

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE
5 BILL NO. 1101

By: Treat, Montgomery, Woods,
6 Jett, and **Bergstrom** of the
Senate

7 and

8 McCall and **Pae** of the House

9
10 [state fiscal affairs - Legacy Investment Board -
11 guidelines for investments - Oklahoma Legacy Fund -
12 investment managers - investment guidelines -
13 realization of losses - budget - codification -
14 effective date - emergency]

15
16
17 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 34.601 of Title 62, unless there
20 is created a duplication in numbering, reads as follows:

21 A. There is hereby created the Legacy Investment Board. The
22 Board shall consist of ten (10) members who shall be appointed as
23 follows:

24 1. The State Auditor and Inspector, or designee;

1 2. Two members shall be appointed by the President Pro Tempore
2 of the Senate;

3 3. Two members shall be appointed by the Speaker of the House
4 of Representatives; and

5 4. Five members shall be appointed by the Governor with the
6 advice and consent of the Senate.

7 B. Members of the Board shall be selected based upon
8 outstanding knowledge and leadership and shall possess the following
9 qualifications:

10 1. A demonstrated professional experience in investment or
11 funds management, public funds management, public or private pension
12 fund management, or retirement system management;

13 2. A demonstrated experience in the banking profession and a
14 demonstrated professional experience in investment or funds
15 management;

16 3. A license to practice law in this state and a demonstrated
17 professional experience in commercial matters; or

18 4. A license by the Oklahoma Accountancy Board to practice in
19 this state as a public accountant or a certified public accountant.

20 Members of the Board shall serve for a term of office of five
21 (5) years. Annually, the members of the Board shall select a chair
22 to preside at their meetings. The meetings of the members shall be
23 subject to the Oklahoma Open Meeting Act, Section 301 et seq. of
24 Title 25 of the Oklahoma Statutes, and the Oklahoma Open Records

1 Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.
2 Each appointive member may receive reimbursement for expenses
3 pursuant to the provisions of the State Travel Reimbursement Act,
4 Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. No
5 vacancy in the membership of the Board shall impair the right of a
6 quorum to exercise all rights and perform all the duties of the
7 Board.

8 C. The Board may hire or enter a contract for services with
9 qualified investment managers or consultants to provide for the
10 investment of the monies of the Oklahoma Legacy Fund created
11 pursuant to subsection D of this section. The funds may be invested
12 in the manner in which a prudent person would invest the funds. The
13 Board shall place primary emphasis on high yields with a long-term
14 investment horizon regarding investments of the Oklahoma Legacy
15 Fund. The risk of large losses shall be minimized by diversifying
16 the investments in the fund, unless, under the circumstances, it is
17 clearly prudent not to do so, which shall include the length of the
18 investment horizon. The Board or its designees may sell investments
19 and realize losses if such action is considered advantageous to
20 longer-term return maximization.

21 D. There is hereby created in the State Treasury a fund to be
22 known and designated as the "Oklahoma Legacy Fund". The fund shall
23 be a continuing fund, not subject to fiscal year limitations, and
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1 shall consist of surplus monies and savings appropriated by the
2 Legislature.

3 E. The fund principal shall consist of monies which are
4 deposited to the fund. Notwithstanding any other provisions of law,
5 income and investment return on fund principal shall accrue to the
6 fund.

7 F. If the balance of the fund exceeds One Billion One Hundred
8 Million Dollars (\$1,100,000,000.00), the excess funds may be
9 appropriated by the Legislature to supplement future reductions of
10 certified funds available to be appropriated by the Legislature
11 resulting from measures that reduce the tax burden on the citizens
12 of this state.

13 G. The Board may use monies from the fund for administrative
14 expenses. The Board shall submit an itemized request to the
15 Director of the Office of Management and Enterprise Services and
16 present an annual budget for the upcoming fiscal year to the
17 Legislature pursuant to Section 34.36 of Title 62 of the Oklahoma
18 Statutes. The budget shall be approved by the Governor and
19 Legislature through passage of a concurrent resolution.

