

Senate Journal

Second Regular Session of the Fifty-first Legislature of the State of Oklahoma

Forty-third Legislative Day, Thursday, April 17, 2008

The Senate was called to order by Senator Williamson.

Roll Call:

Present: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Riley, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.—48.

Senator Williamson declared a quorum present.

The prayer was offered by Reverend Robert Griffin, First Baptist Church, Cole, the guest of Senator Nichols.

REPORT OF ENGROSSED AND ENROLLED MEASURES

HBs 1546, 2238, 2239, 2462, 2547, 2573, 2587, 2642, 2714, 2725, 2726, 2735, 2763, 2822, 2891, 3003, 3070, 3112, 3114, 3118, 3187 and 3396 were each correctly engrossed and, together with engrossed SAs, properly signed and ordered returned to the Honorable House.

SBs 1148, 1192, 1468, 1506, 1554, 1648 and 2069 were each correctly enrolled, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

GENERAL ORDER

HB 2813 by Watson et al of the House and Laughlin of the Senate was called up for consideration.

Senator Laughlin moved to amend **HB 2813**, Page 1, by restoring the title; and Page 6, Line 12, by deleting Section 2 and inserting in lieu thereof a new Section 2 adding an emergency clause, and by amending the title to conform, which amendment was declared adopted.

Senator Laughlin moved that **HB 2813** be advanced, which motion was declared adopted.

THIRD READING

HB 2813 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Riley, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--46.

Excused: Coffee and Morgan.--2.

The bill and emergency passed.

HB 2813 was referred for engrossment.

MESSAGE FROM THE HOUSE

Advising passage of and returning the following Engrossed bill:

SB 1770 - coauthored by Dorman and McMullen

The above-numbered measure was referred for enrollment.

Senator Laster 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 Williamson presiding.

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

GENERAL ORDER

HB 3124 by Jones et al of the House and Eason McIntyre of the Senate was called up for consideration.

Senator Eason McIntyre moved that **HB 3124** be advanced, which motion was declared adopted.

THIRD READING

HB 3124 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Riley, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson and Wyrick.--47.

Excused: Wilson.--1.

The bill passed.

HB 3124 was referred for engrossment.

MESSAGE FROM THE GOVERNOR

Advising his veto April 16, 2008, of Enrolled **SB 1878**.

The veto message reads as follows:

April 16, 2008

To the Honorable President Pro Tempore
and Members of the Oklahoma Senate
Second Regular Session of the Fifty First Oklahoma Legislature

ENROLLED SB 1878

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 and 12 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 1878. While I support reasonable restrictions

on abortion, this legislation does not provide an essential exemption for victims of rape and incest. By forcing the victims of such horrific acts to undergo and view ultrasounds after they have made such a difficult and heartbreaking decision, the state victimizes the victim for a second time. It would be unconscionable to subject victims of rape and incest to such treatment. Because of this critical flaw, I cannot in good conscience sign this legislation.

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

PENDING SENATE ACTION VETO OVERRIDE OF SB 1878

Senator Lamb moved that **SB 1878** become law notwithstanding the veto of the Governor, which motion was declared adopted upon roll call as follows:

Aye: Aldridge, Anderson, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Easley, Ford, Garrison, Gumm, Ivester, Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Mazzei, Myers, Nichols, Paddack, Reynolds, Riley, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson and Wyrick.--37.

Nay: Adelson, Ballenger, Crutchfield, Eason McIntyre, Johnson (C), Leftwich, Lerblance, Morgan, Rabon, Rice and Wilson.--11.

In accordance with Article VI, Section 11, Oklahoma Constitution, **SB 1878**, together with the Governor's veto message thereon, was transmitted to the Honorable House.

GENERAL ORDER

HB 3336 by Thompson and Roan of the House and Lamb of the Senate was called up for consideration.

Senator Corn moved to amend **HB 3336**, Page 1, Line 15 ½, by inserting a new Section 1 to read as follows:

“SECTION 1. AMENDATORY 19 O.S. 2001, Section 547, is amended to read as follows:

Section 547. A. The sheriff shall be responsible for the official acts of the undersheriff and deputy sheriffs, and may revoke such appointments at the pleasure of the sheriff; provided, however, for counties with a population of five hundred thousand (500,000) or more persons, according to the latest Federal Decennial Census, with the exception of chief deputies and undersheriffs, all deputy sheriffs and detention officers shall serve a five-year probationary period during which the deputy sheriff or detention officer shall be considered an at-will employee. After the five-year probationary period, such

deputy sheriff or detention officer shall not be discharged except for just cause. The sheriff or the undersheriff may in writing depute certain persons to do particular acts.

B. Each sheriff may appoint as many reserve force deputy sheriffs as are necessary to preserve the peace and dignity of the county. A current list of each person holding such appointment shall be maintained by the county sheriff and shall be available to the public. Reserve force deputy sheriffs may perform duties which encompass a particular act or a series of acts. A sheriff or salaried deputy sheriff shall accompany a reserve force deputy sheriff in the performance of all duties assigned to such reserve force deputy sheriff unless such reserve deputy has completed the required one-hundred-sixty-hour basic police course. Reserve force deputies may receive compensation for their services. The sheriff may pay reserve force deputies for travel expenses pursuant to the State Travel Reimbursement Act. Such reserve deputy sheriffs shall complete a one-hundred-sixty-hour basic police course within twelve (12) months after they have been commissioned to be paid by the county as an individual reserve deputy. The sheriff may pay for additional training courses attended by reserve force deputies.

C. 1. For counties with a population of two hundred thousand (200,000) or more persons, according to the latest Federal Decennial Census, reserve force deputy sheriffs with at least one hundred sixty (160) hours of training pursuant to Section 3311 of Title 70 of the Oklahoma Statutes shall not serve more than one hundred forty (140) hours per calendar month.

2. For counties with a population of less than two hundred thousand (200,000) persons, according to the latest Federal Decennial Census, reserve force deputy sheriffs with at least one hundred sixty (160) hours of training shall not serve more than one hundred ten (110) hours per calendar month.

D. The sheriff or a designee may deputize municipal police officers subject to an interlocal governmental agreement to combine city and county law enforcement efforts and to encourage cooperation between city and county law enforcement officials. Liability for the conduct of any municipal police officers deputized under the terms and conditions of an interlocal governmental agreement shall remain the responsibility of their municipal employer.

E. The sheriff may enter into mutual aid agreements pursuant to the Interlocal Cooperation Act, Section 1002 et seq. of Title 74 of the Oklahoma Statutes, to assist or provide law enforcement services to any town, city, and county within this state and the sheriff and deputies shall have law enforcement authority within the jurisdiction making the request. The employing governmental unit shall remain responsible for their officers or deputies pursuant to any mutual aid agreement.

