

WARNING

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN THE PETITION WHEN HE IS NOT A LEGAL VOTER.

FILED

SEP 23 2004

OKLAHOMA SECRETARY OF STATE

INITIATIVE PETITION

To the Honorable Brad Henry, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed amendment to the Oklahoma 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 7th day of November 2006 (or such earlier special election as may be called by the Governor), and each for himself 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 September 23, 2004. The question we herewith submit to our fellow voters is:

Shall the following proposed amendment to the Oklahoma Constitution be approved?

BALLOT TITLE

This measure adds a new Article XVI-A to the Oklahoma Constitution. It would enable greater building, construction and reconstruction of bridges and highways. It establishes a constitutional fund known as the Oklahoma Bridge and Highway Trust Fund. It provides for fixed percentages of existing gasoline and diesel fuel taxes to be paid into that fund. It increases the tax on gasoline and diesel fuel and requires the increased monies to be used solely to pay the direct costs of the building, the construction and the reconstruction of bridges and highways. It prohibits the use of the increased gasoline and diesel fuel taxes to incur debt and protects the future funding of the Oklahoma Department of Transportation. To assure the proper use of the monies, it requires a yearly review by the State Auditor and Inspector, the State Board of Equalization and the Oklahoma Highway Oversight Commission. It establishes the Oklahoma Highway Oversight Commission to monitor use of the monies and funding of transportation by the Legislature.

Shall the following proposed amendment to the Oklahoma Constitution be approved?

- For the proposal - YES
- Against the proposal - NO

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

BE IT ENACTED BY THE PEOPLE OF OKLAHOMA THAT A NEW ARTICLE XVI-A TO THE OKLAHOMA CONSTITUTION BE APPROVED:

AN AMENDMENT TO THE OKLAHOMA CONSTITUTION ADDING AN ARTICLE RELATING TO BRIDGE AND HIGHWAY IMPROVEMENT; AMENDING THE OKLAHOMA CONSTITUTION; CREATING THE OKLAHOMA BRIDGE AND HIGHWAY TRUST FUND AND PROVIDING FOR THE USE OF MONIES THEREIN; PROVIDING FOR THE LEVY OF TAXES TO FUND THE OKLAHOMA BRIDGE AND HIGHWAY FUND, PROVIDING FOR THE APPORTIONMENT THEREOF AND ESTABLISHING PROCEDURES THEREFOR; LIMITING THE USE OF FUNDS TO PAY INDEBTEDNESS; PROVIDING FOR EXAMINATION AND INVESTIGATION BY THE STATE BOARD OF EQUALIZATION;

PROVIDING FOR AUDIT BY THE STATE AUDITOR AND INSPECTOR; CREATING THE OKLAHOMA HIGHWAY OVERSIGHT COMMISSION AND ESTABLISHING THE DUTIES THEREOF; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE SEVERABILITY OF VOID, INVALID OR UNCONSTITUTIONAL PROVISIONS.

1. Creation of the Oklahoma Bridge and Highway Trust Fund - Use of Monies in the Oklahoma Bridge and Highway Trust Fund

There is hereby created in the State Treasury a revolving fund to be designated as the "Oklahoma Bridge and Highway Trust Fund." The fund shall consist of all of the monies provided by the levy of gasoline tax and diesel tax imposed by Article XVI-A, Section 2 of the Oklahoma Constitution (except as otherwise provided herein with respect to cities and counties). In addition to such levy, the fund shall also consist of (a) the sixty-five and three hundred seventy-five one-thousandths percent (65.375%) of the other gasoline tax levied by the State of Oklahoma calculated in accordance with this Article XVI-A, Section 1 and (b) the sixty-five and seventy-three one-hundredths percent (65.73%) of the other diesel fuel tax levied by the State of Oklahoma calculated in accordance with this Article XVI-A, Section 1. None of the gasoline tax and the diesel fuel tax shall go to the General Revenue Fund. Subject to Article XVI-A, Section 2 of the Oklahoma Constitution, monies in the Oklahoma Bridge and Highway Trust Fund may be expended only for the funding of the Department of Transportation.

