

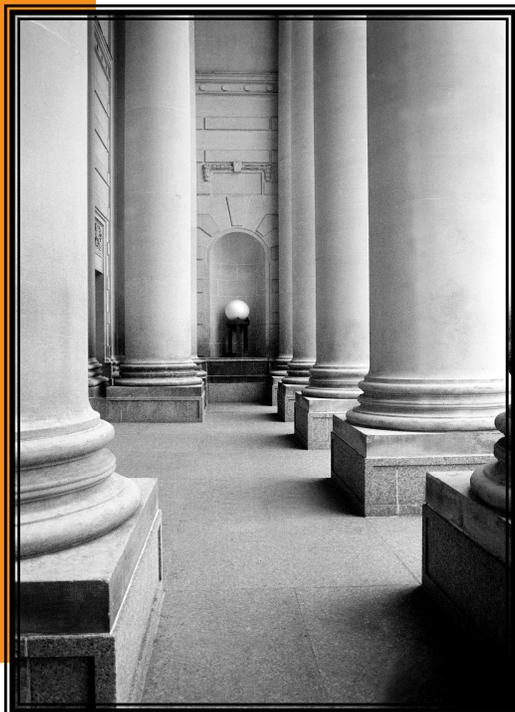
2012
SESSION OVERVIEW

Measures Passed During the
Second Session of the 53rd Oklahoma Legislature

Kris Steele, Speaker

Prepared By:
HOUSE RESEARCH DIVISION

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Second Regular Session
of the
53rd Legislature
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Prepared By

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News of a slightly improving state economy allowed the 2012 Legislature to avoid additional cuts to state agencies. In fact, an additional \$315 million was appropriated in the State Fiscal Year 2013 budget, most of which was directed at core state government functions including transportation, social services, health care and common education.

Legislators made major decisions regarding the operations and structure of the Department of Human Services, continued to focus on criminal justice reform efforts, enacted measures that monitor and track the sale of pseudoephedrine in an effort to curtail its availability for use in making methamphetamine and continued to address state government modernization.

AGRICULTURE and ENVIRONMENT



During the 2012 Session, Legislators passed measures that prohibit castor bean production and changed pet breeder regulations.

Legislators passed **HB 2188** prohibiting the transportation of castor beans in Oklahoma. Ricin, which is found in the beans, even in trace amounts, is poisonous with no vaccine existing. Due to the plants' hardiness and usefulness of the oil, researchers in other states have attempted to grow castor plants that produce seeds lacking the toxin, but have yet to succeed. **HB 2189**, a related measure, prohibits castor bean production in the State of Oklahoma.

After establishing the Commercial Pet Breeders Act during the 2011 Session, members returned to the issue this year with **HB 2921**, which moves licensing and enforcement to the State Department of Agriculture, Food, and Forestry. The measure disbands the Oklahoma State Board of Commercial Pet Breeders, established during the 2011 Session, merging the agency with the Agriculture Department.

WILDLIFE

Wildlife measures addressed poaching and other wildlife regulations.

HB 2573 increases the minimum fine for a first conviction of catching or hunting animals on an individual's land without permission, from \$50 to \$500 and makes the maximum fine for

the first conviction \$1,500. The measure also makes violations a misdemeanor. Any person convicted of a subsequent offense is guilty of a misdemeanor, subject to a fine of between \$1,500 and \$2,500, and may be sentenced to six months to a year in jail. The measure also provides that the individual's hunting or fishing license be automatically revoked for one to 10 years.

HB 2607 prohibits the Oklahoma Wildlife Conservation Commission from approving an energy or agricultural setback or conservation easement for a threatened, endangered or candidate species when that setback or easement is more restrictive than those allowed by federal law, rules or guidelines.

WATER

Following the release of a long-awaited comprehensive water plan, a joint legislative interim study and extensive media coverage, water policies remained at the forefront of discussions during the legislative session.

HB 3055 creates the 15-member Water for 2060 Advisory Council to recommend more efficient practices and expand education programs for consumer water-use habits. The measure also adds rural water districts to those entities eligible to be the subject of pilot programs through the Oklahoma Water Conservation Grant Program and expands the list of projects that can qualify for funding.

HB 2835 prohibits the Department of Environmental Quality from requiring a permit for private residential gray water use of less than 250 gallons per day for household gardening, composting or landscape maintenance if the resident meets 12 conditions related to location, storage and discharge. Gray water means untreated wastewater from activities such as laundry, dishwashing and bathing that has not come in contact with toilet waste.

