BETTER OPPORTUNITIES
BOOST
For Oklahoma Students & Taxpayers

415 SOUTH BOSTON, SUITE 742 / TULSA, OK 74103
(918) 592-5500, 1-800-207-3844

June 30, 1995

The Honorable Thomas J. Cole
Oklahoma Secretary of State
101 State Capitol
Oklahoma City, Oklahoma 73105-4897

FILED
JUN 30 1995
OKLAHOMA SECRETARY OF STATE

Re: Initiative Petition

Dear Mr. Secretary:

Presented herewith for filing is a copy of an initiative petition and the Proponents' suggested ballot title. The petition requests that a proposed Oklahoma constitutional amendment by article be submitted to the voters at the general election on November 5, 1996.

The proposed amendment would create a state gaming commission, and it would authorize casino gaming in Oklahoma.

Very truly yours,

The Proponents,

Better Opportunities for Oklahoma's Students & Taxpayers, Inc.

By: _____
Steven R. Kelley, Chair and Treasurer

_____
Steven R. Kelley, an individual voter

cc: Oklahoma Attorney General
c/o Neal Leader, Esq. (by hand-delivery)
Assistant Attorney General [fulfilling 34 O.S. § 9(A)]

Kevin M. Abel, Esq. (Proponents' initiative petition counsel)
Pray, Walker, Jackman, Williamson & Marlar
900 Oneok Plaza
Tulsa, Oklahoma 74103-4218

f:\users\kma\ip\filing.ltr

State Question No. 672 Initiative Petition No. 363

PROPONENTS' SUGGESTED BALLOT TITLE

This measure would change the State Constitution to permit casino gaming.

At first, there could be four casinos. Two casinos could be at licensed horse racing tracks running more than 500 betting days in any five year period. Another casino could be in Tulsa's arts and entertainment tax increment district. The fourth casino could be in Love County. Five years after the first casino opens, there could be other casinos by county option elections. Only one casino per county would be allowed. At least $25,000,000 would have to be invested in each casino.

A seven member Commission would regulate the casino business. The Governor and Legislative leaders would appoint the first members for one to three year terms. The Governor would appoint later members with the Senate's advice and consent. The Commission could borrow money for its first budget. Fees paid by casinos and related businesses would fund later Commission budgets.

Each casino would pay a 10% fee on its total winnings to the State. After funding the Commission's budget, 50% of the fee would go to public grade schools and high schools statewide. 25% would go to prisons. 25% would go to local governments where casinos are located.

SHALL THE PROPOSED CONSTITUTIONAL AMENDMENT BE APPROVED?

( ) YES - FOR THE AMENDMENT

( ) NO - AGAINST THE AMENDMENT

FILED
JUN 30 1995
OKLAHOMA SECRETARY OF STATE

State Question No. 672 "WARNING" Initiative Petition No. 363

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

FILED
JUN 30 1995
OKLAHOMA SECRETARY OF STATE

INITIATIVE PETITION

TO: THE HONORABLE FRANCIS A. KEATING, GOVERNOR OF OKLAHOMA:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed amendment to the Constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election to be held on the 5th day of November, 1996, or, if unachievable by that date, at the next general election, and each for himself/herself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office is correctly written after my name. The time for filing this petition expires ninety days from June 30, 1995. The question we herewith submit to our fellow voters is:

SHALL THE FOLLOWING PROPOSED AMENDMENT TO THE CONSTITUTION BE APPROVED?

( ) YES - FOR THE AMENDMENT

( ) NO - AGAINST THE AMENDMENT

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

OKLAHOMA CASINO GAMING CONTROL CONSTITUTIONAL AMENDMENT BY ARTICLE

AN AMENDMENT TO THE OKLAHOMA CONSTITUTION ADDING A NEW ARTICLE RELATING TO CASINO GAMING; STATING THE INTENT OF THE PEOPLE; CREATING A STATE GAMING COMMISSION; PROVIDING FOR QUALIFICATIONS, MEETINGS, AND REIMBURSEMENT OF MEMBERS OF THE COMMISSION; AUTHORIZING THE ADOPTION OF RULES GOVERNING THE COMMISSION AND GAMING OPERATIONS; AUTHORIZING THE LICENSING OF PERSONS INVOLVED IN THE GAMING INDUSTRY; AUTHORIZING BORROWING BY THE COMMISSION; AUTHORIZING EMPLOYMENT BY THE COMMISSION OF NECESSARY PERSONNEL; PROVIDING FOR AMENDMENT OR MODIFICATION OF COMMISSION RULES; EMPOWERING THE LEGISLATURE TO REPEAL OR AMEND CERTAIN NON-COMFORMING RULES; VESTING PEACE OFFICER POWER ON CERTAIN PERSONNEL; AUTHORIZING CERTAIN TYPES OF CASINO GAMING; LIMITING THE LOCATION OF GAMING FACILITIES; PROVIDING FOR AUTHORIZED GAMING BY COUNTY OPTION; SETTING THE MINIMUM STANDARDS FOR A GAMING FACILITY; AUTHORIZING A GAMING LICENSE APPLICATION FEE; DEFINING THE NATURE OF LICENSES UNDER THIS ARTICLE; AUTHORIZING GAMING AT TEMPORARY FACILITIES; ESTABLISHING THE DIVISION OF GAMING CONTROL; PROVIDING FOR QUALIFICATIONS OF THE DIRECTOR OF THE DIVISION; SETTING A FEE ON GAMING PROCEEDS; PROVIDING FOR FUNDING OF THE COMMISSION'S BUDGET; EARMARKING CERTAIN FEES FROM CASINO GAMING FOR PUBLIC ELEMENTARY AND SECONDARY EDUCATION, CERTAIN LOCAL GOVERNMENTS, AND CORRECTIONAL INSTITUTIONS; PROHIBITING FURTHER FEES ON AUTHORIZED GAMING OPERATIONS; EMPOWERING THE LEGISLATURE TO ENACT LEGISLATION RELATING TO THE ARTICLE, INCLUDING CRIMINAL PENALTIES; AUTHORIZING THE EXCLUSION OF CERTAIN PERSONS FROM GAMING FACILITIES; PROSCRIBING CERTAIN ACTS; PROVIDING STANDARDS FOR TRIBAL-STATE GAMING COMPACTS; PROHIBITING POSSESSION

Pamphlet No. 00001

OF WEAPONS IN A GAMING FACILITY; DEFINING AN AUTHORIZED GAMING DEBT AS A LEGAL OBLIGATION; PROVIDING FOR APPEALS FROM CERTAIN DECISIONS OF THE GAMING COMMISSION; DECLARING AN EXEMPTION FROM CERTAIN FEDERAL LAW; AUTHORIZING LEGAL SHIPMENTS OF GAMING DEVICES INTO THE STATE; PROVIDING DEFINITIONS; AND PROVIDING FOR THE SEVERABILITY OF PROVISIONS INVALID UNDER THE CONSTITUTION OR LAWS OF THE UNITED STATES.

§ 1. Purpose.

A. The people of the State of Oklahoma hereby find and declare it to be the public policy of this State that:

1. casino gaming, as authorized by this Article, will be beneficial to the economy of this State and to the general welfare of its citizens, through limited gaming at locations where legal wagering occurs for extended periods throughout the year, at a location designated as a tax increment district for entertainment purposes, and at a location likely to promote interstate tourism by its proximity to a large metropolitan area, with the possibility that other locations may be approved on a county option basis in the future;

2. the growth and success of Authorized Gaming is dependent upon public confidence and trust that Authorized Gaming is conducted honestly and competitively, and is free of criminal and corruptive elements;

3. public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations, and activities related to the operation of authorized Gaming Facilities and the manufacture and distribution of Gaming Devices and equipment; and

4. all establishments where Authorized Gaming is conducted and where Gaming Devices and equipment are used or operated, and manufacturers, sellers, service providers, and distributors of Gaming Devices and equipment must therefore be licensed, controlled, and assisted to protect the public health, safety, morals, good order, and general welfare of the citizens of this State, and to foster the stability and success of Authorized Gaming.

B. This Article authorizes the conduct of Authorized Gaming in designated Gaming Facilities, subject to the provisions of this Article and the rules and regulations of the Oklahoma Gaming Commission adopted consistent with the provisions of this Article.

§ 2. Gaming Commission.

A. There is hereby created the Oklahoma Gaming Commission. The Commission shall consist of seven (7) members. The initial Commission shall consist of three (3) members appointed by the Governor for three (3) year terms, two (2) members appointed for two (2) year terms, one each by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, and two (2) members appointed for one (1) year terms, one each by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. These initial appointments shall be made within thirty (30) days of the adoption of this Article. Upon expiration of the terms of the initial Commissioners, the Governor shall appoint all subsequent members of the Commission for three (3) year terms, with the advice and consent of the Senate. Vacancies shall be filled by the Governor, with the advice and consent of the Senate, for the remaining term of a vacant Commission seat. The Governor shall designate the Chairperson of the Commission, and may subsequently designate any other member of the Commission as successor Chairperson at any time.

B. Each Commissioner shall be a citizen of the United States and a bona fide resident of this State. At least one (1) member of the Commission shall be a person licensed by the Oklahoma State Board of Public Accountancy. At least one (1) member of the Commission shall have law enforcement experience. Not more than four (4) members of the Commission shall be of the same political party. Members of the Legislature, persons holding any elective government office, and officers or officials of any political party shall not be eligible to serve on the Commission during their tenures in office and within two (2) years thereafter. No person serving as a Commissioner or as an employee of the Commission shall have any interest, either direct or indirect, in or be employed by a Gaming Facility or a Licensed Operator during such person's tenure with the Commission and within two (2) years thereafter. No member or employee of the Commission shall participate in Authorized Gaming in this State. A member of the Commission shall be removable from office for cause as other officials not subject to impeachment.

C. The Commission shall meet at least once each calendar quarter. Official meetings of the Commission shall be conducted in accordance with the laws of this State governing public meetings, subject only to the Commission's adoption of rules and regulations governing investigations and for the protection of licensees and applicants for licenses.

D. The Commissioners shall be entitled to reimbursement for all expenses incurred in performance of their duties pursuant to the provisions of the State Travel Reimbursement Act, and any succeeding statute having substantially similar provisions, plus a per diem equal to the highest per diem paid to any other part-time member of any other Oklahoma commission or State board.

§ 3. Powers of the Commission.

A. The Commission shall have the authority consistent with the provisions of this Article to promulgate, adopt, amend, repeal, and enforce standards, procedures, rules, and regulations governing the operation of the Commission and Authorized Gaming in this State, including rules and regulations providing for the licensing of all Licensed Operators of Gaming Facilities, service providers, manufacturers and distributors of Gaming Devices and equipment, the key personnel, officers, directors, and equity participants thereof, and all employees of Gaming Facilities, which rules and regulations shall have the full force and effect of the general laws of this State.

B. The Commission shall annually, not less than forty-five (45) days prior to the beginning of each fiscal year commencing with the first full fiscal year after the appointment of the Commissioners, cause to be prepared a proposed annual budget, which shall present the Commission's plan of financial operation for the fiscal year, including estimates of proposed expenditures for given purposes which the Commission believes are reasonably necessary for its operations and the performance of its duties under this Article. The proposed budget shall be subject to approval by the Legislature and shall be funded as provided in § 7.B of this Article. The Commission shall maintain accurate accounts of all receipts and expenditures. The Commission shall cause to be performed annually an audit of the Commission's accounts. The audit report shall be submitted to the Legislature.

C. The Commission shall be authorized to borrow from one or more state chartered banks such monies as are reasonable and necessary, not to exceed a total of $1.5 million, for its initial operations. All such borrowing shall be repaid no later than one (1) year after the opening of the first Gaming Facility. The indebtedness authorized by this Section shall not be an indebtedness of the State of Oklahoma.

D. The Commission shall have the authority to employ such persons as are necessary to administer the provisions of this Article. The staff, agents, clerks, stenographers, accountants, and such other personnel of the Commission (including the Division of Gaming Control) as are necessary to properly enforce and administer the provisions of this Article, exclusive of the Commissioners, the Director, investigators, and management level personnel, shall be in the classified service prescribed by the Oklahoma Personnel Act, and any succeeding statute having substantially similar provisions, and the rules and regulations promulgated thereunder. The Commission shall be subject to the Central Purchasing Act, and any succeeding statute having substantially similar provisions.

E. Initial standards, procedures, rules, and regulations governing operation of the Commission and Authorized Gaming shall be adopted by the Commission within ninety (90) days of the adoption of this Article, and shall be consistent with the purposes set forth in this Article and the laws, standards, procedures, rules, and regulations governing gaming as of June 25, 1995, in the State of Nevada applicable to the games authorized in this Article. The adoption of initial standards, procedures, rules, and regulations shall be exempt from the Oklahoma Administrative Procedures Act, and any succeeding statute having substantially similar provisions. The Legislature may repeal or amend any initial standards, procedures, rules, or regulations adopted by the Commission pursuant to this § 3.E which are in substantial conflict with the purposes set forth in this Article or the applicable gaming laws, standards, procedures, rules, and regulations of the State of Nevada as of June 25, 1995.

F. At any time following the adoption of initial standards, procedures, rules, and regulations, the Commission may promulgate or modify its standards, procedures, rules, and regulations consistent with the terms and intent of this Article. All such Commission action following the initial adoption shall be subject to the Oklahoma Administrative Procedures Act, and any succeeding statute having substantially similar provisions. The Legislature may repeal or amend any standard, procedure, rule, or regulation promulgated or modified pursuant to this § 3.F, which is in substantial conflict with the purposes set forth in this Article.

G. Members of the Commission, the Director, and their designated agents shall have all of the powers and authority of peace officers of this State for the purpose of enforcing the provisions of this Article and the standards, procedures, rules, and regulations governing Authorized Gaming in this State.

§ 4. Authorized Gaming.

A. Authorized Gaming shall be allowed at a Gaming Facility at each of the following locations:

1. any horse racing track which has conducted pari-mutuel wagering for more than 500 days during the five (5) years preceding the filing date of an application to be a Licensed Operator at such location;

2. anywhere within Tax Increment District Number One, City of Tulsa, designated for arts and entertainment, as adopted by the City Council for the City of Tulsa by Ordinance dated December 21, 1993, subject to any minor amendments permitted by Title 62 O.S. 1992, § 858D; and

3. anywhere within Love County.

B. Five (5) years after commencement of Authorized Gaming at a Gaming Facility licensed under this Article, any county not allowed a Gaming Facility pursuant to § 4.A shall then be allowed Authorized Gaming at a Gaming Facility licensed under this Article if approved by a county election conducted in the same manner as other county elections.

C. There shall be no more than one (1) Gaming Facility licensed under this Article in any county.

D. Each Gaming Facility shall conform to the following minimum standards and shall consist of: an enclosed, roofed, permanent building of a design approved by the Commission, containing not fewer than 1,000 gaming stations and covering not less than 30,000 square feet devoted to Authorized Gaming, with commitments for new investment in the Gaming Facility building, its furniture, fixtures, Gaming Devices and equipment of not less than $25 million.

E. An initial application to become a Licensed Operator shall be accompanied by a non-refundable application fee to be set by the Commission in an amount not to exceed $250,000.

F. Every license issued pursuant to this Article is revocable and nontransferable. No licensee acquires any vested interest or property right in such a license. Any license issued to a Licensed Operator is valid only for the particular authorized location, or any temporary location authorized pursuant to § 5.

§ 5. Interim Gaming Facilities.

The Commission may approve Authorized Gaming operations in temporary facilities pending completion of Gaming Facilities. Approval of Authorized Gaming in such temporary facilities shall terminate one (1) year after such approval is granted.

§ 6. Division of Gaming Control.

A. The Commission shall establish a Division of Gaming Control for the enforcement, administration, investigation, and technical services necessary for fulfillment of the Commission's responsibilities.

B. The Governor shall appoint the initial Director of the Division within thirty (30) days of the adoption of this Article. The Commission shall appoint all subsequent Directors and shall fill any vacancy in that position.

C. The Director shall be a citizen of the United States, and shall be a bona fide resident of the State during such person's tenure in office. Members of the Legislature, persons holding any elective government office, and officers or officials of any political party shall not be eligible to serve as the Director during their tenures in office and within two (2) years thereafter. No person serving as the Director or as an employee of the Division shall have any interest, either direct or indirect, in or be employed by, any Licensed Operator during such person's tenure with the Division and within two (2) years thereafter. The annual salary of the Director shall be established by the Commission, but shall not exceed the highest salary paid to any other State employee. The Director shall serve at the discretion of the Commission.

D. No Director shall serve in such capacity for more than ten (10) years.

§ 7. Gaming Proceeds.

A. Every Licensed Operator shall pay monthly to the Commission a Gaming Fee equal to ten percent (10%) of its Gaming Proceeds, which Gaming Fee shall be a credit against such Licensed Operator's income-based State taxes.

B. After retention by the Commission of the budget amount approved by the Legislature pursuant to § 3.B of this Article, and after repayment of any borrowing for the Commission's initial operations pursuant to § 3.C of this Article, all remaining fees and other receipts collected by the Commission shall be paid monthly to the State Treasury and shall be distributed as follows:

1. Fifty percent (50%) to the State Department of Education exclusively for the purchase of computers, computer programs, communication equipment, and other technological equipment for classroom use in elementary and secondary public schools statewide;

2. Twenty-five percent (25%) to the municipalities where a Gaming Facility is located, and, if a Gaming Facility is not located within a municipality, then to the county in which such Gaming Facility is located, to be allocated among such municipalities and counties, if any, according to the amount of Gaming Proceeds originating in each, to be used as follows:

a. in municipalities having a population of 300,000 or more, for the exclusive benefit of urban redevelopment or economic development as determined by the local governing body, and

b. in counties not having a Gaming Facility within a municipality and in municipalities having a population of fewer than 300,000, for the discretionary use by such counties or municipalities;

and

3. Twenty-five percent (25%) to the State Department of Corrections exclusively for capital expenditures for new and existing correctional institutions and operating expenses related to such capital expenditures.

C. Other than as provided in this Article, no taxes or fees relating solely to Authorized Gaming, Gaming Facilities, or Gaming Devices or equipment shall be levied.

§ 8. Miscellaneous.

A. The Legislature shall, within the first legislative session after adoption of this Article, prescribe criminal penalties for cheating in Authorized Gaming, violations of any of the provisions of this Article or the rules and regulations of the Commission, and acts of corruption or criminal activity.

B. The Commission may establish a list of persons that a Licensed Operator shall bar from a Gaming Facility because of criminal history, or because of associations with career offenders or career offender organizations, or because of their notorious and unsavory reputation that would adversely affect public confidence and trust that Authorized Gaming is free from criminal or corruptive elements. A Licensed Operator also may exclude any cheaters and violators of the rules and regulations of the Commission.

C. No person under the age of twenty-one (21) shall participate in Authorized Gaming as a patron or employee.

D. Any compact or agreement concerning Class III gaming, as defined by federal law, as amended from time to time, between the State of Oklahoma and any Indian tribe shall adopt the definition and scope of Authorized Gaming set forth in this Article, and shall contain, among any other permitted provisions, at least the minimum standards for a Gaming Facility provided in § 4.D of this Article.

E. No person other than an on-duty member of the Oklahoma State Bureau of Investigation or agent of the Commission or Division, or of another law enforcement agency, or any armed security guard employed by a Licensed Operator, shall be permitted to possess firearms or other weapons in a Gaming Facility.

F. A debt resulting from Authorized Gaming is a legal and binding obligation and may be enforced in the courts of this State.

G. Any party to a final decision of the Commission, except an applicant for a license whose application has been denied and a licensee whose license has been revoked, may institute an appeal in the District Court for Oklahoma County, from which any such party may secure a review of the District Court's judgment by appeal to the Oklahoma Supreme Court. The Commission's decision may be modified or set aside only if found to be: (1) affected by an error of law; (2) clearly erroneous in view of substantial evidence; or (3) arbitrary and capricious. Judicial review is not available to applicants for licenses whose applications have been denied or to licensees whose licenses have been revoked.

H. Pursuant to § 2 of that certain Act of the Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being c. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. §§ 1171-1177 (the "Federal Act"), the State of Oklahoma does hereby in this section, and according to and complying with the provisions of § 2 of such Act of Congress, declare and proclaim that it is exempt from the provisions of § 2 of that certain Act of the Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being c. 1194, 64 Stat. 1134.

I. All shipments of gambling devices into this State, the registering, recording, and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with § 3 and § 4 of the Federal Act, shall be deemed legal shipments thereof into this State.

§ 9. **Definitions.**

As used in this Article:

A. "Authorized Gaming" means any game played with cards, dice, or any mechanical, electromechanical, or electronic or computer device or machine for money, property, checks, credit, or any representative of value, including any of the following: baccarat, big six, craps, keno, pai-gow, poker, red dog, roulette, slot machines, twenty-one, blackjack, wheel of fortune, any banking or percentage game, any electronic, mechanical, or computer device version of these games, and any other game or device approved by the Commission; provided, however, Authorized Gaming shall not include jai alai, sports pools, dog racing, or bingo;

B. "Commission" means the Oklahoma Gaming Commission created under § 2 of this Article;

C. "Commissioner" means a member of the Commission;

D. "Director" means the Director of the Division of Gaming Control;

E. "Division" means the Division of Gaming Control of the Commission created under § 6 of this Article;

F. "Gaming Device" means any equipment or mechanical, electromechanical or electronic contrivance, component, or machine used remotely or directly in connection with Authorized Gaming which affects the result of a wager by determining win or loss;

G. "Gaming Facility" means the building(s) in which a Licensed Operator conducts Authorized Gaming under the provisions of this Article, and shall conform to the minimum standards under § 4.D of this Article;

H. "Gaming Proceeds" means the difference between: (a) cash received as winnings in connection with Authorized Gaming, in payment for credit extended by a Licensed Operator to a patron for the purpose of Authorized Gaming, and as compensation received for conducting Authorized Gaming in which the Licensed Operator is not a party to a wager, and (b) the total of cash and the value of non-cash prizes paid to patrons in connection with Authorized Gaming and cash paid to fund periodic payments to patrons in connection with Authorized Gaming;

I. "Licensed Operator" means a person licensed to operate a Gaming Facility and conduct Authorized Gaming pursuant to the provisions of this Article.

§ 10. **Severability.**

The provisions of this Article are severable and if any part or provision of this Article shall be held void, invalid, or unconstitutional under the Constitution or laws of the United States, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Article, and the remaining provisions of this Article shall continue in full force and effect.

PROPONENTS

Steven R. Kelley
An Oklahoma Registered Voter
1912 South Yorktown
Tulsa, Oklahoma 74104

Steven R. Kelley
Chairman and Treasurer
Better Opportunities for Oklahoma's
Students & Taxpayers, Inc.
415 South Boston, Suite 742
Tulsa, Oklahoma 74103

The gist of the proposition is: This measure would authorize regulated casino gaming by adding a new article to the State Constitution; the casinos would pay a 10% gaming fee to the State, which, after funding the Gaming Commission, would go: 50% to public elementary and secondary schools statewide, 25% to local governments where the casinos are located, and 25% to correctional institutions.

SIGNATURES

	SIGNATURE OF LEGAL VOTER	PRINT NAME	RESIDENCE	CITY/ZIP	COUNTY
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					

INSTRUCTIONS FOR CIRCULATORS: Circulators must be legal voters [lawfully registered to vote] in Oklahoma and must personally witness all signatures. ALL PETITION SIGNERS MUST BE LEGAL VOTERS [LAWFULLY REGISTERED TO VOTE] IN OKLAHOMA. After each signer signs, turn this sheet over and print the name only in the corresponding numbered space provided. When all signatures have been obtained, fill out the circulator's affidavit on the back of this sheet in the presence of a notary public.

RETURN THIS PETITION TO:

Steven R. Kelley
Chairman and Treasurer
Better Opportunities for Oklahoma's Students & Taxpayers, Inc.
415 South Boston, Suite 742
Tulsa, Oklahoma 74103

The gist of the proposition is: This measure would authorize regulated casino gaming by adding a new article to the State Constitution; the casinos would pay a 10% gaming fee to the State, which, after funding the Gaming Commission, would go: 50% to public elementary and secondary schools statewide, 25% to local governments where the casinos are located, and 25% to correctional institutions.

AFFIDAVIT

STATE OF OKLAHOMA)
) ss.
COUNTY OF _____)

I, _____, being first duly sworn, say:

That I am a qualified elector of the State of Oklahoma and that:

1._____ 11._____

2._____ 12._____

3._____ 13._____

4._____ 14._____

5._____ 15._____

6._____ 16._____

7._____ 17._____

8._____ 18._____

9._____ 19._____

10._____ 20._____ ,

signed this sheet of the foregoing petition, and each of them signed his/her name thereto in my presence; I believe that each has stated his/her name, post office address, or residence correctly, and that each signer is a legal voter of the State of Oklahoma and of his/her County as stated.

_____
Affiant's [Circulator's] Signature

_____
Post Office or Residence Address

_____
City State Zip Code

Subscribed and sworn to before me this ____ day of _____ , 1995.

_____
Notary Public

My Commission Expires:

_____
Post Office or Residence Address

_____
(SEAL)

_____
City State Zip Code

OKLAHOMA SECRETARY OF STATE
101 STATE CAPITOL
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

June 30, 1995

Steven R. Kelley
Better Opportunities for Oklahoma's
Students & Taxpayers, Inc.
415 S. Boston, Suite 742
Tulsa, OK 74103

Dear Mr. Kelley:

This letter is to acknowledge receipt of the initiative petition for filing which has been designated as:

STATE QUESTION NUMBER 672
INITIATIVE PETITION NUMBER 363

filed this 30th day of June, 1995 at 1:30 p.m.

Pursuant to Section 8A of Title 34 of the Oklahoma Statutes, 1994 Supplement, within ninety (90) days after filing such initiative petition, the signed copies thereof shall be filed with the Secretary of State.

The 90th day for filing or due date for the signed petitions will be the 28th day of September, 1995.

Sincerely,

Pamela M. Warren

Pamela M. Warren
Assistant Secretary of State

PMW/gs

OKLAHOMA SECRETARY OF STATE
101 STATE CAPITOL
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

July 3, 1995

The Honorable Drew Edmondson
Attorney General, State of Oklahoma
State Capitol, Room 112
Oklahoma City, OK 73105

Dear Attorney General Edmondson:

You are hereby notified that Better Opportunities for Oklahoma's Students & Taxpayers, Inc. (BOOST) filed State Question 672, Initiative Petition Number 363 with the Secretary of State on June 30, 1995 at 1:30 p.m. Attached is a copy for your information.

Pursuant to Section 8A of Title 34 of the Oklahoma Statutes, 1194 Supplement, within ninety (90) days after filing such initiative petition, the signed copies thereof shall be filed with the Secretary of State. The 90th day for filing or due date for the signed petitions will be September 28, 1995.

If you have any questions concerning this matter, please call our office any time. Thank you.

Sincerely,

Gerry Ann Smedley

Gerry Ann Smedley
Administrative Officer

Attachment

OKLAHOMA SECRETARY OF STATE
101 STATE CAPITOL
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

July 3, 1995

The Honorable Frank Keating
Governor, State of Oklahoma
State Capitol, Room 212
Oklahoma City, OK 73105

Dear Governor Keating:

You are hereby notified that Better Opportunities for Oklahoma's Students & Taxpayers, Inc. (BOOST) filed State Question 672, Initiative Petition Number 363 with the Secretary of State on June 30, 1995 at 1:30 p.m. Attached is a copy for your information.

Pursuant to Section 8A of Title 34 of the Oklahoma Statutes, 1194 Supplement, within ninety (90) days after filing such initiative petition, the signed copies thereof shall be filed with the Secretary of State. The 90th day for filing or due date for the signed petitions will be September 28, 1995.

If you have any questions concerning this matter, please call our office any time. Thank you.

Sincerely,

Gerry Ann Smedley
Administrative Officer

Attachment

BETTER OPPORTUNITIES
BOOST
For Oklahoma Students & Taxpayers

415 SOUTH BOSTON, SUITE 742 / TULSA, OK 74103
(918) 592-5500, 1-800-207-3844

September 28, 1995

FILED
SEP 28 1995
OKLAHOMA SECRETARY OF STATE

TO THE OKLAHOMA SECRETARY OF STATE:

RE: STATE QUESTION NUMBER 672
INITIATIVE PETITION NUMBER 363

Pursuant to 34 O.S. 1994, § 8, thirty (30) boxes of Initiative Petition Number 363 [State Question 672] signed Pamphlets are presented herewith for filing. There are approximately 202,000 signatures for the Petition.

Better Opportunities for Oklahoma's Students & Taxpayers, Inc. will have a representative present at all times during the signature count. Please advise when the count will begin. Thank you.

Very truly yours,

BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC.

By: _____
Steven R. Kelley, Chair and Treasurer

_____
Steven R. Kelley, an individual voter

cc: Oklahoma Attorney General
c/o Neal Leader, Esq. (by hand-delivery)
Assistant Attorney General

Kevin M. Abel, Esq. (Proponents' initiative petition counsel)
Pray, Walker, Jackman, Williamson & Marlar
900 Oneok Plaza
Tulsa, Oklahoma 74103-4218

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

September 28, 1995

Steven R. Kelley
Better Opportunities for Oklahoma's
Students and Taxpayers, Inc.
415 S. Boston, Suite 742
Tulsa Oklahoma 74103

Dear Mr. Kelley:

This letter will acknowledge the receipt of State Question Number 672, Initiative Petition Number 363 for filing 30 boxes of signature pamphlets. The petition pamphlets arrived this 28th day of September, 1995 at 2:11 p.m. .

As required by law, the petition boxes will be sealed. The seals will not be broken until the signature counting process begins on Tuesday, October 3, 1995 at 9:00 a.m. in the conference room of the Jan Eric Cartwright Library, Room 109, 1st floor of the State Capitol. This counting process will continue each day from 9:00 a.m. to 4:00 p.m. until complete. There will be a one hour break for lunch from 12:00 to 1:00 with two alternating 15 minute breaks, one in the morning and one in the evening.

An individual from the petition drive will need to be present during the entire counting process.

If there are any questions or if this office can assist you further, please do not hesitate to let us know.

Sincerely,

Acting Assistant
Secretary of State
cc: Kevin M. Abel

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

September 28, 1995

Steven R. Kelley
Better Opportunities for Oklahoma's
Students and Taxpayers, Inc.
415 S. Boston, Suite 742
Tulsa Oklahoma 74103

Dear Mr. Kelley:

This letter will acknowledge the receipt of State Question Number 672, Initiative Petition Number 363 for filing 30 boxes of signature pamphlets. The petition pamphlets arrived this 28th day of September, 1995 at 2:11 p.m. .

As required by law, the petition boxes will be sealed. The seals will not be broken until the signature counting process begins on Tuesday, October 3, 1995 at 9:00 a.m. in the conference room of the Jan Eric Cartwright Library, Room 109, 1st floor of the State Capitol. This counting process will continue each day from 9:00 a.m. to 4:00 p.m. until complete. There will be a one hour break for lunch from 12:00 to 1:00 with two alternating 15 minute breaks, one in the morning and one in the evening.

An individual from the petition drive will need to be present during the entire counting process.

If there are any questions or if this office can assist you further, please do not hesitate to let us know.

Sincerely,

Acting Assistant
Secretary of State
cc: Kevin M. Abel

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 16, 1995

The Honorable Drew Edmondson
Attorney General
Room 112, State Capitol
Oklahoma City, OK 73105

Dear Attorney ~~General Ed~~mondson:

Pursuant to the provisions of Title 34 O.S., Section 9D.1. 1994 Supp., the filing and binding of the petition pamphlets for State Question Number 672 is complete. I herewith submit to you a copy of the petition with the proposed ballot title, as received by this office, for review as to the legal correctness as required by the above said section of law.

If this office may assist you further, please do not hesitate to contact Kathy Jekel or myself at the above number or address.

Sincerely

Tom Cole
Secretary of State

TC/kj

Enclosure: SQ 672 -Proposed Ballot Title

P.S. Congratulations on S.W. Bell!

BETTER OPPORTUNITIES
BOOST
For Oklahoma Students & Taxpayers

415 SOUTH BOSTON, SUITE 742 / TULSA, OK 74103
(918) 592-5500, 1-800-207-3844

June 30, 1995

The Honorable Thomas J. Cole
Oklahoma Secretary of State
101 State Capitol
Oklahoma City, Oklahoma 73105-4897

FILED
JUN 30 1995
OKLAHOMA SECRETARY OF STATE

Re: Initiative Petition

Dear Mr. Secretary:

Presented herewith for filing is a copy of an initiative petition and the Proponents' suggested ballot title. The petition requests that a proposed Oklahoma constitutional amendment by article be submitted to the voters at the general election on November 5, 1996.

The proposed amendment would create a state gaming commission, and it would authorize casino gaming in Oklahoma.

Very truly yours,

The Proponents,

Better Opportunities for Oklahoma's Students & Taxpayers, Inc.

By: _____
Steven R. Kelley, Chair and Treasurer

_____
Steven R. Kelley, an individual voter

cc: Oklahoma Attorney General
c/o Neal Leader, Esq. (by hand-delivery)
Assistant Attorney General [fulfilling 34 O.S. § 9(A)]

Kevin M. Abel, Esq. (Proponents' initiative petition counsel)
Pray, Walker, Jackman, Williamson & Marlar
900 Oneok Plaza
Tulsa, Oklahoma 74103-4218

f:\users\kma\ip\filing.ltr

State Question No. 672 "WARNING" Initiative Petition No. 363

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

FILED

JUN 30 1995

OKLAHOMA SECRETARY OF STATE

INITIATIVE PETITION

TO: THE HONORABLE FRANCIS A. KEATING, GOVERNOR OF OKLAHOMA:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed amendment to the Constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election to be held on the 5th day of November, 1996, or, if unachievable by that date, at the next general election, and each for himself/herself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office is correctly written after my name. The time for filing this petition expires ninety days from June 30, 1995. The question we herewith submit to our fellow voters is:

SHALL THE FOLLOWING PROPOSED AMENDMENT TO THE CONSTITUTION BE APPROVED?

