

Session Overview

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Speaker Larry E. Adair

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Introduction

The 2003 session of the Oklahoma Legislature was set in the state's worst economic slump since the early 1980s. The state budget, as in many other states, was the dominant concern as the Legislature was forced to respond both to a series of mid-year revenue failures in the FY-03 budget, caused by more than a 12 percent dip in General Revenue Fund estimated collection, and to cuts in the state certification for the FY-04 level that, absent any new revenue enhancements, would have caused the FY-04 level to be reduced by \$700 million from the one passed during the 2002 session. In the end, the Legislature developed a budget agreement based on:

- Passing the common education appropriation bill first and enacting **HB 1247** requiring the

common education annual appropriation be passed no later than April 1 each year;

- Enactment of a series of measures adding \$249 million available for FY-04 appropriations;
- Passing a zero-based budget law contained in **HB 1256**; and
- Proposing a state question contained in **HB 1249** that makes access to the Constitutional Reserve Fund (Rainy Day Fund) more difficult.

The final FY-04 budget passed by the Legislature was approximately \$5.1 billion. That is \$419 million less than the amount appropriated for FY-03 and 0.15 percent above the FY-03 revised level.

In addition to the budget, the 2003 session was marked by the passage of a number of notable measures. Certainly, those would include the two measures giving Oklahoma voters the opportunity to create a state lottery for the benefit of education. The lottery was a major component of Governor Henry's campaign, and the passage of **HB 1278** and **SJR 22** was a major focus of the first several months of the session. When the vote in the House on the special election provision fell short of the necessary two-thirds majority, the Governor announced that the two measures (now State Questions 705 and 706) will be placed on the November 2004 general election ballot. (See State Questions, page 12.)

Before the Legislature adjourned on May 30, 2003, it also passed major bills dealing with:

- Medical malpractice reforms contained in **SB 629** designed to preserve access to health

care in Oklahoma by reducing the costs of malpractice insurance; and

- Enactment of one of the nation's most progressive laws against secondhand smoke in **SJR 21**.

Children and Families

School Readiness

After failed attempts in three previous sessions, early childhood advocates finally succeeded with the passage of **HB 1094**, the Oklahoma Partnership for School Readiness Act. Designed around the critical importance of a child's first years in building a foundation for success in school and life, the bill establishes the Oklahoma Partnership for School Readiness Board, composed of representatives from the public and private sectors, and charges the board with:

- Evaluating existing public and private early childhood programs to determine their effectiveness;
- Coordinating and promoting effective and cost-efficient programs;
- Encouraging community-level innovation and coordination of programs;
- Implementing a public awareness and education campaign about the importance of quality early childhood experiences; and
- Maximizing the extent to which private sector funding is leveraged with government funding.

To assist with the private sector funding component, the measure authorizes the establishment of a not-for-profit foundation to raise funds for and assist in implementing the objectives of the partnership.

Criminal Justice and Judiciary

Sex Offenders

HB 1484 addresses the regulation of the activities of sex offenders by requiring any person who is sentenced as a sex offender and who is paroled to immediately begin intensive supervision under the direction of the State Department of Corrections. Another measure, **HB 1501**, prohibits registered sex offenders from living within a 2000 square foot radius of any public or private school site or other educational institution.

Expanding on provisions of law implemented last year, **HB 1623** enhances the ability of law enforcement to find and arrest persons who prey on children in our society. The bill makes it illegal to force a child under

16 years of age or other individual a person believes to be under 16 years of age to view obscene or pornographic materials. The offense is punishable by imprisonment for up to 20 years for a first or second conviction. A third conviction is punishable with life imprisonment or life in prison without the possibility of parole.

A related measure, **SB 755**, allows the Attorney General or other law enforcement official to contact an interactive computer service provider and have the provider remove child pornography when it is brought to the attention of law enforcement that child pornography is located on a server or is stored on a device controlled by the interactive computer service provider. If the interactive computer service provider fails to remove the child pornography in a timely manner, the Attorney General or other law enforcement official must apply for a court order forcing the removal of the pornography. Failure of the interactive computer service provider to comply with the court order is a misdemeanor punishable by a fine of \$1,000. A second offense is a misdemeanor punishable by a fine of \$5,000. Any third or subsequent offense is a felony, punishable by a fine of \$30,000 and up to five years imprisonment. The measure also makes it a felony for any person to burn a cross on property of another, on a highway or other public place with the intent of intimidation.

Judiciary

The issue of providing redress for individuals who were wrongfully convicted and imprisoned for crimes they did not commit was once again an important topic for the Legislature. Bills on this subject have been enacted by the Legislature and vetoed for the past two years. **HB 1406** requires claims to be based on actual innocence of the person wrongfully convicted and establishes precise criteria for the person to pursue the claim.

In court-related matters, **SB 585** allows the jurisdiction of a multicounty grand jury to extend to a single county if so designated by the Supreme Court order convening the multicounty grand jury. The bill also expands the subject matter jurisdiction of the multicounty grand jury to include all matters that can be investigated by a grand jury convened in a single county. **SB 299** relates to court cases in which the state may intervene as a party. The bill requires the Attorney General to forward notice to the Legislature of any case in which the constitutionality of a statute is at issue and authorizes the Speaker of the House of Representatives and the President Pro Tempore of the Senate to intervene in the case on behalf of the Legislature.

Professional matters dealt with by the Legislature include a Uniform Athlete Agents Act, **HB 1465**, that replaces Oklahoma's current law regulating agents for student-athletes. The Uniform Act, which is sponsored by the National Conference of Commissioners on Uniform State Laws, is intended to provide uniformity from state to state in the regulation of agents for student-athletes.

