

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3681

By: Roberts (Sean)

AS INTRODUCED

An Act relating to public finance; amending 62 O.S. 2021, Section 89.2, which relates to investment of state funds; authorizing State Treasurer to invest public funds in certain precious metals; prescribing requirements; 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. 2021, 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. 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, or other obligations fully insured or unconditionally guaranteed as to the payment of principal and

1 interest by the United States government or any of its agencies and  
2 instrumentalities;

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

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

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

21 5. Prime commercial paper which shall not have a maturity that  
22 exceeds one hundred eighty (180) days nor represent more than ten  
23 percent (10%) of the outstanding paper of an issuing corporation.  
24 Purchases of prime commercial paper shall not exceed seven and one-

1 half percent (7 1/2%) of the cash available for investment which may  
2 be invested pursuant to this section;

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

10 7. Repurchase agreements, provided that such agreements are  
11 included within the written investment policy required by subsection  
12 D of this section that have underlying collateral consisting of  
13 those items and those restrictions specified in paragraphs 1 through  
14 6 of this subsection;

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

19 9. Bonds, notes, debentures or other similar obligations of a  
20 foreign government which the International Monetary Fund lists as an  
21 industrialized country and for which the full faith and credit of  
22 such nation has been pledged for the payment of principal and  
23 interest; provided, that any such security shall be rated at least  
24 A- or better by Standard & Poor's Corporation or A3 or better by

1 Moody's Investors Service, or an equivalent investment grade by a  
2 securities ratings organization accepted by the National Association  
3 of Insurance Commissioners; and provided further, that the total  
4 investment in such foreign securities at any one time shall not  
5 exceed five percent (5%) of the cash available for investment which  
6 may be invested pursuant to this section. In no circumstance shall  
7 investments be made in bonds, notes, debentures or any similar  
8 obligations of a foreign government that:

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

11 b. any authoritarian or totalitarian government the  
12 sovereign powers of which are exercised through a  
13 single person or group of persons who are not elected  
14 by any form of legitimate popular voting; and

15 10. Physical gold and silver bullion, owned directly. Gold and  
16 silver held under this paragraph shall be maintained securely in a  
17 depository for precious metals constructed, at minimum, to  
18 Underwriters Laboratories (UL) class two standards. The State  
19 Treasurer shall ensure that the gold and silver held in a qualifying  
20 depository under this paragraph is insured, independently audited,  
21 unencumbered, and physically segregated from other holdings.

22 B. Investments shall be made with judgment and care, under  
23 circumstances then prevailing, which persons of prudence, discretion  
24 and intelligence exercise in the management of their own affairs,

1 not for speculation, but for investment, considering the probable  
2 safety of their capital as well as the probable income to be  
3 derived.

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

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

- 13 1. Liquidity;
- 14 2. Diversification;
- 15 3. Safety of principal;
- 16 4. Yield;
- 17 5. Maturity and quality; and
- 18 6. Capability of investment management.

19 The State Treasurer shall place primary emphasis on safety and  
20 liquidity in the investment of public funds. To the extent  
21 practicable taking into account the need to use sound investment  
22 judgment, the written investment policies shall include provision  
23 for utilization of a system of competitive bidding in the investment  
24 of state funds. The written investment policies shall be designed

1 to maximize yield within each class of investment instrument,  
2 consistent with the safety of the funds invested.

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

1 jurisdiction or territory under the control or regulatory power of  
2 the United States Government.

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

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

20 G. The State Treasurer shall provide weekly reports of all  
21 investments made by the State Treasurer if requested by the Cash  
22 Management and Investment Oversight Commission, and list any  
23 commissions, fees or payments made for services regarding such  
24 investments. The reports required by this subsection shall be

1 delivered to the Commission within three (3) business days of the  
2 end of the applicable week.

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

15 SECTION 2. This act shall become effective July 1, 2022.

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