

# Senate Journal

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

**Fifty-fifth Legislative Day, Wednesday, May 6, 2009**

The Senate was called to order by Senator Jolley.

Roll Call:

Present: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Mazzei, Myers, Newberry, Nichols, Reynolds, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.—46.

Excused: Adelson and Paddack.—2.

Senator Jolley declared a quorum present.

The prayer was offered by Father Stephen Hamilton, Saints Peter and Paul Catholic Church, Kingfisher, the guest of Senator Mike Johnson.

### REPORT OF ENGROSSED AND ENROLLED MEASURES

**SCR 18** was correctly engrossed, properly signed and ordered transmitted to the Honorable House for consideration.

**SBs 299, 301, 503, 592, 700, 783, 798, 803, 920, 934 and 1062** and **SJR 11 and 13** were each correctly enrolled, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

**SR 47** was correctly enrolled, properly signed and ordered transmitted to the Secretary of State.

**MESSAGE FROM THE HOUSE**

Advising conference granted on Engrossed **SBs** and naming House conferees as follows:

- SB 48** - Jackson, Trebilcock, Terrill, Tibbs, Blackwell, McAffrey, Inman and Smithson  
**SB 275** - Renegar, Denney, Pruett, Brannon, Billy, Joyner, Cannaday, Thomsen and Jones  
**SB 281** - Sullivan, McDaniel (Randy), Johnson, Lamons, Miller, Martin (Scott) and Hickman  
**SB 315** - Hickman, Brannon, Jones, Ownbey, Watson, Pruett, Miller and Martin (Scott)  
**SB 318** - Hickman, Brannon, Jones, Ownbey, Watson, Pruett, Miller and Martin (Scott)  
**SB 342** - Sullivan, Duncan, Jordan, Glenn and Lamons  
**SB 390** - Rousselot, Peterson, Steele, Cox, Tibbs, Kern, Glenn, McAffrey, Sherrer, Osborn and Watson  
**SB 458** - Duncan, Hoskin, Roan, Smithson, Banz, Armes and Murphey  
**SB 546** - Williams, Trebilcock, Derby, McAffrey, Ortega, Denney, Shannon, Kouplen, Hilliard, Kirby, Hoskin and Schwartz  
**SB 551** - DeWitt, Richardson, McNeil, Walker and Cannaday  
**SB 564** - Glenn, Rousselot, Armes, Enns and Sanders  
**SB 597** - Carey, Ortega, Christian, Miller, Armes, Blackwell, Glenn and Collins  
**SB 615** - Sullivan, Duncan, Jordan, Inman and Carey  
**SB 695** - Brown, Jackson, Martin (Scott), Sanders, Schwartz, Shannon, Thompson, Watson, Lamons, McPeak and Rousselot  
**SB 815** - Sherrer, Duncan, Sullivan, Jordan, Nelson, Inman, Kiesel, Rousselot, Lamons, McCullough, Cooksey, Terrill and Trebilcock  
**SB 832** - Shannon, Liebmann, Luttrell, McAffrey and Joyner  
**SB 885** - Sherrer, Jones, Steele, Osborn, McCullough, Morgan, Scott, Renegar, Hoskin, Duncan, Jordan and Cooksey  
**SB 887** - Carey, Sullivan, McDaniel (Randy), Sherrer, Reynolds, Duncan, Jordan and Lamons  
**SB 909** - Sullivan, McDaniel (Randy), Benge, Lamons, Miller, Martin (Scott), Morgan and Shumate  
**SB 938** - Sullivan, McDaniel (Randy), Dank, Carey, Miller, Martin (Scott) and Glenn  
**SB 959** - Carey, Miller, Martin (Scott), McCullough, Auffett, Moore and Sullivan  
**SB 1076** - Martin (Scott), Jackson, Sears, Ownbey, Jett, Nations, Williams, Carey, Peterson and Rousselot  
**SB 1119** - Terrill, McCullough, Christian, Cox, Roan, Smithson, Miller, Martin (Scott) and Lamons  
**SB 1127** - Duncan, Sullivan, McDaniel (Randy) and Carey  
**SB 1132** - Sherrer, Hilliard, Lamons, Carey, Inman, Sullivan, Jordan, Joyner, Cox, McDaniel (Randy) and Faught  
**SB 1168** - Coody, Blackwell, Hickman, Denney, Shumate, Jones, Sears, Buck and Dorman  
**SB 1169** - Denney, Sears, Coody, Hickman, McMullen, Proctor, Glenn, Miller, Martin (Scott)

**PENDING CONSIDERATION OF HAS**

**HAs to SB 517** were concurred in upon motion of Senator Bingman.

**SB 517**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Leftwich, Lerblance, Marlatt, Mazzei, Myers, Newberry, Reynolds, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--43.

