

Senate Journal

First Regular Session of the Forty-ninth Legislature of the State of Oklahoma

Thirty-fifth Legislative Day, Tuesday, April 1, 2003

The Senate was called to order by Senator Morgan.

Roll Call:

Present: Aldridge, Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.—47.

Vacancy: District 7.—1.

Senator Morgan declared a quorum present.

The prayer was offered by Reverend Craig Christina, First Baptist Church, Duncan, the guest of Senator Lawler.

REPORT OF ENGROSSED AND ENROLLED MEASURES

SCR 17 was correctly engrossed, properly signed and ordered transmitted to the Honorable House for consideration.

SB 237 was correctly enrolled and after fourth reading, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

SCR 16 was correctly enrolled, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

SRs 13 and 15 were each correctly enrolled, properly signed and ordered transmitted to the Secretary of State.

GENERAL ORDER

HB 1068 by Miller (Ray) et al of the House and Rozell et al of the Senate was called up for consideration.

Senator Gumm asked to coauthor **HB 1068**, which was the order.

Senator Rozell moved that **HB 1068** be advanced, which motion was declared adopted.

THIRD READING

HB 1068 was read for the third time at length.

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

Aye: Aldridge, Branan, Cain, Capps, Coates, Corn, Crutchfield, Easley, Fisher, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Kerr, Laster, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Rabon, Riley, Robinson, Rozell, Shurden, Taylor and Wilkerson.--34.

Nay: Brogdon, Coffee, Dunlap, Fair, Ford, Laughlin, Pruitt, Reynolds, Smith, Snyder, Wilcoxson, Williams and Williamson.--13.

Vacancy: District 7.--1.

The bill passed.

HB 1068 was properly signed and ordered returned to the Honorable House.

MOTION TO RECONSIDER VOTE

Senator Monson moved to reconsider the vote whereby **HB 1278** passed.

Senator Fisher moved to table the Monson motion, which tabling motion was declared adopted.

HB 1278 was referred for engrossment.

Senator Rozell presiding.

GENERAL ORDER

HB 1502 by Cox of the House and Crutchfield of the Senate was called up for consideration.

Senator Crutchfield moved that **HB 1502** be advanced, which motion was declared adopted.

THIRD READING

HB 1502 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, Capps, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.--46.

Nay: Robinson.--1.

Vacancy: District 7.--1.

The bill and emergency passed.

HB 1502 was properly signed and ordered returned to the Honorable House.

MESSAGES FROM THE HOUSE

Advising fourth reading of and transmitting for signature Enrolled **HBs 1105, 1261, 1342, 1481** and **1688**.

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 bill:

SB 575

The above-numbered measure was referred for enrollment.

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

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

SB 12 - coauthored Nance of the House

SB 162

SB 163

SB 164

SB 165

SB 166

SB 167

SB 168

SB 169

SB 524

SB 616 - coauthored by Ingmire, Nance of the House

SB 628 - coauthored by Ingmire of the House

House amendments were read on the above-numbered bills.

GENERAL ORDER

HB 1526 by Stanley of the House and Shurden of the Senate was called up for consideration.

Senator Cain moved to amend **HB 1526**, Page 2, Line 4 by inserting after the word “immunizations” and before the word “only” the words “and injections”.

Senator Shurden moved to table the Cain amendment.

Senator Shurden asked that **HB 1526** be laid over temporarily, which was the order.

HB 1526 remains on General Order pending consideration of the Shurden tabling motion.

GENERAL ORDER

HB 1443 by Stanley of the House and Crutchfield of the Senate was called up for consideration.

Senator Crutchfield moved that **HB 1443** be advanced, which motion was declared adopted.

THIRD READING

HB 1443 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, Brogdon, Cain, Capps, Corn, Crutchfield, Dunlap, Easley, Fisher, Gumm, Harrison, Hobson, Horner, Johnson, Kerr, Laster, Lawler, Leftwich, Maddox, Milacek, Monson, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Snyder, Taylor, Wilcoxson and Wilkerson.--34.

Nay: Branan, Coates, Coffee, Fair, Ford, Helton, Laughlin, Myers, Smith and Williamson.--10.

Excused: Littlefield, Morgan and Williams.--3.

Vacancy: District 7.--1.

The bill and emergency passed.

HB 1443 was referred for engrossment.

GENERAL ORDER

HB 1319 by Tibbs and Nance of the House and Brogdon of the Senate was called up for consideration.

