

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 HOUSE BILL 2871

By: Wallace of the House

5 and

6 **Thompson** of the Senate

7
8
9 AS INTRODUCED

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

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

19 SECTION 1. AMENDATORY 64 O.S. 2011, Section 1013, as
20 last amended by Section 1, Chapter 8, O.S.L. 2020 (64 O.S. Supp.
21 2020, Section 1013), is amended to read as follows:

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

1 1. For the exclusive purpose of:

2 a. providing maximum benefits to current and future
3 beneficiaries, and

4 b. defraying reasonable expenses of administering the
5 trust funds;

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

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

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

1 real property within the cap of five percent (5%) shall not include
2 the value of real property under long-term lease to the State of
3 Oklahoma, agencies of the state or subdivisions thereof. In no case
4 shall the Commissioners of the Land Office bid against private-
5 sector bidders above the appraised value of any property to be
6 acquired.

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

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

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

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

20 G. The Commissioners shall compile a quarterly financial report
21 showing the performance of all the combined funds under their
22 control on a fiscal year basis. The report shall contain a list of
23 all investments made by the Commissioners and a list of any
24 commissions, fees or payments made for services regarding the

1 investments for that reporting period. The report shall be based on
2 market values and shall be compiled pursuant to uniform reporting
3 standards prescribed by the Oklahoma State Pension Commission for
4 all state retirement systems. The report shall be distributed to
5 the Oklahoma State Pension Commission, the Cash Management and
6 Investment Oversight Commission, and the Legislative Service Bureau.

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

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

1 J. The Commissioners of the Land Office shall select one
2 custodial bank to settle transactions involving the investment of
3 the funds under the control of the Commissioners of the Land Office.
4 The Commissioners of the Land Office shall review the performance of
5 the custodial bank at least once every year. The Commissioners of
6 the Land Office shall require a written competitive bid every five
7 (5) years. The custodial bank shall have a minimum of Five Hundred
8 Million Dollars (\$500,000,000.00) in assets to be eligible for
9 selection. Any out-of-state custodial bank shall have a service
10 agent in the State of Oklahoma so that service of summons or legal
11 notice may be had on the designated agent, and the bank shall submit
12 to the jurisdiction of Oklahoma state courts for resolution of any
13 and all disputes. In order to be eligible for selection, the
14 custodial bank shall allow electronic access to all transaction and
15 portfolio reports maintained by the custodial bank involving the
16 investment of state funds under control of the Commissioners of the
17 Land Office and to the Cash Management and Investment Oversight
18 Commission. The requirement for electronic access shall be
19 incorporated into any contract between the Commissioners of the Land
20 Office and the custodial bank. Neither the Commissioners of the
21 Land Office nor the custodial bank shall permit any of the funds
22 under the control of the Commissioners of the Land Office or any of
23 the documents, instruments, securities or other evidence of a right
24 to 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 SECTION 2. This act shall become effective July 1, 2021.

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

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9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
10 02/04/2021 - DO PASS, As Coauthored.

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