



Oklahoma  
State  
Senate

# Legislative Brief

Updated October 2004

## Issues Referred to Oklahoma Voters for Approval or Rejection at the 2004 Elections

(see also the list of State Questions compiled by the Secretary of State at  
[http://www.sos.state.ok.us/exec\\_legis/InitListAll.asp](http://www.sos.state.ok.us/exec_legis/InitListAll.asp))

### **Issue: Oklahoma Education Lottery**

**State Question 705**

**Legislative Referendum 330**

**Originating Legislation: HB 1278 (2003)**

**Principal Authors: Representative Ron Kirby, President Pro Tempore Cal Hobson**

**Election Date: November 2, 2004 (subject to proclamation by the Governor)**

**Ballot Title** (as it appears on the Secretary of State web site)

This measure creates the Oklahoma Education Lottery Act. It creates the Oklahoma Lottery Commission. The Commission will be governed by a board of trustees. The Commission will operate a state lottery. The board will write rules regarding the conduct of lottery games. At least 45% of the revenue from ticket sales will be returned as prizes. The net proceeds of the lottery will be used for education purposes. Net proceeds will equal at least 35% of ticket proceeds except for the first two years. The act contains provisions relating to the selection and regulation of retailers. This act would lose the force and effect of law under certain conditions. The act contains many other provisions relating to the conduct of a state lottery.

### **Issue: Education Lottery Trust Fund**

**State Question 706**

**Legislative Referendum 331**

**Originating Legislation: SJR 22 (2003)**

**Principal Authors: President Pro Tempore Cal Hobson, Representative Ron Kirby**

**Election Date: November 2, 2004 (subject to proclamation by the Governor)**

**Ballot Title** (as it appears on the Secretary of State web site)

This measure amends the Oklahoma Constitution. It adds a new Section 41 to Article 10. This measure would create the Oklahoma Education Lottery Trust Fund. The trust fund shall consist of monies from the Oklahoma Education Lottery. The monies of the trust fund may only be used for certain purposes. All of the purposes for which the trust fund may be used relate to education. 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. This measure would only become effective if voters approved the lottery contained in House Bill 1278.

**Issue: Use of Local Revenues****State Question 707****Legislative Referendum 332****Originating Legislation: SJR 12 (2003)****Principal Authors: Senator Angela Monson, Representative Clay Pope****Election Date: November 2, 2004 (subject to proclamation by the Governor)****Ballot Title** *(as it appears on the Secretary of State web site)*

This measure amends Section 6C of Article 10 of the Oklahoma Constitution. The amendment deals with the use of certain city, town and county taxes and fees. When authorized by law, cities, towns or counties can put these taxes and fees to use in three ways. The first use is specific public investments. The second use is aid in development financing. The third use is an income source for other public bodies in the area.

The Legislature can direct the apportionment of these fees and taxes among or between these uses. The amendment allows these apportionments to be prospective. The amendment permits these apportionments to continue from year to year.

The amendment permits cities, towns and counties to pledge taxes and fees beyond the current fiscal year.

The amendment allows cities, towns and counties to pledge taxes and fees to repay the debts of other public entities.

**Issue: Constitutional Reserve (Rainy Day) Fund****State Question 708****Legislative Referendum 333****Originating Legislation: HB 1249 (2003)****Principal Authors: Representative Billy Mitchell, Senator Mike Morgan****Election Date: November 2, 2004 (subject to proclamation by the Governor)****Ballot Title** *(as it appears on the Secretary of State web site)*

This measure amends the Oklahoma Constitution. It amends Section 23 of Article 10. This section involves the Constitutional Reserve Fund also known as the Rainy Day Fund. This measure changes the amount which could be spent from the Rainy Day Fund. The State Board of Equalization would decide if the taxes and state collects each fiscal year will be less than predicted. This is called revenue failure. If this happens, up to three-eighths (3/8) of the Rainy Day Fund could be spent. The total amount spent from the Rainy Day Fund for revenue failure could not exceed the amount of the funds shortage predicted by the State Board of Equalization. The Rainy Day Fund can be used now if the prediction about state tax collections for the current year is less than the prediction made the year before. One-half (1/2) of the Fund can be spent now if this occurs. If this measure passes, that amount would change to three-eighths (3/8). Money can now be spent from the Fund for certain emergencies.

One-half (1/2) of the Fund can now be spend for these emergencies. This measure would change that amount to one quarter (1/4).