For purposes of this Article XVI-A, the other gasoline tax levied by the State of Oklahoma shall not include amounts that would have been deducted under existing statutes as of September 1, 2004, prior to (a) the calculation of the one and six hundred twenty one thousandths percent (1.625%) of the gasoline tax apportioned to the General Revenue Fund and the sixty-three and seventy-five one-hundredths percent (63.75%) of the gasoline tax apportioned to the State Transportation Fund pursuant to Title 68, Section 500.6 (as of September 1, 2004). For purposes of this Article XVI-A, the other diesel fuel tax levied by the State of Oklahoma shall not include amounts that would have been deducted under existing statutes as of September 1, 2004, prior to (a) the calculation of the one and thirty-nine one-hundredths percent (1.39%) of the diesel fuel tax apportioned to the General Revenue Fund and the sixty-four and thirty-four one-hundredths percent (64.34%) of the diesel fuel tax apportioned to the State Transportation Fund pursuant to Title 68, Section 500.7 (as of September 1, 2004).

The funds from the gasoline tax and the diesel fuel tax that would be apportioned to the Oklahoma Transportation Authority under existing statutes as of September 1, 2004, shall be apportioned to the Oklahoma Transportation Authority from the Oklahoma Bridge and Highway Trust Fund and shall, unless necessary to pay debt incurred by the Oklahoma Transportation Authority for which revenues of the gasoline tax and diesel fuel tax apportioned to the Oklahoma Transportation Authority are pledged by the Oklahoma Transportation Authority as authorized by existing statutes that provide for the issuance of turnpike-related bonds by the Oklahoma Transportation Authority, be delivered monthly by the Oklahoma Transportation Authority to the State Highway Construction and Maintenance Fund.

2. Levy of Taxes to Fund the Oklahoma Bridge and Highway Trust Fund - Procedures Therefor - Apportionment Thereof

A. In addition to any tax imposed by law, there is hereby imposed on all gasoline and all diesel fuel purchased, used or consumed in the State of Oklahoma a tax as follows:

1. Gasoline:
 - a. from the effective date of this Article XVI-A through the first anniversary of the effective date of this Article XVI-A, two cents (\$0.02) per gallon of gasoline;
 - b. commencing on the first anniversary of the effective date of this Article XVI-A, through the second anniversary of the effective date of this Article XVI-A, four cents (\$0.04) per gallon of gasoline; and
 - c. commencing on the second anniversary of the effective date of this Article XVI-A, five cents (\$0.05) per gallon of gasoline.

2. Diesel fuel:

- a. from the effective date of this Article XVI-A through the first anniversary of the effective date of this Article XVI-A, two cents (\$0.02) per gallon of diesel fuel;
- b. commencing on the first anniversary of the effective date of this Article XVI-A and continuing until the second anniversary of the effective date of this Article XVI-A, four cents (\$0.04) per gallon of diesel fuel;
- c. commencing on the second anniversary of the effective date of this Article XVI-A and continuing until the third anniversary of the effective date of this Article XVI-A, six cents (\$0.06) per gallon of diesel fuel; and
- d. commencing on the third anniversary of this Article XVI-A, eight cents (\$0.08) per gallon of diesel fuel.

B. The tax imposed by this Article XVI-A shall be imposed at the time of the sale of the gasoline or the diesel fuel and shall be precollected and remitted to the Tax Commission in accordance with such procedures as may be established by the Legislature. All other provisions generally applicable to taxes on gasoline and diesel fuel established by the Legislature, including the exemptions therefrom, shall be applicable to such tax and such tax shall be subject to existing and future tribal compacts.

