

*Session Highlights  
2004*

*Oklahoma House of Representatives  
Research Division*

# Highlights of Legislation

Passed During the Second Regular Session  
of the 49<sup>th</sup> Oklahoma Legislature

Convened February 2, 2004  
Adjourned May 28, 2004

Speaker Larry E. Adair

Oklahoma House of Representatives

August 2004



Prepared by

**Research Division**  
**Oklahoma House of Representatives**

Nancy Marshment, Policy Analyst  
*Editor*

Marcia Goff, Research Analyst  
Shirley Russell, Research Analyst  
Brad Wolgamott, Research Analyst  
*Assistant Editors*

**Contributors to this edition:**

Debbie Terlip, Acting Director  
Alicia Ramming Emerson  
Marcia Goff  
Anne Stefan-Kopko  
Nancy Marshment  
Shirley Russell  
Brad Wolgamott  
*Research Division*

Sue Ann Derr  
*Legal Division*

*George V. Moser*  
*Executive Director - Research, Legal and Fiscal Divisions*

*Debbie Terlip*  
*Acting Research Director*

*Scott C. Emerson*  
*Chief Counsel*

*Gregory Sawyer*  
*Fiscal Director*



# Table of Contents

Preface and Acknowledgments .....	ix
Explanatory Notes .....	xi
Agriculture, Energy and Utilities, and Environment .....	1
Agriculture and Rural Development .....	1
Energy .....	3
Utilities .....	3
Environment .....	4
Amusement and Sports .....	7
Business and Finance .....	9
Business and Labor .....	9
Labor Relations .....	9
Tobacco and Intoxicating Liquors .....	10
Professions and Occupations .....	10
Banking and Finance .....	11
Economic Development .....	11
Rural Development .....	12
Public Finance .....	12
Economic Development Tax Incentives .....	13
Economic Development Miscellaneous .....	14
Insurance .....	15
Criminal Justice, Corrections, and Judiciary .....	19
Criminal Justice .....	19
Drug Interdiction .....	19
Domestic Abuse .....	20
Identity Theft .....	21
Juvenile Justice .....	21
Miscellaneous Measures .....	22
Corrections .....	22
Criminal Registration .....	24
Miscellaneous Corrections Issues .....	24
Judiciary .....	25
Civil Procedure .....	25
Court Related Matters .....	28
Probate .....	30
Criminal Procedure .....	30

## Table of Contents

---

Education .....	35
Common Education .....	35
Employee Salary/Benefits .....	35
Academics and Students .....	36
Finance and Administration .....	37
Higher Education .....	40
Career Technology and Private Vocational Education .....	42
General Government .....	43
State Government .....	43
State Employees .....	43
Government Employee Benefits and Retirement Systems .....	46
Elections .....	48
Government and Procedures .....	50
Capital Improvements and Public Projects .....	52
Government and Procedures .....	53
County and Municipal Government .....	55
Veterans and Military .....	58
Veterans .....	58
Military .....	58
Health and Mental Health .....	61
Health .....	61
Tobacco .....	61
Trauma Care .....	62
Access to Care .....	63
Long-Term Care .....	64
Professions and Occupations .....	65
General Health .....	66
Miscellaneous .....	67
Mental Health .....	68
Homeland Security and Public Safety .....	69
Homeland Security .....	69
Public Safety .....	69
Law Enforcement Retention and Training .....	69
Guns .....	71
Driver License Issues .....	71
Firefighters .....	72
Regulatory Functions .....	72
Alcohol .....	72
Miscellaneous Public Safety .....	73
Human Services .....	75
Child Care .....	75
Custody, Guardianship, and Visitation of a Child .....	75

Child Support .....	76
Disabilities .....	77
Senior Oklahomans .....	77
Children and Families .....	78
Revenue and Taxation .....	81
Cigarette Tax Referendum .....	81
Tax Relief and Incentives .....	83
Ad Valorem Taxation .....	84
Tax Administration .....	85
Gross Production Tax .....	86
Motor Vehicle Registration .....	86
Technology and Telecommunications .....	89
Technology .....	89
Telecommunications .....	90
Tourism and Wildlife .....	91
Tourism .....	91
Wildlife .....	91
Transportation .....	93
Appendices .....	95
Appendix 1	
Legislative Production 1994-2004 .....	97
Appendix 2	
Vetoes 1994-2004 .....	99
Appendix 3	
Legislative Appropriations Fiscal Year 1996-2005 .....	101
Appendix 4	
Distribution of FY-05 Appropriations by House Subcommittees of General Conference Committee on Appropriations .....	103
Appendix 5	
State Questions .....	105
Index of Highlighted Bills .....	107
<i>Charts:</i>	
Bond Pool Structure .....	13
HB 2470 Liability Insurance Provisions .....	15
Methamphetamine Labs Seized .....	19
Offenses and Conditions which Prohibit an Offender’s Participation in GPS Program .....	23
Crimes Subject to Violent Offender Registration .....	24
Starting Salaries for Oklahoma Public School Teachers .....	36
Higher Education Revenue Bonds .....	41

**Table of Contents**

---

State Employee Salary Increase ..... 43  
Salary Increases for State Elected Officials and the Judiciary ..... 44  
State Retirement Cost-of-Living Adjustments ..... 46  
Armories Financed for Improvement in HB 2001 ..... 59  
Distribution of Estimated Proceeds Generated by Tobacco Tax ..... 61  
Pay Bands for Oklahoma State Bureau of Investigation Agents and Criminalists ..... 70  
Total Number of Children in Subsidized Child Care in Oklahoma ..... 75  
Total Number of Children in Foster Care in Oklahoma ..... 76  
State Excise Tax Rates on Cigarettes ..... 81  
Current and Proposed Cigarette and Tobacco Products Tax Rates ..... 82  
Apportionment of Revenue from Proposed Tobacco Products Tax Increase ..... 82

# Preface and Acknowledgments

---

The primary purpose of *Highlights* is to provide an overview of the significant substantive legislation enacted during the 2004 regular session. This document is not intended to be completely reflective of the Legislature's entire work. A brief description of the session's major legislation is available in the *Session Overview*, prepared by the House Research Division, which may be found on the House of Representatives' home page on the Internet at:

[www.okhouse.gov](http://www.okhouse.gov)

This document may also be found at the same website.

During the Second Session of the 49th Legislature, 1,765 measures and joint resolutions were introduced, of which 567 were enacted into law. The Governor vetoed ten bills and line-item vetoed three additional bills. None of these vetoes were overridden by the Legislature. The historical context of this data is shown in Appendices 1 and 2 of this report.

Assistance for this project was provided by the House Legal Division, the House Fiscal Division, and Arlene Bayne and Mary Alexander of the Engrossing and Enrolling Office. Special thanks to Brad Wolgamott, Marcia Goff, and Shirley Russell who, in addition to writing their sections, helped edit this document. A word of special gratitude is also extended to Nancy Lutes of the Support Staff whose expertise and dedication makes this project a success.

Nancy Marshment  
House Research Division

This publication, printed by the House Duplicating Shop, is issued by the Oklahoma House of Representatives. Six hundred fifty (650) copies have been prepared and distributed at a cost of \$3.70 each to the taxpayers of Oklahoma. Reference copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.

# *Explanatory Notes*

---

The following pages provide a summary of the Oklahoma Legislature's substantive work during the 2004 regular session and are organized alphabetically by general topic. A detailed review of the FY-05 appropriations has been published by the House of Representatives' Fiscal Division.

In a number of instances, individual bills can be found in more than one section of the document. The index at the back of the document indicates the page(s) where a specific bill can be found. The bold-facing of an individual bill indicates the first mention of the measure within a subject area. If a measure vetoed by the Governor was significant, it is mentioned briefly with a short explanation of the veto. The abbreviations HB, HJR, HCR, HR, SB, SJR, SCR, and SR respectively stand for House Bill, House Joint Resolution, House Concurrent Resolution, House Resolution, Senate Bill, Senate Joint Resolution, Senate Concurrent Resolution, and Senate Resolution. Additionally, the state's Constitutional Reserve Fund is referred to in this report by its more commonly known name, the Rainy Day Fund.

In the appendices of this document are charts showing, for this year and the past ten years, the number of bills and joint resolutions introduced and enacted, the number of vetoes, and the total amount of state monies appropriated. Also included are a general breakdown of the FY-05 appropriations and a list of state questions contained in legislation passed during the 2003 and 2004 sessions. Nine measures are scheduled for a vote on the November 2, 2004, General Election ballot. Three additional measures may appear on the ballot if the requisite signatures are obtained and legal challenges, if any, are settled in a timely fashion.



TO OBTAIN COPIES OF ANY LEGISLATION SUMMARIZED IN THIS PUBLICATION  
PLEASE CONTACT:

BILL DISTRIBUTION  
STATE CAPITOL  
2300 NORTH LINCOLN BOULEVARD  
ROOM 310  
OKLAHOMA CITY, OK 73105  
401-521-5514

COPIES OF THIS SUMMARY AND LEGISLATION MAY  
ALSO BE OBTAINED ELECTRONICALLY FROM THE INTERNET WEB SITE OF THE  
OKLAHOMA HOUSE OF REPRESENTATIVES

[www.okhouse.gov](http://www.okhouse.gov)



# Agriculture, Energy and Utilities, and Environment

---

## Agriculture and Rural Development

Significant issues addressed by the Legislature this session in the agriculture area include landowner liability and the regulatory role of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) as it relates to animal identification, the environment, and pest control.

A major lawsuit reform measure passed this session, **HB 2661**, which is described in more detail in the Judiciary section, contains several provisions of great interest to the agriculture community. In particular, the creation of the Oklahoma Limitation of Liability for Farming and Ranching Act is intended to encourage more owners of farming and ranching land to make land available for recreational use by limiting a landowner's liability to persons entering or using the farm and ranch land if the landowner does not charge more than \$10 per acre per year for the land used for recreational purposes. Owners and lessees of agricultural land do not owe a duty of care to a trespasser and are not liable for any injury except for willful or wanton acts of negligence.

Several measures address regulatory functions of ODAFF. **HB 2186** authorizes ODAFF to enter into a cooperative agreement with the U.S. Department of Agriculture to certify or establish an inspection service for the purpose of grading fruits, nuts, and vegetables. International concerns over food-borne diseases led to the enactment of **SB 1300**, which designates ODAFF as the official animal identification agency of the state and directs ODAFF to develop, implement, and administer an Oklahoma Animal Identification Program to promote continued confidence in the safety of animal products and to identify infected and exposed premises and animals. This measure also provides that if an action against a producer of livestock arises as a result of consumption of a meat food product, there is a presumption that the livestock producer met the standard of ordinary care in the production so long as the livestock in question were inspected and passed in accordance with the applicable state inspection act. In a related matter, **HB 2217** authorizes a licensed managed feeding operation or concentrated animal feeding operation to exceed the permitted annual capacity limitation for a specified time if conditions are present indicating the presence of diseased or potentially diseased animals.

Two measures give regulatory jurisdiction to ODAFF regarding environmental concerns. **SB 1204** clarifies that the State Board of Agriculture is responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibilities. This measure also removes a restriction stating that point source discharge permits will be issued only by the federal Environmental Protection Agency. **HB 2394** makes it a violation of the Oklahoma Agriculture Code for any person to cause pollution of any land or waters which are subject to the jurisdiction of ODAFF pursuant to the Oklahoma Environmental Quality Act.

Two measures deal with pest control issues. **HB 2706** adopts the Pest Control Compact which allows Oklahoma to join 34 other states in an effort to work together in plant pest control, suppression, or eradication beyond state boundaries. The compact, administered in Oklahoma by the Commissioner of Agriculture, provides financial assistance for participating states in certain cases of pest infestation. **HB 2402** increases a variety of fees relating to the licensure of pesticide applicators and requires pesticide producing establishments to obtain an annual permit.

Several measures address animal-related issues. **SB 1163** increases from 15¢ to 25¢ the fee assessed per head on all sheep sold or produced in the state and from 1¢ to 2¢ the fee assessed per pound on all wool produced or sold. **HB 2620** creates the Oklahoma Beef Improvement and Market Development Act which establishes a statutory Oklahoma Beef Council and allows for an assessment of \$1 per head on cattle sold. This measure will go into effect only if the mandatory national beef checkoff system does not withstand current legal challenges. The adoption of this act will allow Oklahoma to continue its current beef marketing efforts. Pursuant to **HB 2557**, the State Veterinarian at ODAFF may:

- Adopt an education program concerning pet overpopulation with emphasis on the importance of spaying and neutering;
- Accept gifts, grants, and donations which will be deposited into the Oklahoma Pet Overpopulation Fund;
- Develop, adopt, and implement a cooperative process for working with animal shelters, veterinarians, and local communities concerning pet overpopulation; and
- Enter into contracts with entities for the evaluation and selection of program applicants.

In order to provide funding sources to accomplish the above goals, the measure authorizes the Animal Friendly license plate and an income tax checkoff for the benefit of the Oklahoma Pet Overpopulation Fund.

Maintaining adequate fire protection in rural Oklahoma is always of concern to the Legislature. Two measures were enacted this session to address issues relating specifically to volunteer or rural firefighters. The Oklahoma Volunteer Firefighter Training Incentive Act of 2004 is created in **HB 2372**. This measure establishes the Oklahoma Council on Firefighter Training which will be responsible for identifying firefighter needs, interacting with the Oklahoma Office of Homeland Security on firefighting training, and administering and maintaining the incentive and recognition programs for firefighters. In addition, an income tax credit is provided for volunteer firefighters who achieve specified firefighter training or certification. Last session the Legislature provided to full-time firefighters of a rural fire protection district the right to collective bargaining and arbitration. **SB 1495** adds to these provisions by empowering the Public Employees Relations Board to prevent a rural fire protection district firefighter from engaging in any unfair labor practices and declaring that no firefighter may be discharged or denied employment from a district by reason of membership or nonmembership in an organization for collective bargaining purposes.

## Energy

With the recent rising prices of oil and gas, legislators are examining alternatives for the production of energy. **SB 1212** creates an 11-member Wind Power Assessment Committee to review the impact of a wind power initiative. Contingent on the timely receipt of federal funds, **HB 2351** creates a 12-member Fuel Cell Initiative Task Force to consider the development of a statewide plan for a coordinated effort to commercialize fuel cell generation for electricity in Oklahoma, as well as programs to encourage the industry to locate their services in the state. The task force is required to study and make recommendations to the Governor and legislative leaders regarding fuel cell technology by January 1, 2005.

**HB 2192** provides that entities engaged in wind power generation will be subject to the requirements for obtaining and maintaining the five-year manufacturing ad valorem exemptions which were effective prior to amendments adopted in 2003 that created problems with Oklahoma Tax Commission projections. **SJR 41** declares that a goal of the state is to encourage, when available, the purchase and use by governmental agencies of Green Power or Green Tags, also called Renewable Energy Credits.

Following an interim study that was prompted by several years of feuding between producers and operators of gas gathering systems, legislators passed **HB 2550**, a bill designed to quickly resolve disputes between the two segments of the oil and gas industry. The measure enhances state oversight of gas gathering and increases the authority of the Oklahoma Corporation Commission to examine charges of abuse in order to ensure gas gatherers are charged fair and reasonable prices. Provisions of the bill allow the Commission to order that gathering fees paid by one royalty owner will apply to other similarly situated owners on the same system and that gas gathering companies must provide records showing the fees paid by royalty owners. A gas gathering company that fails to provide the records would be subject to a fine of up to \$5,000 per day.

## Utilities

Measures in the area of utilities cover several diverse issues, including modifications to the Underground Facilities Damage Prevention Act, changes in administrative issues at the Grand River Dam Authority, and regulatory oversight of the Oklahoma Corporation Commission.

**HB 2574** amends the Underground Facilities Damage Prevention Act by modifying the definition of an underground facility to include oil and natural gas pipelines. In addition, the measure reduces from 60 days to 7 days the length of time required for notice of demolition of a structure. However, if it is determined that underground facilities are within the area of the proposed demolition, the parties may set a date to begin the demolition up to 60 days from the original demolition notice.

**SB 377** allows the Grand River Dam Authority (GRDA) to purchase vehicles for use by its employees between their residence and work as designated by the general manager of GRDA. SB 377 also exempts GRDA from the Public Building Construction and Planning Act and removes the \$100,000 cap on GRDA contributions toward eligible retirees' health insurance premiums. The

repealer in SB 377 removes language that required legislative approval for GRDA to build a new facility.

The liability of utilities or cable television systems for facilities on private easements is limited by **SB 1574** when the easements are within the public right-of-way of the Oklahoma Department of Transportation (ODOT). In instances where a utility company has facilities in private easements which are acquired or encompassed by the right-of-way of ODOT, the utility is given a choice of relocating the conflicting facilities into a public right-of-way or relocating to a newly acquired private easement. Whichever choice is made, the relocation is to be at the expense of ODOT.

In other utility-related measures:

- ▶ **SCR 73** creates the Public Utility Purchased Power Study Commission to study the potential for providing incentives to public utilities for the purchase of power from nonutility generation facilities;
- ▶ **HB 2278** provides a method for the Oklahoma Corporation Commission to review domestic utility companies and mergers and acquisitions of domestic utility companies;
- ▶ **SB 848** allows any electric cooperative to vote to be exempt from regulation by the Oklahoma Corporation Commission. Previously, this option was limited to cooperatives with less than 17,000 meters; and
- ▶ **SB 1317** clarifies pricing definitions for natural gas purchases to specify that the fair field price will not be applied to gas purchased through competitive bid by a public utility from its subsidiary.

## **Environment**

A primary concern addressed by legislators this session was the issue of lead poisoning in the Tar Creek area in northeastern Oklahoma. Other issues included modifications to laws relating to poultry litter, waste tires, water issues, and the administrative structure of some state entities.

**SB 1490** creates the Lead-Impacted Communities Relocation Assistance Act to provide assistance to families with young children residing within the Tar Creek Superfund site in northeastern Oklahoma. The measure authorizes the Department of Environmental Quality (DEQ) to make grants from monies appropriated for that purpose to state beneficiary public trusts serving communities affected by historic lead and zinc mining and located within the boundaries of federal Superfund sites to assist families with children age 6 or less to relocate to another area. Participation in the program is voluntary. The measure also provides for grants to benefit school districts and utility companies located within the most affected area of the site. Funding for the program is provided in **HB 2060** in the amount of \$3 million. In addition, **SB 1020** sets up a revolving fund within the Oklahoma Conservation Commission for monies that are designated for the Commission's responsibilities associated with the Tar Creek Superfund project.

In order to assist investigators in the cleanup of Superfund sites and brownfields, legislators passed **HB 2615** to allow DEQ officials to enter the sites for the purpose of conducting inspection activities as designated by federal laws. The bill authorizes the DEQ to require compliance with a site remediation plan and to take administrative or civil action to recover related costs.

Reducing phosphorus contamination in environmentally sensitive watersheds is the goal of **HB 2218** which was enacted to allow purchasers of poultry litter to claim an income tax credit equal to \$5 per ton, with total credits granted through the program not to exceed \$375,000 annually. To qualify, litter must be purchased from a poultry operation located in a nutrient-limited watershed as defined by Oklahoma Water Quality Standards. Litter is to be used or spread in accordance with current law. The incentive is expected to provide positive economic benefits by removing litter from sensitive areas for use in other parts of the state where the nutrients are beneficial.

The issues of how much water is needed for Oklahoma citizens and business and the sale of water within and outside of the state are still of critical concern to legislators. **HB 2440** extends the three-year moratorium established in 2004 on the sale or exportation of surface water and groundwater outside the state to a five-year period or until the Oklahoma Water Resource Board completes a comprehensive study of water resources in the state.

**HB 2616** clarifies and streamlines several aspects of the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund. Several new definitions are added to clarify the regulation by the Oklahoma Corporation Commission, as well as modifications to statutes related to the purchase of contaminated property and the disposition of the property once contaminants have been removed. The measure specifies that a person whose property has been contaminated may not retain an environmental consultant in whose company the property owner has more than a 10 percent interest. In other provisions, HB 2616:

- Changes the reimbursement co-payment requirements from a flat \$5,000 to 1 percent of the remediation costs not to exceed \$5,000;
- Exempts from the co-payment impacted parties whose properties have been contaminated;
- Authorizes the administrator of the indemnity fund to declare a city or town to be eligible for reimbursement from the fund with certain limitations and requirements; and
- Requires that administrative limits of the program be established by the Legislature annually during the appropriations process.

**SB 1107** makes several modifications to the Oklahoma Waste Tire Recycling Act. Specifically the bill:

- Reduces the amount of tires a waste tire facility is required to shred or alter from 33 percent to 5 percent;

- Reduces the amount of waste tire fund collections used for administration from 8 percent to 7 percent and requires the 1 percent savings to be used by the State Auditor and Inspector until July 1, 2006, for a random compliance audit pilot project;
- Reduces the amount of tires a waste tire facility must process from illegal tire dumps from 10 percent to 5 percent;
- Suspends the requirement for collection of waste tires from tire dumps for one year unless there is a request through the DEQ to make a collection; and
- Requires anyone installing an erosion control project to be liable for assuring the success of the project for five years.

Another measure relating to waste tires is **SCR 66**, which creates the Waste Tire Recycling Indemnity Fund Joint Task Force to review the structure of the Waste Tire Recycling Indemnity Fund. The task force report is due to legislative leaders by January 1, 2005.

In other environmental measures:

- ▶ **HB 1843** allows rural water district board members to serve up to six years under certain conditions and clarifies limitations related to terms of service;
- ▶ **HB 1873** modifies the requirements for the testing of fire extinguishers to remove inspection requirements and extend from 6 to 12 months the time interval at which extinguishers must be tested. The measure also specifies that hard hats must be worn in mines only where falling objects may create a hazard;
- ▶ **HB 1876** repeals a section of law related to air quality which required a certificate of need for biomedical waste disposal by processing facilities;
- ▶ **HB 2198** adds remedial action and subsequent related maintenance of property used for environmental remediation to the list of reasons for which the state or a political division is totally immune from tort liability under the Governmental Tort Claims Act; and
- ▶ **HB 2284** authorizes flood plain management boards to hire program administrators and requires the Oklahoma Water Resources Board to accredit flood plain management administrators.

# Amusement and Sports

One of the more divisive issues addressed by the Legislature this session related to the authorization of electronic games at racetracks in Oklahoma and the provision of a model compact which tribes may enter into to conduct certain gaming on tribal lands.

**SB 553**, the State-Tribal Gaming Act, was initially passed by the Oklahoma Legislature and signed by the Governor in March 2004. Because the measure did not garner enough votes in the House of Representatives for the emergency clause, this measure would not become effective until 90 days after sine die adjournment. Opponents of SB 553 filed a referendum petition in the form of State Question 709 in an effort to gain the necessary signatures to require a vote of the people on whether this bill should go into effect. This group has until 90 days after sine die adjournment to collect the required number of signatures to place this issue on the ballot. The due date for the requisite amount of signatures is August 26, 2004. In response to this action, legislators decided to recreate the provisions of the original bill in **SB 1252**, also known as State Question 712, to be sent to the voters for their approval at the November 2, 2004, General Election. SB 1252 creates the State-Tribal Gaming Act. When at least four tribes enter into the model state-tribal compact, three racetracks (Remington Park in Oklahoma City, Blue Ribbon Downs in Sallisaw, and Will Rogers Downs in Claremore) will be authorized to operate a specified number of electronic games at their race facilities. Specific provisions of the measure are as follows:

- Authorized gaming may only be conducted at enclosure locations where live racing is conducted;
- Gaming may only be conducted for a maximum of 106 hours in any week, with no more than 18 in any 24-hour period;
- Remington Park is authorized to operate 650 player terminals and may add 50 more terminals in a nonsmoking area in the third and fifth years. The two other tracks may operate 250 terminals;
- The revenue generated by electronic gaming at the racetracks is to be distributed to the state, to the racetrack, and to be used as purses for horse racing in varying percentages which are dependent upon the amount of revenues generated. Of the state's share, 12 percent goes to the Oklahoma Higher Learning Access Trust Fund and 88 percent goes to the Education Reform Revolving Fund; and
- Tribes operating gaming facilities within 20 miles of a fair-meet licensee in a county with a population of more than 500,000 (Fair Meadows in Tulsa) must contribute a portion of their revenue to the fair-meet licensee and a portion to purses for all tracks.

## Amusement and Sports

---

The Oklahoma Horse Racing Commission will regulate the electronic gaming at the racetracks. The types of electronic games that may be conducted include electronic amusement games, electronic bonanza-style bingo games, and electronic instant bingo games.

SB 1252 sets out the offer by the State of Oklahoma to Indian tribes to enter into the Model Tribal Gaming Compact. Indian tribes are required to pay fines assessed by the federal government as a precondition of entering into the compact. Pursuant to the compact, the tribes may offer the electronic games that are authorized for racetracks and non-house-banked card games. The tribes are required to pay the state a fee derived from gaming revenues, with the revenue going to the Oklahoma Higher Learning Access Fund and the Education Reform Revolving Fund. Of this revenue, a total of \$250,000 will go annually to the Department of Mental Health and Substance Abuse Services for the treatment of compulsive gambling disorder. Tribes are also required to pay an annual assessment fee of \$35,000 and a \$50,000 one-time start-up assessment. The Office of State Finance has oversight responsibilities for the operation of games by compacting Indian tribes. The compact will expire January 1, 2020, but will automatically renew for 15 years. The fees and penalties may be renegotiated at that time. These provisions will go into effect if approved by the voters at the November 2, 2004, General Election. In addition, SB 1252 repeals all of the new law provisions of SB 553 effective 90 days after sine die adjournment.

If SB 1252 is approved by the voters, **SB 1005** will provide a funding mechanism for the Oklahoma Horse Racing Commission (OHRC) for the regulation of gaming at the racetracks. The OHRC is authorized to charge an application fee of \$50,000 to each racetrack that desires to conduct gaming or which receives any funds as a *recipient licensee* (Fair Meadows) and desires to conduct parimutuel wagering. In addition, the OHRC is authorized to assess a fee upon each racetrack authorized to conduct gaming. This fee will be proportional to the number of player terminals a racetrack is licensed to operate.

Another horse racing measure, **HB 2416**, exempts the gaming areas of a racetrack and the simulcast wagering areas of the enclosure of a racetrack from the Smoking in Public Places and Indoor Workplaces Act provided the area is fully enclosed and meets other requirements for a smoking area provided in statute. The measure also eliminates the requirement that tickets representing each wager made on each horse be printed and issued.

# Business and Finance

---

## Business and Labor

During the 2004 session, lawmakers addressed various issues related to labor relations, employee benefit procedures, the marketability of Oklahoma's wine industry, penalties for selling tobacco to minors, and the regulation of intoxicating liquors.

