

STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

SENATE JOINT
RESOLUTION 31

By: Jolley

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 Constitution of the State of Oklahoma; requiring State Board of Equalization to make specified certification; modifying limitation on change in legislative appropriation; providing for deposit of certain funds into Responsible Budgeting Fund; providing for appropriation of monies in Responsible Budgeting Fund; defining term; authorizing certain legislative enactment under specified circumstances; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES 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 23 of Article X of the Constitution of the State of Oklahoma 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,

1 regardless of its form or the source of money from which it is to be
2 paid, except as may be provided in this section and in Sections 24
3 and 25 of Article X of the Constitution of the State of Oklahoma.

4 To ensure a balanced annual budget, pursuant to the limitations
5 contained in the foregoing, procedures are herewith established as
6 follows:

7 1. Not more than forty-five (45) days or less than thirty-five
8 (35) days prior to the convening of each regular session of the
9 Legislature, the State Board of Equalization shall certify the total
10 amount of revenue which accrued during the last preceding fiscal
11 year to the General Revenue Fund and to each Special Revenue Fund
12 appropriated directly by the Legislature, and shall further certify
13 amounts available for appropriation which shall be based on a
14 determination, in accordance with the procedure hereinafter
15 provided, of the revenues to be received by the state under the laws
16 in effect at the time such determination is made, for the next
17 ensuing fiscal year, showing separately the revenues to accrue to
18 the credit of each such fund of the state appropriated directly by
19 the Legislature. The State Board of Equalization shall also certify
20 annually whether or not any amount which is placed in the
21 Responsible Budgeting Fund for the preceding fiscal year is equal to
22 or greater than twenty-five one hundredths percent (.25%) of the
23 amount of tax levied pursuant to Section 2355 of Title 68 of the
24 Oklahoma Statutes for the preceding fiscal year.

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

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

17 2. Such certification shall be filed with the Governor, the
18 President and President Pro Tempore of the Senate, and the Speaker
19 of the House of Representatives. The Legislature shall not pass or
20 enact any bill, act or measure making an appropriation of money for
21 any purpose until such certification is made and filed, unless the
22 State Board of Equalization has failed to file said certification at
23 the time of convening of said Legislature. In such event, it shall
24 be the duty of the Legislature to make such certification pursuant

1 to the provisions of this section. All appropriations made in
2 excess of such certification shall be null and void; provided,
3 however, that the Legislature may at any regular session or special
4 session, called for that purpose, enact laws to provide for
5 additional revenues or a reduction in revenues, other than ad
6 valorem taxes, or transferring the existing revenues or
7 unappropriated cash on hand from one fund to another, or making
8 provisions for appropriating funds not previously appropriated
9 directly by the Legislature. Whereupon, it shall be the duty of the
10 State Board of Equalization to make a determination of the revenues
11 that will accrue under such laws and ninety-five percent (95%) of
12 the amount of any increase or decrease resulting, for any reason,
13 from such changes in laws shall be added to or deducted from the
14 amount previously certified available for appropriation from each
15 respective fund, as the case may be. The State Board of
16 Equalization shall file the amount of such adjusted certification,
17 or additional certification for funds not previously appropriated
18 directly by the Legislature, with the Governor, with the President
19 and President Pro Tempore of the Senate, and the Speaker of the
20 House of Representatives, and such adjusted amount shall be the
21 maximum amount which can be appropriated for all purposes from any
22 such fund for the fiscal year being certified.

23 3. The State Board of Equalization shall meet within five (5)
24 days after the monthly apportionment in February of each year, and

1 at that time may adjust the certification, based upon the most
2 current information available, and determine the amount of funds
3 available for appropriation for that legislative session. At said
4 meeting the Board shall determine the limit on the growth of
5 appropriations as provided for in this section.

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

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

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

1 subparagraph and laws enacted to implement
2 provisions of this subparagraph.

