



2010

Session Overview

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Committee Staff Division

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Introduction

Much of the 2010 legislative session centered around the financial downturn of the state. The Governor and leaders in the House of Representatives and Senate crafted a budget agreement with cuts to agencies designed to take the state through the next fiscal year while passing government modernization legislation to create more efficiency in state agencies. Legislators scrutinized tax credits, passed legislation to ease mandates on public schools, and streamlined state health insurance services to save money. Though the state’s financial situation dominated much of the session, legislators also passed several education reform measures and legislation to improve the state’s alternative energy industry.

The following is an overview of the major legislation passed in the Second Session of the Fifty-Second Legislature. House Committee Staff will prepare a complete review later this year of all legislation passed this session.

Agriculture and Rural Development

Legislators revised veterinary laws with the enactment of [HB 3202](#) which amends the Oklahoma Veterinary Practice Act by explicitly stating that it does not prohibit animal husbandry, teeth floating, or farriery. The State Board of Veterinary Medical Examiners is charged with annually certifying any practitioner of teeth floating.

Economic Development and Financial Services

Workers’ Compensation

To cut the cost of workers’ compensation coverage for businesses, legislators sent a package of workers’ compensation bills to the Governor. For clarification in cases, [HB 2650](#) adds definitions to the Workers’ Compensation Act and amends compensation schedules for permanent partial disability (PPD) injuries. It also caps PPD payments at \$323 a week, exempts injuries occurring outside the course of employment, and specifies that when employers make a good faith effort to provide a light-duty position for the claimant’s same rate of pay, and the claimant refuses the work, the claimant is not entitled to temporary total disability.

[SB 1973](#) requires certain proceedings of the Workers’ Compensation Court (OWCC) to be recorded and authorizes the Supreme Court to modify, reverse, or set aside an order or award if the OWCC acts outside its powers or the law. It also requires the claimant to be present during mediation and increases fees for the OWCC’s operations that have not been increased in over a decade.

The composition of the OWCC is amended in [HB 2652](#), reducing the court to eight judges, requiring five to be permanently assigned to Oklahoma City and three in Tulsa. It expands the judges' terms to eight years, requires Senate approval of the Governor's judicial appointments, requires OWCC judges to have five years prior experience, and prohibits the closing of the Tulsa OWCC without approval from the Legislature.

[HB 1611](#) requires workers' compensation insurance claims adjusters to be licensed and to complete six hours of continuing education related to the Workers' Compensation Act as part of their required 24 hours of continuing education.

[HB 2911](#) prohibits the creation of a new business to avoid paying a workers' compensation judgment.

Industry

Because cabin rental owners were cited by the Real Estate Commission for practicing without a real estate license, the Legislature enacted [HB 2305](#) which makes it unnecessary for any person managing a transient lodging facility to have a real estate license. A *transient facility* is defined as a furnished room or set of rooms rented on a daily basis for not more than 30 days and is not the renter's principal residence.

[HB 3021](#) expands the duties of landlords by requiring them to notify prospective tenants if a rental unit or any part of the premises was used in the production of methamphetamine. The landlord is not required to notify the tenant if the level of contamination does not exceed 1/10 of one microgram per 100 square centimeters of surface material within the dwelling unit.

[HB 2348](#) permits home brewers to produce low-point beer for personal use if a personal use permit is obtained from the Alcoholic Beverage Laws Enforcement Commission. Production of low-point or other beer is limited to 200 gallons per year. The measure allows beer, cider, or wine produced with a personal use license to be offered at exhibitions or competitions but not offered for sale.

To protect lenders, financial institutions, clients, consumers, and the public, the Legislature enacted [HB 2772](#) which creates the Oklahoma Appraisal Management Company Regulation Act. The act creates a process for real estate appraisal management company (AMC) registration and regulation for those entities engaging in real estate appraisal management services in Oklahoma.

The Legislature enacted [SB 1712](#) which creates the Commercial Pet Breeders Act to be administered by the newly created Board of Commercial Pet Breeders under

the authority of the State Board of Veterinary Medical Examiners. The board is charged with enforcing the act, including licensing procedures, training and qualifications for inspectors, standards of care for animals, and procedures for sale of animals. Procedures include prohibiting marketing in retail, public, or private parking lots and that a health certificate from a licensed veterinarian must accompany each sale. The measure creates the Commercial Pet Breeders Enforcement Fund, consisting of fees, fines, and penalties collected under the act to be used for enforcement of the act.