### Labor Relations

**SB 1529** creates the Oklahoma Municipal Employee Collective Bargaining Act affecting municipalities with a population of greater than 35,000 persons and any special authorities, agencies, and boards created by municipalities. The measure allows nonuniform municipal employees to form employee organizations in order to collectively bargain and negotiate for employment-related benefits. The bill sets out procedures to prohibit strikes by municipal employees and requires the use of an arbitrator to address the financial ability of the employer to meet the costs of a contract. The bill specifies that existing collective bargaining agreements will not be subject to the provisions of this measure until the agreement expires.

Additional provisions of SB 1529 include prohibiting a municipal employer from interfering with municipal employees in the exercise of rights granted by the act, including activities related to employee organizations and prohibiting an employee organization from coercing any municipal employee with respect to any of the rights under the act.

In other labor-related legislation:

- ▶ **HB 2488** restricts the use of social security numbers of employees by private employers;
- ▶ **SB 1558** provides a process for determining a ballot title for elections in municipalities which require the involvement of an arbitration board;
- ▶ **HB 2497** disqualifies individuals with professional employment contracts who accept an accelerated buyout in the amount of \$100,000 or more from receiving unemployment benefits;
- ▶ **SB 435** allows individuals claiming unemployment benefits in a proceeding before a court of record to appear on their own behalf or be represented by an attorney; and
- ▶ **SB 1288** amends the Oklahoma Security Act of 1980 by modifying the definition of *employment* to exclude services performed by a nonresident alien admitted to the United States to perform agricultural labor.

## Tobacco and Intoxicating Liquors

Measures were enacted to further restrict the sale of tobacco products to minors and to modify beer vendors' licenses. **SB 1256** stiffens the penalties on employees and owners of stores that sell tobacco products to persons under the age of 18. The measure requires the Alcoholic Beverage Laws Enforcement Commission to impose a fine of not more than \$200 for a second offense within a two-year period; a fine of not more than \$300 for a third offense within a two-year period and the possible suspension of the store's license to sell tobacco products for up to 30 days; and, for a fourth or subsequent offense within a two-year period, the store's license may be suspended up to 60 days. The measure also prohibits the use of vending machines to sell cigarettes in any location that is open to the public and accessible by persons under the age of 18. Finally, SB 1256 prohibits the sale of tobacco products in a manner that allows direct public access to the product and establishes a fine of \$200 for each offense. **HB 1867** prohibits the sale of any tobacco-related products to anyone under 18 years of age. **SB 1543** allows a retail dealer of low-point beer to apply for a single special license even though the dealer may have multiple vendor locations within the same enclosed area or general vicinity.

## Professions and Occupations

**SB 1488** amends the Oklahoma Accountancy Act to permit the Accountancy Board to select an organization to provide licensing examinations and charge fees for the examinations. The measure clarifies the fees to be charged for application for qualification and for testing. Testing fees were increased to accommodate the cost of computer examinations which have become the national standard for licensing. Additionally, the measure specifies that filing requirements, fees, and continuing professional education requirements established for accountants licensed under provisions of the Oklahoma Accountancy Act be waived if the accountant is called to active military service.

In other measures relating to professions and occupations:

- ▶ **HB 2554** restricts individuals who inspect houses for mold from also providing the removal services on a project when the total cost of both services exceeds \$200;
- ▶ **HB 2627** amends the Home Inspection Licensing Act by allowing a client to request a single-item inspection that can be performed by a professional craftsman in the relevant area of expertise;
- ▶ **SB 1211** expands the definition of *plumbing* to include the installation, repair, and maintenance of radiant-floor heating system piping in residences;
- ▶ **SB 1381** requires in a filing of an affidavit for a new surety appointment the disclosure of any obligations that are owed to insurers, courts, or the insurance department; and

- ▶ **SB 1312** amends the Oklahoma Real Estate License Code to allow the Oklahoma Real Estate Commission to impose administrative fines for violations of the code by unlicensed persons.

## Banking and Finance

During the 2004 session, lawmakers enacted measures that deal with investment, payday lending, liens, and mortgage brokers. To encourage investment in Oklahoma assets and financial institutions, **HB 2135** creates the Family Wealth Preservation Act. The act allows an individual to establish a trust fund up to \$1 million that is exempt from attachment for the payment of debt or bankruptcy. The assets of the trust must be invested in Oklahoma businesses, stocks, or property and be managed by an Oklahoma bank or trust company.

In follow-up legislation to the payday lending bill passed by the Legislature last year, **SB 1565** contains several provisions to protect consumers and prevent borrowers from getting trapped in a cycle of debt. The bill:

- Defines a *consecutive loan* as one made within seven days of the previous deferred deposit loan and establishes a 24-hour cooling off period for borrowers after five consecutive loans or at the end of a repayment plan;
- Allows borrowers applying for their third consecutive loan to request a payment plan. Borrowers may choose to repay their loan in four equal installments. Customers who opt for the installment plan must agree not to enter into any additional deferred deposit loans during the term of the repayment and for an additional 15 days after the payment plan ends. Lenders are prohibited from denying the customer their right to the repayment plan; and
- Establishes a lender-funded third-party, credit-counseling program specifically designed for consumers that use deferred deposit loans.

Two additional measures were enacted relating to banking and finance. **HB 2230** assures the validity of a security lien on a vehicle registered by a federally recognized tribe. **HB 1503** changes the length of a mortgage broker license from three years to one and reduces the license fee from \$300 to \$100.

## Economic Development

The 2004 session included the consideration of a number of measures promoting economic development in the State of Oklahoma. Several creative approaches to the problems created by national and international economic trends are evident in the session's legislation, including incentives for local governments engaged in Tax Increment Finance efforts, a Rural Action Partnership Program, streamlining bond issuance processes related to local economic development programs, updating allocations for tax exempt bond issues, and specialized incentives for existing business enterprises.

## **Rural Development**

During the 2003 interim, the Rural Area Development Task Force finalized its recommendations in a report. The principal recommendation from the task force was to establish some method of centralizing or coordinating rural economic development efforts for the entire state.

To that end, **HB 2288** creates the Rural Action Partnership Program to be administered by the Oklahoma Department of Commerce (ODOC). The mission of the Rural Action Partnership Program is to foster healthy and sustainable rural communities through small business retention, expansion, and entrepreneurial development. Components of the program include:

- Establishing a statewide toll-free telephone program to provide assistance to persons, firms, and representatives of governmental entities attempting to establish or expand a for-profit business in a rural area of the state;
- Requiring the state to be divided into four regions with each region served by a Rural Economic Development Specialist;
- Assisting in the coordination of primarily rural economic development programs offered within the state;
- Administering a rural economic development and employer regional outreach program;
- Sponsoring, along with key economic development partners, periodic rural development summits or conferences for purposes of communicating the availability of services provided by the Rural Action Partnership Program; and
- Creating an Advisory Team for the Rural Action Partnership Program to provide oversight of the program.

Finally, the bill requires ODOC to conduct an annual evaluation of the Rural Action Partnership Program and the Executive Director of ODOC to make a report no later than December 31, 2007, regarding the actions and functions of the Rural Action Partnership Program to the Governor and legislative leaders.

## **Public Finance**

**HB 2164** addresses the issue of the allocation of private activity bonds in Oklahoma. In recent years, the total volume of bonds that can be issued on a federally tax exempt basis has increased for all states because of changes in the Internal Revenue Code. Oklahoma law bases its current pool sizes on a \$170 million total state ceiling amount, with certain amounts in excess of that threshold

being used for stand-alone pools or for the Local Issuer Single Family Pool. This has the effect of freezing certain pool sizes for some of the governmental bond issuers. HB 2164 creates two new bond pools, the Metropolitan Area Housing Pool and the Rural Area Housing Pool, and allows existing issuers a larger share of the total state ceiling amount which for the 2004 calendar year is \$280,922,560. This amount will be indexed for inflation in 2005 and future years.

The pool structure in HB 2164 is shown in the chart below and reflects pool sizes based upon an assumption that the stated percentage for the pool sizes in HB 2164 would be multiplied by the 2004 state ceiling amount of \$280,922,560. The actual pool sizes for 2005, the first year that HB 2164 will be effective, will not be known until the beginning of the 2005 calendar year.

<b>Bond Pool Structure</b>		
<b>Pool Designation</b>	<b>Pool %</b>	<b>Pool Size</b>
Student Loan Pool	15.5%	\$ 43,542,997
Economic Development Pool	12%	33,710,707
Qualified Small Issue Pool	12%	33,710,707
Beginning Agricultural Producer Pool	1.0%	2,809,225
Exempt Facility Pool	2.5%	7,023,064
Oklahoma Housing Finance Agency Pool	15%	42,138,384
State Issuer Pool	4%	11,236,902
Local Issuer Single Family Pool	17.5%	49,161,448
Metropolitan Area Housing Pool	12.5%	35,115,320
Rural Area Housing Pool	8.0%	22,473,804
	100%	\$280,922,560

Another bill, **SB 865**, creates the Local Development Financing Act to assist communities, especially small and rural towns and counties, by providing a financial resource for economic development endeavors. The measure also creates marketability for tax apportionment financing vehicles pursuant to the Local Development Act enacted by the Legislature in 1992.

### **Economic Development Tax Incentives**

**HB 2373** creates the Oklahoma Quality Investment Act, similar to the Quality Jobs Program, primarily to support the Dayton plant in Oklahoma City, a large employer in the state, in making crucial upgrades in its equipment. The act provides cash incentives equal to 10 percent of the amount of eligible capital expenditures by a qualifying establishment made in the preceding calendar year. Payments are limited to \$1 million per year for a total of five years. Qualifying establishments must have been located within the state for at least ten years, offer a basic health benefits plan to their employees, and must pay their employees an average of \$40,000 in wages each year. HB 2373

specifies that any person making a false or fraudulent application or claims for payment pursuant to the act, upon conviction, will be guilty of a felony punishable by a fine of \$1,000 to \$50,000, imprisonment two to five years, or by both a fine and imprisonment. Any person convicted of a violation will be liable for repayment with interest of all investment payments made to the establishment.

### **Economic Development Miscellaneous**

**HB 2351** creates a 12-member Fuel Cell Initiative Task Force to consider the development of a statewide plan for a coordinated effort to commercialize fuel cell generation for electricity in Oklahoma, as well as programs to encourage the industry to locate their services in the state. The task force is required to study and make recommendations to the Governor and legislative leaders regarding fuel cell technology by January 1, 2005.

The Oklahoma Local Development and Enterprise Zone Incentive Leverage Act is modified by **SB 1176** to require the state to make a matching payment to local government jurisdictions for the purpose of using a tax increment district to assist business enterprises who locate or expand in an enterprise zone that is also located within a tax increment district.

**SB 1088** authorizes the Oklahoma Development Finance Authority to fund a statewide study to determine the feasibility of acquiring property in the vicinity of electrical generating plants where this property could be developed into industrial parks and where construction and leasing of manufacturing facilities in these parks could be used to promote firms with high electrical needs. If the feasibility study indicates that the acquisition and development of the property under consideration is likely to be a financially viable project which will lead to the development of new manufacturing jobs in this state, a local public trust is authorized to acquire real property located adjacent or in close proximity to electrical generating facilities, for purposes of developing industrial parks and leasing space to manufacturing concerns or other businesses that use large amounts of electricity.

**HB 2494** outlines the contractual obligations between aircraft dealers and manufacturers or distributors of new or used aircraft parts and supplies by establishing restrictions that must be included in contractual agreements. The bill establishes guidelines to be used for determining good cause as grounds for terminating a contract relating to aircraft manufacturing.

In other economic development bills:

- ▶ **SJR 54** directs ODOC to collaborate with an Oklahoma institution of higher education that offers a gunsmith curriculum to develop strategies to attract a firearms manufacturer to locate in close proximity to the institution. At the present time, this provision applies only to Southeastern Oklahoma State University in Durant;
- ▶ **SJR 42** designates Texas County as a Foreign Trade Zone;

- ▶ **HB 2417** extends the boundaries of the Greenwood Area Redevelopment Authority in the City of Tulsa; and
- ▶ **HCR 1056** requests ODOC to assist Seminole, Coal, and Creek Counties, and communities located within those counties which have been affected by recent declines in manufacturing activity, by examining ways in which federal programs or funds might be of assistance to either governmental or private business entities within these counties.

## Insurance

The Legislature made major changes to property and casualty insurance in **HB 2470** based on policy language developed by the National Conference of Insurance Legislators. With the goal of lowering consumer costs through market compensation, the bill exempts personal property and casualty insurance, such as homeowners and auto, from oversight by the Property and Casualty Rate Board. The measure makes personal property and casualty insurance rate filings conform to the *file and use* standards for commercial property and casualty insurance that allows insurers to adjust rates without first getting regulatory approval. Workers' compensation will continue to be under the purview of the Property and Casualty Rate Board. The bill also increases minimum financial responsibility limits on automobile insurance as shown in the chart. Previously, Oklahoma, Louisiana, and Mississippi had the lowest financial responsibility limits in the United States. The *owned but not insured* exclusion is reinstated which ensures that free insurance coverage is not provided for uninsured household-owned vehicles. This measure is discussed further in the Judiciary section.

<b>HB 2470 Liability Insurance Provisions</b>			
	Insurance Company Coverage for Other Car Injuries	Insurance Company Aggregate Coverage for All Injuries	Insurance company Coverage for Property Damage
Past Required Minimum Liability Coverage	\$10,000	\$20,000	\$10,000
HB 2470 New Minimum Liability Coverage	\$25,000	\$50,000	\$25,000

The following measures address consumer-related insurance issues:

- ▶ **HB 2322** forbids lenders from requiring home buyers to purchase residential property insurance coverage that exceeds the replacement value of the property and its contents regardless of the amount of the mortgage or financial agreement;
- ▶ **HB 2324** prohibits property and casualty insurance companies from increasing premium rates, cancelling a policy, or refusing to issue or renew a policy as the result of a policyholder inquiring about the possibility of making a claim; and

- ▶ **HB 2668** prohibits insurance carriers from using an insurer's lower liability limits from a previous motor vehicle insurance policy to justify cancellation, refusal to issue or renew, or to charge a higher premium. The measure requires that motor vehicle liability insurance policies honor the financial responsibility limits of a state other than where the vehicle is principally garaged. Furthermore, a property and casualty insurance policy must now include a refund process for an early cancellation.

A cleanup insurance administration measure, **HB 2385**, contains corrective language necessitated by changes in federal and state policy, as well as a requirement that domestic insurers keep biographical information current on company officers, directors, key management personnel, and large shareholders. The measure also changes the method for calculating the minimum nonforfeiture amount for annuities. **HB 2446** increases the annual fee paid by insurers for the investigation of insurance fraud from \$600 to \$750, with the expectation that the number of suspected fraud investigations will increase.

**HB 2140** amends exemptions under Multiple Employer Welfare Arrangements to include a nonprofit professional trade association that is self-funded or provides fully insured coverage for ten years or more to at least 500 covered participants. The bill also repeals a requirement that workers' compensation insurance carriers in Oklahoma develop a workplace safety program for all high-hazard policyholders.

In other bills dealing with insurance:

- ▶ **HB 2469** amends the definition of *person* in the Oklahoma Insurance Code to include any farmer's educational and cooperative union;
- ▶ **HB 2549** clarifies the exception to uninsured motorists coverage as it applies to commercial automobile liability coverage of motor trucks;
- ▶ **HB 1839** amends the classification of towns that are authorized to form farmers mutual fire insurance associations to include towns and cities with populations of 6,000 or less;
- ▶ **SB 1411** adds an exclusion to the definition of *service warranty* for contracts issued by a company with net assets in excess of \$100 million; and
- ▶ **SB 1483** amends the Uniform Unclaimed Property Act to provide for the distribution of property in the course of a demutualization or related reorganization of an insurance company.

The Governor vetoed **SB 1007** that would have changed the deposit of excess funds generated by the administrative fees charged on service warranties from the General Revenue Fund to the Insurance Commission Revolving Fund. The Governor stated the change "would unnecessarily reduce funding currently designated for the state general revenue fund, the main source of funding for public education, health care, public safety and other essential services."

**HB 2141** creates the Oklahoma Captive Insurance Company Act to establish licensing and capital requirements for Captive Insurance Companies wanting to be licensed in Oklahoma. The measure also amends sections of the Risk Retention Act in regard to purchasing groups by modifying definitions, record-keeping and notification requirements, as well as agent licensing. HB 2141 also allows *good will* to be considered as an asset in the determination of an insurer's financial condition and repeals the statute regarding investment in electronic data processing systems by a domestic company. An earlier measure, **HB 2142**, contained similar provisions relating to the Oklahoma Captive Insurance Company Act but was vetoed due to the Governor's suggestion that further study was needed.



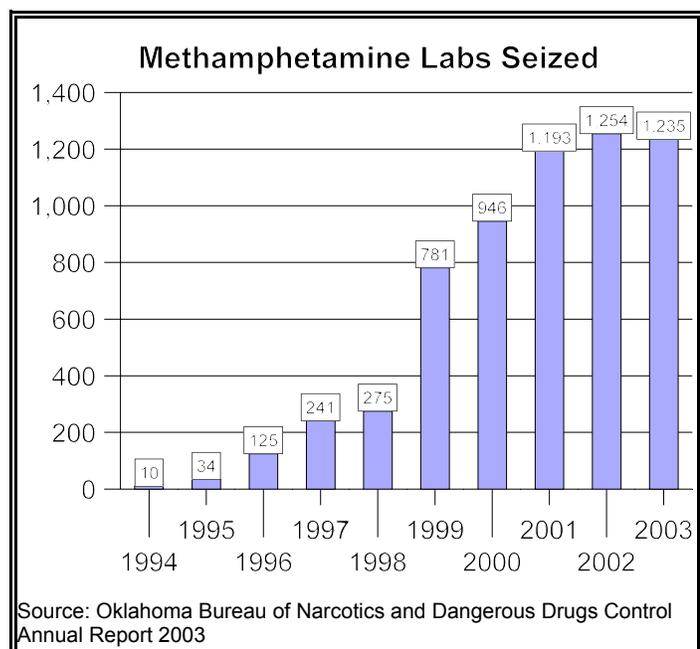
# Criminal Justice, Corrections, and Judiciary

## Criminal Justice

A main focus of the Legislature this session was the abatement of drug abuse, particularly methamphetamine. Other areas of concern involved identity theft and the creation of several new criminal penalties.

### Drug Interdiction

The Legislature took swift action in passing groundbreaking legislation to deter the rampant spread of methamphetamine production after a state trooper was killed the day after Christmas, allegedly by a man manufacturing methamphetamine on a rural county road. **HB 2176** is designated as the Nik Green, Rocky Eales, and Matthew Evans Act in honor of three Oklahoma troopers who were killed in the line of duty by persons involved in illegal methamphetamine production. The chart shows the increase in the number of illegal methamphetamine labs seized over the past ten years.



The OBNDD credits the passage of HB 2176 with dramatically reducing the number of meth lab investigations conducted by the agency for the first six months of 2004. The agency has investigated 384 meth labs, down from 510 investigated during the same period in 2003. With each lab cleanup costing an average of \$3,500, the state can expect to save millions of dollars annually.

The measure, which is now a model for other states, establishes strict guidelines for the sale of certain products containing pseudoephedrine. The main ingredient in many decongestant medicines, pseudoephedrine is also the principal ingredient necessary in the illegal production of methamphetamine. Products which contain pseudoephedrine in a tablet form are added to the Schedule V class of drugs regulated by the

Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD). While the drugs remain available for over-the-counter sales, they may only be dispensed by licensed pharmacies and only after the customer provides identification and signs a log book noting the sale. The measure also restricts the amount of pseudoephedrine a customer may purchase in a 30-day time period to nine grams. Concerns regarding the paranoia experienced by methamphetamine users and the extremely addictive nature of the drug led to another provision of the bill which allows judges to deny bond for those arrested and suspected of being chronic abusers of the drug.

Another measure, **HB 1427**, creates the Oklahoma Methamphetamine Education Task Force to examine effective methamphetamine drug education and prevention initiatives and treatment strategies for methamphetamine abusers for use by state and local officials to combat methamphetamine use in Oklahoma.

Several other measures were enacted to combat drug abuse. **HB 2121** expands the definition of drug paraphernalia to include novelty pipes, pipes which have a bowl of less than one-half inch in diameter, and any other device which is fashioned specifically for consuming illegal drugs. The bill creates additional penalties for second and subsequent drug paraphernalia crimes. Any person convicted of a second offense of paraphernalia possession or sale is subject to up to one year in the county jail, a \$5,000 fine, or both. A third or subsequent conviction is punishable by up to one year in the county jail, a \$10,000 fine, or both fine and imprisonment.

Reacting to a situation in which some students became sick after ingesting a concoction containing jimson weed to experience a euphoric high, the Legislature enacted **HB 2166**. Jimson weed is a plant native to Oklahoma but is not regulated by the OBNDD. The measure includes naturally occurring substances such as jimson weed in the definition of a *synthetic controlled substance* so that it may be regulated.

Establishing a repository for legal drug distribution information consistently improves efforts to combat illegal drug use. To aid that cause, **SB 1526** requires pharmacies which dispense controlled substances to submit information regarding the transaction to the OBNDD via the American Society for Automation in Pharmacy's Telecommunications Format for Controlled Substances.

Finally, **SB 1172** allows law enforcement agencies which seize currency from persons accused of drug crimes to deposit the currency into interest bearing accounts under the guidance and direction of the State Treasurer if the currency is not to be used as evidence. All interest earned is to be returned to the defendant if the seized currency is returned.

## **Domestic Abuse**

**HB 2626** increases the fine for a first time domestic abuse conviction from \$3,000 to \$5,000 and creates a new punishment of up to four years in prison and a fine of \$5,000 for a second conviction of domestic abuse. The measure establishes a separate punishment of up to ten years in prison or one year in the county jail for domestic violence which results in great bodily injury. Penalties were also raised for committing domestic abuse in the presence of a child by increasing the amount of jail

time a person can receive to up to one year and a \$5,000 fine for a first offense. Second and subsequent convictions can result in state imprisonment for up to five years and a \$7,000 fine.

A similar measure, **HB 2380**, requires any person who receives a suspended sentence or probation for domestic violence to participate in a domestic abuse counseling program for a minimum of 52 weeks. The measure creates the crime of domestic abuse by strangulation which is punishable by imprisonment for not less than one nor more than three years, a fine of up to \$3,000, or both fine and imprisonment. The punishment for a second violation of a protective order is increased if physical injury occurs during the violation by imposing a term of imprisonment of not less than one year nor more than five years, a fine of not less than \$3,000 nor more than \$10,000, or both fine and imprisonment. Any person convicted of a third or subsequent violation of a protective order is subject to a term of imprisonment of not less than one year nor more than three years, a fine of not less than \$2,000 nor more than \$10,000, or both fine and imprisonment.

### **Identity Theft**

Two measures were enacted to help address identity theft. The first, **SB 1168**, increases the fine for identity theft from \$10,000 to \$100,000; allows restitution to be ordered to the victim; and makes it illegal for a person to obtain information regarding another person's place of employment, personal financial information, or driver license number with the intent to defraud. The second measure, **SB 1164**, provides relief for a person who is a victim of identity theft by allowing the victim's record to be expunged if a warrant had been issued for the victim as a result of the identity theft. The measure allows a victim of identity theft to obtain an Oklahoma Identity Theft Passport from the Oklahoma State Bureau of Investigation to be used by the victim in working with law enforcement agencies investigating crimes caused by the imposter.

### **Juvenile Justice**

Several measures were enacted this session relating to juveniles and the crimes they commit. In an effort to avoid confusion regarding the timing of juvenile proceedings for offenders who are arrested for crimes committed prior to their eighteenth birthday, **HB 2419** allows the proceedings to be filed within 90 days after the eighteenth birthday of the child. **SB 649** increases the number of counties which may have juvenile bureaus by reducing the county population requirement from 100,000 to 80,000.

**HB 2249** requires criminal records of juveniles who are convicted of youthful offender eligible crimes in other states to be open to law enforcement officials when the juvenile is in a treatment facility in Oklahoma. **HB 1867** creates a new penalty allowing the Alcoholic Beverage Laws Enforcement Commission to fine any person \$100 who gives or sells to a minor any tobacco-related products. Finally, **HB 2612** modifies the membership of the Board of Juvenile Affairs by removing criteria which required members to have specific educational backgrounds and stipulates that the Governor select a board member to represent each Congressional District and two at-large members.

### **Miscellaneous Measures**

- ▶ **SB 1503** creates the crime of commercial bribery which is committed when a person gives or promises any benefit to an employee of a fiduciary with intent to influence the fiduciary's conduct. Any person convicted of commercial bribery faces a misdemeanor punishment of up to one year in the county jail. If there is found to be intent to defraud the fiduciary institution, the violator faces a felony punishable by up to ten years in prison;
- ▶ **HB 2374** establishes a misdemeanor punishment for persons hired to transport goods who abandon the goods without notice to the property owner. Persons convicted of the crime will also have their licenses revoked by the Department of Public Safety;
- ▶ **SB 1234** creates the Unlawful Use of a Recording Device Act to protect copyrighted motion pictures. The measure makes it illegal to record, or pirate, movies at the theater. Violators face up to one year in the county jail, a fine of up to \$10,000, or both;
- ▶ **SB 1402** establishes criminal penalties of one year in the county jail, a fine of \$1,000, or both for willfully harming a service dog that is used by a disabled person. If the harm occurred during the commission of another crime, the punishment is increased to up to two years in prison, a \$1,000 fine, or both. The measure also establishes a penalty for persons who interfere with service dogs or allow their dogs to fight with service dogs; and
- ▶ **HB 2270** makes the devising of a plan or scheme of violence with intent to cause serious bodily harm or death a felony punishable by up to ten years imprisonment.

The Governor vetoed **SB 1447** which would have expanded the number of criminals who would be required to submit to DNA testing. In his message the Governor stated that the bill contained too many unfunded mandates.

## Corrections

The Legislature took significant steps to use technology to reintegrate nonviolent offenders into society with the passage of **SB 816**. The measure allows the Oklahoma Department of Corrections (DOC) to utilize global positioning system (GPS) electronic monitoring of certain nonviolent offenders while the offenders are being reintegrated into society. In order to participate in the electronic monitoring program, an offender must serve a minimum of 180 days in a secure setting. The chart on the following page shows the list of offenses and conditions which prohibit an offender's participation in the GPS electronic monitoring program.

