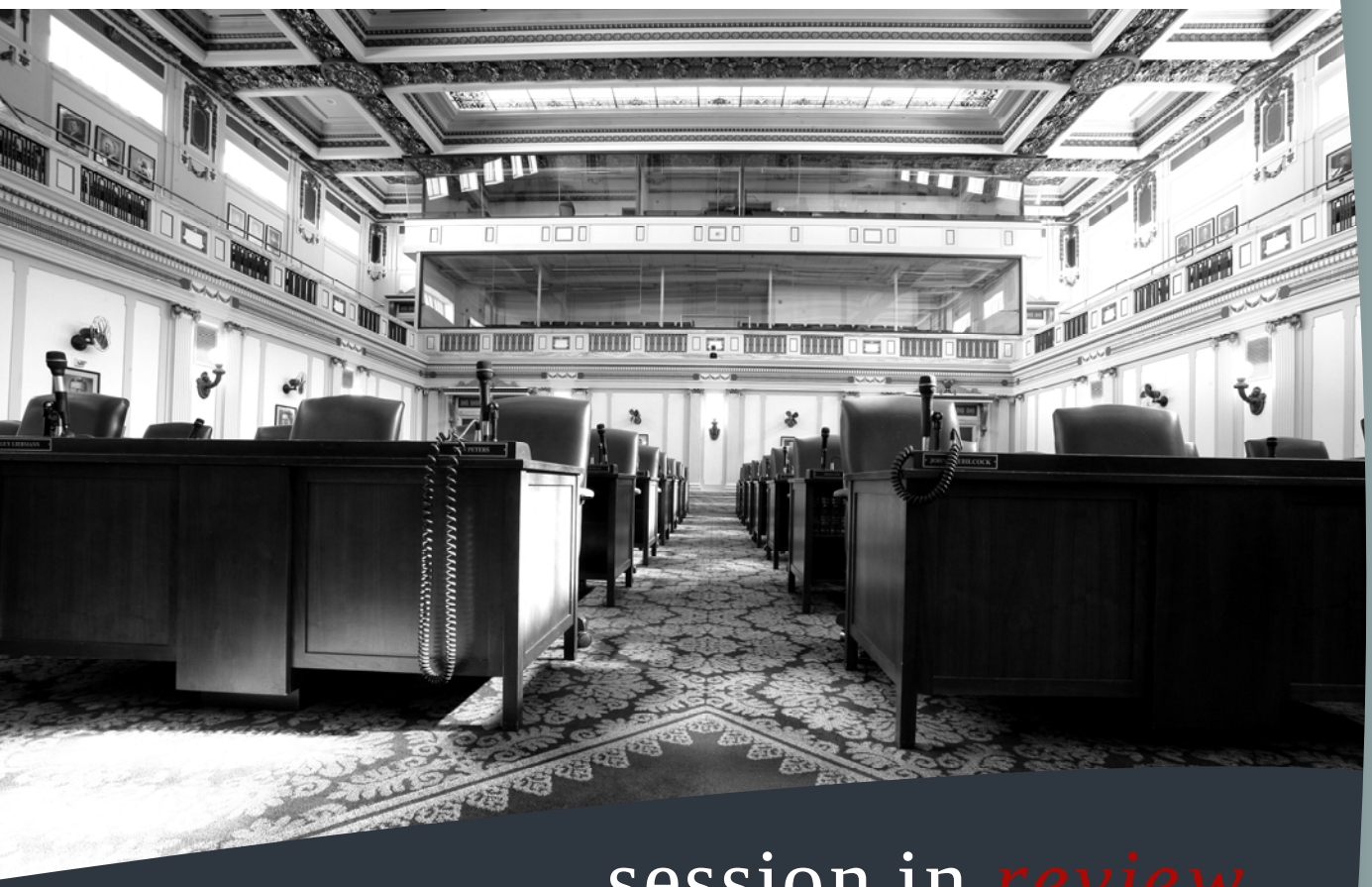

session in *review* 2011

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

Kris Steele, Speaker
Oklahoma House of Representatives

FIRST JOINT SESSION OKLAHOMA STATE LEGISLATURE
NEW CAPITAL BUILDING JAN. 18, 1907.

session in *review* 2011

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table of *contents*

AGRICULTURE and ENVIRONMENT ***7***
Agriculture *7*
Property *8*
Cervidae *9*
Hunting and Fishing Regulations *9*
Environment *11*
Water *11*
Waste *12*
Miscellaneous Environmental Legislation *12*

CORRECTIONS and PUBLIC SAFETY ***14***
Corrections *14*
Miscellaneous Corrections Legislation *15*
Public Safety *15*
Miscellaneous Public Safety *18*

CRIMINAL JUSTICE ***20***
Gun Legislation *21*
Illegal Drugs *22*
Miscellaneous Criminal Justice Legislation *22*

EDUCATION ***24***
Common Education *24*
Higher Education *31*

ENERGY and UTILITY REGULATION ***33***

FINANCIAL SERVICES and ECONOMIC DEVELOPMENT ***37***
Insurance *37*
Banking *39*
Business, Industry, and Labor *40*
Economic Development *42*

GENERAL GOVERNMENT ***44***
County and Municipal Government *44*
Counties *45*
Municipalities *46*

GENERAL GOVERNMENT (CONTINUED)
State Government 48
Government Modernization 49
Administrative Rules and Agency Oversight 53
Revenue and Taxation 54
Elections 56

HEALTH and HUMAN SERVICES **58**
Health 58
Health Care 58
Abortion 60
Health-Related Agency Operations 60
Human Services 62
Children 62
Elderly and Long-Term Care 64
Miscellaneous Human Services Legislation 65

LEGAL REFORM and THE COURTS **66**
Judiciary 66
Tort Reform and Civil Procedure 69
Tort Reform 70
Civil Procedure 70
Family Law 71
Workers' Compensation 72

MILITARY and VETERANS **73**

REDISTRICTING **75**

RETIREMENT **79**

TRANSPORTATION **81**

APPENDICES **85**
Appendix I—Legislative Production 2001-2011 85
Appendix II—Vetoes 2001-2011 87
Appendix III—Summary of 2011 Vetoes 89
Appendix IV—Appropriation History 93
Appendix V—Distribution of Appropriations by Subcommittee 95
Appendix VI—Redistricting Information and Maps 97

BILL SUBJECT INDEX **109**

INDEX of ENROLLED BILLS **129**

AGRICULTURE *and* ENVIRONMENT

AGRICULTURE

Legislators made changes in several statutes related to livestock, agriculture, property, the farmed cervidae business and wildlife regulations during the 2011 session.

Three measures affect regulation and training in fields regarding animals. **HB 1310** allows the State Board of Veterinary Medical Examiners to certify individuals as nonveterinary reproductive services technicians and sets requirements. Nonveterinary reproductive services technicians may not prescribe federal legend drugs without the order of a licensed veterinarian who has an existing client-veterinarian relationship with the customer. Technicians must keep medical records regarding the drugs for two years and have eight hours of continuing education annually. It also dictates that drugs must not be administered or prescribed without the order of a licensed veterinarian. It sets the certification fee at $200. The measure creates the Animal Technology Advisory Committee to investigate new technologies and procedures that will be considered an act of animal husbandry, the practice of veterinary medicine or prohibited.

HB 1957 requires that any new swine feeding operation established after November 1, 2011, with more than 100 animals be licensed according to the provisions of the Oklahoma Swine Feeding Operations Act. In addition, new swine feeding operations using liquid swine waste management systems and housing swine in roof-covered structures must not be within three miles of the outside boundary of a nonprofit camp or recreational site with an average annual registered attendance of at

INSIDE THIS SECTION

Agriculture 7
Property 8
Cervidae 9
Hunting and Fishing 9
Environment 11
Water 11
Waste 12
Misc. Environment 12

POINTS OF INTEREST

- Changed hunting and fishing regulations
- Amended OWRB policies and procedures

DID YOU KNOW?

The Legislature established the Oklahoma Wheat Utilization Research and Market Development Commission in 1965 to promote, market and research wheat grown in the state. The commission also focuses much of its effort on international markets. The commission's name was changed from Oklahoma Wheat Commission in 2001.

least 2,000 people. The camp must have been established prior to the swine feeding operation. For camps with an average annual attendance of 2,000 or less, the setback will be one mile from the outside boundary.

SB 92 allows operators of poultry feeding operations and waste applicators to graduate from required training through the Oklahoma Cooperative Extension Service after 19 hours of courses. They must take two hours of continuing education every three years thereafter. The measure reduces the number of duplicative courses required each year.

Two measures make changes to crop-related policies. **HB 1472** increases the voluntary fee for the Oklahoma Wheat Utilization Research and Market Development Commission to 2 cents per bushel. The commission uses funds for wheat research including educational projects, promotion and marketing.

SB 228 makes changes to the procedures for reporting damage to crops by pesticide applicators. Before filing action against applicators, those alleging damage to growing crops or plants must file a written complaint with the Department of Agriculture, Food, and Forestry within 90 days of alleged damages or prior to the time that 25 percent of the crops are harvested, whichever comes first. The party alleging damages also must allow the applicator and the applicator's representative access to the property to assess the alleged damage before crops are harvested or destroyed. The board must notify the person filing the complaint and the applicator within two days of receiving the complaint. The board also must notify in writing the person filing the complaint within seven days after the resolution of the complaint.

SB 420 specifies that Oklahoma City and Tulsa and their respective airports, the Department of Agriculture, Food, and Forestry, the United States Department of Agriculture and the United States Custom and Border Patrol will cooperate to provide import and export functions related to international and domestic livestock and livestock products.

SB 530 authorizes a person who has a lien on a domestic animal to foreclose on the lien while lawfully in possession of the animal 30 days after the lien has accrued if proper notice is given. Any person, including the holder of the lien, is authorized to purchase the animal. A person who delivers a domestic animal to a person who has a lien on that animal also may file a lien on that animal if the person with the lien does not pay for delivery services. A person who provides a service, such as feeding an animal, is authorized to have a lien on the animal if it is removed from the person's possession without consent or payment.

The measure also creates the Livestock Owner's Lien Act of 2011 which grants every livestock owner a lien on all livestock for any unpaid money from sale of the livestock by a sales agent or agreement to sell. The owner's lien attaches and is perfected immediately to all livestock and continues uninterrupted in all livestock and proceeds. The lien exists until the full amount of the sales price has been received and is not dependent on possession of livestock. Any security interest or mortgage lien of the owner's lender will attach to the livestock owner's right to the owner's lien. The measure provides that an owner's lien will expire in a year unless the owner starts court proceedings to foreclose on the lien.

Legislators made changes in several statutes related to livestock, agriculture, property, the farmed cervidae business and wildlife regulations.

Property

Three measures address regulations regarding entrance upon and the maintenance of property.

HB 1327 instructs the Forestry Division

of the Department of Agriculture, Food, and Forestry to conduct prescribed burning on public lands or at the request and expense of landowners on private lands to control Eastern Red Cedar and other invasive species. The burning reduces fuel for wildfires, improves wildlife habitat and restores the ecosystem. Division employees will be protected under the Governmental Tort Claims Act and will not be personally liable beyond the limits established in the act unless they acted negligently.

Two measures made changes to laws regulating the entrance onto another person's property. **HB 1249** removes language that allows a person to enter another's land without permission when retrieving domestic livestock or other animals. The measure is designed to assist law enforcement in prosecuting those who enter property under the guise of retrieving lost livestock and steal livestock while there. This measure also is discussed in the Criminal Justice section.

SB 828 adds surface and hunting leaseholders to the list of those who must be notified when persons are entering land that is primarily devoted to farming, ranching or forestry. The measure also increases the fine for hunting, pursuing game or discharging firearms within 440 yards of any church, schoolhouse or public place where people assemble or shooting from or across a public road, highway, highway right-of-way or railroad right-of-way. The fine increases to between $500 and $1,500. For subsequent offenses, the fine is between $1,500 and $2,500.

The measure also prohibits shooting from or across a public road, highway or railroad right-of-way onto a facility licensed pursuant to the Oklahoma Farmed Cervidae Act or a big game commercial hunting area.

Cervidae

Two other measures also make changes to the farmed cervidae business. **HB 1473** removes requirements that cervidae farms have two surrounding fences and that owners provide reasonable protection from predators. The measure also specifies that farmed cervidae be considered livestock as long as they remain in a farmed cervidae facility and changes the date that cervidae farm licenses issued by the Department of Agriculture, Food, and Forestry expire to April 1. **HB 1474** increases the fine for trespassing onto a licensed cervidae facility or a licensed commercial hunting area. The maximum fine increases from $250 to $1,500.

Hunting and Fishing Regulations

Legislators made changes to several hunting and fishing regulations. **HB 1338** changes age requirements related to hunting licenses by:

- Lowering the minimum and maximum ages at which hunters are allowed to purchase apprentice licenses to ages 8 and 30, respectively;
- Decreasing from 21 to 18 years the age that a licensed hunter must be to accompany apprentice hunters;
- Lowering from 21 to 18 years the age that a licensed hunter must be to accompany a hunter who is at least 16 years old, is hunting small game and has not completed a hunter safety course;
- Requiring that all persons under age 10, regardless of certification, when hunting big game be accompanied by a licensed hunter who is at least 18 years old; and
- Lowering from 35 to 30 the age that a person may purchase an apprentice hunting license without completing hunter education through the Oklahoma Department of Wildlife Conservation.

HB 1339 requires dealers to issue hunting and fishing licenses electronically by January 1, 2013. **HB 1347** creates the Wildlife Bail Procedure Act and sets procedures for persons arrested for violation of the Oklahoma Wildlife Conservation

DID YOU KNOW?

*The **cervidae** family includes most species of deer such as Whitetail Deer, Blacktail Deer, Mule Deer, Red Deer and Sika Deer along with similar species such as antelope, elk, moose and caribou. Farmed cervidae are raised for meat, skins or other products or as breeding stock.*

DID YOU KNOW?

Apprentice hunter:

A hunter from age 8 to 30 who has not completed a hunter education course through the Department of Wildlife Conservation and who must be accompanied by a licensed hunter who is at least 18 years old and has completed a hunter education course or is exempt. The apprentice license allows the inexperienced hunter to hunt with supervision and gain experience.

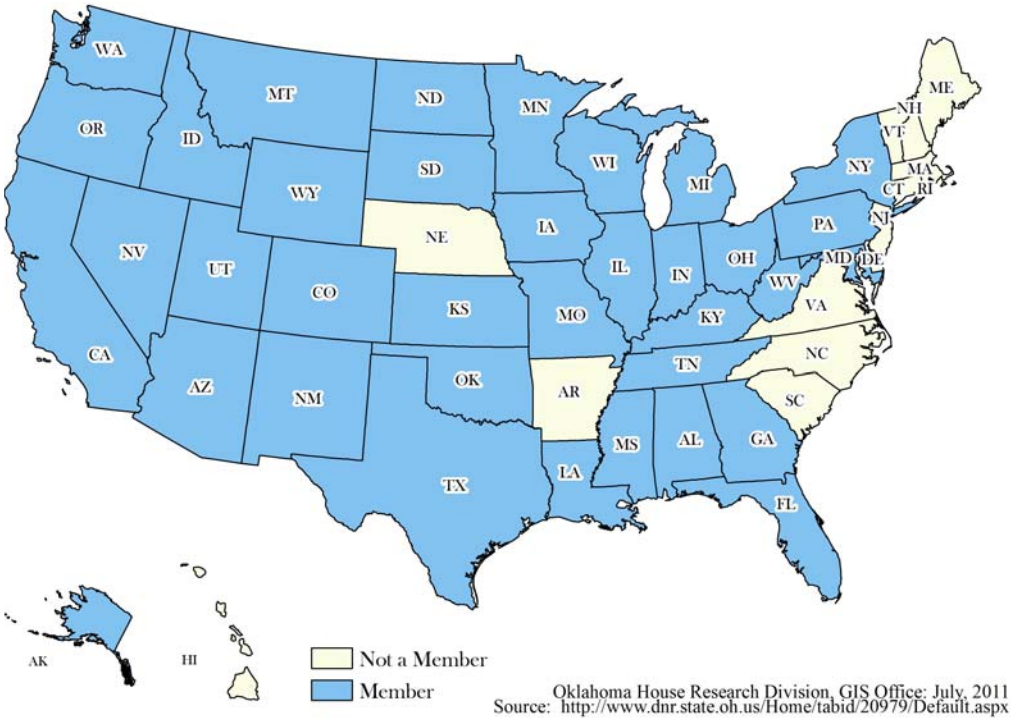
Interstate Wildlife Violator Compact:

A cooperative agreement between fish and wildlife agencies across the nation designed to keep violators from returning to their home states without appearing in court or paying fines or restitution. Since most wildlife violations are not misdemeanors and not subject to extradition it was easier for violators to avoid prosecution. The compact allows states to treat offenders as they would have been treated in the state of the offense. For example, if a license is suspended in one state, it would be suspended in all others in the compact. Oklahoma passed legislation to join the compact in 2010.

Code. When a person is charged with violating the code but is not taken into custody, the officer must prepare a written citation including the offense, information about the person and a notice to appear in court. The court appearance must be within the county where the offense is alleged to have taken place. The officer is not required to take the person into custody at the time of the alleged offense if he or she is an Oklahoma resident or the resident of a state that participates in the Interstate Wildlife Violator Compact, the officer is satisfied with the identity of the person and the person agrees in writing to appear in court. States in the compact are shown in the map above.

The officer must arrest the person if he or she is hunting or fishing with a license that has been suspended, revoked or cancelled or has been denied a license. A person charged with a violation that carries a fine of $50 or less may sign a plea of guilty or no contest and not be required to appear in court. The person also must pay the minimum bond required for the violation. Anyone charged with a violation that requires restitution must appear in court. The penalty for failing to comply with requirements to appear in court and pay fines is a misdemeanor and a fine of between $25 and $100. The court will notify the Department of Wildlife Conservation to begin procedures to forfeit or suspend licenses of those who do not comply and the person will be charged a $50 reinstatement fee. The court will waive the fee if the violation was the result of military service. Those who refuse to surrender licenses will be guilty of a misdemeanor and fined between $100 and $500.

MEMBER STATES OF THE WILDLIFE VIOLATOR COMPACT



HB 1348 requires written permission from the director of the Department of Wildlife Conservation to sell taxidermy specimens at estate sales unless they are:

- Part of the personal property of the person whose assets are being sold;
- Privately owned domesticated animals;
- Farmed cervidae or wildlife from commercial hunting areas;
- Exotic wildlife not found in the wild in the United States; or
- Native wildlife of which the trading, buying or selling is permitted by state law

The measure clarifies that the buying,

selling or trading of taxidermy specimens of migratory birds is not permitted.

ENVIRONMENT

The Legislature focused on environmental issues related to solid waste and water in addition to addressing conservation practices, hazardous materials and endangered species.

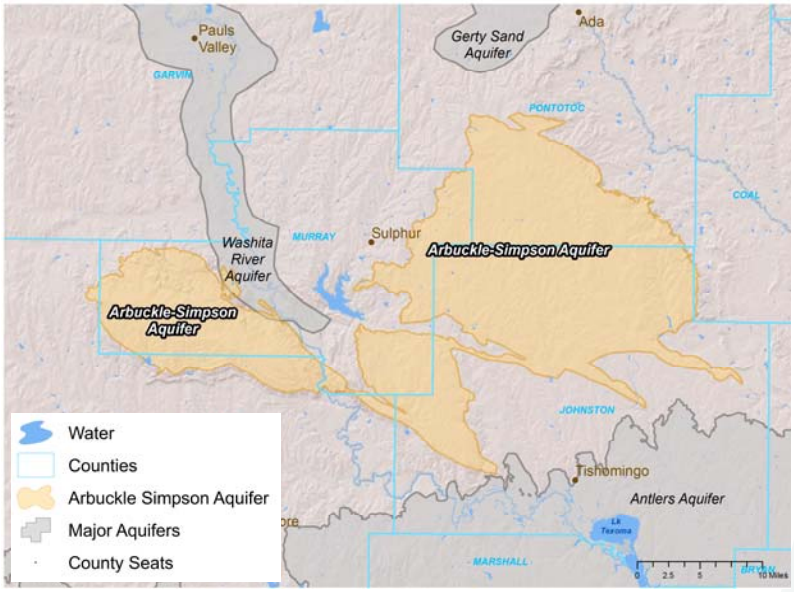
Water

Several measures amend Oklahoma Water Resources Board (OWRB) policies and procedures. **SB 597** allows OWRB regulatory authority over pit water infiltrating mining operations that are inside of a sole-source groundwater basin or subbasin, also known as an aquifer. The measure exempts existing and pending mining operations but still requires the exempted mines to develop site-specific plans and report to the OWRB on pit water accumulation and disposal. Another measure, **SB 248**, limits to $25 OWRB's annual groundwater individual permit administration fee for submitting water use reports. The measure also allows the board to assess a late fee up to $25 for annual groundwater use reports filed after the due date. **SJR 24** requires the executive directors of the Department of Environmental Quality (DEQ) and OWRB to report to the Governor, Speaker of the House and President Pro Tempore of the Senate by Jan. 1, 2013, on the progress of implementing the state policy of water reuse. The report is to describe new water reuse processes and the agencies' efforts to engage stakeholders.

Also related to water policy, **HB 1059** requires individuals serving water to the public from a water system that was constructed without a permit to apply for a permit from DEQ by a specified date. **SB 60** modifies the membership and duties of the Joint Legislative Task Force on the Grand River Dam Authority (GRDA). The measure vacates the current membership of the task force and limits future membership to five members of the House and five members of the Senate, two of which will be the House and Senate principal authors of the measure.

HB 1575 allows municipalities to establish ordinances regarding the use of gray water. The measure defines gray water as untreated household wastewater that has not come into contact with toilet water.

ARBUCKLE-SIMPSON AQUIFER –
OKLAHOMA'S ONLY SOLE-SOURCE AQUIFER



Oklahoma House Research Division, GIS Office: August 2011 Source: OWRB, SB 597

The Legislature focused on environmental issues related to solid waste and water in addition to addressing conservation practices, hazardous materials and endangered species.

DID YOU KNOW?

A sole-source subbasin or aquifer is one that has been designated by the Environmental Protection Agency as the sole or principal source of drinking water for an area. It must supply at least 50 percent of the drinking water consumed in the area overlying the aquifer with no reasonable alternative drinking water source available. The Arbuckle-Simpson Aquifer currently is the only aquifer in Oklahoma with a sensitive sole-source designation. More than 115,000 Oklahomans rely on it for drinking water.

DID YOU KNOW?

*DEQ officials estimate the fee change in **HB 1939** will result in additional revenue of $550,000 a month, with 28 percent of that revenue dedicated to the DEQ Revolving Fund to implement federally mandated air pollution control programs. The remainder will go to the Used Tire Recycling Indemnity Fund to reimburse used tire recycling facilities and provide for the cleanup of used tire sites.*

Gray water includes water from bathtubs, showers, washbasins, washing machines and untreated municipal wastewater that has been captured from municipal splash pads and water used by fire departments for cleaning equipment and vehicles.

Waste

Two measures modified aspects of the state's waste policy. **HB 1939** increases the $1 per tire waste recycling fee on tires with a rim diameter less than 17 ½ inches to a fee of $2.50 on all tires with a rim diameter of 19 ½ inches or less. The measure also requires that 28 percent of the annual amount that accrues in the Used Tire Recycling Indemnity Fund be allocated to DEQ's Revolving Fund to implement provisions related to air pollution. In addition to prohibiting a person from operating a commercial composting facility without a DEQ permit, **SB 19** requires the owner/operator of the facility to assess a $1.25 per ton fee on composting material received. It also requires the owner/operator of a solid waste landfill to maintain certain exterior and interior slopes.

A number of measures made changes to the state's environmental policies.

Miscellaneous Environment Legislation

A number of measures made changes to portions of the state's environmental policies. **HB 1308** adds electronic materials to the type of information DEQ's customer assistance program is required to disseminate to the public about complying with state and local requirements related to the use of natural resources and protection of the environment. The measure also requires the program to coordinate and facilitate public information procedures associated with permit programs and make current agency rules available to the public. Another measure, **HB 1481**, modifies the duties of DEQ and the Oklahoma Hazardous Materials Emergency Response Commission (OHMERC) related to the Oklahoma Emergency Response Act. The measure requires DEQ to provide sampling and analysis of contaminated water or soil after an incident involving the release of dangerous substances that requires protective action. It also directs DEQ to maintain a list of licensed highway remediation contractors and removes the authority of OHMERC to supervise activities of local emergency planning commissions.

SB 603 creates the nine-member Endangered Species and Economic Development Task Force to assist agencies in complying with endangered species laws. Duties of the task force include assessing the economic impact of related regulations, assisting individuals with cost-efficient strategies related to endangered species and reporting to the Governor and Legislature by Dec. 31, 2011. A related bill, **SB 740**, adds the secretary of energy to the membership of the task force.

SB 629 abolishes the Carbon Sequestration Advisory Committee and reassigns those duties to the Oklahoma Conservation Commission and its stakeholder groups. The measure updates terminology related to carbon sequestration practices and pore spaces. It requires the Oklahoma Geological Survey to assess publicly owned lands and property for carbon sequestration potential, subject to funding, and authorizes the Conservation Commission to employ attorneys or in-house counsel.

CORRECTIONS *and* PUBLIC SAFETY

CORRECTIONS

The Legislature focused its efforts on meaningful corrections reform this session by examining the types of criminals who should be imprisoned and those who can be rehabilitated through extensive community corrections programs.

Major efforts to reform the corrections system in Oklahoma culminated in the passage of **HB 2131**. One of the major provisions contained in the measure limits the role of the Governor in the parole process for nonviolent offenders. Under the new system, the Governor has 30 calendar days to review parole recommendations for nonviolent crimes and if no action is taken within 30 days, the parole is to be deemed granted. Parole recommendations for violent crimes are exempt from the 30-day requirement, and the Governor must grant or deny parole for persons convicted of a violent crime. Another reform item establishes the qualifications for eligibility to be appointed to the Pardon and Parole Board. The bill requires that future board members have a college degree and experience in the criminal justice field.

The measure also expands the number of offenders who can participate in community corrections programs. To increase the number of eligible participants, the bill modifies the definition of *eligible offender* to include offenders who have been assessed at a range other than the low range and who have been convicted of at least one prior felony offense.

Legislators also took steps to alleviate the overcrowded conditions at Oklahoma's prison facilities by expanding the use of electronic monitoring. The bill lowers from 180 days to 90 days the time which an offender must be incarcerated before being considered for electronic monitoring. Inmates serving a sentence of more than five years who have 11 or more months left on a sentence or any inmate serving a sentence of five years or less whose initial custody assessment requires placement above the minimum security level are not eligible for community placement.

The Legislature continued to examine practices that assist in the reentry of inmates

INSIDE THIS SECTION

Corrections 14
Misc. Corrections 15
Public Safety 15
Misc. Public Safety 18

POINTS OF INTEREST

- Limited Governor's role in parole process
- Expanded electronic monitoring
- Enhanced drunk driving penalties

into society. Since education level often is an indicator of how well an inmate can adjust upon release from prison, **SB 137** allows inmates additional earned credits upon the completion of higher education degrees. An inmate can obtain 200 earned credits for a bachelor's degree or 100 credits for an associate's degree.

Realizing that criminal activity often victimizes the children of persons who are incarcerated, the Legislature created the 21-member Children of Incarcerated Parents Task Force with the passage of **HB 1197**. The task force and its subcommittees must examine safety protocols, data collection, outreach and education, economic supports, research, and resource clearinghouses and review existing legislation affecting children of incarcerated parents. The task force also must issue a report by January 1, 2012, which reflects the goals, outcomes and recommendations of the seven subcommittees.

Miscellaneous Corrections Legislation

HB 1382 replaces the term *guard* with *correctional officer* within state statutes.

HB 1991 clarifies that the punishment of death will be carried out by the administration of a lethal quantity of drugs rather than specifying the type of drug to be used. The measure also provides that the identity of all persons who participate in or administer the execution process and persons who supply the drugs, medical supplies or medical equipment are to be confidential and are not subject to discovery in any civil or criminal proceedings. Additionally, the measure clarifies that the purchase of the drugs, medical supplies or equipment necessary to carry out an execution are not subject to the Central Purchasing Act.

SB 180 allows the Department of Corrections to contract with physicians and other providers of health care services, equipment and health-care-related products which are beyond the professional capabilities of the department.

SB 282 requires persons who have an out-of-state conviction for a violent or sex offense that requires registration to provide a copy of the judgment and sentence within 60 days of registration in Oklahoma.

SB 495 repeals an obsolete statute related to county commissioners contracting for the housing of inmates in adjoining counties for no more than $100 per month.

PUBLIC SAFETY

The Erin Elizabeth Swezey Act was created by **SB 529** as an attempt to reduce the number of drunk drivers operating on Oklahoma roadways. The measure requires persons subject to a court order for the installation of an ignition interlock device to submit their driver license or identification card for a replacement license that bears the words *interlock required*. The bill requires an ignition interlock be placed on an offender's motor vehicle during any modification or revocation for Class D driver license. An ignition interlock device is required on a first revocation for a period of 1 ½ years following the mandatory period of revocation if the person had a blood alcohol content of fifteen-hundredths or more. The mandatory period for an ignition interlock device increases to a period of four years on a second offense. For third and subsequent offenses, the person must have an ignition interlock device for five years. The bill limits the cost for the ignition interlock device to not more than $25 per month. The bill also requires that upon a third conviction, a person is subject to the cancellation or denial of driving privileges, an assessment of the person's degree of alcohol abuse and the continued installation of an ignition interlock device after the mandatory period of cancellation, denial or revocation.

The Legislature modified the state's social host law in **HB 1211** by providing a misdemeanor penalty of a fine of up to $500 for a person who knowingly and willfully permits any person under 21 years of age to consume alcohol or beer on property controlled by the person. A second offense within 10 years results in a misdemeanor conviction punishable by a fine of up to $1,000. A third or subsequent offense within 10 years is a felony punish-

DID YOU KNOW?

Community sentencing allows a court to impose a punishment as a condition of a deferred or suspended sentence and allows the offender to engage in programs within the community rather than be sentenced to prison. All offenders are given a level of service inventory (LSI-R) assessment to determine if they are amenable to community placement.

able by a fine of up to $2,500, imprisonment for up to five years or both fine and imprisonment. The measure also allows municipalities to enact ordinances prohibiting the sale of low-point beer to persons under 21 years of age and allows municipalities to regulate the admission of persons under 18 years of age to establishments selling low-point beer.

Legislators made numerous changes to the DUI laws of the state this session. Several changes were made by **HB 1319**, also referred to as the Mark McGee Act of 2011, which clarifies that a prosecution for child endangerment due to a child being present in a motor vehicle when the operator is under the influence of alcohol or drugs does not prohibit prosecution for DUI. The bill modifies the time period for the consideration of second and subsequent DUI offenses by establishing that the 10-year time period is from the date following the completion of any sentence or deferred judgment. The measure also increases the punishment for subsequent DUI offenses if a conviction for second degree murder or manslaughter in the first degree was contained in the first offense. A subsequent DUI conviction results in imprisonment of between five and 20 years and a fine of up to $10,000. Persons convicted of aggravated DUI will be required to have an ignition interlock device on their vehicle for 90 days for a first offense. The punishment for second and subsequent aggravated DUI also is increased by establishing that a first offense is a misdemeanor punishable by between 10 days and one year in county jail and a fine of up to $1,000. A second offense is a felony punishable by between one and five years in prison and a $2,500 fine. A second felony offense is punishable by between one and 10 years imprisonment and a fine of up to $5,000. A third or subsequent felony conviction is punishable by between one and 20 years imprisonment and a fine of up to $5,000.

The bill clarifies that any plea of guilty or nolo contendere or finding of guilt for DUI constitutes a conviction for the purpose of consideration as a prior offense. Lastly, the bill clarifies the ability of witnesses to testify in DUI cases. The bill provides that a witness is to be allowed to testify in the form of an opinion or otherwise solely on the issue of impairment, but not on the issue of specific alcohol concentration level.

Another measure aimed at protecting the public from persons under the influence of drugs or alcohol, **SB 324**, applies the same standards placed upon the motoring public to boat operators. The bill lowers the blood alcohol concentration from .10 to .08 for the determination of being under the influence while boating and provides that any person who operates a vessel in public rivers and lakes has given consent to blood or breath tests to determine alcohol concentration. Persons who refuse the blood or breath test can be fined up to $1,000.

Sex offenders also received legislative attention this session. In reaction to a situation in which numerous sex offenders were residing together in individual trailers, **SB 852** clarifies the definition of *multi-unit structure* as used to determine the dwellings in which registered sex offenders are allowed to reside. The measure defines *multi-unit structure* as a structure with multiple residential units that provide independent living facilities for living, sleeping, cooking, eating and sanitation within each unit. Manufactured homes, mobile homes, trailers and recreational vehicles that do not meet the description are not to be considered multi-unit structures. The measure further prohibits any person or entity from knowingly establishing, leasing, operating or owning any structure or portion of a structure where persons required to regis-

The Legislature focused on meaningful corrections reform by examining the types of criminals who should be imprisoned and those who can be rehabilitated through extensive community corrections programs.

DID YOU KNOW?

Blood alcohol content (BAC), *is used as a measurement of alcohol intoxication for legal or medical purposes. BAC usually is expressed as a percentage of alcohol in the blood. For instance, a BAC of 0.10 means that one tenth of one percent of a person's blood is alcohol. In Oklahoma, a driver with a BAC of 0.08 can be charged with a DUI. Aggravated DUI can be charged if the BAC of the person is 0.15 or greater.*

ter pursuant to the Sex Offenders Registration Act are allowed to reside together.

The penalty for violation is a misdemeanor, subject to a fine of up to $500, imprisonment in the county jail for up to one year or both fine and imprisonment. A second violation is a misdemeanor, punishable by a fine of up to $2,500, imprisonment in the county jail for up to one year or both fine and imprisonment. A third or subsequent violation is a felony, punishable by a fine of between $2,500 and $5,000, imprisonment for up to five years or both fine and imprisonment. The measure becomes effective July 1, 2012.

Another measure, **SB 446**, establishes that public urination must be prosecuted as an act resulting in gross injury unless the act was accompanied by another act that is sexual in nature. This prevents persons convicted of public urination from having to register as a sex offender. **HB 1507** creates Aaron's Law and requires the Department of Public Safety to revoke the driving privilege of any person convicted of reckless driving without regard for the safety of others, for failure to obey any traffic control device when the failure results in great bodily injury of another person and for failure to stop or to remain stopped for school bus loading or unloading of children. The bill increases the fine for negligent homicide from $100 to at least $1,000 and provides that the court also is to order a person convicted of negligent homicide to attend a driver improvement or defensive driving course. If the person has been convicted previously for any traffic offense in the preceding three years, the court is to double the fine.

Bomb squads within law enforcement agencies are exempt from Department of Environmental Quality radiation rules by **HB 1676**. Additionally, the bill allows troopers to work additional shifts without affecting a contractual agreement or special enforcement assignment from the statutory pay schedule. The commissioner of public safety is authorized to enter into interlocal agreements with any state education institution within the Oklahoma State System of Higher Education. These agreements are exempt from authority or oversight of the Department of Central Services. The Department of Public Safety Patrol Vehicle Revolving Fund may be used for any purpose related to the duties of the Transportation Division of the Department of Public Safety. Child passenger safety technicians operating within their scope of employment are exempt from liability. The measure also provides that the fees associated with the collection of blood, saliva or urine specimens are to be assessed as court costs upon the conviction of the offender and be remitted to the law enforcement entity which collected the specimens.

Several measures were adopted relating to peace officer certification and continuing education. **SB 567** requires the Council on Law Enforcement Education and Training (CLEET) to include eight hours of evidence-based domestic violence and stalking investigation training to the required curriculum by January 1, 2012. The training must be developed in collaboration with the Domestic Violence Fatality Review Board and be included as a part of CLEET's peace officer continuing education program. CLEET also is required to develop curriculum for the teaching of evidence-based domestic violence and stalking issues. **SB 131** requires CLEET to provide a peace officer with notice and an opportunity for a hearing pursuant to the Administrative Procedures Act when the council is considering ordering the suspension or revocation of a peace officer's certification. Another measure, **SB 157**, requires certified peace officers who have had a five-year break from service or any peace officer who CLEET has determined may present a danger to himself, herself or others, to undergo a psychological evaluation. **SB 408** provides that any person whose peace officer certification has been revoked, suspended or voluntarily surrendered for any reason, including failure to comply with mandatory education and training requirements, is required to pay a reinstatement fee of $150. **SB 416** provides criteria to be used by CLEET when approving law enforcement agencies and police departments. A related measure, **SB 263**, increases the minimum require-

ments for mandatory continuing education for licensed private investigators and security guards from 16 to 24 hours.

The Legislature, concerned that funding would not be available to conduct a future patrol academy to replace retiring troopers, adopted two measures to provide necessary funding. **SB 953** increases the driver license reinstatement fee paid to the Department of Public Safety to $50 from July 1, 2011, through June 30, 2013. Half of the fee is to be deposited in the Department of Public Safety Revolving Fund to be used to fund any future Highway Patrol Trooper Academy. **SB 954** authorizes the Department of Public Safety to collect a fee of $15 for a copy of any collision report. The department is to deposit $8 of the fee into the Department of Public Safety Revolving Fund to be used to fund any future Highway Patrol Trooper Academy. On July 1, 2013, the fees for the driver license reinstatement and the collision report return to $25 and $7, respectively.

Two measures give law enforcement agencies greater enforcement capabilities by allowing the directors to appoint special agents. **SB 895** allows the director of the Oklahoma State Bureau of Investigation to appoint up to 20 special officers with enforcement authority related to the larceny of oil field equipment. The second measure, **SB 921**, allows the director of the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) to appoint reserve special agents for drug control activities. The OBNDD special reserve agents must complete a minimum of 160 hours of training and may only perform 140 hours of work per month.

Two measures were adopted relating to the Office of the State Fire Marshal. The fire marshal is prohibited by **SB 363** from engaging in any business that may be a conflict of interest with duties of the office. Another measure, **SB 844**, creates a licensing program for outdoor display fireworks and pyrotechnic exhibitors and a certification program for individuals conducting outdoor fireworks displays in this state. The bill requires persons conducting an outdoor display to obtain a license from the Office of the State Fire Marshal. The license is valid for three years and may be renewed.

The Recreational Vehicle Franchise Act is created in **SB 902** to make it unlawful for any person, firm, association, corporation or trust to engage in business as a new recreational vehicle dealer or new recreational vehicle salesperson in this state without first obtaining a license. The measure provides conditions for dealer agreements and off-premise sales and allows the Oklahoma Motor Vehicle Commission to deny an application for a license or revoke an existing license for violations of the act.

Miscellaneous Public Safety Legislation

HB 1061 allows rear-facing, flashing red and blue lights to be displayed on vehicles or machinery operated by the Department of Transportation, the Oklahoma Turnpike Authority or any county vehicle when engaged in emergency work or on the construction or maintenance of highways. **HB 1229** clarifies that any vehicle that exceeds 12 feet in width must have an escort vehicle.

HB 1391 changes the name of the Lake Patrol Section within the Department of Public Safety to the Marine Enforcement Section and the name of the Driver License Fraud Unit to the Identity Verification Unit. The measure also allows commissioned officers who retire due to a physical disability to purchase and retain rifles or shotguns issued to the officers.

HB 1412 requires that an officer who seizes property related to liquor or gambling laws make a written report and file it with the court clerk. **HB 1520** removes the requirement that a person pay court costs upon dismissal of a citation for failure to provide proof of liability insurance coverage if insurance was in force at the time of the alleged offense.

HB 1649 places the nine positions previously transferred from the Criminal Justice Resource Center to the Oklahoma State Bureau of Investigation in the unclassified service. **HB 1672** provides that when a drug court judge enters a stay against an order by the Department of

Public Safety suspending or revoking the driving privilege of an offender, the time period set in the order by the department for the suspension or revocation must continue to run during the stay.

The Legislature approved several new license plates in **SB 200** to support or recognize organizations or causes, including:

— Ovarian Cancer Awareness;

— BMW Car Club of America;

— Deer Creek School District;

— Don't Tread On Me;

— Pancreatic Cancer Research;

— Alzheimer's Research;

— Hospice and Palliative Care; and

— Juvenile Diabetes Research.

HB 1743 creates the Nonconsensual Towing Act of 2011 and transfers the regulation of associated tow fees to the Oklahoma Corporation Commission. The measure directs the commission to establish by rule the fees and charges for wrecker services for the transportation and storage of vehicles towed without owners' consent from a roadway in this state. It also authorizes the commission to assess a fee on wrecker or tow service licensed by the Department of Public Safety and establishes a mechanism to determine the amount of the fee.

SB 38 modifies the definition of a rebodied vehicle and adds a new certificate of title for that type of vehicle. A *rebodied vehicle* is one which has been assembled using a new body or new major component which is of the identical type as the original vehicle and is licensed by the manufacturer of the original vehicle and other original, new or reconditioned parts.

SB 187 clarifies that a sheriff may accompany a reserve force deputy in the performance of all duties. **SB 325** provides a definition of *recreational off-highway vehicle* to mean a vehicle manufactured and used exclusively for off-highway use, traveling on four or more non-highway tires, having non-straddled seating and which is steered by a steering wheel.

SB 443 requires the driver license examination to include a portion on bicycle and motorcycle safety. **SB 532** provides that vehicles such as mini-trucks, which meet the legal requirements for safety equipment and are licensed to operate on public roadways, also are allowed to operate on the National System for Interstate and Defense Highways.

SB 729 clarifies the type of information required on an application for a certificate of title. The measure requires a seller to disclose whether the vehicle was damaged or recovered from theft if the vehicle is 10 years old or less. Previously, this requirement applied to vehicles seven years old or less.

SB 742 provides regulations for the operation of motor-driven utility vehicles on the streets and highways in Oklahoma.

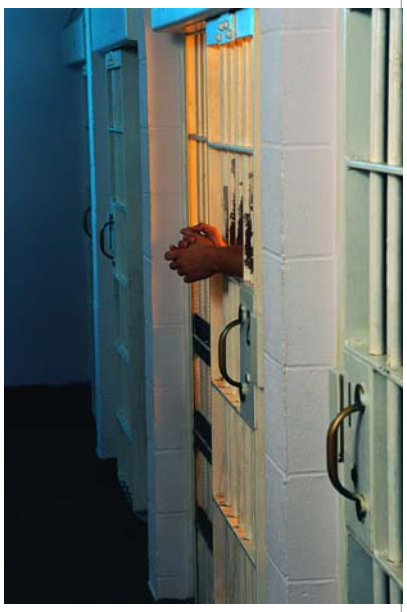
SB 857 directs the commissioner of public safety to develop a proposal for an intergovernmental cooperative agreement with all tribal governments that issue tribal license plates in order for the department to collect and maintain ownership and registration information.

The Legislature, concerned that funding would not be available to conduct a future patrol academy to replace retiring troopers, adopted two measures to provide necessary funding.

CRIMINAL JUSTICE

The Legislature continued to focus efforts to protect the public from criminal elements by improving gang intelligence information gathering, creating new felony offenses relating to domestic abuse and enhancing the gun rights of law-abiding citizens.

The Legislature also passed measures this session that will impact gang activity. **SB 923** increases the punishment from up to one year to up to five years in prison for any person convicted of encouraging, soliciting or recruiting a minor to participate in a gang. The fine increases from $1,000 to up to $5,000. The punishment for a second offense is increased from up to five years to up to 10 years in prison. The measure also creates a new felony offense for committing a gang-related offense as a condition of membership in a gang. Punishment is five years in prison in addition to any other penalty imposed for the original offense. School employees are required to report any suspected gang members to a designated school official who is to report the information to local law enforcement.



SB 952 enhances protections for victims of domestic violence by creating two new felony crimes related to domestic violence. A new felony offense of domestic assault or domestic assault and battery with a dangerous weapon is established with a punishment of imprisonment in Department of Corrections custody for up to 10 years or by imprisonment in a county jail for up to one year. The new felony crime of domestic assault and battery with a deadly weapon is created with punishment of imprisonment in the custody of the Department of Corrections not to exceed life imprisonment. Additionally, the measure adds aggravated assault and battery upon any person defending another person as an 85-percent crime. The table on the following page explains 85-percent crimes.

The measure also requires the court to order any offender to undergo counseling as a condition of a suspended sentence or probation for a conviction of domestic assault

INSIDE THIS SECTION

Gun Legislation 21
Illegal Drugs 22
Misc. Criminal Justice..... 22

POINTS OF INTEREST

- Enhanced penalties for gang involvement
- Strengthened domestic violence protections
- Further restricted synthetic drugs

and battery with a dangerous weapon or domestic assault and battery with a deadly weapon. The bill also prohibits a police officer or sheriff from releasing a person arrested for an act constituting domestic assault and battery or domestic assault and battery with a deadly weapon without appearing before a judge or court and prevents a person arrested for an act constituting domestic assault and battery or domestic assault and battery with a deadly weapon from being considered for pretrial release programs.

