

1 ENGROSSED SENATE
JOINT
2 RESOLUTION NO. 34

By: Jech of the Senate

3 and

4 Newton of the House

5
6 [proposed amendment - maximum amount deposited into
7 Constitutional Reserve Fund - ballot title - filing]
8

9 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
10 2ND SESSION OF THE 58TH OKLAHOMA LEGISLATURE:

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

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

21 To ensure a balanced annual budget, pursuant to the limitations
22 contained in the foregoing, procedures are herewith established as
23 follows:
24

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

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

22 Legislative appropriations for any fiscal year, except for
23 special appropriations provided for in paragraph 6, 7 or 8 shall be
24 limited to a sum not to exceed the total amount appropriated from

1 all funds in the preceding fiscal year, plus twelve percent (12%),
2 adjusted for inflation for the previous calendar year. Said limit
3 shall be adjusted for funds not previously appropriated. The limit
4 on the growth of appropriations shall be certified to by the State
5 Board of Equalization.

6 2. Such certification shall be filed with the Governor, the
7 President and President Pro Tempore of the Senate, and the Speaker
8 of the House of Representatives. The Legislature shall not pass or
9 enact any bill, act or measure making an appropriation of money for
10 any purpose until such certification is made and filed, unless the
11 State Board of Equalization has failed to file said certification at
12 the time of convening of said Legislature. In such event, it shall
13 be the duty of the Legislature to make such certification pursuant
14 to the provisions of this section. All appropriations made in
15 excess of such certification shall be null and void; provided,
16 however, that the Legislature may at any regular session or special
17 session, called for that purpose, enact laws to provide for
18 additional revenues or a reduction in revenues, other than ad
19 valorem taxes, or transferring the existing revenues or
20 unappropriated cash on hand from one fund to another, or making
21 provisions for appropriating funds not previously appropriated
22 directly by the Legislature. Whereupon, it shall be the duty of the
23 State Board of Equalization to make a determination of the revenues
24 that will accrue under such laws and ninety-five percent (95%) of

1 the amount of any increase or decrease resulting, for any reason,
2 from such changes in laws shall be added to or deducted from the
3 amount previously certified available for appropriation from each
4 respective fund, as the case may be. The State Board of
5 Equalization shall file the amount of such adjusted certification,
6 or additional certification for funds not previously appropriated
7 directly by the Legislature, with the Governor, with the President
8 and President Pro Tempore of the Senate, and the Speaker of the
9 House of Representatives, and such adjusted amount shall be the
10 maximum amount which can be appropriated for all purposes from any
11 such fund for the fiscal year being certified.

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

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

22 5. All such surplus funds or monies shall be placed in a
23 Constitutional Reserve Fund by the State Treasurer until such time
24 that the amount of said Fund equals ~~fifteen percent (15%)~~ twenty-

1 five percent (25%) of the General Revenue Fund certification for the
2 preceding fiscal year. Appropriations made from said Fund shall be
3 considered special appropriations.

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

14 b. (1) In years when the provisions of subparagraph a of
15 this paragraph are not applicable and the balance
16 at the beginning of the current fiscal year in
17 the Constitutional Reserve Fund is equal to or
18 greater than Eighty Million Dollars
19 (\$80,000,000.00), up to Ten Million Dollars
20 (\$10,000,000.00) may be expended for the purpose
21 of providing incentives to support retention of
22 at-risk manufacturing establishments in this
23 state in order to retain employment for residents
24 of this state. Such incentives shall be paid by

1 the Oklahoma Tax Commission upon a unanimous
2 finding by the Governor, the Speaker of the House
3 of Representatives and the President Pro Tempore
4 of the Senate that:

5 (a) such incentives have been recommended by an
6 independent committee created by the
7 Legislature for such purposes as provided
8 herein pursuant to criteria set out by law,

9 (b) the incentive will result in a substantial
10 benefit to this state, and

11 (c) payment of the incentive would be in
12 accordance with the provisions of this
13 subparagraph and laws enacted to implement
14 provisions of this subparagraph.

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

1 (a) are at greater risk of losing jobs because
2 the plant is no longer competitive or
3 leaving the state and thereby causing the
4 loss of more employment in this state than
5 other eligible recipients, and

6 (b) provide the largest economic impact to the
7 state.

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

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

1 incentive payments which are made shall be
2 reduced pro rata as necessary to apply all
3 available funds to incentive payments which are
4 payable in such year.

5 (4) The Legislature is authorized to enact laws
6 necessary to implement the provisions of this
7 section.

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

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

11 9. That portion of every appropriation, at the end of each
12 fiscal year, in excess of actual revenues collected and allocated
13 thereto, as hereinafter provided, shall be null and void. Revenues
14 deposited in the State Treasury to the credit of the General Revenue
15 Fund or of any special fund (which derives its revenue in whole or
16 in part from state taxes or fees) shall, except as to principal and
17 interest on the public debt, be allocated monthly to each
18 department, institution, board, commission or special appropriation
19 on a percentage basis, in that ratio that the total appropriation
20 for such department, institution, board, commission or special
21 appropriation from each fund for that fiscal year bears to the total
22 of all appropriations from each fund for that fiscal year, and no
23 warrant shall be issued in excess of said allocation. Any
24 department, institution or agency of the state operating on revenues

1 derived from any law or laws which allocate the revenues thereof to
2 such department, institution or agency shall not incur obligations
3 in excess of the unencumbered balance of cash on hand. Nothing in
4 this section shall prevent, under such conditions and limitations as
5 shall be prescribed by law, the governing board of an institution of
6 higher education within The Oklahoma State System of Higher
7 Education from contracting with a president of such institution of
8 higher education for periods extending more than one (1) year, but
9 not to exceed three (3) years beyond the fiscal year in which the
10 contract is signed.

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

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

11 SECTION 2. The provisions of Section 1 of this resolution shall
12 not become effective if Enrolled Senate Joint Resolution 35 of the
13 2nd Session of the 58th Legislature is not approved by the people of
14 this state.

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

18 BALLOT TITLE
19 Legislative Referendum No. _____ State Question No. _____

20 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

21 This measure amends Section 23 of Article 10 of the Oklahoma
22 Constitution. It amends the maximum amount which may be
23 deposited into a certain fund. The fund is known as the
24 Constitutional Reserve Fund. Under current law, the cap is set

1 at fifteen percent (15%) of the amount certified for the General
2 Revenue Fund for the prior fiscal year. This would increase the
3 cap amount to twenty-five (25%). This measure only becomes
4 effective if voters approve the measure that creates the
5 Taxpayer Allocation Program Fund to provide an income tax credit
6 for individual taxpayers contained in Senate Joint Resolution
7 35.

8 SHALL THE PROPOSAL BE APPROVED?

9 FOR THE PROPOSAL - YES _____

10 AGAINST THE PROPOSAL - NO _____

11 SECTION 4. The President Pro Tempore of the Senate shall,
12 immediately after the passage of this resolution, prepare and file
13 one copy thereof, including the Ballot Title set forth in SECTION 3
14 hereof, with the Secretary of State and one copy with the Attorney
15 General.

