

# Senate Journal

## First Regular Session of the Fifty-second Legislature of the State of Oklahoma

**Twenty-sixth Legislative Day, Monday, March 16, 2009**

The Senate was called to order by Senator Sykes.

Roll Call:

Present: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Brown, Burrage, Coates, Coffee, Corn, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Myers, Newberry, Paddack, Reynolds, Rice, Russell, Schulz, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.—41.

Excused: Adelson, Branan, Brogdon, Crain, Mazzei, Nichols and Sparks.—7.

Senator Sykes declared a quorum present.

The prayer was offered by Reverend James Robinson, First Baptist Church, Durant, the guest of Senator Gumm.

### REPORT OF ENGROSSED AND ENROLLED MEASURES

**SR 19** was each correctly enrolled, properly signed and ordered transmitted to the Secretary of State.

**SBs 254, 481, 822, 902, 1138, 1141 and 1175** were each correctly engrossed, properly signed and ordered transmitted to the Honorable House for consideration.

### INTRODUCTIONS

Senator Eason McIntyre introduced former Senator Bernard McIntyre and his son and daughter-in-law, Bernard and Adrienne Tomlin, his daughter and son-in-law, Julie and Mitchell Lucky, and his grandson, Myles Lucky; Senator Marlatt introduced his wife, Tina, and his children, Kade, Kole and Kloey; Senator Sweeden introduced his wife, Sheila, and his daughters, Andie and Delaney; Senator Anderson introduced his daughters, Kate and

Lauren, and their guests, Heather Wilkerson and Ashlyn Rudy; and Senator Sykes introduced his son, Alex, to the Senate.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Garrison asked unanimous consent to refer **SCR 9** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SCR 9** by Garrison of the Senate and Rousselot of the House was called up for consideration.

Senators Bingman, Coates and all other members of the Senate asked to coauthor **SCR 9**, which was the order.

**SCR 9** was adopted upon motion of Senator Garrison and referred for engrossment.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Corn asked unanimous consent to refer **SCR 3** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SCR 3** by Corn of the Senate and Brannon of the House was called up for consideration.

All other members of the Senate asked to coauthor **SCR 3**, which was the order.

**SCR 3** was adopted upon motion of Senator Corn and referred for engrossment.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Corn asked unanimous consent to refer **SCR 5** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SCR 5** by Corn and Ellis of the Senate and Pruett and Bailey of the House was called up for consideration.

All other members of the Senate asked to coauthor **SCR 5**, which was the order.

**SCR 5** was adopted upon motion of Senator Corn and referred for engrossment.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Corn asked unanimous consent to refer **SR 2** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SR 2** by Corn was called up for consideration.

All other members of the Senate asked to coauthor **SR 2**, which was the order.

**SR 2** was adopted upon motion of Senator Corn and referred for enrollment.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Coffee asked unanimous consent to refer **SR 9** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SR 9** by Coffee was called up for consideration.

All other members of the Senate asked to coauthor **SR 9**, which was the order.

**SR 9** was adopted upon motion of Senator Coffee and referred for enrollment.

**FIRST READING**

The following were introduced and read the first time:

**SCR 11** – By Easley of the Senate and Sherrer of the House.

A Concurrent Resolution recognizing the artistic ability of Willard Stone; encouraging viewing of the Stone exhibit at the Gilcrease Museum; and directing distribution.

**SCR 12** – By Coffee of the Senate and Bengé of the House.

A Concurrent Resolution relating to adjournment of the legislative session; modifying date on which the 1st Session of the 52nd Oklahoma Legislature will adjourn sine die; prohibiting consideration of certain conference committee reports; and requiring revision of legislative calendar.

**SR 20** – By Ivester.

A Resolution honoring the public career of Lewis McGee; wishing him the best on the occasion of his retirement; and directing distribution.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Coffee asked unanimous consent to refer **SCR 12** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SCR 12** by Coffee of the Senate and Bengé of the House was called up for consideration.

