



October 21, 2015

The Honorable Chris Benge  
Oklahoma Secretary of State  
2300 N. Lincoln Boulevard, Ste. 101  
Oklahoma City, Oklahoma 73105-4897

Re: Initiative Petition

Dear Mr. Secretary:

Please accept for filing the enclosed copy of an initiative petition and the Proponents' suggested ballot title. The initiative petition requests that a proposed Oklahoma constitutional amendment by article be submitted to the voters at the general election on November 8, 2016. The proposed amendment would create a special purpose fund for educational purposes only, and levy a one-cent sales and use tax to support the fund.

Very truly yours,

D. Kent Meyers,  
Roger Stong  
Melanie Wilson Rughani  
CROWE & DUNLEVY  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102

Counsel for Proponents

cc: Oklahoma Attorney General

**RECEIVED**

**OCT 21 2015**

**OKLAHOMA SECRETARY  
OF STATE**

A P R O F E S S I O N A L C O R P O R A T I O N

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**FILED**

OCT 21 2015

OKLAHOMA SECRETARY  
OF STATE

**PROPOSED BALLOT TITLE**

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, to increase high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that monies from the fund not supplant or replace other education funding. The Article takes effects on the July 1 after its passage.

Shall the proposal 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.

**FILED**

OCT 21 2015

State Question No. 779, Initiative Petition No. 403

OKLAHOMA SECRETARY  
OF STATE

**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.**

-----

**INITIATIVE PETITION**

To the Honorable Mary Fallin, 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 8th day of November, 2016 (or at a 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 are correctly written after my name. The time for filing this petition expires ninety (90) days from \_\_\_\_\_. The question we herewith submit to our fellow voters is:

Shall the following proposed new Article XIII-C to the Constitution be approved?

-----

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

**CONSTITUTION OF OKLAHOMA, ARTICLE XIII-C --  
OKLAHOMA EDUCATION IMPROVEMENT FUND**

**§ 1. CREATION OF OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby created in the State Treasury a limited purpose fund to be known as the "Oklahoma Education Improvement Fund." The fund shall consist of the proceeds of the sales tax levy and the use tax levy provided in Section 2 of this Article XIII-C, and any monies or assets contributed to the fund from any other source, public or private.

**§ 2. LEVY OF ONE CENT SALES TAX AND USE TAX FOR OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an additional excise tax of one percent (1.0%) of the gross receipts or gross proceeds of each sale of tangible personal property, or of other goods and services subject to the sales tax as provided in the Oklahoma Sales Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an additional excise tax on the storage, use, or other consumption in this state of such property at the rate of one percent (1.0%) of the purchase price of such property. Said tax shall be levied on the storage, use or consumption of personal property as provided in the Oklahoma Use Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Use Tax Code.

This sales tax levy shall be in addition to, and shall not supplant, the general sales tax levied in the Oklahoma Sales Tax Code or any other sales tax authorized by Oklahoma law and

this use tax levy shall be in addition to, and shall not supplant, the general use tax levied in the Oklahoma Use Tax Code or any other use tax authorized by Oklahoma law.

All revenue from the sales tax and the use tax levied pursuant to this Article XIII-C, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be paid to the State Treasurer and deposited into the Oklahoma Education Improvement Fund.

**§ 3. ALLOCATION OF MONIES IN OKLAHOMA EDUCATION IMPROVEMENT FUND - PURPOSES - USES - ETC.**

A. Monies in the Oklahoma Education Improvement Fund shall be apportioned by the State Treasurer, appropriated by the Legislature, and distributed monthly for the educational purposes established herein, as follows:

1. Common Education: Sixty-nine and one-half percent (69.5%) of said monies shall be apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, on the basis of the state aid formula for common education then in effect.

(a) Monies from the Oklahoma Education Improvement Fund shall be specifically identified and segregated from other monies appropriated and apportioned among the several common school districts of the State on the basis of said state aid formula.

(b) The common school districts shall use eighty-six and one-third percent (86.33%) of the additional funds provided to them under this Article XIII-C to increase teacher salaries as required by Section 4 of this Article, and to otherwise address and prevent teacher and certified instructional staff shortages in the manner most suited to local district circumstances and needs, including but not limited to differentiated compensation methods or performance pay.

(c) The common school districts shall use thirteen and two-thirds percent (13.67%) of the additional funds provided to them under this Article XIII-C to adopt or to expand programs, opportunities, or reforms to improve reading in the early grades, to improve high school graduation rates, and to increase college and career readiness. The common school districts may use the amount apportioned to them under this Section 3(A)(1)(c) only to adopt or to expand said programs, opportunities or reforms, and may not use the amount apportioned to them under this Section 3(A)(1)(c) to maintain programs, opportunities or reforms established prior to the effective date of this Article XIII-C.

(d) The State Auditor and Inspector shall approve auditors who shall annually audit the use made of the monies distributed to the school districts under this Article XIII-C to ensure that it is used only for the purposes specified in this Article XIII-C.

2. Higher Education: Nineteen and one-quarter percent (19.25%) of said monies shall be paid to the education and general operating budgets of the institutions under the authority of the Oklahoma State Regents for Higher Education, for use in improving college affordability, or otherwise in the improvement of higher education.

3. Career and Technology Education: Three and one-quarter percent (3.25%) of said monies shall be paid to the Oklahoma Department of Career and Technology Education, for use in the improvement of career and technology education.

4. Early Childhood Education: Eight percent (8%) of said monies shall be paid to the State Department of Education, for use in increasing access to and enhancing the quality of voluntary early learning opportunities for low-income and at-risk children prior to entry into the common education system.

B. Monies expended or distributed from the Oklahoma Education Improvement Fund as provided herein shall be used only for the purposes specified in this Article XIII-C, Section 3.

C. None of these monies distributed from the Oklahoma Education Improvement Fund to common school districts may be used to add superintendent positions or increase superintendents' salaries.

#### **§ 4. INCREASE IN TEACHER SALARIES**

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

#### **§ 5. FUNDS NOT TO SUPPLANT OTHER EDUCATION FUNDING**

A. Monies expended or distributed from the Oklahoma Education Improvement Fund shall supplement, and shall not be used to supplant or replace, other state funds supporting common education, early childhood education, higher education, or career and technology education, including but not limited to the Permanent School Fund, the Oklahoma Education Lottery Trust Fund, the Education Reform Revolving Fund, the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Common School Fund, appropriations from the Legislature as provided in Article XIII, Section 1a of the Constitution, and any other appropriations from the Legislature used for educational purposes.

B. The Legislature shall appropriate the monies from the Oklahoma Education Improvement Fund solely to supplement other funds supporting common education, early childhood education, higher education, or career and technology education. The Legislature shall not appropriate such monies to supplant or replace any other state funds supporting common education, early childhood education, higher education, or career and technology education.

C. In order to ensure that the monies from the Oklahoma Education Improvement Fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the Fund 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 that shall state whether appropriations from the Oklahoma Education Improvement Fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by monies from the Oklahoma Education Improvement Fund, the State Board of Equalization shall specify the amount by which education 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 Oklahoma Education Improvement Fund.

#### **§ 6. EFFECTIVE DATE, CONSTRUCTION**

A. This Article XIII-C shall become effective on July 1 immediately following its passage.

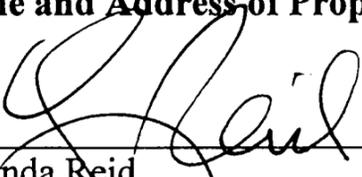
B. Nothing in this Article XIII-C shall be construed as conflicting with Article X, Section 23 of the Constitution.

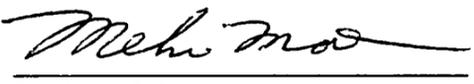
#### **§ 7. SEVERABILITY**

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.

**Name and Address of Proponents**

  
Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

  
Linda Reid  
8505 E. 98th St.  
Tulsa, OK 74133

  
Melvin Moran  
222 N. 2nd St.  
Seminole, OK 74868

## SIGNATURES

**The gist of the proposition is as follows:** This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that these funds not supplant or replace other education funding.

## WARNING

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



Chris Benge  
Secretary of State



Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

October 22, 2015

**FILED**

OCT 23 2015

OKLAHOMA SECRETARY  
OF STATE

Ms. Cindy Shea  
Oklahoma Press Service  
3601 N. Lincoln  
Oklahoma City, OK 73105

Dear Ms. Shea:

Please find enclosed the Notice of Filing for State Question 779, Initiative Petition 403. Per Title 34 O.S. § 8, the publication must appear in at least one newspaper of general circulation in the State of Oklahoma. Please publish the enclosed notice in *The Oklahoman*, *Tulsa World*, and the *Journal Record* as soon as possible.

Also, upon the completion of publication, please provide our office with the corresponding Affidavits of Publication. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Chris Benge".

Chris Benge  
Secretary of State

**NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

**NOTICE** is hereby given that on October 21, 2015, State Question 779, Initiative Petition 403 was filed in the Office of the Oklahoma Secretary of State.

**NOTICE** is also hereby given that State Question 779, Initiative Petition 403 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

**NOTICE** is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 779, Initiative Petition 403:

Shawn Sheehan	Linda Reid	Melvin Moran
1037 Shadowlake Rd.	8505 E. 98 <sup>th</sup> St.	222 N. 2 <sup>nd</sup> St.
Norman, OK 73071	Tulsa, OK 74133	Seminole, OK 74868



**Chris Bengé**  
**Oklahoma Secretary of State**



Chris Bengé  
Secretary of State

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

October 22, 2015

The Honorable Mary Fallin  
Governor, State of Oklahoma  
Room 212, State Capitol  
Oklahoma City, Oklahoma 73105

RECEIVED

OCT 23 2015  
OFFICE OF THE  
GOVERNOR

Dear Governor Fallin:

Please be advised that an initiative petition, designated as **State Question 779, Initiative Petition 403**, was sufficiently filed with the Office of the Secretary of State on Wednesday, October 21, 2015. Proponents of record for said petition are as follows;

Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071	Linda Reid 8505 E. 98 <sup>th</sup> St. Tulsa, OK 74133	Melvin Moran 222 N. 2 <sup>nd</sup> St. Seminole, OK 74868
--	---	--

Please find enclosed a true and exact copy of State Question 779, Initiative Petition 403 on record with the Office of the Secretary of State.

Per Title 34 O.S. Section 8, subsequent to the publication of notice of filing of said petition, the apparent sufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Chris Bengé  
Secretary of State



Chris Bengé  
Secretary of State

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

October 22, 2015

**RECEIVED**

OCT 23 2015

STATE ELECTION  
BOARD

Secretary Paul Ziriaux  
Oklahoma State Election Board  
Room 3, State Capitol  
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriaux:

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Norman, OK 73071

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If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Chris Bengé  
Secretary of State



TODAY, WED OCT 28 ▼

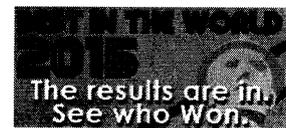


WEDNESDAY, OCTOBER 28, 2015

# CLASSIFIEDS

## Legal Notices / Legal Notices Classified

**NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, ? 8) NOTICE** is hereby given that on October 21, 2015, State Question 779, Initiative Petition 403 was filed in the Office of the Oklahoma Secretary of State. **NOTICE** is also hereby given that State Question 779, Initiative Petition 403 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State. **NOTICE** is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State. Proponents of record for State Question 779, Initiative Petition 403: Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071 Linda Reid 8505 E. 98th St. Tulsa, OK 74133 Melvin Moran 222 N. 2nd St. Seminole, OK 74868 s/Chris Bengel Oklahoma Secretary of State



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Posted: 11 hours ago

Published in the Tulsa World on October 28, 2015, Tulsa, OK.

NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8) NOTICE is hereby given that on October 21, 2015, State Question 779, Initiative Petition 403 was filed in the Office of the Oklahoma Secretary of State. NOTICE is also hereby given that State Question 779, Initiative Petition 403 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State. NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State. Proponents of record for State Question 779, Initiative Petition 403: Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071 Linda Reid 8505 E. 98th St. Tulsa, OK 74133 Melvin Moran 222 N. 2nd St. Seminole, OK 74868 Chris Bengé Oklahoma Secretary of State

Location: 1037 Shadowlake Rd

Posted in Legal notices on Wednesday, October 28, 2015 12:00 am.

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- Wedding Announcement for Groom and Groom

### Daily Break: What's trending from around the Web

### Daily Break: What's trending from around the Web



**Terry Simonson:** Funding public safety -- getting to Yes

# Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Monday, November 02, 2015 10:51 AM

Page 1

## Proof of Publication Order Number 15-10-76

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 10/28/2015

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 Oklahoma governing legal publications.

PUBLICATION FEE \$759.88



(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
2 day of November 2015.



(Notary Public)



### Legal Notices 717

**NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

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Seminole, OK 74868

s/Chris Bengé  
Oklahoma Secretary of State

# Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Monday, November 02, 2015 10:51 AM

Page 1

## Proof of Publication Order Number 15-10-76

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 10/28/2015

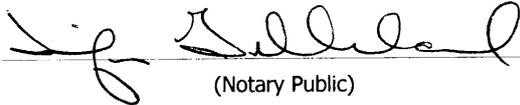
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has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

PUBLICATION FEE \$54.21



(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
2 day of November 2015.



(Notary Public)



Published in the Tulsa World  
on October 28, 2015, Tulsa,  
OK.

**NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

**NOTICE** is hereby given that on October 21, 2015, State Question 779, Initiative Petition 403 was filed in the Office of the Oklahoma Secretary of State.

**NOTICE** is also hereby given that State Question 779, Initiative Petition 403 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

**NOTICE** is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 779, Initiative Petition 403:

Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

Linda Reid  
8505 E. 98th St.  
Tulsa, OK 74133

Melvin Moran  
222 N. 2nd St.  
Seminole, OK 74868

Chris Bengtson  
Oklahoma Secretary of State

# Oklahoma Press Service

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Oklahoma City, OK 73105-

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Monday, November 02, 2015 10:51 AM

Page 1

## Proof of Publication Order Number 15-10-76

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-JOURNAL RECORD, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-JOURNAL RECORD in consecutive issues on the following dates-to-wit:

Insertion: 10/28/2015

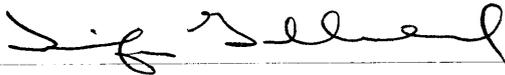
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has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

PUBLICATION FEE \$39.65

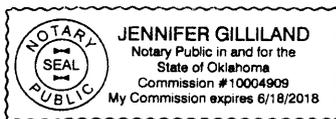


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
2 day of November 2015.



(Notary Public)



### Miscellaneous

(MS10902043)

**NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

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Proponents of record for State Question 779, Initiative Petition 403:

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1037 Shadowlake Rd.	8505 E. 98th St.	222 N. 2nd St.
Norman, OK 73071	Tulsa, OK 74133	Seminole, OK 74868



Chris Benge  
Oklahoma Secretary of State

(10-28-15)

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
NOV 12 2015  
MICHAEL S. RICHIE  
CLERK

OCA IMPACT, INC.,  
AND BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,

RESPONDENTS.

#114425  
No. \_\_\_\_\_

RECEIVED

NOV 12 2015

OKLAHOMA SECRETARY,  
OF STATE

---

APPLICATION TO ASSUME ORIGINAL JURISDICTION

---

ROBERT G. MCCAMPBELL, OBA #10390  
TRAVIS V. JETT, OBA #30601

-Of the Firm-

FELLERS SNIDER, P.C.

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[RMcCampbell@FellersSnider.com](mailto:RMcCampbell@FellersSnider.com)

[TJett@FellersSnider.com](mailto:TJett@FellersSnider.com)

ATTORNEYS FOR PETITIONERS,  
OCA IMPACT, INC. AND DAVID BOND

November 12, 2015

Come now the Petitioners and ask this Court to assume original jurisdiction to review the constitutionality of Initiative Petition No. 403, State Question 779 (“the Petition”) which was filed with the Oklahoma Secretary of State on October 21, 2015. 34 Okla. Stat. § 8(B); Okla. Sup. Ct. R. 1.194. As will be shown in the brief supporting this application, Initiative Petition No. 403 is unconstitutional because it embraces more than one general subject in violation of Article XXIV, § 1 of the Oklahoma Constitution.

### **PARTIES**

1. OCPA Impact, Inc. is a 501(c)(4) corporation incorporated with the Secretary of State of the State of Oklahoma and having its headquarters at 1400 North Lincoln, Oklahoma City, Oklahoma County, State of Oklahoma. The mission of OCPA Impact, Inc. is to empower Oklahoma taxpayers and families to apply appropriate pressure on their state lawmakers to remove our state’s remaining barriers to job growth, business growth and individual opportunity.

2. Petitioner David Bond is a citizen of Oklahoma, lives in Canadian County, Oklahoma, has lived in Oklahoma for 20 years and will continue to live in Canadian County. He is a registered voter in Canadian County. He will have to pay the sales tax provided for in Initiative Petition No. 403.

3. Respondent Shawn Sheehan signed the Initiative Petition as a Proponent.

4. Respondent Linda Reid signed the Initiative Petition as a Proponent.

5. Respondent Melvin Moran signed the Initiative Petition as a Proponent.

### **THE COURT’S JURISDICTION**

6. The Petition was filed with the Oklahoma Secretary of State on October 21, 2015 and a copy of that Petition is included as Item “A” to the Appendix.

7. The Petitioners are citizens of this State qualified to protest the constitutionality of the Petition. 34 O.S. § 8(B).

8. The Notice of the Petition was published by the Secretary of State on Wednesday, October 28, 2015. This Petition is filed within the ten business days permitted for a challenge. Pursuant to 34 O.S. § 8(B), the Petitioner has ten business days in which to file a challenge. Counting business days (excluded the intervening Saturdays and Sundays as well as November 11, Veterans Day, which is a recognized state holiday) the tenth day is November 12, 2015.

9. This Court's jurisdiction to review a challenge to the Initiative Petition is set forth in 34 O.S. § 8. Pursuant to Rule 1.194 of this Court, a challenge to an initiative petition shall be treated as an original action in this Court.

### MERITS

10. According Okla. Const. art. XXIV, § 1, a proposed amendment to the Oklahoma Constitution must "embrace one general subject." This rule is applicable to initiative petitions, *In re Initiative Petition 314*, 1980 OK 174, ¶ 46, 625 P.2d 595, 601, and applies even to proposed amendments "by article." *In re Initiative Petition No. 344*, 1990 OK 75, ¶¶ 2, 5, 797 P.2d at 327–28; *In re Initiative Petition No. 342*, 1990 OK 76, ¶¶ 1–3, 797 P.2d 331, 332. "The purpose of the one general subject criteria is to prevent deceit or the presentation of a misleading proposal and to prevent logrolling, the combining of unrelated proposals." *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 4, 797 P.2d at 332.

11. In violation of Article XXIV, Section 1, this Petition has more than one general subject.

12. The general subject is a \$5,000 pay raise for teachers in common education. Petition, § 4.

13. However, in order to obtain the \$5,000 pay raise for teachers, the voters have to agree to a tax increase in which over 40% of the money will go for something other than teacher pay raises. Petition, § 3. Of the total tax increase estimated to be \$570 million, only \$342 million can be used for teacher pay raises. Petition, § 3(A)(1)(b); Memorandum of Oklahoma Office of Management and Enterprise Services, Re: Initiative Petition 403, October 22, 2015 (cited in Warren Vieth & Nate Robson, *Penny Increase Would Make Oklahoma No. 1 in Sales Taxes*, *The Oklahoma*, Nov. 1, 2015, at A17). Under the terms of this Petition, the remaining \$228 million, over 40% of the total, must be used for topics other than teacher pay raises. Petition, § 3. For example, \$110 million would have to be spent on higher education even though a 2011 poll showed that less than 5% of Oklahomans favor a tax increase for higher education spending. Petition, § 3(A)(2); *Oklahoma Voters in Favor of Making Changes to Higher Education Administration*, SoonerPoll.com (Mar. 6, 2011), <http://soonerpoll.com/oklahoma-voters-in-favor-of-making-changes-to-higher-education-administration/> (last accessed Nov. 9, 2015).

14. The third subject is that voters who favor the teacher pay raise must accept that it would be funded through an additional sales tax which would give Oklahoma the highest average combined state and local tax burden in the United States. Petition, § 2; Scott Drenkard & Jared Walczak, *State and Local Sales Tax Rates, Midyear 2015*, Fiscal Fact No. 473, The Tax Foundation, at 4 (July 2015), available at [http://taxfoundation.org/sites/taxfoundation.org/files/docs/TaxFoundation\\_FF474\\_0.pdf](http://taxfoundation.org/sites/taxfoundation.org/files/docs/TaxFoundation_FF474_0.pdf); Joseph Henchman, *Oklahoma May Vote on Higher Sales Tax*, The Tax Policy Blog, The Tax Foundation (Oct. 27, 2015), <http://taxfoundation.org/blog/oklahoma-may-vote-higher-sales-tax>. Voters favoring the

teacher pay raise might prefer that it be funded through other tax levies or cost savings in other areas.

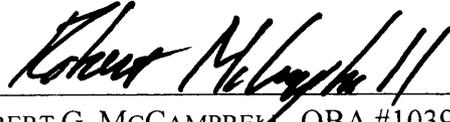
15. The fourth subject is that the Petition would force voters who favor the teacher pay raise to accept a constitutional restructuring of the appropriations process in which four members of the Board of Equalization would have the power to give instructions to the Legislature about education funding and to prevent the Legislature from funding other agencies until those instructions are met. Petition, § 5.

16. The Petition represents a textbook example of logrolling.

**CONCLUSION**

This Court should (1) assume original jurisdiction of this matter and (2) for the reasons set for in the Brief in Support, this Court should rule that the Petition should not be presented for a vote of the people.

Respectfully submitted,



---

ROBERT G. McCAMPBELL, OBA #10390  
TRAVIS V. JETT, OBA #30601

-Of the Firm-

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TJett@FellersSnider.com

**ATTORNEYS FOR PETITIONERS,  
OCPA IMPACT, INC. AND DAVID BOND**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of November, 2015, a true and correct copy of the forgoing Application for Original Jurisdiction was served as follows:

**BY HAND-DELIVERY:**

---

Kent Meyers  
Roger Stong  
Melanie Wilson Rughani  
Counsel for Respondents  
Crowe & Dunlevy, P.C.  
324 N. Robinson, Suite 100  
Oklahoma City, OK 73102

Attorney General's Office  
State of Oklahoma  
313 N.E. 21<sup>st</sup> Street  
Oklahoma City, OK 73105

Secretary of State's Office  
State of Oklahoma  
101 State Capitol  
Oklahoma City, OK 73105



---

Robert G. McCampbell  
Travis V. Jett

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

NOV 12 2015

MICHAEL S. RICHIE  
CLERK

OCA IMPACT, INC.,  
AND DAVID BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,

RESPONDENTS.

No. **#114425**

**RECEIVED**

NOV 12 2015

OKLAHOMA SECRETARY  
OF STATE

---

PETITIONERS' APPENDIX TO APPLICATION  
TO ASSUME ORIGINAL JURISDICTION

---

ROBERT G. MCCAMPBELL, OBA #10390  
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November 12, 2015

ATTORNEYS FOR PETITIONERS,  
OCA IMPACT, INC. AND DAVID BOND

**INDEX TO PETITIONERS' APPENDIX TO APPLICATION  
TO ASSUME ORIGINAL JURISDICTION**

The following is Petitioners' Index to its to its Appendix, pursuant to Sup. Ct. R. 1.191(d)(3):

<b>Tab No.</b>	<b>Description and Date (If Any)</b>
<b>A</b>	<b>Initiative Petition No. 403, State Question No. 779 (Oct. 21, 2015)</b>
<b><u>Relevance:</u></b>	This is the initiative petition that is being challenged as unconstitutional.
<b><u>Synopsis:</u></b>	The Initiative Petition adds multiple general subjects to the Oklahoma Constitution including to a teacher pay raise, an apportionment of funds for non-teacher-pay purposes, a sales tax, and an alteration of the budget process.
<b>B</b>	<b>Legal Notice of Filing Initiative Petition No. 403 (Oct. 28, 2015)</b>
<b><u>Relevance:</u></b>	Publication of notice that an initiative petition has been filed begins the time period for protesting the petition.
<b><u>Synopsis:</u></b>	The notices in The Oklahoman and the Tulsa World announce that Initiative Petition No. 403 was filed on October 21, 2015.

Respectfully submitted,



ROBERT G. MCCAMPBELL, OBA #10390  
TRAVIS V. JETT, OBA #30601

-Of the Firm-

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**ATTORNEYS FOR PETITIONERS,  
OCA IMPACT, INC. AND DAVID BOND**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of November, 2015, a true and correct copy of the forgoing Appendix to the Application for Original Jurisdiction was served as follows:

**BY HAND-DELIVERY:**

Kent Meyers	Attorney General's Office	Secretary of State's Office
Roger Stong	State of Oklahoma	State of Oklahoma
Melanie Wilson Rughani	313 N.E. 21 <sup>st</sup> Street	101 State Capitol
Counsel for Respondents	Oklahoma City, OK 73105	Oklahoma City, OK 73105
Crowe & Dunlevy, P.C.		
324 N. Robinson, Suite 100		
Oklahoma City, OK 73102		

  
\_\_\_\_\_  
Robert G. McCampbell  
Travis V. Jett

# **APPENDIX A**

---

**FILED**

OCT 21 2015

OKLAHOMA SECRETARY  
OF STATE

**PROPOSED BALLOT TITLE**

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, to increase high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that monies from the fund not supplant or replace other education funding. The Article takes effects on the July 1 after its passage.

Shall the proposal 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.

**FILED**

OCT 21 2015

State Question No. 779, Initiative Petition No. 403

OKLAHOMA SECRETARY  
OF STATE

**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.**

---

**INITIATIVE PETITION**

To the Honorable Mary Fallin, 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 8th day of November, 2016 (or at a 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 are correctly written after my name. The time for filing this petition expires ninety (90) days from \_\_\_\_\_. The question we herewith submit to our fellow voters is:

Shall the following proposed new Article XIII-C to the Constitution be approved?

---

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

**CONSTITUTION OF OKLAHOMA, ARTICLE XIII-C --  
OKLAHOMA EDUCATION IMPROVEMENT FUND**

**§ 1. CREATION OF OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby created in the State Treasury a limited purpose fund to be known as the "Oklahoma Education Improvement Fund." The fund shall consist of the proceeds of the sales tax levy and the use tax levy provided in Section 2 of this Article XIII-C, and any monies or assets contributed to the fund from any other source, public or private.

**§ 2. LEVY OF ONE CENT SALES TAX AND USE TAX FOR OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an additional excise tax of one percent (1.0%) of the gross receipts or gross proceeds of each sale of tangible personal property, or of other goods and services subject to the sales tax as provided in the Oklahoma Sales Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an additional excise tax on the storage, use, or other consumption in this state of such property at the rate of one percent (1.0%) of the purchase price of such property. Said tax shall be levied on the storage, use or consumption of personal property as provided in the Oklahoma Use Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Use Tax Code.

This sales tax levy shall be in addition to, and shall not supplant, the general sales tax levied in the Oklahoma Sales Tax Code or any other sales tax authorized by Oklahoma law and

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this use tax levy shall be in addition to, and shall not supplant, the general use tax levied in the Oklahoma Use Tax Code or any other use tax authorized by Oklahoma law.

All revenue from the sales tax and the use tax levied pursuant to this Article XIII-C, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be paid to the State Treasurer and deposited into the Oklahoma Education Improvement Fund.

**§ 3. ALLOCATION OF MONIES IN OKLAHOMA EDUCATION IMPROVEMENT FUND - PURPOSES - USES - ETC.**

A. Monies in the Oklahoma Education Improvement Fund shall be apportioned by the State Treasurer, appropriated by the Legislature, and distributed monthly for the educational purposes established herein, as follows:

1. Common Education: Sixty-nine and one-half percent (69.5%) of said monies shall be apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, on the basis of the state aid formula for common education then in effect.

(a) Monies from the Oklahoma Education Improvement Fund shall be specifically identified and segregated from other monies appropriated and apportioned among the several common school districts of the State on the basis of said state aid formula.

(b) The common school districts shall use eighty-six and one-third percent (86.33%) of the additional funds provided to them under this Article XIII-C to increase teacher salaries as required by Section 4 of this Article, and to otherwise address and prevent teacher and certified instructional staff shortages in the manner most suited to local district circumstances and needs, including but not limited to differentiated compensation methods or performance pay.

(c) The common school districts shall use thirteen and two-thirds percent (13.67%) of the additional funds provided to them under this Article XIII-C to adopt or to expand programs, opportunities, or reforms to improve reading in the early grades, to improve high school graduation rates, and to increase college and career readiness. The common school districts may use the amount apportioned to them under this Section 3(A)(1)(c) only to adopt or to expand said programs, opportunities or reforms, and may not use the amount apportioned to them under this Section 3(A)(1)(c) to maintain programs, opportunities or reforms established prior to the effective date of this Article XIII-C.

(d) The State Auditor and Inspector shall approve auditors who shall annually audit the use made of the monies distributed to the school districts under this Article XIII-C to ensure that it is used only for the purposes specified in this Article XIII-C.

2. Higher Education: Nineteen and one-quarter percent (19.25%) of said monies shall be paid to the education and general operating budgets of the institutions under the authority of the Oklahoma State Regents for Higher Education, for use in improving college affordability, or otherwise in the improvement of higher education.

3. Career and Technology Education: Three and one-quarter percent (3.25%) of said monies shall be paid to the Oklahoma Department of Career and Technology Education, for use in the improvement of career and technology education.

4. Early Childhood Education: Eight percent (8%) of said monies shall be paid to the State Department of Education, for use in increasing access to and enhancing the quality of voluntary early learning opportunities for low-income and at-risk children prior to entry into the common education system.

B. Monies expended or distributed from the Oklahoma Education Improvement Fund as provided herein shall be used only for the purposes specified in this Article XIII-C, Section 3.

C. None of these monies distributed from the Oklahoma Education Improvement Fund to common school districts may be used to add superintendent positions or increase superintendents' salaries.

**§ 4. INCREASE IN TEACHER SALARIES**

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

**§ 5. FUNDS NOT TO SUPPLANT OTHER EDUCATION FUNDING**

A. Monies expended or distributed from the Oklahoma Education Improvement Fund shall supplement, and shall not be used to supplant or replace, other state funds supporting common education, early childhood education, higher education, or career and technology education, including but not limited to the Permanent School Fund, the Oklahoma Education Lottery Trust Fund, the Education Reform Revolving Fund, the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Common School Fund, appropriations from the Legislature as provided in Article XIII, Section 1a of the Constitution, and any other appropriations from the Legislature used for educational purposes.

B. The Legislature shall appropriate the monies from the Oklahoma Education Improvement Fund solely to supplement other funds supporting common education, early childhood education, higher education, or career and technology education. The Legislature shall not appropriate such monies to supplant or replace any other state funds supporting common education, early childhood education, higher education, or career and technology education.

C. In order to ensure that the monies from the Oklahoma Education Improvement Fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the Fund 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 that shall state whether appropriations from the Oklahoma Education Improvement Fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by monies from the Oklahoma Education Improvement Fund, the State Board of Equalization shall specify the amount by which education 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 Oklahoma Education Improvement Fund.

**§ 6. EFFECTIVE DATE, CONSTRUCTION**

A. This Article XIII-C shall become effective on July 1 immediately following its passage.

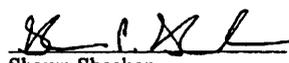
B. Nothing in this Article XIII-C shall be construed as conflicting with Article X, Section 23 of the Constitution.

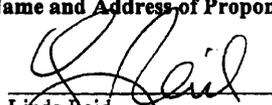
**§ 7. SEVERABILITY**

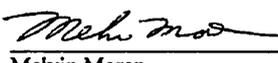
The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions hereof, and the remaining provisions hereof shall continue in full force and effect.

---

**Name and Address of Proponents**

  
Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

  
Linda Reid  
8505 E. 98th St.  
Tulsa, OK 74133

  
Melvin Moran  
222 N. 2nd St.  
Seminole, OK 74868

### SIGNATURES

The gist of the proposition is as follows: This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that these funds not supplant or replace other education funding.

### WARNING

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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
4.	Signature of Legal Voter	Print Name	Address	City	Zip	County
5.	Signature of Legal Voter	Print Name	Address	City	Zip	County
6.	Signature of Legal Voter	Print Name	Address	City	Zip	County
7.	Signature of Legal Voter	Print Name	Address	City	Zip	County
8.	Signature of Legal Voter	Print Name	Address	City	Zip	County
9.	Signature of Legal Voter	Print Name	Address	City	Zip	County
10.	Signature of Legal Voter	Print Name	Address	City	Zip	County
11.	Signature of Legal Voter	Print Name	Address	City	Zip	County
12.	Signature of Legal Voter	Print Name	Address	City	Zip	County
13.	Signature of Legal Voter	Print Name	Address	City	Zip	County
14.	Signature of Legal Voter	Print Name	Address	City	Zip	County
15.	Signature of Legal Voter	Print Name	Address	City	Zip	County
16.	Signature of Legal Voter	Print Name	Address	City	Zip	County
17.	Signature of Legal Voter	Print Name	Address	City	Zip	County
18.	Signature of Legal Voter	Print Name	Address	City	Zip	County
19.	Signature of Legal Voter	Print Name	Address	City	Zip	County
20.	Signature of Legal Voter	Print Name	Address	City	Zip	County



# **APPENDIX B**



TODAY, WED OCT 28 ▾



WEDNESDAY, OCTOBER 28, 2015

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**NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8) NOTICE** is hereby given that on October 21, 2015, State Question 779, Initiative Petition 403 was filed in the Office of the Oklahoma Secretary of State. **NOTICE** is also hereby given that State Question 779, Initiative Petition 403 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State. **NOTICE** is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State. Proponents of record for State Question 779, Initiative Petition 403: Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071 Linda Reid 8505 E. 98th St. Tulsa, OK 74133 Melvin Moran 222 N. 2nd St. Seminole, OK 74868 s/Chris Bengé Oklahoma Secretary of State

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NOTICE OF THE FILING OF STATE QUESTION 779, INITIATIVE PETITION 403, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8) NOTICE is hereby given that on October 21, 2015, State Question 779, Initiative Petition 403 was filed in the Office of the Oklahoma Secretary of State. NOTICE is also hereby given that State Question 779, Initiative Petition 403 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State. NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State. Proponents of record for State Question 779, Initiative Petition 403: Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071 Linda Reid 8505 E. 98th St. Tulsa, OK 74133 Melvin Moran 222 N. 2nd St. Seminole, OK 74868 Chris Bengé Oklahoma Secretary of State

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Funding public safety – getting to Yes

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

SUPREME COURT OF THE  
STATE OF OKLAHOMA

NOV 12 2015

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CLERK

OCA IMPACT, INC.,  
AND DAVID BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,

RESPONDENTS.

#114425  
No. \_\_\_\_\_

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NOV 12 2015

OKLAHOMA SECRETARY  
OF STATE

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BRIEF IN SUPPORT OF APPLICATION  
TO ASSUME ORIGINAL JURISDICTION

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ATTORNEYS FOR PETITIONERS,  
OCA IMPACT, INC. AND DAVID BOND

November 12, 2015

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## I. INTRODUCTION

Initiative Petition No. 403 (“the Petition”) is unconstitutional, legally insufficient, and this Court should order that it not be submitted for a vote of the people. 34 Okla. Stat. § 8.

Section III below will show that the Petition is unconstitutional because it violates the one-general-subject rule of Article XXIV, Section 1 of the Oklahoma Constitution. The general subject of the Petition, a teacher pay raise, is very popular. A recent poll showed that more than 80% of Oklahomans support a teacher pay raise. *See* Sooner Poll, *infra*.

The Petition is constitutionally deficient because it uses logrolling in an attempt to constitutionalize three other separate and distinct subjects. In opposing logrolling, this Court has explained, “[v]oters should not have to adopt measure of which they really disapprove in order to embrace propositions that they favor.” *In re Initiative Petition No. 342*, 1990 OK 76 ¶ 4, 797 P.2d 331, 332. As detailed in § III below, this Petition contains more than one general subject:

1. The general subject is a \$5,000 pay raise for teachers in common education. This is a popular concept, and a recent poll showed that over 86% of likely voters support a teacher pay raise.
2. However, in order to obtain the \$5,000 pay raise for teachers, the voters have to agree to a tax increase in which over 40% of the money will go for something other than teacher pay raises. Of the total tax increase estimated to be \$570 million, only \$342 million can be used for teacher pay raises. The remaining \$228 million, over 40% of the total, must be used for topics other than teacher pay raises. For example, \$110 million would have to be spent on higher education even though a 2011 poll showed that less than 5% of Oklahomans favor a tax increase for higher education spending. (§ III(B)(2) below)
3. The third subject is that voters who favor the teacher pay raise must accept that it would be funded through an additional sales tax which would give Oklahoma the highest average combined state and local sales tax burden in the United States. Voters favoring the teacher pay raise might prefer that it be funded through other tax levies, or cost savings in other areas. Because of the nature of sales tax, the sale tax increase proposed by the Petition could place a significant burden on Oklahoma taxpayers, particularly those Oklahomans least able to afford it.

4. The fourth subject is that the Petition would force voters who favor the teacher pay raise to accept a constitutional restructuring of the appropriations process in which for of the seven members of the Board of Equalization would have the power to give instructions to the Legislature about education funding and to prevent the Legislature from funding other agencies until those instructions are met.

The Petition represents a textbook example of logrolling.

## II. INITIATIVE PETITION NO. 403

It is important to examine the provisions of Petition No. 403. Section 4 is an appropriation that requires a teacher pay increase. It is an independent, standalone provision and provides in its entirety as follows:

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

Section 4, creates an independent right for teachers to receive a \$5,000 pay increase.

Sections 1-3 of the Petition implement a revenue measure that would levy a one cent sales and use tax on a statewide basis (“the sales tax”). Section 2 provides that “this sales tax levy shall be in addition to, and shall not supplant, the general sales tax levied in the Oklahoma Sales Tax Code or any sales tax authorized by Oklahoma law . . . .” Section 3 of the Petition allocates how the money will be used. Importantly, for this case, 69.5% of the proceeds will go to common education. Petition, § 3(A)(1). Out of that 69.5%, 86.33% will go to common school districts and can be used for the teacher pay increase. Thus, only 59.99% of the new tax revenue can be used for teacher pay raises. Over 40% of the new tax proceeds cannot be used for teacher pay raises as a matter of law.

Section 5 is designed to make sure the sales tax proceeds are used to increase education funding and not supplant existing funding. The mechanism used by Section 5,

however, gives the Board of Equalization the power to give instructions to the Legislature and to prevent the Legislature from making any appropriations to any agencies unless the Board's instructions are followed. Section 5(C) provides that the Board of Equalization shall examine appropriations from the fund each year. The Board of Equalization will determine whether the proceeds of the fund were "used to enhance or supplant education funding." If the Board disagrees with the appropriation decisions of the Legislature, "the State Board of Equalization shall specify the amount by which education funding was supplanted." The remedy under Section 5(C) is as follows: "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 Oklahoma Improvement Fund." The Board of Equalization, then, because it disapproves of how the Legislature made appropriations in one year has the ability to give the Legislature an instruction about a specific dollar amount that must be appropriated additionally to education in the next year in order to make up for the perceived deficit. Further, the Board has the power to cause the appropriation process to stop entirely for all agencies since "the Legislature shall not make any appropriations for the ensuing fiscal year" until the Board's instructions for a make up appropriation are followed.

### **III. ARGUMENT AND AUTHORITIES**

#### **THE PETITION VIOLATES THE SINGLE SUBJECT RULE FOR CONSTITUTIONAL AMENDMENTS. OKLA. CONST. ART. XXIV, § 1.**

##### **A. INTRODUCTION**

The general subject of the Petition is a \$5,000 teacher pay raise for kindergarten to 12<sup>th</sup> Grade teachers. Petition, §4. The Petition goes on, however, to logroll several other subjects into the Petition in violation of Article XXIV, Section 1 of the Oklahoma Constitution. Article XXIV, Section 1 requires that an amendment to the Constitution "must

embrace only one general subject.” *In re Initiative Petition No. 344*, 1990 OK 75, ¶ 5, 797 P.2d 326, 328. This rule is applicable to initiative petitions, *In re Initiative Petition No. 314*, 1980 OK 174, ¶ 46, 625 P.2d 595, 601, and applies even to proposed amendments “by article.” *In re Initiative Petition No. 344*, 1990 OK 75, ¶¶ 2, 5, 797 P.2d at 327–28; *In re Initiative Petition No. 342*, 1990 OK 76, ¶¶ 1–3, 797 P.2d 331, 332.

“The purpose of the one general subject criteria is to prevent deceit or the presentation of a misleading proposal and to prevent logrolling, the combining of unrelated proposals.” *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 4, 797 P.2d at 332. **“Voters should not have to adopt measures of which they really disapprove in order to embrace propositions that they favor.”** *Id.* ¶ 10, 797 P.2d at 333. The functional test for applying the one-general-subject rule is has been succinctly condensed by this Court. The operative question is **whether “the changes proposed by the Petition are . . . so related that a voter supporting one of the proposed measures can reasonably be expected to support all of the changes.”** *Id.* (emphasis added).

“The right of initiative petition is not absolute with both constitutional and statutory limitations placed on the process.” *Id.* ¶ 11. “This Court has entertained preelection attacks on initiative petitions to avoid costly and unnecessary elections.” *E.g. In re Initiative Petition No. 366*, 2002 OK 21, ¶ 4, 46 P.3d 123, 125. When a petition embraces multiple subjects it is violative of the Constitution and may not be submitted to the voters. *In re Initiative Petition No. 344*, 1990 OK 75, ¶¶ 11, 17, 797 P.2d at 330; *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 10, 16, 797 P.2d at 333, 334.

The proponents here style the proposed amendment as an amendment “by article,” adding a new article, XIII-C, to the Oklahoma Constitution. Nevertheless, the single subject

rule applies and, even where the proposal is for an amendment by article, this Court will invalidate the Petition if it proposes more than one general subject. For instance, in the case *In re Initiative Petition No. 342*, 1990 OK 76, 797 P.2d 331, 332, the proponents of an initiative petition sought to entirely repeal and replace Article IX of the Oklahoma Constitution. The initiative petition (1) set forth the election, jurisdiction, and power of the Corporation Commission, (2) established qualifications for Corporation Commission members, (3) repealed multiple provisions which were currently codified in Article IX, and (4) made certain constitutional provisions have the effect of statutes. *Id.* ¶ 1. The repealed provision covered topics ranging from “power of eminent domain of foreign corporations to the fellow-servant doctrine rule.” *Id.* ¶ 8, 797 P.2d at 333. The Court found that “[t]he only connection that these topics have to each other is that they all tangentially relate to the general subject of corporations.” *Id.* The court concluded: **“The changes proposed by the Petition are not so related that a voter supporting one of the proposed measures can reasonably be expected to support all of the changes.”** *Id.* ¶ 10.

Similarly, in *In re Initiative Petition No. 344*, 1990 OK 75, 797 P.2d 326, the proponents of an initiative petition sought to entirely repeal and replace Article VI of the Oklahoma Constitution, which organizes the Executive Branch. The initiative petition would have caused multiple changes to the functioning of the executive branch ranging “the method of the election of the Lt. Governor, to changing the term of board and commission members including non-attorney members of the Judicial Nominating Commission, to giving the Governor the sole authority ‘to grant reprieves, commutations, and pardons,’ to changing the Executive Branch to a cabinet form of government, to repealing the constitutional authority for certain boards” and others. *Id.* ¶ 9, 797 P.2d at 329. **Again, the court’s single-subject**

analysis focused on the voters. “A voter supporting any one of these provisions could not reasonably be expected to support the principle of the others.” *Id.* at 329. The Court concluded, “Voters who may be in favor of changing the method of electing a Lt. Governor are compelled to accept a cabinet form of government and are simply not given a choice of rejecting one without the other.” *Id.* ¶ 11, 797 P.2d at 329–30.

Like the petitions in *In re Initiative Petition No. 342*, 1990 OK 76, 797 P.2d 331, 332 and *In re Initiative Petition No. 344*, 1990 OK 75, 797 P.2d 326, this Petition contains multiple general subjects in violation of Article XXIV, Section 1 of the Oklahoma Constitution. Just as a tangential relationship to “corporations” was insufficient to satisfy the single subject rule in *In re Initiative Petition No. 342*, and a tangential relationship to the executive branch was insufficient to save Initiative Petition 344, a tangential relationship to education does not justify the multiple general subjects covered in the Petition currently before this Court.

## B. MULTIPLE GENERAL SUBJECTS

1. **Teacher Pay Raise.** The general subject of the Petition is found in Section 4 of the Petition.

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

Petition, § 4.<sup>1</sup>

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<sup>1</sup> The Petition is clear that it is local school districts, and not the state, are obligated to fund the \$5,000 pay raise. The Petition allocates 60% of the sales tax revenues to school districts to fund the pay increases, but there is no explanation as to what happens in the case of a sales tax shortfall. Presumably, it would be up to local school districts to raise ad valorem taxes or issue bonds if (1) the Legislature exercised its power to extend sales tax holidays or limit the scope of items that is subject to the tax causing revenues to decrease, *e.g.* 68 O.S. § 1357.6 (excepting pharmaceuticals from sales tax); *id.* § 1357.10 (sales tax exemption for back to school shopping); (2) the higher sales tax drives purchases out-of-state or causes consumers not to make purchases; (3) consumers avoid sales taxes by shifting their purchases to online vendors. Since the sales tax proceeds are distributed on a per-student basis, but the pay raise is paid per teacher, schools with lower student to teacher ratios are at a heightened risk for shortfalls.

The idea of a teacher pay raise is very popular. In May 2015, a poll from Sooner Poll showed that an overwhelming 86.2% of likely voters supported a plan by the state superintendent to phase in a \$5,000 pay raise and add five days of instruction. *Hofmeister's Plan to Boost Teacher Pay Popular with Voters*, SoonerPoll.com (May 26, 2015), <http://soonerpoll.com/hofmeisters-plan-to-boost-teacher-pay-popular-with-voters/>. Presumably because of this provision's popularity, the proponents of the Petition has log-rolled several other subjects into this petition in violation of Article XXIV, Section 1 of the Oklahoma Constitution.

Section 4 is an extraordinary provision. It is unlike any other provision in the Constitution. It provides a direct, constitutional appropriation of \$5,000 to every teacher in the State. See *Menefee v. Askew*, 1910 OK 47, 107 P. 159 (No arbitrary form of expression or particular words are required to make an appropriation). The Constitution does not provide any other public employees with such a favorable provision. The Petitioners here do not assert that the Constitution cannot contain such a provision. Rather, the point is that when Section 4 creates (a) an independent right to a \$5,000 pay raise for over 40,000 teachers, (b) in a unique constitutional provision, that (c) exempts teacher pay from the normal appropriations process and (d) treats teachers favorably compared to all other public employees – then that is a subject. As shown below, this Petition contains other subjects as well.

2. **Unrelated Funding**. Even though the predominating general subject of this Petition is a teacher pay raise in Section 4, this Petition would also increase taxes by \$228 million to pay for things other than a teacher pay raise.

