

EHB 1316

THE STATE SENATE
Monday, April 11, 2005

ENGROSSED

House Bill No. 1316

As Amended

ENGROSSED HOUSE BILL NO. 1316 - By: CAREY of the House and CORN of the Senate.

[public lands - investment of permanent school funds - foreign investments - effective date]

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

1 interests of the beneficiaries. The Commissioners of the Land
2 Office shall make such investments:

- 3 a. for the exclusive purpose of:
- 4 (1) providing maximum benefits to current and future
5 beneficiaries, and
- 6 (2) defraying reasonable expenses of administering
7 the trust funds,
- 8 b. with the care, skill, prudence and diligence under the
9 circumstances then prevailing that a prudent person
10 acting in a like enterprise of a like character and
11 with like aims would use, and
- 12 c. by diversifying the investments of the trust funds so
13 as to minimize the risk of large losses.

14 2. The permanent school fund and other educational funds may
15 only be invested in bonds issued in the United States and United
16 States dollar denominated or other investments settled in United
17 States dollars or traded on the United States exchange markets
18 except that not more than ten percent (10%) of the permanent school
19 fund and other educational funds may be invested in foreign bonds or
20 other investments traded on foreign exchange markets.

21 Until July 1, 2001, the Commissioners of the Land Office shall not
22 invest more than fifty percent (50%) of the permanent common school
23 fund, other educational funds and public building funds in equity

1 securities. On and after July 1, 2001, the investment in equity
2 securities may be increased by five percent (5%) each year until the
3 investment in equity securities reaches a maximum of sixty percent
4 (60%).

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

22 4. The Commissioners shall retain qualified investment managers
23 to provide for investment of the fund monies pursuant to the

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

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

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

17 7. The Commissioners shall compile a quarterly financial report
18 showing the performance of all the combined funds under their
19 control on a fiscal year basis. The report shall contain a list of
20 all investments made by the Commissioners and a list of any
21 commissions, fees or payments made for services regarding such
22 investments for that reporting period. The report shall be based on
23 market values and shall be compiled pursuant to uniform reporting

1 standards prescribed by the Oklahoma State Pension Commission for
2 all state retirement systems. The report shall be distributed to
3 the Oklahoma State Pension Commission, the Cash Management and
4 Investment Oversight Commission, and the Legislative Service Bureau.

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

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

22 10. The Commissioners of the Land Office shall select one
23 custodial bank to settle transactions involving the investment of

1 the funds under the control of the Commissioners of the Land Office.
2 The Commissioners of the Land Office shall review the performance of
3 the custodial bank at least once every year. The Commissioners of
4 the Land Office shall require a written competitive bid every five
5 (5) years. The custodial bank shall have a minimum of Five Hundred
6 Million Dollars (\$500,000,000.00) in assets to be eligible for
7 selection. Any out-of-state custodial bank shall have a service
8 agent in the State of Oklahoma so that service of summons or legal
9 notice may be had on such designated agent as is now or may
10 hereafter be provided by law. In order to be eligible for
11 selection, the custodial bank shall allow electronic access to all
12 transaction and portfolio reports maintained by the custodial bank
13 involving the investment of state funds under control of the
14 Commissioners of the Land Office and to the Cash Management and
15 Investment Oversight Commission. The requirement for electronic
16 access shall be incorporated into any contract between the
17 Commissioners of the Land Office and the custodial bank. Neither
18 the Commissioners of the Land Office nor the custodial bank shall
19 permit any of the funds under the control of the Commissioners of
20 the Land Office or any of the documents, instruments, securities or
21 other evidence of a right to be paid money to be located in any
22 place other than within a jurisdiction or territory under the
23 control or regulatory power of the United States government.

1 SECTION 2. This act shall become effective November 1, 2005.
2 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO
3 PASS, As Amended.