F. A sheriff of the county may respond to any request from any other jurisdiction within the state for law enforcement assistance in cases of emergency. The sheriff, deputy sheriffs and reserve deputy sheriffs serving in response to the emergency request shall have the same powers and duties as though employed by the requesting law enforcement agency, and when so acting they shall be deemed to be acting within the scope of employment of the requesting law enforcement agency. Salaries, insurance and other benefits shall be provided in the regular manner by the county in which the sheriff, deputy sheriffs and reserve deputy sheriffs are regularly employed. As used in this subsection, "emergency" means a sudden and unforeseeable occurrence or condition, either as to its onset or its extent, of such severity or magnitude that immediate response or action is necessary to

assist law enforcement agencies having jurisdiction at the scene of the emergency to carry out their functions.

G. A reserve force deputy sheriff shall be authorized to serve civil process pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.”, and by renumbering subsequent sections, which amendment was declared adopted.

Senator Lamb moved that **HB 3336** be advanced, which motion was declared adopted.

THIRD READING

HB 3336 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Gumm, Ivester, Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Mazzei, Morgan, Myers, Nichols, Paddack, Reynolds, Schulz, Sparks, Sweeden, Sykes and Wyrick.--38.

Nay: Ballenger, Garrison, Johnson (C), Lerblance, Rabon, Rice, Wilcoxson, Williamson and Wilson.--9.

Excused: Riley.--1.

The bill and emergency passed.

HB 3336 was referred for engrossment.

GENERAL ORDER

HB 3394 by Cargill et al of the House and Adelson and Jolley of the Senate was called up for consideration.

Senator Adelson moved that **HB 3394** be advanced, which motion was declared adopted.

THIRD READING

HB 3394 was read for the third time at length.

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

Aye: Adelson, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brown, Burrage, Coates, Corn, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Jolley, Justice, Lamb, Laster, Leftwich, Lerblance, Morgan, Nichols, Paddock, Rabon, Reynolds, Rice, Sparks, Sweeden, Wilcoxson, Williamson, Wilson and Wyrick.--37.

Nay: Aldridge, Brogdon, Coffee, Crain, Johnson (M), Laughlin, Mazzei, Myers, Schulz and Sykes.--10.

Excused: Riley.--1.

The bill and emergency passed.

HB 3394 was referred for engrossment.

GENERAL ORDER

HB 3335 by Thompson and Collins of the House and Branan of the Senate was called up for consideration.

Senator Johnson (Constance) asked to coauthor **HB 3335**, which was the order.

Senator Jolley moved to amend **HB 3335**, Page 1, Line 22 ½, by inserting a new Section 2 to read as follows:

“SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1203.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

If the Department of Transportation, when exercising its authority to acquire property by condemnation or eminent domain as authorized by law, is the party demanding a jury trial, and the award of the jury is not at least ten percent (10%) more favorable to the Department than the assessment of the commissioners, the owner of any right, title, or interest in the property shall be paid such sums as in the opinion of the court will reimburse such owner for reasonable attorney, appraisal, and engineering fees and any other reasonable expert fees or costs actually incurred because of the condemnation proceedings. Such determination by the court shall be appealable to the Supreme Court in the same manner as any other final order.”, and by renumbering subsequent sections, which amendment was declared adopted.

Senator Branan moved that **HB 3335** be advanced, which motion was declared adopted.

THIRD READING

HB 3335 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--47.

Excused: Riley.--1.

The bill and emergency passed.

HB 3335 was referred for engrossment.

GENERAL ORDER

HB 2862 by Shelton of the House and Lerblance of the Senate was called up for consideration.

Senator Corn moved to amend **HB 2862**, Page 1, Line 11 ½, by inserting a new Section 1 to read as follows:

“SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-117, as last amended by Section 1, Chapter 348, O.S.L. 2007 (47 O.S. Supp. 2007, Section 2-117), is amended to read as follows:

Section 2-117. A. The Commissioner of Public Safety and each officer of the Department of Public Safety, as designated and commissioned by the Commissioner, are hereby declared to be peace officers of the State of Oklahoma and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of the state. Such officers shall have the powers and authority now and hereafter vested by law in other peace officers, including the right and power of search and seizure, except the serving or execution of civil process, and the right and power to investigate and prevent crime and to enforce the criminal laws of this state.

B. The officers of the Department shall have the following authority, responsibilities, powers and duties:

1. To enforce the provisions of this title and any other law regulating the operation of vehicles or the use of the highways, including, but not limited to, the Motor Carriers Act of this state, or any other laws of this state by the direction of the Governor;

2. To arrest without writ, rule, order or process any person detected by them in the act of violating any law of the state;

3. When the officer is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the jurisdiction of the Oklahoma Highway Patrol Division, to continue in pursuit of such violator or suspected violator into whatever part of the state may be reasonably necessary to effect the apprehension and arrest of the same, and to arrest such violator or suspected violator wherever the violator may be overtaken;

4. To assist in the location of stolen property, including livestock and poultry or the carcasses thereof, and to make any inspection necessary of any truck, trailer or contents thereof in connection therewith;

5. At all times to direct all traffic in conformance with law and, in the event of a fire, or other emergency, or to expedite traffic, or to insure safety, to direct traffic as conditions may require, notwithstanding the provisions of law;

6. To require satisfactory proof of ownership of the contents of any motor vehicle, including livestock, poultry or the carcasses thereof. In the event that the proof of ownership is not satisfactory, it shall be the duty of the officer to take the motor vehicle, driver, and the contents of the motor vehicle into custody and deliver the same to the sheriff of the county wherein the cargo, motor vehicle and driver are taken into custody;

7. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of this title, or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver license and the certificate of registration issued for the vehicle, if required to be carried in the vehicle pursuant to paragraph 3 of subsection A of Section 1113 of this title, and submit to an inspection of such vehicle, the license plates and certificate of registration thereon, if applicable, or to any inspection and test of the equipment of such vehicle;

8. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof;

9. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways and bench warrants issued for nonpayment of fines and costs for moving traffic violations;

10. To investigate and report traffic collisions on all interstate and defense highways and on all highways outside of incorporated municipalities, and may investigate traffic collisions within any incorporated municipality upon request of the local law enforcement agency, and to secure testimony of witnesses or of persons involved;

11. To investigate reported thefts of motor vehicles, trailers and semitrailers;

12. To stop and inspect any motor vehicle or trailer for such mechanical tests as may be prescribed by the Commissioner to determine the roadworthiness of the vehicle. Any vehicle which may be found to be unsafe for use on the highways may be ordered removed from said highway until such alterations or repairs have been made that will render said vehicle serviceable for use on the highway;

13. To stop and inspect the contents of all motor vehicles to ascertain whether or not the provisions of all general laws are being observed;

14. To enforce the laws of the state relating to the registration and licensing of motor vehicles;

15. To enforce the laws relating to the operation and use of vehicles on the highway;

16. To enforce and prevent, on the roads of the state highway system, the violation of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways;

17. To investigate and report to the Corporation Commission and the Oklahoma Tax Commission violation of their rules and the laws governing the transportation of persons and property by motor transportation companies and all other motor carriers for hire;

18. To investigate and report violations of all laws relating to the collection of excise taxes on motor vehicle fuels;

19. To regulate the movement of traffic on the roads of the state highway system;

20. Whenever possible, to determine persons causing or responsible for the breaking, damaging, or destruction of any improved surfaced roadway, structure, sign, marker, guardrail, or any other appurtenance constructed or maintained by the Department of Transportation, and to arrest persons responsible therefor and to bring them before the proper officials for prosecution;

21. To investigate incidents involving an employee of the Department, when such incidents are related to the performance of the duties of the employee; and

22. To initiate or assist in manhunts and fugitive apprehensions.

C. Whenever any person is arrested by a patrol officer for a traffic violation the provisions of Sections 16-101 through 16-114 of this title shall apply.