Economic Development

Finance

The issue of predatory lending saw much debate this session. This practice costs Oklahomans millions of dollars and results in high levels of foreclosures.

A *predatory mortgage loan* is defined as a loan that contains high fees and rates and is designed to take advantage of a borrower in a difficult financial position. **HB 1574**, which creates the Oklahoma Home Ownership and Equity Protection Act, will make Oklahoma law meet and exceed the current standards of the Home Ownership and Protection Act (HOEPA). The legislation imposes new limits on refinancing, limits prepayment penalties and requires lenders to verify the ability of a borrower to actually repay the loan. The lender must justify that refinancing a mortgage is in the borrower's best interest, and, if not, the lender is subject to penalties.

Military Base Closure Prevention

A significant focus of economic development activity for Oklahoma centered on the recommendations of the Oklahoma Military Base Closure Prevention Task Force. The Task Force was created in 2001 with the mission to analyze state policies affecting military facilities currently in use by the United States Department of Defense that are located in the state, along with their related communities, in preparation for the Federal 2005 Base Realignment and Closure (BRAC) Commission process. Oklahoma's military installations add substantial value to Oklahoma's economy both in employment and income and make up a large percentage of Oklahoma's gross state product.

HB 1396 creates a seven-member Oklahoma Strategic Military Planning Commission to:

- Analyze state policies affecting military



facilities in Oklahoma and examine methods

Oklahoma's Military Installations

for improving the potential private sector market value;

- Recommend to the Legislature state policies that are needed to protect and expand Oklahoma's military facilities; and
- Submit an annual report of the commission's findings, conclusions and recommendations to the Governor and legislative leadership.

HB 1397 creates the Oklahoma Strategic Military Planning Commission Incentive Fund which establishes a funding program for defense-dependent communities that are adversely affected by BRAC in order to access financial assistance to protect their military interests.

SB 138 appropriates \$1.5 million to be transferred to the Oklahoma Military Strategic Planning Commission Incentive Fund to coordinate any program or budget needs for military communities in order to promote and protect their installations.

An additional measure was approved to assist military installations. **HCR 1005** requests the Oklahoma Department of Transportation to review all transportation projects affecting military installations and assign a funding priority code to ensure completion of the project.

Two education related measures were passed to assist students affiliated with the military. **HB 1065** will allow district boards of education to make exceptions on an individual student basis to the state high school graduation requirements for students who move in from out of state after their junior year. **HCR 1004** encourages the Oklahoma State Regents for Higher Education to review its state residency policies for tuition and fees, scholarship and financial aid programs to ensure that military dependents are not charged out-of-state tuition if they have established residency prior to entering the Oklahoma State System of Higher Education

Oklahoma's five military installations have a combined direct and indirect economic impact of \$3.9 billion and employ more than 52,000 military and civilian personnel with an annual payroll in excess of \$1.8 billion.

Source: U.S. Department of Defense

and their families are subsequently stationed out of state. The State Regents are also encouraged to afford military dependents the opportunity to participate in all state scholarship and financial aid programs as residents.

Education

Higher Education

In response to the diminishing state budget, **HB 1748** grants state colleges and universities considerably greater latitude in setting students' tuition and fees than had been previously allowed. The expanded authority is paired with rigorous requirements for reporting the effects and for increased attentiveness to student financial needs.

Undergraduate Tuition and Mandatory Fees

The revised limits for tuition and fees are set as the combined average of resident tuition and fees for residents and 105 percent of the combined average on nonresident tuition and fees for state-supported institutions in the following groups:

- OU and OSU - the institutions in the Big Twelve Conference
- Four-year and two-year institutions - like-type institutions in states determined by the State Regents, to include the states adjacent to Oklahoma

Graduate and Professional Courses and Programs Tuition and Mandatory Fees

The limit for resident and nonresident is set as the combined average of such tuition and fees for like-type graduate and professional courses and programs of comparable quality and standing at state-supported institutions of higher education as determined by the State Regents.

Mandatory fees are defined as those fees incurred as a condition of enrollment. The limit for *academic service fees*, which are specific course or service fees, is set as actual cost.

In a related measure, the Oklahoma Tuition Equalization Grant Act and Program, **SB 520**, authorizes the Oklahoma State Regents for Higher Education to award tuition equalization grants of \$2,000 per year to state residents enrolled as undergraduate students in any approved private or independent institution of higher education in Oklahoma. The award is limited to students who are enrolled fulltime with a family income of less than \$50,000. The grants are contingent upon the availability of funds, for which none were provided by legislative appropriation for the 2003-04 academic year.

SB 596 makes certain noncitizens who have resided in the state and graduated from a state high school

eligible for resident tuition rates at state institutions of higher education.

In terms of program funding, according to the Oklahoma State Regents for Higher Education, the FY-04 appropriations in **SB 172** fully fund the Oklahoma Higher Learning Access Program (OHLAP) but result in reductions for Endowed Chairs, Oklahoma Tuition and Grant Program (OTAG) - for graduate students only, and OneNet.

Common Education

In keeping with the current uncertain economic times, two measures address the crucial issue of timing between local school district budget and hiring decisions and certain knowledge of state appropriations. **HB 1160** notified school districts of the level of state appropriations for fiscal year 2004 on April 24, 2003, a date which was about a month in advance of the normal occurrence. **HB 1247** establishes new law to require the Legislature to fund common education at least 25 days in advance of the deadline for school districts to notify teachers of hiring decisions for the next school year, not to be later than April 1.

