

HB 933

*S Lyman B Beard
Society Bldg,
Muskogee, 106*

2nd

State Question No. 360

Referendum Petition No. 106

"WARNING"

"It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the same measure, or to sign such petition when he is not a legal voter."

(ONLY TWENTY SIGNATURES ALLOWED ON THE LAST SHEET OF THIS PAMPHLET)



PETITION FOR REFERENDUM

To the HONORABLE JOHNSTON MURRAY, Governor of the State of Oklahoma:

We, the undersigned citizens and legal voters of the State of Oklahoma, respectfully order that House Bill No. 933, entitled:

"AN ACT RELATING TO TURNPIKES; AMENDING TITLE 69 O. S. 1951, SECTION 652 RELATING TO BONDS NOT OBLIGATIONS OF STATE OR SUBDIVISIONS; SECTION 653 RELATING TO MEMBERSHIP OF THE OKLAHOMA TURNPIKE AUTHORITY; AMENDING TITLE 69, O. S. 1951, SECTION 654 RELATING TO TURNPIKE CONCESSIONS; AMENDING TITLE 69, O. S. 1951, SECTION 655 RELATING TO THE AUTHORITY AND POWERS OF THE OKLAHOMA TURNPIKE AUTHORITY IN THE CONSTRUCTION, MAINTENANCE AND OPERATION OF TURNPIKE PROJECTS; AMENDING TITLE 69, O. S. 1951, SECTION 656 RELATING TO GRADE SEPARATIONS AND SURVEYS FOR TURNPIKE PROJECTS; AMENDING TITLE 69, O. S. 1951, SECTION 657 RELATING TO THE ACQUISITION OF LANDS OR INTERESTS THEREIN BY THE OKLAHOMA TURNPIKE AUTHORITY; AMENDING TITLE 69, O. S. 1951, SECTION 658 RELATING TO CONDEMNATION PROCEDURE FOR TURNPIKE PROJECTS; AMENDING TITLE 69, O. S. 1951, SECTION 659 RELATING TO THE ISSUANCE OF TURNPIKE BONDS; RELATING TO SECTION 660 THROUGH 671, BOTH INCLUSIVE, OF TITLE 69, O. S. 1951, RELATING TO SECURING BONDS BY TRUST AGREEMENTS; CONTRACTS FOR USE OF PORTIONS OF PROJECT REGULATION OF MOTOR CARRIERS; RIGHTS AND REMEDIES OF BOND HOLDERS; MAINTENANCE AND REPAIRS OF PROJECTS; JUDICIAL DETERMINATION OF VALIDITY OF BONDS; AMENDING TITLE 69 O. S. 1951, SECTION 672, RELATING TO LOCATION OF TURNPIKE PROJECTS."

passed by the Twenty-fourth Legislature of the State of Oklahoma, at the regular session of said Legislature, shall be referred to the people of the State for their approval or rejection at the next regular general election to be held throughout the State of Oklahoma, and each for himself says:

"I have personally signed this Petition; I am a legal voter of the State of Oklahoma and of the County of _____; my residence and post office address are correctly written after my name."

(NOTE: The time for filing this Petition expires September 4, 1953)

The question we herewith submit to our fellow voters is:

"SHALL THE FOLLOWING ACT OF THE LEGISLATURE BE APPROVED?"

HOUSE BILL NO. 933

AN ACT RELATING TO TURNPIKES; AMENDING TITLE 69 O. S. 1951, SECTION 652 RELATING TO BONDS NOT OBLIGATIONS OF STATE OR SUBDIVISIONS; SECTION 653 RELATING TO MEM-