HJR 1085 puts to a vote of the people a proposed constitutional amendment that would, if approved, authorize the Oklahoma Water Resources Board (OWRB) to issue bonds for a reserve fund for water resource and sewage treatment financial

assistance programs throughout the state. The OWRB would be able to issue general obligation bonds up to \$300 million only after other monies and sources were used for repayment. The Legislature would be required to provide for administration of the fund, methods for issuing the bonds and sufficient appropriations to pay for the bonds.

ECONOMIC DEVELOPMENT

The Legislature sought to foster the state's economic growth through policies that strengthen businesses and protect consumers.

To address concerns about negative publicity of blue-green algae in Oklahoma state lakes, **SB 259** requires the Oklahoma Tourism and Recreation Department to maintain a website and written information on location for the public to check the water quality of recreational bodies of water managed by state or federal entities. The measure restricts the managing entity's ability to issue advisories for blue-green algae to only when both the count and toxicity testing results exceed the World Health Organization guidelines for moderate probability of adverse health effects. The managing entity must lift the advisory if the count and toxicity testing results are below the specified guidelines after a specified period of time.

HB 2746 requires all contests and exhibitions of professional combative sports, including boxing, wrestling, mixed martial arts and kickboxing, to be sanctioned and permitted by the Oklahoma State Athletic Commission. Amateur combative sports events conducted or sponsored by educational institutions or military installations are exempted. Also exempt are amateur combative sports events sanctioned by a nationally-recognized amateur sanctioning body. The measure also establishes that a second or subsequent violation of the act is a felony.

SB 1866 transfers from the State Department of Health to the Department of Labor all powers and duties related to regulating locksmiths, closed circuit televisions, access controls, burglar alarms, fire alarms, and sprinkler and nurse calls. In providing for the transfer of classified and unclassified personnel, the measure prohibits reductions in salary and benefits or a change in classification without written consent of the employee. Licenses, registrations, certifications and accreditations will remain in full force and all board and committee members will retain their appointments. The measure transfers future appointment power of the eight-member Alarm and Locksmith Industry Committee to the Governor and requires the Senate to confirm future appointees.



Expanding eligibility for the Oklahoma Quality Jobs program, **SB 1464** amends the definition of basic industry by adding a North American Industry Classification System code related to the extraction of crude petroleum and natural gas. The measure expands the limits on the definition of new direct jobs with establishments related to crude petroleum and natural gas to include manufacturing and maintenance services. It also allows employment related to drilling services to be considered new direct jobs under the program.

EDUCATION

COMMON EDUCATION

Much of members' efforts on education in the 2012 Session focused on reforming the state's common education system by combining agencies to create efficiencies and by building upon statutes passed in the 2011 Session related to retaining students not reading at grade level and measuring schools' successes. Measures related to student graduation requirements, virtual schools, and school districts' financial situations were enacted.

SB 1797 merges the Oklahoma Commission for Teacher Preparation and the Office of Accountability. The merged agency will be named the Office of Educational Quality and Accountability. A newly created Commission for Educational Quality and Accountability will replace the Education Oversight Board and starting on July 1, 2013, will oversee implementation of the Oklahoma Teacher Preparation Act and set student performance standards. Starting July 1, 2014, the commission will assume the duties of the Oklahoma Commission for Teacher Preparation. The measure also moves teacher professional development to the Oklahoma State Department of Education.

Members also passed **HB 2970** to assist students who do not meet Achieving Classroom Excellence requirements for obtaining a high school diploma. Students are required to score proficient or higher on four out of seven end-of-instruction exams. Students graduating in 2012 were the first students required to meet the standard. HB 2970 requires the State Board of Education to establish an appeals process for students denied a standard diploma for failing to earn a score of proficient or higher on four end-of-instruction exams. Students will have 30 days after denial to file a petition for appeal with the state board and the board must take action no later than 45 days after receipt of the petition.

HB 2790 extends the moratorium on National Board certification bonuses for newly certified teachers another year. The State Board of Education will not provide a \$5,000 bonus through June 30, 2013, to any teacher who obtains National Board certification between June 30, 2010, and June 30, 2013, unless the teacher started the process before June 30, 2010. No new applicants will be accepted into the associated scholarship program or have their application fee paid through June 30, 2013.

Legislators passed one measure related to virtual schools. **SB 1816** allows the State Board of Education to sponsor a charter school when the applicant is the Statewide Virtual Charter School Board. The measure creates the board to oversee a

full-time statewide virtual charter school. The board will negotiate contracts with providers of virtual education to provide academic content, management and administration of the school and the board will have the authority to issue diplomas to students who complete the curriculum requirements for graduation. The charter school will enroll only students who are legal residents of the state and approved for transfer into the charter school.

