

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE JOINT
4 RESOLUTION 1041

By: Tibbs

5
6 AS INTRODUCED

7
8 A Joint Resolution directing the Secretary of State
9 to refer to the people for their approval or
10 rejection proposed amendments to Section 26 of
11 Article V and Section 23 of Article X of the
12 Constitution of the State of Oklahoma; restricting
13 ability of Legislature to consider certain types of
14 measures during odd-numbered years; requiring
15 consideration of appropriation measures during odd-
16 numbered years; providing for expenses during two-
17 year period; authorizing Legislature to consider
18 certain types of measures during even-numbered years;
19 authorizing consideration of certain types of
20 measures during odd-numbered years based upon certain
21 vote; modifying provisions related to preparation of
22 annual state budget; modifying certification
23 procedures for revenue available for appropriation;
24 providing for two-year fiscal period; authorizing
procedure with respect to Constitutional Reserve
Fund; providing an effective date; providing ballot
title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
1ST SESSION OF THE 51ST 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 26 of Article V and

1 Section 23 of Article X of the Constitution of the State of Oklahoma
2 to read as follows:

3 Section 26. A. The Legislature shall meet in regular session
4 at the seat of government at twelve o'clock noon on the first Monday
5 in February of each year and the regular session shall be finally
6 adjourned sine die not later than five o'clock p.m. on the last
7 Friday in May of each year.

8 B. The Legislature shall also meet in regular session at the
9 seat of government on the first Tuesday after the first Monday in
10 January of each odd numbered year, beginning at twelve o'clock noon
11 for the purposes only of performing the duties as required by
12 Section 5 of Article VI of the Constitution and organizing pursuant
13 to the provisions of this Article and shall recess not later than
14 five o'clock p.m. of that same day until the following first Monday
15 in February of the same year, beginning at twelve o'clock noon.

16 C. During each odd-numbered year, the Legislature may only
17 consider measures for the appropriation of revenue to fund the
18 expenses of the executive, legislative, and judicial departments of
19 the state, for the payment of interest on the public debt, and such
20 other appropriations as may be authorized by the Oklahoma
21 Constitution. The measures authorized by this subsection shall
22 provide for such expenses or such interest or both for a period of
23 two (2) fiscal years. The Legislature may provide for the
24 appropriations to be specific to each fiscal year during the two-

1 year fiscal period or may provide a total sum which includes the
2 appropriation amount for the entire two-year fiscal period.

3 D. During each even-numbered year, the Legislature may consider
4 measures for the enactment of new law, the amendment or repeal of
5 existing law, referenda for modifications to the Oklahoma
6 Constitution and such measures not having the force or effect of law
7 as may be provided by the rules of the respective chambers of the
8 Legislature.

9 E. Except as otherwise provided by this section, the
10 Legislature shall not consider measures appropriating revenue to any
11 entity of the executive, judicial, or legislative branch of
12 government during an even-numbered year.

13 F. Upon an affirmative vote of three-fourths (3/4) of the
14 members of each chamber of the Legislature, the types of measures
15 enumerated in subsection D of this section may be introduced and
16 considered during an odd-numbered year.

17 G. The changes made to this section pursuant to this amendment
18 shall become effective January 1, 2009.

19 Section 23. The state shall never create or authorize the
20 creation of any debt or obligation, or fund or pay any deficit,
21 against the state, or any department, institution or agency thereof,
22 regardless of its form or the source of money from which it is to be
23 paid, except as may be provided in this section and in Sections 24
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 first Monday in February in each odd-numbered year, the
7 State Board of Equalization shall certify the total amount of
8 revenue which accrued during the ~~last~~ two (2) preceding fiscal ~~year~~
9 years to the General Revenue Fund and to each Special Revenue Fund
10 appropriated directly by the Legislature, and shall further certify
11 amounts available for appropriation which shall be based on a
12 determination, in accordance with the procedure hereinafter
13 provided, of the revenues to be received by the state under the laws
14 in effect at the time such determination is made, for the next
15 ensuing two (2) fiscal ~~year~~ years, showing separately the revenues
16 to accrue to the credit of each such fund of the state appropriated
17 directly by the Legislature.

18 Amounts certified as available for appropriation from each fund,
19 as hereinbefore provided, shall be ninety-five percent (95%) of an
20 itemized estimate made by the State Board of Equalization, which
21 shall include all sources of revenue to each fund for the next two
22 (2) ensuing fiscal ~~year~~ years; provided, however, appropriated
23 federal funds shall be certified for the full amount of the
24

1 estimate. Said estimate shall consider any increase or decline in
2 revenues that would result from predictable changes in the economy.

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

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

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

17 3. The State Board of Equalization shall meet within five (5)
18 days after the monthly apportionment in February of each odd-
19 numbered year, and at that time may adjust the certification, based
20 upon the most current information available, and determine the
21 amount of funds available for appropriation for ~~that legislative~~
22 ~~session~~ the ensuing two (2) fiscal years. At said meeting the Board
23 shall determine the limit on the growth of appropriations as
24 provided for in this section.