The board is required to maintain a website listing the commercial pet breeders licensed in Oklahoma and those commercial pet breeders whose licenses have been denied or revoked. *Commercial breeders* are defined as entities that have eleven or more female animals for breeding dogs or cats for sale. The board is required to annually inspect each facility of licensed breeders.

Insurance

The Governor vetoed [SB 2052](#) which was a result of the recommendations of the State Employee Health Insurance Review Working Group's efforts over the last year. SB 2052 would have created the Oklahoma Health and Wellness Board and abolished the State and Education Employees Group Insurance Board (OSEEGIB) and the Oklahoma Employees Benefits Council (EBC). The measure would have required a winner-take-all bidding process for a statewide HMO, through the competitive bid process.

The Governor also vetoed [HJR 1054](#) which would have prohibited any law or regulation requiring any Oklahoma resident to have individual insurance coverage and also would have prohibited any law or regulation from holding any Oklahoman liable for any penalty, fee, or fine for not having health insurance. The measure would have authorized an individual or an employer to pay directly for health care services and prohibited either from being required to pay any penalty or fine for direct pay. Health care providers would also have been authorized to accept direct payment for services and would not be required to pay any penalty or fine for accepting direct payment from an individual or an employer. Voters will have an opportunity to decide this issue under [SJR 59](#) (see page 6)

Education

Many of the education bills passed included reform measures designed to improve Oklahoma schools and

increase the state's chances for receiving a federal Race to the Top grant.

[SB 2033](#) authorizes several reforms including a statewide teacher evaluation system, performance pay initiatives based upon the evaluation system, and other pay initiatives for teachers in hard-to-staff areas and low-performing schools. It also provides a process for dismissing teachers not achieving certain ratings in the evaluation system and payment instructions through the trial de novo process.

[SB 2330](#) creates the Empowered School Districts Act. The act allows school sites, groups of schools, or school districts to submit to the State Board of Education empowerment plans that detail innovations designed to improve school performance and request that certain statutes and rules be waived to accomplish the plan.

[HB 2753](#), also part of the Legislature's efforts to reform the state's education system, lifts the cap on the number of charter schools that can be established per year. It also allows a school district which has a school site on the state's school improvement list to sponsor a charter school. It gives technology centers and comprehensive regional institutions the right to sponsor charter schools if they are within a district that has a school site on the state's school improvement list. The measure also allows the Office of Juvenile Affairs to operate a charter school for students in the custody of the agency. A similar bill, [SB 1862](#), allows a federally recognized Indian tribe to sponsor a charter school for native language immersion.

[SB 509](#) allows school districts with more than 30,000 average daily membership the option to release teachers from permanent positions at schools identified for school improvement for four consecutive years and employ the teachers as substitutes for two years. If after two years, the districts have not offered the teachers new permanent positions, the districts may release the teachers entirely. It directs the districts to provide training to teachers and states that final decisions of the districts will not be subject to the Teacher Due Process Act.

[HB 3026](#) creates the Commissioners of the Land Office Modernization Act. The act establishes a \$1,000 fine for any employee of the office found guilty of a felony for tampering with records of the office and allows imprisonment for up to five years. It gives the office the right to sell or exchange land when it is in the best interest of the trust, provides for a four year-term for the Secretary of the Land Office, and establishes education and experience requirements for the secretary.

The act institutes modern check-writing and accounting practices designed to protect the office.

Another focus of the Legislature was the financial situation of school districts. [HB 3029](#) eases several mandates on school districts and the state for two fiscal years because of the financial downturn. School districts may spend textbook allocations, professional development funds, and library media program funds for school operations. The bill also suspends for two years the National Board certification payment of \$5,000 for any teachers obtaining certification during those two years. The State Board of Education also will not assess a financial penalty on any district receiving a penalty in the accreditation process.

Legislators passed two bills designed to improve transparency in school districts. [SB 2034](#) puts school district audits under the authority of the State Auditor and Inspector. It also specifies that if the State Auditor and Inspector authorizes an audit of a school district for not complying with audit requirements in statute, the district will pay for the audit the State Auditor and Inspector authorizes. It allows the State Auditor and Inspector to authorize four special audits a year of school districts with any size average daily membership. [SB 1633](#) creates the School District Transparency Act which requires the State Department of Education to maintain on its website a database of school district expenditures that the public may download and sort. There will be no charge for access. The database will show things such as credit card statements, per pupil expenditures, and budgeted and audited expenditures for each fiscal year. The department will make the data available on its website within 120 days after school districts provide it. If a district maintains a website, the district will make the data available on the website.

