

Highlights of Legislation

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and the First Extraordinary Session
of the 50th Oklahoma Legislature

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Preface and Acknowledgments

The primary purpose of *Highlights* is to provide an overview of the significant substantive legislation enacted during the 2005 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 Committee Research Staff, which may be found on the House of Representatives' home page on the Internet at:

www.okhouse.gov

This document may also be found at the same website.

During the First Session of the 50th Legislature, 1,620 measures and joint resolutions were introduced, of which 482 were enacted into law. The Governor vetoed ten bills and line-item vetoed two additional bills. None of these vetoes were overridden by the Legislature. The historical context of this data is shown in Appendices 2 and 3 of this report.

Assistance for this project was provided by the Committee Staff - Legal, the Office of Budget and Performance Review, Arlene Bayne and Mary Alexander of the Engrossing and Enrolling Office, and Nancy Lutes of the Support Staff. The document was edited by Dante Giancola, Marcia Goff, Arnella Hendricks, Jason Reese, and Brad Wolgamott.

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Explanatory Notes

The following pages provide a summary of the Oklahoma Legislature's substantive work during the 2005 regular session and are organized alphabetically by general topic. A detailed review of the FY-06 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.

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-06 appropriations.

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Aerospace and Technology

HB 1862 changes the way state agencies purchase new hardware and software. The bill increases the price limit at which agencies can buy new hardware or software without Office of State Finance approval from \$2,500 to \$25,000. Additionally, the measure requires vendors providing software exclusively for state use, whether developed or modified specifically for the state, to provide the purchasing agency with the software's source code. [See also page 34.]

HB 1577 expands the sales tax exemption for aircraft repair facilities. The expanded exemption will save the industry approximately \$391,000, according to Oklahoma Tax Commission forecasts.

Agriculture and Rural Development

The Legislature considered an array of issues, ranging from the duties of the Department of Agriculture, Food, and Forestry in the administration of certain environmental laws to new procedures for dealing with dangerous bees and new guidelines for the prescribing of animal drugs.

HB 1467 bill allows the Department of Agriculture, Food, and Forestry to implement federal regulations and to obtain authorization to implement federal Clean Water Act programs that affect agriculture environmental issues. The bill will decrease many of the compliance and

permitting issues faced by agricultural operations in the state by allowing them to deal primarily with the department, rather than both the department and federal agencies. The bill also creates the Oklahoma Agriculture Environmental Permitting Act, which provides requirements and the outline of department rules for issuing certain permits, including public participation. (See also page 29.)

HB 1809 modifies the Oklahoma Apiary Act, providing procedures for dealing with feral and Africanized bees (so-called killer bees). The bill was introduced after a bee attack in southwest Oklahoma led state officials to realize they lacked policies and procedures for dealing with such circumstances. Additionally, officials were concerned that, without proper rules and regulations in place, more Oklahomans might be put in jeopardy. The bill outlines the Department of Agriculture, Food, and Forestry's role in the permitting of apiaries, their transport, inspection and quarantine, if necessary.

Regulation of seeds will be governed solely by the state under the terms of **HB 1471**. The bill prohibits counties and municipalities, as well as other political subdivisions, from enacting rules or laws related to the registration, labeling, sales, transportation, distribution, and notification of use of seeds, as well as other components of regulation that might be envisioned.

The distribution of agricultural prescriptions was clarified under the terms of **SB 412**. The bill allows the distribution of prescriptions by distributors and wholesalers directly to agricultural animal owners where a valid veterinarian-client-patient relationship exists before the prescription is dispensed. These standards are expected to help animal owners maintain the health of their animals while controlling costs.

HB 1334 set the annual renewal application deadline for veterinarian technicians as July 1 of each year, thus aligning the renewal period with that of licensed veterinarians. Other provisions of the bill allow for the practice of animal massage therapy upon referral by a veterinarian. The measure also reduces the amount of time a veterinarian is required to care for an abandoned animal.

HB 1229 modifies provisions of the Boll Weevil Eradication Act. Under the terms of the measure, the Boll Weevil Eradication Organization is required to make its records available to the State Auditor and Inspector only when it issues bonds. Otherwise, it must submit a report itemizing all income and expenditures and all activities to the Commissioner of Agriculture no later than 45 days after the last day of the fiscal year. The bill also modifies the reporting requirement for cotton growers to annually certify the number of acres in the program by requiring that the land's legal description and Farm Services Agency (FSA) numbers of the U.S. Department of Agriculture be included. The record-keeping changes also require that records be maintained for two years and be available for inspection. The measure also adds a penalty of not less than \$100 and not more than \$10,000 for violations of the act. [See also page 31.]

An 18-member panel made up of legislators and other state officials will examine issues related to financing business development in rural Oklahoma under the terms of **SB 424**, which creates the Oklahoma Rural Task Force to Access Capital and Financing for Business Development. The panel is to issue its report by the end of 2005.

Amusements and Sports

As a result of the passage of SQ 712 in November of 2004, which legalized certain gaming machines at race tracks and created the State-Tribal Gaming Act, legislators addressed commercial issues related to the newly legalized amusements. **SB 556** legalizes the manufacturing, exhibition, or storage of machines and devices capable of being used to conduct gaming as authorized by the State-Tribal Gaming Act or other gaming that may be lawfully conducted by an Indian tribe in Oklahoma. The measure will allow for growth of new industry in Oklahoma.

A request from the Oklahoma Professional Boxing Commission authorizes the commission to set the salary of the administrator of professional boxing licenses and increases the amount that can be retained in the professional boxing licensing revolving fund from \$200,000 to \$300,000. **HB 1774** requires promoters, for professional boxing contests or professional exhibitions at which admission tickets are not sold, to remit to the commission an assessment of 5 percent of the revenues received by the promoter for the event. The bill repeals a section relating to closed-circuit telecast permits.

Banking and Finance

The State Banking Commissioner requested **HB 1234**, a “cleanup” bill that updates statutory language. The bill also allows the commissioner to appoint assistant deputy commissioners and increases the allowable maximum bank examiner’s fees from \$50 to \$75.

HB 1245 requires the governing body of any county, municipality, or school district that provides voluntary payroll deductions to provide the same to any credit union, bank, or savings association having an office in Oklahoma and which has a minimum participation of 20 percent of the employees of the county, municipality, or school district. [See also page 33.]

SB 419 and **SB 835** are two bills relating to special liens. The purpose of the bills was to help alleviate a problem some were having in getting their farm equipment returned to them after repairs had been made. The bills allow those who furnish materials, labor, or storage to maintain a lien on the equipment even after it is released to the owner. [See also page 11.]

SB 946 raises the maximum loan amount requiring board approval for the credit union director, members of the credit committee, or credit manager from \$25,000 to \$60,000.

Business and Economic Development

Business

Oklahoma legislators tackled a number of issues related to labor relations, intoxicating liquors, and various issues related to commerce.

Labor Relations

A measure passed in the 2005 session helps clarify language relating to bona fide disagreements and wage requirements in the state's labor law. **SB 722** defines *bona fide disagreement* as an honest and sincere belief based on a dispute of a determinative fact that is supported by relevant evidence. The new language strengthens the requirement regarding wage claim forms and the wages an employer must submit to the employee that the employer concedes is due.

Under **SB 763**, the Oklahoma Employment Security Commission is now allowed to combine merit rating accounts, annual payrolls, and contribution rates into one account for two or more employers who share common ownership. It also allows the release of employer tax and benefit claim information to the Oklahoma Health Care Authority for use in determining eligibility for a program that will provide subsidies for health insurance premiums for employers, employees, self-employed, and unemployed persons.

Intoxicating Liquors

SB applies only to businesses whose sales predominantly come from the sale of 3.2 beer and who allow individuals under the age of 21 on the premises. The measure prohibits these businesses from selling low-point beer at a price lower than the price regularly charged during the same calendar week and prohibits charging a fixed price for an unlimited number of drinks. There is a misdemeanor charge and a maximum \$500 fine for each offense for violation of the new law. The measure is intended to eliminate *drown nights* and the associated problems of binge drinking and driving while under the influence of alcohol. [See also page 42.]

Other measures enacted relate to administration of the Oklahoma Alcoholic Beverage Control Act:

- ▶ **HB 1656** amends the definition of *retail container for spirits and wines* by changing the restrictions on the container size for such beverages sold by package stores to an original package of any capacity approved by the United States Bureau of Alcohol, Tobacco, and Firearms;
- ▶ **HB 1903** provides for a charitable wine event license and allows licensees to conduct a charitable wine event consisting of one or more wine tasting events, a wine dinner event, or a wine auction. Wine used in or served at a charitable wine event could be purchased by the charitable organization or donated by any person or entity. The charitable wine event license is issued for a maximum of four days. The charitable organization holding a charitable wine event license would not be required to obtain a special event license; and
- ▶ **SB 651** lifts the 20-year ban on liquor sales on Veterans Day.

A wide variety of consumer protection issues were addressed this session. The deaths of Oklahoma residents trapped in house fires resulted in the passage of **HB 1278**. The new law requires that burglar bars installed in Oklahoma homes after November 1, 2005, be designed to open without a key, extra tools, or excessive force when pressure is exerted from the inside, allowing residents and emergency personnel to escape.

Oklahoma consumers will have up to five years to redeem gift cards under the provisions of **HB 1986**, which creates the Gift Certificate and Gift Card Disclosure Act. The bill eliminates loopholes for fine print expiration dates, so merchants will have to clearly advertise the expiration date or otherwise honor the gift card purchase. The measure makes it illegal for a person or entity to sell a gift certificate that contains an expiration date and a service fee, including a service fee for dormancy, only providing some exceptions. Any gift card or certificate sold after November 1, 2005, would be redeemable for cash at its face value or subject to replacement with a new gift certificate at no cost to the consumer. The requirements would not apply when the expiration date appears in capital letters in at least 10-point type on the front of gift certificates or gift cards.

Telephone solicitations for charitable causes were addressed in **SB 929**. The measure requires any fraternal or membership organization not based in this state that solicits contributions by telephone, or contracts with professional fund-raisers to solicit contributions, must have at least one member or employee of the fraternal or membership organization residing within the county where the call is received.

SB 616 authorizes a price differential on credit sales under certain conditions and by certain sellers conducting business electronically, if the price charged for a service that is paid for with an open-end credit card account is not greater than the price charged for the same service if paid for with currency or other similar means accepted with the same mode of transmission.

Motor Vehicles

Sellers of manufactured homes are now required to be licensed by the Used Motor Vehicle and Parts Commission under the provisions of **HB 1609**. The measure also authorizes a holder of a

lien on a manufactured home to sell, exchange, or transfer by lease-purchase a repossessed manufactured home without being required to be licensed. If the lien holder contracts with a person or company to sell the repossessed home and the seller is not an employee, officer, or principal of the lien holder, a license is required.

SB 245 allows the Oklahoma Motor Vehicle Commission to deny, suspend, or revoke the license of any manufacturer that increases the price of a new vehicle after an agreement between a dealer and a manufacturer is reached. The measure also allows the commission to assess a fine of up to \$10,000 for violations of the agreement.

HB 1584 allows the off-premise sale of new recreational vehicles on Sundays provided the dealer and sponsoring entity obtain permits from the Motor Vehicle Commission.

Liens

SB 419 provides that a person who performs work on any farm equipment or installs farm equipment on personal property or who tows or stores personal property has a first and prior lien on the personal property. The measure states that a lien granted with respect to farm equipment may be enforced and foreclosed in the same manner as security agreements pursuant to the Uniform Commercial Code, and any legal action taken by or on behalf of a lien claimant to enforce or foreclose such a lien filed in the office of the county clerk must be commenced within one year of the date the lien was filed; otherwise the lien is void. After five years from the date the lien was filed, the county clerk of the county where the lien is filed must remove the lien from the records. [See also page 7.]

SB 835 makes special liens on personal property, other than farm equipment, subordinate to any perfected security interest unless certain conditions are met. The measure prohibits storage charges on personal property from being assessed until notice of the lien is properly given. [See also page 7.]

Professions and Occupations

Legislators addressed several matters relating to the real estate industry and other professions related to that industry.

Two measures impact the Oklahoma Real Estate Commission. **HB 1510** increases education requirements from 45 hours to 90 hours for real estate brokers, broker associates, and provisional sales associates. **HB 1608** authorizes the Real Estate Commission to enter into contracts and agreements for the payment of food and other reasonable expenses pursuant to the State Travel Reimbursement Act necessary to host, conduct, or participate in meetings or training sessions. The measure also grants the commission the power to conduct an annual performance review of its Executive Director and submit the report to the Legislature.

A bill amending the Oklahoma Real Estate License Code drew national attention from the U.S. Justice Department. **SB 673** clarifies current state law requiring all real estate professionals to present offers and counteroffers in a timely manner. The measure states that the duties outlined

in the act must be performed by a transaction broker if the duties relate to the transaction and occur while the broker relationship still exists, except as otherwise provided. It allows charges for each duty or other services provided, if the seller is notified in writing what can be expected in charges at the end of a transaction. If a broker offers what is referred to as “menu-driven” services, the measure requires a written description of what responsibilities will not be fulfilled by the broker and requires that the seller be informed that the broker for the other party is not required to provide the services.

HB 1581 amends the Mortgage Broker Licensure Act by adding a new definition of *mortgage banker* which is defined as any person who accepts an application for a mortgage loan or makes a mortgage loan and fulfills one of the following criteria:

- Is an authorized mortgagee with endorsement from the U.S. Department of Housing and Urban Development;
- Closes mortgage loans in its corporate name and funds a minimum of 80 percent of the total annual numeric volume of mortgage loans it originates for sale into the secondary mortgage market with its own corporate funds; or
- Is approved as a seller or service by the Federal National Mortgage Association, Federal Home Loan Mortgage Association, or the Government National Mortgage Association.

