

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

SENATE JOINT
RESOLUTION 43

By: Corn

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 Oklahoma Constitution; modifying amount of General Revenue Funds available for appropriation by the Legislature; directing a portion of the General Revenue Fund to the State Pension Systems Reserve Fund; specifying condition when certain monies will be available for appropriation; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 1ST SESSION OF THE 52ND 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 Oklahoma Constitution 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. Only ninety-
3 three and one-half percent (93.5%) of the amount certified for
4 appropriation from the General Revenue Fund shall actually be
5 available for appropriation. The remaining one and one-half percent
6 (1.5%) of the amount certified from the General Revenue Fund shall
7 be deposited to the credit of the State Pension Systems Reserve Fund
8 created in Section 1 of Enrolled Senate Bill No. _____ of the 1st
9 Session of the 52nd Oklahoma Legislature.

10 When all state retirement systems, as defined in Enrolled Senate
11 Bill No. _____ of the 1st Session of the 52nd Oklahoma Legislature,
12 have a funded ratio which equals or exceeds eighty percent (80%) as
13 certified by the appropriate board of trustees of such retirement
14 system pursuant to the annual actuarial valuation of such retirement
15 system, the one and one-half percent (1.5%) of the amount certified
16 from the General Revenue Fund shall no longer be deposited into the
17 State Pension Systems Reserve Fund and such amount shall be
18 available for appropriation.

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

1 on the growth of appropriations shall be certified to by the State
2 Board of Equalization.

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

1 respective fund, as the case may be. The State Board of
2 Equalization shall file the amount of such adjusted certification,
3 or additional certification for funds not previously appropriated
4 directly by the Legislature, with the Governor, with the President
5 and President Pro Tempore of the Senate, and the Speaker of the
6 House of Representatives, and such adjusted amount shall be the
7 maximum amount which can be appropriated for all purposes from any
8 such fund for the fiscal year being certified.

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

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

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

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

11 b. (1) In years when the provisions of subparagraph a of
12 this paragraph are not applicable and the balance
13 at the beginning of the current fiscal year in
14 the Constitutional Reserve Fund is equal to or
15 greater than Eighty Million Dollars
16 (\$80,000,000.00), up to Ten Million Dollars
17 (\$10,000,000.00) may be expended for the purpose
18 of providing incentives to support retention of
19 at-risk manufacturing establishments in this
20 state in order to retain employment for residents
21 of this state. Such incentives shall be paid by
22 the Oklahoma Tax Commission upon a unanimous
23 finding by the Governor, the Speaker of the House
24

1 of Representatives and the President Pro Tempore
2 of the Senate that:

- 3 (a) such incentives have been recommended by an
4 independent committee created by the
5 Legislature for such purposes as provided
6 herein pursuant to criteria set out by law,
7 (b) the incentive will result in a substantial
8 benefit to this state, and
9 (c) payment of the incentive would be in
10 accordance with the provisions of this
11 subparagraph and laws enacted to implement
12 provisions of this subparagraph.

- 13 (2) The independent committee will be composed of not
14 less than seven (7) people appointed or otherwise
15 determined pursuant to laws enacted by the
16 Legislature providing for membership on the
17 committee. The committee shall make
18 recommendations to the Governor, the Speaker of
19 the House of Representatives and the President
20 Pro Tempore of the Senate for the awarding of
21 incentives. Such recommendations shall give
22 priority to establishments which:

- 23 (a) are at greater risk of losing jobs because
24 the plant is no longer competitive or

1 leaving the state and thereby causing the
2 loss of more employment in this state than
3 other eligible recipients, and

4 (b) provide the largest economic impact to the
5 state.

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

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

1 available funds to incentive payments which are
2 payable in such year.

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

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

22 8. Up to one-quarter (1/4) of the balance at the beginning of
23 the current fiscal year in the Constitutional Reserve Fund may be
24 appropriated, upon a declaration by the Governor that emergency

1 conditions exist, with concurrence of the Legislature by a
2 two-thirds (2/3) vote of the House of Representatives and Senate for
3 the appropriation; or said one-quarter (1/4) could be appropriated
4 upon a joint declaration of emergency conditions by the Speaker of
5 the House of Representatives and the President Pro Tempore of the
6 Senate, with a concurrence of a three-fourths (3/4) vote of the
7 House of Representatives and Senate.

8 9. That portion of every appropriation, at the end of each
9 fiscal year, in excess of actual revenues collected and allocated
10 thereto, as hereinafter provided, shall be null and void. Revenues
11 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
13 in part from state taxes or fees) shall, except as to principal and
14 interest on the public debt, be allocated monthly to each
15 department, institution, board, commission or special appropriation
16 on a percentage basis, in that ratio that the total appropriation
17 for such department, institution, board, commission or special
18 appropriation from each fund for that fiscal year bears to the total
19 of all appropriations from each fund for that fiscal year, and no
20 warrant shall be issued in excess of said allocation. Any
21 department, institution or agency of the state operating on revenues
22 derived from any law or laws which allocate the revenues thereof to
23 such department, institution or agency shall not incur obligations
24 in excess of the unencumbered balance of cash on hand. Nothing in

1 this section shall prevent, under such conditions and limitations as
2 shall be prescribed by law, the governing board of an institution of
3 higher education within The Oklahoma State System of Higher
4 Education from contracting with a president of such institution of
5 higher education for periods extending more than one (1) year, but
6 not to exceed three (3) years beyond the fiscal year in which the
7 contract is signed.

8 10. The Legislature shall provide a method whereby
9 appropriations shall be divided and set up on a monthly, quarterly
10 or semiannual basis within each fiscal year to prevent obligations
11 being incurred in excess of the revenue to be collected, and
12 notwithstanding other provisions of this Constitution, the
13 Legislature shall provide that all appropriations shall be reduced
14 to bring them within revenues actually collected, but all such
15 reductions shall apply to each department, institution, board,
16 commission or special appropriation made by the State Legislature in
17 the ratio that its total appropriation for that fiscal year bears to
18 the total of all appropriations from that fund for that fiscal year;
19 provided, however, that the Governor may in his discretion issue
20 deficiency certificates to the State Treasurer for the benefit of
21 any department, institution or agency of the state, if the amount of
22 such deficiency certificates be within the limit of the current
23 appropriation for that department, institution or agency, whereupon
24 the State Treasurer shall issue warrants to the extent of such

1 certificates for the payment of such claims as may be authorized by
2 the Governor, and such warrants shall become a part of the public
3 debt and shall be paid out of any money appropriated by the
4 Legislature and made lawfully available therefor; provided further,
5 that in no event shall said deficiency certificates exceed in the
6 aggregate the sum of Five Hundred Thousand Dollars (\$500,000.00) in
7 any fiscal year.

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

11 BALLOT TITLE

12 Legislative Referendum No. _____ State Question No. _____

13 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

14 This measure amends the State Constitution. It amends Section
15 23 of Article 10. It decreases the amount of the General
16 Revenue Fund that may be spent by the Legislature. It sends a
17 portion of the General Revenue Fund to the State Pension Systems
18 Reserve Fund to help state retirement systems. When all of the
19 state retirement systems have a certain funded ratio, then the
20 General Revenue Fund monies will be available to be spent by the
21 Legislature.

22 SHALL THE PROPOSAL BE APPROVED?

23 FOR THE PROPOSAL - YES _____

24 AGAINST THE PROPOSAL - NO _____

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

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