

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE JOINT  
4 RESOLUTION 1021

By: Fugate

5  
6 AS INTRODUCED

7 A Joint Resolution directing the Secretary of State  
8 to refer to the people for their approval or  
9 rejection a proposed amendment to Section 23 of  
10 Article X of the Constitution of the State of  
11 Oklahoma; modifying provisions related to maximum  
12 balance of the Constitutional Reserve Fund; providing  
13 for sources of revenue to be included or excluded  
14 from computation; providing ballot title; and  
15 directing filing.

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19 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE  
20 1ST SESSION OF THE 59TH 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 23 of Article X of the  
24 Constitution of the State of Oklahoma to read as follows:

Section 23. The state shall never create or authorize the  
creation of any debt or obligation, or fund or pay any deficit,  
against the state, or any department, institution or agency thereof,  
regardless of its form or the source of money from which it is to be

1 paid, except as may be provided in this section and in Sections 24  
2 and 25 of Article X of the Constitution of the State of Oklahoma.

3 To ensure a balanced annual budget, pursuant to the limitations  
4 contained in the foregoing, procedures are herewith established as  
5 follows:

6 1. Not more than forty-five (45) days or less than thirty-five  
7 (35) days prior to the convening of each regular session of the  
8 Legislature, the State Board of Equalization shall certify the total  
9 amount of revenue which accrued during the last preceding fiscal  
10 year to the General Revenue Fund and to each Special Revenue Fund  
11 appropriated directly by the Legislature, and shall further certify  
12 amounts available for appropriation which shall be based on a  
13 determination, in accordance with the procedure hereinafter  
14 provided, of the revenues to be received by the state under the laws  
15 in effect at the time such determination is made, for the next  
16 ensuing fiscal year, showing separately the revenues to accrue to  
17 the credit of each such fund of the state appropriated directly by  
18 the Legislature.

19 Amounts certified as available for appropriation from each fund,  
20 as hereinbefore provided, shall be ninety-five percent (95%) of an  
21 itemized estimate made by the State Board of Equalization, which  
22 shall include all sources of revenue to each fund for the next  
23 ensuing fiscal year; provided, however, appropriated federal funds  
24 shall be certified for the full amount of the estimate. Said

1 estimate shall consider any increase or decline in revenues that  
2 would result from predictable changes in the economy.

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

11 2. Such certification shall be filed with the Governor, the  
12 President and President Pro Tempore of the Senate, and the Speaker  
13 of the House of Representatives. The Legislature shall not pass or  
14 enact any bill, act or measure making an appropriation of money for  
15 any purpose until such certification is made and filed, unless the  
16 State Board of Equalization has failed to file said certification at  
17 the time of convening of said Legislature. In such event, it shall  
18 be the duty of the Legislature to make such certification pursuant  
19 to the provisions of this section. All appropriations made in  
20 excess of such certification shall be null and void; provided,  
21 however, that the Legislature may at any regular session or special  
22 session, called for that purpose, enact laws to provide for  
23 additional revenues or a reduction in revenues, other than ad  
24 valorem taxes, or transferring the existing revenues or

1 unappropriated cash on hand from one fund to another, or making  
2 provisions for appropriating funds not previously appropriated  
3 directly by the Legislature. Whereupon, it shall be the duty of the  
4 State Board of Equalization to make a determination of the revenues  
5 that will accrue under such laws and ninety-five percent (95%) of  
6 the amount of any increase or decrease resulting, for any reason,  
7 from such changes in laws shall be added to or deducted from the  
8 amount previously certified available for appropriation from each  
9 respective fund, as the case may be. The State Board of  
10 Equalization shall file the amount of such adjusted certification,  
11 or additional certification for funds not previously appropriated  
12 directly by the Legislature, with the Governor, with the President  
13 and President Pro Tempore of the Senate, and the Speaker of the  
14 House of Representatives, and such adjusted amount shall be the  
15 maximum amount which can be appropriated for all purposes from any  
16 such fund for the fiscal year being certified.

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

24

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

4 5. All such surplus funds or monies shall be placed in a  
5 Constitutional Reserve Fund by the State Treasurer until such time  
6 that the amount of said Fund equals fifteen percent (15%) of the  
7 ~~General Revenue Fund certification for the preceding fiscal year~~  
8 total state expenditures for the fiscal year ending on June 30  
9 immediately preceding the month of the succeeding fiscal year during  
10 which the surplus monies are deposited into the Constitutional  
11 Reserve Fund, such expenditures to be computed using expenditures  
12 from funds from which the Legislature appropriates money, inclusive  
13 of all federal funds, but exclusive of monies expended from  
14 revolving funds, exclusive of any expenditures from a fund from  
15 which public monies are derived from fees or other charges not  
16 consisting of tax revenues, and exclusive of the proceeds from any  
17 general obligation bond or other evidence of indebtedness issued by  
18 a state governmental entity and which is repaid in whole or in part  
19 using executive branch agency appropriations or appropriations to  
20 The Oklahoma State System of Higher Education. Appropriations made  
21 from said Fund shall be considered special appropriations.

