

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE JOINT
4 RESOLUTION 44

By: Holt

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 Oklahoma Constitution; modifying
11 limit on amounts deposited to Constitutional Reserve
12 Fund; providing ballot title; and directing filing.

12 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
13 2ND SESSION OF THE 55TH OKLAHOMA LEGISLATURE:

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

18 Section 23. The state shall never create or authorize the
19 creation of any debt or obligation, or fund or pay any deficit,
20 against the state, or any department, institution or agency thereof,
21 regardless of its form or the source of money from which it is to be
22 paid, except as may be provided in this section and in Sections 24
23 and 25 of Article X of the Constitution of the State of Oklahoma.

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

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

17 Amounts certified as available for appropriation from each fund,
18 as hereinbefore provided, shall be ninety-five percent (95%) of an
19 itemized estimate made by the State Board of Equalization, which
20 shall include all sources of revenue to each fund for the next
21 ensuing fiscal year; provided, however, appropriated federal funds
22 shall be certified for the full amount of the estimate. Said
23 estimate shall consider any increase or decline in revenues that
24 would result from predictable changes in the economy.

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

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

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

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

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

1 5. All such surplus funds or monies shall be placed in a
2 Constitutional Reserve Fund by the State Treasurer until such time
3 that the amount of said Fund equals fifteen percent (15%) of the
4 ~~General Revenue Fund certification~~ amount of the total state budget
5 for the preceding fiscal year. The State Board of Equalization
6 shall certify the amount of the total state budget for such fiscal
7 year at the meeting required in paragraph 1 of this section.
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

1 (\$80,000,000.00), up to Ten Million Dollars
2 (\$10,000,000.00) may be expended for the purpose
3 of providing incentives to support retention of
4 at-risk manufacturing establishments in this
5 state in order to retain employment for residents
6 of this state. Such incentives shall be paid by
7 the Oklahoma Tax Commission upon a unanimous
8 finding by the Governor, the Speaker of the House
9 of Representatives and the President Pro Tempore
10 of the Senate that:

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

- 21 (2) The independent committee will be composed of not
22 less than seven (7) people appointed or otherwise
23 determined pursuant to laws enacted by the
24 Legislature providing for membership on the

1 committee. The committee shall make
2 recommendations to the Governor, the Speaker of
3 the House of Representatives and the President
4 Pro Tempore of the Senate for the awarding of
5 incentives. Such recommendations shall give
6 priority to establishments which:

7 (a) are at greater risk of losing jobs because
8 the plant is no longer competitive or
9 leaving the state and thereby causing the
10 loss of more employment in this state than
11 other eligible recipients, and

12 (b) provide the largest economic impact to the
13 state.

14 (3) For any fiscal year, the incentives shall not
15 exceed ten percent (10%) of the amount invested
16 by an establishment in capital assets to be
17 utilized in this state. Incentives may only be
18 paid pursuant to an investment contract between
19 the establishment and a state agency designated
20 by law, which provides for a specified amount of
21 investment in a capital asset to be made by the
22 establishment over a period of not to exceed five
23 (5) years. No incentive payment shall be made
24 prior to the actual investment by the

1 establishment. The contract shall make payment
2 of any incentives in any fiscal year contingent
3 on the balance at the beginning of such fiscal
4 year in the Constitutional Reserve Fund being
5 equal to or greater than Eighty Million Dollars
6 (\$80,000,000.00) and on the certification by the
7 State Board of Equalization for such fiscal year
8 of the amount available for appropriation from
9 the General Revenue Fund being greater than the
10 amount certified for the preceding fiscal year.
11 Investment contracts authorized by this
12 subparagraph shall provide that if any incentive
13 payment is payable during a fiscal year in which
14 either the balance at the beginning of the fiscal
15 year in the Constitutional Reserve Fund is not
16 equal to or greater than Eighty Million Dollars
17 (\$80,000,000.00) or when the certification by the
18 State Board of Equalization for such fiscal year
19 General Revenue Fund is less than that of the
20 immediately prior fiscal year certification, then
21 any incentive payments which would have been
22 payable during such fiscal year shall be payable
23 in the first fiscal year when funds are available
24 pursuant to the provisions of division (1) of

1 this subparagraph. In the event that the amount
2 of incentives payable under investment contracts
3 authorized by this subparagraph is greater than
4 the amounts available for payment under this
5 subparagraph in a fiscal year, then no new
6 contracts may be authorized during such year and
7 incentive payments which are made shall be
8 reduced pro rata as necessary to apply all
9 available funds to incentive payments which are
10 payable in such year.

11 (4) The Legislature is authorized to enact laws
12 necessary to implement the provisions of this
13 section.

