

# Senate Journal

## First Extraordinary Session of the Fiftieth Legislature of the State of Oklahoma

**First Legislative Day, Friday, May 27, 2005**

Pursuant to Executive Order 2005-15, issued by the Governor of the State of Oklahoma, the Honorable Brad Henry, on the 27<sup>th</sup> day of May, 2005, the Senate was called to order by Senator Gumm.

Roll Call:

Present: Adelson, Aldridge, Anderson, Barrington, Bass, Branan, Brogdon, Cain, Capps, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Fisher, Ford, Garrison, Gumm, Harrison, Hobson, Johnson, Jolley, Justice, Kerr, Lamb, Laster, Laughlin, Lawler, Leftwich, Lerblance, Mazzei, Monson, Morgan, Myers, Nichols, Paddack, Pruitt, Rabon, Reynolds, Riley, Shurden, Taylor, Wilcoxson, Williamson, Wilson and Wyrick.—  
48.

Senator Gumm declared a quorum present.

### COMMUNICATION

The Executive Order issued by the Governor was read at length as follows:

EXECUTIVE DEPARTMENT  
EXECUTIVE ORDER 2005-15

To the Honorable Members of the House of Representatives and  
the Honorable Members of the State Senate of Oklahoma:

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by the provisions of Section 7 of Article VI of the Oklahoma Constitution., hereby Convoke the First Extraordinary Session of the Fiftieth Oklahoma Legislature to convene at the State Capitol at 4:00 p.m. on May 27, 2005. I recommend for consideration of legislation relating to Oklahoma's workers compensation system.

Copies of this Executive Order shall be distributed to every member of the Oklahoma House of Representatives, every member of the Oklahoma State Senate, the Clerk of the

House of Representatives, the Secretary of the Senate, and the Director of the Office of State Finance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 27<sup>th</sup> of day of May, 2005.

By the Governor of the State of Oklahoma  
/s/Brad Henry

Attest:  
/s/M. Susan Savage

### **MILEAGE ALLOWANCE**

Senator Fisher moved adoption of the following report on mileage allowance, prepared by the Office of the Senate Administrator, which motion was declared adopted:

Senator	Residence	Total Miles Round Trip	Amount Round Trip
Adelson, Tom	Tulsa	180	72.90
Aldridge, Cliff	Choctaw		None requested
Anderson, Patrick	Enid	198	80.19
Barrington, Don	Lawton	182	73.71
Bass, Randy	Lawton	182	73.71
Branan, Cliff	Oklahoma City		None requested
Brogdon, Randy	Owasso	230	93.15
Cain, Bernest	Oklahoma City		None requested
Capps, Gilmer N.	Snyder	278	112.59
Coates, Harry	Seminole	116	46.98
Coffee, Glenn	Oklahoma City		None requested
Corn, Kenneth	Poteau	390	157.95
Crain, Brian	Tulsa	212	85.86
Crutchfield, Johnnie C.	Ardmore	196	79.38
Easley, Mary	Tulsa	230	93.15
Eason McIntyre, Judy	Tulsa	216	87.48
Fisher, Ted V.	Sapulpa	190	76.95
Ford, John	Bartlesville	292	118.26
Garrison, Earl	Muskogee	316	127.98
Gumm, Jay Paul	Durant	308	124.74
Harrison, J. Berry	Fairfax	258	104.49
Hobson, Cal	Lexington	78	31.59

Johnson, Mike	Kingfisher	96	38.88
Jolley, Clark	Edmond		None requested
Justice, Ron	Chickasha	98	39.69
Kerr, Robert M.	Altus	322	130.41
Lamb, Todd	Edmond	24	9.72
Laster, Charles	Shawnee	84	34.02
Laughlin, Owen	Woodward	290	117.45
Lawler, Daisy	Comanche	206	83.43
Leftwich, Debbe	Oklahoma City		None requested
Lerblance, Richard	Hartshorne	290	117.45
Mazzei, Mike	Bixby	212	85.86
Monson, Angela	Oklahoma City		None requested
Morgan, Mike	Stillwater	128	51.84
Myers, David	Ponca City	214	86.67
Nichols, Jonathan	Norman	42	17.01
Paddack, Susan	Ada	180	72.90
Pruitt, Scott	Broken Arrow	250	101.25
Rabon, Jeff	Hugo	398	161.19
Reynolds, Jim	Oklahoma City	26	10.53
Riley, Nancy	Tulsa	180	72.90
Shurden, Frank	Henryetta	190	76.95
Taylor, Stratton	Claremore	270	109.35
Wilcoxson, Kathleen	Oklahoma City		None requested
Williamson, James	Tulsa	228	92.34
Wilson, Jim	Tahlequah	334	135.27
Wyrick, Charles	Fairland	380	153.90

Senator Fisher moved that the selection of Officers, the membership of the Standing Committees and the Rules of the Senate of the First Regular Session of the Fiftieth Legislature continue for the First Extraordinary Session, which motion was declared adopted.

