

# Senate Journal

## First Regular Session of the Forty-ninth Legislature of the State of Oklahoma

**Twenty-fifth Legislative Day, Thursday, March 13, 2003**

The Senate was called to order by Senator Rozell.

Roll Call:

Present: Aldridge, Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Easley, Fair, Fisher, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Laster, Laughlin, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Wilcoxson, Wilkerson and Williams —42.

Excused: Dunlap, Ford, Kerr, Taylor and Williamson.—5.

Vacancy: District 7.—1

Senator Rozell declared a quorum present.

The prayer was offered by Reverend Jane Huffstetler, St. James Presbyterian Church, Jenks, the guest of Senator Easley.

### **REPORT OF ENGROSSED AND ENROLLED MEASURES**

**SBs 212, 225, 264, 294, 304, 305, 306, 346, 349, 383, 425, 430, 435, 464, 608, 625, 662, 667, 695, 706, 715, 727, 741, 779, 787 and 801 and SJR 22 and SCR 12** were each correctly engrossed, properly signed and ordered transmitted to the Honorable House for consideration.

### **MOTION TO RECONSIDER VOTE**

Senator Smith moved to reconsider the vote whereby **SB 259** failed, which motion failed of adoption upon roll call as follows:

Aye: Aldridge, Branan, Brogdon, Capps, Coates, Coffee, Harrison, Helton, Hobson, Johnson, Laughlin, Littlefield, Milacek, Morgan, Nichols, Price, Pruitt, Reynolds, Riley, Robinson, Smith, Snyder, Wilcoxson and Williams.--24.

Nay: Cain, Corn, Crutchfield, Easley, Fisher, Gumm, Horner, Laster, Lawler, Maddox, Monson, Myers, Rabon, Rozell, Shurden and Wilkerson.--16.

Excused: Dunlap, Fair, Ford, Kerr, Leftwich, Taylor and Williamson.--7.

Vacancy: District 7.--1.

### **GENERAL ORDER**

**SB 242**, considered on Page 800, was called up for further consideration.

Senator Helton moved to amend **SB 242**, by striking the title, the enacting clause and the entire body of the bill and substituting the floor substitute, which amendment was declared adopted. (Copies were provided for all Senators.)

Senator Helton moved that **SB 242** be advanced, which motion was declared adopted.

### **THIRD READING**

**SB 242** was read for the third time at length.

On the question of passage of the bill, the vote resulted as follows:

Aye: Aldridge, Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Easley, Fisher, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Laster, Laughlin, Lawler, Littlefield, Maddox, Milacek, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Wilcoxson, Wilkerson and Williams.--39.

Excused: Dunlap, Fair, Ford, Kerr, Leftwich, Monson, Taylor and Williamson.--8.

Vacancy: District 7.--1.

The bill passed.

**SB 242** was referred for engrossment.

**MOTION TO RECONSIDER VOTE**

Senator Easley moved to reconsider the vote whereby **SB 297** failed, which motion was declared adopted upon roll call as follows:

Aye: Branan, Brogdon, Cain, Capps, Coffee, Corn, Easley, Gumm, Harrison, Helton, Hobson, Horner, Laster, Laughlin, Lawler, Leftwich, Littlefield, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Riley, Robinson, Smith, Wilcoxson, Wilkerson and Williams.--31.

Nay: Aldridge, Coates, Crutchfield, Fisher, Johnson, Maddox, Reynolds, Rozell, Shurden and Snyder.--10.

Excused: Dunlap, Fair, Ford, Kerr, Taylor and Williamson.--6.

Vacancy: District 7.--1.

**THIRD READING**

Senator Easley moved to reconsider the vote whereby **SB 297** was advanced, which motion was declared adopted.

**GENERAL ORDER**

**SB 297** was called up for further consideration.

Senator Easley asked to be removed and Senator Wilkerson asked to be named principal Senate author on **SB 297**, which was the order.