BERSHIP OF THE OKLAHOMA TURNPIKE AUTHORITY; AMENDING TITLE 69, O. S. 1951, SECTION 654 RELATING TO TURNPIKE CONCESSIONS; AMENDING TITLE 69, O. S. 1951, SECTION 655 RELATING TO THE AUTHORITY AND POWERS OF THE OKLAHOMA TURNPIKE AUTHORITY IN THE CONSTRUCTION, MAINTENANCE AND OPERATION OF TURNPIKE PROJECTS; AMENDING TITLE 69, O. S. 1951, SECTION 656 RELATING TO GRADE SEPARATIONS AND SURVEYS FOR TURNPIKE PROJECTS; AMENDING TITLE 69, O. S. 1951, SECTION 657 RELATING TO THE ACQUISITION OF LANDS OR INTERESTS THEREIN BY THE OKLAHOMA TURNPIKE AUTHORITY; AMENDING TITLE 69, O. S. 1951, SECTION 658 RELATING TO CONDEMNATION PROCEDURE FOR TURNPIKE PROJECTS; AMENDING TITLE 69, O. S. 1951, SECTION 659 RELATING TO THE ISSUANCE OF TURNPIKE BONDS; RELATING TO SECTION 660 THROUGH 671, BOTH INCLUSIVE, OF TITLE 69, O. S. 1951, RELATING TO SECURING BONDS BY TRUST AGREEMENTS; CONTRACTS FOR USE OF PORTIONS OF PROJECT, REGULATION OF MOTOR CARRIERS; RIGHTS AND REMEDIES OF BOND HOLDERS; MAINTENANCE AND REPAIRS OF PROJECTS; JUDICIAL DETERMINATION OF VALIDITY OF BONDS; AMENDING TITLE 69 O. S. 1951, SECTION 672, RELATING TO LOCATION OF TURNPIKE PROJECTS.

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

SECTION 1. Title 69, O. S. 1951, Section 652. Turnpike revenue bonds issued under the provisions of this Act shall not at any time on or after the passage of this Act be deemed to constitute a debt of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but such bonds shall be payable solely from the funds herein provided therefor from revenues. Such turnpike revenue bonds shall contain on the face thereof a statement to the effect that neither the State nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or the interest on such bonds.

SECTION 2. Title 69, O. S. 1951, Section 653, is hereby amended to read as follows:

Section 653. There is hereby created a body corporate and politic to be known as the "Oklahoma Turnpike Authority," and by that name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an instrumentality of the State, and the exercise by the Authority of the powers conferred by this Act, in the construction, operation, and maintenance of turnpike projects shall be deemed and held to be an essential governmental function of the State. Provided, however, this shall not be construed to relieve said Authority from liability for personal injuries or property damages incurred by it through its negligence or the negligence of its servants or agents, and in addition thereto it shall be subject to Workmen's Compensation Laws of the State the same as a private construction project.

The Oklahoma Turnpike Authority shall consist of one member from each congressional district of the State of Oklahoma and shall include the Governor of the State, who shall be a member ex-officio; all members to be appointed by the Governor, by and with consent of the Senate. The appointive members shall be residents of the State, and shall have been qualified electors therein for a period of at least one (1) year next preceding their appointment. The members of the authority first appointed shall continue in office for terms expiring on July 1, 1955; July 1, 1956; July 1, 1957; July 1, 1958; July 1, 1959 and July 1, 1960, respectively, the term of each such member to be designated by the Governor, and until their respective successors shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of eight (8) years, except that any person appointed to fill a vacancy shall be appointed to serve only for an unexpired term, and a member of the Authority shall be eligible for reappointment. Each appointed member of the Authority before entering upon his duties shall take an oath as provided by Section 1 of Article XV of the Constitution of the State of Oklahoma. The appointive members of the Authority may be removed by the Governor at any time with or without cause.

The Authority shall elect one (1) of the appointed members as Chairman and another as Vice-Chairman, and shall also elect a Secretary and Treasurer. A majority of the members of the Authority shall constitute a quorum and the vote of a majority of the members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any turnpike revenue bonds under the provisions of this Act, each appointed member of the Authority shall execute a surety bond in the penal sum of Fifty Thousand (\$50,000.00) Dollars and the Secretary and Treasurer shall execute a surety bond in the penal sum of Two Hundred and Fifty Thousand (\$250,000.00) Dollars, each such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the State of Oklahoma as surety and to be approved by the Governor and filed in the office of the Secretary of State.

The members of the Authority shall not be entitled to compensation for their services but each member shall be

reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses incurred in carrying out the provisions of this Act shall be payable solely from funds provided under the authority of this Act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the authority of this Act.

