

ENROLLED HOUSE
BILL NO. 1955

By: Hamilton and Langmacher
of the House

and

Rozell and Cole of the
Senate

An Act relating to investment of public funds; amending 64 O.S. 1991, Section 51, as amended by Section 1, Chapter 347, O.S.L. 1994 (64 O.S. Supp. 1994, Section 51), which relates to the investment of the permanent school funds; modifying contents of certain report; modifying distribution of report; amending 85 O.S. 1991, Section 138, as last amended by Section 36, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1994, Section 138), which relates to investment procedures of the State Insurance Fund; modifying contents of certain report; modifying distribution of report; 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, as amended by Section 1, Chapter 347, O.S.L. 1994 (64 O.S. Supp. 1994, Section 51), is amended to read as follows:

Section 51. A. 1. The permanent school funds and other educational funds may 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).

2. 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.

3. 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).

4. 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. The passage by the people of House Joint Resolution No. 1028 of the 2nd Session of the

44th Oklahoma Legislature, a constitutional amendment implementing subsection B of this section, shall not invalidate this section.

B. 1. This subsection shall become effective upon passage by the people of House Joint Resolution No. 1028 of the 2nd 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 trust funds,
- 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 trust funds so as to minimize the risk of large losses.

3. No investment of the permanent common school and other educational funds shall be made in indebtedness or currency of any foreign country or in securities issued by any corporation which is domiciled outside of the United States of America. The permanent common school funds, other educational funds and public building funds may be invested 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. The Commissioners of the Land Office shall not invest more than forty percent (40%) of the permanent common school fund, other educational funds and public building funds in such securities.

4. The Commissioners shall establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Commissioners of the Land Office or their designee. The committee shall make recommendations to the Commissioners of the Land Office on all matters related to the choice of managers of the assets of the funds, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Commissioners of the Land Office in any circumstances whatsoever. No recommendations of the committee shall have effect as an action of the Commissioners of the Land Office nor take effect without the approval of the Commissioners as provided by law. The Commissioners shall promulgate and adopt on an annual basis an investment plan. The investment plan shall state the criteria for selecting investment managers, the allocation of assets among investment managers, and established standards of investment and fund management.

5. The Commissioners shall retain qualified investment managers to provide for investment of the fund monies pursuant to the investment plan. Investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commissioners. Subject to the investment plan, each investment manager shall have full discretion in the management of the funds allocated to said investment managers. The funds allocated to investment managers 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.

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

7. By October 1, 1995, and August 1 of each year thereafter, the Commissioners shall develop a written investment plan for the trust funds.

8. 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 contain a list of all investments made by the Commissioners and a list of any commissions, fees or payments made for services regarding such investments for that reporting period. 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, and the Legislative Service Bureau ~~and the Joint Committee on Fiscal Operations.~~

9. 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 current market value as of the report date.

10. The Cash Management and Investment Oversight Commission shall review reports prepared by the Commissioners of the Land 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. AMENDATORY 85 O.S. 1991, Section 138, as last amended by Section 36, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1994, Section 138), is amended to read as follows:

Section 138. A. The Board of Managers shall discharge their duties with respect to the State Insurance Fund solely in the interest of the Fund and:

1. For the exclusive purpose of:

- a. providing benefit to the Fund, and
- b. defraying reasonable expenses of administering the State Insurance Fund;

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

3. By diversifying the investments of the State Insurance Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the State Insurance Fund.

B. The monies of the State Insurance Fund shall be invested only in assets eligible for the investment of funds of a domestic

property and casualty insurance company as provided for in the Oklahoma Insurance Code, Title 36 of the Oklahoma Statutes. The term admitted assets shall mean the amount of the monies of the State Insurance Fund and the provisions relating to limitation of investments as a percentage of surplus as regards policyholders shall be inapplicable with respect to investment of the monies of the State Insurance Fund. The monies of the State Insurance Fund may be invested in certificates of indebtedness or such other enforceable evidences of obligation as may be utilized in the rights-of-way acquisitions by the Oklahoma Department of Transportation. The monies of the State Insurance Fund may also be invested in bonds secured by first mortgages, pass-through securities and insured participation certificates representing interests in first mortgages or insured mortgage pass-through certificates on one- to four-family residences located within this state.

C. 1. The Commissioner, with the approval of the Board of Managers, is authorized to acquire any real estate deemed necessary for the immediate and reasonably anticipated future administrative office space needs of the State Insurance Fund. The Commissioner, with the approval of the Board of Managers, may sell, lease, rent or sublet any real estate holdings of the State Insurance Fund. Any revenues of such transactions shall accrue to the surplus or reserve fund of the State Insurance Fund.

2. In any lease, rental, sublease or other agreement for the use or occupation of real estate holdings of the State Insurance Fund, no state agency may enter into an agreement which has a gross effective rental rate which is greater than the gross effective rental rate for which they can continue to occupy the premises which is currently rented at the time the agency proposes to move. For a period of two (2) years after the first use or occupation by the state agency, subsequent agreements, whether new agreements or continuations of a prior agreement, shall not contain a gross effective rental rate which is greater than that of the original agreement.

D. The Board of Managers may procure insurance indemnifying the members of the State Insurance Fund from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board of Managers.

E. The Board of Managers may establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Board of Managers appointed by the chairman of the Board of Managers. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of the State Insurance Fund, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board of Managers or the Fund in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board of Managers nor take effect without the approval of the Board of Managers as provided by law.

F. The Board of Managers shall retain qualified investment managers to provide for the investment of the monies of the State Insurance Fund. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Managers. Subject to the overall investment guidelines set by the Board of Managers, the investment managers shall have full discretion in the management of those monies of the State Insurance Fund allocated to the investment

managers. The Board of Managers shall manage those monies not specifically allocated to the investment managers. The monies of the State Insurance Fund allocated to the investment managers shall be actively managed by the investment managers, 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.

G. Funds and revenues for investment by the investment managers or the Board of Managers shall be placed with a custodian selected by the Board of Managers. The custodian shall be a bank or trust company offering master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Managers. In compliance with the investment policy guidelines of the Board of Managers, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the State Insurance Fund are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the State Insurance Fund as to the investment of the monies of the State Insurance Fund in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board of Managers for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

H. Prior to August 1 of each year, the Board of Managers shall develop and approve a written investment plan for the State Insurance Fund.

I. The State Insurance Fund Commissioner shall compile a quarterly financial report of all the funds of the State Insurance Fund. The report shall be compiled and filed pursuant to uniform reporting standards prescribed by the State Insurance Commissioner for domestic property and casualty insurance companies. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall contain a list of all investments made by the State Insurance Fund and a list of any commissions, fees or payments made for services regarding such investments for that reporting period. The report shall be distributed to the Governor, the Legislative Service Bureau ~~and the Joint Committee on Fiscal Operations~~ and the Cash Management and Investment Oversight Commission.

SECTION 3. This act shall become effective November 1, 1995.

Passed the House of Representatives the 7th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the 27th day of March, 1995.

President of the Senate