

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE JOINT
4 RESOLUTION 1010

By: Montgomery

7 AS INTRODUCED

8 A Joint Resolution directing the Secretary of State
9 to refer to the people for their approval or
10 rejection a proposed amendment to Section 15 of
11 Article X of the Constitution of the State of
12 Oklahoma; authorizing investment of state funds under
13 certain circumstances; providing for designation of
14 funds by Legislature; prescribing supermajority
15 voting requirements; providing for override of veto;
16 authorizing contracts with third parties for
17 investments; providing for investment standard;
18 providing for limitations on certain invested
19 amounts; imposing restrictions based upon equity
20 ownership percentages; prohibiting exercise of
21 certain voting rights; authorizing Legislature to
22 establish additional restrictions and prohibitions;
23 providing for use of public funds based upon pre-
24 existing statutory requirements; providing ballot
title; and directing filing.

19 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
20 1ST SESSION OF THE 56TH OKLAHOMA LEGISLATURE:

21 SECTION 1. The Secretary of State shall refer to the people for
22 their approval or rejection, as and in the manner provided by law,
23 the following proposed amendment to Section 15 of Article X of the
24 Constitution of the State of Oklahoma to read as follows:

1 Section 15. A. Except as provided by this section, the credit
2 of the State shall not be given, pledged, or loaned to any
3 individual, company, corporation, or association, municipality, or
4 political subdivision of the State, nor shall the State become an
5 owner or stockholder in, nor make donation by gift, subscription to
6 stock, by tax, or otherwise, to any company, association, or
7 corporation.

8 B. Pursuant to authority of and subject to requirements of law
9 and according to professional norms established nationally in
10 similar activities, the Oklahoma Center for the Advancement of
11 Science and Technology or its successor may be authorized to use
12 public funds not exceeding one percent (1%) of total state
13 appropriations for the current fiscal year to promote economic
14 development through grants or loans to individuals, companies,
15 corporations or associations. Pursuant to authority of and subject
16 to requirements of law and according to professional norms
17 established nationally in similar activities, the Oklahoma Center
18 for the Advancement of Science and Technology or its successor may
19 be authorized to use public funds in order to promote economic
20 development by purchase or ownership of stock or to make other
21 investments in private enterprises and to receive income from such
22 investments which are involved with research or patents from
23 projects involving Oklahoma colleges or universities. The Oklahoma
24 Center for the Advancement of Science and Technology or its

1 successor may only use public funds for the purposes authorized in
2 this subsection if a statute specifically authorizing such use is
3 approved by an affirmative vote of at least two-thirds (2/3) of the
4 members elected to the Senate and to the House of Representatives
5 upon final passage of such measure in each of the respective houses
6 and with the approval of the Governor.

7 C. The Legislature shall only authorize use of public funds by
8 the Oklahoma Center for the Advancement of Science and Technology or
9 its successor as permitted by this section for promotion of economic
10 development by creation of new employment, enhancement of existing
11 employment or by the addition of economic value to goods, services
12 or resources within the State authorized by subsection B herein.

13 D. The Legislature shall establish procedures to review and
14 evaluate the extent to which the purposes of any statute authorizing
15 use of public funds by the Oklahoma Center for the Advancement of
16 Science and Technology are achieved.

17 E. Bonds issued by the board of education of any school
18 district or public institutions of higher education may be
19 guaranteed by the corpus of the permanent school fund, provided:

20 1. As to bonds issued by the board of education such bonds must
21 be approved by election of the school district upon the question of
22 issuing such bonds;

1 2. As to bonds issued by an institution within The Oklahoma
2 State System of Higher Education such bonds are issued in accordance
3 with all applicable provisions of law; and

4 3. Provisions shall be made by the Legislature to guarantee
5 prompt reimbursement to the corpus of the permanent school fund for
6 any payment from the fund on behalf of a school district or on
7 behalf of an institution within The Oklahoma State System of Higher
8 Education. The reimbursement shall include a reasonable rate of
9 interest. The provisions of this paragraph regarding use of the
10 permanent school fund for guarantee of bonds issued by an
11 institution within The Oklahoma State System of Higher Education
12 shall not be self-executing and the Legislature shall provide by law
13 the procedure pursuant to which such obligations may be guaranteed
14 and the procedures for repayments, if any, required to be made to
15 the permanent school fund.

