

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE JOINT  
RESOLUTION 36

By: Montgomery

AS INTRODUCED

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection proposed amendments to Sections 15 and 23 of Article X of the Constitution of the State of Oklahoma; requiring the State Treasurer to invest monies placed in the Constitutional Reserve Fund and specifying the manner of investment; increasing the cap on the amount of funds deposited into the Constitutional Reserve Fund; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE  
2ND SESSION OF THE 57TH OKLAHOMA LEGISLATURE:

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

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

1 stock, by tax, or otherwise, to any company, association, or  
2 corporation.

3 B. Pursuant to authority of and subject to requirements of law  
4 and according to professional norms established nationally in  
5 similar activities, the Oklahoma Center for the Advancement of  
6 Science and Technology or its successor may be authorized to use  
7 public funds not exceeding one percent (1%) of total state  
8 appropriations for the current fiscal year to promote economic  
9 development through grants or loans to individuals, companies,  
10 corporations or associations. Pursuant to authority of and subject  
11 to requirements of law and according to professional norms  
12 established nationally in similar activities, the Oklahoma Center  
13 for the Advancement of Science and Technology or its successor may  
14 be authorized to use public funds in order to promote economic  
15 development by purchase or ownership of stock or to make other  
16 investments in private enterprises and to receive income from such  
17 investments which are involved with research or patents from  
18 projects involving Oklahoma colleges or universities. The Oklahoma  
19 Center for the Advancement of Science and Technology or its  
20 successor may only use public funds for the purposes authorized in  
21 this subsection if a statute specifically authorizing such use is  
22 approved by an affirmative vote of at least two-thirds (2/3) of the  
23 members elected to the Senate and to the House of Representatives  
24

1 upon final passage of such measure in each of the respective houses  
2 and with the approval of the Governor.

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

9 D. The Legislature shall establish procedures to review and  
10 evaluate the extent to which the purposes of any statute authorizing  
11 use of public funds by the Oklahoma Center for the Advancement of  
12 Science and Technology are achieved.

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

16 1. As to bonds issued by the board of education such bonds must  
17 be approved by election of the school district upon the question of  
18 issuing such bonds;

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

22 3. Provisions shall be made by the Legislature to guarantee  
23 prompt reimbursement to the corpus of the permanent school fund for  
24 any payment from the fund on behalf of a school district or on  
25

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

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

19 G. Monies placed in the Constitutional Reserve Fund may be  
20 invested by the State Treasurer in a manner consistent with the  
21 care, skill, prudence and diligence and under the then-prevailing  
22 circumstance that a prudent person acting in a like capacity and  
23 familiar with such matters would use in the conduct of an enterprise  
24 of a like character and with like aims by diversifying the

1 investments of the Fund in a manner which minimizes the risk of  
2 large losses.

3 SECTION 2. The Secretary of State shall refer to the people for  
4 their approval or rejection, as and in the manner provided by law,  
5 the following proposed amendment to Section 23 of Article X of the  
6 Constitution of the State of Oklahoma to read as follows:

7 Section 23. The state shall never create or authorize the  
8 creation of any debt or obligation, or fund or pay any deficit,  
9 against the state, or any department, institution or agency thereof,  
10 regardless of its form or the source of money from which it is to be  
11 paid, except as may be provided in this section and in Sections 24  
12 and 25 of Article X of the Constitution of the State of Oklahoma.

13 To ensure a balanced annual budget, pursuant to the limitations  
14 contained in the foregoing, procedures are herewith established as  
15 follows:

16 1. Not more than forty-five (45) days or less than thirty-five  
17 (35) days prior to the convening of each regular session of the  
18 Legislature, the State Board of Equalization shall certify the total  
19 amount of revenue which accrued during the last preceding fiscal  
20 year to the General Revenue Fund and to each Special Revenue Fund  
21 appropriated directly by the Legislature, and shall further certify  
22 amounts available for appropriation which shall be based on a  
23 determination, in accordance with the procedure hereinafter  
24 provided, of the revenues to be received by the state under the laws

1 in effect at the time such determination is made, for the next  
2 ensuing fiscal year, showing separately the revenues to accrue to  
3 the credit of each such fund of the state appropriated directly by  
4 the Legislature.