Senator Easley moved to amend **SB 297**, Page 1, by striking the title, which amendment was declared adopted.

Senator Easley moved that **SB 297** be advanced, which motion was declared adopted.

**THIRD READING**

**SB 297** was read for the third time at length.

On the question of passage of the bill, the vote resulted as follows:

Aye: Branan, Brogdon, Coffee, Corn, Easley, Fair, Gumm, Harrison, Helton, Hobson, Horner, Laster, Laughlin, Lawler, Leftwich, Littlefield, Milacek, Morgan, Myers, Price,

Pruitt, Rabon, Riley, Robinson, Smith, Wilkerson and Williams.--27.

Nay: Aldridge, Cain, Coates, Crutchfield, Fisher, Johnson, Maddox, Monson, Nichols, Reynolds, Rozell, Shurden, Snyder and Wilcoxson.--14.

Excused: Capps, Dunlap, Ford, Kerr, Taylor and Williamson.--6.

Vacancy: District 7.--1.

The bill passed.

**SB 297** was referred for engrossment.

### **MOTION TO RECONSIDER VOTE**

Senator Shurden moved to reconsider the vote whereby **SB 389** failed, which motion was declared adopted upon roll call as follows:

Aye: Capps, Coffee, Corn, Crutchfield, Easley, Gumm, Harrison, Helton, Hobson, Horner, Laster, Lawler, Leftwich, Littlefield, Maddox, Monson, Morgan, Price, Rabon, Robinson, Rozell, Shurden, Smith, Snyder, Wilkerson and Williams.--26.

Nay: Aldridge, Branan, Brogdon, Cain, Coates, Fair, Fisher, Johnson, Laughlin, Milacek, Myers, Nichols, Pruitt, Reynolds, Riley and Wilcoxson.--16.

Excused: Dunlap, Ford, Kerr, Taylor and Williamson.--5.

Vacancy: District 7.--1.

### **THIRD READING**

**SB 389** was read for the third time at length.

On the question of passage of the bill, the vote resulted as follows:

Aye: Capps, Coffee, Corn, Crutchfield, Easley, Fisher, Harrison, Helton, Hobson, Horner, Laster, Lawler, Leftwich, Littlefield, Maddox, Monson, Morgan, Price, Rabon, Robinson, Rozell, Shurden, Smith, Snyder and Wilkerson.--25.

Nay: Aldridge, Branan, Brogdon, Cain, Coates, Fair, Gumm, Johnson, Laughlin, Milacek, Myers, Nichols, Pruitt, Reynolds, Riley, Wilcoxson and Williams.--17.

Excused: Dunlap, Ford, Kerr, Taylor and Williamson.--5.

Vacancy: District 7.--1.

The bill passed.

**SB 389** was referred for engrossment.

#### **MESSAGE FROM THE HOUSE**

Advising passage of and transmitting for consideration Engrossed **HBs 1015, 1072, 1101, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1261, 1380, 1385, 1394, 1433, 1451, 1455, 1577, 1585, 1658, 1667, 1683, 1705, 1720, 1752 and 1790 and HJR 1021** .

**HB 1015** – By Mitchell of the House and Kerr of the Senate.

An Act relating to state government; amending 74 O.S. 2001, Section 18c, as amended by Section 4, Chapter 438, O.S.L. 2002 (74 O.S. Supp. 2002, Section 18c), which relates to employment of an attorney by state entities; adding to the list of state entities authorized to employ an attorney; clarifying language; amending 74 O.S. 2001, Section 166.5, which relates to the Commission for Rehabilitation Services; authorizing the Commission to employ a full-time General Counsel; and specifying duties.

**HB 1072** – By Hutchison of the House and Littlefield of the Senate.

An Act relating to cities and towns; amending 11 O.S. 2001, Section 22-116, which relates to municipal jurisdiction over real property and navigable streams; limiting jurisdiction for certain municipalities; providing for jurisdiction of certain real property; and providing an effective date.

