

SJR 36

1 THE STATE SENATE
2 Monday, February 25, 2008

3 Senate Joint
4 Resolution No. 36
5 As Amended

6 SENATE JOINT RESOLUTION NO. 36 - By: FORD of the Senate and SEARS of
7 the House.

8 [proposed amendment - maximum percentage of surplus funds -
9 Constitutional Reserve Fund - ballot title - filing]

10 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
11 2ND SESSION OF THE 51ST OKLAHOMA LEGISLATURE:

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

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

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

(Bold face denotes Committee Amendments)

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

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

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

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

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

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

1 5. ~~Beginning July 1, 1985, all~~ All such surplus funds or monies
2 ~~accruing after said date~~ shall be placed in a Constitutional Reserve
3 Fund by the State Treasurer until such time that the amount of said
4 Fund equals ~~ten percent (10%)~~ fifteen percent (15%) of the General
5 Revenue Fund certification for the preceding fiscal year.
6 Appropriations made from said Fund shall be considered special
7 appropriations.

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

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

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

10 (a) such incentives have been recommended by an
11 independent committee created by the
12 Legislature for such purposes as provided
13 herein pursuant to criteria set out by law,

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

16 (c) payment of the incentive would be in
17 accordance with the provisions of this
18 subparagraph and laws enacted to implement
19 provisions of this subparagraph.

20 (2) The independent committee will be composed of not
21 less than seven (7) people appointed or otherwise
22 determined pursuant to laws enacted by the
23 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

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

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

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

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

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

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

19 9. That portion of every appropriation, at the end of each
20 fiscal year, in excess of actual revenues collected and allocated
21 thereto, as hereinafter provided, shall be null and void. Revenues
22 deposited in the State Treasury to the credit of the General Revenue
23 Fund or of any special fund (which derives its revenue in whole or

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

20 10. The Legislature shall provide a method whereby
21 appropriations shall be divided and set up on a monthly, quarterly
22 or semiannual basis within each fiscal year to prevent obligations
23 being incurred in excess of the revenue to be collected, and

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

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

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BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the State Constitution. It amends Section 23 of Article 10. It increases the amount of surplus revenue which goes into a special fund. That fund is the Constitutional Reserve Fund. The amount would go from 10% to 15% of the funds certified as going to the General Revenue fund for the preceding fiscal 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 APPROPRIATIONS, dated 2-20-08 - DO PASS, As Amended and Coauthored.