D. 1. Except as provided in this subsection, the powers and duties conferred on the Commissioner and officers of the Department of Public Safety shall not limit the powers and duties of sheriffs or other peace officers of the state or any political subdivision of the state.

2. The Oklahoma Highway Patrol Division shall have primary law enforcement authority respecting traffic-related offenses upon the National System of Interstate and Defense Highways, and may have special law enforcement authority on ~~those portions of~~ the federal-aid primary highways and the state highway system, including those portions of the federal aid primary highways and the state highway system which are located within the boundaries and on the outskirts of a municipality, and designated by the Commissioner of Public Safety for such special law enforcement authority. As used in this subsection "outskirts of a municipality" means and shall be determined by presence of the following factors:

- a. low land use density,
- b. absence of any school or residential subdivision requiring direct ingress or egress from the highway, and
- c. a scarcity of retail or commercial business abutting the highway.

3. The Commissioner may designate any portion of the National System of Interstate and Defense Highways, ~~and those portions of~~ the federal-aid primary highways, and the state highway system ~~which are located within the boundaries of and on the outskirts of a municipality~~ for special traffic-related enforcement by the Oklahoma Highway Patrol Division and issue a written notice to any other law enforcement agency affected thereby. Upon receipt of such notice, the affected law enforcement agency shall not regulate traffic nor enforce traffic-related statutes or ordinances upon such designated portion of the National System of Interstate and Defense Highways or such designated portions of the federal-aid primary highways and the state highway system without prior coordination and written approval of the Commissioner.

E. 1. Any of the following persons may request the Commissioner to investigate the traffic-related enforcement practices of a municipal law enforcement agency whose jurisdiction includes portions of the federal-aid primary highways, the state highway system, or both located within the boundaries of and on the outskirts of the municipality:

- a. the district attorney in whose jurisdiction the municipality is located,
- b. a majority of the county commissioners, by resolution, of the county in which the municipality is located,
- c. the State Auditor and Inspector,
- d. the State Attorney General, or
- e. a state legislator in whose district the municipality is located.

2. The request shall state that the requesting party believes the enforcement practices are being conducted:

- a. within the boundaries of and on the outskirts of the municipality, and
- b. for the purpose of generating more than fifty percent (50%) of the revenue needed for the operation of the municipality.

3. Upon receipt of a request pursuant to this subsection, the Commissioner may investigate the traffic-related enforcement practices of the municipal law enforcement agency and the receipts and expenditures of the municipality. The law enforcement agency, the municipality, and the requesting party shall cooperate fully with the Commissioner in such an investigation. Upon the completion of the investigation, the Commissioner shall submit a report of the results of the investigation to the Attorney General, who shall make a determination within sixty (60) days of receipt of the report as to whether the enforcement practices of the municipal law enforcement agency are being conducted as provided in subparagraphs a and b of paragraph 2 of this subsection. Upon a determination that the enforcement practices are not being conducted in such a manner, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall take no action to make a designation as provided in paragraph 3 of subsection D of this section. Upon a determination that the enforcement practices are being conducted as provided in subparagraphs a and b of paragraph 2 of this subsection, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall make the designation of special traffic-related enforcement as provided in paragraph 3 of subsection D of this section, which shall stay in force for such time as determined by the Commissioner. The Department of Public Safety shall adopt rules to uniformly implement the procedures for initiating, investigating and reporting to the Attorney General the results of a request under the provisions of this subsection and the criteria for determining the length of time the designation of special traffic-related enforcement shall be in force.

F. Nothing in this section shall limit a member of the Oklahoma Highway Patrol Division from requesting assistance from any other law enforcement agency nor limit officers of such agency from rendering the requested assistance. The officer and the law enforcement agency responding to the request of the member of the Oklahoma Highway Patrol Division or sheriff's department shall have the same rights and immunities as are possessed by the Oklahoma Highway Patrol Division.

G. No state official shall have any power, right, or authority to command, order, or direct any commissioned law enforcement officer of the Department of Public Safety to perform any duty or service contrary to the provisions of this title or any other laws of this

state.”, and by renumbering subsequent sections and amending the title to conform, which amendment was declared adopted.

Senator Lerblance moved that **HB 2862** be advanced, which motion was declared adopted.

THIRD READING

HB 2862 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--45.

Excused: Coffee, Morgan and Riley.--3.

The bill passed.

HB 2862 was referred for engrossment.

GENERAL ORDER

HB 2446 by Braddock of the House and Paddack of the Senate was called up for consideration.

Senators Gumm and Bass asked to coauthor **HB 2446**, which was the order.

Senator Corn moved to amend the Paddack floor substitute to **HB 2446**, Page 7, Line 7, by deleting the period and inserting the language “; and”; Page 7, Line 7 ½, by inserting a new paragraph 9 to read as follows: “9. Have submitted an application for federal financial aid.”; Page 7, Line 23, by deleting the period and inserting the language “; and”; Page 7, Line 23 ½, by inserting a new paragraph 5 to read as follows: “5. Have submitted an application for federal financial aid.”; Page 8, Line 20, by inserting after the period and before the word “On” the language “1.”; Page 9, Line 3 ½, by inserting a new paragraph 2 to read as follows: “2. School districts and private schools shall ensure that all students enrolling in the ninth, tenth, and eleventh grades have made application or the student’s parent or guardian has determined the student is ineligible for the Oklahoma Higher Learning Access Program at the time of enrollment.”; Page 10, Line 7, by deleting all language after the word “taxable”; Page 10, Line 10, by deleting all language after the word

“taxable” and before the word “sources”; and Page 13, Line 6 ½, by inserting new Sections 4 through 8 to read as follows:

“SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2606 of Title 70, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the “Second Century Promise Act”.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2607 of Title 70, unless there is created a duplication in numbering, reads as follows:

There is hereby created the Second Century Promise program, which shall be considered an integral part of the Oklahoma Higher Learning Access Act and Program. The purpose of the Second Century Promise program is to provide an award to students who meet the criteria set forth in the Second Century Promise Act, and who are pursuing studies in this state leading to an associate or baccalaureate degree or who are pursuing studies in a postsecondary vocational-technical program or course offered pursuant to a duly approved cooperative agreement between a technology center school and an institution of The Oklahoma State System of Higher Education, and who are in good academic standing in the institution of higher education or technology center school in which enrolled, to relieve them of the burden of paying resident tuition and fees at two-year institutions of The Oklahoma State System of Higher Education, to relieve them of the burden of paying tuition and fees for enrollment in postsecondary programs of the technology center districts, or to relieve them of some portion of the burden of paying resident tuition and fees at four-year institutions of The Oklahoma State System of Higher Education.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2608 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. To be eligible to participate in the Second Century Promise program and qualify for an award pursuant to Section 6 of this act, a student shall:

1. Be a resident of this state;
2.
 - a. have graduated from a high school accredited by the State Board of Education or the Oklahoma School of Science and Mathematics with a minimum 2.0 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve,
 - b. have graduated from a high school not accredited by the State Board of Education with a minimum 2.0 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve and have achieved a composite score of 19 or higher on the ACT test,
 - c. have satisfactorily completed an educational program that was provided through a means other than a public or private school and have achieved a composite score of 19 or higher on the ACT test, or
 - d. have been awarded a General Educational Development State Diploma by the State Department of Education and have achieved a composite score of 19 or higher on the ACT test;

3. Not have been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense;

4. Agree to participate in community service activities during the time period of receipt of an award pursuant to this act. The community service requirement shall be determined by each individual postsecondary institution;

5. Begin the first semester of postsecondary enrollment no later than the Fall semester immediately following high school graduation, or no later than two (2) years after the student's cohort high school class graduates if the student has been awarded a General Educational Development State Diploma. Exceptions to this requirement may be granted for individuals entering the military or, in the case of an individual's sincerely held religious beliefs, to be determined on a case-by-case basis by the State Regents;

6. Have submitted an application for federal financial aid; and

7. Meet the income eligibility requirement, for which the student's parent(s) income from taxable sources shall not exceed Fifty Thousand Dollars (\$50,000.00) per year. The determination of eligibility as set forth in this paragraph shall be based on the income of the student, not the income of the parent(s), if a student:

- a. is determined to be independent of the student's parent(s) for federal financial aid purposes,
- b. was in the permanent custody of the Department of Human Services at the time the student reached eighteen (18) years of age, or
- c. was in the court-ordered custody of a federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, 21 U.S.C. Section 1901 et seq. (1978), at the time the student reached eighteen (18) years of age.

B. To retain eligibility while pursuing the program of higher learning in which enrolled, the student shall:

- a. be continuously enrolled on at least a half-time basis, and be making progress toward a degree or vocational-technical program certificate,
- b. maintain good academic standing and satisfactory academic progress according to standards of the State Regents or the State Board of Career and Technology Education, and
- c. refrain from substance abuse, commission of crimes or delinquent acts, and conduct that leads to expulsion or suspension of more than one semester.

SECTION 7 NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2609 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Payment of awards as provided in this section shall begin for students who meet the eligibility requirements as set forth in Section 6 of this act and are enrolling in a higher learning program, who graduate from high school during the 2008-2009 school year, and shall continue for eligible students graduating from high school through the 2012-2013 school year.

B. Beginning with students graduating from high school during the 2013-2014 school year, students who complete all requirements for eligibility for the Oklahoma Higher

Learning Access Program pursuant to Section 2603 of Title 70 of the Oklahoma Statutes, except did not attain the 2.5 grade point average, but did attain at least a 2.0 grade point average, shall be eligible for payment of awards as provided in this section.

C. Subject to the availability of funds, an amount equivalent to the:

1. Resident tuition and fees for which an eligible student is obligated at a two-year institution of The Oklahoma State System of Higher Education shall be awarded by allocation from the Oklahoma Higher Learning Access Trust Fund. Such awards shall be limited to a total of sixty-four (64) credit hours;

2. Average resident tuition and fees charged at all two-year institutions in The Oklahoma State System of Higher Education for which an eligible student is obligated at a four-year institution of The Oklahoma State System of Higher Education shall be awarded by allocation from the Oklahoma Higher Learning Access Trust Fund. Such awards shall be limited to a total of sixty-four (64) credit hours; or

3. Tuition and fees for any eligible student enrolled in a public postsecondary vocational-technical program or course for the purpose set forth in Section 5 of this act shall be awarded by allocation from the Oklahoma Higher Learning Access Trust Fund. Provided, such allocation shall not exceed the amount a student would have received for comparable enrollment at a two-year institution within The Oklahoma State System of Higher Education. Such awards shall be limited to the lesser of a two-year time period or completion of the vocational-technical program in which the student is enrolled.

D. At anytime after completion of thirty (30) credit hours at a two-year or four-year institution in The Oklahoma State System of Higher Education and attainment of a 2.5 cumulative grade point average, a student who received an award as set forth in Subsection A or B of this section shall qualify for full Oklahoma Higher Learning Access Program benefits as provided in Section 2604 of Title 70 of the Oklahoma Statutes, subject to the family income limitations specified in Section 2605 of Title 70 of the Oklahoma Statutes.

E. An award allowed by this section shall not be allowed for remedial courses, courses or other postsecondary units taken in excess of the requirements for completion of a baccalaureate program, or courses taken more than five (5) years after the student's first semester of postsecondary enrollment. The Oklahoma State Regents for Higher Education may award benefits for courses of postsecondary units taken more than five (5) years after the student's first semester of postsecondary enrollment only in hardship circumstances; provided, however, no participant may receive benefits beyond a cumulative time period of five (5) years. An award for eligible students enrolled in cooperative programs pursuant to agreements between technology center schools and institutions of The Oklahoma State System of Higher Education shall be satisfied for both vocational-technical and college work in which enrolled pursuant to such cooperative program.

F. Benefits shall be awarded to all eligible applicants without any limitation on the number of awards in any year other than the amount of funds available for the program and the number of eligible applicants. Subject to the provisions of subsection G of this section, if funds are not sufficient to provide awards for all eligible applicants, the Oklahoma State Regents for Higher Education shall make awards on the basis of need. Provided, the Oklahoma State Regents for Higher Education shall take into consideration other grants and scholarships received by an eligible applicant when making awards.

G. The Oklahoma State Regents for Higher Education may, at the time an award is made on behalf of an eligible student, set aside in the Oklahoma Higher Learning Access

Trust Fund funds for the full commitment made to such student. For all academic years, students who have previously received awards under the provisions of this act, and who have continued at all times to fulfill the requirements for eligibility to receive awards provided pursuant to this program, shall be given an absolute priority for continued financial support superior to any students who are applying for such benefits for the first time.

SECTION 8. AMENDATORY 70 O.S. 2001, Section 3951.1, as amended by Section 8, Chapter 355, O.S.L. 2007 (70 O.S. Supp. 2007, Section 3953.1), is amended to read as follows:

Section 3953.1 A. There is hereby created a trust fund to be known as the "Oklahoma Higher Learning Access Trust Fund". The Oklahoma State Regents for Higher Education shall be the trustees of ~~said Trust Fund~~ the fund.

B. The State Regents shall utilize ~~said the Oklahoma Higher Learning Access Trust Fund~~ to implement the provisions of Sections 2601 through 2604 of this title and Sections 4-7 of this act.