Senator Fisher moved that when the clerk's desk is clear, the Senate stand adjourned to convent to the Call of the Chair, which motion prevailed.

## **FIRST READING**

The following was introduced and read the first time:

**SB 1X** – By Morgan of the Senate and Hiatt of the House.

An Act relating to workers' compensation; amending 21 O.S. 2001, Section 1663, which relates to workers' compensation fraud; increasing penalties; defining terms; authorizing use of certain rates prior to filing; requiring filing within certain time; amending 36 O.S. 2001, Section 983, as amended by Section 14, Chapter 519, O.S.L.

2004 (36 O.S. Supp. 2004, Section 983), which relates to scope of loss cost rating act; exempting certain insurance from provisions of act; amending 40 O.S. 2001, Section 554, which relates to drug testing by employers; modifying circumstances under which certain testing may occur; providing for certain income tax credits; defining terms; providing and limiting amounts of credits; authorizing Tax Commission to promulgate rules; amending 68 O.S. 2001, Section 2358, as last amended by Section 14, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2358), which relates to adjustments to taxable income; providing income tax deduction for certain employers that utilize a certain program offered by the Oklahoma Department of Labor; providing amount of exemption; amending 85 O.S. 2001, Sections 1.1, 1.3, 3, as amended by Section 60, Chapter 329, O.S.L. 2003, 3.5, 3.9, 3.10, 5, 12, 14, as amended by Section 1, Chapter 215, O.S.L. 2002, 14.2, 14.3, 16, 17, as amended by Section 2, Chapter 215, O.S.L. 2002, 22, 24.1, 26, 30, 43, 44, 48, 171, 172, 173, as amended by Section 4, Chapter 31, O.S.L. 2002, 175, as amended by Section 3, Chapter 145, O.S.L. 2002, and 201.1, as last amended by Section 9, Chapter 229, O.S.L. 2003 (85 O.S. Supp. 2004, Sections 3, 14, 17, 173, 175 and 201.1), which relate to burden of proof, Workers' Compensation Court Administrator, definitions, venue, wrongful discharge, workers' compensation counselors, mediation, exclusive remedy, medical attention, certified workplace medical plans, rehabilitation services, determination of disability, schedule of compensation, limitation of actions, reports, notice forms, costs, subrogation, definition of physically impaired person, the Multiple Injury Trust Fund and the Physician Advisory Committee; providing for construction of act; modifying procedure for selection and removal of the Workers' Compensation Court Administrator; providing length of term; adding and modifying definitions; modifying venue; authorizing Workers' Compensation Court to elect hearing site under certain circumstances; requiring mailing of notice under certain circumstances; clarifying effect of immunity; setting forth requirements of notice; modifying procedures for mediation; authorizing Court to order mediation under certain circumstances; modifying qualifications of mediators; prohibiting termination of employees under certain circumstances; providing consequences if partially disabled employee refuses suitable employment; modifying process for selecting certain physicians; authorizing one change of physician; requiring certain process for change of physician; eliminating certain certified workplace medical plan enrollment option; modifying procedure for setting medical fee schedule; modifying reimbursement for certain items; prohibiting certain testing with exception; requiring certain revision of medical fee schedule; requiring use of generic drugs under certain circumstances; giving deference to opinion of treating physician under certain circumstances; authorizing employers to participate in certain plans under certain circumstances; requiring implementation of site visit protocol; limiting benefits during retraining; providing requirements for medical testimony; providing burden of proof; creating rebuttable presumption in favor of certain testimony for specific purposes under certain circumstances; providing exceptions thereto; providing benefits for certain soft tissue injuries; modifying certain benefits; requiring certain evidence for award of specific benefit; stating exception; requiring Court to appoint independent medical examiner in certain circumstances; setting forth criteria for review by independent medical examiner; providing procedure for termination of certain benefits; modifying certain benefits; defining terms; making certain filings confidential; providing procedure for settlements; providing statistical value of certain data; authorizing certain lump-sum payment;

specifying payment period for certain award; requiring certain evidence for award of specified benefit; authorizing attorney fees in certain circumstances; setting time limit for post-termination injury claims; modifying time for reopening claims; authorizing certain causes of action; providing for certain permanent total disability claims against the Multiple Injury Trust Fund; clarifying language; providing CompSource Oklahoma with standing and authority to appear in certain cases; modifying certain payments to certain agencies; modifying composition and duties of the Physician Advisory Committee; making compliance with certain guidelines mandatory; providing exception to mandatory compliance; creating task force; setting forth duties, guidelines and staffing for task force; repealing 36 O.S. 2001, Section 902.1, as last amended by Section 5, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2004, Section 902.1), which relates to workers' compensation insurance rates; repealing 40 O.S. 2001, Sections 415.1 and 415.2, which relate to certificates of noncoverage; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

Pursuant to the Fisher motion, the Senate adjourned at 3:45 p.m. to reconvene to the Call of the Chair.