

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1236

By: McCall, Roberts (Dustin),
Sims, Luttrell, Russ,
Manger, Worthen, Lepak,
Roberts (Eric), Gann,
Sterling, Roe, Kendrix,
Hilbert, Davis, West
(Josh), Bashore, West
(Kevin), Cornwell, Lowe
(Dick), Moore, West (Rick),
Grego, May, Townley,
Stearman, Olsen, Wolfley,
Stark, Dobrinski,
Patzkowsky, Talley, Newton,
Williams, Miller, West
(Tammy), Lawson, Mize,
Hill, Hardin (David),
Steagall, Fetgatter,
Vancuren, Boatman,
Hasenbeck, Martinez,
Dempsey, Phillips,
McEntire, Kerbs, Boles,
Dills, Hardin (Tommy),
Sneed, Johns, Osburn,
Marti, Frix, Crosswhite
Hader, Baker, Conley,
O'Donnell, Strom, Humphrey,
Caldwell (Trey), Caldwell
(Chad), Burns, Ford,
McDugle, Wallace, Culver,
Smith, Echols and Roberts
(Sean) of the House

and

Daniels, Bullard and
Hamilton of the Senate

21
22 An Act relating to the United States; providing for
23 review of Presidential executive orders and federal
24 actions; prohibiting implementation of
unconstitutional actions; providing for codification;
and declaring an emergency.

1 AUTHOR: Add the following House Coauthors: McBride and Pfeiffer

2 AUTHOR: Remove the following House Coauthors: O'Donnell and
3 Humphrey

4 AUTHOR: Remove Daniels as principal Senate Author, replace with
5 Treat as principal Senate Author and retain Daniels as
6 Senate Coauthor and add Senate Coauthors: Quinn, Stephens,
7 Standridge, Pemberton, Rogers, Newhouse, Haste, Weaver,
8 David, Leewright, Thompson, Montgomery, Hall, Murdock,
9 Allen, Howard and Jech

10 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
11 entire bill and insert

12 "An Act relating to the Attorney General; amending 74
13 O.S. 2011, Section 18b, as last amended by Section 1,
14 Chapter 444, O.S.L. 2019 (74 O.S. Supp. 2020, Section
15 18b), which relates to duties of the Attorney
16 General; requiring Attorney General to evaluate
17 certain actions of the federal government;
18 establishing the State Reserved Powers Protection
19 Unit of the Office of the Attorney General; stating
20 duties of Unit; requiring Attorney General to take
21 certain actions under certain circumstances;
22 establishing the State Reserved Powers Protection
23 Unit Revolving Fund; providing purpose of Fund;
24 amending 68 O.S. 2011, Section 2352, as last amended
by Section 3, Chapter 15, O.S.L. 2020 (68 O.S. Supp.
2020, Section 2352), which relates to distribution of
revenues; apportioning certain revenue to the State
Reserved Powers Protection Unit Revolving Fund;
providing for codification; providing an effective
date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 18b, as last
amended by Section 1, Chapter 444, O.S.L. 2019 (74 O.S. Supp. 2020,
Section 18b), is amended to read as follows:

Section 18b. A. The duties of the Attorney General as the
chief law officer of the state shall be:

1 1. To appear for the state and prosecute and defend all actions
2 and proceedings, civil or criminal, in the Supreme Court and Court
3 of Criminal Appeals in which the state is interested as a party;

4 2. To appear for the state and prosecute and defend all actions
5 and proceedings in any of the federal courts in which the state is
6 interested as a party;

7 3. To initiate or appear in any action in which the interests
8 of the state or the people of the state are at issue, or to appear
9 at the request of the Governor, the Legislature, or either branch
10 thereof, and prosecute and defend in any court or before any
11 commission, board or officers any cause or proceeding, civil or
12 criminal, in which the state may be a party or interested; and when
13 so appearing in any such cause or proceeding, the Attorney General
14 may, if the Attorney General deems it advisable and to the best
15 interest of the state, take and assume control of the prosecution or
16 defense of the state's interest therein;

17 4. To consult with and advise district attorneys, when
18 requested by them, in all matters pertaining to the duties of their
19 offices, when the district attorneys shall furnish the Attorney
20 General with a written opinion supported by citation of authorities
21 upon the matter submitted;

