

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3870

By: Wallace

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6 AS INTRODUCED

7 An Act relating to public lands; amending 64 O.S.  
8 2011, Section 1013, as last amended by Section 6,  
9 Chapter 71, O.S.L. 2016 (64 O.S. Supp. 2019, Section  
10 1013), which relates to investment of educational  
11 funds; modifying cap on investment of Land Office  
12 Trust assets; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 64 O.S. 2011, Section 1013, as  
15 last amended by Section 6, Chapter 71, O.S.L. 2016 (64 O.S. Supp.  
16 2019, Section 1013), is amended to read as follows:

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

22 1. For the exclusive purpose of:

- 23 a. providing maximum benefits to current and future  
24 beneficiaries, and

1           b.    defraying reasonable expenses of administering the  
2                    trust funds;

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

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

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

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

18 D. The Commissioners shall retain qualified investment managers  
19 to provide for investment of the fund monies and for the management  
20 of investment real property pursuant to the investment plan.  
21 Investment managers shall be chosen by a solicitation of proposals  
22 on a competitive bid basis pursuant to standards set by the  
23 Commissioners. Subject to the investment plan, each investment  
24 manager shall have full discretion in the management of the funds or

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

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

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

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

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

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

18 J. The Commissioners of the Land Office shall select one  
19 custodial bank to settle transactions involving the investment of  
20 the funds under the control of the Commissioners of the Land Office.  
21 The Commissioners of the Land Office shall review the performance of  
22 the custodial bank at least once every year. The Commissioners of  
23 the Land Office shall require a written competitive bid every five  
24 (5) years. The custodial bank shall have a minimum of Five Hundred

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

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

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