

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 1022

6 By: McDaniel (Randy)

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to public lands; amending 64 O.S.
9 2011, Section 1002, which relates to the powers and
10 authority of the Commissioners of the Land Office;
11 adding authority to purchase real property; amending
12 64 O.S. 2011, Section 1013, which relates to the
13 investment of permanent school funds and other funds;
14 allowing investment in certain real property;
15 authorizing the acquisition or purchase of real
16 property for investment purposes; limiting the amount
17 invested in real property; limiting amount bid
18 against certain private bidders; and declaring an
19 emergency.

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

21 SECTION 1. AMENDATORY 64 O.S. 2011, Section 1002, is
22 amended to read as follows:

23 Section 1002. In order that the state school lands may be
24 administered in a manner to assure their preservation as well as the
appreciation of the trust estate and the maximum return from the use
of state school lands for the support and maintenance of the common
schools of the state, the Commissioners of the Land Office, as

1 trustees of the state school lands, are hereby authorized and
2 empowered to:

3 1. Categorize the state school lands as agricultural or
4 commercial according to the use which the Commissioners of the Land
5 Office determine from time to time to be most beneficial to the
6 interest of the present and future beneficiaries of the state;

7 2. Sell, at public auction after appraisalment, the surface
8 interest in any state school land categorized by the Commissioners
9 of the Land Office to be excess or when determined to be in the best
10 interest of the trust;

11 3. Institute projects to develop and improve those state school
12 lands which are categorized as commercial lands;

13 4. Acquire by exchange, purchase, gift or grant all real
14 property and to acquire by exchange, purchase, gift or grant all
15 personal property necessary for the purpose of utilizing trust lands
16 for the development of commercial and agricultural leases to
17 maximize trust income for present and future beneficiaries; and

18 5. Exchange any real property of the trust for other real
19 property of equal or greater value to maximize income for present
20 and future beneficiaries, in accordance with and under the safeguard
21 of trust requirements.

22 SECTION 2. AMENDATORY 64 O.S. 2011, Section 1013, is
23 amended to read as follows:

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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 ~~and~~, United
18 States dollar denominated or other investments settled in United
19 States dollars or traded on the United States exchange markets and
20 real property to be owned or acquired by the Commissioners of the
21 Land Office. The Commissioners of the Land Office shall not invest
22 more than sixty percent (60%) of the trust fund investments in
23 equity 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 three percent (3%) 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 pursuant to the
3 investment plan. Investment managers shall be chosen by a
4 solicitation of proposals on a competitive bid basis pursuant to
5 standards set by the Commissioners. Subject to the investment plan,
6 each investment manager shall have full discretion in the management
7 of the funds allocated to said investment managers. The funds
8 allocated to investment managers shall be actively managed by them,
9 which may include selling investments and realizing losses if the
10 action is considered advantageous to longer term return
11 maximization. Because of the total return objective, no distinction
12 shall be made for management and performance evaluation purposes
13 between realized and unrealized capital gains and losses.

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

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

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

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

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

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

23 J. The Commissioners of the Land Office shall select one
24 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 the designated agent, and the bank shall submit
10 to the jurisdiction of Oklahoma state courts for resolution of any
11 and all disputes. In order to be eligible for selection, the
12 custodial bank shall allow electronic access to all transaction and
13 portfolio reports maintained by the custodial bank involving the
14 investment of state funds under control of the Commissioners of the
15 Land Office and to the Cash Management and Investment Oversight
16 Commission. The requirement for electronic access shall be
17 incorporated into any contract between the Commissioners of the Land
18 Office and the custodial bank. Neither the Commissioners of the
19 Land Office nor the custodial bank shall permit any of the funds
20 under the control of the Commissioners of the Land Office or any of
21 the documents, instruments, securities or other evidence of a right
22 to be paid money to be located in any place other than within a
23 jurisdiction or territory under the control or regulatory power of
24 the United States government.

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

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