

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE JOINT
7 RESOLUTION NO. 44

By: Holt and Brecheen of the
Senate

and

Montgomery of the House

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11 COMMITTEE SUBSTITUTE

12 A Joint Resolution directing the Secretary of State
13 to refer to the people for their approval or
14 rejection a proposed amendment to Section 23 of
15 Article X of the Oklahoma Constitution; modifying
16 limit on amounts deposited to Constitutional Reserve
17 Fund; providing ballot title; and directing filing.

18 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
19 2ND SESSION OF THE 55TH OKLAHOMA LEGISLATURE:

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

24 Section 23. The state shall never create or authorize the
creation of any debt or obligation, or fund or pay any deficit,

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

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

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

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

1 ensuing fiscal year; provided, however, appropriated federal funds
2 shall be certified for the full amount of the estimate. Said
3 estimate shall consider any increase or decline in revenues that
4 would result from predictable changes in the economy.

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

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

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

19 3. The State Board of Equalization shall meet within five (5)
20 days after the monthly apportionment in February of each year, and
21 at that time may adjust the certification, based upon the most
22 current information available, and determine the amount of funds
23 available for appropriation for that legislative session. At said
24

1 meeting the Board shall determine the limit on the growth of
2 appropriations as provided for in this section.

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

6 5. All such surplus funds or monies shall be placed in a
7 Constitutional Reserve Fund by the State Treasurer until such time
8 that the amount of said Fund equals fifteen percent (15%) of the
9 ~~General Revenue Fund certification~~ amount of the total state budget,
10 excluding revenue from federal sources, for the preceding fiscal
11 year. The State Board of Equalization shall certify the amount of
12 the total state budget for such fiscal year at the meeting required
13 in paragraph 1 of this section. Appropriations made from said Fund
14 shall be considered special appropriations.

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

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

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 shall not
21 exceed ten percent (10%) of the amount invested
22 by an establishment in capital assets to be
23 utilized in this state. Incentives may only be
24 paid pursuant to an investment contract between

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

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

17 (4) The Legislature is authorized to enact laws
18 necessary to implement the provisions of this
19 section.

20 7. Up to three-eighths (3/8) of the balance at the beginning of
21 the current fiscal year in the Constitutional Reserve Fund may be
22 appropriated for the current fiscal year if the State Board of
23 Equalization determines that a revenue failure has occurred with
24 respect to the General Revenue Fund of the State Treasury. In no

1 event shall the amount of monies appropriated from the
2 Constitutional Reserve Fund pursuant to this paragraph be in excess
3 of the amount of the projected revenue failure in the General
4 Revenue Fund, which total amount shall be computed by the State
5 Board of Equalization, for the entire fiscal year. Monies
6 appropriated to any state governmental entity from the
7 Constitutional Reserve Fund pursuant to this paragraph may only be
8 made in order to ensure that the monies actually received by the
9 entity for the then current fiscal year are equal to or less than,
10 but not in excess of, the total appropriation amount for such entity
11 in effect at the beginning of the then current fiscal year.

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

22 9. That portion of every appropriation, at the end of each
23 fiscal year, in excess of actual revenues collected and allocated
24 thereto, as hereinafter provided, shall be null and void. Revenues

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

22 10. The Legislature shall provide a method whereby
23 appropriations shall be divided and set up on a monthly, quarterly
24 or semiannual basis within each fiscal year to prevent obligations

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

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

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure would amend Section 23 of Article 10 of the Oklahoma Constitution. Under current law, surplus funds or monies are defined as amounts accruing to the General Revenue Fund over and above the estimate made for each fiscal year by the State Board of Equalization. Surplus funds or monies are placed in the Constitutional Reserve Fund until the amount of the Fund equals 15% of the amount certified by the Board for the General Revenue Fund for the preceding fiscal year. This measure would change this limit to 15% of the amount of the total state budget for the preceding fiscal year. The amount of the budget would be certified by the Board each year.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

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

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/07/2016 - DO PASS, As Amended.