A comprehensive measure, **HB 1767**, deals with various fiscal issues related to school districts' financial struggles. Among other items, this bill:

- Authorizes the State Board of Education to continue to waive penalties on class size violations if the violation is a result of economic hardship;
- Creates a task force to study school district administration reorganization or consolidation. The bill redefines *administrative services* and puts penalties for excessive expenditures on hold for two years; and
- Grants school district superintendents new power to transfer up to 25 percent of the total appropriation among accounts, funds and program categories.

The Legislature reactivated an incentive for greater cost-effectiveness that had served as a program to consolidate about 50 school districts over a decade ago. **HB 1153** renames and updates the Oklahoma School Voluntary Consolidation and Annexation Act and Fund. The measure provides various financial incentives for district consolidation or annexation. **HB 1278**, the Oklahoma Education Lottery Act, will dedicate a portion of the net proceeds of the lottery to this purpose if approved by the voters (see Gaming section).

HB 1414 brings the state testing program in compliance with the federal law known as the No Child

Left Behind Act. The measure institutes the testing configuration depicted in the following chart.

Grade	Subjects Tested
3 rd	Reading, Math
4 th	Reading, Math
5 th	Reading, Math, Science, Social Studies, Writing
6 th	Reading, Math
7 th	Reading, Math, Geography
8 th	Reading, Math, Science, Social Studies, Writing
3 rd - 8 th	Arts Assessment
Secondary Level End of Course Tests	English II, Algebra I, Biology I, U.S. History

All tests are criterion-referenced based on state academic standards adopted by the State Board of Education in the Priority Academic Student Skills. Testing window dates will be set as near to the end of the course as possible, with testing results to be delivered to the school districts before the beginning of the next school year. Per federal requirements, the test results will be disaggregated by gender, race, ethnicity, disability status, migrant status, English proficiency, and status as economically disadvantaged. HB 1414 also requires the State Board of Education to implement an accountability system based on the state Academic Performance Index with a system of recognition, rewards, sanctions and technical assistance and abolishes the connotations of low-performing and high challenge schools.

Funding for common education, which even with a \$25 million supplemental appropriation had suffered more than other state agencies in the FY-03 revenue shortfalls, is improved significantly. **HB 1160** and **HB 1162** bring it to only 4.4 percent below the original FY-03 appropriation level and increase it 5.7 percent above the final revised FY-03. In addition, more flexibility in use of the funds is given by allowing school districts to use the \$33 million normally earmarked for textbooks for other instructional expenditures. The state funding for contributions for teacher and support personnel flexible benefits and retirement is held steady, but not increased.

Career and Technology Education

HB 1068 and **SB 628** modify governance of the state career and technology system through a reconstitution of the State Board of Career and Technology Education. The current membership of the State Board is abolished on August 31, 2003, and the terms of office of all current board members are terminated. The board is downsized from thirteen to

nine members. The State Superintendent of Public Instruction will remain a member, to be joined by two members of the State Board of Education, selected by the Governor, five members appointed by congressional district representing state businesses that are related to career technology programs, and one member appointed at-large to represent educational interests. New members are required to hold a high school diploma and are subject to the orientation and continuing education requirements for local career technology center board members.

Energy and Environment

Water

A somewhat controversial issue arose over the sale of Oklahoma's water again this year, with the sale remaining within Oklahoma as opposed to the proposed sale of water to Texas last year. A proposed agreement between some individuals with water rights within the Arbuckle-Simpson aquifer in south central Oklahoma and a consortium of municipalities in and around Canadian County led to the passage of **SB 288** which places a moratorium on the sale of water from the aquifer to municipalities until a comprehensive study is completed by the Oklahoma Water Resources Board.

Gaming

A major piece of Governor Henry's campaign platform was the proposal of a state lottery with the revenues directed solely to educational purposes. **HB 1278** creates the Oklahoma Education Lottery Act to be submitted to the voters for their approval at the November 2004 General Election. If approved by the voters, Oklahoma will join 40 other states and the District of Columbia in authorizing a lottery. The Oklahoma Education Lottery would be governed by the seven member Oklahoma Lottery Commission. At least 45 percent of the gross proceeds from the lottery will be made available as prize money. For the first two years of operation, at least 30 percent of the net proceeds will go to the Oklahoma Education Lottery Trust Fund to be used for specified educational purposes and programs, with the amount increasing to at least 35 percent for the third year and thereafter. The Legislature is required to appropriate the revenue in the fund in the following manner:

- 45 percent for tuition grants and scholarships, construction of educational facilities, capital outlay projects, technology for education facilities, endowed chairs, compensation and benefits for public school support employees

and programs and personnel of the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

- 45 percent for K-12 education including compensation and benefits for public school teachers and support personnel and early childhood programs;
- 5 percent to the School Consolidation and Assistance Fund; and
- 5 percent to the Teachers' Retirement System Dedicated Revenue Revolving Fund.

The State Board of Equalization is required to annually examine the appropriations from the fund to determine if these appropriations are used to supplant instead of enhance education funding.

HB 1278 also provides that the Oklahoma Education Lottery will cease to have the force and effect of law if a court finds that its enactment allows the operation of other types of Class III gaming.