( ) YES - FOR THE AMENDMENT

( ) NO - AGAINST THE AMENDMENT

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

OKLAHOMA CASINO GAMING CONTROL CONSTITUTIONAL AMENDMENT BY ARTICLE

AN AMENDMENT TO THE OKLAHOMA CONSTITUTION ADDING A NEW ARTICLE RELATING TO CASINO GAMING; STATING THE INTENT OF THE PEOPLE; CREATING A STATE GAMING COMMISSION; PROVIDING FOR QUALIFICATIONS, MEETINGS, AND REIMBURSEMENT OF MEMBERS OF THE COMMISSION; AUTHORIZING THE ADOPTION OF RULES GOVERNING THE COMMISSION AND GAMING OPERATIONS; AUTHORIZING THE LICENSING OF PERSONS INVOLVED IN THE GAMING INDUSTRY; AUTHORIZING BORROWING BY THE COMMISSION; AUTHORIZING EMPLOYMENT BY THE COMMISSION OF NECESSARY PERSONNEL; PROVIDING FOR AMENDMENT OR MODIFICATION OF COMMISSION RULES; EMPOWERING THE LEGISLATURE TO REPEAL OR AMEND CERTAIN NON-COMFORMING RULES; VESTING PEACE OFFICER POWER ON CERTAIN PERSONNEL; AUTHORIZING CERTAIN TYPES OF CASINO GAMING; LIMITING THE LOCATION OF GAMING FACILITIES; PROVIDING FOR AUTHORIZED GAMING BY COUNTY OPTION; SETTING THE MINIMUM STANDARDS FOR A GAMING FACILITY; AUTHORIZING A GAMING LICENSE APPLICATION FEE; DEFINING THE NATURE OF LICENSES UNDER THIS ARTICLE; AUTHORIZING GAMING AT TEMPORARY FACILITIES; ESTABLISHING THE DIVISION OF GAMING CONTROL; PROVIDING FOR QUALIFICATIONS OF THE DIRECTOR OF THE DIVISION; SETTING A FEE ON GAMING PROCEEDS; PROVIDING FOR FUNDING OF THE COMMISSION'S BUDGET; EARMARKING CERTAIN FEES FROM CASINO GAMING FOR PUBLIC ELEMENTARY AND SECONDARY EDUCATION, CERTAIN LOCAL GOVERNMENTS, AND CORRECTIONAL INSTITUTIONS; PROHIBITING FURTHER FEES ON AUTHORIZED GAMING OPERATIONS; EMPOWERING THE LEGISLATURE TO ENACT LEGISLATION RELATING TO THE ARTICLE, INCLUDING CRIMINAL PENALTIES; AUTHORIZING THE EXCLUSION OF CERTAIN PERSONS FROM GAMING FACILITIES; PROSCRIBING CERTAIN ACTS; PROVIDING STANDARDS FOR TRIBAL-STATE GAMING COMPACTS; PROHIBITING POSSESSION

Pamphlet No. 00001

D. The Commissioners shall be entitled to reimbursement for all expenses incurred in performance of their duties pursuant to the provisions of the State Travel Reimbursement Act, and any succeeding statute having substantially similar provisions, plus a per diem equal to the highest per diem paid to any other part-time member of any other Oklahoma commission or State board.

§ 3. Powers of the Commission.

A. The Commission shall have the authority consistent with the provisions of this Article to promulgate, adopt, amend, repeal, and enforce standards, procedures, rules, and regulations governing the operation of the Commission and Authorized Gaming in this State, including rules and regulations providing for the licensing of all Licensed Operators of Gaming Facilities, service providers, manufacturers and distributors of Gaming Devices and equipment, the key personnel, officers, directors, and equity participants thereof, and all employees of Gaming Facilities, which rules and regulations shall have the full force and effect of the general laws of this State.

B. The Commission shall annually, not less than forty-five (45) days prior to the beginning of each fiscal year commencing with the first full fiscal year after the appointment of the Commissioners, cause to be prepared a proposed annual budget, which shall present the Commission's plan of financial operation for the fiscal year, including estimates of proposed expenditures for given purposes which the Commission believes are reasonably necessary for its operations and the performance of its duties under this Article. The proposed budget shall be subject to approval by the Legislature and shall be funded as provided in § 7.B of this Article. The Commission shall maintain accurate accounts of all receipts and expenditures. The Commission shall cause to be performed annually an audit of the Commission's accounts. The audit report shall be submitted to the Legislature.

C. The Commission shall be authorized to borrow from one or more state chartered banks such monies as are reasonable and necessary, not to exceed a total of $1.5 million, for its initial operations. All such borrowing shall be repaid no later than one (1) year after the opening of the first Gaming Facility. The indebtedness authorized by this Section shall not be an indebtedness of the State of Oklahoma.

D. The Commission shall have the authority to employ such persons as are necessary to administer the provisions of this Article. The staff, agents, clerks, stenographers, accountants, and such other personnel of the Commission (including the Division of Gaming Control) as are necessary to properly enforce and administer the provisions of this Article, exclusive of the Commissioners, the Director, investigators, and management level personnel, shall be in the classified service prescribed by the Oklahoma Personnel Act, and any succeeding statute having substantially similar provisions, and the rules and regulations promulgated thereunder. The Commission shall be subject to the Central Purchasing Act, and any succeeding statute having substantially similar provisions.

E. Initial standards, procedures, rules, and regulations governing operation of the Commission and Authorized Gaming shall be adopted by the Commission within ninety (90) days of the adoption of this Article, and shall be consistent with the purposes set forth in this Article and the laws, standards, procedures, rules, and regulations governing gaming as of June 25, 1995, in the State of Nevada applicable to the games authorized in this Article. The adoption of initial standards, procedures, rules, and regulations shall be exempt from the Oklahoma Administrative Procedures Act, and any succeeding statute having substantially similar provisions. The Legislature may repeal or amend any initial standards, procedures, rules, or regulations adopted by the Commission pursuant to this § 3.E which are in substantial conflict with the purposes set forth in this Article or the applicable gaming laws, standards, procedures, rules, and regulations of the State of Nevada as of June 25, 1995.

F. At any time following the adoption of initial standards, procedures, rules, and regulations, the Commission may promulgate or modify its standards, procedures, rules, and regulations consistent with the terms and intent of this Article. All such Commission action following the initial adoption shall be subject to the Oklahoma Administrative Procedures Act, and any succeeding statute having substantially similar provisions. The Legislature may repeal or amend any standard, procedure, rule, or regulation promulgated or modified pursuant to this § 3.F, which is in substantial conflict with the purposes set forth in this Article.

G. Members of the Commission, the Director, and their designated agents shall have all of the powers and authority of peace officers of this State for the purpose of enforcing the provisions of this Article and the standards, procedures, rules, and regulations governing Authorized Gaming in this State.

§ 4. Authorized Gaming.

A. Authorized Gaming shall be allowed at a Gaming Facility at each of the following locations:

1. any horse racing track which has conducted pari-mutuel wagering for more than 500 days during the five (5) years preceding the filing date of an application to be a Licensed Operator at such location;

2. Twenty-five percent (25%) to the municipalities where a Gaming Facility is located, and, if a Gaming Facility is not located within a municipality, then to the county in which such Gaming Facility is located, to be allocated among such municipalities and counties, if any, according to the amount of Gaming Proceeds originating in each, to be used as follows:

a. in municipalities having a population of 300,000 or more, for the exclusive benefit of urban redevelopment or economic development as determined by the local governing body, and

b. in counties not having a Gaming Facility within a municipality and in municipalities having a population of fewer than 300,000, for the discretionary use by such counties or municipalities;

and

3. Twenty-five percent (25%) to the State Department of Corrections exclusively for capital expenditures for new and existing correctional institutions and operating expenses related to such capital expenditures.

C. Other than as provided in this Article, no taxes or fees relating solely to Authorized Gaming, Gaming Facilities, or Gaming Devices or equipment shall be levied.

§ 8. Miscellaneous.

A. The Legislature shall, within the first legislative session after adoption of this Article, prescribe criminal penalties for cheating in Authorized Gaming, violations of any of the provisions of this Article or the rules and regulations of the Commission, and acts of corruption or criminal activity.

B. The Commission may establish a list of persons that a Licensed Operator shall bar from a Gaming Facility because of criminal history, or because of associations with career offenders or career offender organizations, or because of their notorious and unsavory reputation that would adversely affect public confidence and trust that Authorized Gaming is free from criminal or corruptive elements. A Licensed Operator also may exclude any cheaters and violators of the rules and regulations of the Commission.

C. No person under the age of twenty-one (21) shall participate in Authorized Gaming as a patron or employee.

D. Any compact or agreement concerning Class III gaming, as defined by federal law, as amended from time to time, between the State of Oklahoma and any Indian tribe shall adopt the definition and scope of Authorized Gaming set forth in this Article, and shall contain, among any other permitted provisions, at least the minimum standards for a Gaming Facility provided in § 4.D of this Article.

E. No person other than an on-duty member of the Oklahoma State Bureau of Investigation or agent of the Commission or Division, or of another law enforcement agency, or any armed security guard employed by a Licensed Operator, shall be permitted to possess firearms or other weapons in a Gaming Facility.

F. A debt resulting from Authorized Gaming is a legal and binding obligation and may be enforced in the courts of this State.

G. Any party to a final decision of the Commission, except an applicant for a license whose application has been denied and a licensee whose license has been revoked, may institute an appeal in the District Court for Oklahoma County, from which any such party may secure a review of the District Court's judgment by appeal to the Oklahoma Supreme Court. The Commission's decision may be modified or set aside only if found to be: (1) affected by an error of law; (2) clearly erroneous in view of substantial evidence; or (3) arbitrary and capricious. Judicial review is not available to applicants for licenses whose applications have been denied or to licensees whose licenses have been revoked.

H. Pursuant to § 2 of that certain Act of the Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being c. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. §§ 1171-1177 (the "Federal Act"), the State of Oklahoma does hereby in this section, and according to and complying with the provisions of § 2 of such Act of Congress, declare and proclaim that it is exempt from the provisions of § 2 of that certain Act of the Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being c. 1194, 64 Stat. 1134.

I. All shipments of gambling devices into this State, the registering, recording, and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with § 3 and § 4 of the Federal Act, shall be deemed legal shipments thereof into this State.

The gist of the proposition is: This measure would authorize regulated casino gaming by adding a new article to the State Constitution; the casinos would pay a 10% gaming fee to the State, which, after funding the Gaming Commission, would go: 50% to public elementary and secondary schools statewide, 25% to local governments where the casinos are located, and 25% to correctional institutions.

SIGNATURES

	SIGNATURE OF LEGAL VOTER	PRINT NAME	RESIDENCE	CITY/ZIP	COUNTY
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					

INSTRUCTIONS FOR CIRCULATORS: Circulators must be legal voters [lawfully registered to vote] in Oklahoma and must personally witness all signatures. ALL PETITION SIGNERS MUST BE LEGAL VOTERS [LAWFULLY REGISTERED TO VOTE] IN OKLAHOMA. After each signer signs, turn this sheet over and print the <u>name only</u> in the corresponding numbered space provided. When all signatures have been obtained, fill out the circulator's affidavit on the back of this sheet in the presence of a notary public.

RETURN THIS PETITION TO:

Steven R. Kelley
Chairman and Treasurer
Better Opportunities for Oklahoma's Students & Taxpayers, Inc.
415 South Boston, Suite 742
Tulsa, Oklahoma 74103

State Question No. 672 Initiative Petition No. 363

PROPONENTS' SUGGESTED BALLOT TITLE

This measure would change the State Constitution to permit casino gaming.

At first, there could be four casinos. Two casinos could be at licensed horse racing tracks running more than 500 betting days in any five year period. Another casino could be in Tulsa's arts and entertainment tax increment district. The fourth casino could be in Love County. Five years after the first casino opens, there could be other casinos by county option elections. Only one casino per county would be allowed. At least $25,000,000 would have to be invested in each casino.

A seven member Commission would regulate the casino business. The Governor and Legislative leaders would appoint the first members for one to three year terms. The Governor would appoint later members with the Senate's advice and consent. The Commission could borrow money for its first budget. Fees paid by casinos and related businesses would fund later Commission budgets.

Each casino would pay a 10% fee on its total winnings to the State. After funding the Commission's budget, 50% of the fee would go to public grade schools and high schools statewide. 25% would go to prisons. 25% would go to local governments where casinos are located.

SHALL THE PROPOSED CONSTITUTIONAL AMENDMENT BE APPROVED?

( ) **YES** - **FOR THE AMENDMENT**

( ) **NO** - **AGAINST THE AMENDMENT**

FILED
JUN 30 1995
OKLAHOMA SECRETARY OF STATE

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

#86375

October 16, 1995

The Honorable Alma Wilson
Chief Justice, Oklahoma Supreme Court
Room 245, State Capitol
Oklahoma City, Oklahoma 73105

FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT 16 1995
JAMES W. PATTERSON
CLERK

Dear Justice Wilson:

The Office of the Secretary of State received 30 boxes of signature pamphlets for State Question Number 672, Initiative Petition Number 363, on September 28, 1995 from Steven R. Kelley with Better Opportunities for Oklahoma's Students and Taxpayers, Inc.

Attached hereto is a copy of the tabulation of signatures for State Question Number 672, Initiative Petition Number 363 as counted by this office. 11,000 pamphlets were filed containing 202,993 signatures. The signature sheets were numbered from 1 through 11,000 and were bound into 55 volumes. Each volume consisting of 200 signature sheets.

Volume 10, pages 1806, 1807 and 1808, the subscribed and sworn to of the notary on the affidavit page bears two months for the subscribed to on the notarization, with page 1808 having one month marked through. These signatures were counted.

Volume 10, pages 1973, 1974, 1975, 1976, 1977, bear no subscribe and sworn to date for the notary. Title 34, Section 8 does not address the issue of the subscribe and sworn to date. These signatures were counted.

Volume 25, page 4801, two circulators appear on the affidavit. The name Dora Bereolos appears at the top of the affidavit and the signature of O.T. Greenwood at the bottom on the Affiant's [circulator's] Signature line. These signatures were counted.

Volume 43, pages 8502 through 8505, the circulator signed his name, resident, city/zip and county above each area for signature and below each area for signature and highlighted the area. His signature on these pages did not appear on any signature line and appear to be examples of how to sign the petition. We did not count the circulators signatures. All other signatures on these pages were counted.

Volume 46, page 9007, Notation by circulator below signature of an individual stating, "This man tried to destroy this and assaulted me. c.o. by (can't make out the next word)". The page appears to be damaged by an ink pen.

Volume 52, page 10310 and 10311, These two signature pamphlets had two affidavits attached to the signature page. The circulator completed the last affidavit attached rather than the one appearing on the back of the signature page. The affidavit on the back of the signature page bears other signatures. This office counted the signatures verified by the circulator on these two pages.

Pursuant to the provisions of Title 34 O.S. 1994 Supp., Section 8 (C.) the Office of the Secretary of State herewith certifies that the total number of signatures counted for State Question Number 672 was 202,993 and attached is the total number of votes cast for the state office receiving the highest number of votes cast at the last general election as certified by the Oklahoma State Election Board on November 15, 1994.

If there are any questions or we may be of further assistance, please do not hesitate to contact Kathy Jekel or myself.

Sincerely,

Tom Cole
Secretary of State

TC/kj

Enclosures: Total Votes Cast Certification
Tabulation Sheets for SQ 672

Oklahoma State Election Board

ROOM 3 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2391

November 15, 1994

FILED
NOV 15 1994
OKLAHOMA SECRETARY
OF STATE

The Honorable Glo Henley
Secretary of State
Room 101, State Capitol
Oklahoma City, Oklahoma 73105

Dear Ms. Henley:

Subsequent to the November 8, 1994, General Election, I now am able to provide the following information.

The State office receiving the highest number of votes at said election was that of Governor, for which the total votes cast were 995,012. Signature requirements for the types of petitions listed below are derived by applying the parenthetical percentages indicated and are valid from November 15, 1994, through November 8, 1996.

Referendum	(5%)	49,751
Initiative	(8%)	79,601
Initiative for Constitutional Change	(15%)	149,252
Rejected Intiative or Referendum Measures	(25%)	248,753
Formation of New Political Party	(5%)	49,751

As you are aware, signature requirements for certain types of petitions are based on the total votes cast in the last General Election for President. In the November 3, 1992, General Election, the total votes cast for Presidential Electors were 1,390,359. Signature requirements for the following types of petitions are derived by applying the parenthetical percentages indicated and are valid from November 7, 1992, through November 8, 1996.

Independent Presidential Electors	(3%)	41,711
Unrecognized Party Presidential Electors	(3%)	41,711

Sincerely,

LANCE WARD, Secretary
State Election Board

LW:MF/mf

RECEIVED
NOV 15 1994
SECRETARY
OF STATE

Oklahoma State Election Board

ROOM 3 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2391

November 15, 1994

The Honorable Glo Henley
Secretary of State
Room 101, State Capitol
Oklahoma City, Oklahoma 73105

FILED
NOV 15 1994
OKLAHOMA SECRETARY
OF STATE

Dear Ms. Henley:

Subsequent to the November 8, 1994, General Election, I now am able to provide the following information.

The State office receiving the highest number of votes at said election was that of Governor, for which the total votes cast were 995,012. Signature requirements for the types of petitions listed below are derived by applying the parenthetical percentages indicated and are valid from November 15, 1994, through November 8, 1996.

Referendum	(5%)	49,751
Initiative	(8%)	79,601
Initiative for Constitutional Change	(15%)	149,252
Rejected Intiative or Referendum Measures	(25%)	248,753
Formation of New Political Party	(5%)	49,751

As you are aware, signature requirements for certain types of petitions are based on the total votes cast in the last General Election for President. In the November 3, 1992, General Election, the total votes cast for Presidential Electors were 1,390,359. Signature requirements for the following types of petitions are derived by applying the parenthetical percentages indicated and are valid from November 7, 1992, through November 8, 1996.

Independent Presidential Electors	(3%)	41,711
Unrecognized Party Presidential Electors	(3%)	41,711

Sincerely,

LANCE WARD, Secretary
State Election Board

LW:MF/mf

RECEIVED
NOV 15 1994
OKLAHOMA SECRETARY
OF STATE

0.*

3,796.+
3,625.+
3,691.+
3,676.+
3,677.+
3,761.+
3,760.+
3,771.+
3,805.+
3,239.+
3,329.+
3,600.+
3,317.+
3,586.+
3,415.+
3,791.+
3,830.+
3,702.+
3,554.+
3,843.+
3,746.+
3,829.+
3,351.+
3,849.+
3,397.+
3,776.+
3,836.+
3,870.+
3,803.+
3,842.+
3,784.+
3,730.+
3,666.+
3,624.+
3,535.+
3,844.+
3,719.+
3,762.+
3,832.+
3,784.+
3,859.+
3,826.+
3,681.+
3,806.+
3,743.+
3,694.+
3,842.+
3,791.+
3,624.+
3,788.+
3,634.+
3,730.+
3,619.+
3,680.+
3,635.+

055

202,903.*+

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 1

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 001 THROUGH 200

WITH APPROXIMATELY 3,796 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 2

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 201 THROUGH 400

WITH APPROXIMATELY 3,626 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 3

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 401 THROUGH 600

WITH APPROXIMATELY 3,681 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 4

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 601 THROUGH 800

WITH APPROXIMATELY 3676 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 5

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 801 THROUGH 1000

WITH APPROXIMATELY 3,677 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 6

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 1001 THROUGH 1200

WITH APPROXIMATELY 3,364 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 1

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 1201 THROUGH 1400

WITH APPROXIMATELY 3760 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 8

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 1401 THROUGH 1600

WITH APPROXIMATELY 3,721 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 9

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 1601 THROUGH 1800

WITH APPROXIMATELY 3,805 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 10

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 1801 THROUGH 2000

WITH APPROXIMATELY 3,238 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 11

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 2001 THROUGH 2200

WITH APPROXIMATELY 3,329 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 12

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 2201 THROUGH 2400

WITH APPROXIMATELY 3600 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 13

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 2401 THROUGH 2600

WITH APPROXIMATELY 3317 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 14

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 2601 THROUGH 2800

WITH APPROXIMATELY 3,586 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 15

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 2801 THROUGH 3000

WITH APPROXIMATELY 3,415 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 16

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 3001 THROUGH 3200

WITH APPROXIMATELY 3,791 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 17

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 3201 THROUGH 3400

WITH APPROXIMATELY 3830 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 18

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 3401 THROUGH 3600

WITH APPROXIMATELY 3,702 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 19

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 3601 THROUGH 3800

WITH APPROXIMATELY 3654 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 20

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 3801 THROUGH 4000

WITH APPROXIMATELY 3843 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 21

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 4001 THROUGH 4200

WITH APPROXIMATELY 3746 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 22

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 4201 THROUGH 4400

WITH APPROXIMATELY 3829 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 23

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 4401 THROUGH 4600

WITH APPROXIMATELY 3,351 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 24

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 4601 THROUGH 4800

WITH APPROXIMATELY 3849 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 25

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 4801 THROUGH 5000

WITH APPROXIMATELY 3397 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 26

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 5001 THROUGH 5200

WITH APPROXIMATELY 3776 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 27

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 5201 THROUGH 5400

WITH APPROXIMATELY 3836 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 28

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 5401 THROUGH 5600

WITH APPROXIMATELY 3870 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 29

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 5601 THROUGH 5800

WITH APPROXIMATELY 3803 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 30

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 5801 THROUGH 6000

WITH APPROXIMATELY 3842 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 31

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 6001 THROUGH 6200

WITH APPROXIMATELY 3784 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 32

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 6201 THROUGH 6400

WITH APPROXIMATELY 3730 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 33

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 6401 THROUGH 6600

WITH APPROXIMATELY 3,666 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 34

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 6601 THROUGH 6800

WITH APPROXIMATELY 3624 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 35

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 6801 THROUGH 7000

WITH APPROXIMATELY 3,536 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 36

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 7001 THROUGH 7200

WITH APPROXIMATELY 3,844 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 37

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 7201 THROUGH 7400

WITH APPROXIMATELY 3719 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 38

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 7401 THROUGH 7600

WITH APPROXIMATELY 3762 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 39

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 7601 THROUGH 7800

WITH APPROXIMATELY 3832 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 40

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 7801 THROUGH 8000

WITH APPROXIMATELY 3,784 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 41

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 8001 THROUGH 8200

WITH APPROXIMATELY 3859 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 42

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 8201 THROUGH 8400

WITH APPROXIMATELY 3826 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 43

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 8401 THROUGH 8600

WITH APPROXIMATELY 3681 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 44

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 8601 THROUGH 8800

WITH APPROXIMATELY 3806 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 45

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 8801 THROUGH 9000

WITH APPROXIMATELY 3743 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 46

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 9001 THROUGH 9200

WITH APPROXIMATELY 3694 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 47

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 9201 THROUGH 9400

WITH APPROXIMATELY 3,842 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 48

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 9401 THROUGH 9600

WITH APPROXIMATELY 3791 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 49

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 9601 THROUGH 9800

WITH APPROXIMATELY 3624 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 50

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 9801 THROUGH 10,000

WITH APPROXIMATELY 3,788 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 51

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 10,001 THROUGH 10,200

WITH APPROXIMATELY 3,634 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 52

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 10,201 THROUGH 10,400

WITH APPROXIMATELY 3,780 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 53

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 10,401 THROUGH 10,600

WITH APPROXIMATELY 3619 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 54

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 10,601 THROUGH 10,800

WITH APPROXIMATELY 3680 SIGNATURES.

STATE QUESTION # 672

INITIATIVE PETITION # 363

VOLUME NO. 55

CONSISTING OF 200 SIGNATURE SHEETS

NUMBERED 10,801 THROUGH 11,000

WITH APPROXIMATELY 3635 SIGNATURES.

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 17, 1995
For Immediate Release
Contact: Kathy Jekel (405) 521-3912

"CASINO GAMING PETITION SIGNATURE COUNT COMPLETE"

Secretary of State Tom Cole announced that his office has completed the physical count of signatures collected for State Question 672, Initiative Petition 363 supporting casino gaming in Oklahoma. "The signatures were delivered to our office on September 28, 1995 in thirty boxes," Secretary Cole said. "Our office counted 202,993 signatures contained in 11,000 signature pamphlets. We bound the signatures in 55 volumes which contain 200 signature sheets each."

State Question 672 was filed in the Secretary of State's office on June 30, 1995 by Better Opportunities for Oklahoma Students & Taxpayers, (BOOST). The initiative petition proposes an amendment to our State Constitution which would create a Gaming Commission consisting of seven (7) members and authorize casino gaming in Oklahoma. Certain fees from casino gaming are earmarked for public elementary and secondary education, certain local governments, and correctional institutions. Among other proposed provisions, the petition also empowers the legislature to enact legislation relating to the new article on casino gaming.

BOOST was required to collect a minimum of 149,252 signatures of legal Oklahoma voters because the state question proposes a constitutional amendment. This figure is based on 15% of the total votes cast in the November 8, 1994 general election for Governor. "The Casino Gaming petition contained the sixth highest number of signatures filed in our office," Secretary Cole said.

Cole explained, "We delivered the tabulation report of the signature count to Chief Justice Alma Wilson of the Supreme Court on Monday, October 16th. The Supreme Court will determine the numerical sufficiency or insufficiency of the signatures. In addition, any protests or objections to the petition are filed and resolved by the Supreme Court."

# # #

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 20, 1995

Kevin M. Abel
Pray, Walker, Jackman, etal
900 Oneok Plaza
Tulsa Oklahoma 74103-4218

Dear Mr. Abel:

Enclosed is a copy of the letter from the Secretary of State to the Attorney General concerning the proposed ballot title for State Question 672 as requested.

If I may be of further assistance, please just let me know.

Sincerely,

Kathy Jekel
Executive/Legislative Division

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT 23 1995
JAMES W. PATTERSON
CLERK

IN RE:)
)
INITIATIVE PETITION NO. 363) No. 86,375
)
STATE QUESTION NO. 672)

FILED
OCT 24 1995
OKLAHOMA SECRETARY
OF STATE

STATE OF OKLAHOMA TO TOM COLE,
SECRETARY OF STATE, STATE OF OKLAHOMA

ORDER

GREETINGS:

An initiative petition has been circulated in the State of Oklahoma, seeking the approval of the electorate on State Question No. 672, a proposed amendment to the Constitution of the State of Oklahoma, which would authorize casino gaming, and would further create a State Gaming Commission to provide for the regulation and control of casino gaming, and to limit the location of gaming facilities by county option, and setting the minimum standards for gaming facilities, and earmarking certain fees for education, local governments, and correctional institutions, and providing for tribal-state gaming compacts, and providing for criminal penalties for violation of gaming laws, and treating gaming debts as legal obligations, enforceable before the courts of this State.

In accordance with 34 O.S.1994 Supp. § 8, the court recognizes the certification of the Secretary of State that the petition contains 202,993 signatures. The court further recognizes that the number of signatures necessary to place the measure before the electorate is 149,252, the same being 15% of the votes cast for the state office receiving the highest number of votes in the November 8, 1994 general election. The signatures on the petition appear numerically sufficient.

The Secretary of State is hereby ordered to forthwith cause to be published in at least one newspaper of general circulation in the State of Oklahoma, a public notice of the filing

of Initiative Petition No. 363, State Question 672, and of the determination of the apparent numerical sufficiency of the signatures. The notice shall advise that any citizen of the State of Oklahoma may file a protest to the petition or an objection to the signature count, by written notice directed to the Supreme Court of the State of Oklahoma, and to the proponent of the petition. The protest or objection must be filed with the Clerk of the Supreme Court not later than 10 days after publication. A copy of the protest or objection must also be filed with the Secretary of State.

Proceedings in the Supreme Court to resolve any protest or objection shall be in accordance with 34 O.S.1994 Supp. § 8, and such other procedures as may be ordered by the Court.

The Secretary of State is directed to obtain verified proof of publication of the notice herein directed, and to file the same with the Clerk of this Court as a return to this order.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 23RD DAY OF OCTOBER, 1995.

Vice CHIEF JUSTICE

ALL JUSTICES CONCUR

DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA

FILED
OCT 24 1995
OKLAHOMA SECRETARY
OF STATE

October 24, 1995

Mr. Tom Cole, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 672, Initiative Petition No. 363

Dear Secretary Cole:

This office has made a review of the above-referenced Suggested Ballot Title as required by 34 O.S. Supp.1994, § 9(D)(1).

After reviewing this suggested Ballot Title, we find that it is not in harmony with the law because 1) it does not explain in basic words, which can be easily found in dictionaries of common uses, the effect of the proposition; and 2) it does not adequately describe the gambling being legalized.

Accordingly, we cannot approve the Suggested Ballot Title. Thus, in accordance with 34 O.S. Supp.1994, § 9(D)(1), we will prepare and file with your office a Ballot title that is in harmony with the law.

Sincerely,

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:NL:pjd

2300 N. LINCOLN BLVD., SUITE 112, OKLAHOMA CITY, OK 73105-4894 (405) 521-3921 • FAX: (405) 521-6246

recycled paper

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 24, 1995

Rae Lynn Oliver
Oklahoma Press Association
3601 N. Lincoln
Oklahoma City, Oklahoma 73105

Dear Ms. Oliver:

This letter authorizes you to publish in at least one newspaper of general circulation in the State of Oklahoma, pursuant to 34 O.S. 1994 Supp. §8, the enclosed Notice of Filing of State Question No. 672, Initiative Petition No. 363.

Please submit proof of publication as soon as possible in order for this office to comply with Supreme Court Order #86,375

Should you have any questions, please do not hesitate to contact us.

Sincerely,

Tom Cole
Secretary of State

TC/kj

Enclosure: Notice of Filing SQ 672

NOTICE
OF FILING OF
STATE QUESTION NUMBER 672
INITIATIVE PETITION NUMBER 363

NOTICE is hereby given that on June 30, 1995, State Question Number 672, Initiative Petition Number 363 was filed in the Office of Secretary of State. The initiative petition was circulated in the State of Oklahoma, seeking the approval of the electorate on State Question No. 672, a proposed amendment to the Constitution of the State of Oklahoma, which would authorize casino gaming, and would further create a State Gaming Commission to provide for regulation and control of casino gaming, and to limit the location of gaming facilities by county option, and setting the minimum standards for gaming facilities, and earmarking certain fees for education, local governments, and correctional institutions, and providing for tribal-state gaming compacts, and providing for criminal penalties for violation of gaming laws, and treating gaming debts as legal obligations, enforceable before the courts of this State.

The Secretary of State, on October 16, 1995, delivered to the Oklahoma Supreme Court the total number of signatures counted pursuant to the procedures set forth in 34 O.S. 1994 Supp. §6.1 and §8. Also certified were the total number of votes cast for the state office receiving the highest number of votes cast at the last general election. In accordance with 34 O.S. 1994 Supp. §8, the court IN RE: INITIATIVE PETITION NO. 363, STATE QUESTION NO. 672, No. 86,375 recognizes the certification of the Secretary of State that the petition contains 202,993 signatures. The court further recognized that the number of signatures necessary to place the measure before the electorate is 149,252, the same being 15% of the votes cast for the state office receiving the highest number of votes in the November 8, 1994 general election. The signatures on the petition appear numerically sufficient.

Notice is hereby given that any citizen of the State of Oklahoma may file a protest to the petition or an objection to the signature count, by written notice directed to the Supreme Court of the State of Oklahoma, and to the proponents filing the petition: Steven R. Kelley, Better Opportunities for Oklahoma's Students & Taxpayers, Inc., 415 S. Boston, Suite 742, Tulsa Oklahoma 74103. The protest or objection must be filed with the Clerk of the Supreme Court not later than 10 days after publication. A copy of the protest or objection must also be filed with the Secretary of State.

Proceedings in the Supreme Court to resolve any protest or objection shall be in accordance with 34 O.S. 1994 Supp. §8, and such other procedures as may be ordered by the Court.

DONE BY ORDER OF THE SUPREME COURT THIS 24TH DAY OF OCTOBER, 1995.

Tom Cole
Secretary of State

FILED
OCT 24 1995
OKLAHOMA SECRETARY OF STATE

NOTICE
OF FILING OF
STATE QUESTION NUMBER 672
INITIATIVE PETITION NUMBER 363

NOTICE is hereby given that on June 30, 1995, State Question Number 672, Initiative Petition Number 363 was filed in the Office of Secretary of State. The initiative petition was circulated in the State of Oklahoma, seeking the approval of the electorate on State Question No. 672, a proposed amendment to the Constitution of the State of Oklahoma, which would authorize casino gaming, and would further create a State Gaming Commission to provide for regulation and control of casino gaming, and to limit the location of gaming facilities by county option, and setting the minimum standards for gaming facilities, and earmarking certain fees for education, local governments, and correctional institutions, and providing for tribal-state gaming compacts, and providing for criminal penalties for violation of gaming laws, and treating gaming debts as legal obligations, enforceable before the courts of this State.

The Secretary of State, on October 16, 1995, delivered to the Oklahoma Supreme Court the total number of signatures counted pursuant to the procedures set forth in 34 O.S. 1994 Supp. §6.1 and §8. Also certified were the total number of votes cast for the state office receiving the highest number of votes cast at the last general election. In accordance with 34 O.S. 1994 Supp. §8, the court IN RE: INITIATIVE PETITION NO. 363, STATE QUESTION NO. 672, No. 86,375 recognizes the certification of the Secretary of State that the petition contains 202,993 signatures. The court further recognized that the number of signatures necessary to place the measure before the electorate is 149,252, the same being 15% of the votes cast for the state office receiving the highest number of votes in the November 8, 1994 general election. The signatures on the petition appear numerically sufficient.

Notice is hereby given that any citizen of the State of Oklahoma may file a protest to the petition or an objection to the signature count, by written notice directed to the Supreme Court of the State of Oklahoma, and to the proponents filing the petition: Steven R. Kelley, Better Opportunities for Oklahoma's Students & Taxpayers, Inc., 415 S. Boston, Suite 742, Tulsa Oklahoma 74103. The protest or objection must be filed with the Clerk of the Supreme Court not later than 10 days after publication. A copy of the protest or objection must also be filed with the Secretary of State.

Proceedings in the Supreme Court to resolve any protest or objection shall be in accordance with 34 O.S. 1994 Supp. §8, and such other procedures as may be ordered by the Court.

DONE BY ORDER OF THE SUPREME COURT THIS 24TH DAY OF OCTOBER, 1995.

Tom Cole
Secretary of State

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 24, 1995

Steven R. Kelley
Better Oportunities for
Oklahoma's Students & Taxpayers, Inc.
415 S. Boston, Suite 742
Tulsa, Oklahoma 74103

Dear Mr. Kelley:

This letter is to inform you that the Secretary of State is publishing the Notice of Filing as directed by the Oklahoma Supreme Court In Re: Initiative Petition No. 363, State Question No. 672, No. 86,375 and in accordance with 34 O.S. 1994 Supp. §8. This notice advises that any citizen of the State of Oklahoma may file a protest to the petition or an objection to the signature count. The publication should appear in the Daily Oklahoman for general circulation on Friday, October 27, 1995.

If there are any questions concerning any of the above information, please feel free to contact myself or Kathy Jekel at the above number or address.

Sincerely,

Tom Cole
Secretary of State

TC/kj

Enclosure: Supreme Court Order 86,375
Notice of Filing of State Question No. 672

cc: Kevin Abel

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 24, 1995

Steven R. Kelley
Better Oportunities for
Oklahoma's Students & Taxpayers, Inc.
415 S. Boston, Suite 742
Tulsa, Oklahoma 74103

Dear Mr. ~~Kelley~~ Steve:

Enclosed is a copy of the Attorney General's letter of review for the suggest ballot title for State Question No. 672.

If there are any questions concerning the above information, please feel free to contact myself or Kathy Jekel at the above number or address.

Sincerely,

Tom Cole
Secretary of State

TC/kj

Enclosure: A.G.'s Review Letter

cc: Kevin Abel

DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA

FILED
OCT 24 1995
OKLAHOMA SECRETARY
OF STATE

October 24, 1995

Mr. Tom Cole, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 672, Initiative Petition No. 363

Dear Secretary Cole:

This office has made a review of the above-referenced Suggested Ballot Title as required by 34 O.S. Supp.1994, § 9(D)(1).

After reviewing this suggested Ballot Title, we find that it is not in harmony with the law because 1) it does not explain in basic words, which can be easily found in dictionaries of common uses, the effect of the proposition; and 2) it does not adequately describe the gambling being legalized.

Accordingly, we cannot approve the Suggested Ballot Title. Thus, in accordance with 34 O.S. Supp.1994, § 9(D)(1), we will prepare and file with your office a Ballot title that is in harmony with the law.