C. The Oklahoma Higher Learning Access Trust Fund principal shall consist of monies the Legislature appropriates or transfers to the Oklahoma State Regents for Higher Education for the ~~Trust Fund fund~~ fund and any monies or assets contributed to the ~~Trust Fund fund~~ fund from any other source, public or private. All monies accruing to the credit of ~~said the fund~~ the fund are hereby appropriated and may be budgeted and expended by the State Regents. Expenditures from ~~said the fund~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. Notwithstanding other provisions of law, income and investment return on Oklahoma Higher Learning Access Trust Fund principal shall accrue to the ~~Trust Fund fund~~ fund for use as provided by authorization of the trustees for the purposes provided in Sections 2601 through 2604 of this title and Sections 4-7 of this act. The State Regents may also utilize the ~~Trust Fund fund~~ fund principal for the purposes provided in Sections 2601 through 2604 of this title and Sections 4-7 of this act. Except as otherwise provided by law, no such income or investment return or principal shall be used for administrative expenses; expenses incurred by the State Regents in the administration of the ~~Trust Fund fund~~ fund and of the Oklahoma Higher Learning Access Program established by the Oklahoma Higher Learning Access Act shall be paid from monies appropriated to the State Regents coordinating board for their general operating budget.

E. The Regents shall adopt rules for accomplishing transfer of funds from the Oklahoma Higher Learning Access Trust Fund to the appropriate institutional Educational and General Operations Revolving Funds, as provided in Section 3901 of this title, to private institutions, and to the appropriate technology center school district to cover general enrollment fees or tuition for eligible students pursuant to the Oklahoma Higher Learning Access Act. Allocations from the Oklahoma Higher Learning Access Trust Fund may be made only for the purpose of covering the general enrollment fees or tuition of eligible students. No portion of the Oklahoma Higher Learning Access Trust Fund may be used or allocated for administrative or operating expenses of any higher education institution or technology center school.”, and by renumbering subsequent section, which amendment was declared adopted upon roll call as follows:

Aye: Adelson, Anderson, Ballenger, Bass, Burrage, Coates, Corn, Crutchfield, Easley, Eason McIntyre, Garrison, Gumm, Ivester, Johnson (C), Laster, Leftwich, Lerblance, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Sparks, Sweeden, Wilson and Wyrick.--28.

Nay: Aldridge, Barrington, Bingman, Branan, Brogdon, Brown, Coffee, Crain, Ford, Johnson (M), Jolley, Justice, Lamb, Laughlin, Mazzei, Schulz, Sykes, Wilcoxson and Williamson.--19.

Excused: Riley.--1.

Senator Paddack moved to amend **HB 2446**, by striking the title, the enacting clause and the entire body of the bill and substituting the floor substitute, which amendment was declared adopted. (Copies were provided for all Senators.)

Senator Paddack moved that **HB 2446** be advanced, which motion was declared adopted.

THIRD READING

HB 2446 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--47.

Excused: Riley.--1.

The bill and emergency passed.

HB 2446 was referred for engrossment.

GENERAL ORDER

HB 3115 by Blackwell of the House and Laughlin of the Senate was called up for consideration.

Senator Wilson moved to amend **HB 3115**, Page 5, Line 7 ½, by inserting a new Section 2 to read as follows:

“SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7101 of Title 36, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any insurer to have a quota based program that rewards employees with bonuses for meeting a quota of cancellations.”, and by renumbering subsequent section, which amendment was declared adopted.

Senator Rice moved to amend **HB 3115**, Page 5, Line 7 ½, by inserting new Sections 2 through 6 to read as follows:

“SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6060.9a of Title 36, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as “Steffanie’s Law for Clinical Trial Access”.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6060.9b of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in Steffanie’s Law for Clinical Trial Access:

1. “Clinical trial” means a course of treatment provided to a patient for the purpose of prevention of reoccurrence, early detection or treatment of cancer;
2. “Cooperative group” means a formal network of facilities that collaborate on research projects and have an established National Institutes of Health-approved peer review program operating within the group;
3. “Institutional review board” means a board, committee or other group that is both:
 - a. formally designated by an institution to approve the initiation of and to conduct periodic review of biomedical research involving human subjects and in which the primary purpose of the review is to assure the protection of the rights and welfare of the human subjects and not to review a clinical trial for scientific merit, and
 - b. approved by the National Institutes of Health for protection of human subjects from research risks;
4. “Investigational drug or device” means a drug or device that has not been approved by the Food and Drug Administration;
5. “Multiple project assurance contract” means a contract between an institution and the Department of Health and Human Services that defines the relationship of the institution to the Department and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects participating in clinical trials;
6. “Patient” means an individual who participates in a cancer clinical trial and who is an insured member or a beneficiary of a health benefit plan; and
7. “Routine patient care cost”:
 - a. means:
 - (1) a medical service or treatment that is a benefit under a health benefit plan that would be covered if the patient were receiving standard cancer treatment, or

- (2) a drug provided to a patient during a cancer clinical trial if the drug has been approved by the Food and Drug Administration, whether or not that organization has approved the drug for use in treating the patient's particular condition, but only to the extent that the drug is not paid for by the manufacturer, distributor or provider of the drug, and
- b. does not include:
 - (1) the cost of an investigational drug, device or procedure,
 - (2) the cost of a service that is not related to the patient's health care that the patient is required to receive as a result of participation in the cancer clinical trial,
 - (3) costs associated with managing the research that is associated with the cancer clinical trial,
 - (4) costs that would not be covered by the patient's health benefit plan if noninvestigational treatments were provided,
 - (5) costs of those tests that are necessary for the research of the clinical trial, and
 - (6) costs paid or not charged for by the cancer clinical trial providers.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6060.9c of Title 36, unless there is created a duplication in numbering, reads as follows:

Any health benefit plan, including the State and Education Employees Group Health Insurance Plan, that is offered, issued, or renewed in this state on or after January 1, 2009, shall provide coverage for routine patient care costs incurred as a result of the patient's participation in a phase I, II, III or IV cancer clinical trial if:

- 1. The clinical trial is undertaken for the purposes of the prevention of reoccurrence, early detection or treatment of cancer for which no equally or more effective standard cancer treatment exists;
- 2. The clinical trial is being provided in this state as part of a scientific study of a new therapy or intervention and is for the prevention of reoccurrence, early detection, treatment or palliation of cancer in humans and in which the scientific study includes all of the following:
 - a. specific goals,
 - b. a rationale and background for the study,
 - c. criteria for patient selection,
 - d. specific direction for administering the therapy or intervention and for monitoring patients,
 - e. a definition of quantitative measures for determining treatment response, and
 - f. methods for documenting and treating adverse reactions;
- 3. The clinical trial is being conducted with approval of at least one of the following:
 - a. one of the institutes or centers which composes the National Institutes of Health,
 - b. a National Institutes of Health cooperative group or center,
 - c. the Department of Defense,

- d. the Food and Drug Administration in the form of an investigational new drug application,
 - e. the Department of Veteran Affairs, or
 - f. a qualified research entity that meets the criteria established by the National Institutes of Health for grant eligibility;
4. The clinical trial is being provided as part of a study being conducted in a phase I, II, III or IV cancer clinical trial;
5. The proposed clinical trial or study has been reviewed and approved by an institutional review board that has a multiple project assurance contract approved by the Office of Protection for Research Risks of the National Institutes of Health; and
6. The personnel providing the clinical trial or conducting the study:
- a. are providing the clinical trial or conducting the study within their scope of practice, experience and training and are capable of providing the clinical trial because of their expertise, training and volume of patients treated to maintain their expertise,
 - b. agree to accept reimbursement as payment in full from the health benefit plan at the rates that are established by that plan and are not more than the level of reimbursement applicable to other similar services provided by health care providers within the plan's provider network, and
 - c. agree to provide written notification to the health benefit plan when the patient enters or leaves a clinical trial.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6060.9d of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to the patient informed consent document, no third party is liable for damages associated with the treatment provided during a phase of a cancer clinical trial.

