

# Senate Journal

## First Regular Session of the Fifty-sixth Legislature of the State of Oklahoma

**Fifty-ninth Legislative Day, Wednesday, May 17, 2017**

The Senate was called to order by Senator Stanislawski.

Roll Call:

Present: Allen, Bass, Bergstrom, Bice, Boggs, Brecheen, Brown, Dahm, Daniels, David, Dossett, Dugger, Fields, Floyd, Fry, Griffin, Holt, Kidd, Leewright, Marlatt, Matthews, McCortney, Newberry, Newhouse, Paxton, Pederson, Pemberton, Pittman, Pugh, Quinn, Rader, Schulz, Scott, Sharp, Shaw, Silk, Simpson, Smalley, Sparks, Standridge, Stanislawski, Sykes, Thompson, Treat and Yen.—45.

Excused: Jech.—1.

Vacancy: Districts 44 and 45.—2.

Senator Stanislawski declared a quorum present.

The prayer was offered by Pastor Kelvin Batten, International Christian Empowerment Center, Tulsa, the guest of Senator Newhouse.

### **PENDING CONSIDERATION OF HAS**

**HAs** to **SB 85** were concurred in upon motion of Senator Fry.

**SB 85**, as amended by the Honorable House, was read at length.

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

Aye: Allen, Bergstrom, Bice, Boggs, Brecheen, Brown, Dahm, Daniels, David, Dugger, Fields, Floyd, Fry, Griffin, Holt, Kidd, Leewright, Matthews, McCortney, Newberry, Newhouse, Paxton, Pederson, Pemberton, Pugh, Quinn, Rader, Sharp, Shaw, Silk, Simpson, Smalley, Standridge, Stanislawski, Sykes, Thompson, Treat and Yen.--38.

Excused: Bass, Dossett, Jech, Marlatt, Pittman, Schulz, Scott and Sparks.--8.

Vacancy: Districts 44 and 45.--2.

The bill and emergency passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

#### **PENDING CONSIDERATION OF HAS**

**HAs to SB 89** were concurred in upon motion of Senator McCortney.

**SB 89**, as amended by the Honorable House, was read at length.

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

Aye: Bergstrom, Bice, Daniels, Dugger, Fields, Floyd, Griffin, Holt, Kidd, Leewright, Matthews, McCortney, Newberry, Newhouse, Paxton, Pederson, Pemberton, Pittman, Pugh, Rader, Scott, Sharp, Shaw, Simpson, Smalley, Standridge, Stanislawski, Thompson, Treat and Yen.--30.

Nay: Allen, Boggs, Brecheen, Brown, Dahm, David, Fry, Quinn, Silk and Sykes.--10.

Excused: Bass, Dossett, Jech, Marlatt, Schulz and Sparks.--6.

Vacancy: Districts 44 and 45.--2.

The bill passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

#### **PENDING CONSIDERATION OF HAS**

**HAs to SB 733** were concurred in upon motion of Senator Griffin.

**SB 733**, as amended by the Honorable House, was read at length.

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

Aye: Allen, Bergstrom, Bice, Boggs, Brecheen, Brown, Dahm, Daniels, David, Dugger, Fields, Floyd, Fry, Griffin, Holt, Kidd, Leewright, Matthews, McCortney, Newberry, Newhouse, Paxton, Pederson, Pemberton, Pittman, Pugh, Quinn, Rader, Sharp, Shaw, Silk, Simpson, Smalley, Standridge, Stanislawski, Sykes, Thompson, Treat and Yen.--39.

Nay: Scott.--1.

Excused: Bass, Dossett, Jech, Marlatt, Schulz and Sparks.--6.

Vacancy: Districts 44 and 45.--2.

The bill and emergency passed.

House amendments were properly signed and the above-numbered bill was referred for enrollment.

#### **PENDING CONSIDERATION OF CCR**

The **CCR** on **SB 211** was adopted upon motion of Senator Bice.

**SB 211**, as amended in conference, was read at length.

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

Aye: Bergstrom, Bice, Dahm, Daniels, David, Dugger, Fields, Floyd, Griffin, Holt, Kidd, Matthews, McCortney, Newberry, Paxton, Pemberton, Pittman, Pugh, Rader, Sharp, Silk, Simpson, Smalley, Thompson, Treat and Yen.--26.