<b>Exclusionary Convictions:</b>
A violent offense within the previous ten years

<b>Exclusionary Convictions:</b>
Any violation of the Trafficking in Illegal Drugs Act
Driving under the influence of alcohol or drugs and is unreceptive to treatment
Domestic violence or is subject to an active protective order
A sex offense and would be required to register as a sex offender
Racketeering
Any drug distribution related crime
Aggravated assault and battery on a peace officer
<b>Exclusionary Conditions:</b>
11 months or more left on sentence
Denied parole within the previous 12 months
Removal from the Electronic Monitoring Program or any other alternative program for rule violations
Determined to be a security risk or threat to the public
Needs educational, medical, or other service or program needs not available in a community
Outstanding felony warrants or detainers from another jurisdiction
Escaped from an institution within the past ten years
Active misconduct actions on file with the Department of Corrections

Another measure enacted to increase successful reintegration of inmates into society, **SB 1486**, authorizes DOC to establish a reentry program for offenders who need structured release prior to completion of their sentence. The program is for offenders who are not eligible for community, work release, or minimum security placement. The reentry program must be offered in both secular and faith-based settings.

**SB 1471** exempts a private prison from the restrictions on the types of out-of-state offenders that it may house if the facility was operating at less than 25 percent capacity on January 1, 2004. The measure allows the private prison at Sayre to accept the same types of offenders from out of state that a private prison could receive from DOC. It is anticipated that the exemption will enhance the ability of the Sayre facility to compete for out-of-state inmates.

The Oklahoma Integrated Justice Information Systems (OIJIS) Steering Committee is created by **HB 2109**. The 15-member committee is charged with the oversight of criminal justice information systems operated by the various state agencies which collect, store, and disseminate information related to criminal justice data. Another measure, **SB 1394**, creates the Criminal Justice Computer Assistance Act and directs the Oklahoma Criminal Justice Resource Center to implement and administer an offender data information system to provide criminal justice agencies with a uniform method of sharing data on criminals.

## Criminal Registration

The safety of the public was the impetus behind the passage of **HB 1853**, the Mary Rippy Violent Crime Offenders Registration Act, named for a woman who was murdered by a person who had been previously convicted of a violent crime. The measure is modeled after the Sex Offender Registration Act and requires certain violent offenders to register with DOC and local law enforcement for a period of ten years after they are released from prison. Crimes subject to registration are listed in the chart. Another measure, **SB 1096**, reduces from three days to two days the amount of time a sex offender has to register when the offender enters Oklahoma. The measure also requires any sex offender from another state who intends to be in Oklahoma for five days or longer to register with DOC and local law enforcement. Previously, only offenders who were in Oklahoma for 30 days or more were required to register.

<b>Crimes Subject to Violent Offender Registration</b>
First Degree Murder
Second Degree Murder
Bombing
Shooting with intent to kill, assault and battery with a deadly weapon
Any conviction for attempting to commit the crimes listed above

### **Miscellaneous Corrections Issues**

In other corrections measures:

- ▶ **SB 1037** increases health insurance benefits to DOC teachers beginning in September. The measure appropriates \$125,000 to increase benefits by paying 100 percent of the teachers' health insurance, in keeping with the benefits provided by the Legislature for teachers in the public schools;
- ▶ **SJR 48** directs the Oklahoma Commission on Children and Youth (OCCY) to lead a task force consisting of representatives from OCCY, the Department of Mental Health and Substance Abuse Services, the Department of Human Services, and DOC to make recommendations to the Legislature regarding the living conditions of children of incarcerated women;
- ▶ **SB 1397** allows for the release of confidential medical information of an inmate in a correctional setting if the information is necessary to prevent or lessen a serious or imminent threat to the health or safety of the public;
- ▶ **SB 1374** requires a person who receives probation for an offense to submit a DNA sample to DOC or to the county sheriff if sentencing to the Department for the offense would have required the submission of DNA for the DNA database. A related measure, **SB 1190**, allows any DNA sample submitted to the Oklahoma State Bureau of Investigation (OSBI) to be included and maintained by the OSBI for criminal investigation purposes;
- ▶ **HB 2139** exempts county jails which house 20 or fewer inmates from having more than one jailer or dispatcher on site if the jail has 24-hour direct observation of the inmates by closed

circuit television and has an intercommunication system capable of providing an emergency response; and

- ▶ **SB 864** allows persons retired from state government or any political subdivision employee or retiree to purchase products produced by Oklahoma Correctional Industries.

## Judiciary

Tort reform legislation was once again a heated topic of discussion by legislators, as well as by various interested parties, lobbyists, and media. In addition to tort reform, several other measures were passed this session expanding immunity under the Governmental Tort Claims Act and making changes to statutes concerning civil procedure, including jury service, court reporters, and probate, as well as criminal procedure regarding jurisdiction and venue, post-conviction relief, and the definition of a mentally retarded person.

### Civil Procedure

The topic which received the greatest amount of attention in the area of civil procedure was tort reform. Three measures were enacted to address issues examined during public hearings on lawsuit reform. In addition, measures were enacted which expand immunity from civil liability pursuant to the Governmental Tort Claims Act. Another bill expands immunity for Department of Corrections and county and city jail employees.

Four public hearings and a great deal of public attention culminated in the passage of **HB 2661** which affects numerous areas of the civil justice system to provide liability relief for medical personnel and landowners, to afford a degree of protection for the Physicians Liability Insurance Company, and to address various other concerns in tort law as follows:

**Caps on Noneconomic Damages for Medical Liability Actions** - Extends the current caps on obstetrics/gynecology and emergency room care to the year 2010 and places a cap of \$300,000 on the amount of noneconomic damages awarded for all other medical liabilities if the defendant has made an offer of judgment and the amount of the verdict awarded is one and one-half times the amount of the final offer of judgment. Allows the dollar amount of the cap to be adjusted annually for inflation.

**Venue for Medical Liability Actions** - Prevents a practice commonly known as *forum shopping* by limiting the venue of civil actions for damages brought under the Affordable Access to Health Care Act to:

- a county where the cause of action arose;
- a county in which the defendant resides;
- the county in which the corporation is situated or has its principal office or place of business; or
- any county where a codefendant of the corporation may be sued.

**“I’m Sorry” Rule** - Makes any statement of sympathy made to the plaintiff or plaintiff’s relative by a health care provider or provider’s employee inadmissible as evidence of an admission of liability.

**Immunity for Volunteers** - Creates the Volunteer Medical Professional Services Immunity Act to make volunteer medical professionals who provide services at a free clinic, and persons participating in a Medical Reserve Corps, immune from liability in a civil action on the basis of any act or omission that results in damage or injury.

**Physicians Liability Insurance** - Provides an 18-month moratorium from enforcement of insurance reserve and surplus requirements by the State Insurance Commissioner against medical professional liability insurance companies domiciled in Oklahoma as of July 1, 2004. Creates the Oklahoma Medical Professional Liability Trusts Act to allow medical malpractice insurance companies to convert to trusts to be exempt from application of the strictest reserve and surplus requirements.

**Land Owner Liability** - Creates the Oklahoma Limitation of Liability for Farming and Ranching Land Act to encourage owners of farming and ranching lands to make the land available for recreational purposes by limiting their liability. Specifies that owners and lessees of agricultural land do not owe a duty of care to a trespasser and are not liable for any injury, except for willful or wanton acts of negligence or gross negligence. Provides that owners and lessees of real property owe no duty of care to keep the premises safe for entry or use by others, or to give any warning of a dangerous condition, if the entry or use is unauthorized or is for the purpose of committing a criminal act.

**Joint and Several Liability** - Addresses liability for damages in civil actions based on fault and not arising out of contract. Makes the liability for damages caused by two or more persons several only, with two exceptions: if the percentage of responsibility attributed to the defendant with respect to the cause of action is greater than 50 percent; or if any defendants acted with willful or wanton conduct or with reckless disregard of the consequences. In these cases, the defendant is jointly and severally liable for the damages recoverable by the plaintiff.

**Product Liability** - Requires manufacturers to indemnify sellers against losses arising out of product liability.

**Class Action Law Suits** - Requires the court, with regard to awarding attorneys fees, to act in a fiduciary capacity on behalf of the class and conduct an evidentiary hearing to determine a reasonable fee for the class counsel.

**Business Courts** - Creates a business court within judicial district courts of Oklahoma City and Tulsa to adjudicate litigation involving highly technical commercial issues.

**Out-of-State Attorneys** - Creates the Registration of Out-of-State Attorneys Act to require lawyers who are not residents of or regularly employed in Oklahoma and are not members of the Oklahoma Bar Association to register with the Bar and pay a \$350 fee when retained to represent a client in Oklahoma. Allows the Bar to waive the fee for pro bono services in a death penalty habeas corpus case or other similar circumstances. The out-of-state attorney must also register with the Oklahoma Tax Commission to report and pay state taxes on Oklahoma-derived income.

With regard to frivolous lawsuits, **SB 1430** permits the court to assess costs and attorneys fees against parties who bring frivolous lawsuits in tort actions.

**HB 2154** deals with immunity from civil liability for use of automated external defibrillators. The measure extends immunity to course directors and trainers who teach courses in the use of the device and the physicians who prescribe the use of the device. The immunity does not extend to acts of gross negligence or willful or wanton misconduct. For entities already given some immunity by existing law, the qualifications for immunity are modified. The bill distinguishes between devices not available to the public used by authorized agents of the entity and devices available to the public which must be maintained and stored with a usage detection device which automatically signals first responders or qualified employees of the entity. The entity must notify the proper first responder of the locations and placement of devices that are owned, leased, possessed, or controlled by the entity.

Several measures amend the Governmental Tort Claims Act:

- ▶ **HB 2263** expands the scope of the act to include youth services agencies that contract with the state;
- ▶ **HB 2198** makes the state or a political division totally immune from tort liability in actions involving remediation and subsequent related maintenance of property used for environmental remediation;
- ▶ **HB 2661**, the omnibus tort reform bill, clarifies the scope of the act as it pertains to firefighters by including employed and volunteer firefighters; and
- ▶ **HB 2205** expands immunity for employees of the Department of Corrections and of city and county jails and provides that no tort action or civil claim can be brought against these employees until the notice requirements of the act have been met.

The Uniform Child Witness Testimony by Alternative Methods Act, which was enacted last year, is amended by **SB 1090**. The measure expands the scope of the act to depositions, conditional examinations, and hearing proceedings relating to physical or sexual abuse.

**SB 1267**, which pertains to notaries public, requires notaries to file with the Secretary of State rather than district court clerks. The filing fee is \$10. The measure also provides that the bond for notaries must be issued for a term of four years.

### **Court Related Matters**

**HB 2470**, a bill effecting significant change in property and casualty insurance administration and policy in the state, also addresses several items relating to civil procedure and insurance industry issues. The measure:

- Removes the prohibition on state district courts to issue a declaration concerning obligations alleged to arise under policies of insurance covering liability or indemnity against liability for injuries;
- Modifies the hearsay rule exceptions to include a verified or declared written medical report signed by a physician under certain circumstances;
- Provides for discoverability of any insurance agreement, provided that agreement may be used to satisfy part or all of a judgment; and
- Modifies the Automotive Dismantlers and Parts Recycler Act by easing restrictions on out-of-state buyers participating in automobile salvage auctions or insurance disposal sales.

The major insurance modifications in this bill are described in full in the Business and Finance section.

**SB 1275** makes numerous changes to the way judgments and garnishment proceedings are addressed by courts. The measure:

- Provides that for appeals from money judgments, the amount of cash required to be deposited with the clerk of the court be determined by court order;
- Specifies duties of judgment debtors and judgment creditors for proper compliance with an appeal and any subsequent objection;
- Allows a judge to issue either a contempt citation or bench warrant for failure to comply with an order from the court;
- Clarifies the information required on an affidavit to be filed for the commencement of garnishment proceedings; and
- Provides that a garnishment lien will continue to have priority over any subsequent liens even if the amount withheld is reduced by the court or by agreement.

**SB 1618** modifies certain procedures and practices before courts of this state, as well as the continuing educational requirements of shorthand reporters. The bill requires applications for reinstatement to the Oklahoma Bar Association to be filed in the same manner as those cases filed in the Supreme Court. The bill also requires that, of the minimum four-hour continuing educational requirements for shorthand reporters, at least one of the hours must relate to Oklahoma Court Rules and Procedures and that the hours be approved by the State Board of Examiners of Certified Shorthand Reporters.

Funding to reimburse jurors for lost wages and to assist funding the Oklahoma Court Information System was addressed in **SB 479**. The measure allows the Supreme Court to establish a Lengthy Trial Fund to receive deposits from a \$10 fee collected from the filing of certain civil cases. The purpose of the fund is to pay for replacement or supplemental wages for qualified jurors up to \$200 per day beginning on the eleventh day of service. The bill also allows for the collection of an additional \$10 on criminal convictions to be deposited in the Oklahoma Court Information System Revolving Fund. Other provisions of the bill:

- Create a penalty for individuals who fail to appear for jury service. A fine, community service, or both may be imposed;
- Modify the on-call jury selection system to clarify the requirements of jury service;
- Add criteria for exceptions to jury duty such as a mental or a physical condition that would make a person incapable of jury service or in cases where the service would cause extreme physical or financial hardship; and
- Prohibit termination of an employee and any other adverse employment action upon an employee who properly notifies an employer of a jury summons and prohibits an employer from requiring an employee to use annual, vacation, or sick leave for time spent on jury duty obligations.

A related measure, **HB 2102**, exempts breast-feeding mothers from jury service upon their request.

A variety of issues relating to municipal courts are addressed by **HB 2606**. Among the provisions of the bill is an increase in the amount of money credited for a day of labor that may be used to satisfy fines or court costs. The bill further allows a right to a jury trial when the municipal offense can result in imprisonment. Finally, the maximum monetary appeal bond amount is increased from \$200 to \$500.

**HB 2365** is another important bill relating to municipal courts. The measure allows cities with a population of more than 60,000 to establish municipal criminal courts of record. To do so, a municipality must adopt a resolution and file a certified copy with the county clerk.

**HB 2474** creates the Master Settlement Agreement Complementary Act to supplement provisions of the tobacco settlement agreement. The measure:

## **Criminal Justice, Corrections, and Judiciary**

---

- Requires tobacco manufacturers that sell cigarettes in Oklahoma to annually provide information certifying to the Oklahoma Tax Commission (OTC) and the Attorney General that they are participating in the Tobacco Settlement Agreement or are complying with the model statutes. The measure also requires the Attorney General to develop a website directory listing all product manufacturers;
- Obligates nonresident nonparticipating tobacco manufacturers that are not registered in Oklahoma to appoint an agent in Oklahoma as a condition for including the manufacturer's products in the directory created by the Attorney General;
- Provides for stamping agents to report monthly to the OTC for purposes of disclosing the number of stamps affixed to packages of cigarettes. The information may be shared with the Attorney General;
- Authorizes the OTC to revoke or suspend the license of stamping agents for violations of the act and to impose civil penalties; and
- Requires stamping agents to certify that they are in compliance before issuance of a license or renewal.

## **Probate**

Two bills were signed into law this year dealing with probate procedure. **HB 1872** increases the maximum value of real and personal property in an estate from \$60,000 to \$150,000 under which a personal representative is ordered by the court to make an inventory of the estate. **HB 2223** relates to the settlement of an estate by allowing an increase in the fair market value of a decedent's property that would make the property subject to the affidavit requirement of a successor.

## **Criminal Procedure**

**HB 2445** amends a number of different sections of law relative to the criminal justice system. Some of these provisions are listed below:

- Allows use of a prior conviction that is more than ten years old to attack the credibility of a witness if, during the ten years between the prior conviction and the taking of testimony, the witness has been convicted of a felony or a misdemeanor that is a crime of moral turpitude;
- Provides a specific penalty of imprisonment for 5 to 25 years for being an accessory to second degree murder;
- Amends the lottery statute to extend to all nonprofit organizations the ability to hold raffles upon approval of the Oklahoma Education Lottery Act;

- Creates a misdemeanor penalty for intentionally interrupting or interfering with emergency telephone calls. This is designed to protect victims of domestic abuse when trying to make an emergency call. The penalty for violation is imprisonment in the county jail for up to one year, a fine of up to \$3,000, or both;
- Allows a law enforcement officer to detain a person as a material witness if the officer has probable cause to believe that the person is a necessary and material witness to a felony and that the person will be unwilling to accept a subpoena or appear as a witness;
- Redirects the 5 percent of jail costs currently being paid into the District Attorney's Council Revolving Fund to now be added to the existing 5 percent distributed to the office of the municipal or district attorney for the city or county where the jail is located;
- Prohibits the granting of a deferred judgment to a defendant if that defendant has had a deferred judgment for a felony offense within the previous ten years;
- Authorizes the use of a prior DUI conviction to increase to a felony a DUI which involves personal injury; and
- Allows investigators within the district attorney's office to retain their badges and sidearms upon retirement and provides that involuntary furloughs of district attorney employees will not count as breaks in continuous employment.

**HB 2271** modifies the criteria for expungement of a criminal record to include a situation in which all charges are dismissed on the merits. **HB 2252** allows documentation relating to defendants and inmates to be transmitted electronically.

**SB 1220**, which relates to post-conviction relief, clarifies situations in which the claim of ineffective counsel can be raised even though it could not have been raised on direct appeal. The claim can be used in a situation involving a factual basis that was not ascertainable through the exercise of reasonable diligence by the time of the direct appeal. The Court of Criminal Appeals is to consider the merits of or grant relief based on an untimely original or untimely subsequent application for post-conviction relief if the application contains claims or issues that could not have been presented previously because the legal basis for the claim was unavailable. The court is also to consider situations in which the factual basis for the claim was unavailable and the facts underlying the claim, if proven, would establish that, except for the alleged error, no reasonable fact finder would have found the applicant guilty or would have rendered the death penalty.

**SB 1399** establishes specific fees for representation by the Oklahoma Indigent Defense System (OIDS). The bill also requires all city, county, and state forensic laboratories to provide lab reports to OIDS for cases accepted by the DNA Forensic Testing Program.

**SB 1502** provides for jurisdiction and venue for patterns of criminal offenses. A pattern of criminal offenses refers to situations in which:

- Two or more criminal offenses are committed that are part of the same plan, scheme, or adventure;
- A sequence of two or more of the same criminal offenses are committed and are not separated by an interval of more than 30 days between the first and second offense, the second and third, and so on; or
- Two or more criminal offenses are committed, each proceeding from or having as an antecedent element a single prior incident or pattern of fraud, robbery, burglary, theft, identity theft, receipt of stolen property, false personation, false pretenses, obtaining property by trick or deception, taking a credit or debit card without consent, or the making, transferring or receiving of a false or fraudulent identification card.

The venue can be any county in which at least one of the criminal offenses occurred. Any district court in which venue is proper may exercise jurisdiction over all of the alleged criminal offenses.

In addition to modifying the definition of a *mentally retarded person* in the laws relating to children, **SB 1583** adds three new definitions in the laws relating to criminal procedure concerning competency and modifies the examination procedures in determining the competence of persons arrested or charged with a crime. The measure adds to and clarifies the criteria considered by juries or courts in determining competency and modifies provisions concerning court-issued orders of disposition.

SB 1583 also creates specific guidelines for the suspension or dismissal of criminal proceedings for individuals found incompetent because the person requires treatment. The measure requires civil commitment proceedings for those persons found incapable of achieving competency with treatment and dismissal of criminal charges without prejudice. The statute of limitations for the dismissed criminal charges is tolled until the person is discharged from treatment.

For a person found incompetent primarily because of mental retardation who is found to be dangerous, SB 1583 requires the suspension of criminal proceedings and placement with the Office of Public Guardian. The measure establishes specific custody and reporting guidelines including hearings for those persons determined to have regained competency or who qualify for conditional release.

If a person is found incompetent but does not require treatment and is found not to be dangerous, SB 1583 requires suspension of the criminal proceedings and either referral to the Department of Human Services for voluntary assistance or conditional release. The measure provides guidelines for persons recommended for conditional release and hearing requirements for those who have subsequently regained competency.

SB 1583 further requires suspension of criminal proceedings and referral to the Department of Human Services and Department of Mental Health and Substance Abuse Services for placement when a person is found incompetent for reasons other than the person requires treatment or is mentally retarded, yet is also found to be dangerous. Both agencies are required to establish placement procedures and submit joint recommendations to the court concerning the appropriate placement of the individual under their supervision.

**SB 1152**, which was vetoed, would have required the Governor to appoint an attorney who is a full-time state employee to represent the state, a state agency, or state employee in an action or proceeding in which the state, agency or employee is a party if the Attorney General's office is disqualified for any reason other than misconduct by the party. The Governor stated that the bill was "inflexible, unduly limits available options...and would create an undue hardship on the employing agency."



# Education

Legislation in the area of education this session encompasses a variety of issues. The big news in the area of common education this year is teachers' benefits, including higher minimum salary levels for the future, increased health insurance benefits, and adjustments to retirement provisions. Other significant topics include school election and school finance procedures. Higher education measures include funding for endowed chairs, a new retirement option, and modifications to tuition and scholarship programs.

## Common Education

### Employee Salary/Benefits

**HB 2662** fulfills an important promise to educators to fully fund health insurance benefits. The measure increases the flexible benefit allowance for certified personnel from 58 percent to 100 percent of the premium for the HealthChoice High Option plan under the Oklahoma State and Education Employees Group Insurance Program. The measure also:

- Prohibits school districts from using hospital or medical benefits, and health, accident and life insurance as compensation for compliance with the State Minimum Salary Schedule;
- Prohibits school districts from decreasing from year to year the total compensation, consisting of salary and fringe benefits, of teachers employed in that district the previous year; and
- Provides that 17 percent of the amount over and above the 58 percent allowance of the total dollar amount that a district was required to pay for all certified personnel for 2003-04 must be used by the district for instructional cost for 2004-05 and subsequent school years. A district must maintain the total amount spent on teachers in 2003-04 as additional contributions toward employee health insurance, excluding the 58 percent flexible benefit allowance and the required district contribution of 17 percent. The money is to be paid out in taxable compensation or fringe benefits in addition to any other taxable compensation and fringe benefits mandated by law or by a collective bargaining agreement.

The estimated additional cost to the state for the Fiscal Year 2005 increase for certified personnel is \$52 million. A related measure, **SB 1106**, clarifies some of the provisions of HB 2662 with regard to compliance with the State Minimum Salary Schedule for teachers. An educational entity wishing to opt out of the state health coverage plan and offer coverage through another insurance carrier is

## Education

---

required by **HB 1851** to provide coverage to all retirees or former workers who are currently receiving health coverage through the entity.

At the present time, Oklahoma's average teacher's salary is \$34,877, which is about 9.4 percent lower than the regional average of \$38,527 and 24 percent below the national

Addressing the need to adequately compensate a vital sector of public service and the importance of compensation in recruiting and retaining teachers, the Legislature took action to provide significant salary increases to the state's teachers. **SB 1272** increases the state Minimum Salary Schedule for teachers annually for four years beginning with the 2005-06 school year. The projected cost for the first year will be approximately \$48 million; however, this projection will be recalculated next session using that year's actual number of teachers. The chart below shows the starting salaries for each of the four years, as well as current starting salary levels.

**HB 2643** makes various adjustments in provisions for teachers' retirement. The measure clarifies the definition of compensation used in benefit calculations, removes the date limitation for payment of death benefits, and prohibits a retired participant from performing volunteer services for the purpose of obtaining a paid position at a later date. **SB 1134** provides for a cost-of-living benefit increase for certain persons receiving benefits from the various state retirement systems, including the Teachers' Retirement System. The increase will range from 2.5 percent to 4.5 percent based upon years of service and monthly benefits. The bill also removes a date restriction for payment of an \$18,000 death benefit for active teachers.

Starting Salaries for Oklahoma Public School Teachers			
	Bachelors	Masters	Doctorate
Current	\$27,060	\$28,166	\$29,272
2005-2006	28,000	29,200	30,400
2006-2007	28,425	29,625	30,825
2007-2008	28,900	30,100	31,300
2008-2009	29,425	30,625	31,825

Under the Education Leadership Oklahoma program and subject to the availability of funds, **SB 1207** requires \$5,000 bonuses to be paid to school psychologists, speech-language pathologists, or audiologists who meet certain national professional standards. The measure requires the professionals to be employed full-time in a school district with certification and licensure and absolves school districts from liability for the payment of the bonuses.

## Academics and Students

Two measures were passed this session relating to health issues of students. In response to rising concerns regarding child obesity, legislators passed **SB 1627**, the Healthy and Fit Kids Act of 2004, which requires each public school to create a Healthy and Fit School Advisory Committee to study and make recommendations to the principal on health education, physical education and physical activity, and nutrition and health services. When educators believe that undiagnosed health problems

---

may be hampering students' abilities to read at the appropriate grade level, school districts are allowed, pursuant to **HB 1133**, to recommend medical evaluations to parents or legal guardians without liability as to the cost.

**HB 2477** clarifies some provisions relating to the Reading Sufficiency Act concerning students in individual education programs. With regard to the literacy requirement for a driver license, the measure deletes the option to retake eighth-grade reading proficiency test in lieu of a comparable alternative reading proficiency test. In addition, **HB 2477** allows schools to display the mottos *E Pluribus Unum* and *In God We Trust*.

Two measures amend laws relating to student transfers. **HB 1855** makes an exception to the Open Transfer Act deadline provisions for students who are deaf or hearing impaired who wish to transfer to a school district with a specialized deaf education program. **SB 1129** specifies that a student who resides in a dependent district and transfers from the dependent district to an independent district in order to enter a grade not offered in the dependent district is subject to the Education Open Transfer Act for subsequent transfers.

## Finance and Administration

Three measures pertain to school district election procedures. **HB 2663** requires school boards to publish notice for upcoming school district elections in newspapers in each county in which the school district is located and to post the notice at the school district administrative offices and county election board offices. The bill also seeks to facilitate and stimulate participation in public school and technology center school district elections by requiring public notification of the upcoming filing period and election for school board members in all the counties in which the school district or technology center school district is located and by allowing candidates filing for board of education seats in these school districts that are located in more than one county to file for office in the county in which the candidate resides. **HB 2369** clarifies that when a Presidential Preferential Primary is scheduled in February, the school district election must be on that date. **SB 1146** adds certain school district employees to those not subject to certain oath requirements. In addition, school district officers and employees are added to the exemptions from certain provisions related to the filing of oaths.

School districts will have greater flexibility in meeting the allowable percentage of the general fund balance with the passage of **HB 2332**, which updates and streamlines many school accounting provisions. The measure:

- Eliminates language referring to nonpayable warrants;
- Updates language to allow for use of telecommunications in business and finance activities of a school district;
- Allows a school district to enter into an overdraft protection agreement with a depository bank;

- Modifies management of petty cash funds;
- Allows an automated payment system;
- Expands the term *equipment* to include web-based software subscriptions relative to issuing bonds for up to five years;
- Eliminates the use of federal funds when calculating the general fund balance;
- Eliminates the general fund balance carryover penalty to a school district if the penalty is the direct result of a sales tax levied by a county or municipality for the direct use of the school district;
- Makes it unlawful to make expenditures in excess of estimates;
- Provides for civil action and penalty by making it unlawful to issue excess encumbrances; and
- Provides for a method to supplement an underestimated encumbrance using unencumbered funds.

