

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

COMMITTEE AMENDMENT

\_\_\_\_\_

(Date)

Mr./Madame President:

I move to amend House Bill No. 1236, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Treat

Treat-TEK-FS-Req#2108  
4/19/2021 3:55 PM

(Floor Amendments Only) Date and Time Filed: \_\_\_\_\_

Untimely

Amendment Cycle Extended

Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

FLOOR SUBSTITUTE  
FOR 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, Roberts  
(Sean) and McBride of the  
House

and

Treat, Bullard, Hamilton,  
Dahm, Quinn, Stephens,  
Standridge, Pemberton,  
Jett, Burns, Rogers,  
Newhouse, Merrick, Haste,

FLOOR SUBSTITUTE

[ Attorney General - duties of Attorney General -  
State Reserved Powers Protection Unit - State  
Reserved Powers Protection Unit Fund - apportionment  
of revenue - codification - effective date -  
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. To appear for the state and prosecute and defend all actions  
and proceedings, civil or criminal, in the Supreme Court and Court  
of Criminal Appeals in which the state is interested as a party;

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

3. To initiate or appear in any action in which the interests  
of the state or the people of the state are at issue, or to appear  
at the request of the Governor, the Legislature, or either branch

1 thereof, and prosecute and defend in any court or before any  
2 commission, board or officers any cause or proceeding, civil or  
3 criminal, in which the state may be a party or interested; and when  
4 so appearing in any such cause or proceeding, the Attorney General  
5 may, if the Attorney General deems it advisable and to the best  
6 interest of the state, take and assume control of the prosecution or  
7 defense of the state's interest therein;

8 4. To consult with and advise district attorneys, when  
9 requested by them, in all matters pertaining to the duties of their  
10 offices, when the district attorneys shall furnish the Attorney  
11 General with a written opinion supported by citation of authorities  
12 upon the matter submitted;

13 5. To give an opinion in writing upon all questions of law  
14 submitted to the Attorney General by the Legislature or either  
15 branch thereof, or by any state officer, board, commission or  
16 department, provided, that the Attorney General shall not furnish  
17 opinions to any but district attorneys, the Legislature or either  
18 branch thereof, or any other state official, board, commission or  
19 department, and to them only upon matters in which they are  
20 officially interested;

21 6. At the request of the Governor, State Auditor and Inspector,  
22 State Treasurer, or either branch of the Legislature, to prosecute  
23 any official bond or any contract in which the state is interested,  
24 upon a breach thereof, and to prosecute or defend for the state all

1 actions, civil or criminal, relating to any matter connected with  
2 either of their Departments;

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

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

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

12 10. To institute actions to recover state monies illegally  
13 expended, to recover state property and to prevent the illegal use  
14 of any state property, upon the request of the Governor or the  
15 Legislature;

16 11. To pay into the State Treasury, immediately upon its  
17 receipt, all monies received by the Attorney General belonging to  
18 the state;

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

1 13. To keep and file copies of all opinions, contracts, forms  
2 and letters of the office, and to keep an index of all opinions,  
3 contracts and forms according to subject and section of the law  
4 construed or applied;

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

11 15. To keep a complete office file of all cases and  
12 investigations handled by the Attorney General on behalf of the  
13 state;

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

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

23 18. To respond to any request for an opinion of the Attorney  
24 General's office, submitted by a member of the Legislature,

1 regardless of subject matter, by written opinion determinative of  
2 the law regarding such subject matter;

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

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

13 21. To represent and protect the collective interests of all  
14 utility consumers of this state in rate-related proceedings before  
15 the Corporation Commission or in any other state or federal judicial  
16 or administrative proceeding;

17 22. To represent and protect the collective interests of  
18 insurance consumers of this state in rate-related proceedings before  
19 the Insurance Commissioner or in any other state or federal judicial  
20 or administrative proceeding; ~~and~~

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

1        24. To monitor and evaluate any action by the federal  
2 government including, but not limited to, executive orders by the  
3 President of the United States, rules or regulations promulgated by  
4 an agency of the federal government or acts of Congress, to  
5 determine if such actions are in violation of the Tenth Amendment to  
6 the Constitution of the United States.

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

12        C. In all appeals from the Corporation Commission to the  
13 Supreme Court of Oklahoma in which the state is a party, the  
14 Attorney General shall have the right to designate counsel of the  
15 Corporation Commission as the Attorney General's legally appointed  
16 representative in such appeals, and it shall be the duty of the  
17 Corporation Commission counsel to act when so designated and to  
18 consult and advise with the Attorney General regarding such appeals  
19 prior to taking action therein.

