

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend House Joint Resolution No. 1014, Page 3, Line 5 1/2,

as follows:

By inserting new SECTIONS 4 through 7 to read as per attached.

Submitted by:

Senator Kenneth Corn

Corn-CD-FA-HJR1014
4/9/2009 10:13 AM

1 SECTION 4. Sections 4 through 7 of this measure shall be known as the Fiscal Responsibility
2 and Budget Stabilization Act.

3 SECTION 5. The Secretary of State shall refer to the people for their approval or rejection, as
4 and in the manner provided by law, the following proposed amendment to Section 23 of Article X of
5 the Oklahoma Constitution, to read as follows:

6 Section 23. The state shall never create or authorize the creation of any debt or obligation, or
7 fund or pay any deficit, against the state, or any department, institution or agency thereof, regardless

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

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

5 1. Not more than forty-five (45) days or less than thirty-five (35) days prior to the convening
6 of each regular session of the Legislature, the State Board of Equalization shall certify the total
7 amount of revenue which accrued during the last preceding fiscal year to the General Revenue Fund
8 and to each Special Revenue Fund appropriated directly by the Legislature, and shall further certify
9 amounts available for appropriation which shall be based on a determination, in accordance with the
10 procedure hereinafter provided, of the revenues to be received by the state under the laws in effect at
11 the time such determination is made, for the next ensuing fiscal year, showing separately the
12 revenues to accrue to the credit of each such fund of the state appropriated directly by the
13 Legislature.

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

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

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

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

1 The Board shall also separately certify the amount of funds which would be expected to be
2 received by the state in the next fiscal year from the gross production tax on natural gas if the
3 average wellhead price for Oklahoma natural gas for such year were equal to the average wellhead
4 price for Oklahoma natural gas during the preceding ten (10) years and the amount of funds which
5 the Board actually expects to receive from the gross production tax on natural gas in the next fiscal
6 year. If the actually expected price-based estimate is greater than the ten-year price-based estimate,
7 the amount otherwise available for appropriation for recurring expenses shall be reduced by the
8 difference between such estimates.

9 The Board shall also separately certify the amount of funds which would be expected to be
10 received by the state in the next fiscal year from the gross production tax on oil if the average per-
11 barrel price for Oklahoma oil for such year were equal to the average per-barrel price for Oklahoma
12 oil during the preceding ten (10) years and the amount of funds which the Board actually expects to
13 receive from the gross production tax on oil in the next fiscal year. If the actually expected price-
14 based estimate is greater than the ten-year price-based estimate, the amount otherwise available for
15 appropriation for recurring expenses shall be further reduced by the difference between such
16 estimates.

17 The Board shall certify the amount available for appropriation for recurring expenses. Funds
18 available for appropriation pursuant to this section which are in excess of the amount available for
19 appropriation for recurring expenses may only be appropriated by the Legislature for expenses other
20 than recurring expenses. As used in this section, "recurring expense" means an expense of a
21 continuing or recurring character that, in the normal course of administration, may be expected to be
22 necessary in approximately the same or greater amounts in subsequent fiscal years or at regular
23 intervals. Debt service on a continuing obligation shall be deemed to be a recurring expense.

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

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

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

12 b. (1) In years when the provisions of subparagraph a of this paragraph are not
13 applicable and the balance at the beginning of the current fiscal year in
14 the Constitutional Reserve Fund is equal to or greater than Eighty
15 Million Dollars (\$80,000,000.00), up to Ten Million Dollars
16 (\$10,000,000.00) may be expended for the purpose of providing
17 incentives to support retention of at-risk manufacturing establishments
18 in this state in order to retain employment for residents of this state.

19 Such incentives shall be paid by the Oklahoma Tax Commission upon a
20 unanimous finding by the Governor, the Speaker of the House of
21 Representatives and the President Pro Tempore of the Senate that:

22 (a) such incentives have been recommended by an independent
23 committee created by the Legislature for such purposes as
24 provided herein pursuant to criteria set out by law,

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

1 (c) payment of the incentive would be in accordance with the
2 provisions of this subparagraph and laws enacted to implement
3 provisions of this subparagraph.