The Authority created by this Act, when the members thereof have been appointed and qualified, shall be the legal successor to the Oklahoma Turnpike Authority created by Senate Bill No. 225 of the Twenty-first Legislature (69 O. S. 1951, Section 653), and shall assume all powers, duties, obligations and responsibilities of said Authority, and is hereby empowered to take charge immediately upon their appointment and qualification.

SECTION 3. Title 69, O. S. 1951, Section 654, is hereby amended to read as follows:

Section 654. As used in this Act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Oklahoma Turnpike Authority, created by Title 69, O. S. 1951, Section 653, or, if said Authority shall be abolished, the Board, body, or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.

(b) The word "project" or the words "turnpike project" shall mean any express highway, super-highway, or motorway constructed under the provisions of this Act by the Authority, and shall embrace all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, free access roads, bridges, and road construction, toll houses, service stations, and administration, storage and other buildings which the Authority may deem necessary for the operation of such turnpike, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such turnpike, provided, that in contracting or leasing concessions for gas stations, garages, stores, hotels, restaurants, tourist camps, parking facilities and other merchandise and services for any Turnpike project other than the Turner Turnpike, the Authority shall contract or lease such concessions by concession areas, and shall not lease or contract for any concession covering the entire Turnpike Project, unless it shall be unable to obtain bids for development of sufficient individual concession areas to serve the Turnpike Project.

(c) The word "cost" as applied to a turnpike project shall embrace the cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the Authority for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and for one (1) year after completion of construction, cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any such project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation, but no funds from State Highway Department shall be diverted to costs of any surveys, borings, plans or specifications and/or any other engineering services, unless paid for on or before the tenth day after said surveys, boring, plans and/or other services are completed by State Highway Department by the Turnpike Commission, Board, Authority, or whatever same shall be named by the Act. Any obligation or expense hereafter incurred by the State Highway Commission with the approval of the Authority for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed to the State out of the proceeds of turnpike revenue bonds hereinafter authorized.

(d) The word "owner" shall include all individuals, copartnerships, associations, or corporations having any title or interest in any property, rights, easements, and interest authorized to be acquired by this Act.

SECTION 4. Title 69, O. S. 1951, Section 655, is hereby amended to read as follows:

Section 655. The Authority is hereby authorized and empowered:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To maintain an office at such place or places within the State as it may designate;

(d) To sue and be sued in its own name, plead and be impleaded; provided, however, that any and all actions at law or in equity against the Authority shall be brought in the county in which the principal office of the Authority shall be located; or in the county of the residence of the plaintiff, or in the county where the cause of action arose. All privileges granted to the Authority and duties enjoined upon the Authority by the provisions of this Act may be enforced in a court of competent jurisdiction in an action in mandamus.

(e) To construct, maintain, repair and operate turnpike projects and highways, with their access and connecting roads, at such locations and on such routes as it shall determine to be feasible and economically sound, provided its access road construction and connection between the city of Tulsa and Joplin, Missouri shall extend along such a route as will not be a greater distance than approximately one-half (½) mile from the city limits of the following cities and towns: Claremore, Vinita, Afton, Miami and Quapaw; and it shall be the duty of such authority to construct, with entrances, a suitable and adequate access road, to be approved by the Highway Commission of the State of Oklahoma, connecting such turnpikes with the principal business district of each of said named towns and cities, and said Authority is hereby authorized to enter into contracts or agreement with Turnpike officials of other States for the construction, maintenance and operation of Interstate Turnpikes.

(f) To issue turnpike revenue bonds of the Authority payable solely from revenues, for the purpose of paying all or any part of the cost of any one or more turnpike projects;

(g) To fix and revise from time to time tolls for the use of any turnpike project; provided that the tolls when so fixed, plus revenues derived from other sources, shall when applied to the estimated amount of traffic, produce sufficient revenue (a) to pay for the annual cost of the operation, maintenance, and repair of such project, (b) to pay as and when due the principal and interest on the bonds issued to pay for such project, and (c) to accumulate and maintain such reserves as are provided for in the resolution or trust indenture under which such bonds are issued or secured.