Another provision of the measure allows state charges to be brought if a law enforcement officer who is assaulted is employed by the federal government and increases the punishment for aggravated assault and battery upon a law enforcement officer to a term of incarceration not to exceed life in prison or a fine not to exceed $1,000 or both fine and imprisonment. If the assault results in maiming, a conviction results in punishment of not less than five years nor more than life imprisonment or a fine up to $5,000 or both fine and imprisonment. The bill modifies the crime of maiming by increasing the punishment upon conviction to a term of incarceration not to exceed life or a fine up to $1,000 or both fine and imprisonment.

Gun Legislation

Several enacted measures addressed the use of firearms, including two measures which enhanced the gun rights of Oklahoma citizens. **HB 1439** expands the right of a person to use deadly force when in fear of imminent peril of death or great bodily harm to the person's place of business. A person or owner, manager or employee of a business is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to themselves or others when using defensive force that is likely to cause death. A second measure, **HB 1652**, allows persons who are carry concealed permit holders to store their weapons in a locked vehicle while on a career technology center campus. Two additional measures allow for-

A business owner or employee is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to themselves or others when using defensive force that is likely to cause death.

85-Percent Crimes - After experimenting with truth in sentencing legislation in the late 1990s, the Legislature created a list of crimes which required the offender to serve at least 85-percent of the sentence imposed. Originally encompassing only 11 crimes, the list has now expanded to 21 crimes:

- 1st degree murder*
- 2nd degree murder
- Manslaughter
- Poisoning with intent to kill
- Shooting with intent to kill, drive-by shooting, assault, battery, assault and battery with a deadly weapon likely to produce death or great bodily harm
- Assault with intent to kill
- Conjoint robbery
- Robbery with a dangerous weapon*
- 1st degree robbery
- 1st degree rape*
- 1st degree arson*
- 1st degree burglary*
- Bombing*
- Any child sex abuse or neglect*
- Forcible sodomy*
- Child pornography*
- Child prostitution*
- Lewd molestation of a child*
- Abuse of a vulnerable adult in a nursing facility
- Aggravated drug trafficking
- Aggravated assault and battery upon any person defending another person from assault and battery

** Original 85-percent crimes*

DID YOU KNOW?

Schedule I drugs are defined as having a high potential for abuse and no accepted medical use in the United States or lacking accepted safety for use in treatment under medical supervision.

mer law enforcement employees to carry or retain their firearms upon retirement. **HB 1255** allows any United States attorney or assistant United States attorney to carry a firearm anywhere in the state of Oklahoma if the person has successfully completed an approved course of firearm training. **SB 162** allows retired district attorneys to carry a firearm anywhere in the state and allows retired district attorney investigators to retain custody and ownership of their sidearm and badge upon retirement.

SB 856 creates a new felony crime for any person who knowingly solicits, persuades, encourages or entices a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of Oklahoma or the United States. The bill also establishes a new felony crime for any person providing false information to a licensed dealer or private seller of firearms or with the intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition. Punishment for these crimes is a fine up to $5,000, imprisonment up to five years or both fine and imprisonment.

Several enacted measures addressed the use of firearms, including two measures which enhanced the gun rights of Oklahoma citizens.

Illegal Drugs

Several measures enacted this session focused on drug crimes. **SB 919** provides additional criminal penalties for a person possessing, selling or giving away any quantity of dangerous drugs not listed as a scheduled drug when the drug was obtained by a forged prescription. In an effort to combat the increasing use of synthetic drugs being sold or offered as herbal products, the bill establishes that any quantity of a synthetic chemical compound that is a cannabinoid receptor and mimics the pharmacological effect of naturally occurring substances is considered a Schedule I drug. The bill also transfers responsibility for the destruction of seized or surrendered drugs from the Oklahoma State Bureau of Investigation (OSBI) to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Another measure, **HB 1798**, creates a new felony with a punishment of up to life in prison for the manufacture or attempt to manufacture any controlled dangerous substance by cooking, burning or extracting and converting marijuana or marijuana oil into hashish, hashish oil or hashish powder.

SB 923 increases the punishment from up to one year to up to five years in prison for any person convicted of encouraging, soliciting or recruiting a minor to participate in a gang. The fine also is increased from $1,000 to not more than $5,000. A second offense is increased from up to five years to up to 10 years in prison. It also creates a new felony offense for committing a gang-related offense as a condition of membership in a gang. Punishment is five years in prison in addition to any other penalty imposed. The measure requires school employees to report suspected gang members to a designated school official who is required to report the information to local law enforcement.

Miscellaneous Criminal Justice Legislation

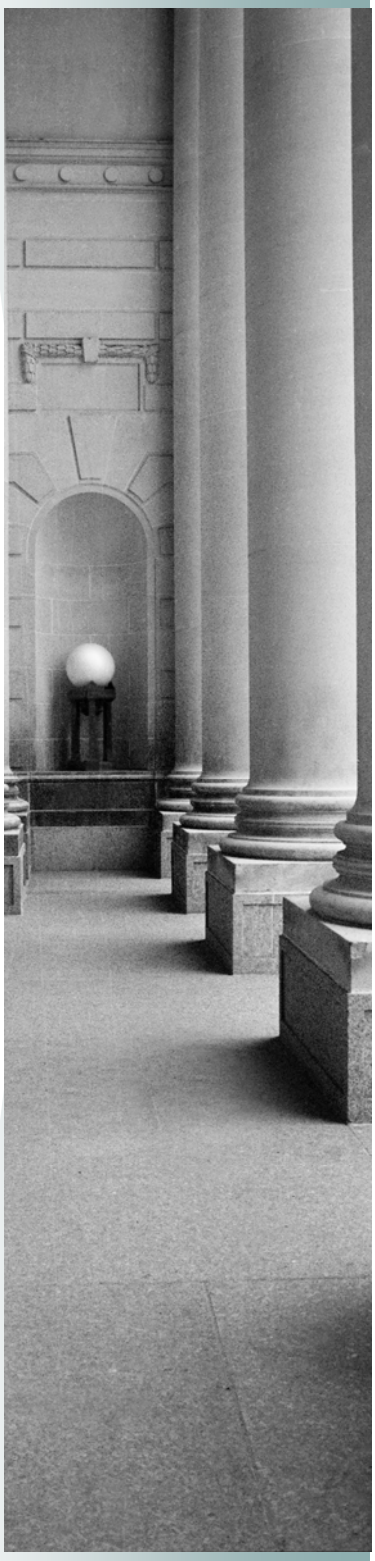
HB 1249 clarifies the retrieval of domestic livestock or other animals on another's land as related to trespass violations. This measure also is discussed in the Agriculture section.

HB 1800 allows the director of the OSBI

to release confidential information regarding the status of a pending investigation for the purpose of advising crime victims or family representatives of homicide victims. The measure also adds definitions pursuant to the Forensic Laboratory Accreditation Act.

SB 179 clarifies that cigars sold in glass tube containers by retailers do not fall into the category of items that are prohibited from sale. In an effort to restrict the sale of items that were used to consume illegal drugs, the Legislature banned the sale of types of glass tubes by retailers in 2010.

SB 285 creates a new felony for willfully and knowingly entering a restricted area to engage in violence, disorderly or disruptive conduct or where state officials are being provided protection by the Department of Public Safety. The penalty is a fine of $1,000 or imprisonment for up to 10 years.



EDUCATION

COMMON EDUCATION

Legislators concentrated much of their attention on education reforms to help students develop better reading and math skills in the early grades, offer parents more choices and give administrators more flexibility. In addition, legislators made efforts to improve financial situation of school districts.

In an effort to end the practice of social promotion, **SB 346** prohibits those third-grade students lacking necessary reading skills from being promoted to the fourth grade. Social promotion limitations will begin with students entering the first grade in the 2011-12 school year. Those students will only be promoted to the fourth grade if they score above the unsatisfactory level in the reading portion of the third-grade criterion-referenced test. Districts must provide intensive reading instruction, including summer programs, to students with lower reading scores in kindergarten through third grade. Third-grade students who do not pass to the fourth grade also must receive additional reading instruction and remediation through an altered instruction day. School districts must provide a process for midyear promotion to fourth grade if students are deemed ready. The law also provides that a student may be promoted even if they do not score above unsatisfactory on the reading test, for reasons such as students who have limited English proficiency and have had less than two years of instruction in an English Language Learner program, students with disabilities and students who demonstrate mastery through alternative assessments or portfolios. Students will not be retained more than two years, and teachers may request that a student be promoted based upon the record of the student. Oklahoma's law is modeled after a similar law in Florida that passed in 1999 and has improved test scores.

Also related to reading, **HB 1269** requires teachers to use the five elements of reading while teaching students to read. The goal is to help students receive improved reading instruction using the five elements – phonemic awareness, phonics, reading fluency, vocabulary and comprehension.

HB 1918 turns the focus to math by requiring that

DID YOU KNOW?

The Five Elements of Reading include:

1. Phonemic awareness – awareness of the individual sounds in words. Students must grasp that letters represent sounds to read.

2. Phonics – connecting those sounds with letters or groups of letters in print to make words

3. Reading fluency – ability to read accurately and quickly using the correct expression and meaning. This helps increase comprehension because the reader can concentrate on the story rather than words.

4. Vocabulary

5. Comprehension

INSIDE THIS SECTION

Common Education 24
Higher Education 31

POINTS OF INTEREST

- Ended the practice of social promotion
- Required schools to be graded on performance
- Altered State Board of Education membership and authority

the Oklahoma Commission for Teacher Preparation establish a math professional development program for elementary school teachers, contingent upon available funding. The program will be for teachers licensed prior to July 1, 2001, who are teaching kindergarten through third grade. The training will focus on those teachers because they were certified prior to the change in math education requirements for undergraduates seeking degrees in early elementary education at Oklahoma universities. The professional development must be scientifically research-based, meet state law requirements for professional development and address content skill and methodology and may contain a technology component.

scored in the lowest 25th percentile of the state in the previous school year, without revealing students' identities.

School grades will be based 33 percent upon test scores, 17 percent upon student learning gains and 17 percent on improvement in the lowest 25th percentile of students in reading and mathematics on state tests. The remaining 33 percent of a school's grade will include factors such as graduation rate, participation in Advanced Placement courses and concurrent enrollment, ACT and SAT scores and graduation rate of students who scored limited knowledge or unsatisfactory on the eighth-grade state tests in math and reading. Schools that do not have enough students to meet the minimum sample size necessary will not receive grades. A school site where students are not tested because they are in grades kindergarten through three will receive the grade of the school those students will feed into.

DID YOU KNOW?

Phonics vs. Phonemic Awareness

Phonemic awareness is auditory and does not involve words in print while phonics is the connection of those sounds to letters.

Legislators concentrated on reforms to help students develop better reading and math skills in the early grades, offer parents more choices and give administrators more flexibility.

In addition, **HB 1917** allows school districts to use remediation funds for intervention purposes. *Remediation* is defined as supplemental instruction provided to students who scored *unsatisfactory* or *limited knowledge* on state tests. *Intervention* is defined as supplemental instruction provided to students in grades six through 12 prior to administration of a criterion-referenced test or end-of-instruction test who are at risk of scoring *unsatisfactory* or *limited knowledge*.

To encourage transparency and improvement in schools, **HB 1456** requires that the State Board of Education give schools performance-based letter grades of A, B, C, D or F and provide that information to parents. The State Board of Education must prepare annual reports showing the letter grades of school districts and school sites and also must show results of the Oklahoma School Testing Program describing student, school district and school site achievement. This report also must include the median scores of students who

NEW CALCULATIONS FOR GRADUATION RATES

$$\frac{\text{Number graduating in 4 years}}{\text{Number entering 9th grade 4 years before*}} = \text{4-year adjusted cohort graduation rate}$$

$$\frac{\text{Number graduating in 4 or 5 years}}{\text{Number in cohort of extended period*}} = \text{Extended-year adjusted cohort graduation rate}$$

**adjusted for transfers, deceased and those leaving the country*

In an effort to obtain more accurate graduation statistics and to improve graduation rates, **SB 2** instructs the State Board of Education to calculate a school's graduation rate by using a four-year adjusted cohort and an extended-year adjusted cohort. The four-year adjusted cohort graduation rate is the number of

DID YOU KNOW?

*To encourage transparency and improvement, **HB 1456** requires the State Board of Education to give schools performance-based letter grades:*

***A** = making excellent progress*

***B** = making above average progress*

***C** = making satisfactory progress*

***D** = making less than satisfactory progress*

***F** = failing to make adequate progress*

students who graduate in four years divided by the number of students who entered high school four years earlier adjusted for transfers in and out of the school district, those who leave the country and deceased students. The extended-year adjusted cohort rate is the number of students who graduate in four or five years divided by the number of students who form the adjusted cohort for the four-year graduation rate adjusted for transfers, those who leave the country and deceased students. The illustration on the previous page demonstrates the calculation.

The measure also instructs the State Board of Education to adopt graduation rate growth targets with the goal of working toward 100 percent. Districts meeting or exceeding expected growth targets will receive recognition. Districts and schools that fail to meet growth targets must submit an improvement plan to local boards of education and participate in technical assistance and training through the State Department of Education, contingent upon funding.

A measure related to student accountability, **HB 1680**, requires that all of a student's scores on end-of-instruction tests show on the student's transcripts. Previously, transcripts only showed scores of proficient and above.

One measure makes changes to the process of teacher termination in an effort to help administrators streamline the process of dismissing underperforming teachers and avoid the expense of court cases. **HB 1380** repeals the section of law that gives teachers the right to trial de novo. Trial de novo allows teachers a new trial in district court after their local board votes to terminate them. The measure also requires districts to follow the same termination procedure for career and probationary teachers by removing the pretermination hearing for career teachers. A pretermination hearing is an informal hearing before the board of education where the career teacher can respond to the recommendation for termination before any formal action is taken. Now, both types of teachers will have one formal hearing before the board of education which will determine whether to terminate the teacher.

SB 206 establishes the P-20 Council Task Force to study the feasibility and value of a structure of a P-20 system or educational partnership that would provide a seamless education system from early childhood to postsecondary or career technology education in order to maximize the performance of students through all levels of education. Through the system, schools could share data on students from preschool to graduate school to help make improvements. The nine-member task force must make a report by December 31, 2011, to the President Pro Tempore of the Senate, the Speaker of the House and the Governor.

Two measures made changes to the State Department of Education and the State Board of Education. **HB 2139** gives the state superintendent of public instruction more flexibility in overseeing the State Department of Education. As a result of the measure, the superintendent has the right to oversee daily operation of the State Department of Education and hire staff without approval from the State Board of Education. The board maintains supervision of the public school system of Oklahoma. The superintendent must prepare a department budget to submit to the Governor. Previously, the board established policies for the administration of the State Department of Education and the public school system. The board also had control over personnel appointments and salaries for the department.

A number of bills directed more funds toward classroom expenses.

DID YOU KNOW?

Probationary teacher – *completed fewer than three consecutive complete school years under written contract in one school district.*

Career teacher – *completed three or more years under the same conditions.*

Additionally, **SB 435** alters the membership of the State Board of Education by directing the Governor to appoint one member from each congressional district

and one member from the state at-large, subject to confirmation by the State Senate during the next legislative session. The superintendent of public instruction will be the chairperson of the seven-member board. Terms will be for four years, and members will serve at the pleasure of the Governor, meaning each new governor can remove board members and make new appointments.

Another focus for legislators was the financial situation of schools. A number of bills directed more funds toward classroom expenses. **HB 1372** adds staff for elementary superintendents and assistant superintendents to the positions that count as administrative expenditures, thus making them subject to the cap on the amount of money districts can spend on administration. Previously, only salaries of superintendents' staff members were considered administrative expenses. **SB 664** lowers that cap on school district administrative expenditures. The cap varies according to the average daily membership of school districts, as follows:

- Districts with more than 1,500 average daily memberships in the previous school year must not spend more than 5 percent of total expenditures on administration;
- Any school district with more than 500 average daily memberships but not more than 1,500 will be capped at 7 percent of total expenditures; and
- Districts with 500 average daily memberships or less will be capped at 8 percent of total expenditures for administrative expenses.

The percentages were 6 percent, 8 percent and 10 percent, respectively. Legal expenses do not count toward the cap. The measure also clarifies that salaries for immediate staff of the superintendent, elementary superintendent or assistant superintendent are considered administrative expenditures. A district may consider up to 40 percent of a superintendent's salary as a nonadministrative expense if the superintendent performs nonadministrative duties of a principal, counselor, library media specialist or teacher.

SB 536 forms the Task Force on Creating Administrative Efficiencies to study ways to reduce spending on administration in school districts. The task force, created until November 30, 2011, will work to improve efficiency in school districts and reduce duplicative overhead costs and will submit a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House.

HB 2115 expands the School Consolidation Assistance Fund to allow districts to receive funds when sharing a superintendent. Assistance from the fund may be up to 50 percent of the salary of the superintendent for up to three consecutive years. Districts may not receive more than $150,000 over the three-year period. School districts intending to share a superintendent must notify the State Board of Education by June 30 of the year preceding the school year in which the mutual contract will be effective. The measure also removes language that allocations from the fund to consolidating school districts must not be less than $400,000.

Legislators passed **SB 260** to delay the requirement for full-day kindergarten to allow districts to continue to use federal Title I money for kindergarten. Title I money is given to schools based upon the number of lower-income students and schools must use the funds to provide programs to raise the performance of low-achieving students. Some districts use funds to help pay costs associated with providing kindergarten classes since those students could benefit from kindergarten, including kindergarten classes that go more than half a school day. Districts will be required to provide full-day kindergarten starting in the 2013-14 school year rather than the 2011-12 school year.

SB 278 gives districts more flexibility in purchasing textbooks by removing the cap on the amount of textbook allocations from the state that school districts may spend on items not on the list of materials prepared by the State Textbook Committee. Previously, school districts were allowed to spend 20 percent of those funds on supplementary textbooks and other instructional materials. The measure also is discussed with other charter school measures later in this section.

HB 1374 allows rather than requires the State Textbook Committee to suspend the selection process of textbooks and extends by at least two years the six-year adoption period of textbooks on the state adopted list. This bill amends changes made during the 2010 legislative session that delayed the selection process by two years. Some district administrators were concerned because if the textbook adoption process was delayed for two years, there was no guarantee that textbook companies would provide supplemental materials such as workbooks for the price that the State Textbook Committee negotiated if contracts were allowed to expire.

Another measure, **SB 275**, allows federal grant money applied for on behalf of a school district to be disbursed directly to an interlocal cooperative with the consent of the school districts in the cooperative. This removes the need for one school district or the State Department of Education to administer the funds.

Of the four measures that modified the requirement of teacher and substitute national criminal history background checks, three were designed to lower the cost to substitutes who paid for multiple checks a year to teach in different districts. **SB 59** allows a full-time teacher employed in the last five years to be employed as a substitute in another district without a new national criminal history background check if the teacher provides to the new district a copy of the background check from the last five years. The teacher also must supply a letter from the school district in which he or she was previously employed which states that the teacher left in good standing. **SB 252** allows a board of education to not require a background check for a person seeking employment as a substitute teacher if the person was employed by the school district in the previous year. The measure also provides that any person applying for employment as a substitute in more than one district will only be required to have one background check, which, upon the person's request, must be sent to any other district in which the person is applying to substitute teach. **HB 1418** allows school districts to choose whether to require a background check from a prospective substitute teacher employed in the school district in the last year. It allows districts to temporarily hire people as prospective employees for up to 60 days pending the outcome of background checks. The fourth measure, **SB 12**, exempts career technology center employees from background check requirements when hired part-time or on a temporary basis to instruct adult students.

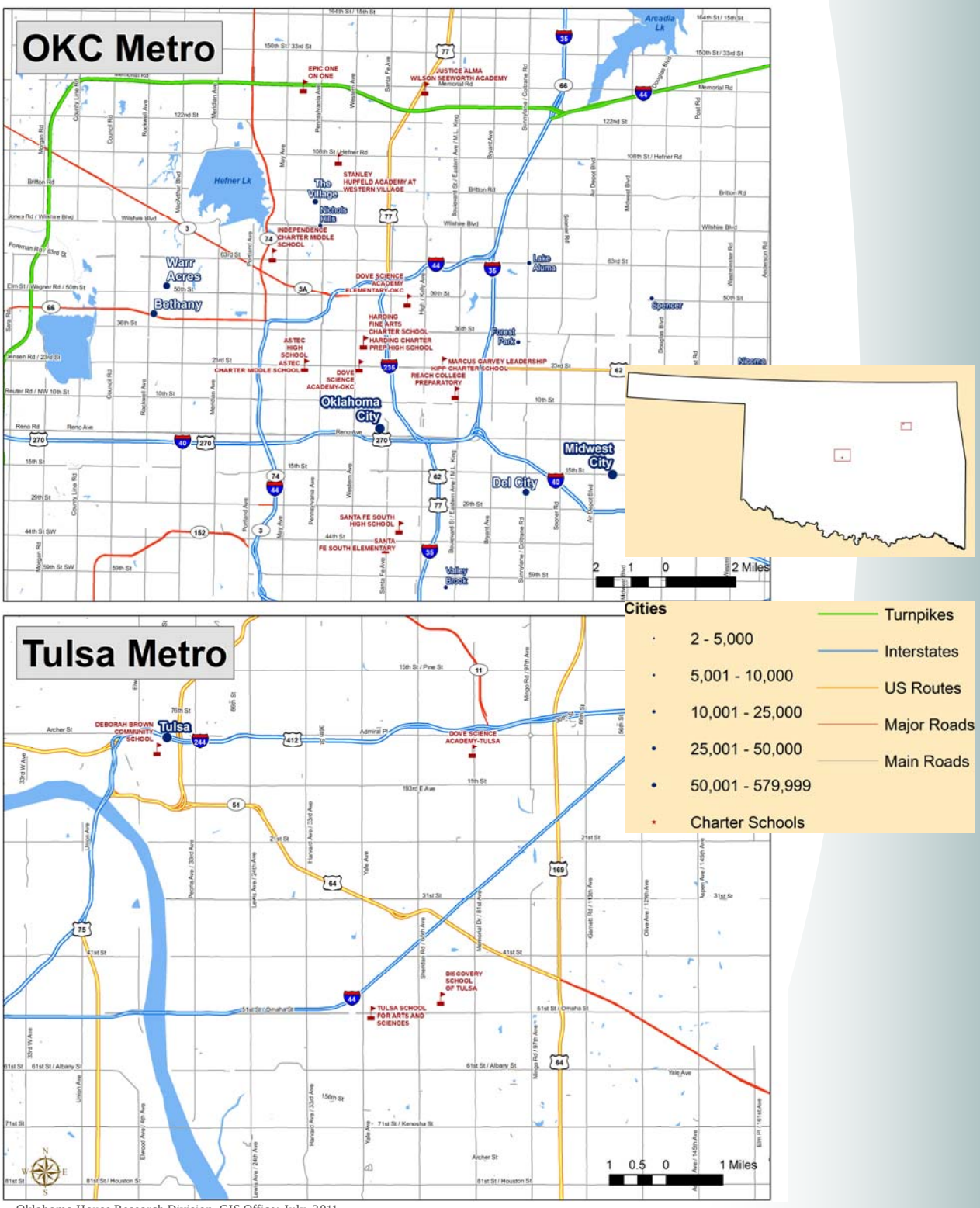
Three measures made changes for charter schools. **SB 278** allows contractors with the Office of Juvenile Affairs to submit an application to start a charter school. The State Board of Education will be the sponsor for any charter school started by an Office of Juvenile Affairs contractor to serve students in the agency's custody. The measure increases to two the number of charter schools the Office of Juvenile Affairs or a contractor can start between July 1, 2010, and July 1, 2016. **SB 256** requires that charter schools pay the same rate as government agencies when

leasing properties. **SB 445** clarifies that students who reside in a school district where a charter school is located are not required to obtain a transfer to attend the charter school in the school district of residence. The map below shows Oklahoma's charter schools.

Two measures focused on teacher quality and certification. **HB 1267** changes the name of the Oklahoma Race to the Top Commission to the Teacher and Leader

OKLAHOMA CHARTER SCHOOLS

2011-2012 School Year



Oklahoma House Research Division, GIS Office: July, 2011

DID YOU KNOW?

Legislators established the Lindsey Nicole Henry Scholarship program in the 2010 session to provide scholarships to private schools for students with disabilities who have individualized education programs. The scholarships come from the state aid public schools would have received to educate those students. Students must select private schools from a State Board of Education approved list and be enrolled in public school at the time of the request.

Effectiveness Commission. The commission will provide oversight and advise the State Board of Education on the development and implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System, created during the 2010 session. **HB 1274** allows any special education teacher certified through a teacher preparation program to be certified in early childhood or elementary education by passing the certification exams in those subject areas. It also allows teachers certified through teacher preparation programs to become certified in special education with the passage of the special education certification test.

Two measures are designed to provide scholarships and grants to students and school districts. **SB 969** creates the Oklahoma Equal Opportunity Education Scholarship Act which allows tax credits for those contributing to organizations granting scholarships or eligible educational improvement grant organizations. The tax credit will be equal to 50 percent of the total contributions made during the year but must not exceed $1,000 for a single person, $2,000 for joint filers and $100,000 for businesses. Education organizations that do not use at least 90 percent of the money collected for scholarships will not be allowed to accept additional contributions after 2013. The percentage of scholarships given to lower income students must be equal to or greater than the percentage of low-income eligible students in the state. This measure also is discussed in the General Government—Revenue and Taxation section.

HB 1852 allows contributions to the Public School Classroom Support Revolving Fund which will be used for grants to teachers. Through the program, people and companies can make contributions from tax refunds or by submitting a payment. The State Board of Education will award grants annually to classroom teachers for supplies, materials or equipment. The board will establish criteria for the grants and a process for submission of applications. Applications must be considered statewide on a competitive basis.

Also in the area of student scholarships, **HB 1744** made changes to the Lindsey Nicole Henry Scholarships for Students with Disabilities Program, which was established during the 2010 session.

The measure establishes a procedure to verify that private schools are complying with the law and to remove them from the list of allowable private schools, if necessary, and transfers oversight of the program to the State Department of Education from the school districts. In addition, the measure creates the Special Education Statewide Cooperative Task Force to develop a plan to provide special education services through a statewide special education cooperative.

Two measures made changes in the area of online education. **SB 141** requires that the funding school districts receive for students enrolled in online classes provided through the district or a vendor working for the district must be based upon the average daily membership of the first nine weeks of the current school year. Previously, funding was based upon the average daily membership of the preceding school year or the first nine weeks, whichever was greater. The measure is designed to tie funding to the most recent enrollment numbers and prohibit districts from receiving funding based upon numbers that may have decreased since the previous year. The second measure, **SB 280**, focuses on guidelines for supplemental online courses. The measure removes the need for districts to form an individualized learning plan for students taking online courses, the requirement for participation in state assessments and need for weekly telephone calls between

Higher education measures focused on the Oklahoma Higher Learning Access Program (OHLAP), student athletes and access for professional organizations to higher education students.

teachers and students and monthly telephone calls between parents and teachers. Additionally, student participation in extracurricular activities will be in accordance with school district eligibility rules and the rules of a private organization or association which provides coordination of interscholastic activities.

SB 10 exempts county treasurers who also serve as school district treasurers from the training requirements of school district treasurers. Previously, statute required school district treasurers to complete at least 12 hours of instruction in school finance laws, accounting, ethics and duties of a school district treasurer. School district treasurers also must complete 12 hours of continuing education every three years. The measure is designed to stop the duplication of training for those serving as both county treasurers and school district treasurers.

HB 1460 changes the internet service data transfer rate from 56 kbps to 1.5 Mbps for public school buildings and public libraries utilizing the Corporation Commission's Universal Service Fund for internet service.

HIGHER EDUCATION

In the area of higher education, measures focused on the Oklahoma Higher Learning Access Program (OHLAP), access for professional organizations to higher education students and student athletes.

Several measures made changes to OHLAP affecting higher education institutions and students participating in the program in anticipation of enrolling in college. Two of the measures concentrate on students' eligibility for the program and retention of funds, while one provides access to the program for children of deceased members of the military.

Because of **HB 1421**, students who do not do well academically in their college courses may not continue to receive their OHLAP award. The measure requires that to retain eligibility for the program, students enrolled in programs of higher learning must meet the same academic progress requirements as those required for eligibility for federal Title IV financial aid programs. The standard will become effective in the 2012-13 school year. **SB 610** delays for two years the requirement that to retain eligibility, college students must achieve a minimum grade point average of 2.0 on a 4.0 scale for courses taken through the student's sophomore year and a 2.5 grade point average on courses taken during the junior year and thereafter. The provision will apply only to students who received funds prior to the 2012-13 school year rather than the 2010-11 school year. It also specifies that the federal adjusted gross income of a student's parents will be used to determine a student's eligibility at the time the student begins postsecondary education and removes language that stated income from taxable and nontaxable sources would be used to determine eligibility.

HB 1343 allows a student to receive tuition funds through OHLAP if the student is a child of any person killed after January 1, 2000, in the line of duty in any branch of the United States Armed Forces or who died after January 1, 2000, as a result of any injury sustained while in the line of duty. The deceased military member must have filed an Oklahoma income tax return for the year prior to death and the student must be a resident of the state or be enrolled in a school district in the state. The student must enroll in an institution within the Oklahoma State System of Higher Education prior to turning 21 and must satisfy admission standards for first-time-entering students. Students must enroll in an institution within the Oklahoma State System of Higher Education, a postsecondary vocational-technical program approved for a cooperative program with the Oklahoma State System of

Higher Education or an Oklahoma private institution of higher learning. Students who do not enroll until after they are 21 because of active duty military service will still be eligible.

Another higher education measure, **HB 1854**, recommends that the Oklahoma State Regents for Higher Education adopt a policy requiring institutions to provide equal access to students for statewide professional educators' associations. Access will include setting up informational tables at institutions or student meetings, speaking at student meetings, distributing information in mail boxes or through the email system of the institution, using institution meeting rooms during non-working hours, posting information on bulletin boards and using printing services of institutions.

SB 426 permits the governing body of a technology center to delegate approval of public construction contract change orders up to $40,000 or 10 percent of the contract, whichever is less, to the technology center or their designee.

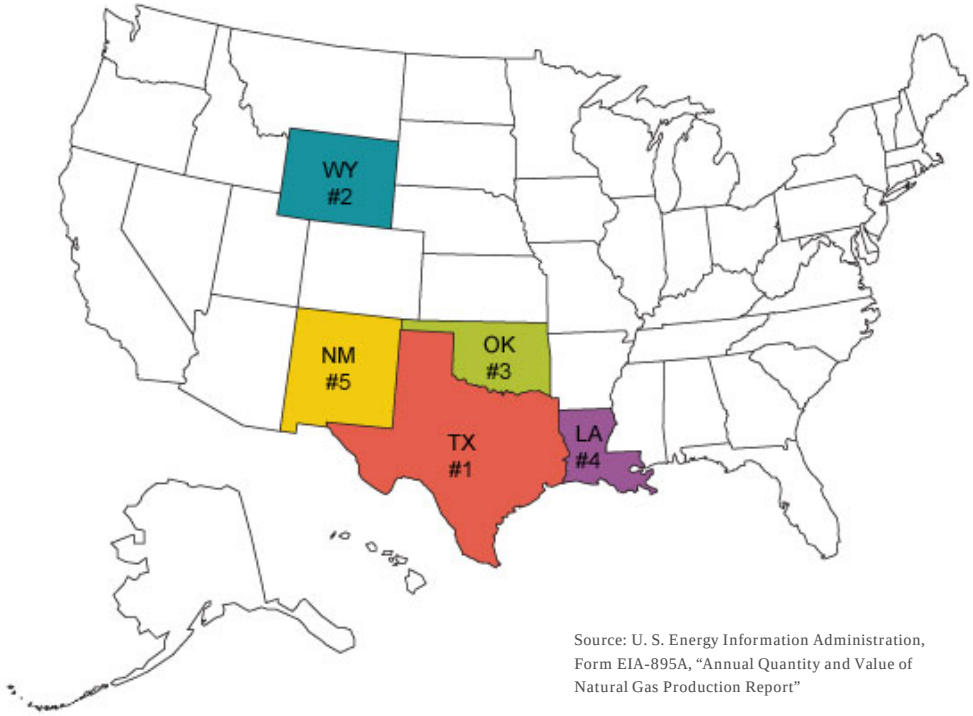
Designed to help protect student athletes, **HB 1586** defines *agency contract* to include an agreement for current or future representation in which a student athlete authorizes a person to assess and plan for his or her financial future as it might relate to a professional career in athletics. It also further defines *athlete agent* as someone who contributes a causal nexus to a student-athlete becoming the signator to an agency contract, although this definition excludes certain relatives of the student athlete unless the relative acts on behalf of an athlete agent in exchange for compensation, gift or reward or promise of compensation, gift or reward from or on behalf of an athlete agent.

HB 1586 also authorizes the attorney general to issue subpoenas for any material relevant to the administration of the Uniform Athlete Agents Act. Any athlete agent submitting for registration must submit to the secretary of state a surety bond in the penal sum of $250,000 conditioned upon the agent not violating any provisions in law. An agent will not receive continued registration without the surety bond. The amendment authorizes the attorney general or a district attorney to prosecute and bring action to recover damages, expenses, restitution, disgorgement of all compensation, consideration, gifts or profits and penalties resulting in violations to the act. The measure also changes the fine for misdemeanor violations from between $1,000 and $10,000 to between $10,000 and $250,000. A felony violation will be subject to a fine of between $50,000 and $500,000 or imprisonment of up to three years. Half of all fines collected will be deposited in the Attorney General's Law Enforcement Revolving Fund.

ENERGY *and* UTILITY REGULATION

The Legislature passed several bills this year that involved modernizing state statutes to reflect new, growing industries and technological innovations. **HB 1821** creates the Exploration Rights Act of 2011 to try to mitigate potential conflicts between the wind, oil and natural gas industries that rely upon the reasonable use of the surface estate.

TOP NATURAL GAS PRODUCING STATES (2009)



Source: U. S. Energy Information Administration, Form EIA-895A, "Annual Quantity and Value of Natural Gas Production Report"

The measure outlines mineral owner rights with regard to the surface estate, stipulates that certain parties may not unreasonably interfere with the mineral owner's right to make reasonable use of the surface estate and states that mineral estates are not to be

INSIDE THIS SECTION

Energy & Utility Regulation 33

POINTS OF INTEREST

- Outlined mineral owner rights with regard to surface estate
- Modernized laws to incorporate technological innovations
- Lowered tax levy on CNG
- Protected consumer information from smart meters

DID YOU KNOW?

The term pooling is the bringing together of small tracts of land or fractional mineral interests over a producing reservoir for the purpose of drilling an oil or gas well. Pooling is usually associated with collecting a large enough tract to meet well-spacing regulations.

Unitization refers to the collection of producing wells over a reservoir for joint operations such as enhanced recovery techniques. Unitization is usually carried out after primary production has begun to fall off substantially in order to permit efficient secondary-recovery operations. It also is done to comply with well-spacing requirements established by state law or regulation. Pooling, by contrast, is usually associated with drilling a single well and operating that well by primary-production techniques.

Source: Black's Law Dictionary 1279 (9th ed. 2009)

subject to eminent domain proceedings. For wind energy facilities constructed on or after November 1, 2011, the developer will be required to provide written notice to mineral lessees on land targeted for construction of a wind energy facility at least 30 days before the start of construction.

Known as the 2011 Shale Reservoir Development Act, **HB 1909** modifies the regulation of horizontal drilling in shale reservoirs to harmonize Oklahoma laws with innovations in technology that have developed in the oil and gas industry. The act outlines the jurisdiction of the Oklahoma Corporation Commission with regard to multiunit horizontal wells and horizontal well unitizations.

The commission is authorized to allow multiunit horizontal wells under certain conditions, and may unitize a shale reservoir for the drilling of horizontal wells under limited conditions. The act addresses provisions related to multiunit horizontal well ownership, allocation of costs and comingled production and proceeds, as well as details of the application, notice and retained jurisdiction by the commission. The act stipulates the prerequisites for unitization of shale reservoirs, and the size of a unit. It also provides for ownership of oil and gas rights within the unit and details what must be included in the plan of development.

Additionally, the act stipulates consent by owners and specifies timing related to the notice of hearing. Details related to pooling of a unit, including the effect on existing spacing units and pooling orders, are covered by the act, as are provisions for payment of proceeds, participation by the Commissioners of the Land Office and retained jurisdiction by the commission. New language added by HB 1909 states that acreage to be embraced within each unit may include acreage from more than one governmental section. The measure also modifies provisions for exceeding certain acreage limitations. Amendatory language also authorizes the commission to increase the size or modify the shape of the well-spacing units.

Additionally, **HB 1079** establishes the Electric Usage Data Protection Act to protect the confidentiality of consumer information gathered by smart meters used by electric utility companies in Oklahoma. The bill establishes requirements related to access to and maintenance of the confidentiality of customer information and stipulates provisions under which information may be disclosed without customer consent.

HB 1815 reduces the motor fuel tax levy for compressed natural gas (CNG) from 16 cents per gallon (or gasoline gallon equivalent) to 13 cents per gallon effective Jan. 1, 2015. It establishes an equivalent tax of 5 cents per gasoline gallon from Jan. 1, 2012, through Dec. 31, 2014 to allow for the development of CNG distribution systems. The bill also requires each person who engages in the selling of motor fuel or CNG to obtain a fuel vendor license. The bill further removes CNG from the definition of special fuels for purposes of vehicles required to obtain a special fuel tax decal.

The Legislature passed several bills this year that involved modernizing state statutes to reflect new, growing industries and technological innovations.

SB 587 extends the dates from July 1, 2011, to July 1, 2016, that the Corporation Commission's Well Plugging Fund must maintain a certain level of funds. It also extends the same dates for termination of excise taxes on petroleum oil and natural gas. The measure also modifies language regarding the deposit, apportionment and use of excise tax proceeds by adjusting for the extended termination dates.

SB 885 clarifies provisions in the tax law relating to horizontal and deep depth wells that qualify for a reduction in the gross production rate by including wells which existed prior to July 1, 2011.

SB 100 repealed the Oklahoma Lighting Energy Conservation Act which outlined standards for lighting and were, in most instances, obsolete. New technologies and methods have replaced the standards set forth in the repealed sections.

The board of directors of a circuit engineering district may establish a County Energy District Authority pursuant to the Oklahoma Energy Independence Act. **SB 145** requires that the membership of a County Energy District Authority consist of the Circuit Engineering District Board of Directors.

Another measure related to the County Energy District Authority, **SB 102** stipulates that for any loan made pursuant to the Oklahoma Energy Independence Act, repayment must be based on the terms agreed to by the property owner and the County Energy District Authority. The measure also specifies that when a mortgage on a property is recorded in the office of the county clerk, any loan on that property made pursuant to the act constitutes a lien on the property. Any mortgage securing a loan is junior to all previously recorded liens or mortgages.

SB 124 was intended to protect rural landowners by prohibiting wind turbine companies from using eminent domain for the sitting or erecting of wind turbines on private property. **HB 1564** creates the Airspace Severance Restriction Act and eliminates the requirement that any wind or solar energy agreement not interfere with or supersede the right to obtain easements. The measure requires any memorandum of easement that is related to an instrument which creates a land right in real property or the vertical space above real property for solar energy or wind systems or equipment to be recorded. The memorandum of easement is exempt from requirements to include listed property information. SB 124 and HB 1564 also are discussed with other Judiciary bills in the Legal Reform and the Courts section.

FINANCIAL SERVICES *and* ECONOMIC DEVELOPMENT

INSURANCE

The Legislature took action on measures related to several entities that the Insurance Department regulates.

Identical bills **HB 1243** and **SB 965** made modifications to the Oklahoma Producer Licensing Act by removing the requirement that an applicant pass a written examination within 180 days of the initial application and the requirement that an applicant has previously held a provisional license or participated in an approved training program. An insurance producer may reinstate the same license without passing an examination within 12 months, instead of 24 months, from the due date of the renewal fee. The measures also remove specific subject requirements for continuing education.

In addition, the bills modify and add several application procedures and requirements for bail bondsman licenses by making each license expire biannually on the birthmonth of the bondsman, modifying eligibility for an examination and the examination form, removing a license fee and requiring the bondsman to provide an annual financial statement. The measures make it a felony to engage in certain acts as a bail bondsman without a valid license.

Another measure, **HB 2072**, modifies various operating procedures of the Insurance Department. Provisions include:

- Allowing recoveries obtained from insurance-related crimes and other penalties collected to be placed in the Insurance Commissioner Revolving Fund; and

INSIDE THIS SECTION

Insurance.....37
Banking.....39
Business, Industry & Labor.....40
Economic Development 42

POINTS OF INTEREST

- Modified practices and procedures of the Insurance Department
- Established quick action closing fund
- Expanded employer drug testing

- Creating the Unauthorized Insurers and Surplus Lines Insurance Act which regulates surplus lines insurance and provides that only surplus lines brokers or licensees may perform transactions related to nonadmitted insurance coverage (policies issued by a nonlicensed insurance company).

Both **HB 2072** and **SB 778**:

- Provide that a surplus lines broker need not make a due diligence search to determine whether insurance can be obtained from admitted insurers when the broker is seeking to procure nonadmitted insurance if the listed requirements are met; and

- Requiring an automobile or homeowner insurer to provide policy renewal notice to the insured 30 days prior to the expiration of the policy and, if the insurer fails to do so, the terms of the current policy provided to the insured will remain in effect until notice is given or until the insured selects a replacement policy, whichever occurs first;

- Requiring every health benefit plan to file group and individual initial rates and rate adjustments with the commissioner who will determine if the rate or rate adjustments are reasonable, excessive or discriminatory;

- Modifying the definition of an insurance adjuster under the Insurance Adjusters Licensing Act to include persons who collect or furnish claim information and conduct data entry, including entering data into an automated claims adjudication system; and

- Providing that residents of Canada must pass an examination and comply with applicable requirements in order to be a licensed insurance adjuster.

New legislation requires every health benefit plan to file group and individual initial rates and rate adjustments with the commissioner who will determine if they are reasonable, excessive or discriminatory.

- Create the Uniform Health Carrier External Review Act which requires all health carriers to notify insured parties of their rights to request an external review in the event of an adverse determination by the health carrier and establishes a process for independent external reviews of the adverse decision regarding covered health care benefits.

In addition, **SB 778** also modifies several areas of insurance regulation by:

- Directing the insurance commissioner to review and analyze applications to transact insurance with a focus on business and investment plans and expertise of the applicant;

- Making the imposition of additional taxes and fees on out-of-state or foreign insurers doing business in this state optional instead of mandatory;

- Authorizing the commissioner to assess a civil penalty against a continuing education provider who fails to comply with the requirements of the Oklahoma Producer Licensing Act;

SB 780 creates the Oklahoma Home Service Contract Act and requires that home service contracts may not be issued, sold or offered for sale unless the provider has given a receipt and copy of the contract to the contract holder. Providers of home service contracts must register with the insurance commissioner, pay fees and may be subject to prior review before completing registration. Providers are required to maintain a funded reserve account in an amount necessary to satisfy the company's contractual obligations to its policyholders and place a financial security deposit with the commissioner. Providers also are required to maintain a net worth or stockholders' equity of $25

million and provide Securities and Exchange Commission forms or financial statements to the commissioner upon request. The measure requires providers to purchase an insurance policy to cover 100 percent of claim exposure. Providers who are registered under the act will not be subject to the Service Warranty Insurance Act.

