

# Session Overview

SECOND REGULAR SESSION  
OF THE 49TH LEGISLATURE

Oklahoma House of Representatives  
Speaker Larry E. Adair

## House Research, Legal & Fiscal Divisions

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Introduction .....	1
Banking and Finance .....	2
Children and Families .....	2
Corrections .....	3
Criminal Justice and Judiciary .....	3
Economic Development .....	4
Education .....	4
Energy and Environment .....	5
Gaming .....	5
General Government .....	6
Health .....	7
Human Services .....	8
Insurance .....	10
Judiciary .....	10
Public Safety and Homeland Security .....	11
Revenue and Taxation .....	11
Science and Technology .....	12
Tourism .....	13
Wildlife .....	13
State Questions .....	14

the remainder going to reimburse city and county governments for lost sales tax revenue. The state money has the potential to generate another \$400 million in federal matching funds. The major health care needs to be addressed with the state funds include:

- Health care coverage for uninsured workers;
- Construction of a cancer research and treatment center;
- An increase in the Medicaid rates paid to doctors and hospitals;
- Retention and enhancement of the state's trauma care system; and
- Services for telemedicine to rural areas and indigent care.

Another significant health care initiative, **SB 1554**, the Oklahoma Trauma Systems Improvement and Development Act, is funded by a package of measures that increase the fines on various driving offenses to better fund trauma care in the state.

The Legislature made targeted tax relief for individuals and incentives for economic development a priority. In terms of personal income, **HB 2660** caps the state income tax rate, grants an income tax exemption for certain capital gains tax, and raises the exemption threshold for income tax on public and private sector retirement benefits for retirees. Another set of state questions, **SJR 30** and **HJR 1044**, will improve the property tax relief to low income seniors and disabled veterans if approved. A package of measures discussed in the Economic Development section of this publication provide various mechanisms designed to enhance the ability of localities to pursue economic development. One measure, **HB 2373**, is crafted to support the Dayton

## Introduction

The 2004 session of the Oklahoma Legislature was distinguished by several bold policy initiatives undertaken to improve the recovering state economy and make the state a better place to live through the provision of new health-related services and targeted tax incentives. The most prominent of these, **HB 2660**, sends an 80¢ per pack cigarette tax increase plus significant increases in the tax rates of other tobacco products to a vote of the people in November to fund a combination of policies. If approved by the people at the general election, it is expected to generate more than \$200 million, with the state receiving \$150 million, and a significant portion of

tire plant in Oklahoma City, a large employer in the state, in making crucial upgrades in its equipment.

Improvement in the state economy made possible the first salary increase to state employees in four years. State employees will receive \$2,100 over the next two fiscal years in **HB 2005** at a cost of \$47 million. Two other measures address critical sectors in the public arena. **SB 1137** mandates raises for state troopers, and **SB 1272** sets the stage for bringing the average teacher salary up to the regional average over the next five years. Additionally, **HB 2662** completes the state policy to fully fund flexible health benefits for teachers. School support personnel already receive this benefit. **SB 1075** and **HB 2006** address compensation for agency executives, state elected officials and the judiciary, and **SB 1134** provides cost-of-living increases in benefits to retired members of the various state retirement systems.

The early part of the legislative session was dominated with passage of gaming legislation in **SB 552**, that later was repealed through **SB 1252** in favor of a vote of the people in November. If approved, the state question will allow private pari-mutuel horse racing tracks to have electronic gaming devices similar to those in tribal casinos, which in turn will allow the state some measure of oversight of the tribal games while generating new revenue.

The issue of gay marriage resulted in legislation and a state question. **HB 2259** sends a state question to the November ballot to place a ban on same sex marriages in the state constitution, and **HB 1821** prohibits adoption of Oklahoma children by gay couples from out of state.

The Legislature addressed various issues in lawsuit reform primarily relating to relief in liability for medical personnel and landowners in **HB 2661**. Finally, in a new law enforcement approach to the growing problem of methamphetamine, **HB 2176** restricts the sale of pseudoephedrine. This act gained national attention as a groundbreaking approach to curtailing the havoc that drug abuse wreaks on society.

## Banking and Finance

To encourage investment in Oklahoma assets and financial institutions, **HB 2135** creates the Family Wealth Preservation Act. The act allows an individual to establish a trust fund for up to \$1 million that is exempt from attachment for the payment of debt or bankruptcy. The assets of the trust must be invested in Oklahoma businesses, stocks, or property and be managed by an Oklahoma bank or trust company.

In follow-up legislation to the “payday lending” bill passed by the Legislature last year, **SB 1565** allows borrowers applying for their third consecutive loan to request a payment plan. Lenders are prohibited from

denying the customer their right to the repayment plan. The measure also establishes a 24-hour “cooling off” period for borrowers after five consecutive loans.

## Children and Families

### Visitation

**HB 1734**, known as the Bryar Wheeler Act, establishes a program for supervised visitation. Currently, state law does not provide standards or a program for supervised visitation. Seven-year-old Bryar Wheeler was murdered by his father several years ago during a supervised visitation which was ordered by the court. This measure also establishes additional criteria on determining the custody of a child.

**HB 2528** directs the Administrative Director of the Courts to develop by January 1, 2005, a standard visitation schedule and advisory guidelines for district courts to utilize when determining visitation of a child. A standard visitation schedule would include a minimum graduated visitation schedule for children under the age of 5 and for children 5-17 years of age, taking into consideration such factors as midweek and weekend time-sharing, differing geographical residences of the parents, holidays, summer vacation and midterm school breaks, transportation and associated expenses, grandparent and relative contact, the child’s birthday, sibling visitation schedules, special circumstances such as emergencies, and religious, school and extracurricular activities.

### Adoption

**HB 1821** prohibits recognizing an adoption by two individuals of the same sex from any other state or foreign jurisdiction. **HB 1821** is in response to a recent Oklahoma Attorney General Opinion which stated that the Oklahoma Adoption Code requires the courts of this state to recognize out-of-state adoption decrees establishing the relationship of parent and child, irrespective of whether the adoptive parents are eligible to adopt in this state.