Any common carrier having authority at the time of opening any turnpike project to operate upon a highway approximately paralleling said turnpike project shall be granted without further showing authority to operate over said turnpike project to all towns or cities which such carrier is serving at the time said turnpike project is opened to traffic. But nothing herein shall be construed as granting any new operation rights to any common carriers.

(h) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Act;

(i) To acquire in the name of the Authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in manner hereinafter provided, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this Act, and that all public property damaged in carrying out the powers granted by this Act shall be restored or repaired and placed in its original condition as nearly as practicable;

(j) To designate, except as is provided for herein, the locations, and establish, limit and control such points of ingress to and egress from each Turnpike project as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(k) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation; provided, that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of this Act or from revenues;

(l) To receive and accept from any Federal agency grants for or in aid of the construction of any turnpike project, provided, the acceptance of such grants will not reduce the amount of Federal Aid for the construction, repair, or maintenance of farm-to-market roads and other highways and bridges in this State; and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made;

(m) To adopt such rules and regulations, and to do any and all things necessary to comply with rules, regulations, or requirements of the United States Bureau of Public Roads or any other Federal agency administering any law enacted by the Congress of the United States to aid or encourage the construction of highways; and

(n) To do all things necessary or convenient to carry out the powers expressly granted in this Act, subject to the following restrictions and limitations: The Authority shall, when contracting for construction work, divide such work into paving projects, bridge projects, including underpasses and overpasses, and earth moving and/or miscellaneous projects, according to the type of work to be done and each project shall be let under a separate contract or contracts and no contract or project shall include more than one (1) of said types of construction work. No contract for paving work shall exceed approximately One Million Dollars (\$1,000,000.00), and no contract for earth work and/or for miscellaneous work shall exceed the sum of approximately One Million Dollars (\$1,000,000.00). No

contract for bridge construction or underpasses or overpasses shall exceed the sum of approximately One Million Dollars (\$1,000,000.00). Each contract for construction work shall contain a provision that ninety per cent (90%) of all labor employed on the project shall be residents of Oklahoma. Provided, however, that no tied bids shall be accepted, no contract shall exceed five (5) miles in length, and provided further that contracts for bridges may include earth work and structures for the approaches thereto, and provided further that any one bridge or tunnel and the approaches thereto may be included in one contract. On all highway construction projects, the Authority shall take bids on both asphaltic concrete surfacing and Portland Cement surfacing, each designed for the same load bearing capacity. Each contractor shall post with the Authority a three (3) year maintenance bond. The amount of said bond shall be determined at the rate of Twenty-five Hundred (\$2,500.00) Dollars per mile.

(c) It shall be unlawful for any member, officer or employee of the Authority to transact with the Authority, either directly or indirectly, any business for profit of such member, officer, or employee, and any person, firm or corporation knowingly participating therein shall be equally liable for violation of this provision.

The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift, or consideration to such member, officer, or employee.

Violation of this provision shall constitute a felony, and shall be punishable by a fine of not less than Five Hundred (\$500.00) Dollars and not more than Five Thousand (\$5,000.00) Dollars, or by imprisonment in the State Penitentiary for not more than five (5) years or by both such fine and imprisonment.

SECTION 5. Title 69, O. S. 1951, Section 656, is hereby amended to read as follows:

Section 656. The Authority shall have authority and it shall be its duty to construct grade separations at intersections of any Turnpike project with State and Federal Highways, and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The Turnpike Authority shall have authority to construct grade separations at intersections of Turnpike projects with county highways and city streets and it shall construct grade separations at intersections of any Turnpike project with county highways used as mail or school bus routes, or section lines which are well used and are necessary for convenience of people living in these areas. The cost of such grade separations and any damages incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the Authority as a part of the cost of such Turnpike project.