C. The tax on gasoline that is imposed by Article XVI-A, Section 2(A), and penalties and interest thereon, collected by the Tax Commission shall be apportioned as follows:

1. Ten percent (10%) of the levy shall be transmitted to the county highway funds of the various counties of the State in such manner as may be established by the Legislature to be used for the building, the construction and the reconstruction of county bridges and roads;

2. Ten percent (10%) of the levy shall be transmitted by the Tax Commission to the treasurers of the various incorporated cities and towns of the State in such manner as may be established by the Legislature to be used for the building, the construction and the reconstruction of public bridges and roads; and

3. The remainder of the revenue from the levy shall be deposited in the Oklahoma Bridge and Highway Trust Fund and used by the Department of Transportation to pay the direct costs of the building, the construction and the reconstruction of bridges and highways that are part of the state highway system, including matching federal funds.

D. The tax on diesel fuel that is imposed by Article XVI-A, Section 2(A), and penalties and interest thereon, collected by the Tax Commission shall be apportioned to, and deposited in, the Oklahoma Bridge and Highway Trust Fund and used by the Department of Transportation for the building, the construction and the reconstruction of bridges and highways that are part of the state highway system, including matching federal funds.

E. The State Treasurer shall, on a once monthly basis but subject to any transfer to the Oklahoma Transportation Authority required on the effective date of this Article XVI-A, transfer to the Highway Construction and Maintenance Fund (a) the sixty-five and three hundred seventy-five one-thousandths percent (65.375%) of the gasoline tax levied by the State of Oklahoma calculated in accordance with Section XVI-A, Section 1 and (b) sixty-five and the seventy-three one-hundredths percent (65.73%) of the diesel fuel tax levied by the State of Oklahoma calculated in accordance with Article XVI-A, Section 1 (but not the monies from the tax on gasoline and the tax on diesel fuel imposed by Article XVI-A, Section 2(A)) for use in accordance with this Article XVI-A.

The State Treasurer shall, from time to time on request of the Department of the Transportation, transfer to the Cash Management Improvement Act Fund monies from the tax on gasoline and the tax on diesel fuel imposed by Article XVI-A, Section 2(A) for use in accordance with this Article XVI-A.

F. It is the intent of this Article XVI-A, Section 2(A) to increase gasoline and diesel fuel taxes for the purpose of providing additional funds to pay the direct costs of the building, the construction and the reconstruction of bridges and highways. It is the further intent of this Article XVI-A Section 2(A) that the amount of state funding for transportation from sources other than the increased gasoline and diesel fuel tax imposed by Article XVI-A, Section 2(A) be maintained or increased and that the monies from such gasoline and diesel fuel tax shall not be used to supplant or to replace other sources of state funds supporting transportation needs in Oklahoma.

3. Prohibition on the Use of Funds to Pay Indebtedness

No monies from the tax on diesel fuel and the tax imposed on gasoline by Article XVI-A, Section 2(A) shall be pledged to pay or to secure any debt or bond issue or tax credit nor shall they be used to pay any bond indebtedness or debt service incurred by the State of Oklahoma, existing or to be incurred, unless otherwise required by the United States Constitution or the Oklahoma Constitution.

No other monies from the Oklahoma Bridge and Highway Trust Fund shall be pledged to pay or to secure any debt or bond issue or tax credit nor shall they be used to pay any bond indebtedness or debt service incurred by the State of Oklahoma, unless otherwise required by the United States Constitution or the Oklahoma Constitution. Monies other than monies from the tax on diesel fuel and tax on gasoline levied by Article XVI-A, Section 2(A) may be used to pay bond indebtedness and debt service actually in existence on December 31, 2004, but not any bond indebtedness or debt service that involves a refinancing thereof and in no event shall such payments exceed the budgeted payments by the Department of Transportation for its Capital Improvement Program for Fiscal Year 2005.

