

# Senate Journal

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

**Thirty-fourth Legislative Day, Tuesday, March 30, 2004**

The Senate was called to order by Senator Rozell.

Roll Call:

Present: Aldridge, Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.—45.

Excused: Dunlap and Horner.—2.

Vacancy: District 18.—1.

Senator Rozell declared a quorum present.

The prayer was offered by Reverend Jeff Flowers, First Baptist Church, Snyder, the guest of Senator Capps.

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

**HBs 1437, 2442, 2497** and **2551** were each correctly engrossed and, together with engrossed **SAs**, properly signed and ordered returned to the Honorable House.

**SBs 1129, 1383, 1393** and **1408** and **SJR 50** were each correctly enrolled and after fourth reading, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

### **GENERAL ORDER**

**HB 2528** by Vaughn and McClain of the House and Williamson of the Senate was called up for consideration.

Senator Williamson moved that **HB 2528** be advanced, which motion was declared adopted.

### **THIRD READING**

**HB 2528** was read for the third time at length.

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

Aye: Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Johnson, Kerr, Laughlin, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Riley, Rozell, Shurden, Smith, Snyder, Wilkerson, Williams and Williamson.--36.

Nay: Laster and Lawler.--2.

Excused: Aldridge, Dunlap, Fair, Horner, Rabon, Reynolds, Robinson, Taylor and Wilcoxson.--9.

Vacancy: District 18.--1.

The bill and emergency passed.

**HB 2528** was referred for engrossment.

### **GENERAL ORDER**

**HB 2643** by Staggs and Adkins of the House and Crutchfield of the Senate was called up for consideration.

Senator Crutchfield moved that **HB 2643** be advanced, which motion was declared adopted.

### **THIRD READING**

**HB 2643** was read for the third time at length.

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

Aye: Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Monson, Myers, Nichols, Price, Pruitt, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson, Williams

and Williamson.--41.

Excused: Aldridge, Dunlap, Fair, Horner, Morgan and Rabon.--6.

Vacancy: District 18.--1.

The bill passed.

Senator Morgan desired to vote Aye on the emergency.

On the question of passage of the emergency, the vote resulted as follows: Aye: 42; Excused: 5; Vacancy: 1.

The emergency passed.

**HB 2643** was referred for engrossment.

#### **UNANIMOUS CONSENT REQUEST DIRECT TO CALENDAR**

Senator Morgan asked unanimous consent to suspend Rule 5-4 and refer **SR 44** direct to the Calendar for consideration, which was the order.

#### **GENERAL ORDER**

**SR 44** by Morgan and Hobson was called up for consideration.

All other members of the Senate asked to coauthor **SR 44**, which was the order.

**SR 44** was adopted upon motion of Senator Morgan and referred for enrollment.

#### **GENERAL ORDER**

**HB 2394** by Covey of the House and Lerblance of the Senate was called up for consideration.

Senator Lerblance moved that **HB 2394** be advanced, which motion was declared adopted.

#### **THIRD READING**

**HB 2394** was read for the third time at length.

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

Aye: Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Rozell, Shurden, Snyder, Wilcoxson, Wilkerson, Williams and Williamson.--40.

Excused: Aldridge, Dunlap, Fair, Horner, Robinson, Smith and Taylor.--7.

Vacancy: District 18.--1.

The bill and emergency passed.

**HB 2394** was properly signed and ordered returned to the Honorable House.

### **GENERAL ORDER**

**HB 2451** by Pope and Adkins of the House and Helton and Pruitt of the Senate was called up for consideration.

Senator Helton moved that **HB 2451** be advanced, which motion was declared adopted.

### **THIRD READING**

**HB 2451** was read for the third time at length.

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

Aye: Branan, Brogdon, Cain, Capps, Coffee, Crutchfield, Fair, Fisher, Gumm, Harrison, Helton, Hobson, Johnson, Kerr, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Myers, Nichols, Price, Pruitt, Reynolds, Riley, Rozell, Shurden, Snyder, Wilcoxson and Williamson.--32.

Nay: Coates, Laster, Morgan, Rabon, Wilkerson and Williams.--6.

