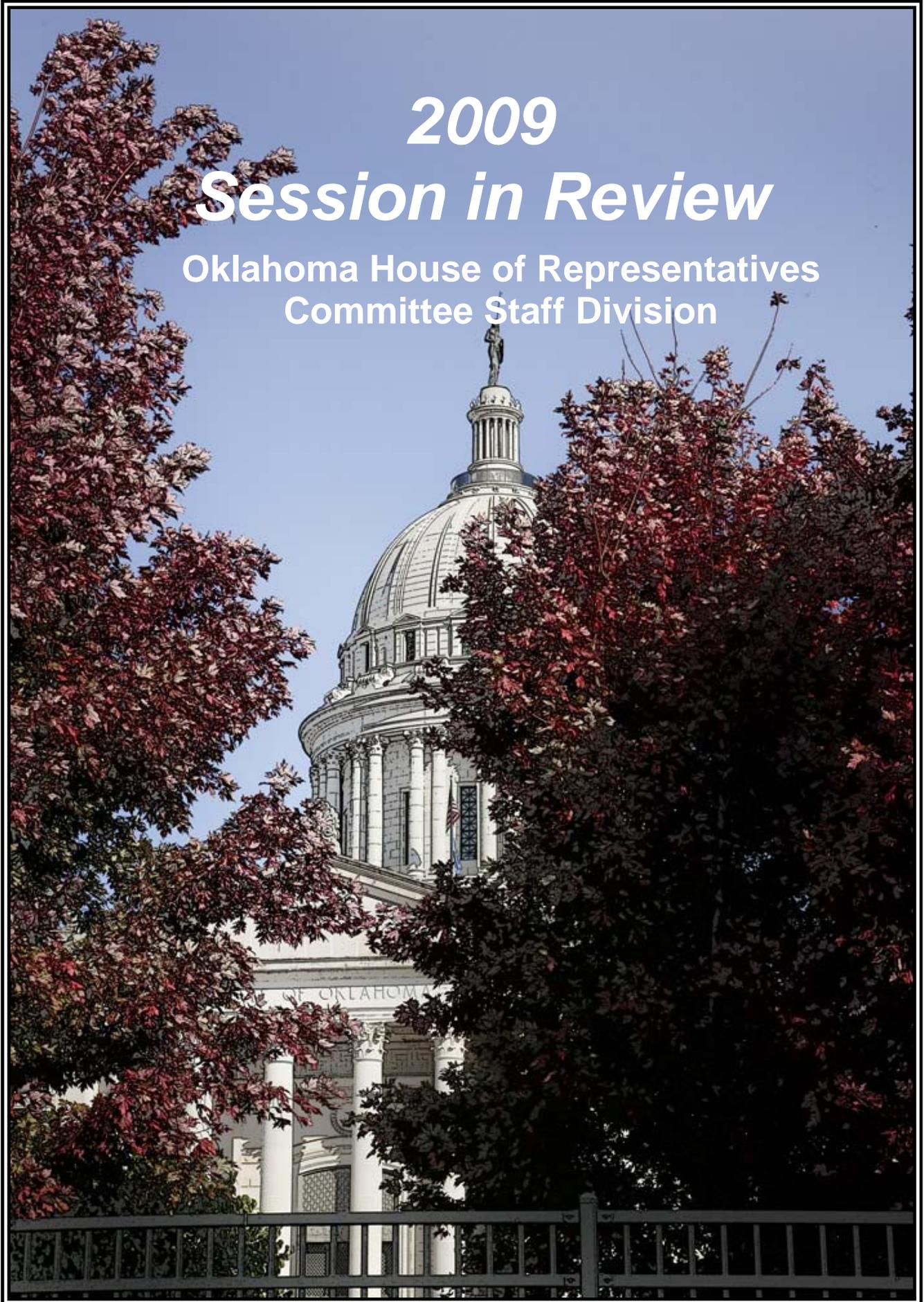


2009

*Session in Review*

Oklahoma House of Representatives  
Committee Staff Division



# Oklahoma House of Representatives

## 2009 Session in Review



**Measures Passed During the First Session  
Of the 52nd Oklahoma Legislature  
Convened January 5, 2009  
Adjourned May 27, 2009**

Thank you to the Legislative Services Bureau Photography Division  
for the cover photograph.

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# *Preface and Acknowledgments*

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The *Session in Review* provides a summary of the Oklahoma Legislature's substantive work during the 2009 session and is organized alphabetically by general topic. Every bill (with the exception of appropriation bills) and joint resolution passed by the Legislature is summarized in the document. A detailed review of the FY-10 appropriations is being published by the House Fiscal Division.

A brief description of the session's major legislation is available in the *Session Overview*, prepared by the House Committee Research Staff. All three of these documents may be found on the House of Representatives' Internet website at:

[http://www.okhouse.gov/Information/Info\\_Publications.aspx](http://www.okhouse.gov/Information/Info_Publications.aspx)

Copies of legislation may also be obtained electronically from the House of Representatives' website at:

[http://www.okhouse.gov/Legislation/Leg\\_Text.aspx](http://www.okhouse.gov/Legislation/Leg_Text.aspx)

During the Second Session of the 52nd Legislature, 2,618 measures and joint resolutions were introduced of which 468 were enacted into law. The Governor vetoed 22 bills. The historical context of this data is shown in Appendices 1, 2, and 3 of this report.

The House Research Staff, under the leadership of its director, Dante Giancola, and composed of Tricia Dameron, Dusty Darr, Marcia Goff, Michael Hirlinger, Arnella Karges, Jonathan Small, and Brad Wolgamott, deserves the credit for preparing this document. Also making important contributions to the project were the House Legal Staff and the House Fiscal Staff. Special thanks to Marcia Goff, Brad Wolgamott, and Tricia Dameron who helped edit this document. A word of special gratitude is also extended to Nancy Lutes of the Support Staff whose expertise and dedication made this project a success.

Dusty Darr  
House Research Staff



# *Explanatory Notes*

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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. Measures vetoed by the Governor are mentioned in Appendix 3 along with the Governor's veto message. The abbreviations HB, HJR, SB, and SJR respectively stand for House Bill, House Joint Resolution, Senate Bill, and Senate Joint Resolution.

In the appendices of this document are charts for this year and the past ten years showing the number of bills and joint resolutions introduced and enacted, the number of vetoes, along with the Governor's veto message, the total amount of state monies appropriated, and a general breakdown of the FY-10 appropriations. Finally, a chart is included listing all state questions which will potentially be on the ballot for the 2010 general election.



# *Agriculture & Rural Development and Natural Resources*

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## **Agriculture and Rural Development**

The Legislature passed several measures affirming the importance and value of agriculture and rural life in Oklahoma. According to the USDA 2007 Census of Agriculture, farms and farmed land in Oklahoma increased 4 percent between 2002 and 2007. To foster continued growth, the Legislature passed **HB 1482**, the right to farm bill, which expands the definition of *agricultural activities* to include aquaculture and improvements to or expansion of shelters, fences, pens, and storage. The expansion need not be contiguous if it is part of the same operating facility. The measure creates a two-year statute of limitations for private nuisance actions. If a nuisance action is declared frivolous by the court, the defendant will recover reasonable costs and attorney fees.

**HB 2151** preemptively addresses recent legislative initiatives by advocacy groups in Arizona, California, Colorado, Florida, and Maine to amend regulations in those states regarding livestock confinement. The measure declares the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) as the state entity empowered to implement regulations on the care and handling of livestock. No political subdivision may create or enforce regulations related to care or handling of livestock that are more restrictive than ODAFF rules. Ordinances or regulations adopted by municipalities pertaining to land use or to human health or safety will not be considered to constitute regulation of livestock care and handling.

Over the last several years there has been growing concern of a looming shortage of large-animal veterinarians. **HB 1919** amends the *eligible agricultural business* definition in the Oklahoma Agricultural Linked Deposit Program to include recent graduates of veterinary school that are establishing a practice where at least 30 percent of business consists of services for large animals. The Linked Deposit Program was created in 1987 to diversify Oklahoma's agricultural industry by offering loans at a reduced rate.

To expand markets available to Oklahoma farmers, the Legislature passed **HB 1583** which creates a program for farmers to certify their hay as weed free. This certification program was requested by producers wanting to supply mulch for Federal Highway Administration right-of-way projects, which require weed-free mulch. ODAFF will conduct two inspections in each growing season, and the certification will be represented by bale tags.

The Oklahoma Department of Transportation would like the option to use weed-free mulch to reduce herbicide application. In addition, weed-free forage is required on federal lands. The certification can also serve as a marketing tool for niche markets.

The Legislature passed several measures addressing fraud and theft in the agricultural industry. **HB 2071** makes it a misdemeanor to sell livestock that was previously identified for sale but is

not actually the same livestock initially offered or sold at the livestock market auction. The measure also prohibits any person from selling livestock at an auction market with any other name than that of the seller, and it makes the use of a false name at a sale a misdemeanor. **SB 564** provides that a check offered for the purchase of goods or livestock that is refused by a drawee is not considered an extension of credit by the seller of goods or livestock to the maker or drawer of the check as used within the bogus check statute. **HB 2149** creates the Agriculture Evidence and Law Enforcement Fund for ODAFF. The fund will consist of confiscated money and money received from the sale of confiscated property. The measure authorizes agricultural law enforcement agents to enforce and carry out state laws related to violations and investigations of livestock brands. The measure also expands antitheft laws to include implements of husbandry. **SB 698** authorizes ODAFF to seize any vehicle, implement of husbandry, farming equipment, or livestock that is possessed in violation of law, as well as any item used in the theft of livestock. The measure provides notice of seizure and intended forfeiture procedures.

In order to protect the cervidae industry, **SB 1033** creates a felony for wrongful injury or removal of a cervidae from a farmed cervidae facility, punishable by a fine of at least \$5,000 and/or less than two years in prison and damages.

The Legislature also enacted the following measures in the area of agriculture:

The value of deer farms and hunting ranges in Oklahoma is more than \$125 million. The scientific classification of the family Cervidae includes most species of deer, such as Whitetail Deer, Blacktail Deer, Mule Deer, Red Deer, and Sika Deer, along with similar species such as antelope, elk, moose, and caribou. The Oklahoma Department of Wildlife regulates farmed cervidae facilities by issuing Farmed Cervidae Licenses for the purpose of breeding, raising, or possessing cervidae for sale. A Farmed Cervidae License may be obtained for a specified fee from the State Veterinarian of the Oklahoma Department of Agriculture, Food and Forestry (ODAFF).

- **HB 1057** ensures that sale barns are able to meet their financial obligations by requiring a minimum of \$25,000 in corporate surety bonds for auction markets having less than 25 sales per year or with no single sale over \$25,000. For all other sales, the auction market must hold a corporate surety bond of at least \$50,000, unless ODAFF approves a lesser amount.
- **SB 452**, in response to concerns by horsemen regarding the availability of equine dentistry services, reduces the fine and penalty for anyone who violates the provisions of the Oklahoma Veterinary Practice Act. This measure reverses the increased penalties enacted in 2008.
- **HB 1872** requires that a person who obtains swine waste for land application and receives the waste from a feeding operation maintain records on the analysis of the waste, land application requirements, soil test results, and application schedule. The measure requires the person obtaining the waste from the feeding operation to certify that they are aware of the law.
- **HB 2148** allows individuals in rural and urban settings to use a cooperative structure to own, run, and share in the benefit of their business in combination with modern financing techniques. Natural gas and rural electric cooperatives are exempt from being formed under this act.

- **SB 432** increases fertilizer distributor fees from 65¢ per ton to \$1 per ton. Fifty cents of this fee (previously 30¢) is forwarded to the Soil Fertility Research Account at Oklahoma State University for researching efficient fertilizer use and protection of ground and surface water from fertilizers. OSU anticipates the fee increase will generate \$160,000 by 2011.
- **SB 636** clarifies existing language directing the Board of Agriculture to adopt standards that conform to the National Institute of Standards and Technology. The measure makes it unlawful for a seller to misrepresent or mislead the weight or measure of an item for sale or for a buyer to take more than the represented quantity.
- **SB 694** modifies the definition of *horse racing* to exclude racing the offspring of a cloned horse.

## Natural Resources

Water and waste management were the focus of the Legislature in the area of natural resources this session. The Legislature passed **HB 1483** in an effort to address the impending expiration of the moratorium on out-of-state water sales, as well as the suit brought by water providers in the Dallas/Fort Worth metroplex against the Oklahoma Water Resources Board of Directors. The measure declares that no out-of-state water permit will impair the ability of the state of Oklahoma to meet its obligations under any interstate stream compact or impair or affect the obligations of the United States. In addition, the measure provides that:

The lawsuit filed in January 2007 challenges the constitutionality of a moratorium on out-of-state water sales approved by the Oklahoma Legislature in 2002 and amended in 2004. Since then, three additional North Texas water providers have joined the lawsuit. When the litigation was filed, the Tarrant Regional Water District also applied for permits from three river basins: the Cache, Beaver, and Kiamichi. District officials wish to capture the water before it takes on too much salt when it enters the Red River.

- Out-of-state water permits must be approved by the Oklahoma Legislature;
- When evaluating applications for use of water outside the state, the Oklahoma Water Resources Board (OWRB) must consider certain matters, including whether the water that is the subject of the application could be feasibly transported to alleviate intrastate water shortages;
- Out-of-state water permits must be reviewed by OWRB at least every ten years;
- The board is authorized to issue conditional permits for use of water outside of Oklahoma; and
- The board is directed to apply the provisions of the measure to pending and future water permit applications.

**SB 655** gives an irrigation district board of directors the authority to construct dams, install equipment, and purchase property without a vote of the electors of that irrigation district.

**SB 551** expedites the ability of the Department of Environmental Quality (DEQ) to provide funding, as available, to small communities and other small water and wastewater systems for engineering work to design solutions for violations of federally-imposed water and wastewater requirements. The bill temporarily exempts engineering contracts for that limited purpose from the state competitive bidding process if the contract is for less than \$100,000. Current law requires DEQ to file a remediation notice in county land records but does not ensure that these notices will be given credence over the long term because it allows abstractors and title examiners to disregard such instruments after 30 years. **SB 349** ensures notice to all future property owners of the condition of a remediated site and any limits on its appropriate use.

**HB 1885** directs the ODAFF and the Conservation Commission to determine if there is a willingness among agricultural producers to participate in best management practices designed to reduce water pollution.

State dam safety officials continue to see local zoning boards and land developers unaware of the need to stay out of potential flood pathways. In order to reduce the risk to loss of life and damage to property from a catastrophic breach of a dam, **HB 1884** forms a study group tasked with reviewing and reporting regulations related to classification of dams. If funding is available, the group will use computer modeling to map the area below a dam that would be inundated with water if a dam breach were to occur.

# *Business and Finance*

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The Legislature passed a number of measures to aid businesses in their growth, protect consumers, modify outdated statutes, and take advantage of federal funds through the American Recovery and Reinvestment Act passed by Congress in early 2009.

## **Banking and Finance**

The membership of the Consumer Credit Commission, a state board charged with the responsibility of administering the Uniform Consumer Credit Code and other investigative and licensing duties, is modified in **SB 1062** by increasing the number of members from eight to nine, to include an individual who is a mortgage loan originator, licensed by the commission, has worked in Oklahoma for at least three years, and is recommended by the Oklahoma Association of Mortgage Professionals.

In response to the national mortgage lending crisis, SB 1062 also creates the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. The act is designed to establish reasonable standards for licensing and regulation of the business practices of mortgage brokers, mortgage loan originators, and the mortgage lending process.

Other provisions of the measure include:

- Provides exemptions for depository institutions and certain individuals and requires mortgage brokers and mortgage loan originators to obtain and renew their licenses annually;
- Requires loan processors or underwriters to obtain a license from the Department of Consumer Credit;
- Authorizes the administrator to establish interim procedures for licensing, to revoke or suspend a license, to audit trust account records, and to control access to any documents and records under examination or investigation; and
- Grants the administrator investigative authority and subpoena powers and authority to retain attorneys, auditors, or other investigative professionals as needed.

**SB 1231** affects funeral service purchases by:

- Authorizing the Insurance Commissioner to deny funeral service permits if an organization commits fraud in obtaining a permit and to approve permits but deny an organization to act as a trustor if qualifications are not met;
- Requiring funeral directors to retain itemized statements of charges for at least three years;

- Prohibiting transfer of a permit to another funeral home and requiring notification of transfer of ownership by application;
- Establishing a formula to determine the net value of a contract for Specific and Described Funeral Merchandise and Service at a Guaranteed Price and prohibiting a purchaser from receiving any funds prior to death less than the original principal collected;
- Requiring nonspecified prepaid funeral contracts to contain a provision requiring the retention for three years of a price list showing the actual retail cost of funeral services and merchandise used at the time of the delivery of services; and
- Establishing penalties for failure to deposit money required under the contract within ten days of receipt with a fine of between \$100 to \$500, or jail sentence from one month to six months, or both fine and imprisonment.

**HB 1618** deals with several aspects of the banking industry. The measure requires businesses regulated by the Cemetery Merchandise Trust Act to apply for approval from the Banking Commissioner before transferring a cemetery and its obligations under prepaid cemetery merchandise contracts. Those businesses with prepaid cemetery merchandise contracts are required to set aside 65 percent of payments in a trust or maintain a surety bond for the full amount prior to selling the services of opening or closing a burial space. Surety bonds may be cancelled only by providing notice to the Insurance Commissioner. The measure also requires those business locations without the authority to operate a bank to be allowed to install and operate consumer banking electronic facilities only after filing a registration statement with the department under rules established by the Banking Board.

To adjust for inflation, **SB 987** increases the cap on the value of life insurance and burial policies that a person can have and still qualify for public assistance programs. The cap was increased from \$7,500 to \$10,000. This measure is also discussed in the Health and Human Services section.

## **Industry and Labor**

Several measures enacted this session affect both large and small businesses. Many of the bills target specific industries, such as construction, motor vehicle and other equipment dealers, alcohol sales, accountants, real estate, and medical professionals.

To help Oklahoma qualify for \$75 million in federal stimulus funds available under the American Recovery and Reinvestment Act, **SB 1175** amends provisions regarding unemployment benefits administered by the Oklahoma Employment Security Commission. The measure includes the following provisions:

- Deletes the requirement that the Alternative Base Period Test be preempted based on declines of the unemployment compensation fund;

- Amends what constitutes good cause regarding eligibility for separation from work to include compelling family reasons such as the geographic transfer of a spouse, caring for an immediate family member, or to escape domestic violence; and
- Changes eligibility parameters to allow part-time employees to receive unemployment benefits.

Some businesses that register with the Oklahoma Secretary of State will face changes due to the passage of **SB 1127**. The bill outlines procedures for foreign corporations to change the address of the registered office or the name of any individual or corporation registered as an agent of the corporation. The measure also establishes a filing fee for a certificate reflecting the change and caps other fees for simultaneous filings. The measure outlines similar procedures for changing the address of a domestic limited partnership and foreign limited partnership and caps simultaneous filing fees at \$5 each.

For businesses that have trade secrets to protect, **SB 1013** provides greater protections by updating the definition of *article* as it relates to the crime of larceny to include customer lists, business records, or any information stored in any computer related format, or copying, transferring, and e-mailing computer data. An exception is provided for employees who fulfill a written agreement with their employers that outlines how disputes involving clients will be resolved upon termination.

Two licensed professions regulated by the Construction Industries Board (CIB) will face changes under **HB 1004** which establishes a maximum apprentice-to-journeyman ratio for petroleum refinery journeyman licensees at not greater than five apprentices to one journeyman. Another bill, **SB 306**, that will affect those in the construction industry, requires municipalities to verify that a contractor has general liability insurance and workers' compensation insurance before a residential building permit can be issued to the contractor. The measure excludes owners from this requirement if they are working on their own single-family or duplex residence, unless the work is performed by a subcontractor.

A major change to help streamline construction industry codes passed in **SB 1182** which creates the Oklahoma Uniform Building Code Commission Act. The act creates within the CIB the Oklahoma Uniform Building Code Commission, which is to review and adopt all building codes for residential and commercial construction. The commission is also authorized to maintain a website listing adopted building codes and to establish fees, not to exceed \$5, for the issue and renewal of construction permits. In addition, the measure expands the powers of the CIB to include enforcing the provisions of the plumbing, electrical, and mechanical codes as adopted by the commission. The CIB is required to adopt codes that set standards for mechanical work. Municipalities are required to adopt building standards adopted by the Oklahoma Uniform Building Code Commission, although the measure allows a municipality to adopt higher standards if the codes are submitted to the commission at least 30 days prior to enforcement. **HB 1031**, which was enacted prior to SB 1182 this session, added the code of the International Code Council to the list of codes that municipalities could adopt when enforcing building standards. In addition, the measure also replaced the Building Officials and Code Administrators National Building Code, as adopted by the State Fire Marshal Commission, with the International Building Code. However, with the enactment of SB 1182 later in the session, the

list of specified codes under HB 1031 was replaced with the requirement that municipalities adopt building standards adopted by the Oklahoma Uniform Building Code Commission.

The Used Motor Vehicle and Parts Commission is required to provide individuals licensed or applying for a license with a written explanation for denying a license under the provisions of **HB 1318**. The licensee or applicant has 60 days from receiving the written explanation to resolve any concerns. Responsibilities of used motor vehicle dealers are expanded in **SB 848**, which requires these dealers to provide a copy of an extended insurance warranty to the buyer, or at least disclose who the third-party insurer will be. Failure to meet this requirement can result in a fine of up to \$100.

Motor vehicle dealers will also be affected by the creation of Oklahoma's Lemon Law in **SB 812** which includes the following provisions:

- Requires the manufacturer to accept the return of a vehicle deemed to be a "lemon" for reimbursement or replacement;
- Allows the manufacturer to charge the consumer for any miles driven in excess of 15,000;
- Prohibits a manufacturer from charging for mileage if the vehicle is simply replaced by the manufacturer and requires that the replacement vehicle be the same model with same features, or if such a vehicle is not available, a comparable model with comparable features at no cost to the buyer; and
- Requires the Attorney General, the Tax Commission, and auto dealers to label, tag, and register defective vehicles.

In Oklahoma, a *lemon* is a new motor vehicle that does not conform to its warranties. If the consumer reports the problem in writing to the manufacturer or dealer during the warranty period or within one year following the date of original delivery to the consumer (whichever is earlier), the manufacturer or dealer must make the necessary warranty repairs even if the term or one-year period has expired.

Licensed liquor wholesalers are prohibited from purchasing more than 15 percent of their total spirits in inventory and more than 15 percent of their total wine inventory from one or more wholesalers each year under **HB 1604**. The measure also requires licensed wholesalers to register prices, purchase and maintain, or have on order a 15-day supply of the top 18 brands in total sales of all Oklahoma wholesalers in the last year.

**SB 1146** amends laws pertaining to the manufacture and sale of low-point beer. A manufacturer is prohibited from terminating an agreement with a wholesaler unless good cause exists and written notification is made regarding noncompliance and the wholesaler fails to become compliant. Manufacturers retain the right to terminate a contract with a wholesaler provided they give at least 90 days written notice. The measure outlines the procedure for a manufacturer to transfer purchase of low-point beer to a successor manufacturer and specifies procedures for continuation or termination of contractual relationships with wholesalers, including an arbitration process. The bill allows for recovery of damages for certain violations and does not limit or prohibit good-faith settlements. Provisions of the measure do not apply to manufacturers that produce less than 300,000 gallons of low-point beer annually.

To address a lingering reciprocity issue for accountants in Oklahoma and provide improved protections for Oklahoma consumers seeking accounting services, **HB 1779** was enacted. Provisions of the measure include:

- Allowing the Oklahoma Accountancy Board to disclose information concerning investigations to government and law enforcement;
- Requiring qualification applicants and applicants for a Certified Public Accountant certificate or Public Accountant license to submit to a national criminal history record check, with the costs of the background check to be paid by the applicant;
- Modifying out-of-state license requirements to conform to the AICPA/NASBA Uniform Accountancy Act and reciprocity procedures by deleting the requirement to notify the board of intent to practice in Oklahoma;
- Modifying what services require a board permit before an out-of-state individual may provide such services;
- Exempting certain firms from registration with the board;
- Providing exceptions for out-of-state firms if their services are performed by a person who is licensed in Oklahoma or whose practices conform to national standards; and
- Adding exceptions for out-of-state persons to perform audit services.

After recent incidents of misconduct by licensed real estate agents in Oklahoma, **SB 602** prohibits applicants for a real estate license who have been convicted of violent crimes from obtaining a license within 20 years of the completion of their sentence. Applicants convicted of felonies for forgery, embezzlement, extortion, conspiracy to defraud, fraud, or similar offenses will be prohibited from obtaining a real estate license within ten years of the completion of their sentence. Applicants convicted of any other felonies will be prohibited from obtaining a real estate license within five years of the completion of their sentence. Current license holders with a felony conviction must reapply for a license.

After discrepancies arose as to which government entity has authority to enforce amusement ride operator regulations and concern about lack of consumer protection, **HB 1934** establishes certification of amusement ride operators and standards for the operation of amusement rides. The bill requires that all amusement rides be under the control of a competent ride operator at all times. Ride operators must receive training according to the minimum national standards. Ride operators must be certified, and certificates must be made available for inspection by the Department of Labor. The measure provides for voluntary drug and alcohol abuse testing if the Commissioner of Labor determines that reasonable grounds exist.

Over the past several years, there have been several instances across the country of musicians performing at state fairs, theaters, and summer musical festivals pretending to be famous older groups such as the Coasters, the Drifters, and the Platters among others. Since many of these bands are over 40 years old, customers often had no way of knowing if they were paying to see

the original band or even a single original member perform. As a result of **HB 2057**, the Truth in Music Advertising Act, Oklahoma joins 32 other states that fine performing groups who mislead their affiliation with another performing group or recording group. Violators face a civil penalty of not less than \$5,000 and not more than \$15,000.

Employers are required by **SB 527** to reimburse employees within 14 days for any fees or costs incurred by the employee due to paychecks that are returned for insufficient funds or stop payment notice by the employer.

### **Miscellaneous**

The Legislature also enacted the following measures regarding business and finance:

- **HB 2056** adds forestry, construction, industrial, maintenance, and paving equipment to the definitions of *inventory*, *retailer*, and *equipment dealer* relating to manufacturers, distributors, and wholesalers of farm, lawn, and garden equipment.
- **HB 1576** expands the Oklahoma State Athletic Commission's regulatory power to include supervision over amateur and professional mixed martial arts and combative sports. The bill also removes the \$300,000 cap on the State Athletic Commission Revolving Fund, allowing the commission to retain all permit fees and fines collected, rather than deposit surplus funds in the General Revenue Fund.
- **SB 406** allows professional bondsmen to undergo a review by the Insurance Commissioner prior to receiving reimbursement from their original deposit, once all liability on outstanding bonds has been extinguished. The bill also authorizes the commissioner to review financial circumstances and history of a bondsman on a case-by-case basis.
- **SB 592** renames the State Architectural and Interior Designers Act as the State Architectural and Registered Interior Designers Act. The bill also requires interior designers to be registered with the Board of Governors of the Licensed Architects, Landscape Architects and Registered Interior Designers of Oklahoma.
- **SB 645** exempts licensed architects from regulation pursuant to the Home Inspection Licensing Act. The bill also increases from 50 to 90 the number of hours of home inspection training an applicant needs to be eligible to take the home inspector examination and increases from five to eight hours the amount of continuing education needed each year for a home inspector to have his or her license renewed.

# Education

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## Common Education

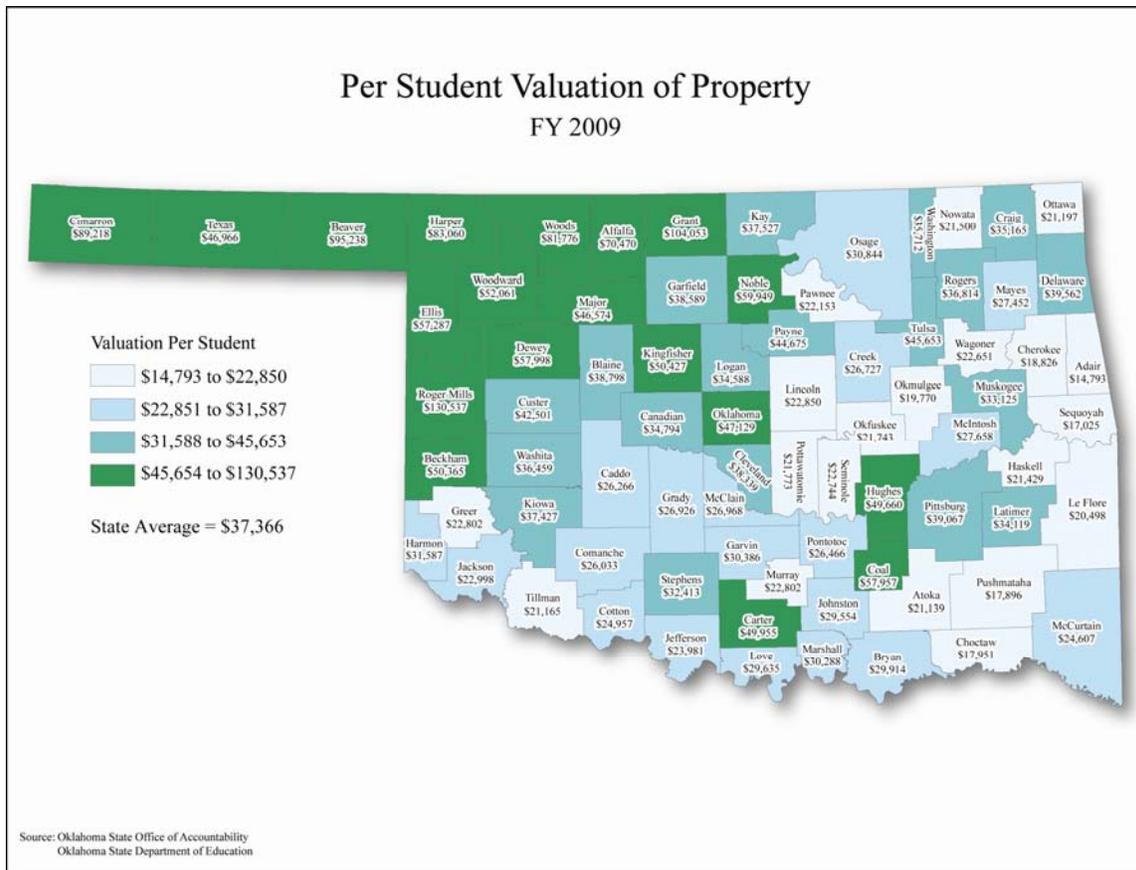
In the area of common education, the Legislature focused on improving the performance and operations of schools, reducing the drop-out rate, and educational accountability. **HB 1461** requires schools that do not make Adequate Yearly Progress for two consecutive years and are identified for school improvement to use the assistance of a school support team established by the State Department of Education. The school support team will review and analyze all operations of the school and incorporate school improvement strategies and facilitate professional development through teacher training. **SB 268** requires school boards to alter the governing arrangements of schools identified for improvement for four consecutive years. The district school board can attempt to remedy the situation by turning the school into a public charter school, contracting with a private management company, removing all or most of the staff responsible for the failure to meet Adequate Yearly Progress goals, granting control of the school to the State Board of Education, or any other arrangement that significantly alters the structure or staff of the school, provided that the solution produces results within two years. Failure to comply will result in the State Board of Education assuming control of the management and operations of the school and withholding district funds that would have been allocated based on the school site.

After the completion of the 2007-2008 school year, 45 school sites were identified as being in need of improvement. Of the 45 school sites failing to make Adequate Yearly Progress and appearing on the school improvement list, 18 schools have not made Adequate Yearly Progress for two consecutive years, and nine of those schools have been identified for improvement for four consecutive years.

