

Senate Journal

Second Regular Session of the Forty-ninth Legislature of the State of Oklahoma Forty-fourth Legislative Day, Thursday, April 15, 2004

The Senate was called to order by Senator Rozell.

Roll Call:

Present: Aldridge, Branan, Brogdon, Cain, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Wilcoxson, Wilkerson, Williams and Williamson.—46.

Excused: Capps and Taylor.—2.

Senator Rozell declared a quorum present.

The prayer was offered by Reverend Luke Back, St. Paul's Cathedral, Oklahoma City, the guest of Senator Cain.

REPORT OF ENGROSSED AND ENROLLED MEASURES

SCR 58 was correctly engrossed, properly signed and ordered transmitted to the Honorable House for consideration.

HBs 1038, 2135, 2233, 2425, 2440 and **2616** were each correctly engrossed and, together with engrossed **SAs**, properly signed and ordered returned to the Honorable House.

SBs 1312, 1374, 1382, 1401, 1429, 1552 and **1625** were each correctly enrolled and after fourth reading, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

SRs 45 and **55** were each correctly enrolled, properly signed and ordered transmitted to the Secretary of State.

MESSAGES FROM THE HOUSE

Advising rejection of **SAs** to the following bills, requesting conference and House conferees to be named later:

HB 2375
HB 2390
HB 2682

Advising passage of and returning the following Engrossed bills:

SB 1465
SCR 59 - coauthored by all other House members

The above-numbered measures were referred for enrollment.

GENERAL ORDER

HB 2445 by Roan et al of the House and Wilkerson of the Senate was called up for consideration.

Senator Wilkerson moved to amend **HB 2445**, 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 Wilkerson moved to amend the floor substitute to **HB 2445**, Page 1, by restoring the title and the enacting clause, which amendment was declared adopted.

Senator Wilkerson moved that **HB 2445** be advanced, which motion was declared adopted.

THIRD READING

HB 2445 was read for the third time at length.

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

Aye: Aldridge, Branan, Brogdon, Cain, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Monson, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Wilcoxson, Wilkerson, Williams and Williamson.--44.

Excused: Capps, Fair, Morgan and Taylor.--4.

The bill and emergency passed.

HB 2445 was referred for engrossment.

SCs NAMED

Upon motion of Senator Fisher, Senate conferees were appointed as follows:

HB 2321 – Corn, Morgan, Robinson, Rozell, Coffee, Pruitt, Laughlin

PENDING SENATE ACTION HOUSE REQUEST FOR CONFERENCE

Upon motion of Senator Fisher, the request of the Honorable House for conference on the following bills was ordered granted and Senate conferees to be named later:

HB 1695

HB 1830

HB 2127

HB 2265

HB 2330

HB 2457

HB 2723

MESSAGES FROM THE HOUSE

Advising fourth reading of and transmitting for signature Enrolled **HBs 1966, 2317, 2352, 2355** and **2615**.

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

Advising passage of and returning the following Engrossed bills:

SB 847

SB 1600

The above-numbered measures were referred for enrollment.

Advising rejection of **SAs** to the following bills, requesting conference and House conferees to be named later:

HB 1694
HB 2109
HB 2110
HB 2112
HB 2372
HB 2403
HB 2441
HB 2681
HB 2710

Advising rejection of **SAs** to **HB 2661**, requesting conference and House conferees to be named as follows: Adair, Askins, Armes, Balkman, Bonny, Braddock, Case, Davis, Harrison, Leist, Pettigrew, Newport, Toure, Tyler.

MESSAGE FROM THE HOUSE
HAs TO SENATE BILLS

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

SB 369 - coauthored by Adkins of the House
SB 903
SB 1022
SB 1107
SB 1119 - coauthored by Peterson (Ron) of the House
SB 1146
SB 1184 - coauthored by Nance of the House
SB 1233
SB 1246
SB 1256 - coauthored by Nance of the House
SB 1284
SB 1357
SB 1363 - coauthored by Calvey, Peters of the House
SB 1367
SB 1539
SB 1542
SB 1617
SB 1627 - Remove Askins and substitute Gilbert as principal House author and show Askins as first coauthor and coauthored by Adkins of the House

House amendments were read on the above-numbered bills.