**HB 1101** – By Easley of the House and Corn of the Senate.

An Act relating to the Oklahoma Personnel Act; amending 74 O.S. 2001, Sections 840-1.7, 840-6.2 and 840-6.5, which relate to the Oklahoma Merit Protection Commission; limiting years of service on the Commission; expanding duties of the Commission to include internal agency grievance actions; allowing the Commission to issue Final Petition Decisions regarding issues raised in certain petitions; and providing an effective date.

**HB 1230** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Oklahoma Indigent Defense System – appropriations – effective date – emergency )

**HB 1231** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Oklahoma State Bureau of Investigation - appropriation – effective date –emergency )

**HB 1232** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Council on Judicial Complaints – appropriation - effective date – emergency )

**HB 1233** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Council on Law Enforcement Education and Training - appropriations - effective date – emergency )

**HB 1234** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Board of Medicolegal Investigations – appropriation – effective date – emergency )

**HB 1235** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( State Bureau of Narcotics and Dangerous Drugs Control – appropriation – effective date – emergency )

**HB 1236** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Pardon and Parole Board – appropriation - effective date – emergency )

**HB 1237** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Department of Public Safety - appropriations – effective date – emergency )

**HB 1238** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Supreme Court – appropriations – effective date – emergency )

**HB 1239** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Workers' Compensation Court – appropriation – effective date – emergency )

**HB 1241** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Constitutional Reserve Fund – appropriation – effective date – emergency )

**HB 1242** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( appropriations – stating purpose – emergency )

**HB 1243** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( appropriations - stating purpose – emergency )

**HB 1244** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( public finance – transfer of certain funds – emergency )

**HB 1245** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Department of Corrections – appropriation – effective date – emergency )

**HB 1246** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( Oklahoma Health Care Authority – appropriation - effective date – emergency )

**HB 1247** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( State Board of Education – appropriation – effective date – emergency )

**HB 1249** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( public finance – amending 62 O.S., Section 41.31 – budget preparation – effective date – emergency )

**HB 1250** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( revenue and taxation - amending 68 O.S., Section 118 - written estimates - effective date – emergency )

**HB 1251** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( revenue and taxation - amending 68 O.S., Section 118 - written estimates - effective date – emergency )

**HB 1252** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( state government - amending 74 O.S., Section 10.3 - cabinet system - effective date – emergency )

**HB 1253** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( state government - amending 74 O.S., Section 10.3 - cabinet system - effective date – emergency )

**HB 1254** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( state government personnel - amending 74 O.S., Section 3601.1 - full-time-equivalent state employees - effective date - emergency )

**HB 1255** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( state government - amending 74 O.S., Section 1364 - Oklahoma State Employees Benefits Council - effective date – emergency )

**HB 1256** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( general appropriations – executive, legislative and judicial departments – Oklahoma Tax Commission – expenditures – effective date )

**HB 1257** – By Mitchell and Bonny of the House and Morgan and Robinson of the Senate.

( general appropriations – executive, legislative and judicial departments – Military Department – Department of Human Services – effective date )

**HB 1261** – By Adkins and Sullivan of the House and Coffee of the Senate.

An Act relating to real estate brokers; amending 15 O.S. 2001, Section 136, which relates to the statute of frauds; adding single-party broker to those persons required to reduce certain contracts to writing; amending 59 O.S. 2001, Section 858-363, which relates to associates of real estate broker; clarifying requirement for certain type of agreements; prohibiting associates from making certain reference; and providing an effective date.