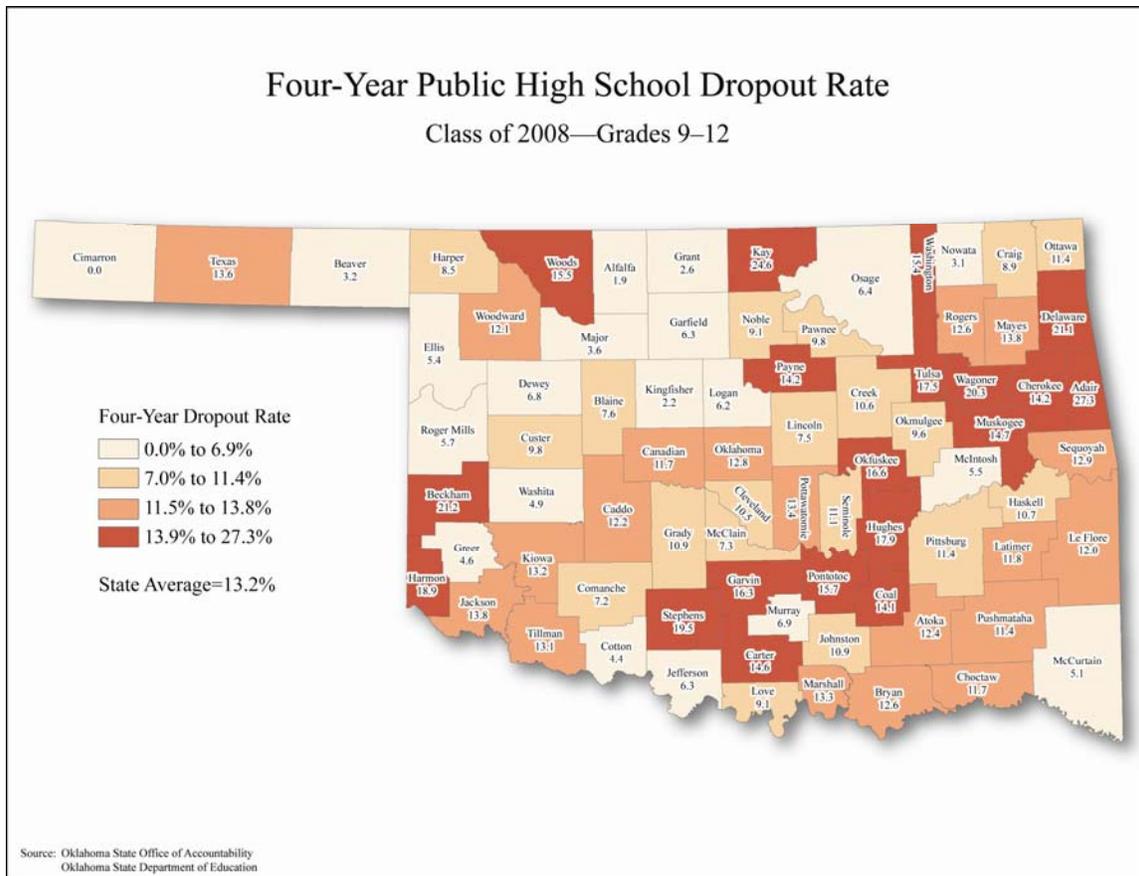
**HB 1864** allows school districts to adopt a policy that changes the calculation of the school year from days to hours. Specifically, the school year will consist of 1,080 hours of classroom instruction as opposed to the current school year of 175 days, and the measure provides flexibility to school districts in meeting the hourly requirement. The bill allows for up to 30 hours a year for attendance of professional meetings. Also, if authorized by the school district, parent-teacher conferences can count as classroom instruction time for a total of 12 hours per year. To assist financially-strapped school districts, **SB 1169** allows building grants to be awarded to schools where local per pupil property values are less than the state average and the school district has taken on its allowable bonded indebtedness. The map on the following page shows that the state average for per pupil property values was \$37,366 for FY 2009 and that school districts in southern and eastern Oklahoma will benefit greatly from the new legislation.

**HB 1647** will increase the number of individuals eligible to serve as substitute teachers in small school districts (5,000 or less ADM) by modifying regulations that previously kept relatives of school board members from working as substitute teachers or as temporary support personnel. **SB 834** would have established the School District Empowerment Program which would have exempted certain school districts from existing statutory requirements, thereby empowering local school boards to make decisions based on the needs of students at the local level. The Governor

vetoed the measure and stated in his veto message that the bill would have eroded the “rigorous state standards [currently] in place.” The full veto message is contained in Appendix III.



In addressing dropout issues in Oklahoma public schools, the Legislature passed **HB 1050** to encourage school districts to develop mentorship programs in order to reduce dropout rates. The programs will provide high risk middle and high school students with comprehensive prevention and intervention assistance. The map on the following page indicates that the statewide four-year dropout rate was 13.2 percent for 2008 and that dropout rates in Oklahoma school districts tend to be higher in the southern and eastern parts of the state. **HB 1837** directs the Commission for Teacher Preparation to create the Inner City Schools Rescue program. The purpose of the program is to recruit and train licensed or certified teachers to work in inner city schools that are on the school improvement list or where 95 percent of the students are eligible for free and reduced lunch. Finally, **SB 1168** creates the Legislative Task Force on Achieving Classroom Excellence to conduct a comprehensive review of the Achieving Classroom Excellence Act of 2005. The task force will study alternative assessments and methods, review policies to reduce the high school drop-out rate and increase postsecondary enrollment and completion, and will examine the potential of blending common education, career technology, and higher education services.



**SB 222** creates the Educational Accountability Reform Act. Significant provisions of the measure provide for:

- Creating the P-20 Data Coordinating Council until July 1, 2015, in order to assess the state’s current student data system and to make recommendations on improvements toward a unified system among all education agencies;
- Creating the Quality Assessment and Accountability Task Force for the purpose of conducting an assessment of state curricular and performance standards and reviewing the state student testing system;
- Creating the Educational Quality and Accountability Board in order to review Adequate Yearly Progress standards, testing contracts, tests, cut scores, and performance levels for tests required by the Oklahoma School Testing Program Act; and
- Modifying testing performance terminology and the method by which the State Board of Education will implement testing cut scores.

The Legislature took numerous steps to increase the safety of Oklahoma teachers. **HB 1598** creates the School Protection Act for the purpose of providing school employees the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment. The bill provides that:

## Education

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- Any person 18 years of age and older who makes false accusations of criminal activity against an education employee will be guilty of a misdemeanor. If the accuser is under 18, the court has discretion to determine punishment;
- In any civil action against a school or an education employee, the court will award court costs and attorney fees to the prevailing party. Expert witness fees may be included as part of the costs;
- The existence of any policy of insurance indemnifying a school or an education employee against liability for damages is not a waiver of any defense;
- Any student in grades six through twelve who assaults or attempts to cause physical bodily injury to an education employee will be subject to out-of-school suspension for the remainder of the current semester and the next consecutive semester. The term of the suspension can be modified by the superintendent;
- Any education employee who is injured as a result of an assault during performance of duties will be entitled to a leave of absence without a loss of leave benefits;
- The School Protection Act will not limit the Governmental Tort Claims Act; and
- The state or a political subdivision will not be liable if a loss or claim results from the use of necessary and reasonable force by a school district employee.

**SB 394** modifies the date from April 10 to the first Monday in June for school boards to notify teachers whether or not their contract will be renewed, along with modifying teacher response deadlines. The measure also requires the State Board of Education to issue a certificate to teach to an individual who has been issued a license under the Teach for America Program, completed coursework requirements for the Teach for America Program, successfully passed the Teach for America assessment requirements, and submitted an application and payment for certification.

Finally, **HB 1070** allows school districts to hire any licensed teacher on a temporary contract in a resident teacher position for two complete school years. Previously, licensed teachers could only be hired on a temporary contract by a school district for three semesters.

Alternative certification for teachers is another issue the Legislature targeted this session. **SB 582** requires the State Board of Education to award an Alternative Placement teaching certificate to any person who meets the eligibility requirements for the Troops to Teachers Program and meets the current alternative certification requirements. The measure also requires the State Board of Education to issue a one-year, nonrenewable secondary or middle level license to teach to any person who has attained

### Troops to Teachers Program

- A cooperative project between the Department of Defense and the Oklahoma State Department of Education.
- A federally funded program designed to assist separated members of the Armed Forces, Veterans, and Reserve Component Personnel with obtaining certification and employment as teachers.
- Applicants for employment as teachers must have at least a baccalaureate degree.
- Provides counseling, referral, and placement assistance to help participants identify employment opportunities and teacher certification programs.

certification by an alternative teacher certification organization, has on file a criminal history check, and participates in a mentoring program. **HB 1333** modifies eligibility criteria for the award of an alternative placement teaching certificate. Specifically, the measure requires a minimum 2.50 GPA for alternative placement teaching certificates and eliminates exemptions from existing alternative placement requirements.

The Legislature enacted several pieces of legislation that will directly affect students. **SB 290** allows a student who earns college credit through concurrent enrollment to receive high school academic credit for any concurrently enrolled higher education courses that are correlated with the academic credit. **HB 1826** requires school districts to adopt policies and procedures to annually notify parents or guardians of students about clubs and organizations sponsored by the school. The policy will allow parents or guardians an opportunity to withhold permission for a student to join a club or organization. **HB 1518** allows schools to exclude from participation in physical education or exercise programs students who have been placed into an in-house suspension or detention class. **HB 1756** requires school districts to adopt a policy to assure that all students are encouraged and have the opportunity to read and study the founding documents of the United States and the state of Oklahoma. Finally, **SB 497** requires school districts to report on a student's transcript any business and industry-recognized endorsements attained by the student.

In other measures related to common education:

- **HB 1763** requires the State Department of Education to provide training to special education due process hearing officers to ensure they are knowledgeable of the Individuals with Disabilities Education Act (IDEA) provisions, the administrative hearing process, and how to render and write decisions. The measure also requires every special education due process hearing official to complete annual continuing education courses in special education law and administrative procedures.
- **SB 473** authorizes the Office of Accountability to conduct a performance review of school districts that have a district student eligibility rate for free or reduced-price meals that is above the state average.
- **SB 880** provides that for any organization to qualify as a retired teachers' organization they must be organized for the purpose of representing the interests of retired teachers and providing member benefits.
- **HB 1467** expands the offering of professional development institutes in mathematics for teachers from grades five through nine to grades kindergarten through nine.
- **SB 604** creates the Task Force on Internet-Based Instruction to conduct a comprehensive review of Internet-based instruction and make recommendations on changes to ensure program accountability.
- **HB 1661** creates the Oklahoma Youth and Government Revolving Fund, to be administered by the Department of Education, for the purpose of providing grants to the program for educating young people regarding government and the legislative process.

Other tax-related provisions of the measure are described in the Revenue and Taxation section.

- **SB 1111** would have created the Educational Accountability Reform Act which would have transferred all school testing, student record/identification system, Adequate Yearly Progress assessment, and accountability functions of the State Department of Education to the Education Oversight Board. The Governor vetoed the measure and stated in his veto message that no “real reform or progress” would be achieved by “[s]tripping the State Department of Education of its current duties and transferring them to a different oversight entity.” The full veto message is contained in Appendix 3.
- **HB 2161** would have prohibited school districts from allowing individuals or organizations to speak or distribute materials at an in-service teacher meeting for the purposes of influencing the results of an election for state or local office, excluding school bond elections, or political fundraising for or against a candidate. The Governor vetoed the measure and stated in his veto message that the bill infringed on the “freedom of speech and...the ability of local school districts to control the content of local meetings.” The full veto message is contained in Appendix 3.
- **HB 1575**, which related to the Academic Achievement Award (AAA) Program, would have added the Gold, Silver and Bronze standards by which teachers could have earned specific bonuses at any school that achieved a certain three-year average score. The Governor vetoed the measure and stated in his veto message that the legislation would “arbitrarily [increase] the time span that a teacher may be held under a temporary contract, changing a longstanding employment provision and eroding educators’ precious due process rights.” The full veto message is contained in Appendix 3.
- **SB 586** sought to allow the sponsorship of charter schools by a federally recognized Indian tribe if the school was located within a school district with an ADM of 5,000 or more, located in a county with more than 500,000 in population, and if the school was located on the Indian tribe’s trust land. The bill would have also allowed a statewide public school teachers’ organization to contract with a sponsor to establish such a charter school. The Governor vetoed the measure and stated in his veto message that the measure was “duplicative of the current law” since “Oklahoma tribal governments already have the authority to create and operate their own schools.” The full veto message is contained in Appendix 3.

## Higher Education

In higher education, the Legislature took action to address the rising costs of textbooks, teacher training in reading, and student athletes. **HB 1882** clarifies what constitutes *bundled* textbooks by incorporating a definition for *integrated textbooks* and *custom editions*. The measure also requires publishers to provide to faculty and staff a description of the content revisions of textbooks between the current edition and the previous edition. **HB 1581** requires all higher education institutions offering programs in elementary, early childhood, or special education programs to ensure their prospective teachers are qualified to teach the five elements of reading – phoneme understanding, phonics, fluency, comprehension, and vocabulary. The bill also

requires teacher candidates to pass a comprehensive assessment to measure their teaching skills in the area of reading instruction. **HB 1095** prohibits an athlete agent from any and all communication and contact with student athletes who are ineligible to be drafted, with the exception of general promotional brochures. An athlete agent is subject to a fine of \$1,000 to \$10,000 for any type of illegal contact with a student athlete.

In other measures related to higher education:

- **SB 982** specifies that the tuition awards under Oklahoma's Promise program will only be calculated based on the nonguaranteed resident tuition. Additionally, the measure delays the second income check requirement to the 2012-2013 school year so not to adversely affect the number students eligible for the program.
- **SB 585** allows public educational institutions to keep confidential campus security plans. An institution at its discretion can release campus security plan information in order to design or implement the plan. The bill also allows higher education institutions to collect and release information related to campus crime statistics and campus security policies.
- **SB 525** allows the board of trustees for the Ardmore Higher Education Program to establish tenure and retirement plans for its employees. The measure also allows the board to provide medical benefits, accident, health, and life insurance and annuity contracts for employees.
- **SB 310** provides that scholarships established through the Oklahoma Health Care Workers and Educators Assistance Program can be awarded by the State Regents contingent upon available funding.

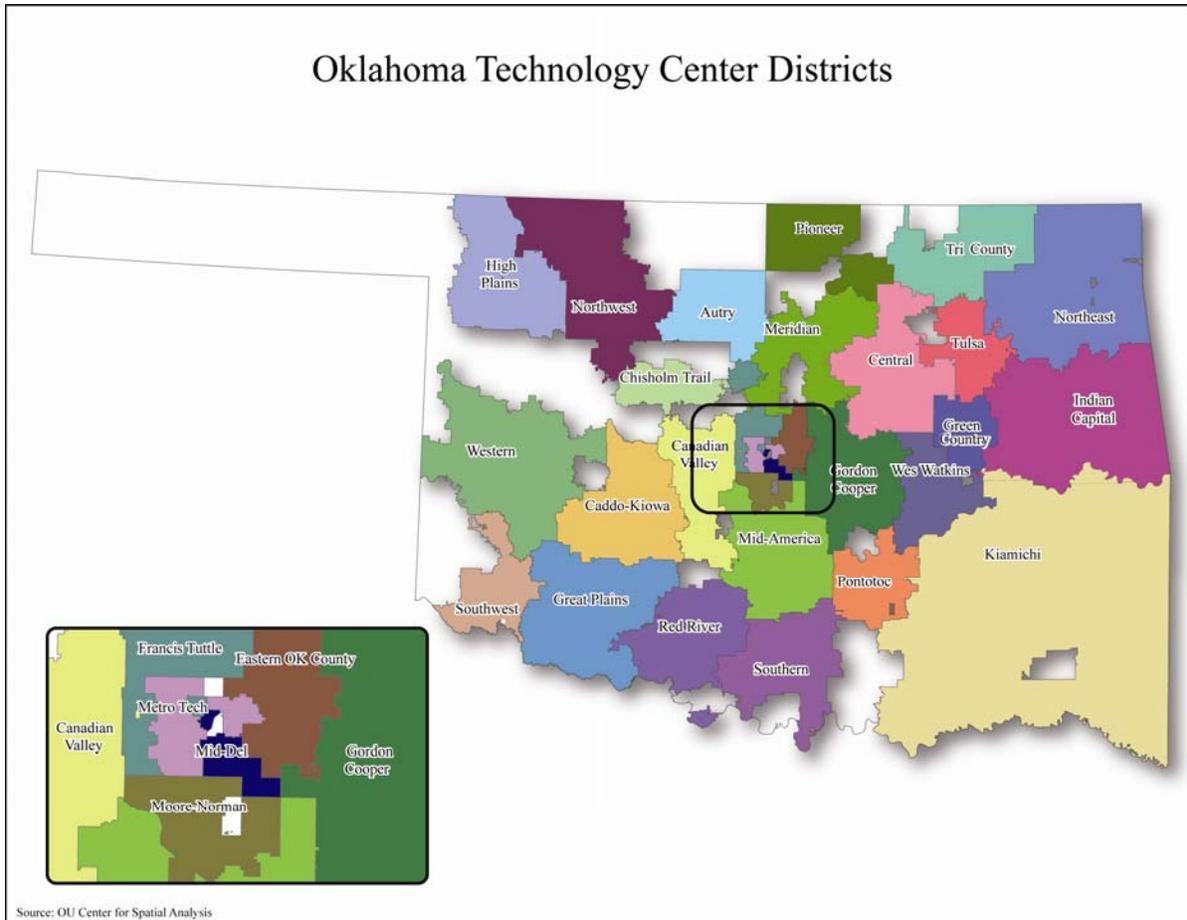
## Career Technology

The Legislature addressed several issues of importance to career technology. **SB 867** authorizes technology center schools to provide intervention and remediation in Algebra II, Geometry, English II, English III, and United States History to students enrolled in technology center schools. **SB 605** allows grants to be made available to technology center schools to encourage greater emergency preparedness. Finally, **SB 285** allows the Department of Career and Technology Education and technology center school districts to keep confidential business plans, feasibility studies, financing proposals, marketing plans, financial statements, and trade secrets submitted by entities seeking economic advice, business development, or customized training.

In other measures related to career technology:

- **SB 257** allows boards of technology center school districts to transfer surplus personal property to a technology center school district or to the State Department of Career and Technology Education, whereas previously they could convey property only to common school districts within tech center boundaries.
- **SB 275** requires the State Board of Career and Technology Education to divide territories of a technology center school district that serves 70 or more public school districts into

equally apportioned district zones. The board of education of a technology center school district will consist of one member elected from each of the district zones of the school district, as shown in the map below.



## Arts and Culture

**HB 1737** establishes the Oklahoma School for the Visual and Performing Arts, creates the Oklahoma School for the Visual and Performing Arts Revolving Fund, and grants specific powers and duties to the school's board.

# *Energy and Utilities*

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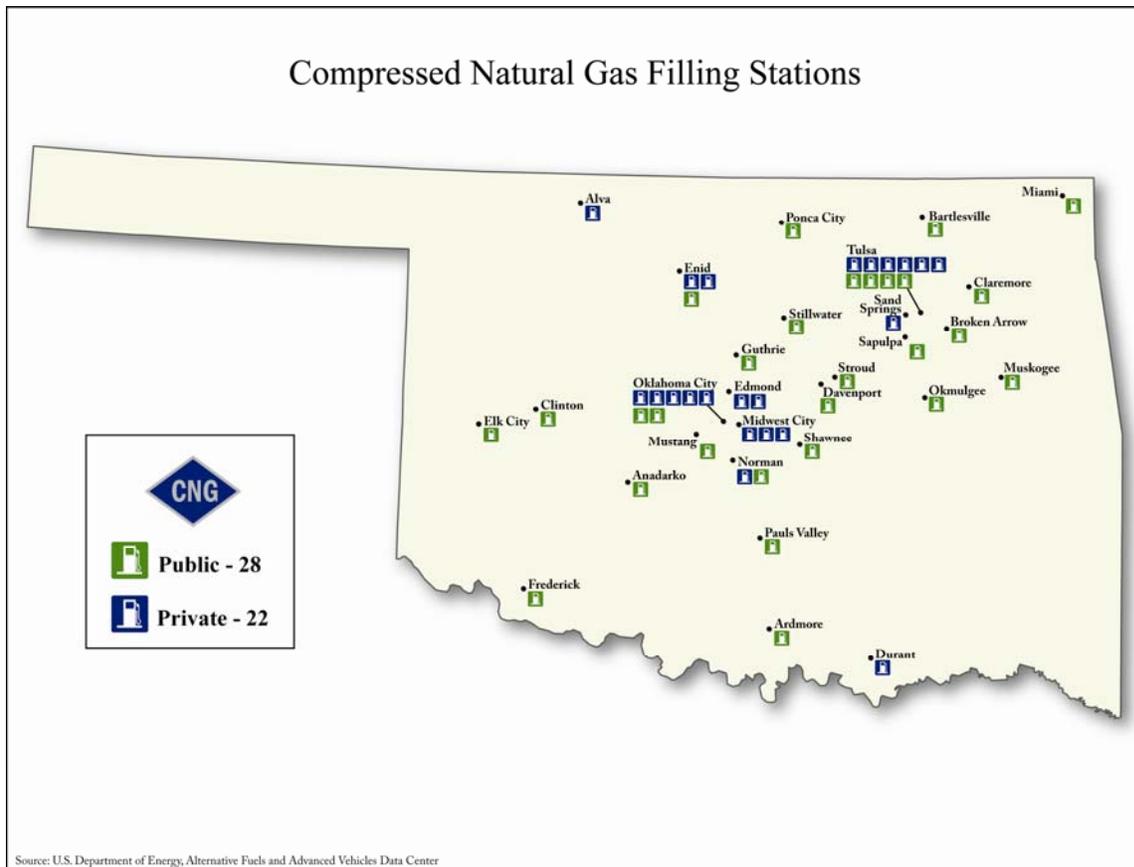
The Legislature focused on the sustainability of Oklahoma's energy resources and the promotion of alternative sources of energy during the 2009 legislative session. A number of measures were enacted that seek to maintain Oklahoma's status as a national leader in the fields of energy production and alternative energy innovation.

The Legislature enacted two measures that seek to promote and incentivize the use of alternative fuel vehicles. While these measures specifically focus on increasing the number of natural gas vehicles, the measures also promote the use of other alternative fuel vehicles including those powered by hydrogen, electricity, and liquefied petroleum. The first measure, **HB 1949**, extends existing tax credits until 2015 for investments made in qualified clean-burning and electric motor vehicle property. The tax credit can be carried forward against subsequent tax liabilities for a period of up to five years. The measure adds hydrogen fuel cell vehicles to the list of clean-burning motor vehicles qualifying under the credit. Qualifying vehicles also include those operating on compressed natural gas (CNG), liquefied natural gas (LNG), liquefied petroleum gas (LPG), and electricity. The measure provides for a 50 percent tax credit for originally equipped and converted qualified clean-burning and electric motor vehicles. In addition, the measure provides for a 75 percent tax credit for the costs that are associated with entities investing in qualified clean-burning motor vehicle fueling stations. The credit only applies to the actual equipment used in the delivery of alternative fuels. The measure also provides a tax credit of up to \$2,500 for individuals and entities investing in CNG equipment that allows an individual to fuel their vehicle at home.

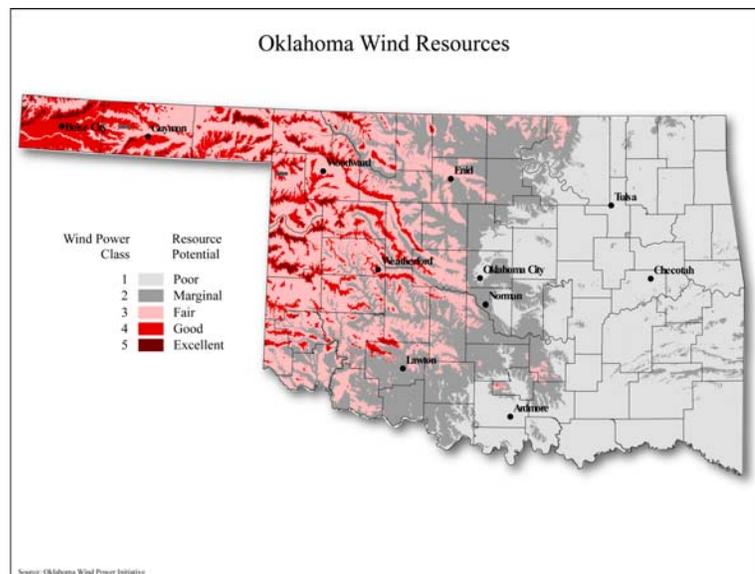
The second alternative fuel bill, **HB 1952**, allows the Department of Central Services (DCS) to construct and operate alternative fueling stations for use by state agencies or for the leasing and transferring to political subdivisions of the state. The Director of Central Services is allowed to enter into fleet services agreements with any political subdivision of the state, and the department may also offer public access to alternative fueling stations in areas of the state where access to alternative fueling stations is not readily available. If a privately owned alternative fueling station is placed within a five-mile radius of a DCS alternative fueling station, the measure requires DCS to cease allowing public access to the station. The measure also authorizes the Director of DCS, through the Fleet Management Division, to enter into public purpose partnership agreements with political subdivisions and private entities for the purposes of applying for, participating in, and administering federal grant funds. The map on the following page identifies the current locations of both public and private CNG filling stations.

In order to spur development, the measure increases the maximum loan amount from the Oklahoma Alternative Fuels Conversion Fund available for use in the construction of a fill station or charge station from \$150,000 to \$300,000. The measure specifies that the maximum amount that DCS may expend for the construction, installation, or acquisition of an alternative fueling station to be leased to a political subdivision of the state cannot exceed \$500,000. Finally, the measure repeals the requirement that a CNG conversion kit installed in a motor vehicle in the state meet the exhaust emissions standards of the California Air Resources Board

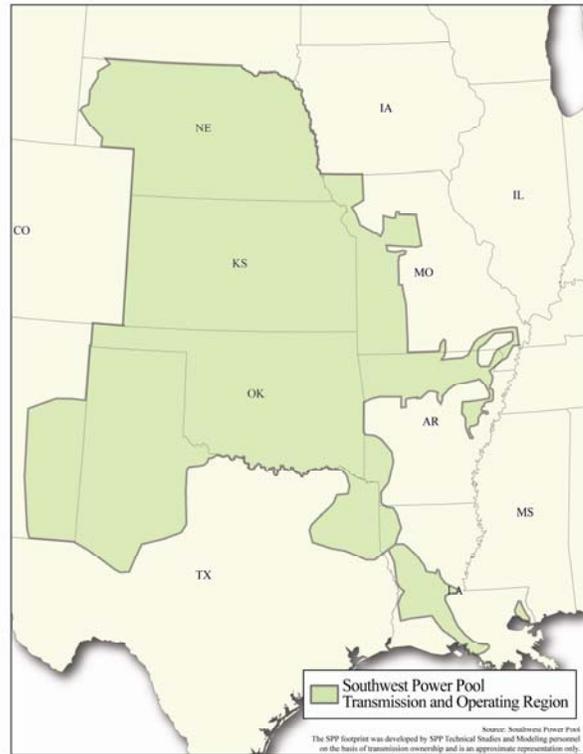
(CARB). The intent of repealing the CARB mandate in favor of the less-stringent EPA conversion standards is to lessen the cost-prohibitive burden that often impedes the conversion of vehicles to operate on CNG.



The Legislature continued to promote the development of the state’s vast wind energy resources during the 2009 legislative session. In past years, the Legislature focused on increasing the state’s insufficient transmission infrastructure, which has often been blamed for impeding wind power development in the state. The focus this session, however, was on recruiting wind developers to locate their operations within the state. Specifically, **HB 1953** redefines the Oklahoma Quality Jobs Act definition of *basic industry* to include the NAICS wind energy codes relating to support, repair, and maintenance service activities for the wind industry. The legislation is intended to serve as a lucrative incentive to wind energy companies exploring wind power development in the state. The map illustrates the various levels of wind resource potential across the state.



A related measure, **SB 827**, authorizes the Oklahoma Corporation Commission to contract with one person or firm to act as an electric transmission system advisor to the commission. The measure directs the advisor to attend and participate in meetings of the Southwest Power Pool, which is the state's regional electric transmission authority, to advocate on behalf of the state on all issues relating to electric power transmission in the state. As a Regional Transmission Organization (RTO), the Southwest Power Pool (SPP) is mandated by the Federal Energy Regulatory Commission to ensure reliable supplies of power, adequate transmission infrastructure, and competitive wholesale prices of electricity to its members in nine states: Arkansas, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. SPP members serve over five million customers. SPP's footprint includes 26 balancing authorities, 47,000 miles of transmission lines, and 370,000 square miles. In addition, SPP is based in Little Rock, Arkansas, and has over 370 employees. The map illustrates the current jurisdiction of the SPP.



Several measures were enacted this session that address energy efficiency and conservation as it relates to state agencies and other governmental entities. State agencies are directed by **SB 833** to develop and implement energy efficiency and conservation plans that will reduce both electrical and fuel energy consumption. The measure specifies that state agencies should include within these energy efficiency and conservation plans the following:

- Purchasing preferences for energy-efficient products and vehicles that utilize alternative fuels;
- The utilization of on-site renewable energy for space conditioning and water heating when appropriate, such as solar water heating and geothermal heat pumps in all new and replacement buildings and major renovations of buildings; and
- Preferences for the utilization of alternative energy sources.

In addition, the measure requires each state agency to designate a person to oversee the development and implementation of these energy efficiency and conservation plans. Finally, the measure requires DCS to assist state agencies in developing energy efficiency and conservation plans upon request.

In other measures related to energy efficiency and conservation, **SB 953** creates the Oklahoma Clean Energy Independence Commission. The measure authorizes the Secretary of Energy to

determine the number of members to be appointed to the commission; however, the commission membership must include representatives from governmental agencies with energy-related responsibilities; private energy industries, including traditional and alternative technologies; and public and private Oklahoma universities with an interest in energy technologies. The measure authorizes the commission to issue reports of its findings and to seek assistance for any services from state agencies or governmental entities, as well as donations of money or other resources from any person or private entity needed to assist the commission in its operations. Members of the commission are required to serve without compensation but may receive reimbursement from the Office of the Governor for necessary travel costs pursuant to the State Travel Reimbursement Act. Finally, **SB 293** authorizes both municipal-owned utilities and the Grand River Dam Authority to expend funds, upon the approval of the governing board, to assist consumers with energy conservation activities.

The Legislature enacted two measures relating to the geologic storage of carbon dioxide this session. **SB 679** re-creates the Oklahoma Geologic Storage of Carbon Dioxide Task Force, which is slated to continue until December 1, 2009. The task force was initially created during the 2008 legislative session with the enactment of SB 1765; however, the task force did not complete its required findings. Therefore, this measure allows the members previously appointed to the task force to continue to serve, with new members appointed as necessary by the original appointing authority. In addition, the measure directs the task force to continue to study issues necessary to implement the transmission and storage of carbon dioxide in geologic formations and to issue a report containing legislative recommendations following the termination of its activities.

The Oklahoma Carbon Capture and Geologic Sequestration Act, which was created by the enactment of **SB 610**, also relates to the injection, use, and storage of carbon dioxide in underground geologic formations for the extraction of underground natural resources such as oil and natural gas. The measure grants the Oklahoma Corporation Commission exclusive jurisdiction over any aspect of a carbon dioxide sequestration facility, including any injection well, over which the commission is given jurisdiction pursuant to the act. In addition, the measure specifies that the Department of Environmental Quality will not have jurisdiction with respect to the pipeline transportation of carbon dioxide.

In other measures related to energy and utility regulation:

- **SB 301** removes obsolete language allowing the Oklahoma Corporation Commission to promulgate rules relating to the single state registration of motor carriers. The measure removes tour bus operations from oversight by Corporation Commission regulations under the International Registration Plan. In addition, the measure specifies that any action taken by the Oklahoma Tax Commission with respect to the International Registration Plan or other compacts or agreements prior to July 1, 2004, is to remain in effect unless altered by the Corporation Commission.
- **SB 303** states that under the Retail Electric Consumer Cost Reduction, Safety and Service Act, any retail electric supplier who has been operating under a franchise granted by the voters of a municipality, upon the expiration of that franchise, will not have a right

construed under the act to continue and extend the furnishing of electricity within the boundaries of the municipality other than as granted with regard to the annexed area.