Sincerely,

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:NL:pjd

2300 N. LINCOLN BLVD., SUITE 112, OKLAHOMA CITY, OK 73105-4894 (405) 521-3921 • FAX: (405) 521-6246

recycled paper

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

Secretary of State
101 State Capitol
Oklahoma City, OK 73105

[Agency Invoice]

Invoice#: 10 -1122
Date: 10/27/95
Client ID: 2-3225

SECRETARY OF STATE

Pub for 34-O.S. 18

Ord#	Newspaper	Caption/Run Dates		Size			
179 1	OKC-Daily Oklahoman 10/27/95	FILING ST Q 672	1	x92.00 92.00 Inches	$6.80	6.80	Class

Adjustments: AutoFees 0.00 Tax 0.00 Color 0.00 +Gross 0.00

625.60

									Ad Gross--->	$625.60
Gross Color (not added to right) 0.00						Adj to Gross 0.00		Discounted? No		Adjustments 0.00
									Adj.Gross--->	$625.60
Discounted Color (if applicable) 0.00			Discount on Adj.Gross 0.00			% 00	Auto Fees 0.00		Tax 0.00	Adjustments 0.00
Production 0.00	Overnight 0.00	Labels 0.00	Clipping 0.00	Credit 0.00	Other 0.00	Out-State 0.00	Postage 0.00	Release 0.00		Other Charges 0.00
									PAY THIS AMOUNT---->	625.60

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW copy of this invoice

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 30, 1995

FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT 30 1995
JAMES W. PATTERSON
CLERK

The Honorable Justice Alma Wilson
Chief Justice, Supreme Court
Room 245, State Capitol
Oklahoma City, Oklahoma 73105

Dear Justice Wilson:

The Notice of Filing for State Question Number 672, Initiative Petition Number 363 was published as required by 34 O.S. 1994 Supp., Section 8 and in accordance with the Supreme Court Order entered in cause number 86375. This publication appeared in the Daily Oklahoman October 27, 1995.

Attached is the Proof of Publication from the Oklahoma Press Service and a copy of said Notice of Filing for State Question Number 672.

Due to the publication, and in accordance with Title 34 O.S. 1994 Supp., Section 8, the ten (10) days after publication for the appeal process would fall on November 6, 1995.

If this office may be of further assistance, please do not hesitate to contact us at the above number or address.

Sincerely,

Pam Warren
Assistant Secretary of State

PW/kj

Proof of Publication
Oklahoma Press Service

3601 N. Lincoln, Oklahoma City, OK 73105 • (405) 524-4421

I, Rae Lynn Oliver, of lawful age, being duly sworn upon oath, deposes and says:

That I am the Authorized Agent of Daily Oklahoman, a daily newspaper printed and published in the city of Oklahoma City, County of Oklahoma, and state of Oklahoma, and that the advertisement above referred to, a true and printed copy of which is here unto attached, was published in said Daily Oklahoman in consecutive issues on the following dates-to-wit:

Insertion 1: 10/27/1995

Insertion 2: /19

Insertion 3: /19

Insertion 4: /19

Insertion 5: /19

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the State of Oklahoma governing legal publications.

PUBLICATION FEE.....$ 625.70

Rae Lynn Oliver
(Editor/Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this 30 day of Oct, 1995.

Patsy J. Adkison
(Notary Public)

My commission expires: 3-2, 1997.

NOTICE
OF FILING OF
STATE QUESTION NUMBER 672
INITIATIVE PETITION NUMBER 343

NOTICE is hereby given that on June 30, 1995, State Question Number 672, Initiative Petition Number 343 was filed in the Office of Secretary of State. The initiative petition was circulated in the State of Oklahoma, seeking the approval of the electorate on state Question No. 672, a proposed amendment to the Constitution of the State of Oklahoma, which would authorize casino gaming, and would further create a State Gaming Commission to provide for regulation and control of casino gaming, and to limit the location of gaming facilities by county option, and setting the minimum standards for gaming facilities, and earmarking certain fees for education, local governments, and correctional institutions, and providing for tribal-state gaming compacts, and providing for criminal penalties for violation of gaming laws, and treating gaming debts as legal obligations, enforceable before the courts of this State.

The Secretary of State, on October 16, 1995, delivered to the Oklahoma Supreme Court the total number of signatures counted pursuant to the procedures set forth in 34 O.S. 1994 Supp. ss6.1 and ss8. Also certified were the total number of votes cast for the state office receiving the highest number of votes cast in the last general election. In accordance with 34 O.S. 1994 Supp. ss8, the court IN RE: INITIATIVE PETITION NO. 343, STATE QUESTION NO. 672, No. 84,375 recognizes the certification of the Secretary of State that the petition contains 202,993 signatures. The court further recognized that the number of signatures necessary to place the measure before the electorate is 149,252, the same being 15% of the votes cast for the state office receiving the highest number of votes in the November 8, 1994 general election. The signatures on the petition appear numerically sufficient.

Notice is hereby given that any citizen of the State of Oklahoma may file a protest to the petition or an objection to the signature count, by written notice directed to the Supreme Court of the State of Oklahoma, and to the proponents filing the petition: Steven R. Kelley, Better Opportunities for Oklahoma's Students and Taxpayers, Inc., 415 S. Boston, Suite 742, Tulsa, Oklahoma 74103. The protest or objection must be filed with the Clerk of the Supreme Court not later than 10 days after publication. A copy of the protest or objection must also be filed with the Secretary of State.

Proceedings in the Supreme Court to resolve any protest or objection shall be in accordance with 34 O.S. 1994 Supp. ss8, and such other procedures as may be ordered by the Court.

DONE BY ORDER OF THE SUPREME COURT THIS 24TH DAY OF OCTOBER, 1995.

/s/Tom Cole
Secretary of State

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

October 30, 1995

Steven R. Kelley
Better Opportunities for
Oklahoma's Students & Taxpayers, Inc.
415 S. Boston, Suite 742
Tulsa, Oklahoma 74103

Dear Mr. Kelley:

The Notice of Filing for State Question Number 672, Initiative Petition Number 363 was published as required by 34 O.S. 1994 Supp., Section 8 and in accordance with the Supreme Court Order entered in cause number 86375. This publication appeared in the Daily Oklahoman October 27, 1995.

Attached is a copy of the Proof of Publication and the letter sent to the Oklahoma Supreme Court on today's date.

If this office may be of further assistance, please do not hesitate to contact us at the above number or address.

Sincerely,

Pam Warren
Assistant Secretary of State

PW/kj

cc: Kevin Abel

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV - 2 1995
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN THE MATTER OF:	)	
	)	
STATE QUESTION NUMBER 672,	)	
INITIATIVE PETITION NUMBER 363;	)	No. 86,375
	)	
Protest of D. Wallace Hughes.	)	

FILED
NOV 2 1995
OKLAHOMA SECRETARY
OF STATE

PROTEST TO INITIATIVE PETITION

TO: THE SUPREME COURT OF THE STATE OF OKLAHOMA

- and -

Steven R. Kelley, Proponent (as an individual voter and as Chairman of BOOST)
c/o BOOST
415 S. Boston, Suite 742
Tulsa, OK 74103

- and -

Hon. Tom Cole
Secretary of State of the State of Oklahoma
State Capitol Building, Room 101
Oklahoma City, OK 73105

Comes now D. Wallace Hughes ("Hughes"), a resident of Oklahoma City, Oklahoma County, State of Oklahoma, and a citizen and legal voter of the State of Oklahoma, and hereby notifies you that he protests both the substance and the form of Initiative Petition No. 363 ("I.P. 363") and State Question No. 672 ("S.Q. 672"), which was filed in the Office of the Secretary of State of the State of Oklahoma on or about June 30, 1995, and delivered to the Clerk of the Supreme Court of the State of Oklahoma on October 24, 1995 with a certification that the

proposal carried sufficient signatures to be submitted to a vote of the people. As mandated by this Court's Order of October 24, 1995, the Secretary of State published notice on or about October 27, 1995. Protest is made both as to the substance (constitutionality) and form of the petition.

Hughes alleges and states that I.P. 363 upon its face violates and is wholly ineffective under the Constitution of the United States and the Constitution of the State of Oklahoma in the following particulars, and without limitation:

1. I.P. 363 violates the Fourteenth Amendment to the United States Constitution by denying Oklahoma citizens who are similarly situated the equal protection of law, without any rational relationship to a legitimate governmental interest, and hence violates, also, the due process of law.

2. I.P. 363 violates the Fourteenth Amendment to the United States Constitution by impermissibly categorizing certain citizens by race and/or nationality and upon such basis of racial identification, specifically denies these Oklahoma Citizens the equal protection of law as is granted to other citizens similarly situated, all without any compelling governmental interest.

3. I.P. 363, by virtue of such impermissible classification(s) and being otherwise in conflict with federal law, violates the Supremacy Clause of the federal Constitution.

4. I.P. 363, by virtue of such impermissible

classification(s), violates §§ 3 (Third) and 21 of the Enabling Act (Act of Congress, June 16, 1906; 34 U.S.St. at Large, at pages 267 - 278).

5. I.P. 363, by virtue of such impermissible classification(s), violates Article I, §1; Article 1, §3; Article 2, §7; and Article 5, §51 of the Oklahoma Constitution.

6. I.P. 363 is in inherent conflict with the Oklahoma Constitution by attempting to use the legislative power of the initiative to impermissibly delegate legislative authority to a municipality without adequate restrictions or guidelines.

7. I.P. 363 encompasses several subjects in violation of Okla.Const., Art. 24, §1, and presents multiple, diverse "logrolling" subjects in violation of precedent of this Court.

8. In the alternative and in the event it is held that I.P. 363 involves but one "general" subject area in conformity with Art. 24, §1, supra, then in that event the form of S.Q. 672 is nonetheless infirm, because the various separate articles of the comprehensive gambling plan would require votes upon multiple, separate questions in order to vote upon the separate articles of the general, gambling proposal and in order to prevent "logrolling." Accordingly, the form of S.Q. 672 is invalid and would require it be redrafted and resubmitted by the proponents; or in the alternative would require this Court to rewrite the Question(s) and submit the various articles as separate questions to conform with Okla.Const., Art. 24, §1.

9. The proponent's gist is inherently misleading and misstates the true gist of the measure, because it advises voters or implies to voters that casino gambling is "authorized" in (i.e., throughout) Oklahoma, whereas the measure authorizes gambling in only certain geographical places or counties within the State of Oklahoma.

Upon such premises and for the reasons stated above, Hughes respectfully moves this Court to declare that I.P. 363 and/or S.Q. 672 is invalid; or in the alternative, to redraft S.Q. 672 so that the various, separate proposals be submitted as separate questions.

All of which is respectfully submitted.

Dated this 7th day of November, 1995.

CHARLES M. SUBLETT, OBA #8735
Sublett & Shafer, P.C.
320 South Boston, Suite 805
Tulsa, OK 74103-3778
(918) 582-8815
ATTORNEY FOR D. WALLACE HUGHES

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV - 2 1995
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN THE MATTER OF:	)	
	)	
STATE QUESTION NUMBER 672,	)	
INITIATIVE PETITION NUMBER 363;	)	No. 86,375
	)	
Protest of D. Wallace Hughes.	)	

FILED
NOV 2 1995
OKLAHOMA SECRETARY
OF STATE

PROTEST TO INITIATIVE PETITION

TO: THE SUPREME COURT OF THE STATE OF OKLAHOMA

- and -

Steven R. Kelley, Proponent (as an individual voter and as Chairman of BOOST)
c/o BOOST
415 S. Boston, Suite 742
Tulsa, OK 74103

- and -

Hon. Tom Cole
Secretary of State of the State of Oklahoma
State Capitol Building, Room 101
Oklahoma City, OK 73105

Comes now D. Wallace Hughes ("Hughes"), a resident of Oklahoma City, Oklahoma County, State of Oklahoma, and a citizen and legal voter of the State of Oklahoma, and hereby notifies you that he protests both the substance and the form of Initiative Petition No. 363 ("I.P. 363") and State Question No. 672 ("S.Q. 672"), which was filed in the Office of the Secretary of State of the State of Oklahoma on or about June 30, 1995, and delivered to the Clerk of the Supreme Court of the State of Oklahoma on October 24, 1995 with a certification that the

proposal carried sufficient signatures to be submitted to a vote of the people. As mandated by this Court's Order of October 24, 1995, the Secretary of State published notice on or about October 27, 1995. Protest is made both as to the substance (constitutionality) and form of the petition.

Hughes alleges and states that I.P. 363 upon its face violates and is wholly ineffective under the Constitution of the United States and the Constitution of the State of Oklahoma in the following particulars, and without limitation:

1. I.P. 363 violates the Fourteenth Amendment to the United States Constitution by denying Oklahoma citizens who are similarly situated the equal protection of law, without any rational relationship to a legitimate governmental interest, and hence violates, also, the due process of law.

2. I.P. 363 violates the Fourteenth Amendment to the United States Constitution by impermissibly categorizing certain citizens by race and/or nationality and upon such basis of racial identification, specifically denies these Oklahoma Citizens the equal protection of law as is granted to other citizens similarly situated, all without any compelling governmental interest.

3. I.P. 363, by virtue of such impermissible classification(s) and being otherwise in conflict with federal law, violates the Supremacy Clause of the federal Constitution.

4. I.P. 363, by virtue of such impermissible

classification(s), violates §§ 3 (Third) and 21 of the Enabling Act (Act of Congress, June 16, 1906; 34 U.S.St. at Large, at pages 267 - 278).

5. I.P. 363, by virtue of such impermissible classification(s), violates Article I, §1; Article 1, §3; Article 2, §7; and Article 5, §51 of the Oklahoma Constitution.

6. I.P. 363 is in inherent conflict with the Oklahoma Constitution by attempting to use the legislative power of the initiative to impermissibly delegate legislative authority to a municipality without adequate restrictions or guidelines.

7. I.P. 363 encompasses several subjects in violation of Okla.Const., Art. 24, §1, and presents multiple, diverse "logrolling" subjects in violation of precedent of this Court.

8. In the alternative and in the event it is held that I.P. 363 involves but one "general" subject area in conformity with Art. 24, §1, supra, then in that event the form of S.Q. 672 is nonetheless infirm, because the various separate articles of the comprehensive gambling plan would require votes upon multiple, separate questions in order to vote upon the separate articles of the general, gambling proposal and in order to prevent "logrolling." Accordingly, the form of S.Q. 672 is invalid and would require it be redrafted and resubmitted by the proponents; or in the alternative would require this Court to rewrite the Question(s) and submit the various articles as separate questions to conform with Okla.Const., Art. 24, §1.

9. The proponent's gist is inherently misleading and misstates the true gist of the measure, because it advises voters or implies to voters that casino gambling is "authorized" in (i.e., throughout) Oklahoma, whereas the measure authorizes gambling in only certain geographical places or counties within the State of Oklahoma.

Upon such premises and for the reasons stated above, Hughes respectfully moves this Court to declare that I.P. 363 and/or S.Q. 672 is invalid; or in the alternative, to redraft S.Q. 672 so that the various, separate proposals be submitted as separate questions.

All of which is respectfully submitted.

Dated this 7th day of November, 1995.

CHARLES M. SUBLETT, OBA #8735
Sublett & Shafer, P.C.
320 South Boston, Suite 805
Tulsa, OK 74103-3778
(918) 582-8815
ATTORNEY FOR D. WALLACE HUGHES

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV - 6 1995
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

FILED
NOV 6 1995
OKLAHOMA SECRETARY
OF STATE

PROPONENTS' OBJECTION TO THE COUNT

COME NOW the Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen, (collectively "Proponents"), and object to the Initiative Petition No. 363 signature count published in the *Daily Oklahoman* on Friday, October 27, 1995. Proponents respectfully contend that the aforementioned count eliminated as "invalid" certain signatures on Initiative Petition No. 363, which are, in fact, valid.

WHEREFORE, Proponents pray that this Honorable Court provide Proponents an opportunity to conduct discovery, be heard in re this Objection and, after evidentiary hearings and briefing, enter an order validating signatures heretofore invalidated.

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

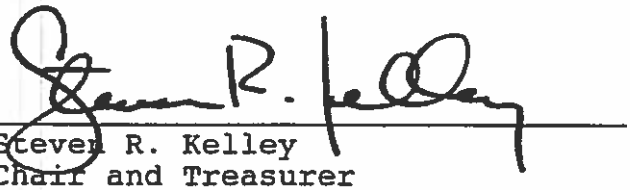
By
Kevin M. Abel, OBA #104

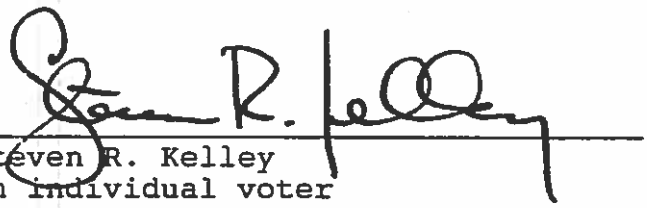
RECEIVED
NOV - 6 1995
OKLAHOMA SECRETARY
OF STATE

900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC.

By 
Steven R. Kelley
Chair and Treasurer


Steven R. Kelley
An individual voter

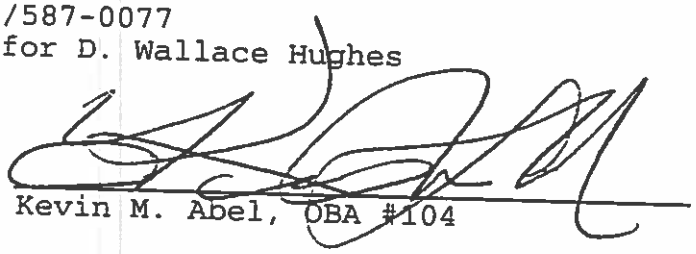
CERTIFICATE OF MAILING

This is to certify that on the 6th day of November, 1995, I mailed and provided for the hand delivery of a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Attorney for D. Wallace Hughes



Kevin M. Abel, OBA #104

F:\USERS\KMA\IP\BALLOT.OBJ

DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA

November 7, 1995

FILED
NOV 7 1995
OKLAHOMA SECRETARY OF STATE

Mr. Tom Cole, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 672, Initiative Petition No. 363

Dear Secretary Cole:

Having found that the Proponents' suggested Ballot Title for the above-referenced State Question was not in harmony with the law, we have, in accordance with the provisions of 34 O.S. Supp.1994, § 9(D)(1), prepared the following substitute Ballot Title for filing in your office. As a Title 34 Ballot Title review, the following does not constitute an Attorney General's Opinion on the merits or constitutionality of the underlying proposed change in the law. The substitute Ballot Title reads as follows:

BALLOT TITLE

This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:

a. Slot machines and roulette,
b. Craps, keno and video gambling,
c. All gambling played with cards, dice, mechanical devices or computers, and
d. Other forms of gambling.

For the first five years there could only be four non-Indian gambling facilities. Those facilities are:

1. Remington Park Racetrack,
2. Blue Ribbon Downs Racetrack,
3. A facility in Tulsa, and
4. A facility in Love County.

2300 N. LINCOLN BLVD., SUITE 112, OKLAHOMA CITY, OK 73105-4894 (405) 521-3921 • FAX: (405) 521-6246

recycled paper

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure opens the door for Indian tribes to engage in the new forms of gambling. State limits and standards would have limited or no effect on Indian gambling. The State could not tax Indian gambling.

The measure makes gambling debts legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

_____ Yes, for the Proposal.

_____ No, against the Proposal.

Respectfully submitted,

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:pjd

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV - 7 1995
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

FILED
NOV 7 1995
OKLAHOMA SECRETARY
OF STATE

PROPONENTS' WITHDRAWAL OF OBJECTION TO THE COUNT

COME NOW the Proponents and hereby withdraw the Objection to the Count filed on November 6, 1995, for the reasons and upon the grounds that:

1. no other objections to the count were timely filed, and

2. the Secretary of State's count exceeds the number of signatures required to place the measure on the ballot.

WHEREFORE, Proponents hereby withdraw the Objection to the Count filed on November 6, 1995.

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By
Kevin M. Abel, OBA #104

900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

RECEIVED
NOV - 7 1995
OKLAHOMA SECRETARY
OF STATE

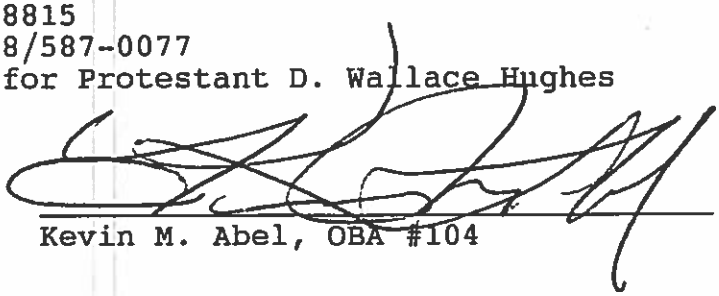
CERTIFICATE OF MAILING

This is to certify that on the 7th day of November, 1995, I mailed and provided for the hand delivery of a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Counsel for Protestant D. Wallace Hughes



Kevin M. Abel, OBA #104

F:\USERS\KMA\IP\BALLOT.WIT

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
NOV 8 1995
OKLAHOMA SECRETARY OF STATE

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

PROPONENTS' OBJECTION TO THE COUNT

COME NOW the Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen, (collectively "Proponents"), and object to the Initiative Petition No. 363 signature count published in the *Daily Oklahoman* on Friday, October 27, 1995. Proponents respectfully contend that the aforementioned count eliminated as "invalid" certain signatures on Initiative Petition No. 363, which are, in fact, valid.

WHEREFORE, Proponents pray that this Honorable Court provide Proponents an opportunity to conduct discovery, be heard in re this Objection and, after evidentiary hearings and briefing, enter an order validating signatures heretofore invalidated.

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By _____
Kevin M. Abel, OBA #104

900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

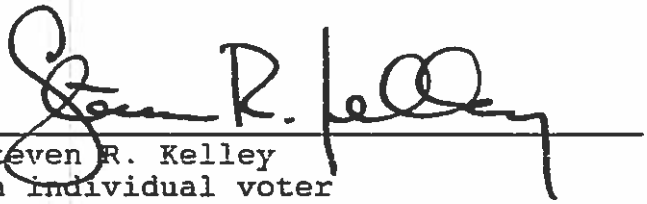
ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

RECEIVED
NOV - 8 1995
OKLAHOMA SECRETARY OF STATE

BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC.

By

Steven R. Kelley
Chair and Treasurer



Steven R. Kelley
An individual voter

CERTIFICATE OF MAILING

This is to certify that on the 6th day of November, 1995, I mailed and provided for the hand delivery of a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Attorney for D. Wallace Hughes

Kevin M. Abel, OBA #104

F:\USERS\KMA\IP\BALLOT.OBJ

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV 17 1995
JAMES W. PATTERSON
CLERK

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

FILED
NOV 17 1995
OKLAHOMA SECRETARY
OF STATE

PROPONENTS' 34 O.S. § 10 PETITION OF APPEAL OF THE BALLOT TITLE FILED BY THE ATTORNEY GENERAL OF THE STATE OF OKLAHOMA

COME NOW the Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen ("Proponents"), and appeal by this 34 O.S. § 10 petition the ballot title prepared by the Attorney General pursuant to 34 O.S. § 9(D)(1). In support of this appellate petition, the Proponents further state as follows:

I

INTRODUCTION

On October 24, 1995, the Oklahoma Attorney General said that the Ballot Title suggested by the Proponents is "not in harmony with the law . . . ." [Exhibit "A"] Consequently, the Attorney General prepared another ballot title pursuant to 34 O.S. § 9(D)(1) [Exhibit "B"], which was filed with the Secretary of State on November 7, 1995. The Secretary of State is required by law to

certify to the Secretary of the State Election Board the ballot title which is approved by the Supreme Court. 34 O.S. § 9(D)(2).

II

APPELLATE BASES

The official ballot title must not contain words of special meaning within a particular trade, reflect partiality in its composition, or contain any argument against the measure. 34 O.S. §§ 9(B)(4) & (5). The ballot title prepared by the Attorney General utilizes terms of art, is argumentative and biased, and prognosticates the possible, tangential consequences of the measure; whereas, the Ballot Title suggested by Proponents impartially presents the meaning and effect of the state question in basic words commonly known to citizens of this state as required by 34 O.S. §§ 9(B)(2), (4) & (5). Furthermore, the Attorney General's ballot title otherwise violates 34 O.S. § 9(B).[1]

Each of the foregoing identified bases of this Appeal will be expostulated during the briefing phase of this original proceeding after discovery is completed.

---

[1] For example, the ballot title submitted by the Attorney General may exceed the eighth-grade reading level requirement of 34 O.S. § 9(B)(3) depending upon the readability tests utilized, which will be determined during the discovery phase of this original proceeding in the Oklahoma Supreme Court.

III

PROPONENTS' SUBSTITUTE BALLOT TITLE

Pursuant to 34 O.S. § 10(A), the Proponents hereby submit a substitute Ballot Title, annexed Exhibit "C," which is an impartial, unbiased recitation of the meaning and effect of State Question 672 utilizing basic words commonly known to the citizens of this State rather than terms of art. The Proponents' Ballot Title is the only one suggested to date which is "in legal form and in harmony with the law."

IV

CONCLUSION

The Attorney General's ballot title is not "in legal form and in harmony with the law" because it:

(1) contains words of special meaning within a particular trade,

(2) reflects bias and partiality in its composition,

(3) contains argument against the measure,

(4) prognosticates the possible, tangential consequences of the measure, and

(5) otherwise violates 34 O.S. § 9(B).

WHEREFORE, Proponents pray that this Honorable Court:

(a) provide Proponents with an opportunity to conduct discovery,

(b) accept briefs on the foregoing issues,

(c) hear this appeal, and

(d) enter an opinion and an order --

(1) adopting the Proponents' substitute Ballot Title annexed hereto as Exhibit "C," and

(2) certifying for the ballot Initiative Petition 363, State Question 672.

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By _____
Kevin M. Abel, OBA #104
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC.

By _____
Steven R. Kelley
Chair and Treasurer

_____
Steven R. Kelley
An individual voter

CERTIFICATE OF MAILING

This is to certify that on the 16th day of November, 1995, I mailed a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Secretary of State
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

and

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
(918) 582-8815
Counsel for Protestant D. Wallace Hughes.

Kevin M. Abel, OBA #104

F:\USERS\KMA\IP\BALLOT.APP

DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA

October 24, 1995

FILED
OCT 24 1995
OKLAHOMA SECRETARY OF STATE

Mr. Tom Cole, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 672, Initiative Petition No. 363

Dear Secretary Cole:

This office has made a review of the above-referenced Suggested Ballot Title as required by 34 O.S. Supp.1994, § 9(D)(1).

After reviewing this suggested Ballot Title, we find that it is not in harmony with the law because 1) it does not explain in basic words, which can be easily found in dictionaries of common uses, the effect of the proposition; and 2) it does not adequately describe the gambling being legalized.

Accordingly, we cannot approve the Suggested Ballot Title. Thus, in accordance with 34 O.S. Supp.1994, § 9(D)(1), we will prepare and file with your office a Ballot title that is in harmony with the law.

Sincerely,

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:NL:pjd

2300 N. LINCOLN BLVD., SUITE 112, OKLAHOMA CITY, OK 73105-4894 (405) 521-3921 • FAX: (405) 521-6246

recycled paper

DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA
November 7, 1995

Mr. Tom Cole, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 672, Initiative Petition No. 363

Dear Secretary Cole:

Having found that the Proponents' suggested Ballot Title for the above-referenced State Question was not in harmony with the law, we have, in accordance with the provisions of 34 O.S. Supp.1994, § 9(D)(1), prepared the following substitute Ballot Title for filing in your office. As a Title 34 Ballot Title review, the following does not constitute an Attorney General's Opinion on the merits or constitutionality of the underlying proposed change in the law. The substitute Ballot Title reads as follows:

BALLOT TITLE

This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:

a. Slot machines and roulette,
b. Craps, keno and video gambling,
c. All gambling played with cards, dice, mechanical devices or computers, and
d. Other forms of gambling.

For the first five years there could only be four non-Indian gambling facilities. Those facilities are:

1. Remington Park Racetrack,
2. Blue Ribbon Downs Racetrack,
3. A facility in Tulsa, and
4. A facility in Love County.

2300 N. LINCOLN BLVD., SUITE 112, OKLAHOMA CITY, OK 73105-4894 (405) 521-3921 • FAX: (405) 521-6246
recycled paper

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure opens the door for Indian tribes to engage in the new forms of gambling. State limits and standards would have limited or no effect on Indian gambling. The State could not tax Indian gambling.

The measure makes gambling debts legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

_____ Yes, for the Proposal.

_____ No, against the Proposal.

Respectfully submitted,

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:pjd

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

State Question No. 672 Initiative Petition No. 363

PROPONENTS' 34 O.S. § 10 SUBSTITUTE BALLOT TITLE

This measure would change the State Constitution to permit casino gaming.

At first, there could be four casinos. Two casinos could be at licensed horse racing tracks running more than 500 betting days in any five year period. Another casino could be in Tulsa's arts and entertainment tax increment district. The fourth casino could be in Love County. Five years after the first casino opens, there could be other casinos by county option elections. Only one casino per county would be allowed. At least $25,000,000 would have to be invested in each casino.

A seven member Commission would regulate the casino business. The Governor and Legislative leaders would appoint the first members for one to three year terms. The Governor would appoint later members with the Senate's advice and consent. The Commission could borrow money for its first budget. Fees paid by casinos and related businesses would fund later Commission budgets.

Each casino would pay a 10% fee on its total winnings to the State. After funding the Commission's budget, 50% of the fee would go to public grade schools and high schools statewide. 25% would go to prisons. 25% would go to local governments where casinos are located.

SHALL THE PROPOSED CONSTITUTIONAL AMENDMENT BE APPROVED?

( ) YES - FOR THE AMENDMENT

( ) NO - AGAINST THE AMENDMENT

PRAY, WALKER, JACKMAN, WILLIAMSON & MARLAR
A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

900 ONEOK PLAZA / 100 WEST 5TH STREET
TULSA, OKLAHOMA 74103-4218

KEVIN M. ABEL

TELEPHONE (918) 581-5500
FACSIMILE (918) 581-5599

OKLAHOMA CITY OFFICE

TELEPHONE (405) 236-8811
FACSIMILE (405) 236-0011

December 8, 1995

Ms. Kathy Jekel
Office of the Oklahoma
Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897

RE: State Question 672

Dear Kathy:

This letter confirms the arrangements we made in our telephone conversation this morning for the photocopying of the State Question 672 signature pages. Please copy all of the signature pages showing the signature/printed name/residence/city & zip/county of each signer. We do not need the reverse side of each, i.e., the affidavit pages. It is my understanding that the cost associated with your copying of same will range from $3,046 to $3,500, which is hereby accepted and authorized.

Thank you for agreeing to start the photocopying next week, which may be finished in 7 to 10 days thereafter. Please telephone me when the project is completed; whereupon, we will deliver you a check at the time we receive the copies. Thank you for your assistance.

Very truly yours,

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

Kevin M. Abel

RECEIVED
DEC 11 1995
OKLAHOMA SECRETARY OF STATE

KMA/pfw
cc: Mr. Steven R. Kelley
Donald F. Marlar, Esq.

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

FILED
DEC 21 1995
OKLAHOMA SECRETARY OF STATE

PROPONENTS' FIRST REQUESTS FOR ADMISSION AND INTERROGATORIES TO THE ATTORNEY GENERAL

To: W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

COME NOW the Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen, (collectively "Proponents"), and submit the following Requests for Admission and Interrogatories to the Attorney General of the State of Oklahoma (the "Attorney General") in re the ballot title appeal.

The responses hereto shall be verified and served not later than thirty (30) days after the service hereof. The responses should be immediately preceded by the request for admission or interrogatory to which a response is being made.

REQUEST FOR ADMISSION NO. 1: The ballot title written by the Attorney General for State Question 672 must not contain any words which have a special meaning for a particular profession or trade not commonly known to the citizens of this state.

REQUEST FOR ADMISSION NO. 2: "Gambling" has a special meaning in law (not commonly known to citizens of the state) under 21 O.S. § 981-82.

REQUEST FOR ADMISSION NO. 3: "Gaming" does not have a special meaning under title 21 of the Oklahoma statutes.

REQUEST FOR ADMISSION NO. 4: "Slot Machine" has a special meaning in law (not commonly known to citizens of the state) under 21 O.S. § 964.

REQUEST FOR ADMISSION NO. 5: The ballot title written by the Attorney General for State Question 672 must explain in basic words the effect of the proposition.

REQUEST FOR ADMISSION NO. 6: The ballot title written by the Attorney General for State Question 672 includes the following statement, which is a possible -- not certain -- consequence of the approval of State Question 672:

> "State limits and standards would have limited or no effect on Indian gambling."

REQUEST FOR ADMISSION NO. 7: Section 8(f) of State Question 672 makes debts resulting from authorized casino gaming legal and binding obligations enforceable in Oklahoma courts.

REQUEST FOR ADMISSION NO. 8: The ballot title written by the Attorney General for State Question 672 states that gambling debts are legal and enforceable under State Question 672.

REQUEST FOR ADMISSION NO. 9: The eighth-grade reading comprehension level requirement of 34 O.S. § 9(B)(3) means that the ballot title for State Question 672 must have a reading comprehension level between grades 8.00 and 8.99, inclusive.

REQUEST FOR ADMISSION NO. 10: The reading comprehension grade level of the ballot title written by the Attorney General for State Question 672 (as judged by the average of the readability tests of the state superintendent of public instruction) is grade level 9.3.

INTERROGATORY NO. 1: What is:

(a) the name, and

(b) the version,

of the computer tests relied upon by the Attorney General to determine the reading comprehension grade level of the ballot title written by the Attorney General for State Question 672?

INTERROGATORY NO. 2: What is the reading comprehension grade level of the ballot title written by the Attorney General for State Question 672, as determined under each of the tests disclosed by your response to Interrogatory No. 1?

INTERROGATORY NO. 3: What is:

(A) the name, and

(B) the title

of each person who participated in the preparation of the responses to the foregoing Requests for Admission and Interrogatories.

Respectfully submitted,

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By _____
Kevin M. Abel, OBA #104

900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

CERTIFICATE OF MAILING

This is to certify that on the 19th day of December, 1995, I mailed a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
405/521-3921
Fax: 405/521-3771

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Counsel for Protestant D. Wallace Hughes

Kevin M. Abel, OBA #194

kma\ip\req-adm.int

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
DEC 21 1995
OKLAHOMA SECRETARY
OF STATE

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

PROPONENTS' RULE 6
SUGGESTION TO THE COURT

COME NOW the Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen (collectively "Proponents"), pursuant to Supreme Court Rule 6, and suggest the following facts to the Court:

Counsel for the Proponents, the Protestant, and the Attorney General have consulted and agreed that deadlines should be established for the following:

1. conducting discovery[1] in re the ballot title appeal[2];
2. briefing the ballot title issues, and
3. briefing the Protest of D. Wallace Hughes.

