

Senate Journal

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

Eleventh Legislative Day, Wednesday, February 17, 2010

The Senate was called to order by Senator Bingman.

Roll Call:

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

Excused: Mazzei, Reynolds and Sykes.—3.

Senator Bingman declared a quorum present.

The prayer was offered by Pastor Roger Nix, Believers Church, Tulsa, the guest of Senator Mazzei.

REPORT OF ENGROSSED AND ENROLLED MEASURES

SBs 1287, 1678, 1679, 1762 and 1779 were each correctly engrossed, properly signed and ordered transmitted to the Honorable House for consideration.

SCR 35 was correctly enrolled, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

MESSAGE FROM THE HOUSE

Advising the signing of and returning Enrolled **SCR 35**.

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

FIRST READING

The following was introduced and read the first time:

SR 87 – By Lamb.

A Resolution congratulating Rumble the Bison on his first birthday with the Oklahoma City Thunder; welcoming him and declaring February 17, 2010, “Rumble the Bison Day”; and directing distribution.

MESSAGE FROM THE HOUSE

Advising that the Speaker announced the appointment of the following House Members as conferees on the General Conference Committee on Appropriations. Speaker Bengé and Speaker Pro Tempore Steele are ex-officio voting Members of the General Conference Committee on Appropriations:

Miller, Chair
Martin (Scott), Vice-Chair

Auffet	Hoskin
Brannon	Jackson
Carey	Jones
Cooksey	Liebmann
Cox	Martin (Steve)
Denney	Morgan
DeWitt	Peters
Dorman	Terrill
Glenn	Watson
Hickman	Wesselhoft

**UNANIMOUS CONSENT REQUEST
DIRECT TO CALENDAR**

Senator Lamb asked unanimous consent to refer **SR 87** direct to the Calendar for consideration, which was the order.

GENERAL ORDER

SR 87 by Lamb was called up for consideration.

All other members of the Senate asked to coauthor **SR 87**, which was the order.

SR 87 was adopted upon motion of Senator Lamb and referred for enrollment.

CONFERENCE COMMITTEE APPOINTMENTS – GCCA

President Pro Tempore Coffee announced the appointment of the following Senators as conferees on the General Conference Committee on Appropriations:

GENERAL CONFERENCE COMMITTEE ON APPROPRIATIONS

Johnson (Mike), Chair
Myers, Vice-Chair

Aldridge	Halligan
Anderson	Justice
Bass	Laster
Bingman	Leftwich
Brogdon	Lerblance
Corn	Paddack
Crain	Reynolds
Crutchfield	Stanislawski
Easley	Sykes
Ford	Wilson
Gumm	

President Pro Tempore Coffee and Majority Floor Leader Lamb are ex officio and voting members of all Senate committees.

**UNANIMOUS CONSENT REQUEST
DIRECT TO CALENDAR**

Senator Eason McIntyre asked unanimous consent to refer **SR 86** direct to the Calendar for consideration, which was the order.

GENERAL ORDER

SR 86 by Eason McIntyre was called up for consideration.

All other members of the Senate asked to coauthor **SR 86**, which was the order.

SR 86 was adopted upon motion of Senator Eason McIntyre and referred for enrollment.

CHANGE IN COMMITTEE ASSIGNMENT

The following bill will be reassigned as follows:

SB 2236 – Withdrawn from Rules committee and referred to Business and Labor

MESSAGES FROM THE HOUSE

Advising passage of and transmitting for consideration Engrossed **HBs 2171, 2278, 2313, 2316, 2602, 2655, 2729, 2776, 2779, 2883, 2912, 2958 and 2989.**

HB 2171 – By McCullough of the House and Anderson of the Senate.

An Act relating to property; establishing the Oklahoma Discretionary and Special Needs Trust Act; providing short title; defining terms; prohibiting judicial sale of certain interests; prohibiting use of trust property to satisfy certain personal obligations; authorizing certain actions; providing remedies for creditors and nonbeneficiaries claiming interest in a trust; prohibiting certain acts; providing that certain factors do not constitute dominion and control over a trust; providing that a settlor or beneficiary is not the alter ego of a trustee; providing for validity and effect of spendthrift provisions; classifying and stating effects of certain interests; providing application of certain provisions to trusts with one or more beneficiaries holding support interests; providing application of certain provisions to trusts with one or more beneficiaries holding discretionary interests; providing for the distribution powers of a trustee; stating application of certain rules; providing for validity of certain provisions; providing for codification; and providing an effective date.

HB 2278 – By Glenn, Shelton, Luttrell and Hoskin of the House and Wyrick of the Senate.

An Act relating to contracts; amending 15 O.S. 2001, Section 765.3, which relates to consumer protection; modifying acts constituting home repair fraud; defining term; providing for penalties; and providing an effective date.