- **SB 503** creates the Household Goods Act of 2009. The measure regulates intrastate transportation by motor carriers of household goods in a manner that establishes standards for public safety, fair competitive practices, adequate and dependable service, and protection of shippers from deceptive or unfair practices. The bill authorizes the Corporation Commission to regulate every motor carrier of household goods, protect the shipping and general public by requiring liability insurance and cargo insurance of all motor carriers, ensure motor carrier compliance with applicable size and weight laws and safety requirements, regulate consumer protection measures and loss and damage claim procedures, and enforce the general provisions of the act. In addition, the measure details the process taken to certify an applicant as a motor carrier of household goods and establishes liability for violations of the act. Finally, the measure provides that no carrier whose principal place of business is not in Oklahoma may conduct operations in the state unless the operations are covered by a valid bond or insurance policy issued by an insurer approved by the insurance regulatory authority of the state of their principal place of business or the Oklahoma Insurance Department.
  
- **SB 446** amends the Oklahoma Brownfields Voluntary Redevelopment Act by adding the requirements that the Department of Environmental Quality (DEQ) approve site-specific work plans for site characterization, evaluate engineering and institutional controls for function and performance, and provide audits of completed projects to ensure compliance with use restrictions in administering the act. In addition, the measure provides that one or more participants may submit a proposal to DEQ for risk-based remediation of a brownfield site. The bill also requires that such proposals include a detailed site characterization, the current and proposed uses of the property, an analysis of the human and environmental pathways to exposure from pollution at the site, alternatives for cleanup, potential for redevelopment to impact the remedy, a plan for after-action monitoring, any engineering or institutional controls needed, a plan for remediating any pollution at the site, a long-term management plan for any on-site disposal facilities, and the current and proposed use of groundwater near the site. DEQ is authorized to require the participant to reimburse the department for expenses incurred in auditing completed projects to ensure compliance with use restrictions in the Certificate of Completion or the Certificate of No Action Necessary.



# General Government

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## Municipal Government

Issues relating to zoning regulations and annexation powers continued to dominate discussions regarding municipal governments. With the enactment of **HB 1424**, notifications are now required when proposing zoning changes that would permit the use of treatment facilities, multiple family facilities, transitional living facilities, halfway houses, and any housing or facilities that could be used for medical or nonmedical detoxification within the limits of a municipality. The measure requires entities proposing zoning changes relating to these facilities to mail a written notice within 30 days of a scheduled rezoning hearing to all registered voters within one-quarter of a mile of the affected area. In addition, the notice to affected residents must be mailed at the expense of the petitioning party.

In other matters associated with zoning regulations and annexation issues, **HB 1473** exempts agricultural parcels of land 40 acres or larger from ordinances restricting land use and building construction when annexed into municipal limits, provided that the land continues in uninterrupted agricultural use. **HB 1389** requires that a prevailing property owner be awarded attorney fees and court costs in annexation disputes, including when a municipality withdraws, revokes, or reverses the ordinance at issue in response to litigation prior to the issuance of a final judgment. The measure also modifies the grounds for involuntary dissolution of a municipality to include the condition that the municipality is totally within an area subject to subsidence; environmental contamination of flooding as a result of mining operations, dam construction, or natural causes beyond the control of the municipality; and that the municipality is unable to meet the cost of continuing its government and maintaining its services to residents due to a reduction in population resulting from these conditions.

Under the provisions of **SB 517**, the governing body of a municipality is not required to obtain the written consent of the owners of a majority of acres to be annexed if three sides of the territory to be annexed are adjacent or contiguous to property already within the municipal limits, provided that prior to November 1, 2004, the municipality has directed that notice be published in accordance with public hearing and notice requirements. In addition, the measure requires the governing body of an annexing municipality to provide notice by first class mail together with a map and plat of the annexed territory to the Sales and Use Tax Division of the Oklahoma Tax Commission prior to the effective date of the annexation. The Tax Commission is then required to notify the known sales tax vendors within the boundaries of the annexed territory.

The Legislature enacted several measures this session related to city managers and individuals involved in the process of city planning. **HB 1420** allows municipalities with populations under 5,000 persons to employ a part-time city planner, whose duties will be determined by the governing body of the hiring municipality. **SB 505** specifies that no more than four members of a nine-member city planning commission may serve on design committees or commissions. Finally, **HB 1753** specifies that a city manager must reside within the boundaries of the city, the

school district or districts that overlap the city boundaries, or within ten miles of the city or school district during the tenure in which he or she holds the office of city manager. The measure also authorizes the governing body of a municipality to delegate the approval of change orders up to \$40,000 or 10 percent of any contract, whichever is less, to the chief municipal administrative officer of a municipality or their designee.

Cities and towns are required by **HB 1007** to adopt ordinances for signs designating parking for the physically disabled to meet the standards outlined in the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration. These signs are to display the R7-8 symbol. For van accessible spaces, the R7-8a sign should also be posted. Existing signs are exempted, provided appropriate language is on the sign.



R7-8 Sign required by  
HB 1007

In other measures related to municipal government:

- **SB 348** authorizes municipalities to offer and pay a reward of up to \$1,000 for the arrest and conviction, or for evidence leading to the arrest and conviction, of any person stealing or defacing municipal road signs and property. The measure also authorizes municipalities to create and maintain a reward fund from which to pay the rewards.
- **HB 1800** raises the maximum costs that may be charged and collected by municipal court clerks from \$25 to \$30 plus the fees and mileage of jurors and witnesses. In addition, the measure allows the governing body of a municipality to enter into a contract with a debt collection agency for the collection of unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid by a court serving the municipality. Municipalities entering into contracts with collection agencies are authorized to charge an additional collection fee not to exceed 35 percent of the item that has been referred to the collection agency for collection.
- **SB 306** requires municipalities to verify proof that a contractor has general liability insurance, in an amount required by other construction trade contractors licensed by the Construction Industries Board, and workers' compensation insurance before the issuance of a residential building permit. The measure defines a *residential building permit* as a building permit for a single-family or a duplex residential structure including construction of new structures, remodel of an existing structure, and addition to an existing structure. The measure does not include a single-family or a duplex carport, patio cover, storage building, accessory building, pool, or fence under the definition of a residential building permit. In addition, the measure does not apply to individuals making modifications to existing single-family or duplex structures on their own property, unless the modifications are being contracted with a general contractor or subcontracted, in which case the general contractor or subcontractor must meet the requirements.

- **SB 726** clarifies the duties of a municipality’s paid full-time fire chief to supervise the fire department as well as handle administrative duties. The fire chief is prohibited from serving as police chief, city manager, mayor, or in any other capacity that might impair his or her abilities to perform the duties of a fire chief. Other provisions of this bill are noted in the Retirement section.

## County Government

The Legislature’s priority of securing energy independence and promoting energy efficiency also affected issues relating to county governments. **SB 668** creates the Oklahoma Energy Independence Act, which authorizes a board of county commissioners to establish via resolution a County Energy District Authority. The measure specifically authorizes an authority, once established, to make loans or grants between a willing and consenting property owner and the authority or a financial institution for the following purposes:

- To finance the installation of distributed generation renewable energy sources;
- To make energy efficient improvements or retrofits that are permanently affixed to residential, commercial, or industrial property;
- To conduct residential and commercial building energy audits; and
- To establish financial incentive programs for energy efficient improvements.

In addition, the measure authorizes an authority to secure funding from the issuance of notes or bonds, public or private lenders, or grants or loans from other governmental entities upon the availability of such funds.

A number of measures were enacted relating to the authority of a board of county commissioners. Two measures, in particular, address the ability of a board of county commissioners to issue fines, penalties, and rewards. **SB 431** authorizes a board of county commissioners to establish fines, penalties, or other remedies as enforcement for violations of its zoning, subdivision, storm water, and floodplain regulations. The measure authorizes designated county personnel to issue citations for violations, which are deemed misdemeanor offenses punishable by a fine not to exceed \$500. **HB 1470** allows a board of county commissioners to offer as much as a \$1,000 reward for information leading to the arrest and conviction of individuals involved in the stealing and defacing of county road signs and property. Prior to the enactment of this measure, similar rewards were limited to \$100. In addition, the measure increases the amount of money that may be maintained in a reward fund from \$500 to \$2,000.

In other matters regarding county commissioners, **SB 357** authorizes a board of county commissioners to enter into agreements with a municipality for the furnishing of emergency services including those services relating to medical attention and wreck removal. The measure also authorizes a board of county commissioners to collect charges to finance emergency services contracts. Finally, **SB 783** requires the ballot title for county questions that will be proposed to voters in a particular county to be reviewed by the local district attorney. Requirements for ballot titles for county questions are similar to state questions, with specific

instructions for questions increasing or amending tax rates. Under the new law, such county questions are required to be published in local newspapers as currently provided in statute.

The Legislature also enacted a number of measures pertaining to county boards, employees, and officers. **SB 684** modifies the previous county board of adjustment quorum requirement by specifying that three members of the board, with both the city and the county being represented, constitute a quorum. **SB 1066** authorizes a county purchasing agent to purchase from the next lowest bidder if a vendor who is the lowest bidder cannot or will not sell goods or services as required by a county bid contract, provided that such purchases do not exceed \$10,000; the previous limit imposed by statute was \$5,000. And finally, **SB 269** relates to the \$35 fee county officers are authorized to charge for each worthless check, draft order, or voucher. The measure removes a requirement that monies received from the fee be placed in an interest-bearing account at a rate of not less than 3 percent per annum on average daily balance.

In other measures related to county government:

- **HB 1347** increases the minimum values relating to the disposal, trade, and sale of county equipment from \$250 to \$500.
- **HB 1294** allows the board of directors of a rural road improvement district to finance improvements on a pay-as-you-go basis, provided that the district has no outstanding bonds or other indebtedness. Pay-as-you-go improvements are limited to the actual cost of purchases and construction. In addition, the measure also prohibits rural road improvement districts choosing to operate on a pay-as-you-go basis from issuing bonds and other indebtedness until completing the pay-as-you-go improvements.
- **SB 857** requires the Oklahoma State University Center for Local Government Technology (OSU-CLGT), in cooperation with the Oklahoma Tax Commission, the County Assessors Association, and the County Treasurers Association, to provide computer software, software support, hardware, installation, maintenance, data management, and training to counties currently using services previously provided by the State Auditor and Inspector. The measure provides expenses incurred by OSU-CLGT will be paid by the Tax Commission, or OSU-CLGT may charge fees to defray any costs.

## **Capitol Building and Grounds**

The Legislature enacted two bills relating to the State Capitol Building and the State Capitol grounds. **SB 643** adds additional spaces in the Capitol Building that are currently occupied by the Supreme Court and the Court of Criminal Appeals, prior to relocation to the Wiley Post Historical Building, to those areas that fall under the control and management of the Legislature. The measure allows courts to continue to have access to the courtrooms and robing rooms located within the Capitol Building for necessary and appropriate occasions.

**HB 1330** creates the Ten Commandments Monument Display Act which authorizes the State Capitol Preservation Commission or designee to erect a monument of the Ten Commandments on the State Capitol grounds. The monument, which is to be funded by private entities and not to be construed as an endorsement by the state of Oklahoma of any particular one religion or

denomination over others, is required to utilize the same wordage used on the constitutionally upheld monument at issue in the United States Supreme Court case of *Van Orden v. Perry*.

## Elections

After the House experienced the loss of one of its colleagues last year, the need arose to replace a candidate for State Representative on the ballot. Previously, the law allowed only five days for a county or state party's central committee to submit an alternate name to the county or State Election Board Secretary. After realizing the law in practice does not allow for proper mourning time, the Legislature enacted **HB 1081** which increases the amount of time to 15 days, provided notice is given not later than 60 days prior to the general election for statewide or federal offices and not later than 55 days for other offices.

County election boards are granted the authority to determine the validity of ballots being counted in an election's electronic or manual recount under **HB 1999**, upon a majority vote of the board.

In an attempt to help military personnel and Oklahoma residents that are overseas vote while out of the country, **SB 458** allows qualified voters to submit an electronic request for absentee ballots, provided the voter is located outside the United States and will be voting from outside the U.S. The bill also authorizes the Secretary of the State Election Board to designate elections, besides state or federal elections, that may have ballots transmitted electronically. County election boards are also allowed to transmit ballot materials electronically to qualified absentee ballot requestors under the bill's provisions.

To assist absentee voters, **HB 1402** adds veterans' centers to the list of places an absentee voting board must deliver absentee ballots prior to an election for each incapacitated registered voter in the facility.

After years of attempts at reforming Oklahoma's initiative petition and referendum process, some reforms were successful during this session. **SB 800** requires ballot title and constitutionality protests to be filed and considered prior to gathering signatures for an initiative or referendum petition, rather than after signatures are gathered as the process is currently outlined. Signatures are still required to be filed within 90 days after determination of the sufficiency of the petition by the Supreme Court. Any protests following the submission of signatures must relate only to the validity or number of signatures. This reform aims to alleviate the burden on citizens wishing to circulate petitions for state questions to be considered by the people on a statewide ballot.

The Legislature passed a number of legislative referendums sending questions to a statewide vote of the people for their approval or rejection. One proposed constitutional amendment also aims to reform the initiative petition process by lowering the threshold for the number of signatures required to get a question on the ballot. **SJR 13** changes the basis for the percentages required for citizen initiatives on the number of votes cast at the last general election for the Office of Governor, rather than the state office receiving the highest number of votes in the most recent general election, which sometimes includes presidential or U.S. Senate election years and

typically results in higher turnout. If approved by the people, the number of signatures required would be as reflected in the following chart:

Initiative Petition (8%)		
Current Requirement	8% of 2008 (Presidential) General Election	117,013
SJR 13 Proposed Change	8% of 2006 (Governor) General Election	74,117
Initiative for Constitutional Change (15%)		
Current Requirement	15% of 1008 (Presidential) General Election	219,399
SJR 13 Proposed Change	15% of 2006 (Governor) General Election	138,969

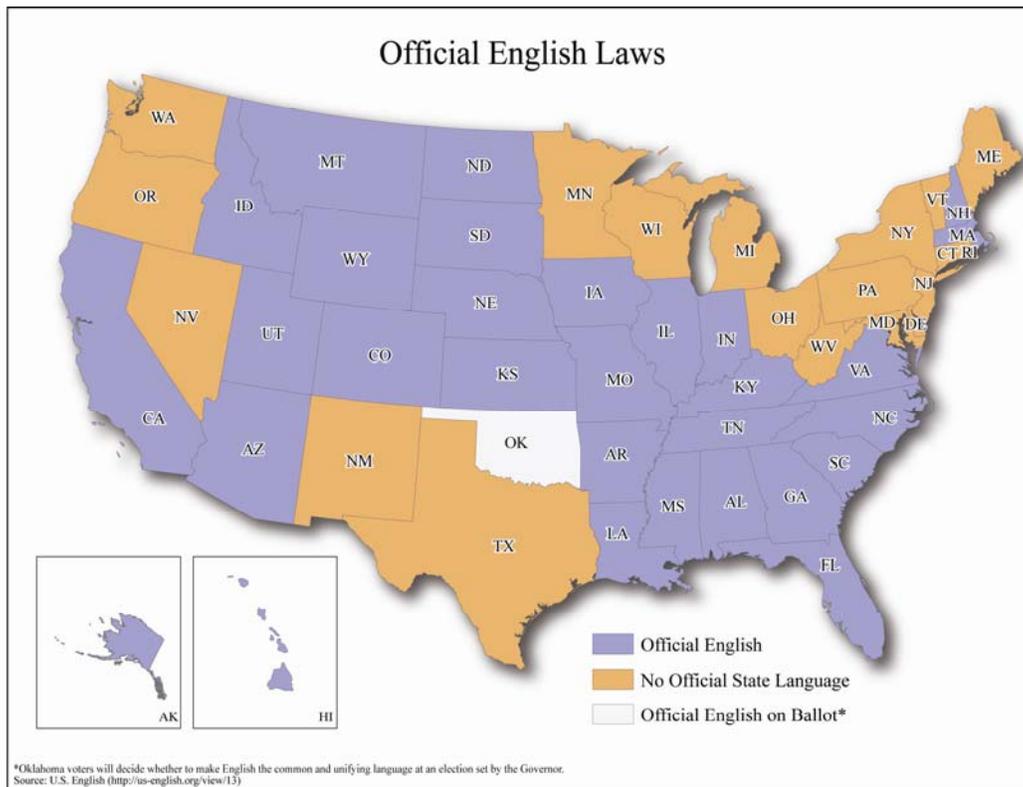
Though not a constitutional amendment, the Legislature passed **SB 692** for a state question to go to a vote of the people, after the Governor vetoed the first legislative attempt at requiring identification for voting in person in **SB 4** (the full veto message is contained in Appendix 3). **SB 692** submits a state question to the people for their approval or rejection at the next general election to require each person who appears to vote in person to provide proof of identity. *Proof of identity* is defined in the measure as a document that shows the name of the person and the name conforms to the name listed in the precinct registry; the document shows a photograph of the person; the document includes an expiration date; and the document was issued by the U.S. or Oklahoma government or a federally recognized Indian tribe. A person may also present his or her voter identification card as proof of identity. If a person does not have proper proof of identity, the bill allows for a provisional voting procedure which requires the voter to sign a statement under oath declaring that he or she is the voter identified in the precinct book. It is a felony to falsely sign the oath, and the penalty is listed on the statement to be signed. The map on the following page provides a state-by-state analysis of current voter identification requirements.

After voters approved legislative term limits in 1990, Oklahoma voters will now get an opportunity to consider limiting the number of terms statewide elected officials can serve. **SJR 12** proposes a constitutional amendment limiting individuals who are elected as Governor, Lieutenant Governor, State Auditor, Attorney General, State Treasurer, Commissioner of Labor, Superintendent of Public Instruction, or Insurance Commissioner to serve no more than eight years or two four-year terms, Corporation Commissioners to serve no more than twelve years or two six-year terms; years served do not need to be consecutive. Any person filling an office due to a vacancy will not have that time counted against the total allowable limit. The amendment, if passed, will not apply to any individual's time who is currently serving in these positions. If adopted, the amendment will remove the ability of the Governor to serve more than eight years total.

With the need for redistricting following the 2010 census, **SJR 25** proposes to change the state's current Apportionment Commission to become the Bipartisan Commission on Legislative Apportionment. The Apportionment Commission is only charged with the duty of redrawing the state's legislative and congressional districts if the Legislature fails to accomplish the task within 90 days after the first regular session convenes following each Federal Decennial Census. The proposed constitutional amendment would rename the commission and increase the membership to seven, including the Lt. Governor, who would serve as chair and a nonvoting member; two members appointed by the President Pro Tempore of the Senate, one representing each party;



political subdivision for not providing government documents or support in languages other than English and specifies that the new law will not diminish the use, study, development, or encouragement of any Native American language. The proposed amendment also authorizes the Legislature to implement and enforce the constitutional provision through appropriate legislation, if approved by a vote of the people. The map below indicates which states have established English as the state's official language.



Though **HJR 1014** does not specifically address State Question 744, concerns regarding the possible cost implications of the possible passage of SQ 744 are apparent. SQ 744 proposes a constitutional amendment requiring the appropriations for common education to be equal to the average of the annual per pupil spending of the neighboring states. HJR 1014 proposes a state question to be sent to the vote of the people for a new section to be added to the Oklahoma Constitution, that the Legislature will not be required to make expenditures for any function of government using a predetermined formula or by reference to expenditure levels of any other state government or entity. The proposed amendment also states that it will not be construed to allow the Legislature to make appropriations in excess of the limits outlined in the balanced budget section or any other provision of the state's constitution.

Due to a number of pending applications, many decades old, from Oklahoma to call a convention to propose amendments to the U.S. Constitution, **SJR 11** requires the Legislature to cancel all applications made to the United States Congress. The resolution also urges other states' legislatures to follow suit and directs copies of the resolution be sent to the Secretary of State, the presiding officers of both houses of all the states' legislatures, the President of the U.S. Senate, the Speaker of the U.S. House, Oklahoma's congressional members, and the Administrator of the

U.S. General Services Administration. The chart below lists the state’s pending applications to Congress for amendments to the U.S. Constitution.

Applications to Propose Amendments to the U.S. Constitution Rescinded Under SJR 11	
APPLICATION	YEAR
General (direct election of U.S. Senators)	1908
General (direct election of U.S. Senators)	1910
Limited taxation	1955
Limited taxation	1955
Mode of amendment	1963
Apportionment	1963
Apportionment	1965
Presidential electors	1965
Presidential electors	1965
Presidential electors	1965
School attendance	1973
School attendance	1973
School attendance	1973
Unconditional federal funds	1976
Balanced budget	1978
Balanced budget	1978
Right to life	1980

**HB 2246** would have modified the petition and referendum process by expanding the time an initiative petition could circulate from 90 days to one year. The Governor vetoed the measure and stated in his veto message that the bill would have provided “additional rights to petition circulators [while] at the same time [taking] away the rights of other citizens.” The full veto message is contained in Appendix 3.

### State Infrastructure

The Legislature authorized a number of significant Oklahoma Capitol Improvement Authority projects this session. **SB 238** authorizes the Oklahoma Capitol Improvement Authority to acquire real and personal property to be used for the construction, repair, and rehabilitation of flood-control dams; the repair of roadside water erosion; riparian restoration; and the purchase of necessary equipment in various counties with the assistance of local conservation districts. The measure specifies that title to the real property and improvements be transferred from the Oklahoma Capitol Improvement Authority to the Oklahoma Conservation Commission upon the final redemption or defeasance of the financial obligations authorized by the measure. In addition, the Oklahoma Capitol Improvement Authority is authorized to obtain monies in the amount of \$25 million for the financing of expenses related to the projects and authorizes the authority to hire a bond counsel, financial consultants, and other professionals to conduct the sale of the obligations. Likewise, **SB 239** authorizes the Oklahoma Capitol Improvement Authority to acquire real and personal property for the purposes of constructing improvements to the Zink Dam, stream bank stabilization, and the construction of two additional low-water dams on the Arkansas River in Tulsa County. Title to the real property and improvements are to be

transferred from the Oklahoma Capitol Improvement Authority to the River Parks Authority upon the final redemption or defeasance of the financial obligations authorized by the measure. In addition, the bill authorizes the Oklahoma Capitol Improvement Authority to obtain monies in the amount of \$25 million for the financing of expenses related to these projects. The authority is authorized to hire a bond counsel, financial consultants, and other professionals to conduct the sale of the obligations.

Finally, **HB 1780** authorizes the State Treasurer to deduct from the Unclaimed Property Fund the costs necessary to obtain legal services used to locate and effect the delivery of property in compliance with the Uniform Unclaimed Property Act. The measure authorizes the State Treasurer to purchase software, hardware, and associated services needed to execute the control, custody, deposit, transfer disbursement, management, and investment of funds and securities held by the state and authorizes a fee of \$25 for returned checks or electronic debits. The Treasurer may also charge an annual fee of not more than 2 1/2 basis points, charged monthly against the average daily balance of a state agency and General Fund blended portfolio managed by the Treasurer, provided the fees are collected at the time earnings are deposited to the General Fund and to participating state agencies. Finally, the measure directs that each county receive a portion of the State Land Reimbursement Fund equal to the percentage of the eligible state-owned land in each county as determined from reports compiled by the county assessor.

### **Miscellaneous**

In other measures related to general government:

- **HB 1491** adds investigators for a state board and employees of the Oklahoma Department of Agriculture, Food, and Forestry who are certified by the Council on Law Enforcement Education and Training to the list of state employees who are authorized use a state vehicle for transportation between their residence and work while traveling in their official capacity.
- **HB 1608** allows public safety professionals to work in excess of eight hours per day as part of an alternative work schedule. The measure defines *public safety professionals* as sheriffs, deputy sheriffs, correctional officers, and persons in the emergency medical service profession.
- **HB 1296** exempts appointing authorities that are governed by elected officials from having to meet the cabinet-secretary-notice-approval requirement regarding the approval and posting of reductions in force.
- **HB 1295** prohibits an individual who has a state license revoked due to a failure to pay income taxes from having the license renewed or reissued until the Oklahoma Tax Commission has verified that all taxes owed by the individual have been paid. In addition, the measure defines a *reissue* to mean the issuance of a state license to an individual who has been in possession of an equivalent license issued by the same licensing entity in the previous 12 months.

- **SB 384** allows a state employee to request further payroll deductions for insurance premiums for Oklahoma Long-Term Care Partnership Program approved policies.
- **HB 1334** allows state agencies maintaining state records pertaining to the bombing of the Alfred P. Murrah Federal Building to transfer records to the Oklahoma City National Memorial Foundation. While the measure does authorize the transfer of private and confidential records to the Memorial Foundation, the foundation is required to hold the records in accordance with an agreement to be entered into with the State Records Administrator.
- **HB 2167** would have prohibited state agencies or agents from retaining legal services in which services were expected to exceed \$5,000 without first having undergone a request for proposal process. For proposed contracts exceeding \$500,000, the state agency or agent would have been required to file a copy with the Governor's office where the proposed contract could be reviewed. The Governor vetoed the measure and stated in his veto message that state agencies "that must respond quickly to a lawsuit or that must execute a large volume of legal contracts by virtue of their statutory responsibilities" would be adversely impacted by "undue delays." The full veto message is contained in Appendix 3.
- **SB 490** would have modified the number of resident taxpayers required to institute a suit to recover any money or property belonging to the state, county, township, city, town or school district, paid out or transferred by any officer thereof in pursuance of any unauthorized, unlawful, fraudulent, or void contract. The Governor vetoed the measure and stated in his veto message that the measure "would take a backward step and make it more difficult for citizens to hold public officials accountable." The full veto message is contained in Appendix 3.
- **HB 2176** would have prohibited chief executive officers and other administrative heads of state agencies with the power to issue a license to any person having authority to act on such person's behalf from soliciting or requesting support or opposition for legislation from any person holding a license issued by that agency. The Governor vetoed the measure and stated in his veto message that "[all] citizens, whether they are employed by the public or private sectors, have the constitutional right to express their views on any issue they choose." The full veto message is contained in Appendix 3.



# *Government Modernization*

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A number of bills passed by the Legislature relate to government reform, efficiency, and agency oversight. **HB 1170** creates a plan to streamline the management of the state's information technology by creating a state Chief Information Officer (CIO). This cabinet-level position will direct the Information Services Division of the Office of State Finance. The CIO will be charged with providing an accurate assessment of the state's strengths and deficiencies as it relates to information technology systems and cyber-security. The CIO is authorized to approve all statewide contracts for software, hardware, information technology consulting services, and communication and telecommunications. Other provisions of the bill include:

- Requiring that a net savings be realized for the state within two years of the CIO's appointment, with the expectation that the state will spend at least 15 percent less on information technology and telecommunications after implementation of the statewide plan;
- Enacts a statewide freeze for the hiring of new employees to fill full-time information technology positions until the adoption of the CIO's statewide plan, at which time hiring decisions will be made with approval of the CIO. The Director of the Office of State Finance will be able to grant authorization to hire until the appointment of the CIO; and
- Prohibiting agencies from entering into contracts exceeding \$10,000 for information technology and telecommunication systems or from making investments in new products and services that exceed that amount, until the appointment of the first CIO, unless an agency has direct authorization from the Director of the Office of State Finance.

The CIO's statewide plan will not apply to both the Department of Human Services and the Oklahoma Regents for Higher Education which will be exempt from the CIO's statewide plan until July 1, 2011.

**HB 1032** creates the Oklahoma State Government Modernization Act of 2009. Under provisions of the bill, all purchases made with state purchasing cards, or P-cards, will have to be reported to the Office of State Finance (OSF), which will then post those transaction details online. The legislation authorizes the state Central Purchasing Act to allow Department of Central Services personnel to make better use of state spending patterns to negotiate the best possible terms and prices for the state and seeks to make government more accessible by requiring state entities to provide the public with the option of renewing or applying for various permits and licenses online. Another measure, **SB 670**, addresses numerous issues related to state entities and employees. The legislation requires that any employee contributions to the Oklahoma Public Employees Association or any other statewide association can only be made when the minimum dues-paying membership is 2,000 as opposed to the previous requirement of 1,000 dues-paying members. Furthermore, the bill creates the Executive Development Program for cabinet secretaries, agency directors, and senior-level executives within Oklahoma state agencies for the purpose of enhancing leadership skills.

## Government Modernization

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The Oklahoma State Finance Act created in **HB 2015** provides needed updates to statutes governing the OSF and its operations. Provisions of the bill include the following:

- Providing for the utilization of electronic documents;
- Providing for the use of modern accounting standards and guidelines;
- Requiring an average percentage reduction be ordered in the event of a revenue shortfall for the State Regents for Higher Education lump sum appropriation reductions;
- Requiring the State Regents for Higher Education to approve subsequent allotment requests to make the aggregate reduction in allotments of all institutions under their control equal to the amount of reduction ordered against the lump sum appropriation made by the Legislature;
- Limiting the reductions against the lump sum appropriation to the percentage reduction ordered against other agencies; and
- Requiring all budget allotment transfer approvals over 25 percent to be approved by the Director of OSF.

**HB 1111** alters existing provisions regarding payroll processes for executive state agency employees by requiring the establishment of:

- A centralized web-based system, available to all state employees, that allows employees to access their personal employment and compensation related information by July 1, 2010;
- Procedures for executive state agencies converting to a multi-monthly payroll system. The agencies that convert to this system are required to consult with OSF regarding the timing of conversion to a multi-monthly payroll system; place all employees hired during the six months prior to the conversion on either the biweekly payroll system or supplemental payroll upon the date of hire; and offer all employees the option of choosing the biweekly payroll system or supplemental payroll, during the six months prior to the conversion; and
- Payroll banks six months prior to the conversion to the multi-monthly payroll system. The banks will be used to make a one-time payment to the employee during the period of the payroll gap that is created by the conversion. The bank can be filled to a maximum of 80 hours for the employee from earned compensatory time, annual leave, and sick leave up to 40 hours .

A complementary measure, **SB 232**, makes changes to accruing and utilizing leave time. The bill removes statutory references to monthly payroll or monthly pay periods since some agencies have biweekly pay periods and more are likely to utilize these efficiencies. The measure does not affect how leave time is accrued; rather, it changes how long an employee may have to wait to utilize earned leave time.

Nine entities and functions of Oklahoma government were scheduled to terminate on July 1, 2009, under the sunset provisions of the Oklahoma statutes. The Legislature re-created eight of the nine entities for another four years and one entity for a one-year period. The following table summarizes the sunset review process this session by providing the bill number, the entity, and their new sunset date.

Sunset Review, 2009 Legislative Session		
Bill #	Sunset Entity	Sunset Date
HB 1012	Partnership for School Readiness Board	July 1, 2013
HB 1013	State Board of Cosmetology	July 1, 2013
HB 1014	State Board of Medical Licensure	July 1, 2013
HB 1015	State Board of Examiners of Psychologists	July 1, 2013
HB 1016	Oklahoma Real Estate Commission	July 1, 2013
HB 1017	Scenic Rivers Commission	July 1, 2013
HB 1018	State Barber Advisory Board	July 1, 2013
HB 1022	Domestic Violence and Sexual Assault Advisory Council	July 1, 2013
HB 1019	Group Homes for Persons with Developmental or Physical Disabilities Advisory Board	July 1, 2010

Other legislation related to government modernization includes the following:

- **HB 1956** provides that the Oklahoma Statutes 2011 and annual cumulative supplements are to be compiled, codified, annotated, printed, and published by a publisher selected by the Chief Clerk of the House of Representatives from bids submitted for that purpose. The publication will be in accordance with the terms, specifications, and conditions directed by the Speaker of the House of Representatives.
- **HB 1474** repeals various statutes containing outdated language referring to the salary of the Labor Commissioner.
- **SB 871** modifies the membership of the Electronic and Information Technology Accessibility Advisory Council by removing the requirement that one of the House appointees be the chair of the Science and Technology Committee of the House of Representatives and that one of the Senate appointees be the chair of the Aerospace and Technology Committee of the State Senate.
- **SB 798** provides that businesses who hire state officers or employees who had authority for awarding contracts will be prohibited from entering into a state contract with that agency for one year.