RECEIVED
DEC 21 1995
OKLAHOMA SECRETARY
OF STATE

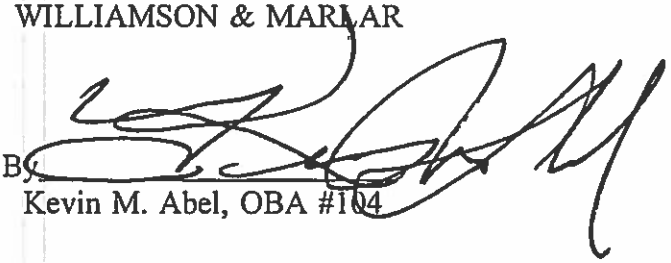
[1]Coincident with the filing of this Suggestion, Proponents served the Attorney General with Proponents' First Requests for Admission and Interrogatories, which will be followed by deposition discovery.

[2]The Attorney General has suggested that deadlines might be established by agreement of the parties.

WHEREFORE, the Proponents suggest that the Court convene a scheduling conference.

Respectfully submitted,

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR



By
Kevin M. Abel, OBA #104

900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

CERTIFICATE OF MAILING

This is to certify that on the 19th day of December, 1995, I mailed a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
405/521-3921
Fax: 405/521-3771

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Counsel for Protestant D. Wallace Hughes

Kevin M. Abel, OBA #104

kma\ip\suggest

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
JAN 10 1996
OKLAHOMA SECRETARY
OF STATE

IN RE:	)	
	)	
INITIATIVE PETITION NO. 363	)	No. 86,375
	)	
STATE QUESTION NO. 672	)	

FILED
SUPREME COURT
STATE OF OKLAHOMA
JAN 9 - 1996
JAMES W. PATTERSON
CLERK

STATE OF OKLAHOMA TO TOM COLE,
SECRETARY OF STATE, STATE OF OKLAHOMA

ORDER

Pursuant to Proponent's filings of December 20, 1995, all parties to this proceeding are directed to submit a proposal detailing their wishes as to scheduling, and deadlines for conducting discovery, briefing the ballot title issues, and briefing the protest of D. Wallace Hughes. The parties' scheduling proposals must be filed with the Clerk of this Court no later than January 26, 1996.

DONE BY ORDER OF THE SUPREME COURT THIS 9TH DAY OF JANUARY, 1996.

Alma Wilson
CHIEF JUSTICE

FILED
SUPREME COURT
STATE OF OKLAHOMA
JAN 24 1996
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

FILED
JAN 25 1996
OKLAHOMA SECRETARY OF STATE

PARTIES' JOINT SCHEDULING PROPOSAL

COME NOW the Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen ["Proponents"], Protestant D. Wallace Hughes ["Hughes"], and the Attorney General of the State of Oklahoma ["AG"], and (pursuant to the Court's January 9, 1996, Order) jointly submit the following, proposed Scheduling Order to establish the deadlines for the Protest of Hughes and the discovery and briefing of the Ballot Title Appeal.

FUNCTION	DEADLINE
Protestant's Brief in Chief	Friday, 3/1/96
Proponent's Answer Brief in re the Protest	Wednesday, 4/10/96
Protestant's Reply Brief	Wednesday, 5/1/96
COMPLETE DEPOSITION AND ALL OTHER BALLOT TITLE APPEAL DISCOVERY	Friday, 3/29/96
Proponent's Ballot Title Appeal Brief in Chief	Wednesday, 5/1/96
AG's Ballot Title Answer Brief	Monday, 6/10/96
Proponent's Ballot Title Reply Brief	Monday, 7/1/96

Respectfully submitted,

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By _____

Kevin M. Abel, OBA #104
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN

By _____

Charles M. Sublett, OBA #8735
SUBLETT & SHAFER, P.C.
320 South Boston, Suite 805
Tulsa, OK 74103-3778
(918) 582-8815

ATTORNEY FOR D. WALLACE HUGHES

By _____

Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

CERTIFICATE OF MAILING

This is to certify that on the 24TH day of January, 1996, I mailed a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Secretary of State
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

and

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
(918) 582-8815
Counsel for Protestant D. Wallace Hughes.

Kevin M. Abel, OBA #104

F:\USERS\KMA\IP\BALLOT.SCH

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
FEB - 6 1996
JAMES W. PATTERSON
CLERK

IN RE:	)	
	)	
INITIATIVE PETITION NO. 363,	)	No. 86,375
	)	
STATE QUESTION NO. 672.	)	

FILED
FEB 07 1996
OKLAHOMA SECRETARY
OF STATE

SCHEDULING ORDER

The Joint Scheduling Proposal filed on January 24, 1996, reflecting the agreement of all parties to this proceeding is approved. The brief in chief on the protest to the petition must be filed not later than March 1, 1996, with the answer brief to be filed not later than April 10, 1996, and the reply brief, if any, to be filed by May 1, 1996.

All discovery is to be completed not later than March 29, 1996.

Proponent's brief in chief on the ballot title controversy is to be filed by May 1, 1996. The Attorney General's answer brief must be filed by June 10, 1996, with the reply brief, if any, to be filed not later than July 1, 1996.

DONE BY ORDER OF THE SUPREME COURT THIS 6th DAY OF FEBRUARY, 1996.

Alma W. Wilson
CHIEF JUSTICE

SUPREME COURT NO. 86,375

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
APR 4 1996
OKLAHOMA SECRETARY
OF STATE

IN RE:

INITIATIVE PETITION NO. 363
STATE QUESTION NO. 672

PROPONENT'S ANSWER BRIEF IN RESPONSE TO PROTESTANT'S BRIEF IN CHIEF

INITIATIVE PETITION ORIGINAL PROCEEDING

Kevin M. Abel, OBA No. 104
M. Sean Radcliffe, OBA No. 16713
PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR
900 Oneok Plaza
Tulsa, Oklahoma 74103
918/584-4136

ATTORNEYS FOR PROPONENTS,
BETTER OPPORTUNITIES FOR
OKLAHOMA'S STUDENTS &
TAXPAYERS, INC. AND
STEVEN R. KELLEY,
AN INDIVIDUAL CITIZEN

RECEIVED
APR 4 1996
OKLAHOMA SECRETARY
OF STATE

April 2, 1996

TABLE OF CONTENTS

SUBJECT INDEX ii

I. INTRODUCTION 1

II. ARGUMENTS AND AUTHORITY 2

A. PRE-SUBMISSION REVIEW OF THE CONTENT OF AN INITIATIVE PETITION BY THE OKLAHOMA SUPREME COURT IS AN IMPERMISSIBLE PRIOR RESTRAINT UPON CORE POLITICAL SPEECH 2

B. SECTION 8(D) OF 672, ADDRESSING COMPACTS BETWEEN THE STATE AND ANY INDIAN TRIBE CONDUCTING CLASS III GAMING, CONFORMS TO ALL APPLICABLE FEDERAL AND STATE AUTHORITY, INCLUDING THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION AND THE ENABLING ACT OF THE OKLAHOMA CONSTITUTION 13

C. THE AMENDMENT BY ARTICLE PROPOSED IN S.Q. 672 COMPLIES WITH THE SINGLE SUBJECT RULE SET FORTH IN ARTICLE XIV, SECTION 1 OF THE OKLAHOMA CONSTITUTION FOR AMENDMENT BY ARTICLE 19

D. THE GIST OF S.Q. 672 SATISFIES THE REQUIREMENTS OF OKLA. STAT. TIT. 34, § 3, THAT IT PROVIDE A SIMPLE STATEMENT OF THE PROPOSED MEASURE 20

III. CONCLUSION 23

SUBJECT INDEX

I. INTRODUCTION 1

II. ARGUMENTS AND AUTHORITY 2

A. PRE-SUBMISSION REVIEW OF THE CONTENT OF AN INITIATIVE PETITION BY THE OKLAHOMA SUPREME COURT IS AN IMPERMISSIBLE PRIOR RESTRAINT UPON CORE POLITICAL SPEECH 2

Cases

Brown v. Hartlage, 456 U.S. 45, 102 S. Ct. 1523, 71 L. Ed. 2d 732 (1982) 12

Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1076) 7

Forsyth County v. Nationalist Movement, 505 U.S.123, 112 S. Ct. 2395, 120 L. Ed. 2d 101 (1992) 7

In re Initiative Petition No. 349, State Question No. 642, 838 P.2d 1 (Okla. 1992) 2, 10, 12, 13

In re Initiative Petition No. 358, State Question No. 658, 870 P.2d 782, 785 (Okla. 1994) 4

In re Supreme Court Adjudication of Initiative Petitions in Norman, Okla. Numbered 74-1 & 74-2 534 P.2d 3 (Okla. 1975) 3, 4, 11

Meyer v. Grant. 486 U.S. 414, 108 S. Ct. 1886, 100 L. Ed. 2d 425, 435 (1988) 5-11

Nebraska Press Assn. v. Stuart, 427 U.S. 539, 96 S. Ct. 2791, 49 L. Ed. 2d 683 (1976) 8

Police Dept. of Chicago v. Mosely, 408 U.S. 92, 92 S. Ct. 2286, 33 L. Ed. 212 (1972) 11

Quantity of Copies of Books v. State of Kansas,
378 U.S. 205, 84 S. Ct. 1723, 12 L. Ed. 2d 809 (1964) 4, 7

Thomas v. Collins, 323 U. S. 516, 65 S. Ct. 315,
89 L. Ed. 430 (1945) 7

Threadgill v. Cross, 109 P.2d 558 (Okla. 1910) 5

Tulsa Petroleum Corp. v. Westmoreland, 70 P.2d 110 (Okla. 1937) . . 7

Books and Treatises

53 C.J.S. Licenses § 2(a) 7

Statutes

1973 Okla. Sess. Laws c. 78, § 1 4

Okla. Const. art. II, § 1 13

Okla. Const. art. V, § 1 3

Okla. Const. art. V, § 2 3

Okla. Stat. tit. 5, Ch. 1, App. 3-A, Rule 3.1 2

Okla. Stat. tit. 34, §§ 1-27 9

Okla. Stat. tit. 34, § 1 3

Okla. Stat. tit. 34, § 8 . . . . . 3, 4

U.S. Const. amend. XIV, § 1 6

B. SECTION 8(D) OF 672, ADDRESSING COMPACTS BETWEEN THE STATE AND ANY INDIAN TRIBE CONDUCTING CLASS III GAMING, CONFORMS TO ALL APPLICABLE FEDERAL AND STATE AUTHORITY, INCLUDING THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION AND THE ENABLING ACT OF THE OKLAHOMA CONSTITUTION 13

Cases

California v. Cabazon Band of Mission Indians, 480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987) 15

Cheyenne River Sioux Tribe v. South Dakota, 3 F.3d 273, 279 (8th Cir. 1993) 16

Rumsey Indian Rancheria of Wintun Indians v. Wilson, 41 F.3d 421 (9th Cir. 1994) 16

Seminole Tribe of Florida v. Florida, ___ S. Ct. ___, 1996 WL 134309 14

Statutes

25 U.S.C. §§ 2701-2721 14

25 U.S.C. § 2703(6) 15

25 U.S.C. § 2703(7) 15

25 U.S.C. § 2703(8) 15

25 U.S.C. § 2710(d)(1) 16

25 U.S.C. § 2710(d)(1)(B) 16

25 U.S.C. § 2710(d)(3)(C) 18

25 U.S.C. § 2710(d)(3)(C)(iii) 18

25 U.S.C. § 2710(d)(3)(C)(vi) 17

25 U.S.C. § 2710(d)(4) 18

C. THE AMENDMENT BY ARTICLE PROPOSED IN S.Q. 672 COMPLIES WITH THE SINGLE SUBJECT RULE SET FORTH IN ARTICLE XIV, SECTION 1 OF THE OKLAHOMA CONSTITUTION FOR AMENDMENT BY ARTICLE 19

Cases

In re Initiative Petition No. 319, State Question No. 563, 682 P.2d 222 (Okla. 1984) 19,20

Statutes

Okla. Const. art. XXIV, § 1 19

D. THE GIST OF S.Q. 672 SATISFIES THE REQUIREMENTS OF OKLA. STAT. TIT. 34, § 3, THAT IT PROVIDE A SIMPLE STATEMENT OF THE PROPOSED MEASURE 20

Cases

In re Initiative Petition No. 341, State Question No. 627, 796 P.2d 267 (Okla. 1990) 22

In Re Initiative Petition 347, State Question No. 639, 813 P.2d 1019 (Okla. 1991) 22

In re Initiative Petition No. 360, State Question No. 662, 879 P.2d 810 (Okla. 1994) 21

Statutes

Okla. Stat. tit. 34, § 3 21

Okla. Stat. tit. 34, § 9 21

III. CONCLUSION 23

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

PROPONENTS' ANSWER BRIEF IN RESPONSE TO PROTESTANT'S BRIEF IN CHIEF

COME NOW the Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen ("Proponents") and submit the following Answer Brief in response to the Brief in Chief filed by Protestant, D. Wallace Hughes ("Protestant") on February 22, 1996.

I. INTRODUCTION

Protestant has contested the sufficiency of Initiative Petition 363, State Question Number 672 ("S.Q. 672"). Protestant alleges that a "plain reading" of S.Q. 672 reveals "manifest" violations of the Constitutions of the United States and the State of Oklahoma, violations for which the measure should be declared invalid or redrafted.

As to the alleged violations of the United States Constitution, Proponents ask that the Court reject Protestant's allegations on two grounds. First, Proponents contend that review of the content of S.Q. 672 for constitutional sufficiency is an impermissible prior restraint of core political speech. However, should the Court elect to proceed with such a review, the second ground for rejecting Protestant's allegations is that S.Q. 672 does not violate the United States Constitution. Protestant's allegations do not provide a legal basis for declaring S.Q. 672 invalid.

Similarly, the alleged violations of the Oklahoma Constitution fail to establish a legal basis for declaring S.Q. 672 invalid, or even for redrafting the measure. S.Q. 672 complies with both Federal and State constitutional law and therefore should be deemed sufficient by this Court.

II. ARGUMENTS AND AUTHORITY

A. PRE-SUBMISSION REVIEW OF THE CONTENT OF AN INITIATIVE PETITION BY THE OKLAHOMA SUPREME COURT IS AN IMPERMISSIBLE PRIOR RESTRAINT UPON CORE POLITICAL SPEECH.

Proponents acknowledge that precedent established by this Court in prior decisions would allow the pre-submission constitutional review of S.Q. 672.[1] However, Proponents submit to the Court that this precedent merits reconsideration and reversal.[2]

The current practice of the Court, whereby it reviews the constitutionality of initiative petitions prior to their submission to a vote, is a relatively recent development in Oklahoma law. Proponents suggest that this development is a departure from both constitutional law and the primary objectives of the initiative process.

The underlying grant of power to the people of Oklahoma is clear and unambiguous:

> the people reserve to themselves the power **to propose laws and amendments to the Constitution and to enact or reject the same at the polls,**

---

[1] *See, e.g.*, In re Initiative Petition No. 349, State Question No. 642, 838 P.2d 1 (Okla. 1992), *cert. denied sub nom.* Oklahoma Coalition to Restrict Abortion, Inc. v. Feldman, 506 U.S. 1071, 113 S. Ct. 1028, 122 L. Ed. 2d 173 (1993).

[2] Counsel for Proponents assert a good faith argument for the reversal of existing law in compliance with the Rules of Professional Conduct for the State of Oklahoma. Okla. Stat. tit. 5, Ch. 1, App. 3-A, Rule 3.1 (1991).

independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act of the legislature.[3]

Oklahoma statutory law provides certain procedural limitations upon this right. For example, those proposing a petition must obtain signatures from "eight per centum of the legal voters . . . to propose any legislative measure, and fifteen per centum of legal voters . . . to propose amendments to the Constitution."[4]

The role of the Court in the initiative process is similarly defined by statute; the justices are assigned the role of making "a physical count of the number of signatures appearing on the petitions" and, if a protest to the petition or objection to the count is made, the Court holds a hearing to "decide whether such petition be in form as required by the statutes."[5]

However, in a line of cases beginning with *In re Supreme Court Adjudication of Initiative Petitions in Norman, Okla. Numbered 74-1 & 74-2* in 1975,[6] the review as to "form" has been construed by the Court to include a review of the constitutionality of a given measure's content.[7] Apparently, under this construction and application of Section 8 of Title 34, "form" includes "substance."

Proponents contend that a better construction of this statute may be found in the ministerial origins of Court's role. Until 1973, the duties assigned to the Court by Section

---

[3] Okla. Const. art. V, § 1 (emphasis added).

[4] Okla. Const. art. V, § 2.

[5] Okla. Stat. tit. 34, § 8 (Supp. 1995). The "form required by the statutes" is set forth as a specific set of requirements. Okla. Stat. tit. 34, § 1 (Supp. 1995).

[6] 534 P.2d 3 (Okla. 1975).

[7] *Id.* at 8.

8 were performed by the Secretary of State. In language very similar to that which defines the Court's role today, the Secretary of State was directed to perform a signature count and determine if the "petition be in form as required by the statutes."[8]

Under the pre-1973 delegation of authority, an aggrieved party could appeal to the Supreme Court to raise allegations that the Secretary of State did not perform these ministerial tasks properly. In an effort to avoid a lengthy protest period[9] because of an appeal, the Oklahoma Legislature simply substituted the "Supreme Court" for the "Secretary of State" in Section 8 of Title 34.[10]

It was soon after this reassignment of ministerial duties from the Secretary of State to the Supreme Court that the Court redefined the scope of its responsibilities, creating a more judicial, rather than ministerial, role for itself in the initiative process.[11] Apparently, the Court decided that the shift of responsibility from the executive branch to the judicial branch brought with it a commensurate shift in the scope of authority.[12]

---

[8] Okla. Stat. tit. 34, § 8 (1971).

[9] "It is vital to the operation of democratic government that the citizens have facts and ideas on important issues before them. A delay of even a day or two may be of crucial importance in some instances." Quantity of Copies of Books v. State of Kansas, 378 U.S. 205, 224, 84 S. Ct. 1723, 1733, 12 L. Ed. 2d 809, 821 (1964) (Harlan, J., dissenting).

[10] 1973 Okla. Sess. Laws c. 78, § 1 (eff. Apr. 30, 1973); *Norman*, 534 P.2d at 8 (noting that "administrative duties formerly placed on administrative officials have been legislated directly to this court").

[11] *See, e.g., Norman*, 534 P.2d at 8.

[12] In re Initiative Petition No. 358, State Question No. 658, 870 P.2d 782, 785 (Okla. 1994) (stating that the separation of powers doctrine "prevents the Legislature from enjoining purely administrative duties upon this Court").

Nevertheless, Section 8 does not provide for the pre-election content review embraced by the Court. The Court had already addressed and resolved this issue in 1910.[13] In *Threadgill v. Cross*, the Oklahoma Supreme Court held that the Secretary of State, in the course of reviewing the form of initiative measures under Section 8, could not do what even the courts were prohibited from doing, which was to "pass upon the validity of the proposed measure."[14] Thus, when the Legislature shifted the duty of reviewing the form of initiative petitions to the Supreme Court, *Threadgill* had already established that pre-election content review was not a power available to the reviewing authority, be it executive or judicial.

In reaching this conclusion, the *Threadgill* Court protected the free expression of core political speech attendant to the initiative petition process. The initiative process presents a vast array of opportunities for political speech. It is much like a series of concentric circles which progress inward from the outermost circle, the circulation of petitions, to the licensing phase, through a period of debate, and finally to the innermost circle: a vote on the state question. Pre-submission content review of initiative petitions cuts this progression short, thus limiting the quantum of political debate on a given issue. The United States Supreme Court has held that restricting such debate constitutes licensing of core political speech.[15] Accordingly, licensing a state question based on its content violates the First and Fourteenth Amendments as an impermissible prior restraint on core political speech.

---

[13] Threadgill v. Cross, 109 P. 558 (Okla. 1910).

[14] *Threadgill*, 109 P. at 562.

[15] Meyer v. Grant, 486 U.S. 414, 421-22, 108 S. Ct. 1886, 1892, 100 L. Ed. 2d 425, 435 (1988).

The United States Supreme Court held in *Meyer v. Grant* that, when the quantity of political debate is reduced, an impermissible restriction on First Amendment core political speech and Fourteenth Amendment equal protection occurs.[16] The *Meyer* Court pronounced this decision in the context of prohibitions against the payment of professional initiative petition circulators in Colorado. In response to arguments by the state that this prohibition did not burden political expression, the Supreme Court explained:

> [The state] argue[s] that even if the statute imposes some limitation on First Amendment expression, the burden is permissible because other avenues of expression remain open . . . .
>
> . . . .
>
> That appellees remain free to employ other means to disseminate their ideas does not take their speech through petition circulators outside the bounds of First Amendment protection . . . . That it leaves open "more burdensome" avenues of communications, does not relieve its burden on First Amendment expression. [Citations omitted.] The First Amendment protects appellees' right not only to advocate their cause, *but also to select what they believe to be the most effective means for so doing.*[17]

The First Amendment of the United States Constitution clearly protects initiative petition core political speech:

> The First Amendment "was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people." [Citation omitted.] . . . . [T]heir right freely to engage in discussions concerning the need for that change is guarded by the First Amendment.[18]

In addition, the Fourteenth Amendment prohibits restrictions upon such core political speech which would deny advocates of a measure "equal protection of the laws."[19] When

---

[16] *Meyer*, 486 U.S. at 423, 108 S. Ct. at 1892, 100 L. Ed. 2d at 436.

[17] *Id.* (emphasis added).

[18] *Meyer*, 486 U.S. at 421, 108 S. Ct. at 1891, 100 L. Ed. 2d at 434.

[19] U.S. Const. amend. XIV, § 1.

discrimination among speakers occurs based upon the content of their core political speech, the equal protection clause of the Fourteenth Amendment is violated. The *Meyer* Court stated that:

> As we explained in [*Thornhill* (citation omitted)], [t]he freedom of speech and of the press, which are secured by the First Amendment against abridgement by the United States, are among the fundamental personal rights and liberties which are secured to all persons by the Fourteenth Amendment against abridgment by a State.[20]

Such restrictions upon core political speech constitute "licensing."[21] Licensing is a prior restraint on speech.[22] Although states may regulate the political process, they may not "place substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate."[23] Thus, the review of an initiative measure prior to its submission to a vote by the electorate is restriction of free speech in the nature of censorship.[24]

---

[20] *Meyer*, 486 U.S. at 420, 108 S. Ct. at 1891, 33 L. Ed. 2d at 434.

[21] The term "license" refers to "a right or permission granted by some competent authority to . . . do an act which, without such license, would be illegal. In other words, it is a formal or official permit or permission . . . the granting of a special privilege to one or more persons, not enjoyed by citizens generally . . . ." 53 C.J.S. Licenses § 2(a). *See also* Tulsa Petroleum Corp. v. Westmoreland, 70 P.2d 110, 112 (Okla. 1937) (holding that "[l]icense is an authority to do a particular act or series of acts . . . .").

[22] Forsyth County v. Nationalist Movement, 505 U.S. 123, _____, 112 S. Ct. 2395, 2401, 120 L. Ed. 2d 101, 111 (1992).

[23] Buckley v. Valeo, 424 U.S. 1, 58-59, 96 S. Ct. 612, 46 L. Ed. 2d 659, 710 (1076); *see also* Thomas v. Collins, 323 U.S. 516, 545, 65 S. Ct. 315, 89 L. Ed. 430, 448 (1945) (Jackson, J., concurring) (holding that "[t]he very purpose of the First Amendment is to foreclose public authority from assuming a guardianship of the public mind").

[24] "In the typical censorship situation, material is brought as a matter of course before some administrative authority, who then decides on its propriety. This means that the state establishes an administrative structure, whereby all writings are reviewed before publication." *Quantity of Copies of Books*, 378 U.S. at 222, 84 S. Ct. at 1732, 12 L. Ed at 819.

Based on these principles, the *Meyer* Court found that the state of Colorado's prohibition constituted an impermissible limitation on political expression during the circulation phase of an initiative measure, and thus a violation of the First and Fourteenth Amendments.[25] Although this holding focuses on core political speech during the circulation phase of the initiative petition process, the doctrines espoused by the *Meyer* Court extend to the entire initiative petition process. It is apparent that the initiative petition process, from circulation of petitions through voting on the state question, affords an extensive quantum of core political speech. Accordingly, when some portion of that speech is eliminated, the result is an impermissible usurpation of constitutional rights. Pre-submission constitutional review imposes an egregious chilling effect on those who might consider circulating a petition; even more so than would a prohibition on paying petition circulators.[26]

Furthermore, the United States Supreme Court made it clear in the last paragraph of *Meyer* that advocacy for the passage or defeat of citizen-initiated legislation is political expression.[27] Thus, advocacy during the licensing-to-campaign and voting phases of the initiative process is also core political speech. Indeed, the period between licensing to campaign and voting is when core political speech is at its zenith. Advocacy during this

---

[25] *Meyer*, 486 U.S. at 423, 108 S. Ct. at 1885, 33 L. Ed. 2d at 436 (holding that "the prohibition against the use of paid circulators has the inevitable effect of reducing the total quantum of speech on a public issue").

[26] "A prior restraint . . . has an immediate and irreversible sanction. If it can be said that a threat of criminal or civil sanctions after publication 'chills' speech, prior restraint 'freezes it' at least for the time." Nebraska Press Assn. v. Stuart, 427 U.S. 539, 559, 96 S. Ct. 2791, _____, 49 L. Ed. 2d 683, 697-698 (1976).

[27] *Meyer*, 486 U.S. at 428, 108 S. Ct. at 1895, 100 L. Ed. 2d at 439.

period should receive as much protection under the First Amendment as core political speech occurring at the periphery of the initiative process, such as during the circulation period. Therefore, since core political speech continues after the circulation of the petition, the constitutional protections cited in *Meyer* must continue as well.

This Court's current practice of pre-submission review--in effect, the picking and choosing of initiative petitions to be licensed for campaign and voting by focusing on the content of each state question--violates such protections. Pre-submission content review functions as a licensing of core political speech which is potentially more harmful than the prohibition at issue in *Meyer*.

Granted, some forms of "licensing" are permissible. For example, Oklahoma has adopted a form of licensing which provides procedural safeguards for the initiative process.[28] However, when the Court augments this protection with its own content-based criteria, it oversteps the boundaries of permissible licensing. Constitutionally acceptable criteria must be limited to time, place, and manner restrictions, and, most importantly, must be neutral as to content--that is, unless the Court can meet the high standard of proof required for restricting free speech. Where such restrictions limit core political speech, the U.S. Supreme Court has held that the burden to be overcome is "exacting scrutiny" which is "well-nigh insurmountable."[29]

Despite these constitutional protections surrounding the initiative process, this Court has established precedent whereby it engages in pre-submission review of the content of initiative measures. The Court has expressed a number of rationales which ostensibly justify

---

[28] Okla. Stat. tit. 34 §§ 1-27 (1991 & Supp. 1995).

[29] *Meyer*, 486 U.S. at 420, 425, 108 S. Ct. at 1891, 1894, 100 L. Ed. 2d at 434, 437.

this practice. However, Proponents submit that the Court has not offered a rationale which overcomes the weight of constitutional authority against pre-submission review.

For example, this Court has invoked the concept of "states' rights" to justify pre-submission review of initiative measures.[30] The opinion by Justice Kauger for *In re Initiative Petition No. 349* states that "exercise of a non-federal right can be conditioned by the same constitution that creates and confers it."[31] However, the United States Supreme Court has rejected "states' rights" to the extent that rights under the United States Constitution are not given full protection.[32] In *Meyer*, the Supreme Court held that where a state conferred the right to an initiative procedure and then attempted to restrict that right, "the State was obligated to do so in a manner consistent with the Constitution because . . . this case involves 'core political speech.'"[33] The Court rejected the arguments of the state, holding that:

> [The state] contends that because the power of the initiative is a state-created right, it is free to impose limitations on the exercise of that right. That reliance is misplaced . . . . Thus it does not support the position that the power to ban initiatives entirely includes the power to limit discussion of political issues raised in initiative petitions.[34]

Accordingly, once the state has provided the initiative petition forum for First Amendment expression by its citizens--as Oklahoma provides with Article V, Section 2 of

---

[30] *See, e.g., In re Initiative Petition No. 349*, 838 P.2d at 9.

[31] *Id.*

[32] *See Meyer*, 486 U.S. at 424-25, 108 S. Ct. at 1894, 100 L. Ed. 2d at 436-37 (limiting the power of a state to restrict free speech where the state invoked the defense of "states' rights").

[33] *Meyer*, 486 U.S. at 420, 108 S. Ct. at 1891, 100 L. Ed. 2d at 434.

[34] *Meyer*, 486 U.S. at 424-25, 108 S. Ct. at 1894, 100 L. Ed. 2d at 436-37.

its Constitution--the state may not limit debate within that forum on the basis of the content of the message.[35] It is simply not the function of the judiciary to "select which issues are worth discussing or debating."[36]

This Court has also invoked the argument that pre-submission review protects the electorate from "costly and unnecessary elections."[37] Notwithstanding the Court's efforts to avoid burdening the taxpayers, such review burdens a fundamental right to core political speech by the electorate. Therefore, in order to protect the right to engage in core political speech, the Court must restrict its review to matters where it has a compelling state interest to do so.[38] However, based on the standard of review des ·ibed in *Meyer*, protecting the taxpayers from "costly" and "unnecessary" voting by the electorate is not a compelling state interest sufficient to survive First Amendment "exacting scrutiny."

As to the matter of "costly" elections, it is not clear where the Court finds authority for this criteria of review. Furthermore, the cost at issue is not a matter of great significance. The only additional expense that is incurred when a state question is set for a general election is the printing of the ballot title on the ballot. Granted, the People have an interest in assuring that initiatives are not placed before them unless they desire to bear

---

[35] *See* Police Dept. of Chicago v. Mosely, 408 U.S. 92, 95, 92 S. Ct. 2286, 33 L. Ed. 212 (1972) (holding that "above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.").

[36] *Id.*, 408 U.S. at 96, 92 S. Ct. at 2290, 33 L. Ed. 2d at 217.

[37] *Norman*, 534 P.2d at 8 (holding that the Court has authority to "consider the constitutionality of matters to be considered under the initiative and referendum process . . . if in this court [sic] opinion such a determination could prevent a costly and unnecessary election").

[38] *Meyer*, 486 U.S. at 420, 425, 108 S. Ct. at 1891, 1894, 100 L. Ed. 2d at 434, 437.

this expense, but Oklahoma law already provides for this level of protection with the content-neutral, eight-percent requirement in Article V, § 2 of the Oklahoma Constitution.

The "unnecessary" argument holds that the Court must prohibit initiative measures which will promote ideas incompatible with "the United States Constitution as construed by the United States Supreme Court."[39] However, this result-oriented approach cannot survive the fact that such review curtails core political speech. First Amendment speech need not be utilitarian; it has intrinsic value regardless of its ultimate result. The citizenry benefits from the exchange of ideas attendant to the debate and vote on a state question. The freedom to engage in such speech geometrically increases the amount of debate on a subject. The advocacy leading up to a vote on a state question necessarily results in an exchange of political speech in a variety of media including newspaper editorials, television debates, and meetings. Accordingly, core political speech is not about the ultimate usefulness of its content; it is instead about the free exchange of ideas. As noted by the United States Supreme Court, "the free exchange of ideas provides special vitality to the process traditionally at the heart of American constitutional democracy--the political campaign."[40]

The Court also finds authority for pre-submission review in its construction of Article II, § 1 of the Oklahoma Constitution, a provision which states:

> All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare; and they have the right to alter or reform *the same* whenever the public good

---

[39] *In re Initiative Petition No. 349*, 838 P.2d at 10.

[40] Brown v. Hartlage, 456 U.S. 45, 52, 102 S. Ct. 1523, 1528, 71 L. Ed. 2d 732, 745 (1982).

> may require it; Provided, *such change* be not repugnant to the Constitution of the United States.[41]

It seems clear that the words "the same" refer to the "government" and not to the content of statutes proposed by initiative petitions. However, the Court has construed and applied this section so that the voters in the State may not debate and vote on a state question if the content of the initiative petition is presently contrary to current U.S. Supreme Court decisions.[42] Here again, the Court's rationale must submit to the underlying, guiding doctrine that core political speech deserves protection from such review, regardless of the Court's efforts to defend the Constitution which guarantees the right of free speech at issue.

B. SECTION 8(D) OF 672, ADDRESSING COMPACTS BETWEEN THE STATE AND ANY INDIAN TRIBE CONDUCTING CLASS III GAMING, CONFORMS TO ALL APPLICABLE FEDERAL AND STATE AUTHORITY, INCLUDING THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION AND THE ENABLING ACT OF THE OKLAHOMA CONSTITUTION.

Protestant raises five allegations regarding impermissible "racial classifications" in S.Q. 672.[43] The "racial classification" condemned by Protestant consists of a single mention of "Indian tribe" in Section 8(D) of S.Q. 672. Section 8(D) states, in full, that

> [a]ny compact or agreement concerning Class III gaming, as defined by Federal Law, as amended from time to time, between the State of Oklahoma and any **Indian tribe** shall adopt the definition and scope of Authorized Gaming set forth in this Article, and shall contain, among any other permitted provisions, at least the minimum standards for a Gaming Facility provided in § 4.D of this Article.

---

[41] Okla. Const. art. II, § 1 (emphasis added).

[42] *See In re Initiative Petition No. 349*, 838 P.2d at 7.

[43] *See* Protest to Initiative Petition, ¶¶ 1-5.

(emphasis added).

Protestant's Brief in Chief presents two arguments which provide the foundation for all five allegations:

> (1) that S.Q. 672 denies equal protection of the law to members of Indian tribes due to its "geographical" denial of gaming on Indian lands; and
>
> (2) that S. Q. 672 violates the Supremacy Clause of the United States Constitution and the Enabling Act of the Oklahoma Constitution by imposing State regulations upon the Indian tribes.[44]

Section 8(D) of S.Q. 672 does not, and by law cannot, constitute a "geographically based" restriction upon gaming activity on Indian lands. The sole purpose of the reference to Indian tribes in Section 8(D) is to address a potential result of the enactment of S.Q. 672; a result the Indian tribes may or may not chose to bring about for themselves after passage of S.Q. 672 -- that is, casino gaming anywhere within "Indian Country," based on the provisions of the Indian Gaming Regulation Act of 1988 ("IGRA").[45]

Protestant argues that the minimum standards for a facility discussed in Section 8(D) would somehow impose a five-year moratorium on Class III gaming by Indian tribes and bar casinos on Indian lands not within the initial locations designated by Section 4(A). This implausible interpretation of S.Q. 672 appears to stem from Protestant's mistaken insertion of "scope" into the phrase "minimum standards for a Gaming Facility." In reality, Section 8(D) makes no reference to the five-year limitation or to the location of gaming facilities anywhere within "Indian Country" under a Tribal-State compact. Such restrictions apply

---

[44] *See* Protestant's Brief in Chief, Argument §§ I-II.

[45] 25 U.S.C. § 2701-2721. An Indian tribe cannot, however, sue the State in federal court under IGRA. Seminole Tribe of Florida v. Florida, ____ U.S. ____, 1996 WL 134309 (1996).

only to the non-Indian Gaming Facilities governed solely by State law pursuant to S.Q. 672.