22 6. a. Up to three-eighths (3/8) of the balance at the  
23 beginning of the current fiscal year in the  
24 Constitutional Reserve Fund may be appropriated for

1 the forthcoming fiscal year, when the certification by  
2 the State Board of Equalization for said forthcoming  
3 fiscal year General Revenue Fund is less than that of  
4 the current fiscal year certification. In no event  
5 shall the amount of monies appropriated from the  
6 Constitutional Reserve Fund be in excess of the  
7 difference between the two said certifications.

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

23 (a) such incentives have been recommended by an  
24 independent committee created by the

1 Legislature for such purposes as provided  
2 herein pursuant to criteria set out by law,  
3 (b) the incentive will result in a substantial  
4 benefit to this state, and  
5 (c) payment of the incentive would be in  
6 accordance with the provisions of this  
7 subparagraph and laws enacted to implement  
8 provisions of this subparagraph.

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

19 (a) are at greater risk of losing jobs because  
20 the plant is no longer competitive or  
21 leaving the state and thereby causing the  
22 loss of more employment in this state than  
23 other eligible recipients, and  
24

1 (b) provide the largest economic impact to the  
2 state.

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



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

1           (4) The Legislature is authorized to enact laws  
2           necessary to implement the provisions of this  
3           section.

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

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

1 the appropriation; or said one-quarter (1/4) could be appropriated  
2 upon a joint declaration of emergency conditions by the Speaker of  
3 the House of Representatives and the President Pro Tempore of the  
4 Senate, with a concurrence of a three-fourths (3/4) vote of the  
5 House of Representatives and Senate.

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

1 higher education within The Oklahoma State System of Higher  
2 Education from contracting with a president of such institution of  
3 higher education for periods extending more than one (1) year, but  
4 not to exceed three (3) years beyond the fiscal year in which the  
5 contract is signed.

6 10. The Legislature shall provide a method whereby  
7 appropriations shall be divided and set up on a monthly, quarterly  
8 or semiannual basis within each fiscal year to prevent obligations  
9 being incurred in excess of the revenue to be collected, and  
10 notwithstanding other provisions of this Constitution, the  
11 Legislature shall provide that all appropriations shall be reduced  
12 to bring them within revenues actually collected, but all such  
13 reductions shall apply to each department, institution, board,  
14 commission or special appropriation made by the State Legislature in  
15 the ratio that its total appropriation for that fiscal year bears to  
16 the total of all appropriations from that fund for that fiscal year;  
17 provided, however, that the Governor shall have discretion to issue  
18 deficiency certificates to the State Treasurer for the benefit of  
19 any department, institution or agency of the state, if the amount of  
20 such deficiency certificates be within the limit of the current  
21 appropriation for that department, institution or agency, whereupon  
22 the State Treasurer shall issue warrants to the extent of such  
23 certificates for the payment of such claims as may be authorized by  
24 the Governor, and such warrants shall become a part of the public

1 debt and shall be paid out of any money appropriated by the  
2 Legislature and made lawfully available therefor; provided further,  
3 that in no event shall said deficiency certificates exceed in the  
4 aggregate the sum of Five Hundred Thousand Dollars (\$500,000.00) in  
5 any fiscal year.

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

9 BALLOT TITLE

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

11 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

12 This measure amends the Oklahoma Constitution. It amends  
13 Section 23 of Article 10. The Constitutional Reserve Fund is  
14 also known as the Rainy Day Fund. The Fund has a maximum  
15 allowed balance. This measure changes the way the maximum  
16 balance amount would be computed. Instead of using revenue  
17 estimates provided by the State Board of Equalization for the  
18 annual appropriations process, the maximum balance allowed for  
19 the Rainy Day Fund would be based on a percentage of total state  
20 expenditures. Total expenditures would include all appropriated  
21 monies and federal funds. Total expenditures would exclude  
22 money from revolving funds which are used by state agencies.  
23 Total expenditures would exclude fees or similar charges that  
24

1 were not derived from tax revenue. Total expenditures would  
2 exclude money obtained by issuing state government bonds.

3 SHALL THE PROPOSAL BE APPROVED?

4 FOR THE PROPOSAL - YES \_\_\_\_\_

5 AGAINST THE PROPOSAL - NO \_\_\_\_\_

6 SECTION 3. The Chief Clerk of the House of Representatives,  
7 immediately after the passage of this resolution, shall prepare and  
8 file one copy thereof, including the Ballot Title set forth in  
9 SECTION 2 hereof, with the Secretary of State and one copy with the  
10 Attorney General.

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12 59-1-5455 MAH 12/28/22  
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