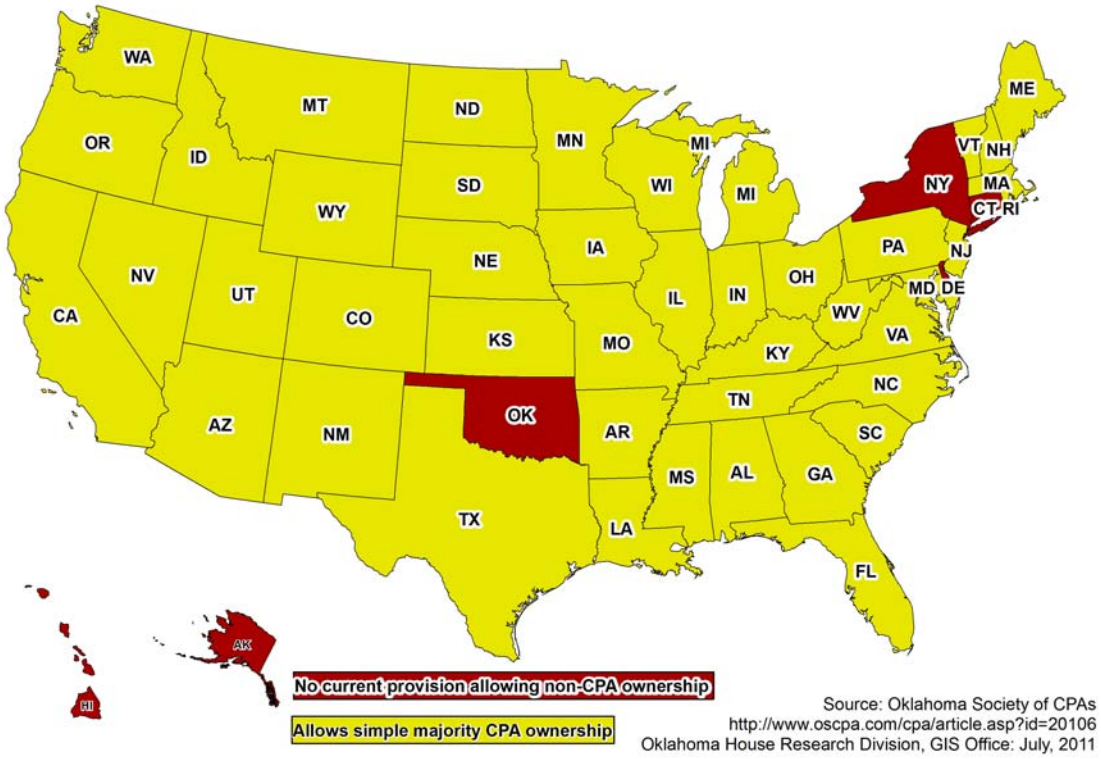
SB 801 provides for insurance coverage of portable electronics such as cell phones and laptop computers, and requires vendors to have a limited lines license to sell or offer coverage and submit a list to the insurance commissioner of all locations in which it offers coverage. The measure requires that charges be separately itemized. The insurer may terminate or change the terms of the policy with notice to the policyholder.

HB 1969 eliminates the requirement that any state or education employee who elects to participate in a high deductible health plan offered through the State and Education Employees Group Insurance Board (OSEEGIB) establish a health savings account.

BANKING

Several bills affecting the financial services sector passed during the legislative session, amending procedures for banks, lenders and the state's financial regulatory agencies. **SB 246** modifies the maximum amount of aggregate deposits that a bank or credit union may transfer from a single ownership account when the owner is deceased. The measure increases the maximum amount that may be transferred to known heirs of the deceased from $5,000 to $20,000 under specified circumstances. **SB 287** provides that the statute of limitations for a forged or unauthorized endorsement begins on the date the item was finally paid by the bank.

NON-CPA OWNERSHIP



Source: Oklahoma Society of CPAs
http://www.oscpa.com/cpa/article.asp?id=20106
Oklahoma House Research Division, GIS Office: July, 2011

SB 270 modifies the Oklahoma Accountancy Act in two primary areas. First, the measure amends the act by allowing non-certified public accountants to be owners of an accounting firm. The measure modifies the items that a firm applying for a permit to practice accounting as a certified public accountant (CPA) or public accountant (PA) firm must prove to the Oklahoma Accountancy Board. These modifications include clarifying firm

ownership, requiring firm compliance with rules promulgated by the board and declaring nonlicensed firm owners active participants of the firm. SB 270 also authorizes peer reviews for certain services upon issuance or renewal of permits.

BUSINESS, INDUSTRY AND LABOR

Two measures clarify the business relationships between manufacturers and dealers. **SB 789** creates the Fair Practices of Equipment Manufacturers, Distributors, Wholesalers and Dealers Act to regulate business relations between independent dealers and the equipment suppliers. The measure affects the retail distribution, sales and rental of agricultural, construction, utility, industrial, mining, outdoor power, forestry and lawn and garden equipment.

The act includes provisions related to:

- Timing of a written notice of termination by a supplier or a dealer;
- Curing of certain deficiencies by a dealer;
- Accepting, rejecting and auditing of certain warranty claims;
- Titling, repurchasing and other actions related to inventory; and
- Instituting certain actions against parties in violation of the act.

It also outlines provisions related to single-line dealer agreements and stipulates that the provisions of the act are to be supplemental to any dealer agreement which provides the dealer with greater protection.

SB 96 increases the threshold under which certain construction contracts may be negotiated with a qualified contractor from $2,500 to $5,000 and also stipulates that the Construction and Properties Division of the Department of Central Services may award contracts using best value competitive proposals. Additionally, the Oklahoma Conservation Commission may delegate to the executive director the authority to declare an emergency in certain cases involving the reclamation of abandoned coal mines or the repair of damaged upstream floodwater retarding structures.

Significantly changing provisions of the Standards for Workplace Drug and Alcohol Testing Act, **HB 2033** modifies the circumstances under which an employer may request or require drug or alcohol testing, including replacing a reasonable suspicion standard with a for-cause standard, which allows a public or private employer to test based on circumstances such as negative performance patterns or excessive or unexplained absenteeism or tardiness. An employer needs only to provide 10 days notice, rather than 30 days notice, to employees when implementing a drug or alcohol testing policy, but all employers must provide a copy of or access to the policy to each employee when it is implemented. The measure increases the authority of the State Board of Health related to testing facilities and testing standards. The measure authorizes certain employer policies related to testing by other methods reasonably calculated to detect the presence of drugs or alcohol, including on-site testing devices and breathalyzer tests.

HB 1398 appropriates $10 million made available to the state via the federal Unemployment Compensation Modernization Transfer. This appropriation to the Employment Security Administration Fund, to be used by the Oklahoma Employment Security Commission, includes $4.4 million dedicated to the Employment Service Program and $5.6 million allocated to the Unemployment Insurance Program. The funds, which must be spent before December 31, 2012, for payment of administrative expenses of the programs, must be utilized by the commission in accordance with federal law.

SB 756 modifies the definition of *employment* to exclude service performed in the employ of an elementary or secondary school which is operated primarily for religious purposes as defined in certain federal statutes. Service performed as part of an unemployment work-relief or work-training program assisted or financed by an Indian tribe or by an individual receiving such work-relief or work

training also is excluded from the definition of employment. The measure also modifies the definition of *benefit wages* to mean certain taxable wages and changes when an individual will be disqualified to receive benefits for unemployment if the individual fails to apply for or accept an offer of suitable work. The measure allows an individual who was previously disqualified due to an occurrence beyond the individual's control to become eligible for extended benefits until the individual has become reemployed and earned a certain amount of wages. The Oklahoma Employment Security Commission must give notice to employers after the claimant is issued a fifth week of benefits by the commission or after the commission receives notice of amounts paid as benefits by another state. The employer may file objections to being charged with the benefit wages, and the measure lists what must be included in the objection. The commission will then determine whether the employer is entitled to be relieved from the charging of benefit wages. The employer may protest any determination made by the commission. The measure allows remittance to be made by electronic fund transfer to the commission and an administrative service fee to be charged. Information released to governmental entities and vendors is added to the types of information the commission may disclose and limits liability in the disclosure of information.

HB 1688 makes certain contracts between a minor and a union void unless the parent is a party to the contract with the minor. If the parent is not a party to the contract, the union must return any funds. The minor or parent will have the right to rescind the contract.

HB 1598 provides that a real estate licensee is not required to provide particular information related to the size of a real estate property, and the information will not be considered to be a warranty or guarantee and must disclose the source of any third-party information. The measure exempts a real estate licensee from the duty to independently investigate or verify the accuracy of representations of the size of any real estate property and exempts persons from related liability. Licensees will not be held liable for inaccuracies as long as the licensee does not knowingly violate the duty to disclose the source of information to the purchaser. Recoverable damages and the statute of limitation for civil actions are provided. The measure provides that property transfers may not be invalidated for certain failures to comply with the act.

SB 648 provides that if a nonresident real estate licensee is exempt from the continuing education requirements in all states where the nonresident holds a real estate license, the nonresident licensee must successfully complete Oklahoma's continuing education requirement for license renewal or reactivation. The measure provides for judicial review procedures of Oklahoma Real Estate Commission orders.

SB 684 provides that the Oklahoma Real Estate License Code does not apply to employees of a licensed real estate broker who lease residential housing units only to eligible persons who qualify through a state or federal housing subsidized program to lease the property in an affordable housing development project. Projects are defined as housing developments for lease to specifically eligible persons as required by federal or state housing programs.

SB 928 modifies fines for violations of the Roofing Contractor Registration Act and provides that a number of violations are grounds for suspension of registration. The Construction Industries Board will suspend registration on the date of a

Several bills affecting the financial services sector amended procedures for banks, lenders and the state's financial regulatory agencies.

liability policy cancellation, and proof of insurance must be provided in order to restore the registration. When a contractor is notified that registration is not in good standing, the measure requires the contractor to disclose to homeowners the change in standing and the homeowner can then cancel the contract.

The measure lowers the annual registration certificate fee from $300 to $75 and exempts churches and charitable entities. Contracts entered into under the Roofing Contractor Registration Act must include a statement whether all individuals performing work under the contract are covered by workers' compensation insurance. General contractors must assure that subcontractors and independent contractors provide proof of liability insurance. The measure exempts persons working on their own property.

To attract new business to the state, the Legislature worked to establish a new closing fund.

DID YOU KNOW?

HB 1953 — *After approval by the Governor, ODOC will enter into an agreement which must include, among other things, claw-back provisions for failure to meet performance conditions.*

A claw-back provision, sometimes referred to as recapture language, is a type of money-back guarantee whereby an entity (Oklahoma) may reduce or eliminate a payment or subsidy (Closing Fund dollars) if certain conditions are not met.

ECONOMIC DEVELOPMENT

To attract new business to the state, the Legislature worked to establish a new closing fund. **HB 1953** creates the Oklahoma Quick Action Closing Fund to be used to further the state's economic development efforts by recruiting or retaining high-impact business projects or facilities in Oklahoma. The director of the Oklahoma Department of Commerce (ODOC) may recommend to the Governor that expenditures from the closing fund be used if they are expected to result in a net economic benefit to the state through the following:

- The creation of new jobs which offer a basic health benefit plan, as defined in the Oklahoma Quality Jobs Program Act;
- The maintenance of existing jobs which are at a risk for termination;
- Investment in new real property, plants or equipment or in the improvement or retooling of existing plants or equipment; or
- Additional revenues in either ad valorem, income or sales and use taxes.

After approval by the Governor, in consultation with the President Pro Tempore of the Senate and the Speaker of the House, ODOC and the business may enter into agreement that establishes conditions for payment from the closing fund. No money was appropriated for this purpose during the session.

SB 154 amends the 21st Century Quality Jobs Act to make an establishment ineligible for future incentive payments if at any time during the 28-quarter period subsequent to application its gross payroll falls below the required threshold for four consecutive quarters.

Another measure, **SB 731**, modifies the Oklahoma Quality Jobs Program Act by changing the definition of *qualified federal contract* to eliminate the use of out-of-state contractors and subcontractors in certain situations. Additionally, the measure stipulates that in determining if an applicant is qualified to receive incentive payments, ODOC will classify the applicant's basic industry by using the North American Industry Classification System (NAICS) codes used by the federal government in awarding contracts. ODOC along with the federal contract verifier may evaluate and utilize an individual statement of work items that would qualify within a basic industry definition.

Within the Local Development Act, **SB 13** removes the requirement that an incentive district or increment district be created as a contiguous district between local

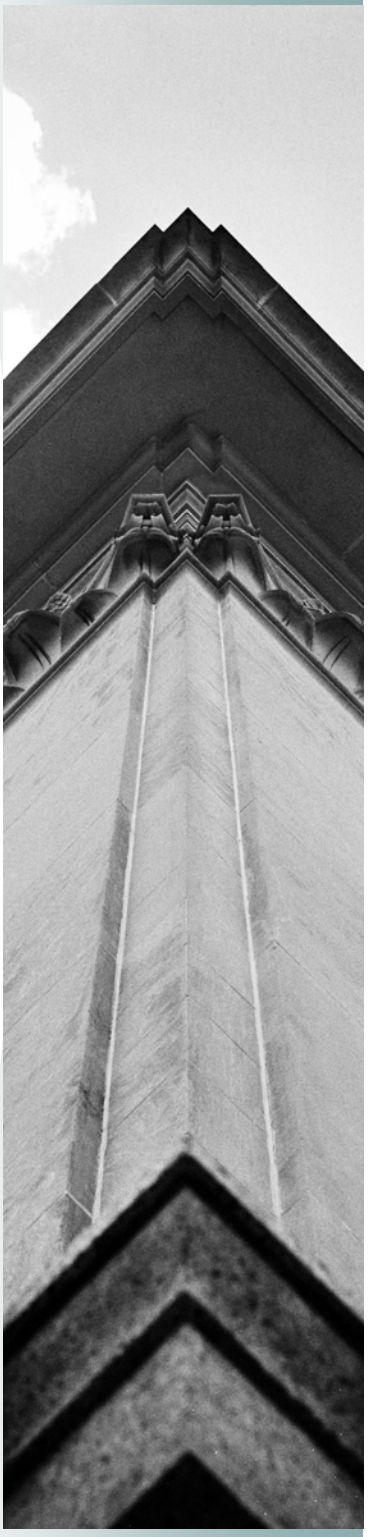
governmental entities. The bill also changes the definition of *increment* by stipulating that the specified ad valorem taxes can be apportioned for specific project costs or as a specific revenue source for other public entities in the area in which the project costs take place, regardless of taxable location or the recipient local public taxing entity. SB 13 also allows a governing body to defer the creation date of an incentive or increment district for up to 10 years.

HB 1202 modifies timing provisions associated with an exemption that a business opportunity may have under the Oklahoma Business Opportunity Sales Act. Any offer or sale of a franchise may be considered exempt if the seller delivers certain disclosure documents to each purchaser 14 calendar days prior to the earlier of two specified dates outlined in the law.

SB 593 stipulates that a port authority's powers related to foreign trade zones are to fall within the limits prescribed by the United States Foreign Trade Zones Board. The measure also allows the secretary of a port authority to receive state funds in the same manner that county funds are currently received, and specifies that the rules of a port authority, adopted in accordance with the provisions of the Administrative Procedures Act, must require substantially the same financial accounting procedures used for state funds under control of the Office of the State Treasurer.

SB 658 creates a task force to study the necessary modifications to existing law to permit the sale of low-point beer, high-point beer and wine in grocery stores. The 20-member task force is to conclude its study no later than February 1, 2012.

HB 1990 expands the current definition of *transportation project or system* to include intermodal facilities, the components of which contribute to a system that incorporates transportation modes of highway, air, rail and waterway together in order to facilitate the movement of commerce. This measure also is discussed in the Transportation section.

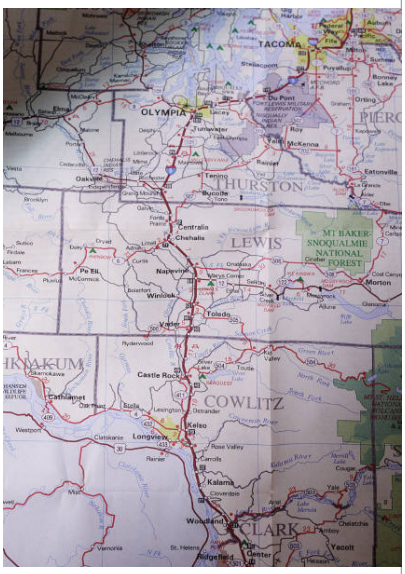


GENERAL GOVERNMENT

The Legislature focused on a multitude of issues related to general government.

COUNTY AND MUNICIPAL GOVERNMENT

Two measures affected both county and municipal governments. The requirements for qui tam lawsuits were modified by **SB 331** which creates a formula to determine the number of resident taxpayers required to institute actions for the recovery of money or property belonging to the governmental entity. The measure removes the requirement that one-half the amount of money and one-half the value of the property recovered in any action maintained at the expense of the resident taxpayer must be paid to the resident taxpayer. Instead, if the claims in the relevant taxpayer action are deemed meritorious, the contract will be void, property will be returned to the subject governmental entity and the resident taxpayers will be entitled to attorney fees and court costs.



Relating to the Oklahoma Floodplain Management Act, **HB 1692** modifies the definition of an *area of jurisdiction* to exclude certain property owned by the state. The definition of *floodplain board* is modified to mean a board established by certain county or municipal governing bodies, or if no board is established, the county or municipal governing bodies. The measure provides that if a county or municipal governing body previously dissolved its respective floodplain board, then the floodplain management regulations adopted by the board will continue to be in effect. Requirements for granting variances are modified to stipulate that the board provide notice and time of hearing on variances. The measure specifies that there is no requirement that any county or municipality participate in the National Flood Insurance Program or that any nonparticipating

DID YOU KNOW?

A qui tam lawsuit is an action brought under a statute that allows a private person to sue for a penalty, part of which the government or some private institution will receive.

Source: Black's Law Dictionary 1368 (9th ed. 2009).

INSIDE THIS SECTION

County & Municipal 44
Counties..... 45
Municipalities..... 46
State Government 48
Government Modernization ... 49
Administrative Rules..... 53
Revenue and Taxation..... 54
Elections 56

POINTS OF INTEREST

- Increased efficiency of government in response to economic climate
- Repealed municipal bargaining

community enforce regulations related to floodplain management.

Counties

SB 54 requires a candidate for district attorney to be a registered voter in the district and reside in the district for six months prior to filing. Similarly, **SB 117** requires a candidate for county commissioner to have been a registered voter in the district and reside in the district for six months prior to filing.

SB 239 requires petitioners of a question which would raise taxes to file notice of circulation of the petition with the county clerk. The petition may be circulated for one year after filing notice and must contain a notice and a summary of the contents. When a question fails, any subsequent petition regarding the same question may be circulated beginning on the thirtieth day following the election date. If the petition does not result in a vote on the question, any subsequent petition on the same question must indicate on each page that a prior petition on the same question was previously circulated.

Currently, a board of county commissioners cannot dispose of surplus property 30 days before filing for election. **SB 170** creates an exception that allows an incumbent who draws no opponents or wins reelection to dispose of surplus property within that time period.

SB 214 grants the State Election Board authority to remove alternate members of county election boards at any time. The measure requires a person disqualified because he or she is a candidate or employee of a candidate to resign within 10 days after candidacy was filed. Thereafter, the secretary of the county election board may appoint a replacement. The measure also prohibits a person from serving on a precinct election board or an absentee voting board at any election in which he or she is related within the second degree of consanguinity or affinity to a candidate for office on that ballot. Persons also are prohibited from serving as a member, alternate member or secretary of a county election board at any election in which he or she is related within the second degree of consanguinity or affinity to a candidate for office on the ballot in that county. This measure also is discussed with other elections measures later in this section.

HB 1323 modifies the makeup of a County Energy District Authority by removing the requirement that the authority consist of five trustees, and instead requires that the authority consist of the circuit engineering district board of directors.

The Legislature focused on measures that impact state, county and municipal governments.

HB 1051 requires elected county officials to maintain inventory records of each of their respective offices and file the inventory with the county clerk.

HB 1685 requires counties to prepare quarterly, instead of monthly, reports for consumable road or bridge materials and authorizes counties to keep those quarterly records electronically.

HB 2032 raises the population requirement from 590,000 to 675,000 for counties authorized to contribute to a county-established retirement fund.

SB 16 makes the increase of county officers' basic salary permissive instead of mandatory.

SB 105 requires the Board of Equalization to set a schedule of fees used by county assessors for services relating to property data. Fees will be uniform across the state with variances allowed under some circumstances. Fees will not apply to property owners obtaining information on their own land for their own use.

SB 130 requires county financial and

performance audits to conform to certain auditing standards. The type of audit to be performed will be determined by the state auditor and inspector. The measure adds requirements for a county preparing those financial statements and modifies requirements for the establishment and maintenance of county records.

HB 1595 provides an avenue for the collection of prepaid wireless 911 fees to substate planning districts in counties which have not assessed a 911 emergency wireless telephone fee. The measure requires the planning district to hold in a separate escrow account all fees paid on behalf of counties in its region that have not assessed a 911 emergency wireless telephone fee.

SB 175 directs the chair of the Statewide Nine-One-One Advisory Board to call a meeting to produce specific recommendations to the Legislature by December 31, 2011 on:

- Setting the amount charged for fees that are currently provided in law for the 911 system and the need for additional fees in order to adequately maintain current systems and to uniformly provide the highest levels of technology for 911 systems throughout the state;
- Identifying a state agency that may authorize the appointment of a Statewide Nine-One-One Coordinator; and
- Identifying methods to be used by the coordinator to implement and improve 911 services.

SB 145 vacates the membership of the County Energy District Authority and replaces it with the Circuit Engineering District Board of Directors.

Another measure related to the County Energy District Authority, **SB 102** stipulates that for any loan made pursuant to the Oklahoma Energy Independence Act, repayment must be based on the terms agreed to by the property owner and the County Energy District Authority. The measure also specifies that when a mortgage on a property is recorded in the office of the county clerk, any loan on that property made pursuant to the act constitutes a lien on the property. Any mortgage securing a loan is junior to all previously recorded liens or mortgages.

Municipalities

In an effort to control costs for Oklahoma's cities and save taxpayer dollars, **HB 1593** repeals the Oklahoma Municipal Employee Collective Bargaining Act, a law which required cities with at least 35,000 residents to have collective bargaining if non-uniformed employees unionize. Oklahoma City, Tulsa, Norman and Muskogee had collective bargaining agreements prior to the 2004 passage of the Oklahoma Municipal Employee Collective Bargaining Act. The map on the following page shows the cities in Oklahoma with more than 35,000 residents.

SB 708 establishes requirements for municipalities that adopt ordinances, resolutions or regulations to collect development fees. The fees must be based on actual system improvement costs or certain reliable estimates. Development fees must be calculated to fund only the costs of improvements related to certain public infrastructure systems. The measure also:

- Requires that fees not exceed a reasonably determined proportionate share of the cost of capital improvement and requires an established functional nexus between the purpose and the amount of the fee;
- Restricts municipalities from using fees on repairs or maintenance to existing public infrastructure systems; and
- Requires the relevant ordinance, resolution or regulation to include a schedule of development fees and a component capital improvement plan which may only be spent on capital improvements for that particular public infrastructure system to serve the area encompassing the development or only within that service area. In the alternative, municipalities are authorized to establish certain service areas to collect development fees.

HB 1296 eliminates exemptions from the requirement that a city must obtain written consent from property owners when the city annexes property. The measure makes the annexation procedures for cities also applicable to towns. The measure also eliminates language that authorizes towns to annex property by action of a governing body.

HB 1366 creates the Oklahoma Municipal Energy Independence Act and authorizes a municipality to establish a municipal energy district authority as a public trust. Powers and duties include conducting business, executing contracts, securing funding, making loans, coordinating programs, making grants and requiring energy audits. Penalties for failure to repay some types of loans also are provided.

Regarding a municipality's authority to condemn or tear down dilapidated buildings, **HB 1669** modifies the definition of a *dilapidated building* to mean a structure that has been boarded or secured for 18 instead of 36 months.

SB 147 requires registered voters signing a petition for incorporation of a town to be residents of the proposed town and signatures to be gathered no more than 30 days prior to the petition being presented to the board of county commissioners. The measure also requires the landowner to certify the plat or map of the proposed municipality.

SB 160 creates the Municipal Motor Vehicle Racing Act and authorizes municipalities to issue permits and charge a fee to conduct racing events sanctioned by national or international organizations within public areas. The measure provides for guidelines in issuing permits and specifies authorized conduct for permit holders. Counties, municipalities and the state are provided limited liability for certain damages resulting from the racing event. Racing events will not be considered a public or private nuisance and will be considered to be held for a public purpose.

OKLAHOMA CITIES WITH MORE THAN 35,000 RESIDENTS

Oklahoma House Research Division, GIS Office: July, 2011

Source: US Census Bureau; HB 1593

SB 666 provides that reserve municipal police officers and reserve deputy sheriffs who miss work in performing their reserve duties in cases of emergency will not have to use any accrued leave or make up any time due to the performance of their duties.

SB 216 creates the Task Force on the Collection, Distribution and Enforcement of Municipal Sales Tax to examine the current process by which the Oklahoma Tax Commission (OTC) assesses, collects and distributes sales and use tax to local jurisdictions which levy the tax, including emphasis on the following:

- Applicable laws and rules;

DID YOU KNOW?

Unclaimed Property Program:

Every state has an unclaimed property program. In Oklahoma, the state treasurer is responsible for the state's Unclaimed Property Program. The purpose of the program is to return unclaimed property to the rightful owner. Unclaimed property can include everything from jewelry, stock certificates, coin collections to cash. Property is considered unclaimed when there is a lack of activity generated by the rightful owner of the property. Evidence of this inactivity includes failure to cash a check, the return of a check or correspondence by the post office as undeliverable or the absence of any communication from the owner. If property remains unclaimed for a certain number of years set by statute, it is considered abandoned and must be reported to the state's unclaimed property program. Unclaimed property also is listed on reports published twice each year in newspapers throughout Oklahoma.

- Current budget and personnel resources available to the OTC;
- Potential for improvements in the efficiency with which the OTC uses existing resources; and
- Issues related to the use of private sector entities for modernizing and improving collection and audit functions.

SB 750 outlines specific elements to be included in contractual agreements between the OTC and a municipality, in relation to the assessment, collection or enforcement of a municipal sales tax. These elements, which relate to the municipality's authority to engage in compliance activities directly or contractually, may serve to augment and improve collections of sales taxes for state and local governments. Other provisions of the measure, including reporting and administrative provisions, are designed to improve sales tax collections. SB 750 also creates the Tax Commission Compliance Fund for the purpose of reimbursing municipalities for enhanced collections of state sales taxes.

STATE GOVERNMENT

The Legislature adopted several measures to assist agencies struggling with the financial implications of the recession. It sought greater efficiencies in the application of employee insurance coverage, agency contracting and eliminating liabilities facing agencies.

HB 1062 allows state employees who are covered by a separate group health insurance plan to opt out of the state's basic plan and provides that employees opting out of coverage will receive $150 a month in lieu of the flexible benefit amount the employee would otherwise be eligible to receive. The measure also directs the State and Education Employees Group Insurance Board (OSEEGIB) to contract with a vendor that offers a web-based doctor and patient mutual accountability incentive program and directs OSEEGIB and the Office of State Finance (OSF) to make available a health savings account to all enrollees in the HealthChoice Qualified high-deductible health plan.

SB 623 requires the Employees Benefits Council to contract with at least one provider to offer a group TRICARE supplement for purchase by eligible employees. The state will not provide an additional allowance for the supplement.

In response to the budget shortfall, **HB 1665** discontinues the Oklahoma Art in Public Places program for three years but allows current projects to be completed to avoid any potential breach of contract. Under previous law, anytime the state has a building project or renovation costing $250,000 or more, 1.5 percent of the cost must be dedicated to public art.

HB 1034 authorizes the state purchasing director to use a state purchase card for acquisitions with no limit on the amount of the transaction for interagency payments and certain professional services. The measure requires a state agency to evaluate the performance of professional service contracts exceeding a fair and reasonable dollar threshold.

HB 1438 requires the director of the Department of Central Services to publish a report detailing and listing the top 5 percent most underutilized state-owned properties, the value of those properties, the potential for purchase if offered for sale by the state and the impact on local-level tax rolls if the properties are purchased by a nongovernmental entity.

HB 2172 transfers all powers, duties and functions of the Oklahoma Indian Affairs Commission to the Oklahoma Native American Liaison in the Office of the Governor effective July 1, 2011.

HB 1075 requires public construction

contracts to specify up to 5 percent of all partial payments based on work completed be withheld as retainage. Previously, 10 percent of the payments were withheld and then reduced to 5 percent after the contractor had completed 50 percent of the total contract amount.

SB 571 prohibits persons from claiming an interest in unclaimed property after the state treasurer has sold the property and provides that the liquidation of securities is exempt from the procedures required for selling abandoned property. The measure abolishes the Oklahoma Taxpayer Relief Revolving Fund. All monies remaining in the fund will be transferred to the Special Cash Fund on June 30, 2012. The measure requires the state treasurer to make available an annual investment performance report within 90 calendar days after the end of the fiscal year, instead of 60 days. Beginning July 1, 2012, a state agency is authorized to direct the state treasurer to purchase, sell, hold or otherwise manage investment transactions on its behalf outside of the blended portfolio provided that the agency will not pay more for investment services than the rate the state treasurer establishes. The rate will not exceed the amount necessary for recovering the cost to the State Treasurer's Office for providing the services.

HB 1035 limits when a state entity is required to use the Trip Optimizer system in computing cost for travel by state employees to only where the travel is more than 100 miles per day and the employee is not driving a state vehicle. The measure provides that non-appropriated state agencies are not required to use the Trip Optimizer system for all employees. The measure also limits the maximum authorized amount of travel reimbursement.

SJR 15 proposes a constitutional amendment that, if approved by voters in November 2012, would prohibit special treatment or discrimination based on race or sex in public employment, education or contracts.

SB 763 creates an Office of Civil Rights Enforcement within the Office of the Attorney General to assume all duties and responsibilities of the Oklahoma Human Rights Commission.

SB 657 deletes the requirement that real estate transactions use a registered certification authority.

SB 73 declares "Swing Low, Sweet Chariot" to be the state gospel song of the state of Oklahoma.

HB 1511 establishes June 28 of each year as Second Amendment Day in Oklahoma.

The Legislature adopted several measures to assist agencies struggling with the financial implications of the recession.

GOVERNMENT MODERNIZATION

The Legislature enacted two measures intended to maximize efficiencies in state government through consolidation of agencies or of various agency functions.

HB 2140 creates the State Government Administrative Process Consolidation and Reorganization Reform Act of 2011 by consolidating the following agencies into the Office of State Finance (OSF):

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

The director of OSF is required to consolidate all of the agencies' administrative functions by December 31, 2011, and to demonstrate a 15-percent overall cost reduction as a result. The measure further requires the director to make recommendations on the streamlining, reduction or elimination of the governance structures

DID YOU KNOW?

The following nonappropriated state agencies do not receive funding through legislative appropriations:

Abstractors Board
Accountancy Board
Aeronautics Commission
Banking Department
Boll Weevil Eradication Org.
Chiropractic Examiners Board
Construction Industries Board
Cosmetology Board
Dentistry Board
Foresters Board
Funeral Board
Employees Benefits Council
Employment Security Commission
Interstate Oil Compact Commission
Firefighters Pension and Retirement Board
Dept. of Wildlife Conservation
Perfusionists Examiners Board
Industrial Finance Authority
Law Enforcement Retirement System
Licensed Alcohol & Drug Counselors Board
Licensed Architects, Landscape Architects, and Registered Interior Designers Board
Licensed Social Workers Board
Liquefied Petroleum Gas Board
Long-Term Care Administrators Board
Lottery Commission
Marginally Producing Oil & Gas Wells Commission
Medical Licensure and Supervision Board
Motor Vehicle Commission
Nursing Board
Optometry Board
Osteopathic Examiners Board
Peanut Commission
Pharmacy Board
Podiatric Medical Examiners Board
Police Pension & Retirement Board
Public Employees Retirement System
Professional Engineers and Land Surveyors Board
Psychologists Board
Real Estate Commission
Securities Commission
Speech-Language Pathology and Audiology Board
State & Education Employees Group Insurance Board
Teachers' Retirement System
Tests for Alcohol/Drug Influence Board
Tobacco Settlement Board of Directors
Used Motor Vehicle and Parts Commission
Veterinary Medical Examiners Board
Wheat Commission
Source: Governor's FY 2012 Exec. Budget

and statutorily established positions of each agency. The bill specifies, however, that the governance structures of those agencies remain in place until otherwise provided for by law.

HB 1304 creates the Information Technology Consolidation and Coordination Act which prohibits state agencies from purchasing or leasing any information technology equipment without prior approval of the Chief Information Officer (CIO). Other provisions include:

- Requiring all state agencies to provide to the CIO a list of information technology (I.T.) assets of the agency that are integral to agency-specific functions and a list of I.T. positions associated with them;
- Requiring the CIO to identify all I.T. assets and associated positions of all state agencies that are not integral to the agency's specific functions and directs that the identified I.T. assets and positions of appropriated state agencies be transferred to the Information Services Division of the Office of State Finance (OSF);
- Requiring all state agencies to use certain information technology services and the Integrated Central Financial System, also known as CORE, operated by OSF;
- Allowing a state agency to apply to the CIO for an exemption from any provision of the act or for an extension of any deadline; and
- Requiring the CIO to submit quarterly progress reports, including the net savings realized through the consolidation of resources and personnel, to the director of OSF and to the Legislature.

Three measures are intended to increase transparency in state government. **HB 1086** creates the Transparency, Accountability and Innovation in Oklahoma State Government 2.0 Act of 2011, which requires that:

- The state's CIO maintain a website to allow public access to electronic documents and requires each state entity to submit to the CIO searchable electronic versions of all publications they are required by law to produce;
- The CIO maintain a website to allow public access to forms produced by state agencies and requires state entities to submit their forms to the CIO in a searchable electronic format;
- OSF include as part of the data.ok.gov website all spending data subject to publication by the School District Transparency Act;
- Effective July 1, 2012, all payments disbursed from the State Treasury be made only through an electronic payment mechanism and requires that the number of payments exempt from the requirement and a list of reasons be published in a report on the state treasurer's website;
- The State Governmental Technology

The Legislature enacted two measures intended to maximize efficiencies in state government through consolidation of agencies or of various agency functions.

Applications Review Board, in conjunction with the CIO, establish performance metrics and guidelines for participation criteria for the State Government Employee Performance Transparency Pilot Program;

- All state expenditures published on the data.ok.gov website include the name and address of the recipient of the expenditure, the amount and description of the item or service purchased and the agency making the expenditure;
- The CIO maintain a website to allow the public to monitor the status of every information technology project costing more than $100,000; and
- The Department of Central Services utilize a wiki venue website that can be modified or contributed to by users to provide two-way communication between procurement officers and potential vendors who have questions regarding a request for proposal or invitation to bid.

The measure also prohibits reimbursement for travel expenses if the person filing the claim has benefited from the personal receipt of frequent travel miles unless the miles are used to offset future claims against the state.

The second bill, **HB 1207**, creates the Oklahoma Innovation, Efficiency and Accountability Act of 2011. The measure authorizes state agencies to accept an electronic signature in the application process for any license or permit, with the exception of driver licenses, and requires OSF to maintain a website providing public access to documentation of all federal stimulus funds expended by state agencies received pursuant to the American Recovery and Reinvestment Act of 2009. Other requirements of the bill include:

- Requiring appropriated state agencies to issue a report annually on Oct. 1 to the director of OSF and to the chair and vice-chair of the Legislative Oversight Committee on State Budget Performance including a detailed list of all employees and resources dedicated to the provision of financial services. The Oklahoma State Regents for Higher Education and the institutions within the Oklahoma State System of Higher Education are exempt;
- Directing the director of OSF to publish by January 1 a financial services cost performance assessment that documents each appropriated state agency's cost for providing financial services. Agencies that rank in the bottom 10 percent of the cost performance assessment will be required to contract with OSF for financial services if the director of OSF determines that it will result in cost savings to the agency. Further, the director is required to publish a report documenting the cost savings resulting from the shared services contracts. The Oklahoma State Regents for Higher Education and the institutions within the Oklahoma State System of Higher Education are exempt;
- Requiring copies of any audit, agreed upon procedure report or other attestation engagement report that is required to be filed with the state auditor and inspector to be submitted in electronic format and made available to the public on the auditor's website;
- Directing the superintendent of public instruction to publish on a website a list of all expenses paid by the Department of Education necessary to sponsor or participate in meetings or training sessions; and
- Limiting the amount of the cost of food to the total daily rate provided for in the State Travel Reimbursement Act for persons attending the meeting who do not stay overnight.

The third and nearly identical measure, **SB 541**, also creates the Oklahoma Innovation, Efficiency and Accountability Act of 2011. Provisions include:

- Authorizing state agencies to accept an electronic signature in the application process for any license or permit, with the exception of driver licenses;

- Requiring appropriated state agencies to issue a report annually on Oct. 1 to the director of OSF and to the chair and vice-chair of the Legislative Oversight Committee on State Budget Performance including a detailed list of all employees and resources dedicated to the provision of financial services. The Oklahoma State Regents for Higher Education and the institutions within the Oklahoma State System of Higher Education are exempt; and

- Directing the director of OSF to publish by January 1 a financial services cost performance assessment that documents each appropriated state agency's cost for providing financial services. Agencies that rank in the bottom 10 percent of the cost performance assessment will be required to contract with OSF for financial services if the director of OSF determines that it will result in cost savings to the agency. Further, the director is required to publish a report documenting the cost savings resulting from the shared services contracts. The Oklahoma State Regents for Higher Education and the institutions within the Oklahoma State System of Higher Education are exempt.

Another related measure, **HB 1601**, creates the Oklahoma State Government Business Licensing One-Stop Program and directs the state's CIO to adopt procedures for state agencies to enter into a shared services arrangement with OSF for the provision of real-time, web-based licensing and permitting services. The bill also transfers the 2nd Century Entrepreneurship Center from the Department of Commerce to the Information Services Division of OSF.

SB 772 creates the 15-member Business and Professional License Facilitation Task Force to study the governmental models of states that have a central contact point or agency facilitating the professional licenses and applications and to evaluate the feasibility of establishing a similar model in Oklahoma. By December 1, 2011, the task force is required to:

- Identify potential areas of consolidation and modifications to existing agency authority which would be required to create a more centralized business and professional license contact point in this state;

- Analyze potential expenses or cost savings which may be incurred in reconfiguring agencies or their existing authority to create a centralized business and professional license contact point; and

- Recommend amendments to existing law necessary to implement a centralized governmental model within the next two years.

HB 1512 creates the Deferred Maintenance Revolving Fund (DMRF) in the State Treasury which is to consist of monies received by the Department of Central Services (DCS) from the sale of obligations issued by the Oklahoma Capitol Improvement Authority prior to the effective date of the act. This includes net proceeds and the interest derived on net proceeds. Funds in the DMRF are appropriated and may be budgeted and spent by DCS for repairs and maintenance on assets under DCS authority.

HB 2156 allows bills and resolutions to

be enrolled electronically and allows for the electronic transmission of bills and resolutions, provided that safeguards and certain written agreements are in place.

ADMINISTRATIVE RULES AND AGENCY OVERSIGHT

The Administrative Rules and Agency Oversight committee has the responsibility of reviewing the permanent rules submitted by the governmental agencies of the state to ensure that they are adhering to the legislative intent of the law. This session, **SJR 45** was adopted to disapprove certain emergency rules promulgated by the Construction Industries Board related to the Roofing Contractor Registration Act. In addition, **HJR 1045** disapproves certain permanent rules adopted by the Board of Commercial Pet Breeders. The resolution disapproves OAC 532:10-2-3(b)(22) relating to the date of commencement of operations by the board; 532:10-2-5 relating to grounds for denial, suspension or revocation of a commercial pet breeder license; 532:10-3-2(a) relating to commencement of investigations; 532:10-3-2(d) relating to conduct of investigations; 532:15-2-9 relating to adequate rest between breeding cycles; and 532:15-3-3(d) relating to handling of a pet at destination.

A related measure, **SB 637** allows the state veterinarian to have a designee on the Board of Commercial Pet Breeders and requires the board to elect a chair, vice-chair and secretary from among its voting members. The board is required to adopt directives with notification to the Legislature. All permanent rules adopted by the board are to be submitted by February 1 each year. Additionally, the State Board of Veterinary Medical Examiners must establish a toll-free hotline for people to report cases of animal abuse. Callers are required to leave their names and telephone contact information. In an effort to alleviate concerns regarding inspections of facilities, the board is authorized to contract with a local veterinarian or other agency to conduct the inspections, but is prohibited from hiring any humane society group or member to perform inspections. Lastly, the board may deny the license of a person who fails to meet the standards of the application process or if the person is convicted of any violent felony offense or any RICO offense.

In an effort to reform the rule-making process of agencies, **HB 1044** requires that proposed rules include the citation to federal or state law, court ruling or other authority requiring the rule. Additionally, rules which establish or increase fees or rules by an agency, board or commission created by or receiving its authority from Title 59 of the Oklahoma Statutes must be approved by the Legislature by joint resolution prior to being in force. If the Legislature fails to approve the fee or the increase within 30 days, the rule is deemed disapproved.

Several measures were enacted to extend the life of existing boards. **HB 1015** is the omnibus bill listing the entities scheduled to expire or "sunset" in 2015. This bill does not extend the life of any of the entities listed but only provides a statutory citation that can be used to find the entities scheduled to sunset in a particular year.

The Oklahoma Sunset Law requires state entities to be reviewed routinely by the Legislature. The following entities were re-created until 2015 in accordance with the provisions of the Oklahoma Sunset law:

- Polygraph Examiners Board by **HB 1016**;

DID YOU KNOW?

The Racketeer Influenced and Corrupt Organizations Act, commonly referred to as the RICO Act or simply RICO, is a United States federal law that provides for extended criminal penalties and a civil cause of action for acts performed as part of an ongoing criminal organization.

Several enacted measures extend the life of existing boards.

- State Board of Osteopathic Examiners by **HB 1017**;
- Board of Podiatric Medical Examiners by **HB 1018**; and
- Oklahoma State Athletic Commission by **HB 1019**.

HB 1026 is the omnibus bill listing the entities scheduled to expire or "sunset" in 2012. The entities scheduled to expire in 2012 are the:

- Oklahoma State Committee of Plumbing Examiners;
- Waterworks and Wastewater Works Advisory Council;
- State Board of Examiners of Certified Shorthand Reporters;
- Oklahoma Emergency Response Systems Development Advisory Council;
- Oklahoma Educational Television Authority;
- State Board of Examiners of Perfusionists; and
- Public Employees Relations Board.

economic conditions during the recent recession, the Legislature adopted **SB 935** which modifies the five-year ad valorem tax exemption taken by certain manufacturing facilities. The measure stipulates that if a manufacturer's exemption period included calendar year 2009 and it failed to meet the necessary baseline payroll requirements for that year, the manufacturer can continue to receive the exemption for the number of years remaining in its five-year exemption period as long as it returned to meeting the payroll requirements in 2010.

HB 1008 removes the moratorium for tax years 2010 and 2011 on the following tax credits benefitting the aerospace industry:

- The tax credit for tuition reimbursement for a qualified employer;
- The tax credit for a qualified employer in the aerospace sector for compensation paid; and
- A $5,000 tax credit per year for up to five years for a qualified employee in the aerospace industry.

Voters will decide in November 2012 whether to lower the annual cap on certain real property valuations.

REVENUE AND TAXATION

As a result of **HJR 1002**, voters will decide in November 2012 whether to lower the annual cap on certain real property valuations. HJR 1002 directs the secretary of state to refer a proposed constitutional amendment to a vote of the people which would limit the increase in the fair cash value of a homesteaded property or a property used for agricultural purposes to 3 percent beginning January 1, 2013. Currently, the annual cap is 5 percent.

In an effort to keep local manufacturers from losing a tax exemption as a result of

The primary focus of **HB 1231** is the termination of state employees for failure to comply with state income tax laws after receiving proper notification. The measure states that an employee may be terminated for failure to comply with state income tax laws regardless of whether the state agency with which that employee is currently employed is the same agency with which the individual was employed after receiving the first or second notice of delinquency. Additionally, HB 1231 provides that if a sales tax permit holder fails to file two or more returns or a taxpayer required to remit withholding taxes fails to file two or more withholding tax returns after proper notification by the Oklahoma Tax Commission (OTC), it may refer the delinquent accounts to a debt

collection agency. The measure also stipulates that in the event current funds in OTC's official depository clearing account are insufficient to pay refunds from the same tax type source, available cash funds from the unclassified taxes account may be used.

SB 104 stipulates that a county treasurer may send ad valorem tax statements to a taxpayer electronically if the taxpayer has submitted a written request. Additionally, **HB 1903** provides that for any documents or payments owed to a county assessor, the date of the postmark stamped on the envelope containing the document or payment will be considered the date of delivery or payment.

HB 1634 reduces the annual permit fee from $150 to $75 for each coin-operated vending machine, music device or amusement device requiring a coin or token of 25 cents or more effective July 1, 2011.

SB 885 clarifies provisions in the tax law relating to horizontal and deep depth wells that qualify for a reduction in the gross production rate by including wells which existed prior to July 1, 2011.

SB 969 creates the Oklahoma Equal Opportunity Education Scholarship Act which allows tax credits for those contributing to organizations granting scholarships or eligible educational improvement grant organizations. The tax credit will be equal to 50 percent of the total contributions made during the year but must not exceed $1,000 for a single person, $2,000 for joint filers and $100,000 for businesses. For any taxpayer who makes a commitment to contribute the same amount for two additional years, the tax credit will be equal to 75 percent of the amount of the contribution. Education organizations that do not use at least 90 percent of the money collected for scholarships will not be allowed to accept additional contributions after 2013. The percentage of scholarships given to lower-income students must be equal to or greater than the percentage of low-income eligible students in the state.

The maximum amount of credits cannot exceed $1.75 million annually for scholarship-granting organizations and $1.5 million annually for educational improvement grant organizations. If credits exceed the annual cap amounts in any calendar year, OTC will establish the proportionate share of the credits which may be claimed by each taxpayer. For purposes of this determination, any unused tax credit in one pool may be used to increase the cap of the other pool. This measure also is discussed in the Education section.

