

1 **SENATE FLOOR VERSION**

2 March 24, 2021

3 ENGROSSED HOUSE  
4 BILL NO. 2871

By: Wallace of the House

5 and

6 Thompson of the Senate

7  
8 An Act relating to Commissioners of the Land Office;  
9 amending 64 O.S. 2011, Section 1013, as last amended  
10 by Section 1, Chapter 8, O.S.L. 2020 (64 O.S. Supp.  
11 2020, Section 1013), which relates to investment of  
12 the permanent school funds; clarifying that  
13 calculation of certain cap on certain investment does  
14 not include certain real property; providing an  
15 effective date; and declaring an emergency.

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

17 SECTION 1. AMENDATORY 64 O.S. 2011, Section 1013, as  
18 last amended by Section 1, Chapter 8, O.S.L. 2020 (64 O.S. Supp.  
19 2020, Section 1013), is amended to read as follows:

20 Section 1013. A. The Commissioners of the Land Office shall be  
21 responsible for the investment of the permanent school funds, other  
22 educational funds and public building funds solely in the best  
23 interests of the current and future beneficiaries. The  
24 Commissioners of the Land Office shall make investments:

1. For the exclusive purpose of:

- a. providing maximum benefits to current and future beneficiaries, and
- b. defraying reasonable expenses of administering the trust funds;

2. With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like enterprise of a like character and with like aims would use; and

3. By diversifying the investments of the trust funds so as to minimize the risk of large losses.

B. The permanent school fund and other educational funds may only be invested in bonds issued in the United States, United States dollar denominated or other investments settled in United States dollars or traded on the United States exchange markets and real property to be owned or acquired by the Commissioners of the Land Office. The Commissioners of the Land Office shall not invest more than sixty percent (60%) of the trust fund investments in equity securities. The Commissioners of the Land Office are further authorized to acquire, purchase, exchange and grant any real property under its jurisdiction as is necessary to carry out the investment in the real property. The Commissioners of the Land Office shall not invest more than five percent (5%) of the total value of the assets of the permanent school funds in connection with investments in real property. The calculation of investments in real property within the cap of five percent (5%) shall not include

1 the value of real property under long-term lease to the State of  
2 Oklahoma, agencies of the state or subdivisions thereof. In no case  
3 shall the Commissioners of the Land Office bid against private-  
4 sector bidders above the appraised value of any property to be  
5 acquired.

6 C. The Commissioners shall establish an investment committee.  
7 The investment committee shall be composed of not more than three  
8 members of the Commissioners of the Land Office or their designees.  
9 The committee shall make recommendations to the Commissioners of the  
10 Land Office on all matters related to the choice of managers of the  
11 assets of the funds, on the establishment of investment and fund  
12 management guidelines, and in planning future investment policy.  
13 The committee shall have no authority to act on behalf of the  
14 Commissioners of the Land Office in any circumstances whatsoever.  
15 No recommendations of the committee shall have effect as an action  
16 of the Commissioners of the Land Office or take effect without the  
17 approval of the Commissioners as provided by law. The Commissioners  
18 shall promulgate and adopt on an annual basis an investment plan.  
19 The investment plan shall state the criteria for selecting  
20 investment managers, the allocation of assets among investment  
21 managers, and established standards of investment and fund  
22 management.

23 D. The Commissioners shall retain qualified investment managers  
24 to provide for investment of the fund monies and for the management

1 of investment real property pursuant to the investment plan.  
2 Investment managers shall be chosen by a solicitation of proposals  
3 on a competitive bid basis pursuant to standards set by the  
4 Commissioners. Subject to the investment plan, each investment  
5 manager shall have full discretion in the management of the funds or  
6 investment real property allocated to ~~said~~ the investment managers.  
7 The funds allocated to investment managers shall be actively managed  
8 by them, which may include selling investments and realizing losses  
9 if the action is considered advantageous to longer term return  
10 maximization. Because of the total return objective, no distinction  
11 shall be made for management and performance evaluation purposes  
12 between realized and unrealized capital gains and losses.

13 E. The Commissioners shall take any measures they deem  
14 appropriate to safeguard custody of securities and other assets of  
15 the trusts.

16 F. By September 1 of each year, the Commissioners shall develop  
17 a written investment plan for the trust funds.

18 G. The Commissioners shall compile a quarterly financial report  
19 showing the performance of all the combined funds under their  
20 control on a fiscal year basis. The report shall contain a list of  
21 all investments made by the Commissioners and a list of any  
22 commissions, fees or payments made for services regarding the  
23 investments for that reporting period. The report shall be based on  
24 market values and shall be compiled pursuant to uniform reporting

1 standards prescribed by the Oklahoma State Pension Commission for  
2 all state retirement systems. The report shall be distributed to  
3 the Oklahoma State Pension Commission, the Cash Management and  
4 Investment Oversight Commission, and the Legislative Service Bureau.

5 H. Before January 1 of each year, the Commissioners shall  
6 publish an annual report of all Trust operations, presented in a  
7 simple and easily understood manner to the extent possible. The  
8 report shall be submitted to the Governor, the Speaker of the House  
9 of Representatives, the President Pro Tempore of the Senate, the  
10 State Department of Education and each higher education beneficiary.  
11 The annual report shall cover the operation of the Trusts during the  
12 past fiscal year, including income, disbursements and the financial  
13 condition of the Trusts at the end of each fiscal year on a cash  
14 basis. The annual report shall also contain a summary of the assets  
15 of each trust and current market value as of the report date.

16 I. The Cash Management and Investment Oversight Commission  
17 shall review reports prepared by the Commissioners of the Land  
18 Office pursuant to this subsection and shall make recommendations  
19 regarding the investment strategies and practices, the development  
20 of internal auditing procedures and practices and any other matters  
21 as determined necessary and applicable.

22 J. The Commissioners of the Land Office shall select one  
23 custodial bank to settle transactions involving the investment of  
24 the funds under the control of the Commissioners of the Land Office.

1 The Commissioners of the Land Office shall review the performance of  
2 the custodial bank at least once every year. The Commissioners of  
3 the Land Office shall require a written competitive bid every five  
4 (5) years. The custodial bank shall have a minimum of Five Hundred  
5 Million Dollars (\$500,000,000.00) in assets to be eligible for  
6 selection. Any out-of-state custodial bank shall have a service  
7 agent in the State of Oklahoma so that service of summons or legal  
8 notice may be had on the designated agent, and the bank shall submit  
9 to the jurisdiction of Oklahoma state courts for resolution of any  
10 and all disputes. In order to be eligible for selection, the  
11 custodial bank shall allow electronic access to all transaction and  
12 portfolio reports maintained by the custodial bank involving the  
13 investment of state funds under control of the Commissioners of the  
14 Land Office and to the Cash Management and Investment Oversight  
15 Commission. The requirement for electronic access shall be  
16 incorporated into any contract between the Commissioners of the Land  
17 Office and the custodial bank. Neither the Commissioners of the  
18 Land Office nor the custodial bank shall permit any of the funds  
19 under the control of the Commissioners of the Land Office or any of  
20 the documents, instruments, securities or other evidence of a right  
21 to be paid money to be located in any place other than within a  
22 jurisdiction or territory under the control or regulatory power of  
23 the United States government.

24 SECTION 2. This act shall become effective July 1, 2021.

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

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
6 March 24, 2021 - DO PASS  
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