### Marriage

Recent federal legislation and court decisions in other states regarding marriage have left states divided as to what the institution of marriage should mean and what should be the jurisdiction of the courts in determining the marital status of a relationship. **HB 2259** calls for a vote of the people to add a new amendment to the Oklahoma Constitution. The proposed amendment defines marriage to be between one man and one woman, prohibits giving the benefits of marriage to people who are not married, provides that same sex marriages in other states are not valid in this state, and makes the issuance of a marriage license in violation of the statute a misdemeanor. Currently, Oklahoma statutes

provide for marriage between persons “of the opposite sex.” State law also does not recognize marriage between persons of the same gender from another state.

## Corrections

The Legislature took significant steps to use technology in reintegrating nonviolent offenders into society in Oklahoma with the passage of **SB 816**. The measure allows the Oklahoma Department of Corrections to utilize global positioning satellite electronic monitoring of certain nonviolent offenders while the offenders are being reintegrated into society. In order to participate in the electronic monitoring program, an offender must serve a minimum of 180 days in a secure setting. An offender may not be assigned to electronic monitoring if the offender:

- Has 11 months or more left on his or her sentence;
- Has a conviction for a violent offense within the previous 10 years;
- Has been convicted of any violation of the Trafficking in Illegal Drugs Act;
- Has been denied parole within the previous 12 months;
- Has been convicted of driving under the influence of alcohol or drugs and is unreceptive to treatment;
- Has been removed from the Electronic Monitoring Program or any other alternative to incarceration for a violation of any rule or condition of the program;
- Has been deemed a security risk or threat to the public by the Department;
- Requires educational, medical or other services or programs not available in a community setting;
- Has been convicted of domestic violence or is subject to an active protective order;
- Has outstanding felony warrants or detainers from another jurisdiction;
- Has a conviction for a sex offense and would be required to register as a sex offender;
- Has been convicted of racketeering;
- Has a conviction for a drug distribution related crime;
- Has been convicted of aggravated assault and battery on a peace officer;
- Has escaped from an institution within the past 10 years; or
- Has active misconduct actions on file with the Department.

## Criminal Justice

### Methamphetamine Abatement

The Legislature took swift action against the scourge of methamphetamine production after a state trooper was killed the day after Christmas, allegedly by a man manufacturing methamphetamine on a rural county road. **HB 2176**, also known as the Nik Green, Rocky Eales and Matthew Evans Act in honor of three Oklahoma Troopers who were killed in the line of duty by persons involved in illegal methamphetamine production, establishes strict guidelines for the sale of certain products containing pseudoephedrine. The main ingredient in many decongestant medicines is pseudoephedrine, and it is the principal ingredient necessary in the illegal production of methamphetamine. The measure places products which contain pseudoephedrine in a tablet form in the Schedule V class of drugs regulated by the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBND). While the drugs remain available for over-the-counter sales, they may only be dispensed by licensed pharmacies and only after the customer provides identification and signs a log book noting the sale. The measure also restricts the amount of pseudoephedrine a customer may purchase in a 30 day time period to 9 grams per month. Concerns regarding the psychosis involved with meth users and the extremely addictive nature of the drug led to another provision of the bill which allows judges to deny bond for those arrested and suspected of being chronic abusers of the drug.

According to the OBND, law enforcement officials confiscated nearly 1,300 illegal meth labs in the state during 2003.

### Domestic Abuse

#### **H B 2 6 2 6**

increases the fine for a first time domestic abuse conviction from \$3,000 to \$5,000 and creates a new punishment of up to four years in the custody of the Department of Corrections and a fine of \$5,000 for a second conviction of domestic abuse. The measure establishes a separate punishment of up to ten years in prison or one year in the county jail for domestic violence which results in great bodily injury. Penalties were also raised for committing domestic abuse in the presence of a child by increasing the amount of jail time a person can receive to up to one year and a \$5,000 fine for a first offense. Second and subsequent convictions can result in imprisonment in the Department of Corrections for up to five years and a \$7,000 fine.

### Offender Registration

The Legislature continued its tough stance on violent felony offenders with the enactment of **HB 1853**. The measure requires persons convicted after November 1, 2004, of the crimes listed in the following chart to register with local law enforcement for a period of ten years after their release from custody.

Violent Crimes Registration List	
First Degree Murder	Second Degree Murder
First Degree Manslaughter	Assault with Intent to Kill
Shooting with Intent to Kill, Drive-By Shooting, Assault and Battery with a Deadly Weapon	Bombing

## Economic Development

### Rural Development

Recommendations from the Rural Area Development Task Force were contained in **HB 2288**. This measure creates the Rural Area Partnership Program to be administered by the Oklahoma Department of Commerce. The Department of Commerce will establish a toll free statewide telephone hotline to help coordinate rural economic development efforts. The program is intended to be a statewide resource for persons in need of information and assistance with rural economic development problems.

### Economic Development Tax Incentives

**HB 2373** creates the Oklahoma Quality Investment Act to provide a cash incentive, similar to the Quality Jobs Program, equal to 10 percent of the amount of eligible capital expenditures by the Bridgestone/Firestone tire manufacturing plant in Oklahoma City made in the preceding calendar year. Payments are limited to \$1 million per year for a total of five years.

### Public Finance

**SB 865** creates the Local Development Financing Act. SB 865 makes it possible for communities to pool their bond issues used for tax increment finance projects to take advantage of cost savings available for a larger bond issue at the state level with possible interest cost savings based upon the credit ratings available to a state issuer. **SB 1176** modifies the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act so that the State of Oklahoma would make a matching payment to local government jurisdictions for the purpose of using tax increment districts to assist business enterprises who locate or expand in an enterprise zone that is also located within a tax increment district.

**HB 2164** addresses the issue of the allocation of private activity bonds in Oklahoma. In recent years, the total volume of bonds that can be issued on a federally tax exempt basis has increased for all states because of changes in the Internal Revenue Code. Oklahoma law bases its current pool sizes on a \$170 million total state ceiling amount, with certain amounts in excess of that threshold being used for stand alone pools or for the Local Issuer Single Family Pool. This has the effect of freezing certain pool sizes for some of the governmental bond issuers. The legislation creates two new bond pools, the Metropolitan Area Housing Pool and the Rural Area Housing Pool, and allows existing issuers a larger share of the total state ceiling amount which for the 2004 calendar year is \$280,922,560. This amount will be indexed for inflation in 2005 and future years.

