Questions abound as tax showdown set for State Supreme Court

The lines are drawn for the next battle in the fight for Oklahoma’s ability to provide funding for education and other vital public services.

On one side, a coalition of public education supporters advocating for allowing $428.5 million in tax increases approved in special session earlier this year in House Bill 1010xx to go into effect.

On the other side, a group of anti-tax advocates fronted by a former congressman and U.S. Senator, who claim, among other things, that elimination of waste, fraud and abuse would sufficiently fund needed spending increases.

At issue in the current battle is whether a petition drive to place the tax hike question before the voters should be allowed to proceed.

Sitting in judgement are members of the Oklahoma Supreme Court. Oral arguments are set to begin at 2 o’clock the afternoon of June 11.

In fact, there are more questions than answer at this point. The hope is that many of them will be answered when the court issues its ruling in the coming days or weeks.

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What is the petition?

The petition filed with the Secretary of State by Oklahoma Taxpayers Unite, the anti-tax group, is a veto referendum as outlined in Article V, Section 3 of the state constitution. It seeks to enact a voter veto of House Bill 1010xx.

Veto referenda have been used numerous times in the state’s history, but not since 1970. It requires the valid signatures of 5 percent of registered voters who participated in the last gubernatorial election, or 41,242, to place a question before the electorate.

The failed attempt to repeal the tax hikes contained in House Bill 1017 in 1990 were done through the initiative petition process, which required the
Guest Commentary
By Tim Allen, Deputy Treasurer for Communications and Program Administration

Savings program launched for Oklahomans with disabilities

On May 31, State Treasurer Ken Miller, accompanied by advocates in the disability community, launched the Oklahoma STABLE Program to allow qualified individuals with disabilities to save and invest money without losing eligibility for public benefit programs, like Medicaid or SSI.

The program, administered by the treasurer’s office, has long been a goal of those in the disability community and we are excited by the opportunities it offers.

It is a model of efficiency in state government as no additional public funds were provided – or needed – to get it established.

Oklahoma STABLE is made possible by the federal Achieving a Better Life Experience “ABLE” ACT passed by Congress in 2014 and enabling legislation passed here in 2016.

Oklahoma STABLE accounts are similar to a 529 college savings account or 401(k) retirement plan and can work alongside Special Needs Trusts. They can also function like a regular checking account.

Great benefits
Oklahoma STABLE accounts provide financial independence and empowerment for individuals with disabilities by dramatically increasing the ability to save and invest.

“IT IS A MODEL OF EFFICIENCY IN STATE GOVERNMENT AS NO ADDITIONAL PUBLIC FUNDS WERE PROVIDED – OR NEEDED – TO GET IT ESTABLISHED.”

Sarah Soell, the executive director of the Down Syndrome Association of Central Oklahoma, who helped us launch the program, calls Oklahoma STABLE “truly life-changing.”

I believe she’s absolutely right.

Before, people with disabilities could only save $2,000 before losing needs-based benefits.

Now, Oklahoma STABLE allows those with disabilities to save and invest up to $15,000 a year without affecting eligibility for certain public benefits programs.

The funds can be used on Qualified Disability expenses, including education, housing transportation, health care, assistive technology, employment needs, and basic living expenses.

Earnings on an Oklahoma STABLE account grow tax-free and are not subject to federal or state income tax, so long as they are spent on Qualified Disability Expenses.

Who’s eligible?
An eligible individual is someone whose disability began before the age of 26, has been living with their disability for at least a year, or expects their disability to last for at least a year.

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An individual must also do one of the following: 1. Be eligible for SSI or SSDI; 2. Have a condition listed on the Social Security Administration’s Life of Compassionate Allowances Conditions; or 3. Self-certify their diagnosis.

A quick and easy eligibility survey can be found on the plan’s website, okstable.org, to help you learn more.

Debit card available

The STABLE Card is a debit card participants can use to easily use money from an Oklahoma STABLE account. It is available at no cost to all account holders.

The STABLE Card is a loadable prepaid debit card. It does not pull money directly from the account to better protect spending. The card is accepted anywhere MasterCard is used.

Getting started

An Oklahoma STABLE account can be opened by a qualifying person with a disability, the parent or legal guardian of an eligible individual, or by a designated Power of Attorney.

Online enrollment is free and participants will need to deposit a minimum of $50 to open an account.