# *Health and Human Services*

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## **Health Care**

The Legislature continued taking steps to reduce the number of uninsured Oklahomans and to otherwise make quality health care more available and accessible. In 2008, a Centers for Disease Control and Prevention survey found that one-third of Oklahomans under the age of 65 do not have health insurance. The state ranks fifth in the nation in the percentage of citizens without health insurance. The House Health Care Reform Task Force studied the causes behind the large number of uninsured and developed recommendations to address the problem. The resulting measure, **HB 2026**, directs the Insurance Commissioner, the Oklahoma Health Care Authority (OHCA), and the State Board of Health to collaborate on the creation and administration of the Health Care for the Uninsured Board (HUB) within the Oklahoma State Department of Health (OSDH). The purpose of the HUB is to establish a system of counseling, including a website, to educate and assist consumers in selecting an insurance policy or program that meets their needs. Other key provisions of the measure include: providing a mechanism allowing a health care provider to refer an uninsured individual to the HUB at the point of service, authorizing the issuance of standard health benefit plans that do not contain state-mandated benefits to persons under 40 years of age, and authorizing the OHCA to create a high-deductible health insurance plan option that is compatible with a health savings account as part of the premium assistance program administered by the authority. This measure is also discussed in the Insurance section.

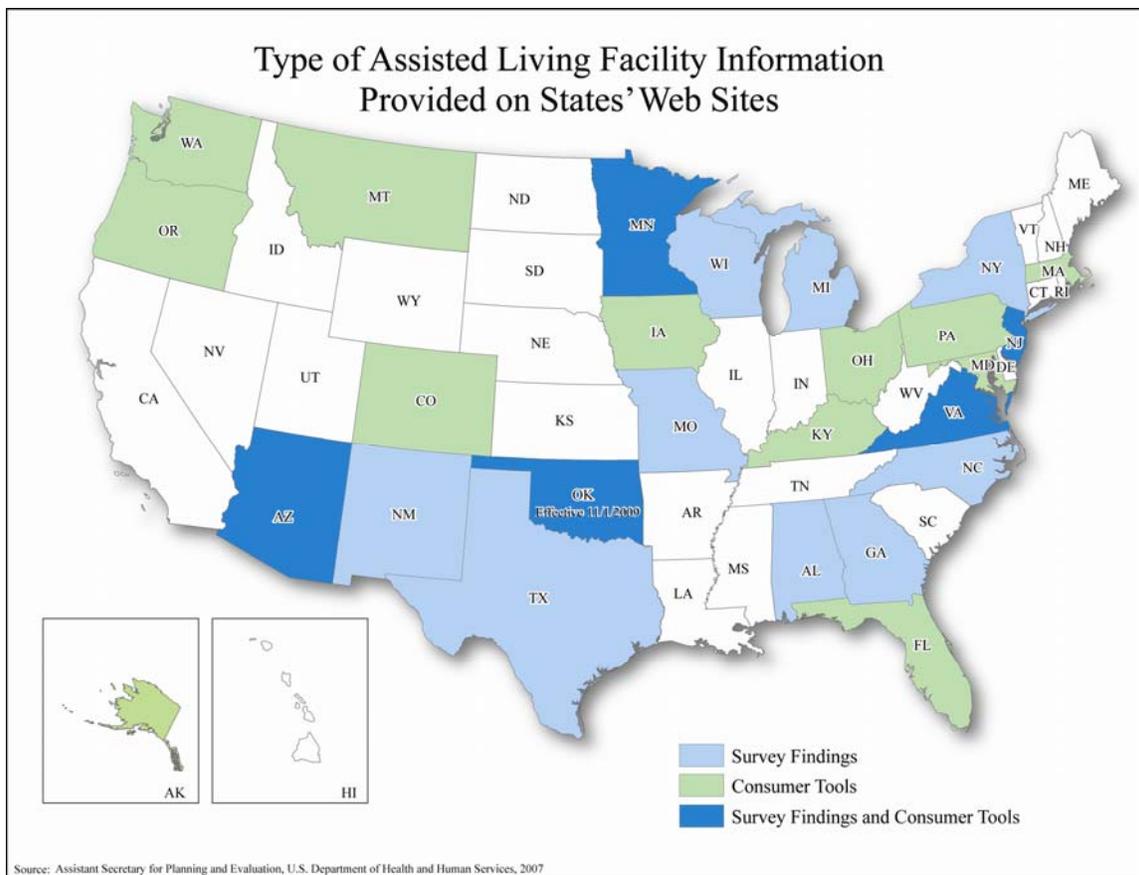
Another measure, **SB 487**, authorizes OSDH to enter into agreements with community health care providers and also allows for structured settlements under the Governmental Tort Claims Act. **SB 1129** creates the Uniform Emergency Volunteer Health Practitioners Act and will help facilitate the rendering of services by volunteer health practitioners during a declared emergency. The measure authorizes OSDH to regulate the function of volunteer health practitioners, specifies the qualifications for such individuals, and authorizes a registered practitioner to provide health or veterinary services in the state while an emergency declaration is in effect.

The Legislature took swift action to help preserve the medical residency program of the Oklahoma State University (OSU) Center for Health Sciences and the OSU Medical Center by enacting **HB 1127** which appropriates \$5 million dollars to the OSU Medical Authority. Two measures make it easier for retired medical professionals to continue to serve in a volunteer capacity. **HB 1481** provides that qualified, retired physicians, physician assistants, nurses, and pharmacists may be issued a special volunteer license. **HB 1059** (also discussed below in professions and occupations) creates a special volunteer license for dental hygienists.

One final bill, **SB 757**, establishes a Health Information Infrastructure Advisory Board to assist the Oklahoma Health Care Authority (OHCA) to develop a strategy for the adoption and use of electronic medical records and health information technologies that is consistent with emerging national standards and that promotes interoperability of health information systems. A key purpose of the strategy includes reducing medical errors and enabling patients to make better decisions about their health care by promoting secure access to medical records online.

## Elderly and Long-Term Care

**HB 1736** adds a component to the continuum of care for seniors by giving them another option in the level of care that is available to help them remain as independent as possible. The bill creates a category of care within the Home Care Act of *standby assistance*, which means supervision of client-directed activities with verbal prompting and only infrequent, incidental hands-on intervention by the caregiver. The measure establishes requirements for the training of supportive home assistants and requires that each assistant complete agency-based training and demonstrate competence by testing through an independent entity approved by OSDH. Another measure, **HB 1065**, will enable seniors and their families to make more informed decisions when considering and selecting an assisted living facility by requiring OSDH to develop a web-based consumer guide that describes the types of services provided by assisted living facilities and by requiring that the results of inspections and complaint investigations of facilities be posted on the department's web site. The map below indicates which states make this type of information readily available to the public. **HB 1893** authorizes the Aging Services Division of the Department of Human Services (DHS) to work collaboratively with other national, state, and local agencies and community groups to establish, develop, and implement a single point of entry concept for aging and disability groups.



Three measures relate to nursing facilities. **SB 541** modifies the amount of the application fee for a long-term care facility certificate of need from 1 percent of the capital cost of the project, with a minimum fee of \$1,000, to a flat fee of \$3,000, and provides that the fee will be refunded

by OSDH if the application is not approved. The bill also increases from \$3,000 to \$5,000 the maximum filing fee on an application for an acquisition. **SB 580** permits long-term care pharmacies to maintain controlled dangerous substances in an emergency electronic medication kit used for residents of the facility. **HB 1729** directs OSDH to offer long-term care facilities the option to participate in an informal dispute resolution panel as an alternative to the informal dispute resolution process.

## Health-Related Professions

After considerable efforts from parents of children with autism to push for mandated coverage for the diagnosis and treatment of autism and autism spectrum disorders, the House studied how best to serve this population without increasing the cost of health care for all consumers. As a result of concerns regarding the lack of providers for children with autism coupled with the results of the actuarial study (described in the text box below), the Legislature enacted **SB 135**. The measure creates a state license to recognize national board certified behavioral analysts. The national criteria will define *applied behavior analysis* and who is qualified to provide and supervise such therapy in Oklahoma. The bill further stipulates that evidence-based therapies constitute behavior analysis. The measure directs:

- The State Department of Education to use funds for specialized training for direct service providers in the Sooner Start program to acquire the skills necessary to treat children with autism spectrum disorders;
- The University Hospitals Authority to use funds for primary care provider evaluation training for Sooner SUCCESS program providers to acquire skills necessary to evaluate children with autism spectrum disorders;
- The Developmental Disabilities Services Division of the Department of Human Services to establish an applied behavior analysis treatment pilot project. The division is to secure federal matching dollars to implement and maintain the project. The project will provide three Board-Certified Behavior Analysts to measure functional outcomes of children with autism, who are approved by DHS to participate in the project, and study the effects of applied behavior analysis. The department is required to submit a report to the Legislature and the Governor no later than January 1, 2014; and
- The University Hospitals Authority to establish a program modeled after Early Foundations, an outreach program that provides early intensive behavioral intervention for children with autism.

Legislators learned that Oklahoma, like many states, lacks trained service providers to treat children with autism. The Developmental Disabilities Services Division of the Department of Human Services (DHS) conducted an autism pilot program in the metropolitan areas over two years, providing over \$12,000 a year per family, to see how family mentors and coaches may help families cope and access services for children with autism. After the project was completed, each family had nearly \$8,000 leftover in unspent funds. Most reported that it was not easy to find trained personnel to provide the various therapies their children needed.

In addition, the House commissioned an actuarial study to determine what an autism mandate would cost individual health insurance policyholders. The study showed a possible 7.8 percent to 19.8 percent increase in annual premiums if a mandate were enacted.

**HB 1897** establishes within the Oklahoma Board of Medical Licensure and Supervision an Allied Professional Peer Assistance Program to rehabilitate allied medical professionals whose competency may be compromised due to drug or alcohol abuse. Other provisions of the bill include:

- Exempting a person who is licensed to practice podiatric medicine in another state from licensure in Oklahoma if that person is practicing with a state-licensed podiatrist for no more than four weeks a year;
- Authorizing the executive director of the board to summarily suspend the license of an allopathic physician immediately upon learning that the physician is in violation of a board-order probation and assign a hearing date for the matter;
- Modifying the definition of *unprofessional conduct* of a medical doctor to include failure to provide a proper and safe medical facility setting and qualified assistive personnel for a medical procedure; and
- Authorizing the board to issue a temporary license for any of the professions under its jurisdiction.

To protect consumers from false or misleading advertisements, **HB 1569** specifies labels and titles that licensed professionals may use under the Podiatric, Chiropractic, Allopathic and Surgery, Osteopathic, Dental, Psychologists, Speech Pathology, and Optometry acts; requires license information to be included in any advertising; outlines what acts constitute deceptive or misleading statements; and allows for administrative penalty rather than punishment by fine or imprisonment for the misuse of newly specified designations.

With the advent of telemedicine, **HB 1569** also modifies the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act by amending the definition of the *practice of medicine and surgery* to include licensed individuals, in Oklahoma or out of state, performing diagnostic or treatment services, including but not limited to, stroke prevention and treatment, through electronic communications for any patient who is being treated in Oklahoma. The measure also similarly modifies the Oklahoma Osteopathic Medicine Act and the Oklahoma Telemedicine Act.

The Therapeutic Recreation Practice Act is created by **SB 546** and requires therapeutic recreation specialists to be licensed by the State Board of Medical Licensure and Supervision. The measure defines *therapeutic recreation* or *recreation therapy* as the specialized application of recreation to assist with the treatment or maintenance of the health status, functional abilities, recreational and leisure activities of individuals with disabilities or those hospitalized or receiving treatment for various diagnoses.

Standards for sleep diagnostic testing facilities are established in **SB 810** by requiring that sleep diagnostic tests be ordered by a physician, physician assistant, or advance practice nurse. The testing facility is required to be supervised by a physician who is board-certified in sleep medicine or one who has completed an accredited sleep medicine fellowship. The bill authorizes the State Department of Health to enforce the provisions of the act.

**SB 1179** increases from \$150 to \$175 the amount of the application fee and examination fee for an original license by examination to practice as a chiropractic physician and increases the application fee from \$300 to \$350 for an original license by relocation of practice.

**HB 1069** modifies the conditions under which the Oklahoma State Department of Health can deny an individual’s application to be a Licensed Professional Counselor, a Licensed Marital and Family Therapist, or a Licensed Behavioral Practitioner to include a determination by the department that a felony conviction may render the person unfit to practice. The bill also allows for an administrative hearing to contest the determination be held prior to the department denying the application. Finally, the bill delays, from 2010 to 2012, the requirement that applicants for a license to practice as a licensed alcohol and drug counselor possess a master’s degree.

**SB 1181** requires that the Executive Director of the Board of Pharmacy be a licensed pharmacist and makes it unlawful to impersonate a pharmacist. Additional provisions of the bill include:

- Authorizing the board to impose the payment of costs expended by the board for legal fees and costs incurred in a disciplinary action;
- Making it unlawful to knowingly violate a board order or agreed order to compromise the security of licensure examination materials or to fail to notify the board in writing of an address change; and
- Providing that information obtained during an investigation and introduced in an administrative proceeding before the board becomes a public record.

The measure also included the following fee increases:

Fee Increases Contained In SB 1181	From	To
Increase maximum fine for each count for which any holder of a certificate, license, or permit has been convicted in a board hearing	\$1,000	\$3,000
Increase the amount charged for a training-related license	\$50	\$100
Increase maximum fee charged an applicant for initial licensure	\$150	\$250
Increase maximum amount charged for reciprocal licensure or licensure through the score transfer process	\$200	\$250
Increase maximum amount charged for an initial or renewal license to operate a pharmacy	\$150	\$300
Increase maximum fee charged for an inspection	\$100	\$200
Increase maximum amount charged for reinstatement of a license	\$100	\$150
Increasing the maximum amount charged for an initial or renewal permit for a pharmacy technician	\$40	\$75

**HB 1059** allows a group of dentists to use a trade name in connection with the practice of dentistry and deletes the requirement that an advertisement in which a trade name appears also include the name of the practicing dentist.

**SB 1178** requires the secretary of the Board of Medical Licensure and Supervision to keep a record of physicians who apply for reinstatement of their licenses.

One final measure will help ensure that an individual's wishes regarding medical treatment and end of life care are readily accessible to medical professionals. **SB 346** directs the Oklahoma State Department of Health to establish and maintain an Internet-based advance directives registry that will be used to store advance directives that are filed with the registry. The bill also requires the department to make advance directive forms available on its website and to establish a fee for an initial or alternative advance directive form submitted to the registry for the purpose of covering the cost of establishing and administering the registry.

### **Mental Health**

Three measures deal with the treatment of individuals who have been taken into protective custody due to mental illness or drug or alcohol dependency. **HB 1616** provides that a person who has been taken into protective custody, and who is medically unstable, may be transported to a medical facility for treatment. If the person becomes medically stable and still requires treatment for mental illness or drug or alcohol dependency, the bill authorizes the physician to detain the person for transport to a treatment facility as provided for in statute. **SB 597** authorizes a peace officer to transport a person who has been taken into protective custody to a facility out of state for an initial assessment or emergency detention if the nearest facility designated by the Commissioner of the Department of Mental Health and Substance Abuse Services is more than 50 miles from the county seat of the county in which the person is located. **HB 1067** requires that an initial assessment of a person in protective custody include a screening and assessment process to identify possible alcohol or drug abuse or dependency.

### **Miscellaneous Health**

The following measures in the area of health care were also passed by the Legislature this session:

- **HB 1326** would have made it a misdemeanor to knowingly conduct nontherapeutic research that destroys a human embryo or subjects the embryo to substantial risk of injury or death or to transfer an embryo with the knowledge that it will be subject to such research. The Governor vetoed the measure and stated in his veto message that the bill “triggers unintended consequences that would negatively impact the state... [and] it would hinder life-saving efforts by banning promising research that could yield new treatments for [various diseases and injuries.]” The full veto message is contained in Appendix 3.
- **SB 267** authorizes the Board of Directors of the Tobacco Settlement Endowment Trust Fund to use earnings from the trust fund for certain capital expenditures and operating expenses incurred by the OU Health Sciences Center and the OSU College of Osteopathic Medicine.
- **SB 353** provides that a public trust created for the purpose of operating a public acute care hospital that serves as a teaching hospital for an osteopathic medical college and that provides indigent care is under the purview of the Governmental Tort Claims Act.

- **SB 572** restricts county boards of health from adopting regulations that are more stringent than state law and rules of the State Board of Health. The measure also prohibits cities and counties from adopting rules related to training and permit requirements for food managers and food handlers that are more stringent than rules adopted by the State Board of Health.
- **SB 661** directs the Commissioner of Health to develop grant programs for the purpose of administering the National Hospital Preparedness Program, which is a federal grant to improve community and hospital preparedness for public health emergencies.
- **SB 677** adds the Oklahoma State Department of Health (OSDH) to the list of agencies that can charge meals and lodging for employees who are moved into an area for the purpose of preserving the public health and safety.
- **SB 844** prohibits the practice of scleral tattooing, which is the practice of producing an indelible mark or figure on the human eye.
- **SB 964** modifies the membership of the advisory committee that makes recommendations to the State Board of Health regarding vision screening standards for elementary school students and specifies the types of recommendations and information to be provided by the committee to the board and to the OSDH. The bill also directs the OSDH to maintain a statewide registry of approved vision screeners and approved vision screener trainers and authorizes the department to deny, suspend, or revoke approval of vision screeners and vision screener trainers. A related measure, **HB 1462**, authorizes the advisory committee to also act as a sports eye-safety resource for Oklahoma’s public schools and nonprofit community sports organizations by developing educational materials detailing the risk for eye injuries associated with different sports and suggesting eyewear that may reduce risk of eye injuries in sports.
- **SB 1206** modifies the definition of *jurisdiction*, as used in the Oklahoma Intrastate Mutual Aid Compact, to include city-county health departments.
- **SB 934** would have exempted typical and atypical antipsychotics from any product-based prior authorization program, in addition to any preferred drug list, in the drug utilization review of the Oklahoma Health Care Authority. The Governor vetoed the measure and stated in his veto message that the legislation would “potentially [undermine] the ability of Oklahoma Health Care Authority administrators to manage the Medicaid program and hold down pharmaceutical costs in the event the science of administering these medications changes in the future.” The full veto message is contained in Appendix 3.

## Abortion

**HB 1595** prohibits a person from performing an abortion on a woman who is seeking the abortion solely because of the sex of the child and creates the Statistical Reporting of Abortion Act, which requires physicians who perform abortions to report certain information to the Oklahoma State Department of Health (OSDH). The measure requires the department to make state statutes and regulations related to abortion and reporting forms available on its website and

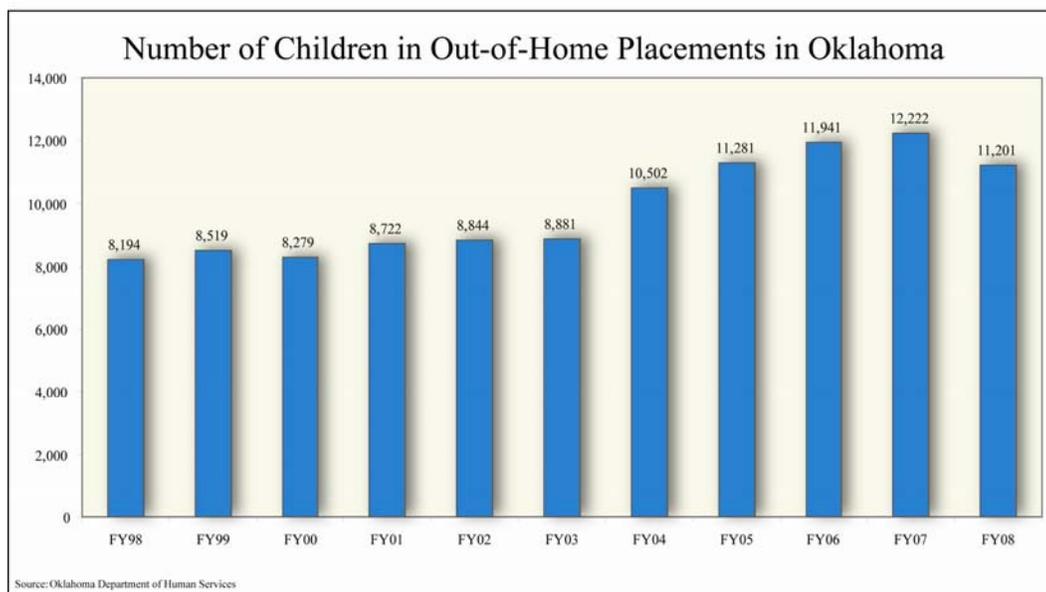
to notify physicians in the state about the requirements to report abortion-related information. Finally, the bill directs OSDH to publish annual abortion reports on its website and to ensure compliance with the provisions of the act by conducting periodic inspections of places where abortions are performed.

### Children and Families

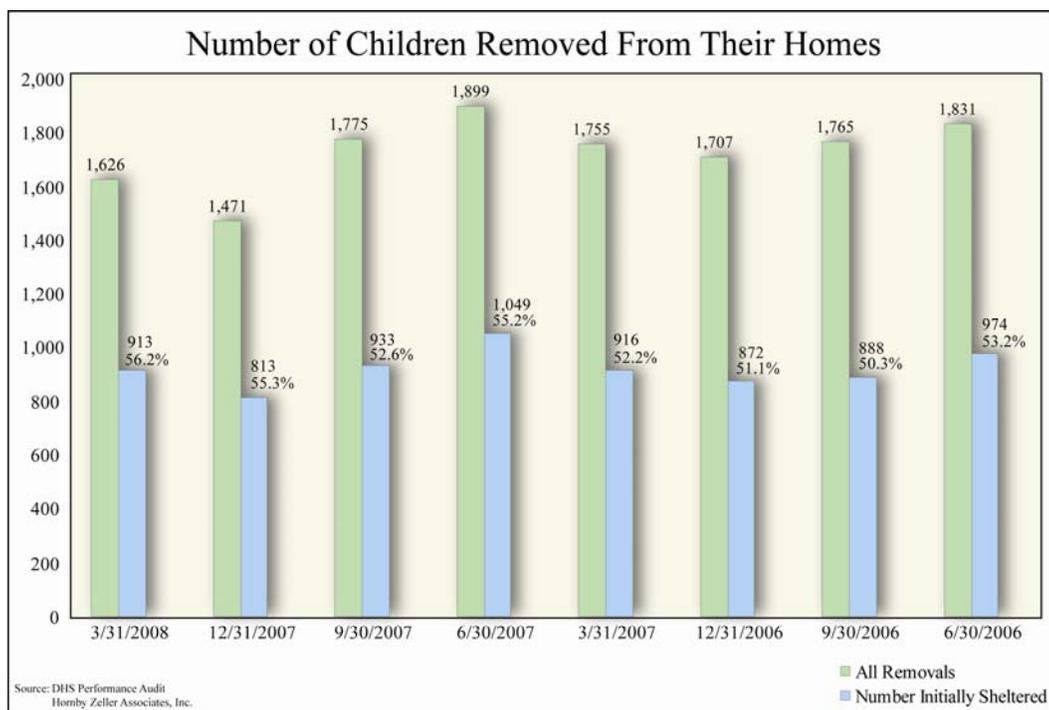
In response to a performance audit of the Department of Human Services (DHS) initiated by the House of Representatives last year, the Legislature enacted **HB 1734**. The measure implements 18 of the 25 recommendations resulting from the audit with the primary intent to improve outcomes for children and families who have contact with the child welfare system. Significant provisions of the measure include:

- Requiring the Oklahoma Commission on Children and Youth to establish a system of certification for the children’s shelters operated by DHS;
- Directing the department to establish a statewide centralized hotline for the reporting of child abuse and neglect;
- Establishing *imminent safety threat* as the threshold for removing a child from his or her home due to abuse or neglect;
- Authorizing the department to recommend court-supervised and department-monitored in-home placement of a child when a significant risk of abuse or neglect exists but there is not an imminent safety threat to the child. The chart below shows the number of children placed outside their homes during the last ten years;

“Even if the children do not stay long, shelters guarantee an extra placement move ...[which]... results in worse outcomes for children... In addition, the shelters are costly. In state fiscal year 2008, the shelters operated by the state in only the two largest counties cost over \$8.3 million.”  
*Source: DHS Performance Audit  
Hornby, Zeller Associates, Inc.*



- Directing the department by January 1, 2010, in cooperation with law enforcement and the district courts, to develop and implement a system of joint response that will allow the department to perform a safety evaluation when a child is taken into protective custody by law enforcement;
- Requiring DHS to establish a Passport Program for children in foster care that includes readily accessible information about the child’s physical and behavioral health and educational history; and
- Placing an emphasis on the use of kinship and emergency foster care while reducing the number of children placed in shelters. The chart below shows the number of children removed from their homes, by quarter, and the number initially placed in a shelter.



Another measure, **SB 339**, also deals with children impacted by the child welfare system. The bill requires the court, in various hearings related to a deprived petition, to determine whether reasonable efforts have been made to keep siblings together in the same placement and to provide for frequent visitation for siblings who were not placed together. The measure also requires:

- At an emergency custody hearing, the parent or guardian of the child to complete an affidavit listing the contact information of the child’s relatives and any comments regarding the appropriateness of a potential placement of the child with that relative;
- DHS, within 30 days of a child’s removal from the home, to exercise due diligence to identify adult relatives and allows the department to notify any adult relative to determine whether that person would be a suitable placement for the child;

- A plan be adopted by the department to ensure the educational stability of a child while in out-of-home placement; and
- The court, at the review hearing, to determine that a custody child who will turn 18 years of age within 90 days is being provided assistance and support in developing an appropriate transition plan.

More than two years of study by the Children and Juvenile Law Reform Committee resulted in **HB 2028**, which aims to organize and clarify the Children’s Code. Some significant provisions include:

- Allowing a parent who is arrested on a charge other than child abuse or neglect to designate another person to take custody of the child, rather than the child being placed in a shelter or foster placement;
- Requiring the court to conduct a hearing after it receives notice that DHS has terminated a trial reunification of a child and parent to determine if the child remaining in the home is contrary to the child’s welfare and whether reasonable efforts were made to prevent the termination;
- Authorizing the court to issue a restraining order against an alleged perpetrator of abuse from having contact with the child and requiring the alleged perpetrator to move from the household in which the child resides; and
- Prohibiting social records from being filed in the court record unless ordered by the court and restricting access to social records if they are filed in the court record.

**HB 1738** requires health care professionals who report abuse or neglect of a child to provide, upon request, copies of the examination on which the report was based to law enforcement and DHS.

Two measures take steps to strengthen the adoption process. To limit “venue shopping,” **HB 2174** requires adoption proceedings be brought in the district court where the petitioners or the child to be adopted lives or in Tulsa County or Oklahoma County. The bill authorizes the court to appoint an attorney for the child to examine all expenses and attorney fees presented to the court for approval and requires a Disclosure Statement of Adoption-Related Costs and Expenditures be prepared and filed before the final decree of adoption is ordered. The bill amends the definition of the crime of *child trafficking* to include the receipt of money or other thing of value by a child-placing agency or attorney without immediately disclosing the receipt and adds to the definition the solicitation or receipt of money or other thing of value by the birth parent, attorney, or child-placing agency from more than one prospective adoptive family or representing at the same time to more than one prospective adoptive family that a child is available for adoption. **SB 1029** requires that an adoption full disclosure statement be prepared by the attorneys for the petitioner and birth parents in a direct placement adoption and requires that the statement be attached to the petition for adoption filed with the court. Finally, the measure deletes the authority of the court to waive the requirement of a pre-placement home study in a proceeding for adoption and provides that a home study is not required if a minor has

been living with a birth parent's spouse for at least one year as of the date the petition for adoption is filed. A related measure, **SB 794**, requires DHS, in any reports of successful adoptions, to include statistics on adoption dissolutions and the average number of months between the finalization of adoptions and the effective date of dissolutions.

The Department of Human Services (DHS) is required by **HB 1742** to conduct a records search of the Oklahoma State Courts Network (OSCN) for all employees of a child care facility and for persons 18 years of age or older residing in a facility prior to issuing a permit or license to a person making application to operate a facility. The measure also requires a child care facility to submit a request to DHS to conduct a search of OSCN before employing a person to work in the facility or allowing a person 18 years of age or older to reside in the facility and deletes the requirement that the records search be completed by DHS before a facility could hire an employee or allow an adult to move into the facility.

**SB 478** clarifies that the requirement for child care facilities to carry liability insurance is to cover injury to a child due to negligence and that proof of the insurance coverage is to be maintained by the child care facility and made available upon request to DHS. The measure requires that, if a facility is unable to obtain liability insurance or is self-insured, a notice indicating such is to be posted at the facility, and the department is to be notified.

## Miscellaneous Human Services

The following measures in the area of human services were also enacted this session:

- **HB 2032** provides that it is the responsibility of the Office of Juvenile System Oversight within the Oklahoma Commission on Children and Youth to perform issue-specific systemic monitoring of the children and youth service system as directed by the commission and allows the office to conduct annual unannounced inspections of those state-operated facilities that do not need semi-annual inspections.
- **SB 292** eliminates the requirement that benefits for additional children born to a Temporary Assistance for Needy Families (TANF) recipient be in the form of a voucher rather than additional cash assistance.
- **SB 337** requires that the terms of the sale of the Laura Dester children's shelter property in Tulsa be consistent with plans adopted by the Tulsa City Council.
- **SB 595** directs the Office of Juvenile Affairs (OJA) to establish the Juvenile Justice Public Works Program to provide labor for the purpose of participating in community service projects, providing improvements and beautification to public lands and buildings, and reducing recidivism rates. Any juvenile who is a public safety threat or escape risk is prohibited from being assigned to a project. The bill also requires OJA to certify all secure facilities and makes it a felony for a juvenile to bring certain weapons, drugs, alcohol, cellular phones or similar electronic devices, money, and certain financial documents into a certified facility and makes it a misdemeanor for a juvenile to bring any form of tobacco into a certified facility.

- **SB 987** increases, from \$7,500 to \$10,000, the value of life insurance and burial policies that an individual can own and still qualify for certain public assistance programs.

# *Insurance and Retirement*

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Past studies undertaken by the Legislature have led to a number of reforms in health care coverage. Legislators again this session enacted a number of bills relating to insurance.

## **Insurance**

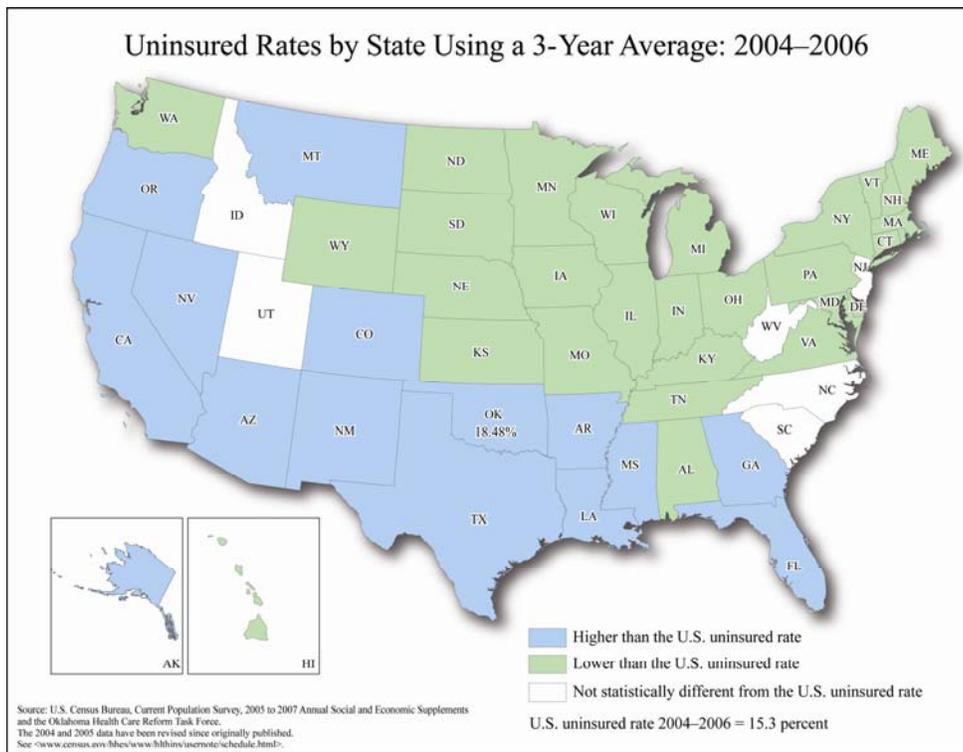
In an effort to increase consumer protection, **HB 1055** amends the Unfair Claims Settlement Practices Act by adding definitions to expand actions constituting an unfair claim settlement practice by an insurer to include failure to pay or requesting a refund of a payment for health care services covered under a policy if the plan has provided a preauthorization or precertification and verification of eligibility for the services. These changes apply solely to health benefit plans. The bill assists patients in determining what health benefits they may be eligible for under their health insurance plan by requiring the Insurance Commissioner to develop an affidavit for health care providers to present to patients before delivering nonemergency services.

