STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

HOUSE JOINT
RESOLUTION 1038 By: Auffet

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 Constitution of the State of Oklahoma; modifying provisions related to the Constitutional Reserve Fund; providing for apportionment of certain monies to the Teachers' Retirement System of Oklahoma; providing for apportionment based on certain funded status; providing for termination of apportionment based on certain funded status; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 51ST 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:

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

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

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

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

shall be certified for the full amount of the estimate. Said estimate shall consider any increase or decline in revenues that would result from predictable changes in the economy.

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

2. Such certification shall be filed with the Governor, the President and President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The Legislature shall not pass or enact any bill, act or measure making an appropriation of money for any purpose until such certification is made and filed, unless the State Board of Equalization has failed to file said certification at the time of convening of said Legislature. In such event, it shall be the duty of the Legislature to make such certification pursuant to the provisions of this section. All appropriations made in excess of such certification shall be null and void; provided, however, that the Legislature may at any regular session or special session, called for that purpose, enact laws to provide for additional revenues or a reduction in revenues, other than ad

valorem taxes, or transferring the existing revenues or unappropriated cash on hand from one fund to another, or making provisions for appropriating funds not previously appropriated directly by the Legislature. Whereupon, it shall be the duty of the State Board of Equalization to make a determination of the revenues that will accrue under such laws and ninety-five percent (95%) of the amount of any increase or decrease resulting, for any reason, from such changes in laws shall be added to or deducted from the amount previously certified available for appropriation from each respective fund, as the case may be. The State Board of Equalization shall file the amount of such adjusted certification, or additional certification for funds not previously appropriated directly by the Legislature, with the Governor, with the President and President Pro Tempore of the Senate, and the Speaker of the House of Representatives, and such adjusted amount shall be the maximum amount which can be appropriated for all purposes from any such fund for the fiscal year being certified.

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

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

5. ~~Beginning~~ Except as otherwise provided by this section, beginning July 1, ~~1985~~ 2009, all such surplus funds or monies accruing after said date shall be placed in a Constitutional Reserve Fund by the State Treasurer until such time that the amount of said Fund equals ~~ten percent (10%)~~ fifteen percent (15%) of the General Revenue Fund certification for the preceding fiscal year. Appropriations made from said Fund shall be considered special appropriations. Notwithstanding any other provision of this section to the contrary, the first Thirty Million Dollars ($30,000,000.00) that would otherwise be deposited into the Constitutional Reserve Fund each year shall be apportioned to the Teachers' Retirement System of Oklahoma to be used by the Teachers' Retirement System to reduce the unfunded actuarial accrued liability of the retirement system until the funded ratio for the retirement system equals or exceeds eighty percent (80%). For any subsequent fiscal year, prior to any deposit of monies into the Constitutional Reserve Fund, if the funded ratio for the Teachers' Retirement System as of the last date prior to the deposit of monies into the Constitutional Reserve Fund for which an actuarial report prepared by the retirement system reveals a funded ratio of less than eighty percent (80%), the first Thirty Million Dollars ($30,000,000.00) that would otherwise be

deposited into the Constitutional Reserve Fund shall be apportioned to the Teachers' Retirement System. If the funded ratio for the Teachers' Retirement System as of the last date prior to the deposit of monies into the Constitutional Reserve Fund for which an actuarial report prepared by the retirement system reveals a funded ratio of eighty percent (80%) or greater, all monies authorized by this section for deposit into the Constitutional Reserve Fund shall be deposited as otherwise required by this section.

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

(c) payment of the incentive would be in accordance with the provisions of this subparagraph and laws enacted to implement provisions of this subparagraph.

(2) The independent committee will be composed of not less than seven (7) people appointed or otherwise determined pursuant to laws enacted by the Legislature providing for membership on the committee. The committee shall make

recommendations to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate for the awarding of incentives. Such recommendations shall give priority to establishments which:

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

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

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

of any incentives in any fiscal year contingent on the balance at the beginning of such fiscal year in the Constitutional Reserve Fund being equal to or greater than Eighty Million Dollars ($80,000,000.00) and on the certification by the State Board of Equalization for such fiscal year of the amount available for appropriation from the General Revenue Fund being greater than the amount certified for the preceding fiscal year. Investment contracts authorized by this subparagraph shall provide that if any incentive payment is payable during a fiscal year in which either the balance at the beginning of the fiscal year in the Constitutional Reserve Fund is not equal to or greater than Eighty Million Dollars ($80,000,000.00) or when the certification by the State Board of Equalization for such fiscal year General Revenue Fund is less than that of the immediately prior fiscal year certification, then any incentive payments which would have been payable during such fiscal year shall be payable in the first fiscal year when funds are available pursuant to the provisions of division (1) of this subparagraph. In the event that the amount

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

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

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

made in order to ensure that the monies actually received by the entity for the then current fiscal year are equal to or less than, but not in excess of, the total appropriation amount for such entity in effect at the beginning of the then current fiscal year.

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

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

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

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

the total of all appropriations from that fund for that fiscal year; provided, however, that the Governor may in his discretion issue deficiency certificates to the State Treasurer for the benefit of any department, institution or agency of the state, if the amount of such deficiency certificates be within the limit of the current appropriation for that department, institution or agency, whereupon the State Treasurer shall issue warrants to the extent of such certificates for the payment of such claims as may be authorized by the Governor, and such warrants shall become a part of the public debt and shall be paid out of any money appropriated by the Legislature and made lawfully available therefor; provided further, that in no event shall said deficiency certificates exceed in the aggregate the sum of Five Hundred Thousand Dollars ($500,000.00) in any fiscal year.

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

BALLOT TITLE

Legislative Referendum No. ____ State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It amends Section 23 of Article 10. This section provides for the Constitutional Reserve Fund. This fund is also known as the Rainy Day Fund. The Teachers' Retirement System of Oklahoma

could receive monies from the Rainy Day Fund. The Teachers' Retirement System would receive monies from the Rainy Day Fund based upon its financial condition. This condition is measured by funded status. This status is known as the funded ratio. If the funded ratio is less than eighty percent each year, the Teachers' Retirement System would receive the first Thirty Million Dollars ($30,000,000.00) from the Rainy Day Fund. This would happen until the funded status was equal to or greater than eighty percent. This measure would also change the maximum amount of money that could be deposited into the Rainy Day Fund. The maximum amount that can be deposited now into the Rainy Day Fund is ten percent of the amount of money predicted for collection in the past fiscal year. This measure would change the maximum to fifteen percent of that predicted figure.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL — YES _____

AGAINST THE PROPOSAL — NO _____

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

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