

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 6, 2010

Committee Substitute for  
ENGROSSED  
Senate Joint  
Resolution No. 51

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE JOINT RESOLUTION NO. 51 - By: JOHNSON (MIKE), FORD AND IVESTER of the Senate and MILLER AND DORMAN of the House.

[ Joint Resolution - modifying percentage of surplus funds - deleting language - providing ballot title - directing filing ]

~~BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 52ND OKLAHOMA LEGISLATURE:~~

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

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

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

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

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

19 Legislative appropriations for any fiscal year, except for special appropriations  
20 provided for in paragraph 6, 7 or 8 shall be limited to a sum not to exceed the total  
21 amount appropriated from all funds in the preceding fiscal year, plus twelve percent  
22 (12%), adjusted for inflation for the previous calendar year. Said limit shall be adjusted

1 for funds not previously appropriated. The limit on the growth of appropriations shall be  
2 certified to by the State Board of Equalization.

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

1 Senate, and the Speaker of the House of Representatives, and such adjusted amount  
2 shall be the maximum amount which can be appropriated for all purposes from any such  
3 fund for the fiscal year being certified.

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

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

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

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

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Reserve Fund be in excess of the difference between the two said certifications.

b. (1) In years when the provisions of subparagraph a of this paragraph are not applicable and the balance at the beginning of the current fiscal year in the Constitutional Reserve Fund is equal to or greater than Eighty Million Dollars (\$80,000,000.00), up to Ten Million Dollars (\$10,000,000.00) may be expended for the purpose of providing incentives to support retention of at-risk manufacturing establishments in this state in order to retain employment for residents of this state. Such incentives shall be paid by the Oklahoma Tax Commission upon a unanimous finding by the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate that:

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

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 (c) payment of the incentive would be in accordance with the  
2 provisions of this subparagraph and laws enacted to  
3 implement provisions of this subparagraph.
- 4 (2) The independent committee will be composed of not less than  
5 seven (7) people appointed or otherwise determined pursuant to  
6 laws enacted by the Legislature providing for membership on  
7 the committee. The committee shall make recommendations to  
8 the Governor, the Speaker of the House of Representatives and  
9 the President Pro Tempore of the Senate for the awarding of  
10 incentives. Such recommendations shall give priority to  
11 establishments which:
- 12 (a) are at greater risk of losing jobs because the plant is no  
13 longer competitive or leaving the state and thereby  
14 causing the loss of more employment in this state than  
15 other eligible recipients, and
- 16 (b) provide the largest economic impact to the state.
- 17 (3) For any fiscal year, the incentives shall not exceed ten percent  
18 (10%) of the amount invested by an establishment in capital  
19 assets to be utilized in this state. Incentives may only be paid  
20 pursuant to an investment contract between the establishment  
21 and a state agency designated by law, which provides for a  
22 specified amount of investment in a capital asset to be made by

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

1 payable under investment contracts authorized by this  
2 subparagraph is greater than the amounts available for  
3 payment under this subparagraph in a fiscal year, then no new  
4 contracts may be authorized during such year and incentive  
5 payments which are made shall be reduced pro rata as  
6 necessary to apply all available funds to incentive payments  
7 which are payable in such year.

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

10 7. Up to three-eighths (3/8) of the balance at the beginning of the current fiscal year  
11 in the Constitutional Reserve Fund may be appropriated for the current fiscal year if the  
12 State Board of Equalization determines that a revenue failure has occurred with respect  
13 to the General Revenue Fund of the State Treasury. In no event shall the amount of  
14 monies appropriated from the Constitutional Reserve Fund pursuant to this paragraph  
15 be in excess of the amount of the projected revenue failure in the General Revenue Fund,  
16 which total amount shall be computed by the State Board of Equalization, for the entire  
17 fiscal year. Monies appropriated to any state governmental entity from the  
18 Constitutional Reserve Fund pursuant to this paragraph may only be made in order to  
19 ensure that the monies actually received by the entity for the then current fiscal year are  
20 equal to or less than, but not in excess of, the total appropriation amount for such entity  
21 in effect at the beginning of the then current fiscal year.

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

9           9. That portion of every appropriation, at the end of each fiscal year, in excess of  
10 actual revenues collected and allocated thereto, as hereinafter provided, shall be null and  
11 void. Revenues deposited in the State Treasury to the credit of the General Revenue  
12 Fund or of any special fund (which derives its revenue in whole or in part from state  
13 taxes or fees) shall, except as to principal and interest on the public debt, be allocated  
14 monthly to each department, institution, board, commission or special appropriation on a  
15 percentage basis, in that ratio that the total appropriation for such department,  
16 institution, board, commission or special appropriation from each fund for that fiscal year  
17 bears to the total of all appropriations from each fund for that fiscal year, and no warrant  
18 shall be issued in excess of said allocation. Any department, institution or agency of the  
19 state operating on revenues derived from any law or laws which allocate the revenues  
20 thereof to such department, institution or agency shall not incur obligations in excess of  
21 the unencumbered balance of cash on hand. Nothing in this section shall prevent, under  
22 such conditions and limitations as shall be prescribed by law, the governing board of an

1 institution of higher education within The Oklahoma State System of Higher Education  
2 from contracting with a president of such institution of higher education for periods  
3 extending more than one (1) year, but not to exceed three (3) years beyond the fiscal year  
4 in which the contract is signed.

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

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

3 BALLOT TITLE

4 Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

5 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

6 This measure amends the State Constitution. It amends Section 23 of Article 10. It  
7 increases the amount of surplus revenue which goes into a special fund. That fund  
8 is the Constitutional Reserve Fund. The amount would go from 10% to 15% of the  
9 funds certified as going to the General Revenue fund for the preceding fiscal year.

10 SHALL THE PROPOSAL BE APPROVED?

11 FOR THE PROPOSAL — YES \_\_\_\_\_

12 AGAINST THE PROPOSAL — NO \_\_\_\_\_

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

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,  
18 dated 04-05-10 - DO PASS, As Amended and Coauthored.