**HB 1380** – By Bonny of the House and Maddox of the Senate.

An Act relating to workforce development; enacting the Oklahoma Workforce Investment Act; providing for reference to federal statute; stating purpose of Oklahoma Workforce Investment Act; defining terms; requiring Governor to establish State Workforce Investment Board; providing for membership of Board; prescribing representation requirements; providing for chairperson; requiring State Board to assist Governor in certain matters; prohibiting votes by Board members on certain matters; providing State Board and subgroups of State Board subject to Oklahoma Open Meeting Act and Oklahoma Open Records Act; providing certain information public; prescribing quorum requirement; authorizing creation of subgroups; prescribing requirements related to subgroups; providing for legal representation; authorizing requests for assistance by local workforce investment boards; requiring State Board to respond to waiver requests; requiring Governor to designate local workforce investment areas; prescribing requirements related thereto; requiring consideration of certain matters; requiring approval of certain requests for designation; authorizing approval with respect to units of local government; requiring establishment and certification of local workforce investment boards; requiring establishment of criteria; prescribing criteria; providing for representation; prescribing certain representation requirements; providing for election of chairperson; authorizing appointment of members of local board; authorizing agreements; authorizing Governor to make appointments under certain circumstances; providing for consultation; requiring certification by Governor; requiring submission of waiver requests to certain entities; prescribing procedure in event of certification failure; prohibiting decertification under certain circumstances; prescribing procedures in the event of decertification; providing for functions of local workforce investment boards; requiring budget; providing for distribution

of grants; authorizing grant subrecipients and providing procedures related thereto; providing for disbursement of funds; authorizing employment of staff; providing for ability of staff or local board to perform certain services; authorizing grants and donations; providing for oversight; providing for local performance measures; providing for development of statewide employment statistics system; providing for coordination of activities; requiring promotion of certain participation; providing for applicability of Oklahoma Open Meeting Act and Oklahoma Open Records Act; prescribing quorum requirements; prescribing requirements for functions; prescribing provision of certain services; providing exception; authorizing waiver; prescribing requirements for waiver requests; authorizing delivery of certain services; requiring provision of certain services by staff; providing for construction of act; prohibiting votes on certain matters; authorizing requests for legal assistance; requiring reservation of funds for statewide offender employment training program; authorizing modification of allocation; imposing limit on reallocation; amending 25 O.S. 2001, Section 307.1, which relates to certain meetings; authorizing State Workforce Investment Board to conduct teleconferences; providing for codification; and providing an effective date.

**HB 1385** – By Ferguson, Hilliard and Tyler of the House and Milacek of the Senate.  
( revenue and taxation – legislative referendum – amending 68 O.S., Sections 500.4, 500.6, 500.7 and 603 – motor fuel taxes – rate of taxation – effective date – ballot title – filing )

**HB 1394** – By Reynolds and Nance of the House and Reynolds of the Senate.  
An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 5013, which relates to sales tax relief; modifying requirement related to filing of claim for refund; and providing an effective date.

**HB 1433** – By Smithson, Wright, Smith (Hopper), Liotta, Jones, Piatt, Calvey and Nance of the House and Corn of the Senate.  
An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1290.5, which relates to the Oklahoma Self-Defense Act; modifying renewal requirements for concealed handgun license; and providing an effective date.

**HB 1451** – By Toure, Smith (Hopper) and Blackburn of the House and Morgan of the Senate.  
( professions and occupations - State Architectural Act Task Force – codification – emergency )

**HB 1455** – By Adair, Ferguson, Steele and DeWitt of the House and Rozell of the Senate.  
( schools - amending 70 O.S., Sections 6-101.3 and 18-124 - expenditures for administrative services - salary levels - codification - effective date – emergency )

**HB 1577** – By Dorman, Young and Askins of the House and Leftwich of the Senate.  
An Act relating to state government; amending 74 O.S. 2001, Section 213.2, which relates to performance audits; modifying duties of the Performance Audit Division of the

Office of the State Auditor and Inspector; modifying procedure for requesting a performance audit; providing an effective date; and declaring an emergency.

**HB 1585** – By Nations, Braddock and Blackburn of the House and Fisher of the Senate.

( consumer credit code – Home Ownership and Equity Protection Act – amending 14A O.S., Sections 1-301, 3-309.4, 3-401, 5-202 and 5-203 – codification – noncodification – effective date )

**HB 1658** – By Liotta of the House and Pruitt of the Senate.

An Act relating to insurance; providing for refund of erroneously paid premium tax; providing for filing of claim; providing for requirements of filing claim; allowing taxpayer to request hearing; requiring Insurance Commissioner to set hearing within certain time of request; providing for codification; and providing an effective date.