Section 2 of the Petition levies a 1% sales tax in addition to current sales tax. The Office of Management and Enterprise Services estimates that the tax increase will net \$570 million in the first year. Memorandum of Oklahoma Office of Management and Enterprise Services, Re: Initiative Petition 403, October 22, 2015 (cited in Warren Vieth & Nate Robson, *Penny Increase Would Make Oklahoma No. 1 in Sales Taxes*, The Oklahoma, Nov. 1, 2015, at A17). Under Section 3, however, less than 60% of those tax proceeds will be used for teacher pay. Based on the OMES estimate of \$570 million:

<b>Agency/Political Subdivision</b>	<b>% of Tax</b>	<b>Total</b>
Common Education		
Teacher Pay Raise	59.999%	\$342 million
Reading, Graduation, and College Prep.	9.501%	\$54 million
Higher Education	19.25%	\$110 million
CareerTech	3.25%	\$18.5 million
Dept. of Educ. - Early Childhood Education	8%	45.6 million

In other words, of the approximately \$570 million expected to be generated from the tax increase, \$228 million would have to be spent for something other than teacher pay raises.

<b>General Subject</b>	<b>% of Tax</b>	<b>Total</b>
Teacher Pay Raise	59.999%	<b>\$342 million</b>
Other Spending	40.001%	<b>\$228 million</b>

The one-general-subject rule guarantees that provisions in a Petition are sufficiently related so that voters can be “reasonably be expected to support all of the changes.” *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 10, 797 P.2d 331, 333. It cannot be reasonably expected that because a voter supports tax increase for teacher pay that they would also support an additional \$228 in taxes to fund things other than teacher pay.

The logrolling is particularly apparent with regard to higher education funding. Even though the Petition is ostensibly about pay raises for teachers in common education (i.e.

kindergarten through 12<sup>th</sup> grade), the Petition would apportion \$110 million to higher education. Higher education and common education are separate and distinct. In fact, common education and higher education are established in separate articles of the constitution. Okla. Const. art. XIII, § 5 (establishing state board of education, which supervises common education); Okla. Const. art. XIII-A, § 2 (Okla. State Regents for Higher Education); *also* Okla. Const. art. VI, § 31a (Okla. A&M board of regents); Okla. Const. art. XIII-B, § 1 (Board of Regents of Oklahoma Colleges); Okla. Const. art. XIII, § 8 (University of Okla. Bd. of Regents). In a 2011 poll, only 4.5% of Oklahomans supported raising taxes to support higher education as opposed to applying spending cuts. *Oklahoma Voters in Favor of Making Changes to Higher Education Administration*, SoonerPoll.com (Mar. 6, 2011), <http://soonerpoll.com/oklahoma-voters-in-favor-of-making-changes-to-higher-education-administration/>. This stands in stark contrast with the more than 80% of voters that support teacher pay raises. Voters would be forced to agree to a more than \$228 million tax increase for higher education, CareerTech, early childhood education, and other things, in order that their local teachers would get a raise. This is logrolling, and the incongruence of funding demonstrates that the Petition has multiple subjects.

The proponents have seized on a politically popular general subject—teacher pay—and are using the voters’ support of teachers to buoy a separate general subject—a half-a-billion dollar sales tax of which only 60% is dedicated to teacher pay. “The Petition simply does not allow voters a choice.” *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 8, 797 P.2d at 333.

3. **Sales Tax**. Sections 1 and 2 of the Petition implement a sales tax that is a separate general subject. As discussed, this tax increase is estimated to top half a billion

dollars in the first year it is imposed and will result in Oklahoma having the highest average combined state and local sales tax burden in the nation. The Tax Foundation, a nonpartisan, nonprofit research organization in Washington D.C. has done research to show that the combined state and local sales tax rate in Oklahoma would be 9.78% making it the highest in the United States. Scott Drenkard & Jared Walczak, State and Local Sales Tax Rates, Midyear 2015, Fiscal Fact No. 473, The Tax Foundation, at 4 (July 2015), [http://taxfoundation.org/sites/taxfoundation.org/files/docs/TaxFoundation\\_FF474\\_0.pdf](http://taxfoundation.org/sites/taxfoundation.org/files/docs/TaxFoundation_FF474_0.pdf); Joseph Henchman, Oklahoma May Vote on Higher Sales Tax, The Tax Policy Blog, The Tax Foundation (Oct. 27, 2015), <http://taxfoundation.org/blog/oklahoma-may-vote-higher-sales-tax>. Also, the state sales tax would increase from 4.5 cents to 5.5 cents, a 22% increase.

The sales tax in Sections 1 and 2 and the teacher pay raise in Section 4 are not “so related that a voter supporting one of the proposed measures can reasonably be expected to support all of the changes.” *Id.* ¶ 10, 797 P.2d at 333. Instead, their combination in the same petition is logrolling in violation of Okla. Const. art. XXIV, § 1. First, it is certainly reasonable to suppose many voters would be inclined to favor higher teacher pay but would not be in favor of a half-a-billion dollar tax increase and a 22% increase in state sales tax. Voters may favor funding teacher pay raises from the tax proceeds already collected by the state or through other tax levies.<sup>2</sup>

Second, some voters would be supportive of a pay raise and a tax increase but disfavor raising the revenue through a sales tax because of the nature of sales tax, the sale tax

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<sup>2</sup> For one example, Tulsa City Council member Blake Ewing expressed at a City Council meeting that although he supported the need for education spending, he did not support a sales tax as the method to fund it. Wade, Jarrel, “Council tax discussion turns to criticism of David Boren’s education proposal.” Tulsa World, November 6, 2015, <http://tulsaworld.com/news/elections/council-tax-discussion-turns-to-criticism-of-david-boren’s-education-proposal>.

increase proposed by the Petition could place a significant burden on Oklahoma taxpayers, particularly those Oklahomans least able to afford it.

Additionally, this Court's case law shows that an appropriation for one purpose and a change in tax policy for another purpose are separate subjects. In *Fent v. Fallin*, 2013 OK 107, ¶ 7, 315 P.3d 1023, the Legislature attempted to combine an income tax reduction with an appropriation to be used for repairs on the capitol building. According to the Court, "[t]axation policy and the appropriation of state funds for Capitol improvements are not germane, relative or cognate to a readily apparent common theme and purpose."<sup>3</sup> The Court recognized a dichotomy as "one provision . . . authorizes tax cuts and impacts revenues in the State while another provision impacts state expenditures made possible by the creation of a special fund for building repairs to the State Capitol." *Id.* ¶ 6, 315 P.3d at 1025.

The same unconstitutional dichotomy is present in this case. The sales tax provisions in Sections 1 and 2 impact revenues in the State while Section 4 impacts expenditures of local school districts by constitutionalizing a teacher pay increase. Moreover, as in *Fent v. Fallin*, the purposes of the two subjects—taxation and appropriations—do not align. The constitutional appropriation in Section 4 is for a teacher pay raise. The purpose of the sales tax is much broader. As discussed, over 40% of the sales tax revenue must be spent on things other than the teacher pay raise, and approximately \$110 million will be apportioned to higher education which is governed by a completely different entity in a different article of the Constitution. *Fent v. Fallin* demonstrates that the sales tax is a separate general subject.

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<sup>3</sup> *Fent* was decided under the single-subject rule applicable to statutes, Okla. Const. art. V, § 57; however, the basis for the court's decision shows that it is equally applicable to Okla. Const. art. XXIV, § 1. The *Fent* court stated, "A voter could certainly be for one measure and not the other but forced to approve the entire bill in order to pass the desired legislation. The single subject rule prohibits this unpalatable choice." *Id.* This is the same purpose underlying Okla. Const. art. XXIV, § 1.

4. **State Appropriations Process.** Section 5 on the Petition introduces another general subject – remaking the state appropriations process. Article X, Section 23 and Article V, Section 55 set forth a detailed set of provisions in which an overall state budget is created. The Petition, however, would implement a new system in which this appropriations process would be undermined. Four members of the Board of Equalization (which has a total of seven members, Okla. Const. art. X, § 21) would have the power to (a) give instructions to the Legislature about how much money to appropriate in a given year for a make up appropriation in education and (b) to cause a halt in appropriations for non-education related agencies until the instructions of those four members of the Board are met. This alteration of the appropriations process contained in Article V, Section 55 constitutes a separate general subject.

Similar to the sales tax (Sections 1-3), Section 5 conflicts with Article XXIV, Section 1 of the Oklahoma Constitution. Section 4, the prevailing general subject in the Petition, constitutionalizes local school districts’ increasing teacher pay. The power given to the Board of Equalization in Section 5 is not necessary to a “single scheme” of increasing teacher pay, but is instead “loosely related” in violation of the constitution. *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 3, 797 P.2d 331, 333. One of the dual purposes of the one-general-subject rule “is to prevent deceit or the presentation of a misleading proposal . . . .” *Id.* ¶ 4. Voters will think they are voting for teacher pay raises, when in fact, they are voting to significantly change our state’s fiscal structure to give the Board of Equalization control over their local Representatives and Senators deciding on education appropriations.

The prohibition on supplanting funding for higher education, CareerTech, early childhood education, or common education in Section 5 is also misleading as it is applied in

this Petition. Under Section 5(C), the Legislature cannot appropriate any funds to any agency if the Board of Equalization finds funding for higher education, CareerTech, early childhood education, or common education has been replaced or supplanted.<sup>4</sup> Section 5 will, therefore, constitutionally prohibit the Legislature from reducing funding below current levels for higher education, CareerTech, early childhood education, or common education. If funding was reduced, it would cause the new sales tax revenue to “replace” rather than “supplement” current funding in violation of Section 5.

This mechanism of grandfathering in current funding for higher education, CareerTech, early childhood education, and common education shows that this Petition actually affects the entire state budget. Because the hand-picked agencies’ funding cannot be decreased, when appropriation decreases must occur, they must necessarily come from other agencies. In some years there will be a budget shortfall for the State. (The prospect of a significant shortfall is not merely hypothetical. For example, in 2016, the shortfall is projected to be approximately \$1 billion.) When there is a shortfall, there must be decreases. However, because Section 5 would prohibit decreases in funding for higher education, CareerTech, early childhood education, and common education, the decreases for other agencies would necessarily be greater. This is not a small effect. Millions of dollars of additional cuts will have to be suffered by other agencies.

The second reason this Petition will affect the entire state budget is through the functioning of the Board of Equalization. The Board will have the power to declare that insufficient appropriations were made in the previous year and to give instructions about a

---

<sup>4</sup> “If the State Board of Equalization finds that education funding was supplanted by monies from the Oklahoma Education Improvement Fund, the State Board of Equalization shall specify the amount by which education 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 Oklahoma Education Improvement Fund.” Petition, § 5(C).

make up appropriation in the next year. If the Legislature does not comply with the instructions of the Board, the Legislature will be denied the ability to make any appropriations to any agency. Thus, the effect goes far beyond just higher education, CareerTech, early childhood education, and common education. Further, this is not a hypothetical. Each year the Legislature will need to/want to avoid the Board's taking over the appropriations process. For ambiguous issues, the Legislature should be expected to favor the agencies hand-picked by this Petition over funding for other agencies in order to avoid the prospect of the Board invoking its powers. Even in years the Board does not invoke its powers, Section 5 will have an effect on every state agency's appropriation.

The Court's decision in *Fent v. Fallin* demonstrates the constitutional infirmity of Section 5. In *Fent v. Fallin*, this Court held that restructuring taxation policy was a different subject than an appropriation for improvement of the Capitol. *Fent*, 2013 OK 107, ¶ 7, 315 P.3d 1023. Similarly, restructuring the state's appropriation policy to lock in education funding, to force any cuts onto other agencies and to diminish the power of the Legislature is a different subject from the teacher pay raises or even the sales tax from Sections 2-3.

The Lottery Education Trust Fund provision in Article X, Section 41 has a somewhat similar mechanism for protecting against the Legislature merely supplanting previous appropriations with the new funds. The lottery, however, presents a different situation from the instant case for several reasons. (1) The lottery was not challenged before it was voted on by the people. As this Court has noted, Article XXIV, Section 1 allows only a challenge to a "proposal," not a challenge to an already enacted provision. *E. Okla. Const. Council v. Pitts*, 2003 OK 113, ¶ 15, 82 P.2d 1008. (2) The lottery provision did not have an analog to Section 4 in this Petition, which is an independent, standalone right for a \$5,000 increase for

every teacher in the state. Thus, the single subject analysis would have been different for the lottery in any event. (3) More importantly, the lottery proposal was submitted to the voters as more than one proposal. (SQ 705 created the lottery, and SQ 706 created the lottery trust fund.) Similarly, this Petition 403 should have been drafted as more than one proposal.

#### IV. CONCLUSION

This Court's decisions in *In re Initiative Petition No. 342* and *In re Initiative Petition No. 344* are controlling. In both instances, the Court struck down proposed amendments by article because "voters should not have to adopt measures of which they really disapprove in order to embrace propositions that they favor." *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 4. In the instant case, a voter supporting a pay raise for common education teachers cannot reasonably be expected to support (a) an additional tax increase of \$228 million which cannot be used for teacher pay raises, (b) a new sales tax of over half a billion dollars which will give Oklahoma the highest average combined state and local sales tax burden in the nation, and (c) a remaking of the appropriations process which will necessarily reduce appropriations for non-education related agencies and which would give four members of the Board of Equalization power to give instructions to the Legislature and to shut down all appropriations if they deem it necessary.

This Court should rule that Initiative Petition No. 403 violates Article XXIV, Section 1 of the Oklahoma Constitution and cannot be submitted to the voters.

Respectfully submitted,



---

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**ATTORNEYS FOR PETITIONERS,  
OCA IMPACT, INC. AND DAVID BOND**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of November, 2015, a true and correct copy of the forgoing Application for Original Jurisdiction was served as follows:

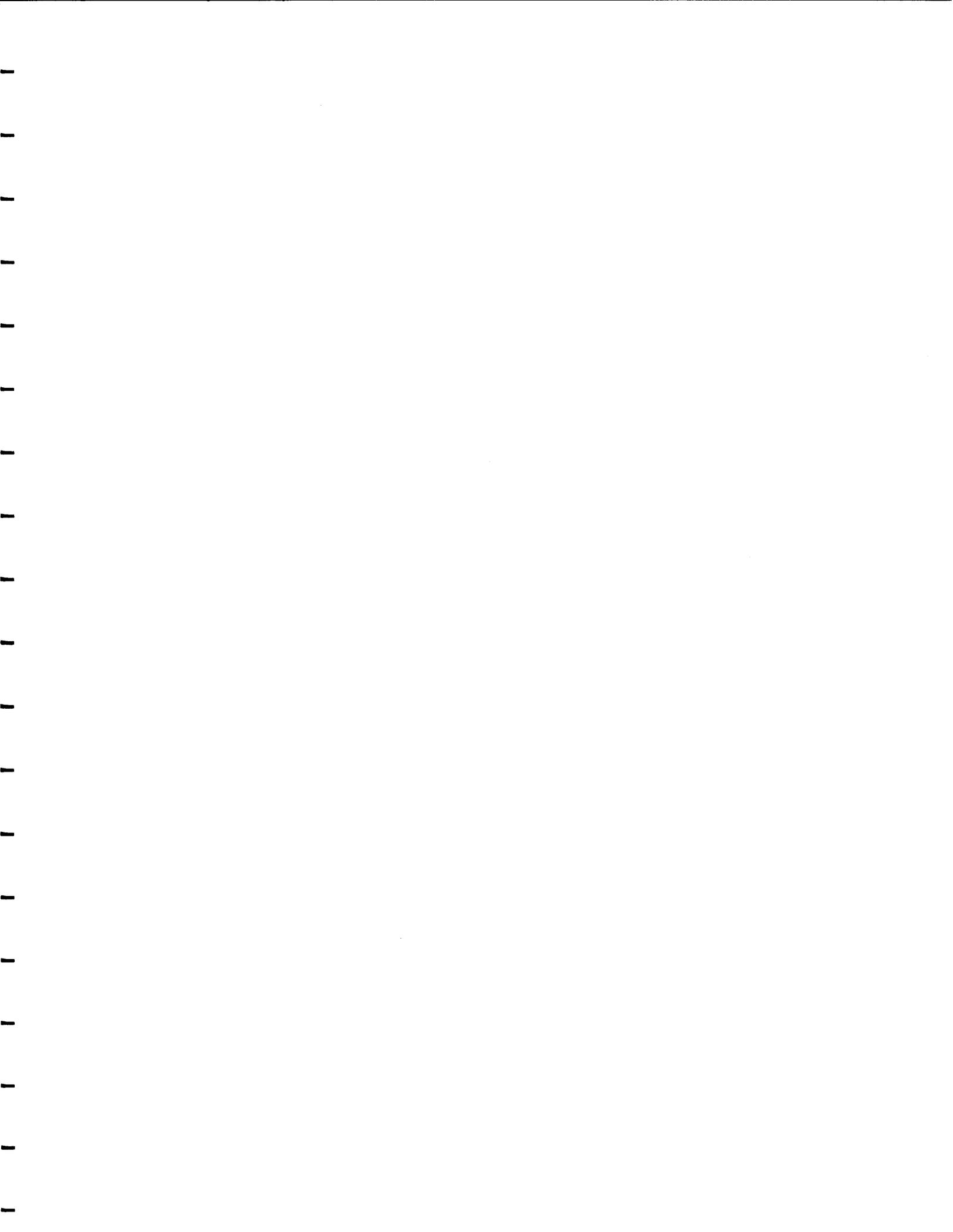
**BY HAND-DELIVERY:**

Kent Meyers	Attorney General's Office	Secretary of State's Office
Roger Stong	State of Oklahoma	State of Oklahoma
Melanie Wilson Rughani	313 N.E. 21 <sup>st</sup> Street	101 State Capitol
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Crowe & Dunlevy, P.C.		
324 N. Robinson, Suite 100		
Oklahoma City, OK 73102		



Robert G. McCampbell  
Travis V. Jett

675688



IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

NOV 12 2015

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC.,  
AND DAVID BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,

RESPONDENTS.

#11442 5  
No. \_\_\_\_\_

RECEIVED

NOV 12 2015

OKLAHOMA SECRETARY  
OF STATE

ENTRY OF APPEARANCE

Robert G. McCampbell and Travis V. Jett of Fellers Snider, a professional corporation, hereby enter their appearance in this case on behalf of Petitioners OCPA Impact, Inc. and David Bond.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of November, 2015, a true and correct copy of the forgoing Entry of Appearance was served as follows:

**BY HAND-DELIVERY: \***

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Robert G. McCampbell  
Travis V. Jett

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

NOV 12 2015

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC.,  
AND DAVID BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,

RESPONDENTS.

No. #114425

NOTICE OF ORIGINAL JURISDICTION  
SUPREME COURT PROCEEDING

Notice to:

Respondent: Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

Respondent: Linda Reid  
8505 E. 98<sup>th</sup> St.  
Tulsa, OK 74133

Respondent: Melvin Moran  
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Seminole, OK 74868

Counsel for Respondents: Kent Meyers  
Roger Stong  
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Oklahoma City, OK 73102

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NOV 12 2015

OKLAHOMA SECRETARY  
OF STATE

The attached original proceeding has been filed. Dates for response and any oral presentation will be set by order of the Chief Justice.



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TRAVIS V. JETT, OBA #30601

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**ATTORNEYS FOR PETITIONERS,  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of November, 2015, a true and correct copy of the forgoing Notice was served as follows:

**BY HAND-DELIVERY:**

---

Kent Meyers	Attorney General's Office	Secretary of State's Office
Roger Stong	State of Oklahoma	State of Oklahoma
Melanie Wilson Rughani	313 N.E. 21 <sup>st</sup> Street	101 State Capitol
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Oklahoma City, OK 73102		

**BY U.S. MAIL, POSTAGE PREPAID:**

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Travis V. Jett

675677



FILED  
SUPREME COURT  
STATE OF OKLAHOMA

NOV 12 2015

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE  
CLERK

Thursday, November 12, 2015

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

114,425 - OCPA IMPACT, INC. and DAVID BOND v. SHAWN SHEEHAN, *et al.*

Oral presentation to a Referee of this Court is set for November 19, 2015 at 10:00 a.m.

Responsive paperwork may be filed up to the time of the hearing.

CHIEF JUSTICE

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NOV 17 2015  
OKLAHOMA STATE SECRETARY

**ORIGINAL**



**IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA**

**FILED  
SUPREME COURT  
STATE OF OKLAHOMA**

**NOV 18 2015**

OCA IMPACT, INC., )  
AND DAVID BOND )

PETITIONERS, )

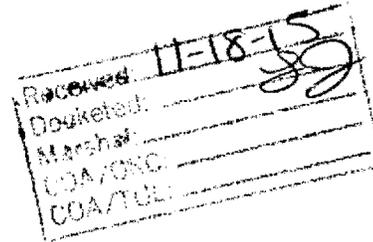
v. )

SHAWN SHEEHAN, LINDA REID, )  
AND MELVIN MORAN, )

RESPONDENTS. )

**MICHAEL S. RICHIE  
CLERK**

No. O-114,425



**ENTRY OF APPEARANCE**

D. Kent Meyers, Harvey D. Ellis, Melanie Wilson Rughani, and Paige A. Masters of Crowe & Dunlevy, P.C., hereby enter their appearance in this case on behalf of Respondents Shawn Sheehan, Linda Reid, and Melvin Moran.

Respectfully submitted,

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Melanie W. Rughani, OBA #30421  
Paige A. Masters, OBA #31142

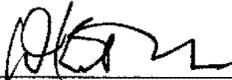
**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of November, 2015, a true and correct copy of the foregoing Entry of Appearance was served by hand delivery on the following parties:

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\_\_\_\_\_

D. Kent Meyers

**ORIGINAL**



**IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA**

**FILED  
SUPREME COURT  
STATE OF OKLAHOMA**

**NOV 18 2015**

**MICHAEL S. RICHIE  
CLERK**

OCPA IMPACT, INC., )  
AND DAVID BOND )

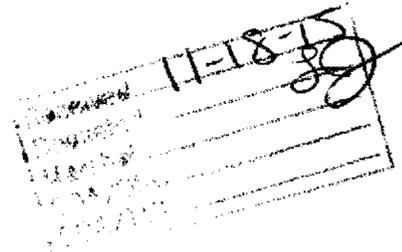
PETITIONERS, )

v. )

No. 114,425

SHAWN SHEEHAN, LINDA REID, )  
AND MELVIN MORAN, )

RESPONDENTS. )



---

**RESPONSE TO PETITIONERS' APPLICATION TO ASSUME  
ORIGINAL JURISDICTION**

---

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November 18, 2015

**IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA**

OCPA IMPACT, INC., )  
AND DAVID BOND )  
 )  
PETITIONERS, )  
 )  
v. )  
 )  
SHAWN SHEEHAN, LINDA REID, )  
AND MELVIN MORAN, )  
 )  
RESPONDENTS. )

No. 114,425

---

**RESPONSE TO PETITIONERS' APPLICATION TO ASSUME  
ORIGINAL JURISDICTION**

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November 18, 2015

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## INTRODUCTION

Oklahoma's public education system--from early childhood programs all the way through the institutions for higher education--is in crisis. Indeed, in 2015, the State received a "D+" grade and a 48th-place finish in a nationwide ranking of education quality indicators, such as student achievement, state spending, and educational opportunities.<sup>1</sup> Its lowest mark, a "D," was in the K-12 achievement category, relating to reading and math performance, high school graduation rates, and performance in advance placement exams. School finance fared only a little better—Oklahoma earned a "D+" in that category, 43rd among the states. Oklahoma's best mark, for early childhood education, was a mere "C-."<sup>2</sup>

Respondents Shawn Sheehan, Linda Reid, and Melvin Moran (hereinafter, "Proponents"), believe Oklahomans deserve better. In October 2015, therefore, they joined with a bipartisan group of business and civic leaders, teachers, and parents to propose State Question 779, Initiative Petition No. 403 ("the Petition"). This Petition, which would levy a one-cent sales and use tax and distribute the revenue among the state's institutions for public education to be used for specified purposes, aims to present a comprehensive solution to Oklahoma's education crisis. Its provisions, which are designed to resolve issues plaguing Oklahoma's education system from early childhood through higher education, embrace but one general subject: providing for the improvement of Oklahoma's public education.

Applicants OCPA Impact, Inc. and David Bond--a lobbying group and its CEO ("Protestants")--have attempted to derail this initiative before it can even be presented to the voters by constructing a challenge under Article XXIV, Section 1's "one general subject"

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<sup>1</sup> Andrea Eger, *Oklahoma Ranks 48th in Education Week's Annual Education Quality Rankings*, Tulsa World, Jan. 8, 2015, available at <http://tinyurl.com/OklahomaRanks> (citing *Education Week, Quality Counts 2015*).

<sup>2</sup> *Id.*

rule. To do so, they have created the false premise that a single isolated provision of the Petition--a section that provides for a \$5000 pay raise for teachers--constitutes its "general subject," and then assert that the remainder of the Petition is not sufficiently related to that provision to satisfy the single-subject rule. But Protestants' arbitrary declaration of the pay raise as the "subject" of the Petition--however often repeated--does not make it so. Rather, the various provisions of the Petition *together* have one subject, one focus, and one purpose: providing for the improvement of public education.

Protestants' brief is devoted in large part to arguing the policy merits of the initiative. Such a policy debate should certainly be had; however, its proper place is before the voters, not this Court. The Petition plainly satisfies the "one general subject" rule--and, in particular, the less-restrictive test applicable to amendments "by articles" (*see* Okla. Const. Art. XXIV § 1). Proponents thus respectfully request that the Court deny Protestants' constitutional challenge and permit the commencement of the signature-gathering process, such that the Initiative Petition may timely proceed to a vote of the People.

### **BACKGROUND**

As Protestants acknowledge, Oklahoma voters overwhelmingly support increasing teacher salaries. This is for good reason: the state's elementary and secondary schools are suffering a chronic teacher shortage<sup>3</sup>--a shortage due, in large part, to a severe lack of funding available for school districts to pay salaries commensurate with those available in

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<sup>3</sup> *See, e.g.,* Andrea Eger and Nour Habib, *Crisis Hits Oklahoma Classrooms with Teacher Shortage, Quality Concerns*, Tulsa World, Aug. 16, 2015, available at <http://tinyurl.com/TeacherShortages> (noting that school districts were forced to request a record number of emergency certifications--more than 700--to permit adults who had not even completed basic teacher training requirements to enter the classroom immediately).

other states, and to offer the differentiated pay needed to attract and retain Oklahoma's best and brightest to the education profession.

But Oklahoma's education crisis neither begins nor ends with teacher pay. Elementary and secondary schools are experiencing severe financial shortfalls in numerous areas, including programs designed to satisfy third-grade reading retention requirements, end-of-year instructional tests, and compliance with various other recent unfunded mandates.<sup>4</sup> The State's two flagship universities were forced to increase tuition in 2015 to compensate for a decrease in state appropriations for higher education.<sup>5</sup> State career technology institutions have been asked to serve an increasing number of students while, at the same time, seeing a 15% decline in state appropriations.<sup>6</sup> And these problems only scratch the surface. Yet, with enormous anticipated budget shortfalls and no plan to remedy the problem in sight, lawmakers are discussing how to *cut* the limited resources available for education. In fact, Oklahoma is currently a leader in one dubious educational measure: it has enacted "the deepest per-pupil state funding cuts to education" in the nation.<sup>7</sup>

Initiative Petition 403 is designed to address this crisis in public education. The measure would add a new Article to the Oklahoma Constitution, Article XIII-C. This new Article levies a one-cent sales and use tax, the proceeds of which are deposited in a Treasury

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<sup>4</sup> See <http://okpolicy.org/severe-education-funding-cuts-threaten-oklahomas-economic-future>

<sup>5</sup> See Jennifer Palmer, *OU Regents Approve 4.8 Percent Tuition Hike*, NewsOK.com, June 24, 2015, available at <http://newsok.com/article/5429774>; *OSU/A&M Board of Regents Approves FY 2016 Budget* (June 19, 2015), available at <http://tinyurl.com/nvlhetz>.

<sup>6</sup> Steve Tiger, Editorial, *Why Career Technology Should Be a Higher State Budget Priority*, Tulsa World, Jan. 28, 2015, available at <http://tinyurl.com/ppoaglx>.

<sup>7</sup> See <http://okpolicy.org/oklahoma-continues-lead-u-s-deepest-cuts-education>; Andrea Eger, *Oklahoma Still Leads the Nation in State Funding Cuts to Education Since Recession*, Oct. 16, 2014, available at <http://tinyurl.com/OKleadsnation>.

fund entitled the Oklahoma Education Improvement Fund. *See Initiative Petition, Pet. App'x*

Tab A, §§ 1-2. Monies from the Fund would be distributed as follows:

- 69.5% to common school districts of the State to increase teacher salaries; address and prevent teacher shortages; and adopt and expand programs to improve reading, improve graduation rates, and increase college and career readiness;
- 19.25% to education and general operating budgets of institutions under the authority of the Oklahoma State Regents for Higher Education for use in improving college affordability, or otherwise in the improvement of higher education;
- 3.25% to the Oklahoma Department of Career and Technology Education for use in the improvement of career and technology education; and
- 8% to the State Department of Education for increasing access and enhancing the quality of early education programs for low-income and at-risk children.

*Id.* §§ 3-4.

To ensure that these funds are used for their designated purposes, and not to fill other budget shortfalls, the Petition mandates that each common school district implement a \$5,000 teacher pay raise (*id.* § 4); provides for an annual audit; and establishes various other accountability measures (*see id.* §§ 3(A)(1)(d), 3(B), 3(C)). Further, in an effort to prevent the newly raised revenues from being used to supplant or replace existing state funds currently appropriated for education, the measure would require the State Board of Equalization to make the same annual non-supplantation determination it currently makes with respect to the Oklahoma Education Lottery Trust Fund (*id.* § 5). Finally, the initiative contains administrative provisions establishing an effective date; requiring that it not be construed to conflict with Article X, Section 23 of the Constitution; and permitting severability in the event a portion of the provision is deemed invalid. *Id.* §§ 6, 7.

The Petition and its various sections are carefully crafted to fulfill one purpose—providing for the improvement of public education in Oklahoma. As such, it withstands constitutional challenge.

## ARGUMENT AND AUTHORITIES

### A. **At the Pre-Election Stage, an Initiative Petition May Not be Invalidated Absent a “Clear and Manifest” Showing of Unconstitutionality**

As this Court has repeatedly emphasized, “[t]he right of initiative is precious to the people and is one which the courts are zealous to preserve to the fullest tenable measure of spirit as well as letter.” *In re Initiative Pet. No. 348*, 1991 OK 110, ¶ 5, 820 P.2d 772, 775. “All doubt,” therefore, “is to be resolved in favor of the initiative.” *Id.* “In accordance with the notions of separation of powers,” moreover, this Court has “consistently confined [its] pre-election review of initiative petitions ... to *clear and manifest facial constitutional infirmities*.” *In re Initiative Pet. No. 358*, 1994 OK 27, ¶¶ 7, 12, 870 P.2d 782 (emphasis added); *see also In re Initiative Pet. No. 365*, 2001 OK 98, ¶26, 55 P.3d 1048 (the Court will “decline to declare an initiative invalid prior to a vote of the people except when there is a ‘clear or manifest’ showing of unconstitutionality”).

### B. **This Court has Adopted a Lower Standard for Evaluating Single-Subject Challenges to Proposals in the Form of Amendments by Article**

Article XXIV, Section 1 of the Oklahoma Constitution, commonly known as the constitutional “single-subject rule,” provides that “[n]o proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace more than one general subject ...; **provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace one general subject, each proposed article shall be deemed a single proposal or proposition.**” *Id.* (emphasis added).

In cases involving a similar single-subject rule applicable to legislative actions, this Court has applied a fairly strict version of the “germaneness” test for determining whether a proposal encompasses more than one subject. *See, e.g., Douglas v. Cox Ret. Prop., Inc.*, 2013 OK 37, 302 P.3d 789 (rejecting a “test of germaneness that is broad” and “liberal”).

But where, as here, the proposal is a constitutional amendment “by article”--and therefore *by its nature* is a more open and obvious change to the Constitution and less likely to confuse or mislead voters--Article XXIV imposes a *much lesser standard of scrutiny* for gauging multiplicity of subjects. See *In re Initiative Pet. No. 319*, 1984 OK 23, ¶ 10, 682 P.2d 222. Although an amendment by article “is still required to relate to a single general subject,” this Court has “indicate[d] clearly that the various changes need not meet” the more exacting form of the germaneness test applicable to legislative actions or other forms of constitutional amendments. *Id.* ¶ 9. Rather, changes to the Constitution offered in the form of amendment by article need only satisfy the “liberal” test articulated by the Court in *Rupe v. Shaw*--a standard that has been somewhat discounted by this Court in cases involving other forms of amendment, but specifically applied in the “amendment by article” context. *Id.* ¶ 10 (citing *Rupe*, 1955 OK 223, ¶ 6, 286 P.2d 1094, which set forth “a liberal, rather than a narrow or technical construction” of the single-subject requirement).

Under this more liberal “one general subject” test, “provisions governing projects so related as to constitute a single scheme may be properly included within the same amendment” without violating the single-subject rule. *Rupe*, 1955 OK 223, ¶ 6. In addition, a proposal may contain incidental or supplemental measures, even if such measures can stand independently, if they are “necessary or convenient or tend(ing) to the accomplishment of one general design notwithstanding other purposes than the main design may be thereby subserved.” *Id.* ¶ 7. So long as the provisions at issue are not “essentially unrelated one to

another,” an amendment by article will satisfy the one-general-subject criterion. *In re Initiative Pet. No. 363*, 1996 OK 122, ¶ 15, 927 P.2d 558, 566.<sup>8</sup>

As explained below, Proponents submit that this simple Initiative Petition--aimed at the one general subject and purpose of improving Oklahoma’s public education system--plainly satisfies even the more exacting germaneness test applied in other circumstances (and by Protestants, despite their brief acknowledgment of the different standard for amendments by article). Under the more liberal standard applicable here, however, there can be no question that the Petition encompasses but one general subject and satisfies Article XXIV.

### C. The Petition Satisfies the One-General-Subject Rule

Protestants hinge their single-subject challenge on a false and artificial premise: that the “general subject” of the petition is not the overall improvement of public education, but

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<sup>8</sup> The importance of this standard is best illustrated by comparing two similar “liquor by the drink” petitions: No. 314, which was struck down for violating the single-subject rule, and No. 319, which was not. Petition No. 314 proposed to change the state’s alcoholic beverage laws through a number of constitutional additions and amendments. *See In Re Initiative Pet. No. 314*, 1980 OK 174, 625 P.2d 595. Noting that three of the measure’s provisions would each be independent, “important, substantial change[s] to the Constitution,” and that they were not so “interrelated and interdependent” that they form[ed] an “interlocking package” with a “common underlying purpose,” the Court concluded that it constituted “logrolling of the worst type,” and thus violated the single-subject rule. *Id.* ¶¶ 75-76. But the Court went on to invite that the proposal be submitted in another way: “either” by “three separate” petitions, or as one proposal in the form of “*amendment by article.*” *Id.* ¶ 81 (emphasis added).

The proponents took the Court at its word, and a few years later, offered a similar liquor-by-the-drink measure, this time in the form of “amendment by article.” *In re Initiative Pet. No. 319*, 1984 OK 23, 682 P.2d 222. This dramatically altered the Court’s analysis:

*In Re Initiative Petition No. 314*, 625 P.2d 595 (Okl. 1981) recognized that our constitution may be amended by article under Article 24, Section 1, and that **such an amendment may cover changes which would violate the single subject rule if not proposed in that format.** Proponents have complied with that procedure. While the amendment is still required to relate to a single general subject, our previous ruling indicates clearly that the various changes need not meet the test which was applied in *Initiative Petition No. 314*, and which resulted in the invalidity of that proposal. *Id.* ¶ 9 (emphasis added). Rather, the Court noted, “we can apply to this question no more restrictive test than the one approved in both *Rupe v. Shaw*, 286 P.2d 1094 (Okl. 1955), and in *In Re Initiative Petition No. 271*, 373 P.2d 1017 (Okl. 1962).” *Id.*

rather “a \$5,000 pay raise for teachers in common education.” Br. at 1. In their view, the mere fact that Oklahomans overwhelmingly support the idea of a teacher pay raise means that any other provisions, including funding for early childhood education, common education, higher education, and career and technology education, are improperly “logrolled” into the same measure. See Br. at 6-14. As explained above, however, this teacher salary mandate is just one provision of the overall initiative, which is more comprehensively aimed at providing for the improvement of Oklahoma’s public education system. The mere fact that a provision is popular does not render it unconstitutional.<sup>9</sup>

Asserting, without explanation, that the various Sections of proposed Article XIII-C bear only a “tangential relationship to education” (Br. at 6), Protestants appear to suggest that providing for the improvement of Oklahoma’s public education system is somehow too broad a topic to qualify as “one general subject” for purposes of Article XXIV. But Protestants offer no authority for such a proposition. To the contrary: this Court has previously held that a law addressing the subject of “the improvement of the school system of the state” encompasses one general subject, and thus satisfies a parallel single-subject rule.<sup>10</sup> *Griffin v. Tomas*, 1922 OK 134, ¶ 16, 206 P. 604.

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<sup>9</sup> Proponents further do not accept the premise (at 9) that increasing funding for higher education is significantly unpopular such that it could constitute “logrolling.” The website polls Protestants cite compare apples to oranges: one (from 2015) asks generally whether Oklahomans “support” a teacher pay raise, and the other (from 2011) asks specifically whether Oklahomans support raising taxes rather than filling higher education budget gaps with several other theoretical options, such as reducing administrative overhead.

<sup>10</sup> Indeed, under even the more exacting standard applicable to legislative actions, this Court has found provisions only loosely related to broad topics such as the “legalization and regulation of authorized casino gambling,” *In re Initiative Pet. No. 363*, 1996 OK 122, ¶ 16; “discouraging illegal immigration,” *Thomas v. Henry*, 2011 OK 53, ¶ 31, 260 P.2d 1251; and “taxation,” *In re Initiative Pet. No. 348*, 1991 OK 110, to satisfy the “one general subject” test.

Other courts considering challenges to similar measures have similarly found that various provisions generally related to the topic of “education” comport with the single-subject rule. See *Hooker v. Parkin*, 357 S.W.2d 534, 540 (Ark. 1962) (act related to education did not violate single subject rule, despite encompassing higher education, vocational and technical training in addition to common education); *Opinion of the Justices*, 512 So.2d 72, 77 (Ala. 1987) (bill providing funds for elementary and secondary schools, technical schools, colleges, and universities complied with single-subject rule); *Akin v. Director of Revenue*, 934 S.W. 2d 295 (Mo. 1996) (“education” bill, which contained both a tax increase and established programs, did not violate single-subject requirement, where tax increases were means of funding education programs involved); *Gregory for Shurtleff*, 299 P.3d 1098, 1115-16 (Utah 2013) (“education” bill that established new programs, amended existing programs, and funded other programs concerned a single subject).

Protestants have given this Court no reason to conclude otherwise, particularly in light of the “liberal” standard established by *Rupe* and its progeny. Instead, they point to two extreme examples of violations of the single-subject rule, Initiative Petitions No. 342 and 344, in an attempt to argue by analogy. See Br. at 5-6 (citing *In re Initiative Pet. No. 342*, 1990 OK 76, ¶ 6, 797 P.2d 331, 332-33, and *In re Initiative Pet. No. 344*, 1990 OK 75, ¶¶ 2-3, 797 P.2d 326, 327-28). But these concurrently decided cases simply do not fit. Cf., e.g., *In re Initiative Pet. No. 348*, 1991 OK 110, ¶ 11 (finding plainly distinguishable the “clear[]” constitutional violations at issue in these very same cases).

Initiative Petition No. 342 sought to repeal the Article of the Constitution that created the Corporation Commission, and at the same time eliminate restrictions on industries, both foreign and domestic, from railroads to oil pipeline companies and from banks to public

service corporations. *In re Initiative Pet. No. 342*, 1990 OK 76, ¶ 6. The Petition also replaced provisions regarding terms and qualification of Commission members, as well as the Commission's jurisdiction and power. *Id.* ¶ 7. In striking the measure, the Court noted that the Petition encompassed "numerous subjects . . . ranging from financial institutions holding stock in another financial institution to the power of eminent domain of foreign corporations to the fellow-servant doctrine rule." *Id.* ¶ 8, 797 P.2d at 333. It further reasoned:

[t]he only connection that these topics have to each other is that they all tangentially relate to the general subject of corporations. Otherwise, they are unrelated. For example, it is clear that the power of eminent domain of foreign corporations is inconsequential to the fellow-servant doctrine rule. And the prohibition against a bank holding stock in another bank is extraneous to both the power of eminent domain and the fellow-servant doctrine rule. *There is no doubt that these topics do not meet the one general subject test.*

*Id.* (emphasis added).

Initiative Petition No. 344 was equally if not more egregious, and in no way similar to the Petition here. It called for at least 26 revisions to Article VI of the Constitution, which outlined the structure, power, and duties of the Executive. *In re Initiative Pet. No. 344*, 1990 OK 75, ¶¶ 2-3. The proposed revisions "addresse[d] numerous subjects from the method of the election of the Lt. Governor, to changing the term of board and commission members including non-attorney members of the Judicial Nominating Commission, to giving the Governor the sole authority 'to grant reprieves, commutations, and pardons', to changing the Executive Branch to a cabinet form of government, to repealing the constitutional authority for certain boards." *Id.* ¶ 9. This Court found that some of the amendments, "at best" were "tenuously related to other sections," yet not so intertwined as to require that they be adopted at the same time in order to preserve the integrity of each section." *Id.* For example, the Court noted that "the placing of sole authority with the Governor to grant reprieves, commutation, and pardons [was] not dependent on the method of electing the Lt. Governor or

a cabinet form of government.” *Id.* Thus, “a voter supporting any one of the[] provisions could not reasonably be expected to support the principle of the others.” *Id.*

By contrast, the provisions of Initiative Petition 403 are few, and firmly connected (not, as Protestants assert, “tangentially related”) to its one general subject: providing for the improvement of public education. Each is essential to achieving that purpose, and it is not unreasonable to expect voters to consider, as a whole, whether to increase the sales tax to provide for the funding and success of all levels of public education. As such, it comports with the single-subject rule.

**1. Teacher raises further-and are not themselves-the Petition’s purpose**

As noted above, Protestants seize upon the section providing for a \$5,000 salary increase for teachers as their pronounced “single subject” to formulate a violation where none exists. They are correct, of course, that Oklahoma’s teacher shortage is a critical issue, and that the public overwhelmingly recognizes the necessity of increasing teacher pay. *See supra* n.3. But the teacher shortage is just one of the problems facing Oklahoma’s education system, and the raise represents just one step in the Petition’s overall scheme of improving public education. That it may be an “extraordinary provision” “unlike any other provision in the Constitution,” Protestants’ Br. at 7, does not divorce it from the subject of public education, or otherwise transform it into its own “subject” under *Rupe*.

As explained above, “[w]hen testing a proposed constitutional amendment for its components’ germaneness,” this Court looks “to whether each of its several facets bears a *common concern* or impacts one general object or subject,” or whether they are “essentially unrelated one to another.” *In re Initiative Pet. No. 363*, 1996 OK 122, ¶¶ 15-16 (emphasis added). Even under the more exacting test applicable to legislative measures, “[t]he question

is not how *similar* two provisions in a proposed law are, but whether it appears either that the proposal is misleading or that the provisions in the proposal are so unrelated that many of those voting on the law would be faced with an unpalatable all-or-nothing choice.” *Thomas*, 2011 OK 53, ¶ 26. Gauging the measure under consideration by these criteria, the Petition satisfies the one-general-subject test. The teacher pay provision and the remainder of the Petition bear a single common concern—providing for the improvement of public education in Oklahoma. And voters are faced primarily with one question: Whether they want to increase the sales and use tax by a penny to improve Oklahoma’s public education system.

**2. Funding for all levels of education is germane to the Petition’s purpose**

Protestants have not and cannot identify a section of the Petition which does not relate to the general subject of improving public education. In addition to the teacher pay raise, provisions for funding improvements in reading, graduation rates, and college preparedness, as well as higher education and career technology institutions, advance the Petition’s purpose and are “necessary . . . to the accomplishment of one general design.” *Rupe*, 1955 OK 223, ¶ 7. Salary increases alone will not resurrect our education system. Funding is needed to ensure low-income and at-risk children receive early learning opportunities, elementary-age children are reading at their grade level, high school students have the support needed to graduate high school, and graduates have the opportunity to gain critical skills through career and technology or higher education. Additional funding for common education, higher education, and career and technology education are encompassed in the scheme to improve Oklahoma’s public education system, and all are essential to fulfilling that purpose.<sup>11</sup>

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<sup>11</sup> Protestants’ assertion (at 9) that provisions governing common and higher education are currently included in separate, albeit related, Articles (Articles XIII, XIII-A, and XIII-B) is immaterial. *See Thomas*, 2011 OK 53, ¶ 31 (finding that at least twelve substantive sections

The Arkansas Supreme Court considered--and flatly rejected--a similar argument in *Hooker v. Parkin*, 357 S.W.2d 534, 540 (Ark. 1962). There, the challengers urged that, because a bill appropriated state funds not only for primary and secondary education, but also for higher education and vocational training, it violated the state's single-subject rule. *Id.* The court disagreed. Noting that the legislature had the right to "provide for education of our citizens from the cradle to the grave," and that it could "find no limitation in the State Constitution that would prohibit the Legislature from treating all educational functions as one subject," the court concluded that the bill was "limited to the subject of education" and thus satisfied the state's single-subject rule. *Id.* As in *Hooker*, all provisions in the Petition here are fundamental to the purpose of improving public education in Oklahoma.

### **3. The tax increase is the means to accomplish the Petition's purpose**

The argument that the penny sales tax increase is a subject all its own is even more nonsensical, as the tax provision is crucial to the accomplishment of the Petition's purpose. And indeed, the Missouri Supreme Court rejected this same argument in *Akin v. Director of Revenue*, 934 S.W.2d 295, 302 (Mo. 1996), a lawsuit challenging the constitutionality of an education act that provided for an income tax increase to fund the educational programs established elsewhere in the act. The court noted that if the tax had been designed to raise general revenue, it might have violated the single-subject rule. *Id.* Because the increase was implemented to fund the programs outlined in the act, however, it was the "means to accomplish its purpose" and thus complied with the Constitution's single-subject provision. *Id.*; *cf. Rupe*, 1955 OK 223, ¶ 7 (upholding amendment providing for ad valorem taxes for

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implemented throughout a number of titles were "related to the common theme of discouraging illegal immigration" and thus did not violate the single-subject rule); *Gregory v. Shurtleff*, 299 P.3d 1098, 1113 (Utah 2013) (refusing to "suggest that legislation which amends items located in two or more titles" of the state constitution renders a bill devoted to the single subject of public education unconstitutional).

public schools and placing restrictions on the use of such taxes). The provision here is no different. If deemed unconstitutional, then every law providing funds to achieve a purpose, whether enacted by the Legislature or vote of the people, would defy the single-subject rule. Surely the doctrine was not intended to *require* unfunded mandates.