## Education

### Higher Education

A program long requested by the University of Oklahoma and Oklahoma State University as a tool for faculty recruitment, **HB 2226** creates the Alternate Retirement Plan for Comprehensive Universities Act. The measure authorizes the comprehensive universities' boards of regents to establish an alternate retirement plan in lieu of the Oklahoma Teachers' Retirement System (OTRS) plan and allows employees who make this option to terminate membership in OTRS. Another issue critical to higher education was addressed in **HB 1904** which authorizes the Oklahoma Capital Improvement Authority to issue bond obligations up to \$50 million to match the backlog of private donations to the state's Endowed Chair Program. Legislative intent obligates the State Regents and states that the Legislature will appropriate sufficient funds to the State Regents for the debt service.

**HB 2624** converts the existing higher education center in Duncan into a branch campus of Cameron University. The Duncan Economic Development Trust Authority is required to provide suitable existing facilities to accommodate the branch. The campus of OU-Tulsa is deemed to be a constituent entity of the University of Oklahoma pursuant to **SB 924**. **SB 923** provides \$1 million for the Oklahoma Tuition Equalization Grant Trust Fund to provide tuition grants to Oklahoma residents enrolled as undergraduate students in in-state private institutions pursuant to the Oklahoma Tuition Equalization Grant Act passed in 2003.

### Common Education

**SB 1272** is intended to bring teachers' pay to the regional average by increasing the state Minimum Salary Schedule for teachers beginning with the 2005-06 school

year annually for four years. The estimated cost for FY-06 is \$45 million.

Average Salaries of Public School Teachers 2002-2003	
Regional Average	\$38,527
Oklahoma	\$34,877

Source: National Education Association

In more immediate assistance for teachers, the state will pick up the entire cost of their health insurance. **HB 2662** increases the flexible benefit allowance amount for certified school personnel from 58 percent to 100 percent of the premium for the HealthChoice High option plan under the Oklahoma State and Education Employees Group Insurance Program. The allowance for support personnel was raised to 100 percent in FY-03. The estimated additional cost to the state is \$52 million.

In an effort to generate additional revenues for schools, **HB 2542** authorizes the Commissioners of the Land Office to invest funds in the acquisition of the Lake Texoma Lodge and any associated real property owned by the Oklahoma Tourism and Recreation Department.

## Energy and Environment

### Tar Creek Relocation Plan

**SB 1490** provides assistance to families with young children who reside in the Tar Creek Superfund site in northeast Oklahoma. This measure provides for a voluntary relocation program for families with children under the age of 6 by providing financial assistance to move away from the site. Children have been determined to be the most susceptible to lead poisoning.

### Alternative Energy Sources

With the rising prices of energy in the past few months, legislators are looking at some alternatives for the production of energy. **SB 1212** provides continued funding for the Oklahoma Wind Power Initiative and creates a committee to review the impact of a wind power initiative. **HB 2351** creates the Fuel Cell Initiative Task Force to consider the development of a statewide plan for a coordinated effort to commercialize fuel cell generation in Oklahoma, as well as programs to encourage the industry to locate its services in the state.

### Water

The issues of how much water is needed for Oklahoma citizens and business and the sale of water within and outside of the state remain a critical concern to legislators. **HB 2440** extends the water sale

moratorium established in 2004 to a five-year period or until the Oklahoma Water Resource Board completes a comprehensive study of water resources in the state.

## Gaming

The authorization of electronic games at racetracks in Oklahoma and the provision of a model compact which Indian tribes may enter into to conduct certain gaming on Indian lands are found in two measures this session.

**SB 553**, the State-Tribal Gaming Act, was initially passed by the Oklahoma Legislature and signed by the Governor in March 2004. Because the measure did not garner enough votes in the House of Representatives for the emergency clause, this measure would not have become effective until 90 days after sine die adjournment. Opponents of SB 553 filed a referendum petition in the form of State Question 709 in an effort to gain the necessary signatures to require a vote of the people on whether this bill should go into effect. This group has until 90 days after sine die adjournment to collect the required number of signatures to place this issue on the ballot.

In response to this action, the authors of SB 553 decided to send these provisions, in the form of **SB 1252**, to the voters for their approval at the November 2, 2004, General Election. SB 1252 creates the State-Tribal Gaming Act. When at least four tribes enter into the model tribal-state compact, three racetracks (Remington Park in Oklahoma City, Blue Ribbon Downs in Sallisaw and Will Rogers Downs in Claremore) will be authorized to conduct a specified number of electronic games at their race facilities. Remington Park is authorized to operate 650 player terminals and may add 50 more terminals in a nonsmoking area in the third and fifth years. The two other tracks may operate 250 terminals. The revenue generated by electronic gaming at the racetracks is distributed to the state, to the racetrack and to be used as purses in varying percentages dependent on the amount of revenues generated. Of the state's share, 12 percent goes to the Oklahoma Higher Learning Access Trust Fund and 88 percent goes to the Education Reform Revolving Fund. Tribes operating gaming facilities within 20 miles of a fair meet licensee in a county with a population of more than 600,000 (Fair Meadows in Tulsa) must contribute a portion of its revenue to the fair meet licensee and a portion to purses for all tracks.

The Oklahoma Horse Racing Commission will regulate electronic gaming at the racetracks. The types of electronic games that may be conducted include

electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games.

In addition, SB 1252 sets out the offer by the State of Oklahoma to Indian tribes to enter into the Model Tribal Gaming Compact. Indian tribes are required to pay fines assessed by the federal government as a precondition to entering into the compact. Pursuant to the compact, the tribes may offer the electronic games that are authorized for racetracks and may play non-house-banked card games. The tribes are required to pay the state a fee derived from gaming revenues with the revenue going to the Oklahoma Higher Learning Access Fund and the Education Reform Revolving Fund. Of this revenue, a total of \$250,000 will annually go to the Department of Mental Health and Substance Abuse Services for the treatment of compulsive gambling disorder. The compact will expire January 1, 2020, but will automatically renew for 15 years. The fees and penalties may be renegotiated at that time.