Elections

To prevent voter and election fraud, [SB 1921](#) increases the maximum punishment for felony and misdemeanor violations of the election code, increasing felony punishments from a fine of \$5,000 to \$50,000 and from two years to five years imprisonment. It increases misdemeanor punishments from a fine of \$1,000 to \$10,000. Additionally, the measure adds the following actions as felony acts in the election code:

- Knowingly voting with and submitting an absentee ballot issued to another person;
- Unauthorized people knowingly removing from or bringing a ballot to a polling location;

- Knowingly making false application for an absentee ballot;
- Knowingly causing the cancellation of a qualified voter's registration;
- Knowingly causing the collection or submission of voter registration forms containing false information; and
- Knowingly conspiring to commit election fraud.

Energy and Utility Regulation

The Legislature enacted numerous measures relating to the promotion and use of alternative energy sources. [HB 3028](#) creates the Oklahoma Energy Security Act. The measure establishes a voluntary goal of increasing the installed capacity of electricity derived from renewable energy sources to 15 percent by the year 2015. Qualifying renewable energy sources include wind, solar, hydropower, geothermal, biomass, demand side management and energy efficiency, distributed generation, and other renewable sources as approved by the Oklahoma Corporation Commission. Natural gas is also declared as the preferred choice of electric generation for new fossil fuel generating facilities. In addition, the measure states that the intention is to increase the state's electricity transmission capacity as it relates to the development of wind-energy development. The measure also states that it is the intention of the state to increase public access to compressed natural gas (CNG) fueling stations by having at least one public CNG fueling station every 100 miles along the interstate highway system in the state by the year 2015. The goal increases to one public CNG station every 50 miles by 2020.

To address issues posed by Oklahoma's burgeoning alternative energy industry, [HB 2973](#) creates the Oklahoma Wind Energy Development Act. It provides guidelines and procedures for the proper decommissioning of wind energy production facilities upon abandonment or at the end of their usefulness. *Proper decommissioning*, defined as the removal of wind turbines, towers, buildings, cabling, electrical components, foundations, and any other associated facilities, to a depth of 30 inches below grade, must be completed within 12 months of abandonment or cessation of operation. The Oklahoma Corporation Commission is authorized to complete the decommissioning should the owner fail to do so within the time period. Also related to alternative energy, [SB 1692](#) extends the termination date for the Oklahoma Clean Energy Independence Commission for another

year. The commission is authorized to issue reports, as the Secretary of Energy deems necessary, regarding goals and recommendations for achieving clean energy independence. Since its creation last year, the commission has been involved in the formulation and support of clean energy policy proposals.

The Legislature again showed strong support for the state's oil and gas industry. [HB 2912](#) makes it unlawful for any person to intentionally harm any safety equipment used in the drilling or production of an oil or gas well. In addition, [SB 1615](#) creates the Oil and Gas Owners' Lien Act of 2010. The measure provides that to secure the obligations of a first purchaser to pay the sales price, each interest owner is granted an oil and gas lien to the extent of the interest owner's interest in oil and gas rights. Under the measure, except for a permitted lien, an oil and gas lien is to take priority over any other lien, whether arising by contract, law, equity or otherwise, or any security interest. Finally, [HB 2432](#) relates to the payment of Gross Production Tax rebates for horizontally drilled and deep wells spudded to a depth exceeding 15,000 feet. The measure requires that refund claims for the production periods within the fiscal years ending June 30, 2010, and June 30, 2011, be filed and received by the Tax Commission no later than December 31, 2011. Refund claims for the production periods beginning on or after July 1, 2009, and ending on or before June 30, 2011, are to be paid in equal payments of a period of 36 months. The Tax Commission is required to provide the operator or designated interest owner a schedule of rebates to be paid over the 36-month period beginning after July 1, 2012, but prior to August 1, 2012.

The Governor vetoed [HB 3032](#) which would have created the Energy Revenue Stabilization Fund beginning July 1, 2015. The fund would have mitigated budget issues during years of declining Gross Production Tax revenue.

