

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1684

By: Hamilton (James)

COMMITTEE SUBSTITUTE

An Act relating to public lands; amending 64 O.S. 1991, Section 51, which relates to investment of permanent school funds and other educational funds; providing for application of acts; adding certain standards and purposes; prohibiting certain investments; authorizing certain purchases; specifying certain restrictions; providing for an investment committee; providing for investment guidelines; authorizing certain actions; requiring certain plans and reports; providing for contents; requiring passage of a constitutional amendment for implementation; providing for powers and duties of Cash Management and Investment Oversight Commission; requiring certain review and recommendations; and providing an effective date.

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

SECTION 1. AMENDATORY 64 O.S. 1991, Section 51, is amended to read as follows:

Section 51. A. 1. The provisions of this subsection shall remain effective until passage by the people of House Joint Resolution No. 1028 of the 1st Session of the 44th Oklahoma Legislature, a constitutional amendment implementing subsection B of this section.

2. All of the permanent school funds and other educational funds shall be invested in first mortgages upon good and improved farm lands within the state (and in no case shall more than fifty percent (50%) of the reasonable value of the lands, without improvements, be loaned upon any tract). Said funds may also be invested in Oklahoma state bonds, county bonds of the counties of this state, United States bonds, and bonds issued pursuant to the Oklahoma Student Loan Act, and in the investment of funds preference shall be given to such securities in the order named.

The said funds may also be invested in deposits in trust companies or financial institutions situated in Oklahoma to the extent such deposits are insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), or the National Credit Union Administration (NCUA). Provided, that sufficient monies shall be kept on hand at all times by the Commissioners of the Land Office to close all approved applications for first mortgage loans, as may be approved from time to time by the Commissioners of the Land Office; provided, further, that no bond investment shall be made until the Attorney General of the State of Oklahoma gives his opinion in writing that such proposed investment is within the legal authority of the Commissioners of the Land Office, and that such bonds as the Commission may propose to purchase are valid.

B. 1. This subsection shall become effective upon passage by the people of House Joint Resolution No. 1028 of the 1st Session of the 44th Oklahoma Legislature, a constitutional amendment implementing the provisions of this subsection.

2. The Commissioners of the Land Office shall be responsible for the investment of the permanent school funds, other educational funds and public building funds solely in the best interests of the beneficiaries. The Commissioners of the Land Office shall make such investments:

- a. for the exclusive purpose of:
  - (1) providing maximum benefits to current and future beneficiaries, and
  - (2) defraying reasonable expenses of administering the Trusts,
- b. 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
- c. by diversifying the investments of the Trusts so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

3. The Commissioners of the Land Office shall not invest more than forty percent (40%) of the permanent school funds, other educational funds and public building funds. Such investments shall be made in securities including but not limited to stocks and other equities issued by corporations domiciled in the United States which have investment grade ratings as determined by at least one of the major rating agencies.

4. No investment shall be made in indebtedness or currency of any foreign country, or in the securities including but not limited to stocks and other equities issued by any corporation which is domiciled outside of the United States of America.

5. The Commissioners shall also serve as the investment committee and as such shall determine the allocation of assets.

6. The Commissioners may retain qualified investment advisors licensed by the Department of Securities to advise them and/or to manage all or part of the investment portfolio as they deem appropriate. Any investment advisors who are not employees of the Commissioners of the Land Office and who are compensated for their services directly or indirectly shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commissioners. Subject to the overall investment guidelines set by the Commissioners, the investment advisors may be delegated full discretion in the management of the funds allocated to them. The Commissioners shall manage those funds not specifically allocated to the investment advisors. The funds allocated to investment advisors shall be actively managed by them, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

7. The Commissioners shall take such measures as they deem appropriate to safeguard custody of securities and other assets of the Trusts.

8. By August 1, 1993 and August 1 of each year thereafter, the Commissioners shall develop a written investment plan for the Trusts.

9. The Commissioners shall compile a quarterly financial report showing the performance of all the combined funds under their control on a fiscal year basis. The report shall be based on market values and shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be distributed to the Oklahoma State Pension Commission, the Cash Management and Investment Oversight Commission, the Legislative Service Bureau and the Joint Committee on Fiscal Operations.

10. Before October 1 of each year, the Commissioners shall publish an annual report of all Trust operations, presented in a simple and easily understood manner to the extent possible. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the State Department of Education and each higher education beneficiary. The annual report shall cover the operation of the Trusts during the past fiscal year, including income, disbursements and the financial condition of the Trusts at the end of each fiscal year on a cash basis. The annual report shall also contain a summary of each Trust's assets and market value to the extent feasible.

11. The Cash Management and Investment Oversight Commission shall review reports prepared by the Commissioners of the Land of Office pursuant to this subsection and shall make such recommendations regarding the investment strategies and practices, the development of internal auditing procedures and practices and such other matters as determined necessary and applicable.

SECTION 2. This act shall become effective September 1, 1993.

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