

1 ENGROSSED SENATE  
2 BILL NO. 146

By: Thompson of the Senate

3 and

4 Wallace of the House  
5

6 An Act relating to Commissioners of the Land Office;  
7 amending 62 O.S. 2011, Section 34.62, as last amended  
8 by Section 28, Chapter 98, O.S.L. 2020 (62 O.S. Supp.  
9 2020, Section 34.62), which relates to encumbrance  
10 requirements for payments from state funds; allowing  
11 the Commissioners of the Land Office to make fee  
12 payments to multiple custodial banks and investment  
13 consultants from certain proceeds; amending 64 O.S.  
14 2011, Section 1013, as last amended by Section 1,  
Chapter 8, O.S.L. 2020 (64 O.S. Supp. 2020, Section  
1013), which relates to investment of the permanent  
school funds; authorizing the Commissioners of the  
Land Office to select one or more custodial banks;  
requiring competitive bids from custodial banks every  
ten years rather than every five years; updating  
statutory language; providing an effective date; and  
declaring an emergency.

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

18 SECTION 1. AMENDATORY 62 O.S. 2011, Section 34.62, as  
19 last amended by Section 28, Chapter 98, O.S.L. 2020 (62 O.S. Supp.  
20 2020, Section 34.62), is amended to read as follows:

21 Section 34.62. Encumbrance requirements for payments from funds  
22 of the state shall include the following:

23 1. Whenever agencies of this state enter into contracts for, or  
24 on behalf of the state for the purchase of tangible or intangible

1 property, or for services or labor, such agreement shall be  
2 evidenced by written contracts or purchase orders, and must be  
3 transmitted to the Director of the Office of Management and  
4 Enterprise Services within a reasonable time from the date of the  
5 awarding of the contract or purchase order, as determined by the  
6 Director;

7       2. The Director of the Office of Management and Enterprise  
8 Services shall charge such contracts or purchase orders against the  
9 proper account as an outstanding order until it is liquidated by  
10 payment of a claim, or claims, against the contracts or purchase  
11 orders, or by cancellation of the contract or purchase order;

12       3. The Director of the Office of Management and Enterprise  
13 Services shall have the power to authorize agencies of the state to  
14 make acquisitions without the submission of competitive bids or  
15 compliance with the state purchase card program as otherwise  
16 required by the Oklahoma Central Purchasing Act, for or on behalf of  
17 the state whenever the Director determines that it is in the best  
18 interests of the state. The administrative head of any agency shall  
19 be personally liable for obligations incurred in excess of the  
20 authorization granted by the Director;

21       4. The Director of the Office of Management and Enterprise  
22 Services shall never authorize payment of claims for any agency of  
23 the state unless they are supported by:  
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- a. contracts or purchase orders of the Office of Management and Enterprise Services,
- b. institutional purchase orders or contracts,
- c. departmental purchase orders or contracts, or
- d. authorizations for purchases granted by the Director as provided by paragraph 3 of this section;

5. Any invoice or claim dated prior to the date of any of the above-mentioned encumbrance documents shall be rejected by the Office of Management and Enterprise Services;

6. Any encumbrance document that is outstanding on the records in the Office of Management and Enterprise Services when its funding source or sources lapse shall be canceled, unless another current funding source is assigned; and

7. The Commissioners of the Land Office shall be authorized to make payment of fees to its custodial ~~bank~~ banks, investment consultants and investment managers from the proceeds of total realized investment gains and such payments may be made from a special fund hereby created in the State Treasury for this purpose. Total payments for this purpose in a fiscal year shall not exceed one-half percent (0.5%) of the market value of the funds under the Commissioners' management on June 30 of the previous fiscal year.

SECTION 2. AMENDATORY 64 O.S. 2011, Section 1013, as last amended by Section 1, Chapter 8, O.S.L. 2020 (64 O.S. Supp. 2020, Section 1013), is amended to read as follows:

1       Section 1013. A. The Commissioners of the Land Office shall be  
2 responsible for the investment of the permanent school funds, other  
3 educational funds and public building funds solely in the best  
4 interests of the current and future beneficiaries. The  
5 Commissioners of the Land Office shall make investments:

6       1. For the exclusive purpose of:

7           a. providing maximum benefits to current and future  
8           beneficiaries, and

9           b. defraying reasonable expenses of administering the  
10          trust funds;