The sole case offered by Protestants in support, *Fent v. Fallin*, 2013 OK 107, 315 P.3d 1023, is wholly inapplicable. There the bill at issue (notably, not an amendment, much less amendment by article) authorized a number of tax *cuts*, and separately provided for the creation of a special fund for building repairs to the State Capitol. 2013 OK 107, ¶ 6. The Court indeed recited that “[t]axation policy and the appropriateness of state funds for Capitol improvements are not germane, relative or cognate to a readily apparent common theme and purpose.” *Id.* ¶ 7. But that was because the bill at issue in *Fent* did not, as the Petition does here, call for the imposition of a tax to *fund the proposed Capitol improvements*; rather, it separately *cut* taxes. While the voters considering HB 2032 may have had to choose between reducing income taxes and funding the Capitol; there is only one choice here: whether to implement a sales tax to fund public education.

#### **4. The accountability measures are germane to the Petition’s purpose**

Contrary to Protestants’ suggestion, the accountability measures set forth in § 5 of the Petition are not “new” (*see* Br. at 12), and do not give rise to a violation of the single-subject rule. Section 5 of the Petition, which empowers the State Board of Equalization to examine and investigate appropriations to ensure they are used to enhance rather than supplant education funding, mirrors Article X, § 41(D) of the Oklahoma Constitution, which creates the Oklahoma Education Lottery Trust Fund. A vote for Petition 403 is not, as Protestants insist, a vote to “significantly change our state’s fiscal structure.” *See* Br. at 13. The Board is

already determining whether lottery revenues are going to replace, rather than supplement, education funding, and therefore it already has the potential to upset the appropriations process every year—and has since 2003. The Petition, if approved, will add just one more pot of money for the Board to consider in its evaluation. Notably, Article X, Section 41(D) has not been challenged and has remained undisturbed for more than a decade.<sup>12</sup>

The accountability provisions are essential to the Petition’s overall scheme of improving public education. If funds are used to replace rather than supplement education funding, then the purpose of the measure will become moot. Any *effects* the provision may have on “the entire state budget” do not affect the analysis. *See In re Initiative Pet. No. 348*, 1991 OK 110, ¶ 12 (potential effects on other laws are insufficient “to deny the people of Oklahoma the right to vote on this Petition”).

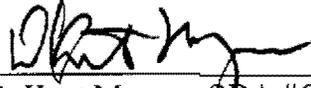
### CONCLUSION

The Initiative Petition plainly satisfies the “one general subject” rule—and, in particular, the less-restrictive test applicable to amendments by article. Proponents thus respectfully request that the Court deny Protestants’ constitutional challenge and permit the commencement of the signature-gathering process, such that the Initiative Petition may timely proceed to a vote of the People.

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<sup>12</sup> Proponents attempt to distinguish this fact by asserting (at 15) that the Lottery provisions were submitted as two proposals: SQ705, which they say “created the lottery,” and SQ706, which they say “created the lottery trust fund.” This is incorrect. SQ 705 was a 33-page *legislative referendum* that created *both* the lottery and the lottery trust fund: it also, *inter alia*, established the Lottery Commission; adopted numerous gaming and other regulations; provided for distribution of the lottery revenues by percentages to early childhood, common, higher, and career and technology education and other non-education purposes; and adopted the same Board of Equalization accountability measures contained in the instant Petition. *See* SQ705, LR No. 330. SQ 706 then simply created a constitutional “lockbox” for the portions of the fund devoted to education. *See* SQ706.

Respectfully submitted,



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**ATTORNEYS FOR RESPONDENTS**

**CERTIFICATE OF SERVICE**

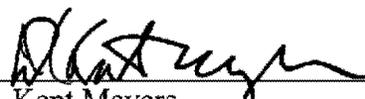
This is to certify that on the 18th day of November, 2015, a true and correct copy of the foregoing was hand-delivered to the following:

Robert G. McCampbell  
Travis V. Jett  
**FELLERS SNIDER, P.C.**  
100 North Broadway Ave., Suite 1700  
Oklahoma City, Oklahoma 73102

The Honorable Scott Pruitt  
Attorney General of Oklahoma  
313 Northeast 21st Street  
Oklahoma City, Oklahoma 73105

**ATTORNEYS FOR PROTESTANTS**

The Honorable Chris Bengé  
Oklahoma Secretary of State  
101 State Capitol  
2300 North Lincoln Blvd.  
Oklahoma City, Oklahoma 73105

  
\_\_\_\_\_  
D. Kent Meyers

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

NOV 30 2015

MICHAEL S. RICHIE  
CLERK

No. 114,425

OCA PA IMPACT, INC., and DAVID BOND, )  
)  
Petitioners, )  
)  
v. )  
)  
SHAWN SHEEHAN, LINDA REID, and )  
MELVIN MORAN, )  
)  
Respondents. )

ORDER

The Court directs that oral argument shall be heard in this matter before the Supreme Court *en banc* on December 8, 2015, commencing at 10:00 a.m. in the courtroom of the Supreme Court at the State Capitol, Oklahoma City, Oklahoma.

Petitioners and Respondents shall each have thirty minutes for oral argument. Petitioners and Respondents should be prepared to answer questions from the Justices during, and after, their oral arguments.

Petitioners may reserve a portion of his assigned thirty minutes for Rebuttal by providing notice to the Clerk of the Supreme Court, prior to commencing his opening argument, of the amount of time reserved for Rebuttal.

**DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS  
30th DAY OF NOVEMBER, 2015.**

CHIEF JUSTICE

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DEC 01 2015

OKLAHOMA SECRETARY  
OF STATE



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA **FILED**

SUPREME COURT  
STATE OF OKLAHOMA

NOV 30 2015

MICHAEL S. RICHIE  
CLERK

OCPA Impact, Inc., and David Bond )

Petitioners, )

v. )

Shawn Sheehan, Linda Reid, and Melvin )

Moran, )

Respondents, )

No. 114,425

ORDER

I hereby recuse myself from the above styled and numbered cause.

DONE BY ORDER OF THE SUPREME COURT this 30th day of November,

2015.

  
\_\_\_\_\_  
Tom Colbert, Justice

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OKLAHOMA SECRETARY  
OF STATE



**IN THE SUPREME COURT OF THE STATE OF OKLAHOMA**

OCPA IMPACT, INC., )  
AND DAVID BOND, )

Petitioners, )

v. )

SHAWN SHEEHAN, LINDA REID, )  
AND MELVIN MORAN, )

Respondents. )

No. 114,425

**FILED  
SUPREME COURT  
STATE OF OKLAHOMA**

**NOV 30 2015**

**MICHAEL S. RICHIE  
CLERK OF  
THE APPELLATE COURTS**

**ORDER**

I hereby certify my recusal in the above styled and numbered cause.

DONE THIS 30<sup>TH</sup> DAY OF NOVEMBER, 2015.

  
\_\_\_\_\_  
JOSEPH M. WATT

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**DEC 02 2015**

**OKLAHOMA SECRETARY  
OF STATE**



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

OCPA Impact, inc. and David Bond, )
Petitioners )
v. )
Shawn Sheehan, Linda Reid and )
Melvin Moran, )
Respondents. )

No. 114,425

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV 30 2015
MICHAEL S. RICHIE
CLERK

ORDER

Pursuant to the Oklahoma Constitution, Article VII, §6, the Chief Justice hereby assigns the Honorable E. Bay Mitchell and the Honorable P. Thomas Thornbrugh to the Oklahoma Supreme Court to serve as Special Justices in this cause, sitting in lieu of Justices Joseph Watt and Tom Colbert, who are disqualified in this matter.

DONE BY ORDER OF THE SUPREME COURT this 30th day of November, 2015.

Handwritten signature of John I. Rein

CHIEF JUSTICE

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DEC 02 2015
OKLAHOMA SECRETARY OF STATE



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
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MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC., and )  
DAVID BOND, )  
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Petitioners, )  
 )  
v. )  
 )  
SHAWN SHEEHAND, LINDA REID, )  
and MELVIN MORAN, )  
 )  
Respondents. )

No. 114,425

ORDER

Emergency Application to File Amici Curiae Brief on behalf of Oklahoma  
Municipal League, Harold Hamm and Dewey Bartlett, is granted.

DONE BY ORDER OF THE SUPREME COURT THIS 3<sup>rd</sup> DAY OF  
DECEMBER, 2015.

  
VICE CHIEF JUSTICE

RECEIVED  
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OKLAHOMA SECRETARY  
OF STATE

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

DEC -7 2015

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC., )  
AND DAVID BOND )

PETITIONERS, )

v. )

No. O-114,425

SHAWN SHEEHAN, LINDA REID, )  
AND MELVIN MORAN, )

RESPONDENTS. )

**EMERGENCY APPLICATION TO CONTINUE ORAL ARGUMENT**

An en banc oral argument in the above-referenced matter is currently scheduled for **tomorrow, Tuesday, December 8, at 10:00am.**

Lead counsel for Respondents, D. Kent Meyers, has recently become ill, and will not be able to participate in the oral argument if it occurs tomorrow.

Mr. Meyers is the primary attorney for Respondents on this matter, and he has unique experience in initiative petition matters, having previously argued several before this Court. Respondents believe that his unique experience may be valuable to the Court as it considers the issue at oral argument, and they strongly prefer that Mr. Meyers be given an opportunity to participate in the oral argument on their behalf.

The undersigned counsel has contacted counsel for Petitioners, Robert G. McCampbell, and has authority to state that Petitioners do not oppose this Motion.

WHEREFORE, Respondents Shawn Sheehan, Linda Reid, and Melvin Moran respectfully request that the oral argument in the above-referenced matter be continued for

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one week, to and including Tuesday December 15, 2015, or such time later as the Court may find convenient.

Respectfully submitted,



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D. Kent Meyers, OBA #6168  
Harvey D. Ellis, OBA #2694  
Melanie Wilson Rughani, OBA #30421  
Paige Masters, OBA #31142

– Of the Firm –

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**ATTORNEYS FOR RESPONDENTS**

**CERTIFICATE OF SERVICE**

This is to certify that on the 7th day of December, 2015, a true and correct copy of the foregoing was e-mailed and hand-delivered to the following:

Robert G. McCampbell  
Travis V. Jett  
**FELLERS SNIDER, P.C.**  
100 North Broadway Ave., Suite 1700  
Oklahoma City, Oklahoma 73102  
rmccampbell@fellerssnider.com  
tjett@fellerssnider.com

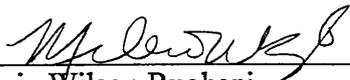
The Honorable Scott Pruitt  
Attorney General of Oklahoma  
313 Northeast 21st Street  
Oklahoma City, Oklahoma 73105

**ATTORNEYS FOR PROTESTANTS**

The Honorable Chris Bengé  
Oklahoma Secretary of State  
101 State Capitol  
2300 North Lincoln Blvd.  
Oklahoma City, Oklahoma 73105

Patrice Dills Douglas, OBA # 12266  
Kathryn Evans Boren, OBA # 16649  
**LATHAM, WAGNER, STEELE &  
LEHMAN, P.C.**  
6701 N. Broadway Extension, Suite 203  
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**SECRETARY OF STATE**

  
\_\_\_\_\_  
Melanie Wilson Rughani



FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
DEC -7 2015

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

OCPA IMPACT, INC. and DAVID BOND )  
 )  
 Petitioners )  
 )  
 v. )  
 )  
 SHAWN SHEEHAN, LINDA REID, and MELVIN )  
 MORAN )  
 )  
 Respondents. )

MICHAEL S. RICHIE  
CLERK

No. 114,425

ORDER RESETTING CASE FOR ORAL ARGUMENT

Respondents' emergency application to continue oral argument is granted. This matter, previously set for oral argument on Tuesday, December 8, 2015, is reset for oral argument before the Supreme Court, *en banc*, on December 16, 2015, at 10:00 a.m. in the Supreme Court Courtroom on the second floor of the State Capitol Building.

DONE BY ORDER OF THE SUPREME COURT THIS 7<sup>TH</sup> DAY OF DECEMBER 2015.

CHIEF JUSTICE

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DEC 09 2015

OKLAHOMA SECRETARY,  
OF STATE



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

DEC -8 2015

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC., and )  
DAVID BOND, )  
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Petitioners, )  
 )  
v. )  
 )  
SHAWN SHEEHAND, LINDA REID, )  
and MELVIN MORAN, )  
 )  
Respondents. )

No. 114,425

ORDER

Emergency Application to File Amici Curiae Brief on behalf of Cooperative Council for Oklahoma School Administration, the Oklahoma State School Boards Association, and the Oklahoma Education Association, is granted. Brief to be filed by Friday, December 11, 2015, at 5:00 p.m.

DONE BY ORDER OF THE SUPREME COURT THIS 8<sup>th</sup> DAY OF DECEMBER, 2015.

CHIEF JUSTICE

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DEC 09 2015

OKLAHOMA SECRETARY,  
OF STATE



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**ORIGINAL**

**IN THE SUPREME COURT OF THE STATE OF OKLAHOMA FILED  
SUPREME COURT  
STATE OF OKLAHOMA**

IN RE INITIATIVE PETITION NO. 403, )  
STATE QUESTION NO. 779, )

JAN 12 2016

OCPA IMPACT, INC., and DAVID )  
BOND, )

**MICHAEL S. RICHIE  
CLERK**

)  
Petitioners, )

Case No. 114,425

v. )

**FOR OFFICIAL  
PUBLICATION**

SHAWN SHEEHAN, LINDA REID, )  
and MELVIN MORAN, )

)  
Respondents. )

Rec'd (date)	1-12-16
Posted	<i>[Signature]</i>
Mailed	<i>[Signature]</i>
Distrib	<i>[Signature]</i>
Publish	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no

**ORIGINAL PROCEEDING TO DETERMINE  
THE VALIDITY OF INITIATIVE PETITION NO. 403**

¶0 This is an original proceeding to determine the legal sufficiency of Initiative Petition No. 403. The petition seeks to amend the Oklahoma Constitution by adding a new Article 13-C which would create the Oklahoma Education Improvement Fund. Opponents filed this protest alleging the petition is unconstitutional because it violates the one general subject rule of Art. 24, § 1 of the Oklahoma Constitution. Upon review, we hold that Initiative Petition No. 403 does not violate the one general subject rule of Art. 24, § 1 and is legally sufficient for submission to the people of Oklahoma.

**INITIATIVE PETITION NO. 403 IS LEGALLY  
SUFFICIENT FOR SUBMISSION TO THE PEOPLE OF  
OKLAHOMA.**

Robert G. McCampbell and Travis V. Jett  
Fellers Snider, P.C.  
Oklahoma City, OK, for Petitioners

D. Kent Meyers, Harvey D. Ellis,  
Melanie Wilson Rughani, and Paige Masters  
Crowe & Dunlevy, P.C.  
Oklahoma City, OK, for Respondents

Patrice Douglas and Kathryn Evans Boren  
Latham, Wagner, Steele & Lehman, P.C.  
Oklahoma City, OK, for Amici Curiae Oklahoma Municipal League  
and Dewey Bartlett

Ryan C. Owens and Hayley B. Jones  
Oklahoma City, OK, for Amicus Curiae the Cooperative Council  
for Oklahoma School Administration, Inc.

Julie L. Miller  
Oklahoma City, OK, for Amicus Curiae the Oklahoma State  
School Boards Association

Richard B. Wilkinson  
Oklahoma City, OK, for Amicus Curiae the Oklahoma Education  
Association

**PER CURIAM**

***Facts & Procedural History***

¶ 1 On October 21, 2015, Respondents Shawn Sheehan, Linda Reid, and Melvin Moran (Proponents) filed Initiative Petition No. 403 with the Oklahoma Secretary of State. The petition seeks to amend the Oklahoma Constitution by

adding a new Article 13-C. The proposed article creates the Oklahoma Education Improvement Fund, designed to provide for the improvement of public education in Oklahoma through an additional one-cent sales and use tax.<sup>1</sup> Funds generated by the one-cent tax would be distributed to public school districts, higher education institutions, career and technology centers, and early childhood education providers for certain educational purposes outlined in the proposed article. Additionally, a percentage of the funds would be used to provide a \$5,000.00 pay raise to all public school teachers. The proposed article delegates oversight and auditing responsibilities to the State Board of Equalization and requires monies allocated from the Fund to be used by the Legislature to enhance and not supplant current public education appropriations.

¶ 2 On November 12, 2015, Petitioners OCPA, Inc. and David Bond (Opponents) filed an Application to Assume Original Jurisdiction in this Court. Opponents raised a single constitutional challenge to the initiative measure,

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<sup>1</sup> The proposed ballot title reads:

This measure adds a new Article to the Oklahoma Constitution. The new article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, to increase high school graduation rates, college and career readiness, and college affordability, improving higher education and career technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that monies from the fund not supplant or replace other education funding. The Article takes effects [sic] on the July 1 after its passage.

Initiative Petition No. 403, Proposed Ballot Title.

arguing the petition is unconstitutional because it violates the one general subject rule of Art. 24, § 1 of the Oklahoma Constitution. After hearing arguments from the parties and upon consideration, we assume original jurisdiction and hold that Initiative Petition No. 403 embraces one general subject and does not violate Art. 24, § 1 of the Oklahoma Constitution. Initiative Petition No. 403 is legally sufficient to submit to the voters of this state, and the proponents of the petition may proceed with the remaining statutory requirements.<sup>2</sup>

### ***Standard of Review***

¶ 3 “The first power reserved by the people is the initiative . . . .” Okla. Const. Art. 5, § 2. With that, comes “the power to propose laws and amendments to the Constitution and to enact or reject the same at the polls independent of the Legislature, and also reserve power at their own option to

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<sup>2</sup> Sections 8 and 9 of Title 34 were amended by the Legislature effective April 28, 2015. Notably, the ballot title is now to be filed separately from the petition and is not “part of or printed on the petition.” 34 O.S. Supp. 2015 § 8(A). Additionally, the notice published pursuant to § 8(B) no longer includes the text of the ballot title. According to § 8(H), *after* the signed copies of a petition are timely filed with the Secretary of State, the Secretary of State “shall file a copy of the proponent’s ballot title with the Attorney General,” which then triggers the ballot title review process in §§ 9 and 10.

Section 8(I) now requires that the Secretary of State publish a “notice of the filing of the signed petitions and the apparent sufficiency or insufficiency thereof, *and shall also publish the text of the ballot title as reviewed and approved, or if applicable, as rewritten by the Attorney General pursuant to the provisions of subsection D of Section 9 of this title*” and notice that any citizen may file an objection to the count or the ballot title within 10 business days after publication.

The record before this Court and the Secretary of State’s website indicate the only notice published regarding this petition was the notice of the filing of the petition alerting citizens of this state of their right to challenge the constitutionality of the petition within ten business days of the notice pursuant to § 8(B). Petitioners’ App. B. The ballot title has presumably not yet been reviewed by the Attorney General or published as per §§ 8(I) and 9(D), and no challenge to the ballot title is before the Court at this time. Additionally, the Petitioners have not raised a challenge to the gist of the proposition in this proceeding.

approve or reject at the polls any act of the Legislature.” Okla. Const. Art. 5, § 1. This Court is vested with original jurisdiction to evaluate and determine the sufficiency of proposed initiative petitions pursuant to 34 O.S. Supp. 2015 § 8.<sup>3</sup> However, we have generally refused to declare a ballot initiative invalid in advance of a vote of the people except where there is a “**clear or manifest**” showing of unconstitutionality. In re Initiative Petition No. 358, 1994 OK 27, ¶ 7, 870 P.2d 782, 785 (emphasis added). The power of the people “to institute change through the initiative process is a fundamental characteristic of Oklahoma government.” In re Initiative Petition No. 360, 1994 OK 97, ¶ 9, 879 P.2d 810, 814. We have emphasized how vital the right of initiative is to the people of Oklahoma and how diligently we must protect this entitlement:

The right of the initiative is precious, and it is one which this Court is zealous to preserve to the fullest measure of the spirit and the letter of the law. Because the right of the initiative is so precious, ***all doubt as to the construction of pertinent provisions is resolved in favor of the initiative. The initiative power should not be crippled, avoided, or denied by technical construction by the courts.***

In re Initiative Petition No. 382, 2006 OK 45, ¶ 3, 142 P.3d 400, 403 (internal citations omitted) (emphasis added). Opponents bear the burden of demonstrating the proposed initiative petition presented in this case clearly and manifestly violates the Oklahoma Constitution. In re Initiative Petition No. 362, 1995 OK 77, ¶ 12, 899 P.2d 1145, 1151.

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<sup>3</sup> The procedures for presenting an initiative petition are outlined in 34 O.S. Supp. 2015 §§ 1–27.

### ***One General Subject***

¶ 4 The sole challenge to the petition in this case is under Art. 24, § 1, which provides:

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 this Constitution by articles, which embrace one general subject, each proposed article shall be deemed a single proposal or proposition.***

Okla. Const. Art. 24, § 1 (emphasis added). The above-emphasized language was added to Art. 24, § 1 in 1952. In In re Initiative Petition No. 314, 1980 OK 174, ¶ 38, 625 P.2d 595, 600, this Court held that the one general subject rule of Art. 24, § 1 applies to an initiative petition.

### ***Germaneness Test***

¶ 5 In the case before us, proponents of the petition seek to amend the Oklahoma Constitution by adding a new article—Article 13-C—to create the Oklahoma Education Improvement Fund. In In Re Initiative Petition No. 314, 1980 OK 174, 625 P.2d 595, proponents of an initiative petition sought to change the alcohol laws of this state by amending the *existing Article 27* of the Oklahoma Constitution to allow for unrestricted franchising arrangements for brewers, on-premises consumption, unlimited advertising, and the sale of liquor by the drink by privately owned licensed on-premises outlets. In finding

the petition violated the one general subject rule of Art. 24, § 1, this Court advised that “[t]he changes sought by the multifarious proposal could have been effected either by submission of three separate proposals or a submission amending, under Art. 24, [§] 1, ***the entirety of Art. 27, as an amendment by article***, as was done in 1959 when prohibition was repealed and Art. 27 was submitted and adopted by a vote of the people.” In re Initiative Petition No. 314, 1980 OK 174, ¶ 81, 625 P.2d at 608 (emphasis added).

¶ 6 Taking the Court’s advice, proponents, in their second attempt at changing the liquor laws of this state, again tendered an initiative petition seeking to amend the Oklahoma Constitution. This time, however, the proponents submitted the proposal as an *amendment to the Oklahoma Constitution by article*. Notably, the initiative petition proposed many of the same substantive changes as the previously stricken petition, including the sale of alcoholic beverages for on-premises consumption and the sale of liquor by the drink by privately owned licensed on-premises outlets. In addition, the proposal abolished the Alcoholic Beverage Control Board and replaced it with a new Alcoholic Beverage Laws Enforcement Commission to enforce the alcoholic beverage laws of the state. Opponents of the petition again argued the portion of the petition authorizing the Legislature to permit the sale of liquor by the drink embraced a different and additional subject

matter. In re Initiative Petition No. 319, 1984 OK 23, ¶ 8, 682 P.2d 222, 223–224.

¶ 7 The Court rejected the argument and stated: “*In Re Initiative Petition No. 314*, recognized that our constitution may be amended by article under Article 24, Section 1, and that such an amendment may cover changes which would violate the single subject rule *if not proposed in that format. Proponents have complied with that procedure. While the amendment is still required to relate to a single general subject, our previous ruling indicates clearly that the various changes need not meet the test which was applied in Initiative Petition No. 314, and which resulted in the invalidity of that proposal.*” Id. ¶ 9, 682 P.2d at 224 (internal citations omitted) (emphasis added).

¶ 8 The Court then applied the following test:

[G]enerally provisions governing projects so 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. . . .<sup>4</sup>

The Court held the provisions of the petition contributed to the overall scheme of control of the sale of alcoholic beverages embodied in the proposed article. The petition was found legally sufficient to submit to a vote of the people.

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<sup>4</sup> Id. ¶ 10, 682 P.2d at 224 (citing Rupe v. Shaw, 1955 OK 223, 286 P.2d 1094, and In Re Initiative Petition No. 271, 1962 OK 178, 373 P.2d 1017).

¶ 9 This Court affirmed the amendment by article approach in 1996 in an opinion authored by Justice Opala. In In re Initiative Petition No. 363, 1996 OK 122, 927 P.2d 558, proponents of an initiative petition sought to amend the Oklahoma Constitution by adding a new article which provided for the creation of four locations immediately eligible for authorized gaming, prohibited casino gaming in counties not specifically authorized for a period of five years, created a seven-member state gaming commission with authority to provide regulation and enforcement of casino gambling, provided criminal penalties for violation of gaming laws, legalized obligations incurred in the course of authorized gaming, authorized the commission to collect gaming fees from each licensed gaming facility operator, retaining the legislatively approved amount of its budget and initial operations cost, earmarked the remaining receipts for specific computer-related educational purposes, local governments, and correctional institutions. Opponents challenged the petition for, among other things, a violation of the one general subject rule in Art. 24, § 1.

¶ 10 Rejecting the constitutional attack, the Court reiterated 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 to one another.” Id. ¶ 15, 927 P.2d at 566. The Court continued:

In *In re Init. Pet. 319*, 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 that the main design may be thereby subserved.'** *Rupe* accorded a liberal rather than a narrow or technical construction to the single-subject requirement.<sup>5</sup>

Applying this test, the Court upheld the measure finding 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."<sup>6</sup>

¶ 11 In the case before us, the proposed Article 13-C consists of seven sections. Section 1 creates the Oklahoma Education Improvement Fund. Section 2 levies an additional 1% sales and use tax with "[a]ll revenue from the sales tax and the use tax levied" being used to fund the Oklahoma Education Improvement Fund created by Section 1. Section 3 directs the percentage distribution of the monies in the Fund for certain educational purposes including, common education (69.5%), higher education (19.25%), career and technology education (3.25%), and early childhood education (8%). Section 4 provides for a \$5,000 increase in teacher salaries to be

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<sup>5</sup> *Id.* n.34, 927 P.2d at 566 n.34 (citing *Rupe*, 1955 OK 223, 286 P.2d 1094, and *In Re Initiative Petition No. 271*, 1962 OK 178, 373 P.2d 1017) (internal citations omitted) (emphasis added). The germaneness test under the one general subject rule of Art. 24, § 1 is "more liberal" than the germaneness test applied to legislative acts under the single-subject rule of Art. 5, § 57. *See id.*

<sup>6</sup> *Id.* ¶ 16, 927 P.2d at 566.

funded with 86.33% of the common education distribution under Section 3.<sup>7</sup> Section 5 directs that funds “expended or distributed from the Oklahoma Education Improvement Fund shall supplement, and shall not be used to supplant or replace, other state funds” supporting education. Section 5 also directs the State Board of Equalization to “examine and investigate appropriations from the Fund each year,” and if it finds that education funding was supplanted by monies from the Fund, the State Board of Equalization must “specify the amount by which education funding was supplanted.” If education funding was supplanted by monies from the Fund, Section 5 directs that “the Legislature shall not make any appropriations for the ensuing fiscal year until an appropriation in that amount is made to replenish the Oklahoma Education Improvement Fund.” Section 6 provides the effective date of the proposed amendment, and Section 7 provides a severability clause.<sup>8</sup>

¶ 12 The subject of the proposed amendment is the Oklahoma Education Improvement Fund. Each section of the proposed amendment is “reasonably interrelated and interdependent, forming an interlocking “package”” deemed necessary by the initiatives’ drafters to assure effective public education

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<sup>7</sup> We again note the only challenge brought by the opponents of the petition was under the one general subject rule of Art. 24, § 1. Opponents did not challenge the teacher pay raise portion of the proposal as a special law. Regardless, this Court has held that the special law provision of Art. 5, § 59 “applies to the ‘Legislative Department’” and not to a constitutional amendment approved by the people. Eastern Okla. Bldg. & Const. Trades Council v. Pitts, 2003 OK 113, ¶ 13, 82 P.3d 1008, 1013.

<sup>8</sup> See Petitioners’ App. A.

improvement funding.<sup>9</sup> Proponents drafted the petition with each component being necessary to the accomplishment of one general design.<sup>10</sup> The proposal stands or falls as a whole.<sup>11</sup> For example, if a voter agrees that the Oklahoma Education Improvement Fund should be created but does not agree that an additional one cent sales tax is the appropriate funding mechanism to do so, then the voter must choose whether to approve the proposal based on such considerations. If, on the other hand, a voter agrees that an additional one cent sales tax is the appropriate funding mechanism to fund the Oklahoma Education Improvement Fund, but does not agree with the percentage distribution of the monies as set forth in Section 3, then again, the voter must choose whether to approve the proposal based on such considerations. Such choices are the consequence of the voting process rather than any constitutional defect in the proposal.<sup>12</sup> The proposed initiative petition clearly constitutes a single scheme to be presented to voters, and each section is germane to creating and implementing the Oklahoma Education Improvement Fund.

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<sup>9</sup> In re Initiative Petition No. 314, 1980 OK 174, ¶ 67, 625 P.2d at 605 (citing Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization, 583 P.2d 1281 (Cal. 1978)).

<sup>10</sup> In re Initiative Petition No. 363, 1996 OK 122 n.33, 927 P.2d at 566 n.33.

<sup>11</sup> In re Initiative Petition No. 314, 1980 OK 174, ¶ 75, 625 P.2d at 603.

<sup>12</sup> In re Initiative Petition No. 348, 1991 OK 110, ¶ 13, 820 P.2d 772, 777.

### *Purpose of the One General Subject Rule*

¶ 13 The purpose of the one general subject rule, as this Court has repeatedly held, is “to prevent imposition upon or deceit of the public by the presentation of a proposal which is *misleading or the effect of which is concealed or not readily understandable*,” and to “afford the voters freedom of choice and *prevent “logrolling”, or the combining of unrelated proposals* in order to secure approval by appealing to different groups which will support the entire proposal in order to secure some part of it although perhaps disapproving of other parts.” In re Initiative Petition No. 314, 1980 OK 174, ¶ 59, 625 P.2d 595, 603 (quoting Fugina v. Donovan, 104 N.W.2d 911, 914 (Minn. 1960)) (emphasis added).

¶ 14 In the case before us, opponents argue the proposal is misleading because voters will “think they are voting for teacher pay raises, when in fact, they are voting to significantly change our state’s fiscal structure to give the Board of Equalization control over their local Representative and Senators deciding on education appropriations.”<sup>13</sup> This argument ignores the powers already conferred to the State Board of Equalization in the Oklahoma Constitution. Article 10, § 21 of the Oklahoma Constitution provides that the duty of the State Board of Equalization “shall be to adjust and equalize the valuation of real and personal property of the several counties in the state,

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<sup>13</sup> Brief in Support of Application to Assume Original Jurisdiction at 12.

***and it shall perform such other duties as may be prescribed by law . . . .”***

Okla. Const. Art. 10, § 21(A) (emphasis added). In Art. 10, § 23, entitled “Balanced Budget,” Section 23(1) states that “prior to the convening of each regular session of the Legislature, the State Board of Equalization shall certify the total amount of revenue which accrued during the last preceding fiscal year to the General Revenue Fund and to each Special Revenue Fund appropriated directly by the Legislature, and shall further certify amounts available for appropriation . . . of the revenues to be received by the state under the laws in effect at the time such determination is made, for the next ensuing fiscal year . . . .” Article 10, § 23(2) goes on to provide that “[t]he Legislature shall not pass or enact any bill, act or measure making an appropriation of money for any purpose until such certification is made and filed. . . .” All appropriations made in excess of such certification shall be “null and void” unless the Legislature follows certain specific procedures to adjust the certification amount.

¶ 15 In Art. 10, § 41, entitled the Oklahoma Education Lottery Trust Fund, the State Board of Equalization acts “to ensure that the funds from the trust fund are used to enhance and not supplant funding for education,” and “examine[s] and investigate[s] appropriations from the trust fund each year.” Art. 10, § 41(D). The State Board of Equalization “shall issue a finding and report which shall state whether appropriations from the trust fund were used to enhance or

supplant education funding. If the State Board of Equalization finds that education funding was supplanted by funds from the trust fund, the Board shall specify the amount by which education 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 trust fund.”

Id.

¶ 16 In Section 1521 of Title 69, which creates the Rebuilding Oklahoma Access and Driver Safety Fund, the State Board of Equalization also acts to “ensure that the funds from the ROADS Fund are used to enhance and not supplant state funding for the Department of Transportation,” and “the State Board of Equalization shall examine and investigate expenditures from the fund each year.” 69 O.S. Supp. 2013 § 1521(E). If the State Board of Equalization finds that funds were used to supplant state funding for the Department of Transportation, the Board “shall specify the amount by which such funding was supplanted,” and 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 state funding for the Department of Transportation.”<sup>14</sup>

¶ 17 The State Board of Equalization already examines the General Revenue Fund and each Special Revenue Fund and certifies to the

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<sup>14</sup> Id. See also 70 O.S. §§ 2601–2605; 62 O.S. § 34.87.

Legislature the amounts available for appropriation in the upcoming fiscal year. The State Board of Equalization audits the Lottery Education Fund in the same way it would audit the Education Improvement Fund. The Lottery Education Fund was proposed and passed by the people in 2004. For more than ten years now, since the implementation of the Fund and the yearly auditing process by the State Board of Equalization, there has been no legal challenge. Thus, any suggestion by Petitioners at oral argument that the implementation of the Education Improvement Fund would negatively affect the legislative appropriations process or usurp legislative fiscal policy-making is entirely speculative at this point.<sup>15</sup> We decline, at the pre-election stage, to declare the proposal unconstitutional on nothing more than speculation.<sup>16</sup>

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<sup>15</sup> In In re Initiative Petition No. 348, 1991 OK 110, 820 P.2d 772, opponents challenged the legality of a petition that sought to amend Art. V, § 33 of the Oklahoma Constitution to require all revenue raising bills to be approved by a majority of the people at the next general election unless such revenue bill was approved by a three-fourths vote of both houses. Opponents argued that the proposal would severely limit the Legislature's ability to raise new revenue. Opponents challenged the proposal under the one general subject rule and argued that the proposal violated the rule because it would *affect* more than one subject.

The Court found the proposal did not violate the one general subject rule and that although the amendment, if adopted, could affect other articles of the constitution, such was insufficient reason for the Court to deny the people of Oklahoma the right to vote on the petition, "though indeed, the [p]etition's effect may result in subsequent challenges." Id. ¶ 12, 820 P.2d at 776. Notably, in that case, the opponents also argued that the proposal would destroy the entire design for financing state governments as organized in the Oklahoma Constitution. The Court again rejected the argument, finding that "the people have the sovereign right under the reserved power to institute constitutional tax reform by way of the initiative process," and that "specific legislative grants of power will always be subject to the reserved power of the people under Article V, § 1." Id. ¶ 16, 820 P.2d at 778. The Court also noted it was "mere conjecture" as to whether the petition would destroy the state financing scheme, and declined to invalidate the petition on such speculation. Id. ¶ 18, 820 P.2d at 778.

<sup>16</sup> In In re Initiative Petition No. 358, 1994 OK 27, 870 P.2d 782, opponents challenged an initiative petition that proposed enactment of the Oklahoma Lottery Act. In that case, the opponents argued the proposal would unconstitutionally delegate the Legislature's fiscal policy-making power because the Lottery Authority had the authority to create the formula for determining gross revenues and net revenues. The Court rejected the opponents' argument and found that the proposal specified the

¶ 18 Opponents also argue that including funding for higher education and common education in the same proposal constitutes logrolling because each is “established in separate articles of the constitution.”<sup>17</sup> We first note that Art. 13 of the Oklahoma Constitution, entitled “Education,” creates not just a common public school system, but also the Board of Regents of the University of Oklahoma. Title 70 of the Oklahoma statutes includes acts governing common education, career and technology education, and higher education.<sup>18</sup> Additionally, the Lottery Education Trust Fund delineates specific educational purposes and programs for which the funds can be used and does not treat common and higher education as separate and distinct. The Lottery Education Trust Fund includes appropriations for, among others: 1) K-12 public education “including but not limited to compensation and benefits for public school teachers and support employees”; 2) early childhood development programs; 3) tuition grants, loans and scholarships for higher education; 4) construction of educational facilities for “elementary school districts, independent school districts, the Oklahoma State System of Higher

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percentage of gross lottery revenues to be paid into the state treasury and the purposes for which the revenues could be appropriated by the Legislature. Thus, the language of the proposed measure authorizing the Lottery Authority to determine “net revenues” did not *clearly contravene* Art. IV, § 1 or Art. V, § 55 of the Oklahoma Constitution. The Court specifically held it would “not interpret the contents of an initiative proposal, nor speculate implementation, at th[e] pre-election stage.” *Id.* ¶ 12, 870 P.2d at 787.

<sup>17</sup> Brief in Support of Application to Assume Original Jurisdiction at 9.

<sup>18</sup> See, e.g., School Code of 1971 in 70 O.S. §§ 1-101–27-103; Career and Technology Education in 70 O.S. §§ 14-101–14-112; Junior Colleges—Construction and Maintenance in 70 O.S. §§ 2201–2212; Higher Education Code in 70 O.S. §§ 3101–8005.

Education, and career and technology education”; and 5) “[e]ndowed chairs for professors at institutions of higher education operated by the Oklahoma State System of Higher Education.”<sup>19</sup>

¶ 19 In In re Initiative Petition No. 363, the Court defined logrolling in the context of initiative petitions as “the combining of unrelated proposals.”<sup>20</sup> In In re Initiative Petition No. 344, 1990 OK 75, 797 P.2d 326, proponents filed an initiative petition, seeking to repeal Article VI of the Oklahoma Constitution and replace it with a new Article VI. Article VI defines the executive branch of government. The proposed changes were numerous and unrelated and ranged from changing the method of selecting the Lieutenant Governor to adding the requirement that the State Auditor examine the books of school districts and provide uniform accounting systems for school districts and municipalities to repealing the constitutional authorization for the Department of Mines. Proponents challenged the constitutionality of the petition, alleging it violated the one general subject rule of Art 24, § 1. The Court found the topics were tenuously connected at best, and “not so intertwined as to require that they be adopted at the same time in order to preserve the integrity of each section.” Id. ¶ 9, 797 P.2d at 329. The Court held that “[c]learly the placing of sole authority with the Governor to grant reprieves, commutation,

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<sup>19</sup> Okla. Const. Art. 10, § 41(B).

<sup>20</sup> 1996 OK 122, ¶ 15, 927 P.2d at 566.

and pardons is not dependent on the method of electing the Lt. Governor or a cabinet form of government.” Id. ¶ 9, 797 P.2d at 329.

¶ 20 In In re Initiative Petition No. 342, 1990 OK 76, 797 P.2d 331, proponents presented an initiative petition, which sought to repeal and re-enact Article IX of the Oklahoma Constitution. That Article dealt with the Oklahoma Corporation Commission. The petition covered multiple loosely related subjects including removal of the prohibition against foreign corporations consolidating with domestic corporations, removal of the provision abrogating the fellow-servant doctrine rule, removal of the requirement that mining and public service corporations arbitrate labor disputes, and removal of the prohibition against bank or trust companies holding or controlling stock in another bank or trust company. The Court found the petition violated the one general subject rule of Okla. Const. Art. 24, § 1 and held: “There are numerous subjects covered by the Petition ranging from financial institutions holding stock in another financial institution to the power of eminent domain of foreign corporations to the fellow-servant doctrine rule. The only connection that these topics have to each other is that they all tangentially relate to the general subject of corporations. Otherwise, they are unrelated.” Id. ¶ 8, 797 P.2d at 333.

¶ 21 The proposal in the case before us is markedly different from the proposals struck down in Initiative Petition No. 344 and Initiative Petition No.

342 which included completely unrelated proposals. The proposal in this case does not amount to logrolling and constitutes a single scheme to be presented to voters.

***Conclusion***

¶ 22 Our inquiry today is limited to whether or not Initiative Petition No. 403 violates the one general subject rule of Art. 24, § 1. We hold that it does not and find it is legally sufficient for submission to the people of Oklahoma.

**INITIATIVE PETITION NO. 403 IS LEGALLY  
SUFFICIENT FOR SUBMISSION TO THE PEOPLE OF  
OKLAHOMA.**

¶ 23 Reif, C.J., Combs, V.C.J., Edmondson, Gurich, JJ., Mitchell, Thornbrugh, SJ., concur.

¶ 24 Kauger, Winchester, Taylor (by separate writing with whom Kauger, Winchester, JJ., join), JJ., dissent.

¶ 25 Watt, Colbert, JJ., disqualified.

**FILED**

OCT 21 2015

State Question No. 779, Initiative Petition No. 403

OKLAHOMA SECRETARY  
OF STATE

**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.**

---

**INITIATIVE PETITION**

To the Honorable Mary Fallin, 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 8th day of November, 2016 (or at a 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 are correctly written after my name. The time for filing this petition expires ninety (90) days from A. The question we herewith submit to our fellow voters is:

FEBRUARY 16, 2016

Shall the following proposed new Article XIII-C to the Constitution be approved?

---

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

**CONSTITUTION OF OKLAHOMA, ARTICLE XIII-C --  
OKLAHOMA EDUCATION IMPROVEMENT FUND**

**§ 1. CREATION OF OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby created in the State Treasury a limited purpose fund to be known as the "Oklahoma Education Improvement Fund." The fund shall consist of the proceeds of the sales tax levy and the use tax levy provided in Section 2 of this Article XIII-C, and any monies or assets contributed to the fund from any other source, public or private.

**§ 2. LEVY OF ONE CENT SALES TAX AND USE TAX FOR OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an additional excise tax of one percent (1.0%) of the gross receipts or gross proceeds of each sale of tangible personal property, or of other goods and services subject to the sales tax as provided in the Oklahoma Sales Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an additional excise tax on the storage, use, or other consumption in this state of such property at the rate of one percent (1.0%) of the purchase price of such property. Said tax shall be levied on the storage, use or consumption of personal property as provided in the Oklahoma Use Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Use Tax Code.

This sales tax levy shall be in addition to, and shall not supplant, the general sales tax levied in the Oklahoma Sales Tax Code or any other sales tax authorized by Oklahoma law and

this use tax levy shall be in addition to, and shall not supplant, the general use tax levied in the Oklahoma Use Tax Code or any other use tax authorized by Oklahoma law.

All revenue from the sales tax and the use tax levied pursuant to this Article XIII-C, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be paid to the State Treasurer and deposited into the Oklahoma Education Improvement Fund.

**§ 3. ALLOCATION OF MONIES IN OKLAHOMA EDUCATION IMPROVEMENT FUND - PURPOSES - USES - ETC.**

A. Monies in the Oklahoma Education Improvement Fund shall be apportioned by the State Treasurer, appropriated by the Legislature, and distributed monthly for the educational purposes established herein, as follows:

1. Common Education: Sixty-nine and one-half percent (69.5%) of said monies shall be apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, on the basis of the state aid formula for common education then in effect.

(a) Monies from the Oklahoma Education Improvement Fund shall be specifically identified and segregated from other monies appropriated and apportioned among the several common school districts of the State on the basis of said state aid formula.

(b) The common school districts shall use eighty-six and one-third percent (86.33%) of the additional funds provided to them under this Article XIII-C to increase teacher salaries as required by Section 4 of this Article, and to otherwise address and prevent teacher and certified instructional staff shortages in the manner most suited to local district circumstances and needs, including but not limited to differentiated compensation methods or performance pay.

(c) The common school districts shall use thirteen and two-thirds percent (13.67%) of the additional funds provided to them under this Article XIII-C to adopt or to expand programs, opportunities, or reforms to improve reading in the early grades, to improve high school graduation rates, and to increase college and career readiness. The common school districts may use the amount apportioned to them under this Section 3(A)(1)(c) only to adopt or to expand said programs, opportunities or reforms, and may not use the amount apportioned to them under this Section 3(A)(1)(c) to maintain programs, opportunities or reforms established prior to the effective date of this Article XIII-C.

(d) The State Auditor and Inspector shall approve auditors who shall annually audit the use made of the monies distributed to the school districts under this Article XIII-C to ensure that it is used only for the purposes specified in this Article XIII-C.

2. Higher Education: Nineteen and one-quarter percent (19.25%) of said monies shall be paid to the education and general operating budgets of the institutions under the authority of the Oklahoma State Regents for Higher Education, for use in improving college affordability, or otherwise in the improvement of higher education.

3. Career and Technology Education: Three and one-quarter percent (3.25%) of said monies shall be paid to the Oklahoma Department of Career and Technology Education, for use in the improvement of career and technology education.

4. Early Childhood Education: Eight percent (8%) of said monies shall be paid to the State Department of Education, for use in increasing access to and enhancing the quality of voluntary early learning opportunities for low-income and at-risk children prior to entry into the common education system.

B. Monies expended or distributed from the Oklahoma Education Improvement Fund as provided herein shall be used only for the purposes specified in this Article XIII-C, Section 3.

C. None of these monies distributed from the Oklahoma Education Improvement Fund to common school districts may be used to add superintendent positions or increase superintendents' salaries.

#### **§ 4. INCREASE IN TEACHER SALARIES**

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

#### **§ 5. FUNDS NOT TO SUPPLANT OTHER EDUCATION FUNDING**

A. Monies expended or distributed from the Oklahoma Education Improvement Fund shall supplement, and shall not be used to supplant or replace, other state funds supporting common education, early childhood education, higher education, or career and technology education, including but not limited to the Permanent School Fund, the Oklahoma Education Lottery Trust Fund, the Education Reform Revolving Fund, the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Common School Fund, appropriations from the Legislature as provided in Article XIII, Section 1a of the Constitution, and any other appropriations from the Legislature used for educational purposes.

B. The Legislature shall appropriate the monies from the Oklahoma Education Improvement Fund solely to supplement other funds supporting common education, early childhood education, higher education, or career and technology education. The Legislature shall not appropriate such monies to supplant or replace any other state funds supporting common education, early childhood education, higher education, or career and technology education.

C. In order to ensure that the monies from the Oklahoma Education Improvement Fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the Fund 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 that shall state whether appropriations from the Oklahoma Education Improvement Fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by monies from the Oklahoma Education Improvement Fund, the State Board of Equalization shall specify the amount by which education 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 Oklahoma Education Improvement Fund.

#### **§ 6. EFFECTIVE DATE, CONSTRUCTION**

A. This Article XIII-C shall become effective on July 1 immediately following its passage.

B. Nothing in this Article XIII-C shall be construed as conflicting with Article X, Section 23 of the Constitution.

#### **§ 7. 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.

**Name and Address of Proponents**

  
Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

  
Linda Reid  
8505 E. 98th St.  
Tulsa, OK 74133

  
Melvin Moran  
222 N. 2nd St.  
Seminole, OK 74868

**SIGNATURES**

**The gist of the proposition is as follows:** This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that these funds not supplant or replace other education funding.

