

Committee Substitute for
ENGROSSED

House Bill No. 1519

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1519 - By: Dorman, Pittman, McMullen, Collins, Martin (Steve) and Coody of the House and Barrington of the Senate.

[constitutional amendment - amending Section 23 of Article X - transferring monies from the Constitutional Reserve Fund for disaster relief - directing filing]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

14 Amounts certified as available for appropriation from each fund,
15 as hereinbefore provided, shall be ninety-five percent (95%) of an
16 itemized estimate made by the State Board of Equalization, which
17 shall include all sources of revenue to each fund for the next
18 ensuing fiscal year; provided, however, appropriated federal funds
19 shall be certified for the full amount of the estimate. Said
20 estimate shall consider any increase or decline in revenues that
21 would result from predictable changes in the economy.

22 Legislative appropriations for any fiscal year, except for
23 special appropriations provided for in paragraph ~~6~~ 7, ~~or 8~~, or 9 of

1 this section shall be limited to a sum not to exceed the total
2 amount appropriated from all funds in the preceding fiscal year,
3 plus twelve percent (12%), adjusted for inflation for the previous
4 calendar year. Said limit shall be adjusted for funds not
5 previously appropriated. The limit on the growth of appropriations
6 shall be certified to by the State Board of Equalization.

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

1 State Board of Equalization to make a determination of the revenues
2 that will accrue under such laws and ninety-five percent (95%) of
3 the amount of any increase or decrease resulting, for any reason,
4 from such changes in laws shall be added to or deducted from the
5 amount previously certified available for appropriation from each
6 respective fund, as the case may be. The State Board of
7 Equalization shall file the amount of such adjusted certification,
8 or additional certification for funds not previously appropriated
9 directly by the Legislature, with the Governor, with the President
10 and President Pro Tempore of the Senate, and the Speaker of the
11 House of Representatives, and such adjusted amount shall be the
12 maximum amount which can be appropriated for all purposes from any
13 such fund for the fiscal year being certified.

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

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

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

7 6. Prior to any other disbursements from the Constitutional
8 Reserve Fund, and subject to the final approval of a majority of the
9 members of the Contingency Review Board, there shall be transferred
10 from the Constitutional Reserve Fund to the State Emergency Fund a
11 sum to be determined by a certification from the Department of
12 Emergency Management, or its successor entity, made to the State
13 Board of Equalization, the Governor, the President and President Pro
14 Tempore of the Oklahoma State Senate, and the Speaker of the
15 Oklahoma House of Representatives, of the estimated amount of money,
16 agreed upon with the Federal Emergency Management Agency, or its
17 successor, required to match federal disaster relief funding
18 available to the state for the fiscal year ending June 30 of the
19 current calendar year. Subject to the final approval of the
20 Contingency Review Board, the transfer shall occur not later than
21 thirty (30) days after the certification is transmitted to the State
22 Board of Equalization and notwithstanding any other provision of the
23 Oklahoma Constitution that would otherwise prescribe a different

1 method, the transfer shall occur by operation of law without the
2 requirement of an appropriation. The Legislature shall be
3 authorized to enact laws to describe the authorized use of the funds
4 transferred pursuant to this paragraph, but the amount transferred
5 shall not be modified if the resulting transfer amount would result
6 in the receipt by the State of Oklahoma of less federal disaster
7 relief funding than the amount to which the State of Oklahoma is
8 eligible for the applicable period.

9 7. Except as otherwise provided by this section:

10 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

1 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

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

- 9 (a) are at greater risk of losing jobs because
10 the plant is no longer competitive or
11 leaving the state and thereby causing the
12 loss of more employment in this state than
13 other eligible recipients, and
14 (b) provide the largest economic impact to the
15 state.

- 16 (3) For any fiscal year, the incentives shall not
17 exceed ten percent (10%) of the amount invested
18 by an establishment in capital assets to be
19 utilized in this state. Incentives may only be
20 paid pursuant to an investment contract between
21 the establishment and a state agency designated
22 by law, which provides for a specified amount of
23 investment in a capital asset to be made by the

1 establishment over a period of not to exceed five
2 (5) years. No incentive payment shall be made
3 prior to the actual investment by the
4 establishment. The contract shall make payment
5 of any incentives in any fiscal year contingent
6 on the balance at the beginning of such fiscal
7 year in the Constitutional Reserve Fund being
8 equal to or greater than Eighty Million Dollars
9 (\$80,000,000.00) and on the certification by the
10 State Board of Equalization for such fiscal year
11 of the amount available for appropriation from
12 the General Revenue Fund being greater than the
13 amount certified for the preceding fiscal year.
14 Investment contracts authorized by this
15 subparagraph shall provide that if any incentive
16 payment is payable during a fiscal year in which
17 either the balance at the beginning of the fiscal
18 year in the Constitutional Reserve Fund is not
19 equal to or greater than Eighty Million Dollars
20 (\$80,000,000.00) or when the certification by the
21 State Board of Equalization for such fiscal year
22 General Revenue Fund is less than that of the
23 immediately prior fiscal year certification, then

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

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

18 ~~7.~~ 8. Up to three-eighths (3/8) of the balance at the beginning
19 of the current fiscal year in the Constitutional Reserve Fund may be
20 appropriated for the current fiscal year if the State Board of
21 Equalization determines that a revenue failure has occurred with
22 respect to the General Revenue Fund of the State Treasury. In no
23 event shall the amount of monies appropriated from the

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

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

21 ~~9.~~ 10. That portion of every appropriation, at the end of each
22 fiscal year, in excess of actual revenues collected and allocated
23 thereto, as hereinafter provided, shall be null and void. Revenues

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

22 ~~10.~~ 11. The Legislature shall provide a method whereby
23 appropriations shall be divided and set up on a monthly, quarterly

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

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

4 BALLOT TITLE

5 Legislative Referendum No. _____ State Question No. _____

6 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

7 This measure amends Section 23 of Article 10 of the State
8 Constitution. When federal disaster relief funding is offered
9 to the state, the state must match a certain amount in order to
10 receive the full funding. This measure requires the state's
11 part to be paid from the state's Constitutional Reserve Fund.
12 It requires this money to be paid before any other money is
13 spent from that fund. It requires the payment to be made no
14 later than 30 days after the state's amount has been determined.
15 It allows the payment to be made without an appropriation from
16 the Legislature. It allows the Contingency Review Board to
17 approve or disapprove the payment. It lets the Legislature pass
18 laws to regulate the use of the funds, as long as those laws do
19 not lessen federal disaster relief money for the state.

20 SHALL THE PROPOSAL BE APPROVED?

21 FOR THE PROPOSAL — YES _____

22 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.

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-2-08 - DO
7 PASS, As Amended.