The definition of *land surveyor* is amended in **HB 1607** to include a list of specific practices that a land surveyor may undertake including the subdivision of land parcels into smaller parcels and the preparation of the descriptions. The measure also requires that a licensed land surveyor be a graduate of a surveying program of at least two years, accredited by an accrediting body approved by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors.

HB 1511 amends the State Architectural Act by modifying the definition of *landscape architecture* to include planning and arranging of land and siting of improvements.

Another measure, **SB 413**, applies the Good Samaritan Act to licensed architects and professional engineers to allow them to perform duties voluntarily in the event of a disaster without fear of litigation. The bill provides immunity from liability for licensed architects and professional engineers who voluntarily provide architectural, structural, electrical, mechanical, or other design professional services related to a declared emergency caused by a natural disaster or other catastrophic event. [See also page 45.]

To encourage efficiency in residential consumption of energy, a new tax credit can be provided to contractors. **SB 610** creates a tax credit for expenditures incurred by a contractor during the construction of an energy-efficient residence that is 2,000 square feet or less. [See also page 55]

Workers' Compensation

Hours before the close of the Legislature's regular session, the Governor called for an extraordinary session in order to complete work on a sweeping reform of the state's workers' compensation system. **SB 1x**, enacted a week later, reforms nearly every aspect of the system, including the amount of benefits, the provision of medical care, and the definition of compensable injuries.

The bill, in addition to general improvements in the system that are intended to hasten the provision of medical care and the award of benefits to injured employees, increases various benefits. For example, death benefits for spouses are increased from \$20,000 to \$100,000 and for surviving children from \$5,000 to \$25,000, while continuing disability benefits for surviving spouses are also increased. In addition, benefits for disfigurement are substantially increased.

The bill also reforms how employers provide medical care for injured employees. First, in order to encourage more efficient and effective use of medical services, the legislation simplifies and improves the process for establishing and enrolling employees in Certified Workplace Medical Plans, networks of physicians and other health care professionals that provide care to injured employees. For employers who choose not to use these plans, the bill establishes a new process for providing medical care to injured employees. Employers, as they do currently, will provide employees with a physician when they are injured. If the employee is dissatisfied with their doctor, they can apply for a change. Both the employer and the employee will submit a list of three physicians, and, if there is agreement on a physician, that physician will be appointed. If there is no agreement, a judge will select a physician from the list of independent medical examiners. Finally, the legislation reduces health care costs by providing a new fee schedule for physicians and including various reforms that should increase the efficiency of health care delivery, including improved utilization controls and the encouragement of the use of generic drugs.

The legislation also reforms the process of litigating workers' compensation claims. The legal definition of compensable injury is tightened and better identifies truly responsible employers. For example, the bill provides specific definitions of and limits on claims caused by aging, pre-existing heart conditions, and cumulative injuries. The bill also strengthens provisions encouraging mediation and counseling before claims are brought to court. Once in court, the bill provides that, instead of each party offering the testimony of its own doctor, forcing the court to choose between biased analyses, the court will appoint an independent medical examiner to fairly evaluate the injured employee. Finally, the bill provides incentives for parties to settle by limiting attorney fees to a percentage of the money awarded over a qualified settlement offer.

Finally, the bill includes market and regulatory reforms that should reduce the cost of the workers' compensation system through competition and sound management. The bill provides for a "use and file" system of setting rates. Under this system, an insurer may enter the market without requiring previous regulatory approval. With regard to management, the bill provides for specific incentives for increasing workplace safety and for making arrangements for injured employees to return to work with appropriate duties.

Economic Development

The 2005 Legislature considered a number of measures concerning business and economic development ranging from modification of current statutes to creating new law, specifically incentives to foster business growth in Oklahoma.

HB 1810 amends the Quality Jobs Program Act to include flight training services among those that qualify for benefits listed in current statute.

SB 363 creates the Oklahoma Biofuels Development Act. The new law encourages the processing, market development, promotion, distribution, and research of fuels derived from grain, ethanol or ethanol components, biodiesel, biobased lubricants, coproducts, or byproducts thereof. [See also pages 27 and 32.]

Insurance

In the area of insurance legislation, lawmakers addressed issues related to the high cost of health insurance, as well as discount medical plans and mine subsidence coverage.

A measure designed to assist individuals with the high cost of health care is **HB 1848**. The bill will allow individuals or employers, on behalf of eligible employees who are covered by a high-deductible health plan to contribute to a tax-exempt health savings account. Funds from the account can be used to pay the qualified medical expenses of the individual or their dependents. In the case of an individual policy, a *high deductible* is defined as a plan with an annual deductible of not less than \$1,000, and the sum of the deductible and other out-of-pocket expenses does not exceed \$5,000. In the case of a family policy, a *high deductible* is defined as a plan with an annual deductible of not less than \$2,000, and the sum of the deductible and other out-of-pocket expenses does not exceed \$10,000. The amount contributed each year to the savings account cannot exceed the amount of the plan's deductible, or \$2,600 for an individual policy or \$5,150 for a family policy.

A consumer protection measure, **SB 729**, requires discount medical plan organizations to register with the Insurance Department and gives the department oversight responsibility and the authority to deny registration to an applicant or refuse to renew, suspend, or revoke the registration of an organization. The measure also provides that discount medical plans make certain written disclosures, including that:

- The plan is not insurance;
- The plan provides discounts with certain health care providers for medical services; and
- The plan member is responsible for the cost of all health care services but will receive a discount from providers who have contracted with the discount plan organization.

To help protect residential and commercial property owners from damage caused by lateral or vertical ground movement related to underground mines, the Legislature passed the Oklahoma Subsidence Insurance Act. **SB 321** allows insurers, beginning January 1, 2006, to offer mine

subsidence coverage upon request by the policy holder. The measure provides that the Insurance Commissioner may exempt policies issued in certain counties from the provisions of the act if the commissioner believes mine subsidence coverage is not necessary in that area. Finally, the bill provides that an insurer can refuse to provide coverage on a mine subsidence-damaged property until the damage is repaired.

In other measures related to insurance:

- ▶ **HB 1535** authorizes the Anti-Fraud Unit of the Insurance Department to hire investigators who meet the requirements of the Council on Law Enforcement Education and Training to serve as peace officers. The bill also increases the aggregate amount of a fidelity bond or fidelity insurance that an HMO is required to maintain on employees who invest funds for the organization from \$5,000 to \$5 million; and
- ▶ **HB 1626** creates the Surgical Patient Choice Task Force to make recommendations to the Governor and Legislature on ways to improve patient access to rural hospitals, specialty hospitals, and ambulatory surgical centers.

Corrections and Criminal Justice

Corrections

Concerns about the responsibility of medical payments when a person comes into contact with a peace officer led to the enactment of **SB 636** which distinguishes the differences between emergency medical treatment and routine medical treatment. Under provisions of the bill, any person otherwise subject to arrest, who needs emergency medical treatment for an injury or condition that threatens the life or loss of limb must be taken to a medical facility or hospital when the person comes into contact with a peace officer. The responsibilities of any costs for emergency medical treatment are borne by the injured person.

HB 1267 authorizes the Department of Corrections to respond with intermediate sanctions for technical violations of probation (e.g. failure to pay probation fees, failure to provide current address, etc.). Sanctions that may be imposed include short-term jail or lockup, day treatment, community service, fines, and curfews. The bill requires notification of the technical violation to the offender and establishes a hearing procedure with a hearing officer. Administrative hearings and sanctions imposed may be appealed to the district court. The intermediate sanction process applies only to those persons who are supervised by the Department of Corrections pursuant to a deferred or suspended sentence. Supervision fees traditionally collected by the Department of Corrections are now to be collected by the court clerk.

Two measures were enacted to increase the safety of communities which have correctional facilities. **HB 1944** prohibits the establishment of any transitional living facility near schools and neighborhoods. **SB 824** requires private prisons to establish emergency plans and mutual aid agreements with local law enforcement and the Department of Corrections.

Criminal Justice

A main focus of the Legislature this session was the protection of citizens from sexual predators. Other areas of concern were victims rights, drug courts, and the creation of several new criminal penalties.

Legislative reaction to horrific cases of child abductions by sex offenders across the country led to the enactment of **SB 631**. Titled Jessica Lunsford's Law, after a young Florida girl who was kidnapped and killed by a registered sex offender, the measure requires sex offenders to be placed on electronic monitoring for the duration of their registration period. Sex offenders other than habitual or aggravated offenders are required to register with local law enforcement and the Department of Corrections for a period of ten years after release from prison. Habitual or aggravated offenders, those who commit specific sex crimes or have more than one conviction for certain sex crimes, are required to register for life. In a related measure, the Pretrial Release Act is amended by **HB 1242** to allow courts to place a defendant on an electronic monitoring device as a condition of pretrial release. The court may also require the defendant to pay a fee for the electronic monitoring device.

The use of DNA evidence to solve crimes took a significant step forward with the passage of **SB 646**. The measure requires all persons convicted of a felony offense to submit a DNA profile to be placed in the Oklahoma State Bureau of Investigation's Combined DNA Index System

(CODIS). Having all felons profiled in the CODIS database is another investigative tool which the bureau can use in its quest to solve crimes. Another bill that is intended to assist in preventing and solving sex crimes is **SB 513** which requires computer technicians to report to law enforcement when child pornography is found on computers.

Reacting to an event in which an AMBER alert was issued based on false information, the Legislature enacted **HB 1294**. The bill hopes to prevent future false or fraudulent alerts, which result in hundreds of investigative hours expended by law enforcement, by establishing a misdemeanor punishment of up to one year in the county jail, a \$1,000 fine, or both fine and imprisonment, for a person convicted of knowingly filing a false police report regarding a missing child.

The success of drug courts in effectively reducing the recidivism of drug offenders through treatment and court intervention led to the enactment of **HB 1405**, allowing for the creation of juvenile drug courts. The measure establishes guidelines to be used by courts when determining a juvenile's participation in the program. The juvenile must not be statutorily prohibited from participation by their previous criminal history, must have parents who will actively support the participation of the juvenile in the program, and the juvenile and parents must consent to treatment as part of the program, including the possibility of residential treatment. The juvenile must also stipulate to the facts of the case. Additionally, the district attorney can object to a juvenile's participation in a drug court program at the initial hearing. Once accepted into the juvenile drug court program, the juvenile will receive appropriate treatment as determined by the written plan of treatment prepared by the treatment staff of the court. Participation in a drug court program must last at least six months, but not more than two years, and may include a period of supervision from six months to one year following completion of the treatment portion of the program. All costs associated with the treatment of the juvenile are to be paid by the juvenile and the person responsible for the welfare of the juvenile. Upon successful completion of the drug court program, all charges against the juvenile are dismissed. [See also page 41.]

The Legislature also focused on assisting the victims of crime this session. **SB 236** creates the Victims Services Unit within the Office of the Attorney General. The services provided for victims were previously housed within the Department of Mental Health and Substance Abuse Services. It is hoped that the transfer of these services will enhance the visibility of the programs and lead to increased use by victims. [See also page 41.] Another measure, **SB 715**, increases the availability of counseling under the Crime Victims Compensation Act from two years to three years for family members of homicide victims. The measure also increases the amount of awards for counseling from \$500 to a maximum of \$3,000 and increases burial expense reimbursement from \$5,000 to \$6,000. **HB 1698** creates a new law prohibiting court clerks from posting on court-controlled websites any documents that contain a charge for certain crimes which would normally contain the name or other identifiable information about the victim. [See also page 36.] A final measure pertaining to victims of crime, **HB 1804**, updates the existing stalking and harassment laws to protect battered women and victims of domestic abuse from harassment through modern telecommunication means such as paging, instant messaging, and email.

Increasing the probability of capturing and convicting those who prey on society was a main impetus for **HB 1013**. The measure increases the statute of limitations for sex crimes from 7 to 12 years after the discovery of the crime.

The ability of prosecutors to file negligent homicide charges is addressed by **SB 703**. The measure removes language that required a person be at least 16 years of age to be charged with negligent homicide due to a motor vehicle accident. Now, age is no longer an element of the offense.

Reacting to recent events in which cemetery markers were damaged, **HB 1379** increases the fine for damaging a cemetery or tomb from \$50 to \$1,000 and up to 90 days in county jail if damage is less than \$5,000 or fine of up to \$2,500 and six months in county jail if damage is more than \$5,000. The bill also requires any person convicted of the crime to perform 120 or 240 hours of community service as determined by the amount of damage.

Education

Several pieces of legislation this session incorporate not only higher standards for students but also fulfill the promise of better teacher pay. Another concern regarding education legislation, safe and healthy children, led to the creation of the Oklahoma Kids Fitness Challenge Act and the Dustin Rhodes and Lindsay Steed CPR Training Act, as well as the amendment of the Healthy and Fit Kids Act of 2004. The legislative session also saw the passage of a comprehensive capital bond issue for higher education.

Common Education

Teachers

HB 1020 funds the budgetary priorities for Common Education and fulfills the promise of increased teachers' salaries. Funding in this measure includes:

- \$57.8 million for FY-06 teacher salaries;
- \$42.8 million for teachers' health care benefits;
- \$25 million in ad valorem reimbursement;
- \$21.6 million for voluntary kindergarten and math remediation;
- \$800,000 for STAR pilot program to track students and reduce paperwork; and
- \$500,000 for the Academic Achievement Awards program.

Another appropriations bill, **SB 60**, provides \$11.4 million from the Education Reform Revolving Fund to provide for the teacher salary increase authorized for FY-05.