**SB 1490** creates the Lead-Impacted Communities Relocation Assistance Act to provide assistance to families with young children residing within the Tar Creek Superfund site in northeastern Oklahoma. The measure authorizes the Department of Environmental Quality (DEQ) to make grants to state beneficiary public trusts serving communities affected by historic lead and zinc mining. One of the purposes of the grants is to aid school districts located within the most affected area of the site. The measure also provides protection to school districts located within the Superfund site boundaries from the fiscal effects of declining enrollment due to relocation by allowing them to continue to receive the highest weighted average daily membership count in State Aid of the current year for up to ten years after students receive state assistance to relocate. This measure is also discussed in the Environment section.

**SB 1071** appropriates \$17.3 million from the Rainy Day Fund to the State Board of Education for the Ad Valorem Reimbursement Fund. **SB 912** specifies that the appropriation in SB 1071 is to reimburse counties for school districts that claim a loss of revenue due to a tax exemption granted for a new or expanded industry.

A measure that could significantly affect school funding is **SJR 30**, which establishes the language for State Question 714 to amend the Oklahoma Constitution by replacing the income threshold of \$25,000 used as qualification for the limitation on the fair cash value of homestead property for persons 65 years and older. The new income limit would be the estimated median income for each individual county.

**SB 713** increases from 60 days to eight months the notification time period a sponsor is allowed to deny the renewal of a contract for a charter school. Furthermore, the measure authorizes the funds in the Charter Schools Incentive Fund to be distributed by the State Department of Education on a per-pupil basis to match federal funds for the State Charter School Facilities Incentive Grants Program as created in the federal No Child Left Behind Act.

**SB 1114** modifies the provisions for school transportation equipment to exclude vehicles used for extracurricular activities from the same technical requirements as vehicles used to transport students from their homes to school and back. The measure also exempts certain school districts from the general fund carryover balance penalty incurred due to increases in gross production revenue. Furthermore, the measure creates the Task Force on School District General Fund Carryover Standards to study the impact of the general fund carryover standards in current law on the ability of school districts to deal with fluctuations in finances. A report is due to the Governor and legislative leaders by December 31, 2004.

#### No Child Left Behind

At the height of this year's concerns expressed about the federal No Child Left Behind (NCLB) program, 27 state legislatures had drafted bills to protest several aspects of the unprecedented federal oversight of school policy under the 2002 act, including the Oklahoma House of Representatives, with the passage of HR 1037. The criticism has diminished at this point, with only a few school districts in Vermont following through on threats to ignore the new education law. The major components of NCLB include:

- Standards and assessments accountability
- School improvement
- Safe schools
- Supplemental services
- Report cards
- Teacher quality

In other school-related measures:

- ▶ **SB 922** requires persons applying for initial teacher certification to have on file with the State Board of Education current state and national criminal history record checks;
- ▶ **HB 2194** updates language in technology provisions dealing with electronic files for material in Braille and other accessible versions of instructional materials;
- ▶ **HB 2294** allows school boards to pay for necessary meal and lodging expenses of school district students and sponsors involved in school-sponsored cocurricular activities;
- ▶ **HB 2530** creates an exception to the prohibition on dual office-holding for any park ranger employed by the Oklahoma Tourism and Recreation Department to serve on a local school board, municipal board, or similar entity;
- ▶ **HB 2681** authorizes the Commissioners of the Land Office to exchange real property of the trust for real property of equal or greater value. The bill also exempts the School Land Commission from central purchasing regulations to enable the hiring of real estate brokers qualified to market commercial properties to large companies. The School Land Commission will solicit proposals through a competitive bid process; and

- ▶ **HCR 1089** requests the State Department of Education to review school site security policies and practices in Oklahoma to ensure that each school district has a policy on site security.

## Higher Education

In an effort to provide matching funds for the current backlog of endowments funded by private benefactors, legislators enacted **HB 1904** which authorizes the Oklahoma Capital Improvement Authority to issue bond obligations up to \$50 million through the Oklahoma State Regents for Higher Education to provide matching money for endowed chairs, professorships, or lectureships at state institutions of higher education. The Legislature intends to appropriate the funds to the State Regents to retire the obligations. The obligation is exempt from state and local taxation. The bond authorization requires state Supreme Court approval.

The endowed chair program in Oklahoma has been in effect since 1988. To date, private donations received total \$204.6 million. The state matching funds through 2005 total \$155.2 million. These funds have allowed the higher education system to establish 195 chairs, 150 professorships, and 106 lectureships.

A program long requested by the University of Oklahoma (OU) and Oklahoma State University (OSU) as a tool for faculty recruitment was addressed in **HB 2226** which creates the Alternate Retirement Plan for Comprehensive Universities Act. The measure authorizes the comprehensive universities' boards of regents to establish an alternate retirement plan in lieu of the Oklahoma Teachers' Retirement System (OTRS) plan and allows employees who choose this one-time option to terminate membership in OTRS. In order to participate, OU and OSU are required to pay surcharges to the OTRS to amortize the unfunded accrued liability of the members in the state system.

Three measures were passed that relate to tuition and scholarship issues:

- ▶ **HB 2630** requests the Oklahoma State Regents for Higher Education review and change, if necessary, its state residency policies for tuition and fees, scholarships, and financial aid to ensure that military dependents are not charged out-of-state tuition if they have established residency prior to entering The Oklahoma State System of Higher Education and their families are subsequently stationed out-of-state. The State Regents have complied with this request;
- ▶ **SB 908** increases the maximum scholarship amount from \$6,000 to \$15,000 per academic year for the rural medical education scholarship loan program; and
- ▶ **SB 923** allocates \$1 million to provide tuition grants to Oklahoma residents enrolled as undergraduate students at in-state private institutions pursuant to the Oklahoma Tuition Equalization Grant Act passed in 2003.

**HB 2624** converts the existing higher education center in Duncan to a branch of Cameron University. The Duncan Economic Development Trust Authority is required to provide suitable

facilities to accommodate the branch. The campus of OU at Tulsa is listed as a constituent entity of the University of Oklahoma pursuant to **SB 924**.

Various concurrent resolutions authorize the issuance of institutional revenue bonds at several higher education institutions as displayed in the chart below. **SCR 79** authorizes the construction and equipping of a building at the OSU College of Osteopathic Medicine dedicated to expanding telemedicine to rural areas of the state. **SCR 80** provides for the establishment of a cancer research center at OU Health Sciences Center. Both projects are conditional on the approval of State Question 713, established by **HB 2660**, in the November 2, 2004, General Election.

Higher Education Revenue Bonds				
Measure	Board of Regents	Institution	Amount	Purpose
HCR 1068	Oklahoma Colleges	East Central University	\$5 million	Fine Arts Center
SCR 39	University of Oklahoma	Cameron University	\$15 million	Living/Learning Center
SCR 41	Oklahoma Colleges	University of Central Oklahoma	\$18 million	Wantland Stadium - Sports Complex
SCR 54	University of Oklahoma	University of Oklahoma	\$100 million	Construction projects for new buildings or existing buildings
SCR 64	University of Oklahoma	University of Oklahoma	\$11.5 million	Steam and Chilled Water Plant
SCR 65	Oklahoma City Community College	Oklahoma City Community College	\$10 million	Science, Engineering and Math Center, Center for the Arts, Health Sciences Center
SCR 67	Oklahoma Agricultural and Mechanical Colleges	Oklahoma State University	\$11.5 million	Chilled Water System
SCR 70	Oklahoma Agricultural and Mechanical Colleges	Oklahoma State University in Okmulgee	\$3.5 million	Renovate Administration Building
SCR 71	Oklahoma Agricultural and Mechanical Colleges	Connors State College in Warner	\$710,000	Replacement Water Plant
SCR 79	Oklahoma Agricultural and Mechanical Colleges	OSU College of Osteopathic Medicine	\$35 million	Construct and Equip Telemedicine Building
SCR 80	University of Oklahoma	OU Health Sciences Center	\$75 million	Comprehensive Cancer Research Center

A final higher education measure, **HB 2145**, creates the Advancement of Hispanic Students in Higher Education Task Force until July 1, 2009, to monitor the administration of tuition provisions for certain students and to study and make recommendations on issues involving higher education recruitment, retention, and degree completion of Hispanic students.

## Career Technology and Private Vocational Education

## **Education**

---

With regard to high school graduation requirements, **SB 1271** allows career technology center school districts to offer programs designed in cooperation with institutions of higher education which have an emphasis on a focused field of career study and extends participation to students in the tenth grade. The programs require approval of the State Board of Education and the independent school district.

**HCR 1059** commends the Career Technology system for 100 years of contributions to the citizens of Oklahoma. **HR 1054** requests the State Board of Career and Technology Education to conduct a formal study to review the funding mechanisms and issues relating to funding for career-tech programs in public schools.

In order to make the Oklahoma Board of Private Vocational Schools self-supporting, **HB 2400** increases fees for private vocational schools. The measure also creates the Oklahoma Board of Private Vocational Schools Fund for the operation of the board and redirects all fees and penalties collected by the board from the general fund to the newly created revolving fund. **SB 917** clarifies that the new fund created pursuant to HB 2400 is a revolving fund and specifies the process for managing monies in the fund.

# General Government

## State Government

Enhanced personnel compensation and benefits were one focus of general government legislation this session. Flexibility in the state budget also allowed for several capital improvement projects. Several trailer bills were needed to fully implement the election changes legislated last session to comply with the federal election mandates in the Help America Vote Act.

### State Employees

The improving state economy afforded the opportunity for the first statewide increase in compensation for state employees in three years. A series of measures provide salary increases in a multi-year package for state employees, executives, elected officials, and justices.

**HB 2005** sets out a total of \$2,100 in across-the-board salary increases over the next two fiscal years for state employees, as depicted in the table. Other public sector employees receiving current or future compensation boosts through legislation, as described in the Education and Public Safety and Homeland Security sections, are public school teachers and state troopers.

State Employee Salary Increase	
Effective Date	Increase
Jan. 1, 2005	\$1,400 annualized
July 1, 2005	\$700 annualized
Total (July 1, 2005)	\$2,100 per year
The cost to the state of the state employee salary increase when fully implemented is \$47.2 million	

**HB 2006** raises by \$1,400 the maximum limit on the annual salaries of the chief executive officers of 52 state agencies, boards, commissions, departments, and programs and grants the latitude to the governing boards of 36 nonappropriated state entities to set the salary level of the chief executive officer within specified salary ranges.

Through statutory provisions which link compensation for certain state elected officers to that of state justices and judges, **SB 1075** sets increased annual compensation levels for state justices and judges, which in turn increases compensation levels for all of the positions shown in the table on the following page. Constitutional provisions prohibit a change in compensation for a state elected official during that term of office.

**SB 1075** also creates the Board on Judicial Compensation to fix future compensation of the members of the State Judiciary beginning July 1, 2005. The measure reserves for the Legislature the right to reject or amend the compensation and gives the Governor veto rights over any legislation modifying judicial compensation. The board is required to meet on the third Tuesday of September of odd-

## General Government

numbered years to review and make possible changes to the compensation. Several factors must be taken into consideration, including judicial compensation in other states. Any change in compensation must be made by the third Tuesday in November in odd-numbered years. If not amended or rejected, the changes will be effective July 1 of the following calendar year.

The State Employee Advocacy Rights Act is created by **SB 1105**. The measure permits employee organizations to provide informational materials to state agencies for new employee packages and to hold meetings on state property during nonworking hours. **SB 1580** requires that state employees hired after December 31, 2004, must have paychecks directly deposited at a financial institution, while current employees have until June 30, 2007, to select an institution for direct deposit.

Salary Increases for State Elected Officials and the Judiciary		
Position	Current Salary Level	New Salary Level
<i>(Effective January 9, 2006, with New Term of Office)</i>		
Governor	\$110,299	\$117,571
Lieutenant Governor	85,500	94,839
Attorney General	105,109	109,731
State Supt. of Public Instruction	95,898	102,529
Corporation Commissioners	87,875	94,839
State Treasurer	87,875	94,839
State Auditor and Inspector	87,875	94,839
State Insurance Commissioner	87,875	94,839
Commissioner of Labor	80,750	87,150
<i>(Effective July 1, 2005)</i>		
Chief Justice of the Supreme Court	110,299	117,571
Associate Justice, Supreme Court	106,706	113,571
Presiding Judge of the Court of Criminal Appeals	110,299	117,571
Judge, Court of Criminal Appeals	106,706	113,571
Presiding Judge of the Court of Civil Appeals	103,109	109,731
Judge, Court of Civil Appeals	101,714	108,336
Judge of District Court	95,898	102,529
Associate District Judge-counties over 30,000	87,875	94,839
Associate District Judge-counties under 30,000	85,500	
Special Judge	80,750	87,150

One measure, **SB 1385**, is a bill requested by the Office of Personnel Management to deal with miscellaneous state personnel issues. The measure:

- Exempts from the Open Records Act information solicited by OPM from public and private sector employers for prevailing pay rate analysis;
- Authorizes OPM to establish a quality management function to assist state agencies in integrating quality management concepts and models into their business practices;
- Deletes the requirement for a state family leave program in the event that the federal Family and Medical Leave Act of 1993 is repealed or its application to state employees is terminated; and
- Gives agencies discretion in whether to allow employees to accumulate more than the maximum annual leave accumulation limits.

The bill is also an omnibus cleanup measure for various state employee pay and leave provisions that, among other things, enables state agencies to pay an employee's annual longevity pay in the same month as the employment anniversary date instead of the following month. **SB 965** modifies a leave provision in SB 1385 to clarify that any state employee annual leave that is accumulated in excess of the maximum annual limit must be used during the same year in which it is accumulated but does not have to be within the same calendar year.

In several other measures affecting state employees:

- ▶ **SB 601** makes it a misdemeanor punishable by a fine of up to \$1,000, up to one year imprisonment in the county jail, or both, for a person to make a false, fictitious, or fraudulent statement or representation on a state employment application;
- ▶ **SB 998** raises the total amount in premiums that the state may be charged by CompSource for workers' compensation insurance for volunteer firefighters to \$320,338, thus ensuring continued funding for the Volunteer Firefighter Group Insurance. The measure also clarifies that CompSource is authorized to collect premiums directly from state agencies;
- ▶ **SB 1100** expands the scope of the recommendations made by the Oklahoma Biennial Compensation Review Board to include targeted salary increases and recommendations related to turnover, fringe benefits, and other compensation issues concerning state employees;
- ▶ **SB 1227** gives nonwar veterans the same advantage as war veterans in ranking for state merit system employment;
- ▶ **SB 1136** applies veteran's preference to state agency reductions-in-force;
- ▶ **SB 1074** makes it possible for a state board or commission to employ a former member of the board or commission who has resigned if at least one year has passed since the date of resignation;
- ▶ **SB 1269** deletes the loyalty oath in statutes, which had been ruled unconstitutional years ago, in favor of the loyalty oath provided in the state constitution; and
- ▶ **SB 1153** authorizes state agencies to contract with any federally recognized tribe for the lease of state employees in conjunction with the purchase of real property from the state.

Various state agencies had a number of personnel positions made unclassified in **HB 2004**:

- Office of State Finance - 20 positions in the Information Services Division and employees hired to fulfill state compliance agency requirements under Model Tribal Gaming Compacts;
- State Department of Health - 18 positions;

## General Government

---

- Department of Veteran Affairs - program administrators, and administrators and assistant administrators of Veterans Centers;
- Commissioners of the Land Office - nine positions;
- Department of Agriculture, Food and Forestry - four positions;
- Department of Public Safety - two positions; and
- Department of Central Services - one position.

Additionally, **SB 1232** gives the Director of the Department of Human Services (DHS) more discretion over the positions selected to be unclassified within DHS's overall limit.

The Governor vetoed **HB 1823** which would have allowed state employees who had served with a local conservation district to count those years of service toward state longevity pay and leave accrual and would have permitted a conservation district to purchase service credit for these members of the Oklahoma Public Employees Retirement System. He indicated the measure was unconstitutional by allowing the use of public funds for a private purpose.

## Government Employee Benefits and Retirement Systems

Retired members of the state retirement systems were given increased benefits this session by the Legislature. **SB 1134** addresses cost-of-living adjustments in all of the state systems as of July 2004, as shown in the chart, and requires all state retirement systems to adopt a cost-of-living adjustment actuarial assumption in the annual actuarial valuations.

<b>State Retirement Cost-of-Living Adjustments</b>
<b><i>4% Across the Board</i></b>
Firefighters Pension and Retirement System
Police Pension and Retirement System
Uniform Retirement System for Justices and Judges
Law Enforcement Retirement System
<b><i>2.5% to 4.5% According to Years of Service and Monthly Benefit</i></b>
Teachers' Retirement System
Public Employees Retirement System

In other state retirement program enhancements, SB 1134:

- Increases the maximum disability benefit and the maximum retirement benefit to 100 percent and adds a new benefit for certain surviving spouses of deceased members in the Judicial Retirement System;

- Raises the contribution rate for employers to the Public Employees Retirement System by 0.5 percent and advances its implementation from July 1, 2006, to July 1, 2005; and
- Makes a death benefit available to all active members of the Teachers' Retirement System.

Recommendations on all of the state retirement systems' funding and benefits will be made by the Task Force for the Study of Public Retirement Systems Benefit Design and Equity, created in **HB 2536**. Another study, mandated in **SB 1345**, requires the Oklahoma Public Employees Retirement System (OPERS) to assess the benefit designs in other states for those engaged in public safety duties.

Several bills address different aspects of benefits in the state retirement systems. **SB 1434** clarifies the periods of military wartime service for which the Firefighters Pension and Retirement System, the Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, OPERS and the Teachers' Retirement System (TRS) can grant service and ensures that military wartime service will be credited in the future.

**HB 2643** expands the application of death benefit eligibility to active members of the TRS who joined prior to 1992. The measure also clarifies the definition of compensation for the calculation of benefits and prohibits a retired member from using volunteer service during the 60-day post-retirement period to obtain a paid position at a later date.

Finally, **SB 1203** adds certain employees of the Department of Corrections (DOC) to the group of members of OPERS who may obtain normal retirement after 20 years of services and expands the benefit for survivors of correctional and probational parole officers who are killed while on duty to all employees of DOC. The measure also requires DOC, the State and Education Employees Group Insurance Board, and the Employees Benefits Council to study options for the provision of long-term disability insurance for employees of the DOC.

Two measures create new retirement options for certain groups of state employees. **HB 2226** establishes the Alternate Retirement Plan for Eligible Employees of Participating State Institutions of Higher Education Act of 2004, which applies to employees of the University of Oklahoma and Oklahoma State University and is described in more detail in the section on Education. **SB 1226** allows OPERS to implement an alternate retirement option for members retiring prior to eligibility for Medicare. The option permits members to elect to receive an increased benefit to help cover the cost of insurance premiums for the member and any dependents.

A trio of bills modify aspects of the deferred retirement option plan (commonly referred to as DROP) available for employees in hazardous duty professions:

- ▶ **SB 1389** enhances various DROP provisions for members of the Oklahoma Firefighters Pension and Retirement System, allows members to elect to waive benefits, and makes benefits subject to child support arrearage and federal taxes;

## General Government

---

- ▶ **SB 1422** enhances various DROP provisions for members of the Oklahoma Police Pension and Retirement System; and
- ▶ **SB 1261** enhances various DROP provisions for members of the Oklahoma Law Enforcement Retirement System.

Other measures that pertain to retirement administration are as follows:

- ▶ **HB 1891** removes the ability to transfer service credit from OPERS to the Oklahoma and Tulsa County Retirement Systems;
- ▶ **HB 2330** allows employees of circuit engineering districts to participate in OPERS under certain circumstances; and
- ▶ **HB 2693** allows municipalities with two or fewer police officers to hire an officer over 45 years of age who has never participated and will not participate in the Oklahoma Police Pension and Retirement System. Previously, municipalities having five or fewer officers were allowed to hire officers over 45 years of age. The measure also permits police officers who terminate employment to perform duties as a police officer in a combat zone under contract with the U.S. Department of Defense or State Department to purchase up to one year of service credit by paying the employer and employee contributions to the Police Retirement System.

Finally, two measures contain provisions concerning openness and members of OPERS. SB 1434, described previously, makes information such as the member's name, age, contributions paid, retirement benefit paid, credited service, etc., available to the public. The legislation was enacted to allow data to be provided under the Open Records Act relating to retiring legislators in conjunction with the initial impact of term limits. Prior to this, the information could only be released by court order or consent of the member. **SB 1384** allows a statewide organization limited to state employees with at least 1,000 members to participate in one general mailing per year to all retired members of OPERS.

## Elections

Voting and election procedures demanded legislative attention for the second succeeding year following federal enactment of the Help America Vote Act (HAVA). A package of measures described below revised various aspects of the election process.

**Election Related Deadlines** - As a result of the primary election date shift necessitated by HAVA to accommodate absentee balloting from overseas voters, the deadlines for certain voter and candidate residency and registration are established in **HB 2677** as follows:

- Moves up to December 21, 2003, the deadline for residency required to meet the qualifications for candidacy for state House and Senate, county commissioner, county sheriff, and all other county offices;

- Moves up to December 21, 2003, the deadline by which candidates wishing to file for nomination by a political party to any state or county office in 2004 must have been a registered voter of that party, and independent candidates must have been registered as independents;
- Moves up from June 15 to June 1 the beginning of the period of time during which formation of a recognized political party before elections in even-numbered years is prohibited;
- Moves the dates for filing declarations of candidacy for state, county, and federal offices from the third week in June to the first week in June of even-numbered years; and
- Moves up the window of time during which, if certain vacancies in office occur after March 1, the special election date must match the regularly scheduled election dates.

Additionally, **SB 1346** restricts municipal election dates and adjusts candidates filing dates accordingly and lengthens the minimum period of time between the primary and general elections.

**Voter Verification and Provisional Voting** - SB 1346 and **SB 1104** together address voter validity issues by requiring:

- Inclusion of an Oklahoma driver license number or state identification card number in the data required for voter registration;
- Institution of new identification requirements for people who register to vote by mail; and
- Provision of additional methods to notify county election board secretaries of deaths of registered voters.

The measures also set up the process for provisional balloting and extend the time period to verify the validity of provisional ballots, resolve tie votes, and certify the results of the general election by the State Election Board. Further, the measures clarify the procedures for absentee balloting and make it a felony to swear or affirm a false affidavit in order to obtain and vote a provisional or absentee ballot.

The measures also contain several miscellaneous election provisions which:

- Permit newspaper reporters and photographers within a polling place for a short period of time;
- Establish that violation of specified limitations at an election site by pollsters and election watchers is a misdemeanor;

## General Government

---

- Authorize the Secretary of the State Election Board to move events pertaining to elections to a business day, if events fall on an official holiday;
- Permit a lawfully appointed personal representative of a candidate to withdraw the candidate's declaration of candidacy;
- Set a new standard for the minimum salary of the chief clerk of county election boards; and
- Allow new conditions to designate subprecincts in metropolitan statistical areas.

**HB 2663** deals with qualifications for the state Legislature as a consequence of the impact of constitutional limits on terms in office and makes modifications to school board elections. The bill specifies the procedures for elections to fill the seat of a member of the Legislature who is not eligible to complete the term of office to which that member was elected due to the 12-year term limitation in Section 17A of Article V of the Oklahoma Constitution. The 12-year limit impacts the Legislature for the first time in 2004.

A controversial election-related measure was vetoed. **SB 868** would have allowed a classified or unclassified state employee to become a candidate for an elective office in a partisan election. The Governor stated in his veto message that the bill violated the federal Hatch Act and could jeopardize millions of dollars in federal funding.

## Government and Procedures

The Fair Pay for Construction Act created by **SB 1561** establishes guidelines and procedures for timely billings and payments on public construction projects that are over \$25,000. The measure provides for the following:

- The prime contractor must be paid by the agency or entity within 30 days of submitting an invoice. The legislation also sets deadlines for the prime contractor to pay subcontractors;
- The entity may reduce the amount of pay requested by any amount that is reasonable to correct current or past deficiencies, as long as the contractor is informed in writing within seven days following the submission of the invoice;
- A prime contractor or subcontractor may suspend or terminate a contract when timely payment is not received;
- Late payments are subject to 1½ percent per month interest rate; and
- The act does not apply to the following types of construction: highway, railroad, roads, bridges, utilities, traffic control, drainage, sanitary sewer, or waterline.

**HB 2554** amends provisions of the Fair Pay for Construction Act to increase the notification time period from 7 to 14 days regarding reduction in payment and to clarify definitions and the determination of when interest on a payment is owed to a contractor or subcontractor.

To prevent governmental entities from bypassing the provisions of the Public Competitive Bidding Act of 1974, **HB 2561** provides that materials for the completion of a single project cannot be purchased in incremental amounts of less than \$25,000. To help community action agencies in obtaining property and casualty insurance coverage, **SB 1018** makes the state's Comprehensive Professional Risk Management Program available to community action agencies. The measure also allows a community action agency to be deemed a governmental entity for the purpose of receiving state or federal property.

In order to improve response time, **HB 1418** permits the Governor to allocate state funds in times of emergency to the U.S. Army Corps of Engineers without any action by the Contingency Review Board. Furthermore, agency agreements with the U.S. Army Corps of Engineers that are in response to an emergency are not subject to competitive bidding requirements.

Several measures modify laws relating the Department of Central Services. The Fleet Management Division of the Department of Central Services is ordered in **HB 2277** to report to the Director of Central Services any agencies that do not comply with rules regarding submission of reports and vehicle use and maintenance. The measure also authorizes the Office of State Finance, in consultation with the State Purchasing Director, to promulgate rules for state agencies detailing the procedure for making payments on statewide contracts.

In other related measures:

- ▶ **SB 900** authorizes the state's Surplus Property Agent to participate in federal programs that provide surplus military equipment, including weapons, protective clothing, and transportation devices;
- ▶ **SB 1135** removes the limit on a state purchase card for purchases of items or services on statewide contract. However, the bill maintains a limit of \$2,500 on all other acquisitions made with a state purchase card. The bill also amends the provisions establishing the State Use Committee to include a definition of a qualified organization and allow investment of the State Use Committee Revolving Fund by the State Treasurer; and
- ▶ **SB 1169** removes the Oklahoma Development Finance Authority from the list of agencies that are subject to the Central Purchasing Act and makes the conduct of its employees subject to the rules of the Ethics Commission.