General Government

The Legislature addressed several issues of importance to counties and municipalities this session. [HB 3054](#) creates the Municipal Fiscal Impact Act. The measure provides that no bill, resolution, or amendment determined to have a direct adverse fiscal impact on municipalities in excess of \$100,000 statewide may be reported out of the committee to which it is assigned, or in the case of a floor amendment, may be acted upon by the relevant legislative body, unless a fiscal impact statement of the bill is made. Any measure having a

direct adverse fiscal impact on municipalities in excess of \$100,000 statewide for which an emergency clause has not received required approval cannot go into effect until July 1 of the following calendar year. A *direct adverse fiscal impact* is defined as the cost in dollars to a municipality in this state of a statute which imposes a mandate for the new or additional application of municipal resources or reduces existing municipal resources without providing revenue which would fully fund the mandate. Municipal resources may include, but are not limited to, law enforcement, fire protection, health and medical services, power and waste services, streets, bridges or highways, and recreational services.

Encouraging cooperation between local governments was also a focus of the Legislature this session. [SB 1998](#) authorizes a board of county commissioners to construct, improve, repair, or maintain any streets of a municipality with less than 5,000 persons. The entities may make an agreement whether or not the municipality has passed a sales tax with proceeds earmarked for those types of projects. The same services may be rendered to a municipality with more than 5,000 persons but less than 15,000 persons if the municipality has passed a sales tax with the proceeds for those services within the municipality. A board of county commissioners may also maintain any streets of a municipality if the county has a population in excess of 500,000 persons. The agreements may also be entered into whether or not the municipality has passed a sales tax with proceeds earmarked for those services. [SB 1997](#) creates the Marvin Williams and Robbie Chase Whitebird County Sheriff Assistance Act. The measure authorizes a corporation organized to represent the elected sheriffs to provide any available support services and assist in coordinating county law enforcement resources when any Oklahoma sheriff requests such assistance.

The Legislature also enacted a number of measures relating to general governance. [SB 1812](#) authorizes a police department to notify by first-class mail the owner of unclaimed property worth in excess of \$100 of pending disposal. Under current law, such notifications must be sent via certified mail prior to disposal. In addition, [HB 2907](#) authorizes the issuance of temporary special parking placards to pregnant women. To qualify, the recipient's condition must be determined by a physician, physician assistant, or an advanced registered nurse practitioner as meeting one or more of the categories described as a physical disability under current law. [HB 2567](#) also relates to disability placards. The measure makes any disability placards issued by the Department of Veterans' Affairs, federal military bases,

or other states valid in Oklahoma. The measure also imposes a \$500 fine for individuals who illegally use a disabled parking space.

Government Modernization and Agency Oversight

In the area of government modernization and agency oversight, legislators passed bills requiring transparency in agency operation.

[HB 2319](#) adds language which states that if a legislatively created task force or similar advisory body does not meet at least once or issue a final report within three years of the date in which the law that created it became effective, that task force will cease to have any authority and be terminated. This applies to all legislatively created task forces and advisory bodies regardless of when they were created.

[HB 2698](#) creates the Oklahoma Government Website Information Act. This bill requires public bodies to make available on their website on or before January 1, 2011, any administrative rules the public body uses to operate, proposed administrative rules, statutes affecting the public body and the way it operates, and statutes the public may find useful when interacting with the public body.

[HB 3422](#) requires the Office of State Finance (OSF) to update the state's Open Books website with Open Books 2.0 by January 1, 2011. Open Books 2.0 will be a more expansive, searchable online database that lists individual expenditures, regardless of amount, separate from aggregated amounts. Within 18 months of Open Books 2.0 being online, OSF must create an online archive for each fiscal year beginning with FY-2011 and that archive must be accessible and searchable to online users.

HB 3422 also requires the Oklahoma Tax Commission to prepare and maintain a list of all taxpayers who have claimed any tax credit authorized by any provisions of state law and related to a tax administered by the Tax Commission. This includes the identity of all taxpayers or organizations having any part in the chain of custody or claim to the credit at any time during the credit's existence from the initial time the credit is earned through the time that the credit is claimed on a tax return. It requires the Office of State Finance to make this list available on the internet. The list must include the name of each taxpayer who claimed a credit, the amount of such credit, and the specific statutory provision under which the credit was claimed. The list must be updated least monthly.

Health and Human Services

The Legislature enacted a variety of measures related to health and human services including bills to bolster funding for the state's Medicaid program, develop emergency medical services across the state, encourage restaurants with smoking rooms to go smoke-free, and to authorize the establishment of family drug courts.

Health

In an effort to shore up the state's Medicaid program and head off severe cuts to hospitals and other health care providers due to the budget shortfall, the Legislature enacted [HB 2437](#) which creates the Health Carrier Access Payment Revolving Fund and establishes a 1 percent access payment to be paid by health carriers on claims until January 1, 2015. The access payments will be utilized by the Oklahoma Health Care Authority to make use of any federal matching funds available to the state.