HB 1235 provides a new standard for selecting mentor teachers. Principals will select mentor teachers from a list of volunteers to provide guidance to a resident teacher, and, when possible, the mentor teacher will have completed a mentor teacher professional development program. The mentor teacher cannot be a mentor to more than one resident teacher at a time and when possible will have a similar certification as the resident teacher.

Students

The Achieving Classroom Excellence Act of 2005 created in **SB 982** calls for The State Board of Education to establish the Oklahoma Mathematics Improvement Program to enhance student mastery of the mathematics portion of the Priority Academic Student Skills (PASS). This measure authorizes a \$1,000 stipend for sixth, seventh, and eighth grade public school teachers who master the subject matter content and process skills through completion of the professional development program. Teachers can complete this professional development program through

mathematics academies consisting of a minimum of 40 contact hours of training and 20 contact hours of follow-up training that includes lesson studies with identified mathematics specialists on-site and through video technology. The measure also launches the Achieving Classroom Excellence Task Force that will study the testing requirements for eighth grade and high school students and hold public hearings. The task force is to make recommendations regarding:

- Subjects to be included for demonstration of mastery;
- Additional end-of-instruction tests to be developed;
- Benchmarks and cut scores for assessments;
- Optional methods to demonstrate subject matter mastery;
- Alternatives for English language learners and special needs students;
- Exceptions that may be needed;
- Intervention strategies;
- Remediation options;
- Consequences for students;
- Review of other states' experiences;
- Development of an action plan to implement recommendations;
- Information to provide to teachers, parents, and students that will emphasize this initiative as a tool to improve student success; and
- Funding necessary to implement recommendations.

This measure also requires districts to offer full-day kindergarten by the school year 2011-2012, removes funding contingencies, authorizes districts to satisfy the full-day kindergarten requirement by intra-district transfer, and exempts districts from the requirement if bonded indebtedness exceeded 85 percent of the maximum allowable at any time within the previous five years.

HB 1621 amends the Reading Sufficiency Act. Under the provisions of the act, if an educator determines that a third-grade student is not reading at the appropriate level, the parents or guardians are notified of the reading level of the student, the program of reading instruction, and the potential need for the student to participate in a summer academy.

In addition, **SB 966** expands the Reading Sufficiency Act, establishing a goal for Oklahoma schools to comply with the federal No Child Left Behind Act and have all third-grade students reading at or above grade level by the end of their third-grade year. This measure requires the State Board of Education and the Oklahoma Commission for Teacher Preparation, in

collaboration with the Oklahoma State Regents for Higher Education, to ensure that all teachers of early childhood education, elementary education, and special education are provided quality training in intervention, instruction, and remediation strategies in order to meet the needs of students in kindergarten through third grade who are determined to be at risk for reading difficulties.

HB 1992 directs the State Board of Education to develop an Academic Achievement Award Program. The program includes two awards - the top score award and the top growth award. Each of the awards is given to the top school site in each of five groups of schools based on Academic Performance Index (API) scores for the year. Accompanying these recognitions, monetary awards will be granted for all qualified employees at each of the schools.

A priority of the Legislature this session was children's health and physical fitness. **SB 265** requires school districts to restrict access to foods of minimal nutritional value to elementary students except on special occasions. It also requires middle and junior high students to have access to foods of minimal nutritional value only after school, at evening events, and on special occasions. The measure further mandates school districts to provide high school students with incentives meant to encourage healthy food choices as options. [See also page 40.] **SB 312** calls for the State Board of Education to require, as a condition of accreditation, students in kindergarten through fifth grade be provided instruction in physical education or exercise programs for a minimum of 60 minutes a week. Finally, the measure requires this instruction be aligned with the Priority Academic Student Skills (PASS) competencies. [See also page 40.]

HB 1647 creates the Oklahoma Kids Fitness Challenge Act which requires the State Board of Education to launch a physical activity program for public school students in the fifth grade. The program includes activities such as 25 sit-ups in two minutes three times a week and walking a minimum of 25 miles per week. The program, which is optional for districts to implement, incorporates the fitness challenges adopted by the President's Council on Physical Fitness and Sports. In regard to the safety of children in public schools, **SB 618** requires districts to ensure that at least two staff members are certified in CPR and the Heimlich maneuver.

Keeping our children safe from those charged with a felony or violent misdemeanor is the purpose of **SB 700**. This bill directs a district attorney to notify the superintendent of a school district if an employee of the school district or an employee of a company which provides services on school property is found to have been charged with a felony or violent misdemeanor.

HB 1600 allows courses offered by nationally accredited supplemental education organizations to be counted as academic credit toward meeting the requirements for high school graduation.

Administration

HB 1444 directs the State Board of Education to study ways to reduce and simplify data and information collected from school districts and personnel. It authorizes the board to hire a consultant, provided funding is available. The board is to complete the findings and recommendations of the study and file a final report with the Governor, Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

SB 668 requires school district treasurers and encumbrance clerks to acquire 12 hours of instruction on school finance, the laws of this state, accounting, ethics, and the duties of their respective occupations. In addition, it expands certain reimbursement for school board members, removes some limits for travel reimbursement, and specifies the insurance school boards may obtain.

HB 1021 creates the Task Force on School District Administrative Efficiency and the Student Tracking and Reporting (STAR) Pilot Program. These studies will review how administration and operations may be more efficient through administrative reorganization and consolidation and provide for the development and implementation of a horizontal school district and school site level student data management and reporting system based on the Schools Interoperability Framework (SIF) industry open-standard. A STAR Coordinating Committee will be responsible for selecting five public school districts to participate in the pilot program.

HB 1457 changes the selection process for members of the professional development committee from a bargaining agent-created list to a teacher-submitted list. It also requires that teachers complete a minimum number of professional development points each year in order to maintain employment.

HB 1837 allows a local board of education to enter into written contracts with someone who is currently working toward a certification or license to teach. It stipulates that until the license or certification is obtained, the person may not teach in a classroom, and, if the certification or license is not obtained by the first day of the school year, the contract will be terminated.

Two bills pertain to the administration of school funds. Under the provisions of **SB 326**, schools are prevented from transferring any funds, either directly or indirectly, to a local foundation without receiving documentation of payment or reimbursement. **SB 531** modifies the allowable amount of general funds that a school may carry over into the next fiscal year. This will allow schools to pay their obligations while waiting for their disbursement from the board of education.

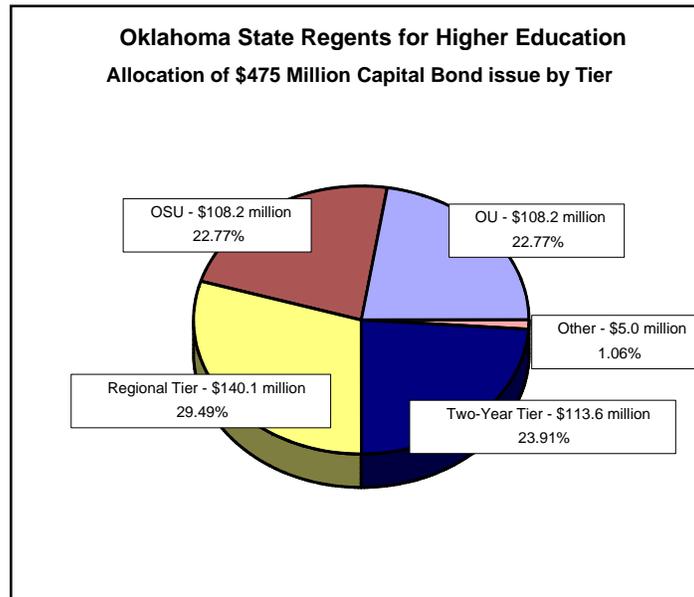
HB 1627 specifies that the legal notice for regular or special elections must be published in the county in which the school district administrative office is located.

Higher Education

The growing need for an influx of dollars to meet the needs of education, including much needed infrastructure improvement to allow for new construction, renovation, and repairs for Oklahoma colleges and universities, is of critical concern for legislators. **HB 1185** transfers \$38,032,209 from the Oklahoma Tuition Revolving Fund for implementation of such projects by the Oklahoma State Regents for Higher Education.

HB 1191 and **SB 745** enact a comprehensive plan to meet the current and future capital needs of higher education. The program consists of a \$475 million bond issue dedicated for projects at each state institution, a \$25 million permanent “bond bank” for regional and two-year institutions, and provisions allowing OU and OSU to obtain their own capital financing. The \$475 million bond issue is divided as shown in the following chart. [See also page 35.]

HB 1506, the Sean Skelley and Shane Gilmore Act, provides a tuition waiver for children of volunteer or paid Emergency Medical Technicians (EMTs) killed in the line of duty.



Energy and Utility Regulation

Energy and Utility Regulation

The most significant energy or utility regulation bill passed by the Legislature was **HB 1910**. This bill will allow electric power companies to come before the Corporation Commission with their plans to build new plants, generation capacity, and transmission lines and request preliminary approval for rate increases to pay for these services. The Corporation Commission must develop administrative rules determining how the commission will hear and approve or disapprove the plans. This must be done before April 1, 2006, so the Legislature can review the new rules.

SB 363 creates the Oklahoma Biofuels Development Act. The act encourages the processing, market development, promotion, distribution, and research of fuels derived from grain, ethanol or ethanol components, biodiesel, biobased lubricants, coproducts, or byproducts to provide:

- Expanded use of Oklahoma agricultural products;
- Efficient and less-polluting energy sources and reserves;
- Development of protein which will be more efficiently stored and marketed to foreign nations;
- Alternative local markets for Oklahoma agricultural products;
- Cooperation with private industry to establish production facilities in Oklahoma;
- Promotion and market development; and
- Sponsorship of research and development of industrial and commercial uses for agriculture.

The bill also creates the Oklahoma Biofuels Development Advisory Committee, which will conduct a systematic review and study of the ethanol and biodiesel industry and study the feasibility of developing and enhancing the industry in Oklahoma. [See also pages 14 and 32.]

HB 1588 relates to taxation of oil and gas wells drilled below 15,000 feet. It exempts producers from the 5 percent gross production tax for deep wells. It caps the amount of refunds made each fiscal year, extends the deadline for drilling wells, and removes deep wells after July 1, 2005, from the \$30 per barrel and \$5 per 1,000 cubic feet price cap. Proponents of the measure say the exemption will encourage producers to expand their exploration. [See also page 54.]

There were two House bills approved relating to 911 emergency telephone systems. **HB 1834** creates the Statewide Nine-One-One Advisory Board. The board's purpose is to oversee the development and operation of emergency 911 systems in the state. Some of the duties of the board are to secure resources for the creation, operation, expansion, and cooperative undertaking of local public safety answering points; secure and direct the distribution of public funds and grants as needed; and facilitate information-sharing among public safety answering points.

HB 1751 amends the Nine-One-One Wireless Emergency Act. The amendment allows wireless companies up to 36 months after collecting fees to develop services to implement 911 services in counties with populations less than 30,000. Companies have only 24 months to implement services in counties with populations greater than 30,000. The bill also allows wireless companies to recover costs associated with designing, developing, and maintaining wireless enhanced 911 services.

SB 19 allows the Department of Mines to determine if an entity or individual has mined without a permit and allows the department to assess fines up to \$10,000. The bill also allows the department to pursue civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order in district court.

SB 238 is an oil and gas bill that changes the amount of administrative fees deposited in the Liquefied Petroleum Gas Fund from 20 percent to 10 percent.

SB 309 is a revenue and tax bill that defines *economically at-risk oil or gas leases* and exempts such leases from payment of a portion of gross production taxes for production during calendar years 2005, 2006, and 2007. The exemption is based on the tax rate in effect at the time. The bill also modifies the apportionment of petroleum excise taxes under certain provisions by allocating a larger percentage to the Interstate Oil Compact Fund of Oklahoma.

Environment and Natural Resources

Changes to environmental laws addressed this session will affect the administration of the Department of Environmental Quality and its board's duties in oversight. **SB 41** decreases from 50 percent to 15 percent the additional fee assessed against a solid waste disposal site whose quarterly return is more than 60 days late. **SB 599** amends the duties of the Environmental Quality Board and the provisions of the Oklahoma Hazardous Waste Management Act by modifying public meeting requirements to allow for public comment and information distribution at regular board meetings and other meetings the board may call. Further amendments delete the requirement for a public forum at four meetings a year and the definition of a qualified interest group which was duplicative and unnecessary. The legislation was a request from the Oklahoma Department of Environmental Quality.

SB 304 amends the Oklahoma Sanitarian and Environmental Specialist Registration Act to allow state employees to perform soil tests to design sewage disposal systems for compensation, but requires that the employee not be officially on work status for the state, as defined by the agency's policy and procedures.

A new law will allow municipalities to distribute municipal sludge according to an approved sludge management plan. The plan authorizes the municipality to award the sludge to any qualified recipient for land application, providing the recipient meets the requirements as outlined for agricultural use of sludge. According to **SB 604**, municipalities may accept monetary bids in selecting qualified recipients for land application of sludge.

Though several pieces of legislation regarding water issues and pollutants were presented this session, few were enacted. **HB 1467** creates the Oklahoma Agriculture Pollutant Discharge Elimination System Act to implement federal National Pollutant Discharge Elimination System requirements. It will assist the Oklahoma Department of Agriculture, Food, and Forestry in obtaining delegation of the federal Clean Water Act programs and issuing permits to the persons or organizations owning or operating facilities regulated within the areas of environmental jurisdiction of the department. The measure exempts any operation requesting permits authorized or permitted prior to April 17, 2002, from the provisions. [See also page 3.]