During the past session, when the Oklahoma State and Education Employees Group Insurance Board (OSEEGIB) changed claims processing vendors and claims became backlogged, concerns arose about the viability, effectiveness, and efficiency of the state's health insurance plans to deliver services, serve consumers, and reimburse providers. To study the most efficient and cost-effective ways to provide health care to state employees, while ensuring the highest level of care at a competitive price, HB 1055 creates the State Employee Health Insurance Working Group. The Oklahoma State Employees Benefits Council and OSEEGIB will hire a consultant to advise the working group on ways to reduce insurance costs, develop plans that will improve patient care, offer consumer choices to best meet employees' individual needs, and maximize the state's leverage in purchasing medical care and plans' support services. A report of findings and recommendations is due to the Legislature by December 31, 2009.

Another study authorized by **HB 1963** will examine the privatization of CompSource Oklahoma. The goal of the privatization is to create a stable, predictable, competitive workers' compensation market in Oklahoma by converting to a private insurance company by December 31, 2010. The nine-member Task Force on Privatization of CompSource Oklahoma will examine the issues related to privatization and submit a report of its findings and recommendations to the Legislature and the Governor by December 1, 2009.

An extensive House study last year resulted in recommendations to help reduce the number of uninsured in Oklahoma which will help alleviate costs for insured Oklahomans picking up the tab for uncompensated care. Oklahoma's higher rate of uninsured, as shown in the map on the following page, led the House of Representatives' Health Care Reform Task Force to hold a series of meetings during the 2008 interim to hear testimony from a number of national and state experts. The task force crafted recommendations found in **HB 2026**.

The measure creates the Health Care for Oklahomans Act to assist uninsured Oklahomans who do not qualify for Medicaid find insurance. The bill directs the Insurance Commissioner, the



Oklahoma Health Care Authority (OHCA), and the State Board of Health to collaborate on the creation and administration of the Health Care for the Uninsured Board (HUB) within the State Department of Health. The purpose of the HUB is to establish a system of counseling, including a website, to educate and assist consumers in selecting an insurance policy or program that meets their needs. The act also requires OHCA to establish a program to initiate enrollment of uninsured patients in a health insurance plan at the point of health care service delivery by referring the patient to the HUB for enrollment in a certified insurance plan or Oklahoma’s employer-sponsored or individual insurance plans under Insure Oklahoma.

To address the 18-34 year old population who tend not to purchase insurance, the bill authorizes the issuance of standard health benefit plans that do not contain state-mandated benefits to persons under 40 years of age and requires insurers to disclose information defining the plans on the written application. Health insurers are also required to offer at least one policy providing coverage for state-mandated health benefits and file standard health benefit plan rates with the Oklahoma Insurance Department.

**Findings of the 2008  
Health Care Reform Task Force**

- Oklahoma ranks 48th in the number of insured adults, aged 18 to 84.
- Oklahoma’s population without health insurance equals 18.48 percent. Nationally, 14.6 percent of citizens are without health insurance.
- Oklahoma ranks fifth in the percentage of total citizens without health insurance. Neighboring states ranking higher include Texas, New Mexico, and Louisiana.
- Young adults are the fastest growing segment of the uninsured, as they age out of their parents’ health insurance coverage.
- For insured Oklahoma families the cost of covering uncompensated care is \$1,781 per year. Comparatively, the national average annual cost to cover the uninsured is \$922 per family.
- It is estimated that the total cost shift of Oklahoma’s uninsured population is \$954 million annually.
- Oklahoma has 36 insurance coverage mandates. Nationally, it is estimated that mandated benefits can increase the cost of basic health care coverage from nearly 30 percent to more than 50 percent, depending on the state and the type of mandates.

Finally, HB 2026 authorizes OHCA to create a high-deductible health insurance plan that is compatible with a health savings account in Insure Oklahoma. This measure is also discussed in the Health and Human Services section.

In a related measure, **SB 822** creates the Task Force on the Review of Health Insurance Mandates. The task force will review the state's health insurance mandates currently in statute and make recommendations regarding any mandates that should be revised or eliminated and submit the report to the Legislature and the Governor by December 1, 2010.

**SB 553** amends the High Risk Pool Act by changing the definition of a *federally defined eligible individual* to include those who have exhausted Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage. The measure allows qualifying individuals to be eligible for the state's High Risk Pool plans. For insured employees and their dependents whose coverage is subject to COBRA, the measure requires them to remain insured under the group policy for 63 days after termination, with premiums being paid at the same amount. To help employees who are involuntarily terminated, the bill allows insured employees or their dependents to continue the group health coverage for four months, provided the coverage remains the same, premiums are paid at the same rate, and the employee was not terminated for misconduct. This extension of the group coverage is only in effect until a premium subsidy is available pursuant to the American Recovery and Reinvestment Act of 2009.

**SB 1022** is an omnibus insurance bill updating a number of statutes whose enforcement is the responsibility of the Oklahoma Insurance Commissioner. A component of the bill creates the Oklahoma Annual Financial Report Act to improve the oversight by the Insurance Commissioner over the financial condition of insurers in Oklahoma by requiring an annual audit of insurers' operations. The bill requires work papers produced by independent auditors to be made available for review by Insurance Department examiners. The act also authorizes the Insurance Department's Anti-Fraud Unit to make confidential records available to law enforcement, when it is determined a violation of criminal law has occurred. Other major provisions include the following:

- Amends the Health Care Fraud Prevention Act by authorizing the Insurance Commissioner to fine a discount medical plan organization rather than revoking or suspending registration of the organization, fine not to exceed \$1,000 per violation;
- Permits an administrative fee of \$50 for late notice of a change in legal name or address of a licensed insurance producer, rather than immediately assessing a penalty;
- Provides regulatory power over individuals engaging in the unauthorized business of bail bonds;
- Creates an apprentice adjuster license;
- Modifies the definition of *eligible employee* in the Employer Health Insurance Purchasing Group Act to include an employee who works the number of hours per week as designated by the employer to be considered full-time and eligible for health insurance coverage, provided that full-time status is not less than 24 hours per week;

## Insurance and Retirement

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- Modifies the definition of *eligible employee* in the Small Employer Health Insurance Reform Act to include, at the discretion of the employer, an employee who works on a part-time basis in a normal work week of more than 24 hours; and
- Requires service warranty associations to purchase insurance from an insurer that has a rating of B++ or better from the A.M. Best Company, Inc.

The Legislature enacted two bills this session relating to automobile insurance coverage. Oklahomans will now have a form to reject uninsured motorist coverage or select lower limits when applying for motor vehicle insurance under **SB 533**. The measure allows the signed form to remain valid for the duration of the motor vehicle insurance policy, removing the requirement that a new selection form is to be signed upon renewal or amendment of the policy. Commercial automobile insurance policies will be affected by **SB 700** which amends the definition of *owner's policy* to include policies issued by an unauthorized insurer as permitted under exemptions in the Insurance Code, as long as the insurer is approved by the Insurance Commissioner.

Service warranty associations and their sales representatives have new requirements and fee adjustments due to **SB 920**. The measure amends the Service Warranty Act, which regulates warranties to cover the repair or replacement of property for operational or structural failure in materials or workmanship, with the following changes:

- Updates the definition of *Sales Representative* to exclude those with a certificate of competency with the power to obligate the insurer or service warranty association or those who act as a qualifying agent;
- Deletes the requirement that entities that sell service warranty contracts must be registered by the Insurance Department;
- Refigures the administrative fee for service warranties to be equal to 2 percent of the gross premium for all contracts issued in Oklahoma during the previous quarter, rather than a set dollar amount based on coverage, with the fee to be paid quarterly to the Insurance Commissioner;
- Allows service warranty associations and insurers to elect to pay an annual administrative fee of \$3,000 rather than the new 2 percent administrative fee;
- Increases the cap on the amount of fees that may be deposited in the Insurance Commissioner Revolving Fund, from \$275,000 to \$375,000 each year, for administration of the act; and
- Deletes requirements that service warranty associations and insurers must register sales representatives; instead, their name and business address must be provided each year.

The Legislature enacted the following additional measures regarding insurance:

- **SB 1234** clarifies that an individual or company which executes an Affidavit of Exempt Status Under the Workers' Compensation Act is in compliance with the Workers' Compensation Act and is not responsible for workers' compensation claims made by the executor.
- **HB 1600** would have modified the requirements for obtaining disability benefits by allowing individuals who have had surgery for soft tissue injury due to a physician recommendation to petition the court to extend their benefits. The Governor vetoed the measure and stated in his veto message that the bill would "result in unintended consequences that would increase costs to businesses by forcing injured workers to undergo invasive surgeries and denying them the option of pursuing a less costly and more conservative treatment course prior to surgery." The full veto message is contained in Appendix 3.
- **SB 901** requires the Oklahoma Employment Security Commission to calculate the average weekly wage each year, instead of every three years.
- **HB 2078** authorizes the annual appropriation of the federal Reed Act Distribution funds for Oklahoma Employment Security Commission (OESC) programs, employment service and unemployment insurance.
- **SB 52** removes the requirement that the State Employees Benefits Council select and contract with health insurance providers to offer group TRICARE Supplemental products. The deletion was necessary because the requirement conflicted with federal policy.
- **HB 1003** redefines the term *employee* as to exempt certain businesses from maintaining workers' compensation insurance. This exemption applies where an employer has less than six employees who all are related by blood or marriage. Individual employers, general and limited partnerships, associations and LLC's, and an incorporator of a corporation qualify under the provisions of the measure.
- **SB 609** would have reduced the number of judges on the Workers' Compensation Court from ten to eight, having permanently assigned four judges to the Oklahoma City Workers' Compensation Court and the remaining four judges to the Tulsa Workers' Compensation Court. In addition, the measure would have also subjected all judges appointed to the Workers' Compensation Court to Senate confirmation. The Governor vetoed the measure and stated in his veto message that the bill "violate[d] the Oklahoma Constitution by impermissibly abolishing the offices of two judges on the workers compensation court before their terms of service have expired." The full veto message is contained in Appendix 3.
- **HB 1975** would have instituted procedural requirements when considering legislation mandating a health coverage by health insurance providers. The Governor vetoed the measure and stated in his veto message that the bill would "unwisely and unduly [restrict]

the state's ability to respond in a timely manner to critical issues related to health care and insurance coverage." The full veto message is contained in Appendix 3.

### **Retirement**

The Legislature addressed several issues related to the retirement of public employees. **SB 397** increases the maximum retirement system contribution amounts for county employers and employees from 10 percent to 15.5 percent for the current fiscal year and 16.5 percent for future fiscal years. The county pension systems are independent of the state's pension systems. The Firefighters Pension and Retirement System is modified in **SB 726** by deleting references to entities not required to report annual information to the firefighters' retirement system. The measure also clarifies the duties of a municipality's paid full-time fire chief to supervise the fire department as well as handle administrative duties. The fire chief is prohibited from serving as police chief, city manager, mayor, or in any other capacity that might impair his or her abilities to perform the duties of a fire chief. Other provisions of this bill relating to municipal administration are noted in the General Government section.

In response to instances of former elected officials having been convicted of felonies or crimes relating to their office or campaign financing schemes and allowed to continue receiving retirement benefits, the Legislature enacted **SB 899** to prohibit the payment of such benefits. The bill requires elected or appointed state or county officials to forfeit their retirement benefits if, after leaving office or employment, the official is convicted of, or pleads guilty or no contest to, a felony for bribery, corruption, forgery, perjury, or any other crime related to the duties of his or her office or employment, or related to campaign contributions or financing for any office, in a state or federal court. The offense must have occurred while the person was serving the state or county, though the determination of guilt may occur after the individual has left the position.

Other bills affecting retired state employees affected specific plans. **SB 880** modifies what retired teachers' organizations are eligible to have the Teachers' Retirement System of Oklahoma withhold monthly dues on behalf of an electing retiree for payment to the retired teachers' organization. This bill is also discussed in the Education section. **SB 830** modifies statutory language to bring the Oklahoma Police Pension and Retirement System and the Oklahoma Law Enforcement Retirement System in compliance with the Internal Revenue Code. This bill is also discussed in the Public Safety and Corrections section.

# Judiciary and Criminal Justice

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## Tort Reform

After several years of efforts, the Legislature succeeded in passing comprehensive tort reform. **HB 1603** contains several modifications that, among others things, seek to reduce frivolous lawsuits, attract and retain doctors in the state, and provide business a more stable legal environment in which to operate. The measure also makes it easier for a judge to dismiss a lawsuit that has no merit before it goes to trial.

Noneconomic damages: Economic damages, which are lost wages, damage to property, or medical bills, are much easier to quantify than noneconomic damages. A critical aspect of the measure deals with noneconomic damages such as damages related to pain and suffering, emotional distress, and inconvenience to the plaintiff. In response to the difficulty in determining noneconomic damages, HB 1603 establishes a cap of \$400,000 on noneconomic damages in any civil action arising from bodily injury. Economic damages, however, are not subject to any limitation. The \$400,000 cap also does not apply in claims resulting from professional negligence against a physician if the injured person suffers permanent and substantial physical abnormality such as disfigurement or loss of a limb or if he or she can no longer independently care for themselves.

The cap on noneconomic damages does not apply when the defendant's acts were criminal, reckless, negligent, fraudulent, or with malice.

Health Care Indemnity Fund: Due to the flexibility built into the cap on noneconomic damages by HB 1603, the bill creates a Health Care Indemnity Fund to pay any damages awarded that exceed that \$400,000 cap. The fund must maintain availability of \$20 million dollars annually. To accomplish this, it is the Legislature's intent that the state purchase and have in place by May 2011 a reinsurance policy to cover judgments through the fund. In order to have access to the reinsurance policy, doctors will be required by the legislation to carry at least \$1 million in medical liability insurance, which covers the majority of malpractice cases. There is currently no state minimum requirement for insurance coverage. A task force is also established to look into the details of the state purchasing that reinsurance policy before it is implemented. The policy's premiums will be paid with state general revenue funds.

Common Sense Consumption: Over the past several years, numerous food manufacturers and distributors, including McDonalds, Starbucks, and Kentucky Fried Chicken, have had lawsuits brought against them with the claim that their product causes people to be obese and leads to numerous health problems. The response of several states has been to prohibit these sorts of lawsuits, and with HB 1603 being signed into law, Oklahoma joins those states. The language in the bill protects both manufacturers and growers from such lawsuits.

Product Liability: Another important provision of HB 1603 concerns product liability. The bill states that in a product liability action, a manufacturer or seller will not be liable if the product is inherently unsafe and known to be unsafe by the ordinary consumer who consumes the product

with the ordinary knowledge common to the community. The term *product liability action* does not include an action based on manufacturing defect or breach of warranty.

Asbestos and Silicosis Reforms: The measure creates the Innocent Successor Asbestos-Related Liability Fairness Act to protect successor companies who have purchased companies with an earlier asbestos exposure.

Educator Protection: Educators are granted additional protections as HB 1603 establishes that any student in grades six through twelve found to have assaulted, attempted to cause physical bodily injury, or acted in a manner that could reasonably cause bodily injury to a school employee or a person volunteering for a school will be suspended for the remainder of the current semester and the next consecutive semester. The language is written so that the term of the suspension may be modified by the district superintendent on a case-by-case basis.

Class Action Reform: Class action reform is also addressed by the bill by restricting the practice of forum shopping. Forum shopping is when litigants seek to have their case heard in the court most likely to provide a plaintiff-friendly ruling. Without any restrictions, the worse cases of forum shopping in some states have led to cases being heard in jurisdictions with little or no connection to the actual case. HB 1603 seeks to remedy that by limiting class membership only to individuals who are residents of Oklahoma and nonresidents of Oklahoma who own property in the state where the property is relevant to the class action. Another aspect of class action reform involves notification requirements. Under the current law, a class member is automatically included in a lawsuit unless they notify the court they wish to opt out. HB 1603 requires all orders entered on or after November 1, 2009, that certify a class action to define the class and the class claims, issues or defenses, and the appointment of class counsel. A court must then notify members of the class action of the following:

- The nature of the action;
- The definition of the class certified;
- The class claims, issues, or defenses;
- That a class member may enter an appearance through an attorney if the member so desires;
- That the court will exclude him or her from the class if a request is made by a specified date;
- That the judgment, whether favorable or not, will include all members who do not request exclusion; and
- That any member who does not request exclusion may, if he or she desires, enter an appearance through his or her counsel.

HB 1603 also provides specific guidelines the court must follow in awarding attorney fees to the attorney representing the class, which includes allowing the court to appoint an independent attorney to represent the class during the fee hearing.

Expert Witnesses: Guidelines on expert witness testimony are also provided to allow a qualified expert witness to testify on scientific, technical, or other specialized knowledge if the testimony is based upon sufficient facts or data, the testimony is the product of reliable principles and methods, and the witness has applied the principles and methods reliably to the facts of the case. In cases that involve professional negligence, HB 1603 requires that an expert certify that the case has merit before it can proceed. However, that requirement would be waived for plaintiffs who cannot afford the costs associated with finding an expert.

Finally, HB 1603 also extends certain liability protections to gun manufacturers, emergency volunteers, and agritourism activities involving livestock.

In other tort-related matters, **HB 1678** provides a detailed and expansive list of those medical professionals who are given immunity under the Volunteer Professional Services Act. The bill grants immunity to persons participating in the Oklahoma Medical Reserve Corps who are assisting in disaster drills and community service events endorsed by a government entity. Finally, the bill provides immunity from damages to any person who voluntarily provides goods or services or seeks to help, prevent, or minimize injury during emergencies, pandemics, catastrophic acts of nature, or terrorist attacks.

**SB 353** provides that a public trust created for the purpose of operating a public acute care hospital that serves as a teaching hospital for an osteopathic medical college and that provides indigent care is under the purview of the Governmental Tort Claims Act.

The Volunteer Medical Professional Services Immunity Act is expanded by **HB 2093** to include entities participating in the Medical Reserve Corps when the corps is participating in emergency management and emergency operations. The bill states that in order to receive immunity from civil damages, specific authorization for participating in public health initiatives endorsed by a city, county, or state health department in the state of Oklahoma is required.

**SB 745** provides immunity from civil liability to anyone providing assistance with an automated external defibrillator and to entities that own or lease and properly maintain automated external defibrillators. The exception to this immunity is willful or wanton misconduct or gross negligence.

**SB 1123** would have provided limited legal protections to the owners, employees, members, customers, and guests of a gun range, shop, or club, if an injury were sustained on the premises of a gun range, shop, or club. The Governor vetoed the measure and stated in his veto message that the measure “would strip an individual of his right to seek legal redress for a negligent act committed against him.” The full veto message is contained in Appendix 3.

**HB 1307** would have provided limited malpractice protection for any physician serving as a ring official and providing medical services at an amateur or professional athletic event sanctioned under the Oklahoma Professional Boxing Licensing Act. The Governor vetoed the measure and

## Judiciary and Criminal Justice

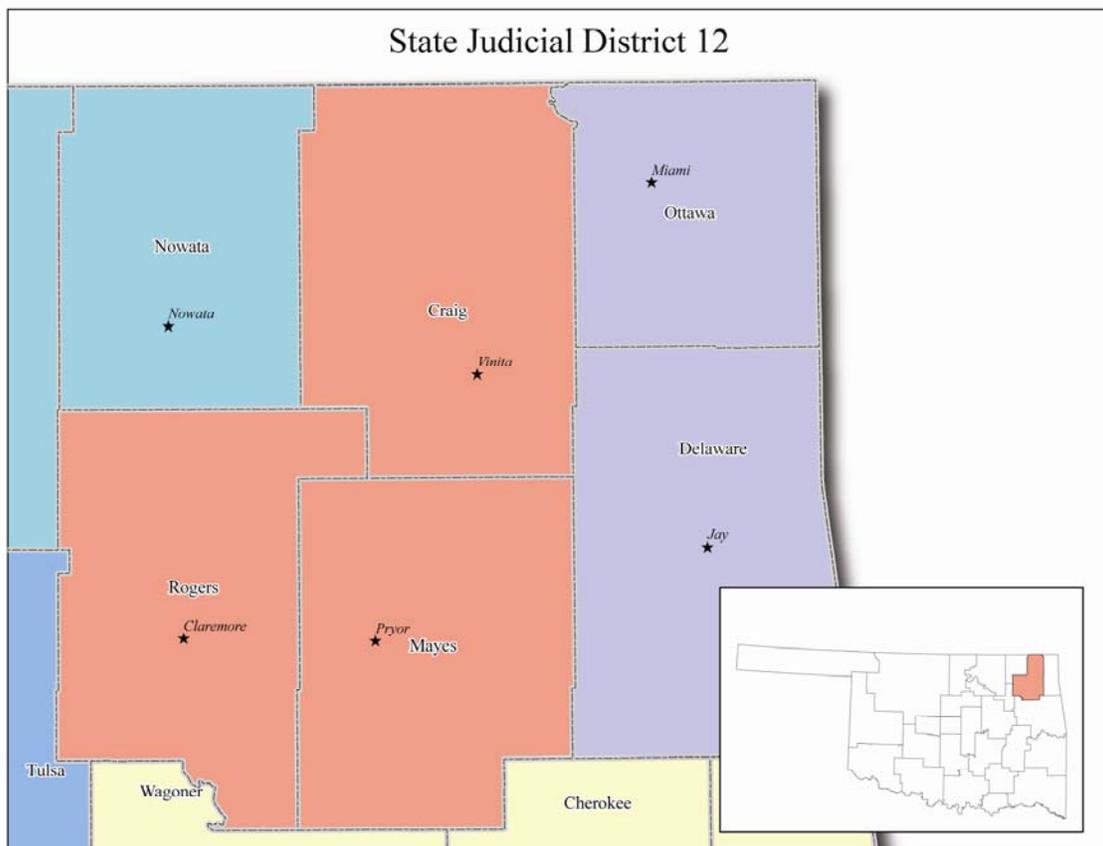
stated in his veto message that the bill would “eliminate accountability” by “[providing] a liability exemption to physicians who could earn compensation for their services.” The full veto message is contained in Appendix 3.

**HB 1021** would have restricted recoverable damages to only those related to medical, property and lost income with the exception of damages for pain and suffering, if the plaintiff in a motor vehicle accident did not have auto insurance. The Governor vetoed the measure and stated in his veto message that the measure would have resulted in “taking away the basic legal rights of an individual or family who is severely injured in an accident that is not their fault.” The full veto message is contained in Appendix 3.

**HB 1035** removes the requirement that arbitrators issue a findings report to support a final decision in issuing an award.

The election and nomination process for judges in the twelfth judicial district in Oklahoma is modified by **HB 1064**. Currently, all three district judges are elected at large. The configuration of District Courts is depicted on the map below. Beginning with the 2010 election:

- Office number One District Judge is to be nominated and elected by the voters of Mayes and Craig Counties;
- Office number Two District Judge is to be nominated and elected at large from the entire district; and



- Office number Three District Judge is to be nominated and elected by the voters of Rogers County.

All nominated judges must be legal residents of the districts they are representing.

The confidential nature of attorney-client information was addressed by **HB 1597** which states that the disclosure of confidential communications and information in an attorney-client relationship or under the work-product doctrine does not operate as a waiver if the disclosure was inadvertent, reasonable steps were taken to prevent disclosure, and efforts were made to rectify any errors caused by disclosure. If this information or communication is disclosed to a governmental office, agency, or political subdivision in the exercise of its authority, it will not operate as a waiver of the privilege or protection in favor of nongovernmental persons or entities. Exceptions to this are an intentional waiver; the disclosed and undisclosed communications or information concern the same subject matter; and, out of fairness, the disclosed and undisclosed communications or information should be considered together. Finally, the measure spells out accountant-client privilege and the circumstances under which it would and would not apply.

During the 2009 session, the Legislature enacted legislation to assist those persons who work in the juvenile justice system. **HB 2029** is the product of more than two years of work by the Oklahoma Children and Juvenile Law Reform Committee, which was created in 2006. The committee was charged with conducting a systematic review of all laws in Title 10 and preparing a recommended draft to reclassify and recodify the laws relating to juveniles.

## Miscellaneous Judiciary

The Legislature enacted the following additional measures regarding the judiciary:

- **SB 270** deletes obsolete language concerning the ability of the Office of Juvenile Affairs to parole a youthful offender.
- **SB 401** removes deputy sheriffs from the list of those who are disqualified from practicing as an attorney.
- **SB 699** removes the limitation on the reduction of certain proceeds by the court in a Medicaid false claims action.
- **SB 994** amends the patient-physician privilege statute by adding that testimonial privilege does not make communications confidential where state and federal privacy law would otherwise permit disclosure.
- **SB 1115** establishes that local rules and administrative orders of a district court must not conflict with any statutes of this state or any rules of a superior court. The local rules must be in writing and published on the Oklahoma Supreme Court Network to be valid and enforceable.

- **SB 1134** exempts breastfeeding mothers and members of the Armed Forces of the United States who are serving on active duty during a time of war or declared hostilities from jury duty.
- **HB 1601** would have prohibited attorneys from deducting or withholding any portion of a court award, settlement proceeds, or any monies held in trust for a client for the purpose of making a political contribution. The Governor vetoed the measure and stated in his veto message that the bill was “unconstitutional” since “[t]he Oklahoma Supreme Court has expressly held special legislation that benefits or affects one class, profession or industry to be violative of the constitution.” The full veto message is contained in Appendix 3.
- **HB 1570** would have required an affidavit to be attached to a petition in any civil action for professional negligence stating that the facts asserted in the petition were reviewed by a qualified expert. The Governor vetoed the measure and stated in his veto message that the measure was “unconstitutional” because the language was “in direct conflict with a recent Oklahoma Supreme Court decision.” The full veto message is contained in Appendix 3.
- **HJR 1003** would have served notice to the federal government, if enacted, that the state of Oklahoma claims sovereignty under the Tenth Amendment to the Constitution. The resolution would have also demanded that the federal government cease and desist mandates to states that are beyond the scope of its constitutionally delegated powers. The Governor vetoed the measure and stated in his veto message that “there [was] no need to spend valuable legislative time on a resolution expressing support for any particular amendment or constitutional right.” The full veto message is contained in Appendix 3.

## **Criminal Procedure**

The definition of *child pornography* is amended by **HB 1460** to include lewd exhibition of buttocks or female breast. The measure establishes a process for subpoenaing persons engaged in violations of child pornography law. The bill allows the Attorney General or district attorney, with district judge approval, to subpoena witnesses, compel attendance, examine them under oath, or require the production of business papers or records before the commencement of any civil or criminal proceeding. Any evidence collected during this period is not admissible in a civil proceeding. If business papers or records are subpoenaed, they must be available for examination by the person who produced the material or by that person’s authorized representative. Anyone served with a subpoena by the Attorney General or district attorney will be paid the same fees and mileage that the state pays witnesses of the court. A conviction for violation of this law is a misdemeanor punishable by up to one year in a county jail, a \$500 fine, or both fine and imprisonment.

The Crime Victims Compensation Board is authorized by **SB 518** to compensate reasonable costs associated with any crime scene cleanup up to \$2,000. This bill also adds “grandparent” to the definition of *members of the immediate family* as it relates to victim impact statements and who may submit them.

The Department of Corrections (DOC) is required by **SB 653** to include, upon court order or request, a summary of the offender's assessed needs and any progress made by the offender in addressing his or her assessed needs. Upon receipt of the court's request or order, DOC has a minimum of 20 days to prepare the report. This bill also adds DOC to the list of those who are to be notified of a judicial review.

**SB 659** establishes a rebuttable presumption that a person participating in a judicial proceeding at a postadjudication review hearing is acting in good faith and is immune from civil liability. The bill also adds language allowing members or prospective members of a postadjudication review board, or other existing review boards, or any student or researcher to request to attend and observe but not participate in the process. All parties must maintain the confidentiality, and the names of the children in placement must not be published.

DNA lab reports are allowed to be considered as evidence without need for testimony from the person preparing the report under the provisions of **SB 611** at a trial or hearing if the report has been performed by a laboratory performing analysis at the request of a forensic laboratory operated by the state or other political subdivision. Separately, the bill allows direct appeals to the Court of Criminal Appeals in cases alleging violation of any of the crimes that require a person to serve 85 percent of his or her sentence.

A defendant is required by **SB 612** to give the court notice within 30 days after the formal arraignment of the intention to raise the issue of mental illness or insanity at trial. The bill provides that if a defendant cannot afford the services of a qualified mental health professional, the application must be filed at the time of the filing of the notice of insanity defense. Under current law, this application needed to be filed at least 20 days prior to the trial.

**SB 613** prohibits the court from modifying the sentence of a defendant to a deferred sentence when the court conducts a sentence review. The measure modifies the definition of *offender* as used in the Delayed Sentencing Program for Young Adults to mean those persons who are found guilty, plead guilty, or enter a plea of no contest. It also requires the warden carrying out an execution to invite the lead law enforcement officials of any state, county, or local law enforcement agency who investigated the crime or testified in any court or clemency proceeding related to the crime to attend the execution.

A health care professional examining or treating a victim is required by **SB 894** to report to law enforcement any incident of what appears to be or is reported to be rape, rape by instrumentation, forcible sodomy, or any form of sexual assault, if requested to do so either orally or in writing by the victim, and to inform the victim of his or her right to have a report made.

## Family Law

Child custody issues are addressed in **HB 1739** which establishes that it is detrimental and not in the best interest of a child to be placed in sole, joint legal or physical custody, or any shared parenting plan with a parent the court has found guilty of stalking, domestic violence, or harassment. It then directs the court to:

- Consider the safety of the child and of the parent who is a victim of domestic abuse as the primary factor when determining the best interest of the child;

- Consider the history of the abusive parent when determining custody and visitation; and
- Refrain from using a parent's absence as a factor in determining custody or visitation if that parent's absence is due to the fact that the parent has relocated as a result of domestic violence by the other parent.

If the court chooses to award visitation by a noncustodial parent who has committed domestic violence or stalking, the court must be able to provide for the safety of the child and the parent who is a victim of domestic violence. The court may accomplish this by imposing any conditions it deems necessary including:

- Ordering the exchange of the child to be facilitated by a third party, with no contact between the parents;
- Order supervised visitation;
- Order the exchange of the child in a protected setting; or
- Order the abusive parent to attend an Attorney General-certified intervention program for batterers.

In cases where there is evidence to substantiate suspected or confirmed child abuse or neglect, the court must suspend visitation. Regardless of whether the court allows visitation, the court must, upon request, keep the address of the child and the victim of domestic violence confidential.

Child support was also addressed this session. **SB 1126** amends existing law as it relates to child support and those persons in noncompliance who have professional licenses. When placed on probation by the court, a person owing support must enter into a payment plan to pay current support as well as an amount equal to three months of support. During this probationary time, the person will maintain their license. If after those three months, the payments have been made as ordered, the probationary term may be dismissed by the court, or the court may continue the probation up to three years. In the event payments are not made in accordance with the three-month probationary period, the court is to direct the licensing board to revoke the person's license. The licensee may contest the revocation by producing evidence of extraordinary circumstances that contributed to the lack of fulfilling the obligation, and upon hearing evidence the court may extend the probation.