Another measure, [HB 1888](#), is aimed at developing and preserving emergency medical services across the state. The measure requires, by April 1, 2011, each county with a population of 500,000 people or less submit an emergency medical services plan to the Oklahoma State Department of Health (OSDH.) The plan will be developed by the Emergency Response Systems Development Advisory Council of the OSDH and each county emergency services advisory board to address funding issues, ensure countywide emergency medical services coverage, and to address county boundaries to ensure 911 operators can provide a quick response. The bill also requires ambulance service providers within a licensed area to act regardless of the patient's ability to pay.

The Legislature took steps to encourage restaurants in Oklahoma to go completely smoke free by passing [HB 2774](#). The bill establishes the Clean Air in Restaurants Act and authorizes the OSDH to implement a rebate program to reimburse restaurant owners for expenses they incurred in constructing a smoking room prior to November 1, 2010, if the restaurant converts to a completely smoke-free environment no later than January 1, 2013. The amount of the rebate would be equal to 50 percent of the original cost of the smoking room minus depreciation costs. The measure also directs the OSDH to establish a program for voluntary certification of communities and schools that promote wellness, encourage the adoption of healthy behaviors, and establish safe and supportive environments.

In response to the passage of the federal Patient Protection and Affordable Care Act (PPACA), the Legislature passed [SJR 59](#) which will send a proposed state constitutional amendment to a vote of the people. If approved, the amendment will prohibit a law or rule from compelling any person, employer, or health care provider to participate in any health care system and specifies that a person or employer may pay directly for lawful health care services and cannot be required to pay a penalty for doing so.

In a related measure, [SCR 64](#) authorizes the President Pro Tempore of the Senate and the Speaker of the House of Representatives to employ legal counsel to file a lawsuit against the federal government to prevent the provisions of the PPACA from taking effect.

[SB 479](#) creates the Oklahoma Interventional Pain Management and Treatment Act and restricts the practice of interventional pain management to licensed physicians but specifies that a certified registered nurse anesthetist can administer certain epidural steroid injections or peripheral nerve blocks under the supervision of a licensed physician.

Children and Families

[HB 1964](#) is intended to provide assistance to grandparents who are caring for grandchildren by authorizing the court to grant a qualified relative custody of a child who has been abandoned in the care of the qualified relative. The bill also provides that the caregivers have the same rights to arrange for and consent to services that are necessary to provide for the care, treatment, education, and welfare of the child.

Given the fact that substance abuse is a problem in many of the families that come to the attention of child welfare officials, [HB 1741](#) authorizes district courts to establish a family drug court to treat families and children who the courts have ruled are deprived, in cases where the parent has a substance abuse disorder. The bill requires that a family drug court assessment be made of the deprived child and his or her family to determine the elements of the treatment plan that the parent or parents will be required to comply with if admitted to the program and directs that the judge require the family to demonstrate support for participation in the program.

Children with Disabilities

[HB 3393](#) provides another option to parents of children with special needs by establishing the Lindsey Nichole Henry Scholarships for Students with Disabilities Program. The purpose is to provide a scholarship to a private school of choice for students

with disabilities who have had an individualized education program developed in accordance with the Individuals with Disabilities Education Act. The measure establishes criteria that must be met by the student and his or her parents and for private schools that wish to participate in the program and provides a formula for the calculation of the amount of the scholarship.

Pro-Life Measures

The House passed several significant pro-life measures. Four of these measures were vetoed by the Governor, with the House overriding three of those vetoes.

The House voted to override the veto of [HB 2656](#) which makes it illegal to sue a doctor claiming wrongful birth because the doctor failed to convince the mother to abort a child, and the veto of [HB 2780](#) which requires that doctors provide women information from an ultrasound prior to performing an abortion. Finally, the House overrode the veto of [HB 3284](#) which requires physicians who perform abortions to report certain information to the Department of Health and also directs the department to put on its website reporting forms and state statutes and regulations related to abortion and to notify physicians of requirements to report abortion-related information. The measure directs the department to publish annual abortion reports on its website. The Senate also overrode the veto on the bills.

The Governor vetoed [HB 3290](#) which would have prohibited insurance plans from including coverage for elective abortion.