B. The provisions of this act do not create a private right or cause of action for or on behalf of a patient against the health benefit plan providing coverage.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6060.9e of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A health benefit plan may impose deductibles, coinsurance requirements or other standard cost-sharing provision on benefits provided pursuant to this act.

B. A health benefit plan shall not provide benefits that supplant a portion of a cancer clinical trial that is customarily paid for by government, biotechnical, pharmaceutical or medical device industry sources.

C. In no event shall the health benefit plan be responsible for out-of-state or out-of-network costs unless the health benefit plan pays for standard treatment out of state or out of network.

D. The provisions of this act shall not apply to short-term travel, accident-only or limited or specified disease contracts or policies issued by a health benefit plan.”, and by renumbering subsequent section, which amendment was declared adopted upon roll call as follows:

Aye: Adelson, Anderson, Ballenger, Bass, Burrage, Coates, Corn, Crutchfield, Easley, Eason McIntyre, Garrison, Gumm, Ivester, Johnson (C), Laster, Leftwich, Lerblance, Morgan, Nichols, Paddack, Rabon, Rice, Sparks, Sweeden, Wilson and Wyrick.--26.

Nay: Aldridge, Barrington, Bingman, Branan, Brogdon, Brown, Coffee, Crain, Ford, Johnson (M), Jolley, Justice, Lamb, Laughlin, Mazzei, Myers, Reynolds, Schulz, Sykes, Wilcoxson and Williamson.--21.

Excused: Riley.--1.

Senator Adelson moved to amend **HB 3115**, Page 5, Line 7 ½, by inserting new Sections 2 through 4 to read as follows:

“SECTION 2. AMENDATORY 36 O.S. 2001, Section 6512, is amended to read as follows:

Section 6512.

As used in the Small Employer Health Insurance Reform Act:

1. “Actuarial certification” means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the Insurance Commissioner that a small employer carrier is in compliance with the provisions of Section 6515 of this title, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans;

2. “Affiliate” or “affiliated” means any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person;

3. “Base premium rate” means, for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage;

4. “Basic health benefit plan” means a lower cost health benefit plan adopted by the state for small employer groups;

5. “Board” means the board of directors of the program established pursuant to Section 6522 of this title;

6. “Carrier” means any entity which provides health insurance in this state. For the purposes of the Small Employer Health Insurance Reform Act, carrier includes a licensed insurance company, not-for-profit hospital service or medical indemnity corporation, a fraternal benefit society, a health maintenance organization, a multiple employer welfare arrangement or any other entity providing a plan of health insurance or health benefits subject to state insurance regulation;

7. “Case characteristics” means demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of the Small Employer Health Insurance Reform Act. A small employer carrier shall not use case characteristics, other than age, gender, industry, geographic area and family composition,

without prior approval of the Insurance Commissioner. Group size shall not be used as a case characteristic;

8. "Class of business" means all or a separate grouping of small employers established pursuant to Section 6514 of this title. Group size shall not be used as a class of business;

9. "Commissioner" means the Insurance Commissioner;

10. "Control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact in the manner provided in Section 1654 of this title. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

11. "Department" means the Insurance Department;

12. "Dependent" means a spouse, an unmarried child under the age of eighteen (18), an unmarried child who is a full-time student under the age of twenty-three (23) and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent;

13. "Eligible employee" means an employee who works on a full-time basis and has a normal work week of twenty-four (24) or more hours. The term includes a sole proprietor, a partner of a partnership, and associates of a limited liability company, if the sole proprietor, partner or associate is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary or substitute basis;

14. "Established geographic service area" means a geographic area, as approved by the Commissioner and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage;

15. a. "Health benefit plan" means any hospital or medical policy or certificate; contract of insurance provided by a not-for-profit hospital service or medical indemnity plan; or prepaid health plan or health maintenance organization subscriber contract.

b. Health benefit plan does not include accident-only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, any plan certified by the Oklahoma Basic Health Benefits Board, or automobile medical payment insurance.

c. "Health benefit plan" shall not include policies or certificates of specified disease, hospital confinement indemnity or limited benefit health insurance, provided that the carrier offering such policies or certificates complies with the following:

- (1) the carrier files on or before March 1 of each year a certification with the Commissioner that contains the statement and information described in division (2) of this subparagraph,
- (2) the certification required in division (1) of this subparagraph shall contain the following:
 - (a) a statement from the carrier certifying that policies or certificates described in this subparagraph are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance, and
 - (b) a summary description of each policy or certificate described in this subparagraph, including the average annual premium rates (or range of premium rates in cases where premiums vary by age, gender or other factors) charged for such policies and certificates in this state, and
- (3) in the case of a policy or certificate that is described in this subparagraph and that is offered for the first time in this state on or after the effective date of this act, the carrier files with the Commissioner the information and statement required in division (2) of this subparagraph at least thirty (30) days prior to the date such a policy or certificate is issued or delivered in this state;

16. "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

17. "Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period during which the individual is entitled to enroll under the terms of the health benefit plan, provided that the initial enrollment period is a period of at least thirty-one (31) days. However, an eligible employee or dependent shall not be considered a late enrollee if:

- a. the individual meets each of the following:
 - (1) the individual was covered under qualifying previous coverage at the time of the initial enrollment,
 - (2) the individual lost coverage under qualifying previous coverage as a result of termination of employment or eligibility, the involuntary termination of the qualifying previous coverage, death of a spouse or divorce, and
 - (3) the individual requests enrollment within thirty (30) days after termination of the qualifying previous coverage,
- b. the individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period, or
- c. a court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and

request for enrollment is made within thirty (30) days after issuance of the court order;

18. “New business premium rate” means, for each class of business as to a rating period, the lowest premium rate charged or offered, or which could have been charged or offered, by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage;

19. “Plan of operation” means the plan of operation of the program established pursuant to Section 6522 of this title;

20. “Premium” means all monies paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan;

21. “Program” means the Oklahoma Small Employer Health Reinsurance Program created pursuant to Section 6522 of this title;

22. “Qualifying previous coverage” and “qualifying existing coverage” mean benefits or coverage provided under:

- a. Medicare or Medicaid,
- b. an employer-based health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan, or
- c. an individual health insurance policy, including coverage issued by a health maintenance organization, fraternal benefit society and those entities set forth in Section 2501 et seq. of Title 63 of the Oklahoma Statutes, that provides benefits similar to or exceeding the benefits provided under the basic health benefit plan, provided that such policy has been in effect for a period of at least one (1) year;

23. “Rating period” means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect;

24. “Reinsuring carrier” means a small employer carrier participating in the reinsurance program pursuant to Section 6522 of this title;

25. “Restricted network provision” means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier pursuant to Section 2501 et seq. of Title 63 of the Oklahoma Statutes to provide health care services to covered individuals;

26. “Risk-assuming carrier” means a small employer carrier whose application is approved by the Commissioner pursuant to Section 6521 of this title;

27. “Small employer” means any person, firm, corporation, partnership, limited liability company or association that is actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding calendar quarter, employed no more than fifty (50) eligible employees, the majority of whom were employed within this state and is not formed primarily for the purpose of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state income taxation, shall be considered one employer. For purposes of the Small Employer Health Insurance Reform Act, the term small employer includes self-employed individuals;

28. "Small employer carrier" means a carrier that offers health benefit plans covering eligible employees of one or more small employers in this state; and

29. "Standard health benefit plan" means the health benefit plan adopted by the state for small employers.