Senator Fisher moved to amend **HB 1319**, Page 4, Line 11 ½, by inserting a new SECTION 2 to read as follows:

“SECTION 2. AMENDATORY 60 O.S. 2001, Section 837, is amended to read as follows:

Section 837. A. The purchaser may recover in a civil action only in the event of any of the following:

1. The failure of the seller to provide to the purchaser a disclaimer statement or a disclosure statement and any amendment prior to acceptance of an offer to purchase;
2. The failure of the seller to disclose in the disclosure statement or any amendment provided to the purchaser a defect which was actually known to the seller prior to acceptance of an offer to purchase; or
3. The failure of the real estate licensee to disclose to the purchaser any defects in the property actually known to the real estate licensee prior to acceptance of an offer to purchase and which were not included in the disclosure statement or any amendment provided to the purchaser.

B. The sole and exclusive civil remedy at common law or otherwise for a failure under subsection A of this section by the seller or the real estate licensee shall be an action for actual damages, including the cost of repairing the defect, suffered by the purchaser as a

result of a defect existing in the property as of the date of acceptance by the seller of an offer to purchase and shall not include the remedy of exemplary damages.

C. Any action brought under this act shall be commenced within two (2) years after the date of transfer of real property subject to this act.

D. In any civil action brought under this act, the prevailing party shall be allowed court costs and a reasonable attorney fee to be set by the court and to be collected as costs.

E. A transfer of a possessory interest in property subject to this act may not be invalidated solely because of the failure of any person to comply with this act.

F. This act applies to, regulates and determines rights, duties, obligations and remedies at common law or otherwise of the seller, the real estate licensee and the purchaser with respect to disclosure of defects in property and supplants and abrogates all common law liability, rights, duties, obligations and remedies therefore.”, and by renumbering subsequent section and amending the title to conform, which amendment was declared adopted.

Senator Brogdon moved that **HB 1319** be advanced, which motion was declared adopted.

THIRD READING

HB 1319 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, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Maddox, Milacek, Monson, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.--45.

Excused: Littlefield and Morgan.--2.

Vacancy: District 7.--1.

The bill passed.

HB 1319 was referred for engrossment.

REPORT OF ENGROSSED AND ENROLLED MEASURE

HB 1278 correctly engrossed and, together with engrossed **SAs**, properly signed and ordered returned to the Honorable House.

MESSAGES FROM THE HOUSE

Advising the signing of and returning Enrolled **SCR 16**.

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

Advising fourth reading of and returning Enrolled **SB 237**.

The above-numbered enrolled measure was referred to the Governor.

Advising passage of and returning the following Engrossed bill:

SB 289

The above-numbered measure was referred for enrollment.

GENERAL ORDER

HB 1145 by Gilbert of the House and Horner of the Senate was called up for consideration.

Senator Horner moved that **HB 1145** be advanced, which motion was declared adopted.

THIRD READING

HB 1145 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, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Horner, Johnson, Kerr, Laster, Laughlin, Lawler, Leftwich, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.--45.

Excused: Hobson and Littlefield.--2.

Vacancy: District 7.--1.

The bill passed.

HB 1145 was properly signed and ordered returned to the Honorable House.

**UNANIMOUS CONSENT REQUEST
DIRECT TO CALENDAR**

Senator Capps asked unanimous consent to suspend Rule 5-4 and refer **SR 14** direct to the Calendar for consideration, which was the order.

GENERAL ORDER

SR 14 by Hobson et al was called up for consideration.

Senator Kerr and all other members of the Senate asked to coauthor **SR 14**, which was the order.

SR 14 was adopted upon motion of Senator Capps and referred for enrollment.

GENERAL ORDER

HB 1061 by McCarter of the House and Crutchfield et al of the Senate was called up for consideration.

Senator Crutchfield moved that **HB 1061** be advanced, which motion was declared adopted.

THIRD READING

HB 1061 was read for the third time at length.

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

Aye: Cain, Capps, Coates, Corn, Crutchfield, Dunlap, Easley, Fisher, Ford, Gumm, Harrison, Helton, Horner, Kerr, Laster, Lawler, Leftwich, Maddox, Milacek, Monson, Morgan, Price, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.--35.

Nay: Aldridge, Branan, Brogdon, Coffee, Fair, Laughlin, Myers, Nichols and Pruitt.--9.

Excused: Hobson, Johnson and Littlefield.--3.

Vacancy: District 7.--1.

The bill passed.

HB 1061 was referred for engrossment.

Senator Rozell moved that the Senate recess to the call of the Chair, which motion was declared adopted.

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The Senate reconvened with Senator Rabon presiding.

Senator Rabon questioned the presence of a quorum and ordered the roll called, following which a quorum was declared present.

GENERAL ORDER

HB 1686 by Steele of the House and Aldridge of the Senate was called up for consideration.

Senator Aldridge moved that **HB 1686** be advanced, which motion was declared adopted.

THIRD READING

HB 1686 was read for the third time at length.