International Relations and Tourism

The areas of international relations and tourism were, legislatively, fairly quiet. Two unrelated, but notable, bills were signed into law. [HB 2717](#) authorizes any federally recognized Indian tribe, band, or nation that benefited from the creation of a state agency housing authority to assume management and control of the state agency housing authority and all its assets. [SB 1351](#) allows the Oklahoma Film and Music Office to keep business plans, feasibility studies, proposals, business development information, and trade secrets confidential. The office may not keep information confidential when the person submitting the information consents to disclosure.

Judiciary

In the area of judiciary, legislators passed measures related to a variety of topics including picketing at funerals, sex offender registration and restricted areas for sex offenders, drug courts, and abortion.

[HB 2572](#) amends the Oklahoma Funeral Picketing Act by expanding the definition of *picketing* to include demonstrations and by clarifying that any picketing must be done 500 feet outside of the property line of a church, cemetery, or mortuary. Current law does not specify property line.

[HB 2800](#) gives the executor or administrator of an estate the power, where otherwise authorized, to take control of, conduct, continue, or terminate any accounts of a deceased person on any social networking website such as Facebook, any microblogging or short message service website, or any e-mail service websites.

[HB 2968](#) amends the Sex Offenders Registration Act by adding that a mappable address and zip code for the place the offender is residing must accompany the registration.

[HB 2983](#) adds crimes related to financial transactions and wire transfers to the Oklahoma Antiterrorism Act. The bill also changes the name of the Oklahoma Corrupt Organizations Prevention Act to the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

[HB 3158](#) allows a drug court judge to extend the period of supervision for drug court participants.

[SB 1879](#) adds language requiring a nursing home facility to make every effort to preserve the scene of a suspected rape or criminal act until local law enforcement arrives.

[SB 1902](#) creates a new law making it illegal for a person to provide or administer RU-486 for the purpose of inducing an abortion unless the person is a qualified physician.

[SB 2064](#) enlarges from 300 feet to 500 feet the zone of safety created around schools, child care centers, playgrounds, and parks to prohibit the loitering of a sex offender.

Public Safety

Numerous measures were enacted this session to improve public safety. Drunk driving prevention and the creation of a methamphetamine registry were of great importance. Measures dealing with distracted driving and cell phone use were also addressed.

In an attempt to reduce repeat DUI offenders, [HB 3240](#) creates the Aaron Gillming Act which

requires persons convicted of a municipal ordinance relating to driving under the influence of alcohol or other intoxicating substance to participate in an alcohol and drug substance abuse evaluation and assessment program. Currently, the first municipal conviction is not reported to the state, and, therefore, the offender is not required to participate in alcohol assessment and treatment. Offenders will be required to follow the recommendations of the evaluation and assessment and will not have their driving privileges reinstated by the Department of Public Safety until completion of the treatment recommendations.

The Methamphetamine Offender Registry Act is created by [HB 3380](#). The bill allows the Oklahoma Bureau of Narcotics and Dangerous Drugs Control to create a registry of persons who have been convicted of possession of methamphetamine or any of the precursors with intent to manufacture methamphetamine. Any person subject to registration is prohibited from purchasing, possessing, or having control of any Schedule V compound containing any detectable quantity of pseudoephedrine. Violation is a felony subject to not less than two nor more than ten years imprisonment and a fine of not more than \$5,000. The registry is to be available to registrants who sell pseudoephedrine-related products, the courts, and law enforcement agencies. Persons subject to registration will remain on the registry for ten years.

Several measures were adopted impacting the use of cell phones or other hand-held devices and distracted driving. [SB 1908](#) prohibits persons who have a learner permit or intermediate Class D license from using a hand-held device while driving. The bill also restricts persons with a learner permit to driving only between the hours of 5 a.m. and 10 p.m. Another measure, [HB 2276](#), allows a law enforcement officer to issue a citation for distracted driving if the officer observes an operator of a vehicle driving in a manner that poses a danger to other persons on the roadway. A related bill, [HB 2957](#), prohibits public transit drivers from using a cellular phone or electronic communication device to write, send, or read a text-based communication while the vehicle is in motion.

The Compulsory Insurance Law was strengthened this session with the passage of [HB 2331](#) which requires law enforcement to verify insurance coverage during a traffic stop or accident investigation. If officers do not confirm coverage by online verification system or by security verification form provided by the operator, the officer must issue a citation for failure to comply with the Compulsory Insurance Law. Peace officers are

required to seize the vehicle of any person who is operating a vehicle while under suspension for failure to carry insurance as required by the Compulsory Insurance Law. A law enforcement officer may seize the vehicle of any person who is operating a vehicle without insurance if the operator does not produce a security verification form and the officer is unable to confirm compliance through the online verification system. A vehicle may not be seized if the operator produces a valid security verification form. Any vehicle displaying a valid temporary license plate is also exempt from being seized or towed.