**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.**

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
4.	Signature of Legal Voter	Print Name	Address	City	Zip	County
5.	Signature of Legal Voter	Print Name	Address	City	Zip	County
6.	Signature of Legal Voter	Print Name	Address	City	Zip	County
7.	Signature of Legal Voter	Print Name	Address	City	Zip	County
8.	Signature of Legal Voter	Print Name	Address	City	Zip	County
9.	Signature of Legal Voter	Print Name	Address	City	Zip	County
10.	Signature of Legal Voter	Print Name	Address	City	Zip	County
11.	Signature of Legal Voter	Print Name	Address	City	Zip	County
12.	Signature of Legal Voter	Print Name	Address	City	Zip	County
13.	Signature of Legal Voter	Print Name	Address	City	Zip	County
14.	Signature of Legal Voter	Print Name	Address	City	Zip	County
15.	Signature of Legal Voter	Print Name	Address	City	Zip	County
16.	Signature of Legal Voter	Print Name	Address	City	Zip	County
17.	Signature of Legal Voter	Print Name	Address	City	Zip	County
18.	Signature of Legal Voter	Print Name	Address	City	Zip	County
19.	Signature of Legal Voter	Print Name	Address	City	Zip	County
20.	Signature of Legal Voter	Print Name	Address	City	Zip	County





Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

February 2, 2016

✓ Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98<sup>th</sup> Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2<sup>nd</sup> Street  
Seminole, Oklahoma 74868

Dear Proponent(s):

Per Title 34, Section 8 of the Oklahoma Statutes, no appeals or protests for rehearing have been filed and the period for such has expired, therefore notice is hereby given that the signature gathering period for **State Question Number 779, Initiative Petition Number 403** is set to begin on February 16, 2016 and all signatures are due within ninety (90) days of the date set. Signatures will not be accepted for filing after 5:00 p.m. on May 16, 2016. The current signature requirement for amendments to the Oklahoma Constitution is 123,725.

Please find enclosed two true and accurate copies of said petition on record with the Secretary of State office and a copy of the current signature requirements for statewide petitions as certified by the Secretary of the Oklahoma State Election Board.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or [executivelegislative@sos.ok.gov](mailto:executivelegislative@sos.ok.gov)).

Sincerely,

Chris Bengé  
Secretary of State and  
Native American Affairs



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

February 2, 2016

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1037 Shadowlake Rd.  
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Sincerely,

A handwritten signature in black ink that reads "Chris Bengé".

Chris Bengé  
Secretary of State and  
Native American Affairs



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

February 2, 2016

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Sincerely,

A handwritten signature in black ink that reads "Chris Bengé".

Chris Bengé  
Secretary of State and  
Native American Affairs



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

February 2, 2016

D. Kent Meyers  
Roger Stong  
Melanie Wilson Rughani  
CROWE & DUNLEVY  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102

**RE: State Question 779, Initiative Petition 403**

Dear Counsel for Proponents:

Please find enclosed true and accurate copies of the signature gathering notice to proponents of record, petition 403, and the current signature requirements. The 90 day signature gathering period has been set to begin on February 16, 2016.

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

**Executive Legislative Division**  
**OKLAHOMA SECRETARY OF STATE OFFICE**  
Oklahoma State Capitol Building, Rm 101  
Oklahoma City, Oklahoma 73105  
Phone: 405.522.4565  
Email: [executivelegislative@sos.ok.gov](mailto:executivelegislative@sos.ok.gov)  
Web: <https://www.sos.ok.gov/gov/default.aspx>



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

April 21, 2016

**FILED**

APR 21 2016

OKLAHOMA SECRETARY  
OF STATE

Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98<sup>th</sup> Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2<sup>nd</sup> Street  
Seminole, Oklahoma 74868

Dear Proponent(s):

This letter is to acknowledge receipt of 85 boxes containing signature pamphlets filed for **State Question 779, Initiative Petition 403**. The boxes of petition pamphlets arrived this 21<sup>st</sup> day of April, 2016 at 2:26 PM.

As required by law, the petition boxes have been sealed. Said seals will not be broken until the signature counting process begins. Pursuant to the provisions of Title 34 O.S. Section 8(G), proponents of said petition may terminate the signature circulation period at any time during the ninety-day circulation period by certifying to our office that all signed petitions have been filed, no more petitions are in circulation, and proponents will not circulate any more petitions. If such a certification is received from the proponents, our office will be able to begin the signature counting process.

Also, per Title 34 O.S., Section 4, an individual from the petition drive must be present for the detaching of the signature pages and affidavits during the process of counting and binding the signature sheets. Please refer to the enclosed, "Observer Details" page for further instruction and information regarding such.

If our office may be of any further assistance, please do not hesitate to contact the Executive Legislative Division at (405) 522-4565.

Sincerely,

Chris Bengé  
Secretary of State and  
Native American Affairs



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

April 21, 2016

**TO: Proponent(s) of SQ779, IP403**

**RE: OBSERVER DETAILS**

Signature Counting Room: Secretary of State Office,  
The Oklahoma State Capitol, Room 101

Phone number: 405-522-4565      Email: [executivelegislative@sos.ok.gov](mailto:executivelegislative@sos.ok.gov)

Pursuant to the provisions of Title 34 O.S. Section 4, an individual from the petition drive must be present for the detaching of the signature pages and affidavits during the process of counting and binding the signature sheets.

As required by law, one copy of the proposed measure will be attached to each volume of signatures during the binding process. Per the Proponent's request the detached sheets not attached to a volume will be placed in a recycle bin located in the counting room.

The observer, appointed by the Proponents of SQ779, shall not distract the signature count nor the staff performing the count. Any questions he or she may have must be directed to the monitor of the count. Monitor of the count will Amy Canton. Ms. Canton can be reached at the phone number and email address provided at the top of this page.

The counting process starts at 1:00 p.m. on April 25, 2016 and will occur Monday through Friday, 9:00 a.m. - 4:00 p.m. until the signature count is complete. There will be an hour break for lunch from 12:00 p.m. to 1:00 p.m. daily. Please remember that the observer must be present at all times during the detachment of the pamphlets and boxes cannot be opened without his or her presence.



**FILED**

APR 21 2016

OKLAHOMA SECRETARY  
OF STATE

April 21, 2016

The Honorable Chris Bengé  
Oklahoma Secretary of State  
2300 N. Lincoln Boulevard, Ste. 101  
Oklahoma City, Oklahoma 73105-4897

Re: Initiative Petition 403

Dear Mr. Secretary:

85

Please accept for filing ~~82~~ boxes of signature pamphlets in support of State Question Number 779, Initiative Petition 403.

Pursuant to 34 O.S. 8(G), the Proponents hereby certify that:

1. All signed petitions have been filed with the Secretary of State;
2. No more petitions are in circulation; and
3. The proponents will not circulate any more petitions.

Very truly yours,

D. Kent Meyers,  
Roger Stong  
Melanie Wilson Rughani  
CROWE & DUNLEVY  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102

Counsel for Proponents

cc: Oklahoma Attorney General

A P R O F E S S I O N A L C O R P O R A T I O N

OKLAHOMA CITY • Braniff Building • 324 N. Robinson Ave., Ste. 100 • Oklahoma City, OK 73102 • T: 405.235.7700 • F: 405.239.6651  
TULSA • 500 Kennedy Building • 321 S. Boston Ave. • Tulsa, OK 74103 • T: 918.592.9800 • F: 918.592.9801

[crowedunlevy.com](http://crowedunlevy.com)

Chris Bengé  
Secretary of State  
and  
Native American Affairs



SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

Mary Fallin  
Governor

**RECEIVED**  
RECEPTIONIST

APR 22 2016

ATTORNEY GENERAL

April 22, 2016

**HAND DELIVERED**

The Honorable E. Scott Pruitt  
Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

Dear Attorney General Pruitt:

Pursuant to 34 O.S., § 8(H), the proponents of State Question 779, Initiative Petition 403 have timely filed signed copies of said petition. Per 34 O.S. § 9(D), the proposed ballot title of SQ 779, IP 403 is hereby submitted to you for review as to legal correctness. The enclosed are true and exact copies of the documents on record with our office.

If additional information is needed from this office, or if we may be of further assistance, please do not hesitate to contact us.

Sincerely,

Chris Bengé  
Secretary of State and  
Native American Affairs

Enclosures: SQ779, IP403 – Proposed Ballot Title  
SQ779, IP403 – Petition Pamphlet



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

**FILED**

APR 29 2016

OKLAHOMA SECRETARY  
OF STATE

April 29, 2016

Chris Benge, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

RE: Ballot Title for State Question No. 779, Initiative Petition No.403

Dear Secretary Benge:

In accordance with the provisions of 34 O.S. Supp.2015, § 9(D)(1), we have reviewed the Proposed Ballot Title for the above-referenced State Question and conclude that it does **not** comply with applicable laws for the following reason.

It fails to explain in basic words the effect of the proposition because:

1. It fails to explain that the one cent sales and use tax contemplated by the measure will be in addition to the state sales and use tax already levied by the Oklahoma Sales and Use Tax Codes.
2. It suggests that allocated funds will, in part, be used to improve college affordability, when the measure indicates that the funds may be used for college affordability or for otherwise improving higher education. That is, funds may be allocated in whole, in part, or not at all for college affordability.
3. It fails to explain that the increase in teacher salaries as funded by Section 3(A)(1)(b), and as required by Section 4 of the new Article, requires that teacher salaries be raised by at least \$5,000 more than the salaries paid in the year prior to adoption.
4. And, finally, it inaccurately states that it prohibits school districts' use of funds for increasing administrative salaries, when the measure is more limited in that it only prohibits an increase in superintendents' salaries and the addition of superintendent positions.

Having found that the ballot title does not comply with applicable laws, I have, in accordance with the provisions of 34 O.S. Supp.2015, §9(D)(1), prepared the enclosed Preliminary Ballot Title which complies with the law.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, stylized flourish above the name.

E. Scott Pruitt  
Attorney General

ESP/cr

**Preliminary Ballot Title for SQ 779**

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES

\_\_\_\_\_

AGAINST THE PROPOSAL – NO

\_\_\_\_\_



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

May 10, 2016

RECEIVED

MAY 10 2016

ADMINISTRATIVE OFFICE  
OF THE COURTS

### HAND DELIVERED

Chief Justice John Reif  
The Oklahoma Supreme Court  
2100 N. Lincoln Blvd., Suite 1  
Oklahoma City, Oklahoma 73105

**RE: Certification of Signature Count - State Question 779, Initiative Petition 403**

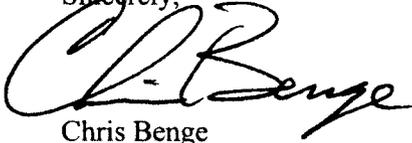
Dear Chief Justice Reif:

Pursuant to the provisions of Title 34 O.S., Section 8, the Secretary of State certifies the following details:

- Eighty-five (85) boxes of signature pamphlets were received by our office on April 21, 2016 along with certification from the proponents of State Question 779, Initiative Petition 403 stating that; all signed petitions have been filed with the Secretary of State, no more petitions are in circulation and the proponents would not circulate any more petitions. After receiving said certification the Secretary of State began the signature count at 1:00 p.m. on April 25, 2016. Said count was concluded on May 5, 2016 at 4:00 p.m.
- The Secretary of State certifies the total number of signatures counted for State Question 779, Initiative Petition 403 is **301,518**.
- Individual signature sheets have been page numbered 1 through 17,663 and are bound in a total of 89 Volumes. Volumes 1 through 88 contain 200 signature sheets per volume; Volume 89 contains 63 signature sheets.
- Please see attachment "A" for details regarding signature sheets not included in the total of said count due to statute violation.
- The Secretary of State affirms the State Election Board has certified that a total of 824,831 votes were cast for the office of Governor at the General Election in November 2014.
- The Secretary of State also certifies that proponents' proposed ballot title was submitted to the Attorney General's office April 22, 2016. Our office received the Preliminary Ballot Title, as reviewed and rewritten by the Attorney General's office, on April 29, 2016.

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,



Chris Bengé  
Secretary of State and  
Native American Affairs

- Enclosures:
- Attachment "A"
  - Proponent's certification of early filing of signatures
  - Copy of State Question 779, Initiative Petition 403
  - Tabulation Sheets for SQ 779, IP 403
  - Total votes cast as certified by Election Board (SOS Doc# 047220)
  - Submittal of Proposed Ballot Title to Attorney General's office
  - Preliminary Ballot Title as reviewed and rewritten by the Attorney General's office

Cc: The Honorable E. Scott Pruitt  
Oklahoma Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

CERTIFICATE OF MAILING

I hereby certify that a true and accurate copy of the foregoing, Certification of the Signature Count of State Questions 779, Initiative Petition 403 was placed in USPS mail, regular first-class, on May 10, 2016, addressed to the following parties;

Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98th Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2nd Street  
Seminole, Oklahoma 74868

**COUNSEL FOR PROPONENTS**

Melanie Wilson Rughani  
Crowe & Dunlevy  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, Oklahoma 73102



Chris Bengé  
Oklahoma Secretary of State and  
Native American Affairs

## ATTACHMENT “A”

The following is a list of signature sheets not included in the signature count of SQ779, IP403 and reasons thereof;

- Volume 88, pages 17,542 through 17,548 not included due to the absence of the petition circulator’s signature in the corresponding affidavit.
- Volume 88, pages 17,549 through 17,555 not included due to the absence of or incomplete address of the petition circulator.
- Volume 88, pages 17,556 and 17,557 not included due to the circulator’s affidavit not printed or attached to the corresponding signature sheet.
- Volume 88, pages 17,558 and 17,559 not included due to the absence of a notarization by a notarial officer.
- Volume 88, pages 17,560 through 17,600 not included due to the absence of a notary public seal.
- Volume 89, pages 17,601 through 17,638 not included due to the absence of a notary public seal.
- Volume 89, pages 17,639 and 17,640 not included due to the absence of the notary public’s address.
- Volume 89, page 17,641 not included due to the absence of the notary public’s signature.
- Volume 89, pages 17,642 through 17,659 not included due to a date discrepancy or the absence thereof within the notary public’s attestation on the affidavit page.
- Volume 89, page 17,660 not included due to the Notary Public’s name appearing in the Petition Circulator’s attestation on the affidavit page.
- Volume 89, pages 17,661 through 17,663 not included due to the signature sheets and affidavits being photo copies and not the originals of such.



**FILED**

APR 21 2016

OKLAHOMA SECRETARY  
OF STATE

April 21, 2016

The Honorable Chris Bengtson  
Oklahoma Secretary of State  
2300 N. Lincoln Boulevard, Ste. 101  
Oklahoma City, Oklahoma 73105-4897

Re: Initiative Petition 403

Dear Mr. Secretary:

85

Please accept for filing 82 boxes of signature pamphlets in support of State Question Number 779, Initiative Petition 403.

Pursuant to 34 O.S. 8(G), the Proponents hereby certify that:

1. All signed petitions have been filed with the Secretary of State;
2. No more petitions are in circulation; and
3. The proponents will not circulate any more petitions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Kent Meyers'.

D. Kent Meyers,  
Roger Stong  
Melanie Wilson Rughani  
CROWE & DUNLEVY  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102

Counsel for Proponents

cc: Oklahoma Attorney General

A PROFESSIONAL CORPORATION

OKLAHOMA CITY • Braniff Building • 324 N. Robinson Ave., Ste. 100 • Oklahoma City, OK 73102 • T: 405.235.7700 • F: 405.239.6651  
TULSA • 500 Kennedy Building • 321 S. Boston Ave. • Tulsa, OK 74103 • T: 918.592.9800 • F: 918.592.9801

[crowedunlevy.com](http://crowedunlevy.com)

**FILED**

OCT 21 2015

State Question No. 779, Initiative Petition No. 403

OKLAHOMA SECRETARY  
OF STATE

**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.**

-----

**INITIATIVE PETITION**

To the Honorable Mary Fallin, 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 8th day of November, 2016 (or at a 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 are correctly written after my name. The time for filing this petition expires ninety (90) days from A. The question we herewith submit to our fellow voters is:

FEBRUARY 16, 2016

Shall the following proposed new Article XIII-C to the Constitution be approved?

-----

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

**CONSTITUTION OF OKLAHOMA, ARTICLE XIII-C --  
OKLAHOMA EDUCATION IMPROVEMENT FUND**

**§ 1. CREATION OF OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby created in the State Treasury a limited purpose fund to be known as the "Oklahoma Education Improvement Fund." The fund shall consist of the proceeds of the sales tax levy and the use tax levy provided in Section 2 of this Article XIII-C, and any monies or assets contributed to the fund from any other source, public or private.

**§ 2. LEVY OF ONE CENT SALES TAX AND USE TAX FOR OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an additional excise tax of one percent (1.0%) of the gross receipts or gross proceeds of each sale of tangible personal property, or of other goods and services subject to the sales tax as provided in the Oklahoma Sales Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an additional excise tax on the storage, use, or other consumption in this state of such property at the rate of one percent (1.0%) of the purchase price of such property. Said tax shall be levied on the storage, use or consumption of personal property as provided in the Oklahoma Use Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Use Tax Code.

This sales tax levy shall be in addition to, and shall not supplant, the general sales tax levied in the Oklahoma Sales Tax Code or any other sales tax authorized by Oklahoma law and

C. None of these monies distributed from the Oklahoma Education Improvement Fund to common school districts may be used to add superintendent positions or increase superintendents' salaries.

#### **§ 4. INCREASE IN TEACHER SALARIES**

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

#### **§ 5. FUNDS NOT TO SUPPLANT OTHER EDUCATION FUNDING**

A. Monies expended or distributed from the Oklahoma Education Improvement Fund shall supplement, and shall not be used to supplant or replace, other state funds supporting common education, early childhood education, higher education, or career and technology education, including but not limited to the Permanent School Fund, the Oklahoma Education Lottery Trust Fund, the Education Reform Revolving Fund, the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Common School Fund, appropriations from the Legislature as provided in Article XIII, Section 1a of the Constitution, and any other appropriations from the Legislature used for educational purposes.

B. The Legislature shall appropriate the monies from the Oklahoma Education Improvement Fund solely to supplement other funds supporting common education, early childhood education, higher education, or career and technology education. The Legislature shall not appropriate such monies to supplant or replace any other state funds supporting common education, early childhood education, higher education, or career and technology education.

C. In order to ensure that the monies from the Oklahoma Education Improvement Fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the Fund 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 that shall state whether appropriations from the Oklahoma Education Improvement Fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by monies from the Oklahoma Education Improvement Fund, the State Board of Equalization shall specify the amount by which education 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 Oklahoma Education Improvement Fund.

#### **§ 6. EFFECTIVE DATE, CONSTRUCTION**

A. This Article XIII-C shall become effective on July 1 immediately following its passage.

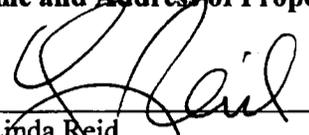
B. Nothing in this Article XIII-C shall be construed as conflicting with Article X, Section 23 of the Constitution.

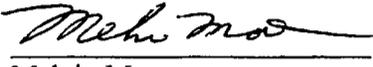
#### **§ 7. SEVERABILITY**

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.

**Name and Address of Proponents**

  
Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

  
Linda Reid  
8505 E. 98th St.  
Tulsa, OK 74133

  
Melvin Moran  
222 N. 2nd St.  
Seminole, OK 74868







STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 4

19• +  
20• +  
20• +  
16• +  
16• +  
15• +  
17• +  
20• +  
9• +  
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3• +  
20• +  
14• +  
20• +  
20• +

Consisting of 200 signature sheets

Numbered 601 through 800

with approximately 3,591 signatures

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 5

isting of 200 signature sheets

bered 801 through 1,000

approximately 3,499 signatures





20• +  
20• +  
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**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 8**

isting of 200 signature sheets

numbered 1,401 through 1,600

approximately 3,708 signatures



20• +  
20• +  
20• +  
20• +  
20• +  
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20• +  
20• +  
18• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 10**

**ting of 200 signature sheets**

**ered 1,801 through 2,000**

**pproximately 3,489 signatures**

200

3,489. \*



18• +  
18• +  
18• +  
17• +  
18• +  
19• +  
19• +  
19• +  
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20• +  
.....  
3,481. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 12**

**Consisting of 200 signature sheets**

**Numbered 2,201 through 2,400**

**with approximately 3,481 signatures**







18. +  
20. +  
19. +  
9. +  
20. +  
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19. +  
18. +  
20. +  
18. +  
20. +  
355 D. \*

**STATE QUESTION NO. 779**  
**INITIATIVE PETITION NO. 403**  
**VOLUME NO. 16**

Consisting of 200 signature sheets

Numbered 3,001 through 3,200

Containing approximately 3,500 signatures

200

18• +  
19• +  
18• +  
19• +  
5• +  
1• +  
7• +  
13• +  
12• +  
13• +  
15• +  
12• +  
18• +  
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2• +  
19• +  
19• +  
20• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 17**

**isting of 200 signature sheets**

**bered 3,201 through 3,400**

**pproximately 3,302 signatures**

20

3,302













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20. +  
20. +  
20. +  
20. +  
20. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 24**

**Consisting of 200 signature sheets**

**Numbered 4,601 through 4,800**

**Containing approximately 3,574 signatures**

3,574 \*







20 +  
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 20 +  
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 10 +  
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 20 +  
 .  
 5,700 \*

**STATE QUESTION NO. 779**  
**INITIATIVE PETITION NO. 403**

**VOLUME NO. 27**

of 200 signature sheets

5,201 through 5,400

approximately 3,709 signatures

20



17. +  
19. +  
14. +  
17. +  
20. +  
19. +  
20. +  
20. +  
20. +  
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19. +  
20. +  
20. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 29**

ting of 200 signature sheets

red 5,601 through 5,800

proximately 3,497 signatures







15• +  
 15• +  
 7• +  
 20• +  
 13• +  
 20• +  
 20• +  
 13• +  
 20• +  
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 20• +  
 20• +  
 19• +  
 19• +  
 11• +  
 11• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 32**

**sting of 200 signature sheets**

**bered 6,201 through 6,400**

**pproximately 3,419 signatures**





14. +  
 16. +  
 18. +  
 19. +  
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 20. +  
 18. +  
 16. +  
 20. +  
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 19. +  
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 13. +  
 20. +  
 18. +  
 10. +  
 11. +  
 19. +  
 10. +  
 15. +  
 19. +  
 19. +  
 20. +  
 30-70 \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 34**

**Consists of 200 signature sheets**

**Numbered 6,601 through 6,800**

**Contains approximately 3,474 signatures**







20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
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20• +  
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18• +  
10• +  
20• +  
20• +  
19• +  
20• +  
15• +  
20• +  
14• +  
•  
1,505• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 38**

consisting of 200 signature sheets

numbered 7,401 through 7,600

containing approximately 3,503 signatures



STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 40

of 200 signature sheets

7,301 through 8,000

approximately 3,573 signatures

20. +  
20. +  
10. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
18. +  
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20

3,573 \*

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14• +  
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11• +  
14• +  
16• +  
17• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 41**

**of 200 signature sheets**

**l 8,001 through 8,200**

**ximately 3,524 signatures**

13• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +

200

3,524• \*



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15• +  
20• +  
20• +  
20• +  
18• +  
4• +  
20• +  
10• +  
13• +  
16• +  
11• +  
19• +  
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19• +  
20• +  
11• +  
17• +  
14• +  
19• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 43**

ing of 200 signature sheets

ed 8,401 through 8,600

roximately 3,240 signatures

12• +  
12• +  
17• +  
18• +  
20• +  
16• +  
17• +  
15• +  
20• +  
14• +  
13• +  
16• +  
17• +

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 20. +  
 19. +  
 20. +  
 13. +  
 18. +  
 17. +  
 20. +  
 2. +  
 16. +  
 20. +  
 20. +  
 200.....  
 3,607 \*

**STATE QUESTION NO. 779**  
**INITIATIVE PETITION NO. 403**

VOLUME NO. 44

Consisting of 200 signature sheets

Numbered 8,601 through 8,800

with approximately 3,607 signatures

20• +  
20• +  
19• +  
19• +  
20• +  
19• +  
17• +  
16• +  
13• +  
13• +  
16• +  
19• +  
16• +  
19• +  
18• +  
19• +  
15• +  
19• +  
17• +

20• +  
19• +  
20• +  
7• +  
15• +  
15• +  
14• +

200.....  
3,501• \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 45

Consisting of 200 signature sheets

Numbered 3,801 through 9,000

with approximately 3,501 signatures

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 46

Consisting of 200 signature sheets

Numbered 9,001 through 9,200

with approximately 3,439 signatures

18. +  
2. +  
4. +  
20. +  
19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
19. +  
20. +  
20. +  
20. +  
20. +  
12. +  
17. +  
18. +  
20. +  
18. +  
17. +  
19. +  
18. +  
13. +  
4. +  
16. +  
7. +  
1. +  
6. +  
2. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
19. +  
20. +  
19. +

18. +  
20. +  
20. +  
20. +

200.  
.....  
3,439. \*





20. +  
5. +  
9. +  
20. +  
20. +  
2. +  
1. +  
4. +  
1. +  
18. +  
4. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
2. +  
4. +  
2. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 49**

19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +

consisting of 200 signature sheets

Numbered 9,601 through 9,800

5. +  
6. +  
1. +  
8. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +

with approximately 3,416 signatures

200 .....  
3,416 \*

20• +  
20• +  
15• +  
20• +  
20• +  
20• +  
12• +  
14• +  
20• +  
15• +  
13• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
16• +  
16• +  
20• +  
20• +  
20• +  
17• +  
20• +  
20• +  
20• +  
20• +  
17• +  
16• +  
8• +  
15• +  
15• +  
18• +  
19• +  
20• +  
20• +  
20• +  
3,498• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 50**

Consisting of 200 signature sheets

Numbered 1,801 through 10,000

Containing approximately 3,498 signatures

20• +  
19• +  
19• +  
18• +  
20• +  
18• +  
18• +  
16• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
8• +  
20• +  
20• +  
20• +  
19• +  
5• +  
5• +  
11• +  
5• +  
18• +  
13• +  
2• +  
20• +  
18• +  
0• +  
16• +  
17• +  
73• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 51**

isting of 200 signature sheets

numbered 10,001 through 10,200

with approximately 3,373 signatures

200

18° +  
19° +  
20° +  
19° +  
20° +  
18° +  
20° +  
20° +  
19° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
20° +  
17° +  
18° +  
11° +  
20° +  
19° +  
18° +  
20° +  
3° +  
14° +  
18° +  
19° +  
7° +  
18° +  
18° +  
17° +  
15° +  
19° +  
19° +  
20° +  
19° +  
1° +  
20° +  
1° +  
15° +  
20° +  
3,425° \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 52**

ing of 200 signature sheets

red 10,201 through 10,400

roximately 3,425 signatures











20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +

17• +  
19• +  
18• +  
20• +  
20• +  
18• +  
19• +  
18• +  
18• +

15• +  
13• +  
16• +  
15• +  
14• +  
9• +  
18• +  
18• +  
19• +  
18• +  
13• +  
18• +  
19• +

200.....

3,364• \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 58

Consisting of 200 signature sheets

Numbered 11,401 through 11,600

with approximately 3,364 signatures



18• +  
14• +  
19• +  
19• +  
15• +  
15• +  
9• +  
19• +  
19• +  
19• +  
19• +  
8• +  
15• +  
19• +  
16• +  
18• +  
18• +  
17• +

19• +  
18• +  
17• +  
19• +  
19• +

19• +  
19• +  
18• +  
18• +  
18• +  
17• +  
12• +

200.....  
3,210• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 60**

**Consisting of 200 signature sheets**

**Numbered 11,801 through 12,000**

**with approximately 3,210 signatures**

10• +  
17• +  
11• +  
17• +  
11• +  
13• +  
14• +  
14• +  
7• +  
16• +  
13• +  
16• +  
18• +  
14• +  
4• +  
15• +  
19• +  
8• +  
11• +  
13• +  
14• +  
19• +  
18• +  
19• +  
19• +  
18• +  
18• +  
19• +  
7• +  
19• +  
5• +  
14• +  
6• +  
6• +  
7• +  
5• +  
19• +  
5• +  
7• +  
6• +  
5• +  
8• +  
8• +  
15• +  
19• +  
19• +  
8• +  
19• +  
19• +  
19• +  
20

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 61**

**Consisting of 200 signature sheets**

**Numbered 12,001 through 12,200**

**Containing approximately 3,074 signatures**

3,074 \*

14. +  
16. +  
19. +  
16. +  
19. +  
18. +  
18. +  
19. +  
18. +  
19. +  
19. +  
18. +  
15. +  
17. +  
18. +  
18. +  
16. +  
17. +  
18. +  
13. +  
19. +  
15. +  
19. +  
19. +  
17. +  
19. +  
16. +  
18. +  
19. +  
18. +  
19. +  
17. +  
19. +  
18. +  
18. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 62

Consisting of 200 signature sheets

Numbered 12,201 through 12,400

with approximately 3,365 signatures

18. +  
18. +  
19. +  
12. +  
17. +  
18. +  
15. +  
18. +  
12. +  
18. +  
18. +  
19. +  
19. +  
13. +  
15. +  
16. +  
17. +  
17. +  
19. +  
15. +  
20. +  
19. +  
19. +  
19. +

19. +  
18. +  
19. +  
19. +  
7. +  
10. +  
14. +  
18. +  
18. +  
19. +  
18. +  
16. +  
18. +  
19. +  
7. +  
18. +  
19. +  
19. +  
19. +  
20. +  
13. +  
19. +  
18. +  
18. +  
18. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 63

Consisting of 200 signature sheets

Numbered 12,401 through 12,600

with approximately 3,149 signatures

200 .....  
3,149 \*

19. +  
18. +  
19. +  
18. +  
3. +  
18. +  
1. +  
18. +  
19. +  
2. +  
8. +  
3. +  
19. +  
19. +  
15. +  
19. +  
19. +  
19. +  
2. +  
17. +  
18. +  
17. +  
19. +  
19. +  
19. +  
19. +  
19. +  
19. +  
18. +  
19. +  
11. +  
18. +  
19. +  
15. +  
14. +  
11. +  
6. +  
18. +  
7. +  
19. +  
19. +  
17. +  
16. +  
19. +  
19. +  
19. +  
18. +  
18. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 64**

**Consisting of 200 signature sheets**

**Numbered 12,601 through 12,800**

**with approximately 3,336 signatures**

19. +  
200.....  
3,336. \*

19• +  
18• +  
19• +  
19• +  
18• +  
20• +  
18• +  
19• +  
19• +  
17• +  
19• +

18• +  
19• +  
18• +  
19• +  
19• +

18• +  
15• +  
19• +  
7• +  
17• +  
19• +  
19• +

200.....  
3,382• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 65**

**Consisting of 200 signature sheets**

**Numbered 12,801 through 13,000**

**with approximately 3,382 signatures**



18. +  
18. +  
17. +  
19. +  
17. +  
18. +  
19. +  
19. +  
19. +  
18. +  
18. +  
19. +  
18. +  
15. +  
19. +  
19. +  
19. +  
19. +  
18. +  
18. +  
16. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 67

Consisting of 200 signature sheets

Numbered 13,201 through 13,400

with approximately 3,354 signatures

19. +  
16. +  
20. +

19. +  
19. +  
19. +  
19. +  
19. +

200.....

3,354. \*

19. +  
4. +  
15. +  
19. +  
19. +  
18. +  
10. +  
17. +  
20. +  
17. +  
16. +  
19. +  
19. +  
19. +  
19. +  
19. +  
16. +  
20. +  
14. +  
19. +  
19. +  
5. +  
17. +  
16. +  
17. +  
17. +  
18. +  
16. +  
18. +  
17. +  
19. +  
18. +  
19. +  
16. +  
19. +  
18. +  
18. +  
19. +  
19. +  
19. +  
18. +  
4. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

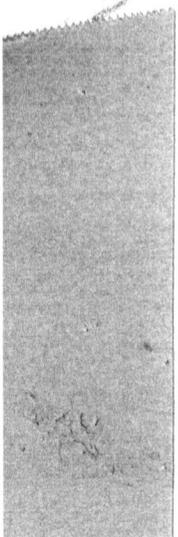
**VOLUME NO. 68**

**Consisting of 200 signature sheets**

**Numbered 13,401 through 13,600**

**with approximately 3,363 signatures**

200.....  
19. +  
3,363. \*



18• +  
19• +  
18• +  
8• +  
11• +  
17• +  
10• +  
19• +  
18• +  
19• +  
18• +  
17• +  
20• +  
19• +  
19• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 69**

**Consisting of 200 signature sheets**

**Numbered 13,601 through 13,800**

**with approximately 3,482 signatures**

19• +  
19• +  
18• +  
20• +  
16• +  
16• +

200•••••••  
3,482• \*

20. +  
20. +  
5. +  
19. +  
17. +  
17. +  
3. +  
20. +  
19. +  
18. +  
18. +  
11. +  
12. +  
18. +  
18. +  
19. +  
20. +  
19. +  
19. +  
19. +  
19. +  
19. +  
18. +  
20. +  
19. +  
11. +  
14. +  
17. +  
14. +  
19. +  
19. +  
10. +  
18. +  
18. +  
19. +  
19. +  
19. +  
15. +  
17. +  
19. +  
9. +  
12. +  
17. +  
19. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 70**

**Consisting of 200 signature sheets**

**Numbered 13,801 through 14,000**

**with approximately 3,311 signatures**

200.....  
3,311. \*

19• +  
17• +  
19• +  
18• +  
12• +  
11• +  
8• +  
8• +  
19• +  
2• +  
18• +  
19• +  
19• +  
19• +  
19• +  
18• +  
18• +  
11• +  
19• +  
19• +  
19• +  
19• +  
7• +  
3• +  
9• +  
9• +  
11• +  
14• +  
17• +  
17• +  
17• +  
19• +  
19• +  
9• +  
10• +  
13• +  
15• +  
15• +  
12• +  
11• +  
19• +  
18• +  
19• +  
200.....  
3,188 \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 71**

**Consisting of 200 signature sheets**

**Numbered 14,001 through 14,200**

**with approximately 3,188 signatures**



19. +  
 19. +  
 7. +  
 19. +  
 17. +  
 17. +  
 14. +  
 11. +  
 5. +  
 18. +  
 11. +  
 19. +  
 18. +  
 19. +  
 18. +  
 17. +  
 19. +  
 19. +  
 18. +  
 17. +  
 15. +  
 16. +  
 17. +  
 19. +  
 19. +  
 18. +  
 15. +  
 19. +  
 19. +  
 19. +  
 16. +  
 19. +  
 19. +  
 19. +  
 19. +  
 18. +  
 15. +  
 17. +  
 2. +  
 19. +  
 14. +  
 19. +  
 17. +  
 17. +  
 17. +  
 16. +  
 200 ..... \*  
 3,273. \*

STATE QUESTION NO. 779  
 INITIATIVE PETITION NO. 403

VOLUME NO. 73

Consisting of 200 signature sheets

Numbered 14,401 through 14,600

with approximately 3,273 signatures

19• +  
18• +  
19• +  
19• +  
18• +  
19• +  
17• +  
15• +  
18• +  
17• +  
19• +  
16• +  
18• +  
19• +  
18• +  
18• +  
19• +  
19• +  
19• +  
18• +  
18• +  
18• +  
19• +  
19• +  
19• +  
12• +  
16• +  
15• +  
11• +  
17• +  
15• +  
19• +  
14• +  
16• +  
19• +  
8• +  
9• +  
210  
3,398• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 74**

**Consisting of 200 signature sheets**

**Numbered 14,601 through 14,800**

**with approximately 3,398 signatures**

14. +  
19. +  
14. +  
19. +  
17. +  
13. +  
15. +  
20. +  
16. +  
18. +  
18. +  
20. +  
19. +  
19. +  
6. +  
12. +  
16. +  
19. +  
19. +  
19. +  
19. +  
12. +  
19. +  
10. +  
17. +  
19. +  
18. +  
19. +  
16. +  
19. +  
19. +  
19. +  
17. +  
13. +  
17. +  
19. +  
18. +  
19. +  
20. +  
17. +  
18. +  
18. +  
18. +  
16. +  
19. +  
16. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 75**

**Consisting of 200 signature sheets**

**Numbered 14,801 through 15,000**

**with approximately 3,351 signatures**

200.....  
3,351. \*

17. +  
18. +  
18. +  
15. +  
16. +  
13. +  
15. +  
18. +  
17. +  
19. +  
12. +  
19. +  
18. +  
17. +  
18. +  
18. +  
19. +  
18. +  
19. +  
17. +  
12. +  
10. +  
19. +  
17. +  
17. +  
19. +  
19. +  
14. +  
19. +  
12. +  
19. +  
19. +  
19. +  
19. +  
2. +  
13. +  
18. +  
18. +  
15. +  
16. +  
16. +  
15. +  
18. +  
2. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 76**

**Consisting of 200 signature sheets**

**Numbered 15,001 through 15,200**

**with approximately 3,396 signatures**

200.....

3,396 \*

7. +  
18. +  
16. +  
18. +  
18. +  
15. +  
18. +  
15. +  
18. +  
9. +  
19. +  
14. +  
19. +  
18. +  
17. +  
17. +  
18. +  
18. +  
7. +  
19. +  
18. +  
19. +  
18. +  
18. +  
19. +  
15. +  
19. +  
19. +  
19. +  
15. +  
17. +  
11. +  
11. +  
3. +  
19. +  
18. +  
14. +  
19. +  
17. +  
19. +  
200  
3, 2. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 77**

**Consisting of 200 signature sheets**

**Numbered 15,201 through 15,400**

**with approximately 3,222 signatures**



11• +  
6• +  
19• +  
18• +  
20• +  
16• +  
18• +  
19• +  
13• +  
17• +  
17• +  
18• +  
17• +  
17• +  
19• +  
16• +  
19• +  
19• +  
19• +  
12• +  
19• +  
20• +  
19• +  
19• +  
19• +  
19• +  
16• +  
17• +  
18• +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 79

Consisting of 200 signature sheets

Numbered 15,601 through 15,800

with approximately 3,235 signatures

19• +  
1• +  
19• +  
19• +  
19• +  
15• +  
19• +  
16• +  
17• +  
19• +  
19• +

200

3,235• \*

19. +  
19. +  
16. +  
2. +  
19. +  
17. +  
18. +  
19. +  
18. +  
18. +  
13. +  
19. +  
17. +  
19. +  
13. +  
18. +  
19. +  
19. +  
18. +  
19. +  
18. +  
20. +  
20. +  
19. +  
7. +  
18. +  
19. +  
17. +  
19. +  
13. +  
16. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403  
VOLUME NO. 80

consisting of 200 signature sheets

numbered 15,801 through 16,000

200.....  
3,302 \* approximately 3,302 signatures

19• +  
17• +  
18• +  
18• +  
17• +  
19• +  
16• +  
16• +  
19• +  
19• +  
11• +  
12• +  
15• +  
17• +  
19• +  
19• +  
18• +  
18• +  
17• +  
16• +  
16• +  
19• +  
18• +  
19• +  
19• +  
18• +  
20• +  
19• +  
13• +  
17• +  
19• +  
18• +  
17• +  
17• +  
19• +  
16• +  
17• +  
6• +  
18• +  
19• +  
19• +  
17• +  
18• +  
16• +  
17• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 81**

**Consisting of 200 signature sheets**

**Numbered 16,001 through 16,200**

**with approximately 3,304 signatures**

17• +  
19• +  
14• +

200.....

3,304 \*

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17. +  
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16. +  
18. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 82

Consisting of 200 signature sheets

Numbered 16,201 through 16,400

with approximately 3,419 signatures

200  
3,419 \*

19. +  
18. +  
19. +  
17. +  
5. +  
18. +  
19. +  
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18. +  
17. +  
8. +  
18. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 83

Consisting of 200 signature sheets

Numbered 16,401 through 16,600

with approximately 3,327 signatures

19• +  
20• +  
19• +  
18• +  
19• +  
20• +  
12• +  
5• +  
16• +  
8• +  
5• +  
16• +  
19• +  
19• +  
18• +  
12• +  
19• +  
18• +  
18• +  
0• +  
19• +  
18• +  
19• +  
17• +  
19• +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 84

Consisting of 200 signature sheets

Numbered 16,601 through 16,800

with approximately 3,340 signatures

18• +  
19• +  
19• +  
17• +  
19• +  
18• +  
19• +  
19• +  
18• +

200

3,340 \*

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19• +  
5• +  
18• +  
19• +  
19• +  
19• +  
19• +  
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17• +  
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19• +  
20• +  
19• +  
19• +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403  
VOLUME NO. 85

Consisting of 200 signature sheets

Numbered 16,801 through 17,000

with approximately 3,320 signatures

19• +  
19• +  
16• +  
2• +  
16• +  
7• +  
17• +  
19• +  
19• +  
17• +

18• +  
20• +  
20• +

200

3,320• \*

17• +  
18• +  
20• +  
20• +  
20• +  
17• +  
17• +  
20• +  
20• +  
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16• +  
9• +  
20• +  
18• +  
14• +  
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16• +  
19• +  
20• +  
19• +  
14• +  
9• +  
19• +  
13• +  
0• +  
19• +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 86

Consisting of 200 signature sheets

Numbered 17,001 through 17,200

with approximately 3,294 signatures

200.....

3,294 \*

20• +  
20• +  
14• +  
19• +  
16• +  
18• +  
13• +  
17• +  
19• +  
1• +  
20• +  
20• +  
16• +  
18• +  
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20• +  
12• +  
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7• +  
1• +  
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17• +  
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12• +  
17• +  
11• +  
18• +  
19• +  
19• +  
20• +  
14• +  
19• +  
5• +  
15• +  
200  
3,341• \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 87

Consisting of 200 signature sheets

Numbered 17,201 through 17,400

with approximately 3,341 signatures

18. +  
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17. +  
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20. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 88

Consisting of 200 signature sheets

Numbered 17,401 through 17600

with approximately 2,426 signatures

0. +  
0. +  
0. +  
0. +

200.....  
2,426. \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 89

Consisting of 63 signature sheets

Numbered 17,601 through 17,663

with approximately ∅ signatures

0. +  
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063.....

0. \*

Chris Benge  
Secretary of State  
and  
Native American Affairs



SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

Mary Fallin  
Governor

**RECEIVED**  
RECEPTIONIST

APR 22 2016

ATTORNEY GENERAL

April 22, 2016

**HAND DELIVERED**

The Honorable E. Scott Pruitt  
Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

Dear Attorney General Pruitt:

Pursuant to 34 O.S., § 8(H), the proponents of State Question 779, Initiative Petition 403 have timely filed signed copies of said petition. Per 34 O.S. § 9(D), the proposed ballot title of SQ 779, IP 403 is hereby submitted to you for review as to legal correctness. The enclosed are true and exact copies of the documents on record with our office.

If additional information is needed from this office, or if we may be of further assistance, please do not hesitate to contact us.

Sincerely,

Chris Benge  
Secretary of State and  
Native American Affairs

Enclosures: SQ779, IP403 -- Proposed Ballot Title  
SQ779, IP403 -- Petition Pamphlet



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

**FILED**

APR 29 2016

OKLAHOMA SECRETARY  
OF STATE

April 29, 2016

Chris Benge, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

RE: Ballot Title for State Question No. 779, Initiative Petition No.403

Dear Secretary Benge:

In accordance with the provisions of 34 O.S. Supp.2015, § 9(D)(1), we have reviewed the Proposed Ballot Title for the above-referenced State Question and conclude that it does **not** comply with applicable laws for the following reason.

It fails to explain in basic words the effect of the proposition because:

1. It fails to explain that the one cent sales and use tax contemplated by the measure will be in addition to the state sales and use tax already levied by the Oklahoma Sales and Use Tax Codes.
2. It suggests that allocated funds will, in part, be used to improve college affordability, when the measure indicates that the funds may be used for college affordability or for otherwise improving higher education. That is, funds may be allocated in whole, in part, or not at all for college affordability.
3. It fails to explain that the increase in teacher salaries as funded by Section 3(A)(1)(b), and as required by Section 4 of the new Article, requires that teacher salaries be raised by at least \$5,000 more than the salaries paid in the year prior to adoption.
4. And, finally, it inaccurately states that it prohibits school districts' use of funds for increasing administrative salaries, when the measure is more limited in that it only prohibits an increase in superintendents' salaries and the addition of superintendent positions.

Having found that the ballot title does not comply with applicable laws, I have, in accordance with the provisions of 34 O.S. Supp.2015, §9(D)(1), prepared the enclosed Preliminary Ballot Title which complies with the law.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is stylized with a large, sweeping initial "E" and a horizontal line extending to the right.

E. Scott Pruitt  
Attorney General

ESP/cr

**Preliminary Ballot Title for SQ 779**

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES

\_\_\_\_\_

AGAINST THE PROPOSAL – NO

\_\_\_\_\_



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

**RECEIVED**  
RECEPTIONIST

MAY 10 2016

ATTORNEY GENERAL

May 10, 2016

### **HAND DELIVERED**

Chief Justice John Reif  
The Oklahoma Supreme Court  
2100 N. Lincoln Blvd., Suite 1  
Oklahoma City, Oklahoma 73105

**RE: Certification of Signature Count - State Question 779, Initiative Petition 403**

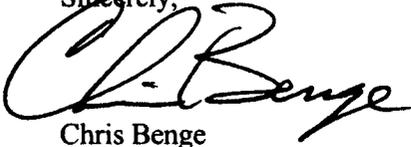
Dear Chief Justice Reif:

Pursuant to the provisions of Title 34 O.S., Section 8, the Secretary of State certifies the following details:

- Eighty-five (85) boxes of signature pamphlets were received by our office on April 21, 2016 along with certification from the proponents of State Question 779, Initiative Petition 403 stating that; all signed petitions have been filed with the Secretary of State, no more petitions are in circulation and the proponents would not circulate any more petitions. After receiving said certification the Secretary of State began the signature count at 1:00 p.m. on April 25, 2016. Said count was concluded on May 5, 2016 at 4:00 p.m.
- The Secretary of State certifies the total number of signatures counted for State Question 779, Initiative Petition 403 is **301,518**.
- Individual signature sheets have been page numbered 1 through 17,663 and are bound in a total of 89 Volumes. Volumes 1 through 88 contain 200 signature sheets per volume; Volume 89 contains 63 signature sheets.
- Please see attachment "A" for details regarding signature sheets not included in the total of said count due to statute violation.
- The Secretary of State affirms the State Election Board has certified that a total of 824,831 votes were cast for the office of Governor at the General Election in November 2014.
- The Secretary of State also certifies that proponents' proposed ballot title was submitted to the Attorney General's office April 22, 2016. Our office received the Preliminary Ballot Title, as reviewed and rewritten by the Attorney General's office, on April 29, 2016.

