

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SUBCOMMITTEE RECOMMENDATION

FOR

HOUSE BILL NO. 1152

By: Montgomery

SUBCOMMITTEE RECOMMENDATION

An Act relating to public finance; amending 62 O.S. 2011, Section 89.2, as last amended by Section 66, Chapter 15, O.S.L. 2013 (62 O.S. Supp. 2014, Section 89.2), which relates to authorized investments for public funds; authorizing investment categories with respect to Constitutional Reserve Fund; imposing restrictions; authorizing contract for investment; authorizing investment in certain equity securities; authorizing investment in certain debt obligations; providing an effective date; and declaring an emergency.

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

3 SECTION 1. AMENDATORY 62 O.S. 2011, Section 89.2, as  
4 last amended by Section 66, Chapter 15, O.S.L. 2013 (62 O.S. Supp.  
5 2014, Section 89.2), is amended to read as follows:  
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7 Section 89.2 A. The State Treasurer is directed to invest the  
8 maximum amount of funds under control of the State Treasurer  
9 consistent with good business practices. Except as otherwise  
10 provided for by law, the investments shall earn not less than the  
11 rate for comparable maturities on United States Treasury  
12 obligations. Except as otherwise provided for by law, the State  
13 Treasurer may purchase and invest only in:

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

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

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

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

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

21 6. Investment grade obligations of state and local governments,  
22 including obligations of Oklahoma state public trusts which possess  
23 the highest rating from at least one nationally recognized rating  
24 agency acceptable to the State Treasurer. Purchases of investment

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

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

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

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

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

11 B. With respect to the monies in the Constitutional Reserve  
12 Fund, in addition to the authorized investments described in  
13 subsection A of this section, the State Treasurer shall have the  
14 authority to separately invest the monies in the Constitutional  
15 Reserve Fund in the following types of investments subject to the  
16 limitations upon the total amount of funds invested in each category  
17 and subject to a restriction that each such percentage limit shall  
18 be determined as of the date the funds are first invested. The  
19 State Treasurer may also contract with a third party in order to  
20 make the investments authorized by the provisions of this  
21 subsection. The additional authorized investment categories for the  
22 Constitutional Reserve Fund are:  
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1       1. Preferred shares of publicly traded companies. Funds shall  
2 not be used to short sell any security. Purchases of preferred  
3 shares of publicly traded companies shall not exceed twenty percent  
4 (20%) of available funds. Not more than one-fourth (1/4) of the  
5 twenty-percent limit shall be invested in any one publicly traded  
6 company pursuant to this paragraph. Preferred shares purchased  
7 shall not be able to convert preferred shares to common shares.  
8 Preferred shares shall not include voting rights at purchase;

9       2. Common shares of publicly traded companies. Funds shall not  
10 be utilized to short sell any security. Purchases of common shares  
11 shall not exceed five percent (5%) of available funds and shall not  
12 exceed two percent (2%) of the equity of the company. Not more than  
13 one-fourth (1/4) of the five-percent limit shall be invested in any  
14 one publicly traded company pursuant to this paragraph; and

15       3. Corporate bonds maturing after three hundred sixty five  
16 (365) days but not to exceed one thousand eight hundred twenty-six  
17 (1,826) days maturation nor represent more than five percent (5%) of  
18 outstanding debt with a rating of A2/A or better. Purchases of  
19 corporate bonds shall not exceed ten percent (10%) of funds  
20 available. Not more than three-fourths (3/4) of the ten-percent  
21 limit shall be invested in any one corporate obligation pursuant to  
22 this paragraph.  
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1        C. Investments shall be made with judgment and care, under  
2 circumstances then prevailing, which persons of prudence, discretion  
3 and intelligence exercise in the management of their own affairs,  
4 not for speculation, but for investment, considering the probable  
5 safety of their capital as well as the probable income to be  
6 derived.

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

13        ~~D.~~ E. Investments of public funds by the State Treasurer shall  
14 be made in accordance with written policies developed by the State  
15 Treasurer. The written investment policies shall address:  
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- 17        1. Liquidity;
  - 18        2. Diversification;
  - 19        3. Safety of principal;
  - 20        4. Yield;
  - 21        5. Maturity and quality; and
  - 22        6. Capability of investment management.
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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.~~ F. 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  
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1 and to the Cash Management and Investment Oversight Commission. The  
2 requirement for electronic access shall be incorporated into any  
3 contract between the State Treasurer and the custodial bank.

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

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

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

9 ~~G.~~ H. The State Treasurer shall provide weekly reports of all  
10 investments made by the State Treasurer if requested by the Cash  
11 Management and Investment Oversight Commission, and list any  
12 commissions, fees or payments made for services regarding such  
13 investments. The reports required by this subsection shall be  
14 delivered to the Commission within three (3) business days of the  
15 end of the applicable week.

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17 ~~H.~~ I. Not later than July 1 of each year, the State Treasurer  
18 shall forward a copy of the written investment policy to the  
19 Governor, the Speaker of the House of Representatives, the President  
20 Pro Tempore of the Senate, the Attorney General, the Bank  
21 Commissioner, and the Director of the Office of Management and  
22 Enterprise Services. In addition, the State Treasurer shall  
23 maintain one copy of the investment policy in the office of the  
24 State Treasurer for public inspection during regular business hours.

1 Copies of any modifications to the investment policy shall be  
2 forwarded to the Governor, Speaker of the House of Representatives,  
3 President Pro Tempore of the Senate, and each member of the Cash  
4 Management and Investment Oversight Commission.

5 SECTION 2. This act shall become effective July 1, 2015.

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

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12 55-1-6722 LRB 02/10/15  
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