Falling under the purview of the Oklahoma Water Resources Board, **SB 932** requires that persons who are designated to administer the floodplain requirements of counties, municipalities,

or other agencies previously exempt from the Oklahoma Floodplain Management Act be accredited by the Oklahoma Water Resources Board in the same manner as the board accredits floodplain administrators.

Two major changes to Oklahoma’s environmental laws make extensive revisions to the Oklahoma Waste Tire Recycling Act and the Underground Storage Tank Regulation Act.

HB 1606 reorganizes, consolidates, and clarifies the language in the Oklahoma Waste Tire

OUTLINE OF STATUTORY CHANGES IN HB 1606

STATUTORY SECTION(S) AFFECTED	NATURE OF AFFECTED SECTION(S)	SUMMARY
27A O.S. § 2-11-402	Definitions	Clarifying language. “Waste tire processing” redefined to exclude non-end-use activities like cleaning and sorting.
27A O.S. § 2-11-403	Waste tire recycling fee assessment and remittance	Simplified language. No change to substance; no change in tire fee assessed.
27A O.S. §§ 2-11-405, 2-11-406, 2-11-407, 2-11-407.1, 2-11-407.2 and 2-11-408	Disbursement of Waste Tire Recycling Indemnity Fund monies	Consolidated section, clarifying conditions and descending levels of priority for disbursement of available funds: 1.Program administration and audits ¹ and facility capital investment reimbursements, ² 2.Reimbursement for processing, ³ collection and transportation, ⁴ erosion control ⁵ and baling, ⁶ 3.Reimbursement for cement kilns and crumb rubber producers, ⁷ 4.Additional transportation reimbursement. ⁸ Also, gives more flexibility to erosion control businesses on where they can pick up waste tires, by allowing pick-ups from tire dealers as well as from dumps.
27A O.S. §§ 2-11-409, 2-11-410, 2-11-411 and 2-11-412	Duties of DEQ, Tax Commission, and State Auditor and Inspector	Consolidated sections; no substantive changes except increases the power and duty of the Tax Commission to perform compliance inspections of tire dealers and reimbursement applicants.
27A O.S. § 2-11-413	Unlawful waste tire activities	Simplified.
27A O.S. §§ 2-11-414 and 2-11-415	Matching grants to schools for playground surfaces	Repealed.

¹ 4.5% to Tax Commission (an increase of 1% because of new inspection responsibilities), 3.5% to DEQ (same as currently), and \$50,000 every other year to Auditor and Inspector (same as currently except for expiring compliance audit pilot program).

² Reimbursement for waste tire equipment at rate of \$20 per ton of waste tires utilized, same as currently.

³ \$54 per ton, up five dollars from current rate of \$49 per ton of processed tire material.

⁴ \$53 per ton, up five dollars from the current rate of \$48 per ton of whole waste tires.

⁵ \$2.80 per tire for large tires and \$0.80 per tire for small tires, both same as currently.

⁶ \$0.50 per tire, same as currently.

⁷ \$29 per ton of processed or whole waste tires. Used for energy or fuel recovery, same as currently for cement kilns, but crumb rubber producers not also eligible.

⁸ Available on a pro rata basis to extent any funds remain available in that month after higher priorities satisfied.

Recycling Act to create a more logical sequence in the statutes. Some of the changes to the law include defining *tire-derived fuel (TDF) facilities*; increasing funding for administration of the act to the Oklahoma Tax Commission by 1 percent to cover newly required compliance inspections; providing for reimbursement of crumb rubber producers and allowing for additional compensation for transportation of waste tires provided monies remain in the fund after other allocations have been distributed; increasing the reimbursement rate for the processing, collection, and transportation of waste tires; and eliminating the reimbursement for the cleaning and sorting of tires. Two major definitions in the act are redefined. The definition of *waste tire processing* is redefined to exclude non-end use activities such as cleaning and sorting of whole waste tires. *Waste tire facility* is redefined to incorporate the new definition of *waste tire processing* to mean a site where waste tires are processed. Finally, the bill repeals the Oklahoma Safe Playground Surfaces Act which provided matching grants to schools for playground surfaces.

A measure requested by the Petroleum Storage Tank Division of the Corporation Commission, **SB 155**, changes the name of the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund to the Petroleum Storage Tank Indemnity Fund. The measure amends the definitions of *environment* and *pollution* to include the word *atmosphere* and the definition of *new system* to include the upgrade of a system, as well as installation, and moves the completion date of what is considered a new system up to December 22, 1998, from April 21, 1989.

The measure authorizes the Corporation Commission to enter onto public or private property for inspecting and investigating storage tank system monitoring or remediation equipment and to require an owner or operator of a storage tank system to make timely reports of testing and sampling events at or above commission action levels. It also authorizes designated commission employees to issue filed citations or to close a facility found to be operating a storage tank system with an outstanding unpaid field citation or fine. Owners of storage tank systems over 1,100 gallons containing regulated substances, when the regulated substances are used for agricultural purposes and not for resale, would be required to pay a permit fee of a maximum of \$10 per tank per year. If there is a release from a storage tank system, the commission would be authorized to require an owner, operator, or responsible person to submit investigation, remediation, or other corrective action plans to the commission's Petroleum Storage Tank Division for preapproval prior to initiating such investigation, remediation, or other corrective action.

Some environmental changes help to foster environmental protections, while also affecting Oklahoma's agriculture industry. The Legislature enhanced the authority of the State Board of Agriculture with **HB 1815** by giving the board the power to regulate the use of pesticides, along with regulating the application and sale of pesticides.

HB 1229 affects cotton growers by amending the Boll Weevil Eradication Act by changing audit and assessment reporting procedures. The measure will go into effect this fall and requires cotton growers to provide a legal description and the Farm Services Agency identification numbers annually assigned by the U.S. Department of Agriculture for each field. Cotton is the only host plant to the boll weevil, and this amendment will help track all cotton planted in Oklahoma by requiring this new report. [See also page 4.]

SB 484 amends the Oklahoma Fertilizer Act by preempting local regulation of fertilizer to ensure uniform rules across the state for fertilizer users. The new law prohibits municipalities or other political subdivisions from regulating the packaging, labeling, sale, storage, distribution, agricultural use, or application of fertilizer. The measure eliminates the exemption of obtaining a license for retail stores that sell bagged ammonium nitrate, requiring that all fertilizer dealers have a license to sell and distribute fertilizer. This measure will aid in Oklahoma's Homeland Security and could aid in investigations where fertilizer is used as a bomb ingredient.

Other measures that foster environmental protection activities provide for development of research and incentive opportunities. **SB 363** enacts the Oklahoma Biofuels Development Act. It creates an 11-member Oklahoma Biofuels Development Advisory Committee that will expire on June 1, 2010, to study the ethanol and biodiesel industry and the feasibility of developing and enhancing the industry in Oklahoma. The intent is to expand the use of Oklahoma's agricultural products while creating more efficient and less polluting energy sources and reserves. These products could help reduce atmospheric carbon monoxide levels, as well as having economic, energy, and agriculture benefits. [See also pages 14 and 27.] **HB 1625** authorizes a tax exemption on the sale of tangible personal property or services by a federally tax-exempt, charitable 501(c)(3) organization during auction events to provide funding for the preservation of wetlands and habitat for wild ducks and wild turkeys. [See also page 55.]

General Government

State Government

State Employees

Incentive compensation or an award of up to \$10,000 may be made to state employees for exceptional contributions which result in cost savings. **HB 1650** changes the method for calculating the time period used for determining the cost savings and also permits prorating the payment over two fiscal years.

Personnel issues for both state and local employees are addressed in **SB 315**.

- State employees may accumulate leave above the annual cap during the course of a year without losing the excess amount of leave as long as the cap is not exceeded at the end of a year; and
- State and local government employees who are members of the National Guard are entitled to a leave of absence from civil employment for active service without loss of status or efficiency rating. **SB 315** increases by ten days the length of time that members of the National Guard are entitled to a leave of absence at full pay when ordered into active or inactive service. [See also page 63.]

Employee Benefits

HB 1245 extends voluntary payroll deductions for state employees to any Oklahoma financial institution rather than limiting this benefit to certain credit unions. This provision also extends to any county, municipality, or school district which provides for voluntary payroll deductions and which has a minimum participation of 20 percent of the employees of the county, municipality, or school district. [See also page 7.]

Decisions on some employee benefits, such as health insurance and contributions to medical savings plans, must be made annually. **SB 586** requires a one-day employee benefit informational meeting at least 15 working days prior to the annual deadline for making changes to state employees' benefit packages. Agencies are required to provide adequate notice of the meetings to active and retired employees and to allow each active employee to spend at least 30 minutes during the workday to attend the meetings.

HB 1362 provides a Tricare supplemental health insurance plan option for those state employees eligible for military medical benefits. Tricare is the Department of Defense health care program for active duty and retired uniform service members and their families. The measure will benefit the employee and the employee's dependents by supplementing Tricare which will then be the primary health insurance. Supplemental health insurance policies are less expensive than primary health insurance policies, so both the employee and the employer will benefit from lower costs. [See also page 63.]

Government and Procedures

An audit of state owned motor vehicles determined that there may be an excessive number of vehicles, at least partially due to the lack of centralized control. **HB 1927** establishes the Task Force to Study the Fleet Management Division of the Department of Central Services. The purpose of this task force is to study and recommend further reforms to the state vehicle fleet acquisition and usage procedures.

Video conferencing saves time and money when participants are not located in the same area; however, it is important to maintain a truly open meeting with public access. **HB 1860** expands the authorized use of video conferencing while ensuring public access. The bill also creates a Joint Task Force on Teleconferencing, Videoconferencing and the Open Meeting Act to study the use of teleconferences and video conferences in conducting meetings of public bodies.

The purchase of computers by executive branch agencies is done by a standardized process which assures both compatibility among computing systems and cost effectiveness. **HB 1862** addresses several issues related to computing systems by:

- Increasing the limit on computer software and hardware purchases without written authorization from the Office of State Finance from \$2,500 to \$25,000;
- Requiring contracts for the acquisition of customized computer software developed or modified exclusively for an agency or the state to include a provision that the vendor provide the source code for the software and modifications; and
- Creating the Task Force for the Study of Computer Information Officers to analyze the role of information technology within state agencies, boards, commissions, departments, and other entities of state government. It will also examine the need for a computer information officer for the state and a centralized agency for the state's information technology telecommunications services and infrastructure. [See also page 1.]

The Office of Homeland Security has a unique role in the fight against terrorism and, as such, is granted some exceptions to the state's open records act in **SB 28**. In order to limit the open records act exceptions, certain financial records related to the receipt and expenditure of public funds may not be kept confidential.

Most state agencies are required to reimburse travel costs with stated limitations; however, a few agencies are permitted to reimburse travel based on actual and necessary costs rather than being governed by a set standardized amount. **SB 580** adds the Native American Cultural and Educational Authority to the list of those state agencies which are granted this exception.

While most state agencies must comply with the Oklahoma Central Purchasing Act, there are some stated exceptions. **SB 890** adds the Department of Human Services to the list of exemptions for supported living contracts for members of the Hissom settlement class.

Concern has been raised about the possibility of legislators receiving their regular salary even though incarcerated. Legislators' salaries are determined by the Legislative Compensation Board which must follow constitutional guidelines. While there are some statutory provisions to address incarcerated legislators, there are no constitutional provisions. **SJR 5** is a proposed constitutional amendment which amends these provisions by stating that legislative members must return to the state any pay they receive while incarcerated if they are found guilty of, or plead guilty to, a criminal offense. Also, a member may not receive any pay while incarcerated after a guilty verdict or plea. [See also page 58.]

Capital Improvements and Public Projects

Deferred maintenance may lead to a rapidly deteriorating infrastructure. **SB 553** creates a Deferred Maintenance and Construction Needs Task Force to determine the extent of deferred maintenance and recommend an annual capital budgeting process. [See also page 57.]

Transferable tax credits may be issued and transferred to the Oklahoma Capital Investment Board pursuant to the Oklahoma Capital Formation Act. **SB 691** modifies the dates for expiration of tax credits transferred to the Oklahoma Capital Investment Board from July 1, 2015, to July 1, 2030.

Several capital improvements were authorized during the 2005 legislative session:

- ▶ **HB 1191** and **SB 745** enacted a comprehensive plan to meet the current and future needs of higher education; [See also page 25.]
- ▶ **HB 1482** creates the War on Terror Memorial Design Committee to recommend the design of the memorial and to provide oversight and advice to the Oklahoma Historical Society in the site selection, design, construction, and funding sources of the memorial; [See also page 63.]
- ▶ **SB 182** permits the Oklahoma Capital Investment Authority to increase the amount of capital bonds for the refurbishment and improvements to the Samuel Layton Building from \$12.6 million to \$15.6 million. The Attorney General will occupy the facility upon completion with repayment coming from rent; and
- ▶ **SB 317** authorizes the Oklahoma Capitol Improvement Authority to issue debt for a net amount of \$11.3 million to provide financing for a laboratory for the Department of Agriculture, Food, and Forestry. Proceeds from rental payments will retire the obligation.

County and Municipal Government

Much of the legislation affecting counties and municipalities this session deals with financial concerns and law enforcement matters.

Reacting to concerns over the privacy rights of victims of crime, **HB 1698** prohibits court clerks from posting on court-controlled websites personal information regarding cases concerning assault and battery, minor delinquency, and prostitution. [See also page 19.]

SB 684 expands the available avenues for county sheriffs to issue warrants by allowing sheriffs to contract for the service of warrants and for the collection of debt for the county.

HB 1363 modifies the vesting requirements of county employees in counties with a population of more than 590,000. The bill reduces the number of years from six to five that a person must work for a county in order to be 100 percent vested in the retirement plan offered by the county.