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

23        A. There is hereby created within the Office of the Attorney  
24 General a State Reserved Powers Protection Unit to monitor and

1 evaluate any action by the federal government including, but not  
2 limited to, executive orders by the President of the United States,  
3 rules or regulations promulgated by an agency of the federal  
4 government or acts of Congress, to determine if such actions are in  
5 violation of the Tenth Amendment to the Constitution of the United  
6 States. If review by the Unit of any such action by the federal  
7 government concludes that the action is an infringement on state  
8 authority under the Tenth Amendment, the Attorney General shall  
9 determine whether the state should seek an exemption from the  
10 application of the action or seek to have the action declared  
11 unconstitutional.

12 B. There is hereby created in the State Treasury a revolving  
13 fund for the Office of the Attorney General, to be designated the  
14 "State Reserved Powers Protection Unit Revolving Fund". The fund  
15 shall be a continuing fund, not subject to fiscal year limitations,  
16 and shall consist of any monies designated to the fund by law. All  
17 monies accruing to the credit of said fund are hereby appropriated  
18 and may be budgeted and expended by the Attorney General for the  
19 administration and implementation of the duties of the State  
20 Reserved Powers Protection Unit.

21 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2352, as  
22 last amended by Section 3, Chapter 15, O.S.L. 2020 (68 O.S. Supp.  
23 2020, Section 2352), is amended to read as follows:  
24

1 Section 2352. It is hereby declared to be the purpose of  
2 Section 2351 et seq. of this title to provide revenue for general  
3 governmental functions of state government; and, for that purpose  
4 and to that end, it is expressly declared that the revenue derived  
5 herefrom and penalties and interest thereon, subject to the  
6 apportionment requirements for the Rebuilding Oklahoma Access and  
7 Driver Safety Fund, the Oklahoma Tourism and Passenger Rail  
8 Revolving Fund, the Public Transit Revolving Fund, and the Education  
9 Reform Revolving Fund to be derived from income tax revenue that  
10 would otherwise be apportioned to the General Revenue Fund as  
11 provided by Section 1521 of Title 69 of the Oklahoma Statutes,  
12 subject to the apportionment requirements for the Oklahoma Tax  
13 Commission and Office of Management and Enterprise Services Joint  
14 Computer Enhancement Fund provided by Section 265 of this title, and  
15 subject to the apportionment requirements for the Oklahoma State  
16 Capitol Building Repair and Restoration Fund provided by Section 19  
17 of Title 73 of the Oklahoma Statutes, shall be distributed as  
18 follows:

19 1. For the fiscal year beginning July 1, 2002, the first Five  
20 Million Eight Hundred Thousand Dollars (\$5,800,000.00) of revenue  
21 derived pursuant to the provisions of subsections A, B and E of  
22 Section 2355 of this title shall be apportioned to the Education  
23 Reform Revolving Fund. The remainder of such revenue for the fiscal  
24

1 year beginning July 1, 2002, and all such revenue for each fiscal  
2 year thereafter shall be apportioned monthly as follows:

3 a. the following amounts shall be paid to the State  
4 Treasurer to be placed to the credit of the General  
5 Revenue Fund of the state for such fiscal year for the  
6 support of the state government to be paid out only  
7 pursuant to appropriation by the Legislature:

8 Fiscal Year	Amount
9 FY 2003 and FY 2004	87.12%
10 FY 2005	86.91%
11 FY 2006	86.66%
12 FY 2007	86.16%
13 FY 2008 through FY 2022	85.66%
14 FY 2023 through FY 2027	85.16%
15 FY 2028 and each fiscal year thereafter	85.66%,

16 b. the following amounts shall be paid to the State  
17 Treasurer to be placed to the credit of the Education  
18 Reform Revolving Fund of the State Department of  
19 Education:

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

22 (2) for FY 2021:

23 (a) for the month beginning July 1, 2020,  
24 through the month ending August 31, 2020,

1 eight and thirty-four one-hundredths percent  
2 (8.34%), and

3 (b) for the month beginning September 1, 2020,  
4 through the month ending June 30, 2021, nine  
5 and eighty-four one-hundredths percent  
6 (9.84%),

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

9 (4) for FY 2023 and each fiscal year thereafter,  
10 eight and thirty-four one-hundredths percent  
11 (8.34%) shall be paid to the State Treasurer to  
12 be placed to the credit of the Education Reform  
13 Revolving Fund,

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

17 Fiscal Year	Amount
18 FY 2003 and FY 2004	3.54%
19 FY 2005	3.75%
20 FY 2006	4.0%
21 FY 2007	4.5%
22 FY 2008 through FY 2020	5.0%
23 FY 2021:	

1	(1)	for the month beginning	
2		July 1, 2020, through	
3		the month ending August	
4		31, 2020	5.0%
5	(2)	for the month beginning	
6		September 1, 2020,	
7		through the month ending	
8		June 30, 2021	3.5%
9		FY 2022	3.75%
10		FY 2023 through FY 2027	5.5%
11		FY 2028 and each fiscal	
12		year thereafter	5.0%

