

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3870

By: Wallace of the House

5 and

6 **Leewright** of the Senate

7
8 AS INTRODUCED

9
10 An Act relating to public lands; amending 64 O.S.
11 2011, Section 1013, as last amended by Section 6,
12 Chapter 71, O.S.L. 2016 (64 O.S. Supp. 2019, Section
13 1013), which relates to investment of educational
14 funds; modifying cap on investment of Land Office
15 Trust assets; 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 6, Chapter 71, O.S.L. 2016 (64 O.S. Supp.
19 2019, 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:

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

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

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

10 B. The permanent school fund and other educational funds may
11 only be invested in bonds issued in the United States, United States
12 dollar denominated or other investments settled in United States
13 dollars or traded on the United States exchange markets and real
14 property to be owned or acquired by the Commissioners of the Land
15 Office. The Commissioners of the Land Office shall not invest more
16 than sixty percent (60%) of the trust fund investments in equity
17 securities. The Commissioners of the Land Office are further
18 authorized to acquire, purchase, exchange and grant any real
19 property under its jurisdiction as is necessary to carry out the
20 investment in the real property. The Commissioners of the Land
21 Office shall not invest more than ~~three percent (3%)~~ five percent
22 (5%) of the total value of the assets of the permanent school funds
23 in connection with investments in real property. In no case shall
24

1 the Commissioners of the Land Office bid against private_sector
2 bidders above the appraised value of any property to be acquired.

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

20 D. The Commissioners shall retain qualified investment managers
21 to provide for investment of the fund monies and for the management
22 of investment real property pursuant to the investment plan.
23 Investment managers shall be chosen by a solicitation of proposals
24 on a competitive bid basis pursuant to standards set by the

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

10 E. The Commissioners shall take any measures they deem
11 appropriate to safeguard custody of securities and other assets of
12 the trusts.

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

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

1 the Oklahoma State Pension Commission, the Cash Management and
2 Investment Oversight Commission, and the Legislative Service Bureau.

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

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

20 J. The Commissioners of the Land Office shall select one
21 custodial bank to settle transactions involving the investment of
22 the funds under the control of the Commissioners of the Land Office.
23 The Commissioners of the Land Office shall review the performance of
24 the custodial bank at least once every year. The Commissioners of

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

22 SECTION 2. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
5 02/17/2020 - DO PASS, As Coauthored.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24