Excused: Aldridge, Corn, Dunlap, Ford, Horner, Monson, Robinson, Smith and Taylor.--9.

Vacancy: District 18.--1.

The bill and emergency passed.

Pursuant to Rule 12-23, Senator Morgan served notice that the vote be reconsidered whereby **HB 2451** passed.

**MESSAGE FROM THE HOUSE**

Advising fourth reading of and transmitting for signature Enrolled **HBs 1851, 2126, 2128, 2199, 2211, 2263, 2311, 2316, 2374, 2431, 2530, 2561, 2677** and **2706**.

The above-numbered enrolled measures were, after fourth reading, properly signed and ordered returned to the Honorable House.

**MESSAGE FROM THE HOUSE  
HAs TO SENATE BILLS**

Advising passage of and returning the following engrossed bills as amended:

**SB 850**  
**SB 1112**  
**SB 1128**  
**SB 1144**  
**SB 1332** - coauthored by Adair, McClain of the House  
**SB 1419**  
**SB 1460**

House amendments were read on the above-numbered bills.

**GENERAL ORDER**

**HB 2674** by Dorman of the House and Leftwich (Debbe) of the Senate was called up for consideration.

Senator Leftwich moved to amend **HB 2674**, Page 6, Line 13, by deleting after the first word "The" and before the word "may" the language "Office of the State Fire Marshal" and inserting in lieu thereof the language "State Fire Marshal Commission", which amendment was declared adopted.

Senator Leftwich asked that **HB 2674** be laid over for this legislative day, which was the order.

**HB 2674** remains on General Order.

**GENERAL ORDER**

**HB 2359** by Covey of the House and Price of the Senate was called up for consideration.

Senator Price moved that **HB 2359** be advanced, which motion was declared adopted.

**THIRD READING**

**HB 2359** was read for the third time at length.

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

Aye: Branan, Cain, Capps, Coffee, Crutchfield, Fair, Fisher, Ford, Gumm, Harrison, Hobson, Johnson, Kerr, Leftwich, Lerblance, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Rozell, Shurden, Snyder, Taylor, Wilkerson and Williamson.--32.

Nay: Brogdon, Coates, Laster, Laughlin, Lawler, Wilcoxson and Williams.--7.

Excused: Aldridge, Corn, Dunlap, Helton, Horner, Littlefield, Robinson and Smith.--8.

Vacancy: District 18.--1.

The bill passed.

**HB 2359** was referred for engrossment.

**MESSAGE FROM THE HOUSE**

Advising passage of and returning the following Engrossed bills:

**SB 1190** - coauthored Ingmire, Nance of the House

**SB 1537** - coauthored by Perry, Dank, Greenwood of the House

The above-numbered measures were referred for enrollment.

**GENERAL ORDER**

**HB 1899** by Nance of the House and Gumm of the Senate was called up for consideration.

Senator Gumm moved that **HB 1899** be advanced, which motion was declared adopted.

### **THIRD READING**

**HB 1899** was read for the third time at length.

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

Aye: Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Rozell, Shurden, Snyder, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.--42.

Excused: Aldridge, Dunlap, Horner, Robinson and Smith.--5.

Vacancy: District 18.--1.

The bill passed.

**HB 1899** was referred for engrossment.

### **UNANIMOUS CONSENT REQUEST DIRECT TO CALENDAR**

Senator Nichols asked unanimous consent to suspend Rule 5-4 and refer **SR 43** direct to the Calendar for consideration, which was the order.

### **GENERAL ORDER**

**SR 43** by Nichols was called up for consideration.

**SR 43** was adopted upon motion of Senator Nichols and referred for enrollment.

### **MESSAGES FROM THE HOUSE**

Advising concurrence in **SAs** to and passage of Engrossed **HB 2176**.

Advising fourth reading of and returning Enrolled **SBs 1129, 1383, 1393** and **1408** and **SJR 50**.

The above-numbered enrolled measures were referred to the Governor.