Furthermore, S.Q. 672 does not violate the Supremacy Clause of the United States Constitution or the Enabling Act of the Oklahoma Constitution; it instead embraces the ordered hierarchy of Federal, Tribal, and State law. IGRA defines the relationship among Federal law, State law, and Indian tribes in the implementation and regulation of gaming on Indian lands. Prior to the enactment of IGRA, gaming on Indian lands raised difficult issues involving jurisdiction, taxation, and the balance between Indian sovereignty and non-Indian law.[46] IGRA has superseded such case law, establishing varying levels of State and Indian control over gaming based upon the type of gaming at issue. For instance, social or ceremonial gaming, which falls within Class I of the IGRA framework, is completely under the jurisdiction of the Indian tribes.[47] Bingo and pull-tab games are Class II activities left (with some regulatory exceptions) to the jurisdiction of the Indian tribes in states which permit such gaming.[48] The casino gaming described in S.Q. 672 falls into the final category of gaming, Class III, which includes any activities not described in the first two categories.[49]

Indian tribes may engage in Class III gaming if such gaming has been (1) authorized by a properly approved Tribal ordinance or resolution; (2) permitted by the State; and (3)

---

[46] *See, e.g.*, California v. Cabazon Band of Mission Indians, 480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987).

[47] 25 U.S.C. § 2703(6).

[48] 25 U.S.C. § 2703(7).

[49] 25 U.S.C. § 2703(8).

governed by a compact between the Tribe and the State.[50] Under this system of overlapping jurisdictions, the State may only prohibit Class III gaming on Indian lands if it prohibits such gaming statewide. Once the State permits Class III gaming activities "for any purpose by any person, organization, or entity," the Indian tribes have authority to proceed with satisfying the remaining two requirements of § 2710(d)(1) and, if successful, to engage in Class III gaming anywhere within "Indian Country".[51]

Section 8(D) in and of itself does not establish standards for gaming in Indian Country. Rather, this provision stands at the ready for such time as an Indian tribe petitions the State to enter into a Class III gaming compact and the State agrees to negotiate. Section 8(D) merely clarifies the State's obligations in negotiating two of the numerous covenants of any such Tribal-State compacts.

The first of these "pre-arranged" covenants, that the compact adopt the S.Q. 672 "definition and scope of Authorized Gaming," is merely a restatement of Federal law. IGRA limits gaming on Indian lands to the types of Class III gaming permitted in the State.[52] Therefore, adoption of S.Q. 672 would allow casino-style gaming on Indian lands, but not to other forms of Class III activities such as jai alai. With or without the definitional requirement of Section 8(D), a future Tribal-State compact may only address Authorized Gaming as defined at Section 9(A).

---

[50] 25 U.S.C. § 2710(d)(1).

[51] 25 U.S.C. § 2710(d)(1)(B).

[52] 25 U.S.C. § 2710(d)(1)(B); *see* Rumsey Indian Rancheria of Wintun Indians v. Wilson, 41 F.3d 421, 426 (9th Cir. 1994); *see also* Cheyenne River Sioux Tribe v. South Dakota, 3 F.3d 273, 279 (8th Cir. 1993).

The second covenant of future compacts addressed by Section 8(D) would require the Indian tribe to abide by "at least the minimum standards for a Gaming Facility provided in § 4.D." The standards imposed by this article would consist of

> an enclosed, roofed, permanent building of a design approved by the Commission, containing not fewer than 1,000 gaming stations and covering not less than 30,000 square feet devoted to Authorized Gaming, with commitments for new investment in the Gaming Facility building, its furniture, fixtures, Gaming Devices and equipment of not less than $25 million.[53]

By requiring the State to negotiate such standards into any potential compacts with Indian tribes, S.Q. 672 in no way violates the supremacy of Federal law or the sovereignty of Indian tribes. Rather, Section 8(D) addresses only one of the many terms a Tribal-State compact specifically is authorized to govern under IGRA.[54] A Tribal-State compact must resolve each aspect of how the State and the Tribal government allocate regulatory matters between them. Examples of such matters contemplated by IGRA include:

(1) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(2) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(3) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(4) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

(5) remedies for breach of contract;

---

[53] S.Q. 672, § 4(D).

[54] *See* 25 U.S.C. § 2710(d)(3)(C)(vi).

(6) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(7) any other subjects that are directly related to the operation of gaming activities.[55]

Although Section 8(D) addresses only two aspects of gaming on Indian land, Protestant raises allegations of at least two more requirements.[56] However, the language of S.Q. 672 does not imply these alleged results. For example, Protestant suggests that Indian tribes would "*presumably* be subject to the 10% gross take tax" included in S.Q. 672.[57] Protestant's presumption does not arise from any actual or intended language of S.Q. 672. Instead, this unsubstantiated rhetoric marks yet another instance of Protestant's departure from reasonable interpretation and applicable law. Section 8(D) refrains from forecasting taxation into any future Tribal-State compacts because, if for no other reason, IGRA admittedly denies the State such authority.[58] Pursuant to IGRA, the only financial imposition the State may make is an assessment for regulatory expenses as provided by § 2710(d)(3)(C)(iii).[59]

In short, IGRA renders Protestant's arguments regarding Section 8(D) ineffectual. Contrary to each of Protestant's convoluted allegations regarding the Constitutional infirmity

---

[55] 25 U.S.C. § 2710(d)(3)(C).

[56] First, Protestant alleges that S.Q. 672 would prohibit gaming on Indian Country lands within the State but outside the initial authorized locations. Protestant's Brief in Chief at 9. Second, Protestant alleges that S.Q. 672 would require gaming facilities in Indian Country to pay taxes to the State. Protestant's Brief in Chief at 10.

[57] Protestant's Brief in Chief at 10 (emphasis added).

[58] 25 U.S.C. § 2710(d)(4).

[59] 25 U.S.C. § 2704(d)(4).

of Section 8(D) of S.Q. 672, the enactment of this article will not disadvantage the Indian tribes by design or by consequence.

C. THE AMENDMENT BY ARTICLE PROPOSED IN S.Q. 672 COMPLIES WITH THE SINGLE SUBJECT RULE SET FORTH IN ARTICLE XIV, SECTION 1 OF THE OKLAHOMA CONSTITUTION FOR AMENDMENT BY ARTICLE.

Article XIV, Section 1 of the Oklahoma Constitution states, in part:

> [I]n the submission of proposals for the amendment of this Constitution by articles, which embrace on general subject, each proposed article shall be deemed a single proposal or proposition.

This is a much less stringent standard than the single subject rule for amendment or alteration of the Constitution by measures which do not take the form of separate, new articles.[60] However, Protestant fails to note the significant differences between an amendment by article versus amending or repealing an article versus the applicability of the Single Subject Rule to mere statutory codifications.

An initiative petition in the form of an amendment by article is governed by the relatively expansive single subject rule stated above. Protestant omits this significant analysis from his allegation that S.Q. 672 violates the single subject rule. Protestant also omits any reference to the controlling case on this issue, *In Re Initiative Petition 319*, which explains the permissible scope of an amendment by article.[61] The Oklahoma Constitution may be amended by an article which includes numerous related matters, the variety of which would

---

[60] Okla. Const. art. XXIV, § 1.

[61] In re Initiative Petition No. 319, State Question No. 563, 682 P.2d 222 (Okla. 1984).

violate the Single Subject Rule if not proposed as a "brand new" article.[62] All that is required is "that matters germane to the same general subject indicated in the amendment's title, or within the field of legislation suggested thereby, may be included therein."[63]

This judicial pronouncement of the single subject rule is all the more damning to Protestant's allegations in light of the admission appearing on page 18 of Protestant's Brief:

> These provisions may be said to be "related" to legalized gambling, but are they necessary?[64]

This must be a rhetorical question. State Question 672 proposes a wholly separate, new article to the Oklahoma Constitution, an article which contains many related provisions germane to the same general subject: casino gaming. State Question 672 meets the single subject standards applicable to an amendment by article as set forth in *In re Initiative Petition 319, supra*.

D. THE GIST OF S.Q. 672 SATISFIES THE REQUIREMENTS OF OKLA. STAT. TIT. 34, § 3, THAT IT PROVIDE A SIMPLE STATEMENT OF THE PROPOSED MEASURE.

Protestant argues that the gist is misleading and, therefore, that the entire State Question must be stricken. However, Protestant wholly fails to support these allegations of "deceit". It is important to note that a gist does not provide the sole source of information regarding the proposed measure. The gist is merely a "simple statement" appearing at the top margin of each signature sheet, so that anyone signing the petition can instantly recognize

---

[62] *Id.* at 223-24.

[63] *Id.* (emphasis added).

[64] Protestant's Brief in Chief at 18 (emphasis added).

that he is signing the casino gaming petition as opposed to, e.g., the federal term limits petition. The gist need not recite each provision of the measure. Rather, the gist need only provide a simple statement which directs the signer's attention to the subject matter of the initiative measure. The gist required by 34 O.S. § 3 informs the voter that the matter at issue is "regulated casino gaming," not term limits or even unregulated casino gaming, but it need not mention every detail of the measure. Each signature sheet must be incorporated into a "pamphlet" which consists of the full text of the measure bound together with a number of signature sheets. Accordingly, anyone signing the petition has immediate access to the complete text of the initiative measure. The sole role of the gist is to inform signers of the subject of the attached measure without being "deceptive and misleading."[65] Accordingly, the test for sufficiency is not whether the gist is just "misleading"; the test is whether it is deceptive and misleading, i.e., whether it is fraudulent.[66]

It is also important to distinguish the gist from the ballot title. Unlike the gist, the ballot title must be presented to voters in the voting booth without the benefit of an attached copy of the measure. Therefore, the ballot title must include a more comprehensive restatement of the measure.[67] The standards for scrutinizing the sufficiency of a ballot title are significantly more demanding than those applied to the gist; thus "the test for determining the sufficiency of the ballot title does not apply to the required statement [the gist] on the

---

[65] In re Initiative Petition No. 360, State Question No. 662, 879 P.2d 810, 817 (Okla. 1994).

[66] *Id.*

[67] Okla. Stat. tit. 34, § 9 (Supp. 1995).

petition."[68] The net result of these differing standards is that an initiative petition's gist need not be as particular as the ballot title.[69]

Protestant has alleged three deficiencies in the gist for S.Q. 672. First, he alleges that S.Q. 672 raises the "implication...that the measure would immediately legalize casino gaming statewide."[70] In the simple statement of the gist, the text appearing at the top of each S.Q. 672 petition stated that "[t]his measure would authorize regulated casino gaming." The "clear inference" described by Protestant would only be plausible if the gist described "unregulated" casino gaming. Instead, the gist properly and concisely refers to "regulation," a set of limitations too numerous to recite in a simple and succinct gist.

Second, Protestant urges that "one reading [the gist] would be persuaded that his or her 'local government' would receive a portion of the tax." However, the gist clearly and concisely sets forth the parameters of the measure, qualifying "local governments" with the express modification "where the casinos are located." This statement does not promise tax revenue to every local government, nor does it convey the sense of immediacy suggested by Protestant. At most, it raises the question "where will the casinos be located?" By law, each signer who needed an answer to that question prior to signing S.Q. 672 had the opportunity to turn to the text of the measure on the preceding pages of the pamphlet to discover the answer.

---

[68] In re Initiative Petition No. 341, State Question No. 627, 796 P.2d 267, 274 (Okla. 1990).

[69] In Re Initiative Petition 347, State Question No. 639, 813 P.2d 1019, 1025-26 (Okla. 1991).

[70] Protestant's Brief in Chief at 20.

Third, Protestant laments the omission of the phantom "log-rolled matter" of legitimizing gambling debts. As discussed above, S.Q. 672, as an amendment by Article, does not violate the single subject rule. Instead, the provision of Section 8(F) regarding debts from Authorized Gaming is one of several provisions included in the article as a means of clarifying the legal implications of Authorized Gaming.

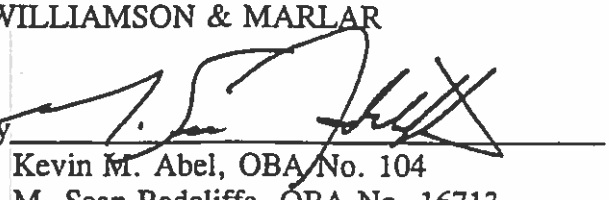
Each statement in the gist provides a reference to major aspects of the measure. It is not deceptive and misleading.

III. CONCLUSION

Proponents suggest to the Court that it review and reverse the precedent which currently allows it to conduct pre-submission content review of initiative petitions. The rationales espoused by the Court to justify limitations on initiatives in this state cannot justify the resulting denial of free speech and equal protection. However, should the Court continue this practice, it is clear that S.Q. 672 survives each of the allegations levied by Protestant as to its sufficiency. S.Q. 672 cannot be stricken based on the argument and authority provided by Protestant. Accordingly, Proponents ask that the Court rule in favor of Proponents and deny the Protest of D. Wallace Hughes.

Respectfully submitted,

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By 

Kevin M. Abel, OBA No. 104
M. Sean Radcliffe, OBA No. 16713
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

CERTIFICATE OF MAILING

This is to certify that on the 2nd day of April, 1996, I caused to be mailed by regular U.S. mail, with proper postage affixed thereto, a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
(405) 521-3921

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Counsel for Protestant D. Wallace Hughes

M. Sean Radcliffe, OBA No. 16713

SUPREME COURT NO. 86,375

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
MAY 6 1996
OKLAHOMA SECRETARY OF STATE

IN RE:

INITIATIVE PETITION NO. 363
STATE QUESTION NO. 672.

PROPONENTS' BRIEF IN CHIEF IN SUPPORT OF THEIR 34 O.S. § 10 PETITION TO APPEAL THE BALLOT TITLE FILED BY THE ATTORNEY GENERAL OF THE STATE OF OKLAHOMA

INITIATIVE PETITION BALLOT TITLE APPEAL

Kevin M. Abel, OBA #104
Terri S. Roberts, OBA #16299
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

May 1, 1996

RECEIVED
MAY 6 1996
OKLAHOMA SECRETARY OF STATE

SUPREME COURT NO. 86,375

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE:

INITIATIVE PETITION NO. 363
STATE QUESTION NO. 672.

FILED
MAY 6 1996
OKLAHOMA SECRETARY OF STATE

PROPONENTS' BRIEF IN CHIEF IN SUPPORT OF THEIR 34 O.S. § 10 PETITION TO APPEAL THE BALLOT TITLE FILED BY THE ATTORNEY GENERAL OF THE STATE OF OKLAHOMA

INITIATIVE PETITION BALLOT TITLE APPEAL

Kevin M. Abel, OBA #104
Terri S. Roberts, OBA #16299
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

May 1, 1996

TABLE OF CONTENTS

PAGE

I INTRODUCTION 1

II ARGUMENTS 2

A. The substitute Ballot Title impermissibly prognosticates the possible consequences of the measure's passage rather than simply stating its effect. 2

EFFECT versus CONSEQUENCES 3

ACTUAL EFFECT EQUALS PROVISIONS AS WRITTEN 4

B. The substitute Ballot Title is argumentative and biased. 5

OPENING THE DOOR TO NEW FORMS OF "GAMBLING" 7

LEGALIZING ALL GAMBLING DEBTS 8

GAMING versus GAMBLING 9

III CONCLUSION 10

TABLE OF CASES

PAGE

Arthur v. City of Stillwater,
611 P.2d 637 (Okl. 1980) 6

Cheyenne River Sioux Tribe v. South Dakota,
3 F.3d 273 (8th Cir. 1993) 7

Hope v. Hall,
316 S.W.2d 199 (Ark. 1958) 6

In re Initiative Petition No. 347 State Question No. 639,
813 P.2d 1019 (Okl. 1991) 2, 5

In re Proposed Ballot Title of State Question Number 319, Initiative Petition Number 563,
658 P.2d 400 (Okl. 1984) 2, 3, 5

In re Second Initiated Constitutional Amendment Respecting the Rights of the Public to Uninterrupted Service by Public Employees of 1980,
613 P.2d 867 (Colo. 1980) 6

James, et al. v. State of Oklahoma,
113 P. 226 (1911) 9

Pierce v. Cartwright,
638 P.2d 450 (Okl. 1981) 6

Rumsey Indian Rancheria of Wintun Indians v. Wilson,
41 F.3d 421 (9th Cir. 1994) 7

Seminole Tribe of Florida v. Florida,
1996 WL 134309 (1996) 7

TABLE OF STATUTES

PAGE

21 O.S. § 1694 9

34 O.S. § 9 5

34 O.S. § 9 (B)(2) 2

34 O.S. § 9(B) 2, 9

34 O.S. § 9(B)(2) 5

34 O.S. § 10(A) 2

34 O.S. § 9(D)(3) 1

Indian Gaming Regulatory Act ("IGRA"),
25 U.S.C.A. § 2710(d)(1)(B) 7

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re:	)	
	)	
INITIATIVE PETITION NO. 363	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

PROPONENTS' BRIEF IN CHIEF IN SUPPORT OF THEIR 34 O.S. § 10 PETITION TO APPEAL THE BALLOT TITLE FILED BY THE ATTORNEY GENERAL OF THE STATE OF OKLAHOMA

The Proponents, Better Opportunities for Oklahoma Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen ("Proponents"), submit this brief in support of their Petition to Appeal[1] the substitute ballot title filed by the Attorney General of the State of Oklahoma.

I

INTRODUCTION

On October 24, 1995, the Attorney General disapproved Proponents' ballot title and submitted to the Secretary of State on November 7, 1995, a substitute ballot title pursuant to 34 O.S. § 9(D)(3). The Attorney General's substitute ballot title describes S.Q. 672 as legalizing all types of Class III "gambling" i.e. gaming. The Attorney General's ballot title also represents to voters that S.Q. 672 will legalize the enforcement of all "gambling" debts and predicts that a frenzy of unregulated "gambling" would ensue in Indian-run casinos.[2]

---

[1] Although Proponents initially challenged the reading level of the Attorney General's ballot title, this issue will not be briefed.

[2] The substitute ballot title states, "The measure opens the door for Indian tribes to engage in new forms of gambling. State limits and standards would have limited or no effect on Indian gambling." Attorney General's Ballot Title attached hereto as Exhibit "A."

II

ARGUMENTS

The scope of judicial review of the language of a ballot title is prescribed by 34 O.S. § 10(A): "Upon the hearing of such appeal, the court may correct or amend the ballot title before the court, or accept the substitute suggested, or may draft a new one which will conform to the provisions of § 9 of this title." Among other things, 34 O.S. § 9(B) specifies that a ballot title must explain the effect of the proposition, without utilizing words of special meaning or reflecting partiality toward one particular point of view over another. Furthermore, the ballot title should not be argumentative.

Pursuant to *In re Proposed Ballot Title of State Questions Number 319, Initiative Petition Number 563*, 685 P.2d 400, 402 (Okl. 1984), the Court "is required to review the proposed ballot title to determine if it, as a matter of law, complies with the statute, 34 O.S. § 9 . . . . "

A. The substitute Ballot Title impermissibly prognosticates the possible consequences of the measure's passage rather than simply stating its effect.

If the Attorney General's ballot title is approved, voters will be misled by the description of certain possible consequences of S. Q. 672 rather than its actual effect. The provisions of 34 O.S. § 9 (B)(2) provide that, "[t]he ballot title [s]hall explain . . . the effect of the proposition." *See also: In re Initiative Petition No. 347 State Question No. 639*, 813 P.2d 1019 (Okl. 1991). The statute and applicable case law together provide that the

purpose of a ballot title is to inform the electorate as to the function (that is, the actual operation) of the proposed measure.

EFFECT versus CONSEQUENCES

Often the distinction between actual effect and possible consequences of a measure is not clear. This line is often blurred; however, there is a difference.

A recent initiative petition in another state illustrates the point. Californians recently considered a measure to preclude the public school enrollment of children of illegal aliens. The effect of this measure was to deny these children a publicly funded education. However, ballot title speculation on its possible consequences including increased unemployment and increased crime would have been inappropriate. The point is also illustrated by the hypothetical initiative petition of school vouchers. The effect of a school voucher system would be to afford all parents the opportunity to fund the education of their children at public or private schools. However, the ballot title should neither include speculation on the possible demise nor continuation of public schools. In both examples, the ballot titles should address the "mechanical effect" of these measures and not their theoretical consequences. The ballot title should avoid soothsaying.

Although not addressing the differences between effects and consequences, this Court has previously examined similar issues. In, *In re Proposed Ballot Title of State Question Number 319, Initiative Petition Number 563*, 658 P.2d 400 (Okl. 1984), the Court reviewed the ballot title of the proposition to authorize liquor by the drink. The initial ballot title was challenged for its

failure to, among other things, address the sale of liquor on Sundays and holidays. The Court held that additional ballot title language explaining the availability of liquor on Sundays was:

> [S]urplusage, premature, and was not necessary in this election to explain the result of the proposition. The purpose of the election is to authorize submission of the question of liquor by the drink to the voters of each county. We find that the ballot title certified by the Attorney General sufficiently states the **effect** of the proposition. It accurately informs the electorate concerning the principle thrust of the petition -- legalization of liquor by the drink on a county-option basis, with provisions for a new enforcement agency, and for continuing regulation and taxation of the industry.

Id. at 401-402. *(Emphasis added.)* The approved ballot title made no mention of possible (perhaps even probable consequences) such as increases in alcoholism and drunk-driving fatalities. Regardless of the ability of any ballot title author to predict possible consequences, the ballot title is not the forum to address possible consequences. The ballot title should only reflect the actual operational effect of the measure as written.

ACTUAL EFFECT EQUALS PROVISIONS AS WRITTEN

The Attorney General's substitute ballot title attempts to predict the consequences that he envisions following the enactment of S.Q. 672, rather than the actual effect of the measure's provisions. The "effect" of a measure is the mechanical application of its terms. The Attorney General's substitute ballot title transcends this mandate by speculating on the possible consequences if the measure is passed. The actual effect of S.Q. 672, if passed, will be to permit casino-style gaming in four state-regulated facilities throughout Oklahoma. The Attorney General attempts to insert predictions about the possible

consequences of S.Q. 672 passage, thus overshadowing the statement of its actual effect. The presentation, through a ballot title, of a measure's social benefits, burdens, and possible consequences is neither permitted under 34 O.S. § 9, nor contemplated by judicial interpretation of this statute.

In reviewing the proposal to repeal House Bill 1017 (which made certain adjustments in the administration of public education in this state), the Court held that the ballot title therein "accurately reflect[ed] the proposition by informing the electorate concerning the principle thrust of the proposition. The character and thrust of the proposed law is adequately explained. . . . In this case the **effect** of the proposal is **completely explained** in the first sentence of the ballot title. . . . [T]he effect of the proposal is easily explained in one sentence." *In re Initiative Petition No. 347 State Question No. 639*, 813 P.2d 1019, 1032-1033 (Okl. 1991). If the actual effect of a proposal can be explained in one sentence, then clearly 34 O.S. § 9(B)(2) requiring a statement as to the effect of the measure does not contemplate the inclusion of every possible consequence of its enactment.

B. The substitute Ballot Title is argumentative and biased.

By law, a ballot title should be neither argumentative nor biased. 34 O.S. § 9. "[T]he ballot title submitted to popular vote by the electorate must be neither deceptive nor misleading in order to permit the voters to reach an informed decision. . . . " *In re Proposed Ballot Title of State Question Number 319, Initiative Petition Number 563*, 685 P.2d 400, 402 (Okl. 1984). In

Arthur v. City of Stillwater, 611 P.2d 637, 643 (Okl. 1980), the Court established the following test to review ballot titles:

> Generally, the requirement concerning submission of ballot propositions is that the question not be **deceptive or misleading**, and that it be free from uncertainty and ambiguity. The test is whether the voters are afforded an opportunity fairly to express their will, and whether the question is sufficiently definite to apprise the voters with substantial accuracy as to what they are asked to approve.

Id. at 643 *(emphasis added); see also: Pierce v. Cartwright*, 638 P.2d 450 (Okl. 1981). The voters are entitled by law to review a neutral and unbiased ballot title and to make their decision with respect to the merits of a state question. This fundamental concept has also been upheld in several other states.

For example, in Colorado an initiative summary (the Colorado term for the ballot title) must be "a fair, concise, true and impartial statement of the intent of the proposed measure." The summary may not be an argument for or against the measure, nor can it be likely to create prejudice for or against the measure. *In re Second Initiated Constitutional Amendment Respecting the Rights of the Public to Uninterrupted Service by Public Employees of 1980*, 613 P.2d 867, 869 (Colo. 1980). Similarly, Arkansas holds that a ballot title should be "complete enough to convey an intelligible idea of the scope and import of the proposed law, and that it ought to be free from any misleading tendency, whether of amplification, of omission or of fallacy, and that it must contain no partisan coloring." *Hope v. Hall*, 316 S.W.2d 199, 210 (Ark. 1958).

OPENING THE DOOR TO NEW FORMS OF "GAMBLING"

The Attorney General asserts that S.Q. 672 "opens the door for Indian tribes to engage in new forms of gambling." The Attorney General's ballot also states that unregulated gambling will occur in this state on Indian land. The Attorney General's substitute ballot title proclaims, "[s]tate limits and standards would have limited or no effect on Indian gambling." This simply is not true; it is a misstatement of the law.

The Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C.A. § 2710(d)(1)(B), provides for a system of compacts between tribes and states for the regulation of Class III gaming. Under IGRA, Class III gaming is lawful on Indian lands only if such activities are conducted pursuant to a tribal-state compact and are located in a state which permits "such gaming."[3] Apparently, the Attorney General is under the mistaken belief that "Authorized Casino" gaming in Oklahoma will automatically allow tribes to force Oklahoma state government into negotiations regarding the implementation of tribal-state compacts. However, the recent U.S. Supreme Court case of *Seminole Tribe of Florida v. Florida*, 1996 WL 134309 (1996), determined that tribes may not sue states to compel the negotiation of tribal-state gaming compacts under IGRA.

Contrary to the Attorney General's wording, S.Q. 627 requires that, in the event the State of Oklahoma enters into tribal-state gaming compacts, then the Indian-run casinos must be subject to the same regulations as all other "Authorized Casinos." All casinos

---

[3] Both the Eighth and Ninth Circuits interpret "such gaming" to mean only those forms of gaming that a state presently permits. *See: Rumsey Indian Rancheria of Wintun Indians v. Wilson*, 41 F.3d 421, 426 (9th Cir. 1994); *Cheyenne River Sioux Tribe v. South Dakota*, 3 F.3d 273, 279 (8th Cir. 1993).

will be required to comply with the minimum standards imposed by S.Q. 672. The Attorney General misstates the effect of S.Q. 672 by implying that Indian-run casinos will not be subject to state standards (e.g. the number of gaming stations, minimum casino square footage, capital investment, etc.) and other regulations. On this point, the Attorney General's substitute Ballot Title is clearly a misstatement of S.Q. 672. Thus, the Attorney General's substitute ballot title is deceptive and misleading and should not be approved.

In *Pierce v. Cartwright*, supra, the Court analyzed the ballot title regarding the proposal to redraw Oklahoma's congressional districts. The Court recognized the "definite distinction between saying that a law will not affect the operation of a board and saying that a board is excepted from the operation of the law." 638 P.2d 450, 454. Based on this distinction, the Court held that the Attorney General's ballot title was a misstatement of State Question 556 and was therefore deceptive and misleading.

LEGALIZING ALL "GAMBLING" DEBTS

The Attorney General's ballot title states that, if approved, S.Q. 672 will "make gambling debts legal and enforceable." Once again, this is a misstatement of S.Q. 672. While it is true that gaming debts incurred at "Authorized Casinos" will be legally enforceable, it is not true that <u>all</u> "gambling" debts will be legally enforceable. As written, the Attorney General's substitute ballot title will cause voters to conclude that <u>all</u> "gambling" debts will become legally enforceable. This is ludicrous. The Attorney General's ballot title leads one to conclude that even an

illegal bet under 21 O.S. § 1694 on a dog fight could result in the "winner" suing the "loser" in small claims court! If this were true, the dockets would be inundated with claims for the collection of illegal gambling debts as opposed to the legal gaming debts incurred at "Authorized Casinos." Clearly, the Attorney General's ballot title is a misstatement of the effect of S.Q. 672 that will cause bias against the proposition. For this reason, the Attorney General's ballot title should not be approved.

GAMING versus GAMBLING

The Attorney General employs the term "gambling" throughout the substitute ballot title. Oklahoma statute 34 O.S. § 9(B) expressly prohibits words of special meaning or bias in a ballot title. The Oklahoma Court of Criminal Appeals has held that:

> The word "gaming" has no technical meaning, but includes every contrivance or institution having for its object any sport, recreation, or amusement for the public, and upon which money or other articles of value are wagered, which will be won or lost by such contrivance or institution.

James, et al. v. State of Oklahoma, 113 P. 226, 228 (1911).

Clearly the word "gambling" has a more technical and biased meaning. The word itself evokes images of illegal betting in smoke filled rooms accessible only by alleyways. Oklahomans will not be voting on this type of "gambling," rather they will be voting on the legalization of casino gaming intensely regulated by the State of Oklahoma. S.Q. 672 should NOT be presented to the electorate through an unfair and biased ballot title.

III

CONCLUSION

It is well established in Oklahoma that the ballot title should not be skewed toward one point of view over another. The ballot title is not a proper forum to speculate as to the possible consequences of a measure's passage.

Campaign rhetoric should not and must not occur within the voting booth through the misleading and biased ballot title proposed by the Attorney General. Proponents respectfully pray that the Attorney General's substitute ballot title be rejected, and the Proponents' Ballot Title annexed to the Proponents' Ballot Title Appeal (and attached hereto as Exhibit "B") appear on the November 5, 1996, ballot.

Respectfully submitted,

PRAY, WALKER, JACKMAN, WILLIAMSON & MARLAR

By _____

Kevin M. Abel, OBA #104
Terri S. Roberts, OBA #16299
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

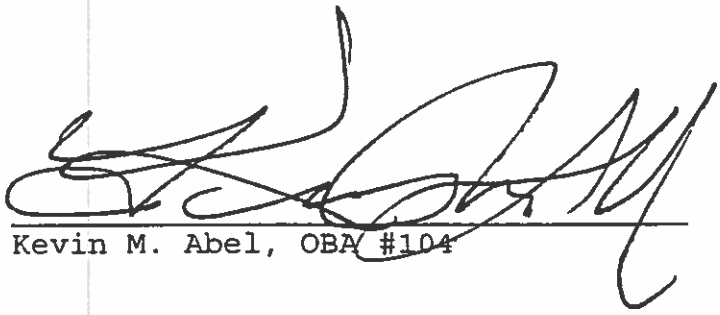
CERTIFICATE OF MAILING

This is to certify that on the 1st day of May, 1996, I mailed a true and correct copy of the above and foregoing document to the following:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
405/521-3921
Fax: 405/521-3771

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Counsel for Protestant D. Wallace Hughes



Kevin M. Abel, OBA #104

f:\users\kma\ip\ballot.brf

EXHIBIT "A"

DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA
November 7, 1995

Mr. Tom Cole, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 672, Initiative Petition No. 363

Dear Secretary Cole:

Having found that the Proponents' suggested Ballot Title for the above-referenced State Question was not in harmony with the law, we have, in accordance with the provisions of 34 O.S. Supp.1994, § 9(D)(1), prepared the following substitute Ballot Title for filing in your office. As a Title 34 Ballot Title review, the following does not constitute an Attorney General's Opinion on the merits or constitutionality of the underlying proposed change in the law. The substitute Ballot Title reads as follows:

BALLOT TITLE

This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:

a. Slot machines and roulette,
b. Craps, keno and video gambling,
c. All gambling played with cards, dice, mechanical devices or computers, and
d. Other forms of gambling.

For the first five years there could only be four non-Indian gambling facilities. Those facilities are:

1. Remington Park Racetrack,
2. Blue Ribbon Downs Racetrack,
3. A facility in Tulsa, and
4. A facility in Love County.

2300 N. LINCOLN BLVD., SUITE 112, OKLAHOMA CITY, OK 73105-4894 (405) 521-3921 • FAX: (405) 521-6246

recycled paper

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure opens the door for Indian tribes to engage in the new forms of gambling. State limits and standards would have limited or no effect on Indian gambling. The State could not tax Indian gambling.

The measure makes gambling debts legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

_____ Yes, for the Proposal.

_____ No, against the Proposal.

Respectfully submitted,

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:pjd

EXHIBIT "B"

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re:	)	
	)	
INITIATIVE PETITION NO. 363,	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

State Question No. 672 Initiative Petition No. 363

PROPONENTS' 34 O.S. § 10 SUBSTITUTE BALLOT TITLE

This measure would change the State Constitution to permit casino gaming.

At first, there could be four casinos. Two casinos could be at licensed horse racing tracks running more than 500 betting days in any five year period. Another casino could be in Tulsa's arts and entertainment tax increment district. The fourth casino could be in Love County. Five years after the first casino opens, there could be other casinos by county option elections. Only one casino per county would be allowed. At least $25,000,000 would have to be invested in each casino.

A seven member Commission would regulate the casino business. The Governor and Legislative leaders would appoint the first members for one to three year terms. The Governor would appoint later members with the Senate's advice and consent. The Commission could borrow money for its first budget. Fees paid by casinos and related businesses would fund later Commission budgets.

Each casino would pay a 10% fee on its total winnings to the State. After funding the Commission's budget, 50% of the fee would go to public grade schools and high schools statewide. 25% would go to prisons. 25% would go to local governments where casinos are located.

SHALL THE PROPOSED CONSTITUTIONAL AMENDMENT BE APPROVED?

( ) YES - FOR THE AMENDMENT

( ) NO - AGAINST THE AMENDMENT

FILED
SUPREME COURT
STATE OF OKLAHOMA
JUN 7 - 1996
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Friday, June 7, 1996

THE CLERK IS DIRECTED TO ISSUE THE FOLLOWING ORDER:

87,314 - ROBERT WIRTZ, JR. V. STANLEY GLANZ ET AL.

Judge Shallcross is directed to respond to appellant's motion for writ of mandamus not later than July 9, 1996. The Clerk of the Supreme Court is directed to mail a copy of this order to Judge Shallcross.

87,541 - SAMUEL J. WILDER V. BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF TULSA

The clerk of the district court is directed to forward the entire court file to this Court without delay, excluding any testimony not yet transcribed, and including a current copy of the appearance docket.

86,375 - IN RE: BALLOT TITLE APPEAL, INITIATIVE PETITION NO. 363, STATE QUESTION 672

Attorney General allowed until June 24, 1996 to file ballot title brief.

86,024 - DAVID RICHARD V. DISTRICT COURT OF ALFALFA COUNTY

Motion for contempt order dismissed at petitioner's request.

Denny Wilson
CHIEF JUSTICE

RECEIVED
JUN 10 1996
OKLAHOMA SECRETARY
OF STATE

FILED
SUPREME COURT
STATE OF OKLAHOMA
JUN 7 - 1996
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Friday, June 7, 1996

THE CLERK IS DIRECTED TO ISSUE THE FOLLOWING ORDER:

87,314 - ROBERT WIRTZ, JR. V. STANLEY GLANZ ET AL.

Judge Shallcross is directed to respond to appellant's motion for writ of mandamus not later than July 9, 1996. The Clerk of the Supreme Court is directed to mail a copy of this order to Judge Shallcross.

87,541 - SAMUEL J. WILDER V. BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF TULSA

The clerk of the district court is directed to forward the entire court file to this Court without delay, excluding any testimony not yet transcribed, and including a current copy of the appearance docket.

86,375 - IN RE: BALLOT TITLE APPEAL, INITIATIVE PETITION NO. 363, STATE QUESTION 672

Attorney General allowed until June 24, 1996 to file ballot title brief.

86,024 - DAVID RICHARD V. DISTRICT COURT OF ALFALFA COUNTY

Motion for contempt order dismissed at petitioner's request.