**Issue: Definition of Marriage**

**State Question 711**

**Legislative Referendum 334**

**Originating Legislation: HB 2259 (2004)**

**Principal Authors: Representative Mike Wilt, Senator Glen Coffee**

**Election Date: November 2, 2004 (subject to proclamation by the Governor)**

**Ballot Title** (as it appears on the Secretary of State web site)

This measure adds a new section of law to the Constitution. It adds Section 35 to Article 2. It defines marriage to be between one man and one woman. It prohibits giving the benefits of marriage to people who are not married. It provides that same sex marriages in other states are not valid in this state. It makes issuing a marriage license in violation of this section a misdemeanor.

**Issue: State-Tribal Gaming Act**

**State Question 712**

**Legislative Referendum 335**

**Originating Legislation: SB 1252 (2004)**

**Principal Authors: President Pro Tempore Cal Hobson, Speaker Larry Adair**

**Election Date: November 2, 2004 (subject to proclamation by the Governor)**

**Ballot Title** (as it appears on the Secretary of State web site)

This measure enacts the State-Tribal Gaming Act. The Act contains a Model Tribal Gaming Compact. Indian tribes that agree to the Compact can use new types of gaming machines. These machines are used for gambling. Compacting tribes could also offer some card games.

If at least four Indian tribes enter into the Compact, three State licensed racetracks could use the same electronic gaming machines.

The Act limits the number of gaming machines racetracks can use. The Act does not limit the number of machines that Indian tribes can use.

The State Horse Racing Commission would regulate machine gaming at racetracks. A tribal agency would regulate authorized gaming by a tribe. The Office of State Finance would monitor authorized tribal gambling.

Proceeds from authorized gaming at racetracks go to:

1. the racetrack,
2. the owners of winning horses,
3. horsemen's organizations,
4. breed organizations, and

5. the State to be used for educational purposes.

Some of the proceeds from authorized gaming by Indian tribes goes to the State. The State would use these proceeds for educational purposes and compulsive gambling programs.

**Issue: Taxation of Cigarettes and Tobacco Products and Income Tax Changes  
State Question 713**

**Legislative Referendum 336**

**Originating Legislation: HB 2660 (2004)**

**Principal Authors: Speaker Larry Adair, President Pro Tempore Cal Hobson**

**Election Date: November 2, 2004 (subject to proclamation by the Governor)**

**Ballot Title** (as it appears on the Secretary of State web site)

This measure ends sales tax on cigarettes and other tobacco products. The measure places a new tax on cigarettes. This tax will be 4 cents per cigarette. The measure places a new tax on other tobacco products. These taxes begin January 1, 2005.

Some monies from the new taxes will be given to state, county, and local government. Some monies from these taxes will be used for various health-related purposes. These purposes include health care, building a cancer center, trauma care, long-distance medical care, substance abuse, breast cancer, and aid to hospitals and ambulance services.

A committee is created to recommend rules regarding tobacco product taxes.

The measure provides penalties for Indian tribes that break tobacco tax compacts.

The measure makes several income tax changes. It makes the highest Method One individual income tax rate 6.65%. It increases the amount of certain retirement benefits not subject to income tax. It allows certain capital gains of an individual to not be subject to income tax.

The measure sets maximum income levels for individuals making claims under the Sales Tax Relief Act.

The measure makes other changes.

**Issue: Property Taxes for Senior Citizens**

**State Question 714**

**Legislative Referendum 337**

**Originating Legislation: SJR 30 (2004)**

**Principal Authors: Senator Angela Monson, Representative Clay Pope**

**Election Date: November 2, 2004 (subject to proclamation by the Governor)**

**Ballot Title** (as it appears on the Secretary of State web site)

This measure amends the Oklahoma Constitution. It amends Section 8C of Article 10. This measure changes the method for determining the fair cash value of the homestead

of certain heads of household. The change only applies to heads of household who meet two requirements. First, they must be at least 65 years old. Second, their gross household income must meet income level requirements.

This measure changes the income level requirement. At present, to be eligible, the gross household income from all sources must be \$25,000 or below. The amendment changes the qualifying income level. To be eligible under the change, gross household income cannot exceed the area's mean income for the prior year. A federal agency determine these mean income levels. The agency determines mean income levels for counties and metropolitan areas. The State Tax Commission must inform each county assessor of the established mean income levels each year.