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,



Chris Bengé  
Secretary of State and  
Native American Affairs

- Enclosures:
- Attachment "A"
  - Proponent's certification of early filing of signatures
  - Copy of State Question 779, Initiative Petition 403
  - Tabulation Sheets for SQ 779, IP 403
  - Total votes cast as certified by Election Board (SOS Doc# 047220)
  - Submittal of Proposed Ballot Title to Attorney General's office
  - Preliminary Ballot Title as reviewed and rewritten by the Attorney General's office

Cc: ✓ The Honorable E. Scott Pruitt  
Oklahoma Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

CERTIFICATE OF MAILING

I hereby certify that a true and accurate copy of the foregoing, Certification of the Signature Count of State Questions 779, Initiative Petition 403 was placed in USPS mail, regular first-class, on May 10, 2016, addressed to the following parties;

Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98th Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2nd Street  
Seminole, Oklahoma 74868

**COUNSEL FOR PROPONENTS**

Melanie Wilson Rughani  
Crowe & Dunlevy  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, Oklahoma 73102



Chris Bengel  
Oklahoma Secretary of State and  
Native American Affairs



Chris Benge  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

May 27, 2016

RECEIVED

MAY 27 2016

ADMINISTRATIVE OFFICE  
OF THE COURTS

### HAND DELIVERED

Chief Justice John Reif  
The Oklahoma Supreme Court  
2100 N. Lincoln Blvd., Suite 1  
Oklahoma City, Oklahoma 73105

**RE: Corrected SOS Certification of Signature Count - SQ 779, IP 403**

Dear Chief Justice Reif:

On May 10, 2016 the Secretary of State filed a Certification of Signature Count for State Question 779, Initiative Petition 403 with the Administrative Office of the Courts. Due to a few clerical errors, discovered after the initial filing of said certification, we must hereby submit to you the Corrected Secretary of State Certification of Signature Count – State Question 779, Initiative Petition 403. The Secretary of State certifies the following details;

- Eighty-five (85) boxes of signature pamphlets were received by our office on April 21, 2016 along with certification from the proponents of State Question 779, Initiative Petition 403 stating that; all signed petitions have been filed with the Secretary of State, no more petitions are in circulation and the proponents would not circulate any more petitions. After receiving said certification the Secretary of State began the signature count at 1:00 p.m. on April 25, 2016. Said count was concluded on May 5, 2016 at 4:00 p.m.
- The Secretary of State certifies the total number of signatures counted for State Question 779, Initiative Petition 403 is **301,512** (*Note: due to a clerical error during the signature tabulation of Volume 54, the total number of signatures for such is 3,434 and NOT 3,440. For that reason, the correct total number of signatures counted for SQ779, IP403 is 301,512 and NOT 301,518.*)
- Individual signature sheets have been page numbered 1 through 17,663 and are bound in a total of 89 Volumes. Volumes 1 through 88 contain 200 signature sheets per volume with the exception of Volume 54 (*Note: Volume 54 contains 199 signature sheets due to a number skip during the process of assigning such*); Volume 89 contains 63 signature sheets.

- Please see attachment "A" for details regarding signature sheets not included in the total of said count due to statute violation.
- The Secretary of State affirms the State Election Board has certified that a total of 824,831 votes were cast for the office of Governor at the General Election in November 2014.
- The Secretary of State also certifies that proponents' proposed ballot title was submitted to the Attorney General's office April 22, 2016. Our office received the Preliminary Ballot Title, as reviewed and rewritten by the Attorney General's office, on April 29, 2016.

We apologize for any inconvenience this may have caused and please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,



Chris Bengé  
Secretary of State and  
Native American Affairs

- Enclosures:
- Attachment "A"
  - Proponent's certification of early filing of signatures
  - Copy of State Question 779, Initiative Petition 403
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  - Total votes cast as certified by Election Board (SOS Doc# 047220)
  - Submittal of Proposed Ballot Title to Attorney General's office
  - Preliminary Ballot Title as reviewed and rewritten by the Attorney General's office

Cc: The Honorable E. Scott Pruitt  
Oklahoma Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

**CERTIFICATE OF MAILING**

I hereby certify that a true and accurate copy of the foregoing, Corrected Secretary of State Certification of the Signature Count - State Question 779, Initiative Petition 403, was placed in USPS mail, regular first-class, on May 27, 2016, addressed to the following parties;

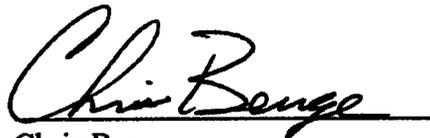
Shawn Sheehan  
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Norman, Oklahoma 73071

Linda Reid  
8505 E. 98th Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2nd Street  
Seminole, Oklahoma 74868

**COUNSEL FOR PROPONENTS**

Melanie Wilson Rughani  
Crowe & Dunlevy  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, Oklahoma 73102



Chris Bengé  
Oklahoma Secretary of State and  
Native American Affairs



Chris Bengtson  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

May 27, 2016

RECEIVED  
RECEPTIONIST  
MAY 27 2016  
ATTORNEY GENERAL

### HAND DELIVERED

Chief Justice John Reif  
The Oklahoma Supreme Court  
2100 N. Lincoln Blvd., Suite 1  
Oklahoma City, Oklahoma 73105

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Sincerely,



Chris Bengé  
Secretary of State and  
Native American Affairs

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Cc: ✓ The Honorable E. Scott Pruitt  
Oklahoma Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

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Norman, Oklahoma 73071

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8505 E. 98th Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2nd Street  
Seminole, Oklahoma 74868

**COUNSEL FOR PROPONENTS**

Melanie Wilson Rughani  
Crowe & Dunlevy  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, Oklahoma 73102



Chris Bengé  
Oklahoma Secretary of State and  
Native American Affairs

**FILED**

OCT 21 2015

State Question No. 779, Initiative Petition No. 403

OKLAHOMA SECRETARY  
OF STATE

**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.**

---

**INITIATIVE PETITION**

To the Honorable Mary Fallin, 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 8th day of November, 2016 (or at a 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 are correctly written after my name. The time for filing this petition expires ninety (90) days from A. The question we herewith submit to our fellow voters is:  
FEBRUARY 16, 2016

Shall the following proposed new Article XIII-C to the Constitution be approved?

---

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

**CONSTITUTION OF OKLAHOMA, ARTICLE XIII-C --  
OKLAHOMA EDUCATION IMPROVEMENT FUND**

**§ 1. CREATION OF OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby created in the State Treasury a limited purpose fund to be known as the "Oklahoma Education Improvement Fund." The fund shall consist of the proceeds of the sales tax levy and the use tax levy provided in Section 2 of this Article XIII-C, and any monies or assets contributed to the fund from any other source, public or private.

**§ 2. LEVY OF ONE CENT SALES TAX AND USE TAX FOR OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an additional excise tax of one percent (1.0%) of the gross receipts or gross proceeds of each sale of tangible personal property, or of other goods and services subject to the sales tax as provided in the Oklahoma Sales Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an additional excise tax on the storage, use, or other consumption in this state of such property at the rate of one percent (1.0%) of the purchase price of such property. Said tax shall be levied on the storage, use or consumption of personal property as provided in the Oklahoma Use Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Use Tax Code.

This sales tax levy shall be in addition to, and shall not supplant, the general sales tax levied in the Oklahoma Sales Tax Code or any other sales tax authorized by Oklahoma law and

this use tax levy shall be in addition to, and shall not supplant, the general use tax levied in the Oklahoma Use Tax Code or any other use tax authorized by Oklahoma law.

All revenue from the sales tax and the use tax levied pursuant to this Article XIII-C, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be paid to the State Treasurer and deposited into the Oklahoma Education Improvement Fund.

**§ 3. ALLOCATION OF MONIES IN OKLAHOMA EDUCATION IMPROVEMENT FUND - PURPOSES - USES - ETC.**

A. Monies in the Oklahoma Education Improvement Fund shall be apportioned by the State Treasurer, appropriated by the Legislature, and distributed monthly for the educational purposes established herein, as follows:

1. Common Education: Sixty-nine and one-half percent (69.5%) of said monies shall be apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, on the basis of the state aid formula for common education then in effect.

(a) Monies from the Oklahoma Education Improvement Fund shall be specifically identified and segregated from other monies appropriated and apportioned among the several common school districts of the State on the basis of said state aid formula.

(b) The common school districts shall use eighty-six and one-third percent (86.33%) of the additional funds provided to them under this Article XIII-C to increase teacher salaries as required by Section 4 of this Article, and to otherwise address and prevent teacher and certified instructional staff shortages in the manner most suited to local district circumstances and needs, including but not limited to differentiated compensation methods or performance pay.

(c) The common school districts shall use thirteen and two-thirds percent (13.67%) of the additional funds provided to them under this Article XIII-C to adopt or to expand programs, opportunities, or reforms to improve reading in the early grades, to improve high school graduation rates, and to increase college and career readiness. The common school districts may use the amount apportioned to them under this Section 3(A)(1)(c) only to adopt or to expand said programs, opportunities or reforms, and may not use the amount apportioned to them under this Section 3(A)(1)(c) to maintain programs, opportunities or reforms established prior to the effective date of this Article XIII-C.

(d) The State Auditor and Inspector shall approve auditors who shall annually audit the use made of the monies distributed to the school districts under this Article XIII-C to ensure that it is used only for the purposes specified in this Article XIII-C.

2. Higher Education: Nineteen and one-quarter percent (19.25%) of said monies shall be paid to the education and general operating budgets of the institutions under the authority of the Oklahoma State Regents for Higher Education, for use in improving college affordability, or otherwise in the improvement of higher education.

3. Career and Technology Education: Three and one-quarter percent (3.25%) of said monies shall be paid to the Oklahoma Department of Career and Technology Education, for use in the improvement of career and technology education.

4. Early Childhood Education: Eight percent (8%) of said monies shall be paid to the State Department of Education, for use in increasing access to and enhancing the quality of voluntary early learning opportunities for low-income and at-risk children prior to entry into the common education system.

B. Monies expended or distributed from the Oklahoma Education Improvement Fund as provided herein shall be used only for the purposes specified in this Article XIII-C, Section 3.

C. None of these monies distributed from the Oklahoma Education Improvement Fund to common school districts may be used to add superintendent positions or increase superintendents' salaries.

#### **§ 4. INCREASE IN TEACHER SALARIES**

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

#### **§ 5. FUNDS NOT TO SUPPLANT OTHER EDUCATION FUNDING**

A. Monies expended or distributed from the Oklahoma Education Improvement Fund shall supplement, and shall not be used to supplant or replace, other state funds supporting common education, early childhood education, higher education, or career and technology education, including but not limited to the Permanent School Fund, the Oklahoma Education Lottery Trust Fund, the Education Reform Revolving Fund, the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Common School Fund, appropriations from the Legislature as provided in Article XIII, Section 1a of the Constitution, and any other appropriations from the Legislature used for educational purposes.

B. The Legislature shall appropriate the monies from the Oklahoma Education Improvement Fund solely to supplement other funds supporting common education, early childhood education, higher education, or career and technology education. The Legislature shall not appropriate such monies to supplant or replace any other state funds supporting common education, early childhood education, higher education, or career and technology education.

C. In order to ensure that the monies from the Oklahoma Education Improvement Fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the Fund 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 that shall state whether appropriations from the Oklahoma Education Improvement Fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by monies from the Oklahoma Education Improvement Fund, the State Board of Equalization shall specify the amount by which education 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 Oklahoma Education Improvement Fund.

#### **§ 6. EFFECTIVE DATE, CONSTRUCTION**

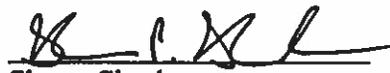
A. This Article XIII-C shall become effective on July 1 immediately following its passage.

B. Nothing in this Article XIII-C shall be construed as conflicting with Article X, Section 23 of the Constitution.

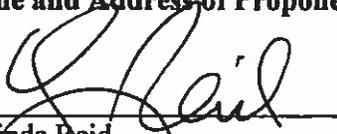
#### **§ 7. SEVERABILITY**

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.

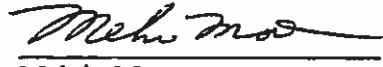
**Name and Address of Proponents**



Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071



Linda Reid  
8505 E. 98th St.  
Tulsa, OK 74133



Melvin Moran  
222 N. 2nd St.  
Seminole, OK 74868

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 1

Consisting of 200 signature sheets

Numbered 1 through 200

with approximately 3,626 signatures

20• +  
16• +  
15• +  
16• +  
11• +  
20• +  
19• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
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19• +  
16• +  
20• +  
18• +  
14• +

19• +  
20• +  
19• +  
20• +  
19• +  
20• +  
18• +  
20• +  
20• +

200

3,626 \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 2

Consisting of 200 signature sheets

Numbered 201 through 400

with approximately 3,654 signatures

20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
5• +  
13• +  
20• +  
20• +  
20• +  
20• +  
20• +  
1• +  
20• +  
20• +  
20• +  
20• +  
17• +  
20• +  
19• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +

200.....  
3,654• \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 3

Consisting of 200 signature sheets

Numbered 401 through 600

with approximately 3,591 signatures

20• +  
20• +  
20• +  
20• +  
20• +  
4• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
19• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
11• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +

20• +  
20• +  
20• +  
20• +  
10• +  
20• +  
2• +  
6• +  
6• +  
20• +  
20• +  
20• +  
20• +  
20• +

200.....  
3,591• \*



STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 5

isting of 200 signature sheets

bered 801 through 1,000

approximately 3,499 signatures





20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
18. +  
20. +  
20. +  
20. +  
3. +  
1. +  
20. +  
20. +  
20. +  
19. +  
20. +  
20. +  
8. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
4. +  
16. +  
3. +  
17. +  
20. +  
20. +  
20. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 8**

sting of 200 signature sheets

bered 1,401 through 1,600

pproximately 3,708 signatures

200  
3,708 \*



20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
18• +  
19• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
19• +  
20• +  
18• +  
17• +  
20• +  
20• +  
20• +  
20• +  
20• +  
18• +  
20• +  
15• +  
20• +  
20• +  
20• +  
18• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 10**

**ing of 200 signature sheets**

**ered 1,801 through 2,000**

**pproximately 3,489 signatures**

200  
3,489 \*

11. +  
18. +  
3. +  
12. +  
11. +  
19. +  
19. +  
19. +  
19. +  
19. +  
19. +  
19. +  
18. +  
18. +  
19. +  
17. +  
18. +  
18. +  
19. +  
19. +  
19. +  
19. +  
16. +  
19. +  
17. +  
18. +  
16. +  
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19. +  
19. +  
18. +  
17. +  
19. +  
18. +  
16. +  
19. +  
16. +  
17. +  
16. +  
17. +  
13. +  
13. +  
17. +  
19. +  
19. +  
19. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 11**

**of 200 signature sheets**

**2,001 through 2,200**

**mately 3,307 signatures**

15. +  
19. +  
19. +  
18. +

18. +  
18. +  
18. +  
17. +  
18. +  
19. +  
19. +  
19. +  
19. +  
19. +  
19. +  
15. +  
18. +  
16. +  
18. +  
17. +  
19. +  
19. +  
18. +  
19. +  
1. +  
19. +  
19. +  
19. +  
19. +  
18. +  
16. +  
19. +  
19. +  
18. +  
18. +  
16. +  
14. +  
19. +  
19. +  
19. +  
18. +  
18. +  
18. +  
17. +  
20. +  
20. +  
20. +  
20. +  
.....  
3,481. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 12**

**Consisting of 200 signature sheets**

**Numbered 2,201 through 2,400**

**with approximately 3,481 signatures**







18. +  
20. +  
19. +  
9. +  
20. +  
20. +  
18. +  
20. +  
15. +  
11. +  
18. +  
19. +  
18. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
19. +  
20. +  
20. +  
10. +  
19. +  
19. +  
19. +  
19. +  
19. +  
16. +  
19. +  
20. +  
17. +  
19. +  
18. +  
20. +  
18. +  
20. +  
18. +  
3,500 \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 16**

**Consisting of 200 signature sheets**

**Numbered 3,001 through 3,200**

**Containing approximately 3,500 signatures**

18. +  
19. +  
18. +  
19. +  
3. +  
1. +  
7. +  
13. +  
12. +  
13. +  
16. +  
12. +  
18. +  
18. +  
20. +  
18. +  
18. +  
19. +  
20. +  
17. +  
12. +  
17. +  
12. +  
20. +  
20. +  
19. +  
16. +  
19. +  
6. +  
2. +  
17. +  
10. +  
20. +  
3,302. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 17**

**isting of 200 signature sheets**

**bered 3,201 through 3,400**

**pproximately 3,302 signatures**

20. +  
20. +  
20. +  
20. +  
18. +  
20. +  
19. +  
18. +  
20. +  
20. +  
20. +  
18. +  
20. +  
20. +  
20. +  
17. +  
20. +  
19. +  
19. +  
15. +  
17. +  
19. +  
20. +  
20. +  
20. +  
20. +  
18. +  
20. +  
13. +  
6. +  
12. +  
19. +  
19. +  
20. +  
20. +  
8. +  
3. +  
2. +  
3. +  
4. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 18**

isting of 200 signature sheets

ered 3,401 through 3,600

proximately 3,444 signatures





















17• +  
19• +  
14• +  
17• +  
20• +  
19• +  
20• +  
20• +  
20• +  
20• +  
19• +  
20• +  
20• +  
20• +  
20• +  
19• +  
19• +  
19• +  
12• +  
20• +  
19• +  
19• +  
17• +  
20• +  
20• +  
20• +  
7• +  
3• +  
20• +  
20• +  
19• +  
20• +  
19• +  
20• +  
20• +  
20• +  
18• +  
20• +  
19• +  
19• +  
20• +  
20• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 29**

consisting of 200 signature sheets

numbered 5,601 through 5,800

containing approximately 3,497 signatures

3. +  
19. +  
20. +  
19. +  
20. +  
15. +  
20. +  
20. +  
20. +  
20. +  
19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
19. +  
7. +  
13. +  
20. +  
17. +  
20. +  
20. +  
20. +  
10. +  
13. +  
11. +  
2. +  
8. +  
5. +  
10. +  
11. +  
6. +  
5. +  
6. +  
13. +  
14. +  
18. +  
18. +  
20. +  
20. +  
16. +  
20. +  
16. +  
20. +  
20. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 30**

**g of 200 signature sheets**

**d 5,801 through 6,000**

**roximately 3,564 signatures**

20• +  
20• +  
20• +  
20• +  
20• +  
16• +  
19• +  
20• +  
3• +  
19• +  
3• +  
3• +  
8• +  
14• +  
14• +  
20• +  
11• +  
20• +  
2• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
18• +  
20• +  
20• +  
20• +  
20• +  
11• +  
19• +  
16• +  
19• +  
19• +  
19• +  
10• +  
5• +  
20• +  
20• +  
17• +  
20• +  
19• +  
20• +  
20• +  
6• +  
11• +  
19• +  
9• +  
...  
3,372• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 31**

isting of 200 signature sheets

numbered 6,001 through 6,200

pproximately 3,372 signatures



15. +  
 13. +  
 7. +  
 20. +  
 10. +  
 20. +  
 20. +  
 18. +  
 20. +  
 20. +  
 20. +  
 20. +  
 17. +  
 13. +  
 16. +  
 20. +  
 20. +  
 15. +  
 2. +  
 20. +  
 20. +  
 20. +  
 7. +  
 11. +  
 15. +  
 20. +  
 1. +  
 11. +  
 20. +  
 1. +  
 1. +  
 20. +  
 20. +  
 20. +  
 19. +  
 20. +  
 20. +  
 20. +  
 20. +  
 19. +  
 9. +

**STATE QUESTION NO. 779  
 INITIATIVE PETITION NO. 403**

**VOLUME NO. 32**

**sting of 200 signature sheets**

**bered 6,201 through 6,400**

**pproximately 3,419 signatures**



14. +  
16. +  
14. +  
19. +  
20. +  
20. +  
11. +  
16. +  
20. +  
15. +  
12. +  
14. +  
9. +  
20. +  
19. +  
13. +  
20. +  
19. +  
20. +  
20. +  
20. +  
19. +  
20. +  
13. +  
20. +  
18. +  
10. +  
11. +  
19. +  
10. +  
15. +  
10. +  
19. +  
20. +  
200  
3, 74 \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 34**

**Consists of 200 signature sheets**

**Numbered 6,601 through 6,800**

**Contains approximately 3,474 signatures**



20• +  
20• +  
20• +  
20• +  
2• +  
20• +  
20• +  
14• +  
18• +  
19• +  
20• +  
20• +  
1• +  
20• +  
3• +  
6• +  
20• +  
4• +  
20• +  
20• +  
20• +  
13• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
19• +  
2• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
16• +  
20• +  
20• +  
20• +  
19• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 36**

ing of 200 signature sheets

red 7,001 through 7,200

proximately 3,460 signatures

17• +

200

3,460• \*







STATE QUESTION NO. 779  
PROPOSITIONAL PETITION NO. 403

VOLUME NO. 40

of 200 signature sheets

7,301 through 8,000

approximately 3,573 signatures

20• +  
20• +  
10• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
18• +  
20• +  
5• +  
15• +  
18• +  
4• +  
2• +  
8• +  
5• +  
20• +  
20• +  
19• +  
19• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
14• +  
17• +  
14• +  
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1974• \*

20

20• +  
20• +  
20• +  
20• +  
20• +  
19• +  
20• +  
14• +  
14• +  
9• +  
12• +  
11• +  
17• +  
19• +  
15• +  
19• +  
20• +  
11• +  
13• +  
13• +  
13• +  
20• +  
20• +  
20• +  
20• +  
13• +  
12• +  
17• +  
20• +  
19• +  
11• +  
14• +  
16• +  
17• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 41**

**of 200 signature sheets**

**from 8,001 through 8,200**

**approximately 3,524 signatures**

13• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +  
20• +



19. +  
20. +  
20. +  
20. +  
15. +  
20. +  
20. +  
20. +  
18. +  
14. +  
20. +  
10. +  
15. +  
16. +  
17. +  
19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
17. +  
20. +  
20. +  
20. +  
19. +  
19. +  
16. +  
19. +  
19. +  
19. +  
20. +  
11. +  
17. +  
14. +  
11. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 43**

ing of 200 signature sheets

ed 8,401 through 8,600

roximately 3,240 signatures

20

12. +  
12. +  
17. +  
18. +  
20. +  
16. +  
17. +  
15. +  
20. +  
14. +  
13. +  
16. +  
17. +  
3,240 \*

5	+
20	+
20	+
4	+
13	+
17	+
20	+
20	+
20	+
19	+
20	+
20	+
20	+
20	+
20	+
20	+
20	+
20	+
19	+
20	+
19	+
20	+
13	+
18	+
17	+
20	+
2	+
16	+
20	+
20	+
200	.....
3,607	*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 44**

**Consisting of 200 signature sheets**

**Numbered 8,601 through 8,800**

**with approximately 3,607 signatures**

20• +  
20• +  
19• +  
19• +  
20• +  
19• +  
17• +  
16• +  
13• +  
13• +  
16• +  
19• +  
16• +  
19• +  
18• +  
19• +  
15• +  
19• +  
17• +  
20• +  
19• +  
20• +  
7• +  
15• +  
15• +  
14• +  
200• .....  
3,501• \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 45

Consisting of 200 signature sheets

Numbered 8,801 through 9,000

with approximately 3,501 signatures

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 46

Consisting of 200 signature sheets

Numbered 9,001 through 9,200

with approximately 3,439 signatures

18. +  
2. +  
4. +  
20. +  
19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
19. +  
20. +  
20. +  
20. +  
20. +  
12. +  
17. +  
18. +  
20. +  
18. +  
17. +  
19. +  
18. +  
13. +  
4. +  
16. +  
7. +  
1. +  
6. +  
2. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
19. +  
20. +  
19. +  
18. +  
20. +  
20. +  
20. +

210. 3,439. \*

20. +  
20. +  
18. +  
9. +  
20. +  
20. +  
19. +  
11. +  
2. +  
20. +  
18. +  
20. +  
20. +  
20. +  
20. +  
19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
2. +  
12. +  
16. +  
17. +  
18. +  
19. +  
16. +  
11. +  
18. +  
20. +  
19. +  
15. +  
20. +  
19. +  
200  
3,560. \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 47

Consisting of 200 signature sheets

Numbered 9,201 through 9,400

with approximately 3,560 signatures

19• +  
 20• +  
 20• +  
 19• +  
 5• +  
 19• +  
 20• +  
 20• +  
 14• +  
 5• +  
 4• +  
 11• +  
 20• +  
 20• +  
 12• +  
 7• +  
 1• +

**STATE QUESTION NO. 779**  
**INITIATIVE PETITION NO. 403**

VOLUME NO. 48

Consisting of 200 signature sheets

Numbered 9,401 through 9,600

with approximately 3,396 signatures

200.....  
 3,396• \*

20. +  
5. +  
9. +  
20. +  
20. +  
2. +  
1. +  
4. +  
1. +  
18. +  
4. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
2. +  
4. +  
2. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 49**

19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +

**consisting of 200 signature sheets**

**Numbered 9,601 through 9,800**

6. +  
1. +  
8. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +

**with approximately 3,416 signatures**

200  
3,416 \*

20+ +  
20+ +  
15+ +  
20+ +  
20+ +  
20+ +  
12+ +  
14+ +  
20+ +  
15+ +  
13+ +  
20+ +  
20+ +  
20+ +  
20+ +  
20+ +  
20+ +  
20+ +  
20+ +  
16+ +  
16+ +  
20+ +  
20+ +  
20+ +  
17+ +  
20+ +  
20+ +  
20+ +  
20+ +  
12+ +  
16+ +  
13+ +  
15+ +  
15+ +  
13+ +  
19+ +  
20+ +  
20+ +  
200 \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 50**

Consisting of 200 signature sheets

Numbered 9,801 through 10,000

Containing approximately 3,498 signatures

20. +  
19. +  
19. +  
18. +  
20. +  
18. +  
18. +  
16. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
18. +  
20. +  
20. +  
20. +  
19. +  
5. +  
5. +  
11. +  
5. +  
18. +  
13. +  
2. +  
20. +  
18. +  
0. +  
16. +  
17. +  
200  
1,73. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 51**

isting of 200 signature sheets

numbered 10,001 through 10,200

with approximately 3,373 signatures



0. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
10. +  
20. +  
20. +  
20. +  
20. +  
2. +  
3. +  
20. +  
20. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 53**

20. +  
20. +  
20. +  
20. +  
8. +  
20. +  
20. +  
7. +  
18. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +

Consisting of 200 signature sheets

Numbered 10,401 through 10,600

with approximately 3,679 signatures

200

3,679 \*







20. +  
20. +  
7. +  
20. +  
20. +  
1. +  
20. +  
19. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
5. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
13. +  
19. +  
20. +  
19. +  
20. +  
20. +  
12. +  
2. +  
1. +  
19. +  
20. +  
20. +  
18. +  
20. +  
20. +  
20. +  
20. +  
20. +  
6. +  
20. +  
20. +  
3. +  
20. +  
4. +  
18. +  
18. +  
17. +  
20. +  
200.....  
3,510. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 57**

**Consisting of 200 signature sheets**

**Numbered 11,201 through 11,400**

**with approximately 3,510 signatures**

20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +  
20. +

17. +  
19. +  
18. +  
20. +  
20. +  
18. +  
19. +  
18. +  
18. +

13. +  
16. +  
15. +  
14. +  
9. +  
18. +  
18. +  
19. +  
18. +  
15. +  
18. +  
19. +

200

1,364 \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 58**

**Consisting of 200 signature sheets**

**Numbered 11,401 through 11,600**

**with approximately 3,364 signatures**



18• +  
14• +  
19• +  
19• +  
15• +  
15• +  
9• +  
19• +  
19• +  
19• +  
19• +  
8• +  
15• +  
19• +  
16• +  
18• +  
18• +  
17• +

19• +  
18• +  
17• +  
19• +  
19• +

19• +  
19• +  
18• +  
18• +  
18• +  
17• +  
12• +

200.....

3,210• \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 60

Consisting of 200 signature sheets

Numbered 11,801 through 12,000

with approximately 3,210 signatures

10• +  
17• +  
11• +  
17• +  
11• +  
13• +  
14• +  
16• +  
7• +  
16• +  
15• +  
16• +  
13• +  
14• +  
4• +  
15• +  
19• +  
8• +  
11• +  
13• +  
14• +  
19• +  
18• +  
19• +  
19• +  
13• +  
11• +  
19• +  
7• +  
19• +  
5• +  
14• +  
6• +  
5• +  
7• +  
5• +  
19• +  
5• +  
7• +  
6• +  
5• +  
8• +  
3• +  
15• +  
19• +  
19• +  
8• +  
19• +  
19• +  
19• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 61**

**ing of 200 signature sheets**

**ed 12,001 through 12,200**

**roximately 3,074 signatures**

3,074 \*

14. +  
16. +  
19. +  
16. +  
19. +  
18. +  
18. +  
19. +  
18. +  
19. +  
19. +  
18. +  
15. +  
17. +  
18. +  
18. +  
16. +  
17. +  
18. +  
13. +  
19. +  
15. +  
19. +  
19. +  
17. +  
19. +  
16. +  
18. +  
19. +  
18. +  
19. +  
17. +  
19. +  
18. +  
18. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 62

Consisting of 200 signature sheets

Numbered 12,201 through 12,400

with approximately 3,365 signatures

18. +  
18. +  
19. +  
12. +  
17. +  
18. +  
15. +  
18. +  
12. +  
18. +  
18. +  
19. +  
19. +  
13. +  
15. +  
16. +  
17. +  
17. +  
19. +  
15. +  
20. +  
19. +  
19. +  
19. +

19. +  
18. +  
19. +  
19. +  
7. +  
10. +  
14. +  
18. +  
18. +  
19. +  
18. +  
16. +  
18. +  
19. +  
7. +  
18. +  
19. +  
19. +  
19. +  
20. +  
13. +  
19. +  
18. +  
18. +  
19. +  
19. +  
3. +  
16. +  
19. +  
18. +  
18. +  
200  
3,149. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 63**

**Consisting of 200 signature sheets**

**Numbered 12,401 through 12,600**

**with approximately 3,149 signatures**

19. +  
18. +  
19. +  
18. +  
3. +  
18. +  
1. +  
18. +  
19. +  
2. +  
8. +  
3. +  
19. +  
19. +  
15. +  
19. +  
19. +  
19. +  
2. +  
17. +  
18. +  
17. +  
19. +  
19. +  
19. +  
19. +  
19. +  
19. +  
18. +  
19. +  
11. +  
18. +  
19. +  
15. +  
14. +  
11. +  
6. +  
18. +  
7. +  
19. +  
19. +  
17. +  
16. +  
19. +  
19. +  
19. +  
18. +  
18. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 64

Consisting of 200 signature sheets

Numbered 12,601 through 12,800

with approximately 3,336 signatures

19. +  
200.....  
3,336. \*

19• +  
18• +  
19• +  
19• +  
18• +  
20• +  
18• +  
19• +  
19• +  
17• +  
19• +

18• +  
19• +  
18• +  
19• +  
19• +

18• +  
15• +  
19• +  
7• +  
17• +  
19• +  
19• +

200.....  
3,382• \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 65**

**Consisting of 200 signature sheets**

**Numbered 12,801 through 13,000**

**with approximately 3,382 signatures**



STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 67

Consisting of 200 signature sheets

Numbered 13,201 through 13,400

with approximately 3,354 signatures

18. +  
18. +  
17. +  
19. +  
17. +  
18. +  
19. +  
19. +  
19. +  
18. +  
18. +  
19. +  
18. +  
17. +  
19. +  
19. +  
19. +  
18. +  
18. +

19. +  
16. +  
20. +

19. +  
19. +  
19. +  
19. +  
19. +

200.....

3,354. \*

19. +  
4. +  
15. +  
19. +  
19. +  
18. +  
10. +  
17. +  
20. +  
17. +  
16. +  
19. +  
19. +  
19. +  
19. +  
19. +  
16. +  
20. +  
14. +  
19. +  
19. +  
5. +  
17. +  
16. +  
17. +  
17. +  
18. +  
16. +  
18. +  
17. +  
19. +  
18. +  
19. +  
16. +  
19. +  
18. +  
18. +  
19. +  
19. +  
19. +  
18. +  
4. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 68

Consisting of 200 signature sheets

Numbered 13,401 through 13,600

with approximately 3,363 signatures

200.....

19. +

3,363. \*

18. +  
19. +  
18. +  
e. +  
11. +  
17. +  
10. +  
19. +  
18. +  
19. +  
18. +  
17. +  
20. +  
19. +  
19. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 69**

**Consisting of 200 signature sheets**

**Numbered 13,601 through 13,800**

**with approximately 3,482 signatures**

19. +  
19. +  
18. +  
20. +  
16. +  
16. +

200.....

3,482. \*

20• +  
20• +  
5• +  
19• +  
17• +  
17• +  
3• +  
20• +  
19• +  
18• +  
18• +  
11• +  
12• +  
18• +  
18• +  
19• +  
20• +  
19• +  
19• +  
19• +  
19• +  
18• +  
20• +  
19• +  
11• +  
14• +  
17• +  
14• +  
19• +  
19• +  
10• +  
18• +  
18• +  
19• +  
19• +  
19• +  
15• +  
17• +  
19• +  
9• +  
12• +  
17• +  
19• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 70**

**Consisting of 200 signature sheets**

**Numbered 13,801 through 14,000**

**with approximately 3,311 signatures**

200.....  
3,311• \*

19. +  
 17. +  
 19. +  
 18. +  
 12. +  
 11. +  
 8. +  
 8. +  
 19. +  
 2. +  
 18. +  
 19. +  
 19. +  
 19. +  
 19. +  
 18. +  
 18. +  
 11. +  
 19. +  
 19. +  
 19. +  
 19. +  
 7. +  
 3. +  
 9. +  
 9. +  
 11. +  
 14. +  
 17. +  
 17. +  
 17. +  
 19. +  
 19. +  
 9. +  
 10. +  
 13. +  
 15. +  
 13. +  
 12. +  
 11. +  
 19. +  
 18. +  
 19. +  
 200.....  
 3,188. \*

STATE QUESTION NO. 779  
 INITIATIVE PETITION NO. 403

VOLUME NO. 71

Consisting of 200 signature sheets

Numbered 14,001 through 14,200

with approximately 3,188 signatures

17. +  
19. +  
13. +  
18. +  
18. +  
17. +  
19. +  
17. +  
18. +  
12. +  
18. +  
16. +  
16. +  
19. +  
19. +  
12. +

11. +  
17. +  
1. +  
18. +  
19. +  
18. +  
18. +  
15. +  
19. +  
19. +  
19. +  
16. +  
19. +  
18. +  
16. +  
18. +

200

3,318 \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 72

Consisting of 200 signature sheets

Numbered 14,201 through 14,400

with approximately 3,318 signatures

19. +  
19. +  
7. +  
19. +  
17. +  
17. +  
14. +  
11. +  
7. +  
18. +  
11. +  
19. +  
18. +  
19. +  
18. +  
17. +  
19. +  
19. +  
18. +  
17. +  
15. +  
16. +  
17. +  
19. +  
19. +  
18. +  
15. +  
19. +  
19. +  
19. +  
16. +  
19. +  
19. +  
19. +  
18. +  
15. +  
17. +  
2. +  
19. +  
14. +  
19. +  
17. +  
17. +  
17. +  
16. +  
20. +  
6,273. \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403  
VOLUME NO. 73

Consisting of 200 signature sheets

Numbered 14,401 through 14,600

with approximately 3,273 signatures

200

6,273 \*

19. +  
18. +  
19. +  
19. +  
18. +  
19. +  
17. +  
15. +  
18. +  
17. +  
19. +  
16. +  
1d. +  
19. +  
18. +  
18. +  
12. +  
19. +  
19. +  
19. +  
18. +  
14. +  
18. +  
19. +  
19. +  
12. +  
15. +  
17. +  
11. +  
17. +  
15. +  
19. +  
14. +  
16. +  
19. +  
8. +  
9. +  
20  
1,398 \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 74**

**Consisting of 200 signature sheets**

**Numbered 14,601 through 14,800**

**with approximately 3,398 signatures**

14. +  
19. +  
14. +  
19. +  
17. +  
13. +  
15. +  
20. +  
16. +  
18. +  
18. +  
20. +  
19. +  
19. +  
6. +  
12. +  
16. +  
19. +  
19. +  
19. +  
19. +  
12. +  
19. +  
10. +  
17. +  
19. +  
18. +  
19. +  
16. +  
19. +  
19. +  
17. +  
13. +  
17. +  
19. +  
18. +  
19. +  
20. +  
17. +  
18. +  
18. +  
18. +  
16. +  
19. +  
16. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 75**

**Consisting of 200 signature sheets**

**Numbered 14,801 through 15,000**

**with approximately 3,351 signatures**

200.....

3,351 \*

17. +  
18. +  
18. +  
15. +  
16. +  
13. +  
15. +  
18. +  
17. +  
19. +  
12. +  
19. +  
18. +  
17. +  
18. +  
18. +  
19. +  
18. +  
19. +  
17. +  
12. +  
10. +  
19. +  
17. +  
17. +  
19. +  
19. +  
14. +  
19. +  
12. +  
19. +  
19. +  
19. +  
19. +  
18. +  
19. +  
19. +  
2. +  
13. +  
18. +  
18. +  
15. +  
16. +  
16. +  
15. +  
18. +  
2. +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 76**

**Consisting of 200 signature sheets**

**Numbered 15,001 through 15,200**

**with approximately 3,396 signatures**

200.....

3,396 \*

7. +  
18. +  
15. +  
18. +  
10. +  
15. +  
18. +  
15. +  
18. +  
9. +  
19. +  
14. +  
19. +  
18. +  
17. +  
17. +  
18. +  
18. +  
7. +  
19. +  
18. +  
19. +  
18. +  
13. +  
19. +  
15. +  
19. +  
19. +  
19. +  
16. +  
17. +  
11. +  
11. +  
3. +  
19. +  
18. +  
14. +  
19. +  
17. +  
19. +  
2. +  
3. 2. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 77**

**Consisting of 200 signature sheets**

**Numbered 15,201 through 15,400**

**with approximately 3,222 signatures**

210

19. +  
5. +  
19. +  
11. +  
19. +  
19. +  
14. +  
18. +  
19. +  
17. +  
14. +  
11. +  
10. +  
19. +  
18. +  
18. +  
19. +  
19. +  
18. +  
19. +  
19. +  
19. +  
19. +  
12. +  
18. +  
18. +  
19. +  
19. +  
17. +  
19. +  
19. +  
17. +  
18. +  
19. +  
19. +  
14. +  
7. +  
19. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 78

Consisting of 200 signature sheets

Numbered 15,401 through 15,600

with approximately 3,224 signatures

19. +

200.....

3,224. \*

11. +  
6. +  
19. +  
18. +  
20. +  
16. +  
18. +  
19. +  
13. +  
17. +  
17. +  
18. +  
17. +  
17. +  
19. +  
16. +  
19. +  
19. +  
19. +  
12. +  
19. +  
20. +  
19. +  
19. +  
19. +  
19. +  
16. +  
17. +  
14. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 79

Consisting of 200 signature sheets

Numbered 15,601 through 15,800

with approximately 3,235 signatures

19. +  
1. +  
19. +  
19. +  
19. +  
15. +  
19. +  
16. +  
17. +  
19. +  
19. +

200

3,235 \*

19. +  
19. +  
16. +  
2. +  
19. +  
17. +  
18. +  
19. +  
18. +  
18. +  
13. +  
19. +  
17. +  
19. +  
13. +  
18. +  
19. +  
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18. +  
19. +  
18. +  
20. +  
20. +  
19. +  
7. +  
18. +  
19. +  
17. +  
19. +  
13. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 80

consisting of 200 signature sheets

numbered 15,801 through 16,000

200 .....  
3,302 ..... approximately 3,302 signatures

19• +  
17• +  
8• +  
10• +  
17• +  
19• +  
16• +  
16• +  
19• +  
19• +  
11• +  
12• +  
15• +  
17• +  
19• +  
19• +  
18• +  
18• +  
17• +  
16• +  
16• +  
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18• +  
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20• +  
19• +  
13• +  
17• +  
19• +  
18• +  
17• +  
17• +  
19• +  
16• +  
17• +  
6• +  
18• +  
19• +  
19• +  
17• +  
18• +  
16• +  
17• +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 81

Consisting of 200 signature sheets

Numbered 16,001 through 16,200

with approximately 3,304 signatures

17• +  
19• +  
14• +

200

3,304 \*

18. +  
17. +  
19. +  
19. +  
17. +  
19. +  
19. +  
5. +  
20. +  
18. +  
19. +  
19. +  
19. +  
18. +  
17. +  
19. +  
18. +  
18. +  
16. +  
18. +  
19. +  
19. +  
19. +  
19. +  
19. +  
18. +  
19. +  
16. +  
18. +  
19. +  
19. +

20. +  
20. +  
16. +  
16. +  
18. +

200  
3,419. \*

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 82**

**Consisting of 200 signature sheets**

**Numbered 16,201 through 16,400**

**with approximately 3,419 signatures**

19. +  
18. +  
19. +  
17. +  
5. +  
18. +  
19. +  
19. +  
19. +  
18. +  
14. +  
15. +  
13. +  
17. +  
14. +  
19. +  
18. +  
18. +  
19. +  
17. +  
16. +  
16. +  
17. +  
18. +  
17. +  
14. +  
14. +  
13. +  
18. +  
19. +  
18. +  
18. +  
19. +  
17. +  
19. +  
19. +  
19. +  
10. +  
18. +  
16. +  
18. +  
18. +  
19. +  
18. +  
19. +  
3. +  
16. +  
19. +  
19. +  
17. +  
17. +  
19. +  
16. +  
19. +  
9. +  
14. +  
18. +  
19. +  
14. +  
16. +  
11. +  
16. +  
19. +  
18. +  
19. +  
17. +  
13. +  
20. +  
19. +  
17. +  
18. +  
17. +  
18. +  
17. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 83

Consisting of 200 signature sheets

Numbered 16,401 through 16,600

with approximately 3,327 signatures

19. +  
20. +  
19. +  
18. +  
19. +  
20. +  
12. +  
6. +  
16. +  
8. +  
5. +  
16. +  
19. +  
19. +  
18. +  
12. +  
19. +  
18. +  
13. +  
0. +  
19. +  
19. +  
19. +  
17. +  
19. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 84

Consisting of 200 signature sheets

Numbered 16,601 through 16,800

with approximately 3,340 signatures

18. +  
19. +  
19. +  
17. +  
19. +  
18. +  
19. +  
19. +  
18. +

200

3,340 \*

19. +  
19. +  
19. +  
18. +  
19. +  
19. +  
19. +  
19. +  
19. +  
17. +  
18. +  
19. +  
19. +  
18. +  
19. +  
19. +  
17. +  
16. +  
19. +  
18. +  
18. +  
13. +  
19. +  
19. +  
13. +  
19. +  
17. +  
19. +  
20. +  
19. +  
19. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403  
VOLUME NO. 85

Consisting of 200 signature sheets

Numbered 16,801 through 17,000

with approximately 3,320 signatures

19. +  
19. +  
15. +  
2. +  
15. +  
7. +  
17. +  
19. +  
19. +  
17. +

18. +  
20. +  
20. +

210

3,320 \*

17. +  
18. +  
20. +  
20. +  
20. +  
17. +  
17. +  
20. +  
20. +  
20. +  
20. +  
18. +  
18. +  
16. +  
19. +  
17. +  
20. +  
18. +  
13. +  
20. +  
20. +  
19. +  
20. +  
16. +  
9. +  
20. +  
18. +  
14. +  
16. +  
18. +  
20. +  
1. +  
20. +  
19. +  
14. +  
20. +  
16. +  
19. +  
20. +  
19. +  
14. +  
9. +  
19. +  
13. +  
0. +  
19. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 86

Consisting of 200 signature sheets

Numbered 17,001 through 17,200

with approximately 3,294 signatures

200.....

3,294. \*

20• +  
20• +  
14• +  
19• +  
16• +  
18• +  
13• +  
17• +  
19• +  
1• +  
20• +  
20• +  
16• +  
18• +  
20• +  
20• +  
12• +  
18• +  
18• +  
19• +  
20• +  
10• +  
20• +  
20• +  
17• +  
7• +  
1• +  
20• +  
17• +  
18• +  
17• +  
20• +  
19• +

**STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403**

**VOLUME NO. 87**

**Consisting of 200 signature sheets**

**Numbered 17,201 through 17,400**

**with approximately 3,341 signatures**

18• +  
20• +  
19• +  
17• +  
12• +  
17• +  
11• +  
18• +  
19• +  
19• +  
20• +  
14• +  
19• +  
5• +  
15• +

200

3,341• \*

18. +  
19. +  
20. +  
20. +  
19. +  
18. +  
17. +  
18. +  
14. +  
13. +  
18. +  
19. +  
13. +  
17. +  
19. +  
17. +  
20. +  
13. +  
16. +  
19. +  
14. +  
9. +  
6. +  
18. +  
20. +  
16. +  
17. +  
19. +  
18. +  
19. +  
4. +  
19. +  
19. +  
18. +  
16. +  
15. +  
19. +  
12. +  
16. +  
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18. +  
17. +  
17. +  
19. +  
16. +  
18. +  
20. +  
20. +  
17. +  
20. +  
20. +

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 88

Consisting of 200 signature sheets

Numbered 17,401 through 17600

with approximately 2,426 signatures

0. +  
0. +  
0. +  
0. +

200  
2,426 \*

STATE QUESTION NO. 779  
INITIATIVE PETITION NO. 403

VOLUME NO. 89

0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +

Consisting of 63 signature sheets

Numbered 17,601 through 17,663

with approximately Ø signatures

0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +  
0. +

063

0. \*



2016 OK 59  
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE: )  
)  
INITIATIVE PETITION NO. 403, )  
)  
STATE QUESTION NO. 779. )

No. 114,982  
**FOR OFFICIAL  
PUBLICATION**

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
JUN 1 2016  
MICHAEL S. RICHIE  
CLERK OF  
THE APPELLATE COURTS

STATE OF OKLAHOMA, TO:

CHRIS BENGE, SECRETARY OF STATE, STATE OF OKLAHOMA

GREETINGS:

**RECEIVED**  
JUN 02 2016

ORDER

**OKLAHOMA SECRETARY  
OF STATE**

¶ 1 An initiative petition has been circulated in the State of Oklahoma, seeking the approval by the electorate of State Question No. 779, a proposed amendment to the Oklahoma Constitution, by adding Article 13-C, which would create the "Oklahoma Education Improvement Fund," to be funded with an additional one-cent sales and use tax; for purposes related to the improvement of public education.

¶ 2 In accordance with 34 O.S. Supp. 2015 § 8, the Court recognizes the certification of the Secretary of State that the petition contains 301,512 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 123,725, being 15% of the votes cast for the state

office receiving the highest number of votes in the November, 2014 general election. The signatures on the petition appear numerically sufficient.

¶ 3 The Secretary of State is directed forthwith to 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. 403, State Question No. 779, and of the apparent numerical sufficiency of the signatures. The Secretary of State shall also publish the text of the ballot title as rewritten by the Attorney General pursuant to 34 O.S.Supp.2015 § 9(D). The notice shall advise that any citizen of the State of Oklahoma may file a written objection to the signature count, or the rewritten ballot title, in the office of the Clerk of the Supreme Court of the State of Oklahoma, with a copy directed to the proponents of the petition and the Attorney General. Any such objection must be filed with the Clerk of the Supreme Court not later than ten (10) days from the date of publication. A copy of the objection must also be filed with the Secretary of State.

¶ 4 Proceedings in the Supreme Court to resolve any objection shall be in accordance with 34 O.S.Supp.2015 §§ 8-11, and such other procedures as may be ordered by the Court.

¶ 5 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 31<sup>ST</sup> DAY OF MAY, 2016.



---

CHIEF JUSTICE

¶ 6 Reif, C.J., Combs, V.C.J., Kauger, Winchester, Edmondson, Taylor (by separate writing with whom Kauger and Winchester, JJ., join), Gurich, JJ., concur.

Taylor, J., with whom Kauger and Winchester, JJ., join, concurring:  
Based upon the statutorily-limited scope of this review of signatures, I concur. I continue to urge the concerns expressed in my dissent in In re Initiative Petition No. 403, 2016 OK 1.

¶ 7 Watt and Colbert, JJ., not participating.



