

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE JOINT  
4 RESOLUTION 1005

By: Lepak

7 AS INTRODUCED

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 Section 23 of  
11 Article X of the Constitution of the State of  
12 Oklahoma; modifying maximum amount of funds for  
13 deposit in the Constitutional Reserve Fund; providing  
14 ballot title; and directing filing.

15 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE  
16 1ST SESSION OF THE 57TH OKLAHOMA LEGISLATURE:

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

21 Section 23. The state shall never create or authorize the  
22 creation of any debt or obligation, or fund or pay any deficit,  
23 against the state, or any department, institution or agency thereof,  
24 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 shall be  
5 limited to a sum not to exceed the total amount appropriated from  
6 all funds in the preceding fiscal year, plus twelve percent (12%),  
7 adjusted for inflation for the previous calendar year. Said limit  
8 shall be adjusted for funds not previously appropriated. The limit  
9 on the growth of appropriations shall be certified to by the State  
10 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. All such surplus funds or monies shall be placed in a  
5 Constitutional Reserve Fund by the State Treasurer until such time  
6 that the amount of said Fund equals ~~fifteen percent (15%)~~ thirty  
7 percent (30%) of the General Revenue Fund certification for the  
8 preceding fiscal year. Appropriations made from said Fund shall be  
9 considered special appropriations.

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

20 b. (1) In years when the provisions of subparagraph a of  
21 this paragraph are not applicable and the balance  
22 at the beginning of the current fiscal year in  
23 the Constitutional Reserve Fund is equal to or  
24 greater than Eighty Million Dollars

1 (\$80,000,000.00), up to Ten Million Dollars  
2 (\$10,000,000.00) may be expended for the purpose  
3 of providing incentives to support retention of  
4 at-risk manufacturing establishments in this  
5 state in order to retain employment for residents  
6 of this state. Such incentives shall be paid by  
7 the Oklahoma Tax Commission upon a unanimous  
8 finding by the Governor, the Speaker of the House  
9 of Representatives and the President Pro Tempore  
10 of the Senate that:

- 11 (a) such incentives have been recommended by an  
12 independent committee created by the  
13 Legislature for such purposes as provided  
14 herein pursuant to criteria set out by law,  
15 (b) the incentive will result in a substantial  
16 benefit to this state, and  
17 (c) payment of the incentive would be in  
18 accordance with the provisions of this  
19 subparagraph and laws enacted to implement  
20 provisions of this subparagraph.

- 21 (2) The independent committee will be composed of not  
22 less than seven (7) people appointed or otherwise  
23 determined pursuant to laws enacted by the  
24 Legislature providing for membership on the

1 committee. The committee shall make  
2 recommendations to the Governor, the Speaker of  
3 the House of Representatives and the President  
4 Pro Tempore of the Senate for the awarding of  
5 incentives. Such recommendations shall give  
6 priority to establishments which:

7 (a) are at greater risk of losing jobs because  
8 the plant is no longer competitive or  
9 leaving the state and thereby causing the  
10 loss of more employment in this state than  
11 other eligible recipients, and

12 (b) provide the largest economic impact to the  
13 state.

14 (3) For any fiscal year, the incentives shall not  
15 exceed ten percent (10%) of the amount invested  
16 by an establishment in capital assets to be  
17 utilized in this state. Incentives may only be  
18 paid pursuant to an investment contract between  
19 the establishment and a state agency designated  
20 by law, which provides for a specified amount of  
21 investment in a capital asset to be made by the  
22 establishment over a period of not to exceed five  
23 (5) years. No incentive payment shall be made  
24 prior to the actual investment by the

1 establishment. The contract shall make payment  
2 of any incentives in any fiscal year contingent  
3 on the balance at the beginning of such fiscal  
4 year in the Constitutional Reserve Fund being  
5 equal to or greater than Eighty Million Dollars  
6 (\$80,000,000.00) and on the certification by the  
7 State Board of Equalization for such fiscal year  
8 of the amount available for appropriation from  
9 the General Revenue Fund being greater than the  
10 amount certified for the preceding fiscal year.  
11 Investment contracts authorized by this  
12 subparagraph shall provide that if any incentive  
13 payment is payable during a fiscal year in which  
14 either the balance at the beginning of the fiscal  
15 year in the Constitutional Reserve Fund is not  
16 equal to or greater than Eighty Million Dollars  
17 (\$80,000,000.00) or when the certification by the  
18 State Board of Equalization for such fiscal year  
19 General Revenue Fund is less than that of the  
20 immediately prior fiscal year certification, then  
21 any incentive payments which would have been  
22 payable during such fiscal year shall be payable  
23 in the first fiscal year when funds are available  
24 pursuant to the provisions of division (1) of



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

11 (4) The Legislature is authorized to enact laws  
12 necessary to implement the provisions of this  
13 section.