Nay: Allen, Boggs, Brecheen, Brown, Fry, Leewright, Newhouse, Pederson, Quinn, Scott, Shaw, Standridge, Stanislawski and Sykes.--14.

Excused: Bass, Dossett, Jech, Marlatt, Schulz and Sparks.--6.

Vacancy: Districts 44 and 45.--2.

The bill passed.

**SB 211**, together with the conference committee report thereon, was ordered transmitted to the Honorable House.

**Senator Griffin presiding**

**EXECUTIVE NOMINATIONS**

The following executive nominations have been approved by the committee named:

Hatfield, Judy J., Oklahoma City, to the Oklahoma Arts Council, to serve a three-year term ending July 1, 2020, succeeding Nancy Leonard. (Education Committee) Motion to confirm made by Senator Kay Floyd.

Hickman, Jeffrey W., Fairview, to the Oklahoma State Regents for Higher Education, to serve a nine-year term ending May 16, 2026, succeeding James D. Harrel. (Education Committee) Motion to confirm made by Senator Roland Pederson on behalf of Senator Bryce Marlatt.

Jordan, Dr. Dian, Broken Bow, to the Board of Trustees for Southeastern Oklahoma State University-McCurtain County Campus, to serve an unexpired term ending June 30, 2021, succeeding L. Steven Blankenship. (Education Committee) Motion to confirm made by Senator Joseph Silk.

Lamborn, Travis A., Tulsa, to the Oklahoma Liquefied Petroleum Gas Board, to serve a four-year term ending June 30, 2019, succeeding Larry D. Weese. (Energy Committee) Motion to confirm made by Senator Gary Stanislawski.

Nair, Manu S., Edmond, to the Oklahoma Science and Technology Research and Development Board, to serve an unexpired term ending June 30, 2019, succeeding Dr. Paul W. Kincade. (Energy Committee) Motion to confirm made by Senator Adam Pugh.

Pujari, Roshan, Nichols Hills, to the Oklahoma Arts Council, to serve a three-year term ending July 1, 2020, succeeding Ann Hargis. (Education Committee) Motion to confirm made by Senator Ervin Yen.

Weilacher, Heather D., Jenks, to the State Textbook Committee, to serve a three-year term ending March 1, 2020, succeeding Kelly Wood. (Education Committee) Motion to confirm made by Senator Joe Newhouse.

Motions to confirm the above named executive nominations were declared adopted upon roll call as follows:

Aye: Bass, Bergstrom, Bice, Boggs, Brecheen, Brown, David, Dugger, Fields, Floyd, Griffin, Holt, Kidd, Leewright, Matthews, McCortney, Newberry, Newhouse, Pederson, Pemberton, Pittman, Pugh, Quinn, Rader, Scott, Sharp, Shaw, Silk, Smalley, Standridge, Stanislawski, Thompson, Treat and Yen.--34.

Nay: Allen, Dahm, Daniels, Fry, Paxton, Simpson and Sykes.--7.

Excused: Dossett, Jech, Marlatt, Schulz and Sparks.--5.

Vacancy: Districts 44 and 45.--2.

Senator Treat 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 Stanislawski presiding.

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

#### **MESSAGES FROM THE HOUSE**

Advising passage of and transmitting for consideration Engrossed **HBs 2351, 2356, 2372, 2389, 2395 and 2423** and **HCR 1009**.

**HB 2351** – By Osborn (Leslie), Wallace and West (Josh) of the House and David and Fields of the Senate.

An Act relating to ad valorem tax; authorizing specified facilities to delay start of ad valorem exemption period under specified circumstances; establishing requirements for, and limitations on, delay of exemption period; providing procedures and assigning duties related to implementation of delay; establishing beginning date for exemption period; excluding certain facilities from qualification for delay; providing for codification; and providing an effective date.

**HB 2356** – By Osborn (Leslie) and Wallace of the House and David and Fields of the Senate.

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 1208, as amended by Section 1, Chapter 306, O.S.L. 2014 and 1210 (68 O.S. Supp. 2016, Section 1208), which relate to franchise tax payments and reporting; modifying due date; modifying delinquency date; and providing an effective date.