Denny Wilson
CHIEF JUSTICE

RECEIVED
JUN 10 1996
OKLAHOMA SECRETARY
OF STATE

SUPREME COURT NO. 86,375

FILED
SUPREME COURT
STATE OF OKLAHOMA
JUL - 1 1996
JAMES W. PATTERSON
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
JUL 1 1996
OKLAHOMA SECRETARY
OF STATE

IN RE:

INITIATIVE PETITION NO. 363
STATE QUESTION NO. 672.

PROPONENTS' REPLY BRIEF IN FURTHER SUPPORT OF THEIR 34 O.S. § 10 BALLOT TITLE APPEAL

INITIATIVE PETITION BALLOT TITLE APPEAL

Kevin M. Abel, OBA #104
Terri S. Roberts, OBA #16299
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

July 1, 1996

TABLE OF CONTENTS

SUMMARY OF ARGUMENTS 1

ARGUMENTS 2

I FIRST PROPOSITION 2

A BALLOT TITLE SHOULD SUMMARIZE THE ACTUAL EFFECT OF THE PROPOSED MEASURE AS WRITTEN -- NOT POSSIBLE CONSEQUENCES 2

II SECOND PROPOSITION 3

THE BALLOT TITLE SHOULD USE UNBIASED LANGUAGE . . . 3

III THIRD PROPOSITION 4

THERE IS A DIFFERENCE BETWEEN THE LEGALIZATION OF AUTHORIZED CASINO GAMING DEBTS VIS-A-VIS "GAMBLING" DEBTS 4

IV FOURTH PROPOSITION 6

IF STATE QUESTION 672 PASSES AND IF INDIAN TRIBES REQUEST CASINO GAMING COMPACTS WITH THE STATE, STATE QUESTION 672 WILL IMPOSE STANDARDS ON THOSE CASINOS 6

CONCLUSION 8

TABLE OF AUTHORITIES

CASES

California v. Cabazon Band of Mission Indians, 480 U.S. 202, 94 L. Ed. 2d 244, 107 S. Ct. 1083 (1987) . . 7

In Re Initiative Petition No. 315, State Question No. 533, 649 P.2d 545 (Okl. 1982) 4

Lukenbill v. Longfellow Corporation, 329 P.2d 1036 (Okl. 1958) 2

In Re Initiative Petition No. 347, State Question No. 639, 813 P.2d 1019 (Okl. 1991) 3

STATUTES

25 U.S.C. § 2710(d)(3)(C)(vi) 7

34 O.S. 1991, § 9(B) 1, 3, 4

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re:	)	
	)	
INITIATIVE PETITION NO. 363	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

PROPONENTS' REPLY BRIEF IN FURTHER SUPPORT OF THEIR 34 O.S. § 10 BALLOT TITLE APPEAL

Better Opportunities for Oklahoma Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen, ("Proponents"), submit this reply brief in further support of their 34 O.S. § 10 Petition to Appeal the substitute ballot title filed by the Attorney General of the State of Oklahoma.

SUMMARY OF ARGUMENTS

The June 24, 1996, Answer Brief filed by the Attorney General (the "AG Brief"), as well as the pro se citizen's brief filed by James E. Hamilton, Esq. (the "Hamilton Brief"), failed to refute the *sine qua non* of the Proponents' Ballot Title Appeal: a ballot title should summarize the effect of a measure without predicting the possible consequences of the measure's passage. Proponents' Ballot Title Appeal, if it does nothing else, should generate a clarification of Oklahoma law on this important issue in the initiative petition process.

Furthermore, a ballot title may not, by virtue of 34 O.S. 1991, § 9(B), reflect partiality. The evident bias against the

measure reflected in the Attorney General's Ballot Title justifies this Court's rejection of it.

Finally, the Attorney General's inaccurate summary of the measure and the misstatements of the federal law affecting one section of the measure would result in the unintended consequence of misleading the voters. This compels the rejection of the Ballot Title proposed by the Attorney General.

ARGUMENTS

I
FIRST PROPOSITION

A BALLOT TITLE SHOULD SUMMARIZE THE ACTUAL EFFECT OF THE PROPOSED MEASURE AS WRITTEN -- NOT POSSIBLE CONSEQUENCES

The "effect" of a state question is the actual, operational, application of its terms. Ballot titles, including the ones submitted by the Attorney General, should not speculate on the possible consequences of any measure's passage. Permitting predictions of what is only possible[1] risks misleading the voting public. For example, a *possible* consequence of Oklahoma's passage of liquor by the drink might have been an increase in alcoholism or drunk driving fatalities. Nevertheless, it would have been wholly inappropriate to include within the ballot title of State Question

---

[1] In the law of evidence, mere possibilities are not admissible; only probabilities or certainties are admissible. OUJI - CIV 2d, Inst. 3.3. Possibilities consist of nothing more than rank speculation. *Id.* and *Lukenbill v. Longfellow Corporation*, 329 P.2d 1036, 1038 (Okl. 1958).

No. 563 mere speculation about an increase in criminal conduct, i.e DUI convictions, because State Question 563 did not by its provisions legislatively mandate an increase in drunk driving even though that was a possible (or even probable) consequence.

Neither the AG Brief nor the Hamilton Brief adequately addressed the distinction between the effect of a measure versus the possible consequences of a measure's passage. However, the Attorney General cites with approval *In Re Initiative Petition No. 347, State Question No. 639*, 813 P.2d 1019, 1032 (Okl. 1991), in which the Oklahoma Supreme Court held that the Ballot Title should reflect the **purpose** of the proposition. Any tangential possible consequences which the Attorney General and Hamilton prognosticate, including Hamilton's hypothesis of a cause and effect relationship between authorized casino gaming and crime, do not reflect the **purpose** of the State Question 672. The **purpose** of State Question 672 is to constitutionally legalize authorized casino gaming. This Court's opinion in *State Question No. 639* suggests a rule of law that a ballot measure should not speculate on the possible consequences of a measure's passage.

II
SECOND PROPOSITION

THE BALLOT TITLE SHOULD USE UNBIASED LANGUAGE

The Attorney General acknowledges that the Ballot Tile must meet the requirements of 34 O.S. 1994, § 9, which includes the requirement that a ballot title shall not reflect partiality in its

composition or contain any argument for or against the measure. The Attorney General admits that "gaming," a term used in the Proponents' Suggested Ballot Title, is more "bucolic" than the term "gambling," utilized by the Attorney General. If the Attorney General was suggesting that "gaming" is a less biased term (instead of more "poetic") than the term "gambling," Proponents' agree. In fact, the Attorney General's intimation that "gaming" is an innocuous description of the measure begs the question of why the Attorney General would insist upon a term, "gambling," which is more argumentative than the term "gaming," even though this Court has held that ballot titles should be neutral. *See: In Re Initiative Petition No. 315, State Question No. 533, 649 P.2d 545 (Okl. 1982); and 34 O.S. § 9.*

III
THIRD PROPOSITION

THERE IS A DIFFERENCE BETWEEN THE LEGALIZATION OF AUTHORIZED CASINO GAMING DEBTS VIS-A-VIS "GAMBLING" DEBTS

The Attorney General's Ballot Title reads in part:

> The measure makes gambling debts legal and enforceable.

The Attorney General argues that § 8(F) of the State Question 672 makes gambling debts binding and enforceable. That is an incorrect summary of the proposition. Only authorized casino gaming debts are legal and enforceable. Despite this difference, the Attorney General nevertheless argues at page 7 of his Brief:

> Thus, under the proposal [State Question 672], **ALL** gaming debts resulting from **ANY** games played with cards and dice . . . , including

> the laundry list of games contained in the definition, will become binding and enforceable if the Initiative Petition is approved by the voters. (*Emphasis added.*)

This simply is not accurate. For example, a debt resulting from a game of dice played in a back alley will not become a binding and enforceable obligation if State Question 672 is approved by the voters. The Attorney General's Ballot Title, as the Attorney General admits at page 7 of his Brief, attempts to characterize **ALL** gaming debts as binding and enforceable obligations, whereas State Question 672 makes binding and enforceable only authorized casino gaming debts, which are incurred only in authorized casinos. Thus, "gambling" debts do not equal and are not synonymous with "authorized casino gaming" debts.

The Attorney General's Ballot Title is an inaccurate summary of the effect of State Question No. 672, that will surely cause bias against the proposition. An insight into this subconscious bias[2] which surfaces in the Attorney General's Ballot Title appears at page 8 of the AG Brief:

> Problem gamblers and others, under the proposal, will not only be able to gamble for money on hand, but will also be able to gamble away future earnings.

This statement reveals a predisposition of the Attorney General against gaming, which resulted in a biased Ballot Title -- clearly not the work of a neutral scrivener.

---

[2] Likewise, Hamilton's Brief discloses a similar bias when stating that casinos will have a "profound negative social effect."

IV
FOURTH PROPOSITION

IF STATE QUESTION 672 PASSES AND IF INDIAN TRIBES REQUEST CASINO GAMING COMPACTS WITH THE STATE, STATE QUESTION 672 WILL IMPOSE STANDARDS ON THOSE CASINOS

The Attorney General's Ballot Title states:

> The measure opens the door for Indian tribes to engage in the new forms of gambling.

Proponents contend that this a possible consequence and not an effect of State Question 672. The Attorney General argues at page 10 of his Brief that if states (such as Oklahoma) constitutionally legalize authorized casino gaming then the:

> ... tribes **MAY** request that the States enter into compact negotiations regarding the new forms of gambling. (*Emphasis added.*)

The word "may" tells the whole story. What if the Indian tribes do not request Oklahoma to enter into compact negotiations regarding casino gaming? The Attorney General is making a prediction, which is nothing more than speculation, that the tribes will make such a request. The tribes may or may not make such a request, but nothing within the provisions of State Question 672 require the tribes to do so. Once again, the Attorney General's Ballot Title speculates about a possible consequence of the measure's passage rather than simply describing what is within the four corners of the measure as written.

The second sentence of paragraph 4 of the Attorney General's Ballot Title argues:

State limits and standards would have limited or no affect on Indian gambling.

This is a misstatement of federal law.

The Attorney General admits, through his citation to *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 94 L.Ed.2d 244, 107 S.Ct. 1083 (1987), that state laws may be applied to tribal Indians on their reservations **IF CONGRESS HAS EXPRESSLY SO PROVIDED**. Congress did expressly so provide in 25 U.S.C. § 2710(d)(3)(C)(vi), pursuant to which the Indian Gaming Regulatory Act allows states to establish ". . . **STANDARDS** for the operation of such activity...." The standards imposed by § 8(D) of State Question 672, would require the tribes to abide by at least the minimum standards for a gaming facility provided in § 4(D) of State Question No. 672. These standards require a casino to be located in an enclosed, roofed, permanent building containing not fewer than 1,000 gaming stations, covering not less than 30,000 feet, and having an investment of $25 million. It must be emphasized that no state has the right or power to impose these standards, absent the aforementioned enabling legislation passed by the United States Congress, which does have the right and power to impose standards on Indian gaming. Congress delegated this power to the states to establish "standards" under 25 U.S.C. § 2710(d)(3)(C)(vi).

As a consequence, the Attorney General's statement in his Ballot Title that Oklahoma standards would have limited or no effect on Indian gambling is inaccurate.

CONCLUSION

The Ballot Title proposed by the Attorney General is biased and speculative. Had a ballot title with these characteristics been presented by a proponent, there is little doubt that it would have been rejected out of hand. No less an outcome should occur when such a ballot title is suggested by the Attorney General.

Respectfully submitted,

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By _____
Kevin M. Abel, OBA #104
Terri S. Roberts, OBA #6299
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

CERTIFICATE OF MAILING

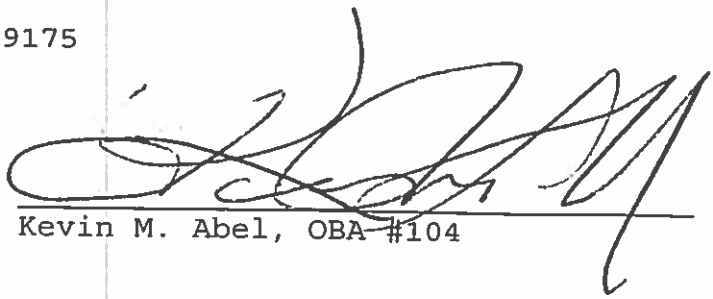
On this 1st day of July, 1996, I mailed a true and correct copy of the above and foregoing document to:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
405/521-3921
Fax: 405/521-3771

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Counsel for Protestant D. Wallace Hughes

James E. Hamilton, Esq. OBA #3761, pro se
Hamilton, Warren and Bovos
101 North Broadway
Poteau, Oklahoma 74953
918/647-9171
Fax: 918/647-9175



Kevin M. Abel, OBA #104

f:\users\kma\ip\replybrf.app

SUPREME COURT NO. 86,375

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
JUL 3 1996
OKLAHOMA SECRETARY OF STATE

IN RE:

INITIATIVE PETITION NO. 363
STATE QUESTION NO. 672.

PROPONENTS' REPLY BRIEF IN FURTHER SUPPORT OF THEIR 34 O.S. § 10 BALLOT TITLE APPEAL

INITIATIVE PETITION BALLOT TITLE APPEAL

Kevin M. Abel, OBA #104
Terri S. Roberts, OBA #16299
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

July 1, 1996

TABLE OF CONTENTS

SUMMARY OF ARGUMENTS 1

ARGUMENTS 2

I FIRST PROPOSITION 2

A BALLOT TITLE SHOULD SUMMARIZE THE ACTUAL EFFECT OF THE PROPOSED MEASURE AS WRITTEN -- NOT POSSIBLE CONSEQUENCES 2

II SECOND PROPOSITION 3

THE BALLOT TITLE SHOULD USE UNBIASED LANGUAGE . . . 3

III THIRD PROPOSITION 4

THERE IS A DIFFERENCE BETWEEN THE LEGALIZATION OF AUTHORIZED CASINO GAMING DEBTS VIS-A-VIS "GAMBLING" DEBTS 4

IV FOURTH PROPOSITION 6

IF STATE QUESTION 672 PASSES AND IF INDIAN TRIBES REQUEST CASINO GAMING COMPACTS WITH THE STATE, STATE QUESTION 672 WILL IMPOSE STANDARDS ON THOSE CASINOS 6

CONCLUSION 8

TABLE OF AUTHORITIES

CASES

California v. Cabazon Band of Mission Indians, 480 U.S. 202, 94 L. Ed. 2d 244, 107 S. Ct. 1083 (1987) . . 7

In Re Initiative Petition No. 315, State Question No. 533, 649 P.2d 545 (Okl. 1982) 4

Lukenbill v. Longfellow Corporation, 329 P.2d 1036 (Okl. 1958) 2

In Re Initiative Petition No. 347, State Question No. 639, 813 P.2d 1019 (Okl. 1991) 3

STATUTES

25 U.S.C. § 2710(d)(3)(C)(vi) 7

34 O.S. 1991, § 9(B) 1, 3, 4

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re:	)	
	)	
INITIATIVE PETITION NO. 363	)	Case No. 86,375
	)	
STATE QUESTION NO. 672.	)	

PROPONENTS' REPLY BRIEF IN FURTHER SUPPORT OF THEIR 34 O.S. § 10 BALLOT TITLE APPEAL

Better Opportunities for Oklahoma Students & Taxpayers, Inc. and Steven R. Kelley, an individual citizen, ("Proponents"), submit this reply brief in further support of their 34 O.S. § 10 Petition to Appeal the substitute ballot title filed by the Attorney General of the State of Oklahoma.

SUMMARY OF ARGUMENTS

The June 24, 1996, Answer Brief filed by the Attorney General (the "AG Brief"), as well as the pro se citizen's brief filed by James E. Hamilton, Esq. (the "Hamilton Brief"), failed to refute the *sine qua non* of the Proponents' Ballot Title Appeal: a ballot title should summarize the effect of a measure without predicting the possible consequences of the measure's passage. Proponents' Ballot Title Appeal, if it does nothing else, should generate a clarification of Oklahoma law on this important issue in the initiative petition process.

Furthermore, a ballot title may not, by virtue of 34 O.S. 1991, § 9(B), reflect partiality. The evident bias against the

measure reflected in the Attorney General's Ballot Title justifies this Court's rejection of it.

Finally, the Attorney General's inaccurate summary of the measure and the misstatements of the federal law affecting one section of the measure would result in the unintended consequence of misleading the voters. This compels the rejection of the Ballot Title proposed by the Attorney General.

ARGUMENTS

I
FIRST PROPOSITION

A BALLOT TITLE SHOULD SUMMARIZE THE ACTUAL EFFECT OF THE PROPOSED MEASURE AS WRITTEN -- NOT POSSIBLE CONSEQUENCES

The "effect" of a state question is the actual, operational, application of its terms. Ballot titles, including the ones submitted by the Attorney General, should not speculate on the possible consequences of any measure's passage. Permitting predictions of what is only possible[1] risks misleading the voting public. For example, a *possible* consequence of Oklahoma's passage of liquor by the drink might have been an increase in alcoholism or drunk driving fatalities. Nevertheless, it would have been wholly inappropriate to include within the ballot title of State Question

---

[1] In the law of evidence, mere possibilities are not admissible; only probabilities or certainties are admissible. OUJI - CIV 2d, Inst. 3.3. Possibilities consist of nothing more than rank speculation. *Id.* and *Lukenbill v. Longfellow Corporation*, 329 P.2d 1036, 1038 (Okl. 1958).

No. 563 mere speculation about an increase in criminal conduct, i.e DUI convictions, because State Question 563 did not by its provisions legislatively mandate an increase in drunk driving even though that was a possible (or even probable) consequence.

Neither the AG Brief nor the Hamilton Brief adequately addressed the distinction between the effect of a measure versus the possible consequences of a measure's passage. However, the Attorney General cites with approval *In Re Initiative Petition No. 347, State Question No. 639*, 813 P.2d 1019, 1032 (Okl. 1991), in which the Oklahoma Supreme Court held that the Ballot Title should reflect the **purpose** of the proposition. Any tangential possible consequences which the Attorney General and Hamilton prognosticate, including Hamilton's hypothesis of a cause and effect relationship between authorized casino gaming and crime, do not reflect the **purpose** of the State Question 672. The **purpose** of State Question 672 is to constitutionally legalize authorized casino gaming. This Court's opinion in *State Question No. 639* suggests a rule of law that a ballot measure should not speculate on the possible consequences of a measure's passage.

II
SECOND PROPOSITION

THE BALLOT TITLE SHOULD USE UNBIASED LANGUAGE

The Attorney General acknowledges that the Ballot Tile must meet the requirements of 34 O.S. 1994, § 9, which includes the requirement that a ballot title shall not reflect partiality in its

composition or contain any argument for or against the measure. The Attorney General admits that "gaming," a term used in the Proponents' Suggested Ballot Title, is more "bucolic" than the term "gambling," utilized by the Attorney General. If the Attorney General was suggesting that "gaming" is a less biased term (instead of more "poetic") than the term "gambling," Proponents' agree. In fact, the Attorney General's intimation that "gaming" is an innocuous description of the measure begs the question of why the Attorney General would insist upon a term, "gambling," which is more argumentative than the term "gaming," even though this Court has held that ballot titles should be neutral. *See: In Re Initiative Petition No. 315, State Question No. 533, 649 P.2d 545 (Okl. 1982); and 34 O.S. § 9.*

III
THIRD PROPOSITION

THERE IS A DIFFERENCE BETWEEN THE LEGALIZATION OF AUTHORIZED CASINO GAMING DEBTS VIS-A-VIS "GAMBLING" DEBTS

The Attorney General's Ballot Title reads in part:

> The measure makes gambling debts legal and enforceable.

The Attorney General argues that § 8(F) of the State Question 672 makes gambling debts binding and enforceable. That is an incorrect summary of the proposition. Only authorized casino gaming debts are legal and enforceable. Despite this difference, the Attorney General nevertheless argues at page 7 of his Brief:

> Thus, under the proposal [State Question 672], **ALL** gaming debts resulting from **ANY** games played with cards and dice . . . , including

> the laundry list of games contained in the definition, will become binding and enforceable if the Initiative Petition is approved by the voters. (*Emphasis added.*)

This simply is not accurate. For example, a debt resulting from a game of dice played in a back alley will not become a binding and enforceable obligation if State Question 672 is approved by the voters. The Attorney General's Ballot Title, as the Attorney General admits at page 7 of his Brief, attempts to characterize **ALL** gaming debts as binding and enforceable obligations, whereas State Question 672 makes binding and enforceable only authorized casino gaming debts, which are incurred only in authorized casinos. Thus, "gambling" debts do not equal and are not synonymous with "authorized casino gaming" debts.

The Attorney General's Ballot Title is an inaccurate summary of the effect of State Question No. 672, that will surely cause bias against the proposition. An insight into this subconscious bias[2] which surfaces in the Attorney General's Ballot Title appears at page 8 of the AG Brief:

> Problem gamblers and others, under the proposal, will not only be able to gamble for money on hand, but will also be able to gamble away future earnings.

This statement reveals a predisposition of the Attorney General against gaming, which resulted in a biased Ballot Title -- clearly not the work of a neutral scrivener.

---

[2] Likewise, Hamilton's Brief discloses a similar bias when stating that casinos will have a "profound negative social effect."

IV
FOURTH PROPOSITION

IF STATE QUESTION 672 PASSES AND IF INDIAN TRIBES REQUEST CASINO GAMING COMPACTS WITH THE STATE, STATE QUESTION 672 WILL IMPOSE STANDARDS ON THOSE CASINOS

The Attorney General's Ballot Title states:

> The measure opens the door for Indian tribes to engage in the new forms of gambling.

Proponents contend that this a possible consequence and not an effect of State Question 672. The Attorney General argues at page 10 of his Brief that if states (such as Oklahoma) constitutionally legalize authorized casino gaming then the:

> ... tribes **MAY** request that the States enter into compact negotiations regarding the new forms of gambling. (*Emphasis added.*)

The word "may" tells the whole story. What if the Indian tribes do not request Oklahoma to enter into compact negotiations regarding casino gaming? The Attorney General is making a prediction, which is nothing more than speculation, that the tribes will make such a request. The tribes may or may not make such a request, but nothing within the provisions of State Question 672 require the tribes to do so. Once again, the Attorney General's Ballot Title speculates about a possible consequence of the measure's passage rather than simply describing what is within the four corners of the measure as written.

The second sentence of paragraph 4 of the Attorney General's Ballot Title argues:

> State limits and standards would have limited or no affect on Indian gambling.

This is a misstatement of federal law.

The Attorney General admits, through his citation to *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 94 L.Ed.2d 244, 107 S.Ct. 1083 (1987), that state laws may be applied to tribal Indians on their reservations **IF CONGRESS HAS EXPRESSLY SO PROVIDED**. Congress did expressly so provide in 25 U.S.C. § 2710(d)(3)(C)(vi), pursuant to which the Indian Gaming Regulatory Act allows states to establish ". . . **STANDARDS** for the operation of such activity...." The standards imposed by § 8(D) of State Question 672, would require the tribes to abide by at least the minimum standards for a gaming facility provided in § 4(D) of State Question No. 672. These standards require a casino to be located in an enclosed, roofed, permanent building containing not fewer than 1,000 gaming stations, covering not less than 30,000 feet, and having an investment of $25 million. It must be emphasized that no state has the right or power to impose these standards, absent the aforementioned enabling legislation passed by the United States Congress, which does have the right and power to impose standards on Indian gaming. Congress delegated this power to the states to establish "standards" under 25 U.S.C. § 2710(d)(3)(C)(vi).

As a consequence, the Attorney General's statement in his Ballot Title that Oklahoma standards would have limited or no effect on Indian gambling is inaccurate.

CONCLUSION

The Ballot Title proposed by the Attorney General is biased and speculative. Had a ballot title with these characteristics been presented by a proponent, there is little doubt that it would have been rejected out of hand. No less an outcome should occur when such a ballot title is suggested by the Attorney General.

Respectfully submitted,

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR

By _____

Kevin M. Abel, OBA #104
Terri S. Roberts, OBA #6299
900 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
(918) 581-5500
(918) 581-5599 (Facsimile)

ATTORNEYS FOR PROPONENTS: BETTER OPPORTUNITIES FOR OKLAHOMA'S STUDENTS & TAXPAYERS, INC. AND STEVEN R. KELLEY, AN INDIVIDUAL CITIZEN

CERTIFICATE OF MAILING

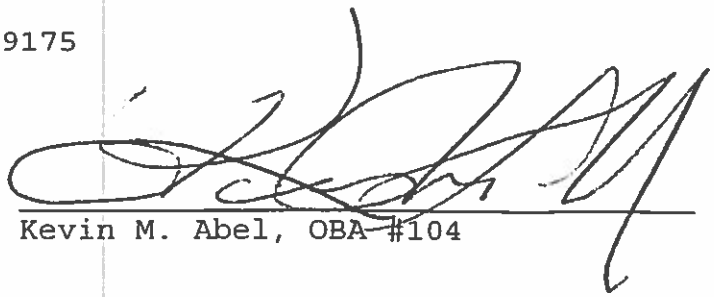
On this 1st day of July, 1996, I mailed a true and correct copy of the above and foregoing document to:

Mr. Tom Cole
Oklahoma Secretary of State
2300 North Lincoln Boulevard
Room 101
Oklahoma City, OK 73105-4897
405/521-3911
Fax: 405/521-3771

W. A. Drew Edmondson, Esq.
Attorney General, State of Oklahoma
c/o Neal Leader, Esq.
First Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105
405/521-3921
Fax: 405/521-3771

Charles M. Sublett, Esq.
Sublett & Shafer
320 South Boston, Suite 805
Tulsa, OK 74103-3778
918/582-8815
Fax: 918/587-0077
Counsel for Protestant D. Wallace Hughes

James E. Hamilton, Esq. OBA #3761, pro se
Hamilton, Warren and Bovos
101 North Broadway
Poteau, Oklahoma 74953
918/647-9171
Fax: 918/647-9175



Kevin M. Abel, OBA #104

f:\users\kma\ip\replybrf.app

JAMES E. HAMILTON
DISTRICT 3
432D STATE CAPITOL BLDG.
OKLAHOMA CITY, OK 73105-4885
(405) 521-2711

HOME ADDRESS:
P.O. BOX 660
POTEAU, OK 74953
(918) 647-9171

House of Representatives

STATE OF OKLAHOMA

CHAIRMAN:
APPROPRIATIONS AND BUDGET

MEMBER:
CRIMINAL JUSTICE
RETIREMENT LAWS
REVENUE AND TAXATION
RULES

RECEIVED
JUL 24 1996
OKLAHOMA SECRETARY OF STATE

FILED
JUL 29 1996
OKLAHOMA SECRETARY OF STATE

25 June 1996

Attached is a copy of a Brief filed by State Representative Jim Hamilton in the Oklahoma Supreme Court, opposing the ballot title of those supporting casino gambling. Oklahoma Attorney General Drew Edmondson has also objected to the ballot title, and recommended a title he feels is appropriate.

Under Oklahoma law the Attorney General has a right to attack a proposed ballot title, if his office believes the same not to be appropriate or is misleading, and such is the case involved in State Question 672.

The law provides that others who concur and agree with the Attorney General, have the right to file a Brief with the Court.

The Hamilton Brief points out that in his opinion, the advocates of casino gambling, who circulated State Question 672, have a proposed ballot title that would mislead the voting public of Oklahoma.

The proponents of State Question 672 failed to show that the measure directly deals with gambling activities, and completely omits any reference to the issue that certain Indian Tribes could also set up unregulated gambling casinos, if the measure is passed.

Hamilton stated that public policy demands that the voting public has the right to

know the exact effect of their vote on this issue, and this is the reason he has joined with the Attorney General in requesting the Supreme Court to approve a ballot title that will clearly show the ramifications of passage of the measure, at an upcoming statewide vote.

Hamilton's Brief also sets forth statistical information, showing increases in crime in areas where gambling casinos have been established.

FILED
SUPREME COURT
STATE OF OKLAHOMA
JUN 24 1996
JAMES W. PATTERSON
CLERK

No. 86,375

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
JUL 29 1996
OKLAHOMA SECRETARY
OF STATE

IN RE:
BALLOT TITLE APPEAL INITIATIVE PETITION NO. 363,
STATE QUESTION 672,

BRIEF OF STATE REPRESENTATIVE JAMES E. HAMILTON IN SUPPORT OF THE ATTORNEY GENERAL'S BALLOT TITLE

JAMES E. HAMILTON
STATE REPRESENTATIVE, DIST. 3
432D State Capitol Building
Oklahoma City, OK 73102-4885

JUNE, 1996

INDEX

PAGE

Introduction 1

Importance of the Issue Presented in State Question 672 1

The Attorney is Ballot Title 3

DEFENSE OF THE ATTORNEY GENERAL'S BALLOT TITLE 4

Attorney General's Ballot Title Accurately Describes the Gambling Which State Question 672 Seeks to Legalize. 4

The Attorney General's Ballot Title Accurately Describes the Effect That State Question 672 Will Have on Indian Gaming. 6

The Attorney General's Ballot Title Accurately Informs the Voters That State Question 672 Will Make Gambling Debts Legal and Enforceable. 7

Adoption of the Attorney General's Brief in Support of His Ballot Title . 8

CONCLUSION 9

CERTIFICATE OF MAILING 10

TABLE OF AUTHORITIES

PAGE

CASES CITED

California v. Cabazon Band of Mission Indians,
480 U.S. 202, 107 S. Ct. 1083,
94 L. Ed. 2d 244 (1987) 6

STATUTES CITED

34 O.S.1991, § 11 1

25 U.S.C. § 2701 6

25 U.S.C. § 2710(d) 6

OTHER AUTHORITIES

Source: FBI Crime in the United States 2

"Casino Numbers Tempting, often are misleading,"
TULSA WORLD, Sunday July 9, 1995 2

American Heritage Dictionary of the English Language
(1979) 5

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE: BALLOT TITLE APPEAL INITIATIVE PETITION NO. 363, STATE QUESTION 672,	))))	**No. 86,375**

BRIEF OF STATE REPRESENTATIVE JAMES E. HAMILTON IN SUPPORT OF THE ATTORNEY GENERAL'S BALLOT TITLE

Introduction

COMES NOW James E. Hamilton, State Representative, District 3, and pursuant to the provisions of 34 O.S.1991, § 11, appears as an interested citizen to defend the Ballot Title of the Attorney General.

Importance of the Issue Presented in State Question 672

Law enforcement officials in states that have casinos have long recognized that the introduction of casino gambling into a jurisdiction results in increased crime and increased law enforcement costs. In the Commonwealth of Massachusetts study "The Impact of Expanding Gambling on Law Enforcement, Costs of Casino Crime," Attorney General Scott Harshbarger concluded that where casinos have been introduced, crime has increased. Id. at 1.

Examples noted in that study included Deadwood, South Dakota, where the police department witnessed an increase of 162% in the number of cases that were handled by the department; the cities of Gulfport and Biloxi, Mississippi, where crime rose in every category in 1994, the year following the casino opening, and Ledyard, Connecticut, where theft in the area has doubled every year since Foxwoods casino has opened.

In this regard, the lesson of Atlantic City, New Jersey should be considered. A comparison of the crime rates of Atlantic City with the rest of the nation as a whole clearly indicates that casino gambling significantly impacted that the city's crime problems. For example, during the period from 1977 to 1990, the rape rate in Atlantic City[1] increased 189.6% which was three times the national increase for the same period. Similarly, the robbery rate in Atlantic City for the same period increased at even a higher rate and increases in crimes such as aggravated assault and larceny were even greater. Id.

In speaking of the supposed gains of employment brought about by casinos, the speakers at the Boston conference on casinos sponsored by the Federal Reserve Bank concluded that these so-called gains are illusory, that casinos do not produce jobs or any economic benefit.[2] Noting that gambling does not create wealth, but rather merely draws it from out of the economy, Professor Rose of Wittier College stated at the conference that, "Gamblers gamble, they do not shop." Id.

While casinos will have no real job creating impact, they will have a profound negative social effect. If Oklahoma embraces casino gambling, it will not be in the same position that Nevada was in for so many years, as one of the few jurisdictions that permitted casino gambling. In those days, you could bring in tourist dollars and export the social problems, when the gamblers went home. Today, however, most of the

---

[1]*Source: FBI Crime in the United States.*

[2]*"Casino Numbers Tempting, often are misleading,"* TULSA WORLD, Sunday July 9, 1995.

gambling dollars will come from in state, and with them will come the social problems that come with gambling.

Because of the profound effects the proposal will have upon the State, the Ballot Title for State Question 672 must fully inform the voters of its effects.

The Attorney General's Ballot Title

The Proponents of casino gambling are correct in stating that these social effects of their proposed constitutional amendment should not appear in the Ballot Title. However, the Proponents are incorrect in arguing that the Attorney General's Ballot Title includes social consequences of the proposal. Nowhere are the social consequences, such as increased crime and moral decline mentioned in the Attorney General's Ballot Title. Rather, the Attorney General's Ballot Title accurately described only the legal effects of State Question 672.

The Attorney General's Ballot Title reads:

BALLOT TITLE

> This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:
> a. Slot machines and roulette,
> b. Craps, keno and video gambling,
> c. All gambling played with cards, dice, mechanical devices or computers, and
> d. Other forms of gambling.
>
> For the first five years there could only be four non-Indian gambling facilities. Those facilities are:
> 1. Remington Park Racetrack,
> 2. Blue Ribbon Downs Racetrack,
> 3. A facility in Tulsa, and

4. A facility in Love County.

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure opens the door for Indian tribes to engage in the new forms of gambling. State limits and standards would have limited or no effect on Indian gambling. The State could not tax Indian gambling.

The measure makes gambling debts legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

_____ Yes, for the Proposal.
_____ No, against the Proposal.

DEFENSE OF THE ATTORNEY GENERAL'S BALLOT TITLE

The Attorney General's Ballot Title Accurately Describes the Gambling Which State Question 672 Seeks to Legalize.

The Court can easily verify that the Attorney General's Ballot Title accurately describes the gambling being legalized by State Question 672 by comparing the Ballot Title with Section 9(A) of the Initiative Petition.

The gambling being legalized by the Petition is described in Section 9(A) as:

> . . . <u>any game played with cards, dice, or any mechanical</u>, electromechanical, or electronic or <u>computer device</u> or

> machine for money, property, checks, credit, or any representative of value, including any of the following: baccarat, big six, craps, keno, pai-gow, poker, red dog, roulette, slot machines, twenty-one, blackjack, wheel of fortune, any banking or percentage game, any electronic, mechanical, or computer device version of these games, and any other game or device approved by the Commission; provided, however, Authorized Gaming shall not include jai alai, sports pools, dog racing, or bingo."

(Emphasis added).

The Attorney General's Ballot Title accurately includes craps, keno, video gambling, slot machines, roulette, all games played with cards, dice, mechanical devices or computers, and other forms of gaming, in the list of new forms of gambling being made legal by the Petition. The games listed by the Attorney General are taken directly from the language of the Petition itself, and is far more accurate and informative than the Ballot Title suggested by the Petitioners which mentions none of the games being authorized, but merely makes a vague, undefined reference to "casino gaming."

With respect to the Proponents' objection to the Attorney General's use of the word "gambling," the Proponents missed the mark and offered no support for their objection. The American Heritage Dictionary of the English Language (1979) defines "gamble" as follows:

a. To bet money on the outcome of a game, contest or other event.

b. To play a game of chance for money or other stakes.