Excused: Adelson, Coffee, Laster, Nichols and Paddack.--5.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

**PENDING CONSIDERATION OF HAS**

**HAs to SB 277** were called up for consideration.

Senator Schulz asked that **SB 277** be laid over for this legislative day, which was the order.

**SB 277** remains on pending consideration of HAs.

**PENDING CONSIDERATION OF HAS**

**HAs to SB 268** were concurred in upon motion of Senator Ford.

**SB 268**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Corn, Crain, Eason McIntyre, Ellis, Ford, Gumm, Halligan, Ivester, Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Mazzei, Myers, Newberry, Reynolds, Russell, Schulz, Sparks, Stanislawski, Sykes and Wyrick.--36.

Nay: Crutchfield, Easley, Garrison, Johnson (C), Rice, Sweeden and Wilson.--7.

Excused: Adelson, Coates, Coffee, Nichols and Paddack.--5.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

#### **PENDING CONSIDERATION OF HAS**

**HAs to SB 1013** were concurred in upon motion of Senator Newberry.

**SB 1013**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Mazzei, Myers, Newberry, Reynolds, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--44.

Excused: Adelson, Coates, Nichols and Paddack.--4.

The bill passed.

Pursuant to Rule 12-21, Senator Newberry served notice that the vote be reconsidered whereby **SB 1013** passed.

#### **PENDING CONSIDERATION OF HAS**

**HAs to SB 586** were concurred in upon motion of Senator Ford.

**SB 586**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Eason McIntyre, Ford, Halligan, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Marlatt, Mazzei, Myers, Newberry, Nichols, Reynolds, Rice, Russell, Schulz, Sparks, Stanislawski and Sykes.--30.

Nay: Ballenger, Barrington, Corn, Crutchfield, Easley, Ellis, Garrison, Gumm, Ivester, Laster, Leftwich, Lerblance, Sweeden, Wilson and Wyrick.--15.

Excused: Adelson, Crain and Paddack.--3.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

## **MESSAGE FROM THE HOUSE**

Advising naming House conferees on Engrossed:

- HB 1004** - Morgan, Sullivan, McDaniel (Randy), Watson, Sears, Rousselot and Glenn
- HB 1055** - Cox, Steele, Hickman, Kern, Ritze, Shelton, Williams and Dorman
- HB 1057** - Glenn, Armes, Enns, Pruett, Renegar, Osborn and Wright (Harold)
- HB 1077** - Lamons, Steele, Jones, Jett, Shumate, Proctor and Peters
- HB 1084** - Thomsen, McCullough, Murphey, Osborn, Roan and Cannaday
- HB 1095** - Thomsen, Denney, Wright (Harold), Kern, Shumate and Pittman
- HB 1295** - Murphey, Derby, McCullough, Pittman and Sherrer
- HB 1332** - Denney, Billy, Sullivan, Trebilcock, Miller, Williams, Bailey, Inman and Renegar
- HB 1411** - Nelson, Tibbs, Martin (Steve), Osborn, Roan and Smithson
- HB 1424** - Proctor, Peters, Jordan, Jett, Lamons and Billy
- HB 1661** - Williams, Blackwell, Jackson, Dorman, Hilliard, Shannon, Ortega, Miller and Hickman
- HB 1698** - Billy, Denney, Hilliard, Roan, Coody, Rousselot and Hickman
- HB 1707** - Derby, Duncan, McCullough, Schwartz, Shannon, Jordan, Scott, Hamilton and Glenn
- HB 1747** - Blackwell, Thompson, Watson, Brannon and Walker
- HB 1753** - Martin (Scott), Sears, Joyner, Martin (Steve), Schwartz, Nations, Rousselot and Sherrer
- HB 1760** - Enns, Tibbs, Martin (Steve), McDaniel (Randy), Walker and Glenn
- HB 1775** - Roan, Tibbs, Martin (Steve), Christian, Smithson, McCullough, Buck and Terrill
- HB 1786** - Shannon, Armes, Walker, Miller, Hickman and Carey
- HB 1790** - Shannon, Proctor, Schwartz, Tibbs and Hoskin
- HB 1834** - Hamilton, Glenn, Peterson, Duncan and Billy
- HB 2154** - Armes, DeWitt, Buck, Miller, Kouplen, Richardson and Pruett
- HB 2176** - Nelson, Hickman, Miller, Liebmann, Lamons, Glenn, Watson and Carey
- HB 2245** - Terrill, Duncan, Christian, McCullough, Faught, Roan, Smithson, Miller and Carey
- HB 2247** - Terrill, DeWitt, Martin (Scott), Dorman, Miller and Walker
- HB 2252** - Terrill, Christian, McCullough, Duncan, Faught, Roan and Smithson
- HJR 1005** - Lamons, Peterson, Peters, Sullivan, McDaniel (Jeannie) and Scott
- HJR 1016** - Jackson, Dank, Morrisette, Jones, Rousselot, Miller, Trebilcock, Steele, Brannon, Hickman and Carey