### **Issue: Property Taxes for Disabled Veterans and Surviving Spouses**

#### **State Question 715**

#### **Legislative Referendum 338**

#### **Originating Legislation: HJR 1044 (2004)**

#### **Principal Authors: Representative Ray McCarter, Senator Sam Helton**

#### **Election Date: November 2, 2004 (subject to proclamation by the Governor)**

#### **Ballot Title** *(as it appears on the Secretary of State web site)*

This measure amends the Oklahoma Constitution. It adds a new section to Article 10. The new section is Section 8E. The measure creates an exemption from property tax. The exemption would apply to certain injured veterans. The exemption would also apply to veterans' surviving spouses. The exemption would be for the full fair cash value of the homestead. To qualify for the exemption an injured veteran would have to meet several requirements. First, the veteran must have been honorably discharged from a branch of the Armed Forces or the Oklahoma National Guard. Second, the veteran would have to be a State resident. Third, the veteran would have to have a 100% permanent disability. Fourth, the disability would have to have been sustained through military action or accident, or result from a disease contracted while in active service. Fifth, the disability would have to be certified by U.S. Department of Veterans Affairs. Finally, the veteran would have to be otherwise qualified for homestead exemption. The exemption can be claimed beginning January 1, 2006.

Up to four additional State Questions proposed by initiative or referendum petitions may also be placed upon the November 2004 ballot. These are being circulated for signature (as of June 7, 2004), and the ballot titles, as reflected in the petitions filed with the Secretary of State, are as follows:

- State Question 709 (Referendum Petition 23): This measure permits authorized horse tracks, in Oklahoma, to use a limited number of gambling machines similar to those currently in use and to be used in Indian Casinos throughout the state. It also allows recognized tribal governments to contract with the state for fifteen years to use gambling machines and certain card games in addition to what they currently offer. New games would include electronic gambling machines, certain card games and any other game agreed to by the state, which are not currently

- permitted. Both the horse race tracks and the tribal governments would pay a tax or a fee to the state based on the amount of money gambled less expenses;
- State Question 710 (Initiative Petition 370): This measure adds a new Section to Article II of the Oklahoma Constitution. It protects the right of the people to fish, hunt or trap. It also protects the right of the people to work in a job or take part in events that deal with livestock, fowl, birds, fish or other animals;
  - State Question 716 (Initiative Petition 371): The purpose of creating the Oklahoma Grape Resources and Wine Production Act shall be to develop programs that will enhance grape and wine production, research, promote market development and education, improve profitability of Oklahoma grape and wine products, provide for rural economic development and rural cultural preservation, and increase and improve Oklahoma tourism relating to the grape and wine industry, funded through the self assessment of the grape growers and winemakers; and
  - State Question 717 (Initiative Petition 372): This measure amends Section 3 of Article 28 of the State Constitution. Currently, winemakers are required to sell wine they produce to every licensed wholesale distributor who wants to buy the wine. This measure would change that requirement. It would allow winemakers to sell wine they produce to any wholesale distributor. Presently, winemakers may only sell wine produced at the winery to consumers on the premises of the winery. This measure would allow winemakers to receive orders for wine to be delivered or shipped to consumers. The orders may be in written or electronic form.

The Senate staff members listed below may be able to provide further information on the state questions listed in this legislative brief. However, the provisions of Section 16-119 of Title 26 of the Oklahoma Statutes prohibit state officials from directing or authorizing the expenditure of public funds to be used in support of or in opposition to measures being referred to the people for a vote, and provide misdemeanor penalties for offenses. In addition, rules of the Ethics Commission prohibit the use of public funds, property or time to influence the results of a ballot measure. Due to these restrictions, the information on state questions that the Senate staff is able to provide may be limited. Committees raising or expending funds in support of or in opposition to a state question are required to register with the Ethics Commission (<http://www.state.ok.us/~ethics/>).

- State Question 705 and 706: Caroline Dennis, Director of Committee Staff  
Robert Thompson, General Counsel
- State Question 707: Robert Thompson, General Counsel
- State Question 708: Randy Dowell, Director of Fiscal Staff
- State Question 711: Tracy Kersey, Legislative Analyst  
Cheryl Purvis, Staff Attorney
- State Question 712: Robert Thompson, General Counsel

State Question 713: Caroline Dennis, Director of Committee Staff  
Joanie Raff, Legislative Analyst  
Robert Thompson, General Counsel

State Question 714 and 715: Joanie Raff, Legislative Analyst

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