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUN 16 2016

MICHAEL S. RICHIE  
CLERK

June 16, 2016

### **HAND DELIVERED**

Chief Justice John Reif  
The Oklahoma Supreme Court  
2100 N. Lincoln Blvd., Suite 1  
Oklahoma City, Oklahoma 73105

**RE: Return on Supreme Court Order 2016 OK 59 – Supreme Court case no. 114,982  
State Question 779, Initiative Petition 403**

Dear Chief Justice Reif:

In accordance with Supreme Court Order 2016 OK 59, I herewith submit to the Court, the enclosed proofs of publication for the *Notice of the Filing of Signatures and the Numerical Sufficiency thereof and the Text of the Preliminary Ballot Title as Rewritten by the Attorney General for State Question 779, Initiative Petition 403*. I also certify that said notice was published Thursday, June 9, 2016 in both THE OKLAHOMAN and TULSA WORLD.

Enclosures:

- a. Oklahoma Press Service - Proof of Publication, Order Number 16-06-22 (*THE OKLAHOMAN*)
- b. Oklahoma Press Service - Proof of Publication, Order Number 16-06-22 (*TULSA WORLD*)

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,

Chris Bengé  
Secretary of State and  
Native American Affairs

# Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Monday, June 13, 2016 02:21 PM

Page 1

## Proof of Publication Order Number 16-06-22

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 06/09/2016

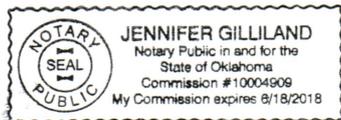
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has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

PUBLICATION FEE \$1,754.82

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
13 day of June 2016.

(Notary Public)



### NOTICE OF THE FILING OF SIGNATURES AND THE NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 779, INITIATIVE PETITION NUMBER 403

NOTICE is hereby given that on April 21, 2016 eighty-five (85) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 779, Initiative Petition 403.

NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 § 8 and the Supreme Court of Oklahoma Order No. 2016 OK 59, the Court recognizes the certification of the Secretary of State that the petition contains 301,512 signatures. The court further recognizes that the number of signatures necessary to place the measure before the electorate is 123,725, being 15% of the votes cast for the office of Governor at the general election in November 2014. The signatures on the petition appear numerically sufficient.

NOTICE is likewise, hereby given that any citizen or citizens of the state may file an objection, relating only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponents of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 §§ 8-11, and such other procedures as may be ordered by the Court.

Proponents of record for State Question 779, Initiative Petition 403:

Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071	Linda Reid 8505 E. 98th St. Tulsa, OK 74133	Melvin Moran 222 N. 2nd St. Seminole, OK 74868
--	---	--

PRELIMINARY BALLOT TITLE FOR SQ 779  
as rewritten by the Attorney General

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES \_\_\_\_\_  
AGAINST THE PROPOSAL - NO \_\_\_\_\_

DONE, BY ORDER OF THE SUPREME COURT THIS 2nd DAY OF JUNE, 2016.

Chris Bengé  
Oklahoma Secretary of State  
and Native American Affairs

Enclosure "A"

# Oklahoma Press Service

3601 North Lincoln Blvd.  
Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Monday, June 13, 2016 02:21 PM

Page 1

## Proof of Publication Order Number 16-06-22

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 06/09/2016

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 Oklahoma governing legal publications.

PUBLICATION FEE \$123.48

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
13 day of June 2016.

(Notary Public)



### NOTICE OF THE FILING OF SIGNATURES AND THE NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 779, INITIATIVE PETITION NUMBER 403

NOTICE is hereby given that on April 21, 2016 eighty-five (85) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 779, Initiative Petition 403.

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Proponents of record for State Question 779, Initiative Petition 403:

Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071	Linda Reid 8505 E. 98th St. Tulsa, OK 74133	Melvin Moran 222 N. 2nd St. Seminole, OK 74868
--	---	--

PRELIMINARY BALLOT TITLE FOR SQ 779  
as rewritten by the Attorney General

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES \_\_\_\_\_  
AGAINST THE PROPOSAL - NO \_\_\_\_\_

DONE, BY ORDER OF THE SUPREME COURT THIS 2nd DAY OF JUNE, 2016.

Chris Bengé  
Oklahoma Secretary of State  
and Native American Affairs

## Enclosure "B"

**CERTIFICATE OF HAND DELIVERY AND MAILING**

I hereby certify that a true and accurate copy of the foregoing has been hand delivered on June 16, 2016, to the following party;

The Honorable E. Scott Pruitt  
Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

I also hereby certify that a true and accurate copy of the foregoing, was placed in USPS mail, regular first-class, on June 16, 2016, addressed to the following parties;

Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98th Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2nd Street  
Seminole, Oklahoma 74868

**COUNSEL FOR PROPONENTS**

Melanie Wilson Rughani  
Crowe & Dunlevy  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, Oklahoma 73102



Chris Bengé  
Oklahoma Secretary of State and  
Native American Affairs

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUN 23 2016

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC.,  
AND DAVID BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,

RESPONDENTS.

No. **#11510 8**

RECEIVED

JUN 23 2016

OKLAHOMA SECRETARY  
OF STATE

---

APPLICATION TO ASSUME ORIGINAL JURISDICTION AND  
COMBINED PETITION TO REVIEW THE GIST AND BALLOT TITLE  
OF INITIATIVE PETITION 403

---

ROBERT G. MCCAMPBELL, OBA #10390  
TRAVIS V. JETT, OBA #30601

-Of the Firm-

FELLERS SNIDER, P.C.  
100 North Broadway Avenue  
Suite 1700  
Oklahoma City, Oklahoma 73102  
TEL (405) 232-0621  
FAX (405) 232-9659  
[RMcCampbell@FellersSnider.com](mailto:RMcCampbell@FellersSnider.com)  
[TJett@FellersSnider.com](mailto:TJett@FellersSnider.com)

ATTORNEYS FOR PETITIONERS,  
OCPA IMPACT, INC. AND DAVID BOND

June 23, 2016

Petitioners OCPA Impact, Inc. and David Bond (collectively “OCPA Impact” or “Petitioner”) request that the Court assume original jurisdiction to review the gist and ballot title of Initiative Petition No. 403, State Question 779 (“the Petition”). 34 O.S. § 3; *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 2, \_\_\_ P.3d \_\_\_; Okla.Sup.Ct.R. 1.194; 34 O.S. § 8(I); *id.* § 10(A); Okla.Sup.Ct.R. 1.160. As is shown in the brief supporting this application, both the gist and the ballot title of Initiative Petition No. 403 are flawed due to the fact that they fail to explain the effect of the proposition. While the ballot title may be corrected by the Court, 34 O.S. § 10(A), “[t]he gist is not subject to amendment by this Court, and . . . the only remedy is to strike the petition from the ballot.” *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 7. Petitioners respectfully requests that the Petition be stricken from the ballot.

### PARTIES

1. OCPA Impact, Inc. is a 501(c)(4) corporation incorporated with the Secretary of State of the State of Oklahoma and having its headquarters at 1400 North Lincoln, Oklahoma City, Oklahoma County, State of Oklahoma. The mission of OCPA Impact, Inc. is to empower Oklahoma taxpayers and families to apply appropriate pressure on their state lawmakers to remove our state’s remaining barriers to job growth, business growth and individual opportunity.

2. Petitioner David Bond is a citizen of Oklahoma, lives in Canadian County, Oklahoma, has lived in Oklahoma for 20 years and will continue to live in Canadian County. He is a registered voter in Canadian County. He will have to pay the sales tax provided for in Initiative Petition No. 403.

3. Respondent Shawn Sheehan signed the Initiative Petition as a Proponent.

4. Respondent Linda Reid signed the Initiative Petition as a Proponent.

5. Respondent Melvin Moran signed the Initiative Petition as a Proponent.

## THE COURT'S JURISDICTION

### A. Initiative Petition Procedure.

6. In recent years, the procedure for contesting the gist, ballot title, and constitutionality of an initiative petition has been amended multiple times. 2015 Okla. Sess. Laws Ch. 193, §§ 4–7 (amending 34 O.S. §§ 8–11); 2011 Okla. Sess. Laws Ch. 117, § 1 (amending 34 O.S. § 9); 2009 Okla. Sess. Laws Ch. 318, § 1–3 (amending 34 O.S. §§ 8–10). The current procedure set forth in statute is as follows:

7. To initiate the initiative petition process, the proponent must file a petition and a sheet for collecting signatures. 34 O.S. § 8(A) (2016 Supp.); *id.* § 3. “A simple statement of the gist of the proposition shall be printed on the top margin of each signature sheet.” *Id.* § 3. “[T]he gist must explain the proposal's effect.” *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 3. “The petition and signature sheets together make a pamphlet . . . .” *In re Initiative Petition No. 397*, 2014 OK 23, ¶ 64, 326 P.3d 496; 34 O.S. § 3.

8. The proponent of an initiative petition must file a separate, proposed ballot title when initially filing their petition with the Secretary of State. 34 O.S. § 8(A). A copy must also be filed with the Attorney General. *Id.* § 9(A).

9. The Secretary of State then publishes notice “that any citizen or citizens of the state may file a protest as to the constitutionality of the petition . . . .” *Id.* § 8(B). These constitutional protests “must be filed within ten (10) business days after publication.” *Id.*

10. If no constitutional challenge is filed or if a constitutional challenge is filed and the Court rejects the challenge, the Secretary of State sets a 90-day period for proponents to circulate the petition to collect signatures. *Id.* § 8(E).

11. When the proponent files signed copies of the petition and signature pages after circulation, the Secretary of State shall file a copy of the proponent's proposed ballot title with the Attorney General for review as to legal correctness. *Id.* § 9(D)(1); *id.* § 8(H).

12. “Within five (5) business days after the receipt of the ballot title, the Attorney General shall, in writing, notify the Secretary of State whether or not the proposed ballot title complies with applicable laws.” *Id.* § 9(D)(1).

13. “[W]ithin ten (10) business days of determining that the proposed ballot title is defective,” the Attorney General shall “prepare and file a ballot title which complies with the law . . . .” *Id.*

14. After this Court makes a determination of the numerical sufficiency of the signatures and upon order of the Supreme Court, the Secretary of State shall “publish the text of the ballot title as reviewed and approved or, if applicable, as rewritten by the Attorney General pursuant to the provisions of subsection D of Section 9 of this title . . . .” *Id.* § 8(I).

15. “Any person who is dissatisfied with the wording of a ballot title may, within ten (10) business days after the same is published by the Secretary of State as provided for in subsection I of Section 8 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.” *Id.* § 10(A); *also id.* § 8(I). “[T]he statute[s] remain[] silent with regard to when a challenge to the gist of the petition must be made.” *In re Initiative Petition No. 409*, 2016 OK 51, n.10.

16. “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.” *Id.* § 10(A). “The gist is not subject to amendment

by this Court, and as a result, the only remedy is to strike the petition from the ballot.” *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 7.

**B. Jurisdictional Facts.**

17. The Petition was filed with the Oklahoma Secretary of State on October 21, 2015. (Initiative Petition 403 (Oct. 21, 2015), App. at Tab A.) The Proponents also filed a separate ballot title and a separate signature sheet. (Ballot Title of IP 403 (Oct. 21, 2015), App. at Tab B; Signature Sheet of IP 403 (Oct. 21, 2015), App. at Tab C.) 34 O.S. § 8(A) (“[S]uch citizen or citizens . . . shall at the same time file a separate ballot title.”). The signature sheet is not part of the petition. *Id.* § 3 (“Each initiative petition and each referendum petition shall be duplicated for the securing of signatures, and each sheet for signatures shall be attached to a copy of the petition. Each copy of the petition and sheets for signatures is hereinafter termed a pamphlet.”); *In re Initiative Petition No. 397*, 2014 OK 23, ¶ 64, 326 P.3d at 518 (“Three bodies of text must be identified: (1) the petition, (2) the gist of the petition which appears on a signature page, and (3) the ballot title, which may, or may not be part of the petition for certain purposes (as we hold today).”).

18. On February 16, 2016, the proponents of the Petition began circulating the Petition to collect signatures. (Ltr. from Sec. of State to Proponents regarding Circulation Period (Feb. 2, 2016), App. at Tab E.) The signature sheets signed by registered voters included “[a] simple statement of the gist of the proposition . . . printed on the top margin . . . .” 34 O.S. § 3. (Signature Sheet, App. at Tab C & D.) The gist located on the signature sheets is nearly identical to the ballot title submitted by proponents. (*Compare* Ballot Title, App. at Tab B, *with* Signature Sheet, App. at Tab C & D.) A redline comparing the ballot title and gist is included in the Appendix at Tab F. The proponents filed signatures with the Secretary of State on April 21,

2016. (Ltr. from Sec. of State to Proponents re: Receipt of Pamphlets (Apr. 21, 2016), App. at Tab G.)

19. On April 22, 2016, the Secretary of State filed and submitted a copy of the proponent's proposed ballot title to the Attorney General for review as to legal correctness. (Ltr. from Sec. of State to Att'y Gen. re: Ballot Title (April 22, 2016), App. at Tab H.) On April 29, the Attorney General found that the proponent's proposed ballot title did not comply with the law. (Ltr. from Att'y Gen. to Sec. of State re: Ballot Title (April 29, 2016), App. at Tab I.) Accordingly, the Attorney General submitted an alternate ballot title. (*Id.*)

20. On May 31, this Court made the determination of the numerical sufficiency of signatures for Initiative Petition 403. *In re Initiative Petition No. 403*, 2016 OK 59, ¶ 2, \_\_\_ P.3d \_\_\_. The Secretary of State published notice of the text of the ballot title and the numerical sufficiency of the initiative petition on June 9, 2016. (Notice re: State Question Number 779, Initiative Petition Number 403 (June 9, 2016), App. at Tab J.) Pursuant to state law, the notice provided that any citizen may file an objection to the ballot title "within ten (10) business days of the date of this publication." (*Id.*)

21. The deadline for filing a protest is June 23, 2016. There is no statutory deadline for challenging the gist. *In re Initiative Petition No. 409*, 2016 OK 51, n.10.

22. The Petitioners are citizens of this State qualified to protest this Petition.

23. This Court's jurisdiction to review a challenge to the Initiative Petition is set forth in 34 O.S. §§ 3, 8–10. Pursuant to Rule 1.194 of this Court, a challenge to an initiative petition shall be treated as an original action in this Court.

#### **PETITION TO REVIEW GIST**

24. The gist, which appears at the top of each signature sheet, is legally deficient. "[T]he gist must explain the proposal's effect." *In re Initiative Petition No. 409*, 2016 OK 51, ¶

3. It “should [also] be sufficient that the signatories are at least put on notice of the changes being made . . . .” *Id.*

25. A challenge to gist after a petition is circulated for signatures should be allowed. The statutes require only protests to the constitutionality of the petition to be lodged pre-circulation. 34 O.S. § 8(B). The gist requirement is not found in the Constitution, and it is not part of the petition. Okla. Const. art. V, § 1-8. At the time OCPA Impact challenged the constitutionality of Initiative Petition 403, there was no indication by this Court or the Legislature that a pre-circulation challenge was even allowed, let alone required. Subsequently, a pre-circulation challenge to the gist was allowed in *In re Initiative Petition No. 409*, 2016 OK 51, and the Court specifically left open the question regarding post-circulation challenges. *Id.* at n.10. A petition may be stricken from the ballot after being circulated for signatures due to an insufficient gist. *In re Initiative Petition No. 384*, 2007 OK 48, ¶¶ 1, 13, 164 P.3d at 126, 130.

26. The gist of Initiative Petition 403 is deficient for several reasons. *First*, “[t]he biggest problem is the gist’s description of the Board of Equalization’s power: Initiative Petition No. 403 ‘requires that monies from the fund not supplant or replace other education funding.’” *In re Initiative Petition No. 403*, 2016 OK 1, ¶ 22, 367 P.3d 472, 486 (Taylor, J., dissenting). As a result, the gist fails to explain the effect of the proposition.

27. *Second*, the Attorney General identified problems with the gist in his analysis of the ballot title. Both the ballot title and the gist must explain the effect of the proposition. 34 O.S. § 9(B)(2); *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 3. As discussed above, the gist and the ballot title proposed by the proponents of the Petition are nearly identical. (App. at Tab F.) The Attorney General found three distinct problems with the ballot title which also plague

the gist. (Redline comparing Proponent’s Proposed Ballot Title with Att’y Gen.’s Preliminary Ballot Title, App. at Tab K.) The Attorney General determined that the proposed language:

- a. “[F]ails to explain that the one cent sales and use tax contemplated by the measure will be in addition to the state sales and use tax already levied by the Oklahoma Sales and Use Tax Codes;”
- b. “[S]uggests that allocated funds will, in part, be used to improve college affordability, when the measure indicates that the funds may be used for college affordability or for otherwise improving higher education. That is, funds may be allocated in whole, in part, or not at all for college affordability;” and
- c. “[I]naccurately states that it prohibits school districts’ use of funds for increasing administrative salaries, when the measure is more limited in that it only prohibits an increase in superintendents’ salaries and the addition of superintendent positions.”

(Ltr. from Att’y Gen. to Sec. of State re: Ballot Title (April 29, 2016), App. at Tab I.)

28. *Fourth*, the gist indicates that the sales and use tax will be increased by “one cent,” but the text indicates that there will be a “one percent” tax increase. (*See* OCPA Impact’s Brief in Support, at Proposition I & II, Item 2.)

29. *Fifth*, the gist fails to explain the effect of the proposition by omitting how the tax increase will be apportioned between common education, higher education, career and technology education, and the State Department of Education. (*See* OCPA Impact’s Brief in Support, at Proposition I & II, Item 3.)

30. *Sixth*, the gist’s reference to “improving” public education is advocacy since it is debatable whether the 40% of fund spent on things other than teacher pay will actually improve public education. (*See* OCPA Impact’s Brief in Support, at Proposition I & II, Item 4.)

31. *Seventh*, the gist is misleading because it fails to explain that the audit requirement and salary restrictions for revenue generated by the sales tax only apply to common education and not higher education, career and technology education, and the State Department of Education. (*See* OCPA Impact’s Brief in Support, at Proposition I & II, Item 5.)

32. For these reasons, OCPA Impact respectfully requests that Initiative Petition 403 be stricken from the ballot due to the legal insufficiency of the gist.

**PETITION TO REVIEW BALLOT TITLE**

33. The ballot title is legally insufficient in several ways due to its failure to explain the effect of the proposition and its biased language. 34 O.S. § 9(B).

34. *First*, the ballot title is silent on the Board of Equalization’s new power to preclude *all* legislative appropriations if it determines that education funding has been supplanted. (See OCPA Impact’s Brief in Support, at Proposition II., Item 1.)

35. *Second*, the ballot title submitted by the proponents is inconsistent with Petition 403 submitted by the proponents. The proponents’ ballot title claims Petition 403 will impose a “one cent” sales and use tax increase, but the text of Proposition 403 actually imposes a “one percent” tax increase. (See OCPA Impact’s Brief in Support, at Proposition II, Item 2.)

36. *Third*, the ballot title fails to explain how the tax revenue will be apportioned among various agencies. (See OCPA Impact’s Brief in Support, at Proposition II, Item 3.)

37. *Fourth*, the ballot title reflects partiality to the extent it indicates that all of the revenue generated will “improve” public education. (See OCPA Impact’s Brief in Support, at Proposition II, Item 4.)

38. *Fifth*, the ballot title is misleading because it fails to explain that the audit and salary restrictions will apply only to common education and not career and technology education, higher education, and the State Department of Education. (See OCPA Impact’s Brief in Support, at Proposition II, Item 5.)

39. Pursuant to 34 O.S. § 10(A), the Petitioners, OCPA Impact and Dave Bond, submit a substitute ballot title that complies with 34 O.S. § 9(B). A copy of the proposed ballot

title is attached to this petition for review as is required by Okla.Sup.Ct.R. 1.161(e) and is referred to as “OCPA Impact’s ballot title.”

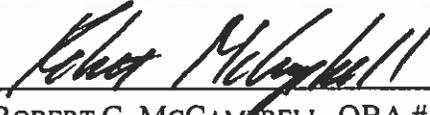
40. The Court should adopt OCPA Impact’s ballot title because it corrects the deficiencies in the current ballot title. For example, OCPA Impact’s ballot title specifically places voters on notice of the new power Petition 403 would grant the Board of Equalization Board in the education appropriation process. OCPA Impact’s ballot title also reflects the actual text of the petition by describing the tax as a “one percent” tax increase, consistent with the actual language of Petition 403. OCPA Impact’s ballot title actually explains the effect of the petition by adding important details as to how much money the various education agencies will receive from the legislation and is explicit that the salary and audit restrictions only apply to common education. Finally, OCPA Impact’s ballot title eliminates the partiality by explaining the effect of Proposition 403 as “increasing funding for education” (a factually accurate statement) instead of “improving education” – (which reflects the proponents’ advocacy of what they hope the effect will be). These changes comply with 34 O.S. § 9(B).

41. The Petitioners herein specifically request that the Court should substitute OCPA Impact’s ballot title to ensure voters have the opportunity to make an informed choice on Initiative Petition 403.

### **CONCLUSION**

This Court should (1) assume original jurisdiction of this matter and (2) for the reasons set forth in the Brief in Support, this Court should strike Initiative Petition 403 from the ballot because it was circulated with a legally insufficient gist or, in the alternative, direct that OCPA Impact’s ballot title be adopted.

Respectfully submitted,



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**CERTIFICATE OF MAILING**

I hereby certify that on this 23rd day of June, 2016, a true and correct copy of the forgoing Application and Petition was served by U.S. Mail, postage prepaid, as follows:

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Robert G. McCampbell  
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**SUBSTITUTE BALLOT TITLE OF PETITIONERS,  
DAVE BOND AND OCPA IMPACT, INC.  
PURSUANT TO 34 OKLA. STAT. § 10(A) AND OKLA.SUP.CT.RULE 1.161(e)**

This measure adds a new Article to the Oklahoma Constitution. The Article creates a limited purpose fund to increase funding for public education. It increases sales and use taxes by one percent to provide revenue for the fund. The revenue shall be allocated: 69.50% for common school districts, 19.25% for the institutions under the authority of the Oklahoma State Regents for Higher Education, 3.25% for the Oklahoma Department of Career and Technology Education, and 8% for the State Department of Education. It requires school districts to raise each teacher's salary by at least \$5,000. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. School districts' use of the revenue will be audited annually. The Article does not provide for an audit requirement or salary restriction for the other state institutions which will receive revenue from the fund. The Article requires that monies from the fund not replace other educational funding. If the Board of Equalization determines funding has been replaced, the Legislature may not make any appropriations until the amount of replaced funding is returned to the fund. The Article takes effect on July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL            -    YES    \_\_\_\_\_

AGAINST THE PROPOSAL    -    NO     \_\_\_\_\_

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUN 23 2016

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC.,  
AND DAVID BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN

RESPONDENTS.

No. **#11510 8**

RECEIVED

JUN 23 2016

OKLAHOMA SECRETARY,  
OF STATE

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PETITIONERS' APPENDIX TO APPLICATION  
TO ASSUME ORIGINAL JURISDICTION

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OCPA IMPACT, INC. AND DAVID BOND

June 23, 2016

**INDEX TO PETITIONERS' APPENDIX TO APPLICATION  
TO ASSUME ORIGINAL JURISDICTION**

The following is Petitioners' Index to its Appendix, pursuant to Sup. Ct. R. 1.191(d)(3):

**Tab Description and Date (If Any)**

**A Initiative Petition No. 403 (Oct. 21, 2015)**

**Relevance:** This is the initiative petition that is being challenged by Petitioners due to its legally insufficient gist and ballot title.

**Synopsis:** The initiative petition would add a new Article XIII-C to the Oklahoma Constitution.

**B Ballot Title of IP 403 (Oct. 21, 2015)**

**Relevance:** This is the ballot title for the initiative petition, which fails to comply with 34 O.S. § 9(B).

**Synopsis:** The ballot title fails to explain the effect of the proposition and contains biased language.

**C Signature Sheet of IP 403 submitted to the Secretary of State (Oct. 21, 2015)**

**Relevance:** This is the signature sheet that contains the gist that Petitioners challenge as legally deficient.

**Synopsis:** The proponents submitted this signature sheet to the Secretary of State when filing Initiative Petition 403.

**D Example of Signature Sheet for IP 403 signed by Registered Voters**

**Relevance:** This shows that the registered voters who signed Initiative Petition 403 signed signature sheets with an insufficient gist.

**Synopsis:** This is an example of this signature sheets signed by registered voters for Initiative Petition 403.

**E Letter from the Secretary of State to Proponents regarding Circulation Period (Feb. 2, 2016)**

**Relevance:** This letter shows that the proponents began circulating the petition to collect signatures on February 16, 2016.

**Synopsis:** The Secretary of State wrote a letter to the proponents on February 2, 2016 regarding the circulation of the initiative petition.

**F Redline comparing Proponents' Proposed Ballot Title with the Gist**

**Relevance:** This redline comparison shows that the gist located on the signature sheets is nearly identical to the ballot title submitted by the proponents.

**Synopsis:** This redline compares the proponents' ballot title with the gist.

**G Letter from Secretary of State to Proponents regarding Receipt of Pamphlets (Apr. 21, 2016)**

**Relevance:** This letter shows the proponents filed signatures with the Secretary of State on April 21, 2006.

**Synopsis:** The Secretary of State wrote the proponents to acknowledge his receipt of the pamphlets submitted by the proponents.

**H Letter from Secretary of State to Attorney General regarding the Ballot Title (April 22, 2016)**

**Relevance:** This shows that the Secretary of State submitted the proponents' proposed ballot title to the Attorney General for review as to legal correctness.

**Synopsis:** The Secretary of State filed a copy of the proponents' proposed ballot title to the Attorney General for review regarding legal correctness as directed by Title 34.

**I Letter from the Attorney General to Secretary of State regarding the Ballot Title (April 29, 2016)**

**Relevance:** This letter shows the Attorney General found that proponents' proposed ballot title did not comply with the law and submitted an alternate ballot title.

**Synopsis:** The Attorney General notified the Secretary of State that the proposed ballot title did not comply with Title 34.

**J Notice regarding State Question Number 779, Initiative Petition Number 403 (June 9, 2016)**

**Relevance:** This shows that the Secretary of State published notice that citizens could challenge the ballot title of Initiative Petition 403.

**Synopsis:** The Secretary of State published notice of ballot title as rewritten by the Attorney General, which advised citizens that they could challenge this ballot title.

**K Redline comparing the Proponent's Proposed Ballot Title with the Attorney General's Preliminary Ballot Title**

**Relevance:** The redline shows the Attorney General's revisions to the proponents' proposed ballot title, which is nearly identical to the gist.

**Synopsis:** This redline compares the proponents' proposed ballot title with the Attorney General's Preliminary Ballot Title.

**L**     **OCA Impact's Substitute Ballot Title**

**Relevance:**     This is Petitioners' substitute ballot title, which is required by 34 Okla. Stat. § 10(A) and Okla. Sup. Ct. R. 1.161(e).

**Synopsis:**       OCA Impact's Substitute Ballot Title complies with Title 34.

**M**     **Redline comparing the Attorney General's Preliminary Ballot Title with OCA Impact's Substitute Ballot Title**

**Relevance:**     This redline comparison shows the revisions that should be made to the ballot title.

**Synopsis:**       This is the redline comparing the Attorney General's Preliminary Ballot Title with the OCA Impact's Substitute Ballot Title.

**N**     **OMES Memo regarding Initiative Petition 403 (Oct. 22, 2015)**

**Relevance:**     This document contains the Office of Management and Enterprise Services' estimate as to how much revenue the tax increase in Initiative Petition 403 would generate each year.

**Synopsis:**       This memorandum analyzes Initiative Petition 403 and estimates revenue totals for the revenue and use taxes proposed by this petition.

Respectfully submitted,



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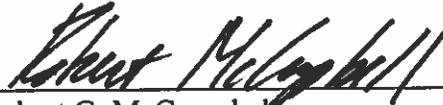
**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of June, 2016, a true and correct copy of the forgoing Appendix to Brief in Support of Application to Assume Original Jurisdiction was served by U.S. Mail as follows:

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Robert G. McCampbell  
Travis V. Jett

688478

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# TAB A

**FILED**

OCT 21 2015

State Question No. 779, Initiative Petition No. 403 OKLAHOMA SECRETARY  
OF STATE

**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.**

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**INITIATIVE PETITION**

To the Honorable Mary Fallin, 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 8th day of November, 2016 (or at a 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 are correctly written after my name. The time for filing this petition expires ninety (90) days from \_\_\_\_\_. The question we herewith submit to our fellow voters is:

Shall the following proposed new Article XIII-C to the Constitution be approved?

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

**CONSTITUTION OF OKLAHOMA, ARTICLE XIII-C –  
OKLAHOMA EDUCATION IMPROVEMENT FUND**

**§ 1. CREATION OF OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby created in the State Treasury a limited purpose fund to be known as the "Oklahoma Education Improvement Fund." The fund shall consist of the proceeds of the sales tax levy and the use tax levy provided in Section 2 of this Article XIII-C, and any monies or assets contributed to the fund from any other source, public or private.

**§ 2. LEVY OF ONE CENT SALES TAX AND USE TAX FOR OKLAHOMA EDUCATION IMPROVEMENT FUND**

There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an additional excise tax of one percent (1.0%) of the gross receipts or gross proceeds of each sale of tangible personal property, or of other goods and services subject to the sales tax as provided in the Oklahoma Sales Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an additional excise tax on the storage, use, or other consumption in this state of such property at the rate of one percent (1.0%) of the purchase price of such property. Said tax shall be levied on the storage, use or consumption of personal property as provided in the Oklahoma Use Tax Code. Except as otherwise provided herein, this tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Use Tax Code.

This sales tax levy shall be in addition to, and shall not supplant, the general sales tax levied in the Oklahoma Sales Tax Code or any other sales tax authorized by Oklahoma law and

this use tax levy shall be in addition to, and shall not supplant, the general use tax levied in the Oklahoma Use Tax Code or any other use tax authorized by Oklahoma law.

All revenue from the sales tax and the use tax levied pursuant to this Article XIII-C, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be paid to the State Treasurer and deposited into the Oklahoma Education Improvement Fund.

**§ 3. ALLOCATION OF MONIES IN OKLAHOMA EDUCATION IMPROVEMENT FUND - PURPOSES - USES - ETC.**

A. Monies in the Oklahoma Education Improvement Fund shall be apportioned by the State Treasurer, appropriated by the Legislature, and distributed monthly for the educational purposes established herein, as follows:

1. Common Education: Sixty-nine and one-half percent (69.5%) of said monies shall be apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, on the basis of the state aid formula for common education then in effect.

(a) Monies from the Oklahoma Education Improvement Fund shall be specifically identified and segregated from other monies appropriated and apportioned among the several common school districts of the State on the basis of said state aid formula.

(b) The common school districts shall use eighty-six and one-third percent (86.33%) of the additional funds provided to them under this Article XIII-C to increase teacher salaries as required by Section 4 of this Article, and to otherwise address and prevent teacher and certified instructional staff shortages in the manner most suited to local district circumstances and needs, including but not limited to differentiated compensation methods or performance pay.

(c) The common school districts shall use thirteen and two-thirds percent (13.67%) of the additional funds provided to them under this Article XIII-C to adopt or to expand programs, opportunities, or reforms to improve reading in the early grades, to improve high school graduation rates, and to increase college and career readiness. The common school districts may use the amount apportioned to them under this Section 3(A)(1)(c) only to adopt or to expand said programs, opportunities or reforms, and may not use the amount apportioned to them under this Section 3(A)(1)(c) to maintain programs, opportunities or reforms established prior to the effective date of this Article XIII-C.

(d) The State Auditor and Inspector shall approve auditors who shall annually audit the use made of the monies distributed to the school districts under this Article XIII-C to ensure that it is used only for the purposes specified in this Article XIII-C.

2. Higher Education: Nineteen and one-quarter percent (19.25%) of said monies shall be paid to the education and general operating budgets of the institutions under the authority of the Oklahoma State Regents for Higher Education, for use in improving college affordability, or otherwise in the improvement of higher education.

3. Career and Technology Education: Three and one-quarter percent (3.25%) of said monies shall be paid to the Oklahoma Department of Career and Technology Education, for use in the improvement of career and technology education.

4. Early Childhood Education: Eight percent (8%) of said monies shall be paid to the State Department of Education, for use in increasing access to and enhancing the quality of voluntary early learning opportunities for low-income and at-risk children prior to entry into the common education system.

B. Monies expended or distributed from the Oklahoma Education Improvement Fund as provided herein shall be used only for the purposes specified in this Article XIII-C, Section 3.

C. None of these monies distributed from the Oklahoma Education Improvement Fund to common school districts may be used to add superintendent positions or increase superintendents' salaries.

**§ 4. INCREASE IN TEACHER SALARIES**

Each common school district of the State of Oklahoma shall pay each teacher employed by such district a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article XIII-C.

**§ 5. FUNDS NOT TO SUPPLANT OTHER EDUCATION FUNDING**

A. Monies expended or distributed from the Oklahoma Education Improvement Fund shall supplement, and shall not be used to supplant or replace, other state funds supporting common education, early childhood education, higher education, or career and technology education, including but not limited to the Permanent School Fund, the Oklahoma Education Lottery Trust Fund, the Education Reform Revolving Fund, the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Common School Fund, appropriations from the Legislature as provided in Article XIII, Section 1a of the Constitution, and any other appropriations from the Legislature used for educational purposes.

B. The Legislature shall appropriate the monies from the Oklahoma Education Improvement Fund solely to supplement other funds supporting common education, early childhood education, higher education, or career and technology education. The Legislature shall not appropriate such monies to supplant or replace any other state funds supporting common education, early childhood education, higher education, or career and technology education.

C. In order to ensure that the monies from the Oklahoma Education Improvement Fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the Fund 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 that shall state whether appropriations from the Oklahoma Education Improvement Fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by monies from the Oklahoma Education Improvement Fund, the State Board of Equalization shall specify the amount by which education 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 Oklahoma Education Improvement Fund.

**§ 6. EFFECTIVE DATE, CONSTRUCTION**

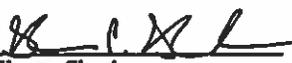
A. This Article XIII-C shall become effective on July 1 immediately following its passage.

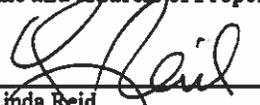
B. Nothing in this Article XIII-C shall be construed as conflicting with Article X, Section 23 of the Constitution.

**§ 7. 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.

Name and Address of Proponents

  
Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

  
Linda Reid  
8505 E. 98th St  
Tulsa, OK 74133

  
Melvin Moran  
222 N. 2nd St.  
Seminole, OK 74868

---

**TAB B**

**FILED**

OCT 21 2015

OKLAHOMA SECRETARY  
OF STATE

**PROPOSED BALLOT TITLE**

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, to increase high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that monies from the fund not supplant or replace other education funding. The Article takes effects on the July 1 after its passage.

Shall the proposal 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.

---

**TAB C**

### SIGNATURES

The gist of the proposition is as follows: This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that these funds not supplant or replace other education funding.

### 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.

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
4.	Signature of Legal Voter	Print Name	Address	City	Zip	County
5.	Signature of Legal Voter	Print Name	Address	City	Zip	County
6.	Signature of Legal Voter	Print Name	Address	City	Zip	County
7.	Signature of Legal Voter	Print Name	Address	City	Zip	County
8.	Signature of Legal Voter	Print Name	Address	City	Zip	County
9.	Signature of Legal Voter	Print Name	Address	City	Zip	County
10.	Signature of Legal Voter	Print Name	Address	City	Zip	County
11.	Signature of Legal Voter	Print Name	Address	City	Zip	County
12.	Signature of Legal Voter	Print Name	Address	City	Zip	County
13.	Signature of Legal Voter	Print Name	Address	City	Zip	County
14.	Signature of Legal Voter	Print Name	Address	City	Zip	County
15.	Signature of Legal Voter	Print Name	Address	City	Zip	County
16.	Signature of Legal Voter	Print Name	Address	City	Zip	County
17.	Signature of Legal Voter	Print Name	Address	City	Zip	County
18.	Signature of Legal Voter	Print Name	Address	City	Zip	County
19.	Signature of Legal Voter	Print Name	Address	City	Zip	County
20.	Signature of Legal Voter	Print Name	Address	City	Zip	County



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**TAB D**

**SIGNATURES**

The gist of the proposition is as follows: This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that these funds not supplant or replace other education funding.

**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.

1. Jessica Wright Jessica Wright 283 E 44th Pl. N. Tulsa 74110 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
2. Christina Whitaker Courtney Whitaker 6322 E 32nd St Tulsa OK  
Signature of Legal Voter Print Name Address City Zip County
3. Leonardo F. Edgardine Wolse Edgardine Wolse 3536 E Admiral Ct Tulsa 74115  
Signature of Legal Voter Print Name Address City Zip County
4. Tami Shores Tami Shores 7344 E Marshall Pl Tulsa 74115 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
5. Amie Foster Amie Foster 5352 E. Zion Tulsa 74115 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
6. Patricia Chaffee Patricia Chaffee 2853 E. 44th Pl Tulsa 74110 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
7. Ruth Miller Ruth Miller 1004 N. Main Sand Springs 74067 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
8. Ashley Whitaker Ashley Whitaker 1027 N Uandalia Ave Tulsa OK  
Signature of Legal Voter Print Name Address City Zip County
9. Barbara Ann Barbara Ann 3202 N. Atlanta Ct Tulsa 74110 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
10. Eileen Cook Eileen Cook 6948 E Newton St Tulsa 74115 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
11. Jacob Morris Jacob Morris 12307 E 17th St Tulsa 74088 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
12. Nicole Williams Nicole Williams 312 W. Norma Sapulpa 74066 Creek  
Signature of Legal Voter Print Name Address City Zip County
13. Gregory Reay Gregory Reay 1212 S 11th E Tulsa OK  
Signature of Legal Voter Print Name Address City Zip County
14. Elvin Cole Elvin Cole 20900 W Hwy 16 Bristow OK  
Signature of Legal Voter Print Name Address City Zip County
15. Kriste Atkins Kriste Atkins 644 N. Xenophon Ave Tulsa OK Tulsa  
Signature of Legal Voter Print Name Address City Zip County
16. Rhyan Greenhaw Rhyan Greenhaw 14608 E 36th St Tulsa 74115 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
17. Jamie Anderson Jamie Anderson 8344 E. Newton Tulsa 74115 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
18. Larry Bauer Larry Bauer 5703 E Admiral Tulsa 74115  
Signature of Legal Voter Print Name Address City Zip County
19. Adrian Leon Adrian Leon 8544 E Newton Tulsa 74115 Tulsa  
Signature of Legal Voter Print Name Address City Zip County
20. John M. Gault John M. Gault 1901 F. H. OXFORD Tulsa 74115 Tulsa  
Signature of Legal Voter Print Name Address City Zip County

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20.  
DW  
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AFFIDAVIT

STATE OF OKLAHOMA )  
                                  )  
COUNTY OF Tulsa ) ss.

I, Leifred Parker, being first duly sworn, say:

That I am at least eighteen (18) years old and that all signatures on the signature sheet were signed in my presence. I believe that each signer has stated his or her name, mailing address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and the County of his residence as stated.

Leifred Parker  
Signature  
345E 92nd Pl  
Address  
Tulsa 74106  
City Zip Code

Subscribed and sworn to before me this 23 day of March, 2016.

Matthew Lewis  
Notary Public  
Address 215 E. 42nd St.  
City Tulsa, OK 74105

My Commission Expires:  
Feb 18, 2020  
My Commission Number:  
18001726



**SIGNATURES**

The gist of the proposition is as follows: This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that these funds not supplant or replace other education funding.

**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.

1. ~~Janie K. Bauer~~ Jenni R. Bauer 6104 W. 14th St. Tulsa 74127 Tulsa
2. ~~Nicholle Coop~~ Nicholle Coop 828 S. Whedding Ave #17 Tulsa, OK
3. ~~Kylee Watajsh~~ Kylee Watajsh 3727 S. Indelicapolis Ave Tulsa, OK 74135 Tulsa
4. ~~Bob Angie~~ Bob Angie 308525 E. 41st St Tulsa 74145 Tulsa
5. ~~Matt Hayes~~ Matt Hayes 6325 S 33rd Ave Tulsa 74132 Tulsa
6. ~~Alexis Humblon~~ Alexis Humblon 1101 Riverside Dr Tulsa OK US TU6
7. ~~Justin Patrick~~ Justin Patrick 520 E 7th St Tulsa, OK
8. ~~Jason Baker~~ Jason Baker Tulsa, OK
9. ~~William Henderson~~ William Henderson 5420 S. 41st W. Ave. Tulsa, Tulsa
10. ~~Janet~~ Janice Holde 1003 N Miami Chedea 74337 Mayas
11. ~~Ramona Winters~~ Ramona Winters 13042 E 16th Pl Apt B 74108 Tulsa, OK Tulsa
12. ~~Christina Parson~~ Christina Parson 1311 S Clarkson Tulsa, OK 74127 Tulsa
13. ~~Christina Parson~~ Christina Parson 4001 W. Fenwick Pl Tulsa, OK Tulsa
14. ~~Sharon~~ Sharon 3211 N. Hartford Ave Tulsa, OK Tulsa
15. ~~Zach David~~ Zach David 8213 N 12th Ave Tulsa, OK Tulsa
16. ~~Michael Radding~~ Michael Radding 302 E. Stadium Rd. Broken Arrow, OK Tulsa
17. ~~Nana Abete~~ Nana Abete 5371 S. 7th Ave Tulsa, OK Tulsa
18. ~~Ron Tracy~~ Ron Tracy 506 N. Chokoma Tulsa, OK Tulsa
19. ~~Bredricks~~ Bredricks 2807 W. Boulder Ave Tulsa 74106 Tulsa
20. ~~Donna Lou~~ Donna Lou 812 S. 1st Tulsa 74106 Tulsa

000002

16  
16

~~JK~~  
~~JK~~  
T-2187

AFFIDAVIT

STATE OF OKLAHOMA )  
                                  )  
                                  ) SS.  
COUNTY OF TULSA)

I, Dirk Escher, being first duly sworn, say:

That I am at least eighteen (18) years old and that all signatures on the signature sheet were signed in my presence. I believe that each signer has stated his or her name, mailing address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and the County of his residence as stated.

Dirk Escher  
Circulator's Signature

6410 S. Yacktown Ave, P.O. Box 703012  
Address

Tulsa OK 74170  
City Zip Code

Subscribed and sworn to before me this 9 day of March, 2016.

My Commission Expires:

Feb 18, 2020

My Commission Number:

18001729



Susannah Rose Pitt  
Notary Public  
3131 Manchester St  
Address  
Catoosa 74015  
City Zip Code

---

# TAB E



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

February 2, 2016

✓ Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98<sup>th</sup> Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2<sup>nd</sup> Street  
Seminole, Oklahoma 74868

Dear Proponent(s):

Per Title 34, Section 8 of the Oklahoma Statutes, no appeals or protests for rehearing have been filed and the period for such has expired, therefore notice is hereby given that the signature gathering period for **State Question Number 779, Initiative Petition Number 403** is set to begin on February 16, 2016 and all signatures are due within ninety (90) days of the date set. Signatures will not be accepted for filing after 5:00 p.m. on May 16, 2016. The current signature requirement for amendments to the Oklahoma Constitution is 123,725.

Please find enclosed two true and accurate copies of said petition on record with the Secretary of State office and a copy of the current signature requirements for statewide petitions as certified by the Secretary of the Oklahoma State Election Board.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or [executivelegislative@sos.ok.gov](mailto:executivelegislative@sos.ok.gov)).

Sincerely

A handwritten signature in black ink that reads "Chris Bengé".

Chris Bengé  
Secretary of State and  
Native American Affairs

---

**TAB F**

## Redline comparing Ballot Title of Initiative Petition 403 with the Gist

---

“This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, ~~to increase~~ high school graduation rates, college and career readiness, and college affordability, improving higher education and career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that ~~monies from the fund~~these funds not supplant or replace other education funding. ~~The Article takes effects on the July 1 after its passage.”~~”

---

**TAB G**



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

April 21, 2016

**FILED**

**APR 21 2016**

**OKLAHOMA SECRETARY  
OF STATE**

Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98<sup>th</sup> Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2<sup>nd</sup> Street  
Seminole, Oklahoma 74868

Dear Proponent(s):

This letter is to acknowledge receipt of 85 boxes containing signature pamphlets filed for State Question 779, Initiative Petition 403. The boxes of petition pamphlets arrived this 21<sup>st</sup> day of April, 2016 at 2:26 PM.

As required by law, the petition boxes have been sealed. Said seals will not be broken until the signature counting process begins. Pursuant to the provisions of Title 34 O.S. Section 8(G), proponents of said petition may terminate the signature circulation period at any time during the ninety-day circulation period by certifying to our office that all signed petitions have been filed, no more petitions are in circulation, and proponents will not circulate any more petitions. If such a certification is received from the proponents, our office will be able to begin the signature counting process.

Also, per Title 34 O.S., Section 4, an individual from the petition drive must be present for the detaching of the signature pages and affidavits during the process of counting and binding the signature sheets. Please refer to the enclosed, "Observer Details" page for further instruction and information regarding such.

If our office may be of any further assistance, please do not hesitate to contact the Executive Legislative Division at (405) 522-4565.

Sincerely,

Chris Bengé  
Secretary of State and  
Native American Affairs

---

TAB H



Chris Benge  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

**RECEIVED**  
RECEPTIONIST

APR 22 2016

ATTORNEY GENERAL

April 22, 2016

**HAND DELIVERED**

The Honorable E. Scott Pruitt  
Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

Dear Attorney General Pruitt:

Pursuant to 34 O.S., § 8(H), the proponents of State Question 779, Initiative Petition 403 have timely filed signed copies of said petition. Per 34 O.S. § 9(D), the proposed ballot title of SQ 779, IP 403 is hereby submitted to you for review as to legal correctness. The enclosed are true and exact copies of the documents on record with our office.

If additional information is needed from this office, or if we may be of further assistance, please do not hesitate to contact us.

Sincerely,

Chris Benge  
Secretary of State and  
Native American Affairs

Enclosures: SQ779, IP403 – Proposed Ballot Title  
SQ779, IP403 – Petition Pamphlet

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# TAB I



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

**FILED**

APR 29 2016

OKLAHOMA SECRETARY  
OF STATE

April 29, 2016

Chris Bengel, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

RE: Ballot Title for State Question No. 779, Initiative Petition No.403

Dear Secretary Bengel:

In accordance with the provisions of 34 O.S. Supp.2015, § 9(D)(1), we have reviewed the Proposed Ballot Title for the above-referenced State Question and conclude that it does **not** comply with applicable laws for the following reason.

It fails to explain in basic words the effect of the proposition because:

1. It fails to explain that the one cent sales and use tax contemplated by the measure will be in addition to the state sales and use tax already levied by the Oklahoma Sales and Use Tax Codes.
2. It suggests that allocated funds will, in part, be used to improve college affordability, when the measure indicates that the funds may be used for college affordability or for otherwise improving higher education. That is, funds may be allocated in whole, in part, or not at all for college affordability.
3. It fails to explain that the increase in teacher salaries as funded by Section 3(A)(1)(b), and as required by Section 4 of the new Article, requires that teacher salaries be raised by at least \$5,000 more than the salaries paid in the year prior to adoption.
4. And, finally, it inaccurately states that it prohibits school districts' use of funds for increasing administrative salaries, when the measure is more limited in that it only prohibits an increase in superintendents' salaries and the addition of superintendent positions.