14 7. Up to three-eighths (3/8) of the balance at the beginning of  
15 the current fiscal year in the Constitutional Reserve Fund may be  
16 appropriated for the current fiscal year if the State Board of  
17 Equalization determines that a revenue failure has occurred with  
18 respect to the General Revenue Fund of the State Treasury. In no  
19 event shall the amount of monies appropriated from the  
20 Constitutional Reserve Fund pursuant to this paragraph be in excess  
21 of the amount of the projected revenue failure in the General  
22 Revenue Fund, which total amount shall be computed by the State  
23 Board of Equalization, for the entire fiscal year. Monies  
24 appropriated to any state governmental entity from the

1 Constitutional Reserve Fund pursuant to this paragraph may only be  
2 made in order to ensure that the monies actually received by the  
3 entity for the then current fiscal year are equal to or less than,  
4 but not in excess of, the total appropriation amount for such entity  
5 in effect at the beginning of the then current fiscal year.

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

16 9. That portion of every appropriation, at the end of each  
17 fiscal year, in excess of actual revenues collected and allocated  
18 thereto, as hereinafter provided, shall be null and void. Revenues  
19 deposited in the State Treasury to the credit of the General Revenue  
20 Fund or of any special fund (which derives its revenue in whole or  
21 in part from state taxes or fees) shall, except as to principal and  
22 interest on the public debt, be allocated monthly to each  
23 department, institution, board, commission or special appropriation  
24 on a percentage basis, in that ratio that the total appropriation

1 for such department, institution, board, commission or special  
2 appropriation from each fund for that fiscal year bears to the total  
3 of all appropriations from each fund for that fiscal year, and no  
4 warrant shall be issued in excess of said allocation. Any  
5 department, institution or agency of the state operating on revenues  
6 derived from any law or laws which allocate the revenues thereof to  
7 such department, institution or agency shall not incur obligations  
8 in excess of the unencumbered balance of cash on hand. Nothing in  
9 this section shall prevent, under such conditions and limitations as  
10 shall be prescribed by law, the governing board of an institution of  
11 higher education within The Oklahoma State System of Higher  
12 Education from contracting with a president of such institution of  
13 higher education for periods extending more than one (1) year, but  
14 not to exceed three (3) years beyond the fiscal year in which the  
15 contract is signed.

16 10. The Legislature shall provide a method whereby  
17 appropriations shall be divided and set up on a monthly, quarterly  
18 or semiannual basis within each fiscal year to prevent obligations  
19 being incurred in excess of the revenue to be collected, and  
20 notwithstanding other provisions of this Constitution, the  
21 Legislature shall provide that all appropriations shall be reduced  
22 to bring them within revenues actually collected, but all such  
23 reductions shall apply to each department, institution, board,  
24 commission or special appropriation made by the State Legislature in

1 the ratio that its total appropriation for that fiscal year bears to  
2 the total of all appropriations from that fund for that fiscal year;  
3 provided, however, that the Governor shall have discretion to issue  
4 deficiency certificates to the State Treasurer for the benefit of  
5 any department, institution or agency of the state, if the amount of  
6 such deficiency certificates be within the limit of the current  
7 appropriation for that department, institution or agency, whereupon  
8 the State Treasurer shall issue warrants to the extent of such  
9 certificates for the payment of such claims as may be authorized by  
10 the Governor, and such warrants shall become a part of the public  
11 debt and shall be paid out of any money appropriated by the  
12 Legislature and made lawfully available therefor; provided further,  
13 that in no event shall said deficiency certificates exceed in the  
14 aggregate the sum of Five Hundred Thousand Dollars (\$500,000.00) in  
15 any fiscal year.

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

19 BALLOT TITLE

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

21 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

22 This measure amends the Oklahoma Constitution. It amends Section  
23 23 of Article 10. This section of the Constitution creates the  
24 Constitutional Reserve Fund. This fund is also known as the

1 Rainy Day Fund. Currently there is a limit on the total amount  
2 of money that can be deposited into the Rainy Day Fund. The  
3 limit is set at fifteen percent (15%) of the amount of state  
4 revenue which is certified by the State Board of Equalization at  
5 its December meeting each year that was deposited into the  
6 General Revenue Fund during the preceding fiscal year. This  
7 measure would increase that limit to thirty percent (30%). The  
8 effect of the change is to increase the amount of money that  
9 could be deposited into the Rainy Day Fund.

10 SHALL THE PROPOSAL BE APPROVED?

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

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

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

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