22 5. To give an opinion in writing upon all questions of law
23 submitted to the Attorney General by the Legislature or either
24 branch thereof, or by any state officer, board, commission or

1 department, provided, that the Attorney General shall not furnish
2 opinions to any but district attorneys, the Legislature or either
3 branch thereof, or any other state official, board, commission or
4 department, and to them only upon matters in which they are
5 officially interested;

6 6. At the request of the Governor, State Auditor and Inspector,
7 State Treasurer, or either branch of the Legislature, to prosecute
8 any official bond or any contract in which the state is interested,
9 upon a breach thereof, and to prosecute or defend for the state all
10 actions, civil or criminal, relating to any matter connected with
11 either of their Departments;

12 7. Whenever requested by any state officer, board or
13 commission, to prepare proper drafts for contracts, forms and other
14 writing which may be wanted for the use of the state;

15 8. To prepare drafts of bills and resolutions for individual
16 members of the Legislature upon their written request stating the
17 gist of the bill or resolution desired;

18 9. To enforce the proper application of monies appropriated by
19 the Legislature and to prosecute breaches of trust in the
20 administration of such funds;

21 10. To institute actions to recover state monies illegally
22 expended, to recover state property and to prevent the illegal use
23 of any state property, upon the request of the Governor or the
24 Legislature;

1 11. To pay into the State Treasury, immediately upon its
2 receipt, all monies received by the Attorney General belonging to
3 the state;

4 12. To settle, compromise and dispose of an action in which the
5 Attorney General represents the interests of the state, so long as
6 the consideration negotiated for such settlement, compromise or
7 disposition is payable to the state or one of its agencies which is
8 a named party of the action and any monies, any property or other
9 item of value is paid first to the State Treasury;

10 13. To keep and file copies of all opinions, contracts, forms
11 and letters of the office, and to keep an index of all opinions,
12 contracts and forms according to subject and section of the law
13 construed or applied;

14 14. To keep a register or docket of all actions, demands and
15 investigations prosecuted, defended or conducted by the Attorney
16 General in behalf of the state. The register or docket shall give
17 the style of the case or investigation, where pending, court number,
18 office number, the gist of the matter, result and the names of the
19 assistants who handled the matter;

20 15. To keep a complete office file of all cases and
21 investigations handled by the Attorney General on behalf of the
22 state;

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1 16. To report to the Legislature or either branch thereof
2 whenever requested upon any business relating to the duties of the
3 Attorney General's office;

4 17. To institute civil actions against members of any state
5 board or commission for failure of such members to perform their
6 duties as prescribed by the statutes and the Constitution and to
7 prosecute members of any state board or commission for violation of
8 the criminal laws of this state where such violations have occurred
9 in connection with the performance of such members' official duties;

10 18. To respond to any request for an opinion of the Attorney
11 General's office, submitted by a member of the Legislature,
12 regardless of subject matter, by written opinion determinative of
13 the law regarding such subject matter;

14 19. To convene multicounty grand juries in such manner and for
15 such purposes as provided by law; provided, such grand juries are
16 composed of citizens from each of the counties on a pro rata basis
17 by county;

18 20. To investigate any report by the State Auditor and
19 Inspector filed with the Attorney General pursuant to Section 223 of
20 this title and prosecute all actions, civil or criminal, relating to
21 such reports or any irregularities or derelictions in the management
22 of public funds or property which are violations of the laws of this
23 state;

1 21. To represent and protect the collective interests of all
2 utility consumers of this state in rate-related proceedings before
3 the Corporation Commission or in any other state or federal judicial
4 or administrative proceeding;

5 22. To represent and protect the collective interests of
6 insurance consumers of this state in rate-related proceedings before
7 the Insurance Commissioner or in any other state or federal judicial
8 or administrative proceeding; ~~and~~

9 23. To investigate and prosecute any criminal action relating
10 to insurance fraud, if in the opinion of the Attorney General a
11 criminal prosecution is warranted, or to refer such matters to the
12 appropriate district attorney; and

13 24. To monitor and evaluate any action by the federal
14 government including, but not limited to, executive orders by the
15 President of the United States, rules or regulations promulgated by
16 an agency of the federal government or acts of Congress, to
17 determine if such actions are in violation of the Tenth Amendment to
18 the Constitution of the United States.