**HB 1667** – By Vaughn and Peters of the House and Coffee of the Senate.

An Act relating to criminal procedure; amending 22 O.S. 2001, Sections 60.1, 60.2, 60.3, 60.4 and 60.8, as amended by Section 2, Chapter 443, O.S.L. 2002 (22 O.S. Supp. 2002, Section 60.8), which relate to the Protection from Domestic Abuse Act; adding definitions; requiring certain persons file complaint with law enforcement prior to filing a petition for a protective order; providing for filings with specific court in certain circumstances; eliminating statutory forms; providing for development of standard forms; prohibiting charging of certain fees to certain persons; eliminating restrictions on certain fees; providing for frivolously filed petitions; authorizing court to waive certain fees; requiring the court to find sufficient grounds to hold hearings; modifying procedure for service of process; modifying time for scheduling hearings; requiring counseling services to be court-approved; prohibiting mutual protective orders; authorizing consolidated hearings in certain circumstances; authorizing a plaintiff or victim to be accompanied by a victim support person at court proceedings; modifying conditions under which peace officer must seize weapon or instrument; requiring the Criminal Justice Resource Center to collect certain data; providing recipients of the data; repealing 22 O.S. 2001, Section 60.11 and Section 2, Chapter 113, O.S.L. 2002 (22 O.S. Supp. 2002, Section 60.13), which relate to statutory forms and required language for protective orders; providing for codification; and providing an effective date.

**HB 1683** – By Blackburn of the House and Monson of the Senate.

An Act relating to contracts; amending 15 O.S. 2001, Sections 752, as amended by Section 1, Chapter 296, O.S.L. 2002 and 753, as amended by Section 3, Chapter 296, O.S.L. 2002 (15 O.S. Supp. 2002, Sections 752 and 753), which relate to the Oklahoma Consumer Protection Act; defining term; prohibiting certain mailings and solicitations; and providing an effective date.

**HB 1705** – By Case of the House and Reynolds of the Senate.

An Act relating to alternative fuels; amending 74 O.S. 2001, Section 130.3, which relates to the Oklahoma Alternative Fuels Conversion Act; modifying circumstances under which alternative fuels are required to be used; and providing an effective date.

**HB 1720** – By Hastings of the House and Coffee of the Senate.  
( public health and safety – Nursing Facility Mediation Act – qualifications – effective date )

**HB 1752** – By Hefner of the House and Easley of the Senate.  
( roads, bridges and ferries – amending 69 O.S., Section 1255 – screening requirement – effective date )

**HB 1790** – By Hefner of the House and Easley of the Senate.  
( Oklahoma Charity Games Act - amending 3A O.S., Section 408 - total revenues - effective date )

**HJR 1021** – By Deutschendorf, Lindley, Wells, Hefner, Cox and Smithson of the House and Maddox of the Senate.  
( amendment to the Constitution – new Section 8E to Article X – ballot title – directing filing )

The above-numbered measures were read the first time.

Senator Fisher moved that when the clerk's desk is clear, the Senate stand adjourned to convene Monday, March 17, 2003, at 1:30 p.m., which motion prevailed.

#### **MOTION EXPIRED**

Time expired for consideration of the motion to reconsider whereby **SB 693** failed.

#### **BILLS RELEASED TIME EXPIRED TO RECONSIDER**

**SBs 288, 633** and **792** were referred for engrossment.

#### **SECOND READING**

The following were read for the second time and referred to committee as indicated:

**HB 1278** – Finance

**HB 1816** – Direct To Calendar

Pursuant to the Fisher motion, the Senate adjourned at 10:10 a.m. to meet Monday, March 17, 2003, at 1:30 p.m..