SJR 22 is a companion measure to HB 1278 that contains the constitutional "lockbox" provision to ensure that lottery revenues are used strictly for the specified education purposes and programs. This constitutional amendment creates the Oklahoma Lottery Trust Fund and specifically enumerates the educational purposes and programs that are to be the recipients of the lottery revenues. The constitutional provision does not assign percentages to each purpose and program. This measure will be on the November 2004 General Election and will only become effective if HB 1278 is approved by the voters at the same election.

Another significant gaming measure is **SB 837** which authorizes raffles for fund-raising purposes for qualified organizations including churches, public or private schools or student or parent-teacher groups of such schools, fire departments, livestock organizations and wildlife organizations. This measure will only become effective if HB 1278 is approved by the voters. The raffles authorized by SB 837 will no longer be effective if the Oklahoma Lottery Act ceases to have the force and effect of law.

Health

Tobacco

Individuals on both sides of the contentious debate over restricting smoking in public places finally found some common ground this session. **SJR 21** amends the Smoking in Public Places Act by prohibiting smoking in most indoor workplaces beginning September 1, 2003. New restrictions applied specifically to restaurants will

not take effect until March 1, 2006. The restrictions do not apply to:

- Stand-alone bars, stand-alone taverns and cigar bars;
- Rooms where licensed charitable bingo games are being conducted;
- Up to 25 percent of hotel guest rooms;
- Retail tobacco stores;
- Workplaces with incidental public access that are occupied by the owner or operator of the workplace, or the immediate family of the owner or operator;
- Workplaces occupied exclusively by one or more smokers if the workplace has only incidental public access;
- Private offices occupied exclusively by one or more smokers;
- Workplaces within private residences, excluding licensed residential child care facilities;
- Medical research or treatment centers if smoking is integral to the research;
- Tax exempt facilities operated by a post or organization of current or former members of the Armed Forces of the United States when utilized exclusively by its members and their families;
- Any outdoor seating area of a restaurant provided it is at least 15 feet from the exterior doorway or air intake; and
- Smoking rooms that meet specifications.

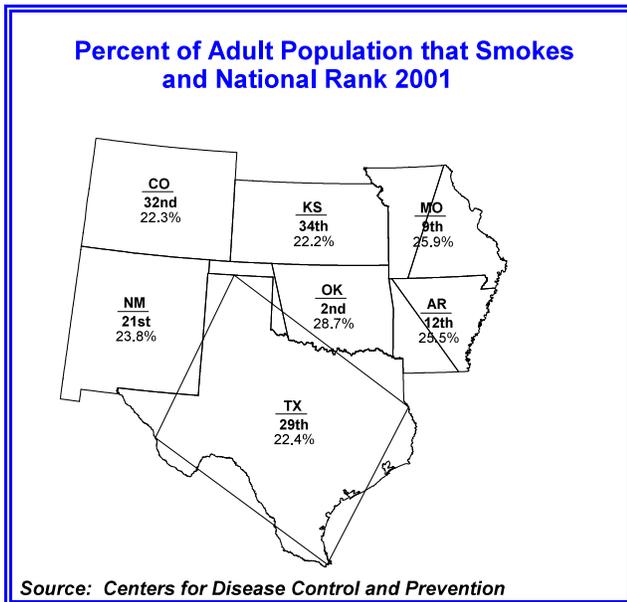
Until March 1, 2006, restaurants may continue to have designated smoking and nonsmoking areas or they may be designated completely nonsmoking. Beginning March 1, 2006, restaurants must be completely nonsmoking or may provide nonsmoking areas and designated smoking rooms that meet specifications where food and beverages may be served.

SJR 21 prohibits the State Health Department from adopting rules that would impose liability on the owner or operator of any facility for the violation of a provision of the Smoking in Public Places Act by a person who is not an employee of the owner or operator.

The chart on the following page compares Oklahoma to its neighboring states with regard to the percentage of the adult population that smokes and each state's percentage rank.

HB 1814 was enacted in response to the increased use of the internet and mail system to sell, buy and deliver cigarettes. In an effort to curb youth access to tobacco, the measure specifically prohibits the sale and delivery of cigarettes to underage individuals and

requires that, prior to the initial delivery sale of cigarettes to a consumer, the purchaser provide reliable confirmation that the purchaser is of legal age. The measure also closes the cigarette tax loophole inherent in internet sales by requiring that each person who accepts a purchase order for a delivery sale of cigarettes collect and remit all applicable taxes to the Oklahoma Tax Commission.



Indigent Care

In an effort to address unreimbursed health care costs, **HB 1713** creates the Oklahoma Community Hospitals Public Trust Authorities Act and authorizes one or more hospitals located within a county or adjacent counties to create a public trust to secure funding for health care and maximize coordination of health care services. To qualify, a hospital must expend at least \$50,000 annually providing health care to medically indigent persons and must provide a system of inpatient and/or outpatient care, trauma care and emergency care services that is not limited to a specific facility or modality of health care.

Health Professions

After several years of negotiations between dentists and dental hygienists on the scope of practice for dental hygienists, a compromise was reached in **HB 1443** and **HB 1445**. HB 1443 expands the types of procedures that a dentist may delegate to a hygienist. HB 1445 allows dental hygienists to practice outside of a dental office and to practice with varying levels of supervision. This measure is designed to improve access to dental care, particularly for residents of group homes, residential care facilities and nursing homes, and for persons who are homebound.

