

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 HOUSE JOINT
5 RESOLUTION 1001

By: Fugate of the House

and

Montgomery of the Senate

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10 AS INTRODUCED

11 A Joint Resolution directing the Secretary of State
12 to refer to the people for their approval or
13 rejection a proposed amendment to Section 23 of
14 Article X of the Constitution of the State of
15 Oklahoma; modifying provisions related to maximum
16 balance of the Constitutional Reserve Fund; providing
17 for sources of revenue to be included or excluded
18 from computation; providing ballot title; and
19 directing filing.

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BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
1ST SESSION OF THE 58TH 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:

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

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

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

23 Amounts certified as available for appropriation from each fund,
24 as hereinbefore provided, shall be ninety-five percent (95%) of an

1 itemized estimate made by the State Board of Equalization, which
2 shall include all sources of revenue to each fund for the next
3 ensuing fiscal year; provided, however, appropriated federal funds
4 shall be certified for the full amount of the estimate. Said
5 estimate shall consider any increase or decline in revenues that
6 would result from predictable changes in the economy.

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

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

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

21 3. The State Board of Equalization shall meet within five (5)
22 days after the monthly apportionment in February of each year, and
23 at that time may adjust the certification, based upon the most
24 current information available, and determine the amount of funds

1 available for appropriation for that legislative session. At said
2 meeting the Board shall determine the limit on the growth of
3 appropriations as provided for in this section.

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

7 5. All such surplus funds or monies shall be placed in a
8 Constitutional Reserve Fund by the State Treasurer until such time
9 that the amount of said Fund equals fifteen percent (15%) of the
10 ~~General Revenue Fund certification for the preceding fiscal year~~
11 total state expenditures for the fiscal year ending on June 30
12 immediately preceding the month of the succeeding fiscal year during
13 which the surplus monies are deposited into the Constitutional
14 Reserve Fund, such expenditures to be computed using expenditures
15 from funds from which the Legislature appropriates money, inclusive
16 of all federal funds, but exclusive of monies expended from
17 revolving funds, exclusive of any expenditures from a fund from
18 which public monies are derived from fees or other charges not
19 consisting of tax revenues, and exclusive of the proceeds from any
20 general obligation bond or other evidence of indebtedness issued by
21 a state governmental entity and which is repaid in whole or in part
22 using executive branch agency appropriations or appropriations to
23 The Oklahoma State System of Higher Education. 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
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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 shall have discretion to 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 Oklahoma Constitution. It amends
15 Section 23 of Article 10. The Constitutional Reserve Fund is
16 also known as the Rainy Day Fund. The Fund has a maximum
17 allowed balance. This measure changes the way the maximum
18 balance amount would be computed. Instead of using revenue
19 estimates provided by the State Board of Equalization for the
20 annual appropriations process, the maximum balance allowed for
21 the Rainy Day Fund would be based on a percentage of total state
22 expenditures. Total expenditures would include all appropriated
23 monies and federal funds. Total expenditures would exclude
24 money from revolving funds which are used by state agencies.

1 Total expenditures would exclude fees or similar charges that
2 were not derived from tax revenue. Total expenditures would
3 exclude money obtained by issuing state government bonds.

4 SHALL THE PROPOSAL BE APPROVED?

5 FOR THE PROPOSAL - YES _____

6 AGAINST THE PROPOSAL - NO _____

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

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13 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/16/2021 - DO PASS,
14 As Coauthored.
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