HB 1670 requires municipalities with 2,500 or more residents, according to the Federal Census, to conduct fiscal audits. Previously, the threshold of audit requirements was based on revenue, specifically set at \$25,000.

Municipal police departments are allowed to contract with a third party to sell unclaimed property over the Internet under the provisions of **HB 1402**. The popularity of online auctions is expected to generate more revenue for police departments than traditional unclaimed property auctions.

HB 1298 raises municipal safety awards, limited to one person per calendar year, from \$100 to \$250.

HB 1747 adds reserve peace officers and fire marshals to the list of those who qualify to receive their badges and government-issued firearms upon retirement and allows all peace officers' and fire marshals' badges and weapons to be issued to their spouse upon their death.

HB 1318 allows Oklahoma law enforcement agencies to employ fingerprint scanning technology to provide instant capturing and processing of fingerprints. This technology will improve the speed and capability of the agencies to identify suspects in criminal actions.

HB 1434 changes the way offenders are ordered to pay for their costs of incarceration in municipal and county jails. Previously, the prosecuting attorney was required to ask the court to assess restitution for the cost of incarceration. The bill requires the court to order restitution upon the offender's conviction.

Health and Human Services

Lawmakers dealt with a variety of issues during the 2005 session in the areas of health and human services, one of the most significant being Medicaid funding. Other important issues included strengthening oversight of long-term care facilities and individuals with access to those facilities, addressing the issue of overweight children, enacting significant legislation relating to abortion laws in Oklahoma, and providing additional funding for drug courts.

Health

Access to Care

In an effort to increase provider rates and assist hospitals that treat Medicaid-eligible patients and the uninsured, **HB 1088** appropriates \$63 million to the Oklahoma Health Care Authority (OHCA). Of that amount:

- \$9.9 million is to increase provider reimbursement rates for children's medical services to pediatricians and other health care providers;
- \$15.1 million is to increase provider rates for all other physicians and Medicare coinsurance and deductible payments; and
- \$38 million is to increase the provider rates for hospitals.

The measure also requires the OHCA to identify administrative cost savings, waste, inefficiencies, and program abuses equaling a total of \$100 million prior to the 2007 fiscal year.

Lack of prescription drug coverage is a serious problem for many Oklahomans. The Legislature took important steps this session to address the issue. **HB 1853** creates the Rx for Oklahoma Act. The measure requires the Oklahoma Department of Commerce (ODC) to establish, through a competitive bid process, a statewide program to help qualifying individuals take advantage of free or reduced-cost prescriptions through existing prescription drug manufacturer discount programs. **SB 149** appropriates \$1 million to the ODC to implement the program. Another measure, **SB 547**, creates the Oklahoma Drug Discount Program Act of 2005. The bill requires the OHCA to contract with a pharmacy benefit manager to administer a prescription drug discount program. Components of the program include:

Health and Human Services

- Linking persons without prescription drug coverage to manufacturer-sponsored prescription drug programs;
- Establishing agreements with prescription drug manufacturers that outline available discounts and drugs;
-

Negotiating prescription drug discounts with manufacturers and pharmacy networks and requiring that all negotiated manufacturer drug discounts be passed on to the plan participant;

- Implementing a “one-stop” prescription drug discount program for the uninsured; and
- Charging a basic enrollment fee for applicants whose income is 150 percent or greater of the Federal Poverty Level.

SB 121 appropriates \$1.4 million to the OHCA to implement the program.

Three additional measures relate to increasing access to health care:

- ▶ **HB 1083** appropriates \$1 million to the Oklahoma State Department of Health (OSDH) to aid in the establishment of federally qualified health centers and to enhance services at existing centers;
- ▶ **HB 1411** requires the Physician Manpower Training Commission and the OHCA to establish a Critical Need Internship and Residency Program to fund internship and residency programs in areas of the state where there is a critical shortage of physicians. The measure also establishes a Physician Assistant Scholarship program to encourage persons to enter physician assistant education programs and to practice in rural and medically underserved areas of the state; and
- ▶ **HB 1347** adds public intermediate care facilities for people with mental retardation to the list of facilities that can transfer, to an approved entity, unused prescription drugs in accordance with the Utilization of Unused Prescription Medications Act.

Long-Term Care

The Legislature responded to media accounts of convicted sex offenders living in some of the state’s long-term care facilities and posing a threat to the other residents and staff by passing **HB 1963**. Provisions of the measure include requiring that:

- Long-term care facilities post notification of residents living in the facility who are required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act;
- The Department of Corrections (DOC) notify the OSDH of any person who is being released from the DOC who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act;
- A long-term care facility notify the OSDH of any individual residing in the facility who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act;

- A criminal history background check be conducted on the following individuals whose responsibilities include working inside long-term care facilities:
 - any current employee of or applicant for employment with the State of Oklahoma,
 - any individual contracting with the State of Oklahoma,
 - any individual volunteering for a state-sponsored program, and
 - any individual providing services to the disabled or elderly in a facility or client's home;
- The OSDH and the Department of Human Services (DHS) submit a list of all employees of those agencies who work inside long-term care facilities to the DOC and that the DOC notify the respective agency of any employee who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act; and
- Local law enforcement agencies notify long-term care facilities in their area upon the registration of any person designated as a habitual or aggravated sex offender or a person registered as a habitual violent crime offender.

Reacting to concerns about the lack of responsiveness and effectiveness of the Oklahoma State Board of Nursing Home Administrators in dealing with complaints against licensed nursing home administrators, the Legislature passed **HB 1453**. The measure, effective July 1, 2005, vacates all appointed positions of the current board and provides for new appointments by the Governor. The measure also requires the board to establish a formal complaint review process, maintain a complaint registry, report final adverse actions to the Healthcare Integrity and Protection Data Bank pursuant to federal requirements, and refer completed investigations to the proper law enforcement authorities for prosecution of criminal activities.

In other measures relating to long-term care facilities, **SB 49** contains provisions that assist the OSDH in maintaining quality care at a facility when a temporary manager has been assigned. The bill directs the department to establish a fund to assist temporary managers in the continuation of care of the facility's residents when the Commissioner of Health believes that funds are not available from other sources and provides that these funds are a loan by the department and must be repaid in full. The bill also specifies the contents of the final accounting of a temporary manager when the manager has been released from a facility and gives the commissioner the authority to institute any legal proceeding to recover any monies determined to have been expended excessively or unnecessarily by the temporary manager. **HB 1688** creates, in statute, an informal dispute resolution process for nursing homes and specialized facilities for persons with mental retardation that have received notice that the facility is in violation of the Nursing Home Care Act. Further, the measure authorizes certified medication aides who have completed an OSDH-approved training program on diabetes to administer insulin injections and requires the department to establish standards and a registry for feeding assistants.

Child and Adolescent Health

Amid growing concerns about the increasing numbers of overweight and obese children and youth and the negative long-term health effects, two measures were enacted. **SB 265** will,

beginning July 1, 2007, require district boards of education to ensure that students in elementary schools do not have access to foods of minimal nutritional value, except on special occasions, and that students in middle and junior high schools do not have access to those types of foods except after school, at evening events, and on special occasions. The bill also requires that high school students are provided healthy food options along with any foods of minimal nutritional value and requires districts to provide incentives to encourage students to make healthy food choices. [See also page 23.] Another measure, **SB 312**, requires the State Board of Education to require, as a condition of accreditation beginning with the 2006-07 school year, that school districts provide physical education programs for students in full-day kindergarten and grades one through five for a minimum average of 60 minutes per week. The bill also requires the State Board of Education to encourage districts to provide physical education to students in grades six through twelve. These two measures are also addressed in the Education section of this document. [See also page 23.]

The Problem of Overweight and Obesity in Children and Adolescents

According to a survey conducted between 1999 and 2002 by the National Center for Health Statistics (NCHS), an estimated 16 percent of children and adolescents ages 6-19 years of age are overweight. This represents a 45 percent increase from the overweight estimates obtained from a survey conducted from 1988-94.

Risk factors for heart disease, such as high cholesterol and high blood pressure, occur with increased frequency in overweight children and adolescents.

Another disease linked closely with overweight and obesity, type 2 diabetes, has increased dramatically in children and adolescents.

Abortion

HB 1686 creates informed consent and parental notification laws. The bill requires that women be informed, by their physician, at least 24 hours prior to the performance of an abortion of the following:

- The medical risks associated with the procedure;
- The probable gestational age of the unborn child;
- The medical risks associated with carrying the child to term;
- That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;
- That the father is liable to assist in the support of the child; and
- That she has the option of reviewing these items in printed form or via the Internet, as produced and maintained by the State Board of Medical Licensure and Supervision.

HB 1686 also provides that an abortion may not be performed on an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered to the parent or guardian of the minor. If the minor does not want her parent or guardian notified, she may

petition the court to authorize a physician to perform the abortion. Other provisions of this bill are discussed in the Corrections and Criminal Justice section of this document.

Mental Health and Substance Abuse

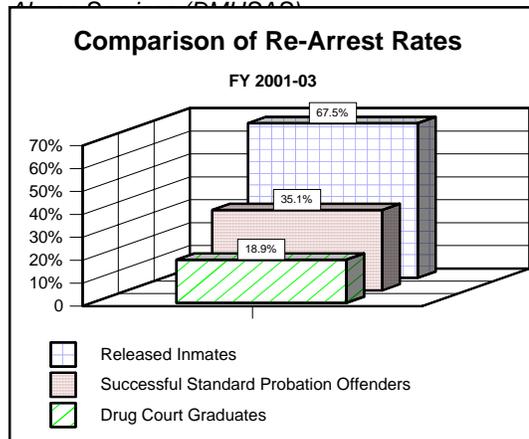
SB 561 requires that the Board of Mental Health and Substance Abuse Services adopt rules and standards for certifying eating disorder treatment programs and gambling addiction treatment programs and authorizes the Department of Mental Health and Substance Abuse Services (DMHSAS) to charge an application fee of \$300 to cover the cost of the certification process. The bill exempts certain medical and behavioral health professionals in private practice from the certification requirements and gives the Attorney General, DMHSAS, or the district attorney the authority to bring an action for an injunction against treatment programs that are not in compliance with certification standards.

SB 236 establishes a Victims Services Unit within the Office of the Attorney General and transfers all administrative responsibility regarding domestic violence services from DMHSAS to the attorney general's office. [See also page 18.]

Encouraged by the tremendous success of the drug court program that serves adults, as evidenced by significantly lower re-arrest rates compared to other offenders, the Legislature passed **HB 1405**, which authorizes the district courts to establish a juvenile drug court. The measure provides that:

- Delinquency adjudication proceedings may be deferred for a juvenile who is participating in the program;
- The person responsible for the health and welfare of the juvenile must actively support their participation in the program; and
- The juvenile or the person responsible for the juvenile pay court costs and the cost of treatment, drug testing, and other program-related fees, unless the person is indigent. [See also page 18.]

Source: Dept. of Mental Health and Substance Abuse Services (DMHSAS)



Another measure, **HB 1084**, appropriates an additional \$8 million to the Oklahoma Department of Mental Health and Substance Abuse Services for adult drug court programs. The following map indicates counties with existing drug courts in Oklahoma.

provide information and referral services to the public regarding social services available from public and private organizations.

Judiciary

Judiciary issues this session covered a wide range of topics including public health and safety, children and families, and liability exemptions.

The Danielle Martinez Act, created by **HB 1695**, establishes an Advisory Council on Cord Blood Donations. The mission of this council will be to provide recommendations for the development of a level cord blood donor program in Oklahoma by December 1, 2008.

The following two measures add additional exclusions from liability for specific persons. **HB 1243** exempts property owners, tenants, employers, and business entities from liability in civil actions (other than criminal acts) involving firearms if those firearms had been stored in a locked motor vehicle. [See also page 49.] **SB 413** protects licensed architects and professional engineers who volunteer their time and services during a declared national, state, or local emergency from being sued for services provided. [See also page 12.]

An amendment in **HB 2005** to the Oklahoma Interpreter for the Deaf Act renames it the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act. **HB 2005** also expands the definition of *qualified legal interpreter*, adds language to make the bill comply with the Americans with Disabilities Act, and sets fee schedules for interpreters in accordance with those established in **SB 779**. **SB 779** creates a State Board of Examiners of Certified Courtroom Interpreters. The board's duties include establishing qualifications, evaluating prospective translators' qualifications, conducting annual examinations of interpreters, and suspending/revoking interpreter enrollment as a courtroom interpreter. This bill also outlines the requirements for those wishing to become a certified courtroom interpreter as well as the fees that may be charged for services.

To aid in the protection of children, **SB 733** gives a grandparent an opportunity to be heard and considered in an emergency custody hearing. This opportunity applies if, within a year of the emergency custody hearing, the child lived with and was financially supported by the grandparent for six months. Prior to enactment of this law, no explicit mention of grandparents' options in such custody hearings existed. [See also page 42.]

SB 758 expands and updates the list of items that are exempt from forced sale for the payment of debt to include personal computers, furniture related to educational use, and wedding/anniversary rings.

Finally, **SB 873** creates the Uniform Arbitration Act. Under this act, the Oklahoma Legislature established language providing clear guidelines for what issues may be decided through arbitration, the procedures of such arbitrations, and the force and effect given them by the state courts. Arbitration is an increasingly important area of American law generally; the passage of this bill ensures that it will be given the same credence in Oklahoma law.

Public Safety and Homeland Security

The Legislature enacted numerous measures this session addressing public safety issues in Oklahoma. A common theme of the legislation in the public safety arena is an attack at the root causes of criminal behavior. Major accomplishments included increased use of technology to prevent drunk driving and expanding drug courts.