Legislators made adjustments to the law regarding retention of third grade students not reading at grade level in **HB 2516**. The measure allows, rather than requires, teachers to recommend promotion of students based upon completion of a summer academy or other program.

HB 2494 specifies that student scores in Advanced Placement courses taught at technology centers will help determine the letter grade a school will receive through the state's A through F school ranking system. Advanced Placement courses and courses taken at regional sites of the Oklahoma School of Science and Mathematics also will help determine a school's grade.

Since many school districts were still struggling financially in the 2011-2012 school year, **SB 1443** was enacted to give administrators more financial flexibility. The measure allows districts to spend textbook funds for other purposes and to avoid penalties for not meeting accreditation standards and other mandates, for two more years until 2014.

HB 2927, which also could benefit schools financially, creates the Multiyear Education Distribution Stabilization Revolving Fund into which the Commissioners of the Land Office will deposit bonus income and delay rental income which then will be distributed to school districts on a five-year rolling average schedule. This will help school district administrators better predict annual payments from the Commissioners of the Land Office to improve budget planning. The measure allows for the deposit of any appropriated money into the newly created Commissioners of the Land Office Revolving Fund and allows funds to be used to pay for conservation and commercial property upgrades.

HIGHER EDUCATION

Legislators made changes to a higher education entity and provided support for dependents of military members.

HB 2443 requires the University Center at Ponca City to report directly to the Oklahoma State Regents for Higher Education rather than the Northern Oklahoma College Board of Regents. The measure creates a board to serve as the administrative agency for the university center which will select a chief executive officer, submit a budget to the State Regents and administer monies budgeted.

HB 2689 makes students eligible for in-state tuition at an institution in the Oklahoma State System of Higher Education regardless of residency if the students are dependents of military or reserve service members on active duty and whose

homes of record are in Oklahoma. A home of record is the state where the person was living when he or she was commissioned or reenlisted in the military.

ENERGY AND UTILITY REGULATION



The Legislature passed measures this year focusing on energy efficiency, exploration and seismic exploration regulation reform.

Regarding efficiency, **SB 1096** creates the behavior-based Oklahoma State Facilities Energy Conservation Program, which sets an energy cost reduction target of 20 percent by the year 2020 for state-operated facilities.

SB 1627 establishes the Oklahoma Energy Initiative Act, which is a strategic program designed to create, advance and promote new and existing energy research and development related to Oklahoma's core energy strengths. An eight-member board will administer the initiative. To help fund the initiative, **SB 1628**, redirects a portion of revenue in the Interstate Oil Compact Fund from the now defunct Bartlesville Energy Research Center.

Two bills addressed seismic exploration. **SB 243** requires seismic exploration operators to follow particular notification procedures to surface estate owners prior to performing seismic exploration on the property. **HB 2654** establishes a "reasonably prudent operator" standard, which states that a well operator should operate with due regard to the interests of all affected parties. The measure also establishes a remedy for persons who do not receive legally entitled oil or gas proceeds within the required time periods.

GENERAL GOVERNMENT

The Legislature adopted several measures relating to state agencies and state governance.

HB 2258 requires the Oklahoma Tax Commission, Department of Labor, Workers' Compensation Court, CompSource, and the Oklahoma and Employment Security Commission to share information and coordinate investigative and enforcement efforts to detect employers who intentionally misclassify individuals as independent contractors. The agencies are authorized to create a secure database of information and to enter into contracts and interagency agreements. The measure requires contractors submitting a written bid on a public construction project to provide proof of employment documentation. Any contractor that

fails to provide proof of documentation, properly register, or intentionally misclassifies individuals as independent contractors, will be fined 10 percent of the contractor's total bid.

HB 2204 exempts employers from having to pay unemployment compensation for workers who test positive for drugs or alcohol by authorizing the release of records of the tests as admissible evidence and places the burden on the worker to request a confirmation test. The measure provides that the worker also will have the burden of proving a breach in the chain of custody.

An unemployed individual must register for work within seven days of filing the initial claim in order to maintain eligibility for unemployment benefits. In the event of an overpayment due to fraud, the measure imposes a penalty of 25 percent of the amount of the original overpayment.

After the Unemployment Security Commission provides the employer with notice of a contribution rate, the bill allows the employer to appeal the rate notice; otherwise the rate will be conclusive and binding. The authority to issue or modify an order for the collection of delinquent contributions is transferred from the court to the Assessment Board of the Oklahoma Employment Security Commission. The commission is authorized to award funds to local offices, divisions or units of the commission to encourage the improvement of employment, training and placement services for veterans. Finally, the measure allows the Office of Juvenile Affairs to obtain employment information for use in assessing results and outcomes of clients and effectiveness of juvenile and justice programs.