**HB 2372** – By Osborn (Leslie) and Wallace of the House and David and Fields of the Senate.

An Act relating to revenue and taxation; stating purpose; imposing additional tax levy upon cigarettes; specifying amount of additional levy; providing for apportionment of revenues to certain funds; exempting levy from inclusion in determination of certain amounts; requiring certain collections and administration of levy; creating the Health Care Authority Enhancement Fund, the Mental Health and Substance Abuse Services Enhancement Fund, the Human Services Enhancement Fund, the University Hospitals Enhancement Fund, the Oklahoma State University Medical Authority Enhancement Fund,

the Health Department Enhancement Fund, and the Health Care Enhancement Fund; exempting funds from fiscal year limitations; identifying funding source; declaring funds appropriated; authorizing appropriation from certain fund; requiring legislative authorization for budgeting and expenditure; requiring certain budgeting procedures; prohibiting sale of cigarette excise tax stamps to wholesalers in excess of certain amount; providing exception; providing for codification; and providing for noncodification.

**HB 2389** – By Osborn (Leslie) and Wallace of the House and David and Fields of the Senate.

An Act relating to public finance; authorizing issuance of certain net amount of obligations by Oklahoma Capitol Improvement Authority for funding of certain projects for the State Department of Health; providing for debt retirement payments; directing how title is to be held and when it is to be transferred; authorizing capitalization of certain interest for specified period of time; stating legislative intent; requiring Authority to pay certain fees and costs under certain circumstances; providing methods of issuance for obligations; authorizing hiring of certain professionals; authorizing payment of certain costs by creating reserves; limiting maturity of obligations; providing for utilization of certain interest earnings; providing tax exemption; providing for investment of certain monies; requiring compliance with certain statutory provisions; providing for codification; providing an effective date; and declaring an emergency.

**HB 2395** – By Osborn (Leslie) and Wallace of the House and David and Fields of the Senate.

An Act relating to game and fish; amending 29 O.S. 2011, Section 2-138, which relates to the definition of resident; modifying definition; amending 29 O.S. 2011, Sections 4-106, 4-112, as last amended by Section 1, Chapter 165, O.S.L. 2015 and 5-102 (29 O.S. Supp. 2016, Section 4-112), which relate to commercial hunting; modifying fees for commercial hunting area licenses; modifying fee for nonresident hunting licenses; requiring residents hold certain commercial hunting licenses; modifying tag fees for animals hunted for sport in commercial hunting areas; and providing an effective date.

**HB 2423** – By Osborn (Leslie) and Wallace of the House and David and Fields of the Senate.

An Act relating to labor; amending 40 O.S. 2011, Section 418, as amended by Section 29, Chapter 254, O.S.L. 2013 (40 O.S. Supp. 2016, Section 418), which relates to the Oklahoma Occupational Health and Safety Standards Act; clarifying that certain payment and requirements and procedures apply to the Workers' Compensation Commission; providing an effective date; and declaring an emergency.

**HCR 1009** – By Martin, Lawson, Osborn (Leslie), Thomsen, Cleveland, Faught, Wallace, Derby, McEntire, McCall, Humphrey, Frix, Hardin, Inman, Downing, Ownbey, Bush, West (Josh), Casey, Worthen, Loring, Virgin, Williams, Nichols, McBride, Sanders, McEachin, Wright, Baker, West (Tammy), Martinez, Munson, Cockroft, Condit, Babinec, Enns, West (Kevin), Perryman, Caldwell, Renegar, Hilbert, Cannaday, Bennett (Forrest), Meredith, Dunnington, Lepak, Griffith, Pfeiffer, Walke, Ford, Young, Osburn (Mike),

Proctor, Sears, Jordan, Watson, Fetgatter, Echols and Goodwin of the House and Yen, Sykes, Paxton and Pittman of the Senate.

A Concurrent Resolution directing the Oklahoma Health Care Authority to refrain from awarding certain contract; and directing distribution.

The above-numbered measures were read the first time.

Advising fourth reading of and transmitting for signature Enrolled **HB 1485**.

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

Advising conferees are unable to agree on the following:

**HB 2151**

Advising passage of and returning the following Engrossed bills:

**SB 841**

**SB 842**

**SCR 12**

The above-numbered measures were referred for enrollment.

Advising conference granted on Engrossed **SB** and naming House conferees as follows:

**SB 298** - Conference Committee on GCCA

Advising concurrence in **SAs** to and passage of Engrossed **HB 2311**.