14 7. Up to three-eighths (3/8) of the balance at the beginning of
15 the current fiscal year in the Constitutional Reserve Fund may be
16 appropriated for the current fiscal year if the State Board of
17 Equalization determines that a revenue failure has occurred with
18 respect to the General Revenue Fund of the State Treasury. In no
19 event shall the amount of monies appropriated from the
20 Constitutional Reserve Fund pursuant to this paragraph be in excess
21 of the amount of the projected revenue failure in the General
22 Revenue Fund, which total amount shall be computed by the State
23 Board of Equalization, for the entire fiscal year. Monies
24 appropriated to any state governmental entity from the

1 Constitutional Reserve Fund pursuant to this paragraph may only be
2 made in order to ensure that the monies actually received by the
3 entity for the then current fiscal year are equal to or less than,
4 but not in excess of, the total appropriation amount for such entity
5 in effect at the beginning of the then current fiscal year.

6 8. Up to one-quarter (1/4) of the balance at the beginning of
7 the current fiscal year in the Constitutional Reserve Fund may be
8 appropriated, upon a declaration by the Governor that emergency
9 conditions exist, with concurrence of the Legislature by a two-
10 thirds (2/3) vote of the House of Representatives and Senate for the
11 appropriation; or said one-quarter (1/4) could be appropriated upon
12 a joint declaration of emergency conditions by the Speaker of the
13 House of Representatives and the President Pro Tempore of the
14 Senate, with a concurrence of a three-fourths (3/4) vote of the
15 House of Representatives and Senate.

16 9. That portion of every appropriation, at the end of each
17 fiscal year, in excess of actual revenues collected and allocated
18 thereto, as hereinafter provided, shall be null and void. Revenues
19 deposited in the State Treasury to the credit of the General Revenue
20 Fund or of any special fund (which derives its revenue in whole or
21 in part from state taxes or fees) shall, except as to principal and
22 interest on the public debt, be allocated monthly to each
23 department, institution, board, commission or special appropriation
24 on a percentage basis, in that ratio that the total appropriation

1 for such department, institution, board, commission or special
2 appropriation from each fund for that fiscal year bears to the total
3 of all appropriations from each fund for that fiscal year, and no
4 warrant shall be issued in excess of said allocation. Any
5 department, institution or agency of the state operating on revenues
6 derived from any law or laws which allocate the revenues thereof to
7 such department, institution or agency shall not incur obligations
8 in excess of the unencumbered balance of cash on hand. Nothing in
9 this section shall prevent, under such conditions and limitations as
10 shall be prescribed by law, the governing board of an institution of
11 higher education within The Oklahoma State System of Higher
12 Education from contracting with a president of such institution of
13 higher education for periods extending more than one (1) year, but
14 not to exceed three (3) years beyond the fiscal year in which the
15 contract is signed.

16 10. The Legislature shall provide a method whereby
17 appropriations shall be divided and set up on a monthly, quarterly
18 or semiannual basis within each fiscal year to prevent obligations
19 being incurred in excess of the revenue to be collected, and
20 notwithstanding other provisions of this Constitution, the
21 Legislature shall provide that all appropriations shall be reduced
22 to bring them within revenues actually collected, but all such
23 reductions shall apply to each department, institution, board,
24 commission or special appropriation made by the State Legislature in

1 the ratio that its total appropriation for that fiscal year bears to
2 the total of all appropriations from that fund for that fiscal year;
3 provided, however, that the Governor shall have discretion to issue
4 deficiency certificates to the State Treasurer for the benefit of
5 any department, institution or agency of the state, if the amount of
6 such deficiency certificates be within the limit of the current
7 appropriation for that department, institution or agency, whereupon
8 the State Treasurer shall issue warrants to the extent of such
9 certificates for the payment of such claims as may be authorized by
10 the Governor, and such warrants shall become a part of the public
11 debt and shall be paid out of any money appropriated by the
12 Legislature and made lawfully available therefor; provided further,
13 that in no event shall said deficiency certificates exceed in the
14 aggregate the sum of Five Hundred Thousand Dollars (\$500,000.00) in
15 any fiscal year.

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

19 BALLOT TITLE

20 Legislative Referendum No. _____ State Question No. _____

21 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

22 This measure would amend Section 23 of Article 10 of the
23 Oklahoma Constitution. Under current law, surplus funds or
24 monies are defined as amounts accruing to the General Revenue

1 Fund over and above the estimate made for each fiscal year by
2 the State Board of Equalization. Surplus funds or monies are
3 placed in the Constitutional Reserve Fund until the amount of
4 the Fund equals 15% of the amount certified by the Board for the
5 General Revenue Fund for the preceding fiscal year. This
6 measure would change this limit to 15% of the amount of the
7 total state budget for the preceding fiscal year. The amount of
8 the budget would be certified by the Board each year.

9 SHALL THE PROPOSAL BE APPROVED?

10 FOR THE PROPOSAL - YES _____

11 AGAINST THE PROPOSAL - NO _____

12 SECTION 3. The President Pro Tempore of the Senate shall,
13 immediately after the passage of this resolution, prepare and file
14 one copy thereof, including the Ballot Title set forth in SECTION 2
15 hereof, with the Secretary of State and one copy with the Attorney
16 General.

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