**HJR 1017** - Banz, Trebilcock, Steele, Brannon, Dorman, Blackwell and Jackson

**HJR 1021** - Trebilcock, Steele, Armes, Hickman, Dorman and Kiesel

**HJR 1041** - Sullivan, Bengel, Trebilcock, Duncan, Pruett and Carey

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Halligan asked unanimous consent to refer **SR 49** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SR 49** by Halligan et al was called up for consideration.

All other members of the Senate asked to coauthor **SR 49**, which was the order.

**SR 49** was adopted upon motion of Senator Halligan and referred for enrollment.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Bingman asked unanimous consent to refer **HCR 1005** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**HCR 1005** by McNiel of the House and Bingman of the Senate was called up for consideration.

**HCR 1005** was adopted upon motion of Senator Bingman and properly signed and ordered returned to the Honorable House.

**PENDING CONSIDERATION OF HAS**

**HAs** to **SB 267** were concurred in upon motion of Senator Crain.

**SB 267**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (M), Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Myers, Newberry, Reynolds, Russell, Schulz, Stanislawski and Sykes.--37.

Nay: Johnson (C), Jolley, Rice, Sparks, Sweeden, Wilson and Wyrick.--7.

Excused: Adelson, Mazzei, Nichols and Paddack.--4.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

#### **PENDING CONSIDERATION OF HAS**

**HAs** to **SB 406** were concurred in upon motion of Senator Crain.

Representative Morrisette asked to coauthor **SB 406**, which was the order.

**SB 406**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Myers, Newberry, Nichols, Reynolds, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--45.

Excused: Adelson, Mazzei and Paddack.--3.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

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

Senator Reynolds asked unanimous consent to refer **SR 51** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SR 51** by Reynolds was called up for consideration.

Senator Leftwich and all other members of the Senate asked to coauthor **SR 51**, which was the order.

**SR 51** was adopted upon motion of Senator Reynolds and referred for enrollment.

**PENDING CONSIDERATION OF HAs**

**HAs** to **SB 646** were rejected upon motion of Senator Lamb, conference requested, and Senate conferees to be named later.

**PENDING CONSIDERATION OF HAs**

**HAs** to **SB 672** were concurred in upon motion of Senator Crain.

**SB 672**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Myers, Newberry, Nichols, Reynolds, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--45.

Excused: Adelson, Mazzei and Paddack.--3.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

**UNANIMOUS CONSENT REQUEST  
DIRECT TO CALENDAR**

Senator Garrison asked unanimous consent to refer **SCRs 21** and **22** direct to the Calendar for consideration, which was the order.

**GENERAL ORDER**

**SCR 21** by Garrison et al of the Senate and Faught et al of the House was called up for consideration.

All other members of the Senate asked to coauthor **SCR 21**, which was the order.

**SCR 21** was adopted upon motion of Senator Garrison and referred for engrossment.

**GENERAL ORDER**

**SCR 22** by Garrison et al of the Senate and Faught et al of the House was called up for consideration.

All other members of the Senate asked to coauthor **SCR 22**, which was the order.

**SCR 22** was adopted upon motion of Senator Garrison and referred for engrossment.

**PENDING CONSIDERATION OF HAS**

**HAs** to **SB 659** were concurred in upon motion of Senator Justice.

**SB 659**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Myers, Newberry, Nichols, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--44.