Drugs and Alcohol

The Legislature continued its tough stance against drunk driving with the enactment of **HB 1304** which requires any person convicted of a second DUI offense within a five-year period to have an ignition interlock device placed upon their vehicle. The device must be placed on any vehicle the person is driving when the person's driver license is reinstated. All costs of the device must be paid by the offender and must remain on the vehicle for a minimum of six months. The act also allows for the designation of some DUI offenders as excessive users of alcohol as determined by rules developed by the Department of Public Safety (DPS). Any offender designated as an excessive user of alcohol must have the ignition interlock device on their vehicle for a minimum period of 12 months. Finally, the measure creates a misdemeanor penalty with a fine of up to \$500 and up to six months in jail for persons who make overt or conscious attempts to disable, disconnect, or bypass an ignition interlock device without proper authority.

The increased use of drug courts by counties has led to more input from the local judges and prosecutors on how to improve the program. One problem which commonly befalls participants in drug court is the loss of a driver license because of the crime which brings the person into drug court in the first place. Drug court acts as a nontraditional alternative to the traditional adversarial court process, and the conditions and requirements imposed upon participants greatly vary from traditional penalties. Participants in drug court are often required by the court to participate in treatment programs and to find suitable employment while under the supervision of the court. Because most of these participants have had their driver license revoked because of the very crime which landed them in drug court, the participants have a difficult time meeting the court's requirements. **HB 1468** allows the drug court to hold any information normally sent to the Department of Public Safety after a drug or alcohol arrest, pending a determination as to the person's participation in drug court. If the person does not enter drug court or fails to complete drug court, the information is submitted to DPS, and the person's license is cancelled.

Another measure builds on legislation from last year which allowed open containers in certain for-hire vehicles. **HB 1461** prohibits any passenger in a motor vehicle from transporting or possessing any open intoxicating beverage or low-point beer unless the vehicle is a bus or limousine.

A concern over a new device which allows customers to pay to breathe in alcohol vapors to produce a high led to the enactment of **SB 663**. The bill creates a misdemeanor crime punishable by a fine of up to \$5,000 for anyone to buy, sell, or possess an alcohol inhalation device. Legitimate medical devices which contain alcohol are excluded from the bill. The measure also allows the Alcoholic Beverage Laws Enforcement Commission to permanently revoke the license of any person convicted of violating the law.

Two measures enacted this session enhance the ability of law enforcement to fight the war on drugs. **HB 1507** builds on the recent successes Oklahoma has made in the fight against methamphetamine. The bill requires that there be “clear and convincing evidence” of a person’s dependency on a controlled dangerous substance before denying bond for persons arrested for the illegal manufacture or attempted manufacture of methamphetamine. Previously, only a “preponderance of the evidence” was necessary to deny bond. The second measure, **SB 432**, expands the times during which a search warrant may be served. The bill allows for the nighttime search of occupied dwellings if the search is for evidence relating to the illegal manufacture of methamphetamine or other controlled dangerous substances.

HB 1395 requires a law enforcement officer to inform a person suspected of being under the influence of alcohol or other intoxicating substance that any withdrawal of blood for testing will only be performed by approved medical personnel.

Licensing

HB 1653 further delineates Oklahoma’s graduated driver license by creating an intermediate Class D License for use by young drivers. Under provisions of the bill, young drivers are allowed to gain valuable experience operating a vehicle prior to being given an unrestricted Class D License. A detailed chart on the graduated driver license can be found in Appendix 1.

The rising tide of identity theft resulted in the passage of **SB 24** which allows the Department of Public Safety (DPS) to modify the way in which it issues driver license and identification numbers to individuals. The bill allows the department to incorporate alphabet symbols within the traditional unique nine-digit number.

Records

The many records maintained by the DPS are often the subject of open record requests. DPS falls under the mandatory privacy requirements of the federal Driver’s Privacy Protection Act (DPPA), and it has been difficult in the past to determine which documents should be kept private and which documents can be released. **HB 1553** is designed to fulfill the privacy requirements of DPPA and assure the protection of personal and sensitive information of the millions of Oklahomans contained in the databases of DPS. The bill also excludes any video or audio recordings from the Open Records Act. [See also page 57.]

Wreckers

Several measures were enacted this session relating to wreckers and towing services. **SB 314** requires the police chief of a municipality and the county sheriff to maintain rotation logs on all requested tows within the municipality or county. Any calls made by a police chief or sheriff requesting a tow truck are to be included as part of the official log and available for public inspection. The bill also requires the chief or sheriff to give a ten-day written notice to any wrecker service prior to removal from the rotation log.

Two other measures relating to wrecker service were also enacted. **HB 1485** allows law enforcement to require a vehicle be towed if the officer has probable cause to believe that the driver of the vehicle does not have a valid driver license. **SB 714** allows law enforcement officers to have a financial interest in or be employed by a wrecker or towing service when the wrecker or towing service only performs repossession of vehicles.

Guns

Legislation enacted last year which prevented businesses from establishing any policy which prohibited firearms in locked vehicles on business property caused some businesses concern over liability issues. In an attempt to address that concern, **HB 1243** provides that no person, property owner, or business is civilly liable for any action resulting from the storage of firearms on property set aside for vehicles. The bill also allows a person to bring a civil action against a business or employer who prohibits the storage of firearms in locked vehicles on property set aside for parking. [See also page 45.]

Miscellaneous Public Safety Measures

The unlawful use of handicapped parking spaces is addressed by **SB 901** which makes it illegal for any person to park in a disabled parking space access aisle or wheelchair loading area. Access aisles and loading areas are typically marked by wide diagonal white stripes adjacent to a disabled parking space. The measure also allows landowners or persons unable to use these areas to have the vehicle blocking access towed at the owner's expense.

Improving the rates at which parents use child passenger restraints was the impetus for **SB 799** which increases the fine from \$10 to \$50 for those who do not properly secure their children in a motor vehicle. The measure requires the additional revenue to be placed in a special fund for use by the Oklahoma Highway Safety Office to promote the use of child passenger restraint systems.

Retirement Laws

There were over 20 bills relating to state employees' and teachers' retirement systems introduced this session. The main obstacle to passage of the majority of the bills was the lack of available funding. **SCR 4** calls attention to the unfunded actuarially accrued liabilities of the Teachers' Retirement System. The resolution requests that the Legislature contain and liquidate the unfunded liability to at least 60 percent by June 30, 2015.

SB 852 makes a technical change in identification of the \$105 retired employee state supplement for the Oklahoma State and Education Employees Group Insurance Board. The change will help Oklahoma meet requirements of the Medicare Prescription Drug Act and may reduce the amount employees pay in insurance premiums in 2006.

HB 1858 permits retired judges to teach school at state colleges and universities. The overall purpose of this language was to implement the recommendations of the Oklahoma Public Employees Retirement System (OPERS) contained in its study of the survivor benefits under the Uniform Retirement System for Justices and Judges (URSJJ). This study was mandated by SB 1134 passed in the 2004 legislative session. The main effects of this portion of the bill are as follows:

- The bill enacts a uniform 8 percent employee contribution paid by all members of the URSJJ regardless of marital status. Current law requires a 5 percent contribution for single judges or married judges whose spouse waives a surviving spouse benefit. Married judges who select a surviving spouse benefit pay 8 percent under current law.
- The bill enacts survivor benefits similar in nature to the Option A & B survivor benefits for OPERS members. Option A requires a small actuarial reduction of the benefit payable to the member for life, and the survivor receives 50 percent of that amount. Option B is a substantial actuarial reduction to the member's benefit payable for his or her lifetime, but the survivor receives the same benefit amount for the remainder of his/her life. Survivor benefits can be paid essentially to anyone and not just a surviving spouse as is the case for current married judges.
- This bill "grandfathers" in the current surviving spouse benefit for married judges who were members prior to September 1, 2005. Judges currently receive an unreduced benefit with a 4 percent retirement benefit multiplier. Their spouses get 50 percent of this amount after the member dies. However, all judges can opt for an Option A or Option B retirement benefit if they choose to do so under this bill.

Revenue and Taxation

Oklahoma lawmakers adopted the largest individual income tax reduction in state history with the passage of two bills during the First Session of the 50th Legislature. Legislators also reduced the tax burden faced by businesses with the passage of the two bills, as well as others, and addressed other revenue and tax issues

Individual Income Tax Relief

Two bills provide tax relief to Oklahoma citizens. **HB 1547** reduces the top marginal individual income tax rate from 6.65 percent to 6.25 percent for the 2006 tax year and beyond. [See also pages 54, 55 and 59.] **SB 435** increases the state's standard deduction incrementally over a two-year period. The deduction increases to \$3,000 for those married filing jointly, heads of household, or qualifying widows and \$2,000 for those single or married filing separately for the 2006 tax year. During the 2007 tax year and beyond, the level for those married filing jointly, heads of household, or qualifying widows increases to \$4,000.

SB 435 also eliminates the Method 2 form for individual income taxes, which permitted the deduction of federal income taxes from taxable income, usually at substantially higher rates. Combined, the two bills will reduce Oklahomans' individual income tax burden \$42.9 million in FY-06 and \$107.6 million in FY-07.

Additionally, Oklahoma taxpayers will likely receive a tax refund later this year. Under the terms of **HB 1193**, one-half of the revenue beyond the Constitutional Reserve Fund cap will be returned to Oklahoma taxpayers. Projections put the anticipated value of the refunds, which will be mailed to taxpayers later in the year, at \$45 to \$90 per tax return.

Also benefitting from the two primary tax relief bills are Oklahoma retirees who will see an increase in the amount of their retirement benefits shielded from income taxes. Under the terms of SB 435, the retirement income exemption will increase from \$7,500 to \$10,000. The exemption applies to public and private sector retirees.

Oklahomans receiving retirement benefits from the Armed Forces also will see an increase in the amount of money shielded from income taxes under **HB 1476**. The bill shields the greater of \$10,000, or 50 percent of the individual's retirement benefits, from taxation. [See also page 63.] HB 1547 and SB 435 also reduce the tax burden borne by veterans living in the state. HB 1547

provides for a refund of as much as \$175 for sales tax paid by veterans who are 100 percent disabled as a result of their service. Those same veterans are also eligible to have the excise tax waived on the purchase of a new or used motor vehicle once within a consecutive three-year period under the terms of SB 435. The two provisions will save Oklahoma's veterans \$1.9 million.

Business Tax Relief

Small businesses, who have long complained that the costs of preparing and filing the state franchise tax often exceeded the tax they paid, won a victory with the passage of **HB 1738**. The bill eliminates the minimum filing requirement if the franchise tax is \$10 or less.

Three bills provide tax incentives for the state's developing film industry. **HB 1547** modifies the rebate structure for the Oklahoma Film Enhancement Rebate Program which was originally enacted in 2000. [See also pages 53, 55 and 59.] **SB 877** provides a tax credit for investments in certain film and music production companies based in Oklahoma. A final measure, **HB 1716**, establishes an income tax credit equal to 25 percent of the profits made from certain film or music productions in Oklahoma, provided the profits are reinvested in future film and music productions in the state or in the development of an Oklahoma company. [See also page 59.]

HB 1547 clarifies language related to the home office (insurance) tax credit, establishing that the credit be deducted prior to the deduction of any other applicable credits and establishing a procedure for refunds to firms who previously had the credit considered after other applicable credits. The bill also clarifies language related to the computation of corporate capital gains, providing corporations with the same tax exempt treatment extended to individuals.

Other measures designed to improve the state's business tax climate approved during the First Session of the 50th Legislature include:

- ▶ **HB 1014**, providing an income tax credit for certain costs related to specially trained dogs;
- ▶ **HB 1398**, providing an income tax credit for biodiesel facilities;
- ▶ **HB 1498**, providing a sales tax exemption for electricity used in enhanced drilling efforts of marginally producing oil wells;
- ▶ **HB 1556**, providing a tax credit for certain ethanol facilities;
- ▶ **HB 1588**, exempting certain oil and gas wells from the gross production tax and limiting gross production tax refunds which may be paid for production related to certain wells; [See also page 27.]
- ▶ **HB 1605**; modifying an existing tax credit for certain wind turbine manufacturers;
- ▶ **HB 1667**, providing tax credits for certain data processing services and computer system

design services and certain auxiliary aircraft parts and equipment manufacturers;

- ▶ **HB 1680**, modifying an income tax credit for certain Oklahoma-based agricultural companies and partnerships and authorizing certain existing venture capital tax credits for small business and rural business development to be used to offset gross production tax liabilities;
- ▶ **SB 610**, providing an income tax credit for certain expenditures designed to improve the energy efficiency of newly constructed homes of 2,000 square feet or less; [See also page 12.] and
- ▶ **SB 628**, providing an income tax credit for companies that increase their data processing or research and development staff employment for up to eight years, provided the company maintains the increase in staff through the period.

Motor Vehicles

All-terrain vehicles (ATVs) and motorcycles used exclusively off roads, except those with an agricultural exemption, are now subject to motor vehicle excise tax. **HB 1297** adds the vehicles to the state's motor vehicle licensing code and set an excise tax rate of 4.5 percent of the actual sales price of the vehicles' transfer. As untaxed vehicles, no registration requirements were in place to identify the vehicles. The lack of registration made finding stolen ATVs and motorcycles very difficult for law enforcement.