Account setup and enrollment is all done online at okstable.org, so no trips to the bank are necessary.

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signatures of more voters – 8 percent.

Is the petition valid?

This is the primary question before the court on Monday.

Two challenges are pending before the court. The first was filed by Professional Educators of Oklahoma and the other by a broad-based coalition of public education supporters, including the Oklahoma Education Association, Oklahoma State School Boards Association, and Oklahoma PTA.

Each group raises numerous challenges to the petition’s validity, including specific wording of the document and whether this method for repeal is appropriate.

Briefs in support and in opposition to the challenges can be found on the home page of the state courts network at www.oscn.net.

Oklahoma Taxpayers Unite is already circulating the petition for voters to sign. Should the court rule the petition valid, efforts already underway would presumably continue unabated.

However, should the court order changes in the petition, under the constitutional provisions governing voter referenda, the petitions would still be due 90 days following adjournment of the second special session – July 18.

In addition, if and when the petitions are filed with the state, new challenges can be made to the validity of the signatures on them.

Attorney general, what say you?

Attorney General Mike Hunter’s office has filed responses in both challenges

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to the voter referendum.

However, responses are pending from two opinion requests – one from State Superintendent of Public Instruction Joy Hofmeister and the other from the Oklahoma Tax Commission.

In summary, the attorney general’s briefs to the supreme court are generally supportive of the efforts of Oklahoma Taxpayers Unite.

Hofmeister’s three-page opinion request asks 11 specific questions relating to, among other things, specific implementation and timing of the teacher pay increases.

The tax commission asks for direction on if and when to collect the taxes raised by HB 1010xx.

To collect or not to collect?
While the ruling of the court is pending, as is a formal opinion from the attorney general, the tax commission is moving forward with putting the infrastructure in place to begin collecting the new taxes effective July 1.

Those new taxes include a $1 per pack increase for cigarettes and a like increase for little cigars, a 5 percent gross production tax rate on new oil and gas wells started after July 1, three additional cents per gallon on gasoline, and six more cents per gallon on diesel fuel.

Should the petition be ruled valid and should it be filed on time with sufficient valid signatures – and should the court agree – collection of the taxes would be suspended at that time.

Only if the voters ratify the tax hikes would the taxes again be collected.

And therein lies another potential challenge, as in potential problem.

Whither government funding
The FY-19 budget, which begins July 1, 2018, is built around the expected new revenue from the tax hikes.

Should collection of the new revenue be halted on or around July 18 when the voter referendum petition is due back with the Secretary of State, it will likely lead to a constitutional revenue failure and trigger across-the-board cuts to all appropriated state agencies – even if the new taxes are later approved by the voters.

This situation would occur because the revenue raised by House Bill 1010xx would flow to the General Revenue Fund (GRF), not specifically to pay increases for teachers.

The size and duration of any mandatory spending cuts is not known at this time, but the funds at issue amount to roughly 6.5 percent of total FY-19 GRF appropriations.

The timing and amount would be at the call of the Office of Management and Enterprise Services.

To pay or not to pay?
The teacher pay raises are made in House Bill 1023xx, and it contains a section that in essence says the pay hikes aren’t effective unless the tax hikes are enacted.

In his filings with the supreme court, the attorney general says the raises are good to go, regardless of what happens with the voter veto effort. However, that’s not the same as a formal opinion, so the question remains up in the air.

If and when voters will have their say?
Should all of the hurdles be cleared and the question, which would be known as State Question 799, be presented to voters, the most likely date for the election would be the general election on November 6.

It is possible, but not likely, a vote could be held during the run off election on August 28 or at a special election set for sometime between the end of August and the general election.

With so many questions remaining, the future is anything but certain at this time. Answer will come in due time and one thing is for certain – things are bound to get interesting.
May Gross Receipts to the Treasury reach record high

At $970.9 million, May Gross Receipts to the Treasury are a record high for May collections, State Treasurer Ken Miller announced today.

In addition, total gross receipts during the past 12 months, at $12.09 billion, are within $14 million of matching the all-time 12-month high.

Miller said the May report on gross receipts, which provides a broad reflection of state economic activity, is good news for Oklahoma.

“As has been the case each month for more than a year, Oklahoma’s economy is showing signs of ongoing expansion,” Miller said. “In just the past 14 months, since 12-month collections last bottomed out, gross receipts have grown by more than $1.3 billion, an increase of $1.3 billion, an increase.”