## **REPORT OF ENGROSSED AND ENROLLED MEASURES**

**SBs 85, 89** and **733** were each correctly enrolled and after fourth reading, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

## **SECOND READING**

The following were read for the second time and referred to committee as indicated:

**HB 2367** – Direct To Calendar  
**HB 2380** – Direct To Calendar  
**HB 2387** – Direct To Calendar  
**HB 2390** – Direct To Calendar

### **CONFERENCE COMMITTEE REPORT SUBMITTED**

Conference committee report was read on the following bill:

**SB 478**

Senator Treat moved that when the clerk's desk is clear, the Senate stand adjourned to convene Thursday, May 18, 2017, at 9:30 a.m., which motion prevailed.

### **COMMITTEE REPORT**

The following was reported by the committee named, ordered printed and placed on the Calendar:

DO PASS, As Amended:

**CS for SB 861** – Joint Committee on Appropriations and Budget

Senate:

Ayes: Allen, Bergstrom, Bice, Boggs, Brecheen, Brown, Dahm, Daniels, Dossett, Dugger, Fry, McCortney, Newhouse, Pemberton, Pugh, Quinn, Rader, Scott, Sharp, Shaw, Silk, Simpson, Smalley, Standridge, Stanislawski, Sykes, Yen

Nays: Bass, David, Fields, Floyd, Griffin, Kidd, Leewright, Matthews, Paxton, Pederson, Pittman, Thompson

House:

Ayes: Bennett (J), Casey, Cockroft, Echols, Henke, McCall, O'Donnell, Ortega, Osborn (L), Ownbey, Roberts (D), Russ, Sears, Wallace, Wright.

Nays: Biggs, Caldwell, Dunnington, Inman, Jordan, Kouplen, Loring, Murphey, Pfeiffer, Proctor, Sanders, Stone, Virgin.

### **CHANGE IN AUTHORS/COAUTHORS**

The following measure was authored/coauthored:

**HCR 1009** - Coauthored by Senator Paxton  
Coauthored by Senator Sykes  
Coauthored by Senator Pittman

**MESSAGE FROM THE HOUSE**

Advising fourth reading of and returning Enrolled **SBs 85, 89 and 733**.

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

**MESSAGES FROM THE GOVERNOR**

Advising her approval May 17, 2017, of Enrolled **SBs 35, 293, 635, 642, 787, 811 and 816**.

Advising her veto on May 17, 2017, of Enrolled **SBs 697 and 715**.

The veto messages read as follows:

May 17, 2017

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

**ENROLLED SENATE BILL NO. 697**

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 697.

This bill makes a few significant changes to the Administrative Procedures Act (APA). First, the bill adds new language requiring agencies, boards, or commissions (agencies) to amend existing administrative rules to cite the federal or state statutory authority that gave the agency the power to promulgate the existing rules. While I understand the intent behind this amendment, I cannot in good conscience sign this legislation during our current fiscal crisis. This creates a significant unfunded financial burden to all state agencies with administrative rules. Pursuant to the APA, all proposed administrative rules are filed with the Legislature, the Office of the Governor, and the Secretary of State for review and approval. The information is also available to the public at [https://www.ok.gov/state/filings/public\\_search.php](https://www.ok.gov/state/filings/public_search.php). Therefore pursuant to 75 O.S. §§ 303(B)(4) and 303.1(E)(4), these agency rules were previously reviewed for federal and state statutory authority used to promulgate the proposed rules. While I am willing to support a change in the APA that requires a federal or state statutory citation for all new rule filings, I remain opposed to applying it retroactively.

Second, the bill further amends the definition of Rule under the Administrative Procedures Act to read, “[I]aw or policy as delegated by the Legislature,....” The Legislature already retains that power under 75 O.S. § 250.2. The Legislature and the Governor also have the

authority to request that an agency review a rule to see if it needs to be amended, repealed, or redrafted. See 75 O.S. § 250.10.

By the Governor of the State of Oklahoma  
/s/ Mary Fallin

May 17, 2015

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

**ENROLLED SENATE BILL NO. 715**

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 715.

Section 3 of the bill proposes amendments to 59 O.S. §§ 1605(A)(4) and 1605(B)(4). These amendments grant the Board of Examiners for Speech-Language Pathology and Audiology (Board) subjective discretion as to whether a candidate passes or fails a required licensure examination. Although this may not have been the intent of the authors, I cannot in good faith sign legislation granting the Board this level of subjective authority when it comes to licensing.

By the Governor of the State of Oklahoma  
/s/ Mary Fallin

Pursuant to the Treat motion, the Senate adjourned at 5:00 p.m. to meet Thursday, May 18, 2017, at 9:30 a.m.