HB 1998 provides for an income tax checkoff to benefit certified domestic violence and sexual assault services, volunteer fire departments and the Oklahoma Lupus Revolving Fund. The act further removes the $25 donation cap to the Oklahoma chapter of the Y.M.C.A. Youth and Government program and the Multiple Sclerosis Society effective January 1, 2012. **SB 949** also provides for an income tax check off to benefit the Historic Greenwood District Music Festival in Tulsa and the newly created Oklahoma Sports Eye Safety Program which provides sports eye safety information and equipment to children.

HB 1285 creates the Task Force for the Study of Tax Credits and Economic Incentives to examine all state tax credits and identify those credits which are beneficial to the economic and financial well-being of the state.

In an effort to obtain more information about recipients of the state's tax credits, **HB 1284** requires all credits to be reported to OTC or the State Insurance Department. The act further provides that OTC must publish a report on its website no later than five days after the report has been provided to the Governor, the Speaker of the House and the President Pro Tempore of the Senate.

HB 1475 requires all retail vendor sites

selling fireworks to collect sales tax and display a sales tax permit visible for examination by any enforcement officer. Retail fireworks vendors that fail to collect sales tax will be subject to penalties.

Highlighting the significance of the oil industry to the Oklahoma economy, extends the expiration dates until July 1, 2014, for existing gross production tax exemptions for certain horizontally drilled wells and deep depth well production.

HB 1954 extends a sales tax exemption to contractors or third parties making purchases on behalf of manufacturers expanding or retooling facilities. The measure applies to manufacturing property, machinery and equipment for use in a petroleum refinery.

SB 123 allows OTC to use money collected from enforcement of cigarette and tobacco taxes for general administrative expenses of the agency. Additionally, the measure provides OTC with the ability to conduct show cause hearings related to violations of sales tax laws in at least two locations in the state. As soon as is practical after July 1, 2011, the measure permits OTC to add at least 10 additional sales and use tax audit or enforcement personnel. SB 123 requires OTC to develop a compliance program for corporate and partnership income tax returns. The measure also allows OTC to use direct deposit and card-based disbursement systems, in lieu of checks or warrants, for the issuance of income tax refunds.

ELECTIONS

The Legislature took action on four measures intended to keep the state in compliance with federal election requirements.

The first measure, **HB 1615**, creates the Let the Troops Vote Act and modifies the:

- Dates for holding primary elections;
- Time frame for forming a recognized political party;
- Dates for filing declarations of candidacy;
- Dates for holding special elections and the filing period dates; and
- Required time frame for the transmission of absentee ballots upon application.

A similar bill, **HB 1614**, changes the date for holding a Presidential Preferential Primary from the first Tuesday in February to the first Tuesday in March.

SB 115 creates the Uniform Military and Overseas Voters Act, which directs the secretary of the State Election Board to make available to covered voters information regarding procedures for voter registration and for casting military-overseas ballots. It also directs the secretary to develop standardized absentee-voting materials, including a declaration form to confirm the voter's identity and eligibility to vote. The bill also establishes procedures for registering to vote and for the processing of ballot applications and transmittal of ballots.

The fourth measure, **SB 328**, modifies the state's Election Management System to be consistent with the requirements of the federal Help America Vote Act, including procedures for counting votes in a declared election emergency. The bill suspends local elections in December of 2011 and January of 2012 to allow for an orderly transition to the new system.

SB 931 adds two alternate members to the State Election Board to attend a meeting in place of an absent member or members. Alternate members are appointed by the Governor from the lists submitted by the political parties having the largest and second largest number of registered voters in the state.

HB 1776 requires candidates for state office, candidates for municipal offices in a municipality of more than 250,000 persons and candidates for county office in a county of more than 250,000 persons that are allowed to receive the maximum campaign contribution of $5,000 to file a contribution report with the Ethics Commission and directs the commission to make reports available online.

SB 214 grants the State Election Board authority to remove alternate members of county election boards at any time. The measure requires a person disqualified because he or she is a candidate or employee of a candidate to resign within 10 days after candidacy was filed. Thereafter, the secretary of the county election board may appoint a replacement. The measure also prohibits a person from serving on a precinct election board or an absentee voting board at any election in which he or she is related within the second degree of consanguinity or affinity to a candidate for office on that ballot. Persons also are prohibited from serving as a member, alternate member or secretary of a county election board at any election in which he or she is related within the second degree of consanguinity or affinity to a candidate for office on the ballot in that county. This measure also is discussed with other county and municipal government measures earlier in this section.

HB 1664 removes the requirement that ballot titles be written on an eighth-grade reading comprehension level. The measure authorizes the attorney general to respond in writing to comments on ballot titles made by the Speaker of the House or the President Pro Tempore of the Senate. After final passage of a measure that is proposed as a constitutional amendment by the Legislature or when the Legislature proposes a statute conditioned upon approval by the people, the bill requires the attorney general to notify the principal author of a bill whether the related proposed ballot title complies with applicable laws and submit any prepared preliminary ballot title.

ELECTION PROCEDURES MODIFIED BY HB 1615

	Current Requirement	Requirement as of Nov. 1, 2011
Primary election	Last Tuesday in July	Last Tuesday in June
Forming a recognized political party	Between June 1 and Nov. 15 of even-numbered years	Between March 1 and Nov. 15 of even-numbered years
Special local elections Odd-numbered years	Second Tuesday of Jan., Feb., May, June, July, Aug., Sept., Oct., Nov., Dec.; first Tuesday in March and April	Second Tuesday of Jan., Feb., May, June, July, Aug., Sept., Oct., Nov.; first Tuesday in March and April
Special local elections Even-numbered years	Second Tuesday of Jan., Feb., May, Dec.; first Tuesday of March and April; last Tuesday in July; fourth Tuesday in Aug. and first Tuesday after the first Monday in Nov.	Second Tuesday of Jan., Feb.; first Tuesday of March and April; last Tuesday in June; fourth Tuesday in Aug. and first Tuesday after the first Monday in Nov.
Voter to change political affiliation	Any time except during period between June 1 and Aug. 31 in an even-numbered year	Any time except period between April 1 and Aug. 31 in an even-numbered year
Filing declarations of candidacy	Between 8 a.m. on the first Monday in June and no later than 5 p.m. the next succeeding Wednesday	Between 8 a.m. on the second Wednesday in April of any even-numbered year and no later than 5 p.m. the next succeeding Friday
Presidential preferential primary	Any date other than the first Tuesday in Feb.	Any date other than the first Tuesday in March

HEALTH *and* HUMAN SERVICES

HEALTH

Legislators advanced numerous measures related to public health this session, including those addressing hospital fees, abortion and health-related professions.

Health Care

Creating the Supplemental Hospital Offset Payment Program, known as the SHOPP Act, **HB 1381** authorizes the Oklahoma Health Care Authority (OHCA) to assess an annual fee on hospitals until January 2015 to receive federal matching funds. The fee is 2.5 percent of each hospital's net patient revenue for the first year and cannot exceed 4 percent in any following year. The measure prohibits hospitals from passing on the fee to patients.

Hospitals exempt from the fee include state, federal, tribal, children's, long-term acute care, specialty and critical access hospitals. The measure requires that OHCA use the assessment funds only for listed purposes, including supplemental payments to participating hospitals for Medicaid and the State Children's Health Insurance Program, known as SCHIP, inpatient and outpatient services, supplemental payments to critical access hospitals and OHCA administrative program costs not to exceed $200,000.

With the passage of **SB 722**, Oklahoma joins a national health care compact that authorizes member states to suspend the operation of federal health care regulations that are inconsistent with certain

INSIDE THIS SECTION

Health Care 58
Abortion 60
Agency Operations 60
Human Services 62
Children and Families 62
Elderly and Long-Term Care .. 64
Misc. Human Services 65

POINTS OF INTEREST

- Created fee on hospitals for supplemental payments to certain hospitals
- Required criminal background checks of adults before reunification with child removed from home

state laws while still retaining the right to federal health care funding. The compact requires the consent of Congress.

HB 1271 amends the existing statutory definition of a person requiring treatment for mental illness or drug or alcohol dependency by providing that the individual must pose a substantial risk of immediate physical harm to self or others. In determining if treatment is required, the court may take into consideration the mental health and substance abuse history of the individual. The measure adds treatment advocates to the list of those who can petition the court for treatment services on behalf of the individual. It also modifies the definition of *dangerous person* by deleting the phrase "one who poses a substantial risk of harm to self or others" and replacing it with "a person requiring treatment."

HB 1638 authorizes the Department of Mental Health and Substance Abuse Services to enter into a professional services contract with registered nurses, registered pharmacists or licensed mental health professionals who have separated from or retired from state service.

HB 1441 deletes the requirement that only pharmacies designated as long-term care pharmacies can maintain emergency medical kits used in long-term care facilities.

HB 1826 requires at the time of delivery a healthcare provider to order a blood sample from a pregnant female who has had no prenatal care and to submit the sample to an approved lab for an HIV test.

Modifying the Health Insurance High Risk Pool Act, **SB 563** adds to the definition of creditable coverage the Pre-Existing Condition Insurance Plan (PCIP), a temporary high risk pool offered pursuant to the Affordable Care Act, and exempts from the 18-month creditable coverage requirement an individual whose most recent coverage was under the PCIP. **SB 673** modifies the Pharmacy Audit Integrity Act by prohibiting auditors from requiring pharmacies to keep records that existing law does not require be retained unless both parties have agreed to the enhanced requirements. The measure requires an on-site auditor to give a pharmacy two weeks notice before an audit and provide certain information about what will be audited. It also prohibits an auditor from auditing more than 75 prescriptions per audit and shortens the deadlines related to preliminary and final audit reports.

SB 701 requires a medical provider to release a deceased person's medical records upon issuance of a court order or the written release from an executor, court-appointed representative, spouse or family member. It adds pathology slides to the type of medical records a patient or representative is authorized to access, and it allows medical professionals to charge up to 12 cents per page to reproduce requested medical records in digital form.

SB 854 requires a jail administrator to provide prescriptions to prisoners as directed by a physician or designated medical authority and to ensure that an inmate takes the medication. It requires the prescribing physician or medical authority to be aware of the impact of opiate or methadone withdrawal symptoms and prohibits prescriptions and over-the-counter medications from being kept in a prisoner's cell except for nitroglycerin tablets and prescription inhalers. It also prohibits the administration of over-the-counter medications without a physician's approval unless using prepackaged medications and requires that medical reception information be recorded on a printed screening form that includes specific de-

Legislators advanced numerous measures related to public health, including those addressing hospital fees, abortion and health-related professions.

DID YOU KNOW?

OHCA officials estimate the SHOPP Act will generate approximately $152 million in provider payments annually that will be used to leverage approximately $268 million in federal matching funds. In total, approximately $420 million will be available annually for the state's Medicaid program. Though the entire $420 million is to be utilized for Medicaid reimbursements, approximately $336 million of the funds will be directed specifically for Medicaid hospital reimbursements. The measure also limits the amount of total payments available to OHCA for administration of the program to $200,000 annually; such funds would be eligible for a $1 to $1 federal match.

tails about a prisoner's health.

Abortion

Legislators addressed abortion policies in three pieces of legislation this session. The restrictions in **HB 1888** prohibit an abortion at or after 20 weeks of pregnancy unless it is necessary to save the mother's life or prevent major injury and makes it a felony to knowingly perform an abortion in violation of the provision. It also requires physicians to determine the age of a fetus before an abortion and to report the procedural details to the State Department of Health which will issue the data in an annual report of related statistics. The map below details later-term abortion policies in the 50 states.

separate premium.

Expanding the current restrictions on RU-486, mifepristone, **HB 1970** includes any drugs with abortion-inducing properties that are prescribed with the intent of causing an abortion. It requires physicians who provide the drugs to administer the them according to the protocol and label approved by the U.S. Food and Drug Administration, to document the gestational age and location within the uterus of the pregnancy and to schedule the patient for a follow-up appointment.

Health-Related Agency Operations

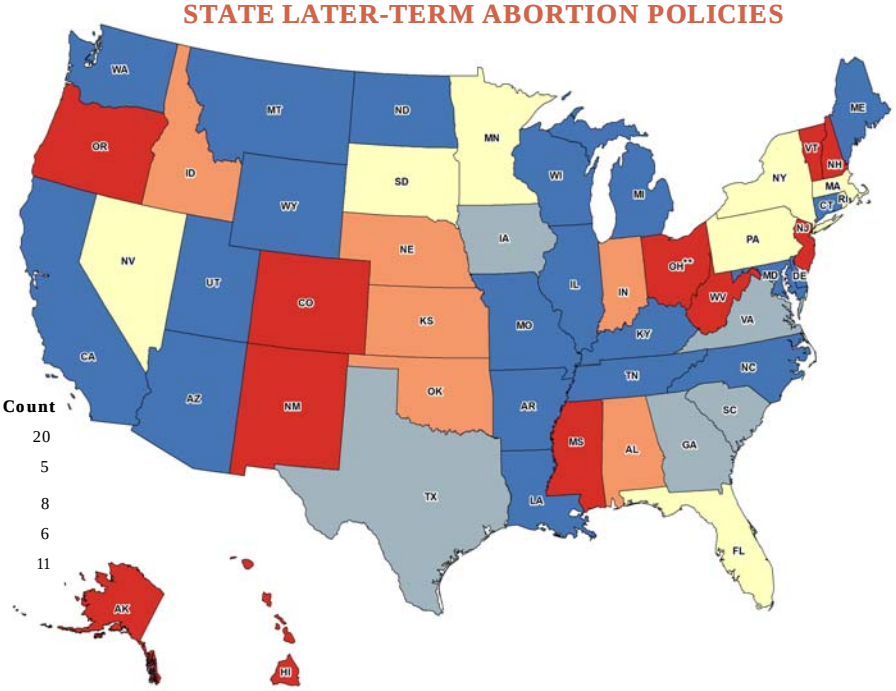
Several agencies requested legislative modifications to their operating procedures, many of which related to health professions.

Several agencies requested legislative modifications to their operating procedures, many of which related to health professions.

SB 547 prohibits health insurance policies offered in the state from including elective abortion coverage except through optional supplemental coverage with a

HB 1715 modifies the Social Worker's

STATE LATER-TERM ABORTION POLICIES



Legend

	Count
Abortions prohibited after fetal viability*	20
Abortions prohibited in the third trimester	5
Abortions prohibited after 24 weeks	8
Abortions prohibited after 20 weeks	6
States with no later-term abortions	11

Oklahoma House Research Division, GIS Office: July, 2011. Source: Guttmacher Institute: "State Policies in Brief: State Policies on Later-Term Abortions," July, 2011.

* Viability is defined by the Supreme Court as "the capacity for meaningful life outside the womb, albeit with artificial aid and not just momentary survival." ** Ohio—Enforcement permanently enjoined by a court order; policy not in effect.

Licensing Act to require all applicants to pay for a national criminal history record check and supply two sets of fingerprints. If the background check reveals a felony or certain misdemeanors, the application may be rejected. A social worker with an expired license who applies for reinstatement after January 1, 2012, must also submit to the background check.

The measure also requires that an applicant's supervised postgraduate work be full-time in order to qualify as a licensed social associate, social worker, clinical social worker or social worker with administration specialty. It restricts independent social work practice to licensed social workers, specifically excluding social work associates and master's social workers, and requires the independent social worker to meet continuing education requirements.

SB 574 requires a dentist to maintain a professional liability insurance policy with exceptions for dentists who are covered by a group or hospital malpractice policy, are practicing in certain state or federal facilities or are volunteering with a special volunteer license. It authorizes Oklahoma Board of Dentistry investigators to perform necessary services, investigate certain records and, after retirement, to continue to possess a sidearm and badge.

HB 1275 increases the number of statutorily allowed full-time employees of the Board of Nursing from 26 to 30 and amends the professional titles and clarifies the roles of certain nursing professions which the board licenses and certifies. The measure requires applicants for RN and LPN licenses to be at least 18 years of age and allows the board to deny prescriptive and other drug-related authority.

HB 1658 authorizes the Board of Chiropractic Examiners to promulgate rules related to certified chiropractic assistants, which the measure defines as unlicensed members of a chiropractor's team who assist with examinations and procedures.

SB 299 authorizes the Board of Chiropractic Examiners to contract with CLEET-certified investigators and also outlines investigative procedures for the board. It authorizes the board to issue administrative penalties for field citations.

HB 2017 restricts the Oklahoma Medical Loan Repayment Program to primary care residency graduates and removes the limit on the number of graduates that the program can assist. The measure also authorizes the Physician Manpower Training Commission to determine award amounts and to utilize excess funding to support primary care residency programs in underserved areas of the state.

HB 1397 makes changes to various sections of the public health code, including:

- Insurance Reimbursement – The measure allows the Department of Health or city-county health departments to be reimbursed at the regular plan rate for services provided to an individual with health insurance;

- Vital Records – The measure updates statutory language to reflect that birth and death certificates are filed with the State Registrar. The measure increases the penalty from a misdemeanor to a felony for any violation of provisions related to birth and death certificates such as creating or possessing a fictitious certificate or altering one, applying for one under false pretenses or using someone else's. For violating similar provisions related to disinterment permits, the measure makes it a misdemeanor for a first offense or a felony for a second offense. It also requires that a copy of a court order for exhumation be provided to the Department of Health; and

- Disease Prevention and Control – The measure replaces the term *venereal disease* with *sexually transmitted infection* and expands the definition. It removes the requirement that the State Plan for the Prevention and Treatment of AIDS be reviewed and reported on annually and exempts from the Open Records Act confidential information related to individuals thought to have certain diseases.

HB 1736 expands the current authority of certified Department of Human Services (DHS) peace officers to include the investigation of Medicaid recipient fraud cases. Misleading DHS or OHCA about eligibility for Medicaid or Insure Oklahoma is punishable by either a misdemeanor or felony depending on the amount of assistance fraudulently obtained and can include fines, sanctions and imprisonment.

SB 679 authorizes OHCA to impose administrative sanctions to Medicaid recipients who abuse the state Medicaid program by being reimbursed for services that are not medically necessary, including gross overutilization of services. The measure also authorizes certified medication aides to distribute medications and treatments in county or municipal jails.

Another bill, **SB 412** requires an entity that provides health insurance in Oklahoma to accept OHCA's right of recovery and assignment of rights and prohibits charging the agency or its agents any fees for processing claims or eligibility requests. **HB 1655** requires OHCA to study and recommend coverage for prosthetic and orthotic devices for Medicaid-eligible individuals by Dec. 31, 2011.

Other bills related to mental health and substance abuse services included **HB 1377**, which authorizes the commissioner or Board of Mental Health and Substance Abuse Services to certify a facility or organization as a Mental Illness Service Program if it complies with state, national and industry standards. In addition, **SB 668** authorizes the Board of Licensed Alcohol and Drug Counselors to recover legal fees and costs expended in any disciplinary action.

Prior to applying for participation in State Athletic Commission events, an individual is required by **HB 1212** to submit recent lab results from HIV and Hepatitis B and C virus tests. An applicant with positive test results will be denied a license. An applicant who fails to timely submit the required test results may still compete if the participant, opponent, ring official and ringside physician agree in writing.

HUMAN SERVICES

Children and Families

The Legislature took action to provide greater safeguards for children in state custody who are being considered for trial reunification with their parents. Prior to the court ordering a trial reunification, **HB 2136** requires DHS to conduct a criminal background check of any adult in the home and provides that service provider progress reports and critical incident reports generated during the child's stay in custody be submitted to the court and delivered to the parties in a deprived action including the district attorney, the attorney for the parent, the child's attorney and guardian ad litem and to any relevant tribe.

In addition, the measure requires DHS, upon receiving a report alleging abuse or neglect, to conduct an investigation rather than an assessment if the family has been the subject of a deprived petition or three or more referrals to the agency and allows the Oklahoma Commission on Children and Youth to disclose any previous child welfare encounters or investigations involving a child who has died or nearly dies and the person responsible for the child has been charged.

SB 510 reflected the recommendations of the Adoption Review Task Force. The measure modifies the list of allowable adoption-related costs and expenses that a person may pay for in connection with an adoption to include reasonable and necessary costs associated with an international adoption and a one-time gift from the adoptive parents to the birth mother valued at no more than $100. The measure also clarifies what constitutes reasonable and necessary living expenses of the birth mother and requires verification of living expenses paid for on behalf of a birth mother. Further, the bill:

- Directs the administrative director of the courts to develop a form to collect demographic information regarding the adoption of each child in Oklahoma and requires each court clerk to collect the information and make an annual report to the administra-

tive director who will forward it to DHS for compilation and public reporting;

- Modifies the list of persons or agencies that are authorized to conduct a home study of prospective adoptive parents;

- Increases from 22 to 99 years the length of time records of adoptions finalized in the state are required to be maintained; and

- Authorizes the court to disclose to an employee of an out-of-state entity licensed to perform home studies in that state confirmation as to whether a prospective adoptive parent has relinquished or had parental rights to a child in the state terminated.

Another adoption-related measure, **HB 1194**, makes DHS, instead of the State Health Department, responsible for designing and distributing the form used to record the medical history of a minor eligible for adoption and of the minor's biological relatives.

SB 674 clarifies the requirements and procedures for obtaining national criminal history records searches for individuals who own, work, live in or have unsupervised access to children in child care facilities. The measure requires that child care facility owners, directors and other employees who review and have access to fingerprint results submit to a national criminal history records search. It also provides that the Oklahoma State Bureau of Investigation notify DHS if the subject of the search becomes the subject of subsequent criminal history activity.

SB 576 authorizes DHS to release a delinquent or missing parent "Most Wanted" list of individuals who are in arrears in court-ordered child support obligations or who are sought for the purpose of establishing a child support order.

HB 1359 creates the Foster Care System Improvement Task Force to review the state's foster care system and make recommendations to the Legislature and Governor on the areas of the system that need improvement. The recommendations will include identification of desired outcomes for children and families, best practices to assist in achieving the outcomes, accountability standards used to measure success in meeting the outcomes and an estimated cost for implementing the recommendations.

The Legislature took action to provide greater safeguards for children in state custody who are being considered for trial reunification with their parents.

HB 1218 allows counties that maintain a juvenile bureau to contract with a court-appointed special advocate program to provide juvenile officer and assistant juvenile officer services.

SB 247 modifies the placement options for delinquent children to include secure facilities and other facilities or institutions maintained, operated or contracted by the state. The measure requires the Office of Juvenile Affairs to certify all secure facilities including those collocated with adult or juvenile detention according to federal guidelines.

HB 1321 prohibits the Oklahoma Lottery Commission from using children under 18 years old in the promotion or advertising of the lottery or lottery games.

DID YOU KNOW?

In 2010, the cost of caring for a Medicaid-eligible patient in a nursing facility was $103.68 per day while the cost of providing care to an ADvantage Waiver program participant in his or her own home was $29.86 per day. It is estimated that the overall cost savings to the federal and state government totaled $506 million in 2010.

Source: Department of Human Services.

Elderly and Long-Term Care

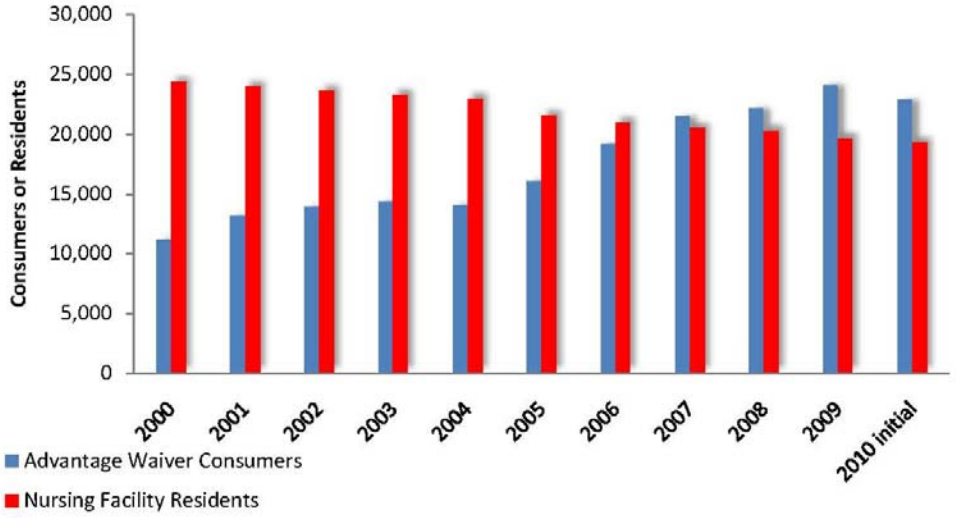
In an ongoing effort to help seniors stay in their own homes longer, **HB 1363** creates the Oklahoma Choices for Long-Term Care Act which requires OHCA to establish a system of presumptive eligibility for the Advantage Waiver Program based on the same criteria used for nursing facilities. The Advantage Program allows Medicaid-eligible individuals who require nursing facility-level of care to receive services in their homes as a cost-effective alternative to nursing home placement. The measure also directs OHCA to initiate a request for proposal that outlines specific expectations and requirements of suppliers to competitively bid on providing administrative agent services for the Advantage Program and that the contract award be announced on May 15, 2012 and begin on July 1, 2012. The chart below shows the growth of the Advantage Program over the last ten years.

SB 492 expands the conditions under which DHS may petition the court to authorize emergency protective services of a vulnerable adult to include self-neglect or financial neglect and authorizes DHS to petition the court to direct local law enforcement to transport an incapacitated or vulnerable adult for appropriate care, treatment and residential placement. It also provides for reimbursement to law enforcement. In addition, the bill requires that services provided to vulnerable adults be consistent with the adult's age and condition and, with the exception of facilities operated by or under contract with the Department of Mental Health and Substance Abuse Services, that the services be provided in a setting that is segregated from any patients or residents of a facility who have been determined to be a danger to others.

Finally, the measure creates the Law Enforcement Behavioral Health Emergency Dispatch Task Force to study the development of a law enforcement behavioral health emergency dispatch system that will assist law enforcement, hospitals and emergency services to provide an organ-

Legislators focused on helping seniors stay in their own homes longer.

NURSING FACILITY RESIDENTS AND ADVANTAGE WAIVER CONSUMERS



Source: Oklahoma Department of Human Services

ized system of transportation for persons in need of mental health or substance abuse inpatient treatment.

A measure intended to ensure that seniors receive consistent quality care in assisted living, residential care facilities and adult day care centers, **HB 1282**, requires administrators of those entities to be licensed or certified by the Oklahoma State Board of Examiners for Long-Term Care Administrators and vacates the current appointed positions of the board and modifies its future membership. The bill further requires the board to adopt qualifications for licensure or certification and provides that all persons currently serving as an administrator of a facility or center can continue to serve in that capacity until the board establishes qualifications for licensure and certification.

HB 1554 creates the Options Counseling for Long-term Care Program within the DHS Aging Services Division to provide individuals or their representatives with long-term care options and considerations. The measure prohibits provisions of the act from being used to implement any provision of federal health care reform.

HB 1504 authorizes the State Department of Health to issue or renew a license to home care agencies that are accredited by the Accreditation Commission for Health Care.

Miscellaneous Human Services Legislation

HB 1047 authorizes the State Department of Rehabilitation Services to require national criminal background checks for job applicants. **HB 1228** creates the Sheltered Workshop Act for licensing sheltered workshops that allow individuals with developmental disabilities to participate in meaningful work or training activities. The bill authorizes DHS to issue, modify and revoke licenses for sheltered workshops, establish and enforce the standards for licensure and to inspect and evaluate the workshops. Providers of sheltered workshop services that have an existing DHS or OHCA contract to provide sheltered workshop services as of November 1, 2011, will be deemed to be licensed, subject to continuing requirements of the act. Providers are required to conduct a criminal history records search and a search of the DHS Community Services Worker Registry prior to permanent employment of any community services worker. It also prohibits providers from hiring an employee or using a volunteer whose name is on the registry or who has been convicted of assault and battery or any felony.

LEGAL REFORM *and* THE COURTS

JUDICIARY

The Legislature passed measures in the 2011 legislative session related to the judicial system, courts and judges.

Eminent domain bills aimed to strengthen the rights of landowners. **HB 1226** requires a portion of real property taken by eminent domain to be offered for resale to the original owner or heirs at the appraised value or original price when the property is not used for the purpose for which it was condemned or for another public use. The agency that acquired the real property is required to notify the former landowner of the right of first refusal. The property may be sold at public sale if the offer to repurchase is not accepted. Another measure, **SB 124**, was passed to protect rural landowners by prohibiting wind turbine companies from using eminent domain for the sitting or erecting of wind turbines on private property. **HB 1564** creates the Airspace Severance Restriction Act and eliminates the requirement that any wind or solar energy agreement not interfere with or supersede the right to obtain easements. The measure requires any memorandum of easement that is related to an instrument that creates a land right in real property or the vertical space above real property for solar energy or wind systems or equipment to be recorded. The memorandum of easement is exempt from requirements to include listed property information. SB 124 and HB 1564 also are discussed in the Energy and Utility Regulation section.

Continuing a 2010 legislative effort, **SB 406** strengthens the state's funeral picketing laws. It increases the distance requirements from 500 feet to 1,000 feet that protestors are prohibited from picketing a funeral. The measure also extends the time limitations on picketing from 1 hour to 2 hours before or after the funeral service.

In a significant rewrite of Oklahoma employment discrimination laws, **SB 837** provides for exclusive remedies for individuals alleging discrimination in employment on the basis of race, color, national origin, sex, religion, creed, age, disability or genetic information. The bill repeals common law actions in employment dis-

INSIDE THIS SECTION

Judiciary 66
Tort Reform 69
Civil Procedure 70
Family Law 71
Workers' Compensation 72

POINTS OF INTEREST

- Overhauled workers' compensation system
- Sought to improve business climate through tort reform

crimination lawsuits, creating the same remedies for all employment discriminatory actions. The measure modifies the definition of a *discriminatory practice* to include individuals discriminated against because of genetic information or a disability as those protected under the relevant discrimination provisions, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business. The measure extends protections to employment applicants.

SB 398 expands the scope of the attorney general's statewide Do Not Call Registry to include unsolicited text messages from telemarketers. The registry lists consumers who do not wish to receive unsolicited telemarketing communication.

HB 1234 creates the Judge Gary Dean Courtroom Technology Act and authorizes district courts to use videoconferencing to conduct proceedings between a courtroom and a correctional or juvenile detention facility. A waiver from the defendant or juvenile of the right to be present in the courtroom for a hearing is required prior to conducting the proceedings.

HB 1415 transfers oversight of the Legal Services Revolving Fund from the Oklahoma Supreme Court and the administrative director of the courts to the attorney general.

HB 1556 provides that the Uniform State Code of Military Justice (USCMJ) is applicable to offenses related to the use, possession, manufacture, distribution or importation of drugs, regardless of duty status. The measure provides that a person subject to USCMJ who:

- Unlawfully destroys or alters a public record is subject to court-martial;
- Engages in wrongful and reckless conduct likely to cause death or grievous bodily harm is subject to court-martial; and
- Wrongfully makes, alters, sells, lends or disposes a military or official pass, permit, discharge certificate or identification is subject to court-martial.

This measure also is discussed in the Military and Veterans section.

In an effort to free real property from unreasonable restraints on alienation and covenants or servitudes that do not concern the property, **HB 1594** provides that a transfer fee attach to a title to real property and is unenforceable against any owner. A transfer fee is defined as a charge imposed by a provision in a document related to the subject property which purports to run with the land or bind the current owners and obligates the owners to pay a fee to a third party upon transfer of the property.

Several bills focused on strengthening the rights of landowners.

SB 494 creates the Oklahoma Private Lands and Public Recreation Act to prohibit a person from entering private land that is primarily devoted to farming, ranching or forestry for recreational use without consent or after being asked to leave. *Recreational use* includes any activity undertaken for exercise, education, relaxation or pleasure. The measure also prohibits mud bogging, destruction or removal of property, littering and leaving items not in the condition they were found. The measure provides penalties for violations and allows any law enforcement official to issue citations to persons in violation. The measure provides enhanced penalties for aggravated violations which include driving a vehicle in a way that could endanger others or causing damage to the land. The measure also provides limited liability for the landowner for certain injuries to a trespasser.

SB 521 defines *interest in real estate* as

used in the Non-testamentary Transfer of Property Act to mean any estate or interest in, over or under land, including surface, minerals, structures and fixtures. The measure requires an individual accepting real estate pursuant to a transfer on death deed to complete certain procedures within nine months of the grantor's death or the property reverts back to the estate. It also requires that certain documents related to the transfer must only be sworn to, and not acknowledged, before a notary in order to be recorded by the county clerk. The measure provides the grantee will take possession of the property at the death of the grantor free of any claims by a person who becomes a spouse of the grantor after the execution of the deed. The measure clarifies that the grantee will take possession of the property only subject to conveyances and executory contracts of sale that are recorded. Nonconsensual liens against the grantee will not attach to the property until the grantee records certain documents related to the transfer. The measure also modifies language related to procedures in the event the grantee dies prior to the grantor.

HB 1414 makes appraisal review reports that express an opinion about another appraiser's work subject to provisions of the Oklahoma Certified Real Estate Appraisers Act. The measure modifies the duties of the chairperson of the Real Estate Appraiser Board when dealing with grievances and modifies the board's powers and duties to include standards and criteria for approving course providers and instructors. The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is required to assess the amount of the Federal Registry Fee that the Insurance Department must collect. It previously was $25. The measure also modifies several licensing requirements for temporary permits, original certifications and nonresidents.

HB 1675 removes the monetary balance limitation for the Attorney General's Evidence Fund.

SB 943 modifies the judicial review process of state agency final orders by requiring that a petition seeking review must name as respondents the agency and other parties the petitioner deems appropriate. The measure requires that the petition be delivered in person or mailed, postage prepaid, and that any party not named as a respondent in the petition is entitled to respond within 10 days of receipt of service. The time period during which the agency must transmit to the court the record of the proceeding under review is extended from 30 to 60 days after service.

The Legislature passed a series of tort reform bills with the intent of improving the state's business climate by obtaining and keeping more jobs in Oklahoma.

HB 1322 provides that any person acting in a fiduciary capacity administering a probate, intestate or trust estate upon conviction of embezzlement will not receive any portion, share, gift or benefit from the estate.

HB 1355 clarifies who is responsible for the disposition of the remains of a deceased person. The measure allows the district court to determine the person most fit to make a decision regarding disposition of the remains if persons responsible forfeit the right to make the decision and if no agreement was in place prior to the person's death. A funeral director is authorized to control the final disposition when no responsible person can be found and exempts the funeral director from civil and criminal liability for carrying out the disposition of the remains in accordance with instructions.

The measure also creates the Deceased Veterans Dignity Act to authorize the person chosen by the deceased to bury or provide other funeral and disposition arrangements for the veteran if the individual died while serving in any branch of the United States Armed Forces, the Reserve Forces or the National Guard and

completed Department of Defense paperwork.. Finally, the measure creates a revolving fund for the Oklahoma Turnpike Authority to be designated as the Honor the Fallen Revolving Fund, which will be used to reimburse the Turnpike Authority for the funeral procession of any member of the United States Armed Forces who is killed in the line of duty. This measure also is discussed in the Veterans section.

SB 250 creates the Chanda Turner Reform Act to require that copies of autopsy reports must be furnished to the spouse of the deceased or any person within one degree of consanguinity of the deceased upon request and within five business days of the request once the cause and manner of death has been determined and the death certificate has been issued. A spouse or family member is allowed to appeal findings in the report in district court.

HB 1358 provides that any incarceration period of a defendant of a protective order is not to be included in the calculation of the three-year time limitation on a protective order. The bill also allows the issuance of emergency protective orders against a person accused of child abuse when a child has been taken into state custody.

HB 1604 limits the type of property which may be seized and forfeited by providing that vehicles used as common carriers in the transaction of business are not to be forfeited unless the owner or other person in charge of the vehicle was a consenting party to the unlawful use of the vehicle.

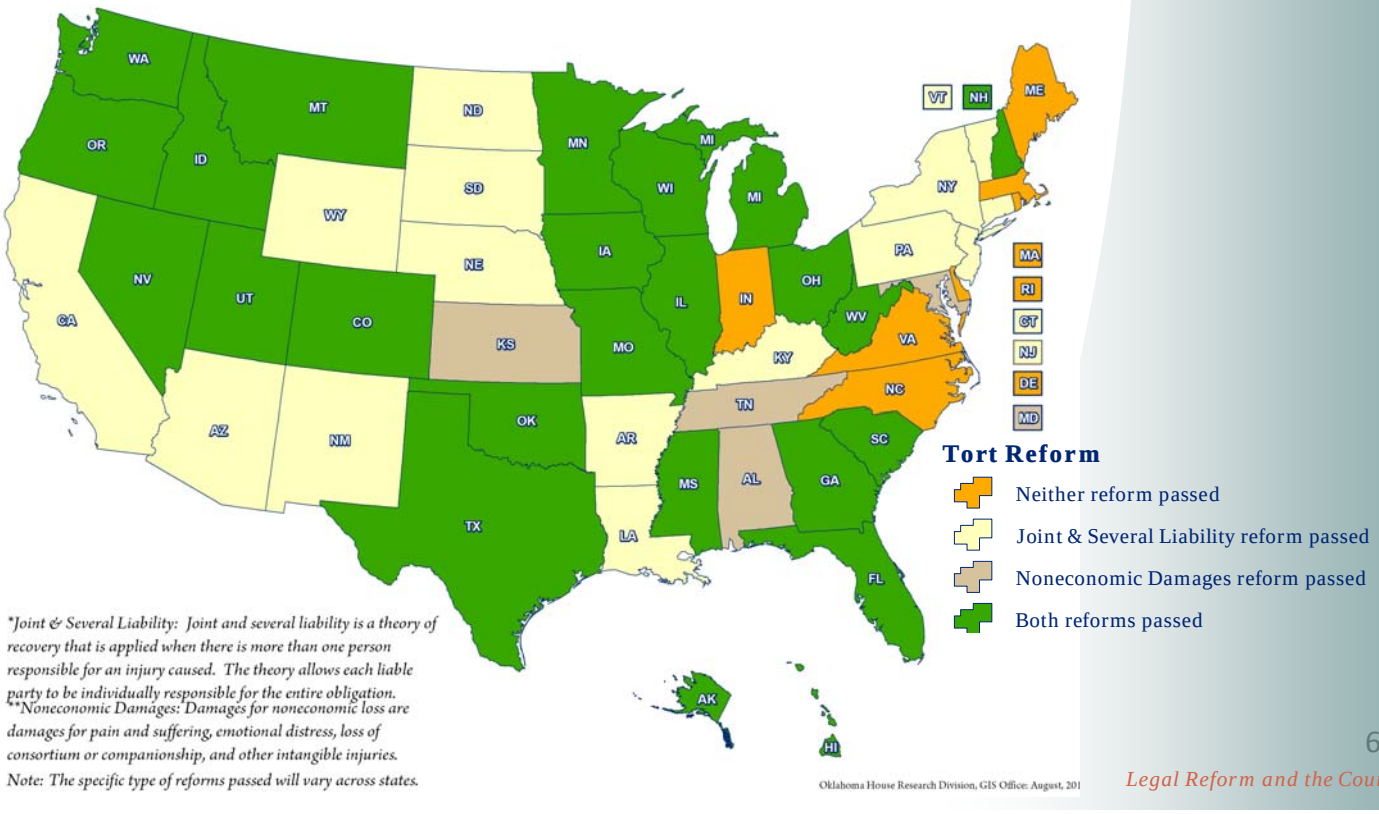
SB 498 authorizes district courts, the Workers' Compensation Court or the Oklahoma Corporation Commission to set the salary rate for temporary court reporters.

TORT REFORM AND CIVIL PROCEDURE

To address the issue of excessive litigation and damages awarded in personal injury and medical malpractice suits, the Legislature passed a series of tort reform bills with the intent of improving the state's business climate by obtaining and keeping more jobs in Oklahoma.

TORT REFORM ACROSS THE UNITED STATES

States that Passed Joint and Several Liability and/or Noneconomic Damages Reform***



**Joint & Several Liability: Joint and several liability is a theory of recovery that is applied when there is more than one person responsible for an injury caused. The theory allows each liable party to be individually responsible for the entire obligation.*

***Noneconomic Damages: Damages for noneconomic loss are damages for pain and suffering, emotional distress, loss of consortium or companionship, and other intangible injuries.*

Note: The specific type of reforms passed will vary across states.

Oklahoma House Research Division, GIS Office: August, 201

Tort Reform

A key part of the reform agenda, **HB 2128** caps noneconomic damages recoverable in a civil action for bodily injury at $350,000. The measure creates an exception so that there is no limit on the amount of noneconomic damages in a civil action for bodily injury resulting from negligence if the defendant acted recklessly, fraudulently or intentionally or with gross negligence. In a similar effort to curb noneconomic damages, **SB 272** limits the amount of recoverable damages in an action arising from an accident involving the operation of a motor vehicle or for any claim against the motor vehicle liability insurance coverage of another party if the plaintiff is not in compliance with compulsory insurance laws. Damages are limited to the amount of medical costs, property damage and lost income and cannot include any award for pain and suffering, with provided exceptions.

In another effort to limit recoverable damages, **SB 862** makes a defendant only responsible for the portion of damages that the defendant actually caused. The measure removes a requirement that a defendant, in certain civil actions, be jointly and severally liable for all damages if the defendant is found to be more than 50 percent at fault. The measure also removes the requirement that a joint tortfeasor will be jointly and severally liable for all damages if the tortfeasor acted with willful and wanton conduct or reckless disregard.

SB 865 requires the Oklahoma Uniform Jury Instructions in a civil case to include instructions that no part of an award for damages for personal injury or wrongful death is subject to federal or state income tax, and the jury should not consider income taxes when determining an award.

For clarification of damages in a civil case involving personal injury, **HB 2023** requires that the actual amount paid for certain medical bills instead of the amounts billed for expenses incurred will be admissible at trial. The measure provides that a lien filed by a medical examiner for an amount in excess of the amount paid for certain medical bills will be admissible.

HB 2024 authorizes a court to order that future damages incurred after the date of judgment that exceed $100,000 be paid in a lump-sum payment or periodic payments not to exceed seven years from the date of entry of judgment. The defendant must provide evidence of financial responsibility. Orders for future payments will constitute a release of the health care liability claim filed by plaintiffs. After termination of the periodic payments, the security deposit will be returned to the defendants. Upon the recipient's death, money damages for loss of future earnings must continue to be paid to the estate.

HB 1209 provides limited malpractice protection for physicians providing emergency medical services to an injured participant at an athletic event except when the physician commits gross negligence or willful or wanton negligence.

Civil Procedure

Other measures aimed to modify procedures that courts and attorneys must follow when adjudicating civil lawsuits.

In order for a mechanic's or materialmen's lien to be valid, **SB 277** requires that a pre-lien notice be sent within 75 days after a claimant furnishes materials or services in order for a lien affecting property occupied as a dwelling by an owner to be valid. Pre-lien notice requirements will not apply to claims less than $10,000. Additionally, the measure requires residential projects not be occupied by an owner in order to be except from pre-lien notice requirements. The measure also removes a requirement that the pre-lien notice must state that the materials and services furnished exceeded $2,500, and requires notice to state the amount of materials and services furnished.

SB 527 modifies the rights of judgment creditors and debtors and related judicial procedures to collect debt. The measure:

- Allows for claims by a creditor to also be brought in the county in which the claim arose, instead of only the county where the debtor resides;

- Expands the type of lien that may be released by the court upon written motion to include liens of any judgment that have been vacated, become dormant or otherwise been discharged;
- Entitles the judgment creditor to costs for service when a citation for failure to obey an order to appear is served on the judgment debtor and increases from $75 to $100 the attorney fee the judgment creditor is entitled to for each citation, not to exceed $300;
- Allows for attorney fees to be collected in any civil action to recover unpaid debt owed to the state;
- Allows a non-continuing earnings garnishment to be suspended or modified by the judgment creditor upon written agreement with the judgment debtor;
- Provides that when a creditor has obtained a continuing lien on earnings, if the judgment debtor is not paid by the garnishee within 30 days from the date of the garnishment summons, the garnishee must pay the amount withheld to the judgment creditor; and
- Removes the requirement that a judgment creditor must include information regarding default judgments within a discovery request upon the garnishee.

SB 798 authorizes a plaintiff mortgagee, at the start of foreclosure proceedings, to make a motion to protect and preserve the abandoned or vacated property if the property poses certain risks. After the plaintiff mortgagee files a motion to protect and preserve, the sheriff is required to inspect the property and post a notice if found vacant or attempt actual service on the occupant. The measure provides that the plaintiff mortgagee may attempt notice by publication. The plaintiff mortgagee is authorized to take possession and secure the subject property after the order is issued, but the order may be vacated and set aside upon a motion by the defendant mortgagor or occupant.

SB 940 modifies certain requirements for service of process by removing the requirement that a motion for summary judgment be served at least 10 days before the day of the hearing and that an opposing party may serve affidavits before the hearing.