Excused: Adelson, Mazzei, Paddack and Reynolds.--4.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

**PENDING CONSIDERATION OF CCR**

The **CCR** on **SB 306** was adopted upon motion of Senator Leftwich.

**SB 306**, as amended in conference, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Mazzei, Myers, Newberry, Nichols, Rice, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--44.

Excused: Adelson, Paddack, Reynolds and Russell.--4.

The bill passed.

**SB 306**, together with the conference committee report thereon, was ordered transmitted to the Honorable House.

#### **PENDING CONSIDERATION OF HAs**

**HAs** to **SB 553** were called up for consideration.

Senator Justice moved to adopt the HAs to **SB 553**.

Senator Gumm offered a substitute motion to **SB 553**, that House amendments be rejected, the bill be referred to Conference committee with conferees to be named later, and that conferees be instructed as follows:

To add on Page 12, Line 20 ½, of the House amendments new Sections 3 and 4 as follows:

“SECTION 3. AMENDATORY 36 O.S. 2001, Section 6542, as last amended by Section 6, Chapter 404, O.S.L. 2008 (36 O.S. Supp. 2008, Section 6542), is amended to read as follows:

Section 6542.

A. 1. The primary plan shall offer as the basic option an annually renewable policy with coverage as specified in this section for each eligible person, except, that if an eligible person is also eligible for Medicare coverage, the plan shall not pay or reimburse any person for expenses paid by Medicare.

2. Any person whose health insurance is involuntarily terminated for any reason other than nonpayment of premium or fraud may apply for coverage under any of the plans offered by the Board of Directors of the Health Insurance High Risk Pool. If such coverage is applied for within sixty-three (63) days after the involuntary termination and if premiums are paid for the entire period of coverage, the effective date of the coverage shall be the date of termination of the previous coverage.

3. The primary plan shall provide that, upon the death, annulment of marriage or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue coverage under a continuation or conversion policy.

4. No coverage provided to a person who is eligible for Medicare benefits shall be issued as a Medicare supplement policy.

B. The primary plan shall offer comprehensive coverage to every eligible person who is not eligible for Medicare. Comprehensive coverage offered under the primary plan shall pay an eligible person's covered expenses, subject to the limits on the deductible and coinsurance payments authorized under subsection E of this section up to a lifetime limit of One Million Dollars (\$1,000,000.00) per covered individual. The maximum limit under this paragraph shall not be altered by the Board of Directors of the Health Insurance High Risk Pool, and no actuarially equivalent benefit may be substituted by the Board.

C. Except for a health maintenance organization and prepaid health plan or preferred provider organization utilized by the Board or a covered person, the usual customary charges for the following services and articles, when prescribed by a physician, shall be covered expenses in the primary plan:

1. Hospital services;
2. Professional services for the diagnosis or treatment of injuries, illness, or conditions, other than dental, which are rendered by a physician or by others at the direction of a physician;
3. Drugs requiring a physician's prescription;
4. Services of a licensed skilled nursing facility for eligible individuals, ineligible for Medicare, for not more than one hundred eighty (180) calendar days during a policy year, if the services are the type which would qualify as reimbursable services under Medicare;
5. Services of a home health agency, if the services are of a type which would qualify as reimbursable services under Medicare;
6. Use of radium or other radioactive materials;
7. Oxygen;
8. Anesthetics;
9. Prosthesis, other than dental prosthesis;
10. Rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids;
11. Diagnostic x-rays and laboratory tests;
12. Oral surgery for partially or completely erupted, impacted teeth and oral surgery with respect to the tissues of the mouth when not performed in connection with the extraction or repair of teeth;
13. Services of a physical therapist;
14. Transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition;
15. Processing of blood including, but not limited to, collecting, testing, fractioning, and distributing blood; and
16. Services for the treatment of alcohol and drug abuse, but the plan shall be required to make a fifty percent (50%) co-payment and the payment of the plan shall not exceed Four Thousand Dollars (\$4,000.00).

Usual and customary charges shall not exceed the reimbursement rate for charges as set by the State and Education Employees Group Insurance Board.

