

October 2, 1972

OPINION LETTER NO. 258
Answer by letter-Wieler

Honorable William E. Robinson
State Treasurer
Capitol Building, Room 229
Jefferson City, Missouri 65101



Dear Mr. Robinson:

This letter is issued in response to your request for an opinion concerning the legality of accepting "book-entry treasury securities" as evidence of a United States government obligation rather than bonds, notes or certificates of indebtedness.

Section 30.260, sub. 2, RSMo 1969, allows the State Treasurer to use state moneys not needed for current operations of the state government for the purchase of short term United States government obligations maturing and becoming payable one year or less from the date of issue or other United States government obligations maturing and becoming payable not more than one year from the date of purchase, as the Treasurer in the exercise of his best judgment deems to be in the best overall interest of the people of the state of Missouri.

Subsection 4 of Section 30.260 provides that:

"The state treasurer may subscribe for or purchase obligations of the United States government of the character described in subsection 2 of this section which he, in the exercise of his best judgment, believes to be the best for investment of state moneys at the time and which are available to him at a price not in excess of par plus interest accrued to the date of purchase, and in payment therefor may withdraw moneys from any bank account, demand

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or time, maintained by him without having any supporting warrant of the state auditor. The state treasurer may bid on subscriptions for such obligations in accordance with his best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment of state moneys deposited in banking institutions are kept by him pursuant to law. The state treasurer may hold any such obligation so acquired by him until its maturity or prior thereto may sell the same as he, in the exercise of his best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by him in connection with the subscription, purchase, sale, collection, safekeeping or delivery of all such obligations at any time acquired by him."

In Subpart O of the Treasury Department's Circular No. 300, Third Revision, dated December 23, 1964, as amended and supplemented (31 C.F.R. Part 306), the United States Department of the Treasury has defined a "treasury security" as a ". . . Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in the form of a definitive Treasury security or a book-entry Treasury security." A "definitive treasury security" is defined as a ". . . Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in engraved or printed form." A "book-entry treasury security" is defined as a treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in the form of an entry made as prescribed in Subpart O on the records of a reserve bank.

What is involved then is simply another method of evidencing a United States government obligation. In our opinion, subsections 2 and 4 of Section 30.260 do not require the Treasurer to seek an actual bond as evidence of an obligation against the United States government. If a "book-entry treasury security" is sufficient to bind the United States government, it can be accepted by the Treasurer as evidence of an obligation purchased with state moneys not needed for current operating expenses.

These "book-entry treasury securities" should be kept by the State Treasurer in the same manner that securities pledged to secure

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the repayment of state moneys deposited in banking institutions are kept by him pursuant to law, i.e., in the vaults of the state treasury or in the vaults of the banks or trust companies or other safe depository that the Governor, State Auditor and Treasurer agree upon. Section 30.270, subsection 2, RSMo 1969.

Yours very truly,

JOHN C. DANFORTH
Attorney General