

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE JOINT  
4 RESOLUTION 42

By: Montgomery

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6  
7 AS INTRODUCED

8 A Joint Resolution directing the Secretary of State  
9 to refer to the people for their approval or  
10 rejection a proposed amendment to Section 23 of  
11 Article X of the Oklahoma Constitution; modifying  
12 limitation on expenditure of certain amounts from  
13 Constitutional Reserve Fund; increasing Fund  
14 threshold balance required for certain expenditure;  
15 increasing amount which may be spent from Fund;  
16 adding specified purpose for expenditure; eliminating  
17 required prioritization of specified recommendations;  
18 limiting applicability of certain restrictions to  
19 specified establishment types; conforming language;  
20 providing ballot title; and directing filing.

21  
22 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF  
23 REPRESENTATIVES OF THE 2ND SESSION OF THE 57TH OKLAHOMA LEGISLATURE:

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

28 SECTION 23. The state shall never create or authorize the  
29 creation of any debt or obligation, or fund or pay any deficit,  
30 against the state, or any department, institution or agency thereof,

1 regardless of its form or the source of money from which it is to be  
2 paid, except as may be provided in this section and in Sections 24  
3 and 25 of Article X of the Constitution of the State of Oklahoma.

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

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

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

1 shall be certified for the full amount of the estimate. Said  
2 estimate shall consider any increase or decline in revenues that  
3 would result from predictable changes in the economy.

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

12 2. Such certification shall be filed with the Governor, the  
13 President and President Pro Tempore of the Senate, and the Speaker  
14 of the House of Representatives. The Legislature shall not pass or  
15 enact any bill, act or measure making an appropriation of money for  
16 any purpose until such certification is made and filed, unless the  
17 State Board of Equalization has failed to file said certification at  
18 the time of convening of said Legislature. In such event, it shall  
19 be the duty of the Legislature to make such certification pursuant  
20 to the provisions of this section. All appropriations made in  
21 excess of such certification shall be null and void; provided,  
22 however, that the Legislature may at any regular session or special  
23 session, called for that purpose, enact laws to provide for  
24 additional revenues or a reduction in revenues, other than ad  
25

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

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

10 6. a. Up to three-eighths (3/8) of the balance at the  
11 beginning of the current fiscal year in the  
12 Constitutional Reserve Fund may be appropriated for  
13 the forthcoming fiscal year, when the certification by  
14 the State Board of Equalization for said forthcoming  
15 fiscal year General Revenue Fund is less than that of  
16 the current fiscal year certification. In no event  
17 shall the amount of monies appropriated from the  
18 Constitutional Reserve Fund be in excess of the  
19 difference between the two said certifications.

20 b. (1) In years when ~~the provisions of subparagraph a of~~  
21 ~~this paragraph are not applicable and~~ the balance  
22 at the beginning of the current fiscal year in  
23 the Constitutional Reserve Fund is equal to or  
24 greater than ~~Eighty Million Dollars~~  
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1                   ~~(\$80,000,000.00)~~ One Hundred Million Dollars  
2                   (\$100,000,000.00), up to ~~Ten Million Dollars~~  
3                   ~~(\$10,000,000.00)~~ Twenty Million Dollars  
4                   (\$20,000,000.00) may be expended for the purpose  
5 of providing incentives to support retention of  
6 at-risk manufacturing establishments or small  
7 businesses affected by a catastrophic health  
8 emergency declared by the Governor pursuant to  
9 executive order in this state in order to retain  
10 employment for residents of this state. Such  
11 incentives shall be paid by the Oklahoma Tax  
12 Commission upon a unanimous finding by the  
13 Governor, the Speaker of the House of  
14 Representatives and the President Pro Tempore of  
15 the Senate that:

- 16                   (a) such incentives have been recommended by an  
17                   independent committee created by the  
18                   Legislature for such purposes as provided  
19                   herein pursuant to criteria set out by law,  
20                   (b) the incentive will result in a substantial  
21                   benefit to this state, and  
22                   (c) payment of the incentive would be in  
23                   accordance with the provisions of this  
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1                   subparagraph and laws enacted to implement  
2                   provisions of this subparagraph.

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

13          ~~(a) are at greater risk of losing jobs because~~  
14                  ~~the plant is no longer competitive or~~  
15                  ~~leaving the state and thereby causing the~~  
16                  ~~loss of more employment in this state than~~  
17                  ~~other eligible recipients, and~~

18          ~~(b) provide the largest economic impact to the~~  
19                  ~~state.~~

20          (3) For any fiscal year, the incentives awarded to an  
21          at-risk manufacturing establishment shall not  
22          exceed ten percent (10%) of the amount invested  
23          by an establishment in capital assets to be  
24          utilized in this state. Incentives may only be

1 paid pursuant to an investment contract between  
2 the establishment and a state agency designated  
3 by law, which provides for a specified amount of  
4 investment in a capital asset to be made by the  
5 establishment over a period of not to exceed five  
6 (5) years. No incentive payment shall be made  
7 prior to the actual investment by the  
8 establishment. The contract shall make payment  
9 of any incentives in any fiscal year contingent  
10 on the balance at the beginning of such fiscal  
11 year in the Constitutional Reserve Fund being  
12 equal to or greater than ~~Eighty Million Dollars~~  
13 ~~(\$80,000,000.00)~~ One Hundred Million Dollars  
14 (\$100,000,000.00) ~~and on the certification by the~~  
15 ~~State Board of Equalization for such fiscal year~~  
16 ~~of the amount available for appropriation from~~  
17 ~~the General Revenue Fund being greater than the~~  
18 ~~amount certified for the preceding fiscal year.~~  
19 Investment contracts authorized by this  
20 subparagraph shall provide that if any incentive  
21 payment is payable during a fiscal year in which  
22 ~~either~~ the balance at the beginning of the fiscal  
23 year in the Constitutional Reserve Fund is not  
24 equal to or greater than ~~Eighty Million Dollars~~