- D. 1. Covered expenses in the primary plan shall not include the following:
- a. any charge for treatment for cosmetic purposes, other than for repair or treatment of an injury or congenital bodily defect to restore normal bodily functions,
  - b. any charge for care which is primarily for custodial or domiciliary purposes which do not qualify as eligible services under Medicaid,
  - c. any charge for confinement in a private room to the extent that such charge is in excess of the charge by the institution for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician,
  - d. that part of any charge for services or articles rendered or provided by a physician or other health care personnel which exceeds the prevailing charge in the locality where the service is provided, or any charge for services or articles not medically necessary,
  - e. any charge for services or articles the provision of which is not within the authorized scope of practice of the institution or individual providing the service or articles,
  - f. any expense incurred prior to the effective date of the coverage under the plan for the person on whose behalf the expense was incurred,
  - g. any charge for routine physical examinations in excess of one every twenty-four (24) months,
  - h. any charge for the services of blood donors and any fee for the failure to replace the first three (3) pints of blood provided to an eligible person annually, and
  - i. any charge for personal services or supplies provided by a hospital or nursing home, or any other nonmedical or nonprescribed services or supplies.

2. The primary plan may provide an option for a person to have coverage for the expenses set out in paragraph 1 of this subsection or any benefits payable under any other health insurance policy or plan, commensurate with the deductible and coinsurance selected.

E. 1. The primary plan shall provide for a choice of annual deductibles per person covered for major medical expenses in the amounts of Five Hundred Dollars (\$500.00), One Thousand Dollars (\$1,000.00), One Thousand Five Hundred Dollars (\$1,500.00), Two Thousand Dollars (\$2,000.00), Five Thousand Dollars (\$5,000.00) and Seven Thousand Five Hundred Dollars (\$7,500.00), plus the additional benefits payable at each level of deductible; provided, if two individual members of a family satisfy the applicable deductible, no other members of the family shall be required to meet deductibles for the remainder of that calendar year.

2. The schedule of premiums and deductibles shall be established by the Board.

3. Rates for coverage issued by the Pool may not be unreasonable in relation to the benefits provided, the risk experience and the reasonable expenses of providing coverage.

4. Separate schedules of premium rates based on age may apply for individual risks.

5. Rates are subject to approval by the Insurance Commissioner.

6. Standard risk rates for coverages issued by the Pool shall be established by the Board, subject to the approval of the Insurance Commissioner, using reasonable actuarial techniques, and shall reflect anticipated experiences and expenses of such coverage for standard risks.

7.
  - a. The rating plan established by the Board shall initially provide for rates equal to one hundred twenty-five percent (125%) of the average standard risk rates of the five largest insurers doing business in the state.
  - b. Any change to the initial rates shall be based on experience of the plans and shall reflect reasonably anticipated losses and expenses. The rates shall not increase more than five percent (5%) annually with a maximum rate not to exceed one hundred fifty percent (150%) of the average standard risk rates.
8.
  - a. A Pool policy may contain provisions under which coverage is excluded during a period of twelve (12) months following the effective date of coverage with respect to a given covered person's preexisting condition, as long as:
    - (1) the condition manifested itself within a period of six (6) months before the effective date of coverage, or
    - (2) medical advice or treatment for the condition was recommended or received within a period of six (6) months before the effective date of coverage. The provisions of this paragraph shall not apply to a person who is a federally defined eligible individual.
  - b. The Board shall waive the twelve-month period if the person had continuous coverage under another policy with respect to the given condition within a period of six (6) months before the effective date of coverage under the Pool plan. The Board shall also waive any preexisting waiting periods for an applicant who is a federally defined eligible individual.
  - c. In the case of an individual who is eligible for the credit for health insurance costs under Section 35 of the Internal Revenue Code of 1986, the preexisting conditions limitation will not apply if the individual maintained creditable health insurance coverage for an aggregate period of three (3) months as of the date on which the individual seeks to enroll in coverage under the Pool plan, not counting any period prior to a sixty-three-day break in coverage.
9.
  - a. No amounts paid or payable by Medicare or any other governmental program or any other insurance, or self-insurance maintained in lieu of otherwise statutorily required insurance, may be made or recognized as claims under such policy, or be recognized as or towards satisfaction of applicable deductibles or out-of-pocket maximums, or to reduce the limits of benefits available.
  - b. The Board shall have a cause of action against a covered person for any benefits paid to a covered person which should not have been

claimed or recognized as claims because of the provisions of this paragraph, or because otherwise not covered.

F. Notwithstanding any other provisions of this section, the primary plan shall provide coverage for the screening, diagnosis, testing, and treatment of an autism spectrum disorder. Coverage provided under this subsection is limited to generally recognized services and treatments that are prescribed by the insured individual's treating physician in accordance with a treatment plan.