## **Uniform Commercial Code**

**SB 622** creates the most up-to-date version the Uniform Anatomical Gift Act (UAGA). Oklahoma joins 36 other states that have enacted this language. The purpose of UAGA is to further improve the system for allocating organs to transplant recipients. The scope of this act is limited to donations from deceased donors as a result of gifts made before or after their deaths. Major points of this act include:

- Simplifying the document of gift (donor card) by accommodating the forms commonly found on the backs of driver licenses in the United States;
- Strengthening the power of a person to not donate their body parts by permitting them to sign a refusal that also bars others from making a gift of their body parts after death;
- Allowing certain individuals to make an anatomical gift for another individual during that individual's lifetime;
- Adding several new classes of persons to the list of those who may make an anatomical gift for another individual after that individual's death;
- Adopting clear rules and procedures to provide clarity to the decision-making process. For example, if more than one member of a class is reasonably available, the donation is made only if a majority of members support the donation;
- Encouraging and establishing standards for donor registries;
- Better enabling procurement organizations to gain access to documents of gift in donor registries, medical records, and records of a state motor vehicle department;
- Clarifying rules relating to cooperation and coordination between procurement organizations and medical examiners;
- Prohibiting medical examiners from making anatomical gifts;
- Making it a felony offense to falsify a document of gift. Punishment is up to five years, a \$50,000 fine, or both; and
- Providing civil or criminal immunity to a person acting in accordance with the act or with the applicable anatomical gift law of another state or who attempts to do so in good faith.

**SB 887** repeals the old version of the Uniform Foreign Money-Judgments Recognition Act, adopted in Oklahoma in 1994 and replaces it with a new version. The new version has been updated to reflect the increase in international trade and the litigation that has accompanied it. The Foreign Money-Judgments Recognition Act provides for the enforcement of foreign country judgments in a state court in the United States and is law in ten other states so far. The primary differences between the current law in Oklahoma and the new law are:

- The new act expressly provides that a party seeking recognition of a foreign judgment has the burden to prove that the judgment is subject to the Uniform Act. Burden of proof is not addressed in current Oklahoma law;
- Conversely, the new act imposes the burden of proof for establishing a specific ground for nonrecognition upon the party raising it. Again, burden of proof is not addressed in current Oklahoma law;

- The new act addresses the specific procedure for seeking enforcement. If recognition is sought as an original matter, the party seeking recognition must file an action in the court to obtain recognition. If recognition is sought in a pending action, it may be filed as a counter-claim, cross-claim, or affirmative defense in the pending action. Current Oklahoma law does not address the procedure to obtain recognition at all, leaving that to other state law; and
- Finally, the new act provides a statute of limitations on enforcement of a foreign country judgment. If the judgment cannot be enforced any longer in the country of origin, it may not be enforced in a court of an enacting state. If there is no limitation on enforcement in the country of origin, the judgment becomes unenforceable in an enacting state after 15 years from the time the judgment is effective in the country of origin.

**SB 991** updates Article 3 of the Uniform Commercial Code to reflect changes in technology and practices. Article 3 has governed negotiable instruments for the past several decades. A negotiable instrument can be either a draft, such as a check, or a note. A note is simply evidence of a debt between the maker, who promises to pay, and another person. Drafts and notes can be negotiable and nonnegotiable; however, Article 3 addresses only the negotiable instruments.

## Criminal Justice

The Legislature took numerous steps to increase the protection of Oklahoma citizens and enhance the capabilities of law enforcement this session. Measures to improve the DNA Offender Database and to protect senior citizens were enacted. **SB 1102** creates Juli's Law and requires persons convicted of certain misdemeanor offenses to submit DNA samples for entry into the DNA database. The DNA database is used to match DNA found at crime scenes to known criminals. The misdemeanor crimes being added are:

Additional Misdemeanor Crimes Requiring DNA Samples in SB 1102	
Assault and battery	Unlawful carry of a firearm
Domestic abuse	Illegal transport of a firearm
Stalking	Discharging of a firearm
Possession of a controlled substance prohibited under Schedule IV of the Uniform Controlled Dangerous Substances Act	Threatening an act of violence
Outraging public decency	Breaking and entering a dwelling place
Resisting arrest, escape, or attempting to escape	Destruction of property
Eluding a police officer	Negligent homicide
Peeping tom	Causing a personal injury accident while driving under the influence of any intoxicating substance
Pointing a firearm	

Numerous changes were made to enhance the protections afforded to Oklahoma citizens by the Sex Offender Registration Act. **HB 1509** creates a new misdemeanor crime for harboring, concealing, or providing false information to law enforcement regarding a sex offender who is in violation of the registration act. The bill adds crimes related to possession or procurement of child pornography, solicitation of a child through technology, and child endangerment that involves sex abuse to the list of offenses requiring registration and requires persons convicted in United States territories or foreign countries to register. In other provisions, the bill:

- Provides that a person who has received a criminal history records expungement for a conviction of an offense in another state does not have to register;
- Changes the name of the risk assessment review committee to the sex offender level assignment committee. Requires the committee to determine the appropriate level of an offender based on federal law. Prohibits the committee, Department of Corrections, or a court from overriding and reducing a level assigned to an offender;
- Requires offenders to notify the Department of Corrections and local law enforcement within three business days of changing or terminating employment or changing enrollment status as a student. Requires the offender to appear in person to give notice of change of employment or enrollment;
- Establishes a procedure for the registration of transients. Requires transients to report in person to the nearest local law enforcement authority every seven days, giving an approximate location of where the person is staying;
- Gives local governing bodies more control over the zoning of sex offender treatment or nonprofit facilities that work with sex offenders;
- Prohibits the operation of a boarding house or group home unless sex offender treatment services are provided; and
- Creates a “Romeo and Juliet” provision. Provides that the offender can petition the court and be considered for removal from sex offender registration if the person was not more than four years older than the victim if the victim was 14 years of age or older but not more than 17 years of age at the time the violation occurred.

Domestic violence and child pornography penalties were enhanced by **SB 1020** which creates a felony crime of domestic abuse if the defendant has a prior pattern of physical abuse. Punishment is up to ten years in prison, a fine not exceeding \$5,000, or by both fine and imprisonment. The measure prohibits the transmitting of child pornography by use of the Internet or by any electronic, photo-electronic, or photo-optical system, including transmission by wire, cable, or wireless means. A conviction is a felony punishable by a term of not less than five years nor more than life, a fine of not more than \$10,000, or both fine and imprisonment. The measure also increases the punishment for the creation, distribution, or dissemination of child pornography to be not more than 20 years imprisonment, a fine not exceeding \$10,000, or both fine and imprisonment. Persons convicted of child pornography related crimes are required to register as a sex offender. The bill increases the penalty to a term not exceeding life imprisonment for aggravated possession of child pornography, which is the possession of 100 or more separate materials depicting child pornography. Lastly, the bill prohibits registered sex offenders from being employed as an ice cream truck vendor. Punishment for violation is up to two and a half years in prison, a fine of up to \$1,000, or both fine and imprisonment. Ice cream truck vending companies are required to conduct an annual name search against the sex offender registry on employees hired to operate a vending truck.

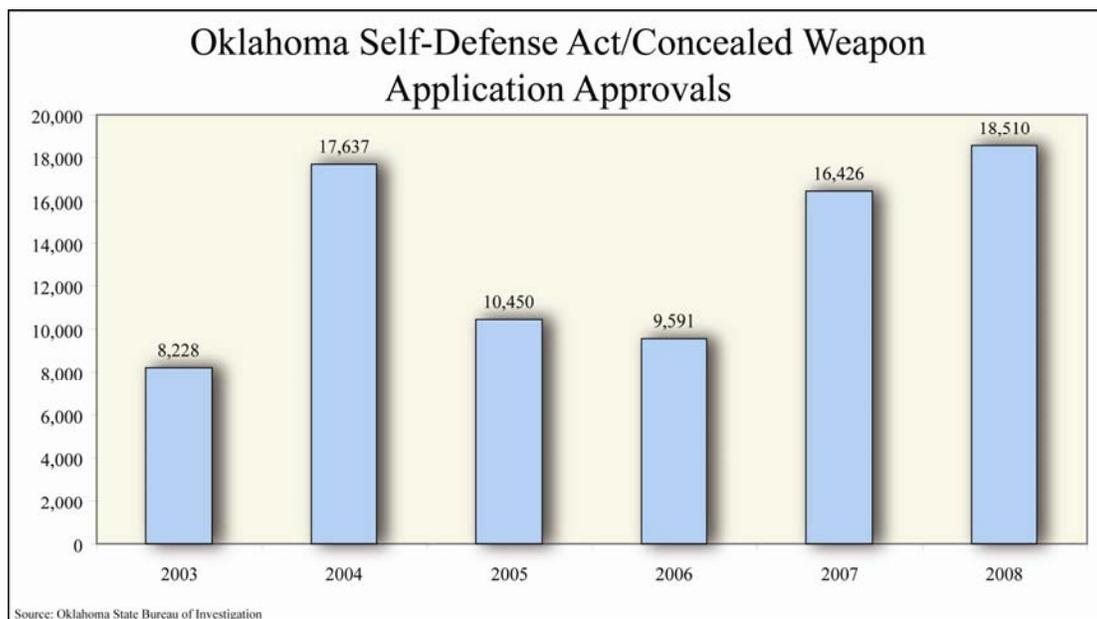
A related domestic violence measure, **HB 1892**, expands the definition of *strangulation* as it relates to assault and battery to include closure of the nostrils or mouth as a result of external pressure on the head.

The rape by instrumentation statute was amended in **SB 702** by adding that consent must not be an element of the crime when:

- A victim is at least 16 years of age and is less than 20 years of age and is a student or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is 18 years of age or older and is an employee of the same school system; or
- A victim is under the legal custody or supervision of a state or federal agency, county, municipal, or a political subdivision and engages in sexual intercourse with a federal, state, county, municipal, or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality, or a political subdivision that exercises authority over the victim.

Additionally, the bill increases the maximum punishment for kidnapping from ten years to twenty years imprisonment.

Several measures were enacted this session giving greater protections to gun owners and carry concealed license holders. **HB 1025** prohibits employers and public officials from asking prospective employees whether or not they own or possess a gun. Private employers who are found to have violated this proposed law would be guilty of a misdemeanor, punishable by a fine of up to \$1,000. Public employers or officials who violate this proposed law would be deemed to be acting outside the scope of their employment and are thus barred from seeking immunity under the Governmental Tort Claims Act. **HB 1411** allows an original applicant under the Oklahoma Self Defense Act to apply for a ten-year carry concealed handgun permit. As the chart below shows, the number of approved SDA licenses has increased greatly in the last five years.



**HB 1865** allows for the purchase of a firearm from a properly licensed dealer in another state. Previously, persons wishing to purchase a gun were required to purchase from a licensed dealer in the state or in a contiguous state.

Emergency medical care providers were granted additional protections with the enactment of **HB 1360** which establishes that it is a felony to commit assault and battery on an emergency medical care provider who is performing medical care duties. The penalty for a felony conviction is not to exceed imprisonment for two years.

In 2008 alone, 14 paramedics in Tulsa and Oklahoma City suffered serious injuries as a result of being attacked by patients.

**HB 1676** transfers the functions of the Criminal Justice Resource Center to the Oklahoma State Bureau of Investigation and to the Office of the Attorney General. Functions related to administration, research, data processing, and information technology are transferred to the Oklahoma State Bureau of Investigation (OSBI). The Office of Criminal Justice Statistics is created within the Information Services Division of OSBI. Functions related to the Domestic Violence Fatality Review Board are transferred to the Office of the Attorney General.

Physicians are prohibited by **HB 1834** from performing female genital mutilation unless it is necessary and recognized as a treatment for a known disease or for purposes of cosmetic surgery to repair a defect or is necessary in the assistance of childbirth or for medical purposes connected with the birth and is performed by a licensed physician. Punishment is a felony punishable by incarceration in the custody of the Department of Corrections for a minimum of three years and a maximum of life, and a fine of not less than \$20,000. If a physician, physician in training, certified nurse-midwife, or any other medical professional violates this act, the professional license or certification of the person is to be permanently revoked.

The Use of Force for the Protection of the Unborn Act is created by **SB 1103**. The measure establishes justifications for a pregnant woman to use deadly force to protect her unborn child under the following conditions:

- When a pregnant woman reasonably believes she would be justified in using force or deadly force to protect herself against the unlawful force or unlawful deadly force she reasonably believes to be threatening her unborn child; and
- When she reasonably believes that her intervention and use of force or deadly force are immediately necessary to protect her unborn child.

The protections granted by the measure do not apply to acts committed by anyone other than the pregnant woman or acts where the woman would be obligated to retreat, surrender the possession of something, or to comply with a demand before using force in self-defense. It also does not apply to the defense of embryos that exist outside the woman's body.

**SB 789** creates a new crime of knowingly making or uttering a false statement, either in writing or verbally, in the course of an internal agency investigation. Punishment is a misdemeanor subject to up to one year in county jail, a fine of up to \$500, or both fine and imprisonment. The

bill also requires that the person being interviewed be informed in writing prior to the interview that they will be subject to criminal prosecution if they provide a false statement.

The crime of child endangerment is modified in **SB 1138** by including knowingly permitting a child to be present in a vehicle when the person knows or should have known that the operator of the vehicle is under the influence of drugs or alcohol. It is also considered child endangerment to operate a motor vehicle while under the influence of drugs or alcohol and transporting children. The underlying fine imposed for DUI doubles if any person 18 years of age or over is convicted of operating a motor vehicle under the influence of alcohol and transporting children. Any person refusing to allow his or her child to be transported by an intoxicated driver is to have an affirmative defense to a contempt of court proceeding in a divorce or custody action.

**HB 2250** addresses several issues relating to the Oklahoma State Bureau of Narcotics and Dangerous Drugs (OBNDD):

- Adds pleading guilty or no contest to, or being found guilty of possession of drug paraphernalia as an offense which requires paying a \$5 court fee. This money goes into the Bureau of Narcotics Drug Education Revolving Fund;
- Authorizes the Director of OBNDD to purchase and maintain motor vehicles and other equipment for use by the bureau's employees, thus removing Department of Central Services oversight;
- Creates the Drug Money Laundering and Wire Transmitter Revolving Fund;
- Adds tribal police and agencies with officers certified by the Council on Law Enforcement Education and Training (CLEET) as agencies with whom OBNDD can enter into forfeiture sharing agreements;
- Increases the maximum fine for misdemeanor violations of the Uniform Controlled Dangerous Substances Act from \$500 to \$1,000;
- Provides specific procedures for conducting seizure warrants under the Drug Money Laundering and Wire Transmitter Act;
- Establishes a fee of \$5 for every wire transfer under \$500 and 1 percent of every transfer thereafter and establishes a tax credit against the fee imposed on wire transfers;
- Specifies venue for the Drug Money Laundering and Wire Transmitter Act as it applies to transactions for interpretation purposes;
- Allows for fee sharing in forfeiture cases between district attorneys and tribal law enforcement agencies; and

- Requires notice individually be sent to each known owner of seized property valued between \$100 and \$500 by first class mail instead of certified mail. Additionally, changes are made to allow for donation and transfer of property to other agencies.

The goal of the state of Oklahoma is to reduce prescription fraud, substance abuse, "doctor shopping," and other illegal activity related to pharmaceutical drug diversion. The Oklahoma Bureau of Narcotics and Dangerous Drugs Control has long been a partner with pharmacies, practitioners and other health care professionals throughout Oklahoma to reduce the impact of prescription fraud and eliminate prescription drug abuse.

The Oklahoma Prescription Monitoring Program was enacted into law by the Oklahoma Anti-Drug Diversion Act. Designed to deter the abuse of prescription drugs, the statute requires all dispensers of Schedule II, III, IV, and V controlled substances to submit prescription dispensing information to OBNDCC within 30 days of the time that the controlled substance is dispensed.

Registration fees for the OBNDCC Prescription Monitoring Program are increased by **SB 1119**. The following chart shows the increase in the various registration fees. The measure also adds definitions of *recipient* and *recipient's agent* to the Anti-Drug Diversion Act. The information required for each dispensation of certain drugs is also modified to include the recipient's address and date of birth. Dispensing information is required to be transmitted to OBNDCC within 24 hours of dispensing. An exemption is provided to resident and nonresident drug outlets from the 24-hour requirement. Resident and nonresident drug outlets are to transmit dispensing information within seven days of the date the controlled substance is dispensed.

OBNDCC Registration Fee Increases	From	To
Practitioners registration fee	\$70	\$140
Home Care Agencies registration fee	\$70	\$140
Distributors registration fee	\$100	\$300
Manufacturers registration fee	\$200	\$500
Manufacturer, wholesaler or distributor of drugs containing pseudoephedrine or phenylpropralamine	\$100	\$300

**HB 1707** adds a fine of \$5,000 for first offense Schedule I or II drug possession and a \$10,000 fine for second or subsequent drug possession convictions. The bill also adds a \$1,000 fine for Schedule III, IV, or V drug possession and a \$5,000 fine for second or subsequent possession convictions. Persons who are convicted a second time of possessing or purchasing a controlled dangerous substance within 1,000 feet of a school, park, or in the presence of a child under the age of 12 are subject to a fine of up to \$10,000. Lastly, the bill establishes that an expunged conviction for a violation of the Uniform Controlled Dangerous Substances Act can still be used as a prior conviction for enhancement purposes if no more than ten years following the completion of court imposed probationary term has passed and the person has not been convicted of a misdemeanor involving moral turpitude or other felony in that ten-year time period.

The Legislature passed the following additional measures relating to criminal justice:

- **HB 1419** creates a misdemeanor for the crime of stealing dimensional stone product, a natural rock material quarried for the purpose of obtaining blocks or slabs of stone used for commercial purposes. These stones can be valued over several hundred dollars and are often used for decorative purposes in landscaping housing and retail developments.

- **HB 1579** makes it unlawful to reinforce or use any device to fortify a door or window of a building being used in the commission of a felony offense prohibited by the Uniform Controlled Dangerous Substances Act for the purpose of preventing entry or causing injury to law enforcement. A conviction results in a felony punishable by not more than five years imprisonment, a fine not exceeding \$10,000, or both fine and imprisonment.
- **SB 730** allows a child adjudicated delinquent to reside in a home with firearms if the child is placed in a home with a full-time CLEET certified peace officer.
- **SB 564** provides that a check offered for the purchase of goods or livestock that is refused by a drawee is not to be considered an extension of credit by the seller of goods or livestock to the maker or drawer of the check as used within the bogus check statute.
- **SB 932** creates the Victims Rights To Protection Task Force to study the needs of victims to lawfully defend themselves against harmful conduct and to examine the right of self protection and the protection of others at all times from physical harm and threats of harm from the criminal conduct of another person.
- **HB 1008** increases from three to seven years the statute of limitations for prosecuting all degrees of arson.
- **HB 1413** increases from three to five years the statute of limitation for prosecuting impersonation or identity theft. The bill also extends from two years to three years the timeframe in which a district attorney may defer prosecution of criminal complaints involving property crimes.
- **SB 342** clarifies the procedure for publishing legal notice of the intent of a sheriff's office or campus law enforcement agency to dispose of unclaimed property that is in the possession of the sheriff or campus law enforcement agency.
- **SB 1033** creates a felony for wrongful injury to or removal of a cervidae from a farmed cervidae facility, punishable by a fine of at least \$5,000 and/or less than two years in prison and damages.
- **HB 1114** makes human cloning a misdemeanor.
- **SB 411** adds the Executive Director of the Office of Juvenile Affairs to the membership of the Domestic Violence Fatality Review Board.
- **SB 1075** allows an offender to participate in a drug court program if the offender has not had a prior felony conviction for a violent offense within the last ten years. The current law prohibits participation if the offender has ever had a violent felony. The measure requires offenders who have not fully paid all costs and fees pursuant to a court order but who have otherwise successfully completed the drug court program to not be counted as an active drug court participant for purposes of drug court contracts or program participant numbers.

# *Public Safety and Corrections*

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## **Public Safety**

Numerous measures were enacted this session to improve the safety of the motoring public. Changes were made to improve the efficiency of driver license issuance and punish those who operate a motor vehicle without a driver license. Responding to concerns over identity theft and the importance of driver licenses and state issued identification cards, **HB 1092** allows an expired Oklahoma driver license to be considered a valid form of identification for the purpose of renewing an Oklahoma driver license if the license is not more than 30 days past the date of expiration.

Another measure, **HB 1052**, clarifies that an individual must successfully complete a certified Motorcycle Safety Foundation course in order to be eligible to receive a motorcycle endorsement on a driver license. The bill allows for early renewal of a state driver license up to one year in advance of expiration on the license. The measure allows active duty members of the Armed Forces, civilian contractors employed by the Armed Forces, and all of their dependants who are stationed outside of the state of Oklahoma to renew their driver license, if expired, within 60 days upon their return to the state in the same manner as if their driver license was not expired.

In an effort to eliminate waste and improve efficiency, **HB 2252** removes the requirement that the Department of Public Safety provide an alternative method of testing an applicant for a driver license in a language other than English. The measure also strengthens DUI penalties by increasing the punishment for a second conviction for a felony DUI offense from five years imprisonment to not more than ten years imprisonment. Punishment for third and subsequent felony DUI offenses is increased from ten years imprisonment to not more than twenty years imprisonment. Additionally, the measure delays until July 1, 2012, the requirement that persons appointed to the Highway Patrol Division have a bachelor's or associate's degree or a minimum of 62 completed semester hours of college coursework. Lastly, the bill exempts Department of Public Safety employees designated by the Commissioner of Public Safety from a provision that restricts overtime pay to certain employees.

Punishing people who drive while under suspension was the focus of **HB 2263**. The bill creates the Gaje Jeffrey Florence Act and requires the Department of Public Safety to extend the period of suspension, revocation, or denial of driving privilege for an additional 12 months for any person who is convicted of operating a motor vehicle while under suspension, revocation, or denial of driving privileges. The measure establishes a misdemeanor crime of driving with a canceled, denied, suspended, or revoked driver license if the person is involved in a personal injury accident. Punishment is up to one year in the county jail and a fine of not more than \$2,000. If the person is driving while under suspension and is involved in an accident involving great bodily injury, the crime is a felony subject to imprisonment for not more than five years and a fine of not more than \$3,000. If the accident results in a death, the crime is a felony punishable by not more than five years imprisonment and a fine of not more than \$5,000.

Additional protections are offered to vulnerable senior citizens with the enactment of **HB 2030** which directs the Department of Public Safety to develop and implement a statewide silver alert system. The alert is to be activated on behalf of a missing senior citizen in cooperation with the Department of Transportation, the Department of Human Services, any local law enforcement agency, the Oklahoma Association of Broadcasters, and any other appropriate state or local agency.

Insurance carriers are required by **HB 2013** to cooperate with the Department of Public Safety in maintaining the insurance verification system as a condition for writing motor vehicle liability policies in Oklahoma. Accident response fees are prohibited from being charged for the response to or investigation of a motor vehicle accident by law enforcement or other first responders. *Accident response fees* are defined as a fee imposed for the response or investigation of a motor vehicle accident.

Several new license plate designs will be available to the motoring public with the passage of **SB 2**. In addition to establishing new plates, the measure also allows full-time or reserve university or common education police officers to obtain a Police Officer License Plate and repeals the obsolete Northern Cherokee Nation of the Old Louisiana Territory License Plate. The new plates being offered are listed in the chart below:

New License Plates Established in SB 2
Operation Iraqi Freedom Veteran License Plate
In God We Trust License Plate
National Weather Center License Plate
Make-A-Wish License Plate
South Central Section PGA Foundation License Plate
Putnam City High School License Plate
Autism Awareness License Plate
Folds of Honor Supporter License Plate
Oklahoma City Thunder License Plate

License fees charged and received by the Oklahoma Motor Vehicle Commission were raised in **SB 244**. The bill raises the factory branch or distributor branch initial fee from \$200 to \$400 and the renewal fee from \$100 to \$300; manufacturer or distributor initial application fee from \$200 to \$400; manufacturer or distributor renewal fee from \$100 to \$300; manufacturer's representative from \$60 to \$100; dealer initial application fee from \$200 to \$300; dealer renewal fee from \$60 to \$100; and salesperson from \$10 to \$25, and a new fee for change of employer on licenses of \$10.

In an effort to increase law enforcement standards, **HB 1084** requires any person or peace officer desiring to attend a basic law enforcement academy conducted by the Council on Law Enforcement Education and Training (CLEET) to score a minimum of 70 percent on a reading and writing comprehension examination and a minimum score of 70 percent on an approved physical agility test approved and administered by CLEET to assure the applicant can read, write and physically perform on a level necessary to perform the requirements of the CLEET academy. The examination must be taken within 90 days of hiring and prior to CLEET admission. The bill also requires any person or peace officer, upon employment by a law enforcement agency and

prior to attending a basic law enforcement academy conducted by CLEET, to execute a promissory note for academy training expenses payable to CLEET, promising to remain within the law enforcement profession in Oklahoma for four years following graduation. If for any reason a peace officer leaves the employment of a law enforcement agency and does not reemploy with an approved law enforcement agency within 90 days of the date of becoming inactive, the obligation will be considered due. Violation of the terms of the promissory note will result in civil action for restitution.

The definition of a *Class D motor vehicle* is modified by **SB 1185** to include a vehicle operated by a driver employed by a unit of local government that operates a commercial motor vehicle within the boundaries of that unit of local government for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting under certain conditions. The measure requires the Department of Public Safety to develop a procedure to allow a person applying for an original, renewal, or replacement Class D driver license who has been granted modified driving privileges to receive a license which identifies the license as a modified license. Additionally, the bill allows periods of revocation for DUI offenses to be modified and increases the modification fee from \$150 to \$175, with the additional \$25 going to the Department of Public Safety.

Crime victims are granted additional protections under the provisions of **SB 539** which requires the district attorney's office to inform victims and witnesses of crimes of two additional rights. Crime victims and witness now have the right to receive written notification of how to access victim rights information from the interviewing officer or investigating detective and the right to a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the defendant or minor. The measure requires a law enforcement officer to notify the violent crime victim in writing of the victim's rights and any services that may be available to the victim. The notification must include telephone and address information for the local District Attorney Victim-Witness Coordinator and the website where victims can access a full list of their rights and how to apply for crime victim compensation assistance. To avoid unnecessary delays, if a continuance is granted, the court must enter into the record the specific reason for the continuance and the procedures that have been taken to avoid further delays.

**SB 903** establishes that a licensed wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer, unless there is failure to exercise reasonable care in the performance of the act or for conduct that is willful or malicious.

**SB 1153** gives the Oklahoma Office of Homeland Security the duty and responsibility for interoperable public safety communications planning within the state. The measure clarifies that local public safety agencies and political subdivisions are encouraged, but not required, to use the communications standards issued by the office prior to the purchase of equipment. The office is required to annually report on the Statewide Communications Interoperability Plan; coordinate the statewide planning for public safety communication needs of state government and emergency responders; serve as a focal point for all statewide projects involving public safety communications vendors; and apply for, receive or assist agencies in applying for, receiving, or holding authorizations, licenses, and allocations of channels and frequencies. The Office of State Finance is directed to coordinate with the Oklahoma Office of Homeland Security

in developing minimum standards for communication networks and equipment. State agencies are prohibited from using funds to develop or enhance a public safety communication system unless the request is consistent with the Statewide Communications Interoperability Plan.

Two measures specifically relate to criminal records. **HB 2087** authorizes municipal fire departments to conduct a national criminal history records check on applicants for paid positions, and **HB 1049** modifies the Oklahoma Open Records Act by requiring law enforcement agencies to make available for public inspection a chronological list of all incidents preceding an arrest, including the initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred. Prior to the passage of HB 1049, law enforcement agencies were only required to make available information pertaining to the actual arrest of an individual.

The Legislature passed the following additional measures relating to public safety:

- **HB 1368** clarifies when a motor vehicle may be driven in a lane other than the right-hand lane of a four-lane highway to allow for the use of the left-lane to maintain safe conditions.
- **HB 1527** makes it unlawful for any person to drive any vehicle through, under, over, or around traffic-control devices or barricades placed upon a turnpike by the Oklahoma Turnpike Authority.
- **HB 1599** increases from 40 to 50 hours the amount of behind-the-wheel training required to obtain an intermediate Class D license when the applicant is parent-taught. The bill also prohibits intermediate Class D license holders from driving after 10:00 p.m.
- **HB 1760** allows blood, breath, saliva, or urine to be tested to determine the presence or concentration of intoxicating substances on persons suspected of driving under the influence. Currently, the law allows for the testing to determine the presence and concentration of intoxicating substances.
- **HB 1803** allows wrecker support vehicles to use flashing red and blue lights in the same manner as wreckers. Allows any wrecker, wrecker support vehicle, or tow vehicle to be equipped with an amber light, to be used only when leaving the scene of a tow service call and for the purpose of warning the operators of other vehicles to exercise care in approaching, overtaking, or passing the vehicle.
- **HB 1813** allows vehicles equipped with auxiliary power or idle reduction technology used to promote reduction of fuel use and emissions to add 400 pounds to the total gross weight limits.
- **HB 2054** allows the Department of Public Safety (DPS) to issue an annual vehicle permit for the movement of oversize and overweight loads that cannot be reasonably dismantled. The loads cannot exceed 12 feet in width, 14 feet in height, 110 feet in length or 120,000 pounds.

- **SB 299** moves the responsibility to conduct authorized sales of vehicles seized as a result of failure to pay taxes due to the state from the Oklahoma Corporation Commission to the Department of Central Services.
- **SB 388** allows reserve deputies, reserve officers, or firefighters who furnish their own vehicles for the performance of their duties to be able to purchase used vehicles made available for sale by DPS.
- **SB 1184** allows DPS to issue permits for oversized turbine blades in excess of 110 feet.
- **HB 1365** requires a drug or alcohol test to be administered as soon as practical for any operator of a boat involved in an accident in which there is a death or great bodily injury.
- **HB 1674** allows the use of an electronic signature for the filing of electronic traffic citations and for personal recognizance by law enforcement.
- **HB 1717** modifies the apportionment of monies collected from sales of the Emergency Medical Technician (EMT) special license plate fee. The measure provides that \$20 of each fee collected for an emergency medical technician license plate be deposited in the EMT Death Benefit Revolving Fund instead of being apportioned to the city or county volunteer fire departments.
- **SB 830** clarifies technical provisions for the Police and Law Enforcement Retirement Systems. The bill includes amendments to the calculation of Final Average Salary which exclude severance pay. This is how the Final Average Salary has always been calculated, but not specifically reflected in statutes.
- **SB 878** authorizes the Attorney General to charge an examination fee for the review and approval of revenue bonds or note proceedings. The measure establishes a fee structure based upon the amount of the bond or note issued. Bonds issued under the Oklahoma Higher Education Promise of Excellence Act of 2005 are also required to be submitted to the Attorney General for examination.
- **SB 888** provides uniformity in the designation and appointment of motor license agents. The measure removes population limitations regarding the appointment of motor license agents so that all appointments and designations are made by the Oklahoma Tax Commission.
- **SB 1166** creates the Regional Emergency Nine-One-One Services Act to encourage formation of emergency communication districts in order to provide efficient delivery of emergency nine-one-one service throughout the state.
- **SB 1161** deletes obsolete and consolidates redundant language and establishes a more cohesive structure to motor vehicle insurance requirements found in Title 47.

## Corrections

Improving efficiencies within the Department of Corrections was a goal for the Legislature this session. One measure that received much attention was **HB 2245** which creates the Oklahoma Criminal Illegal Alien Rapid Repatriation Act of 2009. The bill allows the Department of Corrections to release to the United States Immigration and Customs Enforcement a prisoner who is on a detainer for deportation if the prisoner has served at least one-third of the incarceration imposed. Other provisions of the measure include:

- Providing that if the prisoner returns illegally to the United States, the prisoner will be required to serve out the remainder of the sentence and will be ineligible for any parole;
- Allowing the Board of Corrections to renew any private prison contract if the contract will result in a reduced per diem rate. If a reduced per diem is determined by the Board of Corrections, the contract is not subject to the Consumer Price Index for All Urban Consumers requirements;
- Providing that the board is to negotiate based upon terms deemed to be in the best interest of operational efficiency;
- Clarifying the types of prisoners private facilities may hold in Oklahoma and prohibiting private prisons located in Oklahoma from housing detainees designated as enemy combatants by the federal government or persons who are under federal, state, or local investigation or convicted of crimes of international terrorism or conspiracy to commit international terrorism or acts of hostile aggression against the United States or allies;
- Providing that prior to contracting with the federal government or another state to hold prisoners, the private facility must grant the Oklahoma Department of Corrections the first right to contract for the beds in the private facility; and
- Requiring a private prison contractor to obtain authorization from the Department of Corrections prior to housing maximum security inmates from another state and establishes the procedure and timeline for obtaining authorization.