**SCR 12** was adopted upon motion of Senator Coffee and referred for engrossment.

**EXECUTIVE NOMINATION**

The following executive nomination has been approved by the committee named:

Benbrook, Bruce, Woodward, to the Transportation Commission, to serve an eight year term ending February 15, 2017, succeeding himself. (Transportation Committee) Motion to confirm made by Senator Bryce Marlatt.

Motion to confirm the above named executive nomination was declared adopted upon roll call as follows:

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Brown, Burrage, Coates, Corn, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Myers, Newberry, Paddack, Rice, Russell, Schulz, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--39.

Excused: Adelson, Branan, Brogdon, Coffee, Crain, Mazzei, Nichols, Reynolds and Sparks.--9.

## **MESSAGE FROM THE HOUSE**

Advising passage of and transmitting for consideration Engrossed **HBs 1030, 1032, 1038, 1071, 1112, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1326, 1329, 1333, 1449, 1480, 1505, 1584, 1625, 1656, 1674, 1740, 1750, 1755, 1765, 1965, 1975, 2047, 2068, 2070, 2082, 2108, 2125, 2126, 2167, 2189 and 2228 and HJR 1009, 1021, 1029 and 1035.**

**HB 1030** – By Wright (John) of the House and Sykes of the Senate.  
( crimes and punishments - amending 21 O.S., Section 13.1 - prison sentences – codification - effective date )

**HB 1032** – By Murphey, Pittman and Reynolds of the House and Brogdon of the Senate.

An Act relating to state government; creating the Oklahoma State Government Modernization Act of 2009; stating legislative purpose; requiring certain persons to provide a list of certain purchase card expenditures; directing Office of State Finance to publish list; requiring the use of a Trip Optimizer system; creating procedures for the development of online licensing and permitting; providing for exemption process from online licensing and permitting; amending 62 O.S. 2001, Section 7.6, which relates to a Payroll Fund; providing for utilization of centralized payroll reporting; providing for a biweekly payroll system; providing for codification; and providing for noncodification.

**HB 1038** – By Cox, McDaniel (Jeannie), Walker, Tibbs, Peterson, Wright (John) and Nelson of the House and Crain of the Senate.

( insurance - accident and health insurance policies - disclosure statement - codification - effective date )

**HB 1071** – By Wright (John) of the House and Brogdon of the Senate.

An Act relating to statutes and reports; amending 75 O.S. 2001, Section 303, as last amended by Section 4, Chapter 227, O.S.L. 2005 and Section 3, Chapter 495, O.S.L. 2002, as last amended by Section 1, Chapter 19, O.S.L. 2006 (75 O.S. Supp. 2008, Sections 303 and 503), which relate to the Administrative Procedures Act; modifying notice requirements; modifying appointments to the Small Business Regulatory Review Committee; and providing an effective date.

**HB 1112** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( public finance - amending 62 O.S., Section 41.7c - budget work programs - effective date )

**HB 1114** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( public health and safety – amending 63 O.S., Section 1-1955.3 - Long-Term Care Partnership Program )

**HB 1115** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( revenue and taxation - amending 68 O.S., Section 2355.1B - income tax revenues - effective date )

**HB 1116** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( revenue and taxation - amending 68 O.S., Section 1353 - sales taxes - effective date )

**HB 1117** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( transportation – amending 69 O.S., Section 1101 - highway contracts )

**HB 1118** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( schools - amending 70 O.S., Section 1210.569 - student needs assessments )

**HB 1119** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( schools - amending 70 O.S., Section 1210.710 - elementary school counselors - reporting requirements )

**HB 1120** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( State Capitol Building - amending 73 O.S., Section 22 - defacement - effective date )

**HB 1121** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( state government - amending 74 O.S., Section 78d - Fleet Management Division - effective date )

**HB 1122** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( state government - amending 74 O.S., Sections 174 and 175 - eleemosynary institutions - effective date )

**HB 1123** – By Miller and Martin (Scott) of the House and Johnson (Mike) and Myers of the Senate.

( state government - amending 74 O.S., Section 85.43 - The Oklahoma Central Purchasing Act - effective date )

**HB 1326** – By Reynolds, Nelson, Peterson, Tibbs, Kern, Ritze, Faught and Ownbey of the House and Lamb of the Senate.

An Act relating to public health and safety; defining terms; making certain actions with a human embryo unlawful; providing penalty; providing for codification; and providing an effective date.