Substance Abuse

In an effort to increase the amount of funding available for alcohol and drug treatment services, **HB 1106** raises the cost of a three-year permit to sell low-point beer by \$100 for permits issued after July 1, 2003, and by \$200 for permits issued after July 1, 2006. The bill establishes a Community-based Substance Abuse Revolving Fund and directs that the revenue generated by the fee increases be deposited into the fund to be used by the Department of Mental Health and Substance Abuse Services (DMHSAS) to contract with private and tribal providers to provide treatment, counseling and rehabilitation services to alcohol and drug-dependent persons.

The following chart indicates the number and percent of adults and adolescents who are in need of alcohol or drug treatment.

Estimate of Adults and Adolescents in Oklahoma In Need of Treatment

Adults	145,123 (5.7%)
Adolescents	41,941 (4.7%)

Source: Dept. of Mental Health and Substance Abuse Services

Funeral Oversight

Enactment of **HB 1270** provides more accountability for funeral homes and crematoria and may be the most comprehensive funeral industry legislation passed in the nation this year. The legislation gives new powers to the board that regulates these industries, renamed the Oklahoma Funeral Board, that hopefully will prevent a replication of the horrible scandal involving a crematorium in Georgia where more than 300 unburied bodies were found.

Human Services

Children with Disabilities

SB 45 authorizes the Oklahoma Capitol Improvement Authority to issue the amount of \$3.5 million in bonds to provide funding for completing the construction of a new building for the J.D. McCarty Center for Children with Developmental Disabilities. This center, located in Norman, provides a comprehensive program of habilitative care empowering Oklahoma's children with developmental disabilities aged 0-21 with education, training, transitional planning and community support.

Grandparent Visitation

Following decisions on grandparental visitation rights in the U.S. Supreme Court and Oklahoma Supreme Court that basically confirm parental rights to their children, unless the parents can be deemed unfit, **HB 1259** addresses difficult issues when parents deny grandparents visitation privileges to their children. The bill establishes criteria which the court can use in determining grandparental visitation with the grandchild and addresses the issue of parental unfitness/unsuitability.

Medicaid

In order to bolster Oklahoma's Medicaid program, **HB 1246** requires the Department of Human Services to transfer \$7.2 million to the Oklahoma Health Care Authority (OHCA) for program services for low-income children, pregnant women, elderly and people with disabilities. The program also provides long-term care, acute care and other specialized health care services.

The chart below reflects enrollment increases from FY 1997 through FY 2002.

Oklahoma Total Medicaid Population	
FY 2002 -	626,077
FY 2001 -	594,219
FY 2000 -	543,628
FY 1999 -	529,858
FY 1998 -	469,389
FY 1997 -	414,201

Source: OHCA

SB 610 creates the Oklahoma Medicaid Program Reform Act of 2003. Recognizing that many Oklahomans do not have health care coverage, that many small businesses cannot afford to provide health care benefits to their employees, and that under federal law barriers exist to providing Medicaid benefits to the uninsured, the bill directs OHCA to apply for a waiver or waivers to the Centers for Medicaid and Medicare Services (CMS). If approved, the waiver would enable OHCA to increase access to health care through:

- Reforming the Oklahoma Medicaid program to promote personal responsibility and the appropriate utilization of health care benefits through the use of cost sharing;
- Purchasing health care coverage using buy-in arrangements for small employers and/or voucher arrangements for employer-sponsored insurance purchasing; and
- Developing flexible health care benefit packages based upon patient need and cost.

The measure also authorizes the OHCA to establish co-payments, premiums and enrollment fees.

Another measure, **HB 1017**, directs OHCA to assess a quality assurance assessment fee upon each health maintenance organization that has a Medicaid managed care contract awarded by the state and administered by OHCA. The quality assurance assessment fee is equal to 6 percent of all annual non-Medicare premiums collected by the health maintenance organization. A similar fee, the Nursing Facilities Quality of Care Assurance Fee, was established for nursing homes during the 2000 legislative session. The monies collected pursuant to HB 1017 will go to maximize more federal dollars for Oklahoma's Medicaid program services. The bill also requires OHCA to conduct an audit of financial records concerning reimbursable per diem hospital rates for providing care to Medicaid recipients.

Insurance

Health Maintenance Organizations

The collapse of the health maintenance organization (HMO), AmCare, highlighted the need to strengthen financial oversight of HMOs by the state. In cooperation, the Insurance Department and the State Department of Health worked to restructure and share the responsibilities for HMO oversight. **SB 635**, the Health Maintenance Organization Act of 2003 combines the National Association of Insurance Commissioners model legislation for HMO regulation and risk-based capital with key provisions from current Oklahoma law. The act transfers licensure of HMOs from the State Department of Health to the Insurance Department and delineates clearly the authorities of the Insurance Commissioner and the Commissioner of Health by requiring the Insurance Commissioner to focus on financial and consumer-protection issues and the Commissioner of Health and the State Department of Health to concentrate on quality of care, quality assurance, provider credentialing, clinical records, and emergency health services. Primary enforcement authority is removed from the State Department of Health and placed under the Insurance Commissioner.

Additional provisions in the bill:

- Amend the Insurance Code to strengthen financial and quality of care standards for HMOs;
- Make HMOs subject to many of the same consumer protections that apply to insurers, including the Unfair Claims Settlement Practices Act; and,

- Require each HMO to maintain minimum net worth of \$1.5 million by December 31, 2005.

Personal Insurance

The Use of Credit Information in Personal Insurance Act, **SB 539**, prohibits insurers from using an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer. Insurers cannot deny, cancel or fail to renew a personal insurance policy based solely upon credit information.

