

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE JOINT  
RESOLUTION 34

By: Jech

AS INTRODUCED

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 23 of Article X of the Oklahoma Constitution; increasing maximum amount deposited into Constitutional Reserve Fund; providing for conditional effectiveness; providing ballot title; and directing filing.

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

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

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

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 \_\_ 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  
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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 \_\_\_\_.

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.

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