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

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

16       B. The permanent school fund and other educational funds may  
17 only be invested in bonds issued in the United States, United States  
18 dollar denominated or other investments settled in United States  
19 dollars or traded on the United States exchange markets and real  
20 property to be owned or acquired by the Commissioners of the Land  
21 Office. The Commissioners of the Land Office shall not invest more  
22 than sixty percent (60%) of the trust fund investments in equity  
23 securities. The Commissioners of the Land Office are further  
24 authorized to acquire, purchase, exchange and grant any real

1 property under its jurisdiction as is necessary to carry out the  
2 investment in the real property. The Commissioners of the Land  
3 Office shall not invest more than five percent (5%) of the total  
4 value of the assets of the permanent school funds in connection with  
5 investments in real property. In no case shall the Commissioners of  
6 the Land Office bid against private-sector bidders above the  
7 appraised value of any property to be acquired.

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

1       D. The Commissioners shall retain qualified investment managers  
2 to provide for investment of the fund monies and for the management  
3 of investment real property pursuant to the investment plan.  
4 Investment managers shall be chosen by a solicitation of proposals  
5 on a competitive bid basis pursuant to standards set by the  
6 Commissioners. Subject to the investment plan, each investment  
7 manager shall have full discretion in the management of the funds or  
8 investment real property allocated to ~~said~~ the investment managers.  
9 The funds allocated to investment managers shall be actively managed  
10 by them, which may include selling investments and realizing losses  
11 if the action is considered advantageous to longer term return  
12 maximization. Because of the total return objective, no distinction  
13 shall be made for management and performance evaluation purposes  
14 between realized and unrealized capital gains and losses.

15       E. The Commissioners shall take any measures they deem  
16 appropriate to safeguard custody of securities and other assets of  
17 the trusts.

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

20       G. The Commissioners shall compile a quarterly financial report  
21 showing the performance of all the combined funds under their  
22 control on a fiscal year basis. The report shall contain a list of  
23 all investments made by the Commissioners and a list of any  
24 commissions, fees or payments made for services regarding the

1 investments for that reporting period. The report shall be based on  
2 market values and shall be compiled pursuant to uniform reporting  
3 standards prescribed by the Oklahoma State Pension Commission for  
4 all state retirement systems. The report shall be distributed to  
5 the Oklahoma State Pension Commission, the Cash Management and  
6 Investment Oversight Commission, and the Legislative Service Bureau.

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

18 I. The Cash Management and Investment Oversight Commission  
19 shall review reports prepared by the Commissioners of the Land  
20 Office pursuant to this subsection and shall make recommendations  
21 regarding the investment strategies and practices, the development  
22 of internal auditing procedures and practices and any other matters  
23 as determined necessary and applicable.

1 J. The Commissioners of the Land Office shall select one or  
2 more custodial ~~bank~~ banks to settle transactions involving the  
3 investment of the funds under the control of the Commissioners of  
4 the Land Office. The Commissioners of the Land Office shall review  
5 the performance of ~~the~~ each custodial bank at least once every year.  
6 The Commissioners of the Land Office shall require a written  
7 competitive bid every ~~five (5)~~ ten (10) years. The custodial bank  
8 shall have a minimum of Five Hundred Million Dollars  
9 (\$500,000,000.00) in assets to be eligible for selection. Any out-  
10 of-state custodial bank shall have a service agent in the State of  
11 Oklahoma so that service of summons or legal notice may be had on  
12 the designated agent, and the bank shall submit to the jurisdiction  
13 of Oklahoma state courts for resolution of any and all disputes. In  
14 order to be eligible for selection, the custodial bank shall allow  
15 electronic access to all transaction and portfolio reports  
16 maintained by the custodial bank involving the investment of state  
17 funds under control of the Commissioners of the Land Office and to  
18 the Cash Management and Investment Oversight Commission. The  
19 requirement for electronic access shall be incorporated into any  
20 contract between the Commissioners of the Land Office and the  
21 custodial bank. Neither the Commissioners of the Land Office nor  
22 the custodial bank shall permit any of the funds under the control  
23 of the Commissioners of the Land Office or any of the documents,  
24 instruments, securities or other evidence of a right to be paid



1 money to be located in any place other than within a jurisdiction or  
2 territory under the control or regulatory power of the United States  
3 government.

4 SECTION 3. This act shall become effective July 1, 2021.

5 SECTION 4. 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.

9 Passed the Senate the 2nd day of March, 2021.

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11 \_\_\_\_\_  
12 Presiding Officer of the Senate

13 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
14 2021.

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17 Presiding Officer of the House  
18 of Representatives  
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