5 Amounts certified as available for appropriation from each fund,  
6 as hereinbefore provided, shall be ninety-five percent (95%) of an  
7 itemized estimate made by the State Board of Equalization, which  
8 shall include all sources of revenue to each fund for the next  
9 ensuing fiscal year; provided, however, appropriated federal funds  
10 shall be certified for the full amount of the estimate. Said  
11 estimate shall consider any increase or decline in revenues that  
12 would result from predictable changes in the economy.

13 Legislative appropriations for any fiscal year, except for  
14 special appropriations provided for in paragraph 6, 7 or 8 shall be  
15 limited to a sum not to exceed the total amount appropriated from  
16 all funds in the preceding fiscal year, plus twelve percent (12%),  
17 adjusted for inflation for the previous calendar year. Said limit  
18 shall be adjusted for funds not previously appropriated. The limit  
19 on the growth of appropriations shall be certified to by the State  
20 Board of Equalization.

21 2. Such certification shall be filed with the Governor, the  
22 President and President Pro Tempore of the Senate, and the Speaker  
23 of the House of Representatives. The Legislature shall not pass or  
24 enact any bill, act or measure making an appropriation of money for

1 any purpose until such certification is made and filed, unless the  
2 State Board of Equalization has failed to file said certification at  
3 the time of convening of said Legislature. In such event, it shall  
4 be the duty of the Legislature to make such certification pursuant  
5 to the provisions of this section. All appropriations made in  
6 excess of such certification shall be null and void; provided,  
7 however, that the Legislature may at any regular session or special  
8 session, called for that purpose, enact laws to provide for  
9 additional revenues or a reduction in revenues, other than ad  
10 valorem taxes, or transferring the existing revenues or  
11 unappropriated cash on hand from one fund to another, or making  
12 provisions for appropriating funds not previously appropriated  
13 directly by the Legislature. Whereupon, it shall be the duty of the  
14 State Board of Equalization to make a determination of the revenues  
15 that will accrue under such laws and ninety-five percent (95%) of  
16 the amount of any increase or decrease resulting, for any reason,  
17 from such changes in laws shall be added to or deducted from the  
18 amount previously certified available for appropriation from each  
19 respective fund, as the case may be. The State Board of  
20 Equalization shall file the amount of such adjusted certification,  
21 or additional certification for funds not previously appropriated  
22 directly by the Legislature, with the Governor, with the President  
23 and President Pro Tempore of the Senate, and the Speaker of the  
24 House of Representatives, and such adjusted amount shall be the

1 maximum amount which can be appropriated for all purposes from any  
2 such fund for the fiscal year being certified.

3 3. The State Board of Equalization shall meet within five (5)  
4 days after the monthly apportionment in February of each year, and  
5 at that time may adjust the certification, based upon the most  
6 current information available, and determine the amount of funds  
7 available for appropriation for that legislative session. At said  
8 meeting the Board shall determine the limit on the growth of  
9 appropriations as provided for in this section.

10 4. Surplus funds or monies shall be any amount accruing to the  
11 General Revenue Fund of the State of Oklahoma over and above the  
12 itemized estimate made by the State Board of Equalization.

13 5. All such surplus funds or monies shall be placed in a  
14 Constitutional Reserve Fund by the State Treasurer until such time  
15 that the amount of said Fund equals ~~fifteen percent (15%)~~ twenty-  
16 five percent (25%) of the General Revenue Fund certification for the  
17 preceding fiscal year. Appropriations made from said Fund shall be  
18 considered special appropriations.

19 6. a. Up to three-eighths (3/8) of the balance at the  
20 beginning of the current fiscal year in the  
21 Constitutional Reserve Fund may be appropriated for  
22 the forthcoming fiscal year, when the certification by  
23 the State Board of Equalization for said forthcoming  
24 fiscal year General Revenue Fund is less than that of



1 the current fiscal year certification. In no event  
2 shall the amount of monies appropriated from the  
3 Constitutional Reserve Fund be in excess of the  
4 difference between the two said certifications.

5 b. (1) In years when the provisions of subparagraph a of  
6 this paragraph are not applicable and the balance  
7 at the beginning of the current fiscal year in  
8 the Constitutional Reserve Fund is equal to or  
9 greater than Eighty Million Dollars  
10 (\$80,000,000.00), up to Ten Million Dollars  
11 (\$10,000,000.00) may be expended for the purpose  
12 of providing incentives to support retention of  
13 at-risk manufacturing establishments in this  
14 state in order to retain employment for residents  
15 of this state. Such incentives shall be paid by  
16 the Oklahoma Tax Commission upon a unanimous  
17 finding by the Governor, the Speaker of the House  
18 of Representatives and the President Pro Tempore  
19 of the Senate that:

20 (a) such incentives have been recommended by an  
21 independent committee created by the  
22 Legislature for such purposes as provided  
23 herein pursuant to criteria set out by law,  
24

1 (b) the incentive will result in a substantial  
2 benefit to this state, and

3 (c) payment of the incentive would be in  
4 accordance with the provisions of this  
5 subparagraph and laws enacted to implement  
6 provisions of this subparagraph.