SECTION 3. AMENDATORY 36 O.S. 2001, Section 6513, is amended to read as follows:

Section 6513.

A. The Small Employer Health Insurance Reform Act shall apply to any group health benefit plan that provides coverage to ~~two (2)~~ one (1) or more eligible employees of a small employer in this state and to individual health benefits plans providing coverage for the eligible employees of a small employer which may include the employer when three (3) or more of such individual plans are sold to a small employer if any of the following conditions are met:

1. Any portion of the premium or benefits is paid by or on behalf of the small employer;

2. An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium; or

3. The health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of Section 162 or Section 106 of the United States Internal Revenue Code.

B. 1. Except as provided in paragraph 2 of this subsection, for the purposes of the Small Employer Health Insurance Reform Act, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by the Small Employer Health Insurance Reform Act shall apply as if all health benefit plans issued to small employers in this state by such affiliated carriers were issued by one carrier, unless on or before July 1, 1992, the respective affiliate carriers operated with separate books of business as insurers of health benefit plans in which event each such affiliate carrier shall be treated as a separate carrier.

2. An affiliated carrier that is a health maintenance organization having a license under Section 2501 et seq. of Title 63 of the Oklahoma Statutes may be considered to be a separate carrier for the purposes of the Small Employer Health Insurance Reform Act.

SECTION 4. AMENDATORY 36 O.S. 2001, Section 6519, is amended to read as follows:

Section 6519.

A. 1. As a condition of transacting business in this state with small employers, every small employer carrier shall actively offer to small employers the health benefit plans currently being marketed by the small employer carrier.

2. a. A small employer carrier shall issue a health benefit plan to any eligible small employer that applies for such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with this act.

b. In the case of a small employer carrier that establishes more than one class of business pursuant to Section 6514 of Title 36 of the Oklahoma Statutes, the small employer carrier shall maintain and issue to eligible small employers all health benefit plans currently being marketed in

each class of business so established. A small employer carrier may apply reasonable criteria to determine the class of business applicable to any small employer, provided that:

- (1) the criteria are not intended to discourage or prevent acceptance of small employers applying for a health benefit plan,
- (2) the criteria are not related to the health status or claim experience of the small employer,
- (3) the criteria are applied consistently to all small employers applying for coverage in the class of business, and
- (4) the small employer carrier provides for the acceptance of all eligible small employers into one or more classes of business.

The provisions of this subparagraph shall not apply to a class of business into which the small employer carrier is no longer enrolling new small businesses.

3. A small employer is eligible under paragraph 2 of this subsection if it employed at least ~~two~~ one or more eligible employees within this state on at least fifty percent (50%) of its working days during the preceding calendar quarter. This also includes family businesses where employees of the business may be related. The fact that the employees are related shall have no effect on the eligibility for coverage of the small employer.

B. 1. A small employer carrier shall file with the Commissioner, in a format and manner prescribed by the Commissioner, all health benefit plans to be used by the carrier. A health benefit plan filed pursuant to this paragraph may be used by a small employer carrier beginning sixty (60) days after it is filed unless the Commissioner disapproves its use.

2. The Commissioner at any time may, after providing notice and an opportunity for a hearing to the small employer carrier, disapprove the continued use by a small employer carrier of any health benefit plan on the grounds that the plan does not meet the requirements of this act.

C. Health benefit plans covering small employers shall comply with the following provisions:

1. A health benefit plan shall not deny, exclude or limit benefits for a covered individual for losses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

- a. a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage, or
- b. a condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage;

2. A health benefit plan may exclude coverage for late enrollees for the greater of eighteen (18) months or for an eighteen-month preexisting condition exclusion; provided that if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed eighteen (18) months from the date the individual enrolls for coverage under the health benefit plan;

3.
 - a. Except as provided in subparagraph d of this paragraph, requirements used by a small employer carrier will be limited to requirements for minimum participation of eligible employees and minimum employer contributions. These requirements shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.
 - b. A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.
 - c.
 - (1) Except as provided in division (2) of this subparagraph, in applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.
 - (2) With respect to a small employer, a small employer carrier may consider employees or dependents who have coverage under another health benefit plan sponsored by such small employer in applying minimum participation requirements.
 - d. A small employer carrier shall not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage; and
 4.
 - a. If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group or to only part of the group, except in the case of late enrollees as provided in paragraph 2 of this subsection.
 - b. Except as permitted under paragraphs 1 and 2 of this subsection, a small employer carrier shall not modify a health benefit plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions or services otherwise covered by the plan.
- D. 1. A small employer carrier shall not be required to offer coverage or accept applications pursuant to subsection A of this section in the case of the following:
- a. to a small employer, where the small employer is not physically located in the carrier's established geographic service area,
 - b. to an employee, when the employee does not work or reside within the carrier's established geographic service area, or
 - c. within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the Commissioner, that it will not have the capacity within its established geographic service area to

deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

2. A small employer carrier that cannot offer coverage pursuant to subparagraph c of paragraph 1 of this subsection may not offer coverage in the applicable area to new cases of employer groups with more than fifty (50) eligible employees or to any small employer groups until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the Commissioner that it has regained capacity to deliver services to small employer groups.”, and by renumbering subsequent section, which amendment was declared adopted.

Senator Laughlin moved that **HB 3115** be advanced, which motion was declared adopted.

THIRD READING

HB 3115 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--47.

Excused: Riley.--1.

The bill and emergency passed.

HB 3115 was referred for engrossment.

GENERAL ORDER

HB 2775 by DeWitt of the House and Justice of the Senate was called up for consideration.

Senator Rabon moved to amend **HB 2775**, Page 1, Line 11 ½, by inserting a new Section 1 to read as follows:

“SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1E of Title 82, unless there is created a duplication in numbering, reads as follows:

Should a final judgment of a court of competent jurisdiction mandate that this state or any political subdivision thereof sell, export or transfer water under its control and jurisdiction, such conveyance shall not be done without compensation to the state or any such subdivision. Compensation means the value of the water taken, and in addition, any injury caused by the taking of the water.”, and by renumbering subsequent sections, which amendment was declared adopted.

Senator Justice moved that **HB 2775** be advanced, which motion was declared adopted.