1                   ~~(\$80,000,000.00)~~ One Hundred Million Dollars  
2                   (\$100,000,000.00) ~~or when the certification by~~  
3                   ~~the State Board of Equalization for such fiscal~~  
4                   ~~year General Revenue Fund is less than that of~~  
5                   ~~the immediately prior fiscal year certification,~~  
6                   then any incentive payments which would have been  
7                   payable during such fiscal year shall be payable  
8                   in the first fiscal year when funds are available  
9                   pursuant to the provisions of division (1) of  
10                  this subparagraph. In the event that the amount  
11                  of incentives payable under investment contracts  
12                  authorized by this subparagraph is greater than  
13                  the amounts available for payment under this  
14                  subparagraph in a fiscal year, then no new  
15                  contracts may be authorized during such year and  
16                  incentive payments which are made shall be  
17                  reduced pro rata as necessary to apply all  
18                  available funds to incentive payments which are  
19                  payable in such year.

20                  (4) The Legislature is authorized to enact laws  
21                  necessary to implement the provisions of this  
22                  section.

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

15 8. Up to one-quarter (1/4) of the balance at the beginning of  
16 the current fiscal year in the Constitutional Reserve Fund may be  
17 appropriated, upon a declaration by the Governor that emergency  
18 conditions exist, with concurrence of the Legislature by a  
19 two-thirds (2/3) vote of the House of Representatives and Senate for  
20 the appropriation; or said one-quarter (1/4) could be appropriated  
21 upon a joint declaration of emergency conditions by the Speaker of  
22 the House of Representatives and the President Pro Tempore of the  
23 Senate, with a concurrence of a three-fourths (3/4) vote of the  
24 House of Representatives and Senate.

1           9. That portion of every appropriation, at the end of each  
2 fiscal year, in excess of actual revenues collected and allocated  
3 thereto, as hereinafter provided, shall be null and void. Revenues  
4 deposited in the State Treasury to the credit of the General Revenue  
5 Fund or of any special fund (which derives its revenue in whole or  
6 in part from state taxes or fees) shall, except as to principal and  
7 interest on the public debt, be allocated monthly to each  
8 department, institution, board, commission or special appropriation  
9 on a percentage basis, in that ratio that the total appropriation  
10 for such department, institution, board, commission or special  
11 appropriation from each fund for that fiscal year bears to the total  
12 of all appropriations from each fund for that fiscal year, and no  
13 warrant shall be issued in excess of said allocation. Any  
14 department, institution or agency of the state operating on revenues  
15 derived from any law or laws which allocate the revenues thereof to  
16 such department, institution or agency shall not incur obligations  
17 in excess of the unencumbered balance of cash on hand. Nothing in  
18 this section shall prevent, under such conditions and limitations as  
19 shall be prescribed by law, the governing board of an institution of  
20 higher education within The Oklahoma State System of Higher  
21 Education from contracting with a president of such institution of  
22 higher education for periods extending more than one (1) year, but  
23 not to exceed three (3) years beyond the fiscal year in which the  
24 contract is signed.

1           10. The Legislature shall provide a method whereby  
2 appropriations shall be divided and set up on a monthly, quarterly  
3 or semiannual basis within each fiscal year to prevent obligations  
4 being incurred in excess of the revenue to be collected, and  
5 notwithstanding other provisions of this Constitution, the  
6 Legislature shall provide that all appropriations shall be reduced  
7 to bring them within revenues actually collected, but all such  
8 reductions shall apply to each department, institution, board,  
9 commission or special appropriation made by the State Legislature in  
10 the ratio that its total appropriation for that fiscal year bears to  
11 the total of all appropriations from that fund for that fiscal year;  
12 provided, however, that the Governor shall have discretion to issue  
13 deficiency certificates to the State Treasurer for the benefit of  
14 any department, institution or agency of the state, if the amount of  
15 such deficiency certificates be within the limit of the current  
16 appropriation for that department, institution or agency, whereupon  
17 the State Treasurer shall issue warrants to the extent of such  
18 certificates for the payment of such claims as may be authorized by  
19 the Governor, and such warrants shall become a part of the public  
20 debt and shall be paid out of any money appropriated by the  
21 Legislature and made lawfully available therefor; provided further,  
22 that in no event shall said deficiency certificates exceed in the  
23 aggregate the sum of Five Hundred Thousand Dollars (\$500,000.00) in  
24 any fiscal year.

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

4 BALLOT TITLE

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

6 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

7 This measure amends Section 23 of Article 10 of the Oklahoma  
8 Constitution. It removes a limit on one condition for  
9 expenditures from the Constitutional Reserve Fund. It increases  
10 the balance in the Fund required to provide certain assistance  
11 and the amount which may be spent. It allows the Fund to be  
12 used to help small businesses affected by a catastrophic health  
13 emergency. The Legislature could define situations which apply  
14 for this purpose. It modifies the basis for certain  
15 recommendations for spending funds. It makes certain  
16 restrictions for spending funds apply to specific types of  
17 businesses.

18 SHALL THE PROPOSAL BE APPROVED?

19 FOR THE PROPOSAL - YES \_\_\_\_\_

20 AGAINST THE PROPOSAL - NO \_\_\_\_\_

21 SECTION 3. The President Pro Tempore of the Senate shall,  
22 immediately after the passage of this resolution, prepare and file  
23 one copy thereof, including the Ballot Title set forth in SECTION 2

1 hereof, with the Secretary of State and one copy with the Attorney  
2 General.

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