any authoritarian or totalitarian government the
20 sovereign powers of which are exercised through a
21 single person or group of persons who are not elected
22 by any form of legitimate popular voting; and

23 10. Gold or silver bullion as the State Treasurer determines to
24 be adequate in relation to the amount of monies used to acquire

1 quantities of either or both metals, but not to exceed ten percent
2 (10%) of the total of all state funds with respect to the total
3 value of both metals as of the date the bullion is acquired.

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

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

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

- 19 1. Liquidity;
- 20 2. Diversification;
- 21 3. Safety of principal;
- 22 4. Yield;
- 23 5. Maturity and quality; and
- 24 6. Capability of investment management.

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

9 E. The State Treasurer shall select one custodial bank to
10 settle transactions involving the investment of state funds under
11 the control of the State Treasurer. The State Treasurer shall
12 review the performance of the custodial bank at least once every
13 year. The State Treasurer shall require a written competitive bid
14 every five (5) years. The custodial bank shall have a minimum of
15 Five Hundred Million Dollars (\$500,000,000.00) in assets to be
16 eligible for selection. Any out-of-state custodial bank shall have
17 a service agent in the State of Oklahoma so that service of summons
18 or legal notice may be had on such designated agent as is now or may
19 hereafter be provided by law. In order to be eligible for
20 selection, the custodial bank shall allow electronic access to all
21 transaction and portfolio reports maintained by the custodial bank
22 involving the investment of state funds under control of the State
23 Treasurer. The access shall be given to both the State Treasurer
24 and to the Cash Management and Investment Oversight Commission. The

1 requirement for electronic access shall be incorporated into any
2 contract between the State Treasurer and the custodial bank.

3 Neither the State Treasurer nor the custodial bank shall permit any
4 of the funds under the control of the State Treasurer or any of the
5 documents, instruments, securities or other evidence of a right to
6 be paid money to be located in any place other than within a
7 jurisdiction or territory under the control or regulatory power of
8 the United States Government.

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

- 13 1. Policy objectives;
- 14 2. Performance measure objectives;
- 15 3. Authority for investment program;
- 16 4. Possible use of an investment advisory committee;
- 17 5. Reporting and documentation of investments;
- 18 6. Authorized investment instruments;
- 19 7. Diversification of investment risk;
- 20 8. Maturity limitations;
- 21 9. Selections of financial institutions;
- 22 10. Interest controls;
- 23 11. Safekeeping of investments;
- 24 12. Investment ethics; and

1 13. Formal adoption of policy.

2 G. The State Treasurer shall provide weekly reports of all
3 investments made by the State Treasurer if requested by the Cash
4 Management and Investment Oversight Commission, and list any
5 commissions, fees or payments made for services regarding such
6 investments. The reports required by this subsection shall be
7 delivered to the Commission within three (3) business days of the
8 end of the applicable week.

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

21 SECTION 2. This act shall become effective July 1, 2011.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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