SB 704 requires a petition in a class action lawsuit contain factual allegations sufficient to demonstrate a plausible claim for relief in order for the action to be maintained as a class action.

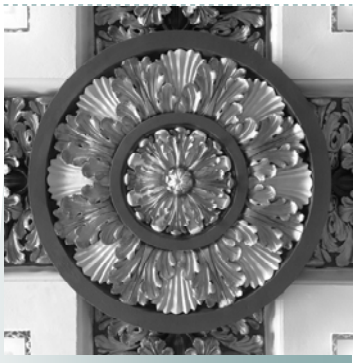
The Legislature passed measures modifying divorce action requirements, factors considered in custody determinations and other laws relating to families and children.

FAMILY LAW

The Legislature passed several bills modifying divorce action requirements, factors considered in custody determinations and other laws relating to families and children.

Upon the filing of divorce, annulment or separation petitions, **SB 815** requires the parties to exchange tax, employment, financial, insurance and other documents and provides penalties for failure to produce the information. The measure prohibits parties from destroying or damaging electronically stored documents.

HB 1603 creates the Deployed Parents Custody Act by requiring a court to determine custody and visitation when a custodial parent is separated from the child due to military service and authorizes deploying parents to request visitation rights be delegated to family members. The measure requires a deploying parent to provide notifications to the non-deploying parent when deployed and upon return and authorizes motions for a



temporary custody, visitation and child support orders. Finally, the measure establishes a rebuttable presumption that existing orders are in the best interest of the child.

HB 1607 allows the court to consider a child's preference in visitation determinations. If the child is allowed to express a preference, the measure authorizes a private interview with the child with no attorneys present, except if a guardian ad litem has been appointed, and provides guidelines for conducting the interview.

HB 1606 specifies that a mother of a child born out of wedlock has custody of the child until otherwise determined by a court of competent jurisdiction.

When a court appoints a separate attorney or guardian ad litem to represent the interests of a child, **HB 1360** establishes objective criteria for an attorney to use when substituting his or her own judgment for that of the child when the child is unable to do so. The measure also allows the child to fully participate in all aspects of deprived proceedings.

HB 1549 authorizes victims of child pornography offenses who suffer a personal or psychological injury to bring a civil action against the offender. The measure provides for the recovery of actual, special and punitive damages and attorney fees, and provides procedures for filing the civil action. The measure prohibits a defense that the respondent did not know the victim or actually commit the abuse. The attorney general is authorized to bring civil action on behalf of the victim.

WORKERS' COMPENSATION

In another effort to improve Oklahoma's business climate, the Legislature reformed the workers' compensation system by reducing legal and medical costs, allowing claims to be processed more quickly and retraining injured workers and returning them to work. **SB 878** creates a new Workers' Compensation Code. Some of the differences between the current law and provisions of the bill include:

- Establishing several new guidelines for treating injured workers, including a requirement that a physician base an opinion of the nature and extent of certain injuries on the "American Medical Association's Guides to Evaluation of Permanent Impairment" or other certain subsequent editions;
- Establishing reimbursement rates for medical providers who treat injured workers;
- Directing the administrator to develop a new workers' compensation medical fee schedule by January 2012 that will establish the maximum rates medical providers are permitted to be reimbursed for medical care provided to injured workers in order to reduce the cost of medical care by 5 percent;
- Decreasing the involvement of private attorneys by requiring voluntary mediation be available to any party to a claim;
- Allowing the court to order mediation in any case;
- Modifying eligibility for workers' compensation treatment by expanding and clarifying which employers are exempt under the code;
- Requiring independent medical examiners to be specialists in the injuries they are diagnosing; and
- Preventing doctor shopping by limiting when injured workers can change physicians.

HB 2038 authorizes the Workers' Compensation Court administrator to compile annual reports relating to characteristics of cases including the number of surgeries, length of temporary total disability, permanent partial disability and other medical treatments and therapies.

MILITARY *and* VETERANS

During the 2011 session, the Legislature enacted a number of measures demonstrating its continued support of the military and veterans.

Several changes pertaining to the administration of the Military Department were signed into law. **SB 633** changes the designation of personnel in the department from classified to unclassified state employees and allows the adjutant general to grant leave to state civilian employees consistent with the rules governing the federal workforce in support of the National Guard. In regard to the selection of commissioned officers, the bill removes preference requirements given to persons with prior active military service, enlisted personnel of the National Guard and graduates of schools where military science is taught. The measure also grants additional authority to the adjutant general in matters related to the operation of the department.

HB 1556 provides that the Uniform State Code of Military Justice (USCMJ) is applicable to offenses related to the use, possession, manufacture, distribution or importation of drugs, regardless of duty status. The measure provides that a person subject to USCMJ who:

- Unlawfully destroys or alters a public record is subject to court-martial;
- Engages in wrongful and reckless conduct likely to cause death or grievous bodily harm is subject to court-martial; and

INSIDE THIS SECTION

Military & Veterans 73

POINTS OF INTEREST

- Changed administrative operational practices of the Military Dept.
- Increased crimes and misconduct subject to the USCMJ
- Protected funeral rights of veterans

- Wrongfully makes, alters, sells, lends or disposes a military or official pass, permit, discharge certificate or identification is subject to court-martial.

This measure also is discussed in the Judiciary section.

For military personnel who die while serving in any branch of the United States Armed Forces, the Reserve Forces or the National Guard, a portion of **HB 1355** creates the Deceased Veterans Act which provides that if a military person dies in the line of duty and has completed Department of Defense paperwork, the person authorized by the decedent has the right to bury the decedent or to provide other funeral and disposition arrangements. The act also creates a revolving fund for the Oklahoma Turnpike Authority to be designated as the Honor the Fallen Revolving Fund, to be used to reimburse the Turnpike Authority for the funeral procession of any member of the United States Armed Forces who is killed in the line of duty. This measure also is discussed in the Judiciary section.

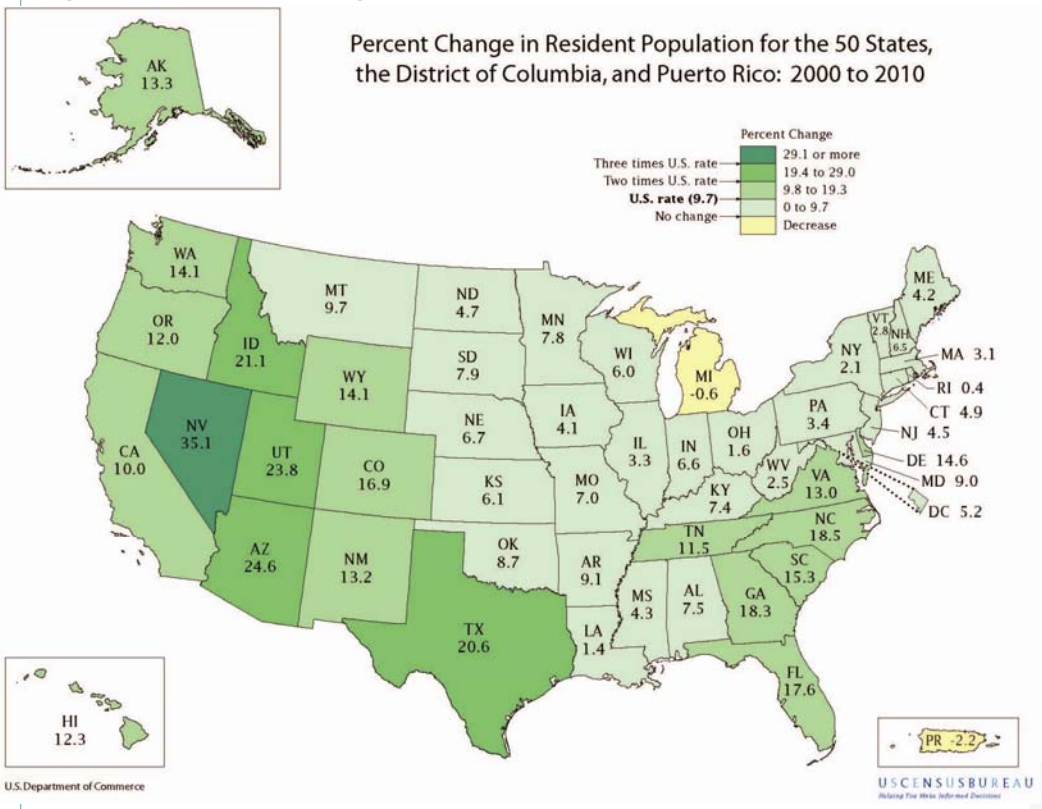
SJR 16 provides for a state referendum that would allow a veteran who is totally disabled due to military action, or the surviving spouse, to claim a homestead exemption for a manufactured home even if it is located on land the veteran or spouse does not own. If voters approve the provisions of the act in November 2012, the measure would become effective January 1, 2015.

SB 56 creates a 10-member task force to study the War Veterans Commission of Oklahoma and to report findings and recommendations regarding the commission's organization and mission by November 11, 2011.

REDISTRICTING

The Oklahoma Constitution requires the Legislature to redistrict state legislative and congressional districts following each decennial Census. Legislators spent the session working out details of a new broadly-supported plan. New districts will be in place for the November 2012 elections and will ultimately take effect when elected members take their oath of office.

Oklahoma's population growth kept pace with most of the nation, increasing by 8.7 percent, which allowed the state to retain its five congressional districts unlike 10 years ago when the state lost a congressional seat.



According to the 2010 Census, Oklahoma has a total population of 3,751,351. This means that each of the five congressional districts would have an ideal population of 750,270, which is an increase of 60,139 persons per district compared to the last round of redistricting. **HB 1527** creates the Oklahoma Congressional Redistricting Act of 2011 and allocates 750,270 people to each congressional district, except for Congressional District 5 which has one additional person. The Oklahoma congressional district map

INSIDE THIS SECTION

Redistricting 75

POINTS OF INTEREST

- Addressed Oklahoma's population increase of 8.7 percent from 2000-2010
- Made measureable improvements over the 2001 plan
- Created two open House district seats

DID YOU KNOW?

Compactness—*The lower the compactness percentage the less compact the district is, based upon the geographic area of the district and perimeter. For example, the House districts along the Red River generally have poor compactness scores because of the odd-shaped perimeter caused by the natural boundary.*

outlined in HB 1527 was not altered significantly from the previous map. Marshall County moved to Congressional District (CD) 2 from CD 4, and CD 2 gained additional people in Rogers County. CD 3 gained additional people in Canadian County, and there were slight changes in Creek and Oklahoma counties, which currently are split between multiple districts, to make the five districts as equal in population as possible. (See Appendix VI for the 2012-2020 congressional map.)

The Oklahoma Constitution is silent on redistricting principles for the House of Representatives, but in the past, the body has adhered to the constitutional guidelines established for the Senate. In an effort to maintain tradition, the 2011 House Redistricting Committee adopted its own rules for redrawing district boundaries of House and Congressional Districts similar to the constitutional guidelines. The committee also adopted rules to help govern the committee's process. (See Appendix VI.)

The State House of Representatives Redistricting Act of 2011 is created by **HB 2145**. Based upon the total state population, each House district (HD) should have an ideal population of 37,142 people, and each new HD deviates from the ideal population by less than 1 percent. The measure also defines the term *percent deviation* to mean the relative difference between the actual and ideal district population. The percent deviation for each HD ranges from -0.87 percent (HD 95) to 0.94 percent (HD 25). The overall range in population of 1.81 percent is an improvement from 10 years ago when the range was 2.05 percent.

The House redistricting plan makes improvements to last decade's map by increasing average compactness of the districts overall and decreasing the number of counties that were split; 47 counties were split in the 2002-2010 map, and 41 counties are split in the 2012-2020 map.

The House redistricting plan preserves current majority-minority districts by retaining the three African-American majority-minority districts and one Hispanic majority-minority district.

Also, no incumbent state representative eligible for reelection in 2012 is pitted against another incumbent eligible for reelection, although some term-limited members' districts are affected.

The Oklahoma Constitution requires the Legislature to redistrict state legislative and congressional districts following each decennial Census.

MAJORITY-MINORITY HOUSE DISTRICTS

House District	Minority % *	Voting Age Minority % *
73	65.57% African-American	63.41% African-American
97	60.39% African-American	59.10% African-American
99	60.63% African-American	57.00% African-American
89	64.98% Hispanic	58.18% Hispanic

** Based upon percentage of the total population, not citizen voting age population. The voting age population includes those who are 18 and older.*

The most dramatic changes between the 2002-2010 and 2012-2020 Oklahoma House district maps are found in HDs 60 and 20 which currently are represented by term-limited members. These changes account for the fast-growing suburban areas in Canadian and Cleveland counties.

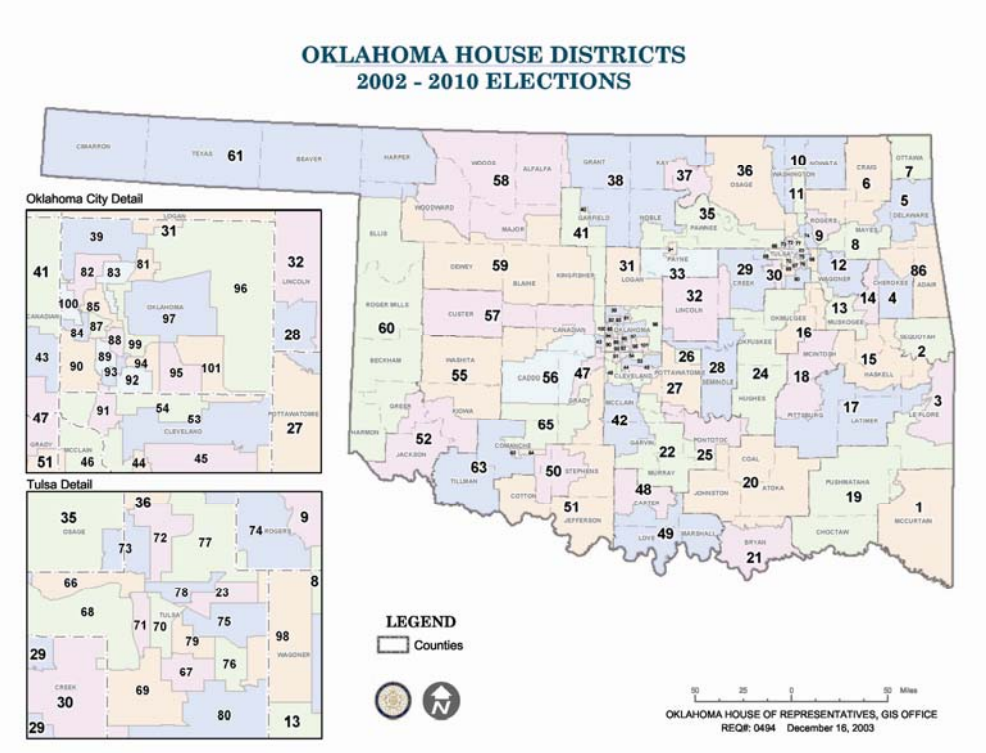
HD 60 currently is on the western border of Oklahoma, including Beckham, Harmon, Roger Mills, and most of Ellis and Greer counties. In the new House redistricting plan, HD 60 was moved to Canadian County, encompassing the ma-

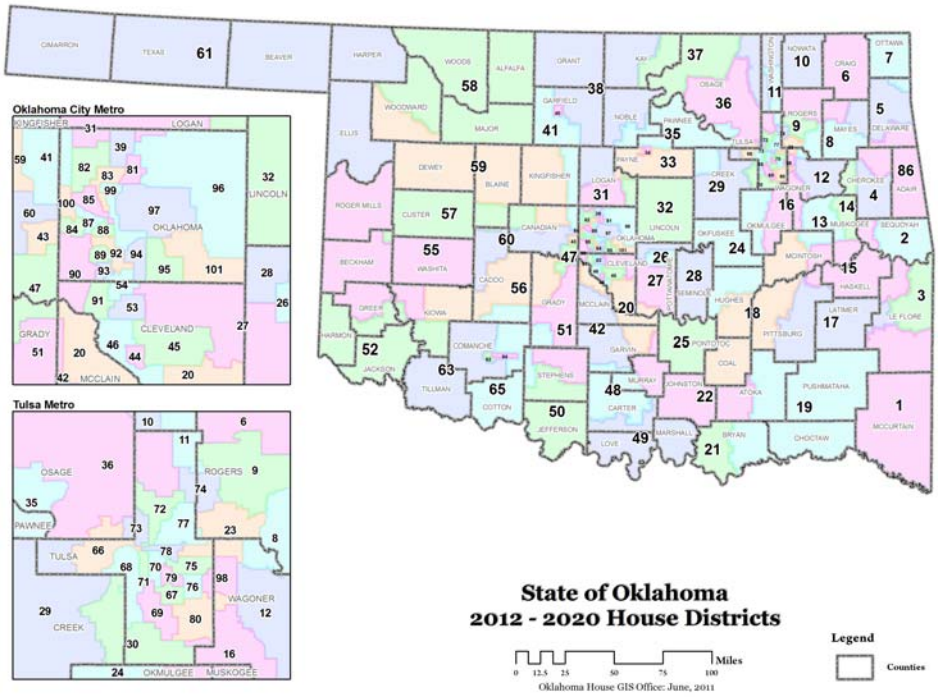
jority of El Reno and part of Caddo County. This change caused a major shift in HD 55 to include Roger Mills and a majority of Beckham and Greer counties. Ellis County moved to HD 61, which also lost some of its area in Woodward County. Additionally, Harmon County moved to HD 52.

HD 20 currently encompasses Atoka, Coal and Johnston counties, but was moved to the southern part of Cleveland County and the northern tip of McClain County, including Goldsby, Lexington, Newcastle, Slaughterville, the southeastern corner of Norman, part of Noble and other smaller communities.

Other changes affect:

- HD 22, which shifted to include the population that had been in HD 20;





- HD 56, which was shifted south and west due to the movement of HD 60; and
- HD 47, which shifted somewhat north, dropping Chickasha and picking up a majority of its population from Mustang and Tuttle, and decreased in land size due to population growth in Canadian County.

Major shifts also occurred in Tulsa County as a result of population loss in the City of Tulsa's House districts. HDs 66 and 68 moved west and south, respectively, as inner-city districts were forced to grow in land size to fit necessary population parameters. On the other hand, prior to 2011 redistricting, HD 74 in the fast-growing Owasso area was overpopulated by about 11,000 people, so it decreased in geographic area. Again, due to shifts from inner-city districts, HD 23 moved east into the Catoosa and Verdigris areas, while maintaining part of its urban Tulsa core.

In Oklahoma City, higher population levels existed in HDs 39 and 82. As these districts decreased in land size, other districts shifted north to fill in the gap created by the change. In an effort to preserve the majority-minority populations in HDs 89 and 99, HDs 85, 87 and 88 shifted north. As a result, HD 92 moved north to fill in this gap in central Oklahoma City.

While many changes were necessary due to population shifts, the House plan preserves the cores of existing districts where possible. Twelve districts, HDs 1, 4, 7, 14, 26, 40, 48, 71, 73, 81, 86 and 95, include 100 percent of their current constituents, although some of these HDs may also include new constituents. Six districts, HDs 2, 4, 49, 74, 81 and 83, have no new constituents, although several of these districts may have lost some of their current constituents due to growth that outpaced other areas. Only HDs 20 and 60 have all-new constituents.

POPULATION CHANGE IN 15 LARGEST CITIES

City	2010 Population	2000 Population	Difference, 2000 to 2010	% Change, 2000 to 2010
Oklahoma City	579,999	506,132	73,867	14.59%
Tulsa	391,906	393,049	-1,143	-0.29%
Norman	110,925	95,694	15,231	15.92%
Broken Arrow	98,850	74,859	23,991	32.05%
Lawton	96,867	92,757	4,110	4.43%
Edmond	81,405	68,315	13,090	19.16%
Moore	55,081	41,138	13,943	33.89%
Midwest City	54,371	54,088	283	0.52%
Enid	49,379	47,045	2,334	4.96%
Stillwater	45,688	39,065	6,623	16.95%
Muskogee	39,223	38,310	913	2.38%
Bartlesville	35,750	34,748	1,002	2.88%
Shawnee	29,857	28,692	1,165	4.06%
Owasso	28,915	18,502	10,413	56.28%
Ponca City	25,387	25,919	-532	-2.05%

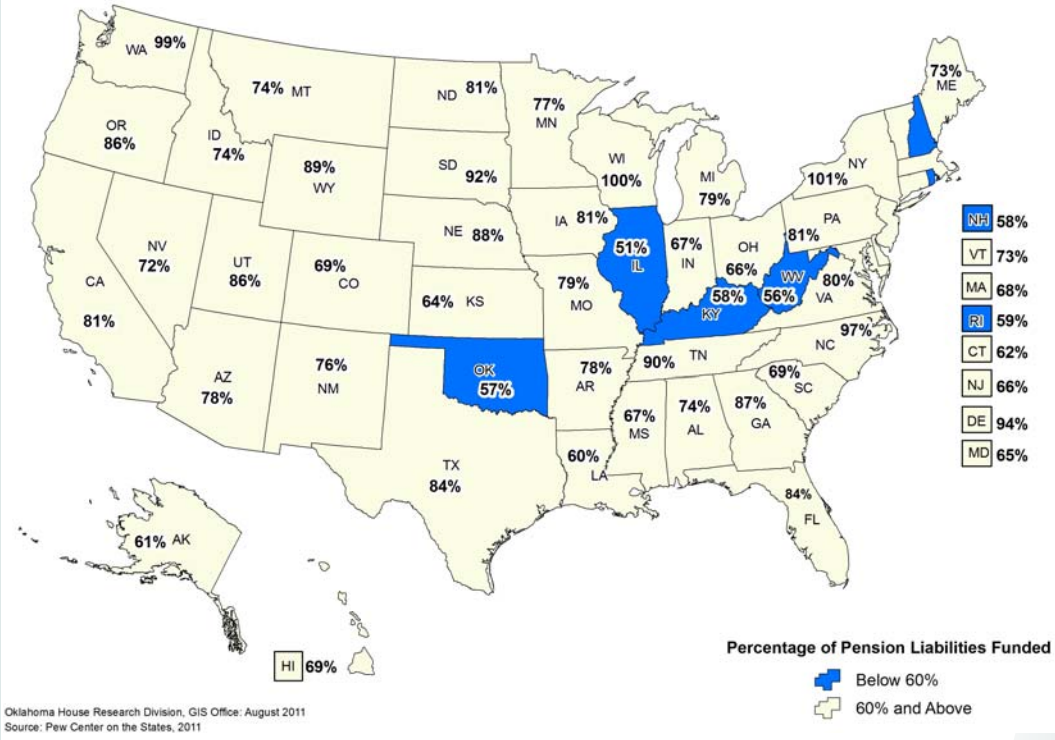
Source: U.S. Census Bureau

SB 821 creates the State Senate Redistricting Act of 2011. In the Senate, only the even-numbered districts will be up for election in 2012, but every Senate district boundary will take effect November 2012. Based on Oklahoma's total population, each Senate district should have an ideal population of 78,153 people. Each new district deviates from the ideal population by less than 1.3 percent and the percent deviation for the Senate plan ranges from -1.03 percent (SD 21) to 1 percent (SD 24). (*See Appendix VI for detailed maps of the House and Senate redistricting plans.)*

RETIREMENT

In an effort to address the more than $16 billion unfunded liability of the state's retirement systems, legislators enacted several major pension reform measures. **HB 2132** amends the Oklahoma Pension Legislation Actuarial Analysis Act by stipulating that cost-of-living adjustments (COLAs) are to be considered fiscal retirement bills, thus requiring that COLAs be funded at the time of authorization. It is estimated the measure will decrease the state's unfunded liability by $5 billion.

PERCENTAGE OF PENSION LIABILITIES FUNDED BY STATE



Oklahoma House Research Division, GIS Office: August 2011
Source: Pew Center on the States, 2011

An April 2011 Pew Center on the States report showed that at 57 percent, Oklahoma's pension funding ranked in the bottom five of states in the nation. The map above shows the funded ratios of state pension systems.

The Legislature also enacted pension reform measures that increased the normal re-

INSIDE THIS SECTION

Retirement.....79

POINTS OF INTEREST

- Changed the funding requirement for COLAs
- Increased retirement age for new system members

DID YOU KNOW?

The Rule of 90 stipulates that an action may occur, such as retirement, when the sum of a member's age and years of service equals 90.

Members Age
+
Years of Service
90

tirement age for new hires in the state's major retirement systems. **SB 377** increases the normal retirement age from 62 to 65 for new members of the Teachers' Retirement System of Oklahoma (OTRS) that join the system on or after November 1, 2011. These new OTRS members may also retire pursuant to the Rule of 90, as long as they are at least 60 years old. **SB 794** increases the normal retirement age from 62 to 65 for new members of the Oklahoma Public Employees Retirement System (OPERS) that join the system on or after November 1, 2011. The new members of OPERS also may retire pursuant to the Rule of 90, as long as they are at least 60 years old. SB 794 also increases the normal retirement age for elected officials who are elected or appointed to office after November 1, 2011, from 60 to 65, or age 62 if the elected official has at least 10 years of service. Another measure, **HB 1010**, raises the normal retirement age for new members of the Uniform Retirement System for Justices and Judges (URSJJ) from 65 to 67. Justices or judges with at least 10 years of service are eligible to retire at age 62.

HB 1007 directs a monthly transfer of revenues from the Department of Education to OTRS, which will more accurately reflect the state's per pupil spending figure. **SB 891** increases funding for OTRS by $5 million per year by requiring employers to contribute the same amount for both full-time and part-time teachers. **HB 1648** restricts OTRS members who are absent from teaching while serving as an officer of a local, state or national education association from continuing participation in OTRS. The members elected before January 1, 2011, may continue to participate, but service credit is limited to 12 years.

SB 347 requires any municipal officer or employee convicted of a felony related to the duties of their employment, such as bribery, corruption, forgery or perjury, to forfeit their retirement benefits.

- Three bills this session ensure ongoing compliance with updated Internal Revenue Service (IRS) requirements:
  - **SB 577** modifies language in Oklahoma Statutes relating to the Oklahoma Police Pension and Retirement System;
  - **SB 584** modifies statutory language relating to the Oklahoma Law Enforcement Retirement System; and
  - **SB 788** modifies provisions related to the Oklahoma Firefighters Pension and Retirement System.

To increase efficiencies in the state's pension plans, the Legislature passed several measures. **SB 840** modifies provisions related to legal proceedings against OPERS and increases from 1.5 to 3 percent the late fee charged by OPERS to employers who fail to remit the employer and employee contributions to the system within a specified time period. **HB 1002** eliminates the Reserve for Investment Fluctuations Fund and the Membership Annuity Reserve Fund from the list of funds into which assets of OTRS may be credited. Additionally, **SB 782** removes some reporting requirements of the Oklahoma pension systems and modifies the deadlines for actuarial reports from November 1 to December 1 of the same year in which the request for the report was made. **HB 2004** allows a beneficiary to designate some OTRS benefits to be transferred to a licensed funeral director or business upon the death of the member.

New legislation requires COLAs to be funded at the time of authorization which could decrease the state's unfunded liability by $5 billion.

TRANSPORTATION

The Legislature also focused on highway safety rules pertaining to users of Oklahoma roads and the authority of Department of Transportation (ODOT). Continued funding of ODOT's eight-year bridge and highway rehabilitation work plan also was a priority of the Legislature.

SB 126 requires that to proceed through a railroad crossing, the driver of a bus, whether occupied or unoccupied by passengers, must stop between 15 and 50 feet from the tracks and listen and look in each direction along the tracks for an approaching train. **SB 417** prohibits a solid waste disposal vehicle operator from stopping or parking:

- On a sidewalk;
- Within an intersection;
- Alongside any street excavation or obstruction which would obstruct traffic;
- Upon any bridge or elevated structure; or
- At any place where official signs prohibit stopping except when instructed by a police officer or traffic control device.

SB 816 prevents a board of county commissioners and ODOT from opening a closed section line road that would be on the property of a new or expanded business with a minimum capital investment of $10 million in the facility and 25 new employees whose salaries meet or exceed the average county wage where the facility is to be located.

HB 1060 and **SB 241** expedite payment for construction costs associated with county-built bridges by deleting the requirement that the bridges be inspected prior to payment. Payment will continue to be made from the County Bridge and Road Im-

INSIDE THIS SECTION

Transportation.....81

POINTS OF INTEREST

- Focused on highway safety rules
- Amended authority of ODOT
- Continued funding of ODOT's eight-year bridge and highway rehabilitation work plan

provement Fund, provided engineering and structural specifications have been met.

HB 1489 requires specific data on road funding to be published on the state's Open Books website. The information must include historical and current revenue collections and apportionment data on fuel tax collections, gross production tax collections, motor vehicle collections and motor vehicle excise tax collections.

SB 339 authorizes the Department of Transportation to establish a process for an outdoor advertising permit holder to conduct vegetation management activities within a specific area surrounding the permit holder's advertising piece thereby minimizing maintenance costs to the department.

HB 1990 expands the current definition of *transportation project or system* to include intermodal facilities, the components of which contribute to a system that incorporates transportation modes of highway, air, rail and waterway together in order to facilitate the movement of commerce. This measure also is discussed in the Economic Development and Financial Services section.

SB 499 increases the maximum permissible road speed for special mobilized machinery from 50 to 60 mph, which must be specified on the permit effective November 1, 2011. **SB 95** removes the requirement that the operator of any truck that is not for hire and transporting horses or livestock must display the words "Not for Hire" on the vehicle. **SB 235** requires the Department of Public Safety to consult with ODOT prior to issuing a permit for the transport of houses or buildings. **HB 1232** authorizes ODOT to close any highway due to flooding and provides that a court may order restitution for emergency responders called to rescue motorists who circumvent traffic control devices on a closed road.

Recognizing the need for future expansion of the transportation network in Oklahoma, **HB 1686** creates the Eastern Flyer Passenger Rail Development Task Force to develop a comprehensive plan for expanding passenger and high-speed passenger rail service from Tulsa to Oklahoma City. The 17-member task force will submit a final report with findings and recommendations by December 31, 2012.

The Legislature prioritized the continued funding of ODOT's eight-year bridge and highway rehabilitation work plan.

Several measures enacted during the legislative session named bridges and portions of Oklahoma highways. **SB 11**, **SB 45**, **SB 82**, and **SB 195** designate the naming of the following:

— Major Scott Hagerty USAR Memorial Highway

— Dr. Walter S. Mason, Jr. Memorial Highway

— Chief Warrant Officer Gordon Spangler Memorial Highway

— Cpl. Joshua Jerold Ware Memorial Highway

— Samuel R. Henderson Memorial Bridge

— SSGT Billy Elliott Memorial Highway

— Larry Wade Memorial Highway

— SSG John R. Bush Memorial Bridge

— Harold Bell Memorial Bridge

— PFC A.T. Howell Memorial Bridge

— USAF Maj. Aubrey Eugene Stowers, Jr. Memorial Bridge

— Jerry Lasker Memorial Interchange

— Vietnam War Veterans Memorial Bridge

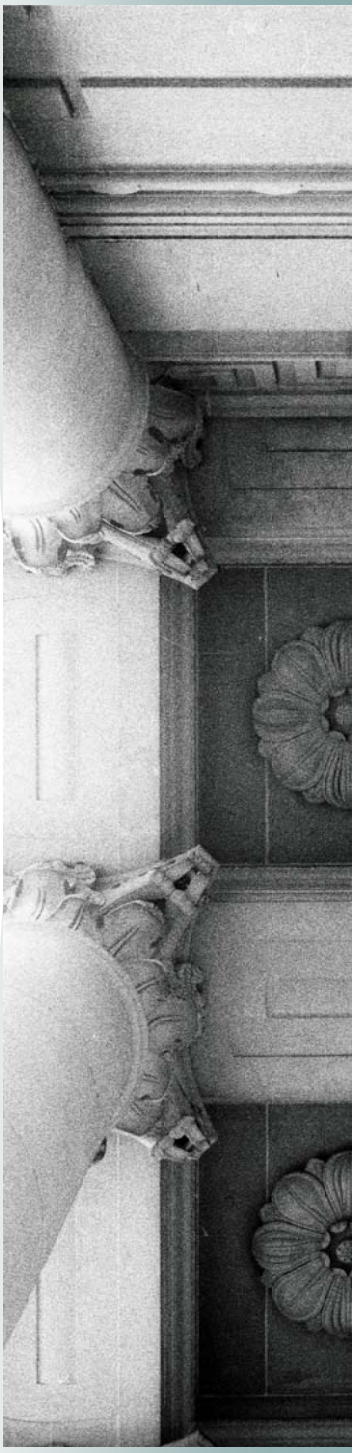
— Bass Reeves Memorial Bridge

— Lecia Swain-Ross Memorial Bridge

— C.E. Pittman Memorial Bridge

— Honorable Hannah Diggs Atkins, Secretary of State, Memorial Highway

Additionally, **HB 2049** designates State Highway 66 as the Historic Route 66 Bike Trail and provides that permanent markers will be installed using private funds. **SB 304** designates the Oklahoma side of the southbound bridge on U.S. Highway 277 on the Oklahoma and Texas border as the President George W. Bush Bridge. **HB 1666** requires that signage costs associated with roads named for individuals or organizations be paid for by the sponsoring party unless they are named for members of the United States Armed Forces who were killed in action. Finally, **SB 193** changes the name of the Interstate Commerce Commission to the Surface Transportation Board.



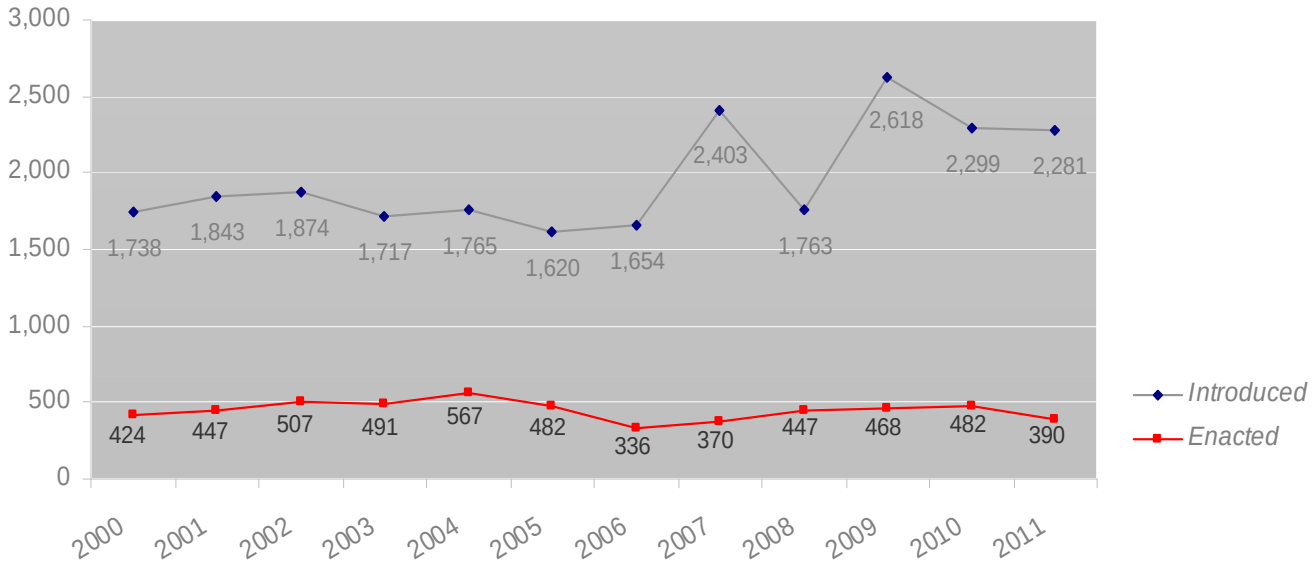
appendices

APPENDIX I — LEGISLATIVE PRODUCTION

2011 REGULAR SESSION STATISTICS OF MEASURES

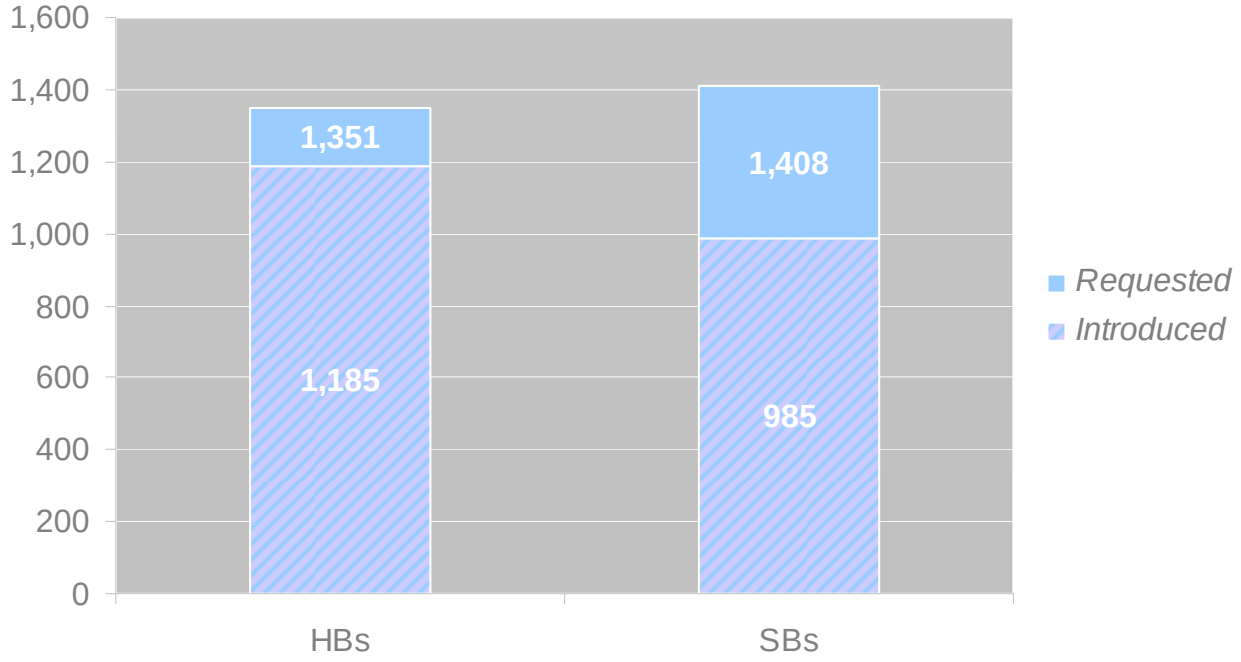
	House Bills	House Joint Resolutions	Senate Bills	Senate Joint Resolutions
Requested	1,351	78	1,408	49
Introduced	1,185	66	985	45
Sent to Opposite Chamber	273	6	362	10
Conference Granted	43	0	72	1
Will Carry Over	958	63	744	42
Sent to Governor	200	1	196	2
Approved by Governor	193	1	192	2
Filed with Secretary of State	N/A	1	N/A	1
Vetoed	7	0	4	0

HOUSE AND SENATE MEASURES AND JOINT RESOLUTIONS INTRODUCED AND ENACTED*



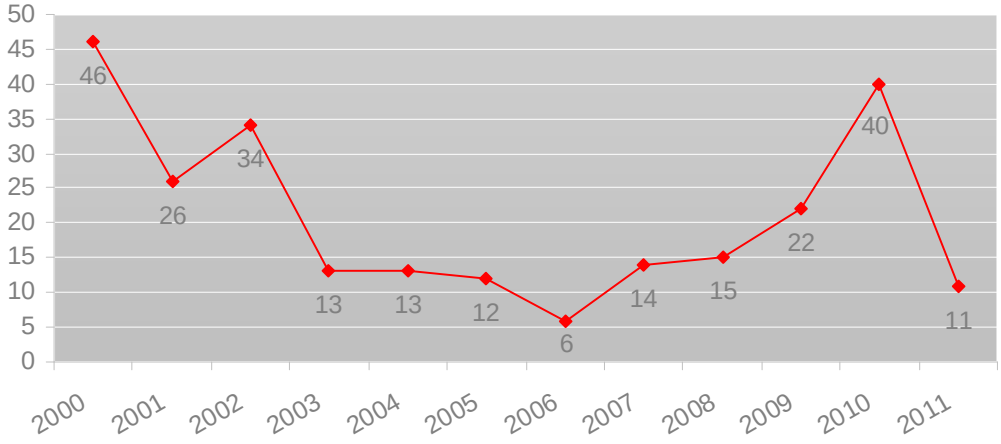
** Does not include concurrent and simple resolutions or measures filed or enacted during any special sessions.*

PROPORTION OF HOUSE AND SENATE BILLS REQUESTED BY MEMBERS INTRODUCED DURING THE 2011 LEGISLATIVE SESSION



APPENDIX II — VETOES 2000-2011

Governor Mary Fallin vetoed 11 bills during the 2011 legislative session. The graph below shows vetoes since the year 2000.



APPENDIX III — SUMMARY OF 2011 VETOES

HB 1227 would have turned the campus of the Ardmore Higher Education Program into a branch campus of Southeastern Oklahoma State University. Murray State College would have had the exclusive right to offer all lower division courses on the branch campus. Courses offered at the branch campus were not to duplicate nursing program courses offered at the East Central University campus at Ardmore.

HB 1227 Veto Message: "This bill would convert the Ardmore Higher Education Center to a branch campus of Southeastern Oklahoma State University. While I support providing access to quality higher education throughout the state, this bill does not adequately identify the funding source for its objectives. I cannot sign this bill, especially in this economic climate, without a clearly defined approach to the long-term funding issues. More study and planning is necessary with all parties involved to ensure its future success."

HB 1230 would have made numerous changes to applications for certificate of titles for motor vehicles. The bill would have removed the requirement that the certificate of title contain the motor number and date the motor was first sold, any distinguishing marks, and statement of the applicant's source of title and required that an application for title for a vehicle less than 10 years old include a declaration as to whether the vehicle has been in a collision. The measure would have changed the degree of consanguinity which prohibits the appointment as a tag agent if the person is related to a member of the Legislature from within the third degree of consanguinity to within the second degree of consanguinity.

HB 1230 Veto Message: "This bill would change the current restriction that no person shall be eligible to be a motor license agent if they are related to an Oklahoma Legislator or employee of the Oklahoma Tax Commission within the third degree of consanguinity or affinity to second degree of consanguinity or affinity. This change would weaken the law designed to prevent appointments arising from nepotism instead of merit."

HB 1388 would have provided that all products and services provided by the Prison Industries Program of the Department of Corrections may be purchased by any governmental entity supported in whole or in part by the state without the issuance of a solicitation or competitive bid. The measure would have included the Prison Industries Program as a vendor in all solicitations and provided that the online posting of solicitations for the purchase of products or services on the website of the entity satisfies the solicitation requirements. The measure exempted trailers purchased by the Department of Corrections from the Oklahoma Central Purchasing Act and provided that the purchase of vehicles with a gross vehicle weight of 14,000 lbs by the Department of Corrections are exempt from the Oklahoma Central Purchasing Act.

HB 1388 Veto Message: "This bill would allow the Oklahoma Correctional Industries and Agri-Services programs of the Department of Corrections to not only produce goods, but also acquire products and provide them for resale – all while being exempt from the Oklahoma Central Purchasing Act. This bill would expand the programs beyond their primary mission, and would do so without the safeguards provided for in state purchasing laws."

HB 1471 would have added the state veterinarian and one registered veterinarian technician to the State Board of Veterinary Medical Examiners. It also would have allowed veterinarians to nominate other veterinarians from their congressional districts to serve. The Governor would have then appointed a member from each congressional district using a list of three veterinarians with the highest number of nominations in each district.

HB 1471 Veto Message: "This bill restricts a Governor's appointment power by requiring a Governor to select appointees to the State Board of Veterinary Medical Examiners from a list of names submitted by veterinarians. While input from an industry being regulated can be helpful, requiring a Governor to select board members from the names provided by that industry is not sound public policy. In order to preserve executive power and the independence of the State Board of Veterinary Medical Examiners, I am vetoing this bill."

HB 1486 would have created the Oklahoma Woody Biomass Initiative Act of 2011 and established the Woody Biomass Energy Initiative Council. The Council would have been tasked with developing an Oklahoma Renewable Woody Biomass Energy Usage Plan, including guidelines on appropriate harvesting and fuel burning and is to conduct an investigation related to the feasibility of construction and installing woody biomass furnaces in certain locations.

HB 1486 Veto Message: "This bill would create the Oklahoma Woody Biomass Energy Initiative Council. The objectives of the proposed Council duplicate the mission of existing state entities including the Eastern Red Cedar Registry Board, which is actually comprised of 11 of the 19 members proposed in this bill, and the Oklahoma Bioenergy Center which is a research consortium between the University of Oklahoma, Oklahoma State University, and the Samuel Roberts Noble Foundation."

When a state employee requests a state employer to make a voluntary payroll deduction for the employee, **HB 1533** would have reduced the minimum membership requirement for organizations that the deductions are contributed to.