These provisions will go into effect if approved by the voters at the November 2, 2004, General Election. In addition, SB 1252 repeals all of the new law provisions of SB 553.

## General Government

### Compensation of Public Officials and Employees

The improvement of the state economy from last year's decline afforded the state the ability to provide the first statewide increase in compensation for its employees in three years. In a two-part series, **HB 2005** sets out a total of \$2,100 in salary increases over the next two fiscal years, as follows:

State Employees Salary Increase	
Effective Date	Increase
Jan. 1, 2005	\$1,400 annualized
July 1, 2005	\$700 annualized
Total (July 1, 2005)	\$2,100 per year
The cost to the state of the state employee salary increase when fully implemented is \$47.2 million	

Other legislation enabled state executives to receive increases in compensation. **HB 2006** raises the cap on salaries for 52 state agency directors, and grants latitude to the governing boards of 36 other state entities to set the salary level of the chief executive officer within specified salary ranges.

Effective July 1, 2005, **SB 1075** increases the salaries of the justices of the Oklahoma Supreme Court and the judges of the Court of Civil Appeals, Court of

Criminal Appeals, and the district and special district courts. In consideration of future increases in compensation for the State Judiciary, the bill establishes the Board on Judicial Compensation.

Passage of SB 1075 also effects increases in compensation for state elected officials with the next term of office (January 2007), as the salaries for these entities are tied to the compensation levels of various justices and judges. Annual compensation for the Chief Justice of the Oklahoma Supreme Court and the Governor will be \$117,571. Other public employees receiving current or future compensation boosts through legislation, as described in the Education and Public Safety and Homeland Security sections of this report are public school teachers and state troopers.

### Public Retirees

**SB 1134** grants a 4 percent cost-of-living adjustment (COLA) to retired members of the Firefighters, Police, Law Enforcement and Judicial state retirement systems. Retired members of the Teachers' and Public Employees state retirement systems are awarded COLAs ranging from 2.5 percent to 4.5 percent, based on years of service and monthly benefits.

### Investigation of Insurance Commissioner

Recent indictments issued by the multi-county grand jury against Insurance Commissioner Carroll Fisher led to the passage of **HR 1040**. This measure creates the Special Investigating Committee of the House of Representatives for the purpose of conducting a detailed investigation into the activities of Commissioner Fisher in order to determine whether impeachable offenses have occurred and if Articles of Impeachment should be recommended. In order to allow the House to continue its investigation and to be in session to receive the report of the investigating committee, the Governor called the Legislature into special session.

### Ethics

**HB 2664** requires all lobbyists registering with the Ethics Commission to pay an annual registration fee of \$100 with the proceeds going to the Ethics Commission Fund.

**SB 868** would have amended Ethics Commission rules by allowing classified state employees to be candidates for elective office and to solicit contributions for their candidacy. The Governor vetoed this measure because he believed it violated the federal Hatch Act and could jeopardize millions of dollars in federal funding.

### Public Projects

The design of **SB 1347** is to foster culture and the arts through establishment of the Oklahoma Art in Public Places Act. The act requires a portion of expenditures for capital projects be dedicated to

26 States  
Mandate  
Participation  
in Public Art

the acquisition of works of art for placement in public construction or on public lands. The Oklahoma Historical Society will administer the program, which applies to any state capital expenditure of \$250,000 or more that renovates or constructs public buildings. Participation in the act is permissive for road, highway, turnpike, and bridge construction, and does not apply to political subdivisions, such as cities, counties or schools. One and one-half percent of the expenditure, up to a maximum of \$500,000, is required for the program, with private donations excluded.

The Fair Pay for Construction Act created by **SB 1561** establishes guidelines and procedures for timely billings and payments on public construction projects that are over \$25,000. Under this measure, the prime contractor must be paid by the agency or entity within 30 days of submitting an invoice. The entity may reduce the amount of pay requested by any amount that is reasonable to correct current or past deficiencies, as long as the contractor is informed in writing within a specified period of time following the submission of the invoice. The legislation also sets deadlines for the prime contractor to pay subcontractors. The act does not apply to the following types of construction: highway, railroad, roads, bridges, utilities, traffic control, drainage, sanitary sewer, or waterline.

Three measures authorize the Oklahoma Capital Improvement Authority to finance public capital projects:

- **SB 975** authorizes \$18.9 million in obligations for a new forensic medicine center in Vinita through the Department of Mental Health and Substance Abuse Services;
- **HB 2001** authorizes \$6 million in obligations for infrastructure improvements on 34 armories around the state; and
- **SB 1016** authorizes \$5 million in obligations to complete the public financing segment of the dome on the State Capitol.

**Municipal Employee Bargaining**

**SB 1529** creates the Oklahoma Municipal Employee Collective Bargaining Act which impacts municipalities with a population of greater than 35,000 persons and any special districts, authorities, agencies and boards created by such municipalities. The bill allows nonuniform municipal employees to form employee organizations to collectively bargain and negotiate for employment related benefits, such as hours, wages, and other related terms of employment. Procedures set out include a prohibition on strikes by municipal employees and the requirement for an arbitrator to address the financial ability of the employer to meet the costs of a contract. If a municipality has an existing collective bargaining agreement, that agreement will not be subject to the provisions of this measure until that agreement expires.

**Health**

**Tobacco**

After much debate, **HB 2660** was enacted. Details of the taxation portion of this measure are found in the Revenue and Taxation section. The measure puts to a vote of the people a significant increase in the tax on cigarettes and other tobacco products. If the referendum is approved, proceeds generated by the increase, which total an estimated \$150 million annually, will be used to fund various health care initiatives as follows:

<b>Oklahoma Health Care Authority</b>	
Uninsured Workers Premium Program	\$50 mil.
Replace federal enhanced Medicaid matching funds	\$49.6 mil.
Increase Medicaid reimbursement to certain city- or county-owned hospitals	\$5 mil.
Funding for the Katie Beckett Waiver	\$2.2 mil.
Increase emergency room physician Medicaid payments to 90% of Medicare reimbursement rate	\$2 mil.
Breast and Cervical Cancer Treatment	\$1 mil.
Increase Ambulance Service Provider rate	\$1 mil.
<b>State Department of Health</b>	
Trauma Care	\$17 mil.
Smoking Cessation Programs	\$1.5 mil.
<b>Dept. of Mental Health and Substance Abuse Services</b>	
Inpatient Adolescent Substance Abuse Treatment Services	\$6 mil.
<b>Oklahoma State University</b>	
Construction of a telemedicine building, expansion of telemedicine and to provide uninsured/indigent care in Tulsa County	\$7 mil.
<b>University of Oklahoma</b>	
Servicing debt obligations incurred in the construction of a comprehensive cancer center	\$7 mil.

