

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HJR1058 _____
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

By striking the Title, the Resolving Clause, the entire measure, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Paul Wesselhoft

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE JOINT
6 RESOLUTION NO. 1058

By: Wesselhoft

7 PROPOSED COMMITTEE SUBSTITUTE

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 provisions related to the
13 Constitutional Reserve Fund; modifying provisions
14 related to deposit of monies; providing for certain
15 portion of balance to be available for natural
16 disaster expenses; providing for investment of monies
17 by State Treasurer; prescribing investment standard;
18 modifying provisions related to expenditures for
19 certain revenue conditions; providing ballot title;
20 and directing filing.

21 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
22 2ND 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,

1 against the state, or any department, institution or agency thereof,
2 regardless of its form or the source of money from which it is to be
3 paid, except as may be provided in this section and in Sections 24
4 and 25 of Article X of the Constitution of the State of Oklahoma.

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

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

21 Amounts certified as available for appropriation from each fund,
22 as hereinbefore provided, shall be ninety-five percent (95%) of an
23 itemized estimate made by the State Board of Equalization, which
24 shall include all sources of revenue to each fund for the next

1 ensuing fiscal year; provided, however, appropriated federal funds
2 shall be certified for the full amount of the estimate. Said
3 estimate shall consider any increase or decline in revenues that
4 would result from predictable changes in the economy.

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

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

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

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

1 meeting the Board shall determine the limit on the growth of
2 appropriations as provided for in this section.

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

6 5. Beginning July 1, ~~1985~~ 2011, all such surplus funds or
7 monies accruing after said date shall be placed in a Constitutional
8 Reserve Fund by the State Treasurer until such time that the amount
9 of said Fund equals ~~ten percent (10%)~~ fifteen percent (15%) of the
10 General Revenue Fund certification for the preceding fiscal year.
11 Appropriations made from said Fund shall be considered special
12 appropriations.

13 6. a. Up to thirty-three and thirty-four-hundredths percent
14 (33.34%) of the balance of the current fiscal year in
15 the Constitutional Reserve Fund may be appropriated
16 for the forthcoming fiscal year for purposes of paying
17 expenses or reimbursing authorized entities, to be
18 specified in the appropriation measure, resulting from
19 a disaster or emergency condition caused by natural
20 forces, including tornados, high winds, hail,
21 flooding, wildfires, earthquakes or other naturally
22 occurring events. All monies available for
23 appropriation pursuant to the provisions of this
24 subparagraph shall be invested by the State Treasurer

1 with the care, skill, prudence and diligence under the
2 circumstances then prevailing that a prudent person
3 acting in a like capacity and familiar with such
4 matters would use in the conduct of an enterprise with
5 like character and like aims and by diversifying the
6 investments so as to minimize the risk of large
7 losses, unless under the circumstances it is clearly
8 prudent not to do so.

9 b. Up to ~~three eighths (3/8)~~ twenty-four and nine-
10 thousand-nine-hundred-seventy-five-ten-thousandths
11 percent (24.9975%) of the balance at the beginning of
12 the current fiscal year in the Constitutional Reserve
13 Fund may be appropriated for the forthcoming fiscal
14 year, when the certification by the State Board of
15 Equalization for said forthcoming fiscal year General
16 Revenue Fund is less than that of the current fiscal
17 year certification. In no event shall the amount of
18 monies appropriated from the Constitutional Reserve
19 Fund be in excess of the difference between the two
20 said certifications.

21 ~~b.~~ c. (1) In years when the provisions of subparagraph a b
22 of this paragraph are not applicable and the
23 balance at the beginning of the current fiscal
24 year in the Constitutional Reserve Fund is equal

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

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

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

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

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

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

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

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

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

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

15 7. Up to ~~three-eighths (3/8)~~ twenty-four and nine-thousand-
16 nine-hundred-seventy-five-ten-thousandths percent (24.9975%) of the
17 balance at the beginning of the current fiscal year in the
18 Constitutional Reserve Fund may be appropriated for the current
19 fiscal year if the State Board of Equalization determines that a
20 revenue failure has occurred with respect to the General Revenue
21 Fund of the State Treasury. In no event shall the amount of monies
22 appropriated from the Constitutional Reserve Fund pursuant to this
23 paragraph be in excess of the amount of the projected revenue
24 failure in the General Revenue Fund, which total amount shall be

1 computed by the State Board of Equalization, for the entire fiscal
2 year. Monies appropriated to any state governmental entity from the
3 Constitutional Reserve Fund pursuant to this paragraph may only be
4 made in order to ensure that the monies actually received by the
5 entity for the then current fiscal year are equal to or less than,
6 but not in excess of, the total appropriation amount for such entity
7 in effect at the beginning of the then current fiscal year.

8 8. Up to ~~one quarter (1/4)~~ sixteen and six-hundred-sixty-five-
9 thousandths percent (16.665%) of the balance at the beginning of the
10 current fiscal year in the Constitutional Reserve Fund may be
11 appropriated, upon a declaration by the Governor that emergency
12 conditions exist, with concurrence of the Legislature by a
13 two-thirds (2/3) vote of the House of Representatives and Senate for
14 the appropriation; or said ~~one quarter (1/4)~~ sixteen and six-
15 hundred-sixty-five-thousandths percent (16.665%) could be
16 appropriated upon a joint declaration of emergency conditions by the
17 Speaker of the House of Representatives and the President Pro
18 Tempore of the Senate, with a concurrence of a three-fourths (3/4)
19 vote of the House of Representatives and Senate.

20 9. That portion of every appropriation, at the end of each
21 fiscal year, in excess of actual revenues collected and allocated
22 thereto, as hereinafter provided, shall be null and void. Revenues
23 deposited in the State Treasury to the credit of the General Revenue
24 Fund or of any special fund (which derives its revenue in whole or

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

20 10. The Legislature shall provide a method whereby
21 appropriations shall be divided and set up on a monthly, quarterly
22 or semiannual basis within each fiscal year to prevent obligations
23 being incurred in excess of the revenue to be collected, and
24 notwithstanding other provisions of this Constitution, the

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

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

23 BALLOT TITLE

24 Legislative Referendum No. _____ State Question No. _____

1 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

2 This measure amends the Oklahoma Constitution. It amends
3 Section 23 of Article 10. This section creates the Rainy Day
4 Fund. This measure would increase the amount of money that
5 could be deposited in the Rainy Day Fund. The deposit cannot be
6 more than 10% of the amount of state revenue predicted for
7 collection in the preceding fiscal year. This measure would
8 increase that amount to 15%. This measure would set aside
9 33.34% of the Rainy Day Fund for emergency situations related to
10 natural disasters. A disaster could be a tornado, high winds,
11 hail, flooding, wildfire, earthquake or other natural event.
12 The State Treasurer would invest this part of the Rainy Day
13 Fund. The money would be invested based on the same standard
14 used to invest state retirement funds. The measure would change
15 the amounts of Rainy Day Fund money that can be spent for
16 certain purposes. These amounts are related to the state
17 budget. These amounts are set at 37.5% or 25% of the total
18 amount in the Rainy Day Fund. This measure would change those
19 amounts to 24.9975% and 16.665% to take into account the set-
20 aside amount for emergency conditions caused by natural
21 disasters.

22 SHALL THE PROPOSAL BE APPROVED?

23 FOR THE PROPOSAL — YES _____

24 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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