Sales Tax Exemptions

A variety of nonprofit organizations were exempted from the state sales tax under the terms of bills passed during the legislative session, including:

- ▶ **HB 1233** - Groups that assist, train, educate, or provide housing for physically and mentally handicapped individuals and which receive at least 85 percent of its funding from the state or federal government;
- ▶ **HB 1275** - Groups that provide day services to homeless individuals in metropolitan areas with populations greater than 500,000;
- ▶ **HB 1547** - Neighborhood watch groups; [See also pages 53, 54, and 59.]
- ▶ **HB 1562** - Groups that facilitate the distribution of goods to those in need; and
- ▶ **HB 1625** - Auction sales by groups that support the preservation of wetlands for wild ducks and groups that support the preservation and conservation of wild turkeys. [See also page 32.]

Rules

More than 180,000 African-American soldiers served the Union forces during the Civil War. After the war, the soldiers who remained with the Army were sent to the western frontier to tame the West. Nicknamed Buffalo Soldiers by the Cheyenne and Comanche tribes they often encountered, the Buffalo Soldiers hold a previously unheralded position in the history of the American West. To honor the history and contribution of these individuals, **SB 659** creates the Buffalo Soldier Heritage Corridor to promote tourism by preserving the heritage and stories of the Buffalo Soldier. Administered by the Oklahoma Historical Society and advised by a six-member advisory committee, the corridor encompasses the communities of Tulsa, Cabin Creek, Fort Gibson, Honey Springs Battlefield, Muskogee, Rentiesville, Taft, Grayson, Clearview, and Boley.

HB 1553 was enacted to clarify which records maintained by the Department of Public Safety fall under the mandatory privacy requirements of the federal Driver's Privacy Protection Act. The measure provides that a public record does not include motor vehicle reports issued by the department, personal information within driver records, or audio or video recordings. The measure assures the protection of personal and sensitive information of the millions of Oklahomans contained in the databases of the Department of Public Safety. [See also page 48.]

The Task Force on Reactive Attachment Disorder in Children was created by **HB 1725** to study the effects of the disorder in children who are in the custody of the Department of Human Services, the Office of Juvenile Affairs, or who are being served by the Department of Mental Health and Substance Abuse Services. These children have difficulty bonding with other people because of abuse and neglect, and the disorder often creates behavioral problems in children. The task force has until December 2006 to complete its work.

The Deferred Maintenance and Construction Needs Task Force was created by **SB 553**. The task force will study the state's current deferred capital maintenance and infrastructure needs. The study will continue until February 1, 2006. [See also page 35.]

A number of state personnel issues were addressed in **SB 473**. The measure specifies the application of certain provisions of the federal Fair Labor Standards Act. Also, it makes changes to the state's compensatory time and longevity pay policies and modifies some job classifications.

The Youthful Offender Task Force was created by **SB 458** to evaluate the effectiveness of the Youthful Offender Act. The task force is to study the best practices for similar types of

adjudicated juveniles in other states and jurisdictions, study the ability and effects of transferring youth to the Department of Corrections, and make recommendations for changes to the Legislature.

SB 29 raises to \$500 the value of an item owned by a county government that must be included on the county inventory. Previously the amount was \$250.

In other measures enacted by the Legislature:

- ▶ **HJR 1001** declares February 6 of each year as President Ronald Reagan Day in Oklahoma;
- ▶ **SB 4** makes the hourglass selenite crystal the official state crystal;
- ▶ **HB 1762** designates the strawberry as the official fruit of the State of Oklahoma; and
- ▶ **SB 464** designates GUSTY® as the state cartoon character of the State of Oklahoma.

State Question

SJR 5 submits to a vote of the people a measure that would require legislators convicted of a crime to return any pay received while incarcerated. [See also page 35.]

Tourism and Recreation

This session, the Legislature's goal for tourism was to enhance our state's Compete With Canada Film Act and help the Grand River Dam Authority (GRDA) come into compliance with state laws. Increasing the revenue of the state's third largest industry was accomplished with a number of different tax bills.

Starting July 1, **HB 1547** provides ongoing funding to the existing Oklahoma Film Enhancement Rebate Program, which authorizes a rebate of up to 15 percent of production expenditures to companies filming in Oklahoma, now including TV commercials. To qualify, a company must have a minimum budget of \$2 million (up from \$1 million); spend \$1.25 million in Oklahoma; and employ Oklahoma residents for at least 50 percent of its crew, excluding actors, producers, and directors. Rebates of 5 percent are available if a company employs up to 24 percent Oklahomans and 10 percent for companies who employ 25 to 49 percent Oklahomans.

The state now has a \$5 million annual cap on rebates, up from \$2 million. Rebates will be paid after July 1 following the fiscal year in which the production costs are incurred. In lieu of a rebate, companies may opt for automatic sales tax exemptions on property or services involved in production. [See also pages 53, 54, and 55.]

SB 877 offers companies that build production facilities state income tax credits, ranging from 10 percent on a minimum \$500,000 construction project to 25 percent for projects of \$1 million plus. The new incentive, which takes effect November 1, is included in an amendment to the Tourism Development Act. [See also page 54.]

HB 1716 gives state taxpayers who invest in projects produced in Oklahoma a 25 percent income tax credit on profits made, if they reinvest their profits in another Oklahoma project. The new law takes effect immediately. [See also page 54.]

Recodifying existing law and adding a few minor changes to the Tourism and Recreation Department duties is culminated in **SB 823**. It adds general rulemaking authority to the powers and duties of the Oklahoma Tourism and Recreation Commission as suggested by the Offices of the Secretary of State and the Attorney General. Additionally, this measure adds conservation and protection to duties of the Oklahoma Tourism and Recreation Department to conform to national land management best practices and allows park managers to oversee all operations contained within a park. It also enables career progression for park rangers. Furthermore, it

repeals obsolete facility name changes, obsolete statutory references, and obsolete bond language.

Beginning November 1, 2006, **SB 620** will bring GRDA under the auspices of the Department of Central Services in regard to buying and selling of property and taking competitive bids for repair and construction. This measure allows GRDA to grant licenses to encroach on real property owned by GRDA to adjacent property owners but stipulates that GRDA retain ownership of the land. It also allows the GRDA to grant permission to landowners to secure their docks below the 750 feet above sea level rule. Finally, it gives the GRDA board the discretion to pay more than \$60 of retired employees' health insurance premiums.

Transportation

The Legislature enacted **HB 1078** to give the Oklahoma Department of Transportation (ODOT) more than \$86 million for road and bridge maintenance this year and mechanisms to increase road funding to an additional \$170 million each year in the future. The increase is a result of the Legislature providing \$69 million to the department to pay bond debt on the bond program initiated in the 1990's. In recent years, the department diverted road maintenance dollars to satisfy the bond debt. An additional \$17.5 million appropriation is to be used to increase road and bridge maintenance. By using existing surplus revenue, HB 1078 also gradually increases the amount of money available to the department for road and bridge maintenance to an additional \$170 million each year by FY 2011.

- ODOT is responsible for nearly 30,000 lane miles of roads. That is the same distance as if you drove from Oklahoma City to Los Angeles and back 11 times.
- More than 3,000 miles of our 12,266 miles of highway in Oklahoma need to be rehabilitated or replaced due to inadequacies. This is 25% of our highways.
- Approximately 1/3 of Oklahoma's driving surfaces are in "poor" condition which amounts to around 4,300 miles.
- Oklahoma has about 670 centerline miles of non-toll interstate. When measured for roughness, almost 50% of Oklahoma interstates rate fair, mediocre or poor, compared to a national average of 35%.
- Current traffic growth projections indicate a 33% increase in cars on highways and at the same time a 70% increase in trucks on Oklahoma interstates in the next 20 years.
- 1,099 of 6,728 bridges in Oklahoma are structurally deficient and another 534 are functionally obsolete. So about 1,600 need to be rehabilitated or replaced.
- 135 bridges are over 80 years old.
- 56% of accidents take place on inadequate roads.

Source: ODOT

SB 470 provides additional funding for Circuit Engineering Districts. One-third of one percent of the total gasoline excise taxes collected will be deposited into a revolving fund. As a result of this action, approximately \$258,000 will be raised for use by the Auditor and Inspector's office to fund circuit engineering districts.

Veterans and Military Affairs

The 2005 session saw little legislation addressing veterans and military concerns. One measure, **SB 777** is of particular note. **SB 777** prohibits anyone from knowingly impersonating a member or former member of the U.S. Armed Forces and bars the display of uniforms, medals, or other decorations that usually accompany military attire. Penalties for violating the law include a fine of up to \$1,000 and one year in prison.

SB 315 provides that state and local government employees who are members of the National Guard are entitled to a leave of absence from civil employment for active service without loss of status or efficiency rating. The measure increases by ten days the length of time that members of the National Guard are entitled to a leave of absence at full pay when ordered to active or inactive service. [See also page 33.]

Additional bills relating to veterans and military affairs include:

- ▶ **HB 1240** adds exemptions to hunting licenses for veterans by exempting licenses for deer gun and archery hunting and primitive firearms; [See also page 65.]
- ▶ **HB 1362** changes military Tricare benefits to 75 percent of monthly premiums; [See also page 33.]
- ▶ **HB 1780** creates an income tax return checkoff that gives taxpayers the option to give a portion of their return to the Oklahoma National Guard Relief Program;
- ▶ **HB 1476** exempts the greater of \$10,000 or one-half of military retirement income from state income tax; [See also page 53.]
- ▶ **HB 1482** establishes the War on Terror Memorial Design Committee. The act charges to the committee the responsibilities of site selection, construction, and funding on behalf of the Oklahoma Historical Society; [See also page 35.] and
- ▶ **SB 821** authorizes the Adjutant General to purchase a \$250,000 life insurance policy for each member of the Oklahoma National Guard.

Wildlife

HB 1722 creates a reinstatement fee for habitual wildlife violators in the amount of \$200 for residents and \$500 for nonresidents. This new law also applies to those violators who hold a lifetime fishing or hunting license.

HB 1575 allows residents who are 100 percent disabled and receiving payments from the Multi Injury Trust Fund to purchase a disability fishing and hunting license. **HB 1240** exempts Oklahoma residents who are veterans with 100 percent disability from paying for an archery and primitive firearm license. [See also page 63.]

HB 1814 expands the list of persons exempt from obtaining the Oklahoma Wildlife Land Stamp to include the same persons exempt from hunting and fishing licenses. This bill also enables people to purchase a rattlesnake permit for \$5, which would enable them to participate in organized rattlesnake-hunting events without having to separately purchase a hunting license. In addition, the measure allows the Wildlife Commission to purchase land using land stamp proceeds instead of by issuing bonds

SB 498 adds any person who is participating in an aquatic education event or clinic sanctioned by the Department of Wildlife Conservation to the list of those persons exempted from purchasing a fishing license. This bill also exempts veterans with 100 percent disability from having to purchase a deer gun or archery hunting license and a primitive firearms license. The bill also provides discounts to veterans with varying degrees of disability on lifetime hunting licenses.

SB 685 deletes the restriction on issuing deer hunting licenses to residents of other states that do not allow Oklahoma residents to purchase an unrestricted hunting license.

Appendices

Appendix 1 Graduated Driver License - HB 1653

License Type	Driving Privileges	Requirements	
		With Driver Education ¹	No Driver Education
No License	When: While receiving instruction from and accompanied by a certified driver education instructor	<ul style="list-style-type: none"> ✓ At least 15 years old ✓ While receiving instruction from a certified instructor 	(Not eligible)
Learner Permit	When: While accompanied by a licensed driver at least 21 years old	<ul style="list-style-type: none"> ✓ At least 15 1/2 years old ✓ Must be enrolled in or have completed driver education ✓ Must have passed written driving exam ✓ Must have passed vision exam 	<ul style="list-style-type: none"> ✓ At least 16 years old ✓ Must have passed written driving exam ✓ Must have passed vision exam
Intermediate License	<p>When: 5am to 11pm, unless for activities related to school, church, or work</p> <p>OR Any time if accompanied by licensed driver at least 21 years old</p> <p>Passengers: No passengers</p> <p>OR Only people who live in driver's home</p> <p>OR Any passenger if accompanied by licensed driver at least 21 years old</p>	<ul style="list-style-type: none"> ✓ Must have a Learner Permit for at least 6 months ✓ Must have had at least 40 hrs (10 hrs at night) of behind-the-wheel training from licensed driver at least 21 years old and licensed for at least 2 years ✓ Must have no traffic convictions on driving record ✓ Must have passed driving skills exam 	<ul style="list-style-type: none"> ✓ Must have a Learner Permit at least 6 months ✓ Must have had at least 40 hrs (10 hrs at night) of behind-the-wheel training from licensed driver at least 21 years old and licensed for at least 2 years ✓ Must have no traffic convictions on driving record ✓ Must have passed driving skills exam
Unrestricted License	When: unrestricted Passengers: unrestricted	<ul style="list-style-type: none"> ✓ Must have an Intermediate License for at least 6 months ✓ Must have no traffic convictions on driving record 	<ul style="list-style-type: none"> ✓ Must have an Intermediate License for at least 1 year ✓ Must have no traffic convictions on driving record
		- OR -	
		<ul style="list-style-type: none"> ✓ Must be at least 18 years old ✓ Must have passed all driving and vision exams 	

