

Senate Journal

First Extraordinary Session of the Fifty-ninth Legislature of the State of Oklahoma

Eighth Legislative Day, Monday, June 26, 2023

The Senate was called to order by Senator Hall.

Roll Call:

Present: Alvord, Bergstrom, Boren, Brooks, Bullard, Burns, Coleman, Dahm, Daniels, Dossett, Dugger, Floyd, Garvin, Gollihare, Green, Hall, Hamilton, Haste, Hicks, Jech, Jett, Kidd, Kirt, McCortney, Montgomery, Murdock, Newhouse, Paxton, Pemberton, Pugh, Rader, Rosino, Seifried, Stephens, Stewart, Thompson (Kristen), Thompson (Roger), Treat and Woods.—39.

Excused: Howard, Matthews, Pederson, Prieto, Rogers, Standridge, Stanley, Weaver and Young.—9.

Senator Hall declared a quorum present.

The prayer was offered by Senator Roger Thompson.

MESSAGES FROM THE HOUSE

Transmitting herewith enrolled **HB 1005** together with the Governor's veto message thereon, and advising that under the provisions of Article VI, Section 11, of the Constitution of the State of Oklahoma, the House of Representatives has reconsidered and passed said measure, over the Governor's veto by a two-thirds vote of all members elected to and constituting the House, said vote being as follows - Ayes 74, Nays 11

Advising passage of and transmitting for consideration Engrossed **HCR 1002**.

HCR 1002 – By McCall.

A Concurrent Resolution rescinding the passage of SCR2X; and setting sine die adjournment date.

The above-numbered measure was read the first time.

**UNANIMOUS CONSENT REQUEST
DIRECT TO CALENDAR**

Senator McCortney asked unanimous consent to refer **HCR 1002** direct to the Calendar for consideration, which was the order.

GENERAL ORDER

HCR 1002 by McCall of the House and Treat of the Senate was called up for consideration.

HCR 1002 was adopted upon motion of Senator McCortney and properly signed and ordered returned to the Honorable House.

MESSAGE FROM THE GOVERNOR

Advising his veto May 31, 2023, of Enrolled **SB 26x**.

The veto message reads as follows:

May 31, 2023

TO THE HONORABLE PRESIDENT PRO TEMPORE
AND MEMBERS OF THE OKLAHOMA SENATE
FIRST *EXTRAORDINARY* SESSION OF THE
FIFTY-NINTH OKLAHOMA LEGISLATURE

ENROLLED SENATE BILL NO. 26x:

Pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution, I have vetoed Enrolled Senate Bill 26x.

In clear violation of Oklahoma's fundamental and statutory law, Enrolled Senate Bill 26x purports to extend existing and expired tobacco tax compacts. Both because this Bill amounts to a circumvention of the executive's authority to negotiate compacts and is not in the State's best interests, I must veto it.

As enacted, Senate Bill 26x would rubberstamp pre-*McGirt* compacts containing the very language five of the State's 38 federally recognized tribes have relied upon to challenge, in *Stroble v.*

Oklahoma Tax Commission, the State's right to collect income tax within its territory. Although I believe the tribes' arguments in *Stroble* are without merit, to legislate as though at least those few tribes are not prepared to lodge the same argument in the tobacco tax context (and likely elsewhere) is at best unwise.

Even if the Bill were otherwise fair for the State, this bill has other problems, too.

First, this Bill is a byproduct of a body purporting to sit simultaneously in special and regular session. While a special session may have run concurrently with a regular session before; it does not mean such an occurrence is constitutional.

Second, this Bill is unconstitutional pursuant to Article 5, Section 27A because tobacco compacts—or for that matter, compacts at all—are not specifically identified in the Call, which is limited “to the consideration of” matters involving the appropriation of funds; the implementation and administration of budget-related funds; and the expenditure of American Rescue Plan Act of 2021 funds.

This Bill may appear on its face to be innocuous. However, if this bill were to become law, irreparable harm will befall our Great State. For these reasons, I have vetoed Enrolled Senate Bill 26x.

By the Governor of the State of Oklahoma
/s/ Kevin Stitt

**PENDING SENATE ACTION -
VETO OVERRIDE OF SB 26X**

Senator Treat moved that **SB 26X** become law notwithstanding the veto of the Governor, which motion failed of adoption upon roll call as follows:

Aye: Alvord, Boren, Brooks, Bullard, Burns, Coleman, Dossett, Dugger, Floyd, Garvin, Gollihare, Green, Hall, Haste, Hicks, Jech, Kidd, Kirt, McCortney, Montgomery, Paxton, Pemberton, Pugh, Rader, Rosino, Seifried, Stephens, Thompson (Kristen), Thompson (Roger), Treat and Woods.--31.

Nay: Bergstrom, Dahm, Daniels, Hamilton, Jett, Murdock, Newhouse and Stewart.--8.

Excused: Howard, Matthews, Pederson, Prieto, Rogers, Standridge, Stanley, Weaver and Young.--9.

CHANGE IN AUTHORS/COAUTHOR

The following measure was authored/coauthored:

HCR 1002 - Authored by Senator Treat

Senator McCortney moved pursuant to the provisions of **HCR 1002**, and when the clerk's desk is clear, the Senate in the First Extraordinary Session of the Fifty-ninth Legislature stand adjourned to the Call of the Chair, which motion prevailed.

HCR 1002 reads as follows:

A Concurrent Resolution relating to sine die adjournment.

WHEREAS, SCR2X was enrolled and filed with the Secretary of State on May 26, 2023; and

WHEREAS, the sine die adjournment date of the 1st Extraordinary Session of the 59th Oklahoma Legislature established in SCR2X, is no longer feasible.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE 1ST EXTRAORDINARY SESSION OF THE 59TH OKLAHOMA LEGISLATURE, THE SENATE CONCURRING THEREIN:

THAT the Oklahoma House of Representatives and the Oklahoma State Senate rescind the passage of SCR2X.

THAT the sine die adjournment of the 1st Extraordinary Session of the 59th Oklahoma Legislature shall be set no later than 11:59 p.m. on Monday, July 31, 2023, and unless an earlier sine die adjournment occurs, the 1st Extraordinary Session of the 59th Oklahoma Legislature shall be adjourned, sine die, at 11:59 p.m., Monday, July 31, 2023.

Pursuant to the McCortney motion, the Senate adjourned to the Call of the Chair at 10:35 a.m.