20 SECTION 2. AMENDATORY 62 O.S. 2021, Section 34.36, is
21 amended to read as follows:

22 Section 34.36. A. On the first day of October preceding each
23 regular session of the Legislature, each state agency, including
24 those created or established pursuant to constitutional provisions,

1 and the Legacy Investment Board created in Section 1 of this act
2 shall report to the Director of the Office of Management and
3 Enterprise Services and the Chair and Vice Chair of the Legislative
4 Oversight Committee on State Budget Performance an itemized request
5 showing the amount needed for the ensuing fiscal year beginning with
6 the first day of July.

7 B. The forms which must be used in making these reports shall
8 be approved by the Director of the Office of Management and
9 Enterprise Services and the Legislative Oversight Committee on State
10 Budget Performance.

11 C. The forms shall be uniform, and shall clearly designate the
12 information to be given.

13 D. The information provided shall include, but not be limited
14 to:

15 1. A budget analysis of existing and proposed programs
16 utilizing performance-informed budgeting techniques. Such analysis
17 shall be included as a part of the estimate of funds needed;

18 2. A statement listing any other state, federal or local
19 agencies which administer a similar or cooperating program and an
20 outline of the interaction among such agencies;

21 3. A statement of the statutory authority for the missions and
22 quantified objectives of each program;

23 4. A description of the groups of people served by each program
24 in the agency;

- 1 5. A quantification of the need for the program;
- 2 6. A description of the tactics which are intended to
- 3 accomplish each objective;
- 4 7. A list of quantifiable program outcomes which measure the
- 5 efficiency and effectiveness of each program;
- 6 8. A ranking of these programs by priority;
- 7 9. Actual program expenditures for the current fiscal year and
- 8 prior fiscal years and the number of personnel required to
- 9 accomplish each program;
- 10 10. Revenues expected to be generated by each program, if any;
- 11 11. With respect to appropriated state agencies, a detailed
- 12 listing of all employees and resources dedicated to the provision of
- 13 financial services including but not limited to procurement,
- 14 payroll, accounts receivable and accounts payable. The provisions
- 15 of this paragraph shall not be applicable to the Oklahoma State
- 16 Regents for Higher Education or to any institutions within The
- 17 Oklahoma State System of Higher Education; and
- 18 12. A certification that following the effective date of this
- 19 act and prior to July 1, 2011, no expenditure shall have been made
- 20 or funds encumbered for the purchase, lease, lease-purchase or
- 21 rental of any computers, software, telecom, information technology
- 22 hardware, firmware or information technology services, including
- 23 support services without the prior written approval of the State
- 24 Comptroller or his or her designee.

1 E. These appropriated agencies shall make an itemized estimate
2 of needs for the ensuing fiscal year and the following two (2)
3 fiscal years and request for funds for the ensuing fiscal year and
4 an estimate of the revenues from all sources to be received by the
5 agency during the ensuing fiscal year and the following two (2)
6 fiscal years.

7 F. The Director of the Office of Management and Enterprise
8 Services shall submit to the Governor and the Legislative Oversight
9 Committee on State Budget Performance no later than the fifth day of
10 October a complete list of all spending agencies which have failed
11 to submit budgets by October 1.

12 G. The reports required by this section shall include an
13 itemized listing of outstanding capital lease debt and estimated
14 capital lease needs for the ensuing fiscal year and the following
15 two (2) fiscal years, and shall be provided on forms prescribed by
16 the Director of the Office of Management and Enterprise Services.

17 H. For the purposes of this section, "capital lease" means a
18 lease-purchase agreement which provides an option for ~~the State of~~
19 ~~Oklahoma~~ this state or its agencies to purchase property, including
20 personal and real property, which is the subject thereof and/or a
21 lease agreement that provides an option for ~~the State of Oklahoma~~
22 this state or its agencies to lease such property, which is the
23 subject thereof, at a nominal annual amount, after a period in which
24 leased property is rented at fair market value.

