

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE JOINT
4 RESOLUTION 16

By: Bergstrom

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.

16 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
17 1ST SESSION OF THE 58TH OKLAHOMA LEGISLATURE:

18 SECTION 1. The Secretary of State shall refer to the people for
19 their approval or rejection, as and in the manner provided by law,
20 the following proposed amendment to Section 23 of Article X of the
21 Constitution of the State of Oklahoma to read as follows:

22 Section 23. The state shall never create or authorize the
23 creation of any debt or obligation, or fund or pay any deficit,
24 against the state, or any department, institution or agency thereof,
25 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.

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 revolving
14 funds, exclusive of any expenditures from a fund from which public
15 monies are derived from fees or other charges not consisting of tax
16 revenues and exclusive of the proceeds from any general obligation
17 bond or other evidence of indebtedness issued by a state
18 governmental entity and which is repaid in whole or in part using
19 executive branch agency appropriations or appropriations to The
20 Oklahoma State System of Higher Education. Appropriations made from
21 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
25

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

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 two-
24 thirds (2/3) vote of the House of Representatives and Senate for the

1 appropriation; or said one-quarter (1/4) could be appropriated upon
2 a joint declaration of emergency conditions by the Speaker of the
3 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

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 President Pro Tempore of the Senate, immediately
7 after the passage of this resolution, shall prepare and file one
8 copy thereof, including the Ballot Title set forth in SECTION 2
9 hereof, with the Secretary of State and one copy with the Attorney
10 General.

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