

**ENROLLED SENATE JOINT RESOLUTION 15**  
**ENACTED BY THE FIRST REGULAR SESSION OF THE**  
**53RD LEGISLATURE OF THE STATE OF OKLAHOMA**  
**NUMBERED BY THE SECRETARY OF STATE**

**STATE QUESTION NUMBER 759**  
**LEGISLATIVE REFERENDUM NUMBER 359**

**RECEIVED: May 3, 2011**

# Resolution

ENROLLED SENATE  
JOINT  
RESOLUTION NO. 15

By: Johnson (Rob) and Shortey  
of the Senate

and

Osborn, Jackson,  
Trebilcock, Bennett, Grau,  
Faught, Ritze, Derby, and  
McCullough of the House

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Oklahoma Constitution by adding a new Section 36 to Article II; prohibiting certain preferential treatment or discrimination; stating applicability of act; construing provisions; defining term; providing remedies; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 1ST SESSION OF THE 53RD OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to the Oklahoma Constitution by adding a new Section 36 to Article II to read as follows:

Section 36. A. The state shall not grant preferential treatment to, or discriminate against, any individual or group on the basis of race, color, sex, ethnicity or national origin in the operation of public employment, public education or public contracting.

B. This section shall apply only to action taken after the effective date of this section.

C. Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education or public contracting.

D. Nothing in this section shall be interpreted as invalidating any court order or consent decree that is in force as of the effective date of this section.

E. Nothing in this section shall be interpreted as prohibiting action that must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

F. For the purposes of this section, "state" shall include, but not be limited to, the state itself or an agency, institution, instrumentality, or political subdivision of the state.

G. The remedies available for violations of this section shall be the same, regardless of the injured party's race, color, sex, ethnicity or national origin, as are otherwise available for violations of the antidiscrimination laws of this state.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It adds a new Section 36 to Article II. It will not allow special treatment or discrimination based on race or sex in public employment, education or contracts. It gives exceptions for some situations. It sets out remedies for violations.

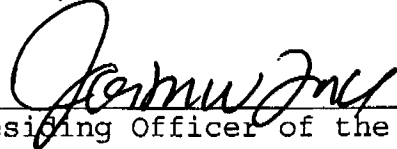
SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES \_\_\_\_\_

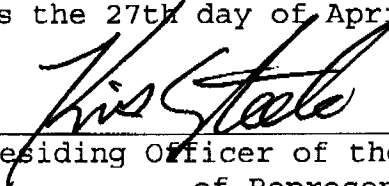
AGAINST THE PROPOSAL - NO \_\_\_\_\_

SECTION 3. The President Pro Tempore of the Senate shall, immediately after the passage of this resolution, prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the Senate the 8th day of March, 2011.

  
\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2011.

  
\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this \_\_\_\_\_

3rd day of May, 20 11,  
at 12:15 o'clock P. M.

By: Michelle R. Dwyer



**OKLAHOMA SECRETARY OF STATE**

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

V. Glenn Coffee  
Secretary of State

Mary Fallin  
Governor

May 3, 2011

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

Dear Attorney General Pruitt:

You are hereby notified that Enrolled Senate Joint Resolution 15 was received in the Office of the Secretary of State this 3<sup>rd</sup> day of May, 2011. This resolution has been designated as **State Question Number 759, Legislative Referendum Number 359.**

Pursuant to 34 O.S., 2010 Supp., Section 9, this office is submitting the proposed ballot title to you for review.

If this office may be of further assistance, please advise.

Sincerely,

A handwritten signature in black ink that reads "Michelle R Day".

Michelle Day  
Assistant Secretary of State

MD/kj



**OKLAHOMA SECRETARY OF STATE**

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

V. Glenn Coffee  
Secretary of State

Mary Fallin  
Governor

May 3, 2011

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


Dear Governor Fallin:

You are hereby notified that Enrolled Senate Joint Resolution 15 was received in the Office of the Secretary of State this 3rd day of May, 2011. This resolution has been designated as **State Question Number 759, Legislative Referendum Number 359.**

This office has submitted the proposed ballot title to the Attorney General for review as required by 34 O.S. 2010 Supp., Section 9. The official ballot title will be submitted to you upon completion of the review.

If this office may be of further assistance, please advise.