The payment process for performance audits that are conducted by the State Auditor and Inspector on state entities is clarified in **HB 1577**. The bill also requires that copies of performance audits are to be given to the examined entity, as well as the Governor and legislative leaders.

Several measures were enacted affecting state employee insurance. If an educational entity wishes to opt out of the state health coverage plan and offer coverage through another insurance carrier,

then **HB 1851** requires that the new insurance carrier must provide coverage to all retirees or former workers of that entity who are currently receiving health coverage through the entity. As a result of **SB 1140**, the Oklahoma Employment Security Commission (OESC) will no longer offer life insurance to its employees in addition to the state life insurance; however, OESC will be allowed to offer supplemental health insurance through a self-insurance program. **HB 2506** allows new employees that are 65 or older and participants in the state benefits plan to carry accidental death and dismemberment and life insurance in amounts that exceed basic coverage.

All indemnity dental plans offered to state employees, including the one offered by the Oklahoma State and Education Employees Group Insurance Board (OSEEGIB), must meet the following minimum requirements as set out in **HB 1571**:

- Provide a statewide network of dentists and services;
- Reimburse expenses for diagnostic, preventative, restorative, endodontic, periodontic, prosthodontics, and orthodontic procedures, as well as oral surgery and dental implants and prosthetics; and
- Provide an annual benefit of \$1,500 for all services other than orthodontic services and a lifetime benefit of \$1,500 for orthodontic services.

Other bills impacting OSEEGIB and the Oklahoma State Employees Benefits Council (EBC) are as follows:

- ▶ **HB 1437** gives state employees enrolled in the PacifiCare health maintenance organization the option to continue using their primary care physician on a fee-for-service basis until the end of the current plan year despite PacifiCare no longer offering the Oklahoma City Clinic as part of its network;
- ▶ **SB 1160** requires that companies offering a vision plan have a direct relationship with each provider on its plan and must have a statewide network of at least 150 providers; and
- ▶ **SB 1162** permits a vendor that is a health maintenance organization (HMO) to also offer a point-of-service health insurance plan.

Upon the recommendation of the State Auditor, **SB 1144** gives OSEEGIB authorization to audit the approximately 800 participating employer groups to verify eligibility for any member or dependent and require proof of eligibility upon demand.

### **Capital Improvements and Public Projects**

Several measures address capital needs in the state by allowing the Oklahoma Capital Improvement Authority to utilize general obligation financing:

- ▶ **HB 2001** authorizes \$6 million in obligations for infrastructure improvements to 34 armories around the state. The list is detailed in the Military subsection;

- ▶ **SB 975** authorizes \$18.9 million in obligations for a new forensic medicine center in Vinita through the Department of Mental Health and Substance Abuse Services; and
- ▶ **SB 1016** authorizes \$5 million in obligations to complete the public financing segment of the dome on the State Capitol. In a related measure, **SB 858** adds an option on state individual and corporate income tax return forms to donate from a tax refund for retiring the debt incurred in construction and completion of the dome.

In other measures pertaining to public projects, the Oklahoma Art in Public Places Act, **SB 1347**, is designed to foster culture and the arts. Oklahoma joins 25 other states by requiring a portion of expenditures for capital projects to be dedicated to the acquisition of works of art for placement in public construction on public lands. The Oklahoma Historical Society will administer the program, which applies to any state capital expenditure of \$250,000 or more that renovates or constructs public buildings. One and one-half percent of the expenditure is required to be set aside for the program, up to a maximum of \$500,000, excluding private donations. Participation in the act is permissive for road, highway, turnpike, and bridge construction, and the act does not apply to political subdivisions, such as cities, counties, or schools. **SB 924** amends the Oklahoma Art in Public Places Act to move the implementation date from July 1, 2004, to September 1, 2004.

## Government and Procedures

A plethora of bills deal with issues in state purchasing, property, open records, and other miscellaneous areas. Two measures, one of which was vetoed, relate to the Oklahoma Open Records Act. **SB 1108** exempts from the Open Records Act customer and individual payment data obtained or created by a public entity that performs billing or collecting services for a utility regulated by the Oklahoma Corporation Commission. **SB 1268** would have exempted from the act proprietary information, such as actuarial reports, underwriting calculations, rating information, etc., that is developed through a governmental self-insurance pool. In his veto message, the Governor stated the bill restricts openness to government and the sharing of critical information between agencies. Another measure dealing with openness in government, **SB 1363**, requires state agencies that deny a permit, license, or tax exemption to provide a written response to the applicant at the time of denial that states the reason for the denial, any applicable appeals procedure, and any time limitation for filing an appeal.

Other bills address a variety of governmental issues:

- ▶ **HB 2126** removes the restriction that prohibits municipalities of less than 10,000 people from participating in urban renewal without a vote of their citizens;
- ▶ **HB 2664** institutes an annual registration fee of \$100 for lobbyists and \$50 for political action committees and party committees to assist in funding the Ethics Commission;
- ▶ **SB 850** deals with ouster procedures for state, county, city, and municipal officers not subject to impeachment under the Oklahoma Constitution. The new procedures increase the minimum amount of citizens required to submit a written notice to the Attorney General requesting investigation of a complaint from 5 to 15 citizens, or by 1 percent of the

registered voters voting in the previous election for the political subdivision, whichever is greater;

- ▶ **SB 1489** adds short-term bond funds to the list of investment options for state funds under the control of the State Treasurer and ensures that all entities within The Oklahoma State System of Higher Education are able to invest assets received through grants or contracts;
- ▶ **SB 1507** allows entities contracting with public agencies in amounts greater than \$25,000 to submit a single, irrevocable letter of credit in lieu of the bonds currently required and modifies the requirement for performance bonds for performance-based efficiency projects over a term of up to 20 years; and
- ▶ **SJR 41** encourages federal agencies, state agencies, and all county and municipal governments to purchase Oklahoma Green Power or Oklahoma Green Tags, also known as Renewable Energy Credits, when available, and encourages Oklahoma citizens to consider utilizing renewable energy sources in homes and businesses.

Under **HB 2680**, which was vetoed, the Commissioners of the Land Office would have been able to distribute 10 percent annually of the rolling five-year average of the total annual gains from equity investments of the permanent school funds to the beneficiaries of the school land trust. In his veto message, the Governor cited this legislation is “bad public policy and violates the Oklahoma Constitution by permitting the Commissioners of the Land Office to utilize and distribute the principal corpus of the school land trust.”

In miscellaneous government-related measures:

- ▶ **SB 889** clarifies that permanent rules adopted under the Administrative Procedures Act (APA) become effective the tenth day following publication, even if that tenth day falls on a weekend or holiday;
- ▶ **SB 1405** designates the Oklahoma 2-1-1 Advisory Collaborative, which was created by the Oklahoma Corporation Commission through its rulemaking authority, as the official state coordinating entity for all 2-1-1 call centers in Oklahoma. The 2-1-1 centers provide a centralized location which people can call to find information about state and local government;
- ▶ **SB 7** designates the Oklahoma Rose as the official state flower; and
- ▶ **HB 2253** permits court clerk certification by digital signature when the electronic transmission of documents is allowed. The Supreme Court is responsible for establishing and overseeing the process for validation and authentication of digital signatures and equivalent signing technology.

## County and Municipal Government

Significant legislation impacting certain municipal employees was enacted this session. **SB 1529** creates the Oklahoma Municipal Employee Collective Bargaining Act which affects municipalities with a population of more than 35,000. This measure allows nonuniform municipal employees to form employee organizations to collectively bargain and negotiate for employment-related benefits, such as hours, wages, and other related terms of employment. If a municipality has an existing collective bargaining agreement, that agreement will not be subject to the provisions of this measure until that agreement expires. This measure is discussed in greater detail in the Business and Finance section.

**Cities in Oklahoma with  
Population of 35,000 or More**

Broken Arrow  
Edmond  
Enid  
Lawton  
Midwest City  
Moore  
Muskogee  
Norman  
Oklahoma City  
Stillwater  
Tulsa

Several measures were passed addressing the issues of municipal annexation and the use of land and structures within the municipality:

- ▶ **HB 2472** extends to any municipality that includes a U.S. military installation within its boundaries the authority to enact an ordinance restricting land use that may be hazardous to aircraft operation and specifies that this ordinance be consistent with the most current recommendations or studies made by various military installations in the state;
- ▶ **HB 2353** requires, in the case of territory to be annexed that encroaches upon any adjacent county, that a copy of the notice of annexation be mailed to the board of county commissioners of the adjacent county and of the county where the proposed annexation is located. In addition, this measure authorizes any municipality or municipal public trust to use a reverse auction bidding procedure for the purchase of goods or services of any kind. A reverse auction is a real-time bidding process in which multiple suppliers submit bids;
- ▶ **HB 2639** standardizes the appeals procedures for municipal dilapidation orders, building and zoning matters, and municipal regional planning commission orders;
- ▶ **HB 2666** specifies that a roadway or right-of-way that is adjacent or contiguous to the territory to be annexed be considered a part of the territory to be annexed;
- ▶ **SB 851** requires a town, in any annexation plan, to extend municipal services to the proposed annexed territory within 120 months from the date of annexation unless a different time period is agreed to by the property owners and the municipality. The measure also exempts parcels of land of five acres or more used for agricultural purposes and annexed into the municipal limits from ordinances restricting land use and building construction to the extent the land is used for agricultural purposes; and
- ▶ **SB 905** modifies the ability of a city or town to annex property without the consent of the property owners in the case where three sides of the territory to be annexed are adjacent or contiguous to property already within the municipal limits by requiring that the adjacent property on each side constitutes an area in width greater than 300 feet at its narrowest point.

This means that any territory to be annexed not meeting the minimum width requirement will require landowner consent. This measure also requires the city or town to provide notice to landowners and to hold a public hearing regarding the proposed annexation even when consent of the property owners is required for an annexation to occur.

Two measures address municipal court systems. Under current law, only municipalities with a population in excess of 200,000 have a municipal criminal court of record. This applied only to Oklahoma City and Tulsa. **HB 2365** extends municipal criminal courts of record to those municipalities with a population of 65,000 or more. Before this court may be created, the municipal governing body must determine by resolution that the efficient disposition of cases involving the violation of municipal ordinances necessitates creating a court of record. **HB 2365** also provides that for municipal courts not of record the maximum amount allowed for appeal bond may be set at no more than twice the amount of the fine. **HB 2606** makes a variety of changes relating to municipal court procedures, including authorizing the levying of a deferral fee in lieu of a fine, allowing municipal judges to reside in an adjacent county, and providing that a person has the right to a jury trial in a municipal court of record if imprisonment is available for the offense.

**Cities in Oklahoma with  
Population of 65,000 or More**

Broken Arrow  
Edmond  
Lawton  
Norman  
Oklahoma City  
Tulsa

In other municipal legislation:

- ▶ **HB 1832** allows a municipality to issue a traffic citation for transporting a firearm improperly; however, the penalties may not exceed the penalties established in the Oklahoma Self-Defense Act;
- ▶ **HB 1858** allows a territory within five miles of the limits of a municipality having a population of more than 300,000 to incorporate as a new municipality if it can be proved by documentation that the territory has historically been identified as a community of people residing in compact form;
- ▶ **HB 1890** allows the state to preempt municipalities from enacting ordinances regarding the enforcement of registration and licensing of automobiles and specifies that any municipal ordinances relating to the enforcement of the Oklahoma Vehicle License and Registration Act cannot be more stringent than that allowed in the act;
- ▶ **HB 2311** allows all municipal elected officials to run for county or state office without first resigning their office;
- ▶ **HB 2372** requires municipalities to offer a Medicare supplement plan to retired employees and dependants who are over 65 years of age; and
- ▶ **SB 1295** amends the exception to the conflict of interest provisions for officers or employees of a municipality with a population of 2,500 or less who have an interest in a business which is the only business of that type within ten miles of the municipality by increasing from

\$2,500 to \$10,000 the amount of activity that the business is allowed to conduct with a municipality in a calendar year.

With regard to jails, **HB 2139** provides that any county or municipality that operates a jail which houses 20 or fewer prisoners and provides 24-hour supervision of prisoner activity by direct or electronic observation will not be required to have more than one jailer or dispatcher on-site to provide for the supervision of prisoners. **SB 1419** increases from \$10 to \$35 the fee charged for the initial filing of any bond, with the increased revenue going to the Sheriff's Jail Fund or to a special revenue fund of the entity operating the jail.

**SB 1146** is an omnibus county government measure that clarifies and updates a variety of laws relating to duties of the various county officers. Some of the more significant changes include:

- Allowing journal records of civil cases to be kept on optical disks or other appropriate medium;
- Requiring stored documents of the county clerk to meet State Auditor and Inspector's requirements;
- Requiring submission to the board of county commissioners a resolution outlining the disposal of equipment which originally cost more than \$250;
- Clarifying when delinquent personal property taxes will be placed on the lien docket; and
- Changing the date for the county treasurer to file a financial statement of the resale property fund.

In other measures relating to county government:

- ▶ **HB 2195** makes an electronic document presented in compliance with the Uniform Electronic Transaction Act acceptable for filing with the county and allows the county clerk to accept payment for fees by automated clearinghouse or by a nationally recognized debit or credit card;
- ▶ **HB 2199** allows a county officer to be eligible to become a candidate for another county or state office without first resigning their county office;
- ▶ **SB 1123** allows the board of county commissioners in each county to establish a longevity pay program for county employees and increases from \$7,500 to \$10,000 the amount of a purchase that is exempt from county purchasing procedures; and
- ▶ **SB 1342** allows a county or county hospital authority to continue to collect county sales tax revenue designated for the support of a county hospital if the hospital is subsequently sold, and **SB 1254** provides that when the sale and dissolution of the governing board of the hospital is final, the county is relieved of any future liability for the operation of the hospital.

## Veterans and Military

Legislators enacted several bills during the 2004 session in a continued effort to pay respect to and address the needs of veterans and military personnel. Measures relate to ad valorem tax relief, honorable medal awards, educational benefits, personnel preferences, and funding for repairs at 34 armories across the state.

### Veterans

If the voters approve **HJR 1044** (State Question 715) at the November 2, 2004, General Election, veterans with a 100 percent disability will be eligible for an ad valorem tax exemption for the full amount of the fair cash value of the homestead.

**SB 901** creates the Korean Conflict Medallion Program to be administered by the Oklahoma Department of Veterans Affairs (ODVA). ODVA is required to establish procedures for awarding the medallion, medal and certificate of appreciation to Oklahoma veterans who were active duty U.S. military at any time beginning June 27, 1950, through January 31, 1955. To create statewide involvement in the design of the award in recognition of this historic endeavor, the Governor will solicit potential designs from elementary and secondary schools, veterans groups, and any other interested parties, but the design must include the words "Oklahoma Korean Conflict Medallion." ODVA is also authorized to expend any monies appropriated to the ODVA for the cost of the medals, medallions, and certificates, subject to the availability of the funds.

**HB 1890** allows a person who qualifies for a disabled veterans license plate and is also eligible for an insignia as a physically disabled person to be eligible to receive a disabled veterans license plate that also displays the international accessibility symbol. **SB 1227** gives nonwar veterans the same advantage as war veterans in ranking for state merit system employment. **SB 1136** requires agencies which implement a reduction-in-force plan to give preference to a veteran over affected nonveterans that have equal retention points.

### Military

**HB 2001** authorizes \$6 million in obligations for infrastructure improvements to 34 armories around the state as illustrated in the chart below:

### Armories Financed for Improvement in HB 2001

Ada	Enid Org. Maint. Shop	23 <sup>rd</sup> St., OKC
Altus	Haskell	Pauls Valley
Alva	Holdenville	Sapulpa
Bristow	Kingfisher	Shawnee
Broken Arrow	Lawton	Stillwater
Chandler	Lexington Org. Maint. Shop	Stillwater Org. Maint. Shop
Chandler Org. Maint. Shop	McAlester	Tahlequah
Chickasha Readiness Cntr.	McAlester Org. Maint. Shop	Tonkawa
Durant	Miami	Tulsa AASF #2
Durant Org. Maint. Shop	Midwest City	Tulsa Org. Maint. Shop
Elk City	Okemah	Walters
Enid		

In other legislation relating to the military, **HB 2317** allows the Adjutant General of the Military Department to transfer real estate, armories, or buildings to a municipality, county, state agency, or public entity. **SB 1312** directs the Oklahoma Real Estate Commission to promulgate rules for those persons called into active military service to satisfy the postlicensing educational requirement. Finally, **SB 900** permits the Surplus Property Agent, under the supervision and direction of the Director of the Department of Central Services, to participate in programs through which the federal government offers to provide surplus military equipment, including weapons, protective clothing, and transportation devices.



# Health and Mental Health

## Health

This session the two most significant issues addressed by the Legislature in the health arena involved putting to a vote of the people a significant increase in tobacco taxes to pay for various health-related programs and finding ways to enhance the state's trauma care system. Other important issues included funding for the treatment of breast and cervical cancer among Medicaid-eligible women and authorizing the implementation of a statewide unused prescription medication program.

### Tobacco

**HB 2660** puts to a vote of the people a significant increase in the tax on cigarettes and other tobacco products. If the referendum is approved at the November 2, 2004, General Election, proceeds generated by the increase, which total an estimated \$150 million annually, will be used to fund various health care initiatives as outlined in the following chart:

<b>Distribution of Estimated Proceeds Generated by Tobacco Tax Increase</b>	
<b>Oklahoma Health Care Authority</b>	
Uninsured Workers Premium Program	\$50 mil.
Replace federal enhanced Medicaid matching funds	\$49.6 mil.
Increase Medicaid reimbursement to certain city- or county-owned hospitals	\$5 mil.
Funding for the Katie Beckett Waiver	\$2.2 mil.
Increase emergency room physician Medicaid payments to 90% of Medicare reimbursement rate	\$2 mil.
Breast and Cervical Cancer Treatment	\$1 mil.
Increase Ambulance Service Provider rate	\$1 mil.
<b>State Department of Health</b>	
Trauma Care	\$17 mil.
Smoking Cessation Programs	\$1.5 mil.
<b>Dept. of Mental Health and Substance Abuse Services</b>	
Inpatient Adolescent Substance Abuse Treatment Services	\$6 mil.
<b>Oklahoma State University</b>	
Construction of a telemedicine building, expansion of telemedicine and provision of uninsured/indigent care in Tulsa County	\$7 mil.
<b>University of Oklahoma</b>	
Servicing debt obligations incurred in the construction of a comprehensive cancer center in Oklahoma City	\$7 mil.

Source: House Fiscal Division

## Health and Mental Health

---

Two measures relate to the tobacco tax proceeds, contingent upon the passage of State Question 713 at the November 2, 2004, General Election. **SCR 80** authorizes the University of Oklahoma Board of Regents to issue up to \$75 million in revenue bonds to build a comprehensive cancer center in Oklahoma City, and **SCR 79** authorizes the Board of Regents for Oklahoma A & M Colleges to issue up to \$35 million in revenue bonds for the OSU College of Osteopathic Medicine to construct a building in Tulsa dedicated to expanding telemedicine in rural areas.

Two measures were enacted in an effort to further restrict the sale of tobacco products to minors. **SB 1256** stiffens the penalties on employees and owners of stores that sell tobacco products to persons under the age of 18. The measure requires the Alcoholic Beverage Laws Enforcement Commission to impose a fine of not more than \$200 for a second offense within a two-year period; a fine of not more than \$300 for a third offense within a two-year period and the possible suspension of the store's license to sell tobacco products for up to 30 days; and, for a fourth or subsequent offense within a two-year period, the store's license may be suspended up to 60 days in addition to a fine of up to \$300. The measure also prohibits the use of vending machines to sell cigarettes in any location that is open to the public and accessible by persons under the age of 18. Finally, SB 1256 prohibits the sale of tobacco products in a manner that allows direct public access to the product and establishes a fine of \$200 for each offense. **HB 1867** prohibits the sale of any tobacco-related products to anyone under 18 years of age. Another measure relating to smoking in public is **HB 2416** which exempts the gaming and simulcast betting areas of horse racing tracks from the Smoking in Public Places and Indoor Workplaces Act, provided the area is fully enclosed and meets other requirements for a smoking area provided in statute.

## Trauma Care

The importance of an adequate trauma care system for the citizens of Oklahoma was highlighted by the near closure last year of the state's only Level I trauma center. **SB 1554** was enacted as a result of a task force created to study the issue. The measure gives the State Department of Health the authority to implement and regulate a statewide trauma care system and establishes the Oklahoma Trauma Systems Improvement and Development Advisory Council to make recommendations to the Commissioner and Board of Health on the development and implementation of a comprehensive trauma care system. The measure also allows monies in the Trauma Care Assistance Revolving Fund to be used to reimburse physicians, in addition to hospitals and ambulance service providers, for providing uncompensated trauma care.

### Oklahoma Trauma Facts

- There were 10,328 major trauma incidents in Oklahoma in 2001-2003;
- More than 2,000 Oklahomans die from trauma each year;
- Trauma is the leading cause of death of people between the ages of one and 44;
- Trauma is responsible for more years of potential life lost than any disease, including cancer and heart disease;
- The best chance for survival of a traumatic event is if the injured person can be seen and treatment started within the first hour of injury; and
- The chance for survival for a Level One trauma patient decreases significantly after an hour has passed.

*Source: OU Medical Center*

In addition to HB 2660, mentioned previously in this section, three measures provide sources of funding for trauma care reimbursement, as follows:

- ▶ **HB 2250** levies a special assessment trauma care fee of \$100 on persons convicted of transporting an open container and increases court fees by \$10 for persons convicted of misdemeanors and by \$100 for misdemeanor and felony driving under the influence. The measure directs that the special assessment and increased court fees be deposited into the Trauma Care Assistance Revolving Fund;
- ▶ **HB 2299** establishes fines for second and subsequent convictions of driving without a license ranging from \$200 to \$5,000, depending upon the number of convictions and the conditions under which the suspension occurred. A conviction of violating a provision of the Oklahoma Highway Safety Code while driving without a license will cause the applicable fine to double. The bill directs that the fines collected for second and subsequent convictions or one-half of the fine, if it is doubled, be deposited to the Trauma Care Assistance Revolving Fund; and
- ▶ **HB 2600** increases the fee to have a suspended or revoked driver license reinstated by requiring payment of a \$200 special assessment. The bill also provides that persons convicted of certain violations of the Uniform Controlled Dangerous Substances Act be required to pay a special assessment trauma care fee of \$100 and directs the special assessments be deposited into the Trauma Care Assistance Revolving Fund.

### Access to Care

Several measures were enacted this session that provide expanded access to health care services for women and the uninsured. **HB 2552** creates the Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund for the Oklahoma Health Care Authority (OHCA), and **SB 978** directs the OHCA to use \$2.5 million of its FY-05 appropriation for the treatment of Medicaid-eligible women who have breast or cervical cancer. **SB 587** requires, after January 1, 2005, health insurance plans issued in Oklahoma to provide coverage for routine annual obstetrical/gynecological examinations.

**SB 1546** directs the OHCA to apply for a federal waiver that would extend health care benefits to the uninsured by allowing small employers and employed uninsured adults to purchase either employer-sponsored, state-approved private, or state-sponsored health care coverage. The measure also authorizes the OHCA to establish a pilot premium assistance plan to help small businesses or their employees purchase employer-sponsored insurance or to buy in to a state-sponsored benefit plan. Finally, the bill establishes a Health Employee and Economy Improvement Act Revolving Fund within the OHCA. Again, a portion of the proceeds from the increased tobacco tax, if approved by the voters at the November 2, 2004, General Election, is earmarked for this program.

A final measure, **HB 1866**, directs the Board of Pharmacy to implement the Utilization of Unused Prescription Medications Act statewide. The measure authorizes, on a voluntary basis, the transfer of unused prescription drugs, other than those defined as controlled dangerous substances, from nursing facilities, assisted living centers, or pharmaceutical manufacturers to a county pharmacy, a pharmacy affiliated with a city-county health department, a pharmacy operated by the Department of Mental Health and Substance Abuse Services, or a charitable clinic to be distributed to the medically indigent.

## Long-Term Care

**HB 2723** modifies various sections of the Long-term Care Certificate of Need Act and the Nursing Home Care Act. Some provisions of the measure include:

- Amending the conditions under which a certificate of need is required prior to constructing or expanding a long-term care facility and providing for conditions under which the State Department of Health may issue an exemption from certificate of need requirements and conditions under which a certificate of need is not required;
- Increasing the number of months for which an extension of a certificate of need may be issued and increasing the length of time applicants have to begin construction of a facility;
- Capping at \$3,000 the application fee for a certificate of need for the acquisition of an existing facility;
- Reducing the fee from \$1,000 to \$100 for a ten-bed or less expansion of an existing facility, replacing an existing facility with a new facility, and management agreements;
- Modifying the types of facilities that are prohibited from hiring individuals as nurse aides that are not certified and not eligible for placement on the aide registry and providing an exception from November 1, 2004, until October 31, 2005, if the facility has applied for a temporary waiver; and
- Authorizing certified medication aides to perform fingerstick blood sugar tests; administer diabetic medications; administer medications, first aid treatments and nutrition; and administer oral metered dose inhalers and nebulizers in accordance with rules adopted by the State Board of Health.

**SB 1547** enacts the Oklahoma Long-Term Care Partnership Act. Contingent upon the repeal of restrictions to asset protection contained in federal law, the measure directs the Oklahoma Health Care Authority (OHCA) and the Insurance Department to:

- Provide incentives for persons to insure against the cost of providing for their long-term care needs;
- Provide a mechanism for persons to qualify for coverage of the cost of long-term care under the Medicaid program without having to substantially exhaust their resources;
- Provide counseling for persons planning for their long-term care needs; and
- Alleviate the financial burden on Oklahoma's Medicaid program by encouraging the pursuit of private initiatives.

**SB 1622** creates the Oklahoma Nursing Facility Funding Advisory Committee to develop a new methodology for calculating state Medicaid program reimbursement to nursing facilities by implementing facility-specific rates based on expenditures related to direct care staffing. The new methodology must be approved by the OHCA by July 1, 2005, and will only apply to new funds that become available for Medicaid nursing facility reimbursement.

## Professions and Occupations

A number of measures were enacted that affect health professions. **HB 2154** provides immunity from civil liability, except in cases of gross or willful negligence, for medical care provided by the use of an automated external defibrillator for course directors and trainers who have completed the required training in the use of defibrillators and CPR, and for physicians who prescribe the use of an external defibrillator to render emergency care. **HB 2321** clarifies that nonlaser surgery procedures, as authorized by the Oklahoma Board of Examiners in Optometry, are within the scope of practice of optometry.