### **EXECUTIVE NOMINATIONS**

The following executive nominations were read and referred to committee as indicated:

Gibson, George T., Oklahoma City, as a member of the State Board of Registration for Professional Engineers and Land Surveyors - Business and Labor

Groendyke, John D., Enid, as a member of the Oklahoma Wildlife Conservation Commission - Tourism and Wildlife

Harris, Tim, Tulsa, as a member of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission - Judiciary

Kyle, David Larkin, Tulsa, as a member of the Board of Trustees for Oklahoma State University/Tulsa - Energy, Environment and Communications

Longacre, John T., IV, Kellyville, as a member of the Oklahoma Used Motor Vehicle and Parts Commission - Business and Labor

Price, William Stuart, Tulsa, as a member of the Oklahoma State Regents for Higher Education - Education

Root, Phillip D., Canute, as a member of the Oklahoma Liquefied Petroleum Gas Board - Energy, Environment and Communications

Thompson, Mick, Edmond, as State Banking Commissioner - Finance

Walters, George Paul, Broken Bow, as a member of the Board of Trustees for the McCurtain County Higher Education Program - Education

Senator Fisher moved that when the clerk's desk is clear, the Senate stand adjourned to convene Wednesday, March 31, 2004, at 1:30 p.m., which motion prevailed.

### **COMMITTEE REPORTS**

The following were reported by the committees named, ordered printed and placed on the Calendar:

DO PASS:

**HB 2294** – Education  
**HB 2308** – Business and Labor  
**HB 2416** – Business and Labor  
**HB 2488** – Business and Labor  
**HB 2668** – Business and Labor

DO PASS, As Amended:

**HB 1133** – Education  
**HB 1439** – Education  
**HB 1756** – Education, remove Easley and substitute Rozell as principal Senate author, and coauthored by Williams of the Senate  
**CS for HB 1855** – Education  
**CS for HB 2101** – Business and Labor  
**CS for HB 2145** – Education  
**CS for HB 2194** – Education  
**HB 2391** – Education, coauthored by Laster of the Senate, and coauthored by Adair, Deutschendorf, DeWitt, Easley, Ferguson, Jones, McCarter, Miller (Doug), Perry, Piatt, Roberts, Staggs of the House  
**HB 2504** – Business and Labor  
**HB 2627** – Business and Labor  
**HB 2724** – Business and Labor  
**CS for HJR 1059** – Business and Labor

## **FIRST READING**

The following was introduced and read the first time:

**SR 45** – By Milacek.

A Resolution commending the professional career of Rural Fire Defense Director Larry Zerger; praising his many contributions; wishing him well upon the occasion of his retirement; and directing distribution.

## **MESSAGES FROM THE GOVERNOR**

Advising his approval March 29, 2004, of Enrolled **SBs 851, 883, 1209** and **1231**.

Advising his approval March 30, 2004, of Enrolled **SBs 858, 1208, 1356** and **1549**, and veto of **SB 1152**.

The veto message reads as follows:

March 30, 2004

To the Honorable President Pro Tempore  
and Members of the Oklahoma Senate  
Second Session, Forty-ninth Oklahoma Legislature

Enrolled **SB 1152** by Wilkerson of the Senate and Harrison, Blackwell and Dorman of the House

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 1152. This bill creates a new statute which would require the Governor to appoint a full-time state employee who is an attorney employed by one agency to represent another agency when the Attorney General's office is disqualified. While this ideas has merit and should be discussed further, this legislation, as drafted, is inflexible, unduly limits available options to create efficiencies and save the state money, and would create an undue hardship on the employing agency to have its attorneys randomly assigned to other agencies, especially since there is no provision to allow for payment for the attorney. Additionally, the assigned attorney may not have either the time or the expertise to represent the requesting agency. It would create a hardship on the requesting agency if it was assigned an attorney without the required expertise to represent the requesting agency in a particular matter, potentially exposing the state to significant liability and additional costs.

By the Governor of the State of Oklahoma  
/s/ Brad Henry

Pursuant to the Fisher motion, the Senate adjourned at 2:05 p.m. to meet Wednesday, March 31, 2004, at 1:30 p.m.