SEE REVENUE PAGE 6

April Gross Receipts to the Treasury & General Revenue compared

April Gross Receipts to the Treasury totalled $1.4 billion, while the General Revenue Fund (GRF), as reported by the Office of Management and Enterprise Services, received $764.3 million, or 54.5%, of the total.

The GRF received between 33.5% and 54.5% of monthly gross receipts during the past 12 months.

From April gross receipts, the GRF received:

- Individual income tax: 62.6%
- Corporate income tax: 66.3%
- Sales tax: 46.1%
- Gross production-Gas: 76.6%
- Gross production-Oil: 38.6%
- Motor vehicle tax: 28.1%
- Other sources: 46.3%

April GRF allocations were above the estimate by 14 percent. Fiscal-year-to-date collections are ahead of the estimate by 5.2 percent.

April insurance premium taxes totaled $52.3 million, an increase of $1.4 million, or 2.8%, from the prior year.

Tribal gaming fees generated $13.4 million during the month, up by $1.1 million, or 8.6%, from April 2017.

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Monthly Gross Receipts vs. Prior Year

<table>
<thead>
<tr>
<th>Monthly Gross Receipts vs. Prior Year</th>
<th>May-17</th>
<th>May-18</th>
<th>Variance From Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Tax</td>
<td>268.1</td>
<td>281.8</td>
<td>13.7</td>
</tr>
<tr>
<td>Gross Production</td>
<td>38.8</td>
<td>74.1</td>
<td>35.3</td>
</tr>
<tr>
<td>Sales Tax (1)</td>
<td>348.5</td>
<td>391.1</td>
<td>42.6</td>
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<tr>
<td>Motor Vehicle</td>
<td>65.3</td>
<td>69.7</td>
<td>4.5</td>
</tr>
<tr>
<td>Other Sources (2)</td>
<td>134.2</td>
<td>154.2</td>
<td>20.0</td>
</tr>
<tr>
<td>TOTAL REVENUE</td>
<td>854.8</td>
<td>970.9</td>
<td>116.0</td>
</tr>
</tbody>
</table>

Dollar change (in millions) from prior year Source: Office of the State Treasurer
Revenue
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of more than 12 percent.”

The record high for 12-month collections was set in February 2015 at $12.103 billion.

At the end of May, 12-month collections were set at $12.09 billion, below the record by $13.7 million, or 0.11 percent.

May’s gross total, at $970.9 million, exceeds all previous May totals since the treasurer’s office began tracking gross receipts.

The monthly and 12-month reports show growth in all major revenue streams.

New revenue collections
The tax commission attributes $33.8 million in May to new revenue resulting from legislation enacted during 2017. The additional revenue comes primarily from changes in sales tax exemptions and gross production tax incentives.

The new revenue accounts for 3.5 percent of May gross receipts. Out of $10.1 billion in gross collections since last August, $274.7 million, or 2.7 percent, has resulted from last year’s law changes.

May collections
May gross collections total $970.9 million, up $116 million, or 13.6 percent, from May 2017.

Gross income tax collections, a combination of individual and corporate income taxes, generated $281.8 million, an increase of $13.7 million, or 5.1 percent, from the previous May.

Individual income tax collections for the month are $255.9 million, up by $18.1 million, or 7.6 percent, from the prior year. Corporate collections are $25.9 million, a decrease of $4.5 million, or 14.7 percent.

Sales tax collections, including remittances on behalf of cities and counties, total $391.1 million in May. That is $42.6 million, or 12.2 percent, more than May 2017.

Gross production taxes on oil and natural gas generated $74.1 million in May, an increase of $35.3 million, or 91 percent, from last May. Compared to April reports, gross production

Other indicators
The Oklahoma Business Conditions Index has topped growth neutral for 10 consecutive months. The May index rose to 68.5, from 62.7 in April. Numbers above 50 indicate anticipated economic growth during the next three to six months.

May collections
May gross collections total $970.9 million, up $116 million, or 13.6 percent, from May 2017.

“Tax increases signed into law in late March of this year have not yet taken effect and therefore have no impact on current collections.”

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**Revenue**

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collections are up by $13.4 million, or 22.1 percent.

Motor vehicle taxes produced $69.7 million, up by $4.5 million, or 6.8 percent, from the same month of 2017.

