

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE JOINT
5 RESOLUTION 1010

By: Montgomery of the House

and

Bice of the Senate

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10 AS INTRODUCED

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

22 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
23 1ST SESSION OF THE 56TH OKLAHOMA LEGISLATURE:

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

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

12 B. Pursuant to authority of and subject to requirements of law
13 and according to professional norms established nationally in
14 similar activities, the Oklahoma Center for the Advancement of
15 Science and Technology or its successor may be authorized to use
16 public funds not exceeding one percent (1%) of total state
17 appropriations for the current fiscal year to promote economic
18 development through grants or loans to individuals, companies,
19 corporations or associations. Pursuant to authority of and subject
20 to requirements of law and according to professional norms
21 established nationally in similar activities, the Oklahoma Center
22 for the Advancement of Science and Technology or its successor may
23 be authorized to use public funds in order to promote economic
24 development by purchase or ownership of stock or to make other

1 investments in private enterprises and to receive income from such
2 investments which are involved with research or patents from
3 projects involving Oklahoma colleges or universities. The Oklahoma
4 Center for the Advancement of Science and Technology or its
5 successor may only use public funds for the purposes authorized in
6 this subsection if a statute specifically authorizing such use is
7 approved by an affirmative vote of at least two-thirds (2/3) of the
8 members elected to the Senate and to the House of Representatives
9 upon final passage of such measure in each of the respective houses
10 and with the approval of the Governor.

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

17 D. The Legislature shall establish procedures to review and
18 evaluate the extent to which the purposes of any statute authorizing
19 use of public funds by the Oklahoma Center for the Advancement of
20 Science and Technology are achieved.

21 E. Bonds issued by the board of education of any school
22 district or public institutions of higher education may be
23 guaranteed by the corpus of the permanent school fund, provided:
24

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

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

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

19 F. Subject to requirements imposed by law, the governing boards
20 of institutions within The Oklahoma State System of Higher Education
21 and employees of those institutions may have an ownership interest
22 in a technology, whether or not the technology is protected pursuant
23 to federal or state law governing intellectual property, and may
24 have an ownership interest in a business enterprise or private

1 business entity, if the ownership interest is acquired as a result
2 of research or development of a technology involving the authorized
3 use of facilities, equipment, or services of such institutions.

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

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

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

21 3. Investments shall be made with the judgment and care, under
22 circumstances then prevailing, which persons of prudence, discretion
23 and intelligence exercise in the management of their own affairs,
24 not for speculation, but for investment, considering the probable

1 safety of their capital as well as the possible income to be
2 derived;

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

9 a. purchase of any assets other than those assets
10 authorized by laws in effect prior to November 1,
11 2018, shall not exceed eighty percent (80%) of
12 available funds,

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

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

21 d. the State shall not exercise any voting rights or
22 right to govern a company or corporation that the
23 purchase of equity securities of publicly traded
24 companies or other assets might entitle the State to

1 receive. This provision shall only apply to funds
2 designated pursuant to this section;

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

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

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

12 BALLOT TITLE

13 Legislative Referendum No. _____ State Question No. _____

14 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

15 This measure amends the Oklahoma Constitution. It amends
16 Section 15 of Article 10. The State of Oklahoma is usually
17 prohibited from investing public funds in private business.
18 This amendment would allow the Legislature to permit certain
19 public monies to be invested in stocks or similar assets. The
20 Legislature would be required to approve this type of investment
21 by a three-fifths (3/5) vote in each chamber. If the Governor
22 vetoed the bill to allow the investment, the veto could be
23 overridden. The veto override would require a two-thirds (2/3)
24 vote in each chamber. Public funds could be invested pursuant

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

11 SHALL THE PROPOSAL BE APPROVED?

12 FOR THE PROPOSAL - YES _____

13 AGAINST THE PROPOSAL - NO _____

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

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20 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/14/2017 - DO PASS,
21 As Coauthored.
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