Public Safety and Homeland Security

Terrorism

Several measures were enacted this session to address continuing national concerns with terrorism and the security of our nation. Statutes establishing the emergency response of the state received their first major revamping since the 1960's with the passage of **HB 1512** which updates the existing framework of emergency management to better reflect the tumultuous times. In much the same way that the Cuban Missile Crisis led legislatures across the country to create preparedness plans for nuclear fallout, the nation's continued concerns over national security have forced legislatures to examine the application of emergency management to terrorist acts. The measure makes minor modifications to reflect the additional requirements placed upon the Oklahoma Department of Emergency Management and requires all state entities to have written plans and procedures in place to protect employees and visitors from natural and man-made disasters.

Another measure, **HB 1467**, enacts the Catastrophic Health Emergency Powers Act to assist state and local governments in protecting citizens if the state were affected by a major health epidemic. The measure creates the 20 member Oklahoma Catastrophic Health Emergency Planning Task Force which is required to develop a comprehensive plan to provide for a coordinated response in the event of a bioterror attack on the state. The bill also requires certain health officials to notify the state of unusual illness clusters or other health conditions which could be a potential cause of a health emergency.

Public Safety

The necessity of reducing the state budget led many agencies to anticipate furloughing employees, and the Department of Public Safety was no exception. The Department contemplated furloughing troopers for up to 23 days during the next fiscal year due to budget constraints. To prevent this loss of public safety, the

Legislature temporarily increased license tag fees by \$2 with the enactment of **HB 1237**. The measure authorizes the collection of a \$2 fee on every vehicle registered between September 1, 2003 and August 30, 2005. It is estimated that \$6.6 million will be generated each year the fee is in place.

Identity theft continues to be a top concern for law enforcement entities across the state. Because Oklahoma driver licenses are not issued by the same entity which tests applicants, they are easier to falsify. **SB 423** requires the Department of Public Safety to require every applicant for a driver license to submit to finger scanning to insure that the person who takes the driver license examination is the same person who applies at the motor vehicle tag agent's office for the actual license.

Speed traps were another concern of the Legislature this session. **HB 1456** allows the Commissioner of Public Safety to investigate traffic-related enforcement practices of a municipal law enforcement agency upon request. If requested to do so, the Commissioner will determine if the municipal enforcement practices are:

- Within the boundaries of and on the outskirts of the municipality;
- For the purpose of generating more than 50 percent of the revenue needed for the operation of the municipality; and
- In such a manner so that the preponderance of citations being issued by the municipal law enforcement are for speeding one to ten miles per hour over the posted speed limit.

If these conditions are found to exist, the Commissioner will notify the Attorney General, who has 60 days to either agree or disagree with the Commissioner's findings. If the Attorney General agrees that the conditions exist, the Commissioner is required to designate the highway in question for special traffic-related enforcement and must notify the municipal law enforcement agency that the local agency cannot regulate traffic, nor enforce traffic-related statutes or ordinances, upon the designated highway.

Science and Technology

Spam

The ongoing problem of unsolicited commercial electronic mail, known as "spam," is addressed in **SB 660**. The measure makes the following acts violations of the law regarding unsolicited e-mail transmissions:

- Falsifying e-mail transmission information;
- Containing false or misleading information in the subject line;

funds for it. The Legislature's response to the funding issue was contained in **SB 192**. Oklahoma will receive \$5 million that will be deposited to a revolving fund for the State Election Board to implement HAVA. The legislation also directs that \$8.4 million received from the federal government to reimburse Oklahoma for funds spent more than ten years ago putting modern optical-scanning equipment in every voting precinct be deposited into the state's Special Cash Fund for appropriation. Oklahoma is one of five states eligible to be reimbursed for prior development of a comprehensive election system.

Election practices in Oklahoma will change considerably as a result of 2003 legislation. The dates for the presidential preferential election in **SB 3** and the filing, primary, and runoff dates for general elections in **SB 260** were all advanced. By moving the presidential preferential primary to the first Tuesday in February, it is hoped that Oklahoma might have more influence in the selection of presidential candidates. The accelerated general election calendar is designed to give Oklahoma candidates a better opportunity to receive campaign contributions from national party organizations.

FILING DEADLINE/ ELECTION DATE	OLD DATE	NEW DATE
Presidential Candidate Filing Deadline	January 14, 2004	December 3, 2003
Presidential Preferential Primary	March 9, 2004	February 3, 2004
Filing Deadline	July 7, 2004	June 23, 2004
Primary	August 24, 2004	July 27, 2004
Primary Runoff	September 21, 2004	August 24, 2004
General Election	November 2, 2004	No change

SB 358 will make it easier for military personnel and their dependents to vote in general elections by allowing them to mail or fax their ballots through election day for state and federal elections. Finally, county election board salaries that were scheduled to increase May 1, 2003, will remain what they had been due to the enactment of **SB 175**. The pay increases would have cost the state approximately \$240,000.

Finance

SB 198, a measure that would have given the Legislature a measure of control of the anticipated \$217 million that Oklahoma is expected to receive from the recently enacted federal tax cut measure, was vetoed

because the Governor felt there were already existing protections against the unauthorized use of these funds.

History

The Legislature sought to achieve a compromise on an issue that has raised controversy since the late 1980s, the display of a Confederate flag in the Capitol Complex. Not displayed since the late 1980's, under **HB 1007** the Confederate flag will join the historical flags that had been displayed in front of the Capitol Building and which will all be moved to the new Oklahoma History Museum. Newly on display there will be the first Confederate flag adopted by the Confederate Congress, not the battle flag that has been the source of greatest controversy. The Governor will be allowed to decide whether the U.S. flag, the state flag, the state centennial flag, the American Ex-Prisoner of War flag, or a combination thereof will be flown in front of the Capitol. The bill also provides statutory authority for the Native American flag plaza north of the State Capitol building.