HB 2313 – By Duncan, Luttrell and Hoskin of the House and Jolley of the Senate.

An Act relating to criminal procedure; amending 10 O.S. 2001, Section 7303-1.2, as last amended by Section 41, Chapter 234, O.S.L. 2009, and as renumbered by Section 178, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-2-102), which relates to personal jurisdiction in juvenile proceedings; authorizing the filing of juvenile proceedings under certain circumstances; amending 10 O.S. 2001, Section 7306-2.6, as last amended by Section 84, Chapter 234, O.S.L. 2009, and as renumbered by Section 188, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-5-206), which relates to procedures for creating youthful offender status; modifying list of qualifying criminal acts; amending 19 O.S. 2001, Section 215.11, which relates to annual accounting procedures for district attorneys; deleting annual accounting requirement; amending 21 O.S. 2001, Section 444, which relates to escapes from arrest or detention; making certain acts unlawful; amending 21 O.S. 2001, Section 1123, as last amended by Section 125, Chapter 234, O.S.L. 2009 (21 O.S. Supp. 2009, Section 1123), which relates to lewd molestation and sexual battery;

modifying exception to certain prohibited act; modifying definition of sexual battery; making certain acts unlawful; amending 22 O.S. 2001, Sections 996.1, as last amended by Section 2, Chapter 275, O.S.L. 2009 and 996.3, as last amended by Section 2, Chapter 426, O.S.L. 2005 (22 O.S. Supp. 2009, Sections 996.1 and 996.3), which relate to the Delayed Sentencing Program for Young Adults; modifying definition of offender; making certain persons ineligible for the Delayed Sentencing Program for Young Adults; amending 63 O.S. 2001, Section 1-323, as amended by Section 19, Chapter 392, O.S.L. 2003 (63 O.S. Supp. 2009, Section 1-323), which relates to vital statistics records; requiring birth certificates and death certificates to be provided without cost under certain circumstances; repealing 22 O.S. 2001, Sections 1291, 1292, 1293 and 1294, which relate to compromises of misdemeanors and prosecutions; and providing an effective date.

HB 2316 – By Smithson, Shelton and Hoskin of the House and Ballenger of the Senate.

An Act relating to consumer protection; amending Section 3, Chapter 107, O.S.L. 2007 (15 O.S. Supp. 2009, Section 776.22), which relates to the Anti-Caller ID Spoofing Act; adding certain definitions; making it unlawful to sell certain spoofing calling cards and services; providing penalties; providing for codification; and providing an effective date.

HB 2602 – By Johnson, Sherrer and McAffrey of the House and Sykes of the Senate.

An Act relating to reserve officers; amending 11 O.S. 2001, Section 34-101, which relates to municipal police officers; deleting population requirement when calculating service hours of reserve municipal police officers; amending 19 O.S. 2001, Section 547, as amended by Section 1, Chapter 366, O.S.L. 2008 (19 O.S. Supp. 2009, Section 547), which relates to deputizing certain persons; deleting population requirement when calculating service hours of reserve force deputy sheriffs; and providing an effective date.

HB 2655 – By Sullivan of the House and Crain of the Senate.

An Act relating to counties and county officers; repealing 19 O.S. 2001, Section 956.1, as amended by Section 2, Chapter 359, O.S.L. 2003 (19 O.S. Supp. 2009, Section 956.1), which relates to service credit for certain persons in county retirement systems; providing an effective date; and declaring an emergency.

HB 2729 – By Rousselot and Cannaday of the House and Garrison of the Senate.

An Act relating to juvenile justice; amending 10 O.S. 2001, Section 7302-6.4, as amended by Section 21, Chapter 234, O.S.L. 2009, and as renumbered by Section 174, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-7-604), which relates to use of physical force; authorizing use of chemical agents and electroshock weapons under certain circumstances; and providing an effective date.

HB 2776 – By Steele of the House and Justice of the Senate.

An Act relating to mental health; amending 43A O.S. 2001, Section 10-110, which relates to confidentiality of certain records and reports; providing for exception; defining terms; authorizing the release of certain information in vulnerable adult abuse or neglect cases; specifying information to be released; allowing for the release of certain information upon request after a certain period of time; requiring the release of certain information of

previous cases or complaints; prohibiting the release of certain information; providing for codification; and providing an effective date.

HB 2779 – By Ownbey of the House and Stanislawski of the Senate.