4. Examination and Investigation by the State Board of Equalization - Audit by the State Auditor and Inspector - Creation of the Oklahoma Highway Oversight Commission and Duties Thereof

A. In order to ensure that the monies from the gasoline and diesel fuel tax imposed by Article XVI-A, Section 2(A) are used to enhance and not to supplant funding for transportation and that the monies in the Oklahoma Bridge and Highway Trust Fund are expended in accordance with this Article XVI-A, the State Board of Equalization shall examine and investigate funding for transportation each year. At the meeting of the State Board of Equalization held within five (5) days after the monthly apportionment in February of each year, the State Board of Equalization shall issue a finding and report, which shall state whether such monies were used to enhance or to supplant transportation funding. If the State Board of Equalization finds that transportation funding was supplanted by such monies, the State Board of Equalization shall specify the amount by which transportation funding was supplanted. In this event, the Legislature shall not make any appropriations for the ensuing fiscal year until an appropriation in that amount is made to replenish the funds that were supplanted.

B. The State Auditor and Inspector, as part of the annual audit of the Department of Transportation, shall determine whether revenue from the Oklahoma Bridge and Highway Trust Fund has been expended in accordance with this Article XVI-A and shall so state in the audit report. The State Auditor and Inspector shall, in making such determination, review the use of monies in the Cash Management Improvement Act Fund and the Highway Construction and Maintenance Fund.

C. There is hereby created the Oklahoma Highway Oversight Commission, which shall consist of twelve (12) members. The members shall include the persons occupying the following positions; the Secretary of Commerce, the Oklahoma Homeland Security Director, the President of the University of Oklahoma, the President of Oklahoma State University, the Secretary of Transportation (who shall serve as the Chairman of the Oklahoma Highway Oversight Commission), the State Auditor and Inspector, the State Finance Director and the State Treasurer. In addition, the members shall include two (2) persons appointed by the President pro tempore of the Senate and two (2) persons appointed by the Speaker of the House of Representatives. The Oklahoma Highway Oversight Commission shall monitor the administration by the Department of Transportation of the

Oklahoma Highway and Bridge Trust Fund and transportation funding by the State of Oklahoma and shall publish its findings annually to the Governor. The Oklahoma Highway Oversight Commission may require from the Department of Transportation complete information and reports relative to the Cash Management Improvement Act Fund, the Highway Construction and Maintenance Fund and the Oklahoma Highway and Bridge Trust Fund in such manner and at such time as the Oklahoma Highway Oversight Commission may deem advisable.

The Oklahoma Highway Oversight Commission shall meet as often as it deems advisable, but not less than once a year.

The members of the Oklahoma Highway Oversight Commission shall receive no salary or other compensation for their services, other than per diem and expenses as may be authorized by the Legislature.

5. Effective Date

This Article XVI-A shall be effective on the first day of the first quarter immediately following its passage.

6. Severability

The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions hereof, and the remaining provisions hereof shall continue in full force and effect.

Proponents

V. Burns Hargis
1800 Devonshire
Oklahoma City, OK 73116

Neal McCaleb
3107 Vance Drive
Edmond, OK 73013

Robert C. Poe
2131 E. 29th Street
Tulsa, OK 74114

SIGNATURES

The gist of the proposition is as follows:

This measure adds a new Article XVI-A to the Oklahoma Constitution. It would enable greater building, construction and reconstruction of bridges and highways. It establishes a constitutional fund known as the Oklahoma Bridge and Highway Trust Fund. It provides for fixed percentages of existing gasoline and diesel fuel taxes to be paid into that fund. It increases the tax on gasoline and diesel fuel and requires the increased monies to be used solely to pay the direct costs of the building, the construction and the reconstruction of bridges and highways. It prohibits the use of the increased gasoline and diesel fuel taxes to incur debt and protects the future funding of the Department of Transportation. To assure the proper use of the monies, it requires a yearly review by the State Auditor and Inspector, the State Board of Equalization and the Oklahoma Highway Oversight Commission. It establishes the Oklahoma Highway Oversight Commission to monitor use of the monies and funding of transportation by the Legislature.

1.

Signature of Legal Voter	Print Name	Address	City	Zip	County
2.