Other collections, consisting of about 60 different sources including use taxes, along with taxes on fuel, tobacco, and alcoholic beverages, produced $154.2 million during the month. That is $20 million, or 14.9 percent, more than last May.

**Twelve month collections**

Gross revenue totals $12.09 billion from the past 12 months. That is $1.2 billion, or 11.2 percent, more than collections from the previous 12 months.

Gross income taxes generated $4.2 billion for the period, reflecting an increase of $335 million, or 8.6 percent, from the prior 12 months.

Individual income tax collections total $3.8 billion, up by $274.5 million, or 7.8 percent, from the prior 12 months. Corporate collections are $459.9 million for the period, an increase of $60.5 million, or 15.1 percent, over the previous period.

Sales taxes for the 12 months generated $4.6 billion, an increase of $439.2 million, or 10.5 percent, from the prior period.

Oil and gas gross production tax collections brought in $673.5 million during the 12 months, up by $246.9 million, or 57.9 percent, from the previous period.

Motor vehicle collections total $770.5 million for the period. This is an increase of $20.4 million, or 2.7 percent, from the trailing period.

Other sources generated $1.8 billion, up by $177.7 million, or 11.2 percent, from the previous year.

**About Gross Receipts to the Treasury**

The Office of the State Treasurer has issued the monthly Gross Receipts to the Treasury report since March 2011 to provide a timely and broad view of the state’s macro economy.

It is released in conjunction with the General Revenue Fund allocation report from the Office of Management and Enterprise Services, which provides important information to state agencies for budgetary planning purposes.

The General Revenue Fund receives less than half of the state’s gross receipts with the remainder paid in rebates and refunds, remitted to cities and counties, and placed into off-the-top earmarks to other state funds.

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**Oklahoma jobless rate steady but higher than U.S. rate**

Oklahoma’s seasonally-adjusted unemployment rate in April was unchanged from the prior month at 4.0 percent, while the U.S. jobless rate dropped to 3.9 percent, two-tenths of a percentage point from March, according to figures released by the Oklahoma Employment Security Commission.

It marks only the third time since October 1990 that Oklahoma’s jobless rate has been higher than the U.S. rate. The last time U.S. unemployment was as low was September 2000.

### Oklahoma Unemployment Report

<table>
<thead>
<tr>
<th>April 2018</th>
<th>Unemp. rate*</th>
<th>Labor force*</th>
<th>Employment*</th>
<th>Unemployment*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Oklahoma</strong></td>
<td>4.0%</td>
<td>1,851,325</td>
<td>1,776,648</td>
<td>74,677</td>
</tr>
<tr>
<td>United States</td>
<td>3.9%</td>
<td>161,527,000</td>
<td>155,181,000</td>
<td>6,346,000</td>
</tr>
<tr>
<td><strong>OKLAHOMA</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mar ’18</td>
<td>4.0%</td>
<td>1,848,315</td>
<td>1,773,774</td>
<td>74,541</td>
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<tr>
<td>Feb ’18</td>
<td>4.1%</td>
<td>1,845,063</td>
<td>1,769,910</td>
<td>75,153</td>
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<tr>
<td>Jan ’18</td>
<td>4.1%</td>
<td>1,842,471</td>
<td>1,766,250</td>
<td>76,221</td>
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<tr>
<td>Dec ’17</td>
<td>4.1%</td>
<td>1,841,801</td>
<td>1,765,566</td>
<td>76,235</td>
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<tr>
<td>Nov ’17</td>
<td>4.1%</td>
<td>1,842,189</td>
<td>1,766,036</td>
<td>76,153</td>
</tr>
<tr>
<td>April ’17</td>
<td>4.4%</td>
<td>1,827,979</td>
<td>1,747,786</td>
<td>80,193</td>
</tr>
</tbody>
</table>

* Data adjusted for seasonal factors

Source: OESC
Economic Indicators

Unemployment Rate
January 1980 – April 2018

Gross Receipts vs. Oil & Gas Employment
January 2008 – May 2018

Leading Economic Index
January 2001 – April 2018

Oklahoma Stock Index
Top capitalized state companies
January 2009 – May 2018

Oklahoma Natural Gas Prices & Active Rigs
January 2011 – May 2018

Oklahoma Oil Prices & Active Rigs
January 2011 – May 2018