3 (2) The independent committee will be composed of not
4 less than seven (7) people appointed or otherwise
5 determined pursuant to laws enacted by the
6 Legislature providing for membership on the
7 committee. The committee shall make
8 recommendations to the Governor, the Speaker of
9 the House of Representatives and the President
10 Pro Tempore of the Senate for the awarding of
11 incentives. Such recommendations shall give
12 priority to establishments which:

13 (a) are at greater risk of losing jobs because
14 the plant is no longer competitive or
15 leaving the state and thereby causing the
16 loss of more employment in this state than
17 other eligible recipients, and

18 (b) provide the largest economic impact to the
19 state.

20 (3) For any fiscal year, the incentives shall not
21 exceed ten percent (10%) of the amount invested
22 by an establishment in capital assets to be
23 utilized in this state. Incentives may only be
24 paid pursuant to an investment contract between

1 the establishment and a state agency designated
2 by law, which provides for a specified amount of
3 investment in a capital asset to be made by the
4 establishment over a period of not to exceed five
5 (5) years. No incentive payment shall be made
6 prior to the actual investment by the
7 establishment. The contract shall make payment
8 of any incentives in any fiscal year contingent
9 on the balance at the beginning of such fiscal
10 year in the Constitutional Reserve Fund being
11 equal to or greater than Eighty Million Dollars
12 (\$80,000,000.00) and on the certification by the
13 State Board of Equalization for such fiscal year
14 of the amount available for appropriation from
15 the General Revenue Fund being greater than the
16 amount certified for the preceding fiscal year.
17 Investment contracts authorized by this
18 subparagraph shall provide that if any incentive
19 payment is payable during a fiscal year in which
20 either the balance at the beginning of the fiscal
21 year in the Constitutional Reserve Fund is not
22 equal to or greater than Eighty Million Dollars
23 (\$80,000,000.00) or when the certification by the
24 State Board of Equalization for such fiscal year

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

17 (4) The Legislature is authorized to enact laws
18 necessary to implement the provisions of this
19 section.

20 7. Up to three-eighths (3/8) of the balance at the beginning of
21 the current fiscal year in the Constitutional Reserve Fund may be
22 appropriated for the current fiscal year if the State Board of
23 Equalization determines that a revenue failure has occurred with
24 respect to the General Revenue Fund of the State Treasury. In no

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

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

22 9. a. Except as provided in subparagraph c of this
23 paragraph, any funds or monies accruing to the
24 Constitutional Reserve Fund over and above the amount

1 placed in such fund pursuant to paragraph 5 of this
2 section shall be deposited into a Responsible
3 Budgeting Fund.

4 b. The Responsible Budgeting Fund shall be appropriated
5 as follows:

6 (1) to reduce the unfunded liability of the Oklahoma
7 Public Employees Retirement System, the Teachers'
8 Retirement System of Oklahoma, the Oklahoma Law
9 Enforcement Retirement System, the Oklahoma
10 Firefighters Pension and Retirement System, the
11 Oklahoma Police Pension and Retirement System, or
12 the Uniform Retirement System for Justices and
13 Judges, if the unfunded liability of any such
14 system reaches twenty-five percent (25%) or
15 greater, and

16 (2) to supplement the Rebuilding Oklahoma Access and
17 Driver Safety Fund created in subsection A of
18 Section 1521 of Title 69 of the Oklahoma Statutes
19 if such fund is less than Two Hundred Seventy
20 Million Dollars (\$270,000,000.00), or

21 (3) if no appropriations are made pursuant to
22 divisions 1 and 2 of subparagraph b of this
23 paragraph, the Responsible Budgeting Fund may be
24 appropriated for one-time expenditures. For the

1 purposes of this paragraph, "one-time
2 expenditures" shall include:

3 (a) Any capital expenditure which results in the
4 acquisition of fixed assets or additions to
5 fixed assets, including, but not limited to:
6 purchases of land or existing buildings;
7 purchases of real property; improvements of
8 grounds and sites for construction purposes;
9 all expenditures for construction of
10 buildings, additions to buildings and
11 remodeling of buildings if such remodeling
12 involves changes to roof structures or load-
13 bearing walls; professional services,
14 salaries and expenses of architects and
15 engineers hired or assigned to capital
16 projects except for such services, salaries
17 and expenses as are applicable in
18 preparation for a bond issue; expenditures
19 for the initial installation and extension
20 of service systems and built-in heat or air
21 equipment to existing buildings;
22 expenditures for the replacement of a
23 building which has been destroyed;
24 installments and lease payments on property,

1 excluding interest, that have a terminal
2 date and result in the acquisition of
3 property; and expenditures for preliminary
4 studies made prior to the time that
5 authority to proceed with a construction
6 project is given if authority is received
7 within the same fiscal year that the
8 expenditure was made, and

9 (b) An expenditure made during a fiscal year
10 which does not require a recurring
11 legislative appropriation.

