HB 1595

THE HOUSE OF REPRESENTATIVES
Thursday, February 15, 2007

House Bill No. 1595

HOUSE BILL NO. 1595 - By: JONES, DORMAN, MCCARTER, DEWITT, KERN, WINCHESTER, MCDANIEL (JEANNIE) AND DENNEY of the House and PADDACK AND MAZZEI of the Senate.

An Act relating to public lands; amending 64 O.S. 2001, Section 51, which relates to investment of permanent school funds and other educational funds; deleting certain investment restrictions; providing investment guidelines; modifying requirement to retain qualified investment managers; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 64 O.S. 2001, 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. 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.

B. 1. 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.

2. The permanent school fund and other educational funds ~~may only~~ <u>shall</u> be invested in ~~bonds issued in the United States and United States dollar denominated or other investments settled in United States dollars or traded on the United States exchange markets. Until July 1, 2001, the Commissioners of the Land Office shall not invest more than fifty percent (50%) of the permanent common school fund, other educational funds and public building funds in equity securities. On and after July 1, 2001, the investment in equity securities may be increased by five percent (5%) each year until the investment in equity securities reaches a maximum of sixty percent (60%)~~ <u>accordance with the requirements and duties for the Trusts as set forth in the Oklahoma Constitution</u>.

<u>UNDERLINED</u> language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

3. 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 or 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.

4. The Commissioners ~~shall~~ <u>may</u> 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

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the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

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

6. By August 1 of each year, the Commissioners shall develop a written investment plan for the trust funds.

7. 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.

8. 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

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annual report shall also contain a summary of each Trust's assets and current market value as of the report date.

9. 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.

10. The Commissioners of the Land Office shall select one custodial bank to settle transactions involving the investment of the funds under the control of the Commissioners of the Land Office. The Commissioners of the Land Office shall review the performance of the custodial bank at least once every year. The Commissioners of the Land Office shall require a written competitive bid every five (5) years. The custodial bank shall have a minimum of Five Hundred Million Dollars ($500,000,000.00) in assets to be eligible for selection. Any out-of-state custodial bank shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. In order to be eligible for selection, the custodial bank shall allow electronic access to all transaction and portfolio reports maintained by the custodial bank involving the investment of state funds under control of the Commissioners of the Land Office and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the Commissioners of the Land Office and the custodial bank. Neither the Commissioners of the Land Office nor the

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custodial bank shall permit any of the funds under the control of the Commissioners of the Land Office or any of the documents, instruments, securities or other evidence of a right to be paid money to be located in any place other than within a jurisdiction or territory under the control or regulatory power of the United States government.

SECTION 2. This act shall become effective July 1, 2007.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON EDUCATION, dated 02-14-07 - DO PASS, As Coauthored.

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