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

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

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

22 b. (1) In years when the provisions of subparagraph a of
23 this paragraph are not applicable and the balance
24 at the beginning of the current fiscal year in

1 the Constitutional Reserve Fund is equal to or
2 greater than Eighty Million Dollars
3 (\$80,000,000.00), up to Ten Million Dollars
4 (\$10,000,000.00) may be expended for the purpose
5 of providing incentives to support retention of
6 at-risk manufacturing establishments in this
7 state in order to retain employment for residents
8 of this state. Such incentives shall be paid by
9 the Oklahoma Tax Commission upon a unanimous
10 finding by the Governor, the Speaker of the House
11 of Representatives and the President Pro Tempore
12 of the Senate that:

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

- 23 (2) The independent committee will be composed of not
24 less than seven (7) people appointed or otherwise

1 determined pursuant to laws enacted by the
2 Legislature providing for membership on the
3 committee. The committee shall make
4 recommendations to the Governor, the Speaker of
5 the House of Representatives and the President
6 Pro Tempore of the Senate for the awarding of
7 incentives. Such recommendations shall give
8 priority to establishments which:

- 9 (a) are at greater risk of losing jobs because
10 the plant is no longer competitive or
11 leaving the state and thereby causing the
12 loss of more employment in this state than
13 other eligible recipients, and
- 14 (b) provide the largest economic impact to the
15 state.

- 16 (3) For any fiscal year, the incentives shall not
17 exceed ten percent (10%) of the amount invested
18 by an establishment in capital assets to be
19 utilized in this state. Incentives may only be
20 paid pursuant to an investment contract between
21 the establishment and a state agency designated
22 by law, which provides for a specified amount of
23 investment in a capital asset to be made by the
24 establishment over a period of not to exceed five

1 (5) years. No incentive payment shall be made
2 prior to the actual investment by the
3 establishment. The contract shall make payment
4 of any incentives in any fiscal year contingent
5 on the balance at the beginning of such fiscal
6 year in the Constitutional Reserve Fund being
7 equal to or greater than Eighty Million Dollars
8 (\$80,000,000.00) and on the certification by the
9 State Board of Equalization for such fiscal year
10 of the amount available for appropriation from
11 the General Revenue Fund being greater than the
12 amount certified for the preceding fiscal year.
13 Investment contracts authorized by this
14 subparagraph shall provide that if any incentive
15 payment is payable during a fiscal year in which
16 either the balance at the beginning of the fiscal
17 year in the Constitutional Reserve Fund is not
18 equal to or greater than Eighty Million Dollars
19 (\$80,000,000.00) or when the certification by the
20 State Board of Equalization for such fiscal year
21 General Revenue Fund is less than that of the
22 immediately prior fiscal year certification, then
23 any incentive payments which would have been
24 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 For purposes of this paragraph, the Legislature may provide for
17 a distribution of monies from the Constitutional Reserve Fund
18 between each of the two (2) fiscal years for which it makes
19 appropriation of funds pursuant to Section 26 of Article V of the
20 Oklahoma Constitution.

21 7. Up to three-eighths (3/8) of the balance at the beginning of
22 the current fiscal year in the Constitutional Reserve Fund may be
23 appropriated for the current fiscal year if the State Board of
24 Equalization determines that a revenue failure has occurred with

1 respect to the General Revenue Fund of the State Treasury. In no
2 event shall the amount of monies appropriated from the
3 Constitutional Reserve Fund pursuant to this paragraph be in excess
4 of the amount of the projected revenue failure in the General
5 Revenue Fund, which total amount shall be computed by the State
6 Board of Equalization, for the entire fiscal year. Monies
7 appropriated to any state governmental entity from the
8 Constitutional Reserve Fund pursuant to this paragraph may only be
9 made in order to ensure that the monies actually received by the
10 entity for the then current fiscal year are equal to or less than,
11 but not in excess of, the total appropriation amount for such entity
12 in effect at the beginning of the then current fiscal year.

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

23 9. That portion of every appropriation, at the end of each
24 fiscal year, in excess of actual revenues collected and allocated

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

23 10. The Legislature shall provide a method whereby
24 appropriations shall be divided and set up on a monthly, quarterly

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

23 The changes made to this section pursuant to this amendment
24 shall become effective January 1, 2009.

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

4 BALLOT TITLE

5 Legislative Referendum No. _____ State Question No. _____

6 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

7 This measure amends the Oklahoma Constitution. It amends
8 Section 26 of Article 5 and Section 23 of Article 10. It would
9 change the way the Legislature prepares the state budget. The
10 Legislature could only prepare the budget in odd-numbered years.
11 The budget would be written for two full fiscal years. The
12 Legislature could consider all other types of legislation in even-
13 numbered years. The Legislature, by 3/4 vote of each chamber, could
14 consider nonappropriation measures in odd-numbered years. Other
15 provisions of the Oklahoma Constitution would be changed to provide
16 for certification of funds by the State Board of Equalization.
17 References to appropriations for one fiscal year are changed to a
18 two-year fiscal period. This amendment would become effective on
19 January 1, 2009.

20 SHALL THE PROPOSAL BE APPROVED?

21 FOR THE PROPOSAL — YES _____

22 AGAINST THE PROPOSAL — NO _____

23 SECTION 3. The Chief Clerk of the House of Representatives,
24 immediately after the passage of this resolution, shall prepare and

1 file one copy thereof, including the Ballot Title set forth in
2 SECTION 2 hereof, with the Secretary of State and one copy with the
3 Attorney General.

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