SB 1913 makes the utilization of portions of the Oklahoma State Park Trust Fund by the Oklahoma Tourism and Recreation Commission permissive instead of mandatory. Additionally, the measure authorizes the commission to use up to \$15 million to construct and maintain a lodge and any associated facilities the commission decides are necessary at the Lake Murray State Park.

HB 2563 replaces a blood quantum requirement for the Oklahoma Native American Liaison with the requirement that the appointee be a member or citizen of a federally recognized Indian tribe that has its primary tribal headquarters located in Oklahoma and have valid proof of membership.

Finally, two measures affected county and municipal governments. While county purchasing agents are required to follow bidding procedures when making purchases and executing rental or lease-purchase agreements, **SB 1000** extends an exception to the bidding requirement when counties participate in local cooperative procurement agreements entered into by the counties and other local jurisdictions.

SB 1875 creates the Safari McDoulett Community Service Act and authorizes a board of county commissioners to impose a community service program assessment where district, juvenile and municipal courts in those counties will levy a community service program assessment of \$25 to \$250 when the person is ordered to complete community service. The measure creates community service program assessment revolving funds in each county and provides that assessments will be forwarded monthly by the applicable court clerk to the revolving fund.

Two measures modified state and education employee health insurance policies.

HB 3056 requires the State Board of Education to fully fund from its appropriated funds a flexible benefit allowance for school district employees unless the Legislature appropriates adequate funding specifically for that purpose. It modifies the calculation of the amount appropriated and dispersed to school districts for school district employees' flexible benefit allowance. The measure also requires the State Board of Education and the State Board of Career and Technology Education to disburse the total amount appropriated for the flexible benefit allowance to school districts during the fiscal year and from that amount, to disburse to each school district amounts based on the number of eligible school employees.

HB 2288 allows state employees who will be covered by a separate group health insurance plan at or before the beginning of the next plan year to opt out of the state's basic health insurance plan.

GOVERNMENT MODERNIZATION

Legislators addressed performance metrics and additional agency consolidation this year.

Following last year's information technology (IT) consolidation efforts, **HB 2939** prohibits any agency from purchasing IT equipment or machines with state funds without authorization from the state Chief Information Officer (CIO). Under the measure, each agency must provide the chief information officer with a list of integral IT assets.

Several state agencies are consolidated under **HB 3053**, which changes the name of the Office of State Finance to the Office of Management and Enterprise Services (OMES). The director of the Office of Management and Enterprise Services will be the chief administrative officer. The following agencies will be merged into this office:

- ∞ Department of Central Services;
- ∞ Office of Personnel Management;
- ∞ Oklahoma State Employees Benefits Council; and
- ∞ State and Education Employees Group Insurance Board.

HB 3053 also mandates that the OMES director will develop the processes and procedures to guide state agencies in the preparation of performance metrics, which are measurements to be used to improve efficiencies within state agencies.

HB 2197 creates the Cost Reduction and Savings Act, which allows the state purchasing director to form an advisory committee to develop shared state purchasing contracts, explore joint purchases of general use items and integrate purchasing platforms. The bill also states that prior to approving software acquisition requests, the state CIO must require the purchasing entity to consider whether proprietary or open source software is the most cost-effective solution for the agency.

HEALTH AND HUMAN SERVICES

The Legislature focused on health-related issues by passing measures that attempted to control insurance coverage costs, increased access to health care services and continued to address abortion. Legislators also enacted laws to reform the Department of Human Services, provide additional protection for children in the child welfare system and require drug testing of certain applicants for the Temporary Assistance for Needy Families (TANF) program.

HEALTHCARE

Two measures focused on expanding access to health care.

HB 3058 creates the Oklahoma Hospital Residency Training Program to establish new residency programs affiliated with the Oklahoma State University College of Osteopathic Medicine and the University of Oklahoma College of Medicine. The program to be administered by the Oklahoma Health Care Authority will focus on meeting the healthcare needs of medically underserved areas. A related measure, **SB 1280** redirects \$3 million from the Oklahoma Health Care Authority to the Oklahoma State University Medical Authority Disbursing Fund to help pay for the program.

HB 2266 authorizes registered nurses at a county or city-county health department to use physician-approved protocols to provide public health services without the establishment of a physician-patient relationship. Nurses may dispense and recommend nonprescription medications according to the specified protocols and call in to the patient's pharmacy medications prescribed by an advanced practice nurse.