HB 1533 Veto Message: "This bill would lower the minimum membership requirement for certain organizations that rely on the State of Oklahoma to process their membership dues through state employee payroll deductions. I do not support the expansion of this practice – it is not a core function of government, and is not necessarily in the interest of taxpayers."

HB 1812 would have increased the project size competitive bidding threshold for right-of-way projects from $50,000 to $100,000.

HB 1812 Veto Message: "This bill would increase the current limit on certain contracts not requiring competitive bidding from $50,000 to $100,000. In order to ensure continued transparency, accountability, and public confidence in the expenditure of public funds, this limit should not be increased."

SB 186 was an omnibus sunset bill and recreates the Polygraph Examiners Board, the State Board of Osteopathic Examiners, the Board of Podiatric Medical Examiners, and the Oklahoma State Athletic Commission.

SB 186 Veto Message: "This bill would extend the date for the termination the Polygraph Examiners Board, the State Board of Osteopathic Examiners, the

1017, 1018, and 1019, which extended the date from 2011 to 2015. These House Bills were signed into law on April 13, 2011."

SB 241 would have expedited payment and reimbursement to counties for county-built bridges by removing the requirement that they be inspected prior to reimbursement for construction costs. Payment and reimbursement of construction costs for county-built bridges will continue to be made from the County Bridge and road Improvement Fund provided required engineering and structural specifications have been met.

SB 241 Veto Message: "This bill is substantively identical to House Bill 1060 which I signed into law on April 18, 2011. House Bill 1060 contained an emergency clause making it effective July 1, 2011. Senate Bill 241 does not contain an emergency clause. In order to avoid unnecessary duplication and to avoid a conflict regarding the effective date of legislation, I am vetoing this bill."

SB 738 would have granted the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission the authority to contract for services, in addition to employing personnel, as necessary to carry out the purpose and provisions of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act. The measure also stipulated that contracts for acquisitions by the Commission were to be exempt from the requirements of the Oklahoma Central Purchasing Act. In addition to the current powers of the Commission, the measure would have granted the Commission the authority to purchase and own up to two LP gas-powered for certain purposes, subject to several other provisions. Also, SB 738 would have permitted the Commission to establish, award and disburse scholarships and or scholarship funds and sponsor or provide LP gas safety training courses pursuant to certain provisions.

SB 738 Veto Message: "This bill would exempt the Oklahoma Liquefied Petroleum Gas Research Marketing and Safety Commission from state laws pertaining to the purchase, ownership, and disposal of state-owned vehicles and from the Oklahoma Central Purchasing Act in a more general sense. These exemptions are not in the best interest of the State of Oklahoma."

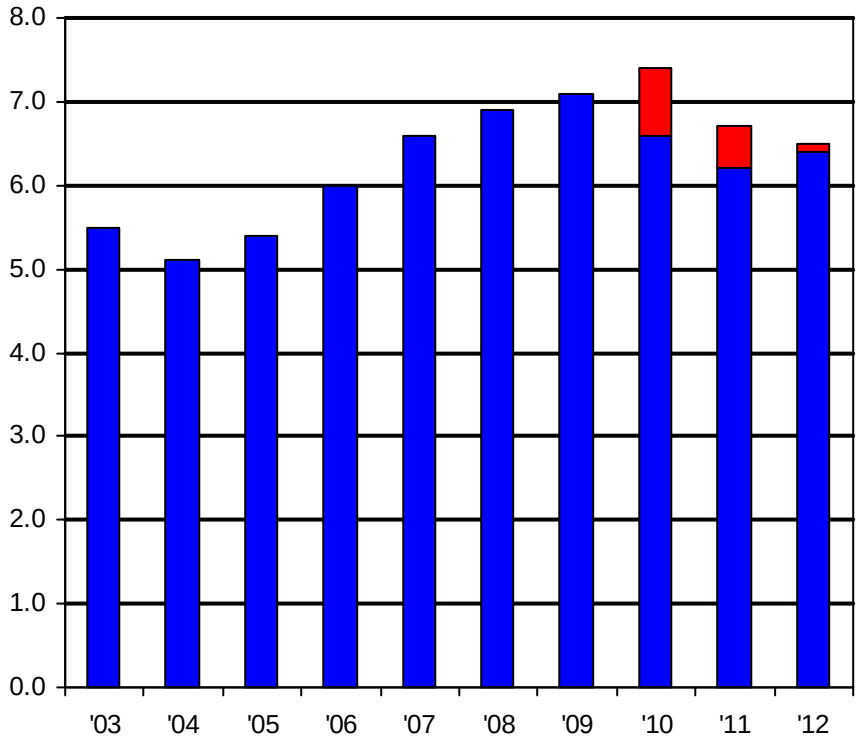
SB 761 would have modified the physician reimbursement rates in the workers' compensation fee schedule for durable medical equipment, prescriptions and devices and supplies to be 90 percent of the Medicare rate. It also provided reimbursement guidelines for implantable devices.

SB *761 Veto Message: "This bill seeks to amend Senate Bill 878 which was signed into law on May 24, 2011. The proposed changes to the Oklahoma Workers' Compensation Medical Fee Schedule would diminish the important cost savings realized in Senate Bill 878."*

APPENDIX IV — APPROPRIATION HISTORY

TEN YEAR APPROPRIATION HISTORY

TOTAL APPROPRIATION LEVEL



FY-03	$5,532,095,223	FY-08	$6,932,106,070
FY-04	$5,106,597,024	FY-09	$7,089,333,227
FY-05	$5,358,101,676	FY-10	$6,574,296,466
FY-06	$6,038,003,816	FY-11	$6,152,776,766
FY-07	$6,554,329,152	FY-12	$6,510,637,282

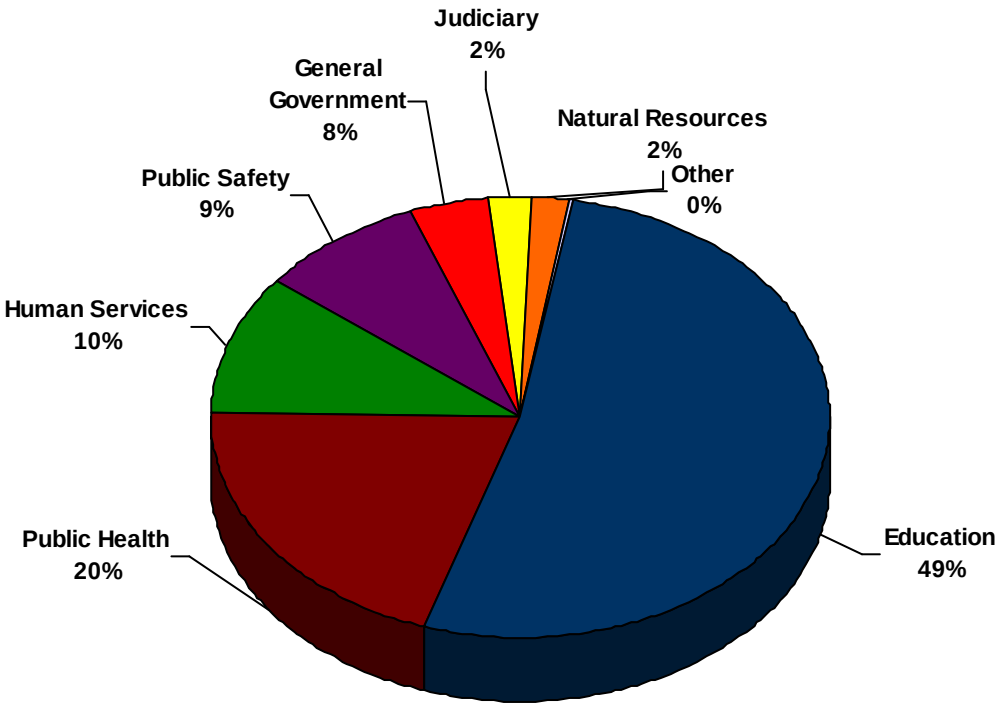
*FY-11 Total Appropriations with federal stimulus: $6,510,537,282

Notes:

1. These figures include appropriations, pension systems, capital and special projects. Figures exclude Rainy Day Fund transfers and supplemental appropriations.

2. Totals also include the State Judicial Fund, State Transportation Fund, Tobacco Settlement Fund, the Common Education Technology Revolving Fund, the Education Reform Revolving Fund, the Higher Education Scholarship Revolving Fund and the Higher Education Capital Revolving Fund.

APPENDIX V — DISTRIBUTION OF FY-12 APPROPRIATIONS BY SUBCOMITTEE



TOTAL APPROPRIATIONS = $6,510,637,282

* Federal stimulus $98,781,684

Excludes supplemental appropriations and reappropriations. Includes capital and one-time expenditures

APPENDIX VI — REDISTRICTING

2011 REDISTRICTING COMMITTEE GUIDELINES FOR REDISTRICTING

The following guidelines are suggested for the House Redistricting Committee's consideration:

1. A. The House Redistricting Committee will strive to make all legislative and congressional plans fair and reasonable with regard to population, minority, ethnic and political groups.

B. Districts will be drawn to be numerically as equal in population as possible, using the following percentages:

i. The House district plan must have an overall range of no more than 6% (+/-3%). No individual district boundary shall deviate more than 6% (+/-3%), unless it is in consideration of a political boundary (e.g., a municipal boundary).

ii. The congressional district plan must have an overall range of no more than 1% (+/-0.5%). This shall be considered a guideline. The House Redistricting Committee will strive for the accepted standard of "as nearly equal in population as practicable."

2. Whenever possible, county and municipal boundaries which are *on physical features* will be considered for district boundaries, in order to preserve the integrity of existing political subdivisions.

3. As required by law, districts will be drawn to be contiguous. Compactness of districts will be a consideration; however, population and geographic requirements will take precedence should a conflict arise.

4. Where possible, consideration shall be given to preserving long-standing communities of interest based on social, cultural, ethnic, and economic similarities.

5. In addition, the House Redistricting Committee may seek to preserve the core of existing districts, and may consider the residence of incumbents.

6. The House Redistricting Committee will use the 2010 Census Redistricting Data [P.L. 94-171] Summary Files as the basis for the House redistricting plan and for the congressional redistricting plan.

7. The House plan will be drawn to include 101 districts.

2011 REDISTRICTING COMMITTEE RULES

1. All House Redistricting Committee members and House redistricting staff are expected to be on time for House Redistricting Committee meetings.

2. Only House redistricting staff members are permitted to operate the House redistricting computer workstations.

3. Any third-party redistricting plans must be submitted through a member of the House Redistricting Committee, and not directly to House redistricting staff. Plans should be submitted in a compatible electronic database format. Plans must contain STFID (Summary Tape File Identification) and block assignments for importation into the House Redistricting system. All materials submitted electronically will be screened for computer viruses. Plans and the accompanying materials submitted to the House Redistricting Committee for consideration and evaluation become the property of the House Redistricting Committee. Any submitted plans, legislative or congressional, must be a complete statewide plan.

4. No House Redistricting Committee member shall request the House redis-

tricting staff to work between the hours of 12:00 a.m. and 8:00 a.m. unless approved by the Chair.

5. The House Redistricting Committee will be divided into Redistricting Subcommittees. Each Redistricting Subcommittee will be responsible for developing a plan for the region as assigned by the House Redistricting Committee Chair.

6. During the first two (2) weeks that the Census data at the block level is available for use in drawing plans, each Representative may schedule one (1) one-hour appointment with House redistricting staff. **The block level data will not be available for use in drawing plans until one (1) week after the data is released by the Census Bureau to Oklahoma**. The appointments will be conducted as follows:

a. All appointments will be conducted in the House Redistricting Office, located in Room B-19, in the basement of the State Capitol Building.

b. The appointments will be scheduled through the Chairs of the House Redistricting Subcommittees representing the geographic locations of the state. Each Representative will schedule his or her appointment through the Chair of the Redistricting Subcommittee representing the geographic area into which the Representative's district falls.

c. Only the Representative will be allowed to attend the appointment.

d. The Representative will be allowed to work with a redistricting specialist to draw any plan for that Representative's district, as desired by the Representative, within the hour allotted.

e. Following the appointment, the Representative will be provided with one 11" x 17" color map of the plan devised by the Representative as soon as practicable. The plan as devised by the Representative will be marked "DRAFT".

f. The Representative will also be provided with an electronic file containing the plan devised by the Representative.

g. All plans drawn will be **confidential** and will not be released to anyone other than the Representative.

h. The Representative will *not* be allowed to actually work with the computer hardware or software to draw a plan. Only trained House redistricting staff will be allowed to operate the work stations. This is due to the complexity of the mapping program and the danger of inadvertent damage to the software.

i. The Representative will *not* be given a disc containing the software for the mapping program. The software programs are subject to licensing agreements and providing copies of the same would result in violation of those agreements.

j. No Representative will be allowed to connect a server to the hardware located in the House redistricting office. To do so would compromise the security and safety of the system, the confidentiality of all plans, and potentially violate approved redistricting guidelines.

7. After the first two (2) weeks in which the Census data is available for use in drawing plans, only the Chair, Vice Chair and House Redistricting Subcommittees will be allowed to schedule appointments in the House redistricting office.

8. A schedule for House Redistricting Subcommittee meetings shall be arranged with the Redistricting Subcommittee Chairs and redistricting staff with designated meeting times made available to all members of the House Redistricting Committee.

9. Only two (2) House Redistricting Subcommittees shall meet during the same time period or have exclusive use of the House redistricting office facilities. (Note: This limitation is due to the number of workstations available for redistricting.)

10. The House Redistricting Subcommittee Chairs, the Redistricting Committee Chair and Vice Chair will constitute an Executive Redistricting Subcommittee that will be responsible for coordinating plans submitted by the House Redistricting Subcommittees.

11. All plans developed by the House Redistricting Subcommittees shall become the property of the House Redistricting Committee. Public disclosure, press releases, and release of related materials thereof will be controlled by the House Redistricting Committee.

SECURITY:

1. For security reasons, the House Redistricting Office in Room B-19 has been equipped with a keypad. To maintain the integrity of the database and the confidentiality of research requests, knowledge of the keypad code will be limited to only House redistricting staff, the House General Counsel, the Chief Clerk of the House, and House Information Systems Staff. The code will be changed at regular intervals during the legislative session. House Redistricting Committee members will be able to access the House Redistricting Office as needed.

2. The Redistricting database and plans are stored on a network server separate from the House network server. No person will be able to access the redistricting data or plans outside the House redistricting office.

3. To preserve the confidentiality of requests and plans, no unauthorized persons will be allowed in the House Redistricting Office, in Room B-19. Authorized persons include: House Redistricting Committee members and other House members authorized by the Chair, Vice Chair, House Redistricting Subcommittee Chairs; House redistricting staff; and relevant executive staff. A written record will be kept of all visitors to the House Redistricting Office. Persons unknown to the House redistricting staff may be asked to present identification.

4. No plans will be given to anyone other than the requesting member or an individual with written authorization from the requesting member.

5. Due to space constraints, hard copies of unclaimed work product will be destroyed after two (2) weeks.

6. As a reminder, all e-mail generated or sent outside the House redistricting office is not secure from being accessed by unauthorized parties.

7. The redistricting database is the property of the House Redistricting Committee.

MAPS:

For efficiency purposes and consistency in content, style, and information, a limited number of map styles and sizes will be made available for redistricting:

1. **HD** (House District) 11 x 17

2. **GA** (Geographic Area) 11x 17

3. **CD** (Congressional District) 11 x 17

4. **MM** (Metro Maps) 11x 17

5. **GM** (Graduated Maps) 11 x17

REQUEST PROCEDURE:

1. Because the data is not expected from the Census Bureau until mid-March or by April 1st, **the time for plan building is limited.** All plan requests shall be

authorized by the Chair, Vice Chair, or a House Redistricting Subcommittee Chair. Upon notification of an authorization for a request, the House redistricting staff will contact the requesting House Redistricting Committee member to schedule a meeting. Authorization will be recorded on the request form along with date, requestor, date needed, assigned to, date referred to, geographic area, map size, etc.

2. Following House staff guidelines for information and research requests, all plan and map requests are confidential. The plan and maps shall only be released to the requestor, unless otherwise authorized.

3. The House Redistricting Office should be made unavailable for map-making and research requests unrelated to redistricting following receipt of the Public Law 94-171 data.

DATABASE:

- The database for redistricting will contain only 2010 Census population data, House members' addresses, and Citizen Voting Age Population (CVAP) Special Tabulation from the 2005-2009 5-Year American Community Survey.
- The House redistricting software accepts data in the following formats:

  - Shape File with a district field;

  - dBASE IV File with district numbers and features identifications;

  - dBASE IV File with district numbers and the largest unsplit features from each level;

  - Text File with district numbers and features identifications; or

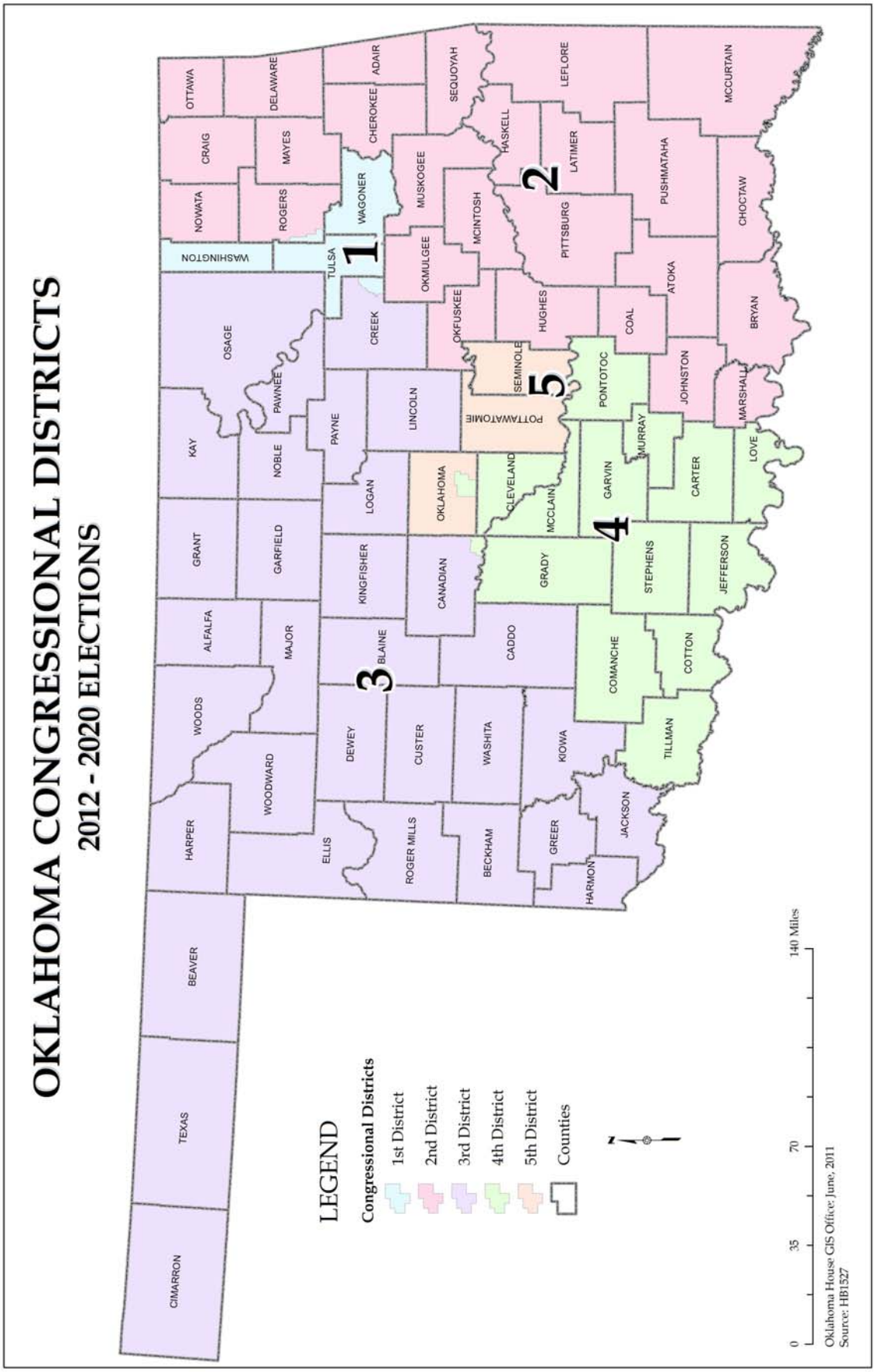
  - Text File with district numbers and the largest unsplit features from each level.

PUBLIC HEARINGS:

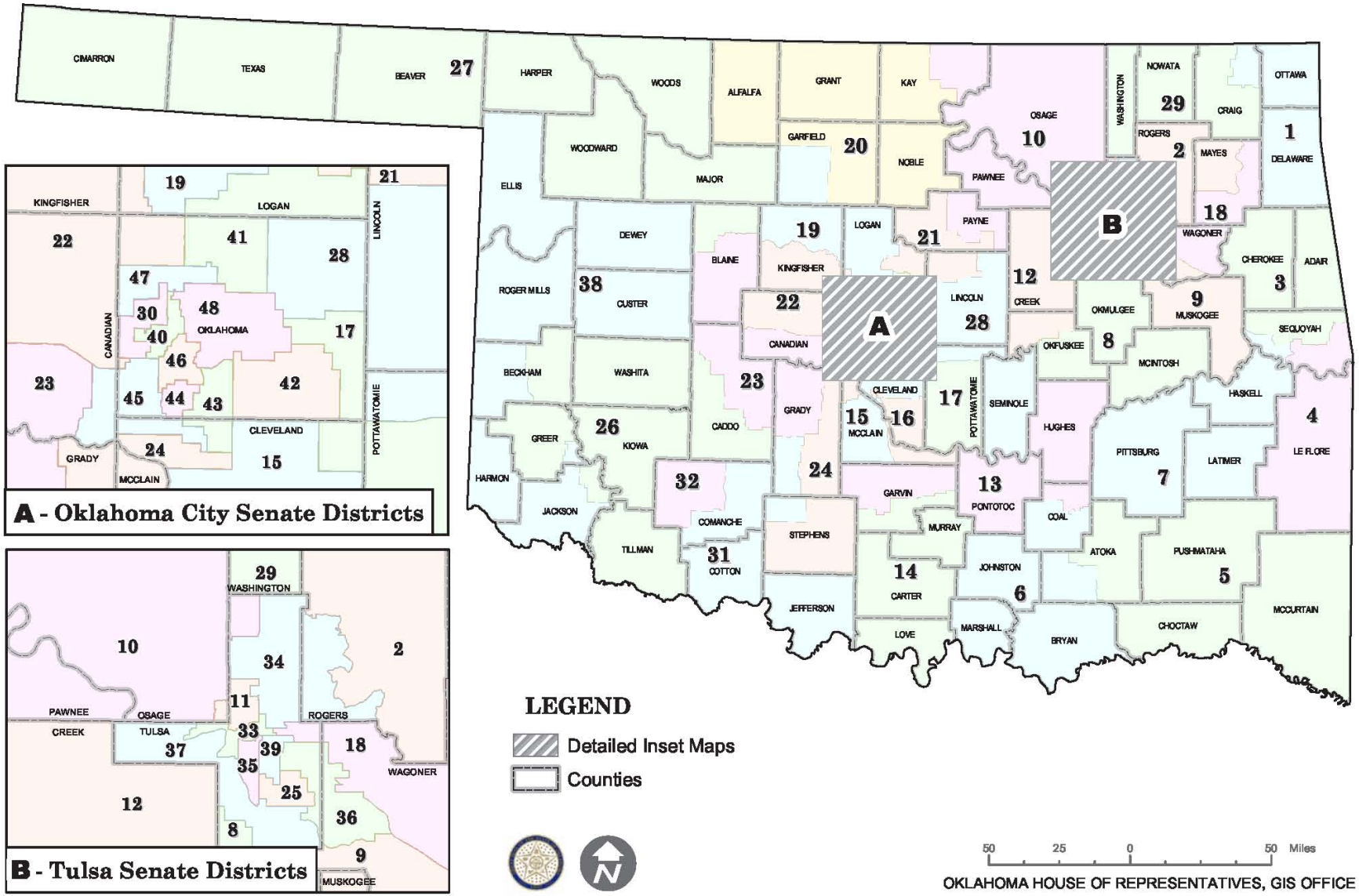
Hearings are being conducted around the state to inform the public about the upcoming redistricting process and to solicit public input identifying communities of interest, neighborhoods, etc. Hearings conducted in December 2010 and January 2011 should have fewer scheduling conflicts for members and not impede plan development once the Census data is delivered in March.

(For maps of individual House Districts and major counties, go to:

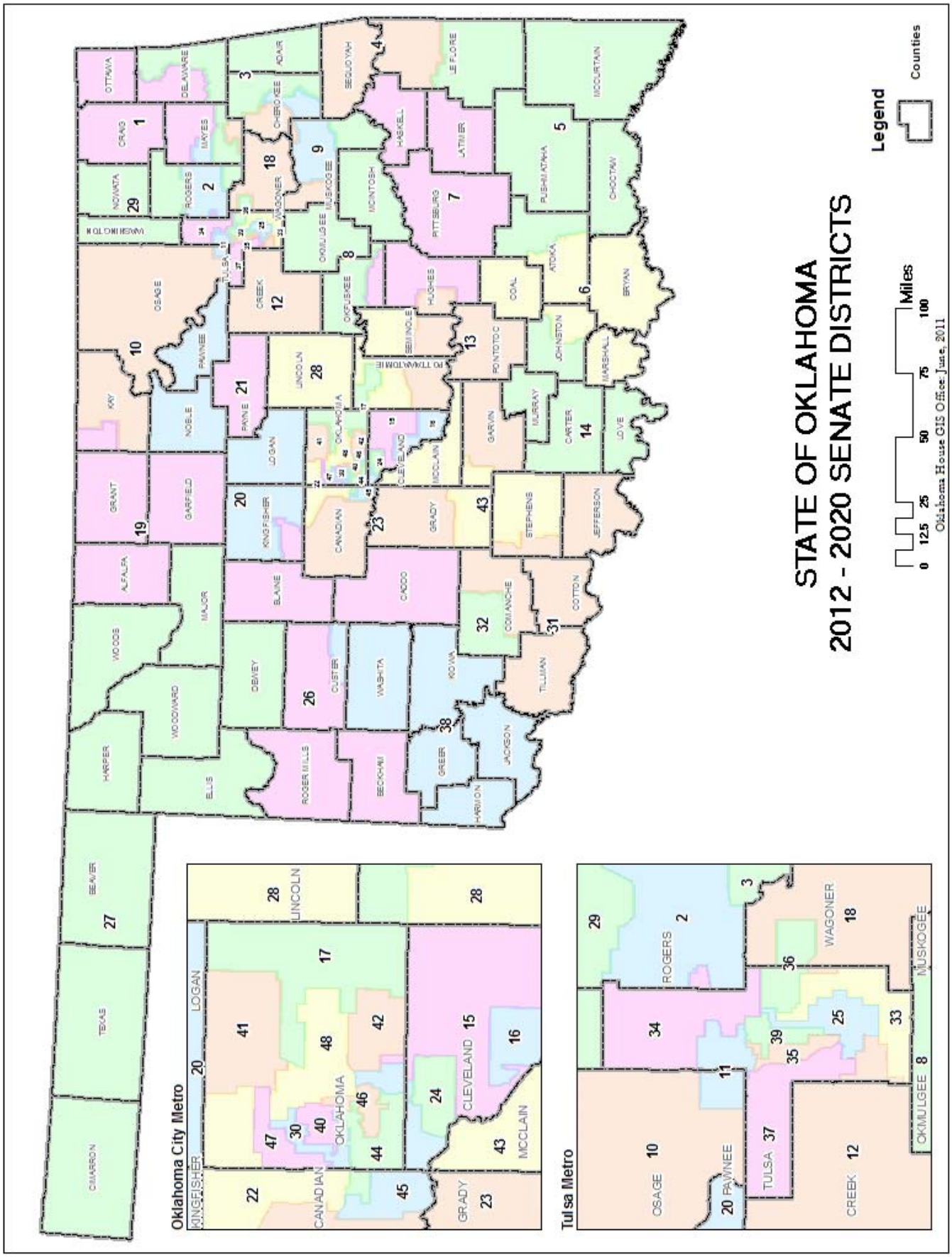
http://okhouse.gov/Research/RedistrictingBills.aspx)


OKLAHOMA CONGRESSIONAL DISTRICTS
2012 - 2020 ELECTIONS
LEGEND
Congressional Districts
1st District
2nd District
3rd District
4th District
5th District
Counties
0
35
70
140 Miles
Oklahoma House GIS Office: June, 2011
Source: HB1527
1
2
3
4
5
OTTAWA
DELAWARE
ADAIR
SEQUOYAH
LEFLORE
MCCURTAIN
CRAIG
MAYES
CHEROKEE
HASKELL
LATIMER
PUSHMATAHA
CHOCTAW
NOWATA
ROGERS
WAGONER
MUSKOGEE
MCINTOSH
PITTSBURG
ATOKA
BRYAN
WASHINGTON
TULSA
OKMULGEE
OKFUSKEE
HUGHES
COAL
OSAGE
CREEK
SEMINOLE
PONTOTOC
JOHNSTON
MARSHALL
PAWNEE
PAYNE
LINCOLN
POTTAWATOMIE
MURRAY
KAY
NOBLE
LOGAN
OKLAHOMA
CLEVELAND
GARVIN
CARTER
LOVE
GRANT
GARFIELD
KINGFISHER
CANADIAN
MCCLAIN
GRADY
STEPHENS
JEFFERSON
ALFALFA
MAJOR
BLAINE
CADDO
COMANCHE
COTTON
WOODS
DEWEY
CUSTER
WASHITA
KIOWA
TILLMAN
WOODWARD
HARPER
ELLIS
ROGER MILLS
BECKHAM
GREER
JACKSON
HARMON
BEAVER
TEXAS
CIMARRON

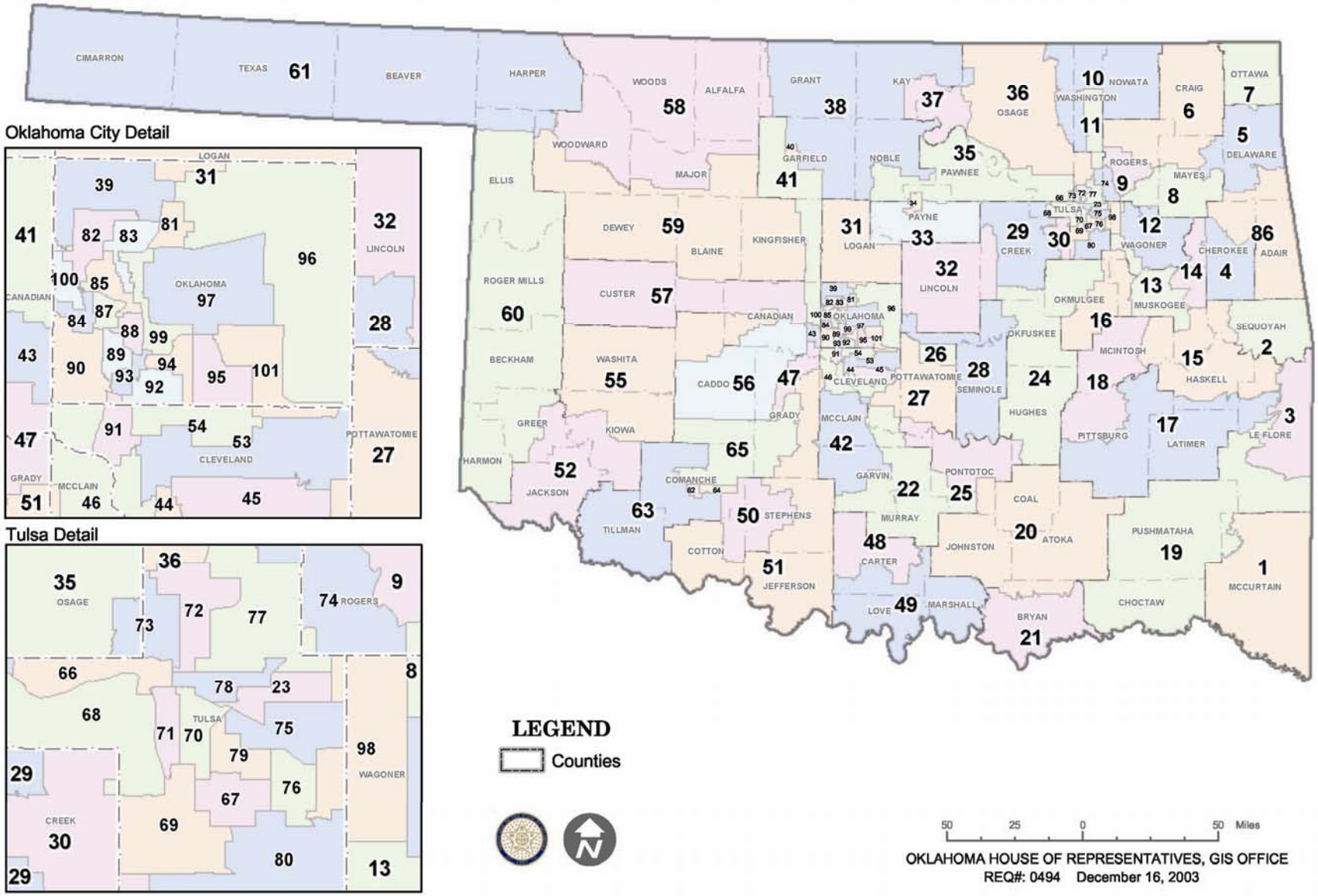
OKLAHOMA SENATE DISTRICTS
2002 - 2010 ELECTIONS

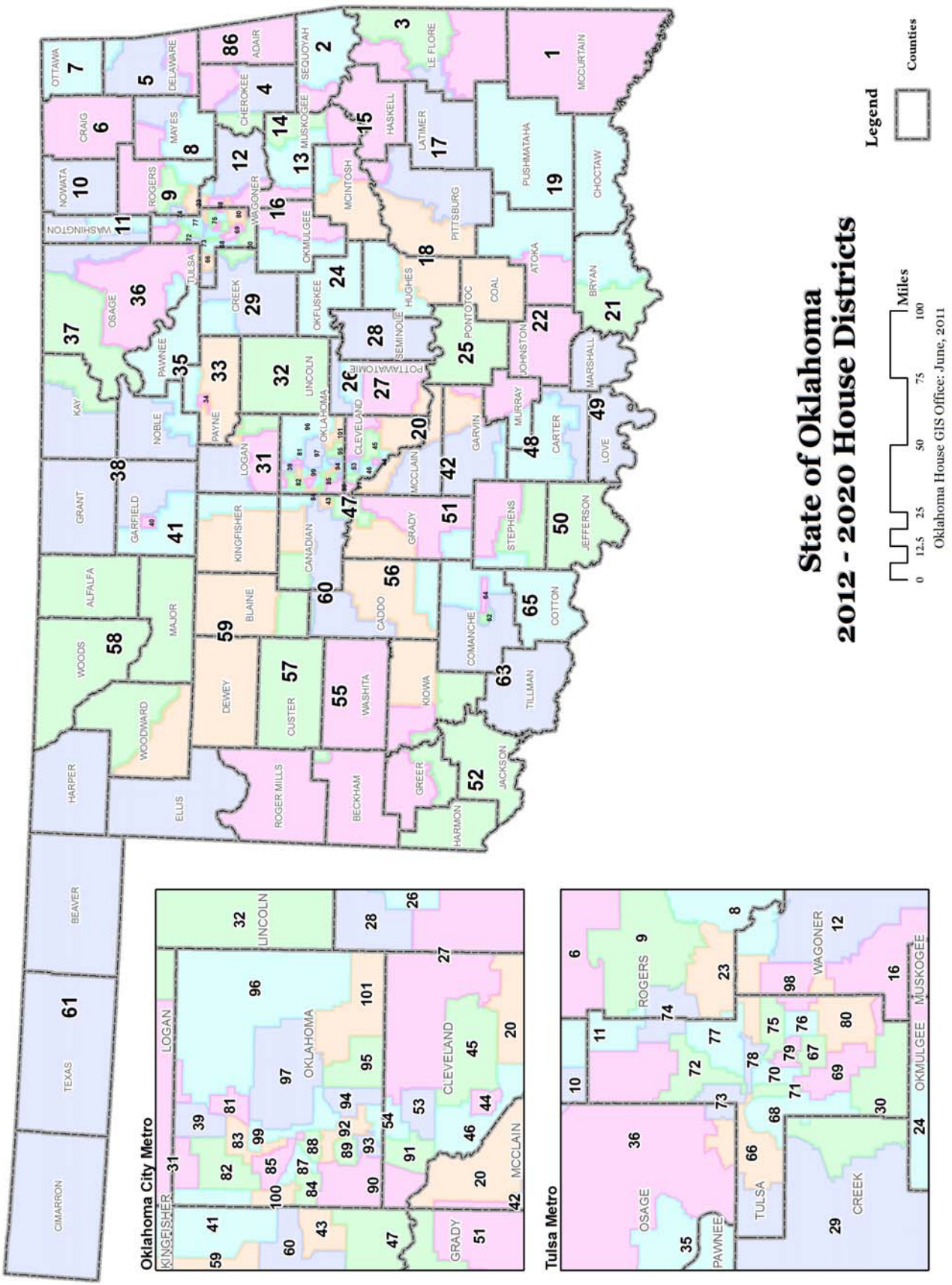


REQ#: 387


STATE OF OKLAHOMA
2012 - 2020 SENATE DISTRICTS
Legend
Counties
Miles
0 12.5 25 50 75 100
Oklahoma House GIS Office June, 2011
Oklahoma City Metro
Tulsa Metro

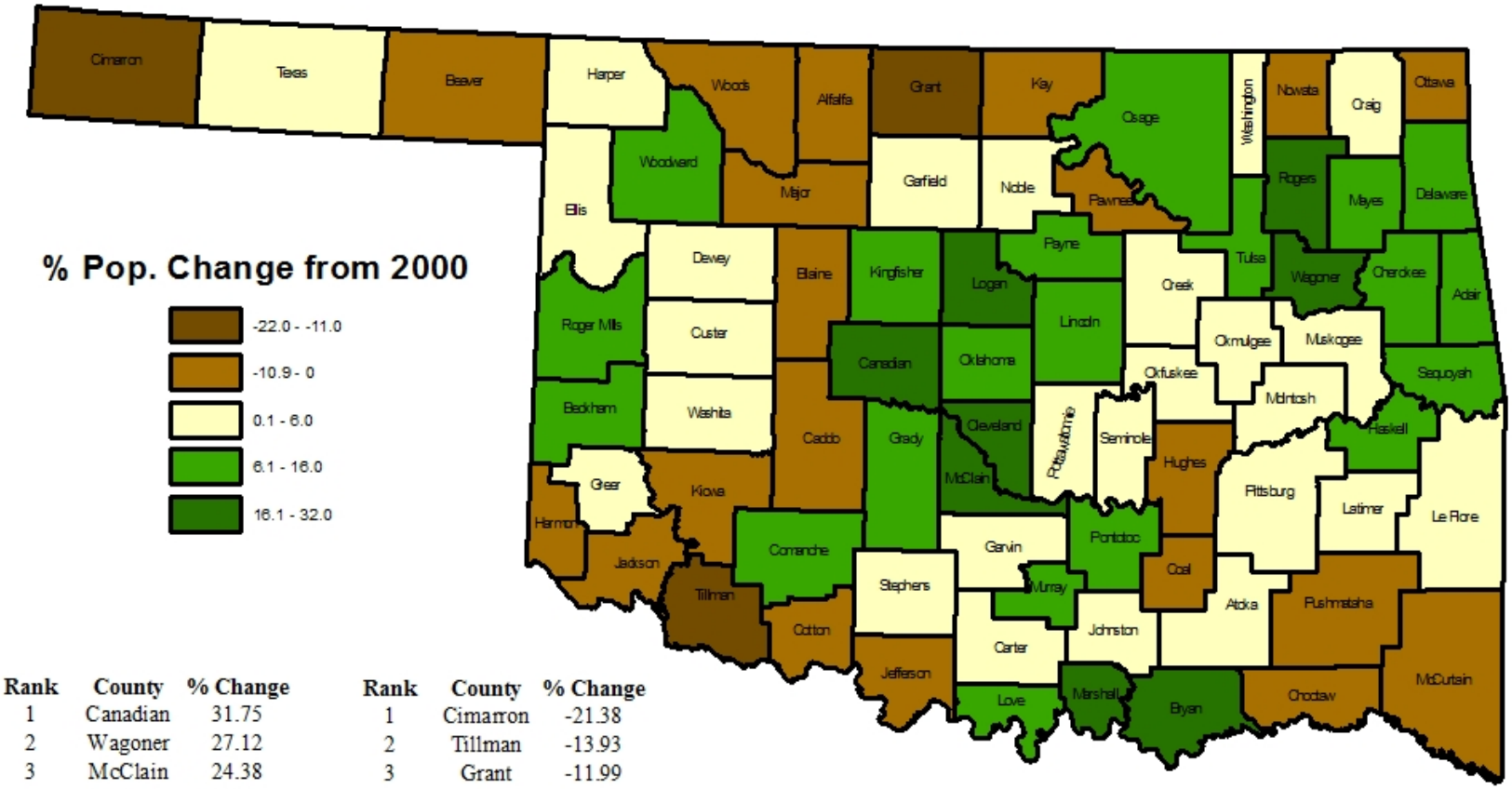
OKLAHOMA HOUSE DISTRICTS
2002 - 2010 ELECTIONS




State of Oklahoma
2012 - 2020 House Districts
Legend
Counties
Miles
0 12.5 25 50 75 100
Oklahoma House GIS Office: June, 2011
Oklahoma City Metro
Tulsa Metro

County Population Change

Percent from 2000-2010



Rank	County	% Change
1	Canadian	31.75
2	Wagoner	27.12
3	McClain	24.38
4	Logan	23.36
5	Rogers	23.03
6	Cleveland	22.95
7	Marshall	20.16
8	Bryan	16.1
9	Grady	15.2
10	Payne	13.44

Rank	County	% Change
1	Cimarron	-21.38
2	Tillman	-13.93
3	Grant	-11.99
4	Harmon	-11
5	Kiowa	-7.64
6	Alfalfa	-7.49
7	Jackson	-7.01
8	Cotton	-6.37
9	Jefferson	-5.07
10	Ottawa	-4.05

Souce: US Census Bureau
Oklahoma House of Representatives GIS Office

Percent Change Statewide: 8.7

N
W E
S

bill subject index

A

AARON'S LAW. HB 1507

ABORTION
Drug, inducing. **HB 1970**
Insurance, elective abortion coverage. **SB 547**
Pain-Capable Uniform Child Protection Act. **HB 1888**
Reporting. **HB 1888**
RU-486. **HB 1970**
Twenty weeks:
  Legal procedure; attorney fees. **HB 1888**
  Pain experience. **HB 1888**
  Physician; report; penalties. **HB 1888**
  Survival, provide best opportunity for. **HB 1888**

ABUSE
Adult, vulnerable:
  Emergency protective services; local law enforcement transportation; self or financial neglect. **SB 492**
Child:
  Background check of adults in home. **HB 2136**
  DHS investigative procedures. **HB 2136**
  Information release. **HB 2136**
  Service provider progress reports. **HB 2136**
  Social record, excluding from certain reports. **HB 2136**
Domestic:
  Assault and battery with dangerous weapon. **SB 952**
  Shelters, income tax checkoff. **HB 1998**

ACCOUNTANTS
Firms, practice standards; nonlicensed owners. **SB 270**

AD VALOREM TAX
Exemptions:
  Manufacturing facility, base line payroll requirement. **SB 935**
  Wind power. **SB 13**
Fair cash value of property:
  Change, limit to certain percentage; ballot. **HJR 1002**
  Homestead or agricultural property, limiting increase; ballot. **HJR 1002**
Mailed documents to county assessor, postmark considered date of delivery. **HB 1903**
Tax statement sent by email, taxpayer option. **SB 104**

ADMINISTRATIVE PROCEDURES
Rules:
  Cite authority. **HB 1044**
  Commercial Pet Breeders, Board of, disapproving. **HJR 1045**
  Construction Industries Board, disapproving. **SJR 45**
  Fee increases, Legislative approval by joint resolution. **HB 1044**

ADOPTION
Costs, birth mother expenses; international adoption. **SB 510**
Demographic information form. **SB 510**
DHS medical, social history report forms. **HB 1194**
Direct placement adoption, stepparent or relative not considered. **SB 510**
Indian child. **SB 510**
Living expenses, payment; birth mother. **SB 510**
Parental rights termination, jurisdiction. **SB 510**
Prospective parents home study. **SB 510**
Disciplinary action; costs. **SB 668**
Relative adoption term. **SB 510**

ADULTS
Day care; license. **HB 1397**

ADVERTISING
Outdoor:
  Highway Advertising Control Act, violations, fine. **SB 339**