There are currently 511 incarcerated offenders with an ICE detainer. Of these 157 are ineligible for early release due to their offense. The remaining 354 offenders would be deportable. 230 of those have already served one-third of their sentence and would be eligible for deportation the first year. An additional 124 currently incarcerated offenders would eventually be eligible for deportation after they have served one-third of their sentence.

The DOC's annual average prison costs is \$19,798 per offender. The DOC currently receives on average \$1,634 annually per offender in Criminal Alien Assistance funding from the federal government.

230 Offenders X \$19,798	\$ 4,469,498
Less: 230 Offenders X \$1,634	\$ -375,820
Net Annual Savings	\$ 4,093,678

Transitional living facilities housing sex offenders or persons convicted of a capital offense are prohibited by **SB 796** from being located within 2,500 feet of any elementary or secondary school, state training school, or residential neighborhood. Currently, this restriction applies to all transitional living facilities. The measure requires a transitional living facility to comply with all related zoning ordinances and requires notification to every elected city council member, elected state legislative member, and every county commissioner within the jurisdiction prior to the

establishment of a transitional living facility. The written notice is to clearly state that the operator seeks to obtain written authorization from the governing body of the jurisdiction to establish and operate a transitional living facility and whether the facility intends to house any sex offender or person convicted of a capital offense.

**SB 1064** makes it a felony punishable by a term of imprisonment not to exceed two years and a fine of not more than \$2,500 to knowingly and willfully bring a cell phone or any electronic device capable of sending or receiving electronic communication into a facility where prisoners are located.

The Department of Corrections is required by **HB 2047** to establish educational programs which allow an inmate to achieve a general educational development level of proficiency in reading, writing, and computation skills. Currently, the achievement level is for eighth grade. The measure requires the Department of Corrections to give priority placement into education programs for inmates who lack basic literacy skills. Finally, the bill requires the Department of Corrections to recommend for placement at the time of assessment at Lexington Reception Center any inmate with an educational need.

Inmate lawsuits are streamlined by **SB 672** which establishes that the appeal of a decision of the district court in a civil action related to a person's incarceration or supervision while in custody of the Department of Corrections, a county or municipal jail, or a private prison, against a municipal, county, or state employee or a person employed by a private prison must be appealed directly to the appropriate appellate court without further motions.

The Legislature passed the following additional measures relating to corrections:

- **SB 803** removes the requirement that canteen services within Department of Corrections' facilities be operated by state employees.
- **HB 1698** allows the Department of Corrections to provide the same meal served to the prisoners to their employees at no cost to the employee.
- **HB 1775** authorizes the Director of the Department of Corrections to issue subpoenas pursuant to internal affairs investigations.



# *Revenue and Taxation*

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Due to the economic downturn at both the state and national level, the Legislature primarily focused on administrative and cost neutral reforms of existing Oklahoma tax provisions. The Legislature also focused attention on ad valorem and gross production taxes and tax incentives related to economic development.

## **Ad Valorem Tax**

The Legislature addressed the issue of inequity in the assessment of property taxes on video service providers and the differing assessment rates per county by enacting **SB 314**. The bill provides that all video service providers are a sub-class of public service corporations for the purpose of determining property tax assessments. This will ensure that property used to provide video services, such as Cox Cable, AT&T U-Verse, Dish Network Satellite, and other technologies, is assessed in the same manner. The measure also provides a method, to be used by all counties, for determining applicable assessed property for video service providers in Oklahoma. The assessment ratio generally will be 12 percent.

Due to the downturn in the economy, the Legislature sought to provide temporary relief to certain entities who are still trying to meet goals to qualify for and maintain temporary manufacturing property tax exemptions. **SB 929** waves existing payroll requirements for marine engine manufacturing in order to qualify for manufacturing property tax exemptions. The waiver applies to exemption applications made between January 1, 2004, and March 31, 2009. To qualify for the waiver, the entity must have been located in Oklahoma for at least 15 years, engaged in marine engine manufacturing, and maintained an average employment of 500 or more full-time-equivalent employees over a ten-year period. In order to ensure that only entities legitimately committed to maintaining operations in Oklahoma qualify, SB 929 requires that anyone who qualifies for the waiver will be required to repay exempted amounts if the entity closes the Oklahoma manufacturing plants before January 1, 2012.

**HB 1048** allows counties to reduce costs and redundant work in the process of dealing with property tax delinquency and lien notices. The measure removes the requirement that notices of sale must be sent by certified mail to a delinquent taxpayer.

## **Gross Production Tax**

**SB 313** extends the sunset dates for the following gross production tax exemptions to July 1, 2012:

- Secondary recovery projects approved or beginning on or after July 1, 2000, and before July 1, 2012;
- Tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 2012;

## Revenue and Taxation

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- New secondary recovery projects and tertiary recovery projects approved by the Corporation Commission on or after July 1, 1993, and before July 1, 2012;
- The production of oil, gas, or oil and gas from a horizontally-drilled well producing prior to July 1, 2012, which production commenced after July 1, 2002;
- Work to reestablish or enhance production from inactive wells which began on or after July 1, 1994, and for which production is reestablished prior to July 1, 2012;
- Production enhancement projects beginning on or after July 1, 1994, and prior to July 1, 2012;
- Wells spudded between July 1, 2005, and July 1, 2012, and drilled to a depth between 12,500 feet and 14,999 feet;
- Production of oil, gas, or oil and gas from wells spudded or reentered between July 1, 1995, and July 1, 2012, which qualify as new discovery; and
- Production of oil, gas, or oil and gas from any well which drilling is commenced after July 1, 2000, and prior to July 1, 2012, located within the boundaries of a three-dimensional seismic shoot and drilled based upon three-dimensional seismic technology.

In another gross production tax related measure, **HB 1489** continues the Legislature's efforts to annually provide funding for one-time capital improvements for the Oklahoma Conservation Commission, the Oklahoma Department of Tourism, and the Oklahoma Water Resources Board. The measure continues the gross production tax on oil apportionments for these agencies until the fiscal year ending June 30, 2014.

## **Tax Incentives for Economic Development**

After a series of interim studies on enhancing local economic development potential, the Legislature enacted **HB 2067** which creates the Oklahoma Community Economic Development Pooled Finance Act. The measure creates within the Oklahoma Development Finance Authority (ODFA) the Economic Development Pool and the Infrastructure Pool and authorizes the authority to issue a maximum of \$100 million in bonds, per program, for joint local government projects. The bill authorizes one or more local government entities or local government entities and for-profit businesses to pool for bonds, which are issued through the ODFA, for various economic development or infrastructure projects. Bonds issued for local government entities with a population under 300,000 people are limited to equal 65 percent of the net proceeds, and bonds issued for local government communities of any population are to be equal to the remaining 35 percent of the net proceeds. The measure also requires a business to seek approval from the Oklahoma Department of Commerce in order to participate in a project. In order to participate, the department must determine that the business's activity will result in a positive net benefit. Local government entities are authorized to approve measures allowing the capture of various incentive payments to go toward repayment of bonds issued pursuant to the act. In addition, the bill requires approval by a vote of the people of any pooled financing proposals authorized by the act.

To help further the education of youth about government and civics, **HB 1661** creates an income tax refund check-off, not to exceed \$25, to benefit the Oklahoma Chapter of the Y.M.C.A. Youth and Government program. The measure creates a revolving fund administered by the Department of Education to provide grants for the purpose of educating young people about government and the legislative process. The bill also requires all income tax check-offs to expire after four years.

To study transferrable tax credits currently allowed by law, the Legislature enacted **HB 1097**. Transferable tax credits are tax credits transferable to any person or entity other than the original entity to which the credits were initially made available per statute. The measure creates a Task Force for the Study of Transferable Tax Credits to study the justification for the enactment of transferable tax credits based upon the economics of the applicable industry, the economic impact of the transferable tax credits, and the utilization of the credits by tax credit purchasers. A report is due to the Legislature and Governor by December 31, 2009.

The Legislature enacted a number of measures relating to the Oklahoma Quality Jobs Program Act. **HB 1468** adds qualified federal contractors to those entities eligible for quality jobs incentives. The measure establishes the benefit rate for qualified federal contractors of not less than ¼ percent and not greater than 2 percent, provides procedures for state agencies to allow the incentive, and excludes federal contracts performed for the Federal Emergency Management Agency (FEMA). The bill also changes the definition of *qualified economic or community development purpose* in the Municipal and County Economic and Community Development Bonds Act to allow bond proceeds to be used for economic development programs, such as job creation payments and low interest or forgivable loans.

Qualified business entities in Oklahoma will now be able to take advantage of two incentive programs under **SB 909**. Currently, businesses must either utilize the Oklahoma Quality Jobs Program Act to receive quality jobs incentive payments or the Investment/New Jobs credit to receive income tax credits for investments in certain depreciable properties. Beginning in 2010, SB 909 allows qualified entities to take advantage of both incentives if investment in depreciable property is equal to or greater than \$40,000 within three years from the date of an initial expenditure if the entity pays an average wage equaling or exceeding the average state wage and the entity obtains a determination letter from the Oklahoma Department of Commerce that their business activity will result in a positive net benefit.

A new tax incentive was created in **SB 938** by the establishment of the 21st Century Quality Jobs Incentive Act. The intent of the act is to attract businesses with a highly skilled, knowledge-based workforce. The businesses listed in the chart on the following page are eligible for the new incentive program if, within one year, at least half of their sales are to out-of-state customers, to in-state customers if the product or service is resold to an out-of-state customer, or to the federal government. The act requires businesses to provide new jobs and to pay wages that exceed 300 percent of the county average wage. The Department of Commerce must also determine that the benefit rate is revenue neutral. Initial benefit rates are capped at 7 percent, with higher incentive payments of up to 10 percent for a fulfillment benefit rate.

### Industries Eligible for Benefits Under the 21<sup>st</sup> Century Quality Jobs Act (SB 938)

Specialty hospitals  
Performing arts companies  
Most industries currently included in the Oklahoma Quality Jobs Program Act  
Electric utilities  
Heavy and civil engineering construction  
Motion picture and video industries  
Sound recording industries  
Securities and other financial investment activities  
Insurance carriers  
Funds and trust  
Scientific and technical services  
Electronic and precision equipment repair and maintenance activities

The Legislature also repealed an excise tax credit in **SB 243** for aircraft purchased in Oklahoma that exceeded a sales price of \$2.5 million. The tax credits were dedicated to regional and primary airports in the state.

## Income Tax

For state income tax returns filed after January 1, 2010, **SB 11** requires interest to accrue on refunds. For electronically filed income tax returns, interest will accrue if the refund is not sent within 20 days. For nonelectronic filings, interest will begin to accrue if the refund is not provided within 90 days. The interest rate paid by the state on overdue refunds will be the same as the interest rate charged to delinquent state income tax filers.

**SB 981** modifies the Uniform Principal and Income Act to come into compliance with recent IRS rulings. The act governs deferred compensation, annuities, and other payments. The measure clarifies statutory language to ensure a trust qualifies for the marital deduction to minimize estate taxes according to the decedent's plans and to provide a formula for calculating how much the trust needs to distribute and how much of the trust can be used to pay taxes. The new language will ensure the trust will retain enough money to pay taxes and distribute the balance of the income.

Amending corporate income tax and captive Real Estate Investment Trusts (REITs), **SB 916** requires REITs to add back otherwise deductible federal dividends to determine state taxable income. The measure also requires taxpayers who pay rent and interest expenses to a REIT to add back dividends only if the REIT does not file an Oklahoma tax return.

**SB 318** is the omnibus tax amendments bill. The measure contains the following provisions:

- Requires county decals for vehicle tags;
- Requires the Oklahoma Tax Commission (OTC) to disclose who owes delinquent taxes, if past-due taxes, interest, penalties, and fees are more than \$25,000;

- Increases the amount of fees that can be charged by a debt collection agency on behalf of the Tax Commission to 35 percent of the amount collected;
- Authorizes the OTC to deposit funds in the OTC and Office of State Finance Joint Computer Enhancement Fund;
- Provides a motor fuel tax exemption for rural irrigation districts, conservancy districts, and master conservancy districts;
- Extends a sales tax exemption for conservancy districts' subcontractors for construction projects;
- Allows taxpayers to use investment tax credits earned, even after a change occurs in corporate structure;
- Requires the state to decouple from the American Recovery and Reinvestment Act of 2009 expansion of net operating losses, increase of small business expenditures, income tax deduction for motor vehicle excise taxes paid in 2009, exemption for unemployment benefits, and bonus depreciation;
- Exempts certain livestock show event awards from taxable income;
- Requires some employers to remit payments to the state consistent with federal requirements under the Federal Semiweekly Deposit Schedule;
- Waives the payroll requirement for some entities to qualify for ad valorem tax exemptions;
- Increases the percentage of rebates for film production companies under the Oklahoma Film Enhancement Rebate Program from 17 percent to 35 percent and lowers the minimum budget requirements for a film to qualify for rebates;
- Creates the Oklahoma Viticulture and Enology Center Development Revolving Fund to establish a Viticulture and Enology Center on a state college campus; develop technologies, strategies, and practices that aid in grape and wine production; and increase the positive impact of the Oklahoma wine industry. The fund will consist of some excise taxes on alcoholic beverages, capped at \$350,000;
- Requires the OTC to conduct a study of administrative issues concerning state and local communications taxes and what would be required in Oklahoma to comply with national proposals impacting these taxes; and
- Provides a market equalization assessment paid by CompSource.

## **Tobacco Tax**

Since Oklahoma increased taxes on cigarette and tobacco products and allowed individual tribes to compact with the state for reduced tax stamps for stores near bordering states, concerns have persisted that some stores are using improper stamps to sell cigarettes and tobacco products at a cheaper price than allowed. **SB 608** seeks to address these issues by making a number of changes to tobacco tax laws, including the following provisions:

- New fees and penalties will be apportioned to the Tax Commission Reimbursement Fund for administrative and data processing expenses, to assist with enforcement;
- License fees for cigarette manufacturers and wholesalers increased from \$25 to \$250;
- Requires applicants for an OTC license to agree to abide by procedures relating to cigarette and tobacco products, requiring wholesalers to sell cigarettes to licensed retailers, Indian tribal entities, or licensees of Indian tribal entities and manufacturers to sell cigarettes to licensed wholesalers;
- Requires wholesalers and manufacturers to submit required reports to OTC electronically;
- Requires OTC to share records and reports with state and local law enforcement officials upon request, though for Indian tribal entities or their licensees, the appropriate tribal Attorney General's office must be notified prior to disclosing any records;
- Creates a penalty for consumers who knowingly use or sell cigarettes without a properly affixed tax stamp with a fine of up to \$200, unless penalties are otherwise specified in statute;
- Increases fines for prohibited actions by wholesalers, retailers, and distributing agents from previous fines of \$200 to not more than \$10,000 for a first offense, and up to \$25,000 for a second offense; and
- Authorizes OTC to immediately revoke licenses, for a period of up to five years, for anyone punished with intent to defraud the state.

# *Tourism and Recreation*

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The Legislature focused its attention on addressing local issues in the area of tourism during the 2009 session. The Legislature continued efforts to encourage local governments to be responsible for local landmarks. **HB 1077** and **SB 256** transfer all operational duties and applicable provisions for the Tulsa Race Riot Memorial of Reconciliation from the Oklahoma Historical Society to the City of Tulsa.

Oklahoma will honor the memory of former Oklahoma Governors with the enactment of **HB 1366**. The measure allows the Oklahoma Historical Society to place historical markers designating the gravesites of deceased Oklahoma Governors who are interred in the state. The Historical Society is to work with local communities to encourage local participation. Funding for marking and maintaining the gravesites is to come from donations and other grants, and not appropriated dollars.

County governments are given greater flexibility regarding the use of lodging taxes through the passage of **HB 1480**. The bill allows lodging taxes collected after July 1, 2009, to be used for advertising or invested for future use.



# Transportation

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Legislation examining the use of federal stimulus dollars and increasing the number of highway projects being performed by the Oklahoma Department of Transportation (ODOT) were issues addressed this session. The FY-09 budget for ODOT was increased in **SB 225** to account for the stimulus funds allocated by the enactment of the federal American Recovery and Reinvestment Act of 2009 (ARRA). The measure increases the budget from \$250 million to \$300 million for county roads, bridges, and equipment; \$900 million to \$1.275 billion for federal aid relating to roads and bridges; and \$300 million for right-of-way acquisition.

ODOT will also receive additional funds from late vehicle registrations in the future. **SB 658** increases penalties for late vehicle registration from 25¢ to \$1 per day. The apportionment of each dollar for FY-10 is 50¢ to the General Revenue Fund, 25¢ to the Tax Commission and 25¢ to the motor license agent. After July 1 of 2010, ODOT is scheduled to receive the 50¢ previously apportioned to the General Revenue Fund.

The boards of county commissioners are allowed by **SB 832** to enter into cooperative agreements with the Oklahoma Turnpike Authority for the purpose of replacing, expanding, or repairing functionally obsolete and structurally deficient bridges that cross over or under turnpikes. The expenditures of the county for the projects can be from any federal, state, or county public funds appropriated and earmarked for the project. Counties may apply for the expenditure of these earmarked funds for projects that have been requested by the board of county commissioners of the county where the bridge is located. Once approved by the Oklahoma Cooperative Circuit Engineering Districts Board, the board will select and prioritize the bridge replacement projects based on criteria which includes, but is not limited to, high traffic volume and current bridge safety assessments. In addition, the measure creates the nine-member Oklahoma Roads Task Force to study and evaluate the effect of inflation on highway and bridge construction and maintenance. The task force is required to issue a report by February 1, 2010.

The Rural Road Improvement District Act is modified by **HB 1294** to allow the board of directors of a rural road improvement district to finance improvements on a pay-as-you-go basis, provided that the district has no outstanding bonds or other indebtedness. *Pay-as-you-go improvements* are defined as improvements that are constructed and paid for when necessary revenues are accumulated. These improvements are limited to the actual cost of purchases and construction. In addition, the measure prohibits rural road improvement districts choosing to operate on a pay-as-you-go basis from issuing bonds and other indebtedness until completing the pay-as-you-go improvements.

County transportation needs are also addressed by **HB 1759** which raises the monetary threshold that requires a purchase order on county government equipment repairs from \$2,500 to \$5,000. The measure also raises from \$75,000 to \$150,000 the cost estimate amount that triggers the requirement that engineering plans and specifications be prepared on culvert or bridge construction projects and increases from \$150,000 to \$300,000 the cost estimate amount that triggers the requirement that engineering plans and specifications be prepared on grade-and-

drainage projects. Finally, the measure increases the amount counties can be reimbursed for force account road and bridge projects from \$200,000 to \$400,000. Additionally, the bill designates the SSG Chris Hake Memorial Highway and the Trooper David Nalley Memorial Highway.

Several other measures also designated memorial highways and bridges. The CWO2 Stephen Shephard Memorial Highway is designated by **HB 1913**, and **SB 662** designates the State Representative Terry Hyman Memorial Highway. Lastly, **HB 1769** adds highway and bridge designations as shown in the following chart.

*Force account or construction on a force account basis means the construction of a public project performed by a public body, in whole or in part, using permanent personnel on its own payroll, using the equipment of such public body, except for specialized equipment and a qualified operator of such specialized equipment, and without hiring outside supervision or utilizing outside direction unless it is determined such outside supervision or direction will contribute to the quality of the work being performed.*

Highway and Bridge Designations in HB 1769
State Representative Terry Hyman Memorial Highway
Carsyn Kay Hackler Memorial Highway
M/SGT Ura M. Horton Memorial Bridge
STGT Jason Norton Memorial Bridge
Commissioner Jimmie Primrose Memorial Bridge
CWO2 Steven Shephard Memorial Highway
SSGT Larry S. Pierce Memorial Highway
Sheriff Jerry Beall and Police Chief Joe Rowden Memorial Highway
Mazzebeth Turner Memorial Highway
U.S. Army 509th Engineer Company Memorial Bridge
U.S. Army Staff Sgt. Brandon W. Farley Memorial Highway
Charles "Choppy" Parker Memorial Bridge
Leon Sherrer Highway
Deputy Sheriff Dustin Duncan Memorial Bridge
U.S. Army, 2nd Lieutenant Fred Sonaggera Memorial Bridge

**HB 1813** authorizes any vehicle utilizing an auxiliary power or idle reduction technology unit in order to promote reduction of fuel use and emissions because of engine idling to add an additional 400 pounds to the total gross weight limits set in statute. To be eligible for the exception, the operator of the vehicle must obtain written proof or certification of the weight of the auxiliary power or idle reduction technology unit and be able to demonstrate or certify that the idle reduction technology is fully functional.

ODOT is designated in **SB 399** as the agency to implement the federally funded Safe Routes to Schools program to increase physical activity in school-age children by encouraging students to

walk or ride bicycles to school. The bill authorizes the director of ODOT to appoint a Safe Routes to Schools Advisory Committee and creates a revolving fund to accept federal funds.

The definition of *primary highway* is modified by **HB 1564** within the area of law dealing with outdoor advertising signs to mean the Federal-aid Primary System in existence on June 1, 1991, and any highway which is not on that system but is on the National Highway System.

**SB 54** provides that the Oklahoma Highway Remediation and Cleanup Services Act will not apply to discharges or spills from rail transportation, vehicles, or cargo at locations including highway, street, or road intersections or other locations involving railroad tracks. The measure also provides that the act will not apply to discharges or spills from vehicles, cargo, or electrical equipment under the control of an electric utility.



# *Veterans and Military Affairs*

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During the 2009 legislative session, the Legislature enacted a number of measures demonstrating its continued support of the military and veterans.

In an effort to encourage active duty military personnel to establish residency in Oklahoma, the Legislature passed **SB 881**. From July 1, 2010, to January 1, 2015, all Armed Forces income, except retirement income, will be exempt from Oklahoma income tax. The measure also directs the Board of Equalization to analyze collections of state sales tax, motor vehicle taxes and fees, vehicle excise taxes, and motor fuel taxes paid by individuals receiving this income tax deduction. The exemption reverts to the current amount of \$1,500 if collections from these sources exceed the reduction in income tax for these individuals.

In continued support for families of fallen soldiers, **SB 721** exempts from Oklahoma income tax payments received from the U.S. Department of Defense which are a result of the death of a member of the Armed Forces killed in action. The measure also provides an income tax refund check-off for scholarship programs for the Folds of Honor Scholarship Program. The program provides post-secondary and vocational scholarships to dependents of military servicemen and servicewomen who were either killed or wounded in action due to military service in the war in Iraq or Afghanistan.

In a related measure, **SB 712** honors the sacrifice of fallen soldiers from Oklahoma by requiring flags on state property to be flown at half-staff on days when a memorial service is held for Oklahoma service persons killed in combat. The measure requests other interested parties to also participate in honoring these service members in this manner.

The Legislature continued to pursue innovative methods of recruitment of public school teachers with the passage of **SB 582**. The measure requires the State Board of Education to award an Alternative Placement teaching certificate to any person satisfying the eligibility requirements for the Troops to Teachers Program.

In other measures related to veterans:

- **HB 1402** adds veterans centers to the list of facilities to which absentee ballots can be delivered.
- **SB 1137** creates the Oklahoma American Civil War Sesquicentennial Commission and revolving fund to assist the Oklahoma Historical Society in preparing for and commemorating the 150<sup>th</sup> anniversary of Oklahoma's participation in the Civil War.
- **SB 1134** exempts members of the Armed Forces of the United States who are serving on active duty during a time of war or declared hostilities from jury duty.



# Wildlife

The Legislature focused attention on numerous hunting, fishing, and enforcement issues this session. Items receiving attention include licensing procedures, additional hunting seasons, and new recreational swimming areas.

To protect the property of Oklahoma citizens, the Legislature passed **HB 2154**, which increases the penalty for willfully entering a licensed cervidae farm or a licensed big game commercial hunting area, in order to unlawfully hunt or take wildlife. Violators are now subject to new minimum and maximum penalties. The minimum penalty increases from \$1,000 to \$2,500, and the maximum penalty increases from \$5,000 to \$10,000, and the measure also allows assessments for actual damages to property damaged by violators.

The Legislature considered several measures which address hunting-related issues in Oklahoma. **HB 1464** authorizes the Department of Wildlife Conservation to issue licenses to hunt black bear. The license is \$100 for residents and \$500 for nonresidents. The department has conducted research over several years concerning the black bear population. Research and observation by the department has shown a growing population of black bear, and thus a need for limited hunting of black bear in certain circumstances. The department is responsible for setting appropriate hunting limits and hunting seasons. The department has set regulations for the 2009 bear hunting season, as shown in the map below.



Another measure, **HB 1465**, extends the date to hunt or take furbearers. Hunting or taking furbearers can take place the first day of January through the last day of February.

**HB 1691** expands the current license for hunting with predatory birds. The measure allows falcons and other predatory raptors to be used for hunting. The license to hunt with predatory birds is now called a falconer's license and will continue to be obtained from the Department of Wildlife Conservation.

Consideration of the hunting needs of the disabled was also a priority of the Legislature. The Department of Wildlife Conservation is directed by **HB 1761** to allow persons with a disability to have the opportunity to hunt with a conventional longbow with a device that permits the bow to be held mechanically at full or partial draw.

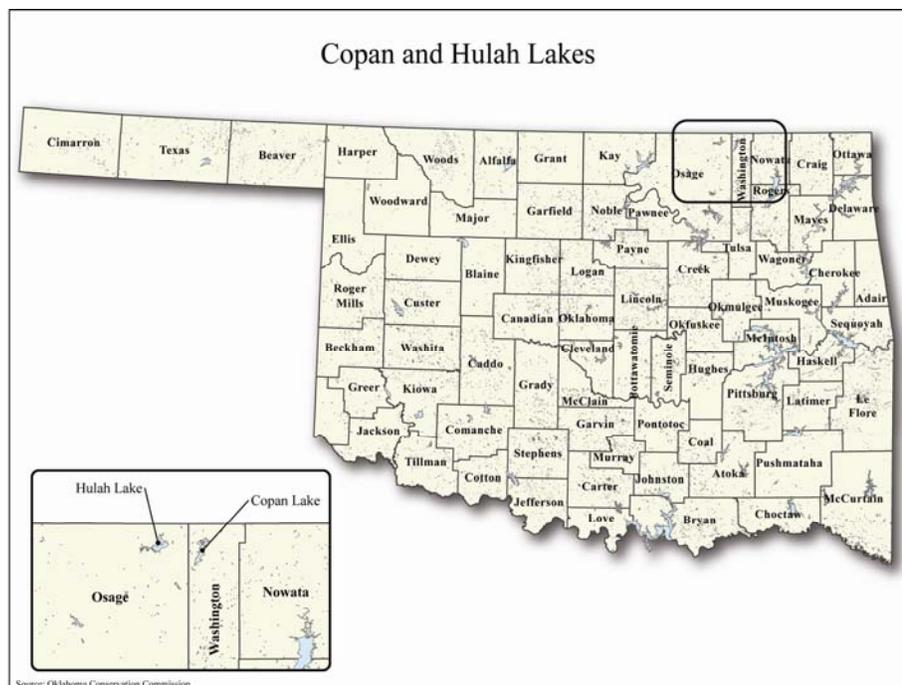
Big game commercial hunting area owners are assisted by **HB 2158** in protecting their livestock and property. The measure authorizes the Department of Agriculture, Food, and Forestry to issue these owners a license to hunt by aircraft depredating animals, such as feral hogs, feral cats, and coyotes that are a danger to their livestock and property.

Fishing guides are required to be licensed under the provisions of **SB 277**. The measure creates an annual \$200 license and provides penalties for those who violate the requirement to obtain and maintain a license to be a fishing guide.

Two measures were enacted to streamline the license process for licensees. **SB 1031** combines the fee for annual hunting and fishing licenses with the Wildlife Land Stamp fee. The second measure, **SB 1034**, creates the Department of Wildlife Conservation Consolidation of Licenses, Permits, and Fees Task Force. The task force exists until October 31, 2009, and will review the purpose of the various licenses, permits, and fees of the department and make recommendations to the Legislature on the possibility of consolidating certain licenses, permits, and fees.

The list of lakes where swimming is permissible is expanded by **SB 248** to allow swimming in a safety zone below a dam. The measure adds Copan Lake in Washington County and Hulah Lake in Osage County to the list. The map shows their exact locations.

In order to promote safety and cleanliness, the Legislature enacted **SB 428** which prohibits the use of glass

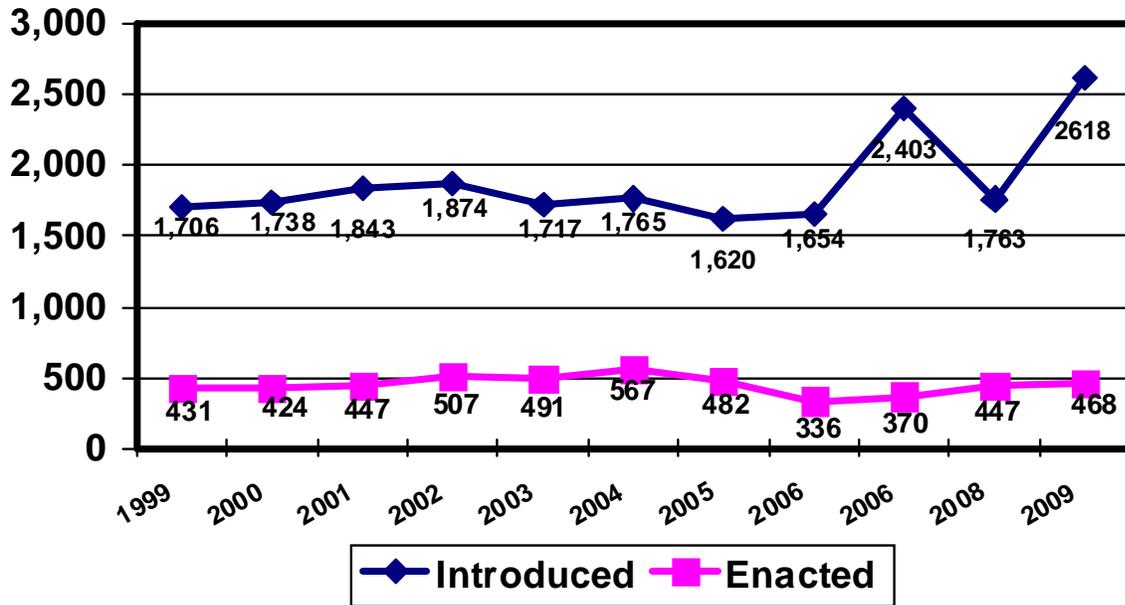


containers for any purpose in any boat, canoe, raft or inflatable watercraft in a scenic river area or on the Lower Mountain Fork River, south of the Broken Bow Lake Reregulation Dam to United States Highway 70.



## Appendix 1 Legislative Production 1999-2009

### Measures and Joint Resolutions Introduced and Enacted\*



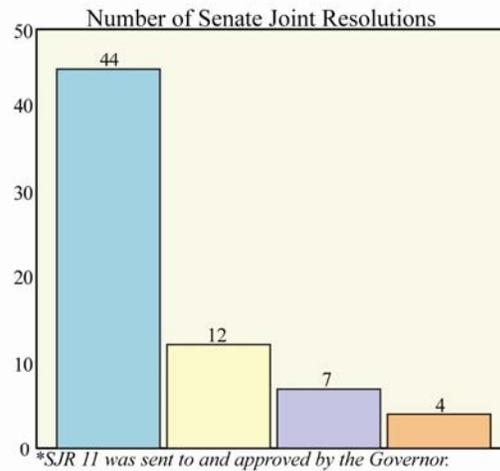
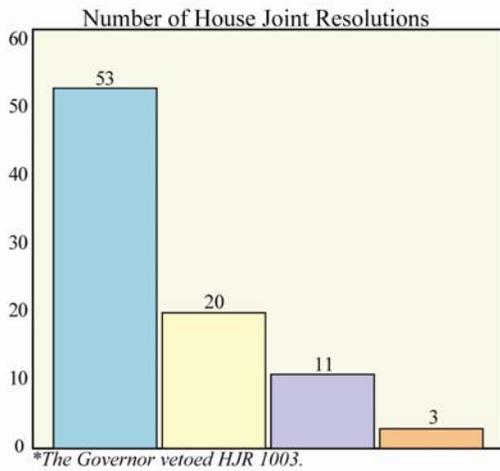
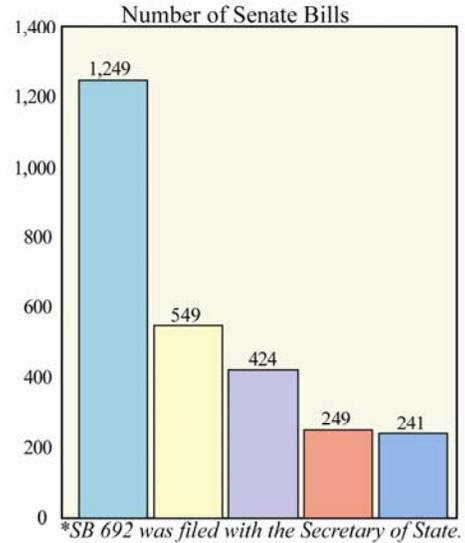
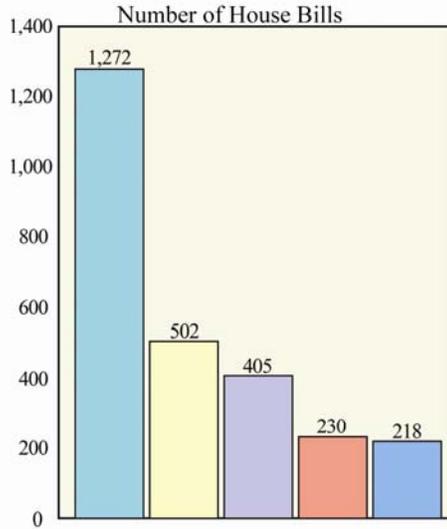
\* Does not include concurrent and simple resolutions or measures filed or enacted during any special sessions.