12 c. Pursuant to the requirement in paragraph 1 of this
13 section, if the State Board of Equalization certifies
14 for three consecutive years that the amount which was
15 placed into the Responsible Budgeting Fund for the
16 preceding fiscal year was equal to or greater than
17 twenty-five one hundredths percent (.25%) of the
18 amount of tax levied pursuant to Section 2355 of Title
19 68 of the Oklahoma Statutes for the preceding fiscal
20 year, the Legislature shall be authorized to enact
21 implementing legislation which will reduce the top
22 marginal individual income tax rate by twenty-five one
23 hundredths percent (.25%).

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

1 ~~10.~~ 11. The Legislature shall provide a method whereby
2 appropriations shall be divided and set up on a monthly, quarterly
3 or semiannual basis within each fiscal year to prevent obligations
4 being incurred in excess of the revenue to be collected, and
5 notwithstanding other provisions of this Constitution, the
6 Legislature shall provide that all appropriations shall be reduced
7 to bring them within revenues actually collected, but all such
8 reductions shall apply to each department, institution, board,
9 commission or special appropriation made by the State Legislature in
10 the ratio that its total appropriation for that fiscal year bears to
11 the total of all appropriations from that fund for that fiscal year;
12 provided, however, that the Governor may in ~~his~~ the Governor's
13 Pdiscretion issue deficiency certificates to the State Treasurer for
14 the benefit of any department, institution or agency of the state,
15 if the amount of such deficiency certificates be within the limit of
16 the current appropriation for that department, institution or
17 agency, whereupon the State Treasurer shall issue warrants to the
18 extent of such certificates for the payment of such claims as may be
19 authorized by the Governor, and such warrants shall become a part of
20 the public debt and shall be paid out of any money appropriated by
21 the Legislature and made lawfully available therefor; provided
22 further, that in no event shall said deficiency certificates exceed
23 in the aggregate the sum of Five Hundred Thousand Dollars
24 (\$500,000.00) in any fiscal year.

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 State Constitution. It amends
8 Section 23 of Article 10. This article sets out how the
9 state certifies revenue and how revenue may be spent. This
10 measure would create a new fund for certain surplus monies.
11 The fund would be called the Responsible Budgeting Fund. It
12 would include revenue the state receives over and above the
13 amount which goes into the Constitutional Reserve Fund. The
14 Responsible Budgeting Fund could be spent by the Legislature
15 in several ways. It could be used to reduce the liability
16 of certain retirement systems. It could also be used to
17 fund repairs and maintenance or to build new roads and
18 bridges. It could also be used for certain one-time
19 expenditures. Those expenditures are defined. The measure
20 would also require the State Board of Equalization to make a
21 new type of certification. The State Board would compare
22 the amount in the Responsible Budgeting Fund to the amount
23 of income tax revenue collected during a certain time
24 period. If it certified that the Responsible Budgeting Fund

1 was more than one-quarter of one percent more than the
2 amount of income tax revenue for three years in a row,
3 certain actions could be taken. The Legislature would be
4 permitted to pass laws reducing the top income tax rate by
5 one-quarter of one percent.

6 This measure also lowers the percentage increase of
7 expenditures from one year to the next. It lowers the limit
8 from 12% to 6%.

9 SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

10 YES, FOR THE AMENDMENT

11 NO, AGAINST THE AMENDMENT

12 SECTION 3. The President Pro Tempore of the Senate shall,
13 immediately after the passage of this resolution, prepare and file
14 one copy thereof, including the Ballot Title set forth in SECTION 2
15 hereof, with the Secretary of State and one copy with the Attorney
16 General.

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