*Source: House Fiscal Division*

In matters related to the tobacco tax funding, **SCR 80** authorizes the University of Oklahoma Board of Regents to issue up to \$75 million in revenue bonds to build the comprehensive cancer center in Oklahoma City while **SCR 79** authorizes the Board of Regents for Oklahoma A&M Colleges to issue up to \$35 million in revenue bonds for the OSU College of Osteopathic Medicine to construct a building in Tulsa dedicated to expanding telemedicine in rural areas.

In an effort to further restrict the sale of tobacco products to minors, **SB 1256** stiffens the penalties on the employees and owners of stores that sell tobacco products to persons under the age of 18. The measure requires the Alcoholic Beverage Laws Enforcement

Commission to impose a fine of not more than \$200 for a second offense within a two-year period; a fine of not more than \$300 for a third offense within a two-year period and the possible suspension of the store's license to sell tobacco products for up to 30 days; and, for a fourth or subsequent offense within a two-year period, the store's license may be suspended up to 60 days.

The measure also prohibits the use of vending machines to sell cigarettes in any location that is open to the public and accessible by persons under the age of 18. Finally, SB 1256 prohibits the sale of tobacco products in a manner that allows direct public access to the product and establishes a fine of \$200 for each offense.

### Trauma Care

The importance of adequate trauma care services for the citizens of Oklahoma was highlighted by the near closure last year of the state's only Level I trauma center. **SB 1554** was enacted as a result of a task force created to study the issue. The measure gives the State Health Department the authority to implement and regulate a statewide trauma care system and establish the Oklahoma Trauma Systems Improvement and Development Advisory Council to make recommendations to the Commissioner and Board of Health on the development and implementation of a comprehensive trauma care system. The measure also allows the Trauma Care Assistance Revolving Fund to be used to reimburse physicians, in addition to hospitals and ambulance service providers, for providing uncompensated care. In addition to HB 2660, three measures provide sources of funding for trauma care reimbursement. **HB 2250** levies a special assessment trauma care fee of \$100 on persons convicted of transporting an open container and increases court fees by \$10 for persons convicted of misdemeanors and by \$100 for misdemeanor and felony driving under

the influence. The measure directs that the special assessment and increased court fees be deposited into the Trauma Care Assistance Revolving Fund. **HB 2299** increases the fines for second and subsequent convictions of driving without a license ranging from \$200 to \$5,000, depending upon the number of convictions and the conditions under which the suspension occurred. A conviction of violating a provision of the Oklahoma Highway Safety Code while driving without a license will cause the applicable fine to double. The bill directs that the fines collected for second and subsequent convictions and that one-half of the fine, if it is doubled, be deposited to the Trauma Care Assistance Revolving Fund. The final measure, **HB 2600**, increases the fee to have a suspended or revoked driver license reinstated by requiring payment of a \$200 special assessment. The bill also provides that persons convicted of certain violations of the Uniform Controlled Dangerous Substances Act be required to pay a special assessment trauma care fee of \$100 and directs the special assessments be deposited into the Trauma Care Assistance Revolving Fund.

### Breast and Cervical Cancer Treatment

Prior to the passage of **HB 2552** and **SB 978**, Medicaid-eligible women diagnosed with breast or cervical cancer could not receive publicly funded treatment, due to the lack of funding. HB 2552 creates the Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund for the Oklahoma Health Care Authority (OHCA), and SB 978 directs the OHCA to use \$2.5 million of its FY 2005 appropriation for the treatment of breast and cervical cancer. In addition, a portion of the revenue generated by the new taxes on tobacco products provided for in HB 2260 will go to this Fund if approved by the voters.

#### **Oklahoma Trauma Facts**

- There were 10,328 major trauma incidents in Oklahoma in 2001-2003;
- More than 2,000 Oklahomans die from trauma each year;
- Trauma is the leading cause of death of people between the ages of one and 44;
- Trauma is responsible for more years of potential life lost than any disease, including cancer and heart disease;
- The best chance for survival of a traumatic event is if the injured person can be seen and treatment started within the first hour of injury; and
- The chance for survival for a Level One trauma patient decreases significantly after an hour has passed.

*Source: OU Medical Center*

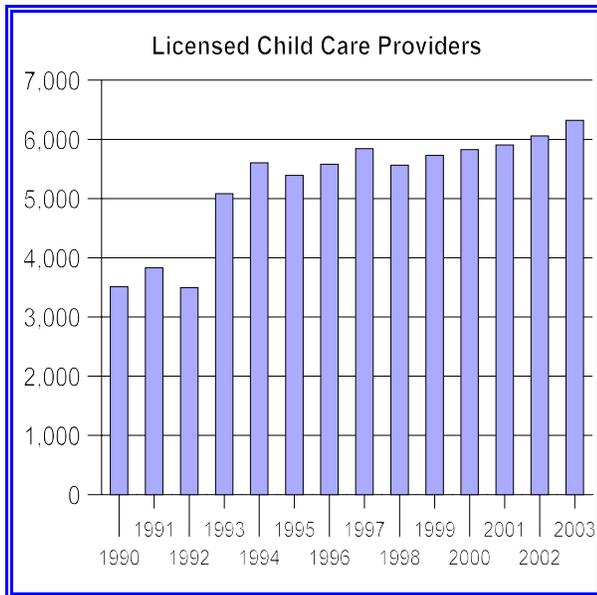
### Health Professions

In order to raise the professional bar on those practicing alcohol and drug counseling and to produce better treatment outcomes for those receiving alcohol and drug counseling, **HB 2464** was enacted. The measure establishes the State Board of Licensed Alcohol and Drug Counselors and, beginning January 1, 2005, requires an individual who wishes to practice alcohol and drug counseling to obtain a certificate or a license. The bill establishes educational and work experience standards for certified and licensed alcohol and drug counselors to take effect January 1, 2005, and requires that by January 1, 2010, applicants to be licensed counselors must have a master's degree in alcohol and substance abuse counseling or a content equivalent degree.