**HB 1329** – By Ritze, Terrill and Kern of the House and Sykes of the Senate.

An Act relating to elections; requiring proof of citizenship for certain candidates; requiring documents to be available for public inspection; providing for codification; and providing an effective date.

**HB 1333** – By Denney and Coody of the House and Coates of the Senate.

An Act relating to schools; amending 70 O.S. 2001, Section 6-122.3, which relates to alternative placement teaching certificate; clarifying statutory language; requiring certain minimum grade point average; deleting authorization for reduction of certain education component; directing the State Board of Education to establish certain core minimum education component; increasing certain minimum professional education component; deleting certain definitions; updating statutory language; updating certain entity responsible for certain duties; modifying eligibility requirements for an alternative placement program; amending 70 O.S. 2001, Section 6-187, as amended by Section 2, Chapter 236, O.S.L. 2002 (70 O.S. Supp. 2008, Section 6-187), which relates to competency examinations; requiring completion of certain programs for certification in certain areas; and providing an effective date.

**HB 1449** – By McMullen and Faught of the House and Ellis of the Senate.

( crimes and punishments - amending 21 O.S., Sections 1290.5, 1290.10, 1290.11, 1290.14 and 1290.15 - Oklahoma Self-Defense Act - misdemeanor crimes - firearms instructors - effective date )

**HB 1480** – By Fields of the House and Sweeden of the Senate.

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 1370.9, as amended by Section 1, Chapter 200, O.S.L. 2002 (68 O.S. Supp. 2008, Section 1370.9), which relates to lodging tax; providing scope of purpose; and providing that scope of purpose applies to certain levies.

**HB 1505** – By Denney, Billy, Nelson, Smithson, Sullivan, Roan and McCullough of the House and Crain of the Senate.

( DNA evidence - amending 74 O.S., Section 150.27a - DNA Offender Database – noncodification - effective date )

**HB 1584** – By Fields, Kern, Dorman, Buck, Tibbs, Hickman and Martin (Steve) of the House and Paddock of the Senate.

( schools - amending 3A O.S., Section 713 - Oklahoma Education Lottery Trust Fund – Common Education Lottery Revolving Fund – expenditure of monies – investment of monies – State Board of Education to distribute a portion of the monies – codification )

**HB 1625** – By Pittman and Tibbs of the House and Eason McIntyre of the Senate.

An Act relating to poor persons; amending 56 O.S. 2001, Section 183, which relates to confidentiality of certain applications and records; creating Kelley’s Law; requiring the Department of Human Services, Developmental Disabilities Services Division, and certain providers to safeguard certain information; providing that certain information shall not be maintained in certain records; and providing an effective date.

**HB 1656** – By Dorman and Shelton of the House and Ivester of the Senate.

An Act relating to cities and towns; requiring municipalities and rural water districts to test fire hydrants and develop certain plan for such testing; requiring certain agencies to promulgate rules; providing for codification; and providing an effective date.

**HB 1674** – By Cannaday and Tibbs of the House and Ballenger of the Senate.

An Act relating to criminal procedure; requiring release of arrested persons under certain circumstances; providing procedures for electronic traffic citations; allowing for the continuance or rescheduling of arraignments; authorizing defendants to enter certain pleas; providing guidelines for payment of fines and costs; authorizing the issuance of arrest warrants and suspension of driving privileges under certain circumstances;

**HB 1740** – By Peters and McDaniel (Jeannie) of the House and Halligan of the Senate.

( public finance - Oklahoma Centennial Botanical Garden Authority - beneficial interest – codification )

**HB 1750** – By Martin (Scott) and Derby of the House and Bingman of the Senate.

( nuclear energy - Nuclear Energy Incentive Act - amending 11 O.S., Sections 24-105, 24- 105.1 and 24-117 - nuclear generation facilities – codification – noncodification - effective date )