If the Authority shall find it necessary to change the location of any portion of any State or county highway or city street, it shall cause the same to be reconstructed in substantially the same type and in as good condition as the original highway. Provided, however, that all changes and adjustments of the lines and grades of State Highways shall be subject to the approval of the State Highway Commission. The cost of such reconstruction and any damage incurred in changing the location of any such highway or street shall be ascertained and paid by the Authority as a part of the cost of such Turnpike Project.

In addition to the foregoing powers the Authority and its authorized agents and employees may enter upon any lands, waters, and premises in the State for the purpose of making surveys, soundings, drillings and examination as it may deem necessary or convenient for the purposes of this Act, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damages resulting to such lands, waters, and premises as a result of such activities. If any landowner, lessee or tenant shall refuse the Authority permission to make such surveys, the Authority may acquire a right of entry for such surveys by the condemnation procedure herein prescribed.

The State of Oklahoma hereby consents to the use of all lands owned by it, except highway rights-of-way, including lands lying under water, which are deemed by the Authority to be necessary for the construction or operation of any Turnpike project; and the State of Oklahoma shall be paid reasonable compensation for the land or property used, such compensation to be determined in the manner now provided by law for condemnation proceedings.

SECTION 6. Title 69 O. S. 1951, Section 657 is hereby amended to read as follows:

Section 657. The Authority is hereby authorized and empowered to acquire by purchase, or condemnation lands or such interest therein as in its discretion may be necessary for the purpose of establishing, constructing, maintaining and operating turnpike projects or relocation thereof, and facilities necessary and incident thereto, or necessary in the restoration of public or private property damaged or destroyed, including borrow areas, detours, channel changes, concession areas, public or private access roads, and deposits of rock, gravel, sand and other road building material for use in Turnpike construction and maintenance, upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the Authority and the owner thereof, and to take title thereto in the name of the Authority, provided that such right and title shall be limited to the surface rights only and shall not include oil or other mineral rights.

SECTION 7. Title 69 O. S. 1951, Section 658, is hereby amended to read as follows:

Section 658. Except in instances where there are nonresident owners, unknown heirs, imperfect titles, and owners whose whereabouts cannot be ascertained with reasonable diligence, the Authority shall give the owner an opportunity to sell the necessary land or interests therein to the Authority before resort to condemnation may be had. The Authority may condemn said lands or interests therein in the following manner:

The District Judge of the County in which said real property may be situated, upon petition of either party, and after ten days notice to the opposite party, either by personal service or by leaving a copy thereof at his usual place of residence with some member of his family over fifteen (15) years of age, or in the case of nonresidents, unknown heirs, or other persons whose whereabouts cannot be ascertained, by publication in two issues of a weekly newspaper in general circulation in said County (said ten day period to begin with the first publication), shall direct the sheriff of said County to summons three disinterested free holders, to be selected by said Judge from the regular jury list of names as commissioners, and who shall not be interested in a like question. The Commissioners shall be sworn to perform their duties impartially and justly; and they shall inspect said real property and consider the injury which said owner will sustain by such appropriation of his land irrespective of any benefits from any improvements proposed, provided that speculative or special values arising from said proposed improvements may not be considered; and they shall forthwith make report in writing to the clerk of said Court, setting forth the quantity, boundaries and value of the property taken, and amount of injury done to the property, either directly or indirectly which they assess to the owner; which report must be filed and recorded by the clerk, and a certified copy thereof may be transmitted to the County Clerk of the County where the land lies, to be by him filed and recorded, (without further acknowledgment of proof) in the same manner and with like force and effect as is provided for the recording of deeds. Procedure for service by publication as authorized herein shall be the same as provided by law for service by publication in civil actions, except summons need not be issued and served, and except as otherwise provided herein.

Immediately upon payment to the Clerk of said Court for the use of said owner the sum so assessed and reported to him as aforesaid, the Authority shall thereby be authorized to enter upon the condemned premises, and remove and dispose of any obstructions thereon, by sale or otherwise. If the land owner shall refuse to deliver up possession to the Authority, the Court shall issue an order to the Sheriff of said County to place the Authority in possession thereof.