AEROSPACE
Engineers, tax credit. **HB 1008**

AGRICULTURE
Livestock:
Cervidae, farmed. **HB 1473**
International and domestic import and export function, Oklahoma City and Tulsa airports. **SB 420**
Lien; foreclosure. **SB 530**
Owner's Lien Act of 2011, Livestock; exists until full amount of sales price paid. **SB 530**
Transporting, removing vehicle restriction. **SB 95**
Trespassing to retrieve. **HB 1249**
Poultry:
Waste applicators, training courses; penalty for noncompliance. **SB 92**
Property, fair cash value, limiting increase; ballot. **HJR 1002**
Swine feeding operations; license; camp, recreational site; groundwater use permits. **HB 1957**
Wheat bushel fee. **HB 1472**

AGRICULTURE, FOOD, AND FORESTRY DEPARTMENT
Forestry Division:
Burning, Eastern Red Cedar. **HB 1327**

AIDS AND COMMUNICABLE DISEASES
Prevention and Treatment of, State Plan for; annual report. **HB 1397**
Test, pregnant female. **HB 1826**

AIRCRAFT AND AIRPORTS
Airspace Severance Restriction Act; deleting limitation; clarifying legal information. **HB 1564**,
Livestock, international and domestic import and export function, Oklahoma City and Tulsa. **SB 420**

AIRSPACE SEVERANCE RESTRICTION ACT. HB 1564

ALCOHOL AND DRUG COUNSELORS BOARD
Disciplinary action; costs. **SB 668**

ALCOHOL OR DRUG SUBSTANCE ABUSE
Person requiring treatment. **HB 1271**
Treatment advocate filing court petition for care. **HB 1271**

ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION [ABLE]
Director, member of task force to study beer and wine sales in grocery stores. **SB 658**

AMUSEMENTS AND SPORTS
State Athletic Commission events license; medical screenings. **HB 1212**

ANIMALS
Pet Breeders Act, Commercial:
Board; state veterinarian designee toll-free abuse hotline, permanent rules submission, inspections, license denial. **SB 637**
Rules:
Disapproving. **HJR 1045**

ARMED FORCES OF THE UNITED STATES
Deceased while serving, burial arrangements. **HB 1355**
Elections:
Let the Troops Vote Act. **HB 1615**
Uniform Military and Overseas Voters Act; registration; ballots. **SB 115**
Higher education:
OHLAP award, child of person killed in line of duty. **HB 1343**

ASSAULT AND BATTERY
Aggravated, defending person, serve 85% of sentence. **SB 952**
Dangerous weapon term, felony. **SB 952**
Law enforcement officer employed by federal government, maiming, increasing penalty. **SB 952**

ASSISTED LIVING
Emergency medication kits. **HB 1441**

ATKINS, HANNAH DIGGS. SB 195

ATTORNEY GENERAL
Athlete agent violations. **HB 1586**
Civil Rights Enforcement Office, assume duties of Human Rights Commission. **SB 763**
Curriculum for teaching evidence-based domestic violence and stalking issues. **SB 567**
Evidence Fund; deposit balance. **HB 1675**
Legal Services Revolving Fund, oversee, fee. **HB 1415**

ATTORNEYS
Fees:
Judgment creditor. **SB 527**
Pain-Capable Uniform Child Protection Act. **HB 1888**
Juvenile cases, protective orders. **HB 1360**

AUDITOR AND INSPECTOR
Audits in electronic format. **HB 1207**
AUTHORITIES
County Energy District, membership. **SB 145**
Municipal energy authority. **HB 1366**

B

BACKGROUND OR CRIMINAL HISTORY CHECKS
Bail bondsmen. **HB 1243**
Career tech, adult ed instructors, exempt. **SB 12**
Child care facilities:
Child Care Restricted Registry search. **SB 674**
Law enforcement agency authorization. **SB 674**
State and national search. **SB 674**
Child in DHS custody, abused, adults in home. **HB 2136**
Department of Rehabilitation Services potential employees. **HB 1047**
Education board, employment background check request from private company. **HB 1418**
Nurses. **HB 1275**
Sheltered workshops. **HB 1228**
Social workers. **HB 1715**
Teacher, substitute. **SB 59, SB 252, HB1418**

BAIL
Wildlife Bail Procedure Act. **HB 1347**

BAIL BONDSMEN
Continuing education. **HB 1243**
License:
Annual statements, financial, county assessor written. **SB 965**
Application submitted electronically. **SB 965**
Exam requirements. **SB 965**
Expiration, biennially. **SB 965**
Renewal; fee. **HB 1243, SB 965**
Revoked and continuing to operate, felony. **HB 1243**, **SB 965**

BANKS AND TRUST COMPANIES
Deposit account owner deceased, maximum transfer to heirs. **SB 246**
Item charged against account. **SB 287**

BELL, HAROLD. SB 195

BICYCLES
Driver license exam to include section on bicycle safety. **SB 443**
Historic Bike Trail. **HB 2049**

BILLS AND RESOLUTIONS
Electronic transmittal, signatures. **HB 2156**
Retirement bills:
Actuarial investigation deadline. **SB 782**
Funding, cost-of-living increase. **HB 2132**

BIRTH CERTIFICATES
Filed with State Registrar. **HB 1397**
Forged, false; felony. **HB 1397**

BOARDS AND COMMISSIONS
Group Self-Insurance Association Guaranty Fund Board. **SB 878**
Individual Self-Insured Guaranty Fund Board. **SB 878**
Interstate Advisory Health Care Commission. **SB 722**
Strategic Military Planning Commission, membership. **HB 1556**
Teacher and Leader Effectiveness Commission. **HB 1267**
Workers' Compensation Self-Insurance Guaranty Fund Board. **SB 878**

BOATS AND WATERCRAFT
Alcohol concentration, blood/breath testing; limit .08. **SB 324**
Child under 12 operating, removing restriction. **SB 324**

BONDS
Athlete agent. **HB 1586**

BUILDINGS
Dilapidated to be condemned. **HB 1669**
Portable, transportation permit. **HB 1229**
Public, Internet service data transfer rate. **HB 1460**

BURNING
Eastern Red Cedar; Forestry Division, Agriculture Department. **HB 1327**

BUSES
Railroad crossing compliance. **SB 126**

BUSH, JOHN R. SB 195

BUSINESSES
Business Opportunity Sales Act, exemptions, timing provisions. **HB 1202**
Drug/alcohol testing. **HB 2033**
Employer:
Discrimination, based on genetic information or disability. **SB 837**
Licensing, One-Stop Program. **HB 1601**
Portable buildings, permit to transport. **HB 1229**
Self-defense, deadly force. **HB 1439**

C

CENTRAL SERVICES DEPARTMENT
Capitol:
Defacement. **HB 1197**
Consolidating with Finance Office. **HB 2140**
Construction:
Best value competitive proposals. **SB 96**
Deferred Maintenance:
Revolving Fund. **HB 1512**
State-owned property report. **HB 1438**
Wiki venue to provide two-way communication between procurement officers and potential vendors. **HB 1086**

CHANDRA TURNER REFORM ACT. SB 250

CHECKS
Forged or unauthorized. **SB 287**

CHILD CARE FACILITIES
DHS online database information. **SB 674**

CHILD CUSTODY
Born out of wedlock, custody of mother. **HB 1606**
Military deployment. **HB 1603**

CHILD SUPPORT
"Most Wanted" list. **SB 576**
Military deployment. **HB 1603**
Workers' compensation benefits. **SB 878**

CHILDREN
Foster:
Background check for adults in home. **HB 2136**
System Improvement Task Force. **HB 1359**
Labor union contract. **HB 1688**

CHIROPRACTIC EXAMINERS BOARD
Certified chiropractic assistant; definition, rules. **HB 1658**
Complaint investigators. **SB 299**

CHIROPRACTIC PHYSICIANS
Certified assistant definition. **HB 1658**

CITIES AND TOWNS
Annexation consent requirement. **HB 1296**
Beer, low-point, under age person consuming on property, municipal ordinance. **HB 1211**
Collective bargaining:
Repealing. **HB 1593**
Condemned buildings. **HB 1669**
Development fees; infrastructure improvement. **SB 708**
Election, municipality governed by charter, filing period. **HB 1615**
Employee, conviction of crime related to duties of employment, forfeiture of retirement benefits. **SB 347**
Health departments:
Services provided; reimbursement. **HB 1397**
Incorporation of towns, signature requirements. **SB 147**
Local Development Act:
Increment district, definitions, references. **SB 13**
Motor vehicle:
Racing Act, Municipal Motor Vehicle; racing events. **SB 160**
Municipal Energy Independence Act; district authority, public trust. **HB 1366**
Police:
Reserve, state employee emergency leave. **SB 666**

CIVIL PROCEDURE
Child pornography victims. **HB 1549**
Class action, procedure. **SB 704**
Judgment creditor:
Garnishment, noncontinuing earnings. **SB 527**
Liability:
Child Passenger Safety Technician. **HB 1676**
Forestry Division, burning. **HB 1327**
Joint and several, eliminating; defendant only liable for their share of harm. **SB 862**
Realtors, exempt for square footage information. **HB 1598**
Mortgagee, motion to protect and preserve property. **SB 798**
Personal injury trial, admissibility, medical bills paid. **HB 2023**
Prevailing party, attorney fees. **SB 527**
Process service requirements. **SB 940**
Torts:
Joint tortfeasor liability. **SB 862**
Medical records access. **SB 701**
Noneconomic recovery cap: $300,000. **HB 2128**
Wildlife Bail Procedure Act. **HB 1347**
Workers' compensation, employer liability. **SB 878**

CODY'S LAW. HB 1211

COMMERCE DEPARTMENT
Director, duties, Quick Action Closing Fund. **HB 1953**
Quality Jobs Program Act, duties. **SB 731**

COMMITTEES, COUNCILS AND TASK FORCES
Animal Technology Advisory Committee. **HB 1310**
Beer and wine offered in grocery stores, study. **SB 658**
Business and Professional License Facilitation Task Force. **SB 772**

Carbon Sequestration Advisory Committee, eliminating. **SB 629**
Children of Incarcerated Parents Task Force. **HB 1197**
Eastern Flyer Passenger Rail Development Task Force. **HB 1686**
Endangered Species and Economic Development Task Force. **SB 603**, **SB 740**
Foster Care System Improvement Task Force. **HB 1359**
Juvenile Justice Reform Committee, termination date. **SB 674**
Law Enforcement Behavioral Health Emergency Dispatch Task Force. **SB 492**
Sales Tax Task Force, Collection, Distribution and Enforcement of Municipal. **SB 216**
Special Education:
State-wide Cooperative Task Force. **HB 1744**
Tax Credits and Economic Incentives, Study of, Task Force for. **HB 1285**
Workers' Compensation:
Advisory Council. **SB 878**
Electronic Data Interchange Advisory Committee. **SB 878**

COMPETITIVE BIDDING
Construction contract:
Best value competitive proposals. **SB 96**
Under $5000. **SB 96**

CONSERVATION COMMISSION
Carbon sequestration, eliminating advisory committee; duties. **SB 629**
Emergency involving abandoned coal mine or upstream floodwater retarding structure; monetary limit. **SB 96**

CONSTITUTION, OKLAHOMA, AMENDMENT OF
Discrimination based on race or sex, prohibition; ballot. **SJR 15**

CONSTRUCTION INDUSTRIES
Roofing contractor, license violations. **SB 928**

CONSTRUCTION INDUSTRIES BOARD
Rules, emergency, disapproving. **SJR 45**

CONSUMER CREDIT AND PROTECTION
Consumer laws, defining. **SB 398**
Debt collection. **SB 398**
Telemarketing, cell phone text message. **SB 398**

CONTINUING EDUCATION
Bail bondsman. **HB 1243**, **SB 965**
County treasurer. **SB 10**
Insurance adjuster or producer. **HB 1243**, **SB 778**, **SB 965**
Poultry waste applicators. **SB 92**
Private investigators. **SB 263**
Realtor, nonresident license. **SB 648**
Security guards. **SB 263**
Social workers. **HB 1715**

CONTRACTORS
Roofing, license. **SB 928**
Sales tax exemption on manufacturing goods. **HB 1954**

CONTRACTS
Athlete agent. **HB 1586**
Home Service Contract Act. **SB 780**
Public construction, partial payment; retainage. **HB 1075**
Unions; contract with minor void. **HB 1688**

CORPORATION COMMISSION
Fund, Plugging, termination date. **SB 587**
Wreckers; fees, services regulation. **HB 1743**

CORRECTIONS DEPARTMENT
Inmate:
Credits, college degree. **SB 137**
Electronic monitoring. **HB 2131**
Health care services. **SB 180**
Nonviolent, alternative sentencing. **HB 2131**
Prisons and reformatories:
Guard; changing reference to officer. **HB 1382**
Overpopulation. **HB 2131**
Videoconferencing with courts. **HB 1234**

COUNTIES AND COUNTY OFFICERS
Assessor:
Ad valorem documents, postmark considered date of delivery. **HB 1903**
Budget procedures; accounting principles. **SB 130**
*Property data within computer systems, Equalization Board to establish fees for search and copying. **SB 105**
City-county health department; permitting providing services. **HB 1397**
Commissioner:
Property:
Disposal of surplus. **SB 170**
Qualifications. **SB 117**
Utility vehicles, road use. **SB 742**
County and Municipal Government Act of 2011. **HB 1692**
Development fees; infrastructure improvement. **SB 708**
Elections:
Board, member removal or disqualification. **SB 214**
Suspending certain until new management system installed. **SB 328**
Energy District Authority, membership **HB 1323**, **SB 145**
Energy Independence Act, loan repayment terms. **SB 102**
Health department:
Insurance companies reimbursement. **HB 1397**
Inventory responsibility. **HB 1051**
Juvenile bureaus:
Employ officers. **HB 1218**
Nine-one-one wireless service revenue fee. **HB 1595**
Officers:
Inventory responsibility. **HB 1051**
Salary. **SB 16**
Retirement fund, population requirement. **HB 2032**
Roads or bridges:
Project reports; electronic. **HB 1685**
Reimbursement, bridge load requirement. **HB 1060**
Sheriff:
Abandoned property inspection. **SB 798**
Reserve deputy:
Sheriff to accompany in performance of duties. **SB 187**
State employee emergency leave. **SB 666**
Treasurer:
Ad valorem tax:
Statements sent by email. **SB 104**
School district, training. **SB 10**

COURT REPORTERS
Temporary, salary. **SB 498**

COURTS
Administrative Director:
Adoption demographic information form, reporting. **SB 510**
Clerk:
Liquor, gambling paraphernalia seizure report. **HB 1412**
District:
Burials; disposition of remains dispute. **HB 1355**
Deployed Parents Custody Act; expedited hearing. **HB 1603**
Judge Gary Dean Courtroom Technology Act. **HB 1234**
Videoconferencing, correctional facilities. **HB 1234**
Wildlife citation. **HB 1347**
Drug:
Driving privileges. **HB 1672**
Judges:
Courtroom Technology Act, Judge Gary Dean. **HB 1234**
Workers' Compensation:

Administrator duties. **HB 2038**, **SB 878**
Appeals. **SB 878**
Case managers. **SB 878**
Claims heard by judge sitting without jury. **SB 878**
Counseling or ombudsman program; mediation. **SB 878**
Electronic Data Interchange Advisory Committee. **SB 878**
Fund:
Administration. **SB 878**
Multiple Injury Trust. **SB 878**
Judges, permanent assignment; assigned on rotating basis. **SB 878**
Medical examiners, independent; surgical review. **SB 878**
Vocational Rehabilitation Director. **SB 878**

CREDIT UNIONS
Deposit account owner deceased, maximum amount allowable to transfer to heirs. **SB 246**

CRIMES AND PUNISHMENTS
Burials; disposition of remains dispute. **HB 1355**
Dangerous weapon term. **SB 952**
Embezzlement from estate. **HB 1322**
Felony:
Assault and battery with dangerous weapon. **SB 952**
Athlete agent violations. **HB 1586**
Bail bondsmen, license violations. **HB 1243**, **SB 965**
Birth certificate, false. **HB 1397**
Child trafficking. **SB 510**
Firearm:
Transaction, certain with licensed or private seller. **SB 856**
Gang, committing offense as condition of membership. **SB 923**
Marijuana, converting to hashish. **HB 1798**
Medicaid/Insure Oklahoma fraud. **HB 1736**
Negligent homicide, reckless driving. **HB 1507**
Prescription, filling forged or fictitious. **SB 919**
Property owner renting to multiple sex offenders. **SB 852**
Underage drinking. **HB 1211**
Fireworks display violations. **SB 844**
Maiming, increasing punishment. **SB 952**
Misdemeanor:
Athlete agent. **HB 1586**
Fireworks display license violation. **SB 844**
Governor's Mansion or other property where certain public officials visiting, trespassing. **SB 285**
Medicaid/Insure Oklahoma fraud. **HB 1736**
Nurses, specialty practice; violations. **HB 1275**
Prescription, filling forged or fictitious. **SB 919**
Property owner renting to multiple sex offenders, first and second violation. **SB 852**
Sales tax exemption. **HB 1954**
Underage drinking. **HB 1211**
Wildlife citation. **HB 1347**
Workers' compensation, employer violations. **SB 878**
Motor vehicle, minor destroying other person's property, license revoked until age 21. **SB 895**
Urinating in public. **SB 446**

CRIMINAL PROCEDURE
Executions. **HB 1991**
Liquor, gambling paraphernalia; seizure report filed with court clerk. **HB 1412**

D

DAMAGES
Bodily injury, noneconomic recovery cap. **HB 2128**
Child pornography. **HB 1549**
Future, payments; periodic schedule. **HB 2024**
Personal injury or wrongful death, not subject to state or federal income tax. **SB 865**
Pesticide applicator, process. **SB 228**

DEAD BODIES
Disposition of remains; authorization, forfeiture, liability. **HB 1355**
Exhumation, permit, court order. **HB 1397**

DEATH
Disposition of remains; authorization, forfeiture, liability. **HB 1355**
Execution:
Participation; witnesses, drug supply purchase. **HB 1991**

DECEASED VETERANS DIGNITY ACT. HB 1355

DELINQUENTS AND JUVENILES
Detention facility, videoconferencing with courts. **HB 1234**
Juvenile officers. **HB 1218**
Placement in facility. **SB 247**

DENTISTRY BOARD
District courts, authorizing granting injunction without bond. **SB 574**
Duties relating to property. **SB 574**
Investigators, duties; sidearm, badge possession. **SB 574**
Prescription form. **SB 574**
Probation monitoring fee. **SB 574**

DENTISTS AND DENTISTRY
Faculty permit. **SB 574**
Investigation, failure to cooperate, penalty. **SB 574**
Liability insurance policy requirement, volunteer exception. **SB 574**
Prescription form. **SB 574**

DEPLOYED PARENTS CUSTODY (AND VISITATION) ACT. HB 1603

DISABLED PERSONS
Employment discrimination. **SB 837**

DISCRIMINATION
Based on race or sex, prohibiting in public employment, education or contracts; ballot. **SJR 15**
Employment claim. **SB 837**
Genetic information. **SB 837**
Human Rights Commission, transferring duties to Attorney General Office. **SB 763**
Notice of Right to Sue. **SB 837**

DISTRICT ATTORNEYS, COUNCIL AND OFFICES OF
Child abuse, service provider progress reports. **HB 2136**
Firearms, retired or investigator carrying. **SB 162**
Qualifications, residency. **SB 54**

DIVORCE
Electronically stored materials, prohibiting destroying. **SB 815**
Financial document requirements. **SB 815**

DOMESTIC VIOLENCE
CLEET investigation training. **SB 567**
Dangerous weapon. **SB 952**

DRUGS AND MEDICINES
Controlled substance:
Adding various to Schedules I, II, III, IV, V. **SB 919**
Electronic prescription for Schedules III and IV. **SB 919**
Seized, destruction by Narcotics and Dangerous Drugs Control Bureau. **SB 919**
Marijuana:
Converting into hashish, penalty. **HB 1798**
Methamphetamine:
Offender registry:
Following conviction. **SB 919**
Testing, workplace. **HB 2033**

DRUNK DRIVING AND CONTROLLED SUBSTANCE ABUSE
Assessment program requirements. **HB 1319**
Child endangerment. **HB 1319**
Driver license:
Erin Elizabeth Swezey Act. **SB 529**
Revoked:
Time frame. **SB 529**
Ignition interlock device. **HB 1319**, **SB 529**
Mark McGee Act of 2011. **HB 1319**
Penalties, previous, subsequent offenses. **HB 1319**
Specimen collection costs. **HB 1676**
Witness testimony. **HB 1319**

E

ECONOMIC DEVELOPMENT
Quick Action Closing; revenue source, Commerce Department Director duties. **HB 1953**

EDUCATION DEPARTMENT
Background checks from private company, approval. **HB 1418**
Control of department, transferring to Superintendent of Public Instruction. **HB 2139**
Online courses, removing telephonic communication requirement. **SB 280**
Schools:
Achievement report card; delivery to parents. **HB 1456**
Student progress assessment. **SB 346**
Teachers' Retirement System Dedicated Revenue Revolving Fund, administration. **HB 1007**
EDUCATION, BOARDS OF
Charter schools:
Juvenile Affairs Office, sponsor. **SB 278**
Growth targets, graduation rates. **SB 2**
Language, clarifying. **HB 2139**
State:
Advisory board, transferring oversight of Education Department to Superintendent of Public Instruction. **HB 2139**
Membership. **SB 435**
Public School Classroom Support Revolving Fund, grants for classroom supplies and materials. **HB 1852**
School achievement report. **HB 1456**
Termination date:
April 2, 2015. **SB 435**
Current members, upon effective date of this act. **SB 435**

ELECTION BOARD, STATE
Membership appointments. **SB 931**
ELECTIONS
Absentee:
Electronic transmission. **HB 1615**
Uniform Military and Overseas Voters Act. **SB 115**
Candidate:
Receiving $5,000 contribution, Ethics Commission reporting requirement. **HB 1776**
Withdrawal, filing deadline. **HB 1615**
Contributions:
$5,000, area population 250,000 or more, file Ethics Commission report. **HB 1776**
Initiative petition:
Additional taxes or assessments, signature gathering period. **SB 239**
Management system procedures; suspending certain local elections. **SB 328**
Municipality governed by charter, filing period. **HB 1615**
Political party recognition:
Date. **HB 1615**
Presidential:
Filing fee. **HB 1615**
Primaries:
Date. **HB 1615**
Presidential:
Dates. **HB 1614**
Referendum:
Eighth grade requirement, deleting. **HB 1664**
Review sent to bill's principal author. **HB 1664**
Special:
Dates. **HB 1615**
Vacancies, filing period. **HB 1615**
Voters:
Let the Troops Vote Act. **HB 1615**
Uniform Military and Overseas Voters Act. **SB 115**

ELLIOTT, SSGT Billy. SB 195

EMERGENCIES
Environmental, emergency response; DEQ, Hazardous Materials Emergency Response Commission. **HB 1481**

EMERGENCY MEDICAL SERVICES
Emergency response equipment damaged/lost; restitution. **HB 1232**

EMINENT DOMAIN
Mineral estate, prohibition. **HB 1821**
Oil and gas exploration rights. **HB 1821**
Original owner, right to buy back if property unused; notification. **HB 1226**
Wind farm development or wind turbine, prohibition. **SB 124**

EMPLOYMENT SECURITY COMMISSION
Benefits:
Administrative service fee. **SB 756**
Appeal process; referee decision; judicial review. **SB 756**
Failure to seek or accept suitable work, disqualification. **SB 756**
Wage term. **SB 756**
Confidential information, disclosure. **SB 756**
Employer:
Benefit wage charges, objections, relief. **SB 756**
Electronic funds transfer. **SB 756**
Exemption:
Religious schools. **SB 756**
Work-relief or work-training program financed by Indian tribe. **SB 756**
Review Board, member salary. **SB 756**

ENERGY
Independence Act, loan repayment terms. **SB 102**
Municipal Energy Independence Act; district authority, public trust. **HB 1366**
Solar, Airspace Severance Restriction Act, airspace over real property. **HB 1564**

ENERGY SECRETARY
Endangered Species and Economic Development Task Force, member. **SB 740**

ENVIRONMENT
Carbon sequestration; practices; storage; CO2 trunkline; pore space. **SB 629**
Hazardous Materials Emergency Response Commission duties. **HB 1481**

ENVIRONMENTAL QUALITY BOARD
Landfill slope requirements, rules. **SB 19**
Water reuse policy. **SJR 24**

ENVIRONMENTAL QUALITY DEPARTMENT
Customer Service Division, deleting reference. **HB 1308**
Emergency response; contaminated soil, water sample, analysis. **HB 1481**
Gray water. **HB 1575**
Public water supply construction permit requirements. **HB 1059**

EQUAL OPPORTUNITY EDUCATION SCHOLARSHIP ACT. SB 969

EQUALIZATION BOARD
Property data within in county assessors' computer systems; schedule of fees for search, production and copying. **SB 105**

ERIN ELIZABETH SWEZEY ACT. SB 529

ESTATES
Embezzlement; penalty. **HB 1322**
Sale, taxidermy specimen. **HB 1348**

EXCISE TAXES
Barrel of petroleum oil, termination date. **SB 587**
Motor vehicle revenue apportionment. **SB 729**

F

FAIR PRACTICES OF EQUIPMENT MANUFACTURERS, DISTRIBUTORS, WHOLESALERS AND DEALERS ACT. SB 789

FEDERAL GOVERNMENT
Income tax, damage award for personal injury or wrongful death. **SB 865**

FEES
Administrative rules cause increase, legislative approval. **HB 1044**
Attorney General administration fee for Legal Services Revolving Fund. **HB 1415**
CLEET license reinstatement. **SB 408**
Composting facilities. **SB 19**
Courts:
Court-appointed special advocates. **HB 1414**
Motor vehicle insurance verification: Removing requirement. **HB 1520**
Development, municipal infrastructure improvement. **SB 708**
Employment Security Commission, administrative. **SB 756**
Fireworks license. **SB 844**
Groundwater use report. **SB 248**
Home Service Contract Act, Antifraud Assessment Fee. **SB 780**
Hospital, supplemental offset payment program. **HB 1381**
Insurance:
License and exam. **HB 2072**
Medical records, copy. **SB 701**
Motor carrier, permit. **HB 1229**
Motor vehicle:
Collision report. **SB 954**
Driver license reinstatement. **SB 953**
Nurse license. **HB 1275**
Property transfer. **HB 1594**
Recreational vehicle dealer license. **SB 902**
Roofing contractor license. **SB 928**
Social workers license. **HB 1715**
Wheat bushel. **HB 1472**
Workers' compensation. **SB 878**
Wreckers. **HB 1743**

FINANCE OFFICE
2nd Entrepreneurship Center, Commerce Department, transfer. **SB 772**
Administrative Process Consolidation and Reorganization Reform Act of 2011; consolidating certain state agencies. **HB 2140**
Business and Professional License Facilitation Task Force. **SB 772**
Chief Information Officer:
Agency shared payroll processing services. **HB 1086**
Business Licensing One-Stop Program, online processing. **HB 1601**
Website:
Information technology project costing more than $100,000. **HB 1086**
Publications, documents, forms, maps, publications required for School District Transparency Act. **HB 1086**
Tax credits. **HB 1489**
Cost savings report. **HB 1207**, **SB 541**
Financial services cost performance assessment publication. **HB 1207**, **SB 541**
Implementation Working Group, tax collection compliance. **SB 750**
Information Services Division, all agency duties, employees, transfer. **HB 1304**
Website:
Road funding. **HB 1489**
Stimulus funds disbursement. **HB 1207**

FINES
Athlete agent violations. **HB 1586**
Bail bondsman license violation. **SB 965**
Deer hunting facility, trespassing. **HB 1474**, **SB 828**
Gang, encouraging minor to join. **SB 923**
Insurance certificate. **HB 2072**
Medicaid/Insure Oklahoma fraud. **HB 1736**
Negligent homicide. **HB 1507**
Workers' compensation:
Employer violations. **SB 878**
Reports and notifications, failure to provide. **SB 878**

FIRE MARSHAL, STATE
Business in conflict with duties, prohibition. **SB 363**
Fireworks display licenses. **SB 844**

FIREARMS AND WEAPONS
Concealed:
Technology center schools. **HB 1652**
Deadly force; place of business. **HB 1439**
Dentistry Board investigators, possess after retirement. **SB 574**
Firearms:
Transaction, unlawful with licensed or private seller, felony. **SB 856**
United States Attorneys, Assistant United States Attorneys; carry authorization. **HB 1255**

FIREFIGHTERS
Volunteer:
Income tax checkoff. **HB 1998**

FIREFIGHTERS PENSION AND RETIREMENT SYSTEM
Conviction of crime related to duties of employment, forfeiture of benefits. **SB 347**
Modifications to bring into compliance with IRS laws. **SB 788**
Report to State Pension Commission, eliminating. **SB 782**

FIREWORKS
Display; outdoor; license; proximate pyrotechnics. **SB 844**
Sales tax. **HB 1475**

FORECLOSURE
Livestock lien. **SB 530**

FRANCHISES
Offer or sale exemption, timing provisions. **HB 1202**

FUNDS
Alzheimer's Research License Plate Revolving. **SB 200**
Attorney General Evidence; deposit balance. **HB 1675**
Deferred Maintenance Revolving; Central Services Department repair and maintenance. **HB 1512**
Employment Security Administration. **HB 1398**
General Revenue:
Greenwood, Historic, District Music Festival Revolving. **SB 949**
Group Self-Insurance Association Guaranty. **SB 878**
Health Care Indemnity Fund; eliminating establishment. **HB 2128**
Honor the Fallen Revolving. **HB 1355**
Hospice and Palliative Care License Plate Revolving. **SB 200**
Individual Self-Insured Guaranty. **SB 878**
Insurance Department Anti-Fraud Revolving. **HB 2072**
Judicial Complaints Revolving. **HB 1414**
Juvenile Diabetes Research Revolving. **SB 200**
Legal Services Revolving, Attorney General oversight. **HB 1415**
Lupus Revolving. **HB 1998**
Multiple Injury Trust. **SB 878**
Pancreatic Cancer Research License Plate Revolving. **SB 200**

Public School Classroom Support Revolving. **HB 1852**
Quick Action Closing. **HB 1953**
Sports Eye Safety Program Revolving. **SB 949**
Supplemental Hospital Offset Payment Program. **HB 1381**
Taxpayer Relief Revolving, abolishing; monies transferred to Special Cash. **SB 571**
Volunteer Fire Department Revolving. **HB 1998**
Workers' Compensation Administration. **SB 878**
Workers' Compensation Self-Insurance Guaranty. **SB 878**
Y.W.C.A. Domestic Abuse Shelter Revolving. **HB 1998**

FUNERALS
Director; right of disposition dispute, duties. **HB 1355**
Picketing Act; distance requirement. **SB 406**

G

GAME AND FISH
Cervidae:
Double-fencing requirement. **HB 1473**
License renewal date. **HB 1473**
Hunting:
Age requirement changes. **HB 1338**
Licenses, fishing/hunting:
Electronic issue. **HB 1339**
Taxidermy, estate sale. **HB 1348**
Wildlife Bail Procedure Act. **HB 1347**

GANGS
Criminal street, committing offense as condition of membership, felony. **SB 923**
Minor, causing to join, felony; fine. **SB 923**

GEOLOGICAL SURVEY
Carbon sequestration, assess public lands for CO2 reservoir potential. **SB 629**

GOVERNOR, OFFICE OF THE
Appointments:
Administrative Efficiencies, Task Force on Creating. **SB 536**
Business and Professional License Facilitation Task Force. **SB 772**
Children of Incarcerated Parents Task Force. **HB 1197**
Eastern Flyer Passenger Rail Development Task Force. **HB 1686**
Education, State Board of. **SB 435**
Election Board, State. **SB 931**
Native American Liaison. **HB 2172**
Special Education State-wide Cooperative Task Force. **HB 1744**
Workers' Compensation:
Electronic Data Interchange Advisory Committee. **SB 878**
Advisory Council. **SB 878**
Court, judges and administrator. **SB 878**
Physician Advisory Committee. **SB 878**
Self-Insurance Guaranty Fund Board. **SB 878**
Mansion, trespassing. **SB 285**
Native American Liaison. **HB 2172**
Parole, revocations; crimes list; 30 day review, non-violent crimes. **HB 2131**

GRAND RIVER DAM AUTHORITY [GRDA]
Task Force, Joint, biennial meetings; once during first session of new legislature. **SB 60**

GROCERY STORES
Beer and wine sales. **SB 658**

GROSS PRODUCTION TAX
Extending tax incentive duration date. **HB 1488**
Horizontally drilled deep well:
Tax rate for specified time period. **SB 885**

H

HAGERTY, MAJOR SCOTT. SB 11

HARASSMENT
Debt collection. **SB 398**

HEALTH BOARD
Abortion report, rules. **HB 1888**
Workplace Drug and Alcohol testing. **HB 2033**

HEALTH CARE AUTHORITY
ADvantage program, rules and contract for administration. **HB 1363**
Prosthetic/orthotic devices; study, recommend coverage for Medicaid. **HB 1655**
Right of recovery, information shared by insurers. **SB 412**
Supplemental Hospital Offset Payment Program Act. **HB 1381**

HEALTH CARE COMPACT. SB 722

HEALTH CARE PROVIDERS
HIV test, pregnant females. **HB 1826**

HEALTH CARRIER EXTERNAL REVIEW ACT, UNIFORM. HB 2072

HEALTH COMMISSIONER
Duties. **HB 1397**
Workers' compensation workplace medical plan, certification. **SB 878**

HEALTH DEPARTMENT
Health related services, authorized to perform any, all. **HB 1397**
Sports Eye Safety Act; fund; eye safety program and classroom materials. **SB 949**
Workers compensation workplace medical plan, site visit protocol; fee. **SB 878**

HENDERSON, OHP TROOPER SAM R. SB 195

HIGHER EDUCATION
Regents:
Educators' associations; equal access policy. **HB 1854**
Students; teacher education program, access to associations. **HB 1854**

HIGHWAYS
Chief Warrant Officer Gordon Spangler Memorial. **SB 11**
Closing, temporary, flooding. **HB 1232**
Construction/maintenance; emergency responder equipment damaged, court ordered restitution. **HB 1232**
Cpl. Joshua Jerold Ware Memorial. **SB 11**
Dr. Walter S. "Doc" Mason, Jr., Memorial. **SB 11**
Hannah Diggs Atkins Memorial. **SB 195**
Historic Bike Trail. **HB 2049**
Jerry Lasker Memorial Interchange. **SB 82**
Larry Wade Memorial. **SB 195**
Major Scott Hagerty Memorial. **SB 11**
Section line highway within boundaries of expanded business facility. **SB 816**
SSGT Billy Elliott Memorial. **SB 195**

HISTORICAL SOCIETY
Art in Public Places:
Assessment. **HB 1665**

HOME CARE
ADvantage waiver program, long-term care, eligibility. **HB 1363**
License:
Health Department duties; accreditation. **HB 1504**

HOME SERVICE CONTRACT ACT. SB 780

HOMELAND SECURITY OFFICE
Nine-one-one system:
Coordinator. **SB 175**
Fee deposit. **SB 175**

HOMESTEAD AND EXEMPTIONS
Fair cash value, limiting increase; ballot. **HJR 1002**

HOSPITALS
Employees, drug and alcohol testing. **HB 2033**)
Supplemental Hospital Offset Payment Program Act, Medicaid patients, annual fee for matching federal funds. **HB 1381**

HOUSE OF REPRESENTATIVES
Rules:
House. **HR 1008**

HOUSING
Discrimination for disability. **SB 837**

HOWELL, PFC A.T. SB 195

HUMAN RIGHTS COMMISSION
Transferring duties to Civil Rights Enforcement Office within Office of Attorney General. **SB 763**

HUMAN SERVICES DEPARTMENT
Options Counseling for Long-term Care Program Act. **HB 1554**
Child Support Enforcement Division:
"Most Wanted" list. **SB 576**
Developmental Disabilities Services Division:
Sheltered workshops. **HB 1228**
Fraud:
Undercover investigations. **HB 1736**

I

IMMIGRATION or IMMIGRANTS
Workers' compensation, vocational rehabilitation services. **SB 878**

INCOME TAX, STATE
Checkoff:
Lupus research. **HB 1998**
Sports Eye Safety Program. **SB 949**
Volunteer fire departments. **HB 1998**
Y.W.C.A. domestic abuse shelters. **HB 1998**
Compliance:
Elected official, resign if sent third notification of failure to comply. **HB 1231**
State employee. **HB 1231**
Contribution; Public School Classroom Support Revolving Fund. **HB 1852**
Credit:
Aerospace employee. **HB 1008**
Scholarship-granting organization, contribution for elementary or secondary private school. **SB 969**
Donation; music festivals in Historic Greenwood District. **SB 949**
Exemptions:
Damage award for personal injury or wrongful death. **SB 865**
Refund; direct deposit or card-based disbursement system. **SB 123**

INDIAN AFFAIRS COMMISSION
Transferring to Native American Liaison. **HB 2172**

INDIAN PERSONS, TRIBES OR GOVERNMENTS
Adoption. **SB 510**
Work-relief or work-training program, exempt from Employment Security Act. **SB 756**

INNOVATION, EFFICIENCY AND ACCOUNTABILITY ACT OF 2011. SB 541

INSURANCE
Accident and health:
Abortion coverage, elective. **SB 547**
External review procedures; covered individual's rights, findings report. **HB 2072**, **SB 778**
Health Care:
Authority, right of recovery. **SB 412**
Compact, multi-state agreement; interstate commission. **SB 722**
Health Carrier:
Uniform External Review Act. **HB 2072**, **SB 778**
High risk:
Pre-Existing Condition Insurance Plan or PCIP program. **SB 563**
Rate determination. **SB 563**
Temporary pool. **SB 563**
Insurers:
Company action level event; homeowner's policy or auto renewal, written notice. **HB 2072**
License and exam fees. **HB 2072**
Surplus lines subject to surplus premium tax. **HB 2072**
Unauthorized Insurers and Surplus Lines Insurance Act. **HB 2072**
Opt out provisions, legislators, state employees. **HB 1062**
Premium rate:
Insurance Commissioner approval. **HB 2072**, **SB 778**
Contribution, Public School Classroom Support Revolving Fund. **HB 1852**
Electronics, portable, policy; vendor license. **SB 801**
Home Service Contract Act; home warranty; service contract reimbursement. **SB 780**
Homeowners:
Renewal notice. **SB 778**
Licenses; Producer/Adjuster, reexamination, educational requirements. **HB 1243**, **HB 2072**
Motor vehicle:
Liability or collision:
Compulsory Insurance Law, limiting recovery for damages against insurer for certain accidents. **SB 272**
Uninsured:
Damages, limiting recovery. **SB 272**
Security verification proof, court costs. **HB 1520**
Omnibus bill. **HB 2072**, **SB 778**
Producer:
Continuing education. **HB 1243**
License exam. **HB 1243**, **SB 965**
Surplus lines tax. **HB 2072**, **SB 778**
Unauthorized Insurers and Surplus Lines Insurance Act. **HB 2072**, **SB 778**

INSURANCE COMMISSIONER
Accident and health insurance:
External review procedures. **HB 2072**, **SB 778**
Rate change approval. **HB 2072**, **SB 778**
Application review. **HB 2072**
Certificate of insurance requirements. **HB 2072**
Continuing education. **HB 1243**, **SB 965**
Home Service Contract Act. **SB 780**
Nonadmitted and Reinsurance Reform Act, multi-state agreement or compact. **HB 2072**, **SB 778**
Surplus lines taxes, compact, agreement with other states. **HB 2072**, **SB 778**
Workers' compensation policies. **SB 878**

INSURANCE DEPARTMENT
Licenses issued; Producer/Adjuster, reexamination, educational requirements. **HB 1243**, **SB 965**

INSURE OKLAHOMA
Fraud investigations; penalties. **HB 1736**

INSURERS, UNAUTHORIZED, AND SURPLUS LINES INSURANCE ACT. HB 2072, **SB 778**

INTERNET
Expenditures published on data.ok.gov. **HB 1086**
Finance Office website:
Publications, documents, forms, maps, publications required for School District Transparency Act. **HB 1086**
Stimulus funds disbursement. **HB 1207**
Road funding information availability. **HB 1489**

Service data transfer rate restriction in schools. **HB 1460**
Tax credits, posted on OSF website. **HB 1489**
Workers' compensation claims filed. **SB 878**

INTOXICATING LIQUORS
Beer:
Grocery store sale:
Task force to study. **SB 658**
Low-point beer:
Allowing under age person to consume on property, crime. **HB 1211**
Municipal ordinances prohibiting sale. **HB 1211**
Social host. **HB 1211**
Under 21, punishments. **HB 1211**
Wine:
Grocery store sale:
Task force to study. **SB 658**

INVESTIGATION BUREAU
Confidential information, pending investigation. **HB 1800**
Forensic laboratories definitions, requirement. **HB 1800**
Oil field larceny, special officers with enforcement authority. **SB 895**
Unclassified employees, transferred from the Criminal Justice Resource Center. **HB 1649**

J

JAILS
Facilities use by adjoining county, repealer. **SB 495**
Inmates:
Juvenile, violent, contract between Juvenile Affairs Office and Tulsa jail. **SB 247**
Medical treatment:
Certified medication aides. **SB 679**
Medication, administration; screening form. **SB 854**

JOBS INCENTIVE PROGRAM, QUALITY
Failure to meet certain requirements for four quarters, ineligible for further payments. **SB 154**

JOBS PROGRAM ACT, OKLAHOMA QUALITY
Incentive payments, federal contractors. **SB 154**
JUDGE GARY DEAN COURTROOM TECHNOLOGY ACT. HB 1234

JURIES AND JURORS
Instructions. **SB 865**

JUSTICES AND JUDGES, UNIFORM RETIREMENT SYSTEM
Age requirement. **HB 1010**

JUVENILE AFFAIRS OFFICE
Charter school sponsor. **SB 278**
Facility, collocated with adult or juvenile detention, certification. **SB 247**
Placement. **SB 247**
Tulsa jail, contract to house violent juvenile offenders. **SB 247**

L

LABOR
Employees:
Drug, alcohol testing. **HB 2033**
Employer:
Drug, alcohol testing. **HB 2033**
Unions:
Contract with minor, void. **HB 1688**
Repealing municipal collective bargaining. **HB 1593**
LABOR COMMISSIONER
Workers' compensation. **SB 878**

LASKER, JERRY. SB 82

LAW ENFORCEMENT AGENCIES
Adult, vulnerable, emergency protective services; transportation, reimbursement. **SB 492**
Bomb squads, radiation safety rules. **HB 1676**

LAW ENFORCEMENT EDUCATION AND TRAINING COUNCIL
Agencies and police departments, approve. **SB 416**
Course of study to include:
Evidence-based domestic violence and stalking investigation training. **SB 567**
Hearing procedure, clarifying. **SB 131**
License revoked, fee for reinstatement. **SB 408**
Private investigators, continuing education. **SB 263**
Psychological evaluation. **SB 157**
Security guards, continuing education. **SB 263**

LAW ENFORCEMENT OFFICERS
Motor vehicle accident, authority to remove body. **SB 250**
Security guards, continuing education. **SB 263**

LAW ENFORCEMENT RETIREMENT SYSTEM
Modifications to bring into compliance with IRS laws. **SB 584**
Report to State Pension Commission, eliminating. **SB 782**

LAWSUIT
Noneconomic (pain and suffering) damage cap, $350,000. **HB 2128**

LEGISLATURE
Administrative:
Rule, approval. **HB 1044**
Appointments by Pro Tempore and Speaker:
Administrative Efficiencies, Task Force on Creating. **SB 536**
Beer and wine grocery store sale, task force to study. **SB 658**
Business and Professional License Facilitation Task Force. **SB 772**
Children of Incarcerated Parents Task Force. **HB 1197**
Eastern Flyer Passenger Rail Development Task Force. **HB 1686**
Endangered Species and Economic Development Task Force. **SB 603**
Foster Care System Improvement Task Force. **HB 1359**
Grand River Dam Authority, Joint Task Force on. **SB 60**
Law Enforcement Behavioral Health Emergency Dispatch Task Force. **SB 492**
Self-Insurance Guaranty Fund Board. **SB 878**
Special Education State-wide Cooperative Task Force. **HB 1744**
Workers' Compensation Advisory Council. **SB 878**
Workers' Compensation Physician Advisory Committee. **SB 878**

LICENSE PLATES
Alzheimer's Research. **SB 200**
BMW Car Club of America. **SB 200**)
Deer Creek School District. **SB 200**
Don't Tread On Me. **SB 200**
Hospice and Palliative Care. **SB 200**
Juvenile Diabetes Research. **SB 200**
Ovarian Cancer Awareness. **SB 200**
Pancreatic Cancer Research. **SB 200**
Swine feeding operation. **HB 1957**