In order to raise the professional standard for those persons practicing alcohol and drug counseling and to produce better treatment outcomes for those receiving counseling, **HB 2464** establishes the State Board of Licensed Alcohol and Drug Counselors and, beginning January 1, 2005, requires an individual who wishes to practice alcohol and drug counseling to obtain a certificate or a license. The bill establishes education and work experience standards for certified and licensed alcohol and drug counselors to take effect January 1, 2005, and requires that, by January 1, 2010, an applicant to be a licensed counselor must have a master's degree in alcohol and substance abuse counseling or a content-equivalent degree.

**HB 2724** amends the Oklahoma Chiropractic Practice Act by requiring appointments to the Board of Chiropractic Examiners to be on a district basis and increasing the number of appointments from four to eight. Some other provisions of the measure include:

- Requiring applicants for an initial license to be fingerprinted;
- Increasing the cost of an annual renewal license fee for resident chiropractors from \$175 to \$225;
- Requiring, beginning January 1, 2006, chiropractors in full- or part-time practice to submit to the board proof of malpractice insurance; and
- Allowing physicians to obtain continuing education units from out-of-state programs with prior approval of the board.

**SB 369** makes the practice of medicine without a license a felony punishable by a fine, imprisonment, or both. Some other provisions of the measure include authorizing the State Board of Medical Licensure and Supervision to:

- Revoke a physician's license permanently in Oklahoma;

## Health and Mental Health

---

- Revoke the license of a doctor who has been convicted of a felony and allows for reinstatement of the license if a felony conviction is overturned; and
- Levy administrative fines up to \$5,000 as part of disciplinary action against a physician.

The measure also eliminates the category of a *special license* for initial applicants. This type of license had been issued to persons with a limited institutional practice who had completed medical school but had not passed the medical licensing exam, had not completed residency training, or both. Finally, the bill makes physicians providing care under the Oklahoma Medical Reserve Corps eligible for a special volunteer medical license.

**SB 899** permits advanced registered nurse practitioners to authorize the issuance of a physical disability placard. **SB 1263** requires, beginning January 1, 2007, applicants for initial licensure as an audiologist to have a Doctor of Audiology degree or a Ph.D., with emphasis in audiology, and establishes a new clinical education requirement. **SB 883** gives health service providers access to the confidential collision report written by a law enforcement officer to aid the health service provider in prescribing medical treatment to a person involved in a collision.

## General Health

In response to some mothers being harassed while breast-feeding in public places, the Legislature enacted **HB 2102** to provide that a mother may breast-feed her baby in any location where she is otherwise authorized to be and provides that breast-feeding in public is not a crime of public indecency. The measure also exempts, upon their request, breast-feeding mothers from jury service.

The Joint Legislative Task Force on Patient Safety is created by **SB 1569** to study and report to the Legislature by January 31, 2005, the feasibility of legislative or regulatory efforts designed to improve patient safety, including components such as:

- Implementing physician licensure requirements for risk management training;
- Provision of premium discounts on malpractice insurance based on physician performance; and
- Improving data collection to facilitate patient safety improvement and physician involvement.

In response to the increasing levels of uncompensated care provided by many of the state's hospitals, **HB 2667** establishes the Uncompensated Care Equalization Committee to develop and recommend to the Legislature by February 1, 2006, a formula to equalize the financial burden of uncompensated care on health care facilities. Further, the measure creates the Uncompensated Care Equalization Revolving Fund within the OSDH and authorizes that monies accruing to the credit of the fund be expended by OSDH to equalize the financial burden of uncompensated care. Finally, the bill delays until July 1, 2006, the authority of OSDH to levy a fee on hospitals and surgery centers that have been constructed without approval of the Commissioner of Health and that do not provide

verification that at least 30 percent of their net revenues are from Medicare or Medicaid, with allowances for uncompensated care, or from state corporate tax contributions.

## Miscellaneous

In other health-related matters:

- ▶ **HB 2282** requires a municipality or other entity that wishes to operate a public bathing place, such as swimming pools and hot tubs, to obtain an annual license from the State Commissioner of Health and authorizes a fee for the license;
- ▶ **HB 2305** establishes the Advisory Council on Pain Management to provide recommendations to the Legislature by April 1, 2005, related to acute and chronic pain management treatment practices by health care providers, pain management education, and the pain management needs of adults and children with special emphasis on nursing home residents;
- ▶ **HB 2306** establishes the Advisory Council on Cord Blood Donations to develop and make recommendations to the Legislature on the development of a cord blood donor program in Oklahoma. Cord blood is the blood that remains in the umbilical cord and placenta following birth and is a source of stem cells that can be used to treat a variety of life-threatening diseases;
- ▶ **HB 2321** allows a patient to request that the symptom or purpose for which a drug is being prescribed to appear on the prescription label;
- ▶ **SB 1522** requires the Chief Medical Examiner to track and forward, within 72 hours after the examination, demographic information on sudden, unexpected, and nontraumatic infant deaths to the OSDH and the SIDS Foundation of Oklahoma;
- ▶ **SB 1582** eliminates the statutory requirement for a premarital blood test for syphilis and authorizes the State Board of Health to promulgate rules to designate communicable or infectious diseases, if any, for which a blood test must be conducted prior to obtaining a marriage license; and
- ▶ **SB 1627** requires each public school to establish a Healthy and Fit School Advisory Committee to study and make recommendations to the school principal regarding health education, physical education and activity, and nutrition and health services.

## Mental Health

Exceptions to the confidentiality of patient records and the disclosure of information are modified in **SB 1578** to conform to federal requirements. The measure also authorizes the Department of Mental Health and Substance Abuse Services (DMHSAS) to bring an action against any agency or individual believed to be in violation of the Oklahoma Alcohol and Drug Act for operating an

## Health and Mental Health

---

alcohol and drug substance abuse course or for performing alcohol and drug assessments without appropriate certification by DMHSAS. The measure authorizes the DMHSAS, in addition to the Attorney General and a district attorney, to seek an injunction against any domestic violence or sexual assault program found to be in violation of certification requirements. Finally, the measure directs the Commissioner of Mental Health and Substance Abuse Services to establish a Forensics Review Board to annually review the case of every patient ordered to the custody of DMHSAS through a *not guilty by reason of insanity* verdict.

**HB 2314** requires certified domestic violence shelters and domestic violence and sexual assault programs to report client services electronically using a unique identifier and prohibits the electronic reporting of information that would disclose the identity of individuals receiving domestic violence or sexual assault services or that could increase the risk of harm to the client if reported.

**HB 2007** provides additional funding for the DMHSAS for the following:

- \$1 million to continue the expansion of the Systems of Care program for children;
- \$1 million to fund the expansion of drug courts; and
- \$750,000 to fund two additional rural sites of the Program of Assertive Community Treatment (PACT), a community-based treatment program for adults with serious mental illness.

According to the Criminal Justice Resource Center, at current expenditure levels of \$2,200 per program participant, the new funding may provide treatment services for 450 program participants across the state.

**SB 975** authorizes the Oklahoma Capitol Improvement Authority, on behalf of the DMHSAS, to issue up to \$18.9 million dollars in revenue bonds for the construction of the Oklahoma Forensic Center and appropriates \$500,000 for first-year debt service.

# Homeland Security and Public Safety

---

The Legislature enacted numerous measures this session addressing public safety issues in Oklahoma. A permanent Office of Homeland Security was established, and pay increases for law enforcement personnel and enhanced training for law officers were also addressed.

## Homeland Security

**HB 2280** establishes a permanent Oklahoma Office of Homeland Security by allowing the Governor to appoint a Homeland Security Director and designate the appropriate agency in which the Office of Homeland Security is to be housed. The Office is charged with developing and coordinating the implementation and administration of a comprehensive statewide strategy to secure Oklahoma from acts of terrorism, public health emergencies, cyberterrorism, weapons of mass destruction, and other duties as assigned by the Governor. HB 2280 also creates regional planning and coordination advisory councils for homeland security to assist in the planning. The director will appoint at least a dozen members to each council, including a chief of a paid fire department and the chief of a volunteer fire department, a county sheriff and a police chief, a physician or a hospital administrator, a public health representative, an emergency management coordinator, an emergency medical services provider, a veterinarian, a representative of a state or local disaster relief agency, a city manager or mayor, and a county commissioner.

The Office of Homeland Security is directed to establish three distinct divisions:

- Prevention and Intelligence,
- Response and Recovery Planning, and

In order to improve response time, **HB 1418** permits the Governor to allocate state funds in times of emergency to the U.S. Army Corps of Engineers without any action by the Contingency Review Board. Furthermore, agency agreements with the U.S. Army Corps of Engineers that are in response to an emergency are not subject to competitive bidding requirements.

## Public Safety

### Law Enforcement Retention and Training

The training and retention of law enforcement officers was a major source of discussion for the Legislature this session. Numerous measures were enacted relating to officer training and pay increases. **SB 1137** increases the starting pay for state troopers and enables officers to receive higher salaries more quickly. The new pay scale condenses the existing salary schedule so that troopers can reach their maximum salary of \$49,387 in half the time, from 14 years to 7 years.

Beginning January 1, 2005, cadet troopers will earn \$30,000 instead of the current salary of \$24,348. A trooper with one full year of service will earn \$36,711, a \$9,711 increase.

Pay bands for Oklahoma State Bureau of Investigation (OSBI) agents were established by **SB 1155** to create minimum, mid-point, and maximum salary ranges for the agents. A complete listing of the pay bands can be found in the chart. A related measure, **HB 2355**, authorizes the OSBI to purchase recognition awards to be presented to nonemployees of the OSBI in recognition of exemplary service or assistance to the OSBI and law enforcement.

Job Classification	Pay Bands for Oklahoma State Bureau of Investigation Agents and Criminalists		
	Minimum	Mid-point	Maximum
Agent/Criminalist I	\$33,500	\$41,875	\$50,250
Agent/Criminalist II	\$39,250	\$49,062	\$58,875
Agent/Criminalist III	\$46,250	\$57,812	\$69,375
Agent/Criminalist IV	\$51,000	\$63,750	\$76,500
Agent/Criminalist V	\$56,000	\$70,000	\$84,000

The Council on Law Enforcement Education and Training (CLEET) received special attention this session:

- ▶ **HB 2577** adds the Director of the OSBI and a person selected by the Governor as members of CLEET, increasing its number to nine members. The bill increases the number of hours in the basic police course from 302 hours to 380 hours if funds become available;
- ▶ **SB 1208** directs CLEET to grant peace officer certification to tribal police officers who are commissioned by an Oklahoma law enforcement agency as a result of a cross-deputization agreement and who meet the training and qualification requirements of CLEET. Tribal officers who are cross-deputized with an Oklahoma law enforcement agency must notify CLEET within ten days of the officers' commissioning, resignation, or termination with the agency;
- ▶ **HB 1838** creates a felony punishable by two to five years in prison, a fine of up to \$2,000, or both fine and imprisonment for any person convicted of willfully making a false statement on an application to CLEET. The measure also allows CLEET to suspend the certification of any officer who is involuntarily committed to a mental health facility or is receiving ongoing mental health treatment for a diagnosed mental illness that significantly impairs the officer's ability. Certification can be reinstated after a physician or psychologist states that the officer is psychologically fit to return to service. Finally, the measure requires the district attorney to notify CLEET of any certified peace officer convicted of domestic violence; and
- ▶ **HB 2347** allows the handler of a CLEET-certified canine to retain possession of the dog upon the dog's retirement from service.

## Guns

Several measures were enacted this session dealing with the transportation of guns and the rights of gun owners. **HB 1832** was enacted to extend to municipalities the ability to give traffic citations to persons who improperly transport firearms. **SB 1410** clarifies the conditions under which a law enforcement officer may confiscate a firearm from a person licensed to carry a concealed handgun. An officer may confiscate a firearm only if the officer has probable cause to believe the weapon is contraband or has been used in the commission of a crime. The bill requires the OSBI to notify, by first class mail, applicants for a *carry concealed license* who are denied application and requires the applicant to notify the OSBI within 60 days of any intent to appeal. Lastly, the bill exempts active duty and retired law enforcement officers who are registered firearms instructors from the requirement to re-register every five years by providing that their registration is to be automatically renewed when officers renew their handgun permits.

**HB 2122** prohibits any person, property owner, tenant, employer, or business entity from establishing any policy or rule that has the effect of prohibiting a person from transporting and storing firearms in a locked vehicle on property set aside for parking. A related measure, **SJR 54**, directs the Department of Commerce to collaborate with an Oklahoma college that offers a gunsmith curriculum to develop strategies to attract a firearms manufacturer to locate near the institution. At the present time, this provision applies only to Southeastern Oklahoma State University in Durant.

## Driver License Issues

**HB 1899** requires applicants for an original or renewal commercial driver license with a hazardous material endorsement to submit to the Department of Public Safety (DPS) a current criminal history record from the OSBI and the Federal Bureau of Investigation. DPS is authorized to cancel the driving privileges of any person who fails to have the proper class of commercial license or endorsement for the class of vehicle being operated.

In an effort to improve the skills of teenage drivers, the Legislature enacted **HB 2352** which increases the amount of time that a novice driver is required to possess an instruction permit. Under provisions of the bill, all new applicants for a Class D driver license in Oklahoma under the age of 18 must first obtain an instruction permit and operate under that permit for a minimum of six months. An instruction permit allows persons to drive as long as they are accompanied by a licensed driver who is at least 21.

One bill requested by DPS, **HB 2265**, contains numerous amendments to conform state and federal policy changes enacted recently. The measure also removes a provision of law which allowed certified driving examiners to issue the driving test required for the issuance of a driver license. Students of private driving schools can still be given the written examination by the private examiner but will have to take the driving test at a DPS examination site.

## Firefighters

Volunteer firefighters will receive better training as a result of **HB 2372** which creates the Oklahoma Volunteer Firefighter Training Incentive Act of 2004 and establishes the Oklahoma Council on Firefighter Training. The council is charged with identifying firefighter training needs, interacting with the Homeland Security Department's Preparedness and Awareness Division on firefighter training, and administering and maintaining firefighter incentive and recognition programs, as well as setting firefighter training goals for Oklahoma. The measure rewards firefighters with an income tax credit upon completion of certification as a volunteer firefighter and completion of annual response training courses. A related measure, **HB 2674**, allows the State Fire Marshal Commission to establish fees, fines, and administrative penalties for inspections and plan reviews performed and for permits issued by the State Fire Marshal.

## Regulatory Functions

Drivers of utility service vehicles are exempted from the hours-of-service regulations adopted by the United States Department of Transportation until June 27, 2006, under the provisions of **HB 1844**. Hours-of-service regulations restrict the number of hours a commercial driver may operate a motor vehicle. The measure authorizes the Department of Public Safety (DPS) to promulgate rules suspending the effective date of any federally adopted hours-of-service regulations up to three years for vehicles engaged solely in intrastate commerce, if no loss of federal funds occurs.

The rates that a wrecker service can charge for towing and hookup were increased by **HB 2101**. The measure increases, by an average of 15¢ per mile, the rate that can be charged for towing a vehicle. Hourly rates were also adjusted, with the rate per hour for towing an 8,000 pound vehicle was increased from \$46.73 to \$60. The bill also raises the maximum hourly rates for extra labor from \$14.28 to \$30 per person and allows a 25 percent gross profit markup when skilled or specialized labor or equipment is required to perform the tow. Finally, the measure allows the DPS to adjust wrecker rates by authorizing a fuel surcharge when fuel prices exceed \$2 per gallon. The surcharge is established as a 1 percent increase in fees for every 10¢ increase in fuel cost.

## Alcohol

Reacting to an Oklahoma court case in which a DUI offender was able to appeal his conviction because the arrest occurred on a semi-private roadway in a trailer park, **SB 1407** clarifies that it is illegal to operate a motor vehicle while drunk on any public property or on any private road, street, or alley which provides access to housing. The bill also doubles the fine for drunk driving if the person was transporting a child under the age of 16 in the vehicle.

**SB 1543** exempts retail dealers selling low-point beer from being required to obtain a special permit for each bar within the same enclosed area or in the general vicinity for events held outside the building currently licensed.

## Miscellaneous Public Safety

Several other public safety issues were addressed by legislators this session. **SB 1224** removes the weight designations and increases the age requirement for children being transported in a child safety seat. The measure requires any child under the age of 6 riding in a motor vehicle to be properly restrained in a child passenger restraint system. **SB 1419** raises some much needed revenue for county jails by increasing the fee charged for filing a bond with the court clerk from \$10 to \$35. The \$25 increase is to be deposited to the credit of the county jail in the county in which the bond is filed.

In addition:

- ▶ **HB 1890** authorizes the Oklahoma Tax Commission to place the international accessibility symbol on a disabled veterans license plate to allow the veteran to use handicapped parking spaces;
- ▶ **HB 1896** allows the Department of Transportation or the Transportation Authority to charge the owner of a vehicle abandoned on the side of the highway for its removal when the vehicle interferes with the maintenance of a highway;
- ▶ **HB 2159** requires motorists traveling through a construction zone in which the number of lanes are reduced to merge within 1,500 feet of the traffic control sign warning of the lane reduction. Violators are subject to a fine of \$100 to \$1000;
- ▶ **HB 2444** provides a specific fine of \$100 for persons convicted of illegally passing a stopped school bus;
- ▶ **SB 883** gives health service providers access to the confidential collision report written by a law enforcement officer to aid the health service provider in prescribing medical treatment to a person involved in a collision;
- ▶ **SB 884** permits all-terrain vehicles to be operated on public streets for a distance of up to 300 feet in order to cross a railroad track;
- ▶ **SB 899** allows advanced registered nurse practitioners to authorize the issuance of a physical disability placard;
- ▶ **SB 1539** exempts a motor carrier employee from being required to sign a statement of liability or enter into a contract for the indemnification of any person for acts not arising from damage from a wrongful act by the motor carrier; and
- ▶ **SB 1589** allows the Board of Medicolegal Investigations to establish a fee schedule for forensic services, permits, and reports provided to the public and government agencies. The bill establishes a range into which the fees must fall for various services such as cremation permits, x-rays, and toxicology reports.





# Human Services

---

Despite tough economic times, lawmakers acknowledged the importance of funding child care, early childhood educational programs, and services for persons with developmental disabilities. Legislation also was enacted that strengthens domestic abuse prevention, clarifies child custody and visitation, modifies child support enforcement laws, and provides enhancements for Oklahoma's seniors.

## Child Care

The Legislature enacted three measures related to child care. **HB 2048** appropriates to the Department of Human Services an additional \$10 million for the state's child care subsidy program to help provide low income families with quality child care. The chart reflects the increase in the number of children in subsidized child care.

Another measure, **SB 1111**, modifies the type of child care programs that are exempt from the Oklahoma Child Care Facilities Licensing Act. Programs operated by public or private schools that serve children younger than 3 years of age are no longer exempt from licensing requirements. Finally, **SB 1478** makes permanent a tax credit for child care providers that reimburses 20 percent of the cost of gaining national accreditation.

Total Number of Children in Subsidized Child Care in Oklahoma	
FY-2000	82,062
FY-2001	82,581
FY-2002	85,922
FY-2003	87,932

Source: Department of Human Services

## Custody, Guardianship, and Visitation of a Child

**HB 1734**, known as the Bryar Wheeler Act, establishes uniform standards for supervised visitation. Seven-year-old Bryar Wheeler was murdered by his father during a court-ordered supervised visitation. *Supervised visitation* is defined as court-ordered contact between a noncustodial parent and a child in the presence of a third party who is responsible for overseeing the visitation and providing for the safety of the child and any other parties.

In addition, HB 1734 specifies that education and training requirements for judges and referees who have juvenile or domestic docket responsibility include:

- Identification of risk factors that indicate the possibility of domestic abuse or violence;
- The relationship between alcohol or drug abuse and violence; and

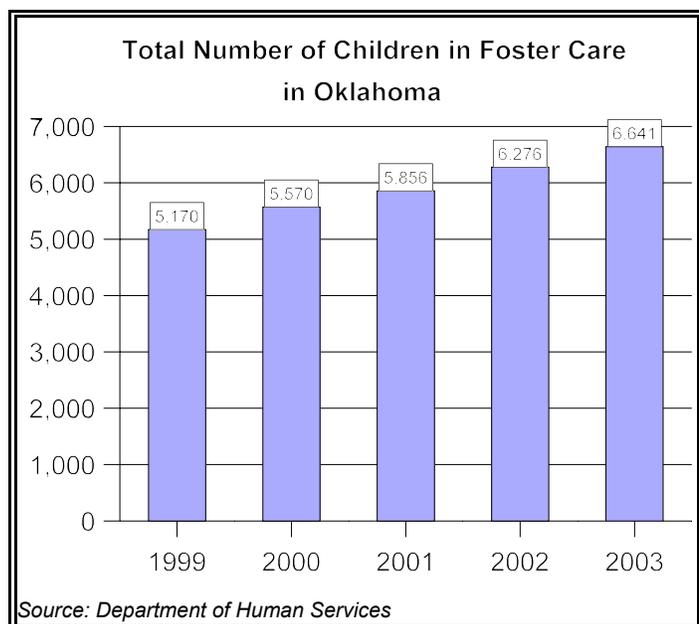
- The establishment of safe visitation standards for parties involved in a court-ordered visitation.

Finally, the measure establishes additional criteria for the court to use in determining which individuals can have custody, guardianship, or visitation with a child. The criteria include whether or not the individual has been convicted of or is residing with a person convicted of a crime of child abuse or neglect or of domestic abuse within the last five years or is an alcohol- or drug-dependent person who poses a threat to self or others. Another measure, **SB 1340**, reduces the time frame from 12 to 6 months for continuing supervision of a deprived child after the child has been returned home.

**HB 2528**, another bill related to the issue of child visitation, requires the Administrative Director of the Courts, by January 1, 2005, to develop a standard visitation schedule and advisory guidelines which can be used by district courts. The measure provides that the standard visitation schedule include a minimum graduated visitation schedule for children under the age of 5 years and a schedule for children 5 years of age through 17 years of age. The standard visitation schedule should also address issues such as holidays, summer vacations, and religious, school, and family activities.

HB 2528 specifies that in any action in which the custody or visitation of a child is a relevant fact, the court may order the mother, father, or the child to submit to certain medical tests deemed necessary by the court in determining that awarding custody of or allowing visitation with a child will be in the best interest of the child. If any party refuses to submit to the tests, the court may enforce its order unless the individual is found to have good cause for refusing to cooperate.

As the chart reflects, there has been a steady increase in the number of children placed in foster care over the past five years. **HB 2048** provides an additional \$1.3 million increase to address foster care services. The bill appropriates \$710,000 to increase the foster care family rate by 50¢ per child per day and \$590,000 to increase the amount provided to therapeutic foster care service providers by \$4.61 per child per day. The foster care family rate has not been increased in 20 years, and the therapeutic foster care service provider rate has not been increased since 1992.



## Child Support

**HB 2526** outlines procedures for obtaining a child support order when the paternity of a child who is alleged to be or has been adjudicated deprived is at issue. The bill requires the court to establish paternity or refer the issue of paternity to the Child Support Enforcement Division within the

Department of Human Services (DHS). The measure also requires that when a child's placement is changed, the child support payments will be transferred to the new caretaker unless that person is receiving foster care payments or Temporary Assistance to Needy Families. Another measure, **SB 1210**, clarifies that DHS has first priority in receiving child support payments over any prior or subsequent payment assignment.

## Disabilities

Expanding services to more persons with developmental disabilities is one goal of **HB 2007**. The bill provides an additional \$2.3 million to DHS to reduce the number of persons on the Developmental Disabilities Services Division waiting list; to provide services for developmentally disabled persons charged with dangerous crimes but found incompetent to stand trial; and to provide services to persons with Prader-Willi syndrome, an uncontrollable eating disorder.

In other disability-related measures:

- ▶ **HB 2194** updates the technological format in which textbook publishers conducting business with the state are required to provide school districts with textbooks from which Braille can be produced;
- ▶ **HB 2197** adds accessibility compliance as a component of each state agency's long-range electronic data processing plans. The bill also creates an Electronic and Information Technology Accessibility Advisory Council that will work with state agencies in furthering compliance with federal law that requires government information systems to be accessible to members of the public and employees who have disabilities;
- ▶ **HB 2556** allows the J. D. McCarty Center for Children with Developmental Disabilities to sell surplus items from its old facility to help defray costs of the newly constructed facility and increases the size of its governing board from three to five members;
- ▶ **SB 1280** establishes a land trust for the Oklahoma School for the Blind and Oklahoma School for the Deaf administered by the Department of Rehabilitation Services (DRS). Previous law required DRS to place proceeds from the sale of land into the General Revenue Fund; and
- ▶ **SB 1402** makes it a crime to willfully harm, torment, injure, or kill a service dog that is used for the benefit of any disabled person.

## Senior Oklahomans

Several initiatives were enacted during the 2004 session that impact Oklahoma's senior population. **SJR 30**, also discussed in the Revenue and Taxation section, would provide ad valorem tax relief to more senior citizens in Oklahoma, if approved by the voters at the November 2, 2004, General Election. The qualifying income levels for the senior valuation freeze will increase from \$25,000

to the estimated median income as determined by the United States Department of Housing and Urban Development for the county or statistical area in which the property is located.

**SB 1017** appropriates \$3 million to the Department of Commerce to fund the Community Expansion of Nutritional Assistance which provides nutritional assistance to senior citizen centers across the state which cannot meet federal standards for nutrition services. **HB 2042** appropriates an additional \$500,000 to the State Department of Health to provide flu vaccinations for seniors in 2005.

**HB 2300** creates the Oklahoma Consumer-Directed Personal Assistance and Support Services (CD-PASS) Act and authorizes a demonstration program. The purpose of the bill is to:

- Provide assistance to Medicaid-eligible individuals who require long-term support services so that they may remain in their own home; and
- Provide frail elderly individuals and adults with disabilities who are Medicaid-eligible and who need basic assistance with mobility, self-care, and health maintenance the ability to have maximum control over the selection of persons working on their behalf and over the manner in which personal assistance services are to be provided to them.

**SB 1109** exempts the following from the licensing requirements of the Home Care Act:

- An individual, agency, or organization that provides or supports the provision of personal care services as part of the CD-PASS waiver program;
- An individual, agency, or organization otherwise covered under the provisions of the Home Care Act for paraprofessional direct care services provided under Oklahoma Health Care Authority contracts but is not exempt from the criminal history background check required under the Home Care Act and for other paraprofessional direct care service providers; and
- A personal care attendant hired by a consumer under the CD-PASS program who would otherwise be required to be certified as a home health aide, provided the personal care attendant receives the training required and approved by the Department of Human Services.