Gun legislation was a topic that received much attention during the legislative session. The Governor vetoed two measures, [HB 2994](#) and [SB 1685](#), that would have created the Firearms Freedom Act, declaring Oklahoma's rights under the 2nd, 9th, and 10th Amendments to the U.S. Constitution to be free from regulation of firearms, firearms accessories, and ammunition by the federal government when the firearms, firearms accessories, and ammunition are manufactured in Oklahoma and the product remains in Oklahoma. The measures required firearms manufactured in Oklahoma to be clearly stamped "Made in Oklahoma." The Governor also vetoed [HB 3354](#), that would have allowed persons licensed under the Self Defense Act to carry concealed weapons to carry weapons open and unconcealed.

Revenue and Taxation

As part of the FY-2011 budget agreement, [SB 1267](#) establishes a two-year moratorium on an array of specified tax credits. The moratorium will be in effect from July 1, 2010, through June 30, 2012.

Another part of the FY-2011 budget agreement, [SB 1590](#), pertains to qualified small business capital companies and qualified rural small business capital companies, allowing tax credits issued for such entities from January 1, 1998, until June 1, 2010, to continue if the qualified capital company has invested in one or more Oklahoma business ventures. The measure prohibits such credits from being issued after June 1, 2010.

To address an issue with a court ruling regarding collection of taxes on intangible personal property, [SJR 61](#) imposes a moratorium on the franchise tax and adds a tax in lieu of ad valorem taxes on intangible personal property of all businesses in Oklahoma, except for public service corporations, air carriers, and railroads. The measure creates the Oklahoma Business

Activity Tax Code, which will expire on December 31, 2012, unless made permanent by a future Legislature. The purpose of the act is to create a revenue-neutral mechanism to provide a fair and simplified taxation of businesses and individuals in Oklahoma while maintaining revenue levels for the state. The new taxes will be collected as franchise taxes are collected now and will be deposited in the General Revenue Fund. The tax on each business in Oklahoma will be an annual tax of \$25 and a tax equal to 1 percent of the net revenue received from business activity allocated to Oklahoma.

The measure also requires that taxes due from businesses or others subject to the franchise tax be equal to the amount paid for tax year 2010. This tax will be in lieu of any and all other taxes imposed by the state, counties, cities, or other political subdivisions on intangible personal property. The measure also creates the Task Force on Comprehensive Tax Reform to recommend amendments to the Business Activity Tax Code, to review taxes imposed on businesses and individuals in Oklahoma, and to develop recommendations and proposed legislation to provide simplification and fairness in Oklahoma's tax structure.

To increase the balance of the state's Rainy Day Fund, [SJR 51](#) proposes a constitutional amendment to be sent to a vote of the people, increasing the amount of money to be deposited in the Constitutional Reserve Fund, also known as the Rainy Day Fund, to be 15 percent of the amount estimated for the annual state budget. Currently the cap is at 10 percent. The proposed amendment also clarifies language that the Governor has the discretion to issue deficiency certificates for any department or state agency.

[HB 3024](#) provides an end date of July 1, 2010, for existing electric vehicle tax credits. In addition, the measure also creates an array of new, one-time income tax credits for the manufacturers of electric vehicles. These credits range from \$500 per vehicle for low-speed electric vehicles to \$2,000 per vehicle for fully capable electric vehicles. The manufacturer credits may be carried forward against subsequent income tax liability for up to five years and may only be claimed for qualified vehicles as defined by the measure.

[HB 2359](#) requires retailers and vendors making sales of tangible personal property from a place of business outside the state to provide notification on retail websites or catalogs and invoices provided to customers that use tax is imposed and must be paid by the purchaser, unless otherwise exempt. To encourage voluntary registration, collection, and remittance of owed use taxes, the measure authorizes the Oklahoma Tax Commission

(OTC) to establish a Retailer Compliance Initiative for out-of-state retailers and an outreach program to internet retailers. The OTC is also authorized to create Consumer Compliance Initiative to get taxpayers to voluntarily disclose and make payments due without fear of penalty for those who file delinquent tax returns and pay past due taxes during the initiative.