ABORTION

Two measures strengthened Oklahoma's informed consent requirements related to abortions and another increased regulations on the administration of abortion-inducing drugs. **HB 2561** permits a woman, in cases of violation of voluntary and informed consent provisions of state law, to file civil suits against abortion providers, prescribers of abortion inducing drugs and persons or entities which referred the woman and knew or should have known that the provider or prescriber acted in violation of state law. The woman, or her parents or guardian, can bring an action for actual and punitive damages equal to those for the wrongful death of a child and can include damages for mental anguish and emotional distress.

SB 1274 requires an abortion provider to tell a patient who is at least eight weeks pregnant before she gives informed consent to an abortion that it may be possible to make the heartbeat of the unborn child audible and to ask the patient if she would like to hear it. If the woman consents, the provider must use a Doppler fetal heart rate monitor to attempt to make the heartbeat audible. The provisions do not apply in the case of an abortion necessary to avert the mother's death or in the event of a medical emergency. The measure makes violation a misdemeanor and allows civil actions against the provider.

HB 2381 requires physicians who prescribe RU-486, also known as mifepristone, or any other drug or chemical used for the inducement of an abortion to be physically present when the drug is first provided to the patient. Knowingly or recklessly violating the law is a felony.

CHILDREN AND FAMILIES

After several months of traveling the state to visit with workers in county Department of Human Services (DHS) offices, juvenile judges, district attorneys and DHS commissioners, a workgroup appointed by the Speaker to make recommended changes to the operations of the agency put forth a number of bills containing those recommendations. The Legislature also set aside funding for initial implementation of the settlement plan resulting from the class-action lawsuit against the agency.

HJR 1092 sends to a vote of the people a proposed constitutional amendment that would, if approved, repeal the Oklahoma Public Welfare Commission and the director of public welfare position from the State Constitution and authorize the Legislature to create and direct by law the administration of DHS. A companion measure, **HB 3137** will take effect if the constitutional amendment is approved by voters. The bill authorizes the Governor to appoint the director of DHS and establishes four citizens advisory panels appointed by the Governor, Speaker, Pro Tempore and the minority leaders of the House and Senate to provide input and feedback to the director on policies and programs implemented by the agency.

Another recommendation of the workgroup intended to improve accountability within the agency is reflected in **HB 3134**. The bill directs DHS to vertically integrate all program divisions and staff so that personnel responsible for developing policies and

programs also will be responsible for their implementation.

HB 3135 increases transparency in cases where a child has died or nearly died by requiring DHS to conduct a child abuse or neglect investigation upon receiving a report of the death or near death of a child resulting from suspected abuse or neglect and produce a report within 45 days. The bill also requires the department to release certain information within five business days of the death or near death of a child and directs that additional information be released upon a determination by the department that the death or near death was caused by abuse or neglect.

Finally, **SB 1979** directs that of the funds appropriated to DHS for fiscal year 2013, \$25 million be used to implement phase I of the Pinnacle Plan. The plan is the result of the settlement of the class-action lawsuit brought against the agency.

Two other measures enacted also affect children and families as well as operations of DHS.

HB 2300 in part, transfers the authority to certify children's shelters operated by DHS from the Oklahoma Commission on Children and Youth to the Office of Juvenile Affairs. The bill also modifies the criminal background check requirements for a trial reunification of a child with the child's parents to apply only to an adult in the home who is not the parent, legal guardian or custodian of the child. Finally, the measure prohibits children age 6 or younger from being placed in shelter care after June 30, 2013, and prohibits children age 13 or younger from being placed in a shelter after June 30, 2014, provided suitable alternative placements are available.

HB 2388 requires DHS to screen adults who apply for the Temporary Assistance for Needy Families (TANF) program for the use of controlled substances and authorizes the department to request a chemical drug test if it has reasonable cause to believe the applicant is illegally using a controlled substance. If an applicant refuses to participate or is determined to be illegally using a controlled substance, benefits will be denied. The measure makes provisions for an applicant to reapply after completing substance abuse treatment and for an alternative payee to be named in cases where a parent is found ineligible for benefits due to the illegal use of drugs.

ELDERLY AND LONG-TERM CARE

HB 2582, strengthens the process for screening applicants for employment who will have direct access to patients in places such as nursing facilities, assisted living centers, adult day care centers and through employment with home health and hospice agencies. The bill requires these employers to submit certain identifying information to the Oklahoma State Department of Health (OSDH) for the purpose of conducting a check of all relevant registries established by federal and state law to determine if there are any findings that would prohibit an applicant's employment. The measure also directs the department to submit fingerprints to the Oklahoma State Bureau of Investigation for a criminal history check on applicants whose registry check doesn't reveal any basis to

deny employment but who do not have a monitored employment record. The OSDH is required to establish a database to store records of an employer's prospective and current employees, the results of the screening and criminal arrest records search and to include a process that will allow the department to be notified if a subsequent criminal arrest record matches a set of fingerprints previously submitted.