Signature of Legal Voter	Print Name	Address	City	Zip	County
3.

Signature of Legal Voter	Print Name	Address	City	Zip	County
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19.

Signature of Legal Voter	Print Name	Address	City	Zip	County
20.

Signature of Legal Voter	Print Name	Address	City	Zip	County



OKLAHOMA SECRETARY OF STATE

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

**FILED
SUPREME COURT
STATE OF OKLAHOMA**

JAN 21 2005

**MICHAEL S. RICHIE
CLERK**

#101700

January 21, 2005

The Honorable Joseph Watt
Chief Justice, Oklahoma Supreme Court
Room 245, State Capitol
Oklahoma City, Oklahoma 73105

RE: State Question 723, Initiative Petition 378

Dear Justice Watt:

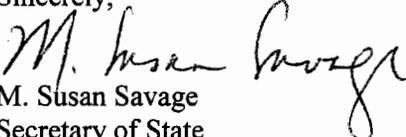
The Office of the Secretary of State received 46 boxes of signature pamphlets for State Question Number 723, Initiative Petition Number 378, on December 20, 2004 from Neal McCaleb, Oklahomans for Safe Bridges and Roads, 3107 Vance Drive, Edmond, Oklahoma 73013.

Attached is a copy of State Question 723, Initiative Petition 378 and the tabulation of signatures as counted by this office. The petitioners filed 16,235 pamphlets containing 289,082 signatures. The signature sheets were numbered 1 through 16,235 and were bound into 82 volumes. Volumes 1 through 81 contain 200 signature sheets per volume. Volume 82 contains 599 signature sheets.

Pursuant to the provisions of Title 34 O.S. 2001, Section 8 (C.) the Office of the Secretary of State certifies the total number of signatures counted for State Question Number 723, Initiative Petition Number 378 to be 289,082. The total number of votes cast for the state office receiving the highest number of votes cast at the last general election was that of Presidential Elector. The total votes cast in that election was 1,463,758 received by the Oklahoma State Election Board on November 10, 2004.

If our office may be of further assistance, please do not hesitate to contact Kathy Jekel or myself at the above number or address.

Sincerely,


M. Susan Savage
Secretary of State

Enclosures: SQ 723, IP 378, Tabulation Sheets for SQ 723
Total Votes Cast Certification

RECEIVED

JAN 21 2005

CLERK'S OFFICE



**OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA**

February 8, 2005

FILED

FEB 9 2005

**OKLAHOMA SECRETARY
OF STATE**

M. Susan Savage, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 723, Initiative Petition No. 378

Dear Secretary Savage:

Having found that the 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.2001, § 9(D), prepared the following Substitute Ballot Title for filing. 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 Article XVI-A to the Oklahoma Constitution. The measure creates additional funds for building and rebuilding bridges and highways. It also prevents the Legislature from ever decreasing state funding for transportation below current levels.

The provision establishes a Bridge and Highway Trust Fund. The provision levies new gasoline and diesel fuel taxes. The new gasoline tax is capped at five cents per gallon. The new diesel tax is capped at eight cents per gallon. Eighty percent of the new gasoline tax and a portion of existing gasoline and diesel fuel taxes go into the Trust Fund. All new diesel fuel taxes go into the Trust Fund.

Ten percent of the new gasoline tax goes to county highway funds. Another ten percent goes to cities and towns for roads and bridges.

Available Trust Fund money could only fund the Department of Transportation's direct cost of building and rebuilding highways and bridges. No money from the new taxes can be used to incur debt.

The measure creates a committee to oversee both the use of the Trust's funds and the funding of transportation by the Legislature.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL—YES _____

AGAINST THE PROPOSAL—NO _____

Respectfully submitted,



W.A. DREW EDMONDSON
ATTORNEY GENERAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED

MAR 21 2005

OKLAHOMA SECRETARY
OF STATE

IN RE:)
INITIATIVE PETITION NO. 378,)
STATE QUESTION NO. 723.)