7 (2) The independent committee will be composed of not  
8 less than seven (7) people appointed or otherwise  
9 determined pursuant to laws enacted by the  
10 Legislature providing for membership on the  
11 committee. The committee shall make  
12 recommendations to the Governor, the Speaker of  
13 the House of Representatives and the President  
14 Pro Tempore of the Senate for the awarding of  
15 incentives. Such recommendations shall give  
16 priority to establishments which:

17 (a) are at greater risk of losing jobs because  
18 the plant is no longer competitive or  
19 leaving the state and thereby causing the  
20 loss of more employment in this state than  
21 other eligible recipients, and

22 (b) provide the largest economic impact to the  
23 state.  
24

1 (3) For any fiscal year, the incentives shall not  
2 exceed ten percent (10%) of the amount invested  
3 by an establishment in capital assets to be  
4 utilized in this state. Incentives may only be  
5 paid pursuant to an investment contract between  
6 the establishment and a state agency designated  
7 by law, which provides for a specified amount of  
8 investment in a capital asset to be made by the  
9 establishment over a period of not to exceed five  
10 (5) years. No incentive payment shall be made  
11 prior to the actual investment by the  
12 establishment. The contract shall make payment  
13 of any incentives in any fiscal year contingent  
14 on the balance at the beginning of such fiscal  
15 year in the Constitutional Reserve Fund being  
16 equal to or greater than Eighty Million Dollars  
17 (\$80,000,000.00) and on the certification by the  
18 State Board of Equalization for such fiscal year  
19 of the amount available for appropriation from  
20 the General Revenue Fund being greater than the  
21 amount certified for the preceding fiscal year.  
22 Investment contracts authorized by this  
23 subparagraph shall provide that if any incentive  
24 payment is payable during a fiscal year in which

1           either the balance at the beginning of the fiscal  
2           year in the Constitutional Reserve Fund is not  
3           equal to or greater than Eighty Million Dollars  
4           (\$80,000,000.00) or when the certification by the  
5           State Board of Equalization for such fiscal year  
6           General Revenue Fund is less than that of the  
7           immediately prior fiscal year certification, then  
8           any incentive payments which would have been  
9           payable during such fiscal year shall be payable  
10          in the first fiscal year when funds are available  
11          pursuant to the provisions of division (1) of  
12          this subparagraph. In the event that the amount  
13          of incentives payable under investment contracts  
14          authorized by this subparagraph is greater than  
15          the amounts available for payment under this  
16          subparagraph in a fiscal year, then no new  
17          contracts may be authorized during such year and  
18          incentive payments which are made shall be  
19          reduced pro rata as necessary to apply all  
20          available funds to incentive payments which are  
21          payable in such year.

- 22           (4) The Legislature is authorized to enact laws  
23           necessary to implement the provisions of this  
24           section.

1        7. Up to three-eighths (3/8) of the balance at the beginning of  
2 the current fiscal year in the Constitutional Reserve Fund may be  
3 appropriated for the current fiscal year if the State Board of  
4 Equalization determines that a revenue failure has occurred with  
5 respect to the General Revenue Fund of the State Treasury. In no  
6 event shall the amount of monies appropriated from the  
7 Constitutional Reserve Fund pursuant to this paragraph be in excess  
8 of the amount of the projected revenue failure in the General  
9 Revenue Fund, which total amount shall be computed by the State  
10 Board of Equalization, for the entire fiscal year. Monies  
11 appropriated to any state governmental entity from the  
12 Constitutional Reserve Fund pursuant to this paragraph may only be  
13 made in order to ensure that the monies actually received by the  
14 entity for the then current fiscal year are equal to or less than,  
15 but not in excess of, the total appropriation amount for such entity  
16 in effect at the beginning of the then current fiscal year.