Having found that the ballot title does not comply with applicable laws, I have, in accordance with the provisions of 34 O.S. Supp.2015, §9(D)(1), prepared the enclosed Preliminary Ballot Title which complies with the law.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, stylized flourish above the name.

E. Scott Pruitt  
Attorney General

ESP/cr

**Preliminary Ballot Title for SQ 779**

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES

\_\_\_\_\_

AGAINST THE PROPOSAL – NO

\_\_\_\_\_

---

# TAB J



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUN 16 2016

MICHAEL S. RICHIE  
CLERK

June 16, 2016

### **HAND DELIVERED**

Chief Justice John Reif  
The Oklahoma Supreme Court  
2100 N. Lincoln Blvd., Suite 1  
Oklahoma City, Oklahoma 73105

**RE: Return on Supreme Court Order 2016 OK 59 – Supreme Court case no. 114,982  
State Question 779, Initiative Petition 403**

Dear Chief Justice Reif:

In accordance with Supreme Court Order 2016 OK 59, I herewith submit to the Court, the enclosed proofs of publication for the *Notice of the Filing of Signatures and the Numerical Sufficiency thereof and the Text of the Preliminary Ballot Title as Rewritten by the Attorney General for State Question 779, Initiative Petition 403*. I also certify that said notice was published Thursday, June 9, 2016 in both THE OKLAHOMAN and TULSA WORLD.

Enclosures:

- a. Oklahoma Press Service - Proof of Publication, Order Number 16-06-22 (*THE OKLAHOMAN*)
- b. Oklahoma Press Service - Proof of Publication, Order Number 16-06-22 (*TULSA WORLD*)

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,

A handwritten signature in black ink that reads "Chris Bengé".

Chris Bengé  
Secretary of State and  
Native American Affairs

# Oklahoma Press Service

3601 North Lincoln Blvd.  
Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Monday, June 13, 2016 02:21 PM

Page 1

## Proof of Publication Order Number 16-06-22

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 06/09/2016

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 Oklahoma governing legal publications.

PUBLICATION FEE \$1,754.82

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
13 day of June 2016.

(Notary Public)



### NOTICE OF THE FILING OF SIGNATURES AND THE NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 779, INITIATIVE PETITION NUMBER 403

NOTICE is hereby given that on April 21, 2016 eighty-five (85) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 779, Initiative Petition 403.

NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 § 8 and the Supreme Court of Oklahoma Order (No. 2016 OK 59), the Court recognizes the certification of the Secretary of State that the petition contains 50,512 signatures. The court further recognizes that the number of signatures necessary to place the measure before the electorate is 123,725, being 15% of the votes cast for the office of Governor at the general election in November 2014. The signatures on the petition appear numerically sufficient.

NOTICE is likewise hereby given that any citizen or citizens of the state may file an objection, relating only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponents of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 §§ 8-11, and such other procedures as may be ordered by the Court.

Proponents of record for State Question 779, Initiative Petition 403:

Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071	Linda Reid 6505 E. 98th St. Tulsa, OK 74135	Melvin Moran 222 N. 2nd St. Seminole, OK 74863
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### PRELIMINARY BALLOT TITLE FOR SQ 779 as rewritten by the Attorney General

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES \_\_\_\_\_  
AGAINST THE PROPOSAL - NO \_\_\_\_\_

DONE, BY ORDER OF THE SUPREME COURT THIS 2nd DAY OF JUNE, 2016.

Chris Benge  
Oklahoma Secretary of State  
and Native American Affairs

Enclosure "A"

# Oklahoma Press Service

3601 North Lincoln Blvd.  
Oklahoma City, OK 73105-  
Voice (405) 499-0020 Fax (405) 499-0048

Monday, June 13, 2016 02:21 PM

Page 1

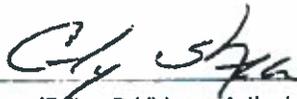
## Proof of Publication Order Number 16-06-22

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 06/09/2016

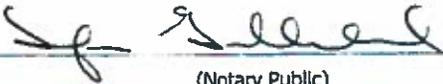
That said newspaper has been published continuously and uninterruptedly in said county during a period of one hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has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

PUBLICATION FEE \$123.48

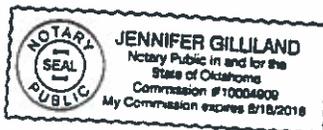


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
13 day of June 2016.



(Notary Public)



### NOTICE OF THE FILING OF SIGNATURES AND THE NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 779, INITIATIVE PETITION NUMBER 403

NOTICE is hereby given that on April 21, 2016 eighty-five (85) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 779, Initiative Petition 403.

NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 § 8 and the Supreme Court of Oklahoma Order No. 2016 OK 59, the Court recognizes the certification of the Secretary of State that the petition contains 301,512 signatures. The court further recognizes that the number of signatures necessary to place the measure before the electorate is 123,725, being 15% of the votes cast for the office of Governor at the general election in November 2014. The signatures on the petition appear numerically sufficient.

NOTICE is likewise, hereby given that any citizen or citizens of the state may file an objection, relating only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponents of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 §§ 8-11, and such other procedures as may be ordered by the Court.

Proponents of record for State Question 779, Initiative Petition 403:

Shawn Sheehan 1037 Shadowlake Rd. Norman, OK 73071	Linda Reid 8505 E. 98th St. Tulsa, OK 74133	Melvin Moran 222 N. 2nd St. Seminole, OK 74868
--	---	--

### PRELIMINARY BALLOT TITLE FOR SQ 779 as rewritten by the Attorney General

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES \_\_\_\_\_  
AGAINST THE PROPOSAL - NO \_\_\_\_\_

DONE, BY ORDER OF THE SUPREME COURT THIS 2nd DAY OF JUNE, 2016.

Chris Bengt  
Oklahoma Secretary of State  
and Native American Affairs

**CERTIFICATE OF HAND DELIVERY AND MAILING**

I hereby certify that a true and accurate copy of the foregoing has been hand delivered on June 16, 2016, to the following party;

The Honorable E. Scott Pruitt  
Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

I also hereby certify that a true and accurate copy of the foregoing, was placed in USPS mail, regular first-class, on June 16, 2016, addressed to the following parties;

Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, Oklahoma 73071

Linda Reid  
8505 E. 98th Street  
Tulsa, Oklahoma 74133

Melvin Moran  
222 N. 2nd Street  
Seminole, Oklahoma 74868

**COUNSEL FOR PROPONENTS**

Melanie Wilson Rughani  
Crowe & Dunlevy  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, Oklahoma 73102



Chris Bengé  
Oklahoma Secretary of State and  
Native American Affairs

---

**TAB K**

REDLINE COMPARING PROPONENT'S PROPOSED BALLOT TITLE  
TO ATTORNEY GENERAL'S PRELIMINARY BALLOT TITLE

~~PROPOSED BALLOT TITLE~~ Preliminary Ballot Title for SQ 779

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. ~~It levies a one cent sales and use tax to~~ To provide revenue for the fund, ~~the state sales and use tax are increased by one cent.~~ It allocates funds for ~~specific institutions and~~ purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, ~~to increase~~ increasing high school graduation rates, and college and career readiness, ~~and college affordability,~~ It also allocates funds for improving higher education ~~and~~ improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for ~~administrative salaries.~~ It provides for an increase in teacher salaries increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other ~~education~~ educational funding. The Article takes ~~effects~~ effect on the July 1 after its passage.

~~Shall the proposal be approved?~~ SHALL THE PROPOSAL BE APPROVED?

For the proposal ~~YES~~ FOR THE PROPOSAL – YES

Against the proposal ~~NO~~ AGAINST THE PROPOSAL – NO

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

---

# TAB L

**SUBSTITUTE BALLOT TITLE OF PETITIONERS,  
DAVE BOND AND OCPA IMPACT, INC.  
PURSUANT TO 34 OKLA. STAT. § 10(A) AND OKLA.SUP.CT.RULE 1.161(e)**

This measure adds a new Article to the Oklahoma Constitution. The Article creates a limited purpose fund to increase funding for public education. It increases sales and use taxes by one percent to provide revenue for the fund. The revenue shall be allocated: 69.50% for common school districts, 19.25% for the institutions under the authority of the Oklahoma State Regents for Higher Education, 3.25% for the Oklahoma Department of Career and Technology Education, and 8% for the State Department of Education. It requires school districts to raise each teacher's salary by at least \$5,000. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. School districts' use of the revenue will be audited annually. The Article does not provide for an audit requirement or salary restriction for the other state institutions which will receive revenue from the fund. The Article requires that monies from the fund not replace other educational funding. If the Board of Equalization determines funding has been replaced, the Legislature may not make any appropriations until the amount of replaced funding is returned to the fund. The Article takes effect on July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL            -    YES    \_\_\_\_\_

AGAINST THE PROPOSAL    -    NO     \_\_\_\_\_

---

**TAB M**

REDLINE COMPARING ATTORNEY GENERAL'S PRELIMINARY BALLOT TITLE  
WITH OCPA IMPACT'S SUBSTITUTE BALLOT TITLE

~~Preliminary Ballot Title for SQ 779~~ SUBSTITUTE BALLOT TITLE OF PETITIONERS,  
DAVE BOND AND OCPA IMPACT, INC.  
PURSUANT TO 34 OKLA. STAT. § 10(A) AND OKLA. SUP. CT. RULE 1.161(e)

This measure adds a new Article to the Oklahoma Constitution. The ~~new~~ Article creates a limited purpose fund to ~~improve~~ increase funding for public education. ~~To provide revenue for the fund, the state~~ It increases sales and use taxes ~~are increased~~ by one ~~cent~~ percent to provide revenue for the fund. ~~It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low income and at risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund.~~ The revenue shall be allocated: 69.50% for common school districts, 19.25% for the institutions under the authority of the Oklahoma State Regents for Higher Education, 3.25% for the Oklahoma Department of Career and Technology Education, and 8% for the State Department of Education. It requires school districts to raise each teacher's salary by at least \$5,000. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. School districts' use of the revenue will be audited annually. The Article does not provide for an audit requirement or salary restriction for the other state institutions which will receive revenue from the fund. ~~It~~ The Article requires that monies from the fund not ~~supplant or~~ replace other educational funding. If the Board of Equalization determines funding has been replaced, the Legislature may not make any appropriations until the amount of replaced funding is returned to the fund. The Article takes effect on ~~the~~ July 1 after its passage.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL            -    YES    \_\_\_\_\_

AGAINST THE PROPOSAL    -    NO     \_\_\_\_\_

---

TAB N



**PRESTON L. DOERFLINGER**  
DIRECTOR  
SECRETARY OF FINANCE, ADMINISTRATION,  
AND INFORMATION TECHNOLOGY

**BRANDY MANEK**  
DIRECTOR  
BUDGET & POLICY

## MEMORANDUM

Date: October 22, 2015

To: Preston L. Doerflinger, Director

From: Budget and Policy staff

Re: Initiative Petition 403

### PRELIMINARY ANALYSIS OF INITIATIVE PETITION 403 LANGUAGE

#### §1. CREATION OF OKLAHOMA EDUCATION IMPROVEMENT FUND –

- This places new language in the Constitution within the section creating and empowering the higher education system and the Board of Regents
  - **Everything else in this language reads as if this should be established as a trust fund, but the details do not fully create it in that way.**

#### §2. LEVY OF ONE CENT SALES TAX AND USE TAX FOR OKLAHOMA EDUCATION IMPROVEMENT FUND

- Levies the additional one cent tax upon all sales not exempted within the current OK Sales Tax Code, from “...gross receipts or gross proceeds of each sale of tangible personal property, **or of other goods and services subject to the sales tax as provided in the Oklahoma Sales Tax Code.**”
  - **This language is slightly different from language in the current sales tax code and would definitely make it inclusive of any tax that might in the future be placed on “services” not currently taxed. This would likely be true in any case without specific limitations.**
- Levies the additional one cent tax upon all sales not exempted within the current OK Use Tax Code
  - **Language is aligned with current law.**
  - States that each of the additional one percent taxes **“shall be in addition to, and shall not supplant” taxes in the current sales tax or use tax codes or “any other (sales or use) tax authorized by Oklahoma law.”**

- Legal review of this language is necessary. It seems to be ensuring that, if some other sales or use taxes were to be enacted outside of the current sales or use tax codes, the one percent could still be applied.
- States that all revenues from the additional one percent “...and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be paid to the State Treasurer and deposited into the Oklahoma Education Improvement Fund.”
  - This is a huge departure from current statutes. Title 68, Section 217(G) states that, “all penalties and interest shall be apportioned as provided for the apportionment of the tax on which such penalties or interest are collected.”
  - Lottery language (Title 3A, Section 713(B)) allows interest earned on the monies to be retained by the fund after the proper percentage has been deposited into the trust fund; however, the fund does not receive penalties of any kind nor does it receive interest on the entire revenue stream. I would expect this to be a nightmare for the Tax Commission in determining what portion of penalties or interest recovered from delinquent payments might be attributable to the additional one percent.
  - If interest from the money in the fund is to remain in the fund, additional language similar to the lottery fund language for investing would be beneficial. Additionally, it should clearly be made a “trust” fund.

§3. ALLOCATION OF MONIES IN OKLAHOMA EDUCATION IMPROVEMENT FUND – PURPOSES – USES – ETC.

- There are no dollar amount caps on the money any entities would receive. The amounts of additional revenues would continue growing beyond legislative control. This presents significant issues that would further restrict state government’s already limited budgetary flexibility. The “non-supplanting” language would heighten the existing dilemma where off-the-top costs increase in perpetuity, with no limitations or authority to adjust other funding proportionately.
- Additionally, in a revenue downturn, these tax proceeds could drop significantly, resulting in less monies available for local districts and entities to maintain appropriate teacher salaries and newly developed programs. There is no provision for this event, while the Lottery statutes (Title 3A, Section 713(F)) includes the following provision:  
 “Except as otherwise provided by this subsection, no deficiency in the Oklahoma Education Lottery Trust Fund shall be replenished by reducing any nonlottery funds, including specifically but without limitation, the General Revenue Fund, the Constitutional Reserve Fund, or the Education Reform Revolving Fund...No program or project started specifically from lottery proceeds shall be continued from the General Revenue Fund, the Constitutional Reserve Fund or the Education Reform Revolving Fund...Such programs must be adjusted or discontinued according to available lottery proceeds unless the Legislature by general law establishes eligibility requirements and appropriates specific funds therefor. It would be preferable if a similar provision were included in this initiative petition.
- A. States that monies in the fund shall be apportioned by **the State Treasurer.**
  - This is confusing because the Treasurer never actually apportions tax collections. The Tax Commission is responsible for that apportionment. It would be preferable if the language stated that the Tax Commission, which would collect these proposed taxes, is to “apportion” that revenue to the newly created fund for allocation by OMES to the entities that are to receive it.



- States that the monies in the fund “...shall be appropriated by the Legislature...”
  - This is good in that it makes it a certified fund and it does not say that all the collections must be appropriated each year. However, if this is just to be a “certified” fund, it should not receive interest – let alone penalties and interest for delinquent payments.
  - Since there is no specific language regarding estimating the fund amounts, and because the language reads “Monies in the...fund” rather than “Monies accruing to the fund,” the language could be interpreted to intend that only cash in the fund could be appropriated, which does not appear to be the intent.
- A.1. Common Education: States that 69.5% of monies in the fund shall be “apportioned among and between all the several common school districts of the State..., on the basis of the state aid formula for common education then in effect.”
  - Monies distributed through the state aid formula are disbursed through the State Department of Education. This language is a bit vague, but could probably suffice for OMES to send monthly allocations to SDE for distribution.
- A.1.(a) Requires that monies from the fund, going to Common Education through the state aid formula be segregated and separately identified from other monies appropriated and apportioned in the same manner.
  - The language is vague and potentially misleading. It states that the 69.5% of monies will be apportioned between all common school districts in proportion to the “school population,” but the state aid formula is calculated based on the Weighted Average Daily Membership (WADM), which, as stated in the name, has varying weights based on the students in attendance each day. The last part of the sentence may resolve the potential for misuse by stating the distribution will be done on the basis of the state aid formula. It would be preferable if the language “school population” was changed to “Weighted Average Daily Membership” for clarity and consistency.
  - In the same section it requires that monies from the Oklahoma Education Improvement Fund be segregated from other monies appropriated to the school districts through the state aid formula. It is not clear if this means SDE, local districts or both. It is important that both SDE and the local districts segregate the funds. The application of this is complicated and needs additional review.
- A.1.(b) Restricts the local school districts to using 86.33% of the additional funds received “...to increase teacher salaries as required by Section 4 of this Article, and to otherwise address and prevent teacher and certified instructional staff shortages in the manner most suited to local district circumstances and needs...”
- A.1.(c) Restricts the local school districts to using the remaining 13.67% of additional funds “to adopt or to expand programs, opportunities, or reforms to improve reading in the early grades, to improve high school graduation rates, and to increase college and career readiness...may not use the amount...to maintain programs, opportunities or reforms established prior to the effective date of this Article...”
- A.1.(d) Requires the State Auditor to “...approve auditors who shall annually audit the use made of the monies distributed to the school districts under this Article...to ensure that it is used only for the purposes specified...”
  - Who will pay for the audits and the additional auditors required?



- The State Auditor could possibly choose to approve a local CPA firm to do the audits, rather than sending his own employees, but there is still no indication as to how the audits would be funded.
- A.2. **Higher Education:** 19.25% of all collections to the fund are to be paid to the “...educational and general operating budgets of the institutions under the authority of the Oklahoma State Regents for Higher Education, for the use in improving college affordability, or otherwise in the improvement of higher education.”
  - No audits or accountability?
- A.3. **Career Technology Education:** 3.25% of collections goes to the Oklahoma Department of Career and Technology Education, “...for use in the improvement of career and technology education.”
  - No audits or accountability?
- A.4. **Early Childhood Education:** 8% of collections goes to the State Department of Education, “...for use in increasing access to and enhancing the quality of voluntary early learning opportunities for low-income and at-risk children prior to entry into the common education system.”
  - No audits or accountability?
- B. Monies used only for the purposes stated in this Article.
- C. States that monies distributed to common school districts may not “...be used to add superintendent positions or increase superintendents’ salaries.”
  - This language excludes superintendent positions and salaries from possible use of the funds, but does not specifically exclude any other nonteaching, administrative positions from receiving funding from this tax. If nonteaching positions were created in relation to any of the programs funded through this tax, this language appears to allow for funding of those nonteaching positions through these tax revenues.

#### §4. INCREASE IN TEACHER SALARIES

- Common school districts receiving the monies must pay each teacher “...a salary at a rate that is at least \$5,000 greater than the salary schedule transmitted by such district in the most recent year prior to the adoption of this Article...”

#### §5. FUNDS NOT TO SUPPLANT OTHER EDUCATION FUNDING

- A. This language is much more restrictive than the language in the lottery provisions. By listing all the individual funds that the monies may not “supplant or replace” and by stating “...and any other appropriations from the Legislature used for educational purposes,” this provision essentially ties the Legislature’s hands and would allow zero flexibility. It would be extremely difficult to reduce appropriations to any of the education entities in the future, regardless of fluctuating needs, other funding stream changes or service level adjustments.
  - This would create additional requirements for the State Board of Equalization meeting since each fund would need to be separately evaluated.
- B. Reinforces and strengthens paragraph A.
- C. Establishes the procedure for the State Board of Equalization to make a finding annually at the February meeting regarding “enhancing” or “supplanting” of education funding.
  - This provision is basically the same as that contained in the lottery statutes and, standing alone, would be much less restrictive.



**PROJECTION FOR 1% SALES AND USE TAX INCREASE  
(UPDATED TO REFLECT OTC COLLECTIONS AND RE-ESTIMATE THROUGH SEPTEMBER 2015)**

**SALES TAX:**

	<b><u>Est Total Apportionment</u></b>	<b><u>Total Est Sales at 4.5%</u></b>	<b><u>Est Additional at 1%</u></b>
FEB ESTIMATE: FY-2016	2,542,624,000	\$56,502,755,556	\$565,027,555.56
SEPT RE-ESTIMATE: FY-2016	2,346,806,000	\$52,151,244,444	\$521,512,444.44

**USE TAX:**

	<b><u>Est Total Apportionment</u></b>	<b><u>Total Est Use at 4.5%</u></b>	<b><u>Est Additional at 1%</u></b>
FEB ESTIMATE: FY-2016	228,576,000	\$5,079,466,667	\$50,794,666.67
SEPT RE-ESTIMATE: FY-2016	218,690,000	\$4,859,777,778	\$48,597,777.78

**TOTAL (SALES+USE):**

	<b><u>Est Total Apportionment</u></b>	<b><u>Total Est Sales &amp; Use at 4.5%</u></b>	<b><u>Est Additional at 1%</u></b>
FEB ESTIMATE: FY-2016	2,771,200,000	61,582,222,222	\$615,822,222.22
SEPT RE-ESTIMATE: FY-2016	2,565,496,000	57,011,022,222	\$570,110,222.22



IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUN 23 2016

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC.,  
AND DAVID BOND,  
PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,  
RESPONDENTS.

No. **#115108**

RECEIVED

JUN 23 2016

OKLAHOMA SECRETARY,  
OF STATE

---

BRIEF IN SUPPORT OF APPLICATION TO ASSUME ORIGINAL  
JURISDICTION AND COMBINED PETITION TO REVIEW THE GIST  
AND BALLOT TITLE OF INITIATIVE PETITION 403

---

ROBERT G. McCAMPBELL, OBA #10390  
TRAVIS V. JETT, OBA #30601

-Of the Firm-

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ATTORNEYS FOR PETITIONERS,  
OCPA IMPACT, INC. AND DAVID BOND

June 23, 2016

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## I. INTRODUCTION

This action is filed by OCPA Impact, Inc. and David Bond (collectively “OCA Impact”) because the gist and ballot title of Initiative Petition 403 (“Petition 403”) are legally flawed. The gist and ballot title fail to explain the effect of Petition 403 as required by law. While the ballot title could be corrected by the Court, Proponents’ failure to circulate the petition with an accurate gist is fatal. Petition 403 must be stricken from the ballot.

*The Gist – Proposition I below.* The gist is misleading for several reasons. One example is the complete omission of the Board of Equalization’s new power to prevent *any* appropriations if it determines education funding has been supplanted by the new tax revenue.

A challenge to the gist after a petition is circulated for signatures is allowed. *In re Initiative Petition 384*, 2007 OK 48, ¶ 13, 164 P.3d 125, 130. This Court has never held that a post-circulation challenge to a gist is untimely. Moreover, the text of Title 34 does not require a challenge to a gist to be lodged pre-circulation. Since the gist is flawed, OCA Impact requests that the Court strike Initiative Petition 403 from the ballot.

*Ballot Title – Proposition II below.* The ballot title is legally insufficient in several ways due to its failure to explain the effect of the proposition and its biased language. This brief describes five specific deficiencies and the solutions to those deficiencies.

## II. SUMMARY OF THE RECORD

The proponents filed Initiative Petition 403 with the Secretary of State on October 21, 2015 and began to collecting signatures on February 16, 2016. (App. at Tab A & E.) The signature sheets included the gist that is at issue in this proceeding. (App. at Tab C & D.)

After circulation, the Secretary of State transmitted the proponent’s proposed ballot title to the Attorney General for review as to legal correctness, and the Attorney General

found that the proponent’s proposed ballot title did not comply with the law. (App. at Tab H & I.) The Secretary of State published notice of the text of the ballot title and the numerical sufficiency of the Petition on June 9, 2016. (App. at Tab J.) The notice provided that any citizen may file an objection to the ballot title “within ten (10) business days of the date of this publication.” (*Id.*) There is no statutory deadline for challenging the gist. *In re Initiative Petition No. 409*, 2016 OK 51, n.10, \_\_\_ P.3d \_\_\_. This petition to review the gist and ballot title has been timely filed.

### III. ARGUMENT AND AUTHORITY.

#### **PROPOSITION I: THE GIST OF THE PETITION IS MISLEADING, AND PETITION 403 SHOULD BE STRICKEN FROM THE BALLOT.**

The Legislature requires that the pamphlet circulated for signatures include a “gist” describing the effect of the measure for those considering whether to sign. “A simple statement of the gist of the proposition shall be printed on the top margin of each signature sheet.” 34 O.S. § 3. The purpose of the gist is to prevent deceit, fraud, and corruption in the initiative process. *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 3.

#### **A. A POST-CIRCULATION GIST CHALLENGE IS APPROPRIATE.**

Petitioners in this proceeding are allowed to challenge the gist. In May, this Court stated that a pre-circulation gist challenge was appropriate but explicitly declined to hold that a post-circulation gist challenge is not allowed. *In re Initiative Petition No. 409*, 2016 OK 51, n.10. A post-circulation challenge is appropriate for several reasons.

*First*, the text of Title 34 does not *require* the gist to be challenged prior to the circulation of the petition. Title 34 *requires* only one type of challenge to be lodged before the circulation of the petition—“a protest as to the constitutionality of the petition.” 34 O.S. § 8(B). The gist requirement is not set forth in the Constitution; it is a statutory requirement.

Okla. Const. art. V, §§ 1–8; *In re Initiative Petition No. 409*, 2016 OK 51, n.7. Furthermore, the gist, which appears on the signature sheets, is not part of the petition. 34 O.S. § 3 (“Each copy of the petition and sheets for signatures is hereinafter termed a pamphlet.”); *In re Initiative Petition No. 397*, 2014 OK 23, ¶ 64, 326 P.3d 496, 518. A challenge to the gist is not a protest to the constitutionality of the petition. The statutes cannot be construed to *require* a challenge to the gist before the circulation of the petition.

Conversely, the other deadlines imposed in Section 8 of Title 34 are post-circulation deadlines to challenge the ballot title and the validity of the signatures. 34 O.S. § 8(I). While a gist challenge has never been construed as a protest to the constitutionality of the petition, ballot title and gist challenges have repeatedly been reviewed in unison by this Court. *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 3; *In re Initiative Petition No. 384*, 2007 OK 48, n.3, 164 P.3d 125; *In re Initiative Petition No. 342*, 1990 OK 76, ¶¶ 11–14, 797 P.2d 331, 333–34. Moreover, the gist is located on the signature sheets, 34 O.S. § 3, and a misleading gist calls into question the validity of the signatures on the petition. Based on the post-circulation deadlines set forth in Title 34 and the recognized relationship between the gist, ballot title, and signature sheets, the statutory text cannot be read to require that a gist challenge can only be brought before circulation of the petition.

*Second*, during the pre-circulation challenge period for Petition 403, citizens were not on notice that gist challenges at that time were appropriate, much less *required*. *In re Initiative Petition No. 409*, 2016 OK 51, was the first decision indicating pre-circulation challenges to the gist were appropriate. Proponents were already circulating this Petition for signatures by the time *In re Initiative Petition No. 409* was decided in May. The statutes do not require gist challenges to be brought prior to circulation, and the notice published by the

Secretary of State prior to circulation invited only protests to the constitutionality of the petition. (App. at Tab J.) The Court should not reject this post-circulation challenge to the gist of this Petition when there was no notice that pre-circulations challenges were required.<sup>1</sup>

*Third*, there is a historical basis for post-circulation gist challenges. From 1985<sup>2</sup> to 2009, all protests to a petition were required to be filed after it was circulated for signatures. Petitions with insufficient gists have been struck down after they had been circulated for signatures on at least three occasions: *In re Initiative Petition No. 384*, 2007 OK 48, ¶ 13, 164 P.3d 125, 130; *In re Initiative Petition No. 344*, 1990 OK 75, 797 P.2d 326; *In re Initiative Petition No. 342*, 1990 OK 76, 797 P.2d 331. In 2009, the Legislature revised the process to require pre-circulation challenges to protest the ballot title and constitutionality of the petition. 2009 Okla. Sess. Laws Ch. 318, § 1 (codified at 34 O.S. § 8(B) (2011)). In 2015, the Legislature again changed the process specifying that challenges as to the constitutionality of the petition would occur before circulation and challenges to the ballot title would occur after circulation of the petition. 2015 Okla. Sess. Laws Ch. 193, § 4 (codified at 34 O.S. §§ 8(B) and 8(I)). Currently, Title 34 is “silent with regard to when a challenge to the gist of the petition must be made.” *In re Initiative Petition No. 409*, 2016 OK 51, n.10. This Court has never determined that a post-circulation challenge was out-of-time. This case should not be the first.

**B. THE GIST OF INITIATIVE PETITION 403 IS LEGALLY INSUFFICIENT.**

The gist of Initiative Petition 403 is legally insufficient. “[T]he gist must explain the

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<sup>1</sup> If the Court decides gist challenges are better suited for pre-circulation determination, it should give its decision prospective effect and analyze this challenge under the same procedure as in *In re Initiative Petition 384*, 2007 OK 48, 164 P.3d 125. This Court has given prospective effect to decisions which were not foreshadowed due to the Court’s previous approval of a legislative procedure. *Johnson v. Walters*, 1991 OK 107, ¶¶ 22, 31, 819 P.2d 694, 668–69; *Campbell v. White*, 1993 OK 89, ¶ 20, 856 P.2d 255, 263.

<sup>2</sup> The gist requirement added to the initiative petition process in 1985. *In re Initiative Petition No. 384*, 2007 OK 48, ¶ 5, 164 P.3d at 128.

proposal's effect" and "should be sufficient that the signatories are at least put on notice of the changes being made . . . ." *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 3.

Ultimately, it must be "free from the taint of misleading terms or deceitful language." *Id.*

**1. The gist omits the Board of Equalization's new power.**

"The biggest problem is the gist's description of the Board of Equalization's power: Initiative Petition No. 403 'requires that monies from the fund not supplant or replace other education funding.'" *In re Initiative Petition No. 403*, 2016 OK 1, ¶ 22, 367 P.3d 472, 486 (Taylor, J., dissenting). Specifically, Section 5(C) of the Petition would allow the Board of Equalization to shut down the entire appropriation process for all of state government if it determines that education funding has been supplanted by the new tax revenue until the limited purpose fund for education has been replenished. Yet, the relevant portion of the gist merely states, "It requires that these funds not supplant or replace other education funding." "The new powers given to the Board of Equalization . . . clearly are not addressed by the one minor sentence in the gist." *In re Initiative Petition No. 403*, 2016 OK 1, ¶ 22, 367 P.3d at 486 (Taylor, J., dissenting). "The gist is easily deceitful to the voters in this respect and must fail." *Id.*; see also *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 8 (Taylor, J., concurring).

*In re Initiative Petition 384*, 2007 OK 48, 164 P.3d 125, addressed a similar issue. Petition 384 required schools to spend 65% their operating expenditures on classroom instruction, but allowed the State Superintendent to grant exemptions or impose sanctions for noncompliance. *Id.* ¶ 3, 164 P.3d at 127. The gist failed to mention the Superintendent's new authority. *Id.* ¶ 11, 164 P.3d at 129. The Court held that the gist was legally insufficient because it "failed to alert potential signatories to the effect the proposed statute would have on the balance of power between local school boards and the state." *Id.* at 129–30. Similarly, Petition 403 fails to alert Oklahomans to the effect the proposition would have on the balance

of power between the executive branch (Board of Equalization) and the legislative branch with regard to appropriations. Consistent with *In re Petition 384*, the gist should be found insufficient in this case.

## **2. Deficiencies in the gist recognized by the Attorney General.**

Three additional deficiencies in the gist have been identified by the Attorney General in his determination on the ballot title. The gist and the ballot title submitted by the proponents of the Petition are nearly identical. (App. at Tab B, C & F.) Both the gist and the ballot title must explain the effect of the proposition. 34 O.S. § 9(B)(2) (The ballot title “[s]hall explain . . . the effect of the proposition . . . .”); *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 3 (“[T]he gist must explain the proposal’s effect.”). The Attorney General determined that the nearly identical language in the ballot title “fails to explain in basic words the effect of the proposition . . . .” (Letter from Attorney General to Sec. of State (Apr. 29, 2016), App. at Tab I.) The Attorney General determined the proposed language:

1. “[F]ails to explain that the one cent sales and use tax contemplated by the measure will be in addition to the state sales and use tax already levied by the Oklahoma Sales and Use Tax Codes;”
2. “[S]uggests that allocated funds will, in part, be used to improve college affordability, when the measure indicates that the funds may be used for college affordability or for otherwise improving higher education. That is, funds may be allocated in whole, in part, or not at all for college affordability;” and
3. “[I]naccurately states that it prohibits school districts’ use of funds for increasing administrative salaries, when the measure is more limited in that it only prohibits an increase in superintendents’ salaries and the addition of superintendent positions.”

## **3. Additional flaws with the gist.**

Finally, in addition to the reasons highlighted by Justice Taylor and the Attorney General, the gist is also legally insufficient for the same reasons the ballot title should be rejected, which are set forth in Proposition II below. (a) The gist is inconsistent with the text

of the actual Petition because the gist indicates that taxes will be increased by “one cent,” but the text indicates that there will be a “one percent” tax increase. (b) The gist omits any discussion of how the funds from the tax increase will be apportioned between common education, higher education, career and technology education, and the Department of Education. (c) The gist’s reference to “improving” public education is argument and advocacy since it is debatable whether the 40% of the funding to be spent on things other than teacher pay will actually improve public education. (d) The gist fails to explain that the audit requirement and salary restrictions for use of the funds apply only to common education and not to higher education, career and technology education, or the Department of Education. Authority and analysis on each of these four issues is set forth in Item 1-4 below.

**C. CONCLUSION**

The gist of this Petition failed to put “signatories ... on notice of the changes being made” and “explain the proposal’s effect.” *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 3. The gist provision is “indispens[a]ble and noncompliance is fatal.” *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 11, 797 P.2d 331, 333. “The gist is not subject to amendment by this Court, and as a result, the only remedy is to strike the petition from the ballot.” *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 7.

**PROPOSITION II: THE BALLOT TITLE IS INSUFFICIENT AND MUST BE REDRAFTED.**

“The right of initiative petition is not absolute. There are limits, both constitutional and statutory, on the process.” *In re Initiative Petition No. 344*, 1990 OK 75, ¶ 14, 797 P.2d 326, 330. Section 9(B) of Title 34 requires that the ballot title:

- 1. “Shall explain in basic words, which can be easily found in dictionaries of general usage, the effect of the proposition;”**

2. “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;” [and]
3. “Shall not reflect partiality in its composition or contain any argument for or against the measure . . . .”

34 O.S. § 9(B)(2)–(4). “The title must reflect the character and purpose of the measure and it must not be deceptive or misleading.” *In re Initiative Petition No. 360*, 1994 OK 97, ¶ 25, 879 P.2d 810, 818. “It must also be free from uncertainty and ambiguity.” *Id.* Ultimately, “the title must be in a form to allow a voter to reach an informed decision on whether to approve or disapprove the measure.” *Id.* “The test is whether the title is couched in such a way that voters are afforded an opportunity to fairly express their will, and whether the question is sufficiently definite to apprise voters with substantial accuracy what they are asked to approve.” *Id.* If a ballot title fails to comply with law, this 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.” 34 O.S. § 10(A).

A. THE BALLOT TITLE IS LEGALLY INSUFFICIENT.

Pursuant to 34 O.S. § 10(A), OCPA Impact has submitted a substitute ballot title, which is attached to the Petition for Review of the Ballot title as required by Okla.Sup.Ct.R. 1.161(e) and complies with 34 O.S. § 9(B). (*See also* App. at Tab L.) A redline comparison between the Attorney General’s Preliminary Ballot Title and OCPA Impact’s Substitute Ballot Title is included in the Appendix at Tab M. The Court should accept OCPA Impact’s Substitute Ballot Title to correct the deficiencies below.

**ITEM 1: The ballot title ignores the Board of Equalization’s new power to prevent the Legislature from appropriating funds.**

<b>OCPA Impact’s proposed revision to Sentence 9:</b>
<b><u>It</u> The Article requires that monies from the fund not <del>supplant or</del> replace other educational funding. <u>If the Board of Equalization determines funding has been replaced, the</u></b>

Legislature may not make any appropriations until the amount of replaced funding is returned to the fund.

The ballot title does not explain the effect of the proposition because it omits any mention to the Board of Equalization's new power to prevent the Legislature from making *any* appropriations if the Board finds that education funding has been supplanted. (Petition 403 § 5(C), App. at Tab A.) In *In re Initiative Petition 342*, 1990 OK 76, 797 P.2d 331, the ballot title of a proposed amendment to the Oklahoma Constitution dealing with corporations was held to be deficient. The ballot title's statement that "[t]he measure also removes from the Constitution various restrictions on business corporations" failed to alert voters that the proposition would repeal the abrogation of the fellow-servant rule, the prohibition on foreign corporations exercising eminent domain, and the prohibition on corporations influencing elections. *Id.* at 333–34. "[T]he ballot title [was] simply insufficient to warn voters of these effects of the petition." *Id.* at 334. Similarly, the declaration that "monies from the fund not supplant or replace other educational funding" in the ballot title in this case is insufficient to warn voters about the new power granted to the Board of Equalization at the cost of the Legislature. This infringement on separation of powers and shift in power from the Legislature to the Board of Equalization is most certainly an "effect" of the Petition that warrants inclusion in the ballot title.

State Question 706 enacted the Lottery Education Fund, which includes a similar nonsupplantation provision (now contained in Okla. Const. art. X, § 41). The ballot title of State Question 706 is perhaps the most obvious demonstration of the flaw in the instant ballot title. During OCPA Impact's constitutional challenge to Initiative Petition 403, the Court pointed to the procedures governing the Lottery Education Fund as support for the non-supplantation provision in this Petition. *In re Initiative Petition No. 403*, 2016 OK 1, ¶ 17,

367 P.3d 472. Unlike the deficient ballot title in this case, the ballot title of State Question 706 adequately apprised the voters of the effect of the non-supplantation provision.

The monies in the trust fund may not be used to replace other state funds used to support education. The State Board of Equalization will determine if any of the monies in the trust fund are being used to replace state funding of education. If such a finding is made, the Legislature may not make any appropriations until the amount of replaced funding is returned to the trust fund.

S.Q. 706, Referendum No. 331 (2004), *available at* <https://www.sos.ok.gov/documents/questions/706.pdf>. The ballot title of State Question 706 allowed voters to make an informed decision because it explained that the State Board of Equalization would be given authority to prevent legislative appropriations until adequate funds were returned to the Lottery Education Fund. On the other hand, the ballot title in this case merely states “that monies from the fund not supplant or replace other educational funding.” The ballot title ignores the nonsupplantation provision found in the Petition and violates 34 O.S. § 9(B)(2). OCPA Impact asks this Court to continue to analogize the Lottery Education Fund and rule that this ballot title must include similar language about the Board of Equalization’s powers.

**ITEM 2: The ballot title’s statement that sales and use tax will be increased by “one cent” is misleading and is inconsistent with the text of the Petition.**

**OCPA Impact’s proposed revision to Sentence 3:**

~~“To provide revenue for the fund, the state~~ It increases sales and use taxes ~~are increased~~ by one ~~cent~~ percent to provide revenue for the fund.”

The current ballot title is inconsistent with the text of the Petition. The ballot title states that the Petition will levy a “one cent” tax increase, but the text of the Petition says the use and sales tax will be increased by “one percent.” Section 2 of the Petition provides:

“There is hereby levied . . . an additional excise tax on the . . . use . . . of such property at the rate of one percent (1.0%) of the purchase price of such property.”

\* \* \*

“There is hereby levied upon all sales . . . an additional excise tax of one percent (1.0%) of the gross receipts . . . of each sale . . . .”

This Court has repeatedly invalidated ballot titles that are inconsistent with the text of the proposition because they fail to explain the effect of the proposition as required by 34 O.S. § 9(B)(2). In *In re Initiative Petition No. 362*, 1995 OK 77, n.2, 899 P.2d 1145, the text of the provision required new property tax increases be approved by 60% of the qualified electors of an assessing jurisdiction *voting at a general election*. The ballot title, however, indicated that property taxes could be raised only when 60% of all voters approved the measure (rather than 60% of those voting). *Id.* at n.1. The Court concluded the ballot title “would fail to inform the electorate” as to the percentage of votes needed to increase property taxes. *Id.* ¶ 4; also *In re Initiative Petition No. 341*, 1990 OK 53, ¶ 21, 796 P.2d 267 (ballot title said Ethics Commission “could also investigate violations” but the text said “[t]he Ethics Commission shall investigate”); *Pierce v. Cartwright*, 1981 OK 151, ¶ 15, 638 P.2d 450, 454 (ballot title said agency would be excepted from operation of congressional redistricting but the text only stated that the act would not affect the operation of such agencies).

Petition 403 says the new tax increase will be a *percentage* of the total purchase, and past ballot titles approved by this Court have expressed tax increases in percentage terms. *In re Initiative Petition No. 362*, 1995 OK 77, ¶ 2, 899 P.2d at 1147. A “one cent” tax would only be paid on the rare occasion that an individual made a purchase of exactly \$1.00. The Court should revise the ballot title to reflect that the Petition will impose a “one percent” tax increase rather than a “one cent” tax.

**ITEM 3:** The ballot title fails to explain the effect of the proposition by omitting how the tax increase will be apportioned among governmental entities.

<b>OCPA Impact’s proposed revision to Sentences 4 &amp; 5:</b>	
<b><u>A.G.’s Proposal:</u></b>	It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also

	allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low income and at-risk children.
<b><u>Petitioner's Proposal:</u></b>	The revenue shall be allocated: 69.50% for common school districts, 19.25% for the institutions under the authority of the Oklahoma State Regents for Higher Education, 3.25% for the Oklahoma Department of Career and Technology Education, and 8% for the State Department of Education.

The ballot title does not explain how the new tax revenue will be distributed among common education, higher education, career and technology education, and the State Department of Education. The distribution of the tax increase is a very significant effect of the proposal and must be included in the ballot title. *See* 34 O.S. § 9(B)(2). The ballot title must also allow voters to make an informed choice. *In re Initiative Petition No. 342*, 1990 OK 76, 797 P.2d at 334. Voters cannot make an informed choice on this half-a-billion dollar tax increase if the ballot title does not reflect how the revenue will be allocated.

The Court rejected the gist of an education funding proposition and indicated the ballot title was similarly flawed in *In re Initiative Petition 384*, 2007 OK 48, n.3, 164 P.3d 125. The description of the petition failed because it simultaneously “contain[ed] too much and not enough” information. *Id.* ¶ 12. It defined some terms “in mind-numbing detail” but failed to define other terms or disclose the additional authority given to the State Superintendent. *Id.* As a result, “a potential signatory . . . did not have sufficient information to make an informed decision about the true nature of the proposed legislation.” *Id.* Similarly, the ballot title at issue here provides several examples of the benefits which will allegedly result (e.g. “increasing high school graduation rates,” “improve reading,” and “increasing access to voluntary early learning opportunities”), but does not describe how much each education agency will receive. Past ballot titles approved by this Court have explicitly outlined the distribution of revenue generated. *In re Initiative Petition No. 363*,

1996 OK 122, n.40, 927 P.2d 558 (“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.”); *see also In re Initiative Petition No. 358*, 1994 OK 27, 870 P.2d 782, 784 (ballot title expressing % allocation of funds was not challenged). The ballot title should be amended to explain how the revenue from this tax increase will actually be allocated.

This is a critically important issue in this particular case. Although there has been much public discussion of the teacher pay raise that would be funded, voters should be apprised of the fact that 30.5% of the funds (estimated at \$174 million in 2016) will not go to common education. (*See* OMES Memorandum (Oct. 22, 2015), App. at Tab N.)

**ITEM 4: The ballot title’s reference to “improving” public education expresses partiality and is an argument for the measure.**

<b>OCPA Impact’s proposed revision to Sentence 2:</b>
The <b>new</b> Article creates a limited purpose fund to <b>improve</b> <u>increase funding for</u> public education.

Pursuant to 34 O.S. § 9(B), the ballot title “[s]hall not reflect partiality in its composition or contain any argument for or against the measure . . . .” The ballot title’s statement that the amendment will “improve” public education expresses partiality. In *In re Initiative Petition No. 360*, 1994 OK 97, ¶ 30, 879 P.2d 810, 820, the Court struck a provision from the proposed ballot title of a term limit proposition that indicated that congressman and senators from other states would be allowed to serve longer terms than Oklahomans. *Id.* ¶ 24, 879 P.2d at 818. Even though the ballot title did not overtly indicate an opinion, the Court still concluded that voters may infer that Oklahoma would be at a competitive disadvantage. *Id.* “We believe such a sentence has no place in this ballot title.” *Id.* ¶ 30, 879 P.2d at 820. “Such possible effects, we believe, are better left for the arguments of the parties in support of or opposition to the proposal when they wage their campaigns

prior to a vote on the measure.” *Id.* ¶ 32; *see also In re Initiative Petition No. 363*, 1996 OK 122, 927 P.2d 558, 569 (revising ballot title to remove misleading statements about legalizing casino gambling in Oklahoma).

The assertion in Petition 403’s ballot title that Petition 403 will “improve” public education is posturing as to the “possible effects . . . better left for the arguments of the parties in support of or opposition to the proposal when they wage their campaigns prior to a vote on the measure.” OCPA Impact does not dispute the 59.99% of funds used to increase teacher pay would improve public education. However, whether or not the remaining funds will improve education will be a central debate in the political campaign if this petition is on the ballot. For example, 30.5% of the funds collected will go to the State Department of Education, the Department of Career and Technology Education, and the institutions of Higher Education. The funds going to these agencies may be used to increase administrative salaries or positions. Whether those funds will actually “improve” education will be the subject of political debate. This Court should not allow the ballot title to take a position in that debate. Further, argument should not be included in the ballot title simply because the proponents included argument when they drafted their Petition. Instead, the ballot title should reflect the actual effect of the petition—to increase funding for public education.

**ITEM 5: The ballot title is misleading because it fails to explain the audit requirement and salary restrictions for revenue generated by the tax.**

<b>OCPA Impact’s proposed revisions to Sentences 7 &amp; 8:</b>
<del>It requires an annual audit of school districts’ use of monies from the fund.</del> It prohibits school districts’ use of these funds for increasing superintendents’ salaries or adding superintendent positions. <u>School districts’ use of the revenue will be audited annually. The Article does not provide for an audit requirement or salary restriction for the other state institutions which will receive revenue from the fund.</u>

Petition 403 does not require an audit of funds allocated to higher education, career and technology education, and the State Department of Education. (Petition 403, §

3(A)(1)(d).) Only funds appropriated for common education are subject to an audit. (*Id.*) Similarly, although school districts cannot spend the funds on a superintendent's salary, there is nothing in Petition 403 to preclude the Department of Career and Technology Education, and the State Department of Education from using the tax increase to fund superintendents' salaries or positions. (*Id.* § 3(C).) The State Department of Career and Technology employs superintendents, O.A.C. 780:15-3-2(a) & 780:15-3-2(k)(2)(A), as does the State Department of Education. 70 O.S. § 1-105; OSDE, <http://sde.ok.gov/sde/sde-divisions/administration>.