LICENSES
Adult day care. **HB 1397**
Bail bondsmen. **HB 1243**, **SB 965**
Business Licensing One-Stop Program, online processing. **HB 1601**
Cervidae, renewal date. **HB 1473**
Compressed natural gas fuel vendor. **HB 1815**
Consolidating agency procedures:
Business Licensing One-Stop Program; Finance Office. **HB 1601**
Electronic signatures. **SB 541**
Fireworks display. **SB 844**
Home care agencies. **HB 1504**
Insurance adjusters and/or producers:

Address or email address change, notification. **HB 1243**, **HB 2072**
Automated claims adjudication system. **SB 778**, **SB 965**
Examination, subsequent application, fee. **HB 1243**
Exceptions. **HB 2072**
Independent. **HB 2072**
Resident provisional insurance producer, repealer. **SB 965**
Nurses. **HB 1275**
Real estate. **SB 684**
Roofer contractor, violations. **SB 928**
Sheltered workshops. **HB 1228**
Social workers. **HB 1715**

LIENS
Garnishment. **SB 527**
Pre-lien notification. **SB 277**

LIVESTOCK OWNER'S LIEN ACT OF 2011. SB 530

LOANS
Energy Independence Act, repayment terms. **SB 102**
Medical Loan Repayment Program; primary care residency graduates; increases award amounts. **HB 2017**
Municipal energy district authority. **HB 1366**

LONG-TERM CARE FACILITY ADVISORY BOARD
License/certification. **HB 1282**
Re-creating; membership modification. **HB 1282**

LOTTERY COMMISSION
Advertising and promotions not to feature children. **HB 1321**

M

MANUFACTURERS
Fair Practices of Equipment Manufacturers, Distributors, Wholesalers and Dealers Act; motor vehicle specialty equipment. **SB 789**
Portable buildings, transportation permit. **HB 1229**

MARRIAGE
Dissolution, temporary injunctions. **SB 815**

MASON, JR., DR. WALTER S. "DOC". SB 11
MCGEE, MARK, ACT OF 2011. HB 1319

MEDICAID
Administrative sanctions for recipients who abuse. **SB 679**
ADvantage waiver program, long-term care, eligibility. **HB 1363**
Fraud; investigations; penalties. **HB 1736**
Prosthetic/orthotic devices; Health Care Authority study, recommend coverage. **HB 1655**
Supplemental Hospital Offset Payment Program Act, annual fee for matching federal funds. **HB 1381**

MEDICAL EXAMINER, OFFICE OF CHIEF
Findings:
Appeal, spouse, relative. **SB 250**
Burden of proof on petitioner; evidence showing death certificate in error; no jury or monetary damages. **SB 250**
Report copies furnished to family of deceased. **SB 250**

MEDICAL LICENSURE AND SUPERVISION BOARD
Physician abortion report. **HB 1888**

MEDICAL MALPRACTICE
Athletic event, protection from liability. **HB 1209**

MEDICAL RESEARCH
Lupus, income tax checkoff. **HB 1998**

MEDICARE
Supplemental Hospital Offset Payment Program Act. **HB 1381**

MENTAL HEALTH
Person requiring treatment. **HB 1271**
Treatment advocate filing court petition for care. **HB 1271**

MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES BOARD
Mental Illness Service Program certification. **HB 1377**

MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES COMMISSIONER
Beer and wine sales in grocery stores, member of task force to study. **SB 658**
Mental Illness Service Program certification. **HB 1377**

MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES DEPARTMENT
Contracts with nurses, pharmacists, mental health professional separated or retired from state service. **HB 1638**

MILITARY
Code of Military Justice, offenses subject to. **HB 1556**
Strategic Military Planning Commission, membership; purpose. **HB 1556**

MILITARY DEPARTMENT
Adjutant General:
Duties. **SB 633**
Employment discretion and authority. **SB 633**
Military advisor to Governor, removing. **SB 633**
National Guard armory building and facilities. **SB 633**
Military Code, modifications. **SB 633**
State employees, unclassified. **SB 633**
Surplus Property Act, exempt. **SB 633**

MINING
Water trapped in producing. **SB 597**

MOTOR CARRIERS
Livestock, transporting, removing vehicle restriction. **SB 95**
Size and weight:
Escort requirements. **HB 1229**
Moving houses or buildings, permits. **SB 235**
Special mobilized machinery, speed limit. **SB 499**

MOTOR FUEL TAX
Compressed natural gas. **HB 1815**
Special fuel, definition. **HB 1815**

MOTOR VEHICLE COMMISSION
Recreational Vehicle Franchise Act. **SB 902**

MOTOR VEHICLES
Accidents:
Compulsory Insurance Law, liability; limiting recovery for damages against insurer. **SB 272**
All-terrain. **SB 325**
Driver license:
Drug court, offender privileges. **HB 1672**
Exam to include section on bicycle, motorcycle safety. **SB 443**
Motorcycle:
Safety. **SB 443**
Reinstatement fee. **SB 953**
Renewal:
Electronic signature, prohibiting. **HB 1207**, **SB 541**
Revocation:
Failure to obey traffic signal or stop sign when failure results in great bodily harm to other person. **HB 1507**
Great bodily injury, definition. **HB 1507**
Interlock device. **SB 529**

Reckless driving, endangers other person, school bus loading, conviction. **HB 1507**
Fair Practices of Equipment Manufacturers, Distributors, Wholesalers and Dealers Act:
Equity ownership rights; succession rights; title of inventory to pass to supplier. **SB 789**
Specialty equipment; single-line dealer and supplier. **SB 789**
Guns, locked in, CareerTech schools. **HB 1652**
Lights:
Authorizing flashing red/blue on ODOT, Turnpike Authority vehicles. **HB 1061**
Municipal Motor Vehicle Racing Act. **SB 160**
Negligent homicide; felony, fine. **HB 1507**
Operation on state roads and highways. **SB 532**
Recreational:
Off-highway vehicle:
Helmet. **SB 325**
Vehicle Franchise Act; license; manufacturer dealer agreements; off-premise sale. **SB 902**
Registration:
Revenue apportionment. **SB 729**
Seat belts:
Child restraint, law enforcement verbal warning. **HB 1676**
Title, certificate of:
Damage declaration. **SB 729**
Rebodied vehicle. **SB 38**
Utility vehicles, road use; speed limit. **SB 742**

MULTI-MODAL TRANSPORTATION AUTHORITY ACT. HB 1990

MUNICIPAL ENERGY INDEPENDENCE ACT. HB 1366

MUNICIPAL MOTOR VEHICLE RACING ACT. SB 160

MUSIC
Greenwood District, festivals, taxpayer income tax refund for donation. **SB 949**

N

NARCOTICS AND DANGEROUS DRUGS CONTROL BUREAU
Reserve special agents; training; limited service; general peace officer powers. **SB 921**
Seized substances, destruction. **SB 919**

NATIVE AMERICAN CULTURAL AND EDUCATIONAL AUTHORITY OF OKLAHOMA
Native American Liaison, appointment to. **HB 2172**

NATIVE AMERICANS
Liaison; appointment, duties, jurisdiction. **HB 2172**

NONCONSENSUAL TOWING ACT OF 2011. HB 1743

NURSES
Advanced Practice Registered Nurse; requirements, penalties. **HB 1275**
Advanced Unlicensed Assistant; requirements, certification. **HB 1275**
Age requirements. **HB 1275**
Background checks. **HB 1275**
Licenses; suspension conditions. **HB 1275**
Peer assistance program. **HB 1275**

NURSING BOARD
Discipline actions. **HB 1275**
Employees, maximum number. **HB 1275**
License suspension. **HB 1275**

NURSING HOMES
Administrators license/certification. **HB 1282**
ADvantage waiver program. **HB 1363**
Counseling, Options for Long-term Care Program Act; programs, services, benefits. **HB 1554**
Definitions. **HB 1282**
Emergency medication kits. **HB 1441**
Long-Term Care, Choices for, Act. **HB 1363**

O

OIL AND GAS
Exploration Rights Act of 2011; wind/solar energy agreement, prohibiting diminishment of rights. **HB 1821**
Larceny, oil field equipment, Investigation Bureau special enforcement officers. **SB 895**
Refinery, manufacturer, sales tax exemption. **HB 1954**
Shale Reservoir Development Act; horizontal well unitization process; multi-unit; Corporation Commission jurisdiction. **HB 1909**
Wells:
Legislative findings. **HB 1909**
Spacing, horizontal drilling requirements. **HB 1909**

OKLAHOMA CITY
Grand Prix race. **SB 160**
Workers' Compensation Court, seven judges. **SB 878**

P

PARDON AND PAROLE BOARD
Nonviolent offenders, Governor's recommendation, crimes list. **HB 2131**
Qualifications. **HB 2131**

PERSONNEL MANAGEMENT OFFICE
Consolidating with Finance Office. **HB 2140**

PESTICIDE
Damages, process for filing suit. **SB 228**

PHARMACIES AND PHARMACISTS
Ambulatory surgical center, monthly visit. **HB 1826**
Audits. **SB 673**
Documentation and record-keeping requirements. **SB 673**
Long-term care facilities, emergency medication kits; controlled substances allowed. **HB 1441**
Prescriptions:
Audit of identification of numbers. **SB 673**
Electronic transmission:
Schedules III and IV. **SB 919**
Forged or fictitious information. **SB 919**

PHYSICIAN MANPOWER TRAINING COMMISSION
Medical Loan Repayment Program, excess funding to support residency programs. **HB 2017**

PHYSICIANS
Abortion. **HB 1888**

POLICE PENSION AND RETIREMENT SYSTEM
Conviction of crime related to duties of employment, forfeiture of retirement benefits. **SB 347**
Modifications to bring into compliance with IRS laws. **SB 577**
Report to State Pension Commission, eliminating. **SB 782**

POPULAR NAME LAWS
Aaron's Law. **HB 1507**
Abortion bills. **HB 1888**, **HB 1970**, **SB 547**
Affirmative action. **SJR 15**
Agency consolidation. **HB 2140**
Airspace Severance Restriction Act. **HB 1564**

Business Licensing One-Stop Program. **HB 1601**
Chandra Turner Reform Act. **SB 250**
Choices for Long-Term Care Act. **HB 1363**
Cody's Law. **HB 1211**
COLA bill. **HB 2132**
Congressional Redistricting Act of 2011. **HB 1527**
Deceased Veterans Dignity Act. **HB 1355**
Deployed Parents Custody (and Visitation,) Act. **HB 1603**
Electric Utility Data Protection Act. **HB 1079**
Equal Opportunity Education Scholarship Act. **SB 969**
Erin Elizabeth Swezey Act. **SB 529**
Fair Practices of Equipment Manufacturers, Distributors, Wholesalers and Dealers Act. **SB 789**
Gun bills. **HB 1439**, **HB 1652**, **SB 856**
Health Care Compact. **SB 722**
Health Carrier External Review Act, Uniform. **HB 2072**, **SB 778**
Home Service Contract Act. **SB 780**
Hospital provider fee. **HB 1381**
House of Representatives Redistricting Act of 2011. **HB 2145**
Information Technology Consolidation and Coordination Act. **HB 1304**
Innovation, Efficiency and Accountability Act of 2011. **HB 1207**, **SB 541**
Insurance, omnibus bill. **HB 2072**
Judge Gary Dean Courtroom Technology Act. **HB 1234**
Lawsuit reform. **HB 2128**
Let the Troops Vote Act. **HB 1615**
Lindsey Nicole Henry Scholarships for Student with Disabilities Program Act. **HB 1744**
Livestock Owners' Lien Act of 2011. **SB 530**
Make My Day law. **HB 1439**
Mark McGee Act of 2011. **HB 1319**
Municipal Energy Independence Act. **HB 1366**
Municipal Motor Vehicle Racing Act. **SB 160**
Nonconsensual Towing Act of 2011. **HB 1743**
Oil and Gas Exploration Rights Act of 2011. **HB 1821**
One-Stop shop bill. **HB 1601**
Options Counseling for Long-term Care Program Act. **HB 1554**
Pain-Capable Uniform Child Protection Act. **HB 1888**
Pension Funding Accountability Act of 2011. **HB 1007**
Pension, cost-of-living-adjustment. **HB 2132**
Private Lands and Public Recreation Act. **SB 494**
Reading bill. **SB 346**
Recreational Vehicle Franchise Act. **SB 902**
Retirement bills. **HB 1002**, **HB 1007**, **HB 1010**, **HB 1648**, **HB 2132**, **SB 347**, **SB 377**, **SB 794**, **SB 891**
School:
  Grading system for performance. **HB 1456**
  Private school scholarship, income tax credit. **SB 969**
  Social promotion. **SB 346**
  Vouchers. **HB 1744**, **SB 969**
Sex-change bill. **HB 1397**
Sheltered Workshop Act. **HB 1228**
SHOPP. **HB 1381**
Social host. **HB 1211**
Sports Eye Safety Program Act. **SB 949**
State Government Administrative Process Consolidation and Reorganization Reform Act of 2011. **HB 2140**
State Government Asset Reduction and Cost Savings Program. **HB 1438**
State Government Open Documents Initiative. **HB 1086**
Supplemental Hospital Offset Payment Program Act. **HB 1381**
Transparency, Accountability and Innovation in Oklahoma State Government 2.0 Act of 2011. **HB 1086**
Unauthorized Insurers and Surplus Lines Insurance Act. **HB 2072**, **SB 778**
Uniform Military and Overseas Voters Act. **SB 115**
Wildlife Bail Procedure Act. **HB 1347**
Workers' Compensation Code. **SB 878**

PORNOGRAPHY
Child:
  Civil action, damages. **HB 1549**

PORT AUTHORITIES
Financial accounting procedures; **SB 593**
Foreign trade zone. **SB 593**

PRECIOUS METALS AND GEM DEALERS
Gold, silver, removing production taxation. **HB 1488**

PREGNANCY
HIV test. **HB 1826**

PRIVATE INVESTIGATORS
Continuing education. **SB 263**

PRIVATE LANDS AND PUBLIC RECREATION ACT. SB 494

PROBATE PROCEDURE
Bank deposit account owner deceased, maximum amount allowable to transfer to heirs. **SB 246**

PROFESSIONS AND OCCUPATIONS
Roofing contractor, license violations. **SB 928**

PROPERTY
Abandoned:
  Mortgagee:
    Request for sheriff inspection. **SB 798**
    Rights; motion to protect and preserve property. **SB 798**
Private Lands and Public Recreation Act; trespassing; citation for violation; restitution. **SB 494**
State-owned, report by Central Services Department director. **HB 1438**
Transfer:
  Fee, covenant. **HB 1594**
  Grantee beneficiary designated joint tenant with right of survivorship. **SB 521**
  Nontestamentary; interest in real estate term; transfer-on-death deed. **SB 521**
Unclaimed, safe deposit box, sold without notice. **SB 571**

PROTECTIVE ORDERS
Clarifying procedures. **HB 1360**
Emergency:
  Child abuse. **HB 1358**
Incarcerated persons. **HB 1358**
Juvenile cases; participation; attorney representing child. **HB 1360**

PUBLIC BUILDINGS AND PUBLIC WORKS
Lighting Energy Conservation Act, repealer. **SB 100**

PUBLIC EMPLOYEES RETIREMENT SYSTEM
Age requirement increase; rule of 90, eliminating. **SB 794**
Contributions:
  Considered trust funds. **SB 840**
  Late charge for late remittance. **SB 840**
Deferred Compensation Plan, Oklahoma State Employees. **SB 840**
Dispute, jurisdiction. **SB 840**
Elected official:
  Contribution rate. **SB 794**
  Determining years of creditable service. **SB 794**
  Normal retirement date; early retirement. **SB 794**
  Surviving spouse. **SB 794**
  Vesting period. **SB 794**
Forfeiture of benefits, convicted of crime related to duties of employment, forfeiture of benefits. **SB 347**

Judicial review of individual proceedings, Oklahoma County. **SB 840**
Member:
Normal retirement date. **SB 794**
Report to State Pension Commission, eliminating. **SB 782**

PUBLIC FINANCE
Fraudulent claims; officers' liability; number of persons required to institute action. **SB 331**
Pension Funding Accountability Act, fund transfer to Teachers' Retirement account. **HB 1007**
Road funding information available online. **HB 1489**
Truth in Funding Act; retirement bills, removing provision allowing COLAs to be considered nonfiscal. **HB 2132**

PUBLIC SAFETY COMMISSIONER
Interlocal agreements with higher education institution. **HB 1676**
Motor vehicle registration, intergovernmental cooperative agreement with tribal governments. **SB 857**

PUBLIC SAFETY DEPARTMENT
Driver License Fraud Unit name change to Identity Verification Unit. **HB 1391**
Highway Patrol:
Education requirements, year changed to 2014. **HB 1391**
Retired, retain badge, firearm. **HB 1391**
Salary. **HB 1676**
Trooper Academy, funded by:
Collision report fees. **SB 954**
Driver license reinstatement fees. **SB 953**
Lake Patrol name change to Marine Enforcement. **HB 1391**
Radiation safety rules. **HB 1676**
Robert R. Lester Law Enforcement Training Academy name change. **HB 1676**

PUBLIC TRUSTS
Municipal Energy Independence Act. **HB 1366**

R

RAILROADS
Crossing, buses. **SB 126**
Eastern Flyer Passenger Rail Development Task Force. **HB 1686**
Surface Transportation Board, updating name. **SB 193**

REAL ESTATE
Realtors:
Affordable housing development project, license exemption. **SB 684**
Home Service Contract Act; home warranty; exempt from Insurance Code. **SB 780**
Liability exemption for square footage information. **HB 1598**
Nonresident, continuing education. **SB 648**
Transactions, certification authorities, removing requirement. **SB 657**

REAL ESTATE COMMISSION
Unlicensed person, administrative fine. **SB 648**

RECALLED BILLS
SB 253

RECORDS
Medical:
Digital form, fee. **SB 701**
Forms for DHS adoption. **HB 1194**

RECREATIONAL VEHICLE FRANCHISE ACT. SB 902

REDISTRICTING
Congressional Redistricting Act of 2011. **HB 1527**
House of Representatives Redistricting Act of 2011. **HB 2145**
State Senate Redistricting Act of 2011. **SB 821**

REHABILITATION SERVICES DEPARTMENT
Background checks, potential employees. **HB 1047**

RETAILERS
Electronics, portable, insurance policy. **SB 801**

RETIREMENT SYSTEMS
Actuarial investigation, deadline. **SB 782**
Cost-of-living:
Fully funded. **HB 2132**
Nonfiscal retirement bill, definition. **HB 2132**
Pension:
Commission, eliminating certain reports from various retirement systems. **SB 782**
Funding Accountability Act of 2011. **HB 1007**

REVENUE AND TAXATION
Gold, silver, removing production tax. **HB 1488**
Tax credits:
Aerospace engineering. **HB 1008**
Internet posting. **HB 1284**, **HB 1489**
Reports by Tax Commission, Insurance Department; revenue impact. **HB 1284**
Study of Tax Credits and Economic Incentives, Task Force for. **HB 1285**
Tax incentive extension, gross production. **HB 1488**

ROADS, BRIDGES AND FERRIES
Bridges:
Bass Reeves Memorial. **SB 45**
C.E. Pittman Memorial. **SB 82**
Environmental study prior to replacement of existing county, not required. **HB 1232**
George W. Bush. **SB 304**
Harold Bell Memorial. **SB 195**
John R. Bush Memorial. **SB 195**
Lecia Swain-Ross Memorial. **SB 82**
PFC A.T. Howell Memorial. **SB 195**
Samuel R. Henderson Memorial. **SB 195**
USAF Maj. Aubrey Eugene Stowers, Jr., Memorial. **SB 195**
Vietnam War Veterans Memorial. **SB 82**
Funding information available online. **HB 1489**

S

SALES AND USE TAX
Collection; hearings; additional audit and enforcement personnel. **SB 123**
SALES TAX
Delinquent accounts to a debt collection agency. **HB 1231**
Exemption:
Food and beverage. **HB 1954**
Manufacturer. **HB 1954**
Fireworks. **HB 1475**
Municipal:
Collection, Distribution and Enforcement of Municipal Sales Tax Task Force. **SB 216**
Contract for collection. **SB 750**

SCHOLARSHIPS
Equal Opportunity Education Scholarship Act, income tax credit. **SB 969**
Lindsey Nicole Henry Scholarships for Students with Disabilities Program:
Armed forces, child of, transfer from other state. **HB 1744**
Individualized education program. **HB 1744**
Notification for request. **HB 1744**
Transfers. **HB 1744**
Transportation. **HB 1744**

SCHOOL EMPLOYEES
Background check. **HB 1418**, **SB 252**

Gang activity suspected, immunity if reporting. **SB 923**

SCHOOLS
Achievement report, card; delivery to parents. **HB 1456**
Administrative:
Creating Administrative Efficiencies, Task Force on. **SB 536**
Services:
Elementary, assistant superintendent. **HB 1372**
Superintendent performing nonadministrative. **SB 664**
Charter:
Funding, government lease rates. **SB 256**
Juvenile Affairs Office, sponsor. **SB 278**
Residence in district, transfer not required. **SB 445**
Transfers:
Emergency. **SB 445**
Residence in charter district. **SB 445**
Consolidation:
Mutual contract with superintendent, allowing expenditure. **HB 2115**
District:
Achievement report card. **HB 1456**
Foundation aid percentages. **SB 664**
Kindergarten, full-day. **SB 260**
READ Initiative. **SB 346**
Expenditures:
Administrative services. **SB 664**
Funding:
Consolidation Assistance Fund, superintendent, mutual, contract. **HB 2115**
Interlocal cooperative between districts, federal grant money. **SB 275**
Performance-based, calculation. **HB 1456**
Grading system for school performance. **HB 1456**
Graduation:
Growth targets. **SB 2**
Higher Learning Access Program:
Application:
Date changed for grade point average requirements. **SB 610**
Maintain satisfactory academic progress as required for eligibility for federal Title IV financial aid programs. **HB 1421**
Military, child of person killed in line of duty. **HB 1343**
Internet service data transfer rate. **HB 1460**
Online, removing telephonic communication requirement. **SB 280**
P-20 Task Force, seamless education from PreK through high school. **SB 206**
Private:
Equal Opportunity Education Scholarship Act. **SB 969**
Reading:
Initiative, Reading Enhancement and Acceleration Development (READ). **SB 346**
Phonics instruction. **HB 1269**
Social promotion, third grade students, retention. **SB 346**
Religious:
Exempt from Employment Security Act. **SB 756**
State aid:
Weight for online enrollment. **SB 141**
Students:
Gang activity suspected, notify law enforcement. **SB 923**
Progress assessment, annual; retention criteria; remediation. **SB 346**
Social promotion; reading at grade level. **SB 346**
Superintendents:
Sharing between districts, expenditure. **HB 2115**
Supplies, materials, grants for teachers; Public School Classroom Support Revolving Fund. **HB 1852**
Testing:
Intervention, remediation service. **HB 1917**
Performance levels; transcript. **HB 1680**
Textbooks:
Committee:
Contracts, time period extension. **HB 1374**
Supplementary, funding. **SB 278**
Transcripts; testing performance levels. **HB 1680**
Treasurer, county acting as school district, training. **SB 10**
Vouchers. **HB 1744**, **SB 969**

SECOND AMENDMENT DAY. HB 1511

SECRETARY OF STATE
Athlete agent, registration records. **HB 1586**

SECURITIES
Business Opportunity Sales Act; exemptions, timing provisions. **HB 1202**

SEIZURE OR FORFEITURE
Common carriers unlawful use, nonconsenting owners. **HB 1604**
Funds; district attorney expenses. **HB 1604**
Law enforcement report, liquor, gambling paraphernalia. **HB 1412**

SENATE
Advice and consent:
Education, State Board of. **SB 435**
Workers' Compensation Court, judges and administrator. **SB 878**
Districts:
Boundaries. **SB 821**
Senators:
Residential requirements. **SB 821**
Term of office. **SB 821**

SENTENCING
Community, eligible offender. **HB 2131**
Consecutively to concurrently, multiple judgments; other jurisdictions. **HB 2131**
Electronic monitoring:
Eligibility. **HB 2131**
Governor, parole revocations. **HB 2131**

SEX OFFENDERS
Corrections Department duties. **SB 282**
Housing, multi-unit structure; property owner renting to multiple offenders, felony. **SB 852**
Out-of-state conviction, copy provided to local law enforcement. **SB 282**
Registration:
Urinating in public. **SB 446**

SEXUALLY TRANSMITTED DISEASE
Definitions. **HB 1397**
Prevention and Treatment of AIDS, State Plan for; annual report. **HB 1397**
SHELTERED WORKSHOP ACT. HB 1228

SIGNS
Historic Route 66 Bike Trail. **HB 2049**
Roads:
Naming highway, bridge; costs by sponsoring party. **HB 1666**
Vegetation management. **SB 339**

SOCIAL WORKERS
Licensing Act; definitions; Board members terms; fees; license revocation. **HB 1715**

SONG
State gospel, "Swing Low, Sweet Chariot." **SB 73**

SPANGLER, CHIEF WARRANT OFFICER GORDON. SB 11

SPORTS
Athlete agent; definition, criminal penalty. **HB 1586**
Eye Safety Program, Sports:
Act, creating; fund. **SB 949**
Medical malpractice liability protection. **HB 1209**

SPORTS EYE SAFETY PROGRAM ACT. SB 949

STALKING
CLEET investigation training. **SB 567**

STANDARDS FOR WORKPLACE DRUG AND ALCOHOL TESTING ACT
Drug/alcohol testing; notice not required. **HB 2033**

STATE AND EDUCATION EMPLOYEES GROUP INSURANCE
Board:
Consolidating with Finance Office. **HB 2140**
Contract for specific services. **HB 1062**
Employees Benefit Council:
Consolidating with Finance Office. **HB 2140**)
TRICARE, flexible benefit allowance related to supplemental products. **SB 623**
Health care:
Cost containment program, web-based, required for 2012 vendor. **HB 1062**
Evidence-based treatment guidelines and doctor-initiated patient health literacy. **HB 1062**
Savings account:
HealthChoice. **HB 1062**
Requirement for high deductible, eliminating. **HB 1969**

STATE EMPLOYEES
Benefits Act:
TRICARE, flexible benefit allowance related to supplemental products. **SB 623**
Health insurance benefits; opt out provisions. **HB 1062**
Income tax, compliance; termination. **HB 1231**
Leave:
Municipal police officers and reserve deputy sheriffs, emergency. **SB 666**
Payroll conversion, shared leave. **HB 1207**
Retirement, eligible age. **SB 794**

STATE GOVERNMENT
Administrative Process Consolidation and Reorganization Reform Act of 2011. **HB 2140**
Agencies:
Consolidation. **HB 2140**
Employees providing financial services report. **HB 1207**, **SB 541**
Final orders, judicial review. **SB 943**
Financial services systems. **HB 1207**
Income tax notices, not agency specific. **HB 1231**
Information technology service duties, employees consolidation. **HB 1304**
Licensing:
Business Licensing One-Stop Program. **HB 1601**
Permit/license application, electronic signatures. **HB 1207**, **SB 541**
Rules:
Legislative approval. **HB 1044**
Workers' compensation. **SB 878**
Asset Reduction and Cost Savings Program. **HB 1438**
Consolidation. **HB 1304**, **HB 2140**
Discrimination based on race or sex, prohibiting in public employment; ballot. **SJR 15**
Electronic payment; information documents and forms; processing. **HB 1086**
Information Services:
Payroll, publications, documents, forms, expenditure information available on OSF website. **HB 1086**
Open Documents Initiative; public access to geodata, documents and forms, payroll processing, **HB 1086**
Payroll system, shared, electronic. **HB 1086**
Vendor payment system (see Electronic, above) **HB 1086**

STATUTES AND REPORTS
Judicial review of final agency order. **SB 943**
Tax credits. **HB 1284**

STOWERS, JR., USAF MAJ. AUBREY EUGENE. SB 195

SUNSET LAW
Athletic Commission. **HB 1015**, **HB 1019**
Juvenile Justice Reform Committee. **SB 674**
Osteopathic Examiners. **HB 1015**, **HB 1017**
Podiatric Medical Examiners. **HB 1015**, **HB 1018**
Polygraph Examiners Board. **HB 1015**, **HB 1016**
Statutory entities; re-creating, modifying list. **HB 1015**, **HB 1026**

SUPERINTENDENT OF PUBLIC INSTRUCTION
Contracts for conferences, meetings, or training sessions. **HB 1207**
Control, Education Department. **HB 2139**
Lindsey Nicole Henry Scholarship for Students with Disabilities Program, duties. **HB 1744**

SUPPLEMENTAL HOSPITAL OFFSET PAYMENT PROGRAM ACT. HB 1381

T

TAX COMMISSION
Delinquent tax; debt collection, agency; unfiled returns. **HB 1231**
Funds:
Compliance Fund, Tax Commission. **SB 750**
Public School Classroom Support Revolving; income tax contribution. **HB 1852**
Income tax:
Corporate and partnership, audit staff. **SB 123**
Overpayment, direct deposit or card-based disbursement system. **SB 123**
Refunds:
Payment. **HB 1231**
Unclassified tax account. **HB 1231**
Sales tax:
Agency name, clarifying. **SB 750**
Municipal, contract for collection. **SB 750**

TEACHERS
Background checks. **HB 1418**
Career tech, adult ed instructors, exempt from background checks. **SB 12**
Certification:
Early childhood, elementary, special education. **HB 1274**
Contracts:
Due process. **HB 1380**
Hearings:
Procedures, requirements, deleting. **HB 1380**
Trial de novo, eliminating. **HB 1380**
Gang activity suspected, immunity if reporting. **SB 923**
Professional development:
Mathematics instruction. **HB 1918**
Race to the Top Commission, changing name to Teacher and Leader Effectiveness Commission. **HB 1267**
Reading, phonics instruction. **HB 1269**
Substitute:
Background check. **HB 1418**, **SB 59**, **SB 252**
Former teacher in good standing. **SB 59**
Termination hearing. **HB 1380**

TEACHERS' RETIREMENT SYSTEM
Benefit:
Early retirement. **SB 377**
Death benefit. **HB 2004**
Education association officer; participation. **HB 1648**
Funding. **HB 1007**

Funds:
Membership Annuity Reserve, eliminating. **HB 1002**
Monthly transfer of revenues from the Dedicated Revenue Revolving. **HB 1007**
Reserve for Investment Fluctuations, eliminating. **HB 1002**
Retirement Benefit, balance in Teachers' Savings Fund transferred upon retirement. **HB 1002**
Member:
Normal retirement age. **SB 377**
Postretirement:
Employment contribution. **SB 891**
Report to State Pension Commission, eliminating. **SB 782**

TECHNOLOGY
Chief Information Officer. **HB 1304**
Information services consolidation, all state agencies. **HB 1304**
Payroll, vendor payments, agency expenditures and documents. **HB 1086**
Videoconferencing, district courts. **HB 1234**

TECHNOLOGY CENTER SCHOOL DISTRICTS
Adult education instructors, exempt from background checks. **SB 12**
Contracts, change orders. **SB 426**
Handguns, concealed; authorizing possession. **HB 1652**

TELECOMMUNICATIONS
Internet service data transfer rate restriction in schools. **HB 1460**

TELEPHONE AND TELEMARKETING
Nine-one-one:
Advisory Board; meeting to produce certain recommendations. **SB 175**
Coordinator position. **SB 175**
Wireless fee:
Revenue fee calculation; county substate planning districts. **HB 1595**
Telemarketing, automatic dialing device; cell phone text message. **SB 398**

TIRES
Dump, landfill collection requirements. **HB 1939**
Recycling fees. **HB 1939**
Waste Tire Recycling Act, changing word "waste" to "used" throughout act. **HB 1939**

TOBACCO
Cigars packaged in glass tubes. **SB 179**

TOURISM AND RECREATION DEPARTMENT
Utility vehicles, road use. **SB 742**
TRANSPORTATION DEPARTMENT
Motor vehicles, authorizing flashing red/blue lights. **HB 1061**
Oversize vehicles moving houses or buildings, permits. **SB 235**
Transportation project or system, intermodal facilities. **HB 1990**

TRAVEL AND/OR PER DIEM
Frequent flier miles. **HB 1086**
Reimbursement:
Maximum amount authorized. **HB 1035**
Prohibiting. **SB 56**, **SB 216**, **SB 603**
Workers' compensation claimant. **SB 878**

TREASURER, OFFICE OF STATE
Electronic payment mechanism, exemption information on website. **HB 1086**
Investment:
Performance report date. **SB 571**
Transactions, agency authorization. **SB 571**
Unclaimed, safe deposit box. **SB 571**

TRESPASSERS
Cervidae hunting area, fine. **HB 1474**, **SB 828**
Domestic livestock retrieval on private land. **HB 1249**
Governor's Mansion when Governor, Lieutenant Governor or other state official present. **SB 285**
Private Lands and Public Recreation Act. **SB 494**
Shooting from a public road, highway, or railroad right-of-way onto certain land. **SB 828**
Surface or hunting lease. **SB 828**

TRUTH IN FUNDING ACT. HB 2132

TULSA
Greenwood District, music festivals, taxpayer income tax refund for donation. **SB 949**
Workers' Compensation Court, three judges. **SB 878**

TURNPIKE AUTHORITY
Motor vehicles, authorizing flashing red/blue lights. **HB 1061**

U

UTILITIES
Electric:
Customer data usage, governing standards, confidentiality, customer consent. **HB 1079**
Wind power:
Airspace Severance Restriction Act, airspace over real property. **HB 1564**,
Eminent domain, prohibition. **SB 124**

V

VENDING MACHINES
Fee:
Reduction. **HB 1634**
VETERANS
Deceased Veterans Dignity Act, disposition of own body; fund. **HB 1355**
Vietnam War Veterans Memorial Bridge. **SB 82**

VETERINARIAN, STATE
Animal Technology Advisory Committee, Chair. **HB 1310**

VETERINARIANS
Nonveterinary reproductive services technicians. **HB 1310**

VETERINARY MEDICAL EXAMINERS, BOARD OF
District courts, authorizing granting injunction without bond. **SB 574**
Nonveterinary reproductive services, certification. **HB 1310**

W

WADE, LARRY. SB 195

WAR VETERANS COMMISSION
Task force to study; membership. **SB 56**

WARE, CPL JOSHUA JEROLD. SB 11

WASTE
Solid:
Compositing facilities:
Permit, fee. **SB 19**
Management vehicles, stopping and parking. **SB 417**
Slope requirements on landfill sites. **SB 19**

WATER RESOURCES BOARD
Floodplain management:
Variance hearings. **HB 1692**
Groundwater:
Augmentation of waters. **SB 597**
Mines, water trapped in producing. **SB 597**
Rules for water use from producing mines. **SB 597**
Submittal reports fee. **SB 248**
Water reuse policy. **SJR 24**

WATERS AND WATER RIGHTS
Floodplain management:

Definitions; rules, regulations, approval; website posting. **HB 1692**
Injunctive relief to prohibit certain activities. **HB 1692**
National Flood Insurance Program, counties and municipalities not required to participate. **HB 1692**
Gray water. **HB 1575**
Groundwater:
Taking water, sole source groundwater basin or subbasin. **SB 597**
Use reports; fee. **SB 248**
Public water supply construction permit requirements. **HB 1059**
Reuse policy. **SJR 24**

WILDLIFE CONSERVATION COMMISSION
Taxidermy specimen, estate sale. **HB 1348**

WILLIS, WALLACE. SB 73

WIND
Airspace Severance Restriction Act, airspace over real property. **HB 1564**,
Oil and Gas Exploration Rights Act of 2011, prohibiting diminishment of rights under wind/solar agreement. **HB 1821**

WITNESSES
Executions. **HB 1991**

WORKERS' COMPENSATION
Claims filed, posted on Internet. **SB 878**
Code, Workers' Compensation, creating; repealing Workers' Compensation Act. **SB 878**
Compsource:
Multiple Injury Trust Fund. **SB 878**
State, higher education institutions, departments, institutions, and public trusts. **SB 878**
Counselor, ombudsman or mediation. **SB 878**
Employee:
Child support lien. **SB 878**
Claim filing time limit. **SB 878**
Compensation formula; cap. **SB 878**
Death benefits. **SB 878**
First Notice of Accidental Injury and Claim for Compensation by the Employee, subject to perjury penalty. **SB 878**
Incarcerated, termination of benefits. **SB 878**
Medical care. **SB 878**
Occupational disease. **SB 878**
Permanent partial impairment or total disability. **SB 878**
Prosthetic devices. **SB 878**
Retaining employment when claim filed. **SB 878**
Temporary total disability; permanent partial impairment; permanent disfigurement or disability. **SB 878**
Trauma, cumulative. **SB 878**
Vocational rehabilitation. **SB 878**
Employer:
Accidental injury or death benefits. **SB 878**
Drug or alcohol testing. **SB 878**
Exemptions. **SB 878**
Independent contractor. **SB 878**
Medical care, time limit to provide. **SB 878**
Record of injuries. **SB 878**
Required to rehire employee. **SB 878**
Exemptions. **SB 878**
Extensive modification. **SB 878**
Funds:
Group Self-Insurance Association Guaranty Fund; Board. **SB 878**
Individual Self-Insured Guaranty Fund; Board. **SB 878**
Self-Insurance Guaranty Fund; Board. **SB 878**
Injury:
Accidental, benefits. **SB 878**
Compensable, **SB 878**
Medical exam. **SB 878**
Notice to employer, time limit. **SB 878**
Single event. **SB 878**
Treatment Guidelines. **SB 878**
Legal service claim; maximum; court costs. **SB 878**
Medical examiner, qualified independent. **SB 878**
Physician:
Medical fee schedule. **SB 878**
Ownership or interest in health care facility, disclosure. **SB 878**
Reimbursement rate; missed appointments. **SB 878**
Prescription drugs. **SB 878**
Self-Insurance:
Group or private; impaired insurer. **SB 878**
Guaranty Fund; continuation of benefits due to financial hardship. **SB 878**
Settlements. **SB 878**

WRECKERS
Corporation Commission regulation. **HB 1743**

index of enrolled bills

HB 1002 80
HB 1007 80
HB 1008 54
HB 1010 80
HB 1015 53
HB 1016 54
HB 1017 54
HB 1018 54
HB 1019 54
HB 1026 54
HB 1034 48
HB 1035 49
HB 1044 53
HB 1047 65
HB 1051 45
HB 1059 11
HB 1060 81
HB 1061 18
HB 1062 48
HB 1075 48
HB 1079 34
HB 1086 50
HB 1194 63
HB 1197 15
HB 1202 43
HB 1207 51
HB 1209 70
HB 1211 15
HB 1212 62
HB 1218 63
HB 1226 66
HB 1227 88
HB 1228 65
HB 1229 18
HB 1230 89
HB 1231 54
HB 1232 82
HB 1234 67
HB 1243 37
HB 1249 ..... 9, 22
HB 1255 22
HB 1267 29
HB 1269 24
HB 1271 59
HB 1274 30
HB 1275 61
HB 1282 65
HB 1284 55
HB 1285 55
HB 1296 47
HB 1304 50
HB 1308 12
HB 1310 7
HB 1319 16
HB 1321 63
HB 1322 68
HB 1323 45
HB 1327 8
HB 1338 9
HB 1339 9
HB 1343 31
HB 1347 9
HB 1348 10
HB 1355 ..... 68, 74
HB 1358 69
HB 1359 63
HB 1360 72
HB 1363 64
HB 1366 47
HB 1372 27
HB 1374 28
HB 1377 62
HB 1380 26
HB 1381 58

HB 1382 15
HB 1388 89
HB 1391 18
HB 1397 61
HB 1398 40
HB 1412 18
HB 1414 68
HB 1415 67
HB 1418 28
HB 1421 31
HB 1438 48
HB 1439 21
HB 1441 59
HB 1456 25
HB 1460 31
HB 1471 90
HB 1472 8
HB 1473 9
HB 1474 9
HB 1475 56
HB 1481 13
HB 1486 90
HB 1488 56
HB 1489 82
HB 1504 65
HB 1507 17
HB 1511 49
HB 1512 52
HB 1520 18
HB 1527 76
HB 1533 90
HB 1549 72
HB 1554 65
HB 1556 ..... 67, 73
HB 1564 ..... 35, 66
HB 1575 11
HB 1586 32
HB 1593 ..... 46, 47
HB 1594 67
HB 1595 46
HB 1598 41
HB 1601 52
HB 1603 71
HB 1604 69
HB 1606 72
HB 1607 72
HB 1614 56
HB 1615 ..... 56, 57
HB 1634 55
HB 1638 59
HB 1648 80
HB 1649 18
HB 1652 21
HB 1655 62
HB 1658 61
HB 1664 57
HB 1665 48
HB 1666 83
HB 1669 47
HB 1672 18
HB 1675 68
HB 1676 17
HB 1680 26
HB 1685 45
HB 1686 82
HB 1688 41
HB 1692 44
HB 1715 60
HB 1736 62
HB 1743 19
HB 1744 30
HB 1776 56
HB 1798 22
HB 1800 22
HB 1812 90
HB 1815 34
HB 1821 33
HB 1826 59
HB 1852 30
HB 1854 32
HB 1888 60
HB 1903 55
HB 1909 34
HB 1917 25
HB 1918 24
HB 1939 12
HB 1953 42
HB 1954 56
HB 1957 7
HB 1969 39
HB 1970 60
HB 1990 ..... 43, 82
HB 1991 15
HB 1998 55
H B 2004 80
HB 2017 61
HB 2023 70
HB 2024 70
HB 2032 45
HB 2033 40
HB 2038 72
HB 2049 83
HB 2072 ..... 37, 38
HB 2115 27
HB 2128 70
HB 2131 14
HB 2132 79
HB 2136 62
HB 2139 26
HB 2140 49
HB 2145 76
HB 2156 53
HB 2172 48
HJR 1002 54
HJR 1045 53
SB 2 25
SB 10 31
SB 11 82
SB 12 28
SB 13 42
SB 16 45
SB 19 12
SB 38 19
SB 45 82
SB 54 45
SB 56 74
SB 59 ..... 11, 28
SB 60 11
SB 73 49
SB 82 82
SB 92 8
SB 95 82
SB 96 40
SB 100 35
SB 102 ..... 35, 46
SB 104 55
SB 105 45
SB 115 56
SB 117 45
SB 123 56
SB 124 ..... 35, 66
SB 126 81
SB 130 45
SB 131 17

SB 137 15
SB 141 30
SB 145 ..... 35, 46
SB 147 47
SB 154 42
SB 157 17
SB 160 47
SB 162 22
SB 170 45
SB 175 46
SB 179 23
SB 180 15
SB 186 90
SB 187 19
SB 193 83
SB 195 92
SB 200 19
SB 206 26
SB 214 ..... 45, 57
SB 216 47
SB 228 8
SB 235 82
SB 239 45
SB 241 ..... 81, 91
SB 246 39
SB 247 63
SB 248 11
SB 250 69
SB 252 28
SB 256 28
SB 260 28
SB 263 17
SB 270 ..... 39, 40
SB 272 70
SB 275 28
SB 277 70
SB 278 28
SB 280 30
SB 282 15
SB 285 23
SB 287 39
SB 299 61
SB 304 83
SB 324 16
SB 325 19
SB 328 56
SB 331 44
SB 339 82
SB 346 24
SB 347 80
SB 363 18
SB 377 80
SB 398 67
SB 406 66
SB 408 17
SB 412 62
SB 416 17
SB 417 81
SB 420 8
SB 426 32
SB 435 27
SB 443 19
SB 445 29
SB 446 17
SB 492 64
SB 494 67
SB 495 14
SB 498 69
SB 499 82
SB 510 62
SB 521 67
SB 527 70
SB 529 15
SB 530 8
SB 532 19
SB 536 27
SB 541 51
SB 547 60
SB 563 59
SB 567 17
SB 571 49
SB 574 61
SB 576 63
SB 577 80
SB 584 80
SB 587 35
SB 593 43
SB 597 11
SB 603 12
SB 610 31
SB 623 48
SB 629 12
SB 633 73
SB 637 53
SB 648 41
SB 657 49
SB 658 43
SB 664 27
SB 666 47
SB 668 62
SB 673 59
SB 674 63
SB 679 62
SB 684 41
SB 701 59
SB 704 71
SB 708 46
SB 722 58
SB 729 19
SB 731 42
SB 738 91
SB 740 12
SB 742 19
SB 750 48
SB 756 40
SB 761 91
SB 763 49
SB 772 52
SB 778 38
SB 780 38
SB 782 80
SB 788 80
SB 789 40
SB 794 80
SB 798 70
SB 801 39
SB 815 71
SB 816 81
SB 821 78
SB 828 9
SB 837 66
SB 840 80
SB 844 18
SB 852 16
SB 854 59
SB 856 22
SB 857 19
SB 862 70
SB 865 70
SB 878 72
SB 885 35
SB 891 80
SB 895 18
SB 902 18

SB 919 22
SB 921 18
SB 923 ..... 20, 22
SB 928 41
SB 931 56
SB 935 54
SB 940 71
SB 943 68
SB 949 55
SB 952 20
SB 953 18
SB 954 18
SB 965 37
SB 969 ..... 30, 55
SJR 15 49
SJR 24 11
SJR 45 ..... 53, 109

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