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

16 2. Beginning July 1, 2003, for any period of time as certified  
17 by the Oklahoma Development Finance Authority and the Oklahoma  
18 Department of Commerce to be necessary for the repayment of  
19 obligations issued by the Oklahoma Development Finance Authority  
20 pursuant to Section 3654 of this title if the other sources of  
21 revenue paid to or apportioned to the Quality Jobs Program Incentive  
22 Leverage Fund are not adequate, including the proceeds from payment  
23 pursuant to the guaranty required by subsection M of Section 3654 of  
24 this title, an amount certified by the Oklahoma Development Finance

1 Authority to the Oklahoma Tax Commission shall be apportioned to the  
2 Quality Jobs Program Incentive Leverage Fund before any other  
3 apportionments are made as otherwise authorized by this paragraph.  
4 The Oklahoma Development Finance Authority shall certify to the  
5 Oklahoma Tax Commission the time as of which the revenue authorized  
6 for apportionment pursuant to this paragraph is no longer required.  
7 After the certification, the revenue derived from the income tax  
8 shall be apportioned in the manner otherwise provided by this  
9 section. Except as otherwise provided by this paragraph, for the  
10 fiscal year beginning July 1, 2002, the first Forty-one Million One  
11 Hundred Ninety Thousand Eight Hundred Dollars (\$41,190,800.00) of  
12 revenue derived pursuant to the provisions of subsections D and E of  
13 Section 2355 of this title shall be apportioned to the Education  
14 Reform Revolving Fund. Except as otherwise provided by this  
15 paragraph, for the fiscal year beginning July 1, 2021, through the  
16 fiscal year beginning July 1, 2025, the first Ten Million Dollars  
17 (\$10,000,000.00) of revenue derived pursuant to the provisions of  
18 subsection E of Section 2355 of this title shall be apportioned to  
19 the Attorney General's State Reserved Powers Protection Unit  
20 Revolving Fund created pursuant to Section 2 of this act. The  
21 remainder of such revenue for the fiscal year beginning July 1,  
22 2002, and all such revenue for each fiscal year thereafter, subject  
23 to the apportionment requirements for the Oklahoma Tax Commission  
24 and Office of Management and Enterprise Services Joint Computer

1 Enhancement Fund provided by Section 265 of this title, shall be  
2 apportioned monthly as follows:

3 a. the following amounts shall be paid to the State  
4 Treasurer to be placed to the credit of the General  
5 Revenue Fund of the state for such fiscal year for the  
6 support of the state government to be paid out only  
7 pursuant to appropriation by the Legislature:

8 Fiscal Year	Amount
9 FY 2003 and FY 2004	78.96%
10 FY 2005	78.75%
11 FY 2006	78.50%
12 FY 2007	78.0%

13 (1) (a) FY 2018 through FY 2022  
14 until the apportionment to  
15 the General Revenue Fund  
16 equals the moving five-  
17 year average amount for  
18 corporate income tax as  
19 prescribed by paragraph 3  
20 of this section 77.50%

21 (b) FY 2023 through FY 2027  
22 until the apportionment to  
23 the General Revenue Fund  
24 equals the moving five-

1 year average amount for  
2 corporate income tax as  
3 prescribed by paragraph 3  
4 of this section 77.00%

5 (c) FY 2028 and each fiscal  
6 year thereafter until the  
7 apportionment to the  
8 General Revenue Fund  
9 equals the moving five-  
10 year average amount for  
11 corporate income tax as  
12 prescribed by paragraph 3  
13 of this section 77.50%

14 (2) there shall be apportioned from the tax levy  
15 imposed on corporate income tax to the Revenue  
16 Stabilization Fund created by Section 34.102 of  
17 Title 62 of the Oklahoma Statutes, or to the  
18 Constitutional Reserve Fund, as provided by  
19 Section 34.102 of Title 62 of the Oklahoma  
20 Statutes, the amount of revenue, if any, which  
21 exceeds the moving five-year average amount as  
22 defined pursuant to paragraph 3 of this section,

23 b. the following amounts shall be paid to the State  
24 Treasurer to be placed to the credit of the Education

1 Reform Revolving Fund of the State Department of  
2 Education:

3 (1) for FY 2003 through FY 2020, sixteen and five-  
4 tenths percent (16.5%),

5 (2) for FY 2021:

6 (a) for the month beginning July 1, 2020,  
7 through the month ending August 31, 2020,  
8 sixteen and five-tenths percent (16.5%), and

9 (b) for the month beginning September 1, 2020,  
10 through the month ending June 30, 2021,  
11 eighteen percent (18%),

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

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

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

19 Fiscal Year	Amount
20 FY 2003 and FY 2004	3.54%
21 FY 2005	3.75%
22 FY 2006	4.0%
23 FY 2007	4.5%
24 FY 2008 through FY 2020	5.0%



1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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