16 F. Subject to requirements imposed by law, the governing boards
17 of institutions within The Oklahoma State System of Higher Education
18 and employees of those institutions may have an ownership interest
19 in a technology, whether or not the technology is protected pursuant
20 to federal or state law governing intellectual property, and may
21 have an ownership interest in a business enterprise or private
22 business entity, if the ownership interest is acquired as a result
23 of research or development of a technology involving the authorized
24 use of facilities, equipment, or services of such institutions.

1 G. The Legislature may authorize any fund created by the State
2 Constitution or by statute to be used for the purpose of generating
3 returns on investment. Any fund so designated by the Legislature
4 will not be subject to the provisions of subsection A of this
5 section provided that:

6 1. The authorization for the designation of a fund to generate
7 returns on investment shall require a three-fifths (3/5) vote of the
8 House of Representatives and Senate and be approved by the Governor.
9 If the Governor disapproves the designation of a fund to generate
10 investment returns, the Legislature may override the disapproval
11 with a two-thirds (2/3) vote of the House of Representatives and
12 Senate according to the same requirements applicable to other
13 measures;

14 2. The governing body responsible for any fund designated to
15 generate returns on investment may contract with a third party in
16 order to make the investments authorized by the provisions of this
17 section;

18 3. Investments shall be made with the judgment and care, under
19 circumstances then prevailing, which persons of prudence, discretion
20 and intelligence exercise in the management of their own affairs,
21 not for speculation, but for investment, considering the probable
22 safety of their capital as well as the possible income to be
23 derived;

1 4. The types of investments made with monies from designated
2 funds shall be subject to limitations upon the total amount of funds
3 invested in each category of investment and subject to a restriction
4 that each such percentage limit shall be determined as of the date
5 the funds are first invested. The categories of investment shall be
6 limited to the following:

7 a. purchase of any assets other than those assets
8 authorized by laws in effect prior to November 1,
9 2018, shall not exceed eighty percent (80%) of
10 available funds,

11 b. not more than one-tenth (1/10) of the eighty-percent
12 limit imposed by subparagraph a of this paragraph
13 shall be invested in any one publicly traded company
14 pursuant to this section,

15 c. purchase of stocks of publicly traded companies shall
16 not exceed two percent (2%) of the equity securities
17 having voting rights with respect to the board of
18 directors or managers of the company, and

19 d. the State shall not exercise any voting rights or
20 right to govern a company or corporation that the
21 purchase of equity securities of publicly traded
22 companies or other assets might entitle the State to
23 receive. This provision shall only apply to funds
24 designated pursuant to this section;

5. The Legislature may establish additional restrictions and
prohibitions on designated funds; and

6. Nothing in this section shall be construed to prohibit or otherwise restrict the use of public funds for purposes that the funds were already authorized to be used for according to laws in effect as of November 1, 2018.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It amends

Section 15 of Article 10. The State of Oklahoma is usually prohibited from investing public funds in private business.

This amendment would allow the Legislature to permit certain public monies to be invested in stocks or similar assets. The Legislature would be required to approve this type of investment by a three-fifths (3/5) vote in each chamber. If the Governor vetoed the bill to allow the investment, the veto could be overridden. The veto override would require a two-thirds (2/3) vote in each chamber. Public funds could be invested pursuant to a contract with a third party. Investments would be made according to the prudent investor rule. Monies invested in

1 stocks or similar assets could not exceed eighty percent (80%)
2 of the total funds available. Not more than one-tenth (1/10) of
3 those funds could be invested in any one publicly traded
4 company. Funds could not be invested in a way that gave the
5 State of Oklahoma more than two percent (2%) of the voting stock
6 of a company. The State could never use its stock voting
7 rights. The Legislature could provide additional restrictions
8 on investment of public funds by law.

9 SHALL THE PROPOSAL BE APPROVED?

10 FOR THE PROPOSAL — YES _____

11 AGAINST THE PROPOSAL — NO _____

12 SECTION 3. The Chief Clerk of the House of Representatives,
13 immediately after the passage of this resolution, shall prepare and
14 file one copy thereof, including the Ballot Title set forth in
15 SECTION 2 hereof, with the Secretary of State and one copy with the
16 Attorney General.

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