Presumably the audit and salary restrictions were included to assure voters that the revenue from the tax increase will be used in the classroom. To make an informed choice, the ballot title must inform voters which entities will and will not be subject to the audit and salary restrictions. See *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 14, 797 P.2d at 334. With the current ballot title, the only way voters can determine which agencies are subject to the restrictions is to obtain a copy of Petition 403, parse its text, and compare it to the ballot title. This demonstrates that the ballot title does not explain the effect of the proposition.

The facts that the funds for school districts will come with a salary restriction and audit requirement is important. The proponents' including those facts in their ballot title demonstrates their importance. OCPA Impact asks only that the voters be informed that the 30.5% of the funds going to other agencies would not have a salary restriction or audit requirement. The voters should be informed when those requirements do and do not apply.

#### IV. CONCLUSION

The Court should find that the gist is flawed and that Petition 403 must be stricken from the ballot. Alternatively, the Court should find that the ballot title is flawed and must be redrafted.

Respectfully submitted,



ROBERT G. MCCAMPBELL, OBA #10390  
TRAVIS V. JETT, OBA #30601

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**ATTORNEYS FOR PETITIONERS,  
OCPA IMPACT, INC. AND DAVID BOND**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of June, 2016, a true and correct copy of the forgoing Brief in Support of Application to Assume Original Jurisdiction and Combined Petition to Review the Gist and Ballot Title of Initiative Petition 403 was served by U.S. Mail, postage prepaid, as follows:

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Roger Stong  
Melanie Wilson Rughani  
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Shawn Sheehan  
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Linda Reid  
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Tulsa, OK 74133

Melvin Moran  
222 N. 2<sup>nd</sup> Street  
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Robert G. McCampbell  
Travis V. Jett

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUN 23 2016

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC.,  
AND DAVID BOND,

PETITIONERS,

v.

SHAWN SHEEHAN, LINDA REID,  
AND MELVIN MORAN,

RESPONDENTS.

#11510 8

No. \_\_\_\_\_

NOTICE OF ORIGINAL JURISDICTION  
SUPREME COURT PROCEEDING

Notice to:

Respondent: Shawn Sheehan  
1037 Shadowlake Rd.  
Norman, OK 73071

Respondent: Linda Reid  
8505 E. 98<sup>th</sup> St.  
Tulsa, OK 74133

Respondent: Melvin Moran  
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Oklahoma City, OK 73102

RECEIVED

JUN 23 2016

OKLAHOMA SECRETARY  
OF STATE

The attached original proceeding has been filed. Dates for response and any oral presentation will be set by order of the Chief Justice.



ROBERT G. MCCAMPBELL, OBA #10390  
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**ATTORNEYS FOR PETITIONERS,  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of June, 2016, a true and correct copy of the forgoing Notice was served by U.S. Mail, postage prepaid, as follows:

Kent Meyers  
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Robert G. McCampbell  
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688659

2016 OK 84  
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUL 18 2016

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC., )  
and DAVID BOND, )

Petitioners, )

vs. )

SHAWN SHEEHAN, LINDA REID, )  
and MELVIN MORAN, )

Respondents. )

No. 115,108

FOR OFFICIAL  
PUBLICATION

RECEIVED  
OK SEC. OF STATE

JUL 19 2016

**ORIGINAL PROCEEDING TO DETERMINE THE SUFFICIENCY OF THE  
GIST AND BALLOT TITLE OF INITIATIVE PETITION NO. 403,  
STATE QUESTION NO. 779**

¶10 The Petitioners filed an original proceeding to challenge the gist of the measure post-circulation and the sufficiency of the Attorney General’s rewritten ballot title. We hold the time for challenging the gist of a measure has expired and we find the Attorney General’s rewritten ballot title to be deficient. We hereby amend the ballot title pursuant to Title 34 O.S. Supp. 2015, § 10.

**APPLICATION TO ASSUME ORIGINAL JURISDICTION IS GRANTED;  
CHALLENGE OF THE GIST IS UNTIMELY; BALLOT TITLE DECLARED  
DEFICIENT AND IS HEREBY AMENDED BY THIS COURT PURSUANT TO  
TITLE 34 O.S. SUPP. 2015, § 10.**

Robert G. McCampbell, and Travis V. Jett, Fellers Snider, P.C., Oklahoma City, Oklahoma, for Petitioners.

D. Kent Meyers, Melanie Wilson Rughani, Paige A. Masters, Crowe & Dunlevy, Oklahoma City, Oklahoma, for Respondents.

Patrick R. Wyrick, Solicitor General, and Mithun S. Mansinghani, Deputy Solicitor General, Office of the Attorney General, Oklahoma City, Oklahoma, for Attorney General.

**COMBS, V.C.J.:**

**FACTS AND PROCEDURAL HISTORY**

¶1 On October 21, 2015, Respondents/Proponents Shawn Sheehan, Linda Reid, and Melvin Moran (Respondents) filed Initiative Petition No. 403 (State Question No. 779), with the Oklahoma Secretary of State. The petition seeks to amend the Oklahoma Constitution by adding a new Article 13–C. The proposed article creates the Oklahoma Education Improvement Fund, designed to provide for the improvement of public education in Oklahoma through an additional one-cent sales and use tax. Funds generated by the one-cent tax would be distributed to public school districts, higher education institutions, career and technology centers, and early childhood education providers for certain educational purposes outlined in the proposed article. Additionally, a percentage of the funds would be used to provide a \$5,000.00 pay raise to all public school teachers. The proposed article delegates oversight and auditing responsibilities to the State Board of Equalization and requires monies allocated from the Fund to be used by the Legislature to enhance and not supplant current public education appropriations. The Respondents’ proposed ballot title reads as follows:

This measure adds a new Article to the Oklahoma Constitution. The new article creates a limited purpose fund to improve public education. It levies a one cent sales and use tax to provide revenue for the fund. It allocates funds for specific institutions and purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, to increase high school graduation rates, college and career readiness, and college affordability, improving higher education and career technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for administrative salaries. It provides for an increase in teacher salaries. It requires that monies from the fund not supplant or replace other education funding. The Article takes effects [sic] on the July 1 after its passage.

Initiative Petition No. 403, Proposed Ballot Title.

¶ 2 On November 12, 2015, Petitioners OCPA, Inc. and David Bond (Petitioners) filed an Application to Assume Original Jurisdiction in this Court. They raised a single constitutional challenge to the initiative measure, arguing the petition is unconstitutional because it violates the one general subject rule of Art. 24, § 1 of the Oklahoma Constitution. After hearing arguments from the parties and upon consideration, this Court assumed original jurisdiction and held on January 12, 2016, the Initiative Petition No. 403 embraces one general subject and did not violate Art. 24, § 1 of the Oklahoma Constitution. *In re Initiative Petition No. 403, State Question No. 779*, 2016 OK 1, 367 P.3d 472. We determined Initiative Petition No. 403 is legally sufficient to submit to the voters of this state, and the proponents of the petition may proceed with the remaining statutory requirements. We also noted, the Petitioners did not challenge the gist of the

measure in that proceeding. *In re Initiative Petition No. 403, State Question No. 779*, 2016 OK 1 at ¶2, n.2.

¶3 Pursuant to 34 O.S. Supp. 2015, § 8, the Secretary of State thereafter set the signature gathering period to begin February 16, 2016, and end at 5:00 p.m. May 16, 2016. The signature requirement at that time was 123,725. The Respondents completed the signature process timely and on April 21, 2016, the Secretary of State notified the Respondents it had received the boxes of pamphlets<sup>1</sup> and set the counting process to begin on April 25, 2016. On April 22, 2016, the Secretary of State, pursuant to 34 O.S. Supp. 2015, § 9 (D), submitted the Respondents' proposed ballot title to the Attorney General. On April 29, 2016, the Attorney General, pursuant to 34 O.S. Supp. 2015, § 9 (D) (1) concluded the proposed ballot title did not comply with applicable laws for the following reasons:

1. It fails to explain that the one cent sales and use tax contemplated by the measure will be in addition to the state sales and use tax already levied by the Oklahoma Sales and Use Tax Codes.

2. It suggests that allocated funds will, in part, be used to improve college affordability, when the measure indicates that the funds may be used for college affordability or for otherwise improving higher education. That is, funds may be allocated in whole, in part, or not at all for college affordability.

3. It fails to explain that the increase in teacher salaries as funded by Section 3(A) (1) (b), and as required by Section 4 of the new Article,

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<sup>1</sup> The "pamphlet" is a combination of the (initiative) petition and the attached sheets for signature. Title 34 O.S. 2011, § 3. The signature sheets are the only place where the gist of the measure is found. *Id.* In fact, 34 O.S. 2011, § 3 is the only section in the Initiative and Referendum statutes (34 O.S. §§ 1-27) that mentions the word "gist."

requires that teacher salaries be raised by at least \$5,000 more than the salaries paid in the year prior to adoption.

4. And, finally, it inaccurately states that it prohibits school districts' use of funds for increasing administrative salaries, when the measure is more limited in that it only prohibits an increase in superintendents' salaries and the addition of superintendent positions.

The Attorney General also submitted his own preliminary ballot title which reads as follows:

This measure adds a new Article to the Oklahoma Constitution. The new Article creates a limited purpose fund to improve public education. To provide revenue for the fund, the state sales and use tax are increased by one cent. It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low-income and at-risk children. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies from the fund. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. The Article takes effect on the July 1 after its passage.

¶4 On May 10, 2016, the Secretary of State, pursuant to 34 O.S. Supp. 2015, § 8 (H), certified the signature count and votes cast for the state office receiving the highest number of votes at the last general election to this Court.<sup>2</sup> On

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<sup>2</sup> On May 27, 2016, the Secretary of State filed a corrected certification with this Court.

June 1, 2016, this Court determined the signatures on the petition appeared to be numerically sufficient. *In re Initiative Petition No. 403, State Question No. 779*, 2016 OK 59, ¶2, \_\_\_P.3d\_\_\_. It was further ordered that pursuant to 34 O.S. Supp. 2015, § 8 (I), the Secretary of State was to publish notification of the filing of Initiative Petition No. 403, State Question No. 779, and the apparent numerical sufficiency of the signatures. *In re Initiative Petition No. 403, State Question No. 779*, 2016 OK 59 at ¶3. In addition, the Secretary of State was ordered to publish the Attorney General’s rewritten ballot title. *Id.* The notice by publication also informed the public that any citizen or citizens may file an objection only relating to the signature count made by the Secretary of State or the preliminary ballot title as rewritten by the Attorney General.<sup>3</sup> On June 23, 2016, Petitioners filed an Application to Assume Original Jurisdiction with this Court to object to both the gist of the measure and the rewritten ballot title.

## ANALYSIS

### **I. Post-Circulation Challenge To The Gist Of The Measure.**

¶5 Petitioners first challenge the sufficiency of the gist of the measure found in the pamphlets already circulated for signatures. They argue it is appropriate for this Court to review the gist post-circulation. We hold that under current law, a post-circulation challenge to the gist of a measure is untimely.

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<sup>3</sup> Title 34 O.S. Supp. 2015, § 8 (I) provides in pertinent part “[a]ny such objection must be filed within ten (10) business days after publication and must relate only to the validity or number of the signatures or a challenge to the ballot title.”

¶6 Petitioners first cite our recent opinion wherein we found that a pre-circulation challenge to the gist of a measure is appropriate. *In re Initiative Petition No. 409, State Question No. 785*, 2016 OK 51, ¶4, n.10, \_\_P.3d\_\_. We noted that although the ballot title review process and challenge must now statutorily come after the circulation period pursuant to 34 O.S. Supp. 2015, § 8, the statute remains silent as to a challenge to the gist of the petition. *In re Initiative Petition No. 409, State Question No. 785*, 2016 OK 51 at ¶4, n.10. However, we determined we need not decide in that opinion whether a post-circulation challenge to the gist of the petition was appropriate. *Id.* That is the question we are presented with today.

¶7 It first should be noted that in all the Initiative and Referendum statutes (34 O.S. § 1-27) the word “gist” only appears in one place, 34 O.S. 2011, § 3. It only provides that the gist of the measure shall be on the signature sheets which are then attached to copies of the petition for “the securing of signatures.” It specifically identifies the signature sheets as being separate from the petition. It refers to the combination of the petition and signature sheets as a “pamphlet” which is what the proponents circulate for signatures. After filing the petition with the Secretary of State pursuant to Title 34 O.S. § 8, citizens are notified they may object to the constitutionality of the petition. However, there is no provision at the pre-circulation stage about filing the gist or a signature sheet with the gist. Nor is

there a specific provision anywhere in these statutes for challenging the gist. Title 34 O.S. Supp. 2015, § 8 (B) provides, at the pre-circulation stage, for only a protest concerning “the constitutionality of the petition.”<sup>4</sup>

¶8 In *In re Initiative Petition No. 409, State Question No. 785*, we determined even though the statutes were silent concerning a challenge to the gist, at least at the pre-circulation stage, it could be challenged because it remains a necessary part of the pamphlet circulated to potential signatories. 2016 OK 51 at ¶4, n.10. A challenge to the gist has historically involved its sufficiency. Here, Petitioners challenge the sufficiency of the gist. In 2009, the legislature amended 34 O.S. § 8 by adding a new subsection (B) which provides in pertinent part “[n]o objection to the sufficiency shall be considered unless it has been made and filed as herein provided, i.e., “within ten (10) business days after publication” [the original publication by the Secretary of State concerning the filing of the petition] (34 O.S. Supp. 2015, § 8 (B)). 2009 Okla. Sess. Laws c. 318, § 1. Under current law, the **sufficiency** of the petition and, by our interpretation as mentioned, the gist, is appropriate only within the time period for filing an objection to the petition (34 O.S. Supp. 2015, § 8 (B)). The ten-day period for filing such objection already expired prior to circulation. This matter is at the post-circulation stage. The only

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<sup>4</sup> Curiously, subsections C and D of 34 O.S. Supp. 2015, § 8, which provide for this Court’s review of the pre-circulation objection, never again mention constitutionality. Subsection C requires this Court to fix a day at which time we will hear testimony and arguments for and against the **sufficiency** (not constitutionality) of the petition (not the gist found on the signature sheets). Subsection D then provides, after such hearing, this Court shall decide whether the petition is in the **form** required by the statutes.

objections authorized at this stage are found in 34 O.S. Supp. 2015, § 8 (I). In 2009, the Legislature amended this subsection, which at the time was subsection (H), to restrict the content of post-circulation objections. 2009 Okla. Sess. Laws c. 318, § 1. Following the 2015 amendments, post-circulation objections must now “relate only to the validity or number of the signatures or a challenge to the ballot title.” 2015 Okla. Sess. Laws c. 193, § 4. This is further proof that the Legislature intended the sufficiency of the petition and/or gist to be unchallengeable post-circulation. Petitioners argue that a misleading gist would be relevant to the “validity” of the signatures. We do not agree. The validity of the signatures concerns only the genuineness of the signatures and does not concern whether a person signing the signature sheet was misled by the gist thereon. That issue is inherently a sufficiency argument that, at the post-circulation stage, has expired.<sup>5</sup>

## **II. Ballot Title Challenge.**

¶9 In addition to the gist of the measure, the Petitioners challenge the

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<sup>5</sup> Petitioners’ frustration is understandable. They are correct in asserting the first publication of notice did not inform anyone about challenging the gist of the measure. Title 34 O.S. § 8 never mentions when a gist may be challenged nor requires any notice for such a challenge. The problem is compounded because 34 O.S. § 8 only requires proponents of an initiative petition to initially file a petition with the Secretary of State prior to circulation. It does not require any signature sheets containing the gist to be filed at the pre-circulation stage. A clearer process would be to require the proponents to also initially file a copy of the gist which will appear on the signature sheets and for the Secretary of State to publish that gist with the initial notice as provided for in 34 O.S. § 8 (B). In addition, provisions should be made for notice allowing objections to the gist and inclusion of the gist in our review of the initial objections. Subsections B, C and D should adequately reflect that an objection may be made and review may be had as to the constitutionality and/or sufficiency of the petition and the gist. Subsection B only indicates a person may initially challenge the constitutionality of the petition yet, as mentioned, strangely subsections C and D only refer to sufficiency and proper form, not constitutionality of the petition.

sufficiency of the rewritten ballot title. The ballot title must reflect the character and purpose of the measure and not be deceptive or misleading. *In re Initiative Petition No. 360, State Question No. 662*, 1994 OK 97, ¶25, 879 P.2d 810. The test is whether it is written so that voters are afforded an opportunity to fairly express their will and whether it apprises voters with substantial accuracy what they are asked to approve. *In re Initiative Petition No. 360, State Question No. 662*, 1994 OK 97 at ¶25. The ballot title shall also not reflect partiality in its composition or contain any argument for or against the measure. Title 34 O.S. Supp. 2015, § 9 (B) (4). After the 2015 amendments to 34 O.S. § 8, a challenge to the ballot title is now only appropriate post-circulation. 2015 Okla. Sess. Laws c. 193, § 4. As mentioned, circulation of the petition has already occurred. The Petitioners have therefore properly presented their challenge to the rewritten ballot title.

¶10 The Petitioners assert five errors in the rewritten ballot title: 1) the ballot title ignores the Board of Equalization's new power to prevent the Legislature from appropriating funds, 2) the ballot title's statement that sales and use tax will be increased by "one cent" is misleading and is inconsistent with the text of the Petition, 3) the ballot title fails to explain the effect of the proposition by omitting how the tax increase will be apportioned among governmental entities, 4) the ballot title's reference to "improving" public education expresses partiality and

is an argument for the measure, and 5) the ballot title is misleading because it fails to explain the audit requirement and salary restrictions for revenue generated by the tax (they base this argument on the fact the proposed Article does not provide auditing requirements for higher education, career and technology education and the State Department of Education and the ballot title does not reflect this fact). The Petitioners propose the following amendments to the rewritten ballot title (underlined text represents added language and strike-through text represents deletions):

This measure adds a new Article to the Oklahoma Constitution. The ~~new~~ Article creates a limited purpose fund to ~~improve~~ increase funding for public education. ~~To provide revenue for the fund, the state~~ It increases sales and use ~~tax~~ taxes are increased by one cent percent to provide revenue for the fund. ~~It allocates funds for purposes related to the improvement of public education, such as increasing teacher salaries, addressing teacher shortages, programs to improve reading in early grades, increasing high school graduation rates, and college and career readiness. It also allocates funds for improving higher education, improving career and technology education, and increasing access to voluntary early learning opportunities for low income and at-risk children.~~ The revenue shall be allocated: 69.50% for common school districts, 19.25% for the institutions under the authority of the Oklahoma State Regents for Higher Education, 3.25% for the Oklahoma Department of Career and Technology Education, and 8% for the State Department of Education. It requires that the teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. ~~It requires an annual audit of school districts' use of monies from the fund.~~ It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. School districts' use of the revenue will be audited annually. The Article does not provide for an audit requirement or salary restriction for the other state institutions

which will receive revenue from the fund. It The Article requires that monies from the fund not supplant or replace other educational funding. If the Board of Equalization determines funding has been replaced, the Legislature may not make any appropriations until the amount of replaced funding is returned to the fund. The Article takes effect on the July 1 after its passage.

¶11 We agree that the ballot title is misleading if it does not mention the Board of Equalization's role in limiting appropriations. In addition, the ballot title should refrain from partiality and should clarify the amount of the sales and use tax as well as its allocation. We do not agree with Petitioners that the ballot title must reflect items that are not provided in the proposed Article. The Petitioners' amendments to the rewritten ballot title, however, exceed the statutory maximum number of words. Title 34 O.S. Supp. 2015, § 9 (B) (1) provides that a ballot title shall not exceed two hundred (200) words. The Petitioners' proposed amended ballot title is two hundred and fourteen (214) words. After considering the briefs and the proposed ballot titles we hereby, pursuant to the authority vested in this Court by 34 O.S. Supp. 2015, § 10 (A)<sup>6</sup>, correct and amend the ballot title to read as follows:

This measure adds a new Article to the Oklahoma Constitution. The article creates a limited purpose fund to increase funding for public

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<sup>6</sup> Title 34 O.S. Supp. 2015, § 10 (A) provides:

A. Any person who is dissatisfied with the wording of a ballot title may, within ten (10) business days after the same is published by the Secretary of State as provided for in subsection I of Section 8 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.

education. It increases State sales and use taxes by one cent per dollar to provide revenue for the fund. The revenue to be used for public education shall be allocated: 69.50% for common school districts, 19.25% for the institutions under the authority of the Oklahoma State Regents for Higher Education, 3.25% for the Oklahoma Department of Career and Technology Education, and 8% for the State Department of Education. It requires teacher salary increases funded by this measure raise teacher salaries by at least \$5,000 over the salaries paid in the year prior to adoption of this measure. It requires an annual audit of school districts' use of monies. It prohibits school districts' use of these funds for increasing superintendents' salaries or adding superintendent positions. It requires that monies from the fund not supplant or replace other educational funding. If the Oklahoma Board of Equalization determines funding has been replaced, the Legislature may not make any appropriations until the amount of replaced funding is returned to the fund. The article takes effect on July 1 after its passage.

### CONCLUSION

¶12 For the foregoing reasons, we grant Petitioners' Application to Assume Original Jurisdiction, deny relief requested concerning the gist of the measure, find the rewritten ballot title deficient, and rewrite the ballot title pursuant to our authority in 34 O.S. Supp. 2015, § 10. Due to the exigencies related to the element of time affecting the situation involved herein, the usual 20-day period allowed by Okla.Sup.Ct.R. 1.13, 12 O.S. 2011, ch. 15, app.1, for the filing of petitions for rehearing generally, is, as applied to this case, reduced to 5 business days from the date of this opinion.

**APPLICATION TO ASSUME ORIGINAL JURISDICTION IS GRANTED;  
CHALLENGE OF THE GIST IS UNTIMELY; BALLOT TITLE DECLARED  
DEFICIENT AND IS HEREBY AMENDED BY THIS COURT PURSUANT TO**

**TITLE 34 O.S. SUPP. 2015, § 10.**

¶13 REIF, C.J., COMBS, V.C.J., KAUGER, WINCHESTER, and TAYLOR (by separate writing), JJ., concur.

¶14 EDMONDSON (by separate writing) and GURICH, JJ., MITCHELL, S.J. and THORNBRUGH, S.J., concur in part and dissent in part.

¶15 WATT and COLBERT, JJ., disqualified.

2016 OK 84

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA JUL 18 2016

OCPA IMPACT, INC., and DAVID BOND )

Petitioners, )

v. ) No. 115,108

SHAWN SHEEHAN, LINDA REID, and )

MELVIN MORAN, )

Respondents. )

MICHAEL S. RICHIE  
CLERK

RECEIVED  
OK SEC. OF STATE  
JUL 19 2016

**EDMONDSON, J., Concur in Part and Dissent in Part, joined by GURICH, J., and MITCHELL, S.J., and THORNBRUGH, S.J.**

¶ 1 I concur with the Court’s treatment of the ballot title but disagree how the challenge to the gist should be adjudicated. I write to explain why the Court is required to address a challenge to the gist of the petition. I conclude that the gist did not create a fraudulent initiative petition process and the matter should proceed with a corrected ballot title.

¶ 2 Prior to 2015, the statutory procedure authorized a person to file objections to proposed law prior to circulation of an initiative petition by filing an objection to the law’s ballot title.<sup>1</sup> An objection to a proposed law based upon its constitutionality could be made after signatures had been collected.<sup>2</sup> The proper time to challenge the gist was not specified by statute.

¶ 3 In 2015 the Legislature specified that a protest raising a constitutional issue

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<sup>1</sup> *In re Initiative Petition No. 397*, 2014 OK 23, 326 P.3d 496.

<sup>2</sup> *In re Initiative Petition No. 382*, 2006 OK 45, 142 P.3d 400.

may be made and heard by the Court prior to collection of signatures.<sup>3</sup> This new legislation also states that an objection made after collection of the signatures “must relate only to validity or number of the signatures or a challenge to the ballot title.”<sup>4</sup> Again, this legislation is silent on the express issue of when a challenge is made to the gist of an initiative petition.

¶ 4 This Court has reviewed a challenge to a gist made in protest proceedings after collection of signatures. For example, we have performed this review in cases from 1990 (three times), 1991 (twice), 1994, 1995, 1996, and 2007.<sup>5</sup> During this period the Court also explained when the Legislature does not amend a statute after the Court’s construction of that statute then such amounts to “legislative acquiescence to that construction.”<sup>6</sup> This principle has remain unchanged and is a current method for understanding legislative intent.<sup>7</sup> If no change had been made in the statutory protest procedures, then the legislative silence would be legislative acquiescence to a procedure

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<sup>3</sup> Laws 2015, c. 193, § 4, (B), (E), emerg. eff. April 28, 2015, amending 34 O.S. 2011 § 8.

<sup>4</sup> Laws 2015, c. 193, § 4, (I), emerg. eff. April 28, 2015, amending 34 O.S. 2011 § 8.

<sup>5</sup> *In re Initiative Petition No. 341*, 1990 OK 53, 796 P.2d 267, 268, 274; *In re Initiative Petition No. 344*, 1990 OK 75, 797 P.2d 326, 329; *In re Initiative Petition No. 342*, 1990 OK 76, 797 P.2d 331, 333; *In re Initiative Petition No. 347*, 1991 OK 55, 813 P.2d 1019, 1028-1029; *In re Initiative Petition No. 348*, 1991 OK 10, 820 P.2d 772, 779 (public docket for Okla. Sup. Ct. No. 76, 277 shows the filing of 64 boxes of signatures with the Court prior to its review); *In re Initiative Petition No. 360*, 1994 OK 97, 879 P.2d 810, 817 (public docket for Okla. Sup. Ct. No. 82,648 shows tabulation of signatures prior to Court’s adjudication); *In re Initiative Petition No. 362*, 1995 OK 77, 899 P.2d 1145 (public docket for Okla. Sup. Ct. No. 84,769 shows tabulation of signatures prior to Court’s adjudication); and *In re Initiative Petition No. 363*, 1996 OK 122, 927 P.2d 558 (public docket for Okla. Sup. Ct. No. 86,375 shows tabulation of signatures prior to Court’s adjudication); *In re Initiative Petition No. 384*, 2007 OK 48, ¶¶ 4-13, 164 P.3d 125.

<sup>6</sup> *R. R. Tway, Inc. v. Oklahoma Tax Com’n*, 1995 OK 129, 910 P.2d 972, 976.

<sup>7</sup> *In re Estate of Dickson*, 2011 OK 96, ¶ 5, 286 P.3d 283, 294, quoting *Owings v. Pool Well Service*, 1992 OK 159, ¶ 8, n. 10, 843 P.2d 380, 382 (“Failure to amend a statute after its judicial construction constitutes legislative acquiescence to that construction. . . ‘Legislative silence, when it has the authority to speak may be considered as an understanding of legislative intent.’”).

allowing a challenge to a gist in proceedings after collection of the signatures.

¶ 5 The issue becomes: in 2015 when the Legislature stated that an objection made after collection of the signatures “must relate only to validity or number of the signatures or a challenge to the ballot title,” was this language a break in legislative silence and the Legislature intended to include challenges made to the gist of an initiative petition as untimely challenges when made after collection of the signatures? The 2015 amendment expressly discusses challenges based upon constitutionality of the proposal, ballot title, and sufficiency of the signatures. The 2015 amendment does not mention challenges to a gist.

¶ 6 Generally, when determining legislative intent we have followed the rule that the mention of one thing in a statute implies exclusion of something else, “*expressio unius est exclusio alterius*,” but application of this rule is not allowed to override a contrary legislative intent<sup>8</sup> or to create an unconstitutional construction of a statute.<sup>9</sup> The purpose of the gist “is to prevent fraud, deceit or corruption in the initiative process.”<sup>10</sup> Our opinions entertaining challenges to a gist recognize a legally cognizable right by a challenger to judicially defeat an initiative petition based upon a legally invalid gist, because

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<sup>8</sup> *In re M.S.*, 2010 OK 46, ¶ 12, 237 P.3d 161, 165, citing *Spiers v. Magnolia Petroleum Co.*, 1951 OK 276, 244 P.2d 852, 856.

<sup>9</sup> *Oklahoma Gas & Electric Co. v. Oklahoma Corp. Com'n*, 1975 OK 15, 543 P.2d 546, 551 (The Court presumes the Legislature has no legislative intent to enact unconstitutional statutes.); *TXO Production Corp. v. Oklahoma Corp. Com'n*, 1992 OK 39, 829 P.2d 964, 968-969 (Legislative intent is upheld by this Court when it adopts a construction of a statute that is consistent with the presumed constitutionality as intended by the Legislature.).

<sup>10</sup> *In re Initiative Petition No. 363*, 1996 OK 122, 927 P.2d 558, 567.

noncompliance with the statutory provision for the gist is fatal to an initiative petition.<sup>11</sup> We have explained “the Legislature has deemed the gist a necessary part of the pamphlet and we are not at liberty to ignore that requirement, since we must presume that the Legislature ‘expressed its intent’ in creating the gist requirement and ‘that it intended what it so expressed.’”<sup>12</sup> Judicial protest challenges to the gist is the method by which this Court does not ignore the requirements set by the Legislature.

¶ 7 In the previous proceeding involving this initiative petition and these parties, this Court declined to determine whether the gist was proper, although three members of this Court examined the gist in a dissenting opinion in proceeding 2016 OK 1. The Court’s opinion takes a statute which is poorly worded on the issue of a challenge to the gist and raises it as a bar to adjudicating the legal propriety of the gist. Twenty years ago this Court explained in the context of a jurisdictional statute that a poorly written statute would not be implemented by this Court in a manner which was a procedural trap for the unwary.<sup>13</sup> The integrity of the judicial process is protected in the present proceeding by affording a judicial remedy to parties seeking to challenge the gist who are seeking to use the remedy recognized by this Court for the previous twenty years. The principle of due process applies to judicial proceedings as well as quasi-judicial proceedings and legislative

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<sup>11</sup> *In re Initiative Petition No. 342*, 1990 OK 76, 797 P.2d 331, 333.

<sup>12</sup> *In re Initiative Petition No. 384*, 2007 OK 48, ¶13, 164 P.3d 125, quoting *TXO Prod. Corp. v. Okla. Corp. Comm’n*, 1992 OK 39, ¶ 7, 829 P.2d 964, 969 and citing *Neer v. State ex rel. Okla. Tax Comm’n*, 1999 OK 41, ¶ 15, 982 P.2d 1071, 1078.

<sup>13</sup> *Bushert v. Hughes*, 1996 OK 21, 912 P.2d 2334, 335.

enactments.<sup>14</sup> Construing the *implication of newly amended statutory language* as requiring challenges to the gist to occur prior to collection of signatures requires making the Court's ruling on this point as prospective as to the parties before the Court.<sup>15</sup> While providing a judicial enforcement mechanism of a "political right" may not be required by due process,<sup>16</sup> this Court has not treated a challenge to a gist as enforcement of a political right, but a legal right possessed by an Oklahoma voter to have fraudulent initiative petitions be judicially disapproved. Public policy favors the integrity and purity of a ballot free from fraud.<sup>17</sup> I would thus construe the legislative intent behind the new language in the 2015 amendment as not changing this Court's recognition of a judicial remedy for voters who want to challenge a gist in an initiative petition.

¶ 8 This Court may, consistent with due process and in the absence of an express statutory procedure, create a legal procedure for the judicial enforcement of a legal

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<sup>14</sup> *Larry Jones Intern. Ministries, Inc. v. Means*, 1997 OK 125, ¶ 9, 946 P.2d 669, 671 ("The constitutional guaranty of due process of law applies to administrative as well as judicial proceedings where such proceedings are quasi-judicial in nature."); *City of Edmond v. Wakefield*, 1975 OK 96, 537 P.2d 1211, 1213 ("state statutes which attempt to take away vested property interests . . . are unconstitutional as violations of due process.").

<sup>15</sup> *Bushert v. Hughes*, 1996 OK 21, 912 P.2d at 335, citing of *Poafpybitty v. Skelly Oil Company*, 1964 OK 162, 394 P.2d 515, 520.

<sup>16</sup> See, e.g., *Toliver v. Thompson*, 2000 OK 98, 17 P.3d 464, ("The judiciary in this State does not create equitable remedies for challenging elections in District Courts for claims based solely upon political rights."); *Macy v. Oklahoma City School District No. 89*, 1998 OK 58, 961 P.2d 804, 807-808 (explaining that private individuals do not possess a legally cognizable interest to challenge the creation of a school district in a quo warranto proceeding).

<sup>17</sup> *Turner v. State Election Bd.*, 1946 OK 169, 169 P.2d 285, 287 (Riley, J., concurring specially) ("The public policy in Oklahoma, as evidenced by constitutional provision and statute, amongst other things, is one to preserve the purity of the ballot and to prevent and punish fraud in elections.").

right<sup>18</sup> by requiring a challenge to a gist to be made prior to circulation of the petition and at the time a challenge to constitutionality is made. But application of such a rule must be predicated upon a proponent filing the official gist with the Secretary of State and that gist actually being used for the circulation. If a gist is not filed in a manner which allows a timely pre-circulation challenge, or a different gist is used during circulation, then a post-circulation judicial challenge to a gist must be allowed. But this newly crafted judicial rule of procedure should not be used against these parties.

¶ 9 Even if the Court determined that the 2015 amendment changed the time to file a challenge to a gist, that statute and this Court's previous order cannot, consistent with due process and fundamental fairness, be used to prevent this Court from providing to these parties a judicial remedy *consistent with the long-established practice of this Court*.

¶ 10 The challenge to the gist must be examined, and upon that examination I find nothing to invalidate the petition. In 1995, we explained: The gist of a proposition, which is required by law to appear at the top of each signature page, need only contain "a simple statement of the gist of the proposition."<sup>19</sup> A gist "need not satisfy the more extensive requirements for ballot titles."<sup>20</sup> We explained: "The gist of a proposition must be short. As

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<sup>18</sup> The Oklahoma Constitution guarantees that all courts "shall be open to every person, and a speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay, or prejudice." Okla. Const. art. 2, § 6.

The Supreme Court does not create election-jurisprudence remedies unknown at common law. *Ethics Commission v. Keating*, 1998 OK 36, n. 2, 958 P.2d 1250. However, the Legislature's long silence and acquiescence to the Court's construction of both the statutory requirement for a gist and a person's right to challenge a gist show a statutory right enforced by a remedy in this Court. See *In re Estate of Dickson*, *supra*, at n. 7, and *R. R. Tway, Inc. v. Oklahoma Tax Com'n*, *supra*, at note 6, and the discussion of legislative acquiescence to the Court's construction of statutes.

<sup>19</sup> *In re Initiative Petition No. 362*, 1995 OK 77, 899 P.2d 1145, 1150.

<sup>20</sup> *In re Initiative Petition No. 362*, 1995 OK 77, 899 P.2d at 1150.

it must appear at the beginning of every page of the petition, it can contain no more than a shorthand explanation of a proposition's terms."<sup>21</sup> As we have previously explained: "The sole question presented for the court's determination is whether the absence of a more detailed gist statement . . . perpetrates a fraud on the signatories."<sup>22</sup> The issue is not whether a more complete or more accurate gist may be crafted, but whether a gist's inaccuracies amount to fraud or deceit: "We will approve the text of a challenged gist if it is free from the taint of misleading terms or deceitful language."<sup>23</sup>

¶ 11 I agree with the petitioners that the gist in this case could be better, but I also agree with respondents that possible practical effects of the proposal are not required to be included in a gist.<sup>24</sup> I find nothing fraudulent in the gist that would mislead voters when compared to the new ballot title as written by the Court.

¶ 12 In conclusion, I would address the challenge to the gist, deny that challenge, and rewrite the ballot title as the Court has done.

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<sup>21</sup> *In re Initiative Petition No. 362*, 1995 OK 77, 899 P.2d at 1150.

<sup>22</sup> *In re Initiative Petition No. 363*, 1996 OK 122, 927 P.2d 558, 567.

<sup>23</sup> *In re Initiative Petition No. 384*, 2007 OK 48, ¶ 8, 164 P.3d 125.

<sup>24</sup> *In re Initiative Petition No. 384*, 2007 OK 48, ¶ 10, 164 P.3d 125

2016 OK 84  
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
JUL 18 2016

MICHAEL S. RICHIE  
CLERK

OCPA IMPACT, INC., )  
and DAVID BOND, )  
 )  
Petitioners, )

v. )

SHAWN SHEEHAN, LINDA REID, )  
and MELVIN MORAN, )  
 )  
Respondents. )

No. 115,108

FOR OFFICIAL PUBLICATION

RECEIVED  
OK SEC. OF STATE  
JUL 19 2016

Taylor, J., with whom Kauger and Winchester, JJ., join, concurring:

¶1 The crucial purpose of the gist and the ballot title is to inform citizens. The information in the gist and the ballot title must be correct, clear, and direct and adequately explain the proposed changes. See 34 O.S.2011, § 3; 34 O.S.Supp. 2015, § 9; *In re Initiative Petition No. 397, State Question 767*, 2014 OK 23, ¶ 50, 326 P.3d 496, 515; *In re Initiative Petition No. 384, State Question 731*, 2007 OK 48, ¶ 7, 164 P.3d 125, 130. Today's majority opinion is an important step in providing correct information to the voters. For that reason, I concur.

¶2 In January, I dissented, joined by Justices Kauger and Winchester, to this Court's opinion finding the petition constitutional and pointed to very serious flaws in the gist and ballot title that were originally proposed. *In re Initiative Petition No. 403, State Question No. 779*, 2016 OK 1, 367 P.3d 472 (Taylor, J., dissenting). I stand by every word of my dissent. Interestingly, the Attorney General also recognized several serious problems with the ballot title and, by inference, problems with the gist. He directed revisions in the ballot title, but it was too late to correct the

misinformation caused by the flawed gist, and the Attorney General did not go far enough.

¶3 I concur with this majority opinion. It recognizes the many flaws with the ballot title, and, by relation, the gist, although it is too late to repair the fatally flawed gist, and properly re-writes the ballot title to a correct legal standard. This opinion insures the right of citizens to be properly informed.

¶4 In the previous dissent, we pointed out that the power granted to the State Board of Equalization was missing from the proposed gist and ballot title. That crucial information should have been there from the start, but it was not. That information is now included in the ballot title and should have been included in the gist.

¶5 I strongly concur with the majority opinion that this proposed one cent per dollar sales tax increase, which is actually a 22% increase in the state sales tax, must be presented in a clear and concise format. All previous descriptions of this proposed state sales tax increase have been very ambiguous. This proposed tax increase is made clear by the re-written ballot title, but too late to inform those who signed the initiative petition.

¶6 It is important that the majority opinion details for the voter the amounts of this proposed tax increase that will be given to each area of education. That is again critical information given to the voter, but not to the signers of the petition.

¶7 The concerns in our previous dissent have been acted upon. The dissent's initial concerns about the information contained, and not contained, in the gist have

been sustained by the Attorney General and now by this majority opinion of our Court. The gist was at the top of each signature sheet that was circulated and signed by thousands of citizens and should have contained the revised language adopted by the majority opinion. The information provided by the gist has been inferentially found by this majority opinion to be flawed. If the information was important enough to be required in the ballot title, it certainly was important enough to have been in the information provided to those citizens who were asked to sign the petition.

¶8 This Court's mission and mandate is to insure that voters are timely, fairly, and fully informed before they undertake the solemn duty of consideration of amendments to our Constitution. For information in a petition's gist to be timely and fair, I would require that the gist be challenged within the same ten day time frame for challenging the constitutionality of a petition. *In re Initiative Petition No. 403, State Question No. 779*, 2016 OK 1, 367 P.3d 472 (Taylor, J., dissenting); *In re Initiative Petition No. 403, State Question No. 779* 2016 OK 59, \_\_\_ P.3d \_\_\_ (Taylor, J., dissenting) (not yet released for publication); see *In re Initiative Petition No. 409, State Question No. 785*, 2016 OK 51, \_\_\_ P.3d \_\_\_ (not yet released for publication). Importantly, this Court's redraft of the ballot title finally presents a fair statement of the proposition's effect. Unfortunately, it is too late to properly inform the initiative petition's signatories, but, with this Court's redraft of the ballot title, voters will have the opportunity to cast an informed vote.



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

July 27, 2016

**RECEIVED**

JUL 27 2016

STATE ELECTION  
BOARD

### **HAND DELIVERED**

The Honorable Paul Zirix  
Secretary, State Election Board  
State Capitol, Room B-6  
Oklahoma City, Oklahoma 73105

**Re: State Question 779, Initiative Petition 403 – Certification of Final Ballot Title**

Dear Secretary Zirix:

In accordance with the provisions of 34 O.S. § 9, I hereby certify that all requirements of said section of law have been met for State Question 779, Initiative Petition 403, and therefore, I herewith transmit to you true and accurate copies of the following on record with this office;

- **State Question 779, Initiative Petition 403**
- **Oklahoma Supreme Court Order 2016 OK 84 \***

\*The Supreme Court's corrected and amended Final Ballot Title for State Question 779 is stated within said order.

If our office may be of any further assistance, please do let us know.

Sincerely,

A handwritten signature in black ink that reads "Chris Bengé".

Chris Bengé  
Secretary of State and  
Native American Affairs



Chris Bengé  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

July 27, 2016



### HAND DELIVERED

The Honorable Mary Fallin  
Governor, State of Oklahoma  
State Capitol, Room 212  
Oklahoma City, Oklahoma 73105

### **Re: State Question 779, Initiative Petition 403 – Certification of Final Ballot Title**

Dear Governor Fallin:

Pursuant to 34 O.S. § 9, the Secretary of State has certified to the State Election Board that all requirements of said section of law have been met for State Question 779, Initiative Petition 403. Therefore, the Secretary of State has transmitted an attested copy of the above referenced measure and an attested copy of Supreme Court Order 2016 OK 84, which contains the Court's corrected and amended Final Ballot Title for State Question 779. Please find enclosed true and accurate copies of the following, on record with the Secretary of State office;

- **SOS transmittal letter to the State Election Board dated July 27, 2016**
- **State Question 779, Initiative Petition 403**
- **Supreme Court Order 2016 OK 84 received by this office July 19, 2016**

If there are any questions, please do not hesitate to contact our office.

Sincerely,

Chris Bengé  
Secretary of State and  
Native American Affairs



*Mary Fallin*  
Governor

**FILED**

AUG 22 2016

OKLAHOMA SECRETARY  
OF STATE

**EXECUTIVE DEPARTMENT  
EXECUTIVE PROCLAMATION**

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I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the provisions of Section 3 of Article V and Section 1 of Article XXIV of the Oklahoma Constitution, Section 12 of Title 34 of the Oklahoma Statutes, and the referral by the Secretary of State, do hereby declare that Initiative Petition Number 403, State Question 779, be submitted to qualified electors of the State of Oklahoma for their approval or rejection at the general election to be held statewide on November 8, 2016.

The substance of the measure is as follows:

This measure creates a new article and new sections to the State Constitution. It creates Article XIII-C of the Oklahoma Constitution and creates Sections 1 through 7. This measure creates a limited purpose fund in the State Treasury to be titled the "Oklahoma Education Improvement Fund." All revenue collected pursuant to the new measure will be collected by the Oklahoma Tax Commission and shall be paid to the State Treasurer and deposited in the Oklahoma Education Improvement Fund. The measure will levy a one percent (1.0%) increase upon the following:

- All gross receipts or gross proceeds as provided by the Oklahoma Sales Tax Code and the Oklahoma Use Tax Code. This will not include exemptions under the Oklahoma Sales Tax Code and the Oklahoma Use Tax Code.

Monies collected shall be apportioned by the State Treasurer, appropriated by the Legislature, and distributed monthly as follows:

- Common Education shall receive 69.5% to be used for increasing teacher salaries and to adopt or expand programs to improve reading in the early grades, to improve graduation rates, and to increase college and career readiness. None of the funds may be used to add superintendent positions or increase superintendent salaries.
- Higher Education shall receive 19.25% to be used to improve college affordability or otherwise to in the improvement of higher education.
- Career and Technology Education shall receive 3.25% to be used to improve career and technology education.
- Early Childhood Education shall receive 8% to be used in increasing access to and enhancing the quality of voluntary early learning opportunities for low-income and at-risk children prior to entry into the common education system.

048230

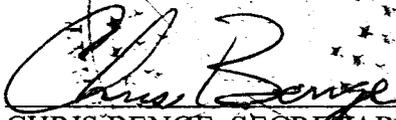
Copies of this Executive Proclamation shall be delivered to the Secretary of State, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of the State Election Board.

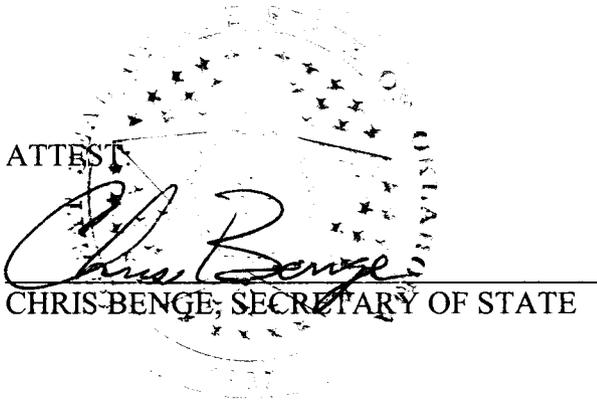
**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 22<sup>nd</sup> day of August, 2016.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

  
\_\_\_\_\_  
MARY FALLIN

ATTEST

  
\_\_\_\_\_  
CHRIS BENGE, SECRETARY OF STATE





# Oklahoma State Election Board

ROOM B-6 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2391

November 17, 2016

**FILED**

NOV 18 2016

OKLAHOMA SECRETARY  
OF STATE

The Honorable Mike Hunter  
Secretary of State  
Room 101, State Capitol  
Oklahoma City, Oklahoma 73105

Dear Secretary Hunter:

Enclosed please find a copy of the official returns of the vote at the General Election on November 8, 2016, on the following measures, as certified to the Governor of the State of Oklahoma.

State Question No. 776, Legislative Referendum No. 367

State Question No. 777, Legislative Referendum No. 368

State Question No. 779, Initiative Petition No. 403

State Question No. 780, Initiative Petition No. 404

State Question No. 781, Initiative Petition No. 405

State Question No. 790, Legislative Referendum No. 369

State Question No. 792, Legislative Referendum No. 370

Sincerely,

PAUL ZIRIAS, Secretary  
State Election Board

PZ/ps

Receipt of the above hereby is acknowledged on this 18<sup>th</sup> day of November, 2016.

By:

Time: 2:00 pm

018343

STATE QUESTION No. 776  
LEGISLATIVE REFERENDUM No. 367

YES: 942,504  
NO: 477,717

STATE QUESTION No. 777  
LEGISLATIVE REFERENDUM No. 368

YES: 569,668  
NO: 864,827

STATE QUESTION No. 779  
INITIATIVE PETITION No. 403

YES: 583,429  
NO: 853,573

STATE QUESTION No. 780  
INITIATIVE PETITION No. 404

YES: 831,123  
NO: 596,070

STATE QUESTION No. 781  
INITIATIVE PETITION No. 405

YES: 795,475  
NO: 619,580

STATE QUESTION No. 790  
LEGISLATIVE REFERENDUM No. 369

YES: 607,482  
NO: 809,254

Secretary Hunter  
November 17, 2016  
Page 3

STATE QUESTION NO. 792  
LEGISLATIVE REFERENDUM NO. 370

YES: 939,848  
NO: 492,422