The report of Commissioners may be reviewed by the District Court, on written exceptions filed by either party in the Clerk's office within thirty (30) days after the filing of such report, and the Court, after hearing had, shall make such order therein as right and justice may require, either by confirmation, rejection or by ordering a new appraisalment on good cause shown. Provided, that in the event a new appraisalment is ordered, the Authority shall have the continuing right of possession obtained under the first appraisal, unless and until its right to condemn has finally been determined otherwise; or either party may within sixty (60) days after the filing of such report file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a Jury, and the trial shall be conducted and judgment entered in the same manner as Civil Actions in the District Court. No owner upon whom proper service by publication has been had as provided in this Act shall be let in to defend after expiration of time for appeal or review of the report of commissioners as above provided, has elapsed. Provided, that if after the filing of exceptions to the Report of Commissioners as hereinafter provided, the Authority shall fail to establish its right to condemn said premises, or any part thereof, the landowner shall be restored to possession of said premises, or part thereof, and the Authority shall pay him for any damages sustained through the occupation by the Authority, and if said damages cannot be determined by amicable settlement they shall be determined by Jury Trial in the same proceedings.

Either party aggrieved may appeal to the Supreme Court from the decision of the District Court on exception to the Report of Commissioners, or Jury Trial; but such review or appeal shall not delay the prosecution of the work on such turnpike project over the premises in question if the Award of Commissioners, or Jury, as the case may be, has been deposited with the clerk for said owner. The Authority shall in all cases pay the costs and expenses of the first assessment. And in case of review or appeal, a certified copy of the final order or judgment shall be transmitted by the clerk of the Court, duly certified, to the proper County Clerk, to be by him filed and recorded as hereinabove provided for the recording of the report, and with like effect.

Where an estate is being probated, or a minor or incompetent person has a legal guardian, the administrator or executor of such Estate, or the guardian of such minor or incompetent person, shall have authority to execute all instruments of conveyance provided for in this Act on behalf of said Estate, minor or incompetent person without other proceedings than approval by the Judge of the County Court endorsed on said instrument of conveyance.

SECTION 8. Title 69 O. S. 1951, Section 659, is hereby amended to read as follows:

Section 659. The Authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of Turnpike revenue bonds of the Authority for the purpose of paying all or any part of the cost of any one or more Turnpike projects, but each project shall be covered by a separate resolution and separate bond

issue or issues. The principal of and the interest on said bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at a rate not to exceed five per centum per annum, and shall mature in annual installments at such time or times not exceeding the maximum time permitted by the Constitution of the State of Oklahoma, but in any event not more than forty (40) years after their date as may be determined by the Authority. The Authority may cause the bonds or any installment thereof to be made redeemable before maturity at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The bonds shall be signed by the Chairman of the Authority, and the official seal of the Authority shall be affixed thereto and attested by the Secretary and Treasurer of the Authority, and any coupons attached thereto shall bear the facsimile signature of the Chairman of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds

as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interest of the State, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than five (5%) per centum per annum computed with relation to the absolute maturity of the bonds in accordance with the standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on the redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the Turnpike project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things than are specifically required by this Act.

Provided further, that any department, subdivision, commission, board, bureau or agency of the State of Oklahoma are hereby prohibited from bidding, purchasing or investing in any bonds issued under this Act.

SECTION 9. Title 69, O. S. 1951:

Section 660. In the discretion of the Authority any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement may pledge or assign the tolls and other revenues to be received from the project constructed by the use of the proceeds of the bonds, but shall not convey or mortgage any turnpike project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the Turnpike project in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such turnpike project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies

of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary to trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing any such trust agreement may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the turnpike project or projects.