17        8. Up to one-quarter (1/4) of the balance at the beginning of  
18 the current fiscal year in the Constitutional Reserve Fund may be  
19 appropriated, upon a declaration by the Governor that emergency  
20 conditions exist, with concurrence of the Legislature by a two-  
21 thirds (2/3) vote of the House of Representatives and Senate for the  
22 appropriation; or said one-quarter (1/4) could be appropriated upon  
23 a joint declaration of emergency conditions by the Speaker of the  
24 House of Representatives and the President Pro Tempore of the

1 Senate, with a concurrence of a three-fourths (3/4) vote of the  
2 House of Representatives and Senate.

3 9. That portion of every appropriation, at the end of each  
4 fiscal year, in excess of actual revenues collected and allocated  
5 thereto, as hereinafter provided, shall be null and void. Revenues  
6 deposited in the State Treasury to the credit of the General Revenue  
7 Fund or of any special fund (which derives its revenue in whole or  
8 in part from state taxes or fees) shall, except as to principal and  
9 interest on the public debt, be allocated monthly to each  
10 department, institution, board, commission or special appropriation  
11 on a percentage basis, in that ratio that the total appropriation  
12 for such department, institution, board, commission or special  
13 appropriation from each fund for that fiscal year bears to the total  
14 of all appropriations from each fund for that fiscal year, and no  
15 warrant shall be issued in excess of said allocation. Any  
16 department, institution or agency of the state operating on revenues  
17 derived from any law or laws which allocate the revenues thereof to  
18 such department, institution or agency shall not incur obligations  
19 in excess of the unencumbered balance of cash on hand. Nothing in  
20 this section shall prevent, under such conditions and limitations as  
21 shall be prescribed by law, the governing board of an institution of  
22 higher education within The Oklahoma State System of Higher  
23 Education from contracting with a president of such institution of  
24 higher education for periods extending more than one (1) year, but

1 not to exceed three (3) years beyond the fiscal year in which the  
2 contract is signed.

3 10. The Legislature shall provide a method whereby  
4 appropriations shall be divided and set up on a monthly, quarterly  
5 or semiannual basis within each fiscal year to prevent obligations  
6 being incurred in excess of the revenue to be collected, and  
7 notwithstanding other provisions of this Constitution, the  
8 Legislature shall provide that all appropriations shall be reduced  
9 to bring them within revenues actually collected, but all such  
10 reductions shall apply to each department, institution, board,  
11 commission or special appropriation made by the State Legislature in  
12 the ratio that its total appropriation for that fiscal year bears to  
13 the total of all appropriations from that fund for that fiscal year;  
14 provided, however, that the Governor shall have discretion to issue  
15 deficiency certificates to the State Treasurer for the benefit of  
16 any department, institution or agency of the state, if the amount of  
17 such deficiency certificates be within the limit of the current  
18 appropriation for that department, institution or agency, whereupon  
19 the State Treasurer shall issue warrants to the extent of such  
20 certificates for the payment of such claims as may be authorized by  
21 the Governor, and such warrants shall become a part of the public  
22 debt and shall be paid out of any money appropriated by the  
23 Legislature and made lawfully available therefor; provided further,  
24 that in no event shall said deficiency certificates exceed in the

1 aggregate the sum of Five Hundred Thousand Dollars (\$500,000.00) in  
2 any fiscal year.

3 SECTION 3. The Ballot Title for the proposed Constitutional  
4 amendment as set forth in SECTIONS 1 and 2 of this resolution shall  
5 be in the following form:

6 BALLOT TITLE

7 Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

8 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

9 This measure would amend the State Constitution. It would amend  
10 Sections 15 and 23 of Article 10. Those Sections deal with  
11 procedures for certain state funds. This would authorize the  
12 State Treasurer to invest monies placed in the Constitutional  
13 Reserve Fund in a different way. The investment could be  
14 diversified. The Treasurer would be required to meet a specific  
15 standard for investments. The maximum amount deposited into the  
16 Constitutional Reserve Fund would increase. Under current law,  
17 the cap is set at fifteen percent (15%) of the amount certified  
18 for the General Revenue Fund for the prior fiscal year. This  
19 would change the cap amount to twenty-five percent (25%).

20 SHALL THE PROPOSAL BE APPROVED?

21 FOR THE PROPOSAL — YES \_\_\_\_\_

22 AGAINST THE PROPOSAL — NO \_\_\_\_\_

23 SECTION 4. The President Pro Tempore of the Senate shall,  
24 immediately after the passage of this resolution, prepare and file



1 one copy thereof, including the Ballot Title set forth in SECTION 3  
2 hereof, with the Secretary of State and one copy with the Attorney  
3 General.

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