PENDING CONSIDERATION OF HAs

HAs to SBs 903 and 1233 were rejected upon motion of Senator Fisher, conference requested, and Senate conferees to be named later.

GENERAL ORDER

HB 2259 by Wilt and Nance of the House and Coffee and Corn of the Senate was called up for consideration.

Senator Williamson moved to amend **HB 2259**, Page 1, Line 13 through Page 7, Line 4, by striking all language and inserting in lieu thereof the “Marriage Protection Amendment” which clearly defines marriage in Oklahoma as the union of one man and one woman as set forth in the attachment which reads as follows:

“An Act relating to marriage and family; 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 to Article II to be designated as Section 35; defining marriage; prohibiting certain construction; barring recognition of certain marriages; providing ballot title; and directing filing.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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 Article II of the Constitution of the State of Oklahoma by adding a new Section 35 to read as follows:

Section 35. A. Marriage in this state shall consist only of the union of one man and one woman. Neither this Constitution nor any other provision of law shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups.

B. A marriage between persons of the same gender performed in another state shall not be recognized as valid and binding in this state as of the date of the marriage.

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

BALLOT TITLE

Legislative Referendum No. ____

State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure adds a new section of law to the State 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.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

YES, FOR THE AMENDMENT

NO, AGAINST THE AMENDMENT

SECTION 3. The President Pro Tempore of the Senate shall, immediately after the passage of this act, 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.” and by restoring the title and amending the title to conform.

Senator Cain moved to table the Williamson amendment, which tabling motion failed of adoption upon roll call as follows:

Aye: Cain, Fisher, Hobson, Horner, Monson, Robinson and Williams.--7.

Nay: Aldridge, Branan, Brogdon, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Ford, Gumm, Harrison, Helton, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Milacek, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Rozell, Shurden, Smith, Snyder, Wilcoxson, Wilkerson and Williamson.--37.

Excused: Capps, Fair, Morgan and Taylor.--4.

Senator Williamson pressed the adoption of his amendment, which amendment was declared adopted upon roll call as follows:

Aye: Aldridge, Branan, Brogdon, Coates, Coffee, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Maddox, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Rozell, Shurden, Smith, Snyder, Wilcoxson and Williamson.--36.

Nay: Cain, Hobson, Horner, Monson, Robinson, Wilkerson and Williams.--7.

Excused: Capps, Corn, Littlefield, Milacek and Taylor.--5.

Senator Shurden moved to amend **HB 2259**, Page 2, Line 14 ½, by inserting new Sections 4, 5, 6 and 7 to read as follows:

“SECTION 4. Pursuant to Section 3 of Article V of the Oklahoma Constitution, there is hereby ordered the following legislative referendum which shall be filed with the Secretary of State and addressed to the Governor of the state, who shall submit the same to the people for their approval or rejection at the General Election to be held in November 2004.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1692.1a of Title 21, unless there is created a duplication in numbering, reads as follows:

A. On the effective date of this act, all provisions of State Question No. 687, Initiative Petition No. 365, shall be suspended for a period of one hundred eighty (180) days in every county in which a majority of the voters who voted in the election on State Question No. 687 affirmatively voted against the ban on cockfighting. If during the one-hundred-eighty-day period the county commissioners by resolution, or the people of such county by initiative petition, do not request by petition a county election to suspend all provisions of State Question No. 687, Initiative Petition No. 365, such provisions of law pursuant to State Question No. 687, Initiative Petition No. 365, prohibiting cockfighting shall be in full force and effect until the county shall by majority vote of its people suspend the provisions of State Question No. 687, Initiative Petition No. 365.