19 B. Nothing in this section shall be construed as requiring the
20 Attorney General to appear and defend or prosecute in any court any
21 cause or proceeding for or on behalf of the Oklahoma Tax Commission,
22 the Board of Managers of the State Insurance Fund, or the
23 Commissioners of the Land Office.

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1 C. In all appeals from the Corporation Commission to the
2 Supreme Court of Oklahoma in which the state is a party, the
3 Attorney General shall have the right to designate counsel of the
4 Corporation Commission as the Attorney General's legally appointed
5 representative in such appeals, and it shall be the duty of the
6 Corporation Commission counsel to act when so designated and to
7 consult and advise with the Attorney General regarding such appeals
8 prior to taking action therein.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 18q of Title 74, unless there is
11 created a duplication in numbering, reads as follows:

12 A. There is hereby created within the Office of the Attorney
13 General a State Reserved Powers Protection Unit to monitor and
14 evaluate any action by the federal government including, but not
15 limited to, executive orders by the President of the United States,
16 rules or regulations promulgated by an agency of the federal
17 government or acts of Congress, to determine if such actions are in
18 violation of the Tenth Amendment to the Constitution of the United
19 States. If review by the Unit of any such action by the federal
20 government concludes that the action is an infringement on state
21 authority under the Tenth Amendment, the Attorney General shall
22 determine whether the state should seek an exemption from the
23 application of the action or seek to have the action declared
24 unconstitutional.

1 B. There is hereby created in the State Treasury a revolving
2 fund for the Office of the Attorney General, to be designated the
3 "State Reserved Powers Protection Unit Revolving Fund". The fund
4 shall be a continuing fund, not subject to fiscal year limitations,
5 and shall consist of any monies designated to the fund by law. All
6 monies accruing to the credit of said fund are hereby appropriated
7 and may be budgeted and expended by the Attorney General for the
8 administration and implementation of the duties of the State
9 Reserved Powers Protection Unit.

10 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2352, as
11 last amended by Section 3, Chapter 15, O.S.L. 2020 (68 O.S. Supp.
12 2020, Section 2352), is amended to read as follows:

13 Section 2352. It is hereby declared to be the purpose of
14 Section 2351 et seq. of this title to provide revenue for general
15 governmental functions of state government; and, for that purpose
16 and to that end, it is expressly declared that the revenue derived
17 herefrom and penalties and interest thereon, subject to the
18 apportionment requirements for the Rebuilding Oklahoma Access and
19 Driver Safety Fund, the Oklahoma Tourism and Passenger Rail
20 Revolving Fund, the Public Transit Revolving Fund, and the Education
21 Reform Revolving Fund to be derived from income tax revenue that
22 would otherwise be apportioned to the General Revenue Fund as
23 provided by Section 1521 of Title 69 of the Oklahoma Statutes,
24 subject to the apportionment requirements for the Oklahoma Tax

1 Commission and Office of Management and Enterprise Services Joint
2 Computer Enhancement Fund provided by Section 265 of this title, and
3 subject to the apportionment requirements for the Oklahoma State
4 Capitol Building Repair and Restoration Fund provided by Section 19
5 of Title 73 of the Oklahoma Statutes, shall be distributed as
6 follows:

7 1. For the fiscal year beginning July 1, 2002, the first Five
8 Million Eight Hundred Thousand Dollars (\$5,800,000.00) of revenue
9 derived pursuant to the provisions of subsections A, B and E of
10 Section 2355 of this title shall be apportioned to the Education
11 Reform Revolving Fund. The remainder of such revenue for the fiscal
12 year beginning July 1, 2002, and all such revenue for each fiscal
13 year thereafter shall be apportioned monthly as follows:

14 a. the following amounts shall be paid to the State
15 Treasurer to be placed to the credit of the General
16 Revenue Fund of the state for such fiscal year for the
17 support of the state government to be paid out only
18 pursuant to appropriation by the Legislature:

19 Fiscal Year	Amount
20 FY 2003 and FY 2004	87.12%
21 FY 2005	86.91%
22 FY 2006	86.66%
23 FY 2007	86.16%
24 FY 2008 through FY 2022	85.66%

1 FY 2023 through FY 2027 85.16%

2 FY 2028 and each fiscal year thereafter 85.66%,

3 b. the following amounts shall be paid to the State
4 Treasurer to be placed to the credit of the Education
5 Reform Revolving Fund of the State Department of
6 Education:

7 (1) for FY 2003 through FY 2020, eight and thirty-
8 four one-hundredths percent (8.34%),

9 (2) for FY 2021:

10 (a) for the month beginning July 1, 2020,
11 through the month ending August 31, 2020,
12 eight and thirty-four one-hundredths percent
13 (8.34%), and

14 (b) for the month beginning September 1, 2020,
15 through the month ending June 30, 2021, nine
16 and eighty-four one-hundredths percent
17 (9.84%),

18 (3) for FY 2022, nine and fifty-nine one-hundredths
19 percent (9.59%), and

20 (4) for FY 2023 and each fiscal year thereafter,
21 eight and thirty-four one-hundredths percent
22 (8.34%) shall be paid to the State Treasurer to
23 be placed to the credit of the Education Reform
24 Revolving Fund,

c. the following amounts shall be paid to the State
Treasurer to be placed to the credit of the Teachers'
Retirement System Dedicated Revenue Revolving Fund:

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 through FY 2020	5.0%
FY 2021:	
(1) for the month beginning July 1, 2020, through the month ending August 31, 2020	5.0%
(2) for the month beginning September 1, 2020, through the month ending June 30, 2021	3.5%
FY 2022	3.75%
FY 2023 through FY 2027	5.5%
FY 2028 and each fiscal year thereafter	5.0%

1 d. for FY 2003 and each fiscal year thereafter, one
2 percent (1%) shall be placed to the credit of the Ad
3 Valorem Reimbursement Fund;

4 2. Beginning July 1, 2003, for any period of time as certified
5 by the Oklahoma Development Finance Authority and the Oklahoma
6 Department of Commerce to be necessary for the repayment of
7 obligations issued by the Oklahoma Development Finance Authority
8 pursuant to Section 3654 of this title if the other sources of
9 revenue paid to or apportioned to the Quality Jobs Program Incentive
10 Leverage Fund are not adequate, including the proceeds from payment
11 pursuant to the guaranty required by subsection M of Section 3654 of
12 this title, an amount certified by the Oklahoma Development Finance
13 Authority to the Oklahoma Tax Commission shall be apportioned to the
14 Quality Jobs Program Incentive Leverage Fund before any other
15 apportionments are made as otherwise authorized by this paragraph.
16 The Oklahoma Development Finance Authority shall certify to the
17 Oklahoma Tax Commission the time as of which the revenue authorized
18 for apportionment pursuant to this paragraph is no longer required.
19 After the certification, the revenue derived from the income tax
20 shall be apportioned in the manner otherwise provided by this
21 section. Except as otherwise provided by this paragraph, for the
22 fiscal year beginning July 1, 2002, the first Forty-one Million One
23 Hundred Ninety Thousand Eight Hundred Dollars (\$41,190,800.00) of
24 revenue derived pursuant to the provisions of subsections D and E of

1 Section 2355 of this title shall be apportioned to the Education
2 Reform Revolving Fund. Except as otherwise provided by this
3 paragraph, for the fiscal year beginning July 1, 2021, through the
4 fiscal year beginning July 1, 2025, the first Ten Million Dollars
5 (\$10,000,000.00) of revenue derived pursuant to the provisions of
6 subsection E of Section 2355 of this title shall be apportioned to
7 the Attorney General's State Reserved Powers Protection Unit
8 Revolving Fund created pursuant to Section 2 of this act. The
9 remainder of such revenue for the fiscal year beginning July 1,
10 2002, and all such revenue for each fiscal year thereafter, subject
11 to the apportionment requirements for the Oklahoma Tax Commission
12 and Office of Management and Enterprise Services Joint Computer
13 Enhancement Fund provided by Section 265 of this title, shall be
14 apportioned monthly as follows:

15 a. the following amounts shall be paid to the State
16 Treasurer to be placed to the credit of the General
17 Revenue Fund of the state for such fiscal year for the
18 support of the state government to be paid out only
19 pursuant to appropriation by the Legislature:

Fiscal Year	Amount
FY 2003 and FY 2004	78.96%
FY 2005	78.75%
FY 2006	78.50%
FY 2007	78.0%