Section 661. The Authority subject to the provisions hereof, is hereby authorized to fix, revise, charge and collect tolls for the use of each turnpike project and the different parts or sections thereof, except for use by law enforcement officers and agencies who shall be entitled to free use of every such project in the performance of official duties, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the pave portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls subject to the other restrictions hereof, shall be so fixed and adjusted in respect of the aggregate of tolls from the Turnpike project in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such Turnpike project, and (b) the principal of and the interest of such bonds as were issued to construct such project as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from each Turnpike project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a separate sinking fund which is hereby pledged to, and charged with, the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of such bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided, which are a charge against such fund. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. The moneys in the sinking fund, less such reserve as may be provided in such resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable. The moneys in each separate sinking fund shall not be used for the payment, purchase or redemption of any bonds which were not issued to construct the project from which such moneys were derived. Any person who leases, rents or acquires control of any gas station, garage, stores, hotels or restaurants, must have been resident of, or has been doing business in, Oklahoma for the past five (5) years. Notwithstanding anything else herein contained to the contrary, the Corporation Commission of the State of Oklahoma shall exercise the jurisdiction now or hereafter vested in it to regulate and control the operation of motor carriers of passengers and freight, using or desiring to use any turnpike project in the manner and to the extent that it regulates or controls such carriers using the highways of the State, but shall not discriminate against any group or class or the individual member thereof in fixing the amount of toll, rents or charge for the use of the Turnpike project.

Section 662. All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this Act. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall act as trustees of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and such resolution or trust agreement may provide.

Section 663. Any holder of bonds issued under the provisions of this Act or any of the coupons appertaining thereto, and the trustee under the trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this Act, or by such trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of tolls.

Section 664. The exercise of the powers granted by this Act will be in all respects for the benefit of the people of the State, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of turnpike projects by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon

any turnpike project or any property acquired or used by the Authority under the provisions of this Act, or upon the income therefrom, and the bonds issued under the provisions of this Act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the State. The Authority is hereby limited in its power to acquire property to the acquisition of property which is necessary to the construction and operation of the Turnpike. And all property, both real and personal, belonging to such Turnpike Authority that is leased for concessions, such as filling stations and restaurants, shall be subject to taxation, the same as other privately owned property.

Section 665. Bonds issued under the provisions of this Act are hereby made securities by which all Banks, Trust Companies, Trust and Loan Associations, Investment Companies and others carrying on a banking business; all Insurance Companies and Insurance Associations, and others carrying on an insurance business, may legally and properly invest funds including capital in their control or belonging to them. Provided such bonds shall not be used by any depository in securing county or state funds.

Section 666. Each turnpike project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. Each such turnpike project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ.

All private property damaged or destroyed in carrying out the powers granted by this Act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this Act.

All counties, cities, villages, townships and other political subdivisions and all public agencies and commissions of the State of Oklahoma notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as the proper authorities of such counties, cities, villages, townships, other political subdivisions or public agencies and commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the affectuation of the authorized purposes of the Authority, including public roads and other real property already devoted to public use.

Section 667. When all bonds issued under the provisions of this Act in connection with any turnpike project and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project, if then in good condition and repair to the satisfaction of the State Highway Commission, shall become part of the State Highway System and shall thereafter be maintained by the State Highway Commission free of tolls.

Section 668. The Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of any bonds to be issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application. It shall be the duty of the court to give such applications precedence over the other business of the court and to consider and pass upon the applications and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in the State that on a day named the Authority will ask the court to hear its application and approve the bonds. Such notice shall inform all persons interested that they may file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one time, not less than ten (10) days prior to the date named for the hearing, and the hearing may be adjourned from time to time in the discretion of the court. If the court shall be satisfied that the bonds have been properly authorized in accordance with this Act and that when issued, they will constitute valid obligations in accordance with their terms, the court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma.

Section 669. The Authority is hereby authorized to provide by resolution for the issuance of turnpike revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Act including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. Each refunding issue shall be limited to the project in connection with which the bonds being refunded were issued and revenues pledged to pay any such refunding issue shall be limited to the revenue derived from said separate project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this Act in so far as the same may be applicable.

Section 670. The Authority shall make and submit to the Governor, on or before December 31 of each year, a full report showing anticipated projects, projects under construction and projects in operation, and the financial condition of the Authority and the sinking fund of each separate project, and such other information as the Governor shall require.

Section 671. The foregoing Sections of this Act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of turnpike revenue bonds or turnpike revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds.

