

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 POLICY COMMITTEE  
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 1170

By: Lepak

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8 POLICY COMMITTEE RECOMMENDATION

9 An Act relating to public finance; enacting the  
10 Oklahoma Public Finance Protection Act; defining  
11 terms; providing fiduciary's standard of care;  
12 prohibiting consideration of nonpecuniary factors;  
13 providing who has authority to vote on certain  
14 shares; providing for delegation of authority;  
15 providing that proxy votes be reported annually;  
16 directing the State Treasurer to provide notice to  
17 certain individuals in certain situations;  
18 authorizing Treasurer to refer matter to Attorney  
19 General; authorizing Attorney General to enforce act  
20 and examine certain persons and records; providing  
21 immunity for the State of Oklahoma and certain  
22 individuals; providing for indemnification; providing  
23 for severability; providing for codification;  
24 providing an effective date; and declaring an  
emergency.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 9101 of Title 62, unless there  
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Oklahoma Public  
2 Finance Protection Act".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 9102 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6 As used in the Oklahoma Public Finance Protection Act:

7 1. "Fiduciary" means a person who, with respect to a pension  
8 benefit plan:

9 a. exercises any discretionary authority or discretionary  
10 control respecting management of such plan or  
11 exercises any authority or control respecting  
12 management or disposition of its assets,

13 b. renders investment advice for a fee or other  
14 compensation, direct or indirect, with respect to any  
15 monies or other property of such plan, or has any  
16 authority or responsibility to do so, or

17 c. has any discretionary authority or discretionary  
18 responsibility in the administration of such plan,  
19 including making recommendations or voting a plan's  
20 shares or proxies;

21 2. "Material", when used to qualify a risk or return:

22 a. means a risk or return regarding which there is a  
23 substantial likelihood that a reasonable investor  
24 would attach importance when:

1 (1) evaluating the potential financial risks and  
2 financial returns of an existing or prospective  
3 investment, or

4 (2) exercising, or declining to exercise, any rights  
5 appurtenant to securities, and

6 b. does not include:

7 (1) furthering environmental, social, political,  
8 ideological, or other nonpecuniary goals or  
9 objectives, or

10 (2) any portion of a risk or return that primarily  
11 relates to events that are not investment-  
12 specific in nature;

13 3. "Nonpecuniary" includes any action taken or factor  
14 considered by a fiduciary with any purpose to further environmental,  
15 social, political, or ideological goals. A fiduciary purpose may be  
16 reasonably determined by evidence, including, but not limited to, a  
17 fiduciary's votes of shares or proxies and a fiduciary's statements  
18 indicating its purpose in selecting investments, engaging with  
19 portfolio companies, or voting shares or proxies, or any such  
20 statements by any coalition, initiative, or organization that the  
21 fiduciary has joined, participated in, or become a signatory to, in  
22 its capacity as a fiduciary;

23 4. "Pecuniary factor" means a factor that has a material effect  
24 on the financial risk or financial return of an investment based on

1 appropriate investment horizons consistent with the plan's  
2 investment objectives and the funding policy. The term excludes  
3 nonpecuniary factors; and

4 5. "Pension benefit plan" or "plan" shall mean any plan, fund,  
5 or program which was heretofore or is hereafter established,  
6 maintained, or offered by the State of Oklahoma or any subdivision,  
7 county, municipality, agency, or instrumentality thereof, or any  
8 school, college, university, administration, authority, or other  
9 enterprise operated by the State of Oklahoma, to the extent that by  
10 its terms or as a result of surrounding circumstances:

- 11 a. provides retirement income or other retirement  
12 benefits to employees or former employees, or
- 13 b. results in a deferral of income by such employees for  
14 a period extending to the termination of covered  
15 employment or beyond, and
- 16 c. the term does not include a defined contribution plan  
17 under the Retirement Freedom Act, established pursuant  
18 to Section 935.1 et seq. of Title 74 of the Oklahoma  
19 Statutes, except that investment options selected as  
20 default investment options for participating employees  
21 shall be selected in adherence to the requirements of  
22 this act.

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1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 9103 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4           A fiduciary shall discharge duties with respect to a plan solely  
5 based on pecuniary factors and applicable state law requirements:

6           1. For the exclusive purpose of providing pecuniary benefits to  
7 participants and their beneficiaries and defraying reasonable  
8 expenses of administering the plan;

9           2. With the care, skill, prudence, and diligence under the  
10 circumstances then prevailing that a prudent investor acting in a  
11 like capacity and familiar with such matters would use in the  
12 conduct of an enterprise of a like character and with like aims;

13           3. By diversifying the investments of the plan so as to  
14 minimize the risk of large losses, unless under the circumstances it  
15 is clearly prudent not to do so; and

16           4. In accordance with the documents and instruments governing  
17 the plan and insofar as such documents and instruments are  
18 consistent with the fiduciary responsibilities provided by law,  
19 including the provisions of this act.