Tourism

State Park User Fees

A combination of budget problems and wear and tear on facilities has prompted legislators to seek alternative sources of funding for the Tourism and Recreation Department. **HB 1353** authorizes the department to establish park entrance fees, day-use park fees and annual passes for the state park system. It is anticipated that the fees will generate between \$1 and \$2 million annually to be used for capital improvements at the parks.

Museums and Centers

The Legislature took significant action that will greatly contribute to the completion of the new Oklahoma History Museum and the Native American Cultural Center in Oklahoma City. **SB 73** enables the state to match federal funds for the Native American Cultural Center with up to \$33 million in revenue bonds issued by the Oklahoma Capitol Improvement Authority. With enactment of **SB 117**, the Authority can also issue \$18 million in revenue bonds for the completion of the Oklahoma History Museum. In an unrelated measure designed to assist the Oklahoma Historical Society cope with its operational costs, **SB 527** allows entry fees to be charged at all its museums and historical sites.

Wildlife

License Fees

The budget crisis that has affected state appropriated agencies has also impacted the Department of Wildlife Conservation. To that end, two measures were passed this session increasing hunting and fishing license fees. **HB 1419** increases lifetime license fees,

and **HB 1663** increases several types of both hunting and fishing licenses. The increases are expected to bring in an additional \$3.3 million in revenues, an increase of approximately 12 percent to the Department.

State Questions

The following chart lists the two lottery state questions that are currently active with their status. SQ 706, 707 and 708 are constitutional questions passed without a special election provision, so they will appear on the November 2004 general election ballot. SQ 705, a statutory measure, can be placed on an earlier ballot by the Governor (although he has indicated that he would schedule it November 2004 when the vote on SQ 706 occurs), otherwise it also will be considered in November 2004.

Question	Authorizing Document	Subject
705	HB 1278	Statutes authorizing a state lottery and creating the Oklahoma Lottery Commission to administer the lottery.
706	SJR 22	Companion constitutional amendment to SQ 705 which delineates how lottery revenues are to be spent.
707	SJR 12	Constitutional amendment allowing local governments to pledge apportioned tax increment revenue beyond a current fiscal year toward the repayment of indebtedness.
708	HB 1249	Constitutional amendment regarding access to the Constitutional Reserve Fund.

State Appropriations Summary

State Scenario and Education

A dismal national economy continued to negatively impact the State's revenue collections and consequent financial health. Mid-year budget reductions implemented by the Office of State Finance were found insufficient to balance the budget, resulting in further reductions in September 2003. By fiscal year end, total FY-04 certification was \$677.7 million lower than the prior year's appropriations or \$328.9 million lower than revised FY-03 appropriations. Given the decision to protect common education funding early in the legislative process, coupled with these limited state resources, lawmakers were faced with the likelihood of drastic state service cuts unless additional funds could be found to mitigate such cuts.

Up to the challenge, the Legislature eventually funded an increase in common education as well as kept state agency budget cuts to a minimum. Final FY-04 Legislative appropriations total \$5,106,597,024. This amount is only \$418,976,954, or 7.58 percent, below the original FY-03 appropriations and \$7,836,575, or .15 percent, above the revised FY-03 appropriation level. Virtually all agencies realized budget cuts. The only exception was Common Education. The appropriations that support K- 12 schools total \$1,950,875,382, 4.4 percent below the original FY-03 level, but 5.7 percent above the revised appropriation level.

Measures to Improve Funding

The Legislature managed to increase appropriations authority by \$245 million despite the bleak economic outlook through the following measures:

- Accessing idle funds (\$22.9 million);
- Improving collections and compliance (\$91.1.0 million);
- Redirecting existing revenue (\$82.2 million);
- Refinancing and restructuring debt (\$34.3 million);
- Instituting limited and mostly dedicated fee increases (\$9.6 million);
- Pursuing federal reimbursements (\$8.4 million).

The Legislature insured full common education funding, lessened otherwise critical agency cuts and attempted to protect state services most affected by the slowing economy.

Health Services

In a legislative effort to preserve health services, agencies such as the Healthcare Authority, the Department of Mental Health and Substance Abuse Services, the Department of Veterans' Affairs and the Department of Human Services realized increases above FY-03 revised levels. However, rising medical costs,

increases in service use and necessary program eliminations were enough to negate impact of the slightly elevated funding levels. For example, despite a \$25 million increase in Medicaid funding, projected reductions of \$50 to \$60 million are required to meet budget. Aid from the federal government that could offset certain cuts in Medicaid is possible later this federal fiscal year.