INSURANCE

The Legislature addressed various insurance issues.

HB 2453 makes numerous changes to the insurance code by prohibiting insurers from canceling or failing to renew a homeowner's insurance policy or increasing the premiums because the insured filed a first claim against the policy. The bill requires that when an employee's health insurance is terminated, the employee be offered a continuation of coverage in writing within 30 days. Additionally, the measure requires employers that are governed by Oklahoma's health care continuation law to give employees the option to continue group coverage when coverage terminates for any reason except for termination due to gross misconduct or because the group policy was terminated. The bill also:

- ∞ Eliminates continuing education requirements relating to workers' compensation for claims adjusters;
- ∞ Requires adjusters to report any administrative action or criminal prosecution taken against the adjuster to the insurance commissioner;
- ∞ Requires insurance producer applicants to take an examination within two years of filling out an application;
- ∞ Requires that insurance deposits may only be released upon request by the insurer and after an acceptable financial review of the insurer; and
- ∞ Specifies what investments are not acceptable for an insurer to invest in and what instruments are classified as negotiable and transferrable.

SB 1475 creates the Service Warranty Act, which requires service warranty associations to be licensed by the insurance commissioner. An insurer authorized to transact property or

casualty insurance is authorized to transact a service warranty business without additional licensure. Each service warranty contract must contain a cancellation provision, contact information of the provider and a statement indicating it is not an insurance contract. Associations are subject to periodic examinations by the commissioner and required to maintain financial and claims records. Furthermore, the commissioner is authorized to revoke or suspend a license if it is determined that the association has violated any rule or order of the commissioner or provision of the act and immediately suspend the license in other circumstances. Anyone convicted of knowingly violating the act is guilty of a misdemeanor and any person damaged by the violator may bring a civil action. Additionally, the commissioner may investigate and have administrative hearings for alleged unfair or deceptive acts or practices. The commissioner also may seek an injunction in district court.

SB 1474 provides that an insurance compliance self-evaluation audit is privileged information, is not discoverable, will not be admitted as evidence and persons who perform the audit may not be examined in legal proceedings. A company is authorized to voluntarily submit audit documents to the insurance commissioner without waiving the privilege, in which case the commissioner must keep the documents confidential. The privilege does not apply if expressly waived by the company, the company provides the documents to a witness for testimonial use when asserting the privilege and where the audit documents show evidence of noncompliance with applicable state or federal law. A court of record in a civil, administrative or criminal proceeding may require disclosure of the material in the case of fraud, where the material is not subject to the privilege or the material contains criminal evidence. If the court does require disclosure, the court is authorized to impose sanctions for any other violation of the rules of discovery. If an insurer is served with a request for disclosure, the company that prepared the audit document is authorized to petition the court for an in camera, or private, hearing on whether the documents are privileged in which case the company has the burden of demonstrating applicability of the privilege. The court may subsequently compel disclosure in appropriate circumstances.

JUDICIARY AND PUBLIC SAFETY

Judiciary measures were aimed at reducing tort litigation and damages while public safety legislation was enacted to further protect the citizens of Oklahoma.

HB 2419 eliminates liability for any entity or individual providing access to a safe place in times of severe weather if acting in good faith. Similarly, **SB 1316** exempts the state or a political subdivision from liability if a loss or claim results from the use of a public facility opened to the general public during an emergency. **SB 875** eliminates liability of an owner, employee, or customer at a gun range, who is acting in good faith, for injuries to any other person engaged in firearm activities if the injuries result from the inherent risks of firearm

activities. **SB 1882** exempts the state or a political subdivision from liability if a loss or claim results from use of school property and facilities made available for public recreation outside normal school hours.

CRIMINAL JUSTICE

Criminal justice reform continued to be a top concern for the Legislature in 2012. Leveraging significant gains made the previous two years, **HB 3052** adopts many of the recommendations of the Justice Reinvestment Initiative and makes changes to how the state assesses criminal conduct and develops rehabilitation options to reduce recidivism. An eight-month assessment of Oklahoma's criminal justice system found that Oklahoma's violent crime rate was high and has remained unchanged since 2000. During the same time period, violent crime declined significantly nationally and in most states. The assessment determined that 51 percent of felons exiting Oklahoma prison were released to no supervision, and did not have access to treatment services to keep them drug and alcohol free. Lastly, the assessment found that if policies and practices remained the same, the prison population would continue to grow and the state would need to expand prison capacity in the near future.