SECTION 10. Title 69, O. S. 1951, Section 672, is hereby amended to read as follows:

Section 672. This Act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof; provided that until specifically authorized by the Legislature the provisions of this Act shall not be utilized to construct and operate any toll turnpike except at the following locations:

- (1) The Turner Turnpike between Oklahoma City and Tulsa.
- (2) The part in Oklahoma of a Turnpike between a connection with the Turner Turnpike near the Oklahoma City Terminus and Wichita Falls, Texas, or any part of such Turnpike; provided the turnpike shall run within one (1) mile of the city limits of Chickasha.
- (3) The part in Oklahoma of a Turnpike between Tulsa and Joplin, Missouri, or any part of such Turnpike.
- (4) That part in Oklahoma of a Turnpike between a connection with the Turner Turnpike near the Oklahoma City Terminus and Wichita, Kansas, or any part of such Turnpike. Provided that interchanges shall be constructed on said Turnpike at the points at which said Turnpike intersects the following highways: State Highway No. 33, State Highway No. 51, U. S. Highway No. 64, U. S. Highway No. 60, State Highway No. 11 and provided that the Perry interchange of the proposed plan be built within two (2) miles of the city limits of Perry. Provided that no state funds shall be expended for access roads connecting such turnpikes with existing highways. All such access roads must be built entirely by funds furnished by the Turnpike Authority.

The minimum and maximum wages for the construction of the roads, highways and projects provided for in this Act shall be in accordance with the schedules of wages used or adopted by the Oklahoma State Highway Commission in construction of State Highways.

SECTION 11. Nothing herein shall authorize the Authority to take or disturb property or facilities belonging to any public utility or to a common carrier, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the Authority.

With respect to any railroad property or right-of-way, any powers of condemnation may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed project nor any part thereof, including any bridges, abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or right-of-way, plans and specifications of the proposed project showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examinations and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the Oklahoma Corporation Commission whose decision, arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevation or distances above or below the grade. Such overhead or undergrade structure and appurtenances shall be construed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the Oklahoma Corporation Commission as the case may be. A copy of the plans and specifications approved by the railroad or the Oklahoma Corporation Commission shall be filed as an exhibit with the petition for condemnation.

(THE END)

(Page 10)



MAC Q. WILLIAMSON
ATTORNEY GENERAL

STATE OF OKLAHOMA
OFFICE OF THE ATTORNEY GENERAL
OKLAHOMA CITY

December 14, 1953

Honorable John D. Conner
Secretary of State
B U I L D I N G

Dear Sir:

You are hereby notified that pursuant to the discretion and duty lodged in and imposed upon the Attorney General by 34 O. S. 1951 § 9, he has examined the proposed ballot title of State Question No. 360, Referendum Petition No. 106, which, together with a copy of said proposition, was delivered to him on December 12, 1953, by Lyman B. Beard, the party submitting said proposition, and from said examination finds that said ballot title is not in legal form and in harmony with the law.

Therefore, pursuant to the provisions of the above section, the Attorney General has prepared and is submitting herewith, same to be filed in your office, a ballot title for said measure, which, in his opinion, does conform to the law. Said ballot title is as follows:

BALLOT TITLE

State Question No. 360

Referendum Petition No. 106

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

Shall House Bill Number 933, Twenty-fourth Oklahoma Legislature,

Concerning Toll Turnpikes; Amending Chapter 6, Title 69, Oklahoma Statutes 1951, and reenacting part thereof; relating to construction, operation and maintenance of Oklahoma portions of toll turnpikes from Tulsa to Joplin, Missouri, Oklahoma City to Wichita, Kansas, and Oklahoma City to Wichita Falls, Texas; providing for creation, legal succession, powers and duties of Oklahoma Turnpike Authority and removal of members by Governor; relating

Hon. John D. Conner

12-14-53

2

to turnpike finances, concessions, routes, revenues,
bonds payable solely from revenues, property, facilities,
condemnation procedure, and rights of affected
common carriers and public utilities,

be approved by the people?

....
... YES.
....

SHALL HOUSE BILL NUMBER 933 BE APPROVED?

....
... NO.
....

Yours very truly

FOR THE ATTORNEY GENERAL

Fred Hansen
Fred Hansen
First Assistant Attorney General

FH:LW