The ordinary meaning of the word "gamble," or "gambling" thus accurately describes what State Question 672 proposes--it proposes to legalize various new forms of gambling.

The Attorney General's Ballot Title Accurately Describes the Effect That State Question 672 Will Have on Indian Gaming.

For some reason the Proponents of the Initiative Petition wish to leave the voters ignorant about the proposals' effect on Indian gambling. As the court no doubt knows, under the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et seq.*, Indian tribes can--under a compact or under procedures prescribed by the Secretary of Interior--conduct any class III gaming that is legally permitted in the State. 25 U.S.C. § 2710(d). Under this scheme, when a State legalizes new forms of gambling, the new forms of gambling then becomes available to an Indian tribe, who may conduct such gambling either under a Tribal-State compact or under the Secretary's guidance. Id.

State Question 672's authorization of the various new forms of gambling will thus increase the types of gambling available to Indian tribes. The Attorney General's statement that the measure "opens the door for Indian tribes to engage in new forms of gambling," is absolutely correct.

Also correct is the Attorney General's statement that state limits and standards would have limited or no effect on Indian gambling. United States Supreme Court has long recognized that States do not have the right to impose their gambling laws and regulations on Indian land. E.g. California v. Cabazon Band of Mission Indians, 480 U.S. 202, 107 S.Ct. 1083, 94 L.Ed.2d 244 (1987). While the Indian Gaming Regulatory Act gives States an opportunity to have some of their regulations and statutes apply, by virtue of the Tribe's agreement in a compact, the States are not empowered to enforce

their rules on the Indian land, unless the tribes agree, or unless the Secretary includes such regulations in his procedures. Accordingly, the Attorney General's statement in the Ballot Title that, "State limits and standards will have limited or no effect on Indian gambling" is expressly accurate. States standards and limits are only applicable to Indian gambling, if the tribe itself agrees or if the Secretary of Interior requires such.

Apparently, the Proponents of State Question 672 want the voting public to believe that the standards that they prescribed will control all gambling in this State. This is not so. The Proponents do not want to inform the voting public about Indian casinos. The Proponents do want to inform the voting public about the State's limited ability to control Indian gambling and casinos. The Proponents do not want to tell the voters that in approving the many new forms of gambling, the voters would be adding to the gambling available to Indian tribes under the Indian Gaming Regulatory Act.

To leave the public ignorant of such facts would be to ignore major effects of the State Question and accordingly would be misleading in the extreme.

The Attorney General's Ballot Title Accurately Informs the Voters That State Question 672 Will Make Gambling Debts Legal and Enforceable.

Again, for some reason, the Proponents would like the voters not to know the proposal makes gambling debts legal and enforceable. This, however, is quite clearly the case as provided in Section 8(F) of the Initiative Petition, which states, "a debt resulting from Authorized Gaming is a legal and binding obligation and may be enforced in the courts of this State." As we have seen from the definition of "Authorized Gaming,"

debts arising from all the listed games would thus be binding and enforceable in the courts of this State.

Contrary to the Proponent's suggestion, the Ballot Title of the Attorney General does not indicate that all gambling debts would be made legal by State Question 672. In making this attack on the Attorney General's Ballot Title, the Proponents have virtually redrafted the Ballot Title by adding the word all. Then, Proponents object that the Ballot Title to tell the vote that all gambling debts would be legal. The Attorney General's Ballot Title does not, however, state that all gambling debts would be legal. The Attorney General's Ballot Title accurately describes the effect of the Ballot Title and therefore should be accepted.

Public policy demands that the voting public has the right to know the exact effect of their vote on this issue.

Adoption of the Attorney General's Brief in Support of His Ballot Title

In addition to the arguments made above, I adopt the arguments made by the Attorney General in support of his Ballot Title, and by reference include them, as if fully set forth in this Brief.

CONCLUSION

Having responded to all the objections of the Proponents to the Attorney General's Ballot Title, Appellee James E. Hamilton respectfully requests that this court enter its Order approving the Ballot Title prepared by the Attorney General.

Respectfully submitted,

JAMES E. HAMILTON
STATE REPRESENTATIVE, DIST. 3
432D State Capitol Building
Oklahoma City, OK 73102-4885

CERTIFICATE OF MAILING

I certify that on the 24 day of June, 1996, a true and correct copy of the foregoing document was mailed, postage prepaid, to the following:

Kevin M. Abel
Terri S. Roberts
900 Oneok Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218
Attorneys for Proponents

Charles M. Sublett, Esq.
SUBLETT & SHAFER
320 South Boston, Suite 805
Tulsa, Oklahoma 74103-3778
Counsel for Protestant, D. Wallace Hughes

Neal Leader
Senior Assistant Attorney General
112 State Capitol Building
Oklahoma City, OK 73105

James E. Hamilton
JAMES E. HAMILTON

jh/ballot/672.brf/rs

FOR OFFICIAL PUBLICATION

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
NOV 6 1996
OKLAHOMA SECRETARY OF STATE

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV 05 1996
JAMES W. PATTERSON
CLERK

IN RE	)	
	)	
INITIATIVE PETITION NO. 363,	)	No. 86,375
	)	
STATE QUESTION NO. 672.	)	

ORIGINAL PROCEEDING TO DETERMINE THE VALIDITY OF INITIATIVE PETITION NO. 363, STATE QUESTION NO. 672, AND APPEAL FROM BALLOT TITLE SUBMITTED BY ATTORNEY GENERAL

This is an original proceeding to challenge the sufficiency of Initiative Petition 363, State Question Number 672, and an appeal from the ballot title prepared by the attorney general. The petition proposes for submission an amendment to the Oklahoma Constitution that would legalize casino gambling. During the first five years the measure would limit authorized gambling to four geographical locations. It would create a gaming commission with power over regulation and licensing, require specific minimum standards for gambling facilities, and declare authorized gambling-related indebtedness subject to civil liability.

INITIATIVE PETITION NO. 363 IS HELD LEGALLY SUFFICIENT FOR SUBMISSION TO THE PEOPLE OF OKLAHOMA; THE TEXT OF THE BALLOT TITLE PREPARED BY THE ATTORNEY GENERAL DECLARED LEGALLY DEFICIENT IN PART AND AMENDED.

Charles M. Sublett Sublett & Shafer Tulsa, Oklahoma	For Protestant Hughes
Kevin M. Abel Terri S. Roberts M. Sean Radcliffe Pray, Walker, Jackman, Williamson & Marlar Tulsa, Oklahoma	For Proponents, Better Opportunities for Oklahoma's Students & Taxpayers, Inc., and Steven R. Kelley, An Individual Citizen and and for contestants in the ballot title appeal
Neal Leader Senior Assistant Attorney General State Attorney General Oklahoma City, Oklahoma	For the proponent of the Ballot Title

Rep. James E. Hamilton
432D State Capitol Building
Oklahoma City, Oklahoma

In support of Attorney General's Ballot Title

OPALA, J.

This is an original proceeding, brought under the authority of 34 O.S.Supp.1992 § 8[1], to challenge the legal sufficiency of Initiative Petition No. 363 [IP 363], State Question No. 672, and an appeal, authorized by 34 O.S. 1991 § 10(A),[2] from the ballot title prepared by the Attorney General [AG].

We (a) *hold* that the initiative measure in question is legally sufficient for submission to the electorate and (b) *amend* those portions of the AG's substitute ballot title which are found deficient to inform the voters of the proposed measure's effect.

I

THE ANATOMY OF THE INITIATIVE PROCESS

Steven R. Kelley filed IP 363 on June 30, 1995 in the Secretary of State's office on behalf of Better Opportunities For Oklahoma's Students & Taxpayers, Inc. [proponents]. The initiative measure proposes for submission to the voters a new constitutional article that would legalize and regulate casino gambling in Oklahoma.[3]

---

[1] The pertinent terms of 34 O.S.Supp.1992 § 8, are:

> C. * * * Upon order of the Supreme Court it shall be the duty of the Secretary of State to forthwith cause to be published, in at least one newspaper of general circulation in the state, a notice of such filing and the apparent sufficiency or insufficiency thereof and notice that *any citizen or citizens of the state may file a protest to the petition* or an objection to the count made by the Secretary of State, by a written notice to the Supreme Court of the state and to the proponent or proponents filing the petition, said protest to be filed within ten (10) days after publication. A copy of the protest or objection to the count shall be filed with the Secretary of State. * * * (Emphasis added.)

[2] For the complete text of 34 O.S. 1991 § 10(A), see *infra* note 43.

[3] On October 16, 1995 the Secretary of State, by letter to the Chief Justice, (a) certified the petition contained 202,993 signatures and (b) that 149,252 was the number of signatures necessary to place the matter before the electorate in accordance with 34 O.S.Supp.1992 § 8(C). The Secretary of State published notice of the petition's filing on October 27, 1995. No challenge has been lodged to the

(continued...)

Wallace Hughes [protestant] pressed a protest to the measure, raising issues about the petition's "substance (constitutionality) and form." The measure was then submitted to the Attorney General. He *found* the ballot title "was not in harmony with the law" and *prepared a substitute text*.

The court is called upon to determine whether the initiative petition is sufficient for submission to a vote of the electorate and, if so, whether the AG's ballot title complies with the law's requirements.[4]

II

THE PROPOSED MEASURE

The proposed measure would add a new article to the State Constitution. It would make four locations immediately eligible for authorized gaming — the pari mutual horse racing facilities at Remington Park in Oklahoma County and Blue Ribbon Downs in Sequoyah County,[5] anywhere in Love County and a specified tax district in Tulsa County. Until five years after the measure's approval by the voters, casino gambling would not be allowed in the remaining 73 counties. A seven-member state gaming commission would be created with authority to provide regulation and enforcement of casino gambling to be held at authorized gaming

---

(...continued)
numerical sufficiency of the signatures. Although proponents initially questioned the Secretary of State's signature count (which eliminated some signatures as invalid), their protest was later withdrawn.

[4] For the statutory ballot title requirements, see 34 O.S.Supp.1994 § 9(B), *infra* note 41.

[5] The terms of § 4(A)(1) of IP 363 are:

> A. Authorized Gaming shall be allowed at a Gaming Facility at each of the following locations:
>
> 1. any horse racing track which has conducted pari-mutuel wagering for more than 500 days during the five (5) years preceding the filing date of an application to be a Licensed Operator at such location;

The AG's substitute ballot title states that IP 363 would authorize gambling at two racing tracks — Remington Park and Blue Ribbon Downs. *See infra* note 39. The proponents do not challenge this statement.

facilities. Also provided by the measure are criminal penalties for violation of gaming laws and legalization of obligations incurred in the course of authorized gaming. The commission would collect gaming fees from each licensed gaming facility operator, retaining the legislatively-approved amount of its budget and initial operations cost. The remaining receipts would be earmarked for specific computer-related educational purposes, local governments, and correctional institutions.

III

THE CHALLENGES INTERPOSED TO THE PETITION'S SUFFICIENCY AND TO THE AG'S SUBSTITUTE BALLOT TITLE TEXT

Protestant, who challenges the legal sufficiency of IP 363, which proposes for submission to the electorate a new constitutional article that would legalize and regulate casino gambling, urges that the proposed measure is legally infirm because: (1) it would impermissibly restrict the exercise of Indian sovereignty in violation of the Supremacy Clause of the U.S. Constitution[6] and the Enabling Act of the Oklahoma Constitution,[7] (2) it would violate the 14th Amendment of the U. S. Constitution by impermissibly categorizing certain citizens or groups by race and/or national origin;[8] (3) it is contrary to the single-subject mandate of Art. 24, § 1, Okl.Const.,[9] and (4) its gist is misleading and deceptive.

Proponents challenge the AG's substitute ballot title on four grounds: (1) the AG's use of the word "gambling" instead of "gaming" implies a technical and biased meaning; (2) the AG's reference to the legalization and enforceability of gambling

---

[6] For the terms of the Supremacy Clause, see *infra* note 10.

[7] For the pertinent provisions of the Oklahoma Enabling Act, see *infra* note 12.

[8] For the pertinent provisions of the Equal Protection Clause of the 14th Amend., § 1, U.S.Const, see *infra* note 11.

[9] For the pertinent terms of Art. 24, § 1, Okl.Const., see *infra* note 30.

debts in the ballot title is a misstatement of the proposed amendment; (3) the AG's statement that the measure opens the door for Indian tribes to engage in new forms of gambling is a purely speculative consequence; and (4) the textual allusion that state limits and standards would have limited or no effect on Indian gambling is a misstatement of the law.

IV

PROTESTANT'S CHALLENGE

A.

Supremacy Clause and Oklahoma Enabling Act Challenges

Protestant's constitutional challenge to the sufficiency of IP 363 centers on the measure's alleged impact on tribal casino gambling on Indian land. The *sole* provision that pertains to Indian tribes is in § 8(D) of the initiative in contest. Its terms are:

> § 8. Miscellaneous. * * *
>
> D. Any compact or agreement concerning Class III gaming, as defined by federal law, as amended from time to time, between the State of Oklahoma and any Indian tribe shall *adopt the definition and scope of Authorized Gaming* set forth in this Article, and *shall contain*, among any other permitted provisions, at least the *minimum standards for a Gaming Facility* provided in § 4.D of this Article. (Emphasis added.)

Protestant urges the § 8(D) mandate that tribal-state gaming compacts adopt IP 363's "definition and scope of Authorizing Gaming" and contain the "minimum standards for a Gaming Facility" facially violates the Supremacy[10] and Equal

---

[10] Art. 6, cl. 2, U.S. Const., states in pertinent part:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the *supreme Law of the Land;* and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. (Emphasis added.)

Protection Clauses[11] of the U.S. Constitution as well as the Enabling Act (Art. 1, §§ 1 and 3),[12] Art. 2, § 7[13] and Art. 5, § 51[14] of the Oklahoma Constitution. He contends (a) the measure's initial geographical limitation of casino gaming to four locations, as well as its five-year moratorium on gaming in the remaining counties, will impermissibly restrict casino gaming on Indian lands, (b) the measure's terms will be enforced on Indian land by state legislation and by gaming commission personnel, (c) Indian tribes presumably will be subject to a 10% tax on gaming proceeds and (d) the measure's mandated specifications for physical construction of gaming facilities[15] will be enforced upon gambling casinos in Indian country.

---

[11] The Equal Protection Clause of the 14th Amend., § 1, U.S.Const., commands that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Nordlinger v. Hahn, 505 U.S. 1, 9, 112 S.Ct. 2326, 2331, 120 L.Ed.2d 1 (1992).

[12] The terms of Art. 1, § 1, Okl.Const., are:

> The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

The terms of Art. 1, § 3, Okl.Const., are:

> The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States. Land belonging to citizens of the United States residing without the limits of the State shall never be taxed at a higher rate than the land belonging to residents thereof. No taxes shall be imposed by the State on lands or property belonging to or which may hereafter be purchased by the United States or reserved for its use.

[13] The terms of Art. 2 § 7, Okl.Const., are:

> No person shall be deprived of life, liberty, or property, without due process of law.

[14] The terms of Art. 5 § 51, Okl.Const., are:

> The Legislature shall pass no law granting to any association, corporation, or individual any exclusive rights, privileges, or immunities within this State.

[15] The terms of § 4(D) of IP 363 are:

> § 4. Authorized Gaming.
>
> * * *
>
> D. Each Gaming Facility shall conform to the following minimum standards and shall consist of: an enclosed, roofed, permanent building of a design approved by the Commission, containing not fewer than 1,000 gaming stations and covering not less than

(continued...)

Protestant's constitutional challenges, which presuppose that the § 8(D) requirements for tribal-state gaming compacts make the measure's regulatory and enforcement provisions applicable to Class III gaming on Indian lands in violation of the Supremacy Clause, surmise that this restriction on the rights of Indians in the use of their lands would visit disparate treatment on a recognized minority — Native American Indians — and hence contravene federal gaming law[16] as well as certain federal constitutional jurisprudence.[17]

Proponents counter that protestant misapprehends § 8(D) of IP 363, which makes *no reference* to the five-year limitation or to the location of gaming facilities to be erected anywhere on Indian lands under a tribal-state gaming compact. According to proponents, this section does not establish standards for gaming on Indian land, but rather clarifies the state's obligations in negotiating two covenants of a tribal-state gaming compact under the Indian Gaming Regulatory Act [IGRA].[18] The § 8(D) requirement that the standards for the gaming facility be negotiated in a tribal-state gaming compact, proponents explain, addresses one of the many terms contemplated by IGRA.[19]

(...continued)

30,000 square feet devoted to Authorized Gaming, with commitments for new investment in the Gaming Facility building, its furniture, fixtures, Gaming Devices and equipment of not less than $25 million.

[16] Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-2721.

[17] For this proposition protestant cites California v. Cabazon Band of Mission Indians, 480 U.S. 202, 107 S.Ct. 1083, 94 L.Ed.2d 244 (1987).

[18] *Supra* note 16.

[19] The terms of 25 U.S.C. § 2710(d)(3)(C)(vi) are:

(C) Any Tribal-State compact negotiated under subparagraph (A) may include provisions relating to * * *
(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; * * *

The Supremacy Clause[20] establishes federal law as the highest legal norm in the land and preempts conflicting or non-conforming state laws.[21] Preemption deals with congressional power to legislate to the exclusion of the states on subjects upon which Congress has the power to make law. That power is drawn from the federal constitution which limits the conferred authority to certain reserved subjects.[22] Congress adopted IGRA in 1988 to strike a balance between the rights of Indian tribes and the interests that states may have in regulating sophisticated forms of gambling.[23] Class III gaming is lawful on Indian lands *only if it is* (1) authorized by a properly approved tribal ordinance or resolution, (2) permitted by the State and (3) governed by a compact between a state and an Indian tribe.[24] "Authorized gaming",[25] as defined in IP 363, falls within Class III gaming under IGRA.[26]

---

[20] For the pertinent terms of the Supremacy Clause, Art. 6, cl. 2, U.S.Const., see *supra* note 10.

[21] United States v. Home Federal S. & L. Ass'n of Tulsa, Okl., 418 P.2d 319, 325 (1966); Dean v. Crisp, Okl.Cr., 536 P.2d 961, 963 (1975); *see* Walker v. Maruffi, 737 P.2d 544, 547 (N.M.Ct.App.1987).

[22] The U.S. Constitution is a charter of restricted authority and delegated powers. United States v. Darby, 312 U.S. 100, 123-124, 61 S.Ct. 451, 462, 85 L.Ed. 609 (1941); *see also* Fair School Finance Council of Oklahoma, Inc. v. State, Okl., 746 P.2d 1135, 1149 (1987).

[23] *See* S.Rep. 100-446, at 13 (1988), *reprinted in* 1988 U.S.C.C.A.N. 3071, 3073.

[24] Class III gaming is lawful on Indian lands only if this activity is located in a state that "permits such gaming for any purpose by any person, organization, or entity, and . . . [is] conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State." 25 U.S.C. § 2710(d)(1).

[25] Section 9(A) of IP 363 defines "authorized gaming" as:

> any game played with cards, dice, or any mechanical, electromechanical, or electronic or computer device or machine for money, property, checks, credit, or any representative of value, including any of the following: baccarat, big six, craps, keno, pai-gow, poker, red dog, roulette, slot machines, twenty-one, blackjack, wheel of fortune, any banking or percentage game, any electronic, mechanical, or computer device version of these games, and any other game or device approved by the Commission; provided, however, Authorized Gaming shall not include jai alai, sports pools, dog racing, or bingo;

[26] IGRA establishes three classes of gambling: Class I gaming — social or ceremonial games; Class II gaming — bingo and similar games; and Class III gaming — all other gambling, including pari-mutuel horse racing, casino gaming, and electronic versions of Class II games. 25 U.S.C. § 2703. It provides for a system of joint regulation of Class II gaming by tribes and the federal government and a system for compacts between Indian tribes and states for regulation of Class III gaming. 25 U.S.C. §

(continued...)

As we view the arguments, *no preemption problem* is presented by the initiative measure under consideration here.[27] All of the issues pressed by protestant *relate to possible impacts of IP 363 on Indian tribes and on federal gaming law*. They fall into the category ranging from premature speculation to pure conjecture, dependent as they are on implementation of the measure's provisions either by the state gaming commission or by legislation. These challenges cannot be settled in advance of a tribal-state compact and of the evolved concrete facility specifications to be developed and tested against the backdrop of federal law. Protestant's constitutional challenge is both premature and nonjusticiable. It is not tendered to us on a record that would allow the issue to be decided. There is not yet an actual controversy because no compact has been offered for adversarial testing.

The prudential bar of restraint commands that the constitutional issues pressed today not be resolved in advance of strict necessity.[28] No necessity exists here for presubmission resolution of the constitutional validity of these premature content-based challenges to the petition. Until actual implementation by the gaming commission (or legislative enactment) has been effected, the meaning of the word *scope* (in the measure) remains uncertain. To now scrutinize the outer limit of that word in terms of its impact on Indian tribes would be, at best, speculative.

(...continued)
2710. For recent U.S. Supreme Court jurisprudence construing IGRA, see Seminole Tribe of Florida v. Florida, ____U.S. ____, 116 S.Ct. 1114, 134 L.Ed.2d 252 (1996).

[27] Because we conclude the measure in question is not facially invalid, we need not address proponents' argument that presubmission review of the content of an initiative petition is an impermissible prior restraint upon core political speech.

[28] The prudential rule of necessity, adhered to by all state and federal courts, holds that constitutional issues must not be resolved in advance of strict necessity. Smith v. Westinghouse Elec. Corp., Okl., 732 P.2d 466, 467 n.3 (1987); I.N.S. v. Chadha, 462 U.S. 919, 936-937, 103 S.Ct. 2764, 2776-2777, 77 L.Ed.2d 317 (1983); Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 347, 56 S.Ct. 466, 483, 80 L.Ed.2d 688 (1936) (Brandeis, J., concurring); *see also* Schwartz v. Diehl, Okl., 568 P.2d 280, 283 (1977); Dablemont v. State, Department of Public Safety, Okl., 543 P.2d 563, 564-565 (1975).

Moreover, there is no one before us now who has standing to challenge the measure's validity for its federal and state constitutional conformity.[29] No individual tribe has thus far been adversely impacted. We hence conclude that the measure is free from facial federal or state constitutional infirmity.

B.

The Standard For Gauging Conformity Of The Proposed Initiative — A Constitutional "Amendment by Article" — To The Single-Subject Mandate of Art. 24 § 1, Okl.Const.

Protestant, who argues that the proposed initiative petition violates the single-subject mandate of Art. 24 § 1, Okl.Const.,[30] by encompassing more than one general subject, objects to the provisions that relate to the taxability of gaming operations, the allocation of the gaming revenue, and to the legalization of gambling-related civil liability. Although conceding that the article's various subjects "tangentially relate to casino gambling", protestant urges that these provisions are unnecessary to the objective of legalizing and regulating casino gaming. Protestant implores us to reject these provisions as a facially impermissible attempt at log rolling.

---

[29] The threshold criteria for standing are that (1) an actual or threatened injury (sometimes called injury-in-fact) has occurred, (2) some relief for the harm can be given, and (3) the interest to be guarded is within a statutorily or constitutionally protected zone. Hendrick v. Walters, Okl., 865 P.2d 1232, 1236-1237 (1993); Independent School Dist. No. 9 of Tulsa County v. Glass, Okl., 639 P.2d 1233, 1237 (1982). Not only is standing confined to those whose interest in the controversy is "direct, immediate and substantial," [Underside v. Lathrop, Okl., 645 P.2d 514, 517 (1982); Democratic Party of Oklahoma v. Estep, Okl., 652 P.2d 271, 274 n. 13 (1982)], but a litigant must also have a personal stake in the outcome. *Glass, supra* at 1237.

[30] The pertinent terms of Art. 24, § 1, Okl.Const., are:

> * * *No proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace *more than one general subject* and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the *amendment of the Constitution by articles*, which embrace one general subject, *each proposed article shall be deemed a single proposal* or proposition. (Emphasis added.)

A single-subject measure, within the meaning of Art. 24 § 1, Okl.Const.,[31] is one whose componential ingredients, no matter how numerous, are so interrelated as to all form parts of an integrated whole. The purpose of the one-general-subject criterion is to guard against deceit or against the presentation of a misleading proposal as well as to prevent log rolling — the combining of unrelated proposals.[32] *In re Initiative Petition No. 319*[33] teaches that when the proposed *constitutional amendment is by a new article* the test for gauging multiplicity of subjects is whether the changes proposed are *all germane* to a singular common subject and purpose or are essentially unrelated one to another.[34]

When testing a proposed constitutional amendment for its components' germaneness, we look to whether each of its several facets bears a common concern

---

[31] *Id.*

[32] *Log rolling* is defined as a "legislative practice of embracing in one bill several distinct matters, none of which, perhaps, could singly obtain the assent of the legislature, and then procuring its passage by a combination of the minorities in favor of each of the measures into a majority that will adopt them all. Practice of including in one statute or constitutional amendment more than one proposition, inducing voters to vote for all, notwithstanding they might not have voted for all if amendments or statutes had been submitted separately." Black's Law Dictionary 849 (5th ed. 1979).

[33] Okl., 682 P.2d 222, 224 (1984). In *In re Init. Pet. 319* the *germaneness* test was applied in gauging the constitutional conformity of *a proposed constitutional article* to the single-subject mandate in Art. 24, § 1, Okl.Const. The court noted that consistently with the approach suggested in In re Initiative Petition No. 314, Okl., 625 P.2d. 595 (1980), it would apply no more restrictive a test than that approved in both Rupe v. Shaw, 286 P.2d 1094 (1955) and In re Initiative Petition No. 271, 373 P.2d 1017 (1962). In *In re Init. 319, supra*, the court observed:

> [G]enerally provisions governing projects related as to constitute a single scheme may be properly included within the same amendment; and that matters *germane* to the same general subject indicated in the amendment's title, or within the field of legislation suggested thereby, may be included therein. (Emphasis added.)

Id. at 224, quoting from *Rupe, supra* at 1097. In *In re Init. Pet. 319, supra* at 224, the court also observed that *Rupe* included within the single-subject standard components which were incidents, "necessary or convenient or tending to the accomplishment of one general design notwithstanding other purposes than the main design may be thereby subserved." *Rupe, supra* at 1097, accorded a liberal rather than a narrow or technical construction to the single-subject requirement.

[34] In re Initiative Petition No. 319, *supra* note 33 at 224; In re Initiative Petition No. 271, *supra* note 33 at 1019; *Rupe, supra* note 33 at 1097. *See also* Campbell v. White, Okl., 856 P.2d 255, 260 (1993), where the court reaffirms the germaneness test for determining a legislative bill's conformity to the Art. 5, § 56, Okl.Const., single-subject command . The germaneness test, as elucidated in Legislature of State of Cal. v. Eu, 816 P.2d 1309, 1320 (Cal.1991), is met when all of the parts of a measure are "reasonably germane" to each other and to "the general purpose or object" of the measure.

or impacts one general object or subject. Gauging the measure under consideration by these criteria, we hold that the elements of taxability, distribution of gaming revenue and of civil liability for debts incurred in gaming to be authorized are *germane* to the general subject of legalization and regulation of authorized casino gambling.

C.

Sufficiency of the Gist

Protestant claims the petition before us is deceptive and misleading. He argues that the proposed gist statement — required by 34 O.S.Supp.1992 § 3[35] to be on each signature page of the petition — conveys by inference or implication that the measure would immediately legalize casino gaming statewide, although in fact IP 363 imposes a severe geographical restriction for the first five years. We are urged that the gist statement creates the appearance that local government would receive a portion of the tax, whereas most local governments will not realize any proceeds during the five-year moratorium after the measure's approval. According to protestant, the failure of the gist statement to mention that the measure declares gambling-related indebtedness to be subject to civil liability constitutes not only log rolling at its worst, but outright deceit as well. We disagree.

The terms of § 3 require that the petition contain "[a] simple statement of the gist of the proposition."[36] In contrast, 34 O.S.Supp.1994 § 9 provides that the ballot title, in no more than 150 words, explain the *effect* of the proposition. The

---

[35] The pertinent terms of 34 O.S.Supp.1992 § 3 are:

> * * * A *simple statement of the gist* of the proposition shall be printed on the top margin of each signature sheet. * * * (Emphasis added.)

[36] For the pertinent terms of 34 O.S.Supp.1992 § 3, see *supra* note 35; In re Initiative Petition No. 360, Okl., 879 P.2d 810, 817 (1994).

purpose of these two statutes is to prevent *fraud, deceit* or *corruption* in the initiative process.[37]

The sole question presented for the court's determination is whether *the absence of a more detailed gist statement* about the phase-in aspects of the gaming facilities in the 73 counties, the distribution of casino tax revenues and the legalization of gaming-related civil liability, without more, perpetrates a fraud on the signatories. The "gist" at the top of the petition states:

> The gist of the proposition is: This measure would authorize regulated casino gaming by adding a new article to the State Constitution; the casinos would pay a 10% gaming fee to the State, which, after funding the Gaming Commission, would go: 50% to public elementary and secondary schools statewide, 25% to local governments where the casinos are located, and 25% to correctional institutions.

The flaw, if any there be, in the omission of the complained-of details is not critical to protecting the initiative process from fraud. *The measure's gist is not required to contain every regulatory detail so long as its outline is not incorrect.*[38] The text of the gist prepared in this case — required by § 3 to be in simple language — informs a signer of what the measure is generally intended to do, i.e., "authorize regulated casino gaming by adding a new article to the State Constitution". We therefore approve the text of the challenged gist statement as free from the taint of misleading terms or deceitful language.

II

BALLOT TITLE PROTEST

Proponents challenge several statements in the AG's ballot title.[39] According

---

[37] Community Gas and Service Co. v. Walbaum, Okl., 404 P.2d 1014, 1016 (1965).

[38] *In re Initiative Petition No. 360, supra* note 36 at 817.

[39] The A.G.'s substitute ballot title states:

(continued...)

to proponents, the substitute text is deceptive, biased, misleading and misstates the measure's effect. They urge this court to reject the AG's substitute and adopt *their version* that is included in the initiative measure.[40] The requirements for ballot titles

---

(...continued)

BALLOT TITLE

This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:

a. Slot machines and roulette,
b. Craps, keno and video gambling,
c. All gambling played with cards, dice, mechanical devices or computers, and
d. Other forms of gambling.

For the first five years there could only be four non-Indian gambling facilities. Those facilities are:

1. Remington Park Racetrack,
2. Blue Ribbon Downs Racetrack,
3. A facility in Tulsa, and
4. A facility in Love County.

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure opens the door for Indian tribes to engage in the new forms of gambling. State limits and standards would have limited or no effect on Indian gambling. The State could not tax Indian gambling.

The measure makes gambling debts legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?
_____ Yes, for the Proposal.
_____ No, against the Proposal

[40] Proponents' ballot title states:

This measure would change the State Constitution to permit casino gaming.

At first, there could be four casinos. Two casinos could be at licensed horse racing tracks running more than 500 betting days in any five year period. Another casino could be in Tulsa's arts and entertainment tax increment district. The fourth casino could be in Love County. Five years after the first casino opens, there could be other casinos by county option elections. Only one casino per county would be allowed. At least $25,000,000 would have to be invested in each casino.

A seven member Commission would regulate the casino business. The Governor and Legislative leaders would appoint the first members for one to three year terms. The Governor would appoint later members with the Senate's advice and consent. The Commission could borrow money for its first budget. Fees paid by casinos and related businesses would fund later Commission budgets.

Each casino would pay a 10% fee on its total winnings to the State. After funding the Commission's budget, 50% of the fee would go to public grade schools and high schools statewide. 25% would go to prisons. 25% would go to local governments where casinos

(continued...)

are set forth in 34 O.S.Supp.1994 § 9(B).[41] Their text must explain in basic words the effect of the proposition. The language used must neither (a) "have a specialized meaning to a particular trade or profession not commonly known to the citizens" nor (b) "reflect partiality in its composition or contain any argument for or against the measure."[42] When a prepared ballot title does not satisfy the § 9(B) requirements, this court is authorized by the provisions of 34 O.S.1991 § 10(A)[43] to correct it.[44]

(...continued)
are located.

SHALL THE PROPOSED CONSTITUTIONAL AMENDMENT BE APPROVED?

( ) YES - FOR THE AMENDMENT
( ) NO - AGAINST THE AMENDMENT.

[41] The terms of 34 O.S.Supp.1994 § 9(B) are:

B. The parties submitting the measure shall also submit a suggested ballot title which shall be filed on a separate sheet of paper and shall not be deemed part of the petition. The suggested ballot title:
1. Shall not exceed two hundred (200) words;
2. Shall explain in basic words, which can be easily found in dictionaries of general usage, the *effect of the proposition*;
3. Shall be written on the *eighth-grade reading comprehension level*;
4. *Shall not contain any words* which have a special meaning for a particular profession or trade *not commonly known* to the citizens of this state;
5. Shall not reflect partiality in its composition or contain any argument for or against the measure;
6. Shall contain language which clearly states that a "yes" vote is a vote in favor of the proposition and a "no" vote is a vote against the proposition; and
7. Shall not contain language whereby a "yes" vote is, in fact, a vote against the proposition and a "no" vote is, in fact, a vote in favor of the proposition. (Emphasis added.)

[42] 34 O.S.Supp.1994 § 9(B)(4) and (5), *supra* note 41.

[43] The terms of 34 O.S.1991 § 10(A) provide:

> A. Any person who is dissatisfied with the wording of a ballot title may, within ten (10) days after the same is filed by the Attorney General with the Secretary of State as provided for in Section 9 of this title, appeal to the Supreme Court by petition in which shall be offered a substitute ballot title for the one from which the appeal is taken. Upon the hearing of such appeal, the *court may correct or amend the ballot title* before the court, or accept the substitute suggested, or may draft a new one which will conform to the provisions of Section 9 of this title. (Emphasis added.)

[44] In re Initiative Petition No. 362, Okl., 899 P.2d 1145, 1148-1149 (1995).

A.

Misleading Statements In the Ballot Title

Proponents contend the AG's substitute ballot title is *argumentative* and *biased* because it impermissibly speculates on the possible *consequences*, rather than the *effect*, of the proposed measure's passage. They urge that some language in the AG's ballot title that pertains to the measure's effect on Indian gaming misstates the law. Proponents direct us to two sentences in the fourth paragraph of that title:

> The measure opens the door for Indian tribes to engage in the new forms of gambling. State limits and standards would have limited or no effect on Indian gambling.

(1) ***"The measure opens the door for Indian tribes to engage in the new forms of gambling."***

Proponents argue the statement "the measure opens the door for Indian tribes to engage in the new forms of gambling" is a *consequence* of the measure *rather than its effect*.

The AG counters that IGRA allows Indian tribes to engage in Class III gaming only in a state which permits that form of gambling. If IP 363 is approved by the voters, the AG points out, the State, upon request, will be required to negotiate in good faith to enter into a tribal-state compact. Failure to mention this *major effect* of the measure, the AG urges, would mislead the voters into believing that casino gaming could only take place at state licensed facilities.

We agree that the negotiability of tribal-state gaming compacts is indeed a legal effect of the measure's adoption. Class III gaming on Indian land ("authorized gaming" under IP 363) is made lawful only in those states which permit that form of gambling within their borders. Because the quoted text may mislead the voter into believing that "opening the doors" is akin to "opening the floodgates", that

sentence is amended as follows:

> "The measure would allow Indian tribes to request an agreement to operate a gambling casino."