To address these findings, **HB 3052** requires people convicted of a felony offense to submit to a risk, mental health and substance abuse assessment and evaluation. The assessment and evaluation can then be used as a tool to determine sentencing options and rehabilitative measures that can be taken to alleviate recidivism.

Every felony offender sentenced to prison is required to also be sentenced to a term of post-imprisonment supervision of nine months to one year following confinement. Post-imprisonment supervision does not apply to persons sentenced to life, life without parole or persons sentenced to the maximum sentence allowed for a conviction of the offense. The bill directs the creation of intermediate sanction facilities to be used to hold accountable those offenders who are on probation or have been sentenced to drug courts. A person who has minor violations of the conditions of probation or drug court can be sanctioned to serve six months in an intermediate revocation facility instead of revoking the person's sentence. Probationers may serve a one-time referral to a six month term of confinement in an intermediate revocation facility. A person may be sanctioned to serve additional terms upon the approval of the district attorney. The bill also establishes the Justice Reinvestment Grant Program within the Office of the Attorney General to be used to provide funding to local law enforcement agencies for initiatives and strategies to combat violent crime.



Another measure was enacted to modernize the pardon and parole process. **SJR 25** sends to a vote of the people the question of giving the Pardon and Parole Board the power to grant parole for nonviolent offenses. Oklahoma is the only state which requires the Governor to approve all paroles. The Governor would be required to approve the parole of persons sentenced for a violent offense or an offense which requires the completion of 85 percent of the sentence.

DRUG CONTROL

Two measures were enacted this session to deal with illicit drug manufacturing. **HB 2941** is designed to allow pharmacists and law enforcement officials to closely track and block the illegal sale of pseudoephedrine to methamphetamine cooks. The bill requires a pharmacy that dispenses, sells or distributes pseudoephedrine or ephedrine to maintain an electronic record of the sale. The pharmacy must collect the name, date of birth and type of identification used by the purchaser to obtain the pseudoephedrine product and the amount of product sold.

The information must be logged into a real-time electronic methamphetamine precursor tracking service that can be accessed to track the sale of pseudoephedrine. A pharmacy must not complete the sale of pseudoephedrine product if the tracking service generates a stop-sale alert. Information stored by the tracking service is confidential and only accessible by law enforcement, health care professionals and licensed pharmacists. Pharmacists who do not use the system when making sales can be found guilty of a misdemeanor punishable by a fine of up to \$1,000. Additionally, the violation will be reported to the State Board of Pharmacy.

The bill also allows a pharmacy to establish a service charge to be collected by the pharmacist at the point of sale on any pseudoephedrine product. After verifying that the person purchasing the pseudoephedrine product is not on the methamphetamine registry, the service charge would be applied to the purchase price. If the purchaser is on the registry, the service charge is forfeited to the pharmacy.

Another key component of the bill lowers the quantity of pseudoephedrine product a person may purchase to 3.6 grams per day, 7.2 grams per 30 day period or 60 grams within a 12 month period. A person who has reached their daily limit may not purchase more for 72 hours. Lastly, the bill establishes that any person convicted of manufacturing or attempting to manufacture methamphetamine and who, within 60 days of conviction, purchases or attempts to purchase pseudoephedrine is guilty of a felony, punishable by imprisonment of not less than 14 years nor more than life.

A related measure, **SB 1065** authorizes the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to disclose statistical information gathered from the central repository to the general public. The information is to be limited to the types and quantities of controlled substances dispensed and the county where dispensed.

FIREARMS

The Legislature continued to enhance citizens' 2nd Amendment rights by enacting **SB 1733**, which allows persons who have a handgun permit to carry the firearm openly or concealed. Permit holders will no longer be concerned with accidental exposure of the weapon. The measure also clearly states that a property owner may carry a firearm on their property without a carry permit.

Another measure, **SB 1760**, bans the Governor or any other municipal or state official from prohibiting or suspending the sale, ownership, possession or transportation of firearms and ammunition during a declared state of emergency. The bill allows any individual whose firearm or ammunition is seized to bring an action in district court against the government official.



MILITARY AND VETERANS

Legislators addressed several issues related to veterans and their spouses.

In a dissolution of marriage proceeding, **SB 1887** directs the court to submit clear and concise written findings in a decree or final order if the court determines military retired or retainer pay to be either separate or marital property. If the court determines the property to be marital property, the court must award an amount consistent with the rank, pay grade, and time of service of the member at the date of filing the petition, unless the court finds a more equitable date. The measure also requires court orders for division of a military member's retirement or retainer pay to include language that awards such property based on an enumerated formula. Additionally, the measure makes any modification of alimony payments effective on the date of the filing of the requested modification.