NOTE: 1999 was the 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 2 Legislative Production Detail for 2009

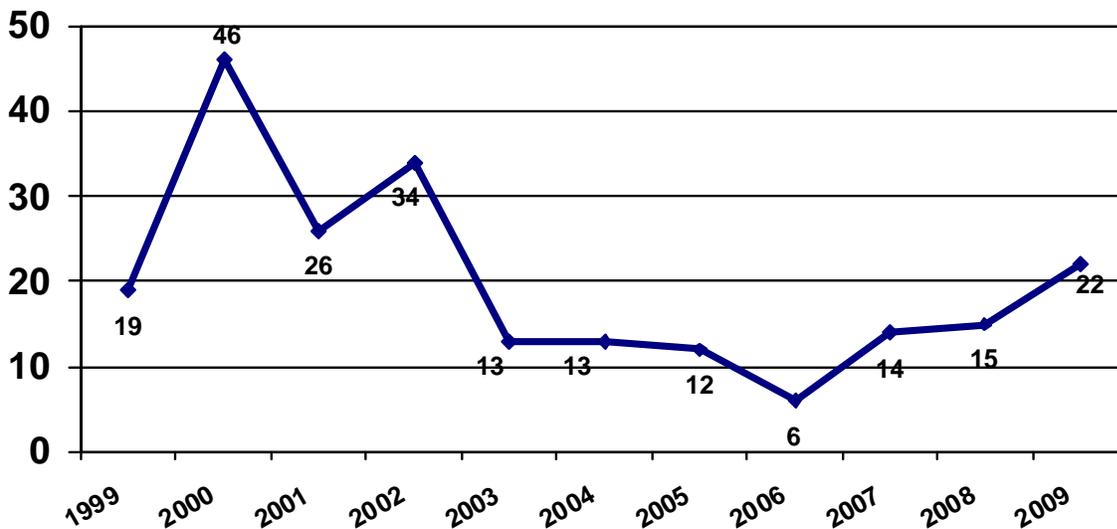


- Introduced
- Passed House of Origin
- 3rd Read in Opposite House
- Sent to Governor
- Approved by Governor
- Filed with Secretary of State



## Appendix 3 Veto 1999-2009

During the 2009 legislative session, the Governor vetoed 22 measures, one of which was a line-item veto on an appropriation measure. This number is slightly higher than the average of gubernatorial vetoes over the past six years (see graph below). The Legislature attempted to override one measure vetoed by the Governor, HB 1326, but the override attempt failed. In the past 15 years, the Legislature has successfully overridden a Governor's veto only one time.



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

Following is a brief description of the 22 bills vetoed by the Governor along with the Governor's veto message.

**HB 1021** would have restricted recoverable damages to only those related to medical, property, and lost income with the exception of damages for pain and suffering, if the plaintiff in a motor vehicle accident does not have auto insurance.

### Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1021. It is critical to encourage motorists to carry liability insurance and penalize them when they do not. However, HB 1021 goes too far in its penalties, taking away the basic legal rights of an individual or family who is severely injured in an accident that is not their fault. Under HB 1021, such innocent

victims would be denied appropriate compensation for damages simply because they did not have liability insurance at the time the wrongful action occurred. While HB 1021 does contain some exemptions designed to protect innocent parties, they are not inclusive enough to cover the universe of potential victims. Policy makers should encourage the purchase of liability insurance and penalize those who do not comply, but stripping citizens of their basic rights is not an appropriate or effective penalty. Additionally, this legislation is likely unconstitutional because it disproportionately affects lower-income citizens.

**HB 1200** was an appropriation measure relating to the State Department of Health. Section 9 would have directed the State Department of Health to transfer \$2,500,000 to the Oklahoma Institute for Disaster and Emergency Medicine Revolving Fund. Governor Henry utilized the Line Item Veto to remove Section 9 of HB 1200.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 12 of Article VI of the Oklahoma Constitution to approve or object to items in appropriations bills presented to me, I have VETOED all of Section 9 of House Bill 1200 appropriating the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Oklahoma Institute for Disaster and Emergency Medicine. This line item is unnecessary because the Institute has sufficient funds on hand for program costs for FY 2010. By vetoing this item, the funds specified therein will remain in the budget of the Oklahoma State Department of Health, and the Commissioner of Health will have the authority and flexibility to further evaluate and respond to the actual funding needs of the Institute if necessary.

**HB 1307** would have provided limited malpractice protection for any physician serving as a ring official and providing medical services at an amateur or professional athletic event sanctioned under the Oklahoma Professional Boxing Licensing Act.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1307. HB 1307 would provide a liability exemption to physicians who could earn compensation for their services. Such liability exemptions eliminate accountability and should be reserved for medical professionals who offer services on a volunteer basis.

**HB 1326** would have made it a misdemeanor to knowingly conduct nontherapeutic research that destroys a human embryo or subjects the embryo to substantial risk of injury or death or to transfer an embryo with the knowledge that it would be subject to such research.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1326. House Bill 1326 triggers unintended consequences that would negatively impact the state of Oklahoma and its citizens. While

HB 1326 has been promoted as a “pro-life” measure, it does nothing to discourage abortion or save a life. To the contrary, it would hinder life-saving efforts by banning promising research that could yield new treatments or cures for cancer, Alzheimer’s disease, diabetes, multiple sclerosis, arthritis, spinal cord injuries and a variety of other ailments. This form of stem cell research, supported by such conservative, pro-life leaders as Nancy Reagan and U.S. Sen. Orrin Hatch, utilizes unused embryonic stem cells or blastocysts originally created to assist couples in their effort to have children. Because in vitro fertilization procedures often create multiple blastocysts for a single couple, many are unused and ultimately destroyed and discarded. HB 1326 criminalizes and punishes a scientist who, with the couple’s consent, elects to conduct stem cell research with an unused blastocyst before it is destroyed. By criminalizing legitimate scientific study, HB 1326 would have a chilling effect on Oklahoma’s research community, particularly on the scientists who perform the life-saving research. HB 1326 would also discourage research-based industries from continuing to locate in Oklahoma, dealing a major blow to long-running efforts to make our state a beacon of bioscience and high-technology research. In short, HB 1326 is not in the best interest of the state or its citizens and in fact will do great harm if it is enacted into law.

**HB 1570** would have required an affidavit to be attached to a petition in any civil action for professional negligence stating that the facts asserted in the petition were reviewed by a qualified expert.

Governor Henry’s Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1570. House Bill 1570 is in direct conflict with a recent Oklahoma Supreme Court decision and, therefore, is unconstitutional. In an 8-1 decision in 2006, the state’s highest court ruled that the cost associated with certificates of merit placed an undue financial burden on citizens seeking access to justice and served as a barrier to their constitutional rights. I support efforts to reduce frivolous lawsuits, but because the court has already spoken clearly on the certificate of merit issue, enacting this measure would have been a wasteful exercise in futility.

**HB 1575** which related to the Academic Achievement Award (AAA) Program, would have added the Gold, Silver, and Bronze standards by which teachers could have earned specific bonuses at any school that achieved a certain three-year average score. In addition, the measure would have also amended the Teacher Due Process Act by modifying the number of semesters a teacher could be hired on temporary contract.

Governor Henry’s Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1575. While I strongly support the Academic Achievement Award program and the proposed improvements in HB 1575, other changes in Section 2 of the bill are problematic, amount to unconstitutional logrolling, and fatally flaw the measure. Without explanation, the legislation arbitrarily increases the time span that a teacher may be held under a temporary contract, changing a

longstanding employment provision and eroding educators' precious due process rights. I would encourage lawmakers to approve new legislation with Section 2 deleted so I can sign into law the proposed improvements for the Academic Achievement Award program.

**HB 1600** would have modified the requirements for obtaining disability benefits by allowing individuals who have had physician-recommended surgery for soft tissue injury to petition the Court to extend their benefits. In addition, the measure would have terminated extended benefits if surgery was not recommended or was recommended but not performed within three months of the recommendation. For soft tissue injuries, the bill would have prevented the employee from permanent impairment benefits unless medical evidence of a permanent anatomical abnormality could be produced.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1600. While HB 1600 was presumably designed to provide clarification of workers' compensation cases involving surgery, it is bad policy and would result in unintended consequences that would increase costs to businesses by forcing injured workers to undergo invasive surgeries and denying them the option of pursuing a less costly and more conservative treatment course prior to surgery.

**HB 1601** would have prohibited attorneys from deducting or withholding any portion of a court award, settlement proceeds, or any monies held in trust for a client for the purpose of making a political contribution.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1601. While the concept of HB 1601 is commendable and one I support, the bill, as written, is clearly unconstitutional. The Oklahoma Supreme Court has expressly held special legislation that benefits or affects one class, profession or industry to be violative of the constitution. Although HB 1601 may also infringe on free speech, it would more likely be held to pass constitutional muster if it had applied to all political deductions by all professions, businesses and industries. This defect was previously identified to bill authors and could have easily been corrected by simply applying the prohibitions in the bill to all professions rather than a single one. In fact, at one time, HB 1601 contained such inclusive language, but it was removed without explanation before final passage. If that language had remained intact, HB 1601 would have been signed into law and would have more likely been held constitutional. I urge lawmakers to pass a fair and effective comprehensive ban on all political deductions.

**HB 1975** would have instituted procedural requirements when considering legislation mandating a health coverage or offering by certain health care and insurance providers.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 1975. House Bill 1975 unwisely and unduly restricts the state's ability to respond in a timely manner to critical issues related to health care and insurance coverage. By mandating that certain insurance legislation can only be introduced in odd-numbered years and approved in even-numbered years of a legislative session, HB 1975 inexplicably and unreasonably ties the hands of state policy makers on a very important issue. The bill further restricts the state's ability to respond to emergencies by requiring a 75 percent super-majority vote to lift the odd-even year restriction during an emergency or other catastrophic event. This would empower a small minority of legislators to thwart legitimate state efforts to address a pressing public policy issue and ensure that the restriction would rarely, if ever, be lifted. Furthermore, because HB 1975 applies these restrictions only to legislation involving a single issue, it raises legitimate concerns and questions regarding why one subject area would be singled out for special treatment and is constitutionally infirm. Oklahoma and its citizens are better served when policy makers are allowed the freedom to address any pressing issue in the Legislature without the hindrance of arbitrary restrictions.

**HB 2161** would have prohibited school districts from allowing individuals or organizations to speak or distribute materials at an in-service teacher meeting for the purposes of influencing the results of an election for state or local office, excluding school bond elections, or political fundraising for or against a candidate.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 2161. This legislation encroaches upon freedom of speech and unduly interferes with the ability of local school districts to control the content of local meetings. Additionally, the bill is vague and ambiguous, potentially resulting in numerous unintended consequences and making dissemination of information by certain officials or organizations a violation of law in one school district but not in another, depending on the interpretation and discretion of unspecified local officials.

**HB 2167** would have created the Private Attorney Retention Sunshine Act which would have prohibited state agencies or agents from retaining legal services in which services exceeded \$5,000 without first having undergone a request for proposal process. For proposed contracts exceeding \$500,000, the state agency or agent would have been required to file a copy with the Governor's office where the proposed contract could be reviewed.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 2167. While HB 2167 is well intended and has many good provisions, the legislation potentially does more harm than good because of its unintended consequences. Many state agencies could easily comply with the

contracting restrictions in question, but for those agencies, such as Oklahoma Department of Transportation, that must respond quickly to a lawsuit or that must execute a large volume of legal contracts by virtue of their statutory responsibilities, such mandates would impair their ability to respond to pressing legal issues or to timely complete crucial projects, causing undue delays, increasing costs to the state and causing them to miss court-imposed deadlines. The Legislature should consider legislation that recognizes the unique statutory responsibilities of such adversely-impacted agencies.

**HB 2176** would have prohibited chief executive officers and other administrative heads of a state agencies with the power to issue a license to any person having authority to act on such person's behalf from soliciting or requesting support or opposition for legislation from any person holding a license issued by that agency.

### Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 2176. All citizens, whether they are employed by the public or private sectors, have the constitutional right to express their views on any issue they choose. HB 2176 would prohibit certain state employees from advocating for or against legislation pending before the Oklahoma Legislature and authorize a felony charge and a prison term of up to two years for anyone who runs afoul of the provision. This legislation is poorly worded, has severe unintended consequences, and clearly stifles freedom of speech in direct conflict with the First Amendment.

**HB 2246** would have modified the petition and referendum process by expanding the time an initiative petition could circulate from 90 days to one year; allowing any U.S. citizen at least 18 years of age to circulate petitions, provided petition circulators register with the Secretary of State; outlining that the rights of citizens to engage in petition circulation would be protected and not infringed, listing prohibited behaviors and punishments; and prohibiting the Secretary of State from counting signatures that were collected by an individual who had not registered as a petition circulator. The measure would have also created the Initiative and Referendum Task Force to examine Oklahoma's initiative and referendum petition process.

### Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Bill 2246. While HB 2246 is designed to strengthen the initiative petition process and contains several good provisions, the bill is fatally flawed because of Section 3, a provision that grants additional rights to petition circulators at the same time it takes away the rights of other citizens. For example, Section 3 would make it a crime for a person to interrupt a conversation between a circulator and a potential signer, touch a petition or promotional material without the consent of a circulator or shout in the presence of a circulator to express opposition to their initiative. Such prohibitions have the effect of discouraging and even criminalizing such basic constitutional rights as free speech and freedom of assembly. Section 3 also provides unscrupulous circulators with a cash incentive to report such offensive speech or assembly by requiring offenders to pay the complaining circulator \$500 in statutory

damages for each violation. It is critical to have a fair and accessible initiative petition process available to the people, but the meritorious proposals in HB 2246 cannot overcome the harm caused by Section 3. In an effort to enact fair and responsible petition reforms in the next legislative session, I will appoint an interim task force to review the issues addressed in HB 2246 and work on language that strengthens and improves the process without eroding the constitutionally guaranteed rights of individual citizens.

**HJR 1003** would have served notice to the federal government, if enacted, that the state of Oklahoma claims sovereignty under the Tenth Amendment to the Constitution. The resolution would have also demanded that the federal government cease and desist mandates to states that are beyond the scope of its constitutionally delegated powers.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED House Joint Resolution 1003. Without question, the state of Oklahoma and its leaders support the U.S. Constitution and the rights it guarantees to the states and their citizens, and there is no need to spend valuable legislative time on a resolution expressing support for any particular amendment or constitutional right. Furthermore, HJR 1003 alleges, without offering any evidence or explanation, that past and current U.S. leaders may have violated the Constitution and committed crimes against the states and the country. HJR 1003 also implies that the state should reject federal tax dollars paid to Washington, DC, by Oklahoma citizens, an act that would prevent our tax dollars from being used in Oklahoma to address critical needs in transportation, education, health care, law enforcement, veterans programs and many other vital services beneficial to our state. In short, HJR 1003 could be detrimental to Oklahoma and does not serve the state or its citizens in any positive manner.

**SB 4** would have required each person appearing to vote to provide proof of his or her identity to the judge of the precinct. The measure specified the forms of acceptable photographic identity documentation and included a provision to allow persons without proof of identification to vote upon signing a statement under oath affirming his or her identity.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 4.

The right to vote is among our most precious freedoms, guaranteed to all eligible U.S. citizens regardless of their race, gender, religion, income level or social status, and policymakers must be especially careful when tinkering with this fundamental right. By mandating new identification requirements, Senate Bill 4 would have established an unnecessary impediment to exercising this most basic freedom in conflict of Article III, Section 5 of the Oklahoma Constitution which states, "All elections shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage,..." A small but still important minority of registered voters, many of whom are senior citizens or the working poor, do not have easy access to an official form

of identification, and, therefore, could be discouraged from participating in the electoral process by the restrictions contained in SB 4.

Respected, non-partisan advocacy organizations such as the league of Women Voters and the American Association of Retired Persons oppose voter identification laws, citing projections that as many as 21 million eligible voters, including 78,000 in Oklahoma, do not have appropriate identifying credentials and could be negatively impacted by such legislation.

Oklahoma already has a model state election system, one that has earned national praise for its accuracy and efficiency and has operated without the taint of voter fraud. It is not in the best interest of the election system or Oklahoma citizens for the Legislature to enact new participation requirements for registered voters and additional and potentially confusing verification duties for election workers that could cause undue delays and longer waiting lines at the polls, potentially discouraging even more citizens from voting.

At a time when it is difficult to attract more than half of the registered voters to the polls at any given election, we must make voting easier and more convenient for registered voters, not more difficult and confusing.

**SB 490** would have modified the number of resident taxpayers required to institute a suit to recover money or property belonging to the state, county, township, city, town, or school district, paid out or transferred by any officer through an unauthorized, unlawful, fraudulent, or void contract. Specifically, the measure provided that one-tenth of one percent of the population that resides within any of the above jurisdictions, after written demand, may institute such proceedings.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 490. It is critical for Oklahoma taxpayers to have the ability to seek legal redress when they feel their state or local government has acted improperly, and taxpayer lawsuits provide an important check against public corruption, abuse and fraud. By raising the threshold necessary to file a taxpayer lawsuit, SB 490 would take a backward step and make it more difficult for citizens to hold public officials accountable.

**SB 586** would have allowed the sponsorship of charter schools by a federally recognized Indian tribe if the school was located within a school district with an ADM of 5,000 or more and the school district was located in a county with more than 500,000 in population and if the charter school was located on the Indian tribe's trust land. The bill would have also allowed a statewide public school teachers' organization to contract with a sponsor to establish such a charter school.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 586. Oklahoma tribal governments already

have the authority to create and operate their own schools. SB 586 is duplicative of the current law and unnecessary.

**SB 609** would have reduced the number of judges on the Workers' Compensation Court from ten to eight, having permanently assigned four judges to the Oklahoma City Workers' Compensation Court and the remaining four judges to the Tulsa Workers' Compensation Court. In addition, the measure would have also subjected all judges appointed to the Workers' Compensation Court to Senate confirmation.

Governor Henry's Veto Message

SB 609 seeks to replace the successful, non-partisan judicial appointment process of Oklahoma with the gridlocked, highly-politicized process of Washington, DC, where partisan disputes in the Senate often delay judicial appointments and hinder the delivery of swift and effective justice. In the workers compensation system, such delays will ultimately cause undue expense and burden on injured workers and Oklahoma businesses, alike. Because the Oklahoma system has functioned far better than the one in Washington, DC, it is not in the best interest of the state or its citizens to adopt the flawed, federal appointment process proposed in SB 609. Furthermore, SB 609 violates the Oklahoma Constitution by impermissibly abolishing the offices of two judges on the workers compensation court before their terms of service have expired. Such an action would result in the elimination of a vested property right, which is specifically prohibited by the Constitution.

**SB 834** would have established the School District Empowerment Program, which would have exempted certain school districts from existing statutory requirements thereby empowering local school boards to make decisions based on the needs of students at the local level.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 834.

While local control is an important component of a successful public education system, it is also critical to have rigorous state standards in place to produce the highest quality graduates and ensure achievement and accountability throughout the system. Recognizing the importance of such uniform standards, public and private sector leaders have advocated and implemented numerous reforms in recent years to raise the academic bar for all students and schools.

Senate Bill 834 would essentially turn back the clock on much of that important progress and weaken landmark reforms by allowing school administrators to create their own rules and ignore more rigorous state standards, including, but not limited to, the smaller class size mandates championed by former Gov. Henry Bellmon and Oklahoma voters in the historic passage of House Bill 1017 in 1990. SB 834 would also endanger such worthy programs as full-day kindergarten and alternative education in addition to making optional such critical personnel as school librarians and counselors.

Furthermore, SB 834 does a deliberate disservice to the backbone of the public education system, the public school teacher, by weakening or eliminating educators' rights and benefits, including due process rights guaranteed under the constitution. These provisions would also undermine ongoing efforts to attract and retain the best and brightest teachers in Oklahoma, something that is critically important, particularly for a state that is routinely recognized for having some of the best educators in the nation.

At a time when we are working to send the signal that Oklahoma is serious about improving its education system and producing high-quality graduates who can compete in the 21<sup>st</sup> Century global economy, it would be a disastrous step backward to approve legislation that weakens state standards, abolishes historic reforms and reduces rights and benefits provided to teachers.

**SB 934** would have exempted typical and atypical antipsychotics from any product-based prior authorization program, in addition to any preferred drug list, in the drug utilization review of the Oklahoma Health Care Authority.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 934. While open access to anti-psychotic medications is extremely important, this legislation potentially undermines the ability of Oklahoma Health Care Authority administrators to manage the Medicaid program and hold down pharmaceutical costs in the event the science of administering these medications changes in the future. Currently, OHCA allows open access to anti-psychotic medications, drugs which save lives and promote recovery for people living with severe mental illness. Open access to these medications represents the best current clinical practice, and OHCA has given its assurance that it will not change the current operating practice without consultation with and agreement of the Department of Mental Health and Substance Abuse Services.

**SB 1111** would have created the Educational Accountability Reform Act which would have transferred all school testing, student record or identification system, Adequate Yearly Progress assessment, and accountability functions of the State Department of Education to the Education Oversight Board.

Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 1111.

To build the best possible public education system, Oklahoma must produce accurate and accessible student test data. Although proponents of SB 1111 are well-meaning, the legislation falls far short of this important goal. While Senate Bill 1111 was billed as reform to improve the current testing and information system, the final legislation does nothing to address the root cause of the problem. Stripping the State Department of Education of its current duties and transferring them to a different oversight entity does

not in and of itself achieve any real reform or progress. It simply creates a new bureaucracy and additional operating costs without making any changes to the current testing, assessment or data analysis and sharing processes.

More troubling from a constitutional perspective is the proposed shift of control from the executive branch to the legislative branch. By granting legislative leaders a majority of the appointments to the new administrative board, SB 1111 effectively puts the Speaker of the House and the President Pro Tempore of the Senate in charge of state school testing programs and data systems, even allowing the President Pro Tempore to select the board's chairman. This transfer of power is in conflict with the constitution's separation of powers doctrine, as the Legislature cannot both make policy and implement and carry out that policy.

Additionally, there was a lack of input from education experts and other stakeholders in the development of this legislation, which, ultimately, resulted in a lack of consensus on the legislation. In recent years, we have worked together in a bipartisan fashion and made great progress in raising school standards and improving accountability, but it is also important to improve Oklahoma's education testing and data systems. Accordingly, I look forward to working with policy makers to embark on a comprehensive and inclusive process to produce consensus legislation that accomplishes this goal.

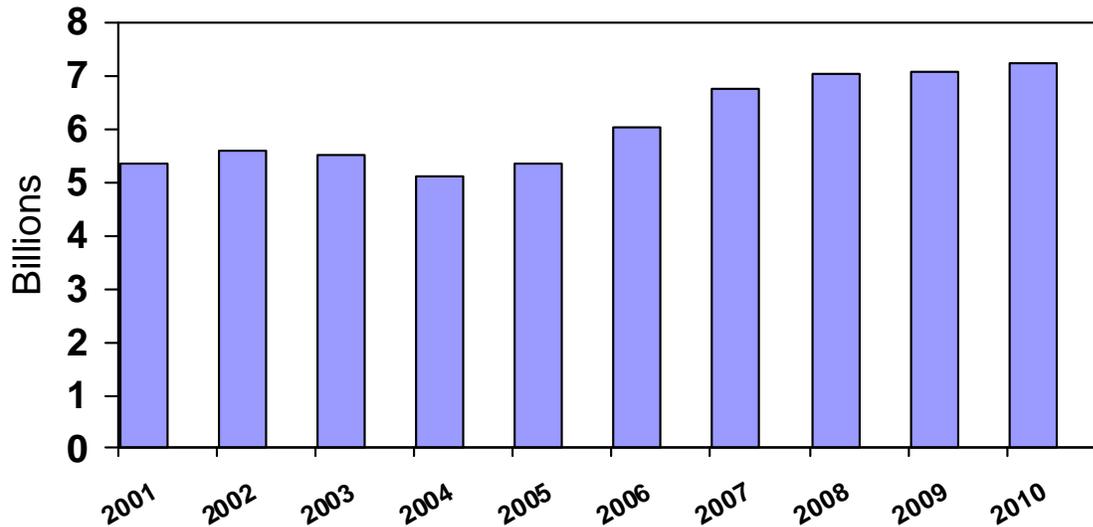
**SB 1123** would have provided limited legal protections to the owners, employees, members, customers, and guests of a gun range, shop, or club, if an injury were sustained on the premises of a gun range, shop, or club.

#### Governor Henry's Veto Message

This is to advise you that on this date, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 1123. SB 1123 would strip an individual of his right to seek legal redress for a negligent act committed against him. Under this legislation, if a person was injured or killed at a gun range because of the negligent act of another individual, the victim and the victim's family could not seek appropriate compensation in a court of law if the committer had acted in a good faith, albeit negligent, manner. For that reason, SB 1123 is unfair and unconstitutional.



## Appendix 4 Ten Year Appropriation History 2001-2010



<b>FY-01</b>	<b>\$5,350,656,390</b>	<b>FY-06</b>	<b>\$6,038,003,816</b>
<b>FY-02</b>	<b>\$5,611,514,760</b>	<b>FY-07</b>	<b>\$6,738,268,544</b>
<b>FY-03 (Orig.)</b>	<b>\$5,532,095,223</b>	<b>FY-08</b>	<b>\$7,048,169,281</b>
<b>FY-04</b>	<b>\$5,106,597,024</b>	<b>FY-09</b>	<b>\$7,089,333,227</b>
<b>FY-05</b>	<b>\$5,358,101,676</b>	<b>FY-10</b>	<b>\$7,236,409,345</b>

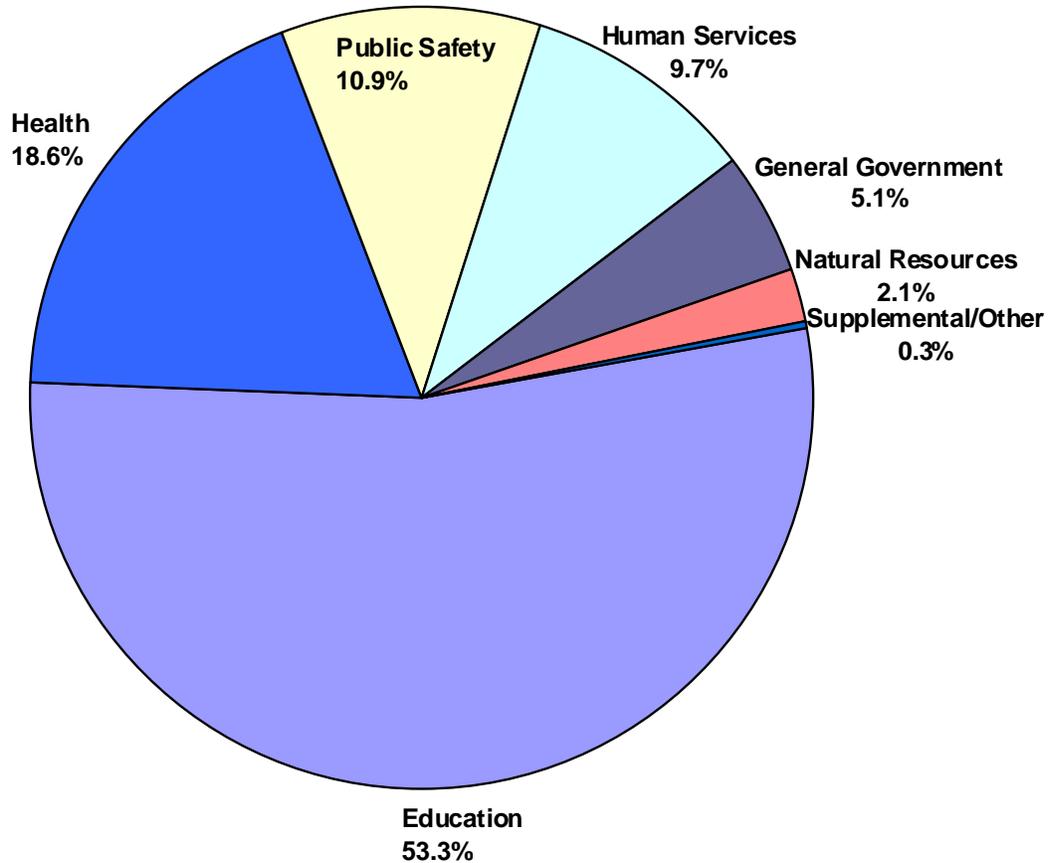
**Notes:**

1. These figures include appropriations, pension systems, capital and special projects. Figures exclude supplemental appropriations.
2. Totals also include the Tobacco Settlement Revolving Fund, the Common Education Technology Revolving Fund, the Education Reform Revolving Fund, the Board of Private Vocational Schools Revolving Fund, the Higher Education Scholarship Revolving Fund, the Higher Education Capital Revolving Fund, the Judicial Revolving Fund and the State Transportation Fund.
3. FY-10 totals include \$461.7 million in federal American Reinvestment and Recovery Act (ARRA) federal stimulus funds. State appropriations totaled \$6,595,361,466.

*Source: House Fiscal Division*



## Appendix 5 Distribution of FY-10 Appropriations



**Total Appropriations = \$7,236,409,345**

Excludes supplemental appropriations and reappropriations.  
Includes American Reinvestment and Recovery Act (ARRA) federal stimulus funds, capital, and onetime expenditures.

*Source: House Fiscal Division*



## Appendix 6 State Questions

<b>Question</b>	<b>Authorizing Document</b>	<b>Subject</b>	<b>Status</b>
744	Initiative	Amount of money the State provides to support common schools	Pending Governor's Election Proclamation setting the election date
746	SB 692	Voter Identification, Proof of Identity	Pending Governor's Election Proclamation setting the election date
747	SJR 12	Limiting terms of office of statewide elected officials	Pending Governor's Election Proclamation setting the election date
748	SJR 25	Apportionment Commission becomes the Bipartisan Commission on Legislative Apportionment, modifying membership	Pending Governor's Election Proclamation setting the election date
750	SJR 13	Designating the percentage base for petition signatures to be based on the total number of votes cast at the last General Election for the Office of the Governor	Pending Governor's Election Proclamation setting the election date
751	HJR 1042	Providing that the English language is the common and unifying language of Oklahoma	Pending Governor's Election Proclamation setting the election date
752	SJR 27	Modifying the composition of the Judicial Nominating Commission	Final Ballot Title Filed 7/1/2009
753	HJR 1041	Requires that the Senate approve any person chosen by the Governor to fill a position on the Workers' Compensation Court	Final Ballot Title Filed 7/1/2009
754	HJR 1014	Providing the Legislature shall not be required to make expenditures for any function of government using a predetermined formula of any kind or by reference to the expenditure levels of any other state government or any other entity	Final Ballot Title Filed 7/1/2009



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