1 I. The provisions of this section shall not apply to CompSource
2 Oklahoma if CompSource Oklahoma is operating pursuant to a pilot
3 program authorized by Sections 3316 and 3317 of Title 74 of the
4 Oklahoma Statutes.

5 J. Not later than January 1, the Director of the Office of
6 Management and Enterprise Services shall publish a shared services
7 cost-performance assessment report documenting the amount of each
8 state agency's cost for providing shared services. The lowest
9 ranking state agencies shall enter into a contract with the Office
10 of Management and Enterprise Services for the provision of shared
11 financial services, provided that the Director of the Office of
12 Management and Enterprise Services determines that implementation of
13 such a contract would be feasible and documents that the contractual
14 agreement will result in cost savings or efficiencies to the state.
15 Contracts required by this subsection shall be entered into at the
16 start of the next fiscal year. When a state agency is contracted
17 with the Office of Management and Enterprise Services for the
18 provision of shared financial services, the agency may discontinue
19 using shared services when documentation showing that the agency can
20 provide the services at a lower cost to the state is provided to and
21 approved by the Director of the Office of Management and Enterprise
22 Services. As used in this subsection, "shared services" means
23 process, resource utilization or action as defined by administrative
24 rule. On a yearly basis the Director of the Office of Management

1 and Enterprise Services shall compile and publish a report
2 documenting the cost savings resulting from shared services
3 contracts. The provisions of this subsection shall not be
4 applicable to the Oklahoma State Regents for Higher Education or to
5 any institutions within The Oklahoma State System of Higher
6 Education.

7 SECTION 3. AMENDATORY 62 O.S. 2021, Section 89.2, is
8 amended to read as follows:

9 Section 89.2. A. The State Treasurer is directed to invest the
10 maximum amount of funds under control of the State Treasurer
11 consistent with good business practices. Except as otherwise
12 provided for by law, the investments shall earn not less than the
13 rate for comparable maturities on United States Department of the
14 Treasury obligations. Except as otherwise provided for by law, the
15 State Treasurer may purchase and invest only in:

16 1. Obligations of the United States ~~Government~~ government, its
17 agencies and instrumentalities, or other obligations fully insured
18 or 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;

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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~~ short-term bond funds
11 regulated by the Securities and Exchange Commission and which
12 investments consist of those items and those restrictions specified
13 in paragraphs 1 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~~ this state so that service
24 of summons or legal notice may be had on such designated agent as is

1 now or may hereafter be provided by law. In order to be eligible
2 for selection, the custodial bank shall allow electronic access to
3 all transaction and portfolio reports maintained by the custodial
4 bank involving the investment of state funds under control of the
5 State Treasurer. The access shall be given to both the State
6 Treasurer and to the Cash Management and Investment Oversight
7 Commission. The requirement for electronic access shall be
8 incorporated into any contract between the State Treasurer and the
9 custodial bank. Neither the State Treasurer nor the custodial bank
10 shall permit any of the funds under the control of the State
11 Treasurer or any of the documents, instruments, securities or other
12 evidence of a right to be paid money to be located in any place
13 other than within a jurisdiction or territory under the control or
14 regulatory power of the United States ~~Government~~ 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 if requested by the Cash
10 Management and Investment Oversight Commission, and list any
11 commissions, fees or payments made for services regarding such
12 investments. The reports required by this subsection shall be
13 delivered to the Commission within three (3) business days of the
14 end of the applicable week.

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

1 Representatives, President Pro Tempore of the Senate, and each
2 member of the Cash Management and Investment Oversight Commission.

3 I. The provisions and limitations for investments provided in
4 this section shall not apply to investments of the Oklahoma Legacy
5 Fund created pursuant to Section 1 of this act.

6 SECTION 4. This act shall become effective July 1, 2023.

7 SECTION 5. It being immediately necessary for the preservation
8 of the public peace, health or 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 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/13/2023 - DO PASS,
13 As Amended and Coauthored.

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