An Act relating to banks and trust companies; amending 6 O.S. 2001, Sections 201, as last amended by Section 1, Chapter 3, O.S.L. 2009, 209, as amended by Section 5, Chapter 48, O.S.L. 2005 and 212 (6 O.S. Supp. 2009, Sections 201 and 209), which relate to the Banking Department; modifying qualifications for Deputy Commissioner; prohibiting disclosure of examinations and reports to third parties; requiring annual report to be published; amending 6 O.S. 2001, Sections 306.1, as last amended by Section 4, Chapter 275, O.S.L. 2008, 306.2 and 307.1, as amended by Section 7, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2009, Sections 306.1 and 307.1), which relate to organization; modifying certain actions of Commissioner; amending 6 O.S. 2001, Section 414, as last amended by Section 12, Chapter 48, O.S.L. 2005 (6 O.S. Supp. 2009, Section 414), which relates to powers; allowing exception for appraisal requirement; amending 6 O.S. 2001, Sections 1202 and 1205, which relate to liquidation, dissolution, and reorganization; providing procedure for liquidation when notice of possession is not filed in district court; expanding scope of immunity of Commissioner upon appointment of Federal Deposit Insurance Corporation as liquidator; and declaring an emergency.

HB 2883 – By Luttrell and Hoskin of the House and Bingman of the Senate.

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 1102, as last amended by Section 6, Chapter 302, O.S.L. 2008 (47 O.S. Supp. 2009, Section 1102), which relates to the Oklahoma Vehicle License and Registration Act; defining terms; and providing an effective date.

HB 2912 – By Morgan, Dorman and Wright (John) of the House and Coates of the Senate.

An Act relating to oil and gas; making it unlawful to injure, deface, alter, destroy, or tamper with oil and gas safety equipment; providing an exception; providing for codification; and providing an effective date.

HB 2958 – By Wright (Harold) of the House and Justice of the Senate.

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 14-105, which relates to loads on vehicles; making an exception for vehicles loaded with certain product; and providing an effective date.

HB 2989 – By Enns and Sherrer of the House and Brogdon of the Senate.

An Act relating to cities and towns; amending 11 O.S. 2001, Section 34-104, as last amended by Section 1, Chapter 56, O.S.L. 2005 (11 O.S. Supp. 2009, Section 34-104), which relates to disposing of unclaimed property; modifying notice requirements; and providing an effective date.

The above-numbered measures were read the first time.

Advising rejection of SAs to Engrossed HB's 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2381, 2401, 2411, 2421, 2431, 2433, 2435, 2445, 2455, 2461, 2491, 2497, 2499, 2501, 2505 and 2511, requesting conference and naming House conferees as follows: GCCA.

EXECUTIVE NOMINATIONS

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

Guard, Mary Beth, Oklahoma City, as a member of the Capitol-Medical Center Improvement and Zoning Commission - General Government

Hall, Dennis, Tulsa, as a member of the Oklahoma Abstractors Board - Business and Labor

Herzel, Larry William, Nichols Hills, as a member of the Oklahoma Uniform Building Code Commission - Business and Labor

Holt, Mitchell W., Yukon, as a member of the Oklahoma Uniform Building Code Commission - Business and Labor

Risser, Paul G., Norman, as a member of the Chairman of the P-20 Data Coordination Council - Education

Smith, Terry Lynn, Oklahoma City, as a member of the Oklahoma State Athletic Commission - Business and Labor

Taron, Joseph E., D.D.S., Shawnee, as a member of the Oklahoma Water Resources Board - Energy and Environment

Thompson, Trisha Garrett, Oklahoma City, as a member of the Commission on Consumer Credit - Business and Labor

Senator Jolley moved that when the clerk's desk is clear, the Senate stand adjourned to convene Thursday, February 18, 2010, at 9:30 a.m., which motion prevailed.

COMMITTEE REPORTS

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

DO PASS:

SB 1670 – Public Safety and Homeland Security, coauthored by Sullivan (principal House author)

Ayes: Ballenger, Barrington, Easley, Ellis, Halligan, Russell

SB 1716 – Judiciary, coauthored by Inman (principal House author)

Ayes: Anderson, Corn, Crain, Laster, Paddack, Sykes

SB 1729 – Judiciary, coauthored by Jett (principal House author)

Ayes: Anderson, Corn, Crain, Laster, Paddack, Sykes

SB 1776 – Health and Human Services, coauthored by Johnson (Constance) of the Senate, and coauthored by Peters (principal House author)

Ayes: Adelson, Burrage, Crain, Halligan, Johnson (Constance), Jolley, Newberry, Wilson

SB 1872 – Business and Labor, coauthored by Jordan (principal House author)

Ayes: Adelson, Burrage, Coates, Leftwich, Myers, Newberry, Rice, Russell

SB 1879 – Health and Human Services, coauthored by Thompson (principal House author)

Ayes: Adelson, Burrage, Crain, Halligan, Johnson (Constance), Jolley, Newberry, Wilson

SB 2197 – Health and Human Services, coauthored by Johnson (Constance) of the Senate, and coauthored by Cox (principal House author)

Ayes: Adelson, Halligan, Johnson (Constance), Jolley, Lamb, Newberry

SB 2257 – Public Safety and Homeland Security, coauthored by Blackwell (principal House author)