## Human Services

Human Services legislation focused on providing additional funding for several important programs relating to children and persons with developmental disabilities.

Regarding child care services, **HB 2007**, the General Appropriations bill, funds the Department of Human Services (DHS) with an additional \$10 million for child care subsidies to licensed child care providers across the state. The following chart depicts the total number of licensed child care facilities, which have almost doubled since 1990.



Source: Oklahoma Department of Human Services

Expanding services to more persons with developmental disabilities is also addressed in HB 2007. The bill provides an additional \$2,250,000 to accomplish this goal. The funds are appropriated to DHS as follows: \$1.7 million to reduce the number of persons on the agency's waiting list; \$300,000 to provide services for developmentally disabled persons charged with dangerous crimes, but found incompetent to stand trial; and \$250,000 to provide services to persons with the Prader-Willi syndrome, an uncontrollable eating disorder.

Funding of early childhood education programs, enacted in 2003 as the Oklahoma Partnership for Readiness Act, is addressed in **HB 2048**. The bill contains an additional \$2 million for DHS to expand this school readiness program by increasing community grants, community training, and general operating expenses.

As the following chart reflects, there has been a steady increase in the number of children placed in foster care with DHS over the past five years.

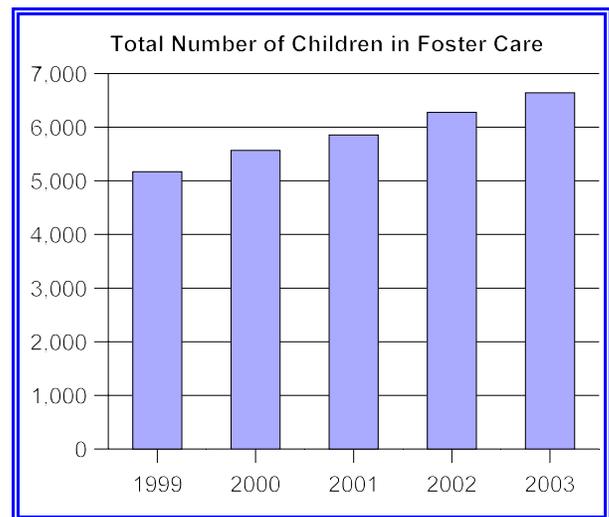
HB 2048 also provides an additional \$1.3 million increase to address foster care services as follows:

- \$710,000 to increase the "regular" foster care family rate by 50¢ per child per day; and
- \$590,000 to increase the amount provided to therapeutic foster care service providers by \$4.61 per child per day.

The "regular" foster care family rate has not been increased in 20 years, and the therapeutic foster care service provider rate has not been increased since 1992.

## Insurance

The Legislature makes several major changes to property and casualty insurance in **HB 2470** by adopting the Model Property and Casualty Competitive Loss Cost



Rating Act developed by the National Conference of Insurance Legislators. The adoption of this act will significantly reduce the responsibilities of the State Property and Casualty Board, leaving only workers' compensation under the Board's jurisdiction. The bill increases financial responsibility limits on automobile insurance from 10/20/10 to limits of 25/50/25. The "owned but not insured" exclusion is reinstated which insures that free insurance coverage is not provided for uninsured household owned vehicles.

**HB 2141** creates the Oklahoma Captive Insurance Company Act to establish licensing and capital requirements for captive insurance companies wanting to be licensed in Oklahoma. The measure also amends sections of the Risk Retention Act in regard to purchasing groups by modifying definitions, record-

keeping and notification requirements, as well as agent licensing. It also allows for good will to now be considered as an asset in the determination of an insurer's financial condition.

**HB 2322** prohibits lenders from requiring home buyers to purchase residential property insurance coverage that exceeds the replacement value of the property and its contents regardless of the amount of the mortgage or financial agreement.

To improve the quality of health care available to women in Oklahoma, **SB 587** mandates that any health benefit plan that offers medical and surgical benefits must also provide coverage for routine annual obstetrical/gynecological examinations.

## Judiciary

### Lawsuit Reform

The culmination of four public hearings and a great deal of public attention, **HB 2661** makes revisions to numerous areas of the civil justice system to provide liability relief for medical personnel and landowners, to afford a degree of protection for the Physicians Liability Insurance Company, and to address various other concerns in tort law as follows:

*Caps on Noneconomic Damages for Medical Liability Actions* - Extends the current caps on OB-GYN and emergency room care to 2010 and places a cap of \$300,000 on the amount of noneconomic damages awarded for all other medical liabilities if the defendant has made an offer of judgment and the amount of the verdict awarded is one and one-half (1.5) times the amount of the final offer of judgment. Allows the dollar amount of the cap to be adjusted annually for inflation. Defines "noneconomic damages."

*Venue for Medical Liability Actions* - To prevent a practice commonly known as "forum shopping," limits the venue of civil actions for damages brought under the Affordable Access to Health Care Act to: a county where the cause of action arose, a county in which the defendant resides, in the case of a corporation the county in which it is situated or has its principal office or place of business, or in any county where a co-defendant of the corporation may be sued.

*"I'm Sorry" Rule* - Makes any statement of sympathy made to the plaintiff or plaintiff's relative by a health care provider or provider's employee inadmissible as evidence of an admission of liability. *Immunity for Volunteers* - Creates the Volunteer Medical Professional Services Immunity Act to make volunteer medical professionals who provide services at a free clinic, and persons participating in a Medical Reserve Corps, immune from liability in a civil action on the basis of any act or omission that results in damage or injury.

*Physicians Liability Insurance* - Provides an 18-month moratorium from enforcement of insurance reserve and surplus requirements by the State Insurance Commissioner against medical malpractice insurance companies. Creates the Oklahoma Medical Professional Liability Trusts Act to allow medical malpractice insurance companies to convert to trusts in order to be exempt from application of the strictest reserve and surplus requirements.