**HB 1755** – By Martin (Scott), Pittman and Derby of the House and Jolley of the Senate.

( state government - CompSource Oklahoma - codification - effective date )

**HB 1765** – By Key, Reynolds and Kern of the House and Brogdon of the Senate.

( state government - amending 74 O.S., Section 18b - Attorney General - Transparency in Agency Lobbying Act – codification - effective date )

**HB 1965** – By Bengé, Lamons and Nelson of the House and Coffee of the Senate.  
( Office of the Chief Medical Examiner - providing for independent Office - Chief Administrative Officer - location of Office and laboratory - Board of Medicolegal Investigations – codification - effective date )

**HB 1975** – By Moore, Sullivan and Tibbs of the House and Brown of the Senate.  
An Act relating to health care coverage legislation; specifying time period for introduction of bills mandating certain health coverage; providing exception to time period for introduction; requiring report assessing impacts of certain health coverage; providing requirements of report; requiring actuarial analysis for report; authorizing the Legislative Service Bureau to enter into certain contracts; providing for codification; and providing an effective date.

**HB 2047** – By Morgan of the House and Eason McIntyre of the Senate.  
( prisons and reformatories - amending 57 O.S., Sections 510.7, 510.8 and 530.1 - assessment and placement of inmates in education - Department of Corrections - effective date )

**HB 2068** – By McNiel and Walker of the House and Anderson of the Senate.  
( schools - Fair Testing Act - amending 70 O.S., Sections 11-103.6, 1210.508 and 1210.523 – criterion-referenced test - noncodification - effective date – emergency )

**HB 2070** – By McNiel of the House and Crain of the Senate.  
An Act relating to professions and occupations; amending 59 O.S. 2001, Section 475.22, as amended by Section 21, Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2008, Section 475.22), which relates to engineering and land surveying; modifying exceptions for certain corporations; and providing an effective date.

**HB 2082** – By Wesselhoft, Murphey, Faught and Dank of the House and Brogdon of the Senate.

An Act relating to state government; requiring certain entities to make travel expenses public; requiring benefit be stated for each travel expense; providing for records to be posted on website; providing for codification; and providing an effective date.

**HB 2108** – By Ortega, Morrisette and Martin (Steve) of the House and Justice of the Senate.

An Act relating to the Oklahoma State Employees Benefits Council; amending 74 O.S. 2001, Sections 1363 and 1365, as last amended by Section 2, Chapter 450, O.S.L. 2005 (74 O.S. Supp. 2008, Section 1365), which relate to the Oklahoma State Employees Benefits Act; modifying definitions; modifying duties of the Council; providing an effective date; and declaring an emergency.

**HB 2125** – By Shelton and Pittman of the House and Johnson (Constance) of the Senate.

An Act relating to state government; amending Section 1, Chapter 241, O.S.L. 2006 (74 O.S. Supp. 2008, Section 8403), which relates to the African-American Centennial

Plaza Design Committee; changing name of the Committee and Plaza; modifying requirement for securing non-state-appropriated funds for the Plaza; modifying membership and officer appointments; and providing an effective date.

**HB 2126** – By Shelton of the House and Eason McIntyre of the Senate.

An Act relating to schools; amending 70 O.S. 2001, Section 13-102, which relates to the determination of eligibility for special education and related services; specifying who may request an initial evaluation; requiring a local education agency to have procedures to document requests; requiring local education agencies to conduct a certain review and determine interventions; providing for a determination of the need for an evaluation; providing for certain parental notification and consent; requiring documentation of parental contact; requiring referral process to be started within certain time period; requiring evaluation to be completed within certain time period; requiring time period for certain methods of evaluation; providing an exception to time period requirement; providing definition of evaluation; providing an effective date; and declaring an emergency.

**HB 2167** – By McCullough, Wright (John), Sullivan and Tibbs of the House and Sykes of the Senate.

An Act relating to state government; enacting the Private Attorney Retention Sunshine Act; requiring request for proposal process for retention of lawyer or law firm on behalf of state; requiring Internet website to contain conspicuous statement; requiring agency to maintain list of persons and entities receiving requests for proposals; authorizing agencies to provide Internet website access to request for proposals; prescribing period of time to maintain access; requiring website to contain information regarding vendor to which contract awarded; imposing requirement with respect to documents accessible through website; defining term; requiring executive review of certain contracts; requiring filing of proposed contract and written statement with Governor; providing requirements of written statement; providing time period for review; providing time period for which the Governor may hold a public hearing; requiring report from the Governor; allowing state agency or state agent to enter into certain proposed contract if the Governor makes no changes; requiring revised contract in certain circumstances; requiring letter to accompany revised contract if all recommended changes are not made; providing for additional hearings and additional reports; requiring certain revised contract terms to be treated as a new proposed contract; providing for expedited review of proposed contract; requiring certain statement from retained outside counsel at conclusion of legal proceeding; providing maximum amount of fees and expenses to be incurred; providing for reduction in fee; prohibiting expansion of authority of state agency or state agent; providing for codification; and providing an effective date.

**HB 2189** – By Moore, Kern, McDaniel (Jeannie), Nelson, Dorman, Faught and McMullen of the House and Russell of the Senate.

An Act relating to schools; amending 70 O.S. 2001, Section 24-106, which relates to the United States Flag; providing that instruction in the history and etiquette of the United States Flag be given in each grade annually; providing that the Pledge of Allegiance to the Flag of the United States of America be recited once daily in a classroom during each school day; providing definition of classroom; amending 25 O.S. 2001, Section 91.2, which

relates to the flag of the State of Oklahoma; providing that the official salute to the flag of the State of Oklahoma be recited once daily in a classroom during each school day; providing definition of classroom; declaring the official salute to the flag of the State of Oklahoma; providing that the official salute to the flag of the State of Oklahoma be recited at least once weekly on the floor of the Oklahoma House of Representatives when the Legislature is in session; providing for codification; and providing an effective date.

**HB 2228** – By Jett of the House and Jolley of the Senate.  
( economic development - Director of Foreign Trade Zones - codification - effective date – emergency )

**HJR 1009** – By Kern, Thompson, Osborn, Derby and Enns of the House and Newberry of the Senate.  
A Joint Resolution strongly opposing the federal Freedom of Choice Act; and directing distribution.

**HJR 1021** – By Trebilcock of the House and Anderson of the Senate.  
An Act directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 26 of Article V of the Constitution of the State of Oklahoma; modifying the date for the first day of the first year of a legislative session; modifying purposes for meeting on the first day of the first year of a legislative session; providing ballot title; and directing filing.

**HJR 1029** – By Scott, Derby, Nelson, Duncan, Kern, Cannaday, Proctor, Tibbs and Hoskin of the House and Brogdon of the Senate.  
( Joint Resolution - proposed amendment - adding a new Section 8F to Article X - ad valorem tax exemption for disabled troopers - ballot title - directing filing )

**HJR 1035** – By Enns, Faught, Johnson, Dank, Hamilton, Kern, Tibbs and Shelton of the House and Jolley of the Senate.  
( Joint Resolution - proposed amendment to Section 40 of Article X - adult stem cell research - special election - ballot title - directing filing )

The above-numbered measures were read the first time.

#### **CHANGE IN COMMITTEE ASSIGNMENT**

The following bill will be reassigned as follows:

**HB 1602** – Withdrawn from Judiciary committee and referred Direct to Calendar.

Senator Lamb moved that when the clerk's desk is clear, the Senate stand adjourned to convene Tuesday, March 17, 2009, at 1:30 p.m., which motion prevailed.

**SECOND READING**

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

**HB 1048** – Finance

**HB 1297** – Finance

**HB 1450** – Finance

**HB 1618** – Finance

**HB 1948** – Finance

**HB 1949** – Finance

Pursuant to the Lamb motion, the Senate adjourned at 2:10 p.m. to meet Tuesday, March 17, 2009, at 1:30 p.m.

**JOURNAL CORRECTION**

Page 1015, 7<sup>th</sup> Line from the bottom, by deleting the following:

“**HB 1127** – Appropriations”