B. The county commissioners of each county are hereby authorized to call an election:

- 1. Upon a resolution of the commissioners to suspend all provisions of State Question No. 687, Initiative Petition No. 365 in their county; or
- 2. Upon the filing of a petition with the county election board containing not less than ten percent (10%) of the qualified voters within the county petitioning that the county suspend all provisions of State Question No. 687, Initiative Petition No. 365.

C. Nothing in this section shall be construed to limit the authority of the county commissioners or the people at any time after the effective date of this act or following the one-hundred-eighty-day grace period from petitioning for a county election to suspend in such county all provisions of State Question 687, Initiative Petition No. 365, prohibiting cockfighting.

SECTION 6. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. ____

State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure would provide for county option of the band on cockfighting.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

YES, FOR THE AMENDMENT

NO, AGAINST THE AMENDMENT

SECTION 7. The President Pro Tempore of the Senate shall, immediately after the passage of this order for legislative referendum, prepare and file one copy of this order for legislative referendum in accordance with Section 3 of Article V of the Oklahoma

Constitution, including the Ballot Title set forth in SECTION 4 hereof, with the Secretary of State and one copy with the Attorney General.”, and by amending the title to conform.

Senator Coffee moved to advance the bill, with motion failed of adoption upon roll call as follows:

Aye: Aldridge, Branan, Brogdon, Coates, Coffee, Dunlap, Fair, Ford, Johnson, Laughlin, Leftwich, Myers, Nichols, Pruitt, Reynolds, Riley, Smith, Snyder, Wilcoxson and Williamson.--20.

Nay: Cain, Corn, Crutchfield, Easley, Fisher, Gumm, Harrison, Helton, Hobson, Horner, Kerr, Laster, Lawler, Lerblance, Maddox, Monson, Morgan, Price, Rabon, Robinson, Rozell, Shurden, Wilkerson and Williams.--24.

Excused: Capps, Littlefield, Milacek and Taylor.--4.

Senator Williamson raised a point of order concerning the germaneness of the Shurden amendment to the bill and asked for a ruling of the Chair.

The Chair advised that the Senate does not rule on Constitutional rulings and that the Senate does not have a germaneness clause.

Senator Dunlap raised a point of order that Senator Shurden should not be at the Parliamentarians desk during the ruling of the Chair.

Senator Williamson moved to table the Shurden amendment.

Senator Shurden pressed adoption of his amendment.

Senator Fair raised a point of order that the motion to table is a prior motion.

Senator Williamson pressed his motion to table the Shurden amendment per Senate Rule 13-3, which tabling motion was declared adopted upon roll call as follows:

Aye: Aldridge, Branan, Brogdon, Coates, Coffee, Dunlap, Easley, Fair, Ford, Johnson, Laster, Laughlin, Leftwich, Myers, Nichols, Price, Pruitt, Reynolds, Riley, Smith, Snyder, Wilcoxson and Williamson.--23.

Nay: Cain, Corn, Crutchfield, Fisher, Gumm, Harrison, Helton, Horner, Kerr, Lawler, Lerblance, Littlefield, Maddox, Monson, Morgan, Rabon, Robinson, Rozell, Shurden, Wilkerson and Williams.--21.

Excused: Capps, Hobson, Milacek and Taylor.--4.

The Chair advised that Senator Hobson, having been present in the Chamber during the vote on tabling motion of the Shurden amendment to **HB 2259** would be shown voting Nay

in compliance with Rule 14-1B. The vote thereby resulted as follows: Aye: 23; Nay: 22; Excused: 3.

Senator Gumm moved to amend **HB 2259**, Page 2, Line 14 ½, by inserting the following language:

“A special election is hereby ordered to be held throughout the State of Oklahoma on the amendment contained herein on the date of the regular statewide primary election.”, and by amending the title to conform, which amendment was declared adopted.

Senator Coffee moved that **HB 2259** be advanced, which motion was declared adopted.

THIRD READING

HB 2259 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, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Rozell, Shurden, Smith, Snyder, Wilcoxson and Williamson.--38.