(2) ***"State limits and standards would have limited or no effect on Indian gambling."***

Proponents argue that the quoted text in the AG's ballot title is deceptive and misleading because it misstates the effect of IP 363 by implying that Indian-run casinos will not be subject to state standards and other regulations. They claim that this sentence *is merely a possible consequence of the measure's adoption, not its effect*. According to proponents, the proposed measure requires that Indian-run casino gambling be subject to the same regulations as all other forms of authorized casino gambling. The legalization of casino gambling in the State, proponents urge, will not "automatically allow tribes to force" the State into negotiations for a tribal-state compact. They direct us to recent U.S. Supreme Court jurisprudence, *Seminole Tribe of Florida v. Florida*,[45] which teaches that tribes cannot sue the states to compel negotiation of a tribal-state compact.

Because the state-law effect on Class III gaming depends upon the negotiated compact between the State and the respective tribal government, the AG's failure to explain this correlation in the ballot title may mislead voters into believing that casino gambling on Indian land will be an unregulated activity. We must accordingly delete two sentences as unnecessary and perhaps misleading:

> " State limits and standards would have limited or no effect on Indian gambling. The State could not tax Indian gambling."

B.

Legalizing Gambling Debts

---

[45] ____ U.S.._____, 116 S.Ct. 1114, 134 L.Ed.2d 252 (1996).

Proponents object to the ballot title's statement that the "measure makes gambling debts legal and enforceable." They argue that reference to the legalization of gambling debts is inaccurate and biased. They concede that gaming debts incurred at *authorized casinos would be* civilly enforceable, but disagree that this applies to *all* gambling debts. According to proponents, the AG's ballot title *will mislead the voters to reach an erroneous conclusion.*

The AG, who counters that IP 363 not only legalizes new forms of gambling, but also a person's "going into debt to gamble," argues that nowhere does the ballot title state that all gambling debts are legally enforceable.

We hold that the objectionable text of the AG's ballot title is indeed overly broad and could lead voters to believe that gambling debts other than those authorized by the proposed measure would be made legal and enforceable. The deficiency is corrected by adding four words to the AG's ballot title statement to provide:

> "The measure makes gambling debts incurred at authorized casinos legal and enforceable."

C.

Bias In The Ballot Title — *Gaming* v. *Gambling*

Proponents object to the AG's use (in the ballot title) of the word "gambling" instead of "gaming". They argue the former has a more technical and biased meaning in that it evokes "images of illegal betting in smoke filled rooms accessible only by alleyways". The measure, they urge, proposes for submission the legalization of intensely regulated "casino gaming," rather than the "back alley" type of gambling. We disagree.

Recognized constitutional hermeneutics dictates that fundamental-law

provisions be interpreted in conformity with their *ordinary* significance in the English language, *i.e.*, that they be given their *commonly accepted* and *nontechnical* meaning. Fundamental-law provisions *must be construed in a practical manner in order to honor the plainly manifested intent of their drafters.*[46]

We note that the word "gaming" is the proper term when dealing with federal Indian gaming legislation — i.e., IGRA Class III gaming.[47] According to evolving academic legal classification,[48] "gaming" correctly describes certain kinds of "casino-style" gambling.[49] Should IP 363 be adopted, "gaming" will be a proper term when this court is later called upon to construe the new constitutional article. Although the latter term, as defined in IP 363, appears to be the approved parlance of the developing legal systematics in the U.S., it has not yet been accommodated by Oklahoma's own legal system. We must remain faithful to the legislative command by making the language of ballot titles intelligible for people whose understanding accords with an eighth-grade educational level.[50] For them, we believe, the word "gambling" has a fixed meaning while "gaming" might be misunderstood. In the

---

[46] Ogden v. Hunt, Okl., 286 P.2d 1088 syl. 1, 2 (1955); Sharpe v. State ex rel. Oklahoma Bar Association, Okl., 448 P.2d 301, 306 (1968); Wade v. Brown, Okl., 516 P.2d 526, 528 (1973); State ex rel. Campbell v. White, Okl., 856 P.2d 255, 262 (1993).

[47] *See* the three classifications of "gaming" under IGRA, 25 U.S.C. § 2703, *supra* note 26.

[48] G.Robert Blakey, Gaming, Lotteries, and Wagering: The pre-Revolutionary Roots of the Law of Gambling, 16 Rutgers L. J. 211, 214 n.8 (1985). "The three key forms of gambling are gaming, lotteries and betting. Gaming may be defined as 'the playing of any game for stakes hazarded by the players.' A lottery may be defined as 'a distribution of prizes by lot or chance.' Betting may be defined as 'promise[s] to give money or money's worth upon the determination of an uncertain or unascertained event in a particular way, and (unlike a lottery) may involve skill or judgment.'" *Id.* at 214 n. 8, quoting from Royal Comm'n on Lotteries and Betting 1932-33, Final Report, Cmd.

[49] Mike Roberts, The Constitutionality of Gaming in Tennessee, 61 Tenn. L.Rev. 675, 685 (1994); *Blakey*, *supra* note 48.

[50] *See* 34 O.S.Supp.1994 § 9(B)(3), *supra* note 41.

ordinary parlance, "*gambling*" is a generic word for all games of hazard.[51] Although the term "*gaming*" has a more restricted meaning in the classification given by recent jurisprudence and the evolving systematics of the textwriters, both terms — gaming and gambling — have long been deemed synonymous with "games of hazard or skills".[52]

In light of these terms' history, considered with the legislative mandate for simplicity, we cannot conclude that the AG's use of "gambling" instead of "gaming" (in the text prepared for the ballot title) is clearly contrary to the command of statutory law.

SUMMARY

Protestant's challenges to the constitutional validity of the initiative measure — based on its alleged restrictive impact on Class III gaming on Indian land — are premature and presently nonjusticiable. Assessment of the measure's impact on tribal Class III gaming and on tribal gaming facilities must await (a) implementation of the proposed measure by state gaming commission rules and procedures as well as by legislation, (b) the existence of a negotiated tribal-state compact with concrete facility specifications and (c) be viewed against the backdrop of federal law (IGRA). Absent these components, it is, at best, premature to scrutinize the outer limit of the measure's terms vis-a-vis tribal gaming on Indian land.

The proposed constitutional "amendment by article" is tested by the standard

---

[51] The term "*gambling*" (or "to *gamble*") is defined as (1) "to play games of chance for money; to stake money on some chance," THE SHORTER OXFORD ENGLISH DICTIONARY at 772 (Vol. 1)(1936); (2) to "play games of chance for high stakes," THE OXFORD DICTIONARY OF ENGLISH ETYMOLOGY at 388 (1966); (3) "practice or business of playing games for money," A DICTIONARY OF AMERICAN ENGLISH at 1094 (Vol. 2)(1940).

[52] The term "*gaming*" is defined as (1) as the "action or habit of playing a game of chance for stakes; gambling," THE OXFORD ENGLISH DICTIONARY at 342 (Vol. 6)(2d Ed 1989); (2) "playing of games of chance for money or winnings," A DICTIONARY OF AMERICAN ENGLISH at 1096(Vol.II)(1940); (3) "*Gambling* . . . the celebration of games," THE SHORTER OXFORD ENGLISH DICTIONARY at 773 (Vol. I)(1936). For the definition of *gambling*, see *supra* note 51.

of germaneness for its constitutional conformity to the Art. 24, § 1 single-subject mandate. The taxability and distribution of gaming revenue and the legalization of gaming-related civil liability are germane to the legalization, regulation and enforcement of authorized casino gambling.

The petition's gist statement — which is to be tested by whether an omission of detail will result in fraud or deceit — sufficiently and accurately informs the signer of the measure's intended purpose — i.e., to authorize and regulate casino gaming by the addition of a new constitutional article.

Four statements in the AG's substitute ballot title are held deficient or overly broad. Two of them must *be amended* and the remaining *two deleted* to avoid the taint of misleading the voters as to (a) the measure's effect on tribal gaming and (b) what gambling debts will be legalized by the measure's terms.[53]

---

[53] The *amended* AG's substitute ballot title provides:

BALLOT TITLE

This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:

a. Slot machines and roulette,
b. Craps, keno and video gambling,
c. All gambling played with cards, dice, mechanical devices or computers, and
d. Other forms of gambling.

For the first five years there could only be four non-Indian gambling facilities. Those facilities are:

1. Remington Park Racetrack,
2. Blue Ribbon Downs Racetrack,
3. A facility in Tulsa, and
4. A facility in Love County.

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure would allow Indian tribes to request an agreement to operate a gambling casino.

The measure makes gambling debts incurred at authorized casinos legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

_____ Yes, for the Proposal.
_____ No, against the Proposal

In ordinary parlance people consider all games of hazard to be accommodated more fittingly by the term "*gambling*" than by the word "*gaming*". Because constitutional provisions must be interpreted in conformity with their ordinary significance in the common English parlance, the AG's use (in the prepared ballot title) of the word "gambling" is not contrary to the command of our statutory law.

INITIATIVE PETITION NO. 363 IS HELD LEGALLY SUFFICIENT FOR SUBMISSION TO THE PEOPLE OF OKLAHOMA; THE TEXT OF THE BALLOT TITLE PREPARED BY THE ATTORNEY GENERAL DECLARED LEGALLY DEFICIENT IN PART AND AMENDED.

WILSON, C.J., and **HODGES, LAVENDER, SIMMS, HARGRAVE, OPALA**, and **WATT**, JJ., concur;
KAUGER, V.C.J., and **SUMMERS**, J., concur in result.

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897

Tom Cole
Secretary of State

405-521-3911
Fax # (405) 521-3771

Frank Keating
Governor

November 6, 1996

11-6-96

The Honorable Frank Keating
Governor, State of Oklahoma
Room 212, State Capitol
Oklahoma City, Oklahoma 73105

Dear Governor Keating:

Attached is a copy of the Oklahoma Supreme Court Order Styled In re Initiative Petition No. 363, State Question 672, Supreme Court Order No. 86,375 filed with the Office of the Secretary of State this 6th day of November, 1996.

The Supreme Court has declared that Initiative Petition No. 363 is held legally sufficient for submission to the people of Oklahoma and that the text of the ballot title prepared by the Attorney General declared legally deficient in part and amended.

Any petitions for rehearing on the Supreme Court ruling shall be filed with the clerk of the Appellate Courts within twenty days of November 5, 1996. This office will notify you should a rehearing petition be filed. If there are no rehearing petitions filed, this office will submit the proposed State Question to your office along with the amended ballot title in order for you to issue the proclamation for the election date to comply with Title 34 Oklahoma Statutes 1991, Section 12.

If there are any questions or if this office may be of further assistance, please do not hesitate to contact myself or Kathy Jekel at the above number or address.

Sincerely,

Pam Warren
Assistant Secretary of State

PW/kj

Enclosure: Supreme Court Order 86,375 of November 5, 1996

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

November 6, 1996

The Honorable Lance Ward
Oklahoma State Election Board
Room 6, State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Ward:

Attached is a copy of the Oklahoma Supreme Court Order Styled In re Initiative Petition No. 363, State Question 672, Supreme Court Order No. 86,375 filed with the Office of the Secretary of State this 6th day of November, 1996.

The Supreme Court has declared that Initiative Petition No. 363 is held legally sufficient for submission to the people of Oklahoma and that the text of the ballot title prepared by the Attorney General declared legally deficient in part and amended.

Any petitions for rehearing on the Supreme Courts ruling shall be filed with the clerk of the Appellate Courts within twenty days of November 5, 1996. This office will notify you should a rehearing petition be filed. If there are no rehearing petitions filed, this office will transmit the amended ballot title and a copy of the measure to you in order to comply with Title 34 Oklahoma Statutes 1995, Section 9.

If there are any questions or if this office may be of further assistance, please do not hesitate to contact myself or Kathy Jekel at the above number or address.

Sincerely,

Pam Warren
Assistant Secretary of State

PW/kj

Enclosure: Supreme Court Order 86,375 of November 5, 1996

RECEIVED
NOV 06 1996
STATE ELECTION BOARD

RECEIVED
NOV 2 6 1996
OFFICE OF THE
GOVERNOR

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

November 26, 1996

The Honorable Frank Keating
Governor, State of Oklahoma
Room 212, State Capitol
Oklahoma City, Oklahoma 73105

Dear Governor Keating:

There were no rehearing petitions filed for Supreme Court Order No. 86,375.

This office is notifying you that State Question 672, Initiative Petition No. 363 is legally sufficient for submission to the people of Oklahoma. The text of the ballot title prepared by the Attorney General was declared legally deficient in part and amended. The amended title is noted as footnote 53 on page 21 of the attached Supreme Court Order.

Pursuant to Title 34 Oklahoma Statutes, Section 12, the election proclamation may be issued setting forth the substance of this measure and the date the election will be held.

If there are any questions or if this office may be of further assistance, please do not hesitate to contact myself or Kathy Jekel at the above number or address.

Sincerely,

Pam Warren
Assistant Secretary of State

PW/kj

Enclosure: Supreme Court Order 86,375 of November 5, 1996
State Question 672

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

November 26, 1996

RECEIVED
NOV 26 1996
STATE ELECTION BOARD

The Honorable Lance Ward
Oklahoma State Election Board
Room 6, State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Ward:

There were no rehearing petitions filed on the ballot title of State Question No. 672, Initiative Petition No. 363.

The Supreme Court has declared that Initiative Petition No. 363 is held legally sufficient for submission to the people of Oklahoma and that the text of the ballot title prepared by the Attorney General declared legally deficient in part and amended. The amended and official ballot title appears as footnote 53 on page 21 of the attached Supreme Court Order.

Also, attached is another copy of State Question No. 672 for reference.

This office will deliver an attested copy of the election proclamation once it has been received from the Governor's Office.

If there are any questions or if this office may be of further assistance, please do not hesitate to contact myself or Kathy Jekel at the above number or address.

Sincerely,

Pam Warren
Assistant Secretary of State

PW/kj

Enclosure: Supreme Court Order 86,375 of November 5, 1996
State Question No. 672

Frank Keating
Governor

FILED
AUG 12 1997
OKLAHOMA SECRETARY
OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, Frank Keating, Governor of the State of Oklahoma, pursuant to the provisions of Section 3 of Article V of the Oklahoma Constitution because the election date set in the Initiative Petition hereby declare that Initiative Petition Number 363, State Question 672, be submitted to qualified electors of the State of Oklahoma for their approval or disapproval at a special election to be held statewide on February 10, 1998.

The substance of the measure, as reflected in the gist of State Question 672, is as follows:

> The gist of the proposition is: The measure would authorize regulated casino gaming by adding a new article to the State Constitution; the casinos would pay a 10% gaming fee to the State, which, after funding the Gaming Commission, would go: 50.9% to public elementary and secondary schools statewide, 25% to local governments where the casinos are located, and 25% to correctional institutions.

and, as reflected in the Ballot Title as approved by the Court, which reads as follows:

> This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:
>
> a. Slot machines and roulette,
> b. Craps, keno and video gambling,
> c. All gambling played with cards, dice, mechanical devices or computers, and
> d. Other forms of gambling.
>
> For the first five years there could only be four non-Indian gambling facilities. Those facilities are;
>
> 1. Remington Park Racetrack,
> 2. Blue Ribbon Downs Racetrack,
> 3. A facility in Tulsa, and
> 4. A facility in Love County.

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure would allow Indian tribes to request an agreement to operate a gambling casino.

The measure makes gambling debts incurred at authorized casinos legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

_____ Yes, for the Proposal.
_____ No, against the Proposal.

All regular election officials are hereby authorized, directed and ordered to hold and conduct said election of State Question No. 672, Initiative Petition No. 363 on February 10, 1998.

Copies of this proclamation shall be delivered to the Speaker of the House of Representatives, President Pro Tempore of the Senate, Secretary of the State Election Board and Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 12th day of August, 1997.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

ATTEST:

Secretary of State

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

August 12, 1997

Kevin M. Abel
Pray, Walker, Jackman,
Williamson & Marlar
900 Oneok Plaza
100 West 5th Street
Tulsa, Oklahoma 74103-4218

Dear Mr. Abel:

Pursuant to 34 O.S. 1991, Section 12, the Governor has issued the election proclamation calling for a special election for State Question 672, Initiative Petition Number 363.

This office has filed a copy of the attached election proclamation with the Oklahoma State Election Board.

If there are any questions concerning any of the above information please do not hesitate to contact this office.

Sincerely,

Dawn Amundsen

Dawn Amundsen
Assistant Secretary of State

DA/kj

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

August 12, 1997

Steven R. Kelley
1519 E. 15th Street
Tulsa, Oklahoma 74120

Dear Mr. Kelley:

Pursuant to 34 O.S. 1991, Section 12, the Governor has issued the election proclamation calling for a special election for State Question 672, Initiative Petition Number 363.

This office has filed a copy of the attached election proclamation with the Oklahoma State Election Board.

If there are any questions concerning any of the above information please do not hesitate to contact this office.

Sincerely,

Dawn Amundsen

Dawn Amundsen
Assistant Secretary of State

DA/kj

RECEIVED
AUG 13 1997
STATE ELECTION BOARD

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

August 13, 1997

Corrected Copy

The Honorable Lance Ward
Secretary, State Election Board
State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Ward:

Pursuant to the provisions of Title 34 O.S. 1991, Section 12 and in accordance with the Governor's Proclamation calling for a special election on State Question Number 672, Initiative Petition Number 363 to be submitted to the qualified electors of the State of Oklahoma for their approval or disapproval at a special election to be held statewide on February 10, 1998. I hereby submit an attested copy of the pending proposition for the above said state question.

Sincerely,

Dawn Amundsen

Dawn Amundsen
Assistant Secretary of State

DA/kj

RECEIVED
AUG 12 1997
STATE ELECTION BOARD

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

August 12, 1997

The Honorable Lance Ward
Secretary, State Election Board
State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Ward:

Pursuant to the provisions of Title 34 O.S. 1991, Section 12 and in accordance with the Governor's Proclamation calling for a special election on State Question Number 672, Legislative Referendum 363 to be submitted to the qualified electors of the State of Oklahoma for their approval or disapproval at a special election to be held statewide on February 10, 1998. I hereby submit an attested copy of the pending proposition for the above said state question.

Sincerely,

Dawn Amundsen

Dawn Amundsen
Assistant Secretary of State

DA/kj

Frank Keating
Governor

FILED
DEC 5 1997
OKLAHOMA SECRETARY
OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION
(Corrected Copy)

I, Frank Keating, Governor of the State of Oklahoma, pursuant to the provisions of Section 3 of Article V of the Oklahoma Constitution because the election date set in the Initiative Petition hereby declare that Initiative Petition Number 363, State Question 672, be submitted to qualified electors of the State of Oklahoma for their approval or disapproval at a special election to be held statewide on February 10, 1998.

The substance of the measure, as reflected in the gist of State Question 672, is as follows:

> The gist of the proposition is: The measure would authorize regulated casino gaming by adding a new article to the State Constitution; the casinos would pay a 10% gaming fee to the State, which, after funding the Gaming Commission, would go: 50% to public elementary and secondary schools statewide, 25% to local governments where the casinos are located, and 25% to correctional institutions.

and, as reflected in the Ballot Title as approved by the Court, which reads as follows:

> This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:
>
> a. Slot machines and roulette,
> b. Craps, keno and video gambling,
> c. All gambling played with cards, dice, mechanical devices or computers, and
> d. Other forms of gambling.
>
> For the first five years there could only be four non-Indian gambling facilities. Those facilities are;
>
> 1. Remington Park Racetrack,
> 2. Blue Ribbon Downs Racetrack,
> 3. A facility in Tulsa, and
> 4. A facility in Love County.

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure would allow Indian tribes to request an agreement to operate a gambling casino.

The measure makes gambling debts incurred at authorized casinos legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

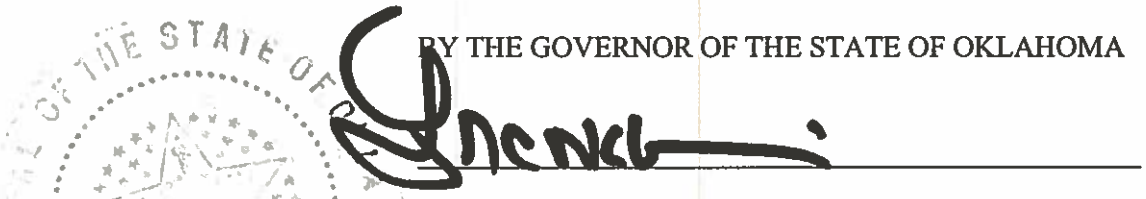
_____ Yes, for the Proposal.
_____ No, against the Proposal.

All regular election officials are hereby authorized, directed and ordered to hold and conduct said election of State Question No. 672, Initiative Petition No. 363 on February 10, 1998.

Copies of this proclamation shall be delivered to the Speaker of the House of Representatives, President Pro Tempore of the Senate, Secretary of the State Election Board and Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 5th day of December, 1997.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA



ATTEST:

Secretary of State

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

December 8, 1997

The Honorable Lance Ward
Secretary, State Election Board
State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Ward:

Pursuant to the provisions of Title 34 O.S. 1991, Section 12 and in accordance with the Governor's Proclamation calling for State Question Number 672, Legislative Referendum 363 to be submitted to the qualified electors, I hereby submit a Corrected Copy of the Election Proclamation for said state question.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

Tom Cole
Secretary of State

TC/kj

RECEIVED
DEC 08 1997
STATE ELECTION
BOARD

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897
405-521-3911
Fax # (405) 521-3771

Tom Cole
Secretary of State

Frank Keating
Governor

January 5, 1998

Rae Lynn Oliver
Oklahoma Press Service
3601 N. Lincoln
Oklahoma City, OK 73105

Dear Ms. Oliver:

Attached is a copy of the Ballot Title for State Question Number 672, Initiative Petition Number 363 as it will appear to the qualified electors of the State of Oklahoma for their approval or rejection at the Special Election to be held on February 10, 1998.

This letter is your authority to place the attached legal notice, not less than five (5) days before the election, to be published once in two different newspapers of general statewide circulation and in a newspaper of general circulation in each county, if there be such, to comply with Title 34 Oklahoma Statutes, 1997 Supplement, §17.

If there are any questions or if our office can be of further assistance, please feel free to contact Kathy Jekel at the above number or address.

Sincerely,

Tom Cole
Secretary of State

TC/kj

Enclosure: Publication Notice for State Question 672

PROPOSED NEW ARTICLE TO THE OKLAHOMA CONSTITUTION

Special Election
February 10, 1998

In compliance with Title 34 of the Oklahoma Statutes, 1997 Supplement, Section 17, notice is hereby given for a proposed new Article to the Oklahoma Constitution which will appear on the ballot February 10, 1998.

Tom Cole
Secretary of State

BALLOT TITLE

State Question Number 672 **Initiative Petition Number 363**

This measure adds a new Article to the Oklahoma Constitution. The new Article deals with gambling. The new Article legalizes:

a. Slot machines and roulette,
b. Craps, keno and video gambling,
c. All gambling played with cards, dice, mechanical devices or computers, and
d. Other forms of gambling.

For the first five years there could only be four non-Indian gambling facilities. Those facilities are:

1. Remington Park Racetrack,
2. Blue Ribbon Downs Racetrack,
3. A facility in Tulsa, and
4. A facility in Love County.

An appointed Commission would regulate and license this gambling. After five years, other gambling facilities could be licensed. There could not be more than one facility in any county. Gambling facilities would have to meet minimum standards.

The measure would allow Indian tribes to request an agreement to operate a gambling casino.

The measure makes gambling debts incurred at authorized casinos legal and enforceable.

State taxes on the new gambling would fund the Commission, and help education and prisons. Some tax funds would go to local governments where State licensed gambling is conducted.

SHALL THIS PROPOSAL BE APPROVED BY THE PEOPLE?

_____ Yes, for the Proposal
_____ No, against the Proposal

PROOF OF PUBLICATION
OKLAHOMA PRESS SERVICE

3601 N. Lincoln, Oklahoma City, OK 73105 • 405-524-4421 •fax 405-524-2201

I, **Rae Lynn Oliver**, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of daily and weekly newspapers printed in the state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said two different newspapers of general statewide circulation and in a newspaper of general circulation in each county in Oklahoma not less than five (5) days before the election day in the following week dates-to-wit:

Insertion 1: week of **January 12, 1998**

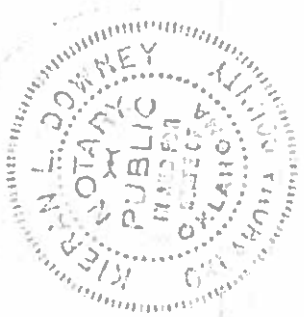
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the State of Oklahoma governing legal publications.

PUBLICATION FEE **$3,574.29**

Rae Lynn Oliver
(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this 6th day of February, 1998

Kieran L. Downey
(Notary Public)
My commission expires: MY COMMISSION EXPIRES 7-22-2001



INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE
101 STATE
OKLAHOMA CITY OK 73105

Invoice#: 01 -4718
Date: 02/06/98
Client ID: 2-3225

[Legal Invoice]
Attn: KATHY JEKEL

SECRETARY OF STATE
PO #

Order#	Newspaper	Caption/Run Dates	Size	Unit		
0521	ADA NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 = 15.40 Lines: 40 @:0.60 = 24.00			Legal	39.40
	01/15/98					
0522	ALTUS TIMES	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 = 15.40 Lines: 40 @:0.60 = 24.00			Legal	39.40
	01/15/98					
0523	ALVA REVIEW COURIER	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 = 15.40 Lines: 40 @:0.60 = 24.00			Legal	39.40
	01/15/98					
0524	ANADARKO DAILY NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 = 15.40 Lines: 40 @:0.60 = 24.00			Legal	39.40
	01/15/98					
0525	ANTLERS AMERICAN	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 = 15.40 Lines: 40 @:0.60 = 24.00			Legal	39.40
	01/15/98					
0526	ARDMORE ARDMOREITE	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 = 15.40 Lines: 40 @:0.60 = 24.00			Legal	39.40
	01/15/98					
0527	ATOKA COUNTY TIMES	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 = 15.40 Lines: 40 @:0.60 = 24.00			Legal	39.40
	01/14/98					

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE

Invoice # 01-4718

Order #	Newspaper	Caption/Run Dates			Size	
052 8	BARTLESVILLE EXAM.	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 9	BEAVER HERALD-	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 10	BOISE CITY NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/14/98					
052 11	CHANDLER NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 12	CHEROKEE MESSENGER	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 13	CHEYENNE STAR	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 14	CHICKASHA EXPRESS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 15	CLAREMORE PROGRESS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 16	COALGATE RECORD	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/14/98					

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE Invoice # 01 - 4718

Order #	Newspaper	Caption/Run Dates			Size	
052 17	CORDELL BEACON	NEW ARTICLE SPECIAL ELECTION 01/14/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 18	DUNCAN BANNER	NEW ARTICLE SPECIAL ELECTION 01/15/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 19	DURANT DEMOCRAT	NEW ARTICLE SPECIAL ELECTION 01/15/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 20	EL RENO TRIBUNE	NEW ARTICLE SPECIAL ELECTION 01/14/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 21	ELK CITY NEWS	NEW ARTICLE SPECIAL ELECTION 01/15/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 22	ENID NEWS & EAGLE	NEW ARTICLE SPECIAL ELECTION 01/15/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 23	EUFAULA-LAKE EUFAULA	NEW ARTICLE SPECIAL ELECTION 01/15/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 24	FAIRVIEW REPUBLICAN	NEW ARTICLE SPECIAL ELECTION 01/15/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40
052 25	FREDERICK LEADER	NEW ARTICLE SPECIAL ELECTION 01/14/98	Words: 140 @:0.11 Lines: 40 @:0.60	= 15.40 = 24.00	Legal	39.40

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE Invoice # 01-4718

Order #	Newspaper	Caption/Run Dates			Size	
052 26	GROVE SUN	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 27	GUTHRIE NEWS LEADER	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 28	GUYMON HERALD	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 29	HOBART DEMOCRAT-CHIEF	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 30	HOLDENVILLE NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 31	HOLLIS NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 32	HUGO NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 33	IDABEL MCCURTAIN	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 34	KINGFISHER TIMES &	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/14/98				

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE

Invoice # 01 - 4716

Order #	Newspaper	Caption/Run Dates			Size	
052 35	LAVERNE LEADER-	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/14/98				
052 36	LAWTON CONSTITUTION	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 37	MADILL RECORD	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 38	MANGUM STAR-NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 39	MARIETTA MONITOR	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/16/98				
052 40	MCALESTER NEWS-CAP &	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 41	MEDFORD PATRIOT-STAR	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/14/98				
052 42	MIAMI NEWS-RECORD	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				
052 43	MUSKOGEE PHOENIX	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
		01/15/98				

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE Invoice # 01-4718

Order #	Newspaper	Caption/Run Dates			Size	
052 44	NORMAN TRANSCRIPT	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 45	NOWATA STAR	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/14/98					
052 46	OKC-DAILY OKLAHOMAN	NEW ARTICLE SPECIAL ELECTION Words: 140 @: Lines: 40 @:		= =	Disp	443.29
	01/15/98					
052 47	OKEMAH NEWS LEADER	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/18/98					
052 48	OKMULGEE TIMES	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 49	PAULS VALLEY DEMOCRAT	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 50	PAWHUSKA JOURNAL-	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/14/98					
052 51	PAWNEE CHIEF	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/14/98					
052 52	PERRY JOURNAL	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE

Invoice # 01 - 4718

Order #	Newspaper	Caption/Run Dates			Size	
052 53	PONCA CITY NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40
052 54	POTEAU NEWS & SUN	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40
052 55	PRYOR TIMES	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40
052 56	PURCELL REGISTER	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40
052 57	SALLISAW SEQ. CO. TIMES	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40
052 58	SAPULPA HERALD	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40
052 59	SEILING DEWEY COUNTY	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/14/98		= 15.40 = 24.00	Legal	39.40
052 60	SEMINOLE PRODUCER	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40
052 61	SHATTUCK N.W.	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60 01/15/98		= 15.40 = 24.00	Legal	39.40

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. · 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE Invoice # 01-4718

Order#	Newspaper	Caption/Run Dates			Size	
052 62	SHAWNEE NEWS-STAR	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 63	STIGLER NEWS-SENTINEL	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 64	STILLWATER NEWSPRESS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/17/98					
052 65	STILWELL DEMOCRAT-	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 66	SULPHUR TIMES-	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 67	TAHLEQUAH PRESS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 68	TISHOMINGO CAPITAL	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 69	TULSA WORLD	NEW ARTICLE SPECIAL ELECTION Words: 140 @: Lines: 40 @:		= =	Disp	176.00
	01/15/98					
052 70	VINITA JOURNAL	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE

Invoice # 01-4718

Order #	Newspaper	Caption/Run Dates			Size	
052 71	WAGONER TRIBUNE	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 72	WALTERS HERALD	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 73	WATONGA REPUBLICAN	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/14/98					
052 74	WAURIKA NEWS-	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 75	WEATHERFORD NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 76	WILBURTON NEWS-	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					
052 77	WOODWARD NEWS	NEW ARTICLE SPECIAL ELECTION Words: 140 @:0.11 Lines: 40 @:0.60		= 15.40 = 24.00	Legal	39.40
	01/15/98					

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

INVOICE

Oklahoma Press Service, Inc. • 3601 North Lincoln, Oklahoma City, OK 73105 • 405-524-4421
Representing Oklahoma Weekly and Daily Newspapers • Dun & Bradstreet Nos. 02-072-3565

SECRETARY OF STATE

Invoice # 01 - 4718

Order #	Newspaper	Caption/Run Dates	Size

Gross--------->	$3,574.29
	Adjustments 0.00
Adj.Gross--->	$3,574.29
Any Fees --->	0.00
PAY THIS AMOUNT---->	3,574.29

Payment is due upon receipt of this invoice. Accounts unpaid after 30 days are subject to a service charge of 1.5% per month (18% per annum) on the unpaid balance. Minimum charge is one dollar. Your discount, if any, was applied. To insure proper credit, please return the YELLOW

Oklahoma State Election Board

ROOM B-6 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2391

February 13, 1998

FILED
FEB 12 1998
OKLAHOMA SECRETARY OF STATE

The Honorable Tom Cole
Secretary of State
Room 101, State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Cole:

Enclosed please find a copy of the official returns of the vote at the Special Election on February 10, 1998, on the following measure, as certified to the Governor of the State of Oklahoma:

State Question No. 672 — Initiative Petition No. 363

Sincerely,

LANCE WARD, Secretary
State Election Board

LW/mf

Receipt of the above hereby is acknowledged on this 12th day of February, 1998.

By: Kathy Jekel

Time: 2:48 pm

Oklahoma State Election Board

ROOM B-6 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2391

February 13, 1998

The Honorable Frank Keating
Governor of the State of Oklahoma
Room 212, State Capitol
Oklahoma City, Oklahoma 73105

Dear Governor Keating:

Pursuant to the provisions of 26 O.S. 1991, §12-118, the State Election Board herewith certifies the results of the vote at the Special Election on February 10, 1998, on the following measure:

STATE QUESTION NO. 672
INITIATIVE PETITION NO. 363

YES: 138,030
NO: 304,756

Sincerely,

LANCE WARD, Secretary
State Election Board

LW/mf

Receipt of the above hereby is acknowledged on this 13th day of February, 1998.

By: Melinda Dean

Time: 8:55 pm

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK. 73105-4897

Tom Cole
Secretary of State

405-521-3911
Fax # (405) 521-3771

Frank Keating
Governor

July 29, 1998

RECEIVED
JUL 30 1998
STATE ELECTION BOARD

The Honorable Lance Ward
Secretary, Oklahoma State
Election Board
State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Ward:

Enclosed is a copy of the proclamation declaring the election results for State Question Number 672, Initiative Petition Number 363, pursuant to Title 26 O.S. 1991, Section 12-118.

If I may be of further assistance, please do not hesitate to contact me at the above number or address.

Sincerely,

Tom Cole
Secretary of State

TC/kj

Frank Keating
Governor

FILED
FEB 17 1998
OKLAHOMA SECRETARY
OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, FRANK KEATING, by virtue of the authority vested in me by the Office of the Governor by Section 12-118 of Title 26 of the Oklahoma Statutes and the Certification by the State Election Board, hereby proclaim State Question 672 to have failed. The results of the election held on February 10, 1998, on State Question 672, Initiative Petition No. 363 are as follows:

Total Votes - 442,786

YES - 138,030

NO - 304,756

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 13 day of February, 1998.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Attest:

Secretary of State

STATE CAPITOL BUILDING • OKLAHOMA CITY, OKLAHOMA 73105 • (405) 521-2342 • FAX (405) 521-3353

Frank Keating
Governor

FILED
JUL 29 1998
OKLAHOMA SECRETARY
OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, FRANK KEATING, by virtue of the authority vested in me by the Office of the Governor by Section 12-118 of Title 26 of the Oklahoma Statutes and the Certification by the State Election Board, hereby proclaim State Question 672 to have failed. The results of the election held on February 10, 1998, on State Question 672, Initiative Petition No. 363 are as follows:

Total Votes - 442,786

YES - 138,030

NO - 304,756

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 28th day of July, 1998.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Attest:

Secretary of State

STATE CAPITOL BUILDING • OKLAHOMA CITY, OKLAHOMA 73105 • (405) 521-2342 • FAX (405) 521-3353