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

Aye: Aldridge, Cain, Capps, Coates, Corn, Crutchfield, Dunlap, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Laster, Leftwich, Littlefield, Maddox, Milacek, Morgan, Myers, Price, Riley, Robinson, Rozell, Shurden, Smith, Taylor, Wilkerson and Williams.--31.

Nay: Branan, Brogdon, Coffee, Easley, Johnson, Kerr, Laughlin, Lawler, Monson, Nichols, Pruitt, Rabon, Reynolds, Snyder, Wilcoxson and Williamson.--16.

Vacancy: District 7.--1.

The bill passed.

HB 1686 was referred for engrossment.

GENERAL ORDER

HB 1118 by Nations of the House and Crutchfield of the Senate was called up for consideration.

Senator Crutchfield moved that **HB 1118** be advanced, which motion was declared adopted.

THIRD READING

HB 1118 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, Capps, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Kerr, Laster, Laughlin, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Morgan, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Taylor, Wilcoxson, Wilkerson, Williams and Williamson.--45.

Nay: Snyder.--1.

Excused: Johnson.--1.

Vacancy: District 7.--1.

The bill and emergency passed.

HB 1118 was properly signed and ordered returned to the Honorable House.

GENERAL ORDER

HB 1526 was called up for further consideration.

Senator Shurden withdrew his tabling motion of the Cain amendment.

Senator Cain pressed the adoption of his amendment, which amendment was declared adopted.

Senator Shurden moved to amend **HB 1526**, Page 1, by restoring the title, which amendment was declared adopted.

Senator Shurden moved that **HB 1526** be advanced, which motion was declared adopted.

THIRD READING

HB 1526 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, Dunlap, Easley, Fisher, Ford, Gumm, Harrison, Hobson, Horner, Kerr, Laughlin, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson and Williams.--40.

Nay: Aldridge, Fair, Helton, Laster and Williamson.--5.

Excused: Johnson and Morgan.--2.

Vacancy: District 7.--1.

The bill and emergency passed.

HB 1526 was referred for engrossment.

GENERAL ORDER

HB 1140 by Peters et al of the House and Crutchfield and Williams of the Senate was called up for consideration.

Senator Crutchfield moved that **HB 1140** be advanced, which motion was declared adopted.

THIRD READING

HB 1140 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, Cain, Capps, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Horner, Kerr, Laster, Laughlin, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Myers, Nichols, Price, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson and Williams.--43.

Excused: Hobson, Johnson, Morgan and Williamson.--4.

Vacancy: District 7.--1.

The bill passed.

HB 1140 was referred for engrossment.

GENERAL ORDER

HB 1524 by Stanley of the House and Shurden of the Senate was called up for consideration.

Senator Shurden moved that **HB 1524** be advanced, which motion was declared adopted.

THIRD READING

HB 1524 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, Capps, Coates, Coffee, Corn, Crutchfield, Dunlap, Easley, Fair, Fisher, Ford, Gumm, Harrison, Helton, Hobson, Horner, Kerr, Laster, Laughlin, Lawler, Leftwich, Littlefield, Maddox, Milacek, Monson, Myers, Nichols, Pruitt, Rabon, Reynolds, Riley, Robinson, Rozell, Shurden, Smith, Snyder, Taylor, Wilcoxson, Wilkerson and Williams.--43.

Excused: Johnson, Morgan, Price and Williamson.--4.

Vacancy: District 7.--1.

The bill and emergency passed.

HB 1524 was properly signed and ordered returned to the Honorable House.

GENERAL ORDER

HB 1676 by Blackburn of the House and Crutchfield of the Senate was called up for consideration.

Senator Crutchfield asked that **HB 1676** be laid over for this legislative day, which was the order.

HB 1676 remains on General Order.

Senator Fisher moved that when the clerk's desk is clear, the Senate stand adjourned to convene Wednesday, April 2, 2003, at 9:00 a.m., which motion prevailed.

COMMITTEE REPORTS

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

DO PASS:

HB 1065 – Education

HB 1094 – Education

HB 1123 – Education, coauthored by Riley of the Senate

HB 1301 – Retirement and Group Health

HB 1464 – Retirement and Group Health

HB 1527 – Education

DO PASS, As Amended:

HB 1151 – Education

HB 1343 – Education

HB 1362 – Retirement and Group Health

HB 1438 – Education

CS for **HB 1440** – Retirement and Group Health

HB 1476 – Education

HB 1646 – Education

MESSAGE FROM THE GOVERNOR

Advising his approval April 1, 2002, of Enrolled **SB 443**.

Pursuant to the Fisher motion, the Senate adjourned at 3:25 p.m. to meet Wednesday, April 2, 2003, at 9:00 a.m.