Nay: Cain, Hobson, Horner, Monson, Robinson, Wilkerson and Williams.--7.

Excused: Capps, Milacek and Taylor.--3.

On the question on the special election the vote resulted as follows:

Aye: Cain, Corn, Crutchfield, Easley, Fisher, Gumm, Harrison, Helton, Hobson, Horner, Kerr, Laster, Lawler, Leftwich, Lerblance, Littlefield, Maddox, Monson, Morgan, Price, Pruitt, Rabon, Robinson, Rozell, Wilkerson and Williams.--26.

Nay: Aldridge, Branan, Brogdon, Coates, Coffee, Dunlap, Fair, Ford, Johnson, Laughlin, Myers, Nichols, Reynolds, Riley, Shurden, Smith, Snyder, Wilcoxson and Williamson.--19.

Excused: Capps, Milacek and Taylor.--3.

The Presiding Officer declared that a constitutional two-thirds majority of the members elected to and constituting the Senate did not vote in favor of calling the special election.

The bill passed and the special election clause failed.

Pursuant to Rule 12-23, Senator Coffee served notice that the vote be reconsidered whereby **HB 2259** passed and the special election failed.

Senator Rabon presiding.

MESSAGES FROM THE HOUSE

Advising passage of and transmitting for consideration Engrossed **HCR 1068**.

HCR 1068 – By Plunk and Hilliard of the House and Wilkerson of the Senate.

A Concurrent Resolution authorizing the Board of Regents of Oklahoma Colleges, acting on behalf of East Central University, to issue certain revenue bonds pursuant to Section 4002 of Title 70 of the Oklahoma Statutes; and directing distribution.

The above-numbered measure was read the first time.

Advising passage of and returning the following Engrossed bills:

SB 1098 - coauthored by Roan of the House

SB 1584 - Remove Piatt of the House as coauthor

The above-numbered measures were referred for enrollment.

Advising concurrence in **SAs** to and passage of Engrossed **HB 1899**.

Advising that the House has rescinded the signing and fourth reading of Enrolled **HB 2472** and requests that the Honorable Senate rescind their signing and fourth reading of Enrolled **HB 2472**, reconsider the vote whereby the bill passed on third reading, reconsider the vote whereby the bill was advanced and consider the bill further.

Advising rejection of **SAs** to the following bills, requesting conference and House conferees to be named later as follows:

HB 1889

HB 2101

HB 2460

HB 2552

HB 2600

HB 2683

Advising fourth reading of and returning Enrolled **SBs 1312, 1374, 1382, 1401, 1429, 1552 and 1625**.

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

Advising rejection of **2nd CCR** to **HB 1670**, requesting further conference and naming House conferees later.

Senator Gumm presiding.

EXECUTIVE NOMINATIONS

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

Detten, Richard L., Ponca City, as a member of the Board of Regents of the Northern Oklahoma College - Education

Hancock, Walter Joe, Hobart, as a member of the Board of Trustees for the Quartz Mountain Arts and Conference Center and Nature Park - Education

Huser, William D., Wewoka, as a member of the Board of Regents of Seminole State College - Education

Pope, Billy Gene, Loyal, as a member of the Board of Regents for Redlands Community College - Education

Senator Fisher moved that when the clerk's desk is clear, the Senate stand adjourned to convene Monday, April 19, 2004, at 10:00 a.m., which motion prevailed.

FIRST READING

The following was introduced and read the first time:

SCR 60 – By Easley (Mary) of the Senate and Hutchison of the House.

A Concurrent Resolution designating the Mickey Mantle Memorial Highway; directing the Oklahoma Department of Transportation to place permanent markers; and directing distribution.

MESSAGE FROM THE GOVERNOR

Advising his approval April 15, 2004, of Enrolled **SBs 1100, 1167, 1259 and 1578**.

Pursuant to the Fisher motion, the Senate adjourned at 11:35 a.m. to meet Monday, April 19, 2004, at 10:00 a.m.