

1 **SENATE FLOOR VERSION**

2 March 2, 2022

3 **AS AMENDED**

4 SENATE JOINT
5 RESOLUTION NO. 34

6 By: Jech of the Senate

7 and

8 Newton of the House

9 **[proposed amendment - maximum amount deposited into
10 Constitutional Reserve Fund - ballot title - filing]**

11 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
12 2ND SESSION OF THE 58TH OKLAHOMA LEGISLATURE:

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

17 Section 23. The state shall never create or authorize the
18 creation of any debt or obligation, or fund or pay any deficit,
19 against the state, or any department, institution or agency thereof,
20 regardless of its form or the source of money from which it is to be
21 paid, except as may be provided in this section and in Sections 24
22 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%)~~ twenty-
4 five percent (25%) of the General Revenue Fund certification for the
5 preceding fiscal year. Appropriations made from said Fund shall be
6 considered special appropriations.

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

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

1 at-risk manufacturing establishments in this
2 state in order to retain employment for residents
3 of this state. Such incentives shall be paid by
4 the Oklahoma Tax Commission upon a unanimous
5 finding by the Governor, the Speaker of the House
6 of Representatives and the President Pro Tempore
7 of the Senate that:

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

- 18 (2) The independent committee will be composed of not
19 less than seven (7) people appointed or otherwise
20 determined pursuant to laws enacted by the
21 Legislature providing for membership on the
22 committee. The committee shall make
23 recommendations to the Governor, the Speaker of
24 the House of Representatives and the President

1 Pro Tempore of the Senate for the awarding of
2 incentives. Such recommendations shall give
3 priority to establishments which:

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

9 (b) provide the largest economic impact to the
10 state.

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

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

1 the amounts available for payment under this
2 subparagraph in a fiscal year, then no new
3 contracts may be authorized during such year and
4 incentive payments which are made shall be
5 reduced pro rata as necessary to apply all
6 available funds to incentive payments which are
7 payable in such year.

8 (4) The Legislature is authorized to enact laws
9 necessary to implement the provisions of this
10 section.

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

1 but not in excess of, the total appropriation amount for such entity
2 in effect at the beginning of the then current fiscal year.

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

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

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

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

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

13 SECTION 2. The provisions of Section 1 of this resolution shall
14 not become effective if Enrolled Senate Joint Resolution 35 of the
15 2nd Session of the 58th Legislature is not approved by the people of
16 this state.

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

20 BALLOT TITLE

21 Legislative Referendum No. _____ State Question No. _____

22 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

23 This measure amends Section 23 of Article 10 of the Oklahoma
24 Constitution. It amends the maximum amount which may be

1 deposited into a certain fund. The fund is known as the
2 Constitutional Reserve Fund. Under current law, the cap is set
3 at fifteen percent (15%) of the amount certified for the General
4 Revenue Fund for the prior fiscal year. This would increase the
5 cap amount to twenty-five (25%). This measure only becomes
6 effective if voters approve the measure that creates the
7 Taxpayer Allocation Program Fund to provide an income tax credit
8 for individual taxpayers contained in Senate Joint Resolution
9 35.

10 SHALL THE PROPOSAL BE APPROVED?

11 FOR THE PROPOSAL - YES _____

12 AGAINST THE PROPOSAL - NO _____

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

18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
19 March 2, 2022 - DO PASS AS AMENDED
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