[HB 3166](#) modifies the Uniform Tax Procedure Code by requiring the Oklahoma Tax Commission, upon receiving a claim from a state agency or municipal or district court, to deduct the claim amount and collection expenses from the tax refund due to the debtor and transfer the amount to the municipal court, the district court, or agency. The measure also provides a new sales tax exemption for sales of gold, silver, platinum, palladium, or other bullion items such as bars and coins, and legal tender of any nation. The exemption, however, does not apply to fabricated metals that have been processed or manufactured for artistic use or as jewelry.

Transportation

Funding issues dominated the transportation arena this session. Measures were enacted to increase the availability of funding to continue the Department of Transportation's eight-year construction plan and to proceed with the Rebuilding Oklahoma Access and Driver Safety Fund (ROADS) projects.

The ROADS Fund was created to address critical state highway construction, major repair, and maintenance needs. [SB 1466](#) increases incremental funding to the Rebuilding Oklahoma Access and Driver Safety Fund (ROADS) to \$35.7 million annually until a cap of \$400 million is reached. The measure also transfers nearly \$100.8 million from the State Transportation Fund to the Special Cash Fund. The original funding cap was \$170 million, with an annual incremental funding level based on a 3 percent threshold in General Revenue Fund growth. Incremental annual allocations of \$35.7 million from FY-2012 - FY-2016, plus a final deposit of \$6.5 million in FY-2017 will bring the ROADS Fund to the \$400 million cap.

Another measure, [HB 2971](#), transfers the interest derived from investments by the State Treasurer from monies credited to the Emergency and Transportation Revolving Fund to the Statewide Circuit Engineering District Revolving Fund. The Emergency Transportation Revolving Fund provides funding for counties to address emergency projects reimbursable by federal or state funds. The Circuit Engineering District Revolving Fund provides funding to eight Circuit Engineering Districts that enable the counties to come together as a

cooperative and achieve efficiencies and economies of scale for transportation-related projects that may not be available to an individual county. The measure also states that interest received on investments of funds in the Emergency and Transportation Revolving Fund need not be remitted to the General Revenue Fund.

[HB 2919](#) create the Aircraft Pilot and Passenger Protection Act to allow the Oklahoma Aeronautics Commission to regulate the height of structures near public use airports. The measure requires a person to obtain a permit from the Oklahoma Aeronautics Commission prior to construction, installation, or alteration of any structure near a public use airport. The Aeronautics Commission is allowed to assess up to \$200 per permit application.

[HB 3220](#) authorizes the Oklahoma Turnpike Authority to establish a new turnpike in Tulsa beginning at Interstate 44 near its intersection with 49th West Avenue, past State Highway 64/412, turning northeasterly, crossing 41st West Avenue, and continuing eastward to the L.L. Tisdale Expressway.

[HB 2609](#) relates to outdoor advertising. The measure clarifies the intent of the regulation of outdoor advertising signs within 660 feet from the edge of the right-of-way on interstate and federal-aid primary highways located within urban areas by adding the phrases “with the intent to be read” and “on the same side of such facilities.”

Veterans and Military Affairs

Legislators passed two bills that help honor heroes killed in combat. [HB 2571](#) allows unclaimed, cremated remains of military personnel to be transferred to charitable organizations for providing dignified and honorable funerals. [SB 2037](#) makes sure that the Department of Central Services provides an Oklahoma flag to any member of the United States Armed Forces who was a resident of the state at the time of death and was either killed in the line of duty or died of wounds inflicted.

To help the state deal with emergencies, legislators passed [SB 2260](#). This bill grants any state employee in the executive branch who is a member of the United States Air Force Auxiliary Civil Air Patrol leave with pay during disasters designated at level III and above for up to 15 working days in any 12-month period.

Wildlife

Several measures introduced this session focused on simplifying and reducing the types of hunting and

fishing licenses. These bills were collected in an omnibus package through [HB 2963](#). This bill extends nonresident hunting licenses from five to six days, allows active-duty military personnel to purchase resident licenses, creates hunting licenses that coincide with tag seasons, consolidates and expands senior lifetime license privileges, makes a regular fishing license valid for trout fishing, and allows minors to pay for lifetime licenses in installments.

Legislators also examined how to deal with individuals who violate wildlife-related provisions of the Oklahoma Statutes. [HB 1889](#) includes Oklahoma in the Interstate Wildlife Violator Compact, which allows participating states to suspend wildlife license privileges of any person whose license privileges have been suspended by a participating state. [HB 2861](#) allows those who have had their hunting and fishing licenses revoked to apply for a new license after paying fines and a restitution fee.

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