Ayes: Ballenger, Barrington, Easley, Ellis, Halligan, Russell

SJR 59 – Health and Human Services, coauthored by Jolley of the Senate, and coauthored by Thompson (principal House author)

Ayes: Halligan, Jolley, Lamb, Newberry

Nays: Adelson, Johnson (Constance), Wilson

DO PASS, As Amended:

CS for SB 1040 – Health and Human Services, coauthored by Armes (principal House author)

Ayes: Adelson, Halligan, Johnson (Constance), Jolley, Lamb, Newberry

SB 1325 – Judiciary, coauthored by Enns (principal House author)

Ayes: Anderson, Corn, Crain, Laster, Newberry, Paddack, Sykes

SB 1384 – Business and Labor, coauthored by Williams (principal House author)

Ayes: Adelson, Burrage, Coates, Leftwich, Rice

Nays: Brogdon, Myers, Newberry, Russell

CS for SB 1404 – Education, coauthored by Peters (principal House author)

Ayes: Branan, Brown, Corn, Eason McIntyre, Ford, Gumm, Halligan, Jolley, Lerblance, Paddack, Reynolds, Sparks, Stanislawski

SB 1597 – General Government, coauthored by Wright (John) (principal House author)

Ayes: Aldridge, Ballenger, Bingman, Crain, Johnson (Constance)

Nays: Bass, Johnson (Mike), Sweeden, Wilson

SB 1612 – Judiciary, coauthored by Johnson (Constance) of the Senate, and coauthored by McDaniel (Jeannie) (principal House author)

Ayes: Anderson, Corn, Crain, Laster, Newberry, Paddack, Sykes

CS for SB 1656 – General Government, coauthored by Christian (principal House author)

Ayes: Aldridge, Ballenger, Bass, Bingman, Crain, Johnson (Constance), Nichols, Sweeden, Wilson

SB 1833 – Agriculture and Rural Development, coauthored by DeWitt (principal House author)

Ayes: Barrington, Crutchfield, Ellis, Garrison, Ivester, Justice, Schulz, Sykes, Wyrick

SB 1850 – Finance, coauthored by Terrill (principal House author)

Ayes: Aldridge, Ford, Gumm, Ivester, Jolley, Nichols, Reynolds, Sparks, Stanislawski

Nays: Adelson, Crutchfield, Johnson (Mike), Rice, Wilson

SB 1863 – General Government, coauthored by Martin (Scott) (principal House author)

Ayes: Aldridge, Ballenger, Bass, Bingman, Crain, Johnson (Constance), Nichols, Sweeden, Wilson

CS for SB 1864 – General Government, coauthored by McNiel (principal House author)

Ayes: Aldridge, Ballenger, Bass, Bingman, Crain, Johnson (Constance), Nichols, Sweeden, Wilson

SB 1957 – General Government, coauthored by DeWitt (principal House author)

Ayes: Aldridge, Ballenger, Bass, Bingman, Crain, Johnson (Constance), Nichols, Sweeden, Wilson

SB 2027 – Business and Labor, coauthored by Jackson (principal House author)

Ayes: Adelson, Burrage, Coates, Leftwich, Newberry, Rice, Russell

Nays: Brogdon, Myers

CS for SB 2034 – Education, coauthored by Sullivan (principal House author)

Ayes: Branan, Brown, Corn, Eason McIntyre, Ford, Gumm, Halligan, Jolley, Lerblance, Paddack, Reynolds, Sparks, Stanislawski

SB 2199 – Education, coauthored by Easley of the Senate, and coauthored by Jones (principal House author)

Ayes: Branan, Brown, Corn, Eason McIntyre, Ford, Gumm, Halligan, Jolley, Lerblance, Paddack, Reynolds, Sparks, Stanislawski

SB 2210 – Business and Labor, coauthored by Sullivan (principal House author)

Ayes: Brogdon, Burrage, Coates, Leftwich, Myers, Newberry, Rice, Russell

Nays: Adelson

SB 2229 – Public Safety and Homeland Security, coauthored by Banz (principal House author)

Ayes: Ballenger, Barrington, Easley, Ellis, Halligan, Russell

CS for SB 2253 – Public Safety and Homeland Security, coauthored by Armes (principal House author)

Ayes: Ballenger, Barrington, Easley, Ellis, Halligan, Russell

CS for SB 2330 – Education

Ayes: Branan, Brown, Corn, Eason McIntyre, Ford, Gumm, Halligan, Jolley, Lerblance, Paddack, Reynolds, Sparks, Stanislawski

Pursuant to the Jolley motion, the Senate adjourned at 2:05 p.m. to meet Thursday, February 18, 2010, at 9:30 a.m.

JOURNAL CORRECTION

Page 345, Line 16, by deleting the following language:

“**SB 2290** – Withdrawn from Judiciary committee and referred to Appropriations”