

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE JOINT  
4 RESOLUTION 1018

By: Dorman

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 a proposed amendment to the Constitution of  
11 the State of Oklahoma by adding new language to  
12 Section 23 of Article X; requiring transfer of  
13 certain monies from the State Treasury to the State  
14 Emergency Fund subject to certain approval;  
15 establishing time frame for transfer; providing for  
16 transfer without appropriation; authorizing the  
17 Legislature to enact certain laws; prohibiting  
18 certain modification; providing ballot title; and  
19 directing filing.

20  
21 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE  
22 1ST SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

23 SECTION 1. The Secretary of State shall refer to the people for  
24 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,  
regardless of its form or the source of money from which it is to be

1 paid, except as may be provided in this section and in Sections 24  
2 and 25 of Article X of the Constitution of the State of Oklahoma.

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

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

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

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

3 Legislative appropriations for any fiscal year, except for  
4 special appropriations provided for in paragraph ~~6, 7 or~~ 8, or 9 of  
5 this section shall be limited to a sum not to exceed the total  
6 amount appropriated from all funds in the preceding fiscal year,  
7 plus twelve percent (12%), adjusted for inflation for the previous  
8 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 regular session or special  
22 session, called for that purpose, enact laws to provide for  
23 additional revenues or a reduction in revenues, other than ad  
24 valorem taxes, or transferring the existing revenues or

1 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 year, and  
19 at that time may adjust the certification, based upon the most  
20 current information available, and determine the amount of funds  
21 available for appropriation for that legislative session. At said  
22 meeting the Board shall determine the limit on the growth of  
23 appropriations as provided for in this section.

24

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. Prior to any other disbursements from the State Treasury  
11 which are in excess of the maximum permissible balance allowed for  
12 the Constitutional Reserve Fund, and subject to the final approval  
13 of a majority of the members of the Contingency Review Board, there  
14 shall be transferred from the State Treasury, after the maximum  
15 permissible balance allowed for the Constitutional Reserve Fund, to  
16 the State Emergency Fund a sum to be determined by a certification  
17 from the Department of Emergency Management, or its successor  
18 entity, made to the State Board of Equalization, the Governor, the  
19 President and President Pro Tempore of the Oklahoma State Senate,  
20 and the Speaker of the Oklahoma House of Representatives, of the  
21 estimated amount of money, agreed upon with the Federal Emergency  
22 Management Agency, or its successor, required to match federal  
23 disaster relief funding available to the state for the fiscal year  
24 ending June 30 of the current calendar year. Subject to the final

1 approval of the Contingency Review Board, the transfer shall occur  
2 not later than thirty (30) days after the certification is  
3 transmitted to the State Board of Equalization and notwithstanding  
4 any other provision of the Oklahoma Constitution that would  
5 otherwise prescribe a different method, the transfer shall occur by  
6 operation of law without the requirement of an appropriation. The  
7 Legislature shall be authorized to enact laws to describe the  
8 authorized use of the funds transferred pursuant to this paragraph,  
9 but the amount transferred shall not be modified if the resulting  
10 transfer amount would result in the receipt by the State of Oklahoma  
11 of less federal disaster relief funding than the amount to which the  
12 State of Oklahoma is eligible for the applicable period.

13 7. With respect to the Constitutional Reserve Fund:

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

24



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.~~ 8. Up to three-eighths (3/8) of the balance at the beginning  
21 of 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.~~ 9. Up to one-quarter (1/4) of the balance at the beginning  
13 of 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.~~ 10. That portion of every appropriation, at the end of each  
23 fiscal year, in excess of actual revenues collected and allocated  
24 thereto, as hereinafter provided, shall be null and void. Revenues

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

22 ~~10.~~ 11. The Legislature shall provide a method whereby  
23 appropriations shall be divided and set up on a monthly, quarterly  
24 or semiannual basis within each fiscal year to prevent obligations

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

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

BALLOT TITLE

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

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends Section 23 of Article 10 of the State Constitution. The federal government can provide money if there is a disaster. The State of Oklahoma must pay some of its own money to receive the full amount of federal dollars. This measure provides a way for the state to pay its share of the money. It requires the state's part to be paid from money in a special fund. Money comes into a fund known as the Constitutional Reserve Fund. There is a limit on how much money this fund can contain. The state's share of the money would be paid from the amount which goes into the state's General Revenue Fund. The money would be the amount greater than the maximum amount in the Constitutional Reserve Fund. It requires the payment no later than thirty days after the state's amount has been determined. It allows the payment to be made without an appropriation from the Legislature. It allows the Contingency Review Board to approve or disapprove the payment. It lets the Legislature pass laws to regulate the use of the funds. The laws cannot lessen federal disaster relief money for the state.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES \_\_\_\_\_

AGAINST THE PROPOSAL - NO \_\_\_\_\_

1 SECTION 3. The Chief Clerk of the House of Representatives,  
2 immediately after the passage of this resolution, shall prepare and  
3 file one copy thereof, including the Ballot Title set forth in  
4 SECTION 2 hereof, with the Secretary of State and one copy with the  
5 Attorney General.

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