Sincerely,

  
Michelle Day  
Assistant Secretary of State

MD/kj

**RECEIVED**

MAY 03 2011

OFFICE OF THE  
GOVERNOR

at 2:43 p.m.  
JRR



**OKLAHOMA SECRETARY OF STATE**

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

V. Glenn Coffee  
Secretary of State

Mary Fallin  
Governor

May 3, 2011

The Honorable Paul Ziriox  
Secretary, State Election Board  
State Capitol, Room 3  
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriox:

You are hereby notified that Enrolled Senate Joint Resolution 15 was received in the Office of the Secretary of State this 3rd day of May, 2011. This resolution has been designated as **State Question Number 759, Legislative Referendum Number 359.**

This office has submitted the proposed ballot title to the Attorney General for review as required by 34 O.S. 2010 Supp., Section 9. The official ballot title will be submitted to you upon completion of the review.

If this office may be of further assistance, please advise.

Sincerely,

A handwritten signature in cursive script that reads "Michelle R Day".

Michelle Day  
Assistant Secretary of State

MD/kj

**RECEIVED**

MAY 03 2011

STATE ELECTION  
BOARD





OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

May 18, 2011

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

The Honorable Brian Bingman  
Senate President Pro Tempore  
State Capitol, Room 422  
2300 N. Lincoln Boulevard  
Oklahoma City, OK 73105

The Honorable Kris Steele  
Speaker of the House of Representatives  
State Capitol, Room 401  
2300 N. Lincoln Boulevard  
Oklahoma City, OK 73105

**FILED**

**MAY 18 2011**

**OKLAHOMA SECRETARY  
OF STATE**

**Re: Preliminary Ballot Title for State Question No. 759, Legislative Referendum No. 359**

Dear Secretary Coffee, Senator Bingman, and Speaker Steele:

Having found that the proposed ballot title for the above referenced state question did not comply with applicable laws, we have, in accordance with the provisions of 34 O.S.Supp.2010, § 9(C), prepared the following Preliminary Ballot Title. As a Title 34 Ballot Title review, the following does not constitute an Attorney General Opinion on the merits or constitutionality of the underlying proposed changes in the law, nor on the ability of federal law to preempt the changes in the law. The Preliminary Ballot Title reads as follows:



## **PRELIMINARY BALLOT TITLE FOR STATE QUESTION NO. 759**

This measure adds a new section to the State Constitution. It adds Section 36 to Article II.

The measure deals with three areas of government action. These areas are employment, education and contracting.

In these areas, the measure does not allow affirmative action programs. Affirmative action programs give preferred treatment based on race, color or gender. They also give preferred treatment based on ethnicity or national origin. Discrimination on these bases is also not permitted.

The measure permits affirmative action in three instances. 1. When gender is a bonafide qualification, it is allowed. 2. Existing court orders and consent decrees that require preferred treatment will continue and can be followed. 3. Affirmative action is allowed when needed to keep or obtain federal funds.

The measure applies to the State and its agencies. It applies to counties, cities and towns. It applies to school districts. It applies to other State subdivisions.

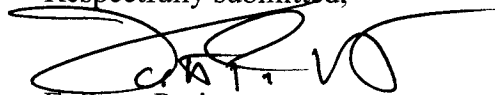
The measure applies only to actions taken after its approval by the people.

### **SHALL THE PROPOSAL BE APPROVED?**

**FOR THE PROPOSAL - YES** \_\_\_\_\_

**AGAINST THE PROPOSAL - NO** \_\_\_\_\_

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Scott Pruitt', is written over a horizontal line.

E. Scott Pruitt  
Attorney General

ESP/ab



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

May 9, 2011

**FILED**

**MAY 10 2011**

**OKLAHOMA SECRETARY  
OF STATE**

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

The Honorable Brian Bingman  
Senate President Pro Tempore  
State Capitol, Room 422  
2300 N. Lincoln Boulevard  
Oklahoma City, OK 73105

The Honorable Kris Steele  
Speaker of the House of Representatives  
State Capitol, Room 401  
2300 N. Lincoln Boulevard  
Oklahoma City, OK 73105

**Re: Ballot Title for State Question No. 759, Legislative Referendum No. 359**

Dear Secretary Coffee, Senator Bingman, and Speaker Steele:

In accordance with the provisions of 34 O.S.Supp.2010, § 9(C), 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 reasons:


It does not adequately explain the **effect** of the proposition because:

- It does not explain that the measure's prohibitions also apply to preferential treatment and discrimination based on color, ethnicity or national origin.
- It does not explain to which entities the measure's prohibitions apply.
- It does not explain that the measure prohibits affirmative action programs.
- It does not explain that the measure allows some limited gender-based qualifications.
- It does not explain that the measure's prohibitions do not apply if special treatment is needed to secure or maintain federal funding.