Budget Process Reform

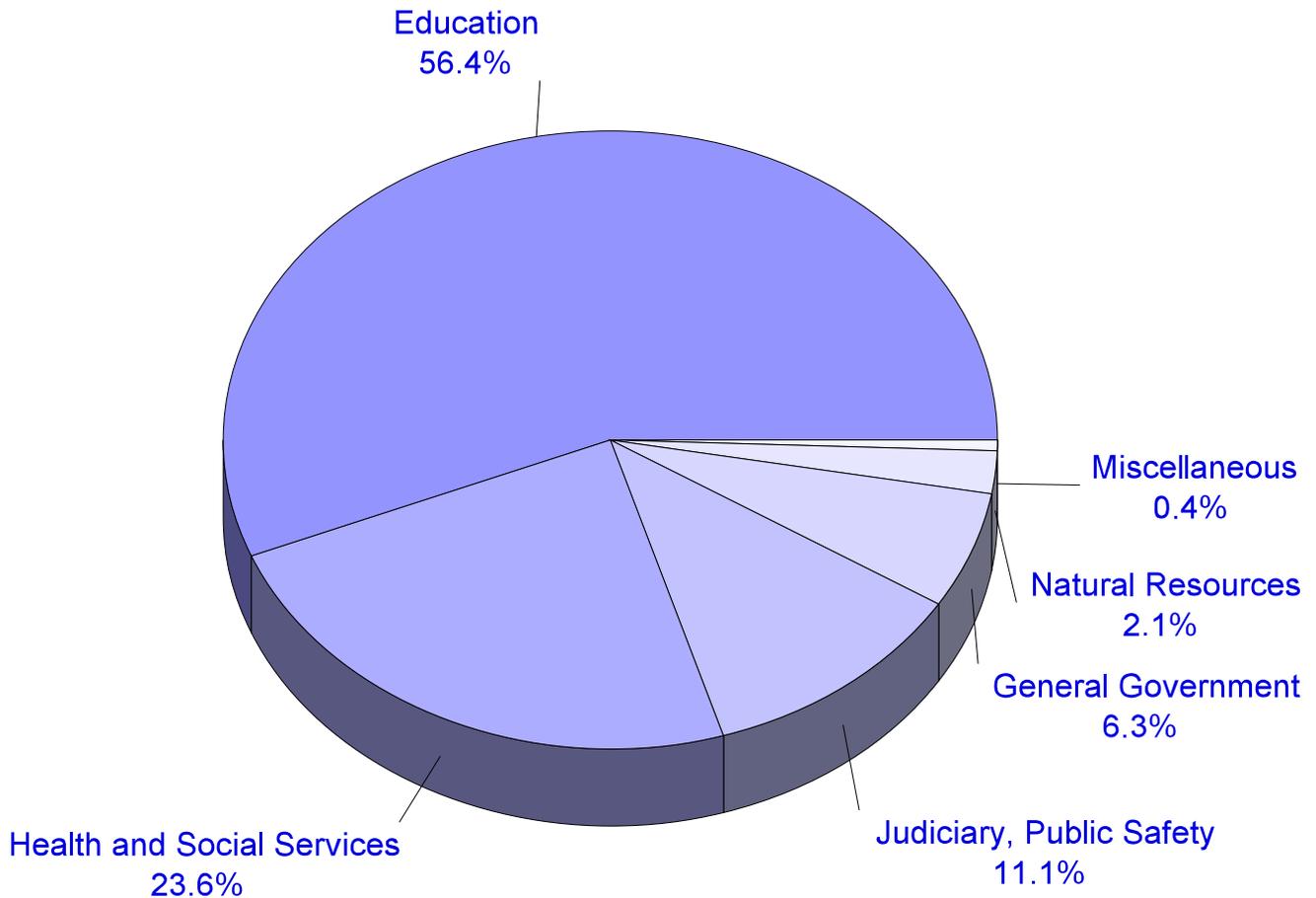
Besides implementing creative financing techniques, the Legislature also moved to reform the budget process itself in an attempt to reflect state service priorities while managing the budget under a serious economic downturn. Three dramatic changes will impact the way appropriations are made in the future:

- The first includes the imposition of a new performance budgeting system using "zero-based" techniques. The new process, adopted in **HB 1256**, directs the Legislative Appropriations Committees to evaluate and report on agency performance by March 1 of each fiscal year and before appropriation measures are passed. The new Legislative Oversight Committee on State Budget Performance also was created to monitor and report on this new system.
- **HB 1249** provides for a proposed Constitutional Amendment to modify the Constitutional Reserve Fund (Rainy Day Fund). This reform, if adopted by a vote of the people, creates a third balance in the Fund that can be used to offset budget cuts occurring during a fiscal year due to a revenue failure. Up to three-eighths of the Fund can be used for this new purpose. The proposed amendment also limits the use of the Fund for Emergencies to one-fourth of the balance and limits the amount that can be used for budget stabilization in the upcoming fiscal year to three-eighths of the fund balance.
- The third and most aggressive reform is contained in **HB 1247**. This bill directs that the appropriation for common education be presented to the Governor at least 25 days prior to when schools offer contracts to teachers for the upcoming school year, but no later than April 1. The change requires the legislative appropriation process to begin in earnest much earlier than in recent years and is designed to place education funding as the top legislative appropriations priority.

Agencies of Interest Appropriation Levels

Agency	FY-04	Change From FY-03 Orig.	Change From FY-03 Rev.
Common Education	\$1,950,875,382	-4.4%	+5.7%
Higher Education	\$767,880,403	-9.8%	-4.2%
Career Tech	\$117,322,607	-10.6%	-2.9%
Corrections	\$373,931,566	-4.8%	-1.8%
Healthcare Authority	\$439,000,000	-.81%	+6.15%
Mental Health	\$145,018,006	-3.9%	+4.2%
Health Department	\$53,649,633	-16.6%	-9.7%
Transportation	\$192,185,387	-22.2%	-\$21.4%
Public Safety	\$60,929,532	-12.45%	-5.0%

DISTRIBUTION OF FY-04 APPROPRIATIONS BY SUBCOMMITTEE



Total Appropriations = \$5,106.6 Billion

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

APPROPRIATIONS

FY-02 - FY-04