*Land Owner Liability* - Creates the Oklahoma Limitation of Liability for Farming and Ranching Land Act to encourage owners of farming and ranching lands to make the land available for recreational purposes by limiting their liability. Specifies that owners and lessees of agricultural land do not owe a duty of care to a trespasser and are not liable for any injury, except for willful or wanton acts of negligence or gross negligence. Provides that owners and lessees of real property owe no duty of care to keep the premises safe for entry or use by others or to give any warning of a dangerous condition if the entry or use is unauthorized or is for the purpose of committing a criminal act.

*Joint and Several Liability* - In civil actions based on fault and not arising out of contract, makes the liability for damages caused by two or more persons several only, with two exceptions: 1) if the percentage of responsibility attributed to the defendant with respect to the cause of action is greater than 50 percent, or 2) if any defendants acted with willful or wanton conduct or with reckless disregard of the consequences. In such cases the defendant is jointly and severally liable for the damages recoverable by the plaintiff.

*Product Liability* - Requires manufacturers to indemnify sellers against losses arising out of product liability.

*Class Action Law Suits* - With regard to awarding attorneys fees, requires the court to act in a fiduciary capacity on behalf of the class and conduct an evidentiary hearing to determine a reasonable fee for the class counsel.

*Business Courts* - Creates a business court within the district courts of the Oklahoma City and Tulsa judicial districts due to the complex nature of litigation involving highly technical commercial issues.

*Out of State Attorneys* - Creates the Registration of Out-of-State Attorneys Act to require lawyers who are retained to represent a client in Oklahoma but who are not residents of or regularly employed in Oklahoma and are not members of the Oklahoma Bar Association to register with the Bar and pay a \$350 fee. Allows the Bar to waive the fee for pro bono services in a death penalty habeas corpus case or other similar circumstances. The out-of-state attorney must also register with the

Oklahoma Tax Commission to report and pay state taxes on Oklahoma-derived income.

*Frivolous Lawsuits* - **SB 1430** allows the court to assess costs and attorneys fees against parties who bring frivolous lawsuits in tort actions.

## Public Safety and Homeland Security

**HB 2280** establishes a permanent Oklahoma Office of Homeland Security by allowing the Governor to appoint a Homeland Security Director and designate the appropriate agency in which the Office of Homeland Security is to be housed. The Oklahoma Office of Homeland Security is charged with developing and coordinating the implementation and administration of a comprehensive statewide strategy to secure Oklahoma from acts of terrorism, public health emergencies, cyberterrorism, weapons of mass destruction, and other duties as assigned by the Governor. The Office is to establish three distinct divisions to aid in homeland security: Prevention and Intelligence, Response and Recovery Planning, and Awareness and Preparedness. HB 2280 also creates regional planning and coordination advisory councils for homeland security who will meet at least quarterly to assist in the planning. The director will appoint at least a dozen members to each council: a chief of a paid fire department and the chief of a volunteer fire department, a county sheriff and a police chief, a physician or a hospital administrator, a public health representative, an emergency management coordinator, an emergency medical services provider, a veterinarian, a representative of a state or local disaster relief agency, a city manager or mayor and a county commissioner.

In an effort to expand the driving experiences of teenagers, the Legislature enacted **HB 2352** which increases the time in which a novice driver is required to possess an instruction permit. Under provisions of the bill, all new applicants for a Class D driver license in Oklahoma under the age of 18 must first obtain an instruction permit and operate under that permit for a minimum of six months. An instruction permit allows a young person to drive as long as they are accompanied by a licensed driver who is at least 21.

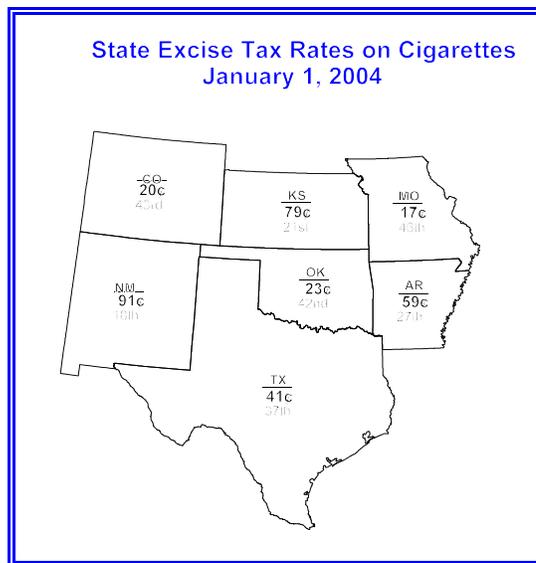
**SB 1137** increases the starting pay for a state trooper and enables the officers to receive higher salaries more quickly. The new pay scale condenses the existing salary schedule so that troopers can reach their maximum salary of \$49,387 in half the time: from fourteen years to seven.

Beginning next January 1, cadet troopers will earn \$30,000 instead of the current salary of \$24,348. A

trooper with one full year of service will earn \$36,711, a \$9,711 increase.

## Revenue and Taxation

Providing new revenue to fund several important health initiatives while at the same time providing targeted income tax relief is the purpose of **HB 2660**, if approved by the voters at the November 2004 General Election. HB 2660 levies additional excise taxes on cigarettes and tobacco products.



Source: Federation of Tax Administrators

The current and proposed rates are illustrated in the following chart:

Product	Existing Rate	Amount of Proposed Increase	Proposed Total Rate
Cigarettes (per 20 cigarette pack)	23¢	80¢	\$1.03
Little cigars	9 mills	27 mills	36 mills
All other cigars	\$30 per 1,000	\$90 per 1,000	\$120 per 1,000
Smoking tobacco	40% of the factory list price	40% of the factory list price	80% of the factory list price
Chewing tobacco	30% of the factory list price	30% of the factory list price	60% of the factory list price

This measure exempts cigarettes and tobacco products from state and local sales tax.