1. The coverage required under this subsection shall not be subject to dollar limits, visit limitations, deductibles or co-insurance provisions that are less favorable to an insured individual than the dollar limits, visit limitations, deductibles, or coinsurance provisions that apply to the primary plan. Coverage of services may be subject to other general exclusions and limitations of the health benefit plan, including, but not limited to:

- a. The coordination of benefits;
- b. Participating provider requirements;
- c. Services provided by family or household member restrictions;
- d. Eligibility; and
- e. Appeals processes.

2. The treatment plan shall include all elements necessary for the insurer to appropriately pay claims. These elements shall include, but not be limited to:

- a. A diagnosis;
- b. Proposed treatment or treatments by type, frequency and duration;
- c. The anticipated outcomes stated as goals;
- d. The frequency by which the treatment plan will be updated; and
- e. The treating physician's signature.

The insurer shall have the right to request an updated treatment plan not more than once every twelve (12) months from the treating physician to review medical necessity, unless the insurer and the provider agree that a more frequent review is necessary due to emerging clinical circumstances.

3. A diagnosis of an autism spectrum disorder by a licensed physician or board certified therapist shall be required to be eligible for benefits and coverage under this subsection. The prescribing medical practitioner must be:

a. licensed, certified, or registered by an appropriate agency of the state of Oklahoma and whose professional credential is recognized and accepted by an appropriate agency of the United States; or

b. certified as a provider under the TRICARE military health system.

The benefits and coverage provided under this subsection shall be provided to any eligible person less than twenty-one (21) years of age.

4. The primary plan shall provide coverage for all therapies, treatments, diagnoses and testing, medicines, special diets, and supplements prescribed by a licensed physician or board certified therapist, including but not limited to coverage for pharmacy care, psychological care, psychiatric care, therapeutic care, rehabilitative care, habilitative care, and Applied Behavior Analysis therapy.

5. Coverage for Applied Behavior Analysis therapy shall be subject to a maximum benefit of Thirty-Six-Thousand-Dollars (\$36,000.00) per year. Payments made by an insurer on behalf of a covered individual for treatment of a health condition unrelated to or distinguishable from the individual's autism spectrum disorder, or for non-applied behavior

analysis therapeutic treatment, shall not be applied toward any maximum benefit established under this subsection.

6. The primary plan shall not deny or refuse to issue coverage on, refuse to contract with, refuse to renew, refuse to reissue, or otherwise terminate or restrict coverage on an individual under an insurance policy solely because the individual is diagnosed with an autistic spectrum disorder.

7. As used in this subsection:

a. “Applied Behavior Analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior or to prevent loss of attained skill or function, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior;

b. “Autism service provider” means a person, entity or group providing treatment of autism spectrum disorders, pursuant to a treatment plan, that is licensed or certified in this State or is a Behavior Analyst with a valid certificate issued by the Behavior Analyst Certification Board;

c. “Autism spectrum disorder” means any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of the Mental Disorders (DSM) including Autistic Disorder, Asperger’s Disorder, Pervasive Developmental Disorder not otherwise specified (NOS), Rett Disorder, and Childhood Degenerative Disorder (CDD);

d. “Diagnostic assessment of autism spectrum disorders” means medically necessary assessments, evaluations or tests performed by a licensed physician, licensed physician assistant, licensed psychologist or certified registered nurse practitioner to diagnose whether an individual has an autism spectrum disorder;

e. “Medically necessary” means any care, treatment, intervention, service, or item which is prescribed, provided or ordered by a licensed physician, licensed psychologist, or registered nurse practitioner in accordance with accepted standards of practice and which will or is reasonable and which will, or is reasonably expected to, do any of the following:

(i) prevent the onset of an illness, condition injury or disability;

(ii) reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury, or disability;

(iii) assist to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate of recipients of the same age;

f. “Pharmacy care” means medications prescribed by a licensed physician, licensed physician assistant or certified registered nurse practitioner and any assessment, evaluation or test prescribed or ordered by a licensed physician, licensed physician assistant or certified registered nurse practitioner to determine the need or effectiveness of such medications;

g. “Psychiatric care” means direct or consultative services provided by a physician who specializes in psychiatry;

h. “Psychological care” means direct or consultative services provided by a psychologist;

i. “Rehabilitative care” means professional services and treatment programs, including applied behavior analysis, provided by an autism service provider to produce socially

significant improvements in human behavior or to prevent the loss of attained skill or function;

j. “Therapeutic care” means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists; and

k. “Treatment plan” means a plan for the treatment of autism spectrum disorders developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation.