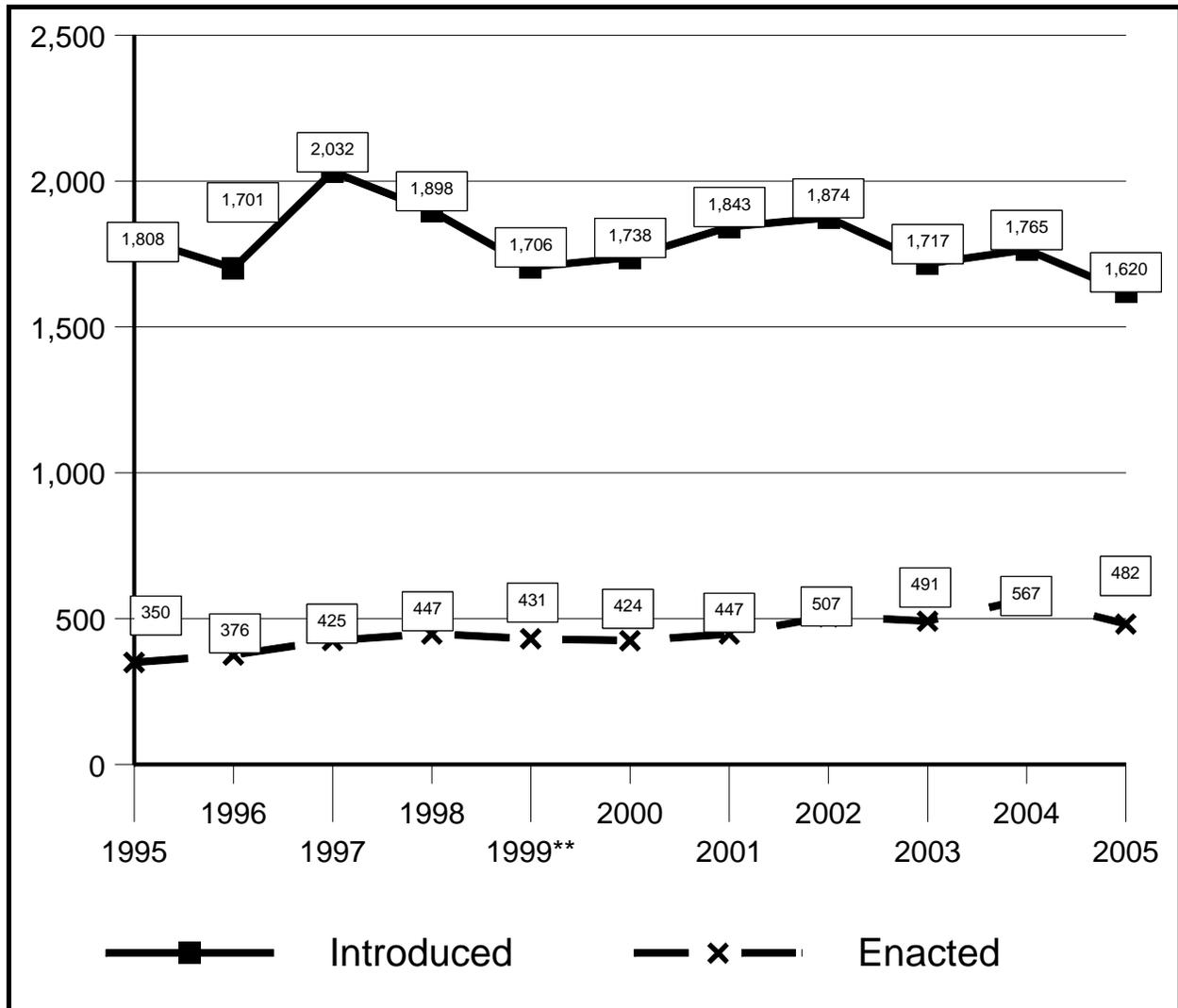
¹ Driver Education means one of the following:

- ✓ A prescribed secondary school driver education course, as provided for in Sections 19-113 through 19-121 of Title 70 of the Oklahoma Statutes

- ✓ A driver education course, certified by the Department of Public Safety, from a parochial, private, or other nonpublic secondary school
- ✓ A commercial driver training course, as defined by Sections 801 through 808 of this title
- ✓ A parent-taught driver education course, certified by the Department of Public Safety

Appendix 2 Legislative Production 1995-2005

Measures and Joint Resolutions Introduced and Enacted*

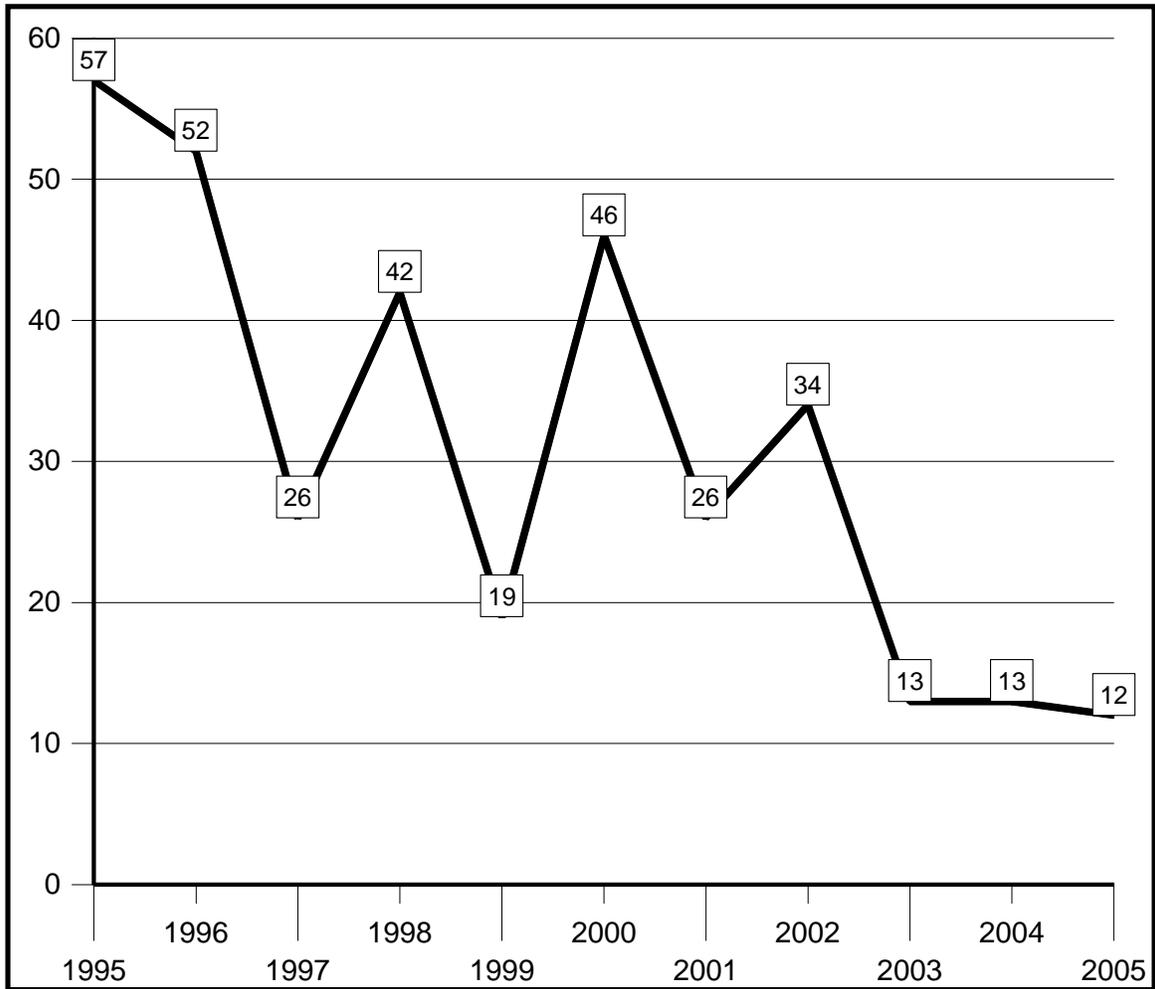


* Does not include concurrent and simple resolutions or measures filed or enacted during any special sessions.

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

Source of enacted measures data is the House Journal.

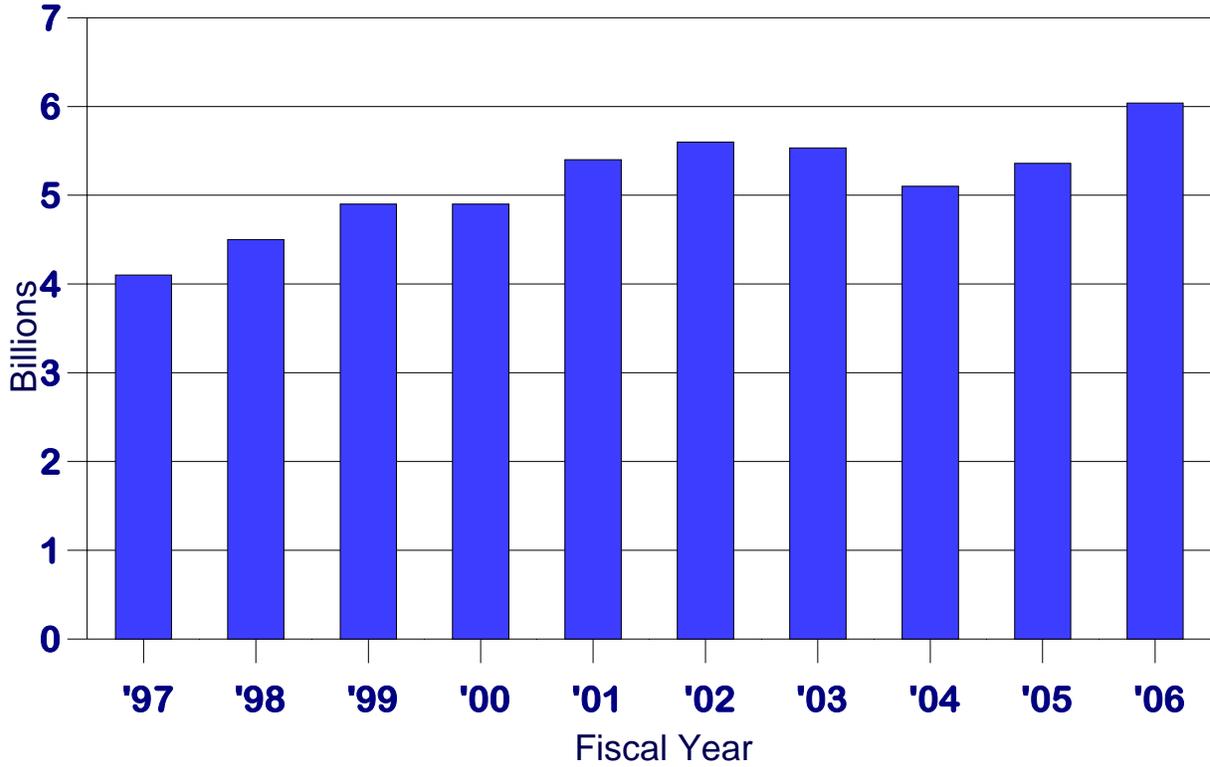
Appendix 3 Vetoed 1995-2005



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

**Appendix 4
Ten Year Appropriation History**

Total Appropriation Level



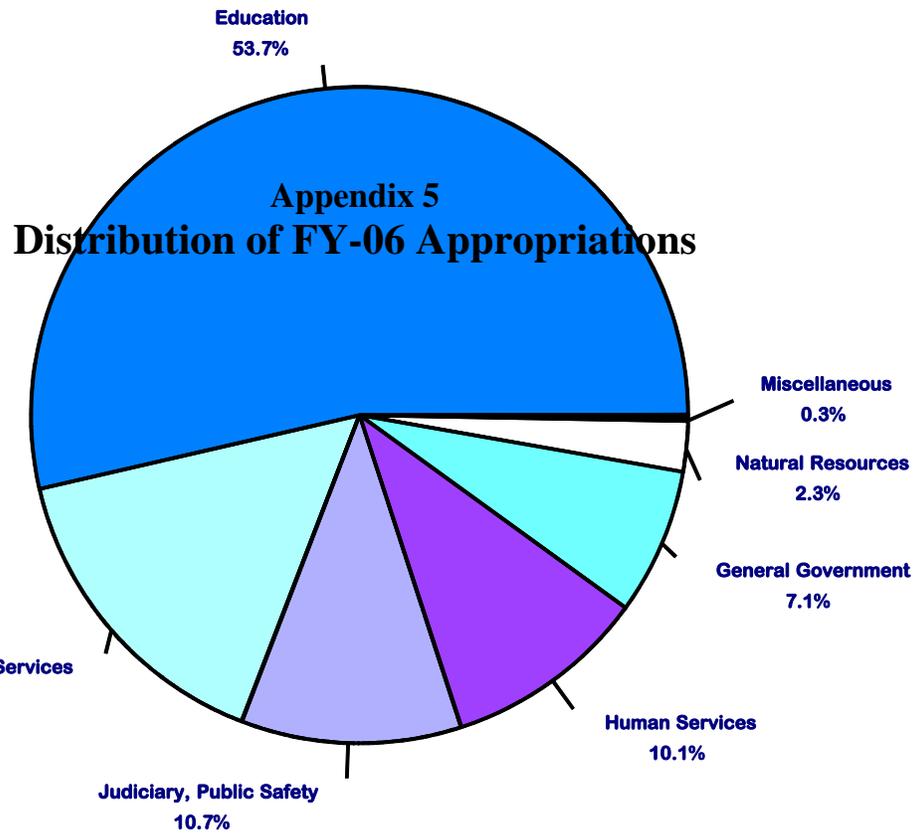
FY-97	\$4,104,977,667	FY-02	\$5,611,514,760
FY-98	\$4,498,606,699	FY-03(Orig.)	\$5,532,095,223
FY-99	\$4,877,234,307	FY-04	\$5,106,597,024
FY-00	\$4,937,170,096	FY-05	\$5,358,101,676
FY-01	\$5,350,656,390	FY-06	\$6,038,003,816

Notes:

1. These figures include appropriations, pension systems, 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 Office of Budget and Performance Review



Total Appropriations = \$6,038,003,816

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

Source: House Office of Budget and Performance Review

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