SB 1951 creates the Wounded Warrior Protection Act and provides that a service member's portion of Combat Related Special Compensation be considered separate property, not divisible as a marital asset or as community property provided that a specific dollar amount of the Combat Related Special Compensation can be proven by the service member as compensation for combat-related loss of limb or loss of bodily

function. The measure also requires that service member applied and received the Combat Related Special Compensation award prior to the filing for dissolution of marriage.

SB 46 extends the sales tax exemption to the surviving spouses of disabled veterans who have not remarried and caps the exemption at \$1,000.

SB 1863 authorizes public and private institutions of higher education and career and technology centers in the state to apply academic credit to education, training and experience received through military duty for honorably discharged members of the military who become students at those schools. The measure also instructs state officials with authority over professional licensure to accept qualifications received during military service and apply them toward licensure where applicable and requires those officials to develop procedures to expedite the licensure of military spouse applicants if the military member is on active duty within the state or claims permanent residency in the state for six months prior to assignment to active duty or during the period of active duty. The applicant must be certified in another state to perform those professional services and have left employment in another state to accompany the spouse on active duty.

RETIREMENT REFORM

The Legislature passed numerous measures this year intended to strengthen public pension systems.

HB 2319 increases from 13 percent to 14 percent the employer contribution rate to the Oklahoma Police Pension and Retirement System and increases employee contribution rate from 8 percent to 9 percent. The bill also increases the percentage of the insurance premium tax allocated to the Oklahoma Police Pension and Retirement System from 14 percent to 15 percent.

HB 2321 modifies the sick leave accrual provisions for non-elected members who join the Oklahoma Public Employees Retirement System (OPERS) on or after November 1, 2012, and states that for elected officials joining the system on or after November 1, 2011, the number of years of credited service will be based on actual years and months of credited services without rounding up or down.

HB 2322 allows newly elected officials to increase their contribution rate and receive an increased retirement benefit. This program is already available to other OPERS members.

HB 2320 permits the Oklahoma Teachers Retirement System Board of Trustees to invest up to 10 percent of the system's assets in real property owned or to be acquired by the state.

REVENUE AND TAXATION

Legislators addressed ad valorem and property tax exemptions.

SJR 52 refers to a vote of the people a proposed amendment to the Oklahoma Constitution exempting all intangible personal property from ad valorem taxation. A related measure, **SB 1436** repeals the Business Activity Tax upon certification of the passage of SJR 52. The Business Activity Tax was established to alleviate concerns that intangible personal property would be subject to ad valorem taxation.

SB 1449 expands eligibility for an existing property tax exemption for individuals 62 years of age and older who own and reside in a manufactured home located on land they do not own. Currently to qualify for the exemption, an individual must have a gross household income that does not exceed \$10,000. The measure increases eligibility to include individuals with a gross household income that does not exceed the greater of \$22,000 or 50 percent of the Federal Housing and Urban Development median income for the applicable county or metropolitan statistical area.

TRANSPORTATION

Legislators passed two measures in a continuing effort to provide adequate transportation infrastructure.

HB 2248 increases the annual apportionment to the Rebuilding Oklahoma Access and Driver Safety fund (ROADS) from \$41.7 million to \$59.7 million. Currently, apportionment to the ROADS fund ends when the total reaches \$435 million. The measure also increases the maximum amount of annual accrual of revenue or cap to the ROADS fund from \$435 million to \$575 million. Fiscal year 2013 revenue to the fund totals \$250.7 million. With the new annual increment and the increased annual cap, revenue to the ROADS fund will reach the cap in a little more than five fiscal years. The ROADS fund will increase by \$18 million reflecting the increase in the annual increment, which will total \$59.7 million.

HB 2249 will assist counties in improving their infrastructure, by modifying the apportionment of motor vehicle collections from the Motor Vehicle Licensing and Registration Act. Currently, 29.84 percent of motor vehicle collections go to the General Revenue Fund. The measure gradually reduces over three years the amount going to the General Revenue Fund from 29.84 percent to 24.84 percent. The 5 percent revenue reduction will go to the County Improvements for Roads and Bridges Revolving Fund. Estimated increases in revenue to the fund will total:

- ∞ Fiscal year 2013: \$1.7 million
- ∞ Fiscal year 2014: \$21 million
- ∞ Fiscal year 2015: \$31 million

In an effort to provide a funding mechanism to revitalize weigh stations, **HB 2391** redirects a portion of the motor fuel assessment from the Higher Education Facilities Fund to the Weigh Station Improvement Revolving Fund administered the Corporation Commission. According to the measure, the Weigh Station Fund will receive \$500,000 per month until it has collected \$81 million.



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