SECTION 4. Section 3 of this act shall become effective January 1, 2010.”

Senator Justice moved to table the Gumm substitute motion, which tabling motion was declared adopted upon roll call as follows:

Aye: Aldridge, Anderson, Barrington, Bingman, Branan, Brogdon, Brown, Coffee, Crain, Ford, Halligan, Johnson (M), Jolley, Justice, Lamb, Marlatt, Mazzei, Myers, Newberry, Reynolds, Schulz, Stanislawski and Sykes.--23.

Nay: Ballenger, Bass, Burrage, Coates, Corn, Crutchfield, Easley, Eason McIntyre, Ellis, Garrison, Gumm, Ivester, Johnson (C), Laster, Leftwich, Lerblance, Rice, Sparks, Sweeden, Wilson and Wyrick.--21.

Excused: Adelson, Nichols, Paddack and Russell.--4.

Senator Justice pressed his motion to adopt the House amendments to **SB 553**, which motion was declared adopted upon roll call as follows:

Aye: Aldridge, Anderson, Barrington, Bingman, Branan, Brogdon, Brown, Coffee, Crain, Ford, Halligan, Johnson (M), Jolley, Justice, Lamb, Marlatt, Mazzei, Myers, Newberry, Reynolds, Russell, Schulz, Stanislawski and Sykes.--24.

Nay: Ballenger, Bass, Burrage, Coates, Corn, Crutchfield, Easley, Eason McIntyre, Ellis, Garrison, Gumm, Ivester, Johnson (C), Laster, Leftwich, Lerblance, Rice, Sparks, Sweeden, Wilson and Wyrick.--21.

Excused: Adelson, Nichols and Paddack.--3.

**SB 553**, as amended by the Honorable House, was read at length.

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

Aye: Aldridge, Anderson, Ballenger, Barrington, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Easley, Ellis, Ford, Gumm, Halligan, Ivester, Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Mazzei, Myers, Newberry, Nichols, Reynolds, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--41.

Nay: Bass, Crutchfield, Eason McIntyre, Garrison and Johnson (C).--5.

Excused: Adelson and Paddack.--2.

The bill passed.

Senator Garrison desired to vote Aye and Senator Easley desired to vote Nay on the emergency.

On the question of passage of the emergency, the vote resulted as follows: Aye: 41; Nay: 5; Excused: 2.

The emergency passed.

Pursuant to Rule 12-21, Senator Justice served notice that the vote be reconsidered whereby **SB 553** passed.

#### **MESSAGES FROM THE HOUSE**

Advising fourth reading of and transmitting for signature Enrolled **HBs 1600, 1676, 1934** and **2151**.

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

Advising fourth reading of and returning Enrolled **SBs 299, 301, 503, 592, 700, 783, 798, 803, 920, 934** and **1062** and **SJR 11**.

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

Advising fourth reading of and returning Enrolled **SJR 13**.

The above-numbered enrolled measure was referred to the Secretary of State.

Advising passage of and returning the following Engrossed measure:

**SCR 23** - coauthored by McMullen

The above-numbered measure was referred for enrollment.

**Senator Sykes presiding.**

**MOTION TO RECONSIDER VOTE**

Senator Jolley moved to reconsider the vote whereby **SB 749** passed, which motion was declared adopted upon roll call as follows:

Aye: Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ellis, Ford, Garrison, Gumm, Halligan, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Marlatt, Mazzei, Myers, Newberry, Nichols, Rice, Russell, Schulz, Sparks, Stanislawski, Sweeden, Sykes, Wilson and Wyrick.--45.

Excused: Adelson, Paddack and Reynolds.--3.

**FOURTH READING**

Senator Jolley moved to reconsider the vote whereby the House amendments were adopted on **SB 749**, which motion was declared adopted.

**PENDING CONSIDERATION OF HAS**

**HAs** to **SB 749** were rejected upon motion of Senator Jolley, conference requested, and Senate conferees to be named later.

**MESSAGES FROM THE HOUSE**

Advising concurrence in **SAs** to and passage of Engrossed **HBs 1048, 1059** and **1165** and **HJR 1042**.