No. 101,700

FILED
SUPREME COURT
STATE OF OKLAHOMA

MAR 21 2005

MICHAEL S. RICHIE
CLERK

ORDER

In accordance with this Court's order of February 7, 2005, the Secretary of State has given legally sufficient notice by publication of the filing of this initiative petition, the apparent numerical sufficiency of the signatures, and the right of the citizens of the State of Oklahoma to protest the petition or challenge the signature count by filing a protest or challenge in the Office of the Clerk of the Supreme Court within 10 days from the date of publication. Verified proof of publication has been filed.

Examination of the files and records of this Court indicates that no protest, challenge or objection has been filed within the interval allowed by law, and that as a consequence, there is no justiciable controversy before the court.

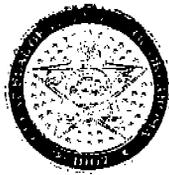
This facially-adequate initiative petition is remanded to the Oklahoma Secretary of State, to be submitted to a vote of the electorate.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE

THIS 21st DAY OF MARCH, 2005.


CHIEF JUSTICE

ALL JUSTICES CONCUR.



Brad Henry
Governor

FILED

APR 27 2005

OKLAHOMA SECRETARY
OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Section 3 of Article V of the Oklahoma Constitution and Section 12 of Title 34 of the Oklahoma Statutes, do hereby order that State Question Number 723, Initiative Petition Number 378, be submitted to qualified electors of the State of Oklahoma for their approval or rejection on the statewide special election set on September 13, 2005.

The substance of the measure, as reflected in the Substitute Ballot Title prepared by the Attorney General is as follows:

This measure adds Article XVI-A to the Oklahoma Constitution. The measure creates additional funds for building and rebuilding bridges and highways. It also prevents the Legislature from ever decreasing state funding for transportation below current levels.

The provision establishes a Bridge and Highway Trust Fund. The provision levies new gasoline and diesel fuel taxes. The new gasoline tax is capped at five cents per gallon. The new diesel tax is capped at eight cents per gallon. Eighty percent of the new gasoline tax and a portion of existing gasoline and diesel fuel taxes go into the Trust Fund. All new diesel fuel taxes go into the Trust Fund.

Ten percent of the new gasoline tax goes to county highway funds. Another ten percent goes to cities and towns for roads and bridges.

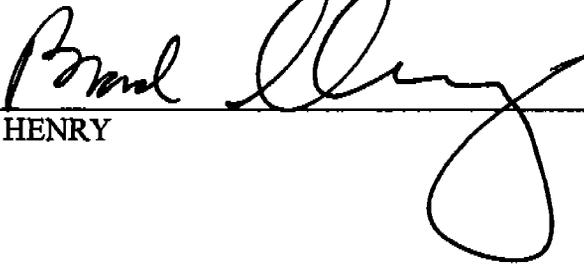
Available Trust Fund money could only fund the Department of Transportation's direct cost of building and rebuilding highways and bridges. No money from the new taxes can be used to incur debt.

The measure creates a committee to oversee both the use of the Trust's funds and the funding of transportation by the Legislature.

Copies of this Executive Proclamation shall be distributed to the Secretary of State, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Secretary of the State Election Board. The Secretary of the State Election Board and the secretaries of the appropriate county election boards are hereby directed to take all actions necessary to conduct the aforesaid election.

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 27 day of April, 2005.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA



BRAD HENRY

Attest:



Secretary of State



Brad Henry
Governor

FILED

SEP 29 2005

**OKLAHOMA SECRETARY
OF STATE**

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by the provisions of Section 12-118 of Title 26 of the Oklahoma Statutes and the Certification by the State Election Board, hereby proclaim State Question 723 to have failed. The results of the election held on September 13, 2005, on State Question 723, Initiative Petition No. 378, are as follows:

Total Votes – 401,239

YES – 51,312

NO – 349,927

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 26 day of September 2005.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

BRAD HENRY

ATTEST:

SECRETARY OF STATE