- It does not explain that the measure allows special treatment to comply with court orders and decrees in force as of the effective date of the measure.

Having found that the Ballot Title does not comply with applicable law, we will, in conformity with the provisions of 34 O.S.Supp.2010, § 9(C), within ten (10) business days, prepare a Preliminary Ballot Title which complies with the law.

Sincerely,



E. SCOTT PRUITT  
ATTORNEY GENERAL

ESP/ab



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

June 3, 2011

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

**FILED**

**JUN 3 2011**

**OKLAHOMA SECRETARY  
OF STATE**

The Honorable Brian Bingman  
Senate President Pro Tempore  
State Capitol, Room 422  
2300 N. Lincoln Boulevard  
Oklahoma City, OK 73105

**RECEIVED**

**JUN 03 2011**

**OKLAHOMA SECRETARY  
OF STATE**

The Honorable Kris Steele  
Speaker of the House of Representatives  
State Capitol, Room 401  
2300 N. Lincoln Boulevard  
Oklahoma City, OK 73105

**Re: Final Ballot Title for State Question No. 759, Legislative Referendum No. 359**

Dear Secretary Coffee, Senator Bingman, and Speaker Steele:

Having found that the proposed ballot title for the above referenced state question did not comply with applicable laws and having heretofore provided a Preliminary Ballot Title, we now, in accordance with the provisions of 34 O.S.Supp.2010, § 9(C), provide the following **Final Ballot Title**. As a Title 34 Ballot Title review, the following does not constitute an Attorney General Opinion on the merits or constitutionality of the underlying proposed changes in the law, nor on the ability of federal law to preempt the changes in the law. The Final Ballot Title reads as follows:

**FINAL BALLOT TITLE FOR STATE QUESTION NO. 759**

This measure adds a new section to the State Constitution. It adds Section 36 to Article II.

The measure deals with three areas of government action. These areas are employment, education and contracting.

In these areas, the measure does not allow affirmative action programs. Affirmative action programs give preferred treatment based on race, color or gender. They also give preferred treatment based on ethnicity or national origin. Discrimination on these bases is also not permitted.

The measure permits affirmative action in three instances. 1. When gender is a bonafide qualification, it is allowed. 2. Existing court orders and consent decrees that require preferred treatment will continue and can be followed. 3. Affirmative action is allowed when needed to keep or obtain federal funds.

The measure applies to the State and its agencies. It applies to counties, cities and towns. It applies to school districts. It applies to other State subdivisions.

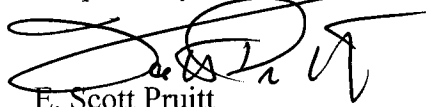
The measure applies only to actions taken after its approval by the people.

**SHALL THE PROPOSAL BE APPROVED?**

**FOR THE PROPOSAL - YES** \_\_\_\_\_

**AGAINST THE PROPOSAL - NO** \_\_\_\_\_

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Scott Pruitt', written over a horizontal line.

E. Scott Pruitt  
Attorney General

ESP/ab



**OKLAHOMA SECRETARY OF STATE**

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OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

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V. Glenn Coffee  
Secretary of State

Mary Fallin  
Governor

June 6, 2011

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

Dear Governor Fallin:

Enclosed are copies of the Attorney General's final review of the proposed Ballot Title for State Question 759, Legislative Referendum 359; the State Question from Senate Joint Resolution 15; and the letter to the Oklahoma State Election Board attesting the measure.

Pursuant to the provisions of Article 24, of the Oklahoma Constitution, Section 1, this office is submitting said state question and the Attorney General's review to your office.

If there are any questions, please do not hesitate to contact this office.

Sincerely,

Michelle Day  
Assistant Secretary of State

MD/kj

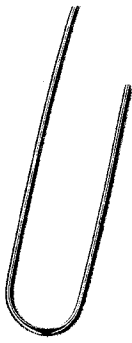
**RECEIVED**

JUN 06 2011

OFFICE OF THE  
GOVERNOR

at 1:40 pm

JRR



**OKLAHOMA SECRETARY OF STATE**

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

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June 6, 2011

The Honorable Paul Ziriox  
Secretary, State Election Board  
State Capitol, Room 3  
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriox:

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If there are any questions, please do not hesitate to contact this office.

Sincerely,

Michelle Day  
Assistant Secretary of State

MD/kj