## Children and Families

Recent controversy at the national level regarding the definition of marriage as the union only between a man and a woman, as well as recent court decisions in Massachusetts and Vermont regarding who can marry, have left states divided as to what the institution of marriage should mean and what the jurisdiction of the courts should be in determining who can marry. **HB 2259** calls for a vote of the people to add a new section of law to the Oklahoma Constitution which would define marriage as a relationship between a man and a woman, prohibits giving the benefits of marriage to people who are not married, provides that same sex marriages in other states are not valid in this

state, and makes the issuance of a marriage license in violation of the statute a misdemeanor. Currently, Oklahoma statutes provide for marriage between persons of the opposite sex. In response to a recent Attorney General opinion, **HB 1821** prohibits the recognition of an out-of-state adoption by two individuals of the same sex. The measure also requires the state to recognize the adoption of children from foreign countries when there is a decree, judgment, or final order issued by a court or governmental authority in that country.

**HB 2375** authorizes the Oklahoma Commission on Children and Youth (OCCY) to promulgate rules for training physician assistants and registered nurses as certified Child Abuse Examiners, consistent with their current scope of practice. The measure directs that the rules be forwarded to the chairs of the House Public Health Committee and the Senate Human Resources Committee and may not take effect prior to May 1, 2005.

**SB 1224** requires that children under 6 years of age be protected by a child passenger restraint system when riding in a motor vehicle and provides exceptions for vehicles operated by a licensed child care facility or church.

**SJR 48** directs the OCCY to act as the lead agency in undertaking a study of the living conditions of children of incarcerated women and make recommendations to the Governor and the Legislature on ways to help break destructive cycles and restore the opportunities for the children to live healthy and productive lives.

Funding for the Oklahoma Partnership for Readiness is provided in **HB 2048**. The bill appropriates \$2 million to expand the school readiness program and assist communities in meeting the needs of families with young children.



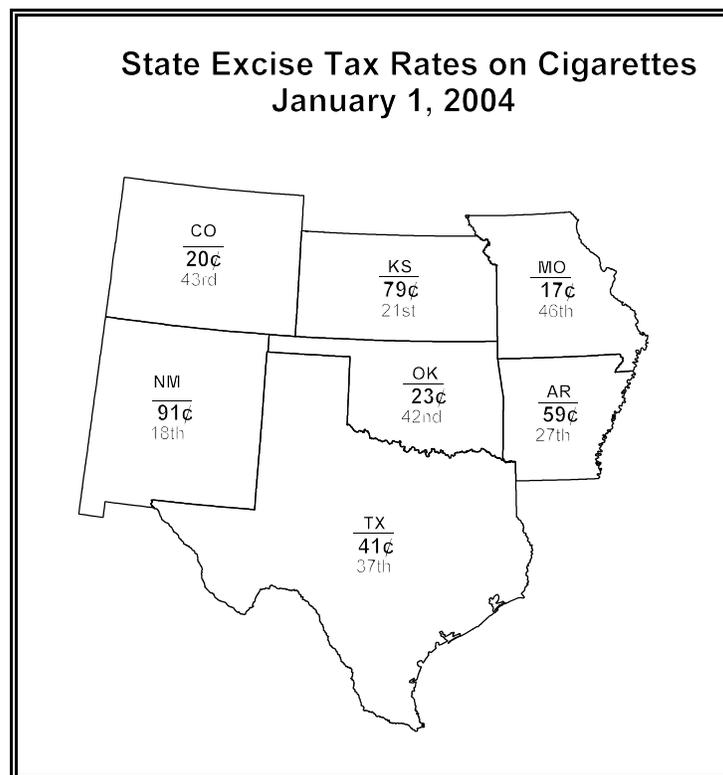
# Revenue and Taxation

---

The primary focus of the Legislature this session in the revenue and taxation area was the cigarette tax referendum to provide funding for health-related programs and to provide targeted income tax relief. The Legislature also sent to the voters two constitutional amendments to provide additional ad valorem tax relief for seniors and disabled veterans.

## Cigarette Tax Referendum

Providing new revenue to fund several important health initiatives while at the same time providing targeted tax relief is the purpose of **HB 2660**, if approved by the voters at the November 2, 2004, General Election. Designated as State Question 713, the measure seeks to levy additional taxes on cigarettes and tobacco products beginning January 1, 2005. The map below shows the cigarette tax rates in the region.



Source: Federation of Tax Administrators

The current and proposed cigarette and tobacco products tax rates are illustrated in the following chart:

<b>Current and Proposed Cigarette and Tobacco Products Tax Rates</b>			
<b>Product</b>	<b>Existing Rate</b>	<b>Amount of Proposed Increase</b>	<b>Proposed Total Rate</b>
Cigarettes (per 20 cigarette pack)	23¢	80¢	\$1.03
Little cigars	9 mills	27 mills	36 mills
All other cigars	\$30 per 1,000	\$90 per 1,000	\$120 per 1,000
Smoking tobacco	40% of the factory list price	40% of the factory list price	80% of the factory list price
Chewing tobacco	30% of the factory list price	30% of the factory list price	60% of the factory list price

This measure exempts cigarettes and tobacco products from state and local sales tax in an effort to level the playing field between sales made at tribal smoke shops and at nontribal retail outlets.

Pending approval of State Question 713, the revenue from the cigarette and tobacco products tax increase is apportioned in the manner illustrated in the following chart:

<b>Apportionment of Revenue from Proposed Tobacco Products Tax Increase</b>	
Health Employee and Economy Improvement Act Revolving Fund	22.06%
Comprehensive Cancer Center Debt Service Revolving Fund	3.09%
Trauma Care Assistance Revolving Fund	7.50%
OSU College of Osteopathic Medicine Revolving Fund	3.09%
Oklahoma Health Care Authority Medicaid Program Fund	26.38%
Department of Mental Health and Substance Abuse Services Revolving Fund	2.65%
Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund	.44%
Teachers' Retirement System Revolving Fund	1.00%
Education Reform Revolving Fund	2.07%
Tobacco Prevention and Cessation Revolving Fund	.66%
General Revenue Fund	16.83%
Municipalities and Counties that levy a sales tax (replace lost sales tax revenue)	14.23%
	100.00%

The net revenue resulting from a payment in lieu of taxes on cigarette and tobacco products pursuant to a compact with a tribe after deductions for deposits into trust accounts is distributed to the various health-related funds described above. The specific uses of all of the revenue apportioned for health purposes is explained in more detail in the Health section.

In the tax relief area, HB 2660 sets the top marginal rate for Method I filers at 6.65 percent and eliminates the *trigger* mechanism (the law which suspends certain tax cuts when state revenues are down) as it relates to income tax rates and the qualifying income limits for the Sales Tax Relief Act. The measure increases the amount of the income tax exemption for public and private sector retirement benefits from \$5,500 to \$7,500. The income thresholds for qualification for the private sector exemption is increased from \$25,000 to \$37,500 for single filers and from \$50,000 to \$75,000 for joint filers. An income tax exemption is provided for any individual taxpayer for qualifying gains that were earned on real or tangible personal property located within Oklahoma that has been owned for at least five years or earned from the sale of stock in an Oklahoma company that has been owned for at least three years.

## Tax Relief and Incentives

A variety of tax relief and incentive measures were enacted this session in addition to the proposed tax relief in HB 2660. The primary purpose of **SB 1383** is to attract collegiate championship tournaments to the Ford Center in Oklahoma City and other venues across the state. This measure exempts from sales tax the sale of admission tickets to tournament games held in a facility owned or operated by a municipality or municipal public trust. In addition, SB 1383 recognizes the transition of the Oklahoma City National Memorial and Museum from a federal entity to an affiliate operated by the National Park System by exempting from sales tax sales to or by the nonprofit organization which operates the Memorial.

In other sales tax exemption measures:

- ▶ **HB 1889** exempts from sales tax the sale of charity game equipment to veterans' organizations and exempts the veterans' organizations from charity game taxes;
- ▶ **HB 2213** exempts from sales tax any sales made to the Ardmore Development Authority, Durant Industrial Authority, the Oklahoma Ordnance Works Authority, or their agents;
- ▶ **HB 2421** exempts from sales tax any sale made to states and local governments of states bordering Oklahoma, as well as sales to Career Technology Student Organizations; and
- ▶ **SB 1121** exempts from sales tax the sale of items used in school construction projects for the benefit of any public school when the projects are financed by tax-exempt entities, sales to tax-exempt organizations whose members are honorably discharged veterans and that provide financial support to veterans' organizations for the purpose of constructing a memorial or museum, sales to a tax-exempt organization that is expending monies received from a private foundation grant in conjunction with expenditures of local sales tax revenue to construct a local public library, and sales of modular dwelling units when built at a

production facility and permanently affixed to the real property with the exemption equaling 45 percent of the total sales price of the unit.

The following measures related to income tax incentives were enacted:

- ▶ **HB 1894** extends the ending date of the income tax credit for qualified space transportation vehicle providers to the tax year ending before January 1, 2009, and allows the credit to be applicable to the financial institutions tax;
- ▶ **HB 2124** extends the ending date of the small business and rural venture capital formation income tax credits through tax year 2011;
- ▶ **HB 2218** provides an income tax credit for tax year 2005 for the purchase and transportation of poultry litter. The amount of the credit is \$5 per ton purchased and transported, and the total amount of the credit is limited to \$375,000;
- ▶ **HB 2372** provides an income tax credit for volunteer firefighters who achieve specified certification or training;
- ▶ **SB 1382** eliminates the expiration date for the income tax credit for employers who pay for Hepatitis A shots for their employees; and
- ▶ **SB 1478** eliminates the expiration date for the income tax credit for expenses incurred by child care businesses.

## Ad Valorem Taxation

Two ad valorem tax relief measures will be on the November 2, 2004, General Election ballot. **SJR 30** (State Question 714) amends the existing valuation freeze for persons age 65 or older by increasing the qualifying income limits for the freeze from \$25,000 to an amount determined by the U.S. Department of Housing and Urban Development to be the estimated median income for the county or statistical area which includes the county. **HB 2208** is the companion statutory measure to SJR 30 which specifies that the qualifying income for the senior valuation freeze will be the amount provided for in the Oklahoma Constitution. **HJR 1044** (State Question 715) amends the Oklahoma Constitution to provide that veterans with a 100 percent disability will be eligible for an ad valorem tax exemption for the full amount of the fair cash value of the homestead.

Two measures address the five-year manufacturing ad valorem tax exemption. **HB 2192** allows wind-powered electric generation entities to qualify for the five-year manufacturing ad valorem tax exemption under previous law. To assist a business that fails to file a claim for the five-year manufacturing ad valorem tax exemption for a year in which it was otherwise qualified, **SB 1254** permits a business to claim the exemption for an additional year within two years of the end of the original five-year period.

**HB 2421** modifies procedures relating to the protest of ad valorem taxes as follows:

- Changes the time period taxpayers have to protest their ad valorem taxes from 20 calendar days to 20 working days;
- Allows the informal hearing between the county assessor and the taxpayer to be held telephonically or by other methods that can be agreed upon by both parties;
- Specifies that, upon receipt of the notice of an appeal to the county board of equalization, the county assessor will provide the county board all information submitted by the taxpayer, data supporting the disputed valuation, and a written explanation of the results of the informal hearing; and
- Provides that, if the taxpayer fails to appear before the county board of equalization at the scheduled hearing without an excused absence, the county is authorized to assess against the taxpayer the costs incurred by the county in preparation for the hearing and provides that payment of those costs will be a prerequisite to the filing of an appeal to district court.

## Tax Administration

**SB 1121** makes a variety of changes to the administration of several state taxes by the Oklahoma Tax Commission (OTC). The measure provides that interest, in addition to the tax, must be paid within 60 days of an assessment to avoid payment of penalty. Also, the time period to protest an assessment of additional estate tax due is increased from 30 to 60 days, and a simplified return for lineal heir estates that have a total value less than the applicable lineal heir exemption is provided. Finally, the measure limits the requirement for a nonresident contractor's bond to contracts in excess of \$100,000.

Two measures modify the income tax withholding requirement for pass-through entities. **SB 1556** specifies the circumstances under which a pass-through entity does not have to withhold tax for a nonresident member. **HB 2421** changes the time period for the withholding of income tax by a pass-through entity by requiring the tax be withheld on or before the due date of the pass-through entity's income tax return, including extensions, and allows a pass-through entity to make quarterly estimated payments. In addition, HB 2421 makes changes to the special event permit requirement by allowing promoters or organizers of a special event that is held on an annual basis during the same 30-day period each year to request the OTC to limit their responsibilities relating to the special event permit. Special event vendors at events where the promoter has limited responsibilities will be required to remit the sales tax along with a sales tax report directly to the OTC within 15 days following the conclusion of the event. A university-sponsored event and an event sponsored by a municipality that includes less than ten vendors are exempt from the requirements of the special event permit.

**SB 1516** creates the Incentive Review Committee for the purpose of conducting an annual review of existing tax incentives and, if desired, to make an in-depth review of the cost and benefits of

selected tax incentives. **SB 1363** requires every state agency that is authorized to deny a permit, license, or tax exemption to provide a written response to an applicant at the time of denial that states the reason for the denial.

The following bills authorize income tax checkoffs:

- ▶ **HB 2129** provides a checkoff for the benefit of programs to recruit, train, and supervise volunteers as court-appointed special advocates;
- ▶ **HB 2557** creates a checkoff for donations to the Oklahoma Pet Overpopulation Fund; and
- ▶ **SB 858** establishes an income tax checkoff for donations to retire the debt incurred in the construction of the dome on the Oklahoma State Capitol.

## Gross Production Tax

Three measures deal with the gross production tax. **SB 1253** extends the life of the three-tiered gross production tax rate system for oil from June 30, 2004, to June 30, 2007. **SB 1081** changes the due date for payments and reports of the gross production tax from the last day of the month the tax is due to the twenty-fifth day of the second calendar month following the month of production. Because of the change in reporting dates, gross production taxpayers must remit a one-time payment by November 25, 2004, so collections will not be disrupted. **SCR 82** directs the Oklahoma Tax Commission to conduct a study of issues concerning compliance with gross production tax law and to conduct a joint study with the Oklahoma Corporation Commission on the elimination of duplication in oil and gas industry reporting and the development of a central system for gathering information to help both agencies in the regulation of this industry.

## Motor Vehicle Registration

**HB 1994** makes significant changes to the issuance of special license plates. This measure places all special license plates into one of five categories as follows:

- Reduced Fee (such as Tax-Exempt or Nonprofit and Physically Disabled);
- Recognition of Service (such as all military-related, Police Officer and Red Cross Volunteer);
- Demonstration of Support (such as Kiwanis International, Ducks Unlimited, and American Business Clubs);
- Personalized; and
- Demonstration of Support and Provides Financial Assistance (such as university or college, wildlife conservation, education, and agricultural awareness supporters).

The fee structure is made uniform for each plate in each category. The fees have been set at a rate in each category in order for the OTC to recover the costs associated with the issuance of the plate.

The following new plates are authorized in HB 1994:

Honorary Consul	Alpha Kappa Alpha
American Legion	Kappa Alpha Psi Fraternity
Former Legislators	National Pan-Hellenic Council Incorporated
Deputy Sheriffs	Organ, Eye and Tissue
Northern Cherokee Nation of the Old Louisiana Territory	Color Oklahoma
Oklahoma Aquarium	Girl Scouts of the United States of America Supporter
The Pride of Broken Arrow	Oklahoma City Memorial Marathon
Fellowship of Christian Athletes	Oklahoma Scenic Rivers
Parrothead Club	Fight Cancer
Oklahoma Bicycling Coalition	Animal Friendly
Electric Lineman	

The measure provides for the *demonstration of support* and the *demonstration of support and provides financial assistance* license plates that, if fewer than 100 of any type of special license plate authorized prior to January 1, 2004, are issued prior to January 1, 2006, the OTC will discontinue issuance and renewal of that plate. For these types of special license plates authorized on or after July 1, 2004, no plate will be developed or issued until the OTC receives 100 prepaid applications, with applications due within 180 days of the effective date of the authorization.

HB 1994 also authorizes the issuance of NASCAR Theme license plates at a cost of \$40, which is in addition to all other registration fees. The OTC may hold an auction to determine the order and the amount of the additional fee for plates numbered 0 through 100 displaying a particular NASCAR driver theme. Finally, the measure directs the OTC to enter in a joint study with the Department of Public Safety for the purpose of developing a uniform format for Oklahoma special license plates.

In a related matter, **HB 1890** allows a person who qualifies for a disabled veterans license plate and is also eligible for an insignia as a physically disabled person to be eligible to receive a disabled veterans license plate that also displays the international accessibility symbol.

**SB 1120** addresses a variety of issues relating to vehicle registration. The changes include:

- Modifying the definition of *specialized mobilized machinery* for purposes of the Oklahoma Vehicle License and Registration Act to mean special purpose devices;
- Allowing a motor vehicle dealer, upon payment of a \$15 fee, to reassign an out-of-state certificate of title to a used motor vehicle if the dealer obtains the appropriate inspection form and attaches the form to the title;
- Allowing information contained in vehicle registration records to be disclosed for the purpose of furnishing the name and address of all commercial entities that have current registration of any particular model of vehicle;

- Providing that a motor license agent will be responsible for all costs incurred by the OTC when relocating an existing motor license agency; and
- Authorizing the OTC to utilize motor license agents to process and issue permits and licenses relating to any tax which is payable or administered by the OTC and to accept reports and payment of tax remittances.

In an attempt to reduce the number of different state regulatory entities with oversight of motor carriers, **SB 141** creates the Trucking One-Stop Shop Act. The measure transfers the Motor Vehicle Enforcement Section of the OTC and the responsibilities for commercial motor vehicle registration to the Oklahoma Corporation Commission effective July 1, 2004. It also transfers the International Registration Plan Section and the International Fuel Tax Agreement Section beginning July 1, 2004, with the transfer to be completed by July 1, 2005.

In other measures relating to vehicle or vessel registration:

- ▶ **HB 2132** allows a person registering a boat or motor to elect a three-year registration period for a fee that is 90 percent of what the annual fee would have been;
- ▶ **HB 2230** assures the validity of the security lien on a vehicle registered by a federally recognized tribe; and
- ▶ **HB 2336** allows the OTC to refuse registration of a commercial motor vehicle or any transfer of title and registration of a commercial vehicle to a commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.

# Technology and Telecommunications

---

Policymakers dealt with a variety of issues during the 2004 session in the areas of technology and telecommunications. Measures were enacted that address accessing information technology for individuals with disabilities, expanding research and development in nanotechnology, creating a task force to study the deregulation of telecommunications, and requiring telephone companies to reinvest revenues in the upgrading of facilities.

## Technology

**HB 2197** is the product of the Task Force on Electronic and Information Technology Accessibility. The bill establishes procedures to assure that the state of Oklahoma maintains compliance regarding accessibility of information technology for individuals with disabilities based on the provisions of Section 508 of the federal Workforce Investment Act of 1998. In consultation with an advisory council, the Office of State Finance and the Department of Central Services will establish accessibility standards to guide state agencies in long-range technology planning and procurement.

Following several years of discussion about the lack of a central repository or clearinghouse for geographic data in the state, **HB 2457** addresses this deficiency by creating the Office of Geographic Information within the Oklahoma Conservation Commission. The Office is responsible for establishing a statewide clearinghouse for data and information regarding geographic information services.

In other technology measures:

- ▶ **HB 2195** makes an electronic document in compliance with the Uniform Electronic Transaction Act acceptable for filing with the county and allows the county clerk to accept payment for fees by automated clearinghouse or by a nationally recognized debit or credit card;
- ▶ **SB 1206** increases the membership of the Oklahoma Science and Technology Research and Development Board by including the Governor's appointed cabinet Secretary of Agriculture and a regional university president selected by the Chancellor of Higher Education;
- ▶ **SB 1537** expands the goals of the Oklahoma Science and Technology Research and Development Act to include the development of nanotechnology and sensors industries; and
- ▶ **HB 2247** recreates the Task Force on Electronic Commerce until June 1, 2007, and modifies its membership.

## Telecommunications

**HB 2451** requires telephone companies serving between 5 percent and 15 percent of subscribers of telephone service within the state that increase certain rates to invest revenues from the rate increase to upgrade facilities used to provide the service. The bill changes the number of access lines a telephone service provider can have prior to adjusting its rates, within certain limitations, from less than 75,000 to 15 percent of the total access lines in the state.

**SB 1284** includes county and city-county health departments and federally qualified health centers in the list of entities that may receive free telecommunications lines or wireless connections as special universal services. Telecommunication providers are entitled to reimbursement for the provision of these services.

**SCR 74** creates the Task Force on Deregulation of the Telecommunications Service Provider Industry to determine the necessity and feasibility of abolishing certain statutory provisions relating to the telecommunications service provider industry in Oklahoma. A final report is required by November 30, 2004.

A hotly debated issue this session was the deregulation of the telecommunications service provider industry. Legislation which was considered and deferred for further study would have removed regulations that currently apply only to SBC. Opponents of the legislation believed that some of the provisions would unfairly impact rural telephone customers and smaller service providers.

# Tourism and Wildlife

## Tourism

Tourism measures this session focus on ways to improve the financial stability of the state system of parks and resorts. In order to boost Oklahoma's third-largest industry, **HB 2318** was enacted to encourage the exploration of not-for-profit foundations to help the Oklahoma Tourism and Recreation Commission support state parks. The bill establishes a State Park Foundation to be the official private organization dedicated to supporting parks statewide through educational programs, capital improvements, and private sponsorships.

Oklahoma has 50 state parks located throughout the state, as well as four state resorts, two lodges and 455 cabins. The park system has over 14 million visitors per year and employs over 700 employees, about 550 of whom are full-time employees.

**HB 2542** authorizes the state Commissioners of the Land Office to use funds from the agency's \$1 billion trust fund to buy up to 1,500 acres of U.S. Army Corps of Engineers' land currently leased by the state at the Texoma Lodge and Resort. The measure specifies that employees of the Texoma park and lodge would have the opportunity to continue employment in the event the facilities are acquired by a new operator. In addition, the Oklahoma Tourism and Recreation Department is directed to develop a severance package for employees who would be affected by a closure of the facilities.

**HB 2070**, the appropriation measure for the Oklahoma Tourism and Recreation Department, includes funding in the amount of \$477,674 for the repayment of financial assistance from the Oklahoma Water Resources Board for the remediation of environmental problems within the park system. The parks have been plagued in recent years with environmental violations due to the failure of antiquated sewage treatment facilities at several state parks.

**SB 1122** reduces from 25 percent to 15 percent the number of out-of-state visitors required each year for a tourism attraction project to receive a tax inducement. **SB 1259** designates a seven-mile stretch of the North Canadian River as it flows through Oklahoma City as the *Oklahoma River*.

## Wildlife

Several measures passed this session relating to wildlife establish or modify fees for various licenses. Other legislation addresses problems that citizens and landowners have identified in certain areas of the state.

In order to provide continued opportunities for hunters and fishers in Oklahoma in the face of large purchases of land by private entities, **HB 2341** creates the Oklahoma Wildlife Land Fund and authorizes the Department of Wildlife Conservation to sell up to \$30 million in revenue bonds for the purpose of acquiring land for public hunting in Oklahoma. The bonds will be paid for by an

additional \$5 annual fee for each hunting and fishing license and a one-time \$25 fee for persons purchasing new lifetime licenses. Current lifetime license holders will not be required to pay the fee. The Department of Wildlife Conservation estimates that the fee will net a total of about \$2.1 million annually to be used for repayment of the bonds.

**HB 1882** makes changes to commercial wildlife breeder's licensing. The measure repeals a section of law that was passed last session which related to a wildlife breeder's license and repeals the sunset clause for the Waterfowl Hunting Stamp, making the fee permanent for the Waterfowl Hunting Stamp. **SB 1466** requires the Wildlife Conservation Commission to develop and implement an Internet-based electronic application for migratory bird permits. The \$2 fee normally charged for the permit will be waived for anyone who applies for the permit via the Internet. **SB 1617** increases the annual fee for nonresident hunting licenses for game other than deer, antelope, or elk from \$90.50 to \$136. In addition, nonresidents will no longer be able to purchase lifetime hunting licenses, lifetime combination licenses, or lifetime waterfowl licenses.

In other wildlife legislation:

- ▶ **HB 1860** allows landowners or lessees to hunt feral hogs at night with a free 90-day permit issued from the local game warden or by the Law Enforcement Division of the Department of Wildlife Conservation;
- ▶ **SCR 40** prohibits the United State government from acquiring more lands for the Deep Fork National Wildlife Refuge in eastern Oklahoma until an agreement is reached to allow landowners with property adjacent to the refuge safe and easy access to their lands. Access is currently made difficult due to seasonal flooding of the area; and
- ▶ **SCR 76** directs the Department of Wildlife Conservation to stop the cutting of mixed hardwood timber in the McCurtain County Wilderness Area. Passage of the resolution was prompted by concerns of local and statewide conservation groups that the cutting would cause irreversible environmental damage to the area.

# Transportation

---

Several measures were enacted this session to assist the Oklahoma Transportation Authority (OTA) in the operation of toll roads in Oklahoma. Other measures in the area of transportation address project bidding requirements and bridge safety issues.

**HB 1695** allows the OTA to authorize the Director of OTA to approve change orders on projects if the amount of the change does not exceed \$250,000 and provides that the order must be presented to the OTA at the next regular meeting. The measure also clarifies that audio and video recordings used at toll gates do not fall under the definition of a record as used in the Open Records Act. **HB 1694** allows the OTA to contract or lease concessions for gas stations, garages, restaurants, parking facilities, and other services for all or any portion of a project. **HB 1693** authorizes the OTA to construct a toll bridge crossing the Arkansas River in the vicinity of South Yale Avenue and South Yale Place in Tulsa County if the OTA finds that the bridge will be self-sufficient during the life of the bonds. Finally, **HB 2551** transfers the northern 1.5 miles of the Indian Nation Turnpike and \$5 million from the OTA to the Oklahoma Department of Transportation (ODOT) for economic development opportunities.

Oklahoma currently has ten turnpikes, including 260.9 miles of interstate, which are eligible for federal aid. In addition, the turnpike system includes 145.6 miles of noninterstate highways.

**HB 2274** increases the number of projects that can be designed by circuit or county engineers without requiring the project plans be contracted to private firms by raising the minimum estimated cost which triggers outside contracting for engineering services for transportation projects. The estimated cost trigger is raised from \$50,000 to \$150,000 for grade-and-drainage projects, and triggers for culvert or bridge construction are established at \$50,000, while culvert or bridge reconstruction engineering plans must be bid out when the estimate is greater than \$75,000. The measure also requires counties which receive monies from the County Bridge and Road Improvement Fund to give priority to replacing or closing bridges that are rated less than 15 tons if the bridge is on a school bus route. Previously, counties were required to give priority to bridges rated at less than ten tons.