The revenue from the cigarette and tobacco products tax increase is apportioned in the following manner:

Health and Employee Economy Improvement Act	22.06%
Comprehensive Cancer Center Debt Service Revolving Fund	3.09%
Trauma Care Assistance Revolving Fund	7.50%
OSU College of Osteopathic Medicine Revolving Fund	3.09%
Oklahoma Health Care Authority Medicaid Program Fund	26.38%
Department of Mental Health and Substance Abuse Services Revolving Fund	2.65%
Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund	.44%
Teachers' Retirement System Revolving Fund	1.00%
Education Reform Revolving Fund	2.07%
Tobacco Prevention and Cessation Revolving Fund	.66%
General Revenue Fund	16.83%
Municipalities and Counties that levy a sales tax (replace lost sales tax revenue)	14.23%
	100.00%

The specific uses of the revenue apportioned for health related purposes is explained in more detail in the Health section. HB 2660 sets the top marginal rate for Method I income tax filers at 6.65 percent and eliminates the “trigger” mechanism as it relates to income tax rates and the qualifying income limits for the Sales Tax Relief Act. This measure also increases the amount of the income tax exemption for public and private sector retirement benefits from \$5,500 to \$7,500. The income thresholds for qualification for the private sector exemption is increased from \$25,000 to \$37,500 for single filers and from \$50,000 to \$75,000 for joint filers. An income tax exemption is provided for any individual taxpayer for qualifying gains that were earned on real or tangible personal property located within Oklahoma that has been owned for at least five years or earned from the sale of stock in an Oklahoma company where such stock has been owned for at least three years.

#### Ad Valorem Tax Relief

**SJR 30** would provide ad valorem tax relief to additional senior citizens in Oklahoma, if approved by the voters at the November General Election. The qualifying income levels for the senior valuation freeze will increase from \$25,000 to an amount determined by the United States Department of Housing and Urban Development to be the estimated median income for the county or statistical area which includes such county. Veterans

with a 100 percent disability will be eligible for an ad valorem tax exemption for the full amount of the fair cash value of the homestead if the voters approve **HJR 1044** at the November General Election.

## Science and Technology

**HB 2197** is the product of the Task Force on Electronic and Information Technology Accessibility. The bill establishes procedures to assure that the state of Oklahoma maintains compliance regarding accessibility of information technology for individuals with disabilities based on the provisions of Section 508 of the federal Workforce Investment Act of 1998. In consultation with an advisory council, the Office of State Finance and the Department of Central Services will establish accessibility standards to guide state agencies in long-range technology planning and procurement.

Following several years of discussion about the lack of a central repository or clearinghouse for geographic data in the state, **HB 2457** addresses this deficiency by creating the Office of Geographic Information within the Oklahoma Conservation Commission. The Office is responsible for establishing a statewide clearinghouse for data and information regarding geographic information services.

In response to legislation to deregulate SBC Communications considered but not passed during the 2004 session, **SCR 74** creates the Task Force of Deregulation of the Oklahoma Telecommunications Service Provider Industry. This sixteen member Task Force consisting of legislators, members of the industry and consumers is charged with conducting a study of the telecommunications service provider industry with recommendations due by November 30, 2004.

## Tourism

In order to boost Oklahoma’s third-largest industry, **HB 2318** was enacted to encourage the exploration of not-for-profit foundations for support of state parks by the Oklahoma Tourism and Recreation Commission. The bill establishes a State Park Foundation to be the official private organization dedicated to supporting parks statewide through educational programs, capital improvements and private sponsorships.

## Wildlife

In order to provide continued opportunities for hunters and fishers in Oklahoma in the face of large purchases of land in the state by private entities, **HB 2341** creates the “Oklahoma Wildlife Land Fund,” and authorizes the Department of Wildlife Conservation to sell revenue bonds for the purpose of acquiring land for public hunting in Oklahoma. The bonds will be paid

for by a \$5 annual fee for each hunting and fishing license. Current lifetime license holders will not be required to pay this fee.

## State Questions

These are the State Questions filed with the Secretary of State as of June 11, 2004. Nine measures are scheduled for a vote on the November 2, 2004, General Election. There are four measures that may appear on the ballot if the requisite signatures are obtained and legal challenges, if any, are settled in a timely fashion.

Question	Authorizing Document	Subject	Status
705	HB 1278 (2003 Session)	Statutes authorizing a state lottery and creating the Oklahoma Lottery Commission to administer the lottery.	Scheduled for vote on November 2, 2004
706	SJR 22 (2003 Session)	Constitutional amendment which delineates how lottery revenues are to be spent (companion to SQ 705).	Scheduled for vote on November 2, 2004
707	SJR 12 (2003 Session)	Constitutional amendment allowing local governments to pledge apportioned tax increment revenue beyond a current fiscal year toward the repayment of indebtedness.	Scheduled for vote on November 2, 2004
708	HB 1249 (2003 Session)	Constitutional amendment regarding access to the Constitutional Reserve Fund.	Scheduled for vote on November 2, 2004
709	Referendum 23 (2004)	Voting to decide whether the provisions of SB 553 - State-Tribal Gaming Act - (2004) should go into effect.	Due date for signatures is August 26, 2004
710	Initiative Petition 370 (2004)	Constitutional amendment to protect the right to fish, hunt and trap and work in a job or take part in events that deal with life.	Due date for signatures is July 26, 2004
711	HB 2259 (2004 Session)	Constitutional amendment defining marriage as the union of one man and one woman.	Scheduled for vote on November 2, 2004
712	SB 1252 (2004 Session)	Statutes creating the State-Tribal Gaming Act.	Scheduled for vote on November 2, 2004
713	HB 2660 (2004 Session)	Statutes increasing the cigarette and tobacco products tax to provide funding for various health-related programs and providing income tax relief in the areas of capital gains and retirement income	Scheduled for vote on November 2, 2004
714	SJR 30 (2004 Session)	Constitutional amendment increasing the qualifying income levels for the senior valuation freeze.	Scheduled for vote on November 2, 2004
715	HJR 1044 (2004 Session)	Constitutional amendment providing an ad valorem tax exemption for totally disabled veterans for the full amount of the fair cash value of the homestead.	Scheduled for vote on November 2, 2004
720	Initiative Petition 375 (2004)	Statutes creating the Oklahoma Grape and Wine Commission which would be funded by an assessment on sales of wine and grape juice.	Due date for signatures is September 7, 2004
721	Initiative Petition 376 (2004)	Constitutional Amendment allowing winemakers to ship wine to consumers.	Due date for signatures is September 7, 2004