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- (1) (a) FY 2018 through FY 2022
until the apportionment to
the General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as
prescribed by paragraph 3
of this section 77.50%
- (b) FY 2023 through FY 2027
until the apportionment to
the General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as
prescribed by paragraph 3
of this section 77.00%
- (c) FY 2028 and each fiscal
year thereafter until the
apportionment to the
General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as

1 (3) for FY 2022, seventeen and seventy-five one-
2 hundredths percent (17.75%), and

3 (4) for FY 2023 and each fiscal year thereafter,
4 sixteen and five-tenths percent (16.5%),

5 c. the following amounts shall be paid to the State
6 Treasurer to be placed to the credit of the Teachers'
7 Retirement System Dedicated Revenue Revolving Fund:

8 Fiscal Year	Amount
9 FY 2003 and FY 2004	3.54%
10 FY 2005	3.75%
11 FY 2006	4.0%
12 FY 2007	4.5%
13 FY 2008 through FY 2020	5.0%
14 FY 2021:	
15 (1) for the month beginning	
16 July 1, 2020, through	
17 the month ending August	
18 31, 2020	5.0%
19 (2) for the month beginning	
20 September 1, 2020,	
21 through the month ending	
22 June 30, 2021	3.5%
23 FY 2022	3.75%
24 FY 2023 through FY 2027	5.5%

1 ENGROSSED HOUSE
2 BILL NO. 1236

3 By: McCall, Roberts (Dustin),
4 Sims, Luttrell, Russ,
5 Manger, Worthen, Lepak,
6 Roberts (Eric), Gann,
7 Sterling, Roe, Kendrix,
8 Hilbert, Davis, West
9 (Josh), Bashore, West
10 (Kevin), Cornwell, Lowe
11 (Dick), Moore, West (Rick),
12 Grego, May, Townley,
13 Stearman, Olsen, Wolfley,
14 Stark, Dobrinski,
15 Patzkowsky, Talley, Newton,
16 Williams, Miller, West
17 (Tammy), Lawson, Mize,
18 Hill, Hardin (David),
19 Steagall, Fetgatter,
20 Vancuren, Boatman,
21 Hasenbeck, Martinez,
22 Dempsey, Phillips,
23 McEntire, Kerbs, Boles,
24 Dills, Hardin (Tommy),
Sneed, Johns, Osburn,
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(Chad), Burns, Ford,
McDugle, Wallace, Culver,
Smith, Echols and Roberts
(Sean) of the House

and

Daniels, Bullard and
Hamilton of the Senate

22 An Act relating to the United States; providing for
23 review of Presidential executive orders and federal
24 actions; prohibiting implementation of
unconstitutional actions; providing for codification;
and declaring an emergency.

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

2 SECTION 6. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 101 of Title 80, unless there is
4 created a duplication in numbering, reads as follows:

5 A. The Legislature may review any executive order issued by the
6 President of the United States, federal agency rule or federal
7 congressional action to determine the constitutionality of such
8 action. Upon recommendation from the Legislature, the Attorney
9 General shall review such action by the federal government to
10 determine the constitutionality of the action and whether the state
11 should seek an exemption from the application of the action or seek
12 to have the action declared unconstitutional.

13 B. Should the Attorney General decline to pursue action based
14 upon the determination of the Legislature, the Legislature may
15 declare the action unconstitutional by a majority vote.

16 C. Notwithstanding any other provision of law, the state,
17 county, political subdivision or any other publicly funded
18 organization shall not implement any action that restricts a
19 person's rights or that the Office of the Attorney General or the
20 Legislature by a majority vote determines to be unconstitutional
21 under subsection A of this section and which relates to:

22 1. Pandemics or other health emergencies;

23 2. The regulation of natural resources, including oil and
24 natural gas;

1 3. The regulation of the agriculture industry;

2 4. The use of land;

3 5. The regulation of the financial sector as it relates to
4 environmental, social or governance standards;

5 6. The regulation of the constitutional right to keep and bear
6 arms;

7 7. The regulation of education;

8 8. The regulation of interscholastic, intramural or other
9 extracurricular sports sponsored by an institution of higher
10 education, a school district or a charter school; or

11 9. Any other powers reserved by the State of Oklahoma or the
12 people of Oklahoma.

13 SECTION 7. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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Passed the House of Representatives the 25th day of February, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2021.

Presiding Officer of the Senate