20           SECTION 4.           NEW LAW           A new section of law to be codified  
21 in the Oklahoma Statutes as Section 9104 of Title 62, unless there  
22 is created a duplication in numbering, reads as follows:

23           A fiduciary's evaluation of an investment, or evaluation or  
24 exercise of any right appurtenant to an investment, must take into

1 account only pecuniary factors. Plan fiduciaries shall not promote  
2 nonpecuniary benefits or any other nonpecuniary goals.  
3 Notwithstanding the previous provision, environmental, social,  
4 political, ideological, corporate governance, or other similarly  
5 oriented goals, objectives, or considerations may be incidentally  
6 advanced if they present economic risks or opportunities that  
7 qualified investment professionals would treat as material economic  
8 considerations under generally accepted investment theories. The  
9 weight given to those factors should solely reflect a prudent  
10 assessment of their impact on risk and return. Fiduciaries  
11 considering environmental, social, political, ideological, corporate  
12 governance, or other similarly oriented factors as pecuniary factors  
13 are also required to examine the level of diversification, degree of  
14 liquidity, and the potential risk-return in comparison with other  
15 available alternative investments that would play a similar role in  
16 their plans' portfolios. Any pecuniary consideration of  
17 environmental, social, political, ideological, corporate governance,  
18 or other similarly oriented factors must necessarily include  
19 evaluating whether greater returns can be achieved through  
20 investments that rank poorly on such factors.

21 SECTION 5. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 9105 of Title 62, unless there  
23 is created a duplication in numbering, reads as follows:

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1       A. All proxies held by or on behalf of a pension benefit plan  
2 or the beneficiaries thereof shall be voted solely in the pecuniary  
3 interest of plan participants. Voting to further nonpecuniary or  
4 other benefits or goals is prohibited.

5       B. Unless no economically practicable alternative is available,  
6 a fiduciary may not adopt a practice of following the  
7 recommendations of a proxy advisory firm or other service provider  
8 unless such firm or service provider has a practice of, and in  
9 writing commits to, following proxy voting guidelines that are  
10 consistent with the plan's fiduciary obligation to act based only on  
11 pecuniary factors.

12       C. Unless no economically practicable alternative is available,  
13 plan assets shall not be entrusted to a fiduciary unless that  
14 fiduciary has a practice of, and in writing commits to, following  
15 guidelines, when engaging with portfolio companies and vote shares  
16 or proxies that match the plan's obligation to act based only on  
17 pecuniary factors.

18       D. With respect to the pension benefit plans, all such proxy  
19 voting authority shall reside with the respective Board of Trustees,  
20 except that the Board of Trustees may delegate such authority to a  
21 person who has a practice of, and in writing commits to, following  
22 guidelines that match the plan's obligation to act based only on  
23 pecuniary factors.

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1 E. All proxy votes shall be tabulated and reported annually to  
2 the respective Board of Trustees. For each vote, the report shall  
3 contain a vote caption, the plan's vote, the recommendation of  
4 company management, and, if applicable, the proxy advisor's  
5 recommendation. These reports shall be posted on a publicly  
6 available webpage.

7 SECTION 6. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 9106 of Title 62, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. If the State Treasurer has reasonable cause to believe that  
11 a person has engaged in, is engaging in, or is about to engage in a  
12 violation of this act, notification shall be provided to the Speaker  
13 of the Oklahoma House of Representatives, the President Pro Tempore  
14 of the Oklahoma State Senate, the Pension Oversight Commission, and  
15 the matter may be referred to the Attorney General for enforcement.

16 B. This act may be enforced by the Attorney General, who is  
17 authorized to:

18 1. Require such person to file on such forms as he or she  
19 prescribes a statement or report in writing, under oath, as to all  
20 the facts and circumstances concerning the violation, and such other  
21 data and information as he or she may deem necessary;

22 2. Examine under oath any person in connection with the  
23 violation;

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1           3. Examine any record, book, document, or paper as he or she  
2 may deem necessary; and

3           4. Pursuant to an order of the Supreme Court of Oklahoma,  
4 impound any record, book, document, paper, or sample or material  
5 relating to such practice and retain the same in his or her  
6 possession until the completion of all proceedings undertaken under  
7 this act or in the courts.

8           SECTION 7.           NEW LAW           A new section of law to be codified  
9 in the Oklahoma Statutes as Section 9107 of Title 62, unless there  
10 is created a duplication in numbering, reads as follows:

11           A. The State of Oklahoma, pension benefit plans as defined in  
12 this act, as well as officers, board members, and employees of the  
13 state or the pension benefit plans are immune from civil liability  
14 for any act or omission related to any provision under this act.

15           B. In addition to the immunity provided under subsection A of  
16 this section, officers, board members, and employees of the state or  
17 the pension benefit plans are entitled to indemnification from the  
18 pension benefit plan for all losses, costs and expenses, including  
19 reasonable attorney fees, associated with defending against any  
20 claim or suit related to any provision of this act.

21           SECTION 8.           NEW LAW           A new section of law to be codified  
22 in the Oklahoma Statutes as Section 9108 of Title 62, unless there  
23 is created a duplication in numbering, reads as follows:

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1       Should a court of competent jurisdiction hold any provision of  
2 this act to be invalid, such provision shall be deemed severable and  
3 not affect the validity of any other provision of this act.

4       SECTION 9. This act shall become effective July 1, 2025.

5       SECTION 10. It being immediately necessary for the preservation  
6 of the public peace, health or safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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