In other transportation measures:

- ▶ **HB 2666** requires municipalities to notify ODOT when annexing roadway or right-of-way and requires the municipality to clarify with ODOT any road or maintenance responsibilities;
- ▶ **HB 2327** allows ODOT to transfer surplus bridge beams to local governments for use in construction or repair of public roadway bridges. Prior to the transfer, the local government receiving the beams is responsible for inspection of the beams and must assume full responsibility for the cost of transporting the beams and for the removal of any lead-based paint that is on the beams; and
- ▶ **HB 1894** extends the tax credit available for investors in space transportation vehicles until January 1, 2009.

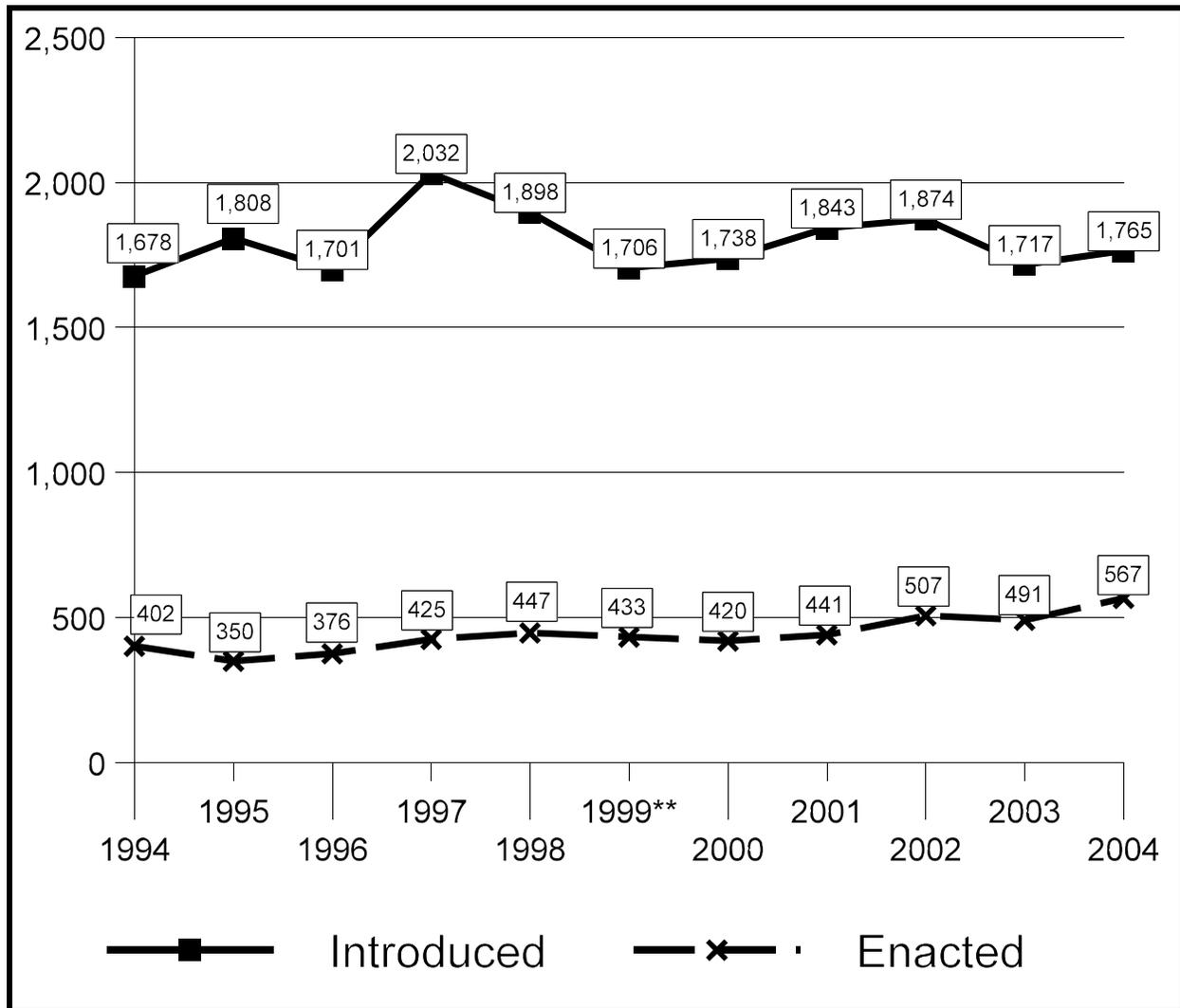


# Appendices



## Appendix 1 Legislative Production 1994-2004

Measures and Joint Resolutions Introduced and Enacted\*

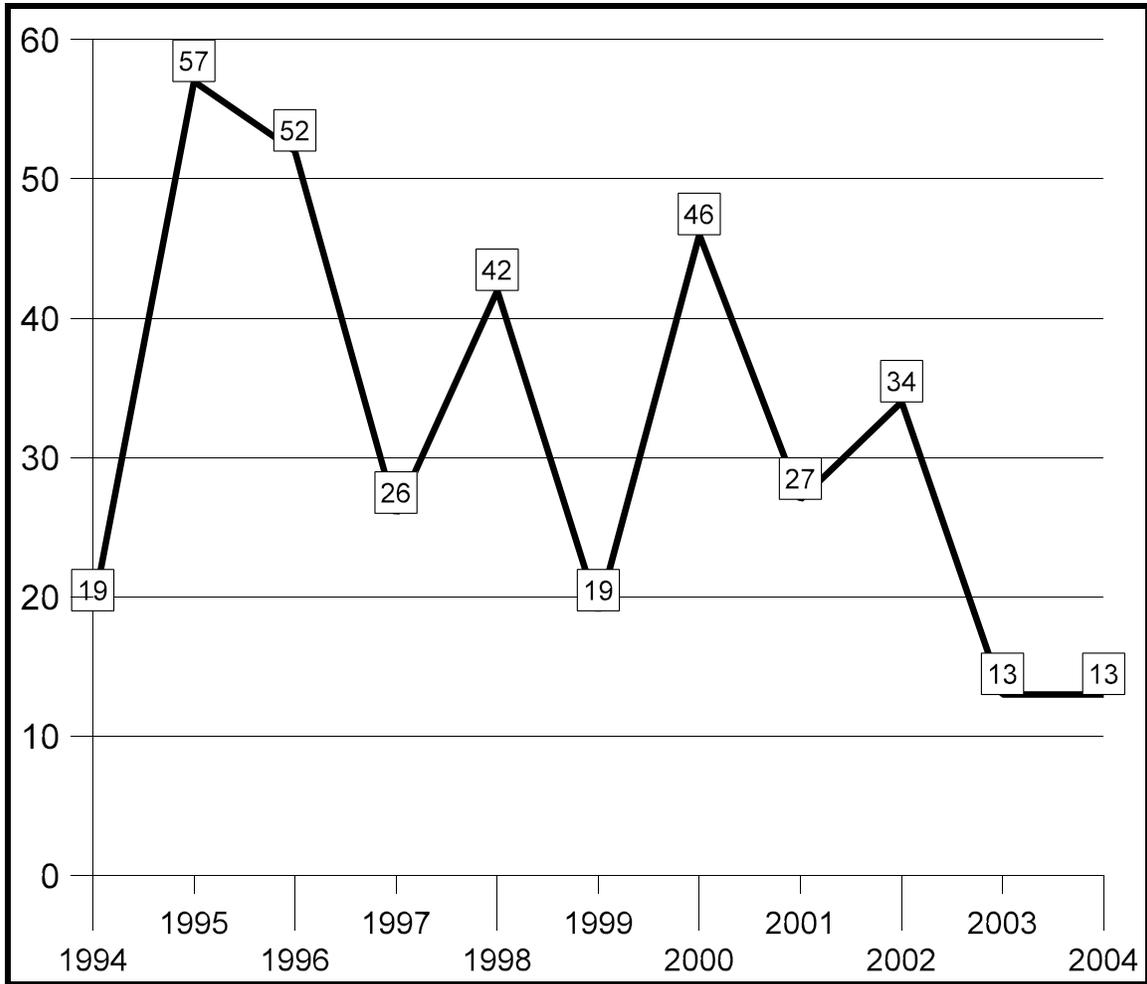


\* Does not include concurrent and simple resolutions or measures filed or enacted during any special sessions.

\*\* First year for the House of Representatives' limit on introduction of House bills and joint resolutions.



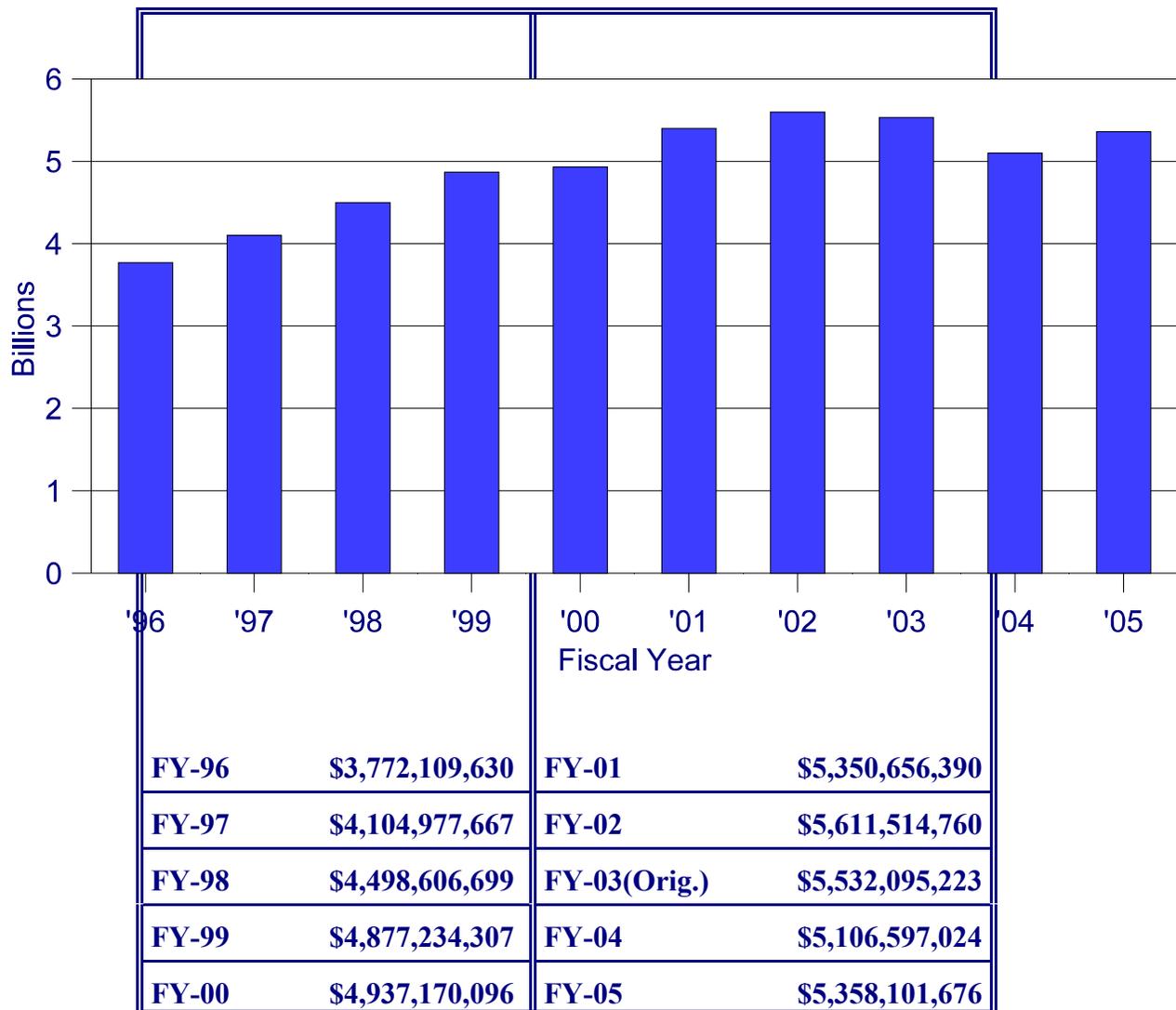
## Appendix 2 Veto 1994-2004



Measures that were line-item vetoed are counted as vetoes.



### Appendix 3 Legislative Appropriations Fiscal Year 1996-2005

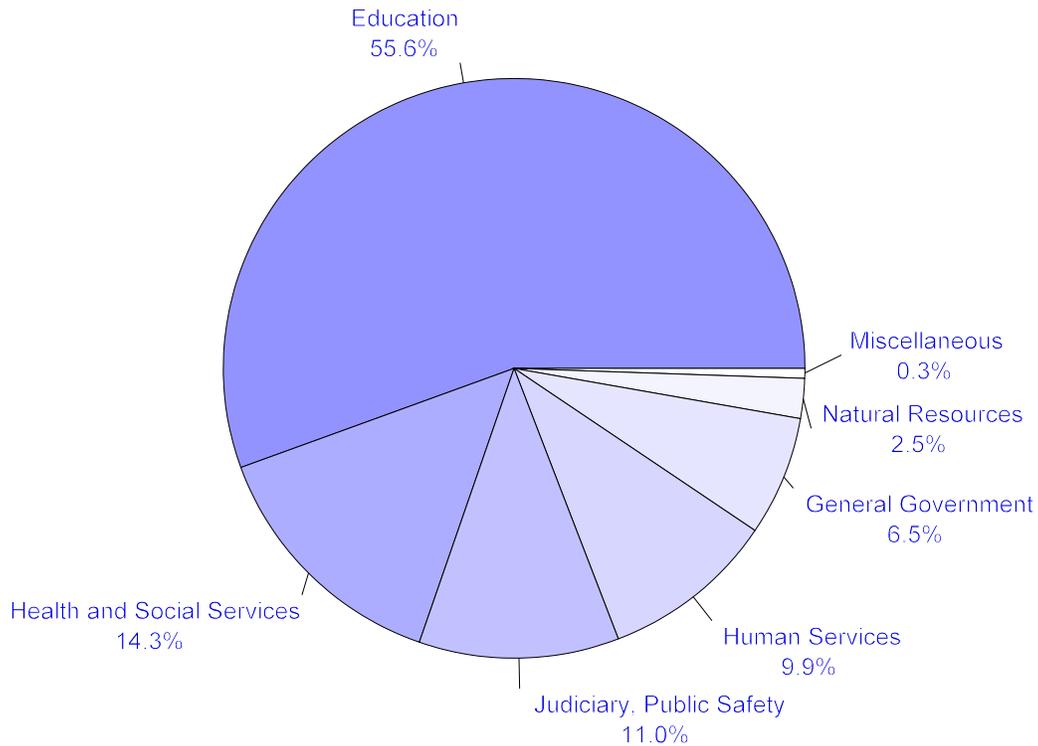


**Notes:**

1. These figures include appropriations, pension systems, and capital and special projects. Figures exclude supplemental appropriations.
2. Totals also include the Tobacco Settlement Fund, the Common Education Technology Revolving Fund, the Education Reform Revolving Fund, the Higher Education Scholarship Revolving Fund and the Higher Education Capital Revolving Fund.

*Source: House Fiscal Division*

**Appendix 4**  
**Distribution of FY-05 Appropriations**  
**by House Subcommittees of**  
**General Conference Committee on Appropriations**



**Total Appropriations = \$5,358,101,676**

**Excludes supplemental appropriations and reappropriations.**  
**Includes capital and onetime expenditures.**

*Source: House Fiscal Division*



## Appendix 5 State Questions

Nine measures containing state questions are scheduled for a vote on the November 2, 2004, General Election ballot. Three additional measures may appear on the ballot if the requisite signatures are obtained and legal challenges, if any, are settled in a timely fashion.

Question	Authorizing Document	Subject	Status
705	HB 1278 (2003 Session)	Statutes authorizing a state lottery and creating the Oklahoma Lottery Commission to administer the lottery.	Scheduled for vote on November 2, 2004
706	SJR 22 (2003 Session)	Constitutional amendment delineating how lottery revenues are to be spent (companion to SQ 705).	Scheduled for vote on November 2, 2004
707	SJR 12 (2003 Session)	Constitutional amendment allowing local governments to pledge apportioned tax increment revenue beyond a current fiscal year toward the repayment of indebtedness.	Scheduled for vote on November 2, 2004
708	HB 1249 (2003 Session)	Constitutional amendment regarding access to the Constitutional Reserve Fund.	Scheduled for vote on November 2, 2004
709	Referendum 23	Voting to decide whether the provisions of SB 553 - State-Tribal Gaming Act - (2004) should go into effect.	Due date for signatures is August 26, 2004
711	HB 2259 (2004 Session)	Constitutional amendment defining marriage as the union of one man and one woman.	Scheduled for vote on November 2, 2004
712	SB 1252 (2004 Session)	Statutes creating the State-Tribal Gaming Act which authorizes electronic games at racetracks and provides a model compact for Indian tribes to enter into to conduct certain gaming on Indian Lands.	Scheduled for vote on November 2, 2004
713	HB 2660 (2004 Session)	Statutes increasing the cigarette and tobacco products tax to provide funding for various health-related programs and providing income tax relief in the areas of capital gains and retirement income	Scheduled for vote on November 2, 2004
714	SJR 30 (2004 Session)	Constitutional amendment raising the maximum qualifying income levels for the valuation freeze for seniors age 65 or older from \$25,000 to the estimated median income for the county or metropolitan statistical area, as set by HUD.	Scheduled for vote on November 2, 2004
715	HJR 1044 (2004 Session)	Constitutional amendment providing an exemption for disabled veterans for the full amount of the fair cash value of the homestead.	Scheduled for vote on November 2, 2004
720	Initiative Petition 375	Statutes creating the Oklahoma Grape and Wine Production Act which includes an assessment on sales of wine and grape juice.	Due date for signatures is September 7, 2004
721	Initiative Petition 376	Constitutional Amendment allowing winemakers to ship wine to consumers.	Due date for signatures is September 7, 2004



# *Index of Highlighted Bills*

---

HB 1133 .....	37	HB 2007 .....	68, 77
HB 1418 .....	51, 69	HB 2042 .....	78
HB 1427 .....	20	HB 2048 .....	75, 76, 79
HB 1437 .....	52	HB 2060 .....	5
HB 1503 .....	11	HB 2070 .....	91
HB 1571 .....	52	HB 2101 .....	72
HB 1577 .....	51	HB 2102 .....	29, 66
HB 1693 .....	93	HB 2109 .....	23
HB 1694 .....	93	HB 2121 .....	20
HB 1695 .....	93	HB 2122 .....	71
HB 1734 .....	75	HB 2124 .....	84
HB 1821 .....	79	HB 2126 .....	53
HB 1823 .....	46	HB 2129 .....	86
HB 1832 .....	56, 71	HB 2132 .....	88
HB 1838 .....	70	HB 2135 .....	11
HB 1839 .....	16	HB 2139 .....	25, 57
HB 1843 .....	6	HB 2140 .....	16
HB 1844 .....	72	HB 2141 .....	17
HB 1851 .....	36, 52	HB 2142 .....	17
HB 1853 .....	24	HB 2145 .....	42
HB 1855 .....	37	HB 2154 .....	27, 65
HB 1858 .....	56	HB 2159 .....	73
HB 1860 .....	92	HB 2164 .....	12
HB 1866 .....	63	HB 2166 .....	20
HB 1867 .....	10, 21, 62	HB 2176 .....	19
HB 1872 .....	30	HB 2186 .....	1
HB 1873 .....	6	HB 2192 .....	3, 84
HB 1876 .....	6	HB 2194 .....	39, 77
HB 1882 .....	92	HB 2195 .....	57, 89
HB 1889 .....	83	HB 2197 .....	77, 89
HB 1890 .....	56, 58, 73, 87	HB 2198 .....	6, 27
HB 1891 .....	48	HB 2199 .....	57
HB 1894 .....	84, 93	HB 2205 .....	27
HB 1896 .....	73	HB 2208 .....	84
HB 1899 .....	71	HB 2213 .....	83
HB 1904 .....	40	HB 2217 .....	1
HB 1994 .....	86	HB 2218 .....	5, 84
HB 2001 .....	53, 58	HB 2223 .....	30
HB 2004 .....	45	HB 2226 .....	40, 47
HB 2005 .....	43	HB 2230 .....	11, 88
HB 2006 .....	43	HB 2247 .....	90

## Index of Highlighted Bills

---

HB 2249	21	HB 2394	1
HB 2250	63	HB 2400	42
HB 2252	31	HB 2402	2
HB 2253	54	HB 2416	8, 62
HB 2259	78	HB 2417	14
HB 2263	27	HB 2419	21
HB 2265	71	HB 2421	83, 85
HB 2270	22	HB 2440	5
HB 2271	31	HB 2444	73
HB 2274	93	HB 2445	30
HB 2277	51	HB 2446	16
HB 2278	4	HB 2451	90
HB 2280	69	HB 2457	89
HB 2282	67	HB 2464	65
HB 2284	6	HB 2469	16
HB 2288	12	HB 2470	15, 28
HB 2294	39	HB 2472	55
HB 2299	63	HB 2474	30
HB 2300	78	HB 2477	37
HB 2305	67	HB 2488	9
HB 2306	67	HB 2494	14
HB 2311	56	HB 2497	9
HB 2314	68	HB 2506	52
HB 2317	59	HB 2526	76
HB 2318	91	HB 2528	76
HB 2321	65, 67	HB 2530	39
HB 2322	15	HB 2536	47
HB 2324	15	HB 2542	91
HB 2327	93	HB 2549	16
HB 2330	48	HB 2550	3
HB 2332	37	HB 2551	93
HB 2336	88	HB 2552	63
HB 2341	91	HB 2554	10, 51
HB 2347	70	HB 2556	77
HB 2351	3, 14	HB 2557	2, 86
HB 2352	71	HB 2561	51
HB 2353	55	HB 2574	3
HB 2355	70	HB 2577	70
HB 2365	29, 56	HB 2600	63
HB 2369	37	HB 2606	29, 56
HB 2372	2, 56, 72, 84	HB 2612	21
HB 2373	13	HB 2615	5
HB 2374	22	HB 2616	5
HB 2375	79	HB 2620	2
HB 2380	21	HB 2624	41
HB 2385	16	HB 2626	20

HB 2627	10	SB 884	73
HB 2630	40	SB 889	54
HB 2639	55	SB 899	66, 73
HB 2643	36, 47	SB 900	51, 59
HB 2660	41, 61, 81	SB 901	58
HB 2661	1, 25, 27	SB 905	55
HB 2662	35	SB 908	40
HB 2663	37, 50	SB 912	38
HB 2664	53	SB 917	42
HB 2666	55, 93	SB 922	39
HB 2667	67	SB 923	41
HB 2668	16	SB 924	41, 53
HB 2674	72	SB 965	45
HB 2677	48	SB 975	53, 68
HB 2680	54	SB 978	63
HB 2681	39	SB 998	45
HB 2693	48	SB 1005	8
HB 2706	2	SB 1007	16
HB 2723	64	SB 1016	53
HB 2724	65	SB 1017	78
HCR 1056	15	SB 1018	51
HCR 1059	42	SB 1020	5
HCR 1068	41	SB 1037	24
HCR 1089	40	SB 1071	38
HJR 1044	58, 84	SB 1074	45
HR 1054	42	SB 1075	43
SB 7	54	SB 1081	86
SB 141	88	SB 1088	14
SB 369	66	SB 1090	27
SB 377	4	SB 1096	24
SB 435	9	SB 1100	45
SB 479	29	SB 1104	49
SB 553	7	SB 1105	44
SB 587	63	SB 1106	35
SB 601	45	SB 1107	6
SB 649	21	SB 1108	53
SB 713	39	SB 1109	78
SB 816	22	SB 1111	75
SB 848	4	SB 1114	39
SB 850	54	SB 1120	87
SB 851	55	SB 1121	83, 85
SB 858	53, 86	SB 1122	91
SB 864	25	SB 1123	57
SB 865	13	SB 1129	37
SB 868	50	SB 1134	36, 46
SB 883	66, 73	SB 1135	51

## Index of Highlighted Bills

---

SB 1136	45, 58	SB 1288	9
SB 1137	69	SB 1295	57
SB 1140	52	SB 1300	1
SB 1144	52	SB 1312	10, 59
SB 1146	37, 57	SB 1317	4
SB 1152	33	SB 1340	76
SB 1153	45	SB 1342	58
SB 1155	70	SB 1345	47
SB 1160	52	SB 1346	49
SB 1162	52	SB 1347	53
SB 1163	2	SB 1363	53, 86
SB 1164	21	SB 1374	24
SB 1168	21	SB 1381	10
SB 1169	51	SB 1382	84
SB 1172	20	SB 1383	83
SB 1176	14	SB 1384	48
SB 1190	24	SB 1385	44
SB 1203	47	SB 1389	47
SB 1204	1	SB 1394	23
SB 1206	89	SB 1397	24
SB 1207	36	SB 1399	32
SB 1208	70	SB 1402	22, 77
SB 1210	77	SB 1405	54
SB 1211	10	SB 1407	72
SB 1212	3	SB 1410	71
SB 1220	31	SB 1411	16
SB 1224	73, 79	SB 1419	57, 73
SB 1226	47	SB 1422	48
SB 1227	45, 58	SB 1430	27
SB 1232	46	SB 1434	47
SB 1234	22	SB 1447	22
SB 1252	7	SB 1466	92
SB 1253	86	SB 1471	23
SB 1254	58, 84	SB 1478	75, 84
SB 1256	10, 62	SB 1483	16
SB 1259	91	SB 1486	23
SB 1261	48	SB 1488	10
SB 1263	66	SB 1489	54
SB 1267	28	SB 1490	4, 38
SB 1268	53	SB 1495	2
SB 1269	45	SB 1502	32
SB 1271	42	SB 1503	22
SB 1272	36	SB 1507	54
SB 1275	28	SB 1516	86
SB 1280	77	SB 1522	67
SB 1284	90	SB 1526	20

SB 1529	9, 55
SB 1537	89
SB 1539	73
SB 1543	10, 72
SB 1546	63
SB 1547	64
SB 1554	62
SB 1556	85
SB 1558	9
SB 1561	50
SB 1565	11
SB 1569	66
SB 1574	4
SB 1578	68
SB 1580	44
SB 1582	67
SB 1583	32
SB 1589	73
SB 1617	92
SB 1618	29
SB 1622	65
SB 1627	36, 68
SCR 39	41
SCR 40	92
SCR 41	41
SCR 54	41
SCR 64	41
SCR 65	41
SCR 66	6
SCR 67	41
SCR 70	41
SCR 71	41
SCR 73	4
SCR 74	90
SCR 76	92
SCR 79	41, 62
SCR 80	41, 62
SCR 82	86
SJR 30	38, 77, 84
SJR 41	3, 54
SJR 42	14
SJR 48	24, 79
SJR 54	14, 71