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

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

15 (3) For any fiscal year, the incentives shall not exceed ten percent (10%) of
16 the amount invested by an establishment in capital assets to be utilized
17 in this state. Incentives may only be paid pursuant to an investment
18 contract between the establishment and a state agency designated by
19 law, which provides for a specified amount of investment in a capital
20 asset to be made by the establishment over a period of not to exceed five
21 (5) years. No incentive payment shall be made prior to the actual
22 investment by the establishment. The contract shall make payment of
23 any incentives in any fiscal year contingent on the balance at the
24 beginning of such fiscal year in the Constitutional Reserve Fund being
25 equal to or greater than Eighty Million Dollars (\$80,000,000.00) and on

1 the certification by the State Board of Equalization for such fiscal year
2 of the amount available for appropriation from the General Revenue
3 Fund being greater than the amount certified for the preceding fiscal
4 year. Investment contracts authorized by this subparagraph shall
5 provide that if any incentive payment is payable during a fiscal year in
6 which either the balance at the beginning of the fiscal year in the
7 Constitutional Reserve Fund is not equal to or greater than Eighty
8 Million Dollars (\$80,000,000.00) or when the certification by the State
9 Board of Equalization for such fiscal year General Revenue Fund is less
10 than that of the immediately prior fiscal year certification, then any
11 incentive payments which would have been payable during such fiscal
12 year shall be payable in the first fiscal year when funds are available
13 pursuant to the provisions of division (1) of this subparagraph. In the
14 event that the amount of incentives payable under investment contracts
15 authorized by this subparagraph is greater than the amounts available
16 for payment under this subparagraph in a fiscal year, then no new
17 contracts may be authorized during such year and incentive payments
18 which are made shall be reduced pro rata as necessary to apply all
19 available funds to incentive payments which are payable in such year.

20 (4) The Legislature is authorized to enact laws necessary to implement the
21 provisions of this section.

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

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

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

15 9. That portion of every appropriation, at the end of each fiscal year, in excess of actual
16 revenues collected and allocated thereto, as hereinafter provided, shall be null and void. Revenues
17 deposited in the State Treasury to the credit of the General Revenue Fund or of any special fund
18 (which derives its revenue in whole or in part from state taxes or fees) shall, except as to principal
19 and interest on the public debt, be allocated monthly to each department, institution, board,
20 commission or special appropriation on a percentage basis, in that ratio that the total appropriation
21 for such department, institution, board, commission or special appropriation from each fund for that
22 fiscal year bears to the total of all appropriations from each fund for that fiscal year, and no warrant
23 shall be issued in excess of said allocation. Any department, institution or agency of the state
24 operating on revenues derived from any law or laws which allocate the revenues thereof to such
25 department, institution or agency shall not incur obligations in excess of the unencumbered balance

1 of cash on hand. Nothing in this section shall prevent, under such conditions and limitations as shall
2 be prescribed by law, the governing board of an institution of higher education within The
3 Oklahoma State System of Higher Education from contracting with a president of such institution of
4 higher education for periods extending more than one (1) year, but not to exceed three (3) years
5 beyond the fiscal year in which the contract is signed.

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

22 SECTION 6. The Ballot Title for the proposed Constitutional amendment as set forth in
23 SECTION 5 of this resolution shall be in the following form:

24 **BALLOT TITLE**

25 Legislative Referendum No. ____

State Question No. ____

1 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

2 This measure amends the State Constitution. It amends Section 23 of Article 10. It limits the
3 amount of funds which can be spent for recurring expenses. The limits are based on the price
4 of oil and natural gas compared to the average price of oil and gas for the last ten years. The
5 State Board of Equalization would determine the amount which could be spent for recurring
6 expenses.

7 SHALL THE PROPOSAL BE APPROVED?

8 FOR THE PROPOSAL — YES _____

9 AGAINST THE PROPOSAL — NO _____

10 SECTION 7. The President Pro Tempore of the Senate shall, immediately after the passage of
11 this resolution, prepare and file one copy thereof, including the Ballot Title set forth in SECTION 6
12 hereof, with the Secretary of State and one copy with the Attorney General.

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