THIRD READING

HB 2775 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--47.

Excused: Riley.--1.

The bill and emergency passed.

HB 2775 was referred for engrossment.

GENERAL ORDER

HB 3143 by Cargill and Cooksey of the House and Adelson of the Senate was called up for consideration.

Senator Adelson moved that **HB 3143** be advanced, which motion was declared adopted.

THIRD READING

HB 3143 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--46.

Nay: Brogdon.--1.

Excused: Riley.--1.

The bill and emergency passed.

HB 3143 was referred for engrossment.

GENERAL ORDER

HB 2631 by Jordan and McCullough of the House and Crain of the Senate was called up for consideration.

Senator Corn moved to amend **HB 2631**, Page 2, Line 2 ½, by inserting a new Section 2 to read as follows:

“SECTION 2. AMENDATORY 20 O.S. 2001, Section 1312, is amended to read as follows:

Section 1312. The court fund of the district court as well as the law library fund in every county of this state shall be audited at least once every two (2) fiscal years by the State Auditor and Inspector or by his duly appointed deputy or deputies and all of the books, records and accounts thereof shall be thoroughly inspected. The State Auditor and Inspector may bill the court fund of the district court an amount not to exceed Three Hundred Thousand Dollars (\$300,000.00) to conduct such audits.

A copy of the audit report for each local court fund and each law library fund shall be filed by the State Auditor and Inspector with the following officers not later than the first day of July commencing July 1, 1972: Administrative Director of the Courts, Attorney General, Chairmen of the Senate and House Judiciary Committees and Director of Finance.

The State Auditor and Inspector shall prescribe the proper forms for both the audit and the financial report required to be filed by the board of law library trustees.”, and by renumbering subsequent section and amending the title to conform, which amendment was declared adopted upon roll call as follows:

Aye: Adelson, Ballenger, Barrington, Bass, Burrage, Coates, Corn, Crutchfield, Easley, Eason McIntyre, Garrison, Gumm, Ivester, Johnson (C), Laster, Laughlin, Leftwich, Lerblance, Morgan, Paddack, Rabon, Rice, Sparks, Sweeden, Wilcoxson, Wilson and Wyrick.--27.

Nay: Aldridge, Anderson, Bingman, Branan, Brogdon, Brown, Coffee, Crain, Ford, Johnson (M), Jolley, Justice, Lamb, Mazzei, Myers, Nichols, Reynolds, Schulz, Sykes and Williamson.--20.

Excused: Riley.--1.

Senator Crain moved to amend **HB 2631**, Page 1, by striking the title, which amendment was declared adopted.

Senator Crain moved that **HB 2631** be advanced, which motion was declared adopted.

THIRD READING

HB 2631 was read for the third time at length.

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

Aye: Adelson, Aldridge, Anderson, Ballenger, Barrington, Bass, Bingman, Branan, Brogdon, Brown, Burrage, Coates, Coffee, Corn, Crain, Crutchfield, Easley, Eason McIntyre, Ford, Garrison, Gumm, Ivester, Johnson (C), Johnson (M), Jolley, Justice, Lamb, Laster, Laughlin, Leftwich, Lerblance, Mazzei, Morgan, Myers, Nichols, Paddack, Rabon, Reynolds, Rice, Schulz, Sparks, Sweeden, Sykes, Wilcoxson, Williamson, Wilson and Wyrick.--47.

Excused: Riley.--1.

The bill passed.

HB 2631 was referred for engrossment.

MESSAGES FROM THE HOUSE

Advising the signing of and transmitting for signature Enrolled **HCR 1060**.

The above-numbered enrolled measure was properly signed and ordered returned to the Honorable House.

Advising fourth reading of and transmitting for signature Enrolled **HBs 2247, 2585, 2638, 2662, 3100 and 3193** and **HJR 1093**.

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 bills:

SB 1975

SB 2111 - coauthored by Derby, Duncan, Armes, DeWitt, Hickman, Hilliard, Luttrell, Martin (Steve), McMullen, McNiel, Richardson and Sears

The above-numbered measures were referred for enrollment.

Advising fourth reading of and returning Enrolled **SBs 1148, 1192, 1468, 1506, 1554, 1648 and 2069**.

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

**MESSAGE FROM THE HOUSE
VETO OVERRIDE OF SB 1878**

Returning herewith Enrolled **SB 1878** 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 has reconsidered and passed said bill 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: 81; Nays 15

Enrolled **SB 1878** was ordered filed with the Secretary of State.

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

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

SB 1141 - coauthored by Jett, Terrill, Billy, Coody, Denney, Derby, Martin (Scott), Martin (Steve) and Johnson (Dennis)

SB 1390 - coauthored by Jett, Shelton, Winchester and Lindley

SB 1392

SB 1398

SB 1440

SB 1463

SB 1479

SB 1578

SB 1595

SB 1625

SB 1708 - coauthored by Pittman and Luttrell

SB 1763 - coauthored by Pittman

SB 1816

SB 1872

SB 1970 - coauthored by McCullough, Roan and Rousselot

SB 2000 - coauthored by Kern and Pittman

SB 2003 - coauthored by McCullough

SB 2076 - coauthored by Collins

House amendments were read on the above-numbered bills.

MESSAGES FROM THE HOUSE

Returning following bill, together with conference committee reports thereon, advising adoption of conference committee reports and passage of measures as amended.

SB 1819 - coauthored by Adkins, Sears, Trebilcock and Winchester

The above-numbered measure, as amended in conference, was referred for enrollment.

Advising passage of and returning the following Engrossed bills:

SB 1585

SB 1757

SB 1760 - coauthored by Kern and Pittman

SB 1945

The above-numbered measures were referred for enrollment.

REPORT OF ENGROSSED AND ENROLLED MEASURE

SB 1819 was correctly enrolled, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

MESSAGE FROM THE HOUSE

Advising fourth reading of and returning Enrolled **SB 1819**.

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

EXECUTIVE NOMINATIONS

The following executive nominations were read and referred to committee as indicated:

Maxwell, Rita, Midwest City, as a member of the Oklahoma Human Rights Commission - Health and Human Resources

Tolbert, Jim, III, Oklahoma City, as a member of the Oklahoma Arts Council - Tourism and Wildlife

Senator Laster moved that when the clerk's desk is clear, the Senate stand adjourned to convene Monday, April 21, 2008, at 1:30 p.m., which motion prevailed.

**BILLS RELEASED
TIME EXPIRED TO RECONSIDER**

HBs 1959 and **2639** were properly signed and ordered returned to the Honorable House.

SECOND READING

The following was read for the second time and referred as indicated:

HJR 1105 – Direct To Calendar

FIRST READING

The following was introduced and read the first time:

SCR 75 – By Johnson (Constance) of the Senate and Shelton of the House.

A Concurrent Resolution congratulating and commending Star Spencer High School Bobcat senior Raymond Lane for his two consecutive Class 3A State Wrestling Championships and his commitment to his family; and directing distribution.

Pursuant to the Laster motion, the Senate adjourned at 11:50 a.m. to meet Monday, April 21, 2008, at 1:30 p.m.