Advising naming House conferees on Engrossed:

**HB 1595** - Sullivan, Duncan, Peterson, Kern, Hamilton and Pruett

**HB 2246** - Terrill, Murphey, Christian, Rousselot, Jackson and Blackwell

**HB 2250** - Terrill, McCullough, Christian, Roan, Smithson, Murphey and Miller

Advising conference granted on Engrossed **SBs** and naming House conferees as follows:

**SB 353** - Cox, Steele, Peters, Sullivan, Lamons, McDaniel (Jeannie), Ritze and Shumate

**SB 810** - Terrill, Trebilcock, Schwartz, Cox, Steele, Buck and Hamilton

**SB 929** - Denney, Dank, Jackson, Billy, Dorman, Carey, Williams and Miller

Advising conference granted on Engrossed **SBs** and naming GCCA:

**SBs 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 240, 241, 242, 243 and 244.**

#### **SCs NAMED**

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

**SB 611** – Anderson, Crain, Jolley, Sykes, Lamb  
**SB 810** – Nichols, Jolley, Lamb, Sykes, Mazzei  
**SB 1169** – GCCA

#### **PENDING SENATE ACTION HOUSE REQUEST FOR CONFERENCE**

Upon motion of Senator Lamb, the request of the Honorable House for conference on the following bills was ordered granted and Senate conferees appointed as follows:

**HB 1067** – GCCA  
**HB 1332** – GCCA  
**HB 1458** – Coates, Brown, Aldridge, Stanislawski, Mazzei, Sparks  
**HB 1483** – Justice, Bingman, Lamb, Coffee  
**HB 1595** – Lamb, Jolley, Crain, Newberry, Halligan, Marlatt  
**HB 1603** – Coffee, Lamb, Mazzei, Jolley  
**HB 1755** – Jolley, Lamb, Halligan, Crain, Easley  
**HB 1790** – GCCA  
**HB 1948** – GCCA  
**HB 1952** – GCCA  
**HB 1953** – GCCA  
**HB 1956** – Coffee, Lamb, Johnson (Mike), Mazzei  
**HB 1963** – Aldridge, Coffee, Lamb, Anderson  
**HB 1964** – GCCA  
**HB 2149** – GCCA  
**HB 2245** – GCCA

**HB 2246** – Brogdon, Nichols, Bingman, Mazzei, Jolley, Lamb

**HB 2247** – GCCA

**HB 2250** – GCCA

**HB 2252** – Sykes, Nichols, Branam, Jolley, Mazzei, Lamb

**HJR 1029** – GCCA

**HJR 1035** – GCCA

**HJR 1041** – Jolley, Coffee, Lamb, Mazzei

Senator Lamb moved that when the clerk's desk is clear, the Senate stand adjourned to convene Thursday, May 7, 2009, at 9:30 a.m., which motion prevailed.

### **CONFERENCE COMMITTEE REPORT SUBMITTED**

Conference committee report was read on the following bill:

**SB 1137**

### **FIRST READING**

The following were introduced and read the first time:

**SJR 44** – By Wilson of the Senate and Luttrell of the House.

A Joint Resolution disapproving a permanent rule of the Oklahoma Scenic Rivers Commission; and directing distribution.

**SCR 25** – By Newberry of the Senate and Peterson of the House.

A Concurrent Resolution saluting the life of Oral Roberts; recognizing his influence on Oklahoma; and directing distribution.

**SCR 26** – By Aldridge of the Senate and Sullivan of the House.

A Concurrent Resolution opposing federal legislation, H.R. 1889, known as the National Insurance Consumer Protection Act; and directing distribution.

**SCR 27** – By Reynolds of the Senate and Christian of the House.

A Concurrent Resolution recognizing the Vietnamese Freedom and Heritage Flag as the official symbol of the Vietnamese American community; encouraging all state and local entities to do the same; and directing distribution.

**SCR 28** – By Gumm of the Senate and Buck of the House.

A Concurrent Resolution recognizing the heroism of Byron Self and Cheryl Myers; and directing distribution.

**MESSAGE FROM THE GOVERNOR**

Advising his approval May 6, 2009, of Enrolled **SBs 290, 292, 335, 572 and 602.**

Pursuant to the Lamb